Oregon Chapter
American College of
Emergency Physicians

Statement for the Record
Joint Commission on Special Session
June 25, 2020
SB 1606, End-of-life decisions

Chair Courtney, Chair Kotek and members of the committee, please accept this statement for the record on behalf of OR-ACEP, the Oregon Chapter of the American College of Emergency Physicians. OR-ACEP is a medical society that has represented physicians specializing in emergency medicine since 1971 and its members share a commitment to improve emergency health care for all Oregonians.

OR-ACEP shares the goal of improving end-of-life care and addressing medical bias for people with disabilities, autism or dementia, but has concerns with SB 1606 as written, especially given the COVID-19 pandemic. The bill, among other provisions, prohibits a hospital from conditioning admission or treatment on having a POLST or executing an advance directive. An emergency department is required by EMTALA to to see all patients and is not allowed to place any conditions on evaluation or emergency treatment, so it's unlikely a hospital could or would require a POLST form for admissions. The POLST is an opportunity for the patient and their health care provider to provide clear direction regarding treatment during an emergency. This includes the ability to make it clear that all interventions and aggressive care are expected.

It's our understanding that complaints have been received about the POLST process. OR-ACEP recommends working with the POLST team to make sure what the document says reflects the wishes of the patient and the best care possible.

Furthermore, SB 1606 doesn't seem to allow crisis care guidelines, such as those developed by the Oregon Health Authority, to consider "co-morbid conditions and long-term prognosis" in providing care. Eliminating clinically objective qualifications creates a system of first come, first served, which may create its own set of ethical challenges.

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The bill requires a provider or hospital to contact an advocacy organization before withdrawing care or lifesaving treatment. This is not realistic during a crisis. Crisis care guidelines are used during a system overload when resources are outstripped by demand. Increasing the administrative burden will harm care and the overall system — especially if you are forcing a provider to render what could be considered futile care.

One of our OR-ACEP members had a case recently for a patient with severe dementia and poor quality of life, who arrived in septic shock. The patient had no family but had a care manager and county care team. The patient's POLST had limited interventions, which could be considered a gray area. Given that, the emergency physician would normally talk to the patient or family about how aggressive to be with regard to care. In this particular case, the most humane approach was to focus on comfort but initially the physician had no one to talk to about this patient. It took eight to ten calls within a two-hour period to get a decision from the patient's care manager while trying to manage eight new emergency department patients. Requiring the medical provider to make contact with a care team when there's no reasonable call system or way to contact case workers in a timely manner won't work in most crisis situations. Treating people aggressively when it is futile, harmful or painful can be just as bad as under-treating someone who wants aggressive care.

OR-ACEP respects the rights and strives to protect the best interests of their patients, particularly the most vulnerable and those unable to make treatment choices due to diminished decision-making capacity. The code of ethics for emergency physicians also requires that they embrace patient welfare as their primary professional responsibility and to work cooperatively with others who care for, and about, the patient. The board is reviewing proposed amendments and has not taken a position yet but we urge an approach that gives people with disabilities and their families a role in their health care decisions without imposing new administrative restrictions or causing delays in care.

Thank you for the opportunity to provide testimony.

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