

SB 1606 -8 STAFF MEASURE SUMMARY

Joint Committee On The First Special Session of 2020

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Meeting Dates: 6/25

WHAT THE MEASURE DOES:

Prohibits hospitals or emergency departments (EDs) from withholding or conditioning treatment unless a patient has physician orders for life-sustaining treatment (POLST) form, advance directive, or other instructions regarding life-sustaining procedures. Requires hospitals and EDs to allow a patient to designate at least three support persons to be present with a patient during a hospital stay if certain conditions are met including discussions on electing hospice care, advance directive, or other life-sustaining procedures. Authorizes a hospital or ED to require support persons to wear personal protective equipment, be free of any symptoms of a virus or contagious disease, submit to virus or contagious disease screenings, and limit the total number of support persons during the day. Authorizes Oregon Health Authority to revoke or suspend the license of a hospital or impose a civil penalty for each violation. Requires licensed health care providers, upon declaration of a state of emergency by the Governor to notify persons acting on behalf of a patient with an intellectual or development disability any changes to life-sustaining procedures, transfer to hospice care, or denial of services. Requires notice to Department of Human Services (DHS) of any proposed withholding or withdrawing of life-sustaining procedures for an individual with an intellectual or development disability. Defines “medical resources,” “protected class,” and “provider.” Prohibits specified licensed health care providers from denying or restricting medical treatment to an individual based on race, color, national origin, sex, sexual orientation, gender identity, age or disability. Declares emergency; effective on passage.

ISSUES DISCUSSED:

- Non-discrimination provisions and federal protections for individuals with disabilities and patient rights
- Ability of individuals with a disability to access in-patient medical services and support persons during the COVID-19 crisis including denial of the rights of individuals with disabilities during the pandemic
- End of life conversations among health care professionals, individuals with disabilities, and their families and support persons
- Application of public health Crisis Care Guidelines during COVID-19 pandemic and discriminatory language
- Clarity to avoid potential hospital or provider liability risk, including definition of “patient”
- Enforcement authority by the Oregon Bureau of Labor & Industries and provisions related to denial of medical services
- Prior attempts to address issues raised in the Legislative Assembly
- Suggested amendments

EFFECT OF AMENDMENT:

-8 **Modifies measure.** Prohibits hospitals from withholding or conditioning treatment unless a patient has physician orders for life-sustaining treatment (POLST) form, advance directive, or other instructions regarding withholding or withdrawing life-sustaining procedures. Does not prohibit a hospital or licensed health care professional for engaging in discussion with a patient about advance directives. Requires hospitals to inform patients of their rights upon admission, at the time services are scheduled, and post specified policies onsite and on the hospital’s website no later than August 1, 2020. Exempts Oregon State Hospital from prohibition. Defines “patient” and “support person.” Requires hospitals to allow patients to designate three support persons, including one who may be present at all times during the patient’s hospital stay. Authorizes a hospital to require support persons to wear personal protective equipment, be free of any symptoms of a virus or contagious disease, submit

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to virus or contagious disease screenings, and limit the total number of support persons during the day. Requires a hospital to ensure a designated support person is present for any discussion of hospice care, advance directive, or other withholding or withdrawing of life-sustaining procedures or artificially administered nutrition or hydration unless the patient requests such discussion outside of the presence of a support person. Authorizes the Oregon Health Authority to impose civil penalties of up to \$10,000 for violations of prohibitions and requirements. Clarifies notification requirement for persons acting on behalf of process by requiring a patient's health care representative, attending physician or health care provider to notify the Department of Human Services of any changes to life-sustaining procedures, transfer to hospice care, or denial of services prior to administration. Declares emergency, effective on passage.

REVENUE: Statement issued - no revenue impact.

FISCAL: Statement issued - minimal impact.

BACKGROUND:

An advance directive is a legal document used to provide guidance about what types of treatments a patient may want to receive in case of a future, unknown medical emergency. An advance directive may also be used by an individual to identify a surrogate to make treatment decisions. A physician order for life-sustaining treatment (POLST) form is a portable medical order for specific medical treatments to be honored by health care workers during a medical crisis. POLST forms are appropriate for individuals with serious medical illnesses or frailty near the end-of-life. POLST started in Oregon in 1991 and now exists in some form in the majority of states.

In response to the COVID-19 pandemic, many Oregon hospitals revised their visitor policies to be more restrictive in order to help protect the health of patients, providers, and staff.

Senate Bill 1606 -8 prohibits hospitals from discriminating against individuals with a disability when seeking and accessing medical treatment.