

Requested by Senator GELSER

**PROPOSED AMENDMENTS TO
SENATE BILL 1606**

- 1 On page 1 of the printed bill, line 2, delete “and 659A.142”.
- 2 Delete lines 5 through 19 and delete pages 2 through 6 and insert:
- 3 **“SECTION 1. (1) As used in this section:**
- 4 **“(a) ‘Advance directive’ has the meaning given that term in ORS**
- 5 **127.505.**
- 6 **“(b) ‘Hospital’ has the meaning given that term in ORS 442.015.**
- 7 **“(c) ‘POLST’ has the meaning given that term in ORS 127.663.**
- 8 **“(2) A hospital may not:**
- 9 **“(a) Condition the provision of treatment on a patient having a**
- 10 **POLST, advance directive or any instruction relating to the adminis-**
- 11 **tration, withholding or withdrawing of life-sustaining procedures or**
- 12 **artificially administered nutrition and hydration;**
- 13 **“(b) Communicate to any individual or person acting on behalf of**
- 14 **the individual, before or after admission to the hospital, that treat-**
- 15 **ment is conditioned on the individual’s having a POLST, an advance**
- 16 **directive or any instruction relating to the administration, withhold-**
- 17 **ing or withdrawing of life-sustaining procedures or artificially admin-**
- 18 **istered nutrition and hydration;**
- 19 **“(c) Suggest to any individual, or person acting on behalf of the**
- 20 **individual, who contacts the hospital regarding treatment for the in-**
- 21 **dividual that admission or treatment is conditioned on the individual’s**

1 having a POLST, an advance directive or any instruction relating to
2 the administration, withholding or withdrawing of life-sustaining pro-
3 cedures or artificially administered nutrition and hydration; or

4 “(d) Discriminate in any other way against an individual based on
5 whether the individual has a POLST, an advance directive or any in-
6 struction relating to the administration, withholding or withdrawing
7 of life-sustaining procedures or artificially administered nutrition and
8 hydration.

9 “(3) This section does not prohibit a hospital from providing the
10 written materials and information about advance directives as re-
11 quired by ORS 127.649 and 127.652 or prohibit a licensed health care
12 professional from engaging in a discussion with a patient about the
13 written materials and information.

14 “SECTION 2. (1) As used in this section:

15 “(a) ‘Hospital’ has the meaning given that term in ORS 442.015, ex-
16 cluding the Oregon State Hospital.

17 “(b) ‘Patient’ means a patient admitted to a hospital or in an
18 emergency department who needs assistance to effectively communi-
19 cate with hospital staff, make health care decisions or engage in ac-
20 tivities of daily living due to a disability, including but not limited to:

21 “(A) A physical, intellectual, behavioral or cognitive impairment;

22 “(B) Deafness, being hard of hearing or other communication bar-
23 rier;

24 “(C) Blindness;

25 “(D) Autism; or

26 “(E) Dementia.

27 “(c) ‘Support person’ means a family member, guardian, personal
28 care assistant or other paid or unpaid attendant selected by the patient
29 to physically or emotionally assist the patient or ensure effective
30 communication with the patient.

1 **“(2) A hospital licensed in this state must allow a patient to desig-**
2 **nate at least three support persons, and to allow at least one support**
3 **person to be present with the patient at all times in the emergency**
4 **department and during the patient’s stay at the hospital, if necessary**
5 **to facilitate the patient’s care, including but not limited to when the**
6 **patient:**

7 **“(a) Has a cognitive or mental health disability that affects the**
8 **patient’s ability to make medical decisions or understand medical ad-**
9 **vice;**

10 **“(b) Needs assistance with activities of daily living and the hospital**
11 **staff are unable to provide or less effective at providing the assistance;**

12 **“(c) Is deaf, is hard of hearing or has other communication barriers**
13 **and requires the assistance of a support person to ensure effective**
14 **communication with hospital staff; or**

15 **“(d) Has behavioral health needs that the support person can ad-**
16 **dress more effectively than the hospital staff.**

17 **“(3) A hospital may impose conditions regarding support persons to**
18 **ensure the safety of the patient, support person and staff such as:**

19 **“(a) Requiring a support person to:**

20 **“(A) Wear personal protective equipment provided by the hospital**
21 **and follow hand washing and other protocols for preventing the po-**
22 **tential spread of infection;**

23 **“(B) Be free of any symptoms of viruses or contagious diseases; and**

24 **“(C) Submit to screenings for viruses or contagious diseases upon**
25 **entering and exiting the hospital;**

26 **“(b) Limiting the number of support persons allowed to be present**
27 **with the patient at a time; and**

28 **“(c) Limiting the total number of support persons allowed to be**
29 **present during the course of a day.**

30 **“(4) A hospital must ensure that a support person designated by a**

1 patient is present for any discussion in which the patient is asked to
2 elect hospice care or to sign an advance directive or other instrument
3 allowing the withholding or withdrawing of life-sustaining procedures
4 or artificially administered nutrition or hydration, unless the patient
5 requests to have the discussion outside of the presence of a support
6 person.

7 “(5) A hospital must inform a patient, at the time the hospital ser-
8 vices are scheduled and upon admission, of the patient’s right to sup-
9 port persons under this section and must post the hospital’s policy and
10 requirements for support persons at entry points to the hospital and
11 on the hospital’s website.

12 “(6) This section does not affect a hospital’s obligation to:

13 “(a) Provide patients with effective communication supports or
14 other reasonable accommodations in accordance with federal and state
15 laws; or

16 “(b) Make exceptions to the hospital visitor policy, including ex-
17 ceptions to the number of support persons allowed access to the pa-
18 tient, as a reasonable accommodation under the Americans with
19 Disabilities Act of 1990, 42 U.S.C. 12101 et seq.

20 “SECTION 3. (1) In addition to any other penalty or remedy pro-
21 vided by law, the Oregon Health Authority may impose a civil penalty
22 of up to \$10,000 for each violation of section 1 or 2 of this 2020 special
23 session Act.

24 “(2) Moneys received under this section shall be paid into the Gen-
25 eral Fund.

26 “(3) Civil penalties shall be imposed as provided in ORS 183.745.

27 “SECTION 4. ORS 127.635 is amended to read:

28 “127.635. (1) Life-sustaining procedures that would otherwise be applied
29 to a principal who is incapable and who does not have an appointed health
30 care representative or applicable valid advance directive may be withheld

1 or withdrawn in accordance with subsections (2) and (3) of this section if the
2 principal has been medically confirmed to be in one of the following condi-
3 tions:

4 “(a) A terminal condition;

5 “(b) Permanently unconscious;

6 “(c) A condition in which administration of life-sustaining procedures
7 would not benefit the principal’s medical condition and would cause perma-
8 nent and severe pain; or

9 “(d) An advanced stage of a progressive illness that will be fatal, and the
10 principal is consistently and permanently unable to communicate by any
11 means, to swallow food and water safely, to care for the principal’s self and
12 to recognize the principal’s family and other people, and it is very unlikely
13 that the principal’s condition will substantially improve.

14 “(2) If a principal’s condition has been determined to meet one of the
15 conditions set forth in subsection (1) of this section, and the principal does
16 not have an appointed health care representative or applicable valid advance
17 directive, the principal’s health care representative shall be the first of the
18 following, in the following order, who can be located upon reasonable effort
19 by the health care facility and who is willing to serve as the health care
20 representative:

21 “(a) A guardian of the principal who is authorized to make health care
22 decisions, if any;

23 “(b) The principal’s spouse;

24 “(c) An adult designated by the others listed in this subsection who can
25 be so located, if no person listed in this subsection objects to the designation;

26 “(d) A majority of the adult children of the principal who can be so lo-
27 cated;

28 “(e) Either parent of the principal;

29 “(f) A majority of the adult siblings of the principal who can be located
30 with reasonable effort; or

1 “(g) Any adult relative or adult friend.

2 “(3) If none of the persons described in subsection (2) of this section is
3 available, then life-sustaining procedures may be withheld or withdrawn
4 upon the direction and under the supervision of the attending physician or
5 attending health care provider.

6 “(4)(a) Life-sustaining procedures may be withheld or withdrawn, includ-
7 ing an election for hospice treatment, upon the direction and under the
8 supervision of the attending physician or attending health care provider at
9 the request of a person designated the health care representative under sub-
10 sections (2) and (3) of this section only after the person has consulted with
11 concerned family and close friends and, if the principal has a case manager,
12 as defined by rules adopted by the Department of Human Services, after
13 giving notice to the principal’s case manager.

14 “(b) A case manager who receives notice under paragraph (a) of this
15 subsection shall provide the person giving the case manager notice with any
16 information in the case manager’s possession that is related to the principal’s
17 values, beliefs and preferences with respect to the withholding or withdraw-
18 ing of life-sustaining procedures.

19 “(c) As used in this subsection, ‘hospice treatment’ means treatment that
20 focuses on palliative care, including care for acute pain and symptom man-
21 agement, rather than curative treatment, provided to a principal with a ter-
22 minal condition.

23 “(5) **Before life-sustaining procedures may be withheld or withdrawn**
24 **for a principal who has an intellectual or developmental disability, the**
25 **person designated under subsection (2) or (3) of this section shall**
26 **contact the department to determine if the principal has a case man-**
27 **ager and provide notice to the case manager in accordance with sub-**
28 **section (4) of this section.**

29 “[5] (6) Notwithstanding subsection (2) of this section, a person who is
30 the principal’s parent or former guardian may not withhold or withdraw

1 life-sustaining procedures under this section if:

2 “(a) At any time while the principal was under the care, custody or con-
3 trol of the person, a court entered an order:

4 “(A) Taking the principal into protective custody under ORS 419B.150; or

5 “(B) Committing the principal to the legal custody of the Department of
6 Human Services for care, placement and supervision under ORS 419B.337;
7 and

8 “(b) The court entered a subsequent order that:

9 “(A) The principal should be permanently removed from the person’s
10 home, or continued in substitute care, because it was not safe for the prin-
11 cipal to be returned to the person’s home, and no subsequent order of the
12 court was entered that permitted the principal to return to the person’s home
13 before the principal’s wardship was terminated under ORS 419B.328; or

14 “(B) Terminated the person’s parental rights under ORS 419B.500 and
15 419B.502 to 419B.524.

16 “[~~(6)~~] (7) A principal, while not incapable, may petition the court to re-
17 move a prohibition contained in subsection [~~(5)~~] (6) of this section.

18 **“SECTION 5. A hospital must implement protocols to inform pa-
19 tients of their rights under section 2 of this 2020 special session Act
20 and post the hospital’s policy as required by section 2 (5) of this 2020
21 special session Act no later than August 1, 2020.**

22 **“SECTION 6. This 2020 special session Act being necessary for the
23 immediate preservation of the public peace, health and safety, an
24 emergency is declared to exist, and this 2020 special session Act takes
25 effect on its passage.”.**

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