

SENATE AMENDMENTS TO SENATE BILL 199

By COMMITTEE ON JUDICIARY AND BALLOT MEASURE 110 IMPLEMENTATION

April 19

1 On page 1 of the printed bill, line 4, after the semicolon delete the rest of the line and insert
2 “and prescribing an effective date.”.

3 Delete lines 6 through 30 and delete pages 2 through 16 and insert:

4 “**SECTION 1. Section 2 of this 2021 Act is added to and made a part of ORS 127.505 to**
5 **127.660.**

6 “**SECTION 2. An advance directive executed by an Oregon resident or by a resident of**
7 **any other state while physically present in this state must be in substantially the following**
8 **form:**

9 “

OREGON ADVANCE DIRECTIVE FOR HEALTH CARE

10
11
12
13 •**This Advance Directive form allows you to:**

14 • **Share your values, beliefs, goals and wishes for health care if you are not able to ex-**
15 **press them yourself.**

16 • **Name a person to make your health care decisions if you could not make them for**
17 **yourself. This person is called your health care representative and they must agree to act**
18 **in this role.**

19
20 • **Be sure to discuss your Advance Directive and your wishes with your health care rep-**
21 **resentative. This will allow them to make decisions that reflect your wishes. It is recom-**
22 **ended that you complete this entire form.**

23 • **The Oregon Advance Directive for Health Care form and Your Guide to the Oregon**
24 **Advance Directive are available on the Oregon Health Authority’s website.**

25 • **In sections 1, 2, 5, 6 and 7 you appoint a health care representative.**

26 • **In sections 3 and 4 you provide instructions about your care.**

27
28 **The Advance Directive form allows you to express your preferences for health care. It**
29 **is not the same as Portable Orders for Life Sustaining Treatment (POLST) as defined in ORS**
30 **127.663. You can find more information about the POLST in Your Guide to the Oregon Ad-**
31 **vance Directive.**

32 **This form may be used in Oregon to choose a person to make health care decisions for**
33 **you if you become too sick to speak for yourself or are unable to make your own medical**
34 **decisions. The person is called a health care representative. If you do not have an effective**
35 **health care representative appointment and you become too sick to speak for yourself, a**

1 health care representative will be appointed for you in the order of priority set forth in ORS
2 127.635 (2) and this person can only decide to withhold or withdraw life sustaining treatments
3 if you meet one of the conditions set forth in ORS 127.635 (1).

4 This form also allows you to express your values and beliefs with respect to health care
5 decisions and your preferences for health care.

6 • If you have completed an advance directive in the past, this new advance directive will
7 replace any older directive.

8 • You must sign this form for it to be effective. You must also have it witnessed by two
9 witnesses or a notary. Your appointment of a health care representative is not effective until
10 the health care representative accepts the appointment.

11 • If your advance directive includes directions regarding the withdrawal of life support
12 or tube feeding, you may revoke your advance directive at any time and in any manner that
13 expresses your desire to revoke it.

14 • In all other cases, you may revoke your advance directive at any time and in any
15 manner as long as you are capable of making medical decisions.

16
17 **1. ABOUT ME**

18
19 **Name:** _____

20 **Date of Birth:** _____

21 **Telephone numbers: (Home)** _____

22 **(Work)** _____ **(Cell)** _____

23 **Address:** _____

24 **E-mail:** _____

25
26 **2. MY HEALTH CARE REPRESENTATIVE**

27
28 I choose the following person as my health care representative to make health care de-
29 cisions for me if I can't speak for myself.

30
31 **Name:** _____

32 **Relationship:** _____

33 **Telephone numbers: (Home)** _____

34 **(Work)** _____ **(Cell)** _____

35 **Address:** _____

36 **E-mail:** _____

37
38 I choose the following people to be my alternate health care representatives if my first
39 choice is not available to make health care decisions for me or if I cancel the first health
40 care representative's appointment.

41
42 **First alternate health care representative:**

43 **Name:** _____

44 **Relationship:** _____

45 **Telephone numbers: (Home)** _____

1 (Work) _____ (Cell) _____
2 Address: _____
3 E-mail: _____
4

5 **Second alternate health care representative:**
6 Name: _____
7 Relationship: _____
8 Telephone numbers: (Home) _____
9 (Work) _____ (Cell) _____
10 Address: _____
11 E-mail: _____
12

13 **3. MY HEALTH CARE INSTRUCTIONS**
14

15 This section is the place for you to express your wishes, values and goals for care. Your
16 instructions provide guidance for your health care representative and health care providers.

17 You can provide guidance on your care with the choices you make below. This is the case
18 even if you do not choose a health care representative or if they cannot be reached.
19

20 **A. MY HEALTH CARE DECISIONS:**

21 There are three situations below for you to express your wishes. They will help you think
22 about the kinds of life support decisions your health care representative could face. For each,
23 choose the one option that most closely fits your wishes.

24 **a. Terminal Condition**

25 This is what I want if:

- 26 • I have an illness that cannot be cured or reversed.

27 **AND**

- 28 • My health care providers believe it will result in my death within six months, regardless
29 of any treatments.

30
31 **Initial one option only.**

32 ___ I want to try all available treatments to sustain my life, such as artificial feeding and
33 hydration with feeding tubes, IV fluids, kidney dialysis and breathing machines.

34 ___ I want to try to sustain my life with artificial feeding and hydration with feeding
35 tubes and IV fluids. I do not want other treatments to sustain my life, such as kidney
36 dialysis and breathing machines.

37 ___ I do not want treatments to sustain my life, such as artificial feeding and hydration
38 with feeding tubes, IV fluids, kidney dialysis or breathing machines. I want to be kept com-
39 fortable and be allowed to die naturally.

40 ___ I want my health care representative to decide for me, after talking with my health
41 care providers and taking into account the things that matter to me. I have expressed what
42 matters to me in section B below.
43

44 **b. Advanced Progressive Illness**

45 This is what I want if:

1 • I have an illness that is in an advanced stage.

2 AND

3 • My health care providers believe it will not improve and will very likely get worse over
4 time and result in death.

5 AND

6 • My health care providers believe I will never be able to:

7 - Communicate

8 - Swallow food and water safely

9 - Care for myself

10 - Recognize my family and other people

11
12 Initial one option only.

13 ___ I want to try all available treatments to sustain my life, such as artificial feeding and
14 hydration with feeding tubes, IV fluids, kidney dialysis and breathing machines.

15 ___ I want to try to sustain my life with artificial feeding and hydration with feeding
16 tubes and IV fluids. I do not want other treatments to sustain my life, such as kidney
17 dialysis and breathing machines.

18 ___ I do not want treatments to sustain my life, such as artificial feeding an hydration
19 with feeding tubes, IV fluids, kidney dialysis or breathing machines. I want to be kept com-
20 comfortable and be allowed to die naturally.

21 ___ I want my health care representative to decide for me, after talking with my health
22 care providers and taking into account the things that matter to me. I have expressed what
23 matters to me in section B below.

24
25 **c. Permanently Unconscious**

26 **This is what I want if:**

27 **I am not conscious.**

28 AND

29 **If my health care providers believe it is very unlikely that I will ever become conscious
30 again.**

31
32 Initial one option only.

33 ___ I want to try all available treatments to sustain my life, such as artificial feeding and
34 hydration with feeding tubes, IV fluids, kidney dialysis and breathing machines.

35 ___ I want to try to sustain my life with artificial feeding and hydration with feeding
36 tubes and IV fluids. I do not want other treatments to sustain my life, such as kidney
37 dialysis and breathing machines.

38 ___ I do not want treatments to sustain my life, such as artificial feeding and hydration
39 with feeding tubes, IV fluids, kidney dialysis or breathing machines. I want to be kept com-
40 comfortable and be allowed to die naturally.

41 ___ I want my health care representative to decide for me, after talking with my health
42 care providers and taking into account the things that matter to me. I have expressed what
43 matters to me in section B below.

44
45 You may write in the space below or attach pages to say more about what kind of care

1 you want or do not want.

2 _____
3 _____
4 _____
5 _____
6 _____

7
8
9 **B. WHAT MATTERS MOST TO ME AND FOR ME:**

10 **This section only applies when you are in a terminal condition, have an advanced pro-**
11 **gressive illness or are permanently unconscious. If you wish to use this section, you can**
12 **communicate the things that are really important to you and for you. This will help your**
13 **health care representative.**

14 **This is what you should know about what is important to me about my life:**

15 _____
16
17 **This is what I value the most about my life:**
18 _____

19
20 **This is what is important for me about my life:**

21 _____
22
23

24 **I do not want life-sustaining procedures if I can not be supported and be able to engage**
25 **in the following ways:**

26
27 **Initial all that apply.**

- 28 **Express my needs.**
- 29 **Be free from long-term severe pain and suffering.**
- 30 **Know who I am and who I am with.**
- 31 **Live without being hooked up to mechanical life support.**
- 32 **Participate in activities that have meaning to me, such as:**

33 _____
34
35 **If you want to say more to help your health care representative understand what mat-**
36 **ters most to you, write it here. (For example: I do not want care if it will result in)**
37 _____
38 _____
39 _____
40 _____
41 _____

42
43
44 **C. MY SPIRITUAL BELIEFS**

45 **Do you have spiritual or religious beliefs you want your health care representative and**

1 those taking care of you to know? They can be rituals, sacraments, denying blood product
2 transfusions and more.

3 You may write in the space below or attach pages to say more about your spiritual or
4 religious beliefs.

5 _____
6
7 _____
8
9 _____

10
11
12 **4. MORE INFORMATION**

13
14 Use this section if you want your health care representative and health care providers
15 to have more information about you.

16 **A. LIFE AND VALUES**

17 Below you can share about your life and values. This can help your health care repre-
18 sentative and health care providers make decisions about your health care. This might in-
19 clude family history, experiences with health care, cultural background, career, social
20 support system and more.

21 You may write in the space below or attach pages to say more about your life, beliefs
22 and values.

23 _____
24
25 _____
26
27 _____

28
29
30 **B. PLACE OF CARE:**

31 If there is a choice about where you receive care, what do you prefer? Are there places
32 you want or do not want to receive care? (For example, a hospital, a nursing home, a mental
33 health facility, an adult foster home, assisted living, your home.)

34 You may write in the space below or attach pages to say more about where you prefer
35 to receive care or not receive care.

36 _____
37
38 _____
39
40 _____

41
42
43 **C. OTHER:**

44 You may attach to this form other documents you think will be helpful to your health
45 care representative and health care providers. What you attach will be part of your Advance

1 **Directive.**

2 You may list documents you have attached in the space below.

3 _____
4 _____
5 _____
6 _____
7 _____

8
9
10 **D. INFORM OTHERS:**

11 You can allow your health care representative to authorize your health care providers
12 to the extent permitted by state and federal privacy laws to discuss your health status and
13 care with the people you write in below. Only your health care representative can make de-
14 cisions about your care.

15 Name: _____
16 Relationship: _____
17 Telephone numbers: (Home) _____
18 (Work) _____ (Cell) _____
19 Address: _____
20 E-mail: _____

21
22 **5. MY SIGNATURE**

23
24 My signature: _____
25 Date: _____

26
27 **6. WITNESS**

28
29 **COMPLETE EITHER A OR B WHEN YOU SIGN**

30
31 **A. NOTARY:**

32
33 State of _____
34 County of _____
35 Signed or attested before me on _____,
36 _____, by _____.
37 _____
38 Notary Public - State of Oregon

39
40 **B. WITNESS DECLARATION:**

41
42 The person completing this form is personally known to me or has provided proof of
43 identity, has signed or acknowledged the person's signature on the document in my presence
44 and appears to be not under duress and to understand the purpose and effect of this form.
45 In addition, I am not the person's health care representative or alternative health care rep-

1 representative, and I am not the person's attending health care provider.

2
3 **Witness Name (print):** _____

4 **Signature:** _____

5 **Date:** _____

6
7 **Witness Name (print):** _____

8 **Signature:** _____

9 **Date:** _____

10
11 **7. ACCEPTANCE BY MY HEALTH CARE REPRESENTATIVE**

12
13 **I accept this appointment and agree to serve as health care representative.**

14
15 **Health care representative:**

16 **Printed name:** _____

17 **Signature or other verification of acceptance:**

18 _____

19 **Date:** _____

20
21 **First alternate health care representative:**

22 **Printed name:** _____

23 **Signature or other verification of acceptance:**

24 _____

25 **Date:** _____

26
27 **Second alternate health care representative:**

28 **Printed name:** _____

29 **Signature or other verification of acceptance:**

30 _____

31 **Date:** _____

32 “ _____

33
34 **“SECTION 3.** ORS 127.533 is amended to read:

35 “127.533. (1) In accordance with public notice and stakeholder participation requirements pre-
36 scribed by the Oregon Health Authority [*and ORS 127.534*], the Advance Directive [*Adoption*] **Ad-**
37 **visory** Committee established under ORS 127.532 shall:

38 “(a) [*Adopt*] **Advise the Legislative Assembly regarding** the form of an advance directive to
39 be used in this state; [*and*]

40 “(b) Review the form **set forth in section 2 of this 2021 Act** not less than once every four
41 years for the purpose of [*adopting*] **recommending** changes to the form that the **advisory** committee
42 determines are necessary[.]; **and**

43 “(c) **Prepare written materials that provide information regarding advance directives to**
44 **assist the public with completing the advance directive form.**

45 “[*2*] *Except as otherwise provided by ORS 127.505 to 127.660, the form of an advance directive*

1 *adopted pursuant to this section is the only valid form of an advance directive in this state.]*

2 “[3] (2) At a minimum, the form of an advance directive [*adopted*] **recommended** under this
3 section must contain the following elements:

4 “(a) A statement about the purposes of the advance directive, including:

5 “(A) A statement about the purpose of the principal’s appointment of a health care represen-
6 tative to make health care decisions for the principal if the principal becomes incapable;

7 “(B) A statement about the priority of health care representative appointment in ORS 127.635
8 (2) in the event the principal becomes incapable and does not have a valid health care represen-
9 tative appointment;

10 “(C) A statement about the purpose of the principal’s expression of the principal’s values and
11 beliefs with respect to health care decisions and the principal’s preferences for health care;

12 “(D) A statement about the purpose of the principal’s expression of the principal’s preferences
13 with respect to placement in a care home or a mental health facility; [*and*]

14 “(E) A statement that advises the principal that the advance directive allows the principal to
15 document the principal’s preferences, but is not a POLST, as defined in ORS 127.663[.];

16 “(F) **A statement that the information described in subsection (1)(c) of this section is**
17 **available on the Oregon Health Authority’s website; and**

18 “(G) **A statement explaining that the principal may attach supplementary material de-**
19 **scribing the principal’s treatment preferences to the advance directive and that any attached**
20 **supplementary material will be considered a part of the advance directive, consistent with**
21 **ORS 127.505 (2)(b).**

22 “(b) A statement explaining **the execution formalities under ORS 127.515, including** that, to
23 be effective, the advance directive must be:

24 “(A) [*Accepted by signature or other applicable means*] **Signed by the principal;** and

25 “(B) Either witnessed and signed by at least two adults or notarized.

26 “(c) A statement explaining **the acceptance formalities under ORS 127.525, including** that,
27 to be effective, the appointment of a health care representative or an alternate health care repre-
28 sentative must be accepted by the health care representative or the alternate health care repre-
29 sentative.

30 “(d) A statement explaining **ORS 127.545, including** that the advance directive, once executed,
31 supersedes any previously executed advance directive.

32 “(e) The name, date of birth, address and other contact information of the principal.

33 “(f) The name, address and other contact information of any health care representative or any
34 alternate health care representative appointed by the principal.

35 “(g) A section providing the principal with an opportunity to state the principal’s values and
36 beliefs with respect to health care decisions, including the opportunity to describe the principal’s
37 preferences, by completing a checklist, by providing instruction through narrative or other means,
38 or by any combination of methods used to describe the principal’s preferences, regarding:

39 “(A) When the principal wants all reasonably available health care necessary to preserve life
40 and recover;

41 “(B) When the principal wants all reasonably available health care necessary to treat chronic
42 conditions;

43 “(C) When the principal wants to specifically limit health care necessary to preserve life and
44 recover, including artificially administered nutrition and hydration, cardiopulmonary resuscitation
45 and transport to a hospital; and

1 “(D) When the principal desires comfort care instead of health care necessary to preserve life.
2 “(h) A section where the principal and the witnesses or notary may [*accept by signature or other*
3 *means, including electronic or verbal means,*] **sign the advance directive, consistent with the exe-**
4 **cution formalities required under ORS 127.515.**
5 “(i) A section where any health care representative or any alternate health care representative
6 appointed by the principal may accept [*the advance directive by signature or other means, including*
7 *electronic or verbal means*] **the appointment, consistent with the requirements under ORS**
8 **127.525.**
9 “[*(4)(a)*] **(3)(a)** In [*adopting*] **recommending changes to** the form of an advance directive under
10 this section, the **advisory** committee shall use plain language, such as ‘tube feeding’ and ‘life sup-
11 port.’
12 “(b) As used in this subsection:
13 “(A) ‘Life support’ means life-sustaining procedures.
14 “(B) ‘Tube feeding’ means artificially administered nutrition and hydration.
15 “[*(5)*] **(4)** In [*adopting*] **recommending changes to** the form of an advance directive under this
16 section, the **advisory** committee shall use the components of the form for appointing a health care
17 representative [*or*] **and** an alternate health care representative set forth in ORS 127.527.
18 “[*(6)*] *The principal may attach supplementary material to an advance directive. In addition to the*
19 *form of an advance directive adopted under this section, supplementary material attached to an advance*
20 *directive under this subsection is a part of the advance directive.]*
21 “**(5) The advisory committee shall submit a report detailing the advisory committee’s**
22 **recommendations developed under this section on or before September 1 of an even-**
23 **numbered year following the date on which the advisory committee finalizes the recommen-**
24 **dations in the manner provided by ORS 192.245 to an interim committee of the Legislative**
25 **Assembly related to the judiciary. The interim committee shall consider the advisory**
26 **committee’s recommendations submitted to the interim committee under this section.**
27 “[*(7)*] **(6)** The Oregon Health Authority shall post the form of an advance directive [*adopted*
28 *under this section*] **set forth in section 2 of this 2021 Act and the written materials described**
29 **in subsection (1)(c) of this section** on the authority’s website.
30 “**SECTION 4.** ORS 127.505 is amended to read:
31 “127.505. As used in ORS 127.505 to 127.660 and 127.995:
32 “(1) ‘Adult’ means an individual who:
33 “(a) Is 18 years of age or older; or
34 “(b) Has been adjudicated an emancipated minor, or is a minor who is married.
35 “(2)(a) ‘Advance directive’ means a document executed by a principal that contains:
36 “(A) A form appointing a health care representative; and
37 “(B) Instructions to the health care representative.
38 “(b) ‘Advance directive’ includes any supplementary document or writing attached by the prin-
39 cipal to the document described in paragraph (a) of this subsection.
40 “(3) ‘Appointment’ means a form appointing a health care representative, letters of guardianship
41 or a court order appointing a health care representative.
42 “(4)(a) ‘Artificially administered nutrition and hydration’ means a medical intervention to pro-
43 vide food and water by tube, mechanical device or other medically assisted method.
44 “(b) ‘Artificially administered nutrition and hydration’ does not include the usual and typical
45 provision of nutrition and hydration, such as the provision of nutrition and hydration by cup, hand,

1 bottle, drinking straw or eating utensil.

2 “(5) ‘Attending health care provider’ means the health care provider who has primary responsi-
3 bility for the care and treatment of the principal, provided that the powers and duties conferred on
4 the health care provider by ORS 127.505 to 127.660 are within the health care provider’s scope of
5 practice.

6 “(6) ‘Attending physician’ means the physician who has primary responsibility for the care and
7 treatment of the principal.

8 “(7) ‘Capable’ means not incapable.

9 “(8) ‘Form appointing a health care representative’ means:

10 “[*(a) The portion of the form adopted under ORS 127.533 used to appoint a health care represen-*
11 *tative or an alternate health care representative;*]

12 “[*(b) (a) The portion of the form set forth in [section 6, chapter 36, Oregon Laws 2018] section*
13 **2 of this 2021 Act**, used to appoint a health care representative or an alternate health care repre-
14 sentative; or

15 “[*(c) (b) The form set forth in ORS 127.527.*]

16 “(9) ‘Health care’ means diagnosis, treatment or care of disease, injury and congenital or de-
17 generative conditions, including the use, maintenance, withdrawal or withholding of life-sustaining
18 procedures and the use, maintenance, withdrawal or withholding of artificially administered nutri-
19 tion and hydration.

20 “(10) ‘Health care decision’ means consent, refusal of consent or withholding or withdrawal of
21 consent to health care, and includes decisions relating to admission to or discharge from a health
22 care facility.

23 “(11) ‘Health care facility’ means a health care facility as defined in ORS 442.015, a domiciliary
24 care facility as defined in ORS 443.205, a residential facility as defined in ORS 443.400, an adult
25 foster home as defined in ORS 443.705 or a hospice program as defined in ORS 443.850.

26 “(12)(a) ‘Health care provider’ means a person licensed, certified or otherwise authorized or
27 permitted by the laws of this state to administer health care in the ordinary course of business or
28 practice of a profession.

29 “(b) ‘Health care provider’ includes a health care facility.

30 “(13) ‘Health care representative’ means:

31 “(a) A competent adult appointed to be a health care representative or an alternate health care
32 representative under ORS 127.510.

33 “(b) A person who has authority to make health care decisions for a principal under the pro-
34 visions of ORS 127.635 (2) or (3).

35 “(c) A guardian or other person, appointed by a court to make health care decisions for a
36 principal.

37 “(14) ‘Incapable’ means that in the opinion of the court in a proceeding to appoint or confirm
38 authority of a health care representative, or in the opinion of the principal’s attending physician or
39 attending health care provider, a principal lacks the ability to make and communicate health care
40 decisions to health care providers, including communication through persons familiar with the
41 principal’s manner of communicating if those persons are available.

42 “(15) ‘Instrument’ means an advance directive, form appointing a health care representative,
43 disqualification, withdrawal, court order, court appointment or other document governing health
44 care decisions.

45 “(16)(a) ‘Life-sustaining procedure’ means any medical procedure, pharmaceutical, medical device

1 or medical intervention that maintains life by sustaining, restoring or supplanting a vital function.

2 “(b) ‘Life-sustaining procedure’ does not include routine care necessary to sustain patient
3 cleanliness and comfort.

4 “(17) ‘Medically confirmed’ means the medical opinion of the attending physician or attending
5 health care provider has been confirmed by a second physician or second health care provider who
6 has examined the patient and who has clinical privileges or expertise with respect to the condition
7 to be confirmed.

8 “(18) ‘Permanently unconscious’ means completely lacking an awareness of self and external
9 environment, with no reasonable possibility of a return to a conscious state, and that condition has
10 been medically confirmed by a neurological specialist who is an expert in the examination of unre-
11 sponsive individuals.

12 “(19) ‘Physician’ means an individual licensed to practice medicine by the Oregon Medical Board
13 or a naturopathic physician licensed to practice naturopathic medicine by the Oregon Board of
14 Naturopathic Medicine.

15 “(20) ‘Principal’ means:

16 “(a) An adult who has executed an advance directive;

17 “(b) A person of any age who has a health care representative;

18 “(c) A person for whom a health care representative is sought; or

19 “(d) A person being evaluated for capability to whom a health care representative will be as-
20 signed if the person is determined to be incapable.

21 “(21) ‘Terminal condition’ means a health condition in which death is imminent irrespective of
22 treatment, and where the application of life-sustaining procedures or the artificial administration of
23 nutrition and hydration serves only to postpone the moment of death of the principal.

24 “**SECTION 5.** ORS 127.510 is amended to read:

25 “127.510. (1) A capable adult may execute an advance directive. The advance directive is effec-
26 tive when it is signed by the principal and witnessed or notarized as *[required by ORS 127.505 to*
27 *127.660]* **described in ORS 127.515.**

28 “(2)(a) A capable adult may use *[an advance directive or the form set forth in ORS 127.527]* **a**
29 **form appointing a health care representative** to appoint a competent adult to serve as the health
30 care representative for the capable adult. A health care representative appointed under this para-
31 graph shall make health care decisions for the principal if the principal becomes incapable.

32 “(b) A capable adult may use *[an advance directive or the form set forth in ORS 127.527]* **a form**
33 **appointing health care representative** to appoint one or more competent adults to serve as al-
34 ternate health care representatives for the capable adult. For purposes of ORS 127.505 to 127.660,
35 an alternate health care representative has the rights and privileges of a health care representative
36 appointed under paragraph (a) of this subsection, including the rights described in ORS 127.535. An
37 alternate health care representative appointed under this paragraph shall make health care deci-
38 sions for the principal if:

39 “(A) The principal becomes incapable; and

40 “(B) The health care representative appointed under paragraph (a) of this subsection is unable,
41 unwilling or unavailable to make timely health care decisions for the principal.

42 “(c) For purposes of paragraph (b) of this subsection, the health care representative appointed
43 under paragraph (a) of this subsection is unavailable to make timely health care decisions for the
44 principal if the health care representative is not available to answer questions for the health care
45 provider in person, by telephone or by another means of direct communication.

1 “(d) An appointment made under this section is effective when it is accepted by the health care
2 representative, **as described in ORS 127.525.**

3 “(3) Unless the period of time that an advance directive or a form appointing a health care
4 representative is effective is limited by the terms of the advance directive or the form appointing
5 a health care representative, the advance directive or the form appointing a health care represen-
6 tative continues in effect until:

7 “(a) The principal dies; or

8 “(b) The advance directive or the form appointing a health care representative is revoked, sus-
9 pended or superseded pursuant to ORS 127.545.

10 “(4) Notwithstanding subsection (3) of this section, if the principal is incapable at the expiration
11 of the term of the advance directive or the form appointing a health care representative, the ad-
12 vance directive or the form appointing a health care representative continues in effect until:

13 “(a) The principal is no longer incapable;

14 “(b) The principal dies; or

15 “(c) The advance directive or the form appointing a health care representative is revoked, sus-
16 pended or superseded pursuant to the provisions of ORS 127.545.

17 “(5) A health care provider shall make a copy of an advance directive, a copy of a form ap-
18 pointing a health care representative and a copy of any other instrument a part of the principal’s
19 medical record when a copy of the advance directive, form appointing a health care representative
20 or instrument is provided to the principal’s health care provider.

21 “(6) Notwithstanding subsections (3)(a) and (4)(b) of this section, an advance directive remains
22 in effect with respect to an anatomical gift, as defined in ORS 97.953, after the principal dies.

23 “**SECTION 6.** ORS 127.515 is amended to read:

24 “127.515. (1) An advance directive **form set forth in section 2 of this 2021 Act** or a form ap-
25 pointing a health care representative **set forth in ORS 127.527** may be executed by [*a resident or*
26 *nonresident adult of this state in the manner provided by ORS 127.505 to 127.660*] **an Oregon resident**
27 **or by a resident of any other state while physically present in this state.**

28 “(2) [*An advance directive or a form appointing a health care representative must reflect the date*
29 *of the principal’s signature or other method of accepting the advance directive or the form appointing*
30 *a health care representative. To be valid, an advance directive or a form appointing a health care*
31 *representative*] **The form described in subsection (1) of this section must be signed and:**

32 “(a) Witnessed and signed by at least two adults; or

33 “(b) Notarized by a notary public.

34 “(3) If an advance directive or a form appointing a health care representative is validated under
35 subsection (2)(a) of this section, each witness must witness:

36 “(a) The principal signing the advance directive or the form appointing a health care represen-
37 tative; or

38 “(b) The principal acknowledging the signature of the principal on the advance directive or the
39 form appointing a health care representative[, *or the principal acknowledging any other method by*
40 *which the principal accepted the advance directive or the form appointing a health care*
41 *representative*].

42 “(4) For an advance directive or a form appointing a health care representative to be valid un-
43 der subsection (2)(a) of this section, the witnesses may not, on the date the advance directive or the
44 form appointing a health care representative is signed or acknowledged:

45 “(a) Be the principal’s attending physician or attending health care provider.

1 “(b) Be the principal’s health care representative or alternate health care representative ap-
2 pointed under ORS 127.510.

3 “(5) If an advance directive or a form appointing a health care representative is validated under
4 subsection (2)(a) of this section, and if the principal is a patient in a long term care facility at the
5 time the advance directive or the form appointing a health care representative is executed, one of
6 the witnesses must be an individual who is designated by the facility and qualified as specified by
7 the Department of Human Services by rule.

8 “(6) Notwithstanding subsection (2) of this section, an advance directive, [or] a form appointing
9 a health care representative **or a similar instrument**, that is executed by an adult who resides in
10 another state at the time of execution, and that is executed in compliance with the laws of that
11 state, the laws of the state where the principal is located at the time of the execution or the laws
12 of this state, is validly executed for the purposes of ORS 127.505 to 127.660.

13 “**SECTION 7.** ORS 127.525 is amended to read:

14 “127.525. *[For an appointment of a health care representative or an alternate health care repre-*
15 *sentative in a form appointing a health care representative to be effective, the health care representative*
16 *or the alternate health care representative must accept the appointment as described in ORS 127.510.]*

17 “(1) **A person may accept appointment as a health care representative or an alternate**
18 **health care representative in a form appointing a health care representative by:**

19 “(a) **Signing the acceptance of appointment; or**

20 “(b) **Representing to a third party that the person has accepted the authority and duties**
21 **of a health care representative under an advance directive in which the person is named as**
22 **the health care representative or alternate health care representative.**

23 “(2) Subject to the right of the health care representative or the alternate health care repre-
24 sentative to withdraw, the acceptance imposes a duty on the health care representative or the al-
25 ternate health care representative to make health care decisions on behalf of the principal as
26 described in ORS 127.510.

27 “(3) Until the principal becomes incapable, the health care representative or the alternate
28 health care representative may withdraw by giving notice to the principal. After the principal be-
29 comes incapable, the health care representative or the alternate health care representative may
30 withdraw by giving notice to the health care provider.

31 “**SECTION 8.** ORS 127.658 is amended to read:

32 “127.658. (1) ORS 127.505 to 127.660 as enacted, the repeal of any statute that was a part of ORS
33 127.505 to 127.660 and subsequent amendments to the provisions of ORS 127.505 to 127.660 do not
34 impair or supersede any advance directive, form appointing a health care representative or directive
35 to physicians executed in accordance with:

36 “(a) The provisions of ORS 127.505 to 127.660; or

37 “(b) The provisions of ORS 127.505 to 127.660 or any other statute governing an advance direc-
38 tive, a form appointing a health care representative or a directive to physicians that was in effect
39 on the date that the advance directive, the form appointing a health care representative or the di-
40 rective to physicians was executed.

41 “(2) An advance directive, a form appointing a health care representative or a directive to
42 physicians executed before, on or after January 1, 2019, shall be governed by the provisions of ORS
43 127.505 to 127.660 or any other statute that is in effect on the date on which[:]

44 “[a] *The issue giving rise to adjudication occurs; or]*

45 “[b] the advance directive, the form appointing a health care representative or the directive

1 to physicians was executed.

2 “**SECTION 9.** ORS 127.532 is amended to read:

3 “127.532. (1) The Advance Directive [*Adoption*] **Advisory** Committee is established within the
4 division of the Oregon Health Authority that is charged with performing the public health functions
5 of the state.

6 “(2)(a) The committee consists of 13 members.

7 “(b) One member shall be the Long Term Care Ombudsman or the designee of the Long Term
8 Care Ombudsman.

9 “(c) The other 12 members shall be appointed by the Governor as follows:

10 “(A) One member who represents primary health care providers.

11 “(B) One member who represents hospitals.

12 “(C) One member who is a clinical ethicist affiliated with a health care facility located in this
13 state, or affiliated with a health care organization offering health care services in this state.

14 “(D) Two members who are health care providers with expertise in palliative or hospice care,
15 one of whom is not employed by a hospital or other health care facility, a health care organization
16 or an insurer.

17 “(E) One member who represents individuals with disabilities.

18 “(F) One member who represents consumers of health care services.

19 “(G) One member who represents the long term care community.

20 “(H) One member with expertise advising or assisting consumers with end-of-life decisions.

21 “(I) One member from among members proposed by the Oregon State Bar who has extensive
22 experience in elder law and advising individuals on how to execute an advance directive.

23 “(J) One member from among members proposed by the Oregon State Bar who has extensive
24 experience in estate planning and advising individuals on how to make end-of-life decisions.

25 “(K) One member from among members proposed by the Oregon State Bar who has extensive
26 experience in health law.

27 “(3) The term of office of each member of the committee is four years, but a member serves at
28 the pleasure of the appointing authority. Before the expiration of the term of a member, the ap-
29 pointing authority shall appoint a successor whose term begins on January 1 next following. A
30 member is eligible for reappointment. If there is a vacancy for any cause, the appointing authority
31 shall make an appointment to become immediately effective for the unexpired term.

32 “(4) A majority of the members of the committee constitutes a quorum for the transaction of
33 business.

34 “(5) Official action by the committee requires the approval of a majority of the members of the
35 committee.

36 “(6) The committee shall elect one of its members to serve as chairperson.

37 “(7) The committee shall meet at times and places specified by the call of the chairperson or
38 of a majority of the members of the committee, provided that the committee meets at least twice a
39 year.

40 “(8) The committee may adopt rules necessary for the operation of the committee.

41 “(9) Members of the committee are not entitled to compensation, but may be reimbursed for
42 actual and necessary travel and other expenses incurred by them in the performance of their official
43 duties in the manner and amounts provided for in ORS 292.495. Claims for expenses shall be paid
44 out of funds appropriated to the Oregon Health Authority for purposes of the committee.

45 “**SECTION 10.** Section 29, chapter 36, Oregon Laws 2018, is amended to read:

1 “**Sec. 29.** Notwithstanding the term of office specified by [*section 2 of this 2018 Act*] **ORS**
2 **127.532**, of the members first appointed by the Governor to the Advance Directive [*Adoption*] **Ad-**
3 **visory** Committee:

4 “(1) Four shall serve for a term ending January 1, 2021.

5 “(2) Four shall serve for a term ending January 1, 2022.

6 “(3) Four shall serve for a term ending January 1, 2023.

7 “**SECTION 11. Section 6, chapter 36, Oregon Laws 2018, and ORS 127.534 are repealed.**

8 “**SECTION 12. This 2021 Act takes effect on the 91st day after the date on which the 2021**
9 **regular session of the Eighty-first Legislative Assembly adjourns sine die.**”

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