

SB 199-4
(LC 1062)
3/1/21 (LAS/ps)

Requested by Senator THATCHER

**PROPOSED AMENDMENTS TO
SENATE BILL 199**

1 On page 1 of the printed bill, line 2, after “directives;” delete the rest of
2 the line.

3 Delete lines 3 and 4 and insert “amending ORS 125.315, 127.505, 127.510,
4 127.540, 127.580 and 127.658 and section 6, chapter 36, Oregon Laws 2018; and
5 repealing ORS 127.532, 127.533 and 127.534 and section 29, chapter 36, Oregon
6 Laws 2018.”.

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

8 **“SECTION 1.** ORS 127.505 is amended to read:

9 “127.505. As used in ORS 127.505 to 127.660 and 127.995:

10 “(1) ‘Adult’ means an individual who:

11 “(a) Is 18 years of age or older; or

12 “(b) Has been adjudicated an emancipated minor, or is a minor who is
13 married.

14 “(2)(a) ‘Advance directive’ means a document executed by a principal that
15 contains:

16 “(A) A form appointing a health care representative; and

17 “(B) Instructions to the health care representative.

18 “(b) ‘Advance directive’ includes any supplementary document or writing
19 attached by the principal to the document described in paragraph (a) of this
20 subsection.

21 “(3) ‘Appointment’ means a form appointing a health care representative,

1 letters of guardianship or a court order appointing a health care represen-
2 tative.

3 “(4)(a) ‘Artificially administered nutrition and hydration’ means a medical
4 intervention to provide food and water by tube, mechanical device or other
5 medically assisted method.

6 “(b) ‘Artificially administered nutrition and hydration’ does not include
7 the usual and typical provision of nutrition and hydration, such as the pro-
8 vision of nutrition and hydration by cup, hand, bottle, drinking straw or
9 eating utensil.

10 “(5) ‘Attending health care provider’ means the health care provider who
11 has primary responsibility for the care and treatment of the principal, pro-
12 vided that the powers and duties conferred on the health care provider by
13 ORS 127.505 to 127.660 are within the health care provider’s scope of prac-
14 tice.

15 “(6) ‘Attending physician’ means the physician who has primary respon-
16 sibility for the care and treatment of the principal.

17 “(7) ‘Capable’ means not incapable.

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

19 “[*a*] *The portion of the form adopted under ORS 127.533 used to appoint*
20 *a health care representative or an alternate health care representative;*]

21 “[*b*] **(a)** The portion of the form set forth in section 6, chapter 36,
22 Oregon Laws 2018, used to appoint a health care representative or an alter-
23 nate health care representative; or

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

25 “(9) ‘Health care’ means diagnosis, treatment or care of disease, injury
26 and congenital or degenerative conditions, including the use, maintenance,
27 withdrawal or withholding of life-sustaining procedures and the use, main-
28 tenance, withdrawal or withholding of artificially administered nutrition and
29 hydration.

30 “(10) ‘Health care decision’ means consent, refusal of consent or with-

1 holding or withdrawal of consent to health care, and includes decisions re-
2 lating to admission to or discharge from a health care facility.

3 “(11) ‘Health care facility’ means a health care facility as defined in ORS
4 442.015, a domiciliary care facility as defined in ORS 443.205, a residential
5 facility as defined in ORS 443.400, an adult foster home as defined in ORS
6 443.705 or a hospice program as defined in ORS 443.850.

7 “(12)(a) ‘Health care provider’ means a person licensed, certified or oth-
8 erwise authorized or permitted by the laws of this state to administer health
9 care in the ordinary course of business or practice of a profession.

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

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

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

14 “(b) A person who has authority to make health care decisions for a
15 principal under the provisions of ORS 127.635 (2) or (3).

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

18 “(14) ‘Incapable’ means that in the opinion of the court in a proceeding
19 to appoint or confirm authority of a health care representative, or in the
20 opinion of the principal’s attending physician or attending health care pro-
21 vider, a principal lacks the ability to make and communicate health care
22 decisions to health care providers, including communication through persons
23 familiar with the principal’s manner of communicating if those persons are
24 available.

25 “(15) ‘Instrument’ means an advance directive, form appointing a health
26 care representative, disqualification, withdrawal, court order, court appoint-
27 ment or other document governing health care decisions.

28 “(16)(a) ‘Life-sustaining procedure’ means any medical procedure, phar-
29 maceutical, medical device or medical intervention that maintains life by
30 sustaining, restoring or supplanting a vital function.

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

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

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

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

16 “(20) ‘Principal’ means:

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

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

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

20 “(d) A person being evaluated for capability to whom a health care rep-
21 resentative will be assigned if the person is determined to be incapable.

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

26 “**SECTION 2.** ORS 127.510 is amended to read:

27 “127.510. (1) A capable adult may execute an advance directive. The ad-
28 vance directive is effective when it is:

29 “(a) **In writing; and**

30 “(b) Signed by the principal and witnessed or notarized as required by

1 ORS 127.505 to 127.660.

2 “(2)(a) A capable adult may use an advance directive or the form set forth
3 in ORS 127.527 to appoint a competent adult to serve as the health care
4 representative for the capable adult. A health care representative appointed
5 under this paragraph shall make health care decisions for the principal **as**
6 **provided in ORS 127.535** if the principal becomes incapable.

7 “(b) A capable adult may use an advance directive or the form set forth
8 in ORS 127.527 to appoint one or more competent adults to serve as alternate
9 health care representatives for the capable adult. For purposes of ORS
10 127.505 to 127.660, an alternate health care representative has the rights and
11 privileges of a health care representative appointed under paragraph (a) of
12 this subsection, including the rights described in ORS 127.535. An alternate
13 health care representative appointed under this paragraph shall make health
14 care decisions for the principal if:

15 “(A) The principal becomes incapable; and

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

19 “(c) For purposes of paragraph (b) of this subsection, the health care
20 representative appointed under paragraph (a) of this subsection is unavail-
21 able to make timely health care decisions for the principal if the health care
22 representative is not available to answer questions for the health care pro-
23 vider in person, by telephone or by another means of direct communication.

24 “(d) An appointment made under this section is effective when it is ac-
25 cepted by the health care representative.

26 “(3) Unless the period of time that an advance directive or a form ap-
27 pointing a health care representative is effective is limited by the terms of
28 the advance directive or the form appointing a health care representative,
29 the advance directive or the form appointing a health care representative
30 continues in effect until:

1 “(a) The principal dies; or

2 “(b) The advance directive or the form appointing a health care repre-
3 sentative is revoked, suspended or superseded pursuant to ORS 127.545.

4 “(4) Notwithstanding subsection (3) of this section, if the principal is in-
5 capable at the expiration of the term of the advance directive or the form
6 appointing a health care representative, the advance directive or the form
7 appointing a health care representative continues in effect until:

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

9 “(b) The principal dies; or

10 “(c) The advance directive or the form appointing a health care repre-
11 sentative is revoked, suspended or superseded pursuant to the provisions of
12 ORS 127.545.

13 “(5) A health care provider shall make a copy of an advance directive, a
14 copy of a form appointing a health care representative and a copy of any
15 other instrument a part of the principal’s medical record when a copy of the
16 advance directive, form appointing a health care representative or instru-
17 ment is provided to the principal’s health care provider.

18 “(6) Notwithstanding subsections (3)(a) and (4)(b) of this section, an ad-
19 vance directive remains in effect with respect to an anatomical gift, as de-
20 fined in ORS 97.953, after the principal dies.

21 “**SECTION 3.** ORS 127.540 is amended to read:

22 “127.540. ORS 127.505 to 127.660 do not authorize an appointed health care
23 representative to make a health care decision with respect to any of the
24 following on behalf of the principal:

25 “(1) Convulsive treatment.

26 “(2) Psychosurgery.

27 “(3) Sterilization.

28 “(4) Abortion.

29 “(5) Withholding or withdrawing of a life-sustaining procedure unless:

30 “(a) [*The appointed health care representative has been given authority to*

1 *make decisions on withholding or withdrawing life-sustaining procedures]* **The**
2 **principal has completed section 4 of the advance directive form under**
3 **section 6, chapter 36, Oregon Laws 2018, and indicated by initial or by**
4 **separate written statement that the health care representative may**
5 **make decisions regarding the withdrawal or withholding of life sus-**
6 **taining procedures; or**

7 “(b) The principal has been medically confirmed to be in one of the fol-
8 lowing conditions:

9 “(A) A terminal condition.

10 “(B) Permanently unconscious.

11 “(C) A condition in which administration of life-sustaining procedures
12 would not benefit the principal’s medical condition and would cause perma-
13 nent and severe pain.

14 “(D) A progressive, debilitating illness that will be fatal and is in its ad-
15 vanced stages, and the principal is consistently and permanently unable to
16 communicate, swallow food and water safely, care for the principal, and
17 recognize the principal’s family and other people, and there is no reasonable
18 chance that the principal’s underlying condition will improve.

19 “(6) Withholding or withdrawing artificially administered nutrition and
20 hydration, other than hyperalimentation, necessary to sustain life except as
21 provided in ORS 127.580.

22 “**SECTION 4.** ORS 127.580 is amended to read:

23 “127.580. (1) It shall be presumed that every person who is temporarily
24 or permanently incapable has consented to artificially administered nutrition
25 and hydration, other than hyperalimentation, that are necessary to sustain
26 life except in one or more of the following circumstances:

27 “[*a*] *The person while a capable adult clearly and specifically stated that*
28 *the person would have refused artificially administered nutrition and hy-*
29 *dration.*]

30 “[*b*] (a) Administration of such nutrition and hydration is not medically

1 feasible or would itself cause severe, intractable or long-lasting pain.

2 “[*(c)*] **(b)** The person has [*an appointed health care representative who has*
3 *been given*] **completed section 4 of the advance directive form under**
4 **section 6, chapter 36, Oregon Laws 2018, and indicated by initial or by**
5 **separate written statement that the health care representative has the**
6 authority to make decisions on the use, maintenance, withholding or with-
7 drawing of artificially administered nutrition and hydration.

8 “[*(d)*] **(c)** The person does not have an appointed health care represen-
9 tative or an advance directive that clearly states that the person did not
10 want artificially administered nutrition and hydration, and the person is
11 permanently unconscious.

12 “[*(e)*] **(d)** The person does not have an appointed health care represen-
13 tative or an advance directive that clearly states that the person did not
14 want artificially administered nutrition and hydration, the person is incapa-
15 ble, and the person has a terminal condition.

16 “[*(f)*] **(e)** The person has a progressive illness that will be fatal and is in
17 an advanced stage, the person is consistently and permanently unable to
18 communicate by any means, swallow food and water safely, care for the
19 person’s self and recognize the person’s family and other people, and it is
20 very unlikely that the person’s condition will substantially improve.

21 “(2) If a person does not have an appointed health care representative or
22 an advance directive that clearly states that the person did not want arti-
23 ficially administered nutrition and hydration, but the presumption estab-
24 lished by this section has been overcome under the provisions of subsection
25 [*(1)(a), (b), (d), (e) or (f)*] **(1)(a), (c), (d) or (e)** of this section, artificially
26 administered nutrition and hydration may be withheld or withdrawn under
27 the provisions of ORS 127.635 (2), (3) and (4).

28 “(3) The medical conditions specified in subsection [*(1)(b), (d), (e) and*
29 *(f)*] **(1)(a), (c), (d) or (e)** of this section must be medically confirmed to
30 overcome the presumption established by subsection (1) of this section.

1 representative is not effective until the health care representative accepts
2 the appointment.

3 **“• If you want to authorize your health care representative to make**
4 **decisions regarding the withholding or withdrawal of life support or**
5 **tube feeding, you must provide specific instructions by either initialing**
6 **the appropriate selections in section 4 of this form or attaching to this**
7 **form separate written instructions for your health care representative.**

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

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

13

14 “1. ABOUT ME.

15

16 “Name: _____

17 “Date of Birth: _____

18 “Telephone numbers: (Home)_____

19 “(Work)_____ (Cell)_____

20 “Address: _____

21 “E-mail: _____

22

23 “2. MY HEALTH CARE REPRESENTATIVE.

24

25 “I choose the following person as my health care representative to make
26 health care decisions for me if I can’t speak for myself.

27

28 “Name: _____

29 “Relationship: _____

30 “Telephone numbers: (Home)_____

1 “(Work)_____ (Cell)_____

2 “Address: _____

3 “E-mail: _____

4

5 “I choose the following people to be my alternate health care represen-
6 tatives if my first choice is not available to make health care decisions for
7 me or if I cancel the first health care representative’s appointment.

8

9 “First alternate health care representative:

10 “Name: _____

11 “Relationship: _____

12 “Telephone numbers: (Home)_____

13 “(Work)_____ (Cell)_____

14 “Address: _____

15 “E-mail: _____

16

17 “Second alternate health care representative:

18 “Name: _____

19 “Relationship: _____

20 “Telephone numbers: (Home)_____

21 “(Work)_____ (Cell)_____

22 “Address: _____

23 “E-mail: _____

24

25 “3. INSTRUCTIONS TO MY HEALTH CARE REPRESENTATIVE.

26

27 “If you wish to give instructions to your health care representative about
28 your health care decisions, initial one of the following three statements:

29

30 “___ To the extent appropriate, my health care representative must follow

1 my instructions.

2 “ ___ My instructions are guidelines for my health care representative to
3 consider when making decisions about my care.

4 “ ___ Other instructions: _____
5

6 “4. DIRECTIONS REGARDING MY END OF LIFE CARE.
7

8 “In filling out these directions, keep the following in mind:

9 “• The term ‘as my health care provider recommends’ means that you
10 want your health care provider to use life support if your health care pro-
11 vider believes it could be helpful, and that you want your health care pro-
12 vider to discontinue life support if your health care provider believes it is
13 not helping your health condition or symptoms.

14 “• The term ‘life support’ **means ‘life sustaining procedures’ as de-**
15 **defined in ORS 127.505, which in plain language** means any medical treat-
16 ment that maintains life by sustaining, restoring or replacing a vital
17 function.

18 “• The term ‘tube feeding’ **means ‘artificially administered nutrition**
19 **and hydration’ as defined in ORS 127.505, which in plain language**
20 means artificially administered food and water.

21 “• If you refuse tube feeding, you should understand that malnutrition,
22 dehydration and death will probably result.

23 “• You will receive care for your comfort and cleanliness no matter what
24 choices you make.
25

26 “A. Statement Regarding End of Life Care. You may initial the statement
27 below if you agree with it. If you initial the statement you may, but you do
28 not have to, list one or more conditions for which you do not want to receive
29 life support.
30

1 “___ I do not want my life to be prolonged by life support. I also do not
2 want tube feeding as life support. I want my health care provider to allow
3 me to die naturally if my health care provider and another knowledgeable
4 health care provider confirm that I am in any of the medical conditions
5 listed below.

6

7 “B. Additional Directions Regarding End of Life Care. Here are my de-
8 sires about my health care if my health care provider and another know-
9 ledgeable health care provider confirm that I am in a medical condition
10 described below:

11

12 “a. Close to Death. If I am close to death and life support would only
13 postpone the moment of my death:

14

15 “INITIAL ONE:

16 “___ I want to receive tube feeding.

17 “___ I want tube feeding only as my health care provider recommends.

18 “___ I DO NOT WANT tube feeding.

19

20 “INITIAL ONE:

21 “___ I want any other life support that may apply.

22 “___ I want life support only as my health care provider recommends.

23 “___ I DO NOT WANT life support.

24

25 “b. Permanently Unconscious. If I am unconscious and it is very unlikely
26 that I will ever become conscious again:

27

28 “INITIAL ONE:

29 “___ I want to receive tube feeding.

30 “___ I want tube feeding only as my health care provider recommends.

1 “ ___ I DO NOT WANT tube feeding.

2

3 “INITIAL ONE:

4 “ ___ I want any other life support that may apply.

5 “ ___ I want life support only as my health care provider recommends.

6 “ ___ I DO NOT WANT life support.

7

8 “c. Advanced Progressive Illness. If I have a progressive illness that will
9 be fatal and is in an advanced stage, and I am consistently and permanently
10 unable to communicate by any means, swallow food and water safely, care
11 for myself and recognize my family and other people, and it is very unlikely
12 that my condition will substantially improve:

13

14 “INITIAL ONE:

15 “ ___ I want to receive tube feeding.

16 “ ___ I want tube feeding only as my health care provider recommends.

17 “ ___ I DO NOT WANT tube feeding.

18

19 “INITIAL ONE:

20 “ ___ I want any other life support that may apply.

21 “ ___ I want life support only as my health care provider recommends.

22 “ ___ I DO NOT WANT life support.

23

24 “d. Extraordinary Suffering. If life support would not help my medical
25 condition and would make me suffer permanent and severe pain:

26

27 “INITIAL ONE:

28 “ ___ I want to receive tube feeding.

29 “ ___ I want tube feeding only as my health care provider recommends.

30 “ ___ I DO NOT WANT tube feeding.

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“INITIAL ONE:

“ ___ I want any other life support that may apply.

“ ___ I want life support only as my health care provider recommends.

“ ___ I DO NOT WANT life support.

“C. Additional Instruction. You may attach to this document any writing or recording of your values and beliefs related to health care decisions. These attachments will serve as guidelines for health care providers. Attachments may include a description of what you would like to happen if you are close to death, if you are permanently unconscious, if you have an advanced progressive illness or if you are suffering permanent and severe pain.

“5. MY SIGNATURE.

“My signature: _____

“Date: _____

“6. WITNESS.

“COMPLETE EITHER A OR B WHEN YOU SIGN.

“A. NOTARY:

“State of _____

“County of _____

“Signed or attested before me on _____,

“2____, by _____.

“ _____

“Notary Public - State of Oregon

1 "B. WITNESS DECLARATION:

2

3 "The person completing this form is personally known to me or has pro-
4 vided proof of identity, has signed or acknowledged the person's signature
5 on the document in my presence and appears to be not under duress and to
6 understand the purpose and effect of this form. In addition, I am not the
7 person's health care representative or alternate health care representative,
8 and I am not the person's attending health care provider.

9

10 "Witness Name (print): _____

11 "Signature: _____

12 "Date: _____

13

14 "Witness Name (print): _____

15 "Signature: _____

16 "Date: _____

17

18 "7. ACCEPTANCE BY MY HEALTH CARE REPRESENTATIVE.

19

20 "I accept this appointment and agree to serve as health care represen-
21 tative.

22

23 "Health care representative:

24 "Printed name: _____

25 "Signature or other verification of acceptance:

26 " _____

27 "Date: _____

28

29 "First alternate health care representative:

30 "Printed name: _____

1 “Signature or other verification of acceptance:

2 “ _____

3 “Date: _____

4

5 “Second alternate health care representative:

6 “Printed name: _____

7 “Signature or other verification of acceptance:

8 “ _____

9 “Date: _____

10 “ _____

11 **“SECTION 6.** ORS 127.658 is amended to read:

12 “127.658. (1) ORS 127.505 to 127.660 as enacted, the repeal of any statute
13 that was a part of ORS 127.505 to 127.660 and subsequent amendments to the
14 provisions of ORS 127.505 to 127.660 do not impair or supersede any advance
15 directive, form appointing a health care representative or directive to phy-
16 sicians executed in accordance with:

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

18 “(b) The provisions of ORS 127.505 to 127.660 or any other statute gov-
19 erning an advance directive, a form appointing a health care representative
20 or a directive to physicians that was in effect on the date that the advance
21 directive, the form appointing a health care representative or the directive
22 to physicians was executed.

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

27 “(a) The issue giving rise to adjudication occurs; or

28 “(b) The advance directive, the form appointing a health care represen-
29 tative or the directive to physicians was executed.

30 **“(3) If an advance directive executed by a principal is not in the**

1 **form prescribed by section 6, chapter 36, Oregon Laws 2018, but was a**
2 **valid form of advance directive at the time or in the place in which it**
3 **was executed, any provision in ORS 127.505 to 127.660 that refers to a**
4 **specific section of the form in section 6, chapter 36, Oregon Laws 2018,**
5 **shall apply to the equivalent section of the form of advance directive**
6 **executed by the principal.**

7 **“SECTION 7.** ORS 125.315 is amended to read:

8 “125.315. (1) A guardian has the following powers and duties:

9 “(a) Except to the extent of any limitation under the order of appoint-
10 ment, the guardian has custody of the protected person and may establish the
11 protected person’s place of abode within or without this state.

12 “(b) The guardian shall provide for the care, comfort and maintenance of
13 the protected person and, whenever appropriate, shall arrange for training
14 and education of the protected person. Without regard to custodial rights
15 of the protected person, the guardian shall take reasonable care of the
16 person’s clothing, furniture and other personal effects unless a conservator
17 has been appointed for the protected person.

18 “(c) Subject to the provisions of ORS 127.505 to 127.660 and subsection (3)
19 of this section, the guardian may consent, refuse consent or withhold or
20 withdraw consent to health care, as defined in ORS 127.505, for the protected
21 person. A guardian is not liable solely by reason of consent under this par-
22 agraph for any injury to the protected person resulting from the negligence
23 or acts of third persons.

24 “(d) The guardian may:

25 “(A) Make advance funeral and burial arrangements;

26 “(B) Subject to the provisions of ORS 97.130, control the disposition of the
27 remains of the protected person; and

28 “(C) Subject to the provisions of ORS 97.965, make an anatomical gift of
29 all or any part of the body of the protected person.

30 “(e) The guardian of a minor has the powers and responsibilities of a

1 parent who has legal custody of a child, except that the guardian has no
2 obligation to support the minor beyond the support that can be provided from
3 the estate of the minor, and the guardian is not liable for the torts of the
4 minor. The guardian may consent to the marriage or adoption of a protected
5 person who is a minor.

6 “(f) Subject to the provisions of ORS 125.320 (2), the guardian may receive
7 money and personal property deliverable to the protected person and apply
8 the money and property for support, care and education of the protected
9 person. The guardian shall exercise care to conserve any excess for the pro-
10 tected person’s needs.

11 “(g) The guardian shall promote the self-determination of the protected
12 person and, to the extent practicable, encourage the protected person to
13 participate in decisions, act on the protected person’s own behalf and develop
14 or regain the capacity to manage the protected person’s personal affairs. To
15 accomplish the duties under this paragraph, the guardian shall:

16 “(A) Become or remain personally acquainted with the protected person
17 and maintain sufficient contact with the protected person, including through
18 regular visitation, to know the protected person’s abilities, limitations,
19 needs, opportunities and physical and mental health;

20 “(B) To the extent practicable, identify the values and preferences of the
21 protected person and involve the protected person in decisions affecting the
22 protected person, including decisions about the protected person’s care,
23 dwelling, activities or social interactions; and

24 “(C) Make reasonable efforts to identify and facilitate supportive re-
25 lationships and services for the protected person.

26 “(h) In making decisions for the protected person, the guardian shall
27 make the decisions the guardian reasonably believes the protected person
28 would make if the protected person were able, unless doing so would unrea-
29 sonably harm or endanger the welfare or personal or financial interests of
30 the protected person. To determine the decision the protected person would

1 make if able, the guardian shall consider the protected person’s previous or
2 current instructions, preferences, opinions, values and actions, to the extent
3 actually known or reasonably ascertainable by the guardian.

4 “(i) If the guardian cannot make a decision under paragraph (h) of this
5 subsection because the guardian does not know and cannot reasonably de-
6 termine the decision the protected person would make if able, or the guard-
7 ian reasonably believes the decision the protected person would make would
8 unreasonably harm or endanger the welfare or personal or financial interests
9 of the protected person, the guardian shall act in accordance with the best
10 interest of the protected person. In determining the best interest of the pro-
11 tected person, the guardian shall consider:

12 “(A) Information received from professionals and persons that demon-
13 strate sufficient interest in the welfare of the protected person;

14 “(B) Other information the guardian believes the protected person would
15 consider if the protected person were able; and

16 “(C) Other factors a reasonable person in the circumstances of the pro-
17 tected person would consider, including consequences for others.

18 “(2) If a conservator has been appointed for the protected person, the
19 guardian may file a motion with the court seeking an order of the court on
20 the duties of the conservator relating to payment of support for the protected
21 person.

22 “(3) A guardian may consent to the withholding or withdrawing of arti-
23 ficially administered nutrition and hydration for a protected person only
24 under the circumstances described in ORS 127.580 [(1)(a), (b), (d), (e) or (f)]
25 **(1)(a), (c), (d) or (e)** and, if the protected person has a medical condition
26 specified in ORS 127.580 [(1)(b), (d), (e) or (f)] **(1)(a), (c), (d) or (e)**, the
27 condition has been medically confirmed.

28 **“SECTION 8. ORS 127.532, 127.533 and 127.534 and section 29, chapter**
29 **36, Oregon Laws 2018, are repealed.”**

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