

SB 891 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

Prepared By: Patricia Pascone, LPRO Analyst

Meeting Dates: 3/6

WHAT THE MEASURE DOES:

Permits ORS 127.800 to ORS 127.897 to be cited as the Oregon Death with Dignity Act. Expands authorized health care providers who may provide services under the Act to include physician assistants and nurse practitioners. Eliminates Oregon residency requirement. Allows prescription to be delivered to pharmacist by facsimile or electronic means, if confirmed by phone or other two-way communication device. Permits health care providers to electronically submit required records. Reduces waiting period from 15 days to 48 hours after a patient makes a first oral request for medication, before the patient must make a second request and the provider must wait before writing a prescription. Removes requirement that one witness not be an employee, operator, or owner of the health care facility where the terminally ill person is a patient or resident.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Oregon enacted its Death with Dignity Act (the Act) in 1997 to allow terminally ill patients who meet certain criteria to end their lives through voluntary self-administration of a lethal dose of a medication prescribed by a physician for that purpose. A qualified patient is at least 18 years of age, is a resident of Oregon, has been diagnosed with a terminal illness that will lead to death within six months, and is capable of informed decision-making and communication about health care decisions. The terminal diagnosis and capacity for informed decision-making must be confirmed by both an attending and a consulting physician. Either of the physicians must refer the patient to counseling, if of the opinion that the patient is suffering from a psychiatric or psychological disorder or depression causing impaired judgment, and no life-ending medication may be prescribed during such impairment. A qualified patient must make both an oral and a written request, and make a second oral request at least 15 days after the first oral request. The patient may make two oral requests without the waiting period if the attending physician determines with reasonable medical judgment that the patient will die within that time period. The physician must wait 15 days after the first oral request before writing the prescription, unless the patient will die within the waiting period and the patient has made a second request orally or in writing. The patient has the right to rescind the request at any time.

A physician must document certain information in the medical record, and health care providers must file medication dispensing records with the Oregon Health Authority (OHA). The OHA reviews a sample of medical records, reports annually with statistical information, and refers any instances of noncompliance with the Act to the applicable licensing authority. Physicians receive certain immunities and legal protections for services provided under the Act.

An Oregon Health Authority report on 2015 and 2016 workforce statistics estimated that 30% of Oregon primary care providers are physician assistants or nurse practitioners. In a March 2022 settlement agreement, the Oregon Health Authority, the Oregon Medical Board, and the Multnomah County District Attorney's Office agreed not to enforce the residency requirement for physicians assisting Death with Dignity patients. *Gideonse v. Brown, et al.*, Case No. 3:21-cv-01568-AR (D. Or., March 28, 2022).

SB 891 STAFF MEASURE SUMMARY

Senate Bill 891 would allow physician assistants and nurse practitioners to provide services under the Death with Dignity Act, shorten certain waiting periods before life-ending medication can be prescribed, remove the Oregon residency requirement, and permit electronic submission of prescriptions and health records.