

SB 1507 -1, -3 STAFF MEASURE SUMMARY

Senate Committee On Health Care

Prepared By: Daniel Dietz, LPRO Analyst

Sub-Referral To: Joint Committee On Ways and Means

Meeting Dates: 2/7

WHAT THE MEASURE DOES:

The measure directs the Oregon Health Authority to address the challenges faced by hospitals in discharging patients with complex needs to appropriate settings.

Detailed Summary:

The Oregon Health Authority is directed to take all practicable steps to address hospital discharge challenges. One specific challenge to be addressed is the lack of available public guardians for patients who are incapacitated. Additional challenges include:

- Hospital capacity and workforce shortages;
- Eligibility determinations for long term care services and supports;
- Limited reimbursement paid by the authority for skilled nursing care;
- The lack of placement options for patients with complex needs.

FISCAL: May have fiscal impact, but no statement yet issued.

REVENUE: May have revenue impact, but no statement yet issued.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 Allows the Office of the Public Guardian to provide services that do not require court appointment, such as supported decision-making or serving as health care representative or advocate, with additional funding for guardianship and non-guardianship services.

Detailed Summary:

Replaces the measure. Expands authority of the Office of the Public Guardian (OPG) to provide services that do not require the court to appoint a guardian or conservator. Allows OPG to provide services defined in existing statutes, to serve as health care representative, as health care advocate, as representative payee, as agent under a power of attorney, or as attorney-in-fact for the purpose of making decisions about mental health care. Allows OPG to make rules to define supported decision-making and to serve as supporter. Requires OPG to perform a needs assessment for all clients, including determining the client's capacity for decision-making and financial needs. Allows OPG to request that clients pay for reasonable expenses incurred, as with traditional guardianship services. Takes effect July 1, 2024. Appropriates \$904,102 for the biennium ending June 30, 2025.

-3 Appropriates funds for additional positions within the Office of the Public Guardian and Conservator (OPG).

Detailed Summary:

Appropriates funds for five additional positions within the OPG, including one manager position, for the provision of guardianship services to patients with complex needs who are being discharged from hospitals to post-acute care settings. Takes effect July 1, 2024. Appropriates \$904,102 for the biennium ending June 30, 2025.

BACKGROUND:

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A guardian is a qualified person who is appointed by a court to make decisions for a person who is incapable of making some or most decisions necessary for their basic care and safety ([link](#) to ORS 125 et seq). The Oregon Public Guardian (OPG) is the guardian of last resort and only serves when there is no less-restrictive option and no appropriate alternative guardian (ORS 125.680). Under existing law, OPG may only serve when appointed by a court as guardian or conservator and may not otherwise serve as health care representative or provide supported decision-making services.

Oregon law defines several circumstances in which a person may be appointed to make certain specific kinds of decisions on behalf of another person without being appointed by a court. A person who is capable of making decisions may appoint a health care representative to make decisions for when they are no longer capable (ORS 127.510). A health care advocate may be appointed to make certain limited health care decisions for an individual who does not have a guardian or health care representative (ORS 127.765). An attorney-in-fact is a health care representative or advocate who makes mental health treatment decisions (ORS 127.700). Supported decision-making allows people to make choices with support from a trusted professional. Currently, Oregon law requires schools to provide information about supported decision-making as a less-restrictive alternative to guardianship ([link](#) to Department of Human Services overview).

In public meetings in November and December of 2023, the Joint Task Force on Hospital Discharge Challenges ([HB 3396](#) (2023)) discussed the availability of guardianship services as a potential barrier for individuals waiting in the hospital for discharge to an appropriate post-acute care setting ([link](#) to Task Force meetings and materials). As of November 16, 2023, 73 of the 138 individuals served by OPG (53%) were in the hospital without a safe discharge option at the time their case was referred to OPG. At that time, 70 people in different settings across Oregon were on the OPG waitlist.