

House Bill 3080

Sponsored by Representative LEVY E; Senator BROADMAN (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act expands the list of people who can make health care decisions for a person who is not able to do so. (Flesch Readability Score: 76.8).

Modifies provisions regarding who can act as a health care representative for an incapacitated person who has not appointed a health care representative or does not have an advance directive.

A BILL FOR AN ACT

Relating to health care decision making for incapacitated individuals; creating new provisions; and amending ORS 127.505, 127.520, 127.527, 127.529, 127.533, 127.540, 127.555, 127.560, 127.580, 127.635, 127.640, 127.700, 127.760, 127.765, 163.193, 163.206, 179.505, 192.556 and 746.600.

Be It Enacted by the People of the State of Oregon:

HEALTH CARE DECISION MAKING FOR INCAPACITATED INDIVIDUALS

SECTION 1. Section 2 of this 2025 Act is added to and made a part of ORS 127.505 to 127.660.

SECTION 2. (1) If a principal is determined to be incapable and the principal has not executed an applicable valid advance directive or appointed a health care representative with the authority to consent to a proposed health care decision, the principal's health care representative shall be the first of the following, in the following order, who can be located upon reasonable effort by the health care provider and who is willing to serve as the health care representative:

(a) A guardian of the principal who is authorized to consent to the proposed health care decision, if any;

(b) The principal's spouse;

(c) The principal's adult children;

(d) The principal's parents;

(e) Adult siblings of the principal;

(f) Adult grandchildren of the principal who are familiar with the principal;

(g) Adult nieces and nephews of the principal who are familiar with the principal;

(h) Adult aunts and uncles of the principal who are familiar with the principal; or

(i) An adult who:

(A) Has exhibited special care and concern for the principal;

(B) Is familiar with the principal's personal values;

(C) Is reasonably available to make health care decisions; and

(D) Has provided the health care provider with a declaration described in subsection (2)

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 of this section.

2 (2)(a) An adult described in subsection (1)(i) of this section may act as the principal's
 3 health care representative only after providing a declaration, which is effective for up to six
 4 months from the date of the declaration, signed and dated under penalty of perjury as de-
 5 scribed in ORCP 1 E, that recites facts and circumstances demonstrating that the adult is
 6 familiar with the principal and that the adult:

7 (A) Meets the requirements of subsection (1)(i) of this section;

8 (B) Is a close friend of the principal;

9 (C) Is willing and able to become involved in the principal's health care;

10 (D) Has maintained such regular contact with the principal as to be familiar with the
 11 principal's activities, health, personal values and morals; and

12 (E) Is not aware of a person in a higher priority class willing and able to provide informed
 13 consent to health care on behalf of the patient.

14 (b) A health care provider may, but is not required to, rely on a declaration provided
 15 under this subsection. The health care provider is not subject to criminal prosecution, civil
 16 liability or professional disciplinary action when such reliance is based on a declaration pro-
 17 vided in compliance with this subsection.

18 (3) If despite reasonable efforts a health care provider is unable to locate and secure
 19 authorization from a competent person in the first or succeeding class as described in this
 20 section a person in the next class in the order of descending priority may act as the
 21 principal's health care representative. However, no person under this section may provide
 22 informed consent to proposed health care:

23 (a) If a person of higher priority under this section has refused to authorize the proposed
 24 health care; or

25 (b) If there are two or more individuals in the same class and the decision is not unani-
 26 mous among all available members of that class.

27 (4) A person acting under this section as a health care representative for an incapable
 28 principal may not provide informed consent on the principal's behalf unless the person has
 29 determined in good faith that, if the principal was capable, the principal would consent to the
 30 proposed health care. If the person is unable to determine whether or not the principal, if
 31 capable, would consent to the proposed health care, the person may consent to the proposed
 32 health care only after determining that the proposed health care is in the principal's best
 33 interests.

34 **SECTION 3.** ORS 127.520 is amended to read:

35 127.520. (1) Except as provided in ORS 127.635 (1)(c) or as may be allowed by court order, the
 36 following persons may not serve as health care representatives:

37 (a) If unrelated to the principal by blood, marriage or adoption:

38 (A) The attending physician or attending health care provider of the principal, or an employee
 39 of the attending physician or attending health care provider of the principal; [or]

40 (B) An owner, operator or employee of a health care facility in which the principal is a patient
 41 or resident, unless the health care representative was appointed before the principal's admission to
 42 the facility; or

43 (C) Any other person who receives compensation to provide care to the principal; or

44 (b) A person who is the principal's parent or former guardian if:

45 (A) At any time while the principal was under the care, custody or control of the person, a court

1 entered an order:

2 (i) Taking the principal into protective custody under ORS 419B.150; or

3 (ii) Committing the principal to the legal custody of the Department of Human Services for care,
4 placement and supervision under ORS 419B.337; and

5 (B) The court entered a subsequent order that:

6 (i) The principal should be permanently removed from the person's home, or continued in sub-
7 stitute care, because it was not safe for the principal to be returned to the person's home, and no
8 subsequent order of the court was entered that permitted the principal to return to the person's
9 home before the principal's wardship was terminated under ORS 419B.328; or

10 (ii) Terminated the person's parental rights under ORS 419B.500 and 419B.502 to 419B.524.

11 (2) A principal, while not incapable, may petition the court to remove a prohibition described
12 in subsection (1)(b) of this section.

13 (3) A capable adult may disqualify any other person from making health care decisions for the
14 capable adult. The disqualification must be in writing and signed by the capable adult. The dis-
15 qualification must specifically designate those persons who are disqualified.

16 (4) A health care representative whose authority has been revoked by a court is disqualified.

17 (5) A health care provider who has actual knowledge of a disqualification may not accept a
18 health care decision from the disqualified person.

19 (6) A person who has been disqualified from making health care decisions for a principal, and
20 who is aware of that disqualification, may not make health care decisions for the principal.

21 **SECTION 4.** ORS 127.540 is amended to read:

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

24 (1) Convulsive treatment.

25 (2) Psychosurgery.

26 (3) Sterilization.

27 (4) Abortion.

28 (5) Withholding or withdrawing of a life-sustaining procedure [*unless*:] **except as provided in**
29 **ORS 127.635.**

30 [*(a) the appointed health care representative has been given authority to make decisions on with-*
31 *holding or withdrawing life-sustaining procedures; or]*

32 [*(b) The principal has been medically confirmed to be in one of the following conditions:]*

33 [*(A) A terminal condition.]*

34 [*(B) Permanently unconscious.]*

35 [*(C) A condition in which administration of life-sustaining procedures would not benefit the*
36 *principal's medical condition and would cause permanent and severe pain.]*

37 [*(D) A progressive, debilitating illness that will be fatal and is in its advanced stages, and the*
38 *principal is consistently and permanently unable to communicate, swallow food and water safely, care*
39 *for the principal, and recognize the principal's family and other people, and there is no reasonable*
40 *chance that the principal's underlying condition will improve.]*

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

43 **(7) Requesting medication for the purpose of ending the principal's life in accordance with**
44 **the Oregon Death With Dignity Act.**

45 **(8) Decisions regarding the principal's mental health treatment if the principal has in**

1 **effect a valid declaration of mental health treatment consistent with ORS 127.700 to 127.737,**
 2 **unless the health care representative is designated in the declaration to act as an attorney-**
 3 **in-fact to make decisions about the principal’s mental health treatment.**

4 **SECTION 5.** ORS 127.635 is amended to read:

5 127.635. (1) Life-sustaining procedures that would otherwise be applied to a principal who is in-
 6 capable [*and who does not have an appointed health care representative or applicable valid advance*
 7 *directive*] may be withheld or withdrawn [*in accordance with subsections (2) and (3) of this section*]
 8 **only, in descending order of priority:**

9 **(a) As provided in the principal’s applicable valid advance directive;**

10 **(b) Upon the direction of an appointed health care representative who the principal has**
 11 **authorized to make decisions on withholding or withdrawing life-sustaining procedures; or**

12 **(c) If the principal does not have an advance directive or appointed health care repre-**
 13 **sentative described in paragraphs (a) and (b) of this subsection:**

14 **(A)(i) Upon the direction of a person who has been determined to be the principal’s health**
 15 **care representative as provided in section 2 of this 2025 Act; or**

16 **(ii) Upon the direction and under the supervision of the attending physician or attending**
 17 **health care provider if no person described in section 2 of this 2025 Act is available; and**

18 **(B) If the principal has been medically confirmed to be in one of the following conditions:**

19 [(a)] **(i) A terminal condition;**

20 [(b)] **(ii) Permanently unconscious;**

21 [(c)] **(iii) A condition in which administration of life-sustaining procedures would not benefit the**
 22 **principal’s medical condition and would cause permanent and severe pain; or**

23 [(d)] **(iv) An advanced stage of a progressive illness that will be fatal, and the principal is con-**
 24 **sistently and permanently unable to communicate by any means, to swallow food and water safely,**
 25 **to care for the principal’s self and to recognize the principal’s family and other people, and it is very**
 26 **unlikely that the principal’s condition will substantially improve.**

27 [(2) *If a principal’s condition has been determined to meet one of the conditions set forth in sub-*
 28 *section (1) of this section, and the principal does not have an appointed health care representative or*
 29 *applicable valid advance directive, the principal’s health care representative shall be the first of the*
 30 *following, in the following order, who can be located upon reasonable effort by the health care facility*
 31 *and who is willing to serve as the health care representative:]*

32 [(a) *A guardian of the principal who is authorized to make health care decisions, if any;]*

33 [(b) *The principal’s spouse;]*

34 [(c) *An adult designated by the others listed in this subsection who can be so located, if no person*
 35 *listed in this subsection objects to the designation;]*

36 [(d) *A majority of the adult children of the principal who can be so located;]*

37 [(e) *Either parent of the principal;]*

38 [(f) *A majority of the adult siblings of the principal who can be located with reasonable effort;*
 39 *or]*

40 [(g) *Any adult relative or adult friend.]*

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

44 [(4)(a)] **(2)(a) Life-sustaining procedures may be withheld or withdrawn, including an election for**
 45 **hospice treatment, upon the direction and under the supervision of the attending physician or at-**

1 tending health care provider at the request of a person [*designated the health care representative*
 2 *under subsections (2) and (3) of this section*] **described in subsection (1)(c) of this section** only
 3 after the person has consulted with concerned family and close friends and, if the principal has a
 4 case manager, as defined by rules adopted by the Department of Human Services, after giving notice
 5 to the principal's case manager.

6 (b) A case manager who receives notice under paragraph (a) of this subsection shall provide the
 7 person giving the case manager notice with any information in the case manager's possession that
 8 is related to the principal's values, beliefs and preferences with respect to the withholding or with-
 9 drawing of life-sustaining procedures.

10 (c) As used in this subsection, "hospice treatment" means treatment that focuses on palliative
 11 care, including care for acute pain and symptom management, rather than curative treatment, pro-
 12 vided to a principal with a terminal condition.

13 [(5)] **(3)** Before life-sustaining procedures may be withheld or withdrawn for a principal who has
 14 an intellectual or developmental disability, the person [*designated under subsection (2) or (3) of this*
 15 *section*] **described in subsection (1)(c) of this section** shall contact the department to determine
 16 if the principal has a case manager and provide notice to the case manager in accordance with
 17 subsection [(4)] **(2)** of this section.

18 [(6) *Notwithstanding subsection (2) of this section, a person who is the principal's parent or former*
 19 *guardian may not withhold or withdraw life-sustaining procedures under this section if:*]

20 [(a) *At any time while the principal was under the care, custody or control of the person, a court*
 21 *entered an order:*]

22 [(A) *Taking the principal into protective custody under ORS 419B.150; or*]

23 [(B) *Committing the principal to the legal custody of the Department of Human Services for care,*
 24 *placement and supervision under ORS 419B.337; and*]

25 [(b) *The court entered a subsequent order that:*]

26 [(A) *The principal should be permanently removed from the person's home, or continued in sub-*
 27 *stitute care, because it was not safe for the principal to be returned to the person's home, and no sub-*
 28 *sequent order of the court was entered that permitted the principal to return to the person's home before*
 29 *the principal's wardship was terminated under ORS 419B.328; or*]

30 [(B) *Terminated the person's parental rights under ORS 419B.500 and 419B.502 to 419B.524.*]

31 [(7) *A principal, while not incapable, may petition the court to remove a prohibition contained in*
 32 *subsection (6) of this section.*]

33 **SECTION 6.** ORS 127.760 is amended to read:

34 127.760. (1) As used in this section:

35 (a) "Health care instruction" means a document executed by a patient to indicate the patient's
 36 instructions regarding health care decisions.

37 (b) "Health care provider" means a person licensed, certified or otherwise authorized by the law
 38 of this state to administer health care in the ordinary course of business or practice of a profession.

39 (c) "Hospital" has the meaning given that term in ORS 442.015.

40 (d) "Mental health treatment" means convulsive treatment, treatment of mental illness with
 41 psychoactive medication, psychosurgery, admission to and retention in a health care facility for care
 42 or treatment of mental illness, and related outpatient services.

43 (2)(a)(A) A hospital may appoint a health care provider who has received training in health care
 44 ethics, including identification and management of conflicts of interest and acting in the best inter-
 45 est of the patient, to give informed consent to medically necessary health care services on behalf

1 of a patient admitted to the hospital in accordance with subsection (3) of this section.

2 (B) If a person appointed under subparagraph (A) of this paragraph is the patient's attending
3 physician or naturopathic physician licensed under ORS chapter 685, the hospital must also appoint
4 another health care provider who meets the requirements of subparagraph (A) of this paragraph to
5 participate in making decisions about giving informed consent to health care services on behalf of
6 the patient.

7 (b) A hospital may appoint a multidisciplinary committee with ethics as a core component of the
8 duties of the committee, or a hospital ethics committee, to participate in making decisions about
9 giving informed consent to medically necessary health care services on behalf of a patient admitted
10 to the hospital in accordance with subsection (3) of this section.

11 (3) A person appointed by a hospital under subsection (2) of this section may give informed
12 consent to medically necessary health care services on behalf of and in the best interest of a patient
13 admitted to the hospital if:

14 (a) In the medical opinion of the attending physician or naturopathic physician, the patient lacks
15 the ability to make and communicate health care decisions to health care providers;

16 (b) The hospital has performed a reasonable search, in accordance with the hospital's policy for
17 locating relatives and friends of a patient, for [a] **the patient's** health care representative [*appointed*
18 *under ORS 127.505 to 127.660 or an adult relative or adult friend of the patient*], **as defined in ORS**
19 **127.505**, who is capable of making health care decisions for the patient, including contacting social
20 service agencies of the Oregon Health Authority or the Department of Human Services if the hos-
21 pital has reason to believe that the patient has a case manager with the authority or the depart-
22 ment, and has been unable to locate any person who is capable of making health care decisions for
23 the patient; and

24 (c) The hospital has performed a reasonable search for and is unable to locate any health care
25 instruction executed by the patient.

26 (4) Notwithstanding subsection (3) of this section, if a patient's wishes regarding health care
27 services were made known during a period when the patient was capable of making and communi-
28 cating health care decisions, the hospital and the person appointed under subsection (2) of this
29 section shall comply with those wishes.

30 (5) A person appointed under subsection (2) of this section may not consent on a patient's behalf
31 to:

32 (a) Mental health treatment;

33 (b) Sterilization;

34 (c) Abortion;

35 (d) Except as provided in ORS 127.635 [(3)], the withholding or withdrawal of life-sustaining
36 procedures as defined in ORS 127.505; or

37 (e) Except as provided in ORS 127.580 (2), the withholding or withdrawal of artificially admin-
38 istered nutrition and hydration, as defined in ORS 127.505, other than hyperalimentation, necessary
39 to sustain life.

40 (6) If the person appointed under subsection (2) of this section knows the patient's religious
41 preference, the person shall make reasonable efforts to confer with a member of the clergy of the
42 patient's religious tradition before giving informed consent to health care services on behalf of the
43 patient.

44 (7) A person appointed under subsection (2) of this section is not a health care representative
45 as defined in ORS 127.505.

CONFORMING AMENDMENTS

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SECTION 7. ORS 127.505 is amended to read:

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

(1) “Adult” means an individual who:

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

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

(2)(a) “Advance directive” means a document executed by a principal that contains:

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

(B) Instructions to the health care representative.

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

(3) “Appointment” means a form appointing a health care representative, letters of guardianship or a court order appointing a health care representative.

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

(b) “Artificially administered nutrition and hydration” does not include the usual and typical provision of nutrition and hydration, such as the provision of nutrition and hydration by cup, hand, bottle, drinking straw or eating utensil.

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

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

(7) “Capable” means not incapable.

(8) “Form appointing a health care representative” means:

(a) The portion of the form set forth in ORS 127.529, used to appoint a health care representative or an alternate health care representative; or

(b) The form set forth in ORS 127.527.

(9) “Health care” means diagnosis, treatment or care of disease, injury and congenital or degenerative conditions, including the use, maintenance, withdrawal or withholding of life-sustaining procedures and the use, maintenance, withdrawal or withholding of artificially administered nutrition and hydration.

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

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

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

(b) “Health care provider” includes a health care facility.

(13) “Health care representative” means:

1 (a) A competent adult appointed to be a health care representative or an alternate health care
2 representative under ORS 127.510.

3 (b) A person who has authority to make health care decisions for a principal under the pro-
4 visions of ORS 127.635 [(2) or (3)] (1)(c) or section 2 of this 2025 Act.

5 (c) A guardian or other person, appointed by a court to make health care decisions for a prin-
6 cipal.

7 (14) "Incapable" means that in the opinion of the court in a proceeding to appoint or confirm
8 authority of a health care representative, or in the opinion of the principal's attending physician or
9 attending health care provider, a principal lacks the ability to make and communicate health care
10 decisions to health care providers, including communication through persons familiar with the
11 principal's manner of communicating if those persons are available.

12 (15) "Instrument" means an advance directive, form appointing a health care representative,
13 disqualification, withdrawal, court order, court appointment or other document governing health
14 care decisions.

15 (16)(a) "Life-sustaining procedure" means any medical procedure, pharmaceutical, medical device
16 or medical intervention that maintains life by sustaining, restoring or supplanting a vital function.

17 (b) "Life-sustaining procedure" does not include routine care necessary to sustain patient
18 cleanliness and comfort.

19 (17) "Medically confirmed" means the medical opinion of the attending physician or attending
20 health care provider has been confirmed by a second physician or second health care provider who
21 has examined the patient and who has clinical privileges or expertise with respect to the condition
22 to be confirmed.

23 (18) "Permanently unconscious" means completely lacking an awareness of self and external
24 environment, with no reasonable possibility of a return to a conscious state, and that condition has
25 been medically confirmed by a neurological specialist who is an expert in the examination of unre-
26 sponsive individuals.

27 (19) "Physician" means an individual licensed to practice medicine by the Oregon Medical Board
28 or a naturopathic physician licensed to practice naturopathic medicine by the Oregon Board of
29 Naturopathic Medicine.

30 (20) "Principal" means:

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

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

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

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

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

39 **SECTION 8.** ORS 127.527 is amended to read:

40 127.527. A form for appointing a health care representative and an alternate health care repre-
41 sentative must be written in substantially the following form:

42
43
44 FORM FOR APPOINTING
45 HEALTH CARE REPRESENTATIVE AND

ALTERNATE HEALTH CARE REPRESENTATIVE

This form may be used in Oregon to choose a person to make health care decisions for you if you become too sick to speak for yourself. The person is called a health care representative.

• If you have completed a form appointing a health care representative in the past, this new form will replace any older form.

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

• If you become too sick to speak for yourself and do not have an effective health care representative appointment, a health care representative will be appointed for you in the order of priority set forth in [ORS 127.635 (2)] section 2 of this 2025 Act.

1. ABOUT ME.

Name: _____

Date of Birth: _____

Telephone numbers: (Home) _____

(Work) _____ (Cell) _____

Address: _____

E-mail: _____

2. MY HEALTH CARE REPRESENTATIVE.

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

Name: _____

Relationship: _____

Telephone numbers: (Home) _____

(Work) _____ (Cell) _____

Address: _____

E-mail: _____

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

First alternate health care representative:

Name: _____

Relationship: _____

Telephone numbers: (Home) _____

(Work) _____ (Cell) _____

Address: _____

1 E-mail: _____

2

3 Second alternate health care representative:

4 Name: _____

5 Relationship: _____

6 Telephone numbers: (Home) _____

7 (Work) _____ (Cell) _____

8 Address: _____

9 E-mail: _____

10

11 3. MY SIGNATURE.

12

13 My signature: _____

14 Date: _____

15

16 4. WITNESS.

17

18 COMPLETE EITHER A OR B WHEN YOU SIGN.

19

20 A. NOTARY:

21

22 State of _____

23 County of _____

24 Signed or attested before me on _____,

25 2_____, by _____.

26 _____

27 Notary Public - State of Oregon

28

29 B. WITNESS DECLARATION:

30

31 The person completing this form is personally known to me or has provided proof of identity,
32 has signed or acknowledged the person's signature on the document in my presence and appears to
33 be not under duress and to understand the purpose and effect of this form. In addition, I am not the
34 person's health care representative or alternate health care representative, and I am not the
35 person's attending health care provider.

36

37 Witness Name (print): _____

38 Signature: _____

39 Date: _____

40

41 Witness Name (print): _____

42 Signature: _____

43 Date: _____

44

45 5. ACCEPTANCE BY MY HEALTH CARE REPRESENTATIVE.

1 I accept this appointment and agree to serve as health care representative.

2

3 Health care representative:

4 Printed name: _____

5 Signature or other verification of acceptance: _____

6 Date: _____

7

8 First alternate health care representative:

9 Printed name: _____

10 Signature or other verification of acceptance: _____

11 Date: _____

12

13 Second alternate health care representative:

14 Printed name: _____

15 Signature or other verification of acceptance: _____

16 Date: _____

17

18

19 **SECTION 9.** ORS 127.529 is amended to read:

20 127.529. An advance directive executed by an Oregon resident or by a resident of any other
21 state while physically present in this state must be in substantially the following form:

22

23

24

OREGON ADVANCE DIRECTIVE
FOR HEALTH CARE

25

26

27 • This Advance Directive form allows you to:

28 • Share your values, beliefs, goals and wishes for health care if you are not able to express
29 them yourself.

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

32

33 • Be sure to discuss your Advance Directive and your wishes with your health care represen-
34 tative. This will allow them to make decisions that reflect your wishes. It is recommended that you
35 complete this entire form.

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

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

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

40

41 The Advance Directive form allows you to express your preferences for health care. It is not
42 the same as Portable Orders for Life Sustaining Treatment (POLST) as defined in ORS 127.663. You
43 can find more information about the POLST in Your Guide to the Oregon Advance Directive.

44 This form may be used in Oregon to choose a person to make health care decisions for you if
45 you become too sick to speak for yourself or are unable to make your own medical decisions. The

1 person is called a health care representative. If you do not have an effective health care represen-
2 tative appointment and you become too sick to speak for yourself, a health care representative will
3 be appointed for you in the order of priority set forth in [ORS 127.635 (2)] **section 2 of this 2025**
4 **Act** and this person can only decide to withhold or withdraw life sustaining treatments if you meet
5 one of the conditions set forth in ORS 127.635 [(1)].

6 This form also allows you to express your values and beliefs with respect to health care deci-
7 sions and your preferences for health care.

8 • If you have completed an advance directive in the past, this new advance directive will re-
9 place any older directive.

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

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

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

18
19 1. ABOUT ME

20
21 Name: _____

22 Date of Birth: _____

23 Telephone numbers: (Home) _____
24 (Work) _____ (Cell) _____

25 Address: _____

26 E-mail: _____
27

28 2. MY HEALTH CARE REPRESENTATIVE

29
30 I choose the following person as my health care representative to make health care decisions
31 for me if I can't speak for myself.

32
33 Name: _____

34 Relationship: _____

35 Telephone numbers: (Home) _____
36 (Work) _____ (Cell) _____

37 Address: _____

38 E-mail: _____
39

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

43
44 First alternate health care representative:

45 Name: _____

1 Relationship: _____
 2 Telephone numbers: (Home) _____
 3 (Work) _____ (Cell) _____
 4 Address: _____
 5 E-mail: _____

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

14
 15 3. MY HEALTH CARE INSTRUCTIONS

16
 17 This section is the place for you to express your wishes, values and goals for care. Your in-
 18 structions provide guidance for your health care representative and health care providers.

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

21
 22 A. MY HEALTH CARE DECISIONS:

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

26 a. Terminal Condition

27 This is what I want if:

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

29 AND

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

32
 33 Initial one option only.

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

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

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

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

45

1 b. Advanced Progressive Illness

2 This is what I want if:

- 3 • I have an illness that is in an advanced stage.

4 AND

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

7 AND

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

- 9 - Communicate
- 10 - Swallow food and water safely
- 11 - Care for myself
- 12 - Recognize my family and other people

13 Initial one option only.

14 ___ I want to try all available treatments to sustain my life, such as artificial feeding and hy-

15 dration with feeding tubes, IV fluids, kidney dialysis and breathing machines.

16 ___ I want to try to sustain my life with artificial feeding and hydration with feeding tubes and

17 IV fluids. I do not want other treatments to sustain my life, such as kidney dialysis and breathing

18 machines.

19 ___ I do not want treatments to sustain my life, such as artificial feeding an hydration with

20 feeding tubes, IV fluids, kidney dialysis or breathing machines. I want to be kept comfortable and

21 be allowed to die naturally.

22 ___ I want my health care representative to decide for me, after talking with my health care

23 providers and taking into account the things that matter to me. I have expressed what matters to

24 me in section B below.

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 again.

30 Initial one option only.

31 ___ I want to try all available treatments to sustain my life, such as artificial feeding and hy-

32 dration with feeding tubes, IV fluids, kidney dialysis and breathing machines.

33 ___ I want to try to sustain my life with artificial feeding and hydration with feeding tubes and

34 IV fluids. I do not want other treatments to sustain my life, such as kidney dialysis and breathing

35 machines.

36 ___ I do not want treatments to sustain my life, such as artificial feeding and hydration with

37 feeding tubes, IV fluids, kidney dialysis or breathing machines. I want to be kept comfortable and

38 be allowed to die naturally.

39 ___ I want my health care representative to decide for me, after talking with my health care

40 providers and taking into account the things that matter to me. I have expressed what matters to

41 me in section B below.

1 You may write in the space below or attach pages to say more about what kind of care you
2 want or do not want.

3 _____
4 _____
5 _____
6 _____
7 _____

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

11 This section only applies when you are in a terminal condition, have an advanced progressive
12 illness or are permanently unconscious. If you wish to use this section, you can communicate the
13 things that are really important to you and for you. This will help your 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 in the
25 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 matters most
36 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 those

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

3 You may write in the space below or attach pages to say more about your spiritual or religious
4 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 to have
15 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 representative
18 and health care providers make decisions about your health care. This might include family history,
19 experiences with health care, cultural background, career, social support system and more.

20 You may write in the space below or attach pages to say more about your life, beliefs and val-
21 ues.

22 _____
23
24 _____
25
26 _____

27
28
29 **B. PLACE OF CARE:**

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

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

35 _____
36
37 _____
38
39 _____

40
41
42 **C. OTHER:**

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

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

1
2
3
4
5
6
7
8
9
10
11
12
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45

D. INFORM OTHERS:

You can allow your health care representative to authorize your health care providers to the extent permitted by state and federal privacy laws to discuss your health status and care with the people you write in below. Only your health care representative can make decisions about your care.

Name: _____

Relationship: _____

Telephone numbers: (Home) _____

(Work) _____ (Cell) _____

Address: _____

E-mail: _____

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

B. WITNESS DECLARATION:

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

1 Witness Name (print): _____
2 Signature: _____
3 Date: _____

4
5 Witness Name (print): _____
6 Signature: _____
7 Date: _____

8
9 7. ACCEPTANCE BY MY HEALTH CARE REPRESENTATIVE

10
11 I accept this appointment and agree to serve as health care representative.

12
13 Health care representative:
14 Printed name: _____
15 Signature or other verification of acceptance:
16 _____
17 Date: _____

18
19 First alternate health care representative:
20 Printed name: _____
21 Signature or other verification of acceptance:
22 _____
23 Date: _____

24
25 Second alternate health care representative:
26 Printed name: _____
27 Signature or other verification of acceptance:
28 _____
29 Date: _____

30
31
32 **SECTION 10.** ORS 127.533 is amended to read:

33 127.533. (1) In accordance with public notice and stakeholder participation requirements pre-
34 scribed by the Oregon Health Authority, the Advance Directive Advisory Committee established
35 under ORS 127.532 shall:

36 (a) Advise the Legislative Assembly regarding the form of an advance directive to be used in
37 this state;

38 (b) Review the form set forth in ORS 127.529 not less than once every four years for the purpose
39 of recommending changes to the form that the advisory committee determines are necessary; and

40 (c) Prepare written materials that provide information regarding advance directives to assist the
41 public with completing the advance directive form.

42 (2) At a minimum, the form of an advance directive recommended under this section must con-
43 tain the following elements:

44 (a) A statement about the purposes of the advance directive, including:
45 (A) A statement about the purpose of the principal's appointment of a health care representative

1 to make health care decisions for the principal if the principal becomes incapable;

2 (B) A statement about the priority of health care representative appointment in [ORS 127.635
3 (2)] **section 2 of this 2025 Act** in the event the principal becomes incapable and does not have a
4 valid health care representative appointment;

5 (C) A statement about the purpose of the principal's expression of the principal's values and
6 beliefs with respect to health care decisions and the principal's preferences for health care;

7 (D) A statement about the purpose of the principal's expression of the principal's preferences
8 with respect to placement in a care home or a mental health facility;

9 (E) A statement that advises the principal that the advance directive allows the principal to
10 document the principal's preferences, but is not a POLST, as defined in ORS 127.663;

11 (F) A statement that the information described in subsection (1)(c) of this section is available
12 on the Oregon Health Authority's website; and

13 (G) A statement explaining that the principal may attach supplementary material describing the
14 principal's treatment preferences to the advance directive and that any attached supplementary
15 material will be considered a part of the advance directive, consistent with ORS 127.505 (2)(b).

16 (b) A statement explaining the execution formalities under ORS 127.515, including that, to be
17 effective, the advance directive must be:

18 (A) Signed by the principal; and

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

20 (c) A statement explaining the acceptance formalities under ORS 127.525, including that, to be
21 effective, the appointment of a health care representative or an alternate health care representative
22 must be accepted by the health care representative or the alternate health care representative.

23 (d) A statement explaining ORS 127.545, including that the advance directive, once executed,
24 supersedes any previously executed advance directive.

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

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

28 (g) A section providing the principal with an opportunity to state the principal's values and
29 beliefs with respect to health care decisions, including the opportunity to describe the principal's
30 preferences, by completing a checklist, by providing instruction through narrative or other means,
31 or by any combination of methods used to describe the principal's preferences, regarding:

32 (A) When the principal wants all reasonably available health care necessary to preserve life and
33 recover;

34 (B) When the principal wants all reasonably available health care necessary to treat chronic
35 conditions;

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

39 (D) When the principal desires comfort care instead of health care necessary to preserve life.

40 (h) A section where the principal and the witnesses or notary may sign the advance directive,
41 consistent with the execution formalities required under ORS 127.515.

42 (i) A section where any health care representative or any alternate health care representative
43 appointed by the principal may accept the appointment, consistent with the requirements under ORS
44 127.525.

45 (3)(a) In recommending changes to the form of an advance directive under this section, the ad-

1 visory committee shall use plain language, such as “tube feeding” and “life support.”

2 (b) As used in this subsection:

3 (A) “Life support” means life-sustaining procedures.

4 (B) “Tube feeding” means artificially administered nutrition and hydration.

5 (4) In recommending changes to the form of an advance directive under this section, the advisory committee shall use the components of the form for appointing a health care representative and an alternate health care representative set forth in ORS 127.527.

6 (5) The advisory committee shall submit a report detailing the advisory committee’s recommendations developed under this section on or before September 1 of an even-numbered year following the date on which the advisory committee finalizes the recommendations in the manner provided by ORS 192.245 to an interim committee of the Legislative Assembly related to the judiciary. The interim committee shall consider the advisory committee’s recommendations submitted to the interim committee under this section.

7 (6) The Oregon Health Authority shall post the form of an advance directive set forth in ORS 127.529 and the written materials described in subsection (1)(c) of this section on the authority’s website.

8 **SECTION 11.** ORS 127.555 is amended to read:

9 127.555. (1) If there is more than one physician or health care provider caring for a principal, the principal shall designate one physician or one health care provider as the attending physician or the attending health care provider. If the principal is incapable, the health care representative for the principal shall designate the attending physician or the attending health care provider.

10 (2) Health care representatives, and persons who are acting under a reasonable belief that they are health care representatives, are not guilty of any criminal offense, or subject to civil liability, or in violation of any professional oath, affirmation or standard of care for any action taken in good faith as a health care representative.

11 (3) A health care provider acting or declining to act in reliance on the health care decision made in an advance directive or in a document that the health care provider reasonably believes to be an advance directive, made by an attending physician or attending health care provider under ORS 127.635 [(3)] (1)(c)(A)(ii), or made by a person who the health care provider believes is the health care representative for an incapable principal, is not subject to criminal prosecution, civil liability or professional disciplinary action on grounds that the health care decision is unauthorized unless the health care provider:

12 (a) Fails to satisfy a duty that ORS 127.505 to 127.660 place on the health care provider;

13 (b) Acts without medical confirmation as required under ORS 127.505 to 127.660;

14 (c) Knows or has reason to know that the requirements of ORS 127.505 to 127.660 have not been satisfied; or

15 (d) Acts after receiving notice that:

16 (A) The authority or decision on which the health care provider relied is revoked, suspended, superseded or subject to other legal infirmity;

17 (B) A court challenge to the health care decision or the authority relied on in making the health care decision is pending; or

18 (C) The health care representative has withdrawn or has been disqualified.

19 (4) The immunities provided by this section do not apply to:

20 (a) The manner of administering health care pursuant to a health care decision made by the health care representative or by an advance directive; or

1 (b) The manner of determining the health condition or incapacity of the principal.

2 (5) A health care provider who determines that a principal is incapable is not subject to criminal
 3 prosecution, civil liability or professional disciplinary action for failing to follow that principal's
 4 direction except for a failure to follow a principal's manifestation of an objection to a health care
 5 decision under ORS 127.535 (5).

6 **SECTION 12.** ORS 127.560 is amended to read:

7 127.560. (1) Except as otherwise specifically provided, ORS 127.505 to 127.660 and 127.995 do not
 8 impair or supersede the laws of this state relating to:

9 (a) Any requirement of notice to others of proposed health care;

10 (b) The standard of care required of a health care provider in the administration of health care;

11 (c) Whether consent is required for health care;

12 (d) The elements of informed consent for health care under ORS 677.097 or other law;

13 (e) The provision of health care in an emergency;

14 (f) Any right a capable person may have to consent or withhold consent to health care admin-
 15 istered in good faith pursuant to religious tenets of the individual requiring health care;

16 (g) Delegation of authority by a health care representative;

17 (h) Any legal right or responsibility any person may have to effect the withholding or with-
 18 drawal of life-sustaining procedures including artificially administered nutrition and hydration in
 19 any lawful manner;

20 (i) Guardianship or conservatorship proceedings; or

21 (j) Any right persons may otherwise have to make their own health care decisions, or to make
 22 health care decisions for another.

23 (2) The provisions of ORS 127.505 to 127.660 and 127.995 do not in themselves impose civil or
 24 criminal liability on a health care representative or health care provider who withholds or with-
 25 draws or directs the withholding or withdrawal of life-sustaining procedures or artificially adminis-
 26 tered nutrition and hydration when a principal is in a health condition other than those conditions
 27 described in ORS [127.540 (5)(b),] 127.580 or 127.635 [(1)]. The provisions of ORS 127.505 to 127.660
 28 and 127.995 do not abolish or limit the civil or criminal liability of a health care representative
 29 under other statutory or common law if the health care representative withholds or withdraws or
 30 directs the withholding or withdrawal of life-sustaining procedures or artificially administered nu-
 31 trition and hydration when a principal is in a health condition other than those conditions described
 32 in ORS [127.540 (5)(b),] 127.580 or 127.635 [(1)].

33 **SECTION 13.** ORS 127.580 is amended to read:

34 127.580. (1) It shall be presumed that every person who is temporarily or permanently incapable
 35 has consented to artificially administered nutrition and hydration, other than hyperalimentation,
 36 that are necessary to sustain life except in one or more of the following circumstances:

37 (a) The person while a capable adult clearly and specifically stated that the person would have
 38 refused artificially administered nutrition and hydration.

39 (b) Administration of such nutrition and hydration is not medically feasible or would itself cause
 40 severe, intractable or long-lasting pain.

41 (c) The person has an appointed health care representative who has been given authority to
 42 make decisions on the use, maintenance, withholding or withdrawing of artificially administered
 43 nutrition and hydration.

44 (d) The person does not have an appointed health care representative or an advance directive
 45 that clearly states that the person did not want artificially administered nutrition and hydration,

1 and the person is permanently unconscious.

2 (e) The person does not have an appointed health care representative or an advance directive
 3 that clearly states that the person did not want artificially administered nutrition and hydration, the
 4 person is incapable, and the person has a terminal condition.

5 (f) The person has a progressive illness that will be fatal and is in an advanced stage, the person
 6 is consistently and permanently unable to communicate by any means, swallow food and water
 7 safely, care for the person’s self and recognize the person’s family and other people, and it is very
 8 unlikely that the person’s condition will substantially improve.

9 (2) If a person does not have an appointed health care representative or an advance directive
 10 that clearly states that the person did not want artificially administered nutrition and hydration,
 11 but the presumption established by this section has been overcome under the provisions of sub-
 12 section (1)(a), (b), (d), (e) or (f) of this section, artificially administered nutrition and hydration may
 13 be withheld or withdrawn under the provisions of ORS 127.635 [(2), (3) and (4)].

14 (3) The medical conditions specified in subsection (1)(b), (d), (e) and (f) of this section must be
 15 medically confirmed to overcome the presumption established by subsection (1) of this section.

16 **SECTION 14.** ORS 127.640 is amended to read:

17 127.640. Before withholding or withdrawing life-sustaining procedures or artificially administered
 18 nutrition and hydration under the provisions of ORS [127.540,] 127.580 or 127.635, the attending
 19 physician or attending health care provider shall determine that the conditions of ORS [127.540,]
 20 127.580 and 127.635 have been met.

21 **SECTION 15.** ORS 127.700, as amended by section 34, chapter 73, Oregon Laws 2024, is
 22 amended to read:

23 127.700. As used in ORS 127.700 to 127.737:

24 (1) “Attending physician” shall have the same meaning as provided in ORS 127.505.

25 (2) “Attorney-in-fact” means an adult validly appointed under ORS [127.540] **127.505 to 127.660,**
 26 127.700 to 127.737 [and] **or 426.385, or authorized under section 2 of this 2025 Act,** to make
 27 mental health treatment decisions for a principal under a declaration for mental health treatment
 28 and also means an alternative attorney-in-fact.

29 (3) “Declaration” means a document making a declaration of preferences or instructions re-
 30 garding mental health treatment.

31 (4) “Health care facility” shall have the same meaning as provided in ORS 127.505.

32 (5) “Health care provider” shall have the same meaning as provided in ORS 127.505.

33 (6) “Incapable” means that, in the opinion of the court in a protective proceeding under ORS
 34 chapter 125, or the opinion of two physicians, a person’s ability to receive and evaluate information
 35 effectively or communicate decisions is impaired to such an extent that the person currently lacks
 36 the capacity to make mental health treatment decisions.

37 (7) “Mental health treatment” means convulsive treatment, treatment of mental illness with
 38 psychoactive medication, admission to and retention in a health care facility for a period not to
 39 exceed 17 days for care or treatment of mental illness, and outpatient services.

40 (8) “Outpatient services” means treatment for a mental or emotional disorder that is obtained
 41 by appointment and is provided by an outpatient service as defined in ORS 430.010.

42 (9) “Provider” means a mental health treatment provider, a physician associate licensed under
 43 ORS 677.505 to 677.525 or a nurse practitioner licensed under ORS 678.375 to 678.390.

44 (10) “Representative” means “attorney-in-fact” as defined in this section.

45 **SECTION 16.** ORS 127.765 is amended to read:

- 1 127.765. (1) As used in this section:
- 2 (a) "Attending physician" has the meaning given that term in ORS 127.505.
- 3 (b) "Developmental disability" has the meaning given that term in ORS 427.005.
- 4 (c) "Emergency treatment" means a procedure or treatment that, if delayed, is likely to:
- 5 (A) Place the health of the individual in serious jeopardy;
- 6 (B) Result in serious impairment to bodily functions; or
- 7 (C) Result in serious dysfunction of any bodily organ.
- 8 (d) "Health care advocate" means a person who is authorized to make health care decisions on
- 9 behalf of an individual if the individual does not have a guardian or a health care representative.
- 10 (e) "Health care decision" has the meaning given that term in ORS 127.505.
- 11 (f) "Health care representative" has the meaning given that term in ORS 127.505.
- 12 (g) "Individual" means an individual with an intellectual or developmental disability who re-
- 13 ceives services pursuant to an individualized service plan.
- 14 (h) "Individualized service plan" has the meaning given that term in ORS 427.101.
- 15 (i) "Individualized service plan team" means a group consisting of:
- 16 (A) The individual;
- 17 (B) The individual's legal or designated representative;
- 18 (C) The individual's case manager; and
- 19 (D) Other individuals who may be chosen by the individual, such as care providers or family
- 20 members.
- 21 (j) "Significant medical procedure" means any medical procedure that requires a hospital ad-
- 22 mission or the administration of general anesthesia in an outpatient setting.
- 23 (k) "Treating physician" means a physician who has primary responsibility for the care and
- 24 treatment of an individual.
- 25 (2) An individualized service plan team may appoint a health care advocate for an individual
- 26 whom a court or a treating physician has determined to be incapable of making health care deci-
- 27 sions.
- 28 (3) A health care advocate must be a capable adult who is willing to serve as a health care
- 29 advocate and who is approved by at least two-thirds of the individualized service plan team, in-
- 30 cluding the individual, except that the following persons may not serve as a health care advocate:
- 31 (a) The individual's attending physician or an employee of the attending physician or any other
- 32 person providing care to the individual.
- 33 (b) A parent whose parental rights are terminated.
- 34 (c) A guardian if the guardianship is terminated.
- 35 (4) A health care advocate is authorized to access the health records of the individual and
- 36 consult with the individual's medical providers for the purpose of making health care decisions on
- 37 behalf of the individual.
- 38 (5) A health care advocate may not make health care decisions on behalf of an individual with
- 39 respect to any of the following:
- 40 (a) An action or procedure described in ORS 127.540 (1) to [(4)] (7).
- 41 (b) Withholding or withdrawing of a life-sustaining procedure.
- 42 (c) Withholding or withdrawing artificially administered nutrition and hydration other than
- 43 hyperalimentation.
- 44 (d) Testing for HIV, unless testing is necessary for obtaining treatment or care for the individ-
- 45 ual.

1 (e) A request for medication for the purpose of ending the individual's life pursuant to ORS
2 127.805 or other form of assisted suicide.

3 (f) Euthanasia.

4 (g) An experimental procedure, unless the procedure has been approved by an institutional re-
5 view board and is determined by the treating physician to be in the best interest of the individual.

6 (h) An experimental drug that has not been approved for use by the United States Food and
7 Drug Administration, unless the drug is part of an approved clinical trial and the individual's
8 treating physician has determined that it is in the best interest of the individual.

9 (i) The use of seclusion or physical or chemical restraints, unless an imminent risk of harm to
10 the individual or others exists but only for as long as the imminent risk continues except in the case
11 of an emergency.

12 (6) A health care advocate is appointed for a one-year term and may be reappointed as provided
13 in subsection (3) of this section. The individualized service plan team may revoke the appointment
14 of a health care advocate by a majority vote.

15 (7) A health care advocate may not disclose the contents of, and must maintain the
16 confidentiality of, the individual's health information, as required by state and federal laws.

17 (8) A health care decision by a health care advocate regarding a significant medical procedure
18 or treatment must be approved by a majority of the individualized service plan team at an in-person
19 meeting of the team at which the team considers and documents its consideration of:

20 (a) Alternatives to the procedure or treatment;

21 (b) Risks and benefits of the procedure or treatment;

22 (c) The anticipated impact of the procedure or treatment on the individual's well-being;

23 (d) Any preferences in favor of or against the procedure or treatment communicated by the in-
24 dividual verbally or nonverbally; and

25 (e) Any additional information that is needed before making the decision.

26 (9) The individual must participate in the meeting described in subsection (8) of this section
27 unless the individual declines to participate or is unable to participate due to the individual's med-
28 ical condition.

29 (10) An individualized service plan team must inform an individual of the team's decision to seek
30 a health care advocate for the individual prior to the appointment of the advocate.

31 (11) A health care advocate must inform an individual of all health care decisions made or
32 considered by the advocate.

33 (12) An individual has the right to protest any health care decision made by a health care ad-
34 vocate. If the individual protests a health care decision by a health care advocate:

35 (a) The health care decision is revoked;

36 (b) The health care advocate's authority is withdrawn with respect to the health care decision
37 that is revoked under paragraph (a) of this subsection; and

38 (c) The individualized service plan team or the health care advocate shall notify the provider
39 whose recommendation is the subject of the health care decision that is revoked under paragraph
40 (a) of this subsection.

41 (13) The Department of Human Services shall ensure that appropriate training is made available
42 to at least two members of the individual's individualized service plan team before a health care
43 advocate may be appointed for the individual.

44 (14) The department shall adopt rules necessary to carry out the provisions of this section.

45 **SECTION 17.** ORS 163.193 is amended to read:

1 163.193. (1) A person commits the crime of assisting another person to commit suicide if the
 2 person knowingly sells, or otherwise transfers for consideration, any substance or object, that is
 3 capable of causing death, to another person for the purpose of assisting the other person to commit
 4 suicide.

5 (2) This section does not apply to a person:

6 (a) Acting pursuant to a court order, an advance directive or a form for appointing a health care
 7 representative pursuant to ORS 127.505 to 127.660 or a POLST, as defined in ORS 127.663;

8 (b) Withholding or withdrawing life-sustaining procedures or artificially administered nutrition
 9 and hydration pursuant to ORS 127.505 to 127.660;

10 (c) **Acting in accordance with the provisions of ORS 127.635;** or

11 [(c)] (d) Acting in accordance with the provisions of ORS 127.800 to 127.897.

12 (3) Assisting another person to commit suicide is a Class B felony.

13 **SECTION 18.** ORS 163.206 is amended to read:

14 163.206. ORS 163.200 and 163.205 do not apply:

15 (1) To a person acting pursuant to a court order, an advance directive or a form for appointing
 16 a health care representative pursuant to ORS 127.505 to 127.660 or a POLST, as defined in ORS
 17 127.663;

18 (2) To a person withholding or withdrawing life-sustaining procedures or artificially adminis-
 19 tered nutrition and hydration pursuant to ORS 127.505 to 127.660;

20 (3) **To a person directing the withholding or withdrawing of life-sustaining procedures or**
 21 **artificially administered nutrition and hydration pursuant to ORS 127.635;**

22 [(3)] (4) When a competent person refuses food, physical care or medical care;

23 [(4)] (5) To a person who provides an elderly person or a dependent person who is at least 18
 24 years of age with spiritual treatment through prayer from a duly accredited practitioner of spiritual
 25 treatment as provided in ORS 124.095, in lieu of medical treatment, in accordance with the tenets
 26 and practices of a recognized church or religious denomination of which the elderly or dependent
 27 person is a member or an adherent; or

28 [(5)] (6) To a duly accredited practitioner of spiritual treatment as provided in ORS 124.095.

29 **SECTION 19.** ORS 179.505 is amended to read:

30 179.505. (1) As used in this section:

31 (a) "Disclosure" means the release of, transfer of, provision of access to or divulgence in any
 32 other manner of information outside the health care services provider holding the information.

33 (b) "Health care services provider" means:

34 (A) Medical personnel or other staff employed by or under contract with a public provider to
 35 provide health care or maintain written accounts of health care provided to individuals; or

36 (B) Units, programs or services designated, operated or maintained by a public provider to pro-
 37 vide health care or maintain written accounts of health care provided to individuals.

38 (c) "Individually identifiable health information" means any health information that is:

39 (A) Created or received by a health care services provider; and

40 (B) Identifiable to an individual, including demographic information that identifies the individual,
 41 or for which there is a reasonable basis to believe the information can be used to identify an indi-
 42 vidual, and that relates to:

43 (i) The past, present or future physical or mental health or condition of an individual;

44 (ii) The provision of health care to an individual; or

45 (iii) The past, present or future payment for the provision of health care to an individual.

- 1 (d) "Personal representative" includes but is not limited to:
- 2 (A) A person appointed as a guardian under ORS 125.305, 419B.372, 419C.481 or 419C.555 with
- 3 authority to make medical and health care decisions;
- 4 (B) A person appointed as a health care representative under ORS 127.505 to 127.660 or a rep-
- 5 resentative under ORS 127.700 to 127.737 to make health care decisions or mental health treatment
- 6 decisions;
- 7 **(C) A person who has authority to make health care decisions under section 2 of this 2025**
- 8 **Act;** and
- 9 [(C)] **(D)** A person appointed as a personal representative under ORS chapter 113.
- 10 (e) "Psychotherapy notes" means notes recorded in any medium:
- 11 (A) By a mental health professional, in the performance of the official duties of the mental
- 12 health professional;
- 13 (B) Documenting or analyzing the contents of conversation during a counseling session; and
- 14 (C) That are maintained separately from the rest of the individual's record.
- 15 (f) "Psychotherapy notes" does not mean notes documenting:
- 16 (A) Medication prescription and monitoring;
- 17 (B) Counseling session start and stop times;
- 18 (C) Modalities and frequencies of treatment furnished;
- 19 (D) Results of clinical tests; or
- 20 (E) Any summary of the following items:
- 21 (i) Diagnosis;
- 22 (ii) Functional status;
- 23 (iii) Treatment plan;
- 24 (iv) Symptoms;
- 25 (v) Prognosis; or
- 26 (vi) Progress to date.
- 27 (g) "Public provider" means:
- 28 (A) The Oregon State Hospital campuses;
- 29 (B) Department of Corrections institutions as defined in ORS 421.005;
- 30 (C) A contractor of the Department of Corrections or the Oregon Health Authority that provides
- 31 health care to individuals residing in a state institution operated by the agencies;
- 32 (D) A community mental health program or community developmental disabilities program as
- 33 described in ORS 430.610 to 430.695 and the public and private entities with which it contracts to
- 34 provide mental health or developmental disabilities programs or services;
- 35 (E) A program or service provided under ORS 431.001 to 431.550 and 431.990;
- 36 (F) A community mental health program or service established or maintained under ORS 430.630
- 37 or a community developmental disabilities program described in ORS 430.620 (1)(a) or (c);
- 38 (G) A program or facility providing an organized full-day or part-day program of treatment that
- 39 is licensed, approved, established, maintained or operated by or contracted with the Oregon Health
- 40 Authority for alcoholism, drug addiction or mental or emotional disturbance;
- 41 (H) A program or service providing treatment by appointment that is licensed, approved, estab-
- 42 lished, maintained or operated by or contracted with the authority for alcoholism, drug addiction
- 43 or mental or emotional disturbance; or
- 44 (I) The impaired health professional program established under ORS 676.190.
- 45 (h) "Written account" means records containing only individually identifiable health information.

1 (2) Except as provided in subsections (3), (4), (6), (7), (8), (9), (11), (12), (14), (15), (16), (17) and (18)
2 of this section or unless otherwise permitted or required by state or federal law or by order of the
3 court, written accounts of the individuals served by any health care services provider maintained
4 in or by the health care services provider by the officers or employees thereof who are authorized
5 to maintain written accounts within the official scope of their duties are not subject to access and
6 may not be disclosed. This subsection applies to written accounts maintained in or by facilities of
7 the Department of Corrections only to the extent that the written accounts concern the medical,
8 dental or psychiatric treatment as patients of those under the jurisdiction of the Department of
9 Corrections.

10 (3) If the individual or a personal representative of the individual provides an authorization, the
11 content of any written account referred to in subsection (2) of this section must be disclosed ac-
12 cordingly, if the authorization is in writing and is signed and dated by the individual or the personal
13 representative of the individual and sets forth with specificity the following:

14 (a) Name of the health care services provider authorized to make the disclosure, except when
15 the authorization is provided by recipients of or applicants for public assistance or medical assist-
16 ance, as defined in ORS 414.025, to a governmental entity for purposes of determining eligibility for
17 benefits or investigating for fraud;

18 (b) Name or title of the persons or organizations to which the information is to be disclosed or
19 that information may be disclosed to the public;

20 (c) Name of the individual;

21 (d) Extent or nature of the information to be disclosed; and

22 (e) Statement that the authorization is subject to revocation at any time except to the extent
23 that action has been taken in reliance thereon, and a specification of the date, event or condition
24 upon which it expires without express revocation. However, a revocation of an authorization is not
25 valid with respect to inspection or records necessary to validate expenditures by or on behalf of
26 governmental entities.

27 (4) The content of any written account referred to in subsection (2) of this section may be dis-
28 closed without an authorization:

29 (a) To any person to the extent necessary to meet a medical emergency.

30 (b) At the discretion of the responsible officer of the health care services provider, which in the
31 case of any Oregon Health Authority facility or community mental health program is the Director
32 of the Oregon Health Authority, to persons engaged in scientific research, program evaluation, peer
33 review and fiscal audits. However, individual identities may not be disclosed to such persons, except
34 when the disclosure is essential to the research, evaluation, review or audit and is consistent with
35 state and federal law.

36 (c) To governmental agencies when necessary to secure compensation for services rendered in
37 the treatment of the individual.

38 (5) When an individual's identity is disclosed under subsection (4) of this section, a health care
39 services provider shall prepare, and include in the permanent records of the health care services
40 provider, a written statement indicating the reasons for the disclosure, the written accounts dis-
41 closed and the recipients of the disclosure.

42 (6) The content of any written account referred to in subsection (2) of this section and held by
43 a health care services provider currently engaged in the treatment of an individual may be disclosed
44 to officers or employees of that provider, its agents or cooperating health care services providers
45 who are currently acting within the official scope of their duties to evaluate treatment programs,

1 to diagnose or treat or to assist in diagnosing or treating an individual when the written account
2 is to be used in the course of diagnosing or treating the individual. Nothing in this subsection
3 prevents the transfer of written accounts referred to in subsection (2) of this section among health
4 care services providers, the Department of Corrections, the Oregon Health Authority or a local
5 correctional facility when the transfer is necessary or beneficial to the treatment of an individual.

6 (7) When an action, suit, claim, arbitration or proceeding is brought under ORS 34.105 to 34.240
7 or 34.310 to 34.730 and involves a claim of constitutionally inadequate medical care, diagnosis or
8 treatment, or is brought under ORS 30.260 to 30.300 and involves the Department of Corrections or
9 an institution operated by the department, nothing in this section prohibits the disclosure of any
10 written account referred to in subsection (2) of this section to the Department of Justice, Oregon
11 Department of Administrative Services, or their agents, upon request, or the subsequent disclosure
12 to a court, administrative hearings officer, arbitrator or other administrative decision maker.

13 (8)(a) When an action, suit, claim, arbitration or proceeding involves the Oregon Health Au-
14 thority or an institution operated by the authority, nothing in this section prohibits the disclosure
15 of any written account referred to in subsection (2) of this section to the Department of Justice,
16 Oregon Department of Administrative Services, or their agents.

17 (b) Disclosure of information in an action, suit, claim, nonlabor arbitration or proceeding is
18 limited by the relevancy restrictions of ORS 40.010 to 40.585, 183.710 to 183.730, 183.745 and 183.750
19 and ORS chapter 183. Only written accounts of a plaintiff, claimant or petitioner shall be disclosed
20 under this paragraph.

21 (c) Disclosure of information as part of a labor arbitration or proceeding to support a personnel
22 action taken against staff is limited to written accounts directly relating to alleged action or in-
23 action by staff for which the personnel action was imposed.

24 (9)(a) The copy of any written account referred to in subsection (2) of this section, upon written
25 request of the individual or a personal representative of the individual, shall be disclosed to the
26 individual or the personal representative of the individual within a reasonable time not to exceed
27 five working days. The individual or the personal representative of the individual shall have the
28 right to timely access to any written accounts.

29 (b) If the disclosure of psychiatric or psychological information contained in the written account
30 would constitute an immediate and grave detriment to the treatment of the individual, disclosure
31 may be denied, if medically contraindicated by the treating physician or a licensed health care
32 professional in the written account of the individual.

33 (c) The Department of Corrections may withhold psychiatric or psychological information if:

34 (A) The information relates to an individual other than the individual seeking it.

35 (B) Disclosure of the information would constitute a danger to another individual.

36 (C) Disclosure of the information would compromise the privacy of a confidential source.

37 (d) However, a written statement of the denial under paragraph (c) of this subsection and the
38 reasons therefor must be entered in the written account.

39 (10) A health care services provider may require a person requesting disclosure of the contents
40 of a written account under this section to reimburse the provider for the reasonable costs incurred
41 in searching files, abstracting if requested and copying if requested. However, an individual or a
42 personal representative of the individual may not be denied access to written accounts concerning
43 the individual because of inability to pay.

44 (11) A written account referred to in subsection (2) of this section may not be used to initiate
45 or substantiate any criminal, civil, administrative, legislative or other proceedings conducted by

1 federal, state or local authorities against the individual or to conduct any investigations of the in-
2 dividual. If the individual, as a party to an action, suit or other judicial proceeding, voluntarily
3 produces evidence regarding an issue to which a written account referred to in subsection (2) of this
4 section would be relevant, the contents of that written account may be disclosed for use in the
5 proceeding.

6 (12) Information obtained in the course of diagnosis, evaluation or treatment of an individual
7 that, in the professional judgment of the health care services provider, indicates a clear and imme-
8 diate danger to others or to society may be reported to the appropriate authority. A decision not
9 to disclose information under this subsection does not subject the provider to any civil liability.
10 Nothing in this subsection may be construed to alter the provisions of ORS 124.088, 146.750, 146.760,
11 419B.010, 419B.015, 419B.020, 419B.025, 419B.030, 419B.035, 419B.040, 419B.045, 430.738 or 441.674.

12 (13) The prohibitions of this section apply to written accounts concerning any individual who
13 has been treated by any health care services provider irrespective of whether or when the individual
14 ceases to receive treatment.

15 (14) Persons other than the individual or the personal representative of the individual who are
16 granted access under this section to the contents of a written account referred to in subsection (2)
17 of this section may not disclose the contents of the written account to any other person except in
18 accordance with the provisions of this section.

19 (15) Nothing in this section prevents the Department of Human Services or the Oregon Health
20 Authority from disclosing the contents of written accounts in its possession to individuals or agen-
21 cies with whom children in its custody are placed.

22 (16) The system described in ORS 192.517 (1) shall have access to records, as defined in ORS
23 192.515, as provided in ORS 192.517.

24 (17)(a) Except as provided in paragraph (b) of this subsection, a health care services provider
25 must obtain an authorization from an individual or a personal representative of the individual to
26 disclose psychotherapy notes.

27 (b) A health care services provider may use or disclose psychotherapy notes without obtaining
28 an authorization from the individual or a personal representative of the individual to carry out the
29 following treatment, payment and health care operations:

30 (A) Use by the originator of the psychotherapy notes for treatment;

31 (B) Disclosure by the health care services provider for its own training program in which stu-
32 dents, trainees or practitioners in mental health learn under supervision to practice or improve their
33 skills in group, joint, family or individual counseling; or

34 (C) Disclosure by the health care services provider to defend itself in a legal action or other
35 proceeding brought by the individual or a personal representative of the individual.

36 (c) An authorization for the disclosure of psychotherapy notes may not be combined with an
37 authorization for a disclosure of any other individually identifiable health information, but may be
38 combined with another authorization for a disclosure of psychotherapy notes.

39 (18) A health care services provider may disclose information contained in a written account if
40 the conditions of ORS 192.567 (1) to (5) or 192.577 are met.

41 **SECTION 20.** ORS 192.556, as amended by section 47, chapter 73, Oregon Laws 2024, is
42 amended to read:

43 192.556. As used in ORS 192.553 to 192.581:

44 (1) "Authorization" means a document written in plain language that contains at least the fol-
45 lowing:

- 1 (a) A description of the information to be used or disclosed that identifies the information in a
 2 specific and meaningful way;
- 3 (b) The name or other specific identification of the person or persons authorized to make the
 4 requested use or disclosure;
- 5 (c) The name or other specific identification of the person or persons to whom the covered entity
 6 may make the requested use or disclosure;
- 7 (d) A description of each purpose of the requested use or disclosure, including but not limited
 8 to a statement that the use or disclosure is at the request of the individual;
- 9 (e) An expiration date or an expiration event that relates to the individual or the purpose of the
 10 use or disclosure;
- 11 (f) The signature of the individual or personal representative of the individual and the date;
- 12 (g) A description of the authority of the personal representative, if applicable; and
- 13 (h) Statements adequate to place the individual on notice of the following:
- 14 (A) The individual’s right to revoke the authorization in writing;
- 15 (B) The exceptions to the right to revoke the authorization;
- 16 (C) The ability or inability to condition treatment, payment, enrollment or eligibility for benefits
 17 on whether the individual signs the authorization; and
- 18 (D) The potential for information disclosed pursuant to the authorization to be subject to
 19 redisclosure by the recipient and no longer protected.
- 20 (2) “Covered entity” means:
- 21 (a) A state health plan;
- 22 (b) A health insurer;
- 23 (c) A health care provider that transmits any health information in electronic form to carry out
 24 financial or administrative activities in connection with a transaction covered by ORS 192.553 to
 25 192.581; or
- 26 (d) A health care clearinghouse.
- 27 (3) “Health care” means care, services or supplies related to the health of an individual.
- 28 (4) “Health care operations” includes but is not limited to:
- 29 (a) Quality assessment, accreditation, auditing and improvement activities;
- 30 (b) Case management and care coordination;
- 31 (c) Reviewing the competence, qualifications or performance of health care providers or health
 32 insurers;
- 33 (d) Underwriting activities;
- 34 (e) Arranging for legal services;
- 35 (f) Business planning;
- 36 (g) Customer services;
- 37 (h) Resolving internal grievances;
- 38 (i) Creating deidentified information; and
- 39 (j) Fundraising.
- 40 (5) “Health care provider” includes but is not limited to:
- 41 (a) A psychologist, occupational therapist, regulated social worker, professional counselor or
 42 marriage and family therapist licensed or otherwise authorized to practice under ORS chapter 675
 43 or an employee of the psychologist, occupational therapist, regulated social worker, professional
 44 counselor or marriage and family therapist;
- 45 (b) A physician or physician associate licensed under ORS chapter 677, an acupuncturist li-

- 1 censed under ORS 677.759 or an employee of the physician, physician associate or acupuncturist;
- 2 (c) A nurse or nursing home administrator licensed under ORS chapter 678 or an employee of
- 3 the nurse or nursing home administrator;
- 4 (d) A dentist licensed under ORS chapter 679 or an employee of the dentist;
- 5 (e) A dental hygienist or denturist licensed under ORS chapter 680 or an employee of the dental
- 6 hygienist or denturist;
- 7 (f) A speech-language pathologist or audiologist licensed under ORS chapter 681 or an employee
- 8 of the speech-language pathologist or audiologist;
- 9 (g) An emergency medical services provider licensed under ORS chapter 682;
- 10 (h) An optometrist licensed under ORS chapter 683 or an employee of the optometrist;
- 11 (i) A chiropractic physician licensed under ORS chapter 684 or an employee of the chiropractic
- 12 physician;
- 13 (j) A naturopathic physician licensed under ORS chapter 685 or an employee of the naturopathic
- 14 physician;
- 15 (k) A massage therapist licensed under ORS 687.011 to 687.250 or an employee of the massage
- 16 therapist;
- 17 (L) A direct entry midwife licensed under ORS 687.405 to 687.495 or an employee of the direct
- 18 entry midwife;
- 19 (m) A physical therapist licensed under ORS 688.010 to 688.201 or an employee of the physical
- 20 therapist;
- 21 (n) A medical imaging licensee under ORS 688.405 to 688.605 or an employee of the medical
- 22 imaging licensee;
- 23 (o) A respiratory care practitioner licensed under ORS 688.815 or an employee of the respiratory
- 24 care practitioner;
- 25 (p) A polysomnographic technologist licensed under ORS 688.819 or an employee of the poly-
- 26 somnographic technologist;
- 27 (q) A pharmacist licensed under ORS chapter 689 or an employee of the pharmacist;
- 28 (r) A dietitian licensed under ORS 691.405 to 691.485 or an employee of the dietitian;
- 29 (s) A funeral service practitioner licensed under ORS chapter 692 or an employee of the funeral
- 30 service practitioner;
- 31 (t) A health care facility as defined in ORS 442.015;
- 32 (u) A home health agency as defined in ORS 443.014;
- 33 (v) A hospice program as defined in ORS 443.850;
- 34 (w) A clinical laboratory as defined in ORS 438.010;
- 35 (x) A pharmacy as defined in ORS 689.005; and
- 36 (y) Any other person or entity that furnishes, bills for or is paid for health care in the normal
- 37 course of business.
- 38 (6) "Health information" means any oral or written information in any form or medium that:
- 39 (a) Is created or received by a covered entity, a public health authority, an employer, a life
- 40 insurer, a school, a university or a health care provider that is not a covered entity; and
- 41 (b) Relates to:
- 42 (A) The past, present or future physical or mental health or condition of an individual;
- 43 (B) The provision of health care to an individual; or
- 44 (C) The past, present or future payment for the provision of health care to an individual.
- 45 (7) "Health insurer" means an insurer as defined in ORS 731.106 who offers:

- 1 (a) A health benefit plan as defined in ORS 743B.005;
- 2 (b) A short term health insurance policy, the duration of which does not exceed three months
- 3 including renewals;
- 4 (c) A student health insurance policy;
- 5 (d) A Medicare supplemental policy; or
- 6 (e) A dental only policy.
- 7 (8) “Individually identifiable health information” means any oral or written health information
- 8 in any form or medium that is:
- 9 (a) Created or received by a covered entity, an employer or a health care provider that is not
- 10 a covered entity; and
- 11 (b) Identifiable to an individual, including demographic information that identifies the individual,
- 12 or for which there is a reasonable basis to believe the information can be used to identify an indi-
- 13 vidual, and that relates to:
- 14 (A) The past, present or future physical or mental health or condition of an individual;
- 15 (B) The provision of health care to an individual; or
- 16 (C) The past, present or future payment for the provision of health care to an individual.
- 17 (9) “Payment” includes but is not limited to:
- 18 (a) Efforts to obtain premiums or reimbursement;
- 19 (b) Determining eligibility or coverage;
- 20 (c) Billing activities;
- 21 (d) Claims management;
- 22 (e) Reviewing health care to determine medical necessity;
- 23 (f) Utilization review; and
- 24 (g) Disclosures to consumer reporting agencies.
- 25 (10) “Personal representative” includes but is not limited to:
- 26 (a) A person appointed as a guardian under ORS 125.305, 419B.372, 419C.481 or 419C.555 with
- 27 authority to make medical and health care decisions;
- 28 (b) A person appointed as a health care representative under ORS 127.505 to 127.660 or a rep-
- 29 resentative under ORS 127.700 to 127.737 to make health care decisions or mental health treatment
- 30 decisions;
- 31 **(c) A person who has authority to make health care decisions under ORS 127.635 (1)(c)**
- 32 **or section 2 of this 2025 Act;**
- 33 [(c)] **(d)** A person appointed as a personal representative under ORS chapter 113; and
- 34 [(d)] **(e)** A person described in ORS 192.573.
- 35 (11)(a) “Protected health information” means individually identifiable health information that is
- 36 maintained or transmitted in any form of electronic or other medium by a covered entity.
- 37 (b) “Protected health information” does not mean individually identifiable health information in:
- 38 (A) Education records covered by the federal Family Educational Rights and Privacy Act (20
- 39 U.S.C. 1232g);
- 40 (B) Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); or
- 41 (C) Employment records held by a covered entity in its role as employer.
- 42 (12) “State health plan” means:
- 43 (a) Medical assistance as defined in ORS 414.025;
- 44 (b) The Cover All People program; or
- 45 (c) Any medical assistance or premium assistance program operated by the Oregon Health Au-

1 thority.

2 (13) "Treatment" includes but is not limited to:

3 (a) The provision, coordination or management of health care; and

4 (b) Consultations and referrals between health care providers.

5 **SECTION 21.** ORS 746.600, as amended by section 161, chapter 73, Oregon Laws 2024, is
6 amended to read:

7 746.600. As used in ORS 746.600 to 746.690:

8 (1)(a) "Adverse underwriting decision" means any of the following actions with respect to in-
9 surance transactions involving insurance coverage that is individually underwritten:

10 (A) A declination of insurance coverage.

11 (B) A termination of insurance coverage.

12 (C) Failure of an insurance producer to apply for insurance coverage with a specific insurer that
13 the insurance producer represents and that is requested by an applicant.

14 (D) In the case of life or health insurance coverage, an offer to insure at higher than standard
15 rates.

16 (E) In the case of insurance coverage other than life or health insurance coverage:

17 (i) Placement by an insurer or insurance producer of a risk with a residual market mechanism,
18 an unauthorized insurer or an insurer that specializes in substandard risks.

19 (ii) The charging of a higher rate on the basis of information that differs from that which the
20 applicant or policyholder furnished.

21 (iii) An increase in any charge imposed by the insurer for any personal insurance in connection
22 with the underwriting of insurance. For purposes of this sub-subparagraph, the imposition of a ser-
23 vice fee is not a charge.

24 (b) "Adverse underwriting decision" does not mean any of the following actions, but the insurer
25 or insurance producer responsible for the occurrence of the action must nevertheless provide the
26 applicant or policyholder with the specific reason or reasons for the occurrence:

27 (A) The termination of an individual policy form on a class or statewide basis.

28 (B) A declination of insurance coverage solely because the coverage is not available on a class
29 or statewide basis.

30 (C) The rescission of a policy.

31 (2) "Affiliate of" a specified person or "person affiliated with" a specified person means a person
32 who directly, or indirectly, through one or more intermediaries, controls, or is controlled by, or is
33 under common control with, the person specified.

34 (3) "Applicant" means a person who seeks to contract for insurance coverage, other than a
35 person seeking group insurance coverage that is not individually underwritten.

36 (4) "Consumer" means an individual, or the personal representative of the individual, who seeks
37 to obtain, obtains or has obtained one or more insurance products or services from a licensee that
38 are to be used primarily for personal, family or household purposes, and about whom the licensee
39 has personal information.

40 (5) "Consumer report" means any written, oral or other communication of information bearing
41 on a natural person's creditworthiness, credit standing, credit capacity, character, general reputa-
42 tion, personal characteristics or mode of living that is used or expected to be used in connection
43 with an insurance transaction.

44 (6) "Consumer reporting agency" means a person that, for monetary fees or dues, or on a co-
45 operative or nonprofit basis:

- 1 (a) Regularly engages, in whole or in part, in assembling or preparing consumer reports;
- 2 (b) Obtains information primarily from sources other than insurers; and
- 3 (c) Furnishes consumer reports to other persons.

4 (7) "Control" means, and the terms "controlled by" or "under common control with" refer to,
 5 the possession, directly or indirectly, of the power to direct or cause the direction of the manage-
 6 ment and policies of a person, whether through the ownership of voting securities, by contract other
 7 than a commercial contract for goods or nonmanagement services, or otherwise, unless the power
 8 of the person is the result of a corporate office held in, or an official position held with, the con-
 9 trolled person.

10 (8) "Covered entity" means:

- 11 (a) A health insurer;
- 12 (b) A health care provider that transmits any health information in electronic form to carry out
 13 financial or administrative activities in connection with a transaction covered by ORS 746.607 or
 14 by rules adopted under ORS 746.608; or
- 15 (c) A health care clearinghouse.

16 (9) "Credit history" means any written or other communication of any information by a con-
 17 sumer reporting agency that:

- 18 (a) Bears on a consumer's creditworthiness, credit standing or credit capacity; and
- 19 (b) Is used or expected to be used, or collected in whole or in part, as a factor in determining
 20 eligibility, premiums or rates for personal insurance.

21 (10) "Customer" means a consumer who has a continuing relationship with a licensee under
 22 which the licensee provides one or more insurance products or services to the consumer that are
 23 to be used primarily for personal, family or household purposes.

24 (11) "Declination of insurance coverage" or "decline coverage" means a denial, in whole or in
 25 part, by an insurer or insurance producer of an application for requested insurance coverage.

26 (12) "Health care" means care, services or supplies related to the health of an individual.

27 (13) "Health care operations" includes but is not limited to:

- 28 (a) Quality assessment, accreditation, auditing and improvement activities;
- 29 (b) Case management and care coordination;
- 30 (c) Reviewing the competence, qualifications or performance of health care providers or health
 31 insurers;
- 32 (d) Underwriting activities;
- 33 (e) Arranging for legal services;
- 34 (f) Business planning;
- 35 (g) Customer services;
- 36 (h) Resolving internal grievances;
- 37 (i) Creating deidentified information; and
- 38 (j) Fundraising.

39 (14) "Health care provider" includes but is not limited to:

40 (a) A psychologist, occupational therapist, regulated social worker, professional counselor or
 41 marriage and family therapist licensed or otherwise authorized to practice under ORS chapter 675
 42 or an employee of the psychologist, occupational therapist, regulated social worker, professional
 43 counselor or marriage and family therapist;

44 (b) A physician or physician associate licensed under ORS chapter 677, an acupuncturist li-
 45 censed under ORS 677.759 or an employee of the physician, physician associate or acupuncturist;

- 1 (c) A nurse or nursing home administrator licensed under ORS chapter 678 or an employee of
2 the nurse or nursing home administrator;
- 3 (d) A dentist licensed under ORS chapter 679 or an employee of the dentist;
- 4 (e) A dental hygienist or denturist licensed under ORS chapter 680 or an employee of the dental
5 hygienist or denturist;
- 6 (f) A speech-language pathologist or audiologist licensed under ORS chapter 681 or an employee
7 of the speech-language pathologist or audiologist;
- 8 (g) An emergency medical services provider licensed under ORS chapter 682;
- 9 (h) An optometrist licensed under ORS chapter 683 or an employee of the optometrist;
- 10 (i) A chiropractic physician licensed under ORS chapter 684 or an employee of the chiropractic
11 physician;
- 12 (j) A naturopathic physician licensed under ORS chapter 685 or an employee of the naturopathic
13 physician;
- 14 (k) A massage therapist licensed under ORS 687.011 to 687.250 or an employee of the massage
15 therapist;
- 16 (L) A direct entry midwife licensed under ORS 687.405 to 687.495 or an employee of the direct
17 entry midwife;
- 18 (m) A physical therapist licensed under ORS 688.010 to 688.201 or an employee of the physical
19 therapist;
- 20 (n) A medical imaging licensee under ORS 688.405 to 688.605 or an employee of the medical
21 imaging licensee;
- 22 (o) A respiratory care practitioner licensed under ORS 688.815 or an employee of the respiratory
23 care practitioner;
- 24 (p) A polysomnographic technologist licensed under ORS 688.819 or an employee of the poly-
25 somnographic technologist;
- 26 (q) A pharmacist licensed under ORS chapter 689 or an employee of the pharmacist;
- 27 (r) A dietitian licensed under ORS 691.405 to 691.485 or an employee of the dietitian;
- 28 (s) A funeral service practitioner licensed under ORS chapter 692 or an employee of the funeral
29 service practitioner;
- 30 (t) A health care facility as defined in ORS 442.015;
- 31 (u) A home health agency as defined in ORS 443.014;
- 32 (v) A hospice program as defined in ORS 443.850;
- 33 (w) A clinical laboratory as defined in ORS 438.010;
- 34 (x) A pharmacy as defined in ORS 689.005;
- 35 (y) A diabetes self-management program as defined in ORS 743.694; and
- 36 (z) Any other person or entity that furnishes, bills for or is paid for health care in the normal
37 course of business.
- 38 (15) "Health information" means any oral or written information in any form or medium that:
- 39 (a) Is created or received by a covered entity, a public health authority, a life insurer, a school,
40 a university or a health care provider that is not a covered entity; and
- 41 (b) Relates to:
- 42 (A) The past, present or future physical or mental health or condition of an individual;
- 43 (B) The provision of health care to an individual; or
- 44 (C) The past, present or future payment for the provision of health care to an individual.
- 45 (16) "Health insurer" means an insurer who offers:

- 1 (a) A health benefit plan as defined in ORS 743B.005;
- 2 (b) A short term health insurance policy, the duration of which does not exceed three months
- 3 including renewals;
- 4 (c) A student health insurance policy;
- 5 (d) A Medicare supplemental policy; or
- 6 (e) A dental only policy.
- 7 (17) "Homeowner insurance" means insurance for residential property consisting of a combina-
- 8 tion of property insurance and casualty insurance that provides coverage for the risks of owning
- 9 or occupying a dwelling and that is not intended to cover an owner's interest in rental property or
- 10 commercial exposures.
- 11 (18) "Individual" means a natural person who:
- 12 (a) In the case of life or health insurance, is a past, present or proposed principal insured or
- 13 certificate holder;
- 14 (b) In the case of other kinds of insurance, is a past, present or proposed named insured or
- 15 certificate holder;
- 16 (c) Is a past, present or proposed policyowner;
- 17 (d) Is a past or present applicant;
- 18 (e) Is a past or present claimant; or
- 19 (f) Derived, derives or is proposed to derive insurance coverage under an insurance policy or
- 20 certificate that is subject to ORS 746.600 to 746.690.
- 21 (19) "Individually identifiable health information" means any oral or written health information
- 22 that is:
- 23 (a) Created or received by a covered entity or a health care provider that is not a covered en-
- 24 tity; and
- 25 (b) Identifiable to an individual, including demographic information that identifies the individual,
- 26 or for which there is a reasonable basis to believe the information can be used to identify an indi-
- 27 vidual, and that relates to:
- 28 (A) The past, present or future physical or mental health or condition of an individual;
- 29 (B) The provision of health care to an individual; or
- 30 (C) The past, present or future payment for the provision of health care to an individual.
- 31 (20) "Institutional source" means a person or governmental entity that provides information
- 32 about an individual to an insurer, insurance producer or insurance-support organization, other than:
- 33 (a) An insurance producer;
- 34 (b) The individual who is the subject of the information; or
- 35 (c) A natural person acting in a personal capacity rather than in a business or professional ca-
- 36 pacity.
- 37 (21) "Insurance producer" or "producer" means a person licensed by the Director of the De-
- 38 partment of Consumer and Business Services as a resident or nonresident insurance producer.
- 39 (22) "Insurance score" means a number or rating that is derived from an algorithm, computer
- 40 application, model or other process that is based in whole or in part on credit history.
- 41 (23)(a) "Insurance-support organization" means a person who regularly engages, in whole or in
- 42 part, in assembling or collecting information about natural persons for the primary purpose of pro-
- 43 viding the information to an insurer or insurance producer for insurance transactions, including:
- 44 (A) The furnishing of consumer reports to an insurer or insurance producer for use in con-
- 45 nection with insurance transactions; and

1 (B) The collection of personal information from insurers, insurance producers or other
2 insurance-support organizations for the purpose of detecting or preventing fraud, material misrep-
3 resentation or material nondisclosure in connection with insurance underwriting or insurance claim
4 activity.

5 (b) “Insurance-support organization” does not mean insurers, insurance producers, governmental
6 institutions or health care providers.

7 (24) “Insurance transaction” means any transaction that involves insurance primarily for per-
8 sonal, family or household needs rather than business or professional needs and that entails:

9 (a) The determination of an individual’s eligibility for an insurance coverage, benefit or payment;
10 or

11 (b) The servicing of an insurance application, policy or certificate.

12 (25) “Insurer” has the meaning given that term in ORS 731.106.

13 (26) “Investigative consumer report” means a consumer report, or portion of a consumer report,
14 for which information about a natural person’s character, general reputation, personal character-
15 istics or mode of living is obtained through personal interviews with the person’s neighbors, friends,
16 associates, acquaintances or others who may have knowledge concerning such items of information.

17 (27) “Licensee” means an insurer, insurance producer or other person authorized or required to
18 be authorized, or licensed or required to be licensed, pursuant to the Insurance Code.

19 (28) “Loss history report” means a report provided by, or a database maintained by, an
20 insurance-support organization or consumer reporting agency that contains information regarding
21 the claims history of the individual property that is the subject of the application for a homeowner
22 insurance policy or the consumer applying for a homeowner insurance policy.

23 (29) “Nonaffiliated third party” means any person except:

24 (a) An affiliate of a licensee;

25 (b) A person that is employed jointly by a licensee and by a person that is not an affiliate of the
26 licensee; and

27 (c) As designated by the director by rule.

28 (30) “Payment” includes but is not limited to:

29 (a) Efforts to obtain premiums or reimbursement;

30 (b) Determining eligibility or coverage;

31 (c) Billing activities;

32 (d) Claims management;

33 (e) Reviewing health care to determine medical necessity;

34 (f) Utilization review; and

35 (g) Disclosures to consumer reporting agencies.

36 (31)(a) “Personal financial information” means:

37 (A) Information that is identifiable with an individual, gathered in connection with an insurance
38 transaction from which judgments can be made about the individual’s character, habits, avocations,
39 finances, occupations, general reputation, credit or any other personal characteristics; or

40 (B) An individual’s name, address and policy number or similar form of access code for the
41 individual’s policy.

42 (b) “Personal financial information” does not mean information that a licensee has a reasonable
43 basis to believe is lawfully made available to the general public from federal, state or local gov-
44 ernment records, widely distributed media or disclosures to the public that are required by federal,
45 state or local law.

1 (32) "Personal information" means:

- 2 (a) Personal financial information;
- 3 (b) Individually identifiable health information; or
- 4 (c) Protected health information.

5 (33) "Personal insurance" means the following types of insurance products or services that are
6 to be used primarily for personal, family or household purposes:

- 7 (a) Private passenger automobile coverage;
- 8 (b) Homeowner, mobile homeowners, manufactured homeowners, condominium owners and
9 renters coverage;
- 10 (c) Personal dwelling property coverage;
- 11 (d) Personal liability and theft coverage, including excess personal liability and theft coverage;
- 12 and
- 13 (e) Personal inland marine coverage.

14 (34) "Personal representative" includes but is not limited to:

- 15 (a) A person appointed as a guardian under ORS 125.305, 419B.372, 419C.481 or 419C.555 with
16 authority to make medical and health care decisions;
- 17 (b) A person appointed as a health care representative under ORS 127.505 to 127.660 or 127.700
18 to 127.737 to make health care decisions or mental health treatment decisions;

19 **(c) A person who has authority to make health care decisions under ORS 127.635 (1)(c)**
20 **or section 2 of this 2025 Act;**

21 [(c)] **(d)** A person appointed as a personal representative under ORS chapter 113; and

22 [(d)] **(e)** A person described in ORS 746.611.

23 (35) "Policyholder" means a person who:

- 24 (a) In the case of individual policies of life or health insurance, is a current policyowner;
- 25 (b) In the case of individual policies of other kinds of insurance, is currently a named insured;

26 or

27 (c) In the case of group policies of insurance under which coverage is individually underwritten,
28 is a current certificate holder.

29 (36) "Pretext interview" means an interview wherein the interviewer, in an attempt to obtain
30 personal information about a natural person, does one or more of the following:

- 31 (a) Pretends to be someone the interviewer is not.
- 32 (b) Pretends to represent a person the interviewer is not in fact representing.
- 33 (c) Misrepresents the true purpose of the interview.
- 34 (d) Refuses upon request to identify the interviewer.

35 (37) "Privileged information" means information that is identifiable with an individual and that:

- 36 (a) Relates to a claim for insurance benefits or a civil or criminal proceeding involving the in-
37 dividual; and
- 38 (b) Is collected in connection with or in reasonable anticipation of a claim for insurance benefits
39 or a civil or criminal proceeding involving the individual.

40 (38)(a) "Protected health information" means individually identifiable health information that is
41 transmitted or maintained in any form of electronic or other medium by a covered entity.

42 (b) "Protected health information" does not mean individually identifiable health information in:

- 43 (A) Education records covered by the federal Family Educational Rights and Privacy Act (20
44 U.S.C. 1232g);
- 45 (B) Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); or

1 (C) Employment records held by a covered entity in its role as employer.

2 (39) "Residual market mechanism" means an association, organization or other entity involved
3 in the insuring of risks under ORS 735.005 to 735.145, 737.312 or other provisions of the Insurance
4 Code relating to insurance applicants who are unable to procure insurance through normal insur-
5 ance markets.

6 (40) "Termination of insurance coverage" or "termination of an insurance policy" means either
7 a cancellation or a nonrenewal of an insurance policy, in whole or in part, for any reason other than
8 the failure of a premium to be paid as required by the policy.

9 (41) "Treatment" includes but is not limited to:

10 (a) The provision, coordination or management of health care; and

11 (b) Consultations and referrals between health care providers.

12
13 **MISCELLANEOUS**

14
15 **SECTION 22. The unit captions used in this 2025 Act are provided only for the conven-**
16 **ience of the reader and do not become part of the statutory law of this state or express any**
17 **legislative intent in the enactment of this 2025 Act.**

18 **SECTION 23. Section 2 of this 2025 Act and the amendments to ORS 127.505, 127.520,**
19 **127.527, 127.529, 127.533, 127.540, 127.555, 127.560, 127.580, 127.635, 127.640, 127.700, 127.760,**
20 **127.765, 163.193, 163.206, 179.505, 192.556 and 746.600 by sections 3 to 21 of this 2025 Act apply**
21 **to medical decisions made on behalf of an incapacitated person on or after the effective date**
22 **of this 2025 Act.**

23 _____