SB 494-9
(LC 930)
4/13/17 (MBM/ps)

Requested by SENATE COMMITTEE ON JUDICIARY

PROPOSED AMENDMENTS TO
SENATE BILL 494

On page 1 of the printed bill, line 14, delete "Rules".

In line 16, delete "Rules".

On page 2, delete lines 12 through 19 and insert:

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

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

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

In line 40, after "(1)" delete the rest of the line and insert "In accordance with public notice and stakeholder participation requirements prescribed by the Oregon Health Authority and".

In line 41, delete "Rules".

On page 3, line 7, delete "appointing" and insert "appointment of".

After line 8, insert:

"(B) A statement about the priority of health care representative appointment in ORS 127.655 in the event the principal becomes incapable and does not have a valid health care representative appointment.".

In line 9, delete "(B)" and insert "(C)" and delete "expressing" and insert

"expression of".

In line 11, delete "(C)" and insert "(D)" and delete "expressing" and insert "expression of".

Delete lines 13 and 14 and insert:

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

In line 45, delete "(4)" and insert "(4)(a)".

On page 4, line 1, after "language" delete the period and insert: ", such as 'tube feeding' and 'life support.'

"(b) As used in this subsection:

"(A) 'Life support' means life-sustaining procedures.

"(B) 'Tube feeding' means artificially administered nutrition and hydration.".

In line 10, after "requirements" delete the rest of the line and insert "prescribed by the Oregon Health Authority under section 3 (1) of this 2017 Act,".

In line 11, delete "changing" and after "directive" insert "adopted or changed".

In line 15, delete "rule" and insert "form".

In line 16, delete "Rules".

In line 19, delete "rule" and insert "form" and delete "Rules".

In line 25, delete "Rules".

After line 27, insert:

"SECTION 4a. The first form of an advance directive submitted by the Advance Directive Adoption Committee pursuant to section 4 of this 2017 Act following the effective date of this 2017 Act may not become effective unless the form is ratified according to the constitutional requirements for passage of a legislative measure.".

Delete lines 32 through 45 and delete pages 5 through 8 and insert:

"SECTION 5. A form for appointing a health care representative and an alternate health care representative must be written in substantially the following form:

" _____

FORM FOR APPOINTING 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).

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: _____

E-mail: _____

Second alternate health care representative:

Name: _____ **Relationship:** _____

Telephone numbers: (Home)_____ **(Work)**_____ **(Cell)**_____

Address: _____

E-mail: _____

3. MY SIGNATURE.

My signature: _____ **Date:** _____

4. WITNESS.

COMPLETE A OR B WHEN YOU SIGN.

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

Witness Name (print): _____

Signature: _____

Date: _____

Witness Name (print): _____

Signature: _____

Date: _____

B. NOTARY:

State of _____

County of _____

Signed or attested before me on _____, 2____, by _____.

_____

Notary Public - State of Oregon

5. <u>ACCEPTANCE BY MY HEALTH CARE REPRESENTATIVE.</u>

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

Health care representative:

Printed name: _____

Signature or other verification of acceptance: _____

Date _____

First alternate health care representative:

Printed name: _____

Signature or other verification of acceptance: _____

Date _____

Second alternate health care representative:

Printed name: _____

Signature or other verification of acceptance: _____

Date _____

" _____

"**(Temporary Form for Advance Directive)**

"SECTION 6. (1) In lieu of the form of an advance directive adopted by the Advance Directive Adoption Committee under section 3 of this 2017 Act, on or before January 1, 2021, a principal may execute an advance directive that is in a form that is substantially the same as the form of an advance directive set forth in this section.

"(2) Notwithstanding section 3 (2) of this 2017 Act, the form of an advance directive set forth in this section is a valid form of an advance directive in this state.

"(3) The form of an advance directive executed as described in subsection (1) of this section is as follows:

"

ADVANCE DIRECTIVE

(STATE OF OREGON)

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

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

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

• 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 your advance directive includes directions regarding the withdrawal of life support or tube feeding, you may revoke your advance

directive at any time and in any manner that expresses your desire to revoke it.

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

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: _____

E-mail: _____

Second alternate health care representative:

Name: _____ Relationship: _____

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

Address: _____

E-mail: _____

3. INSTRUCTIONS TO MY HEALTH CARE REPRESENTATIVE.

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

___ To the extent appropriate, my health care representative must follow my instructions.

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

___ Other instructions: _____

4. DIRECTIONS REGARDING MY END OF LIFE CARE.

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

• The term "as my health care provider recommends" means that you want your health care provider to use life support if your health care provider believes it could be helpful, and that you want your health care provider to discontinue life support if your health care provider believes it is not helping your health condition or symptoms.

• The term "life support" means any medical treatment that maintains life by sustaining, restoring or replacing a vital function.

• The term "tube feeding" means artificially administered food and water.

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

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

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

___ I do not want my life to be prolonged by life support. I also do

not want tube feeding as life support. I want my health care provider to allow me to die naturally if my health care provider and another knowledgeable health care provider confirm that I am in any of the medical conditions listed below.

B. Additional Directions Regarding End of Life Care. Here are my desires about my health care if my health care provider and another knowledgeable health care provider confirm that I am in a medical condition described below:

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

INITIAL ONE:

___ I want to receive tube feeding.

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

___ I DO NOT WANT tube feeding.

INITIAL ONE:

___ I want any other life support that may apply.

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

___ I DO NOT WANT life support.

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

INITIAL ONE:

___ I want to receive tube feeding.

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

___ I DO NOT WANT tube feeding.

INITIAL ONE:

___ I want any other life support that may apply.

___ I want life support only as my health care provider recom-

mends.

___ I DO NOT WANT life support.

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

INITIAL ONE:

___ I want to receive tube feeding.

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

___ I DO NOT WANT tube feeding.

INITIAL ONE:

___ I want any other life support that may apply.

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

___ I DO NOT WANT life support.

d. <u>Extraordinary Suffering.</u> If life support would not help my medical condition and would make me suffer permanent and severe pain:

INITIAL ONE:

___ I want to receive tube feeding.

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

___ I DO NOT WANT tube feeding.

INITIAL ONE:

___ I want any other life support that may apply.

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

___ I DO NOT WANT life support.

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

5. MY SIGNATURE.

My signature: _____ Date: _____

6. WITNESS.

COMPLETE A OR B WHEN YOU SIGN.

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

Witness Name (print): _____

Signature: _____

Date: _____

Witness Name (print): _____

Signature: _____

Date: _____

B. NOTARY:

State of _____

County of _____

Signed or attested before me on _____, 2____, by _____.

_____

Notary Public - State of Oregon

7. ACCEPTANCE BY MY HEALTH CARE REPRESENTATIVE.

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

Health care representative:

Printed name: _____

Signature or other verification of acceptance: _____

Date _____

First alternate health care representative:

Printed name: _____

Signature or other verification of acceptance: _____

Date _____

Second alternate health care representative:

Printed name: _____

Signature or other verification of acceptance: _____

Date _____

" _____ ".

On page 9, delete lines 1 through 41.

On page 10, line 14, after "use" delete the rest of the line and insert "an advance directive or the".

In line 19, after "use" delete the rest of the line and insert "an advance directive or the form".

On page 12, line 8, delete "validated" and insert "valid".

Delete lines 36 and 37 and insert:

"(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) 'Advanced directive' includes any supplementary document or writing

attached by the principal to the document described in paragraph (a) of this subsection.".

On page 28, line 1, delete "RULES".

In line 4, delete "Rules".

On page 29, line 25, delete "Rules".

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