OREGON CATHOLIC CONFERENCE

Oregon Catholic Conference
2838 East Burnside Street
Portland, Oregon 97214

Representing the Archdiocese of Portland and the Diocese of Baker on issues of public policy

From the Desk of
Senator Brian Boquist

Testimony in Opposition to HB 4135

1. The Oregon Catholic Conference (OCC) is concerned about protecting the dignity of each and every person, especially those who are vulnerable.
2. Current Oregon law surrounding the Advance Directive for Health Care helps protect Oregonians from being denied food and water by a third party.
3. HB 4135 makes changes to the law that could result in eliminating some of these protections.
4. For example, Section 8, subsection 6 of the proposed law, seems to eliminate the provision that Advance Directive forms validly executed in other states would be "subject to the laws of this state." Even in light of legislative counsel testimony in the House Committee on Health Care public hearing (2/7/18), the question remains as to whether provisions that contravened Oregon law in validly executed advance directive forms from others states would take effect in Oregon.
5. The Oregon Legislature must have clear oversight of the advance directive form, especially as concerns substantive changes to the form that could have implications for life-ending situations. Initial and continuous legislative oversight of any substantive changes to the form must be well-defined, practical, and clearly established. In the current proposal, there is a questionably worded provision for initial legislative oversight of the form, and follow-up oversight seems absent or effectively impractical. With regard to wording, the use of the word "ratify" in this context (Section 4, lines 21 and 32) seems inappropriate. **Legislative counsel clearly indicated in the House Committee on Health Care public hearing (2/7/18), that changes to the proposed bill are needed to clarify legislative oversight.**
6. The proposed changes to the Advance Directive form itself could allow a health care representative to make a life-ending decision for a person (who is not in an end of life condition) without their explicit consent.
7. **The Oregon Catholic Conference is disappointed that this proposed legislation, which has been very controversial, is being pushed forward during a short legislative session.** It deals with critical issues of life, death, and decision-making that should not be rushed.
8. The Oregon Catholic Conference and Providence are on different sides of this bill. Providence rightly supports the creation of an advance directive form that is more user-friendly and will allow individuals to better express a values-based approached to their end of life care. The Oregon Catholic Conference supports this vision, too – but not at the expense of removing protections currently in place for vulnerable Oregonians.
9. OCC is convinced that with a little more work, a bi-partisan bill on the advance directive is possible that preserves protections for vulnerable Oregonians at the end of life and at the same time updates the current form and allows Oregonians to more clearly express their values on end of life care.

I am Dr. Brick Lantz. I am a board certified orthopedic surgeon in private practice and Oregon State Director for American Academy of Medical Ethics. I appreciate your hard work on this bill and your desire for the best care of patients in Oregon. I would like to voice my opposition to HB 4135. Situations at the end of life and chronic conditions are difficult to treat and require careful thought and empathetic care. This bill includes those close to death, those permanently unconscious, those with advanced progressive illness, and those with extraordinary suffering.

As physicians it is important that we practice with certain virtues. The four essential virtues are autonomy, justice, beneficence (doing good), and non-maleficence (do no harm). Autonomy (rights, privileges, and choices as individuals) is important. But autonomy is not the most important virtue. Society and healthcare do not function well if these virtues are not in their proper order. The first virtue to consider is non-maleficence. This dates back to the time of Hippocrates. If we do not practice with "do no harm" as our initial virtue, we will lose trust in physicians and healthcare providers.

Death due to dehydration can be cruel. I commonly treat patients with dementia, Alzheimer's disease, and terminal cancer. I have had the privilege of caring for patients with cerebral palsy and muscular dystrophy. I have witnessed suffering in many areas of the world on mission trips including Africa, South America, Eastern Europe, and Haiti. I have been at the bedside of dying patients.

I want to treat all patients, all individuals with equal respect and dignity. This bill imposes greater risk to vulnerable patients. Those with dementia and loss of consciousness may be taken advantage of by those that view the patient's life as unworthy and costly. Are all human beings intrinsically valuable, or does worth depend on their ability to contribute to society? I am concerned about abuses in care of these patients. Will decisions be made because of our inconvenience in caring for them, or their financial burden to us or to society?

This bill goes against adequate informed consent. Patients and family need to be fully informed of their options and consequences of their choices in regards to tube feeding. The positive and negative impact of withdrawing food and hydration will vary with each different and unique medical condition. The vast majority of lay people will not understand the consequences of terminating or withholding food and water. There are many conditions in which tube feeding and hydration provide substantial comfort. I do not believe that physicians with experience in palliative care would advocate for these changes in advanced directives.

There is potential for abuse based on the definition of medical terms. "Advanced stage" is open to interpretation. "Medically confirmed" requires a "second health care provider". Could that be a nurse or therapist? "Permanently unconscious" is requiring a single opinion. Many times single opinions are wrong.

A person's faith is given little significance in this bill. "...to confer with a member of the clergy of the patient's religious tradition" is quite vague. What religious traditions are the same? Are Protestants, Catholics, monotheists, Christians, and Jews the same? Views can be very different among clergy.

End of life decisions are complex. We should always assume as a default the route least likely to allow another party to usurp a patient's wishes. This bill turns the default around. This bill places a massive dose of government influence on a patient's end of life decisions. These decisions need to remain in the patient's family and personal advocates, not the government, with good informed consent.

Thank you, Brick Lantz MD