

A-Engrossed
Senate Bill 178

Ordered by the Senate March 11
Including Senate Amendments dated March 11

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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.

Permits health care representative to make election for hospice treatment on behalf of incapacitated principal with terminal condition who does not have valid advance directive.

A BILL FOR AN ACT

1
2 Relating to election for hospice treatment; amending ORS 127.635.

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

4 **SECTION 1.** ORS 127.635, as amended by section 19, chapter 36, Oregon Laws 2018, is amended
5 to read:

6 127.635. (1) Life-sustaining procedures that would otherwise be applied to a principal who is in-
7 capable and who does not have an appointed health care representative or applicable valid advance
8 directive may be withheld or withdrawn in accordance with subsections (2) and (3) of this section
9 if the principal has been medically confirmed to be in one of the following conditions:

10 (a) A terminal condition;

11 (b) Permanently unconscious;

12 (c) A condition in which administration of life-sustaining procedures would not benefit the
13 principal's medical condition and would cause permanent and severe pain; or

14 (d) An advanced stage of a progressive illness that will be fatal, and the principal is consistently
15 and permanently unable to communicate by any means, to swallow food and water safely, to care
16 for the principal's self and to recognize the principal's family and other people, and it is very un-
17 likely that the principal's condition will substantially improve.

18 (2) If a principal's condition has been determined to meet one of the conditions set forth in
19 subsection (1) of this section, and the principal does not have an appointed health care represen-
20 tative or applicable valid advance directive, the principal's health care representative shall be the
21 first of the following, in the following order, who can be located upon reasonable effort by the health
22 care facility and who is willing to serve as the health care representative:

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

24 (b) The principal's spouse;

25 (c) An adult designated by the others listed in this subsection who can be so located, if no
26 person listed in this subsection objects to the designation;

27 (d) A majority of the adult children of the principal who can be so located;

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 (e) Either parent of the principal;

2 (f) A majority of the adult siblings of the principal who can be located with reasonable effort;

3 or

4 (g) Any adult relative or adult friend.

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

8 (4)(a) Life-sustaining procedures may be withheld or withdrawn, **including an election for**
9 **hospice treatment**, upon the direction and under the supervision of the attending physician or at-
10 tending health care provider at the request of a person designated the health care representative
11 under subsections (2) and (3) of this section only after the person has consulted with concerned
12 family and close friends and, if the principal has a case manager, as defined by rules adopted by the
13 Department of Human Services, after giving notice to the principal's case manager.

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

18 (c) **As used in this subsection, "hospice treatment" means treatment that focuses on**
19 **palliative care, including care for acute pain and symptom management, rather than curative**
20 **treatment, provided to a principal with a terminal condition.**

21 (5) Notwithstanding subsection (2) of this section, a person who is the principal's parent or for-
22 mer guardian may not withhold or withdraw life-sustaining procedures under this section if:

23 (a) At any time while the principal was under the care, custody or control of the person, a court
24 entered an order:

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

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

28 (b) The court entered a subsequent order that:

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

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

34 (6) A principal, while not incapable, may petition the court to remove a prohibition contained
35 in subsection (5) of this section.

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