

**A-Engrossed**  
**Senate Bill 199**

Ordered by the Senate April 19  
Including Senate Amendments dated April 19

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary for Advance Directive Adoption Committee)

**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.

Modifies laws relating to form of advance directive.  
*[Declares emergency, effective on passage.]*  
**Takes effect on 91st day following adjournment sine die.**

**A BILL FOR AN ACT**

Relating to advance directives; creating new provisions; amending ORS 127.505, 127.510, 127.515, 127.525, 127.532, 127.533 and 127.658 and section 29, chapter 36, Oregon Laws 2018; repealing ORS 127.534 and section 6, chapter 36, Oregon Laws 2018; and prescribing an effective date.

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

**SECTION 1. Section 2 of this 2021 Act is added to and made a part of ORS 127.505 to 127.660.**

**SECTION 2. An advance directive executed by an Oregon resident or by a resident of any other state while physically present in this state must be in substantially the following form:**

---

**OREGON ADVANCE DIRECTIVE FOR HEALTH CARE**

**•This Advance Directive form allows you to:**

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

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

**• Be sure to discuss your Advance Directive and your wishes with your health care representative. This will allow them to make decisions that reflect your wishes. It is recommended that you complete this entire form.**

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

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

**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.

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

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

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 or are unable to make your own medical decisions. The person is called a health care representative. If you do not have an effective health care representative appointment and you 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) and this person can only decide to withhold or withdraw life sustaining treatments if you meet one of the conditions set forth in ORS 127.635 (1).

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: \_\_\_\_\_

1 E-mail: \_\_\_\_\_  
2

3 I choose the following people to be my alternate health care representatives if my first  
4 choice is not available to make health care decisions for me or if I cancel the first health  
5 care representative's appointment.  
6

7 First alternate health care representative:

8 Name: \_\_\_\_\_

9 Relationship: \_\_\_\_\_

10 Telephone numbers: (Home) \_\_\_\_\_

11 (Work) \_\_\_\_\_ (Cell) \_\_\_\_\_

12 Address: \_\_\_\_\_

13 E-mail: \_\_\_\_\_  
14

15 Second alternate health care representative:

16 Name: \_\_\_\_\_

17 Relationship: \_\_\_\_\_

18 Telephone numbers: (Home) \_\_\_\_\_

19 (Work) \_\_\_\_\_ (Cell) \_\_\_\_\_

20 Address: \_\_\_\_\_

21 E-mail: \_\_\_\_\_  
22

23 **3. MY HEALTH CARE INSTRUCTIONS**  
24

25 This section is the place for you to express your wishes, values and goals for care. Your  
26 instructions provide guidance for your health care representative and health care providers.

27 You can provide guidance on your care with the choices you make below. This is the case  
28 even if you do not choose a health care representative or if they cannot be reached.  
29

30 **A. MY HEALTH CARE DECISIONS:**

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

34 **a. Terminal Condition**

35 This is what I want if:

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

37 **AND**

- 38 • My health care providers believe it will result in my death within six months, regardless  
39 of any treatments.  
40

41 Initial one option only.

42 \_\_\_ I want to try all available treatments to sustain my life, such as artificial feeding and  
43 hydration with feeding tubes, IV fluids, kidney dialysis and breathing machines.

44 \_\_\_ I want to try to sustain my life with artificial feeding and hydration with feeding  
45 tubes and IV fluids. I do not want other treatments to sustain my life, such as kidney

1 dialysis and breathing machines.

2 \_\_\_ I do not want treatments to sustain my life, such as artificial feeding and hydration  
3 with feeding tubes, IV fluids, kidney dialysis or breathing machines. I want to be kept com-  
4 fortable and be allowed to die naturally.

5 \_\_\_ I want my health care representative to decide for me, after talking with my health  
6 care providers and taking into account the things that matter to me. I have expressed what  
7 matters to me in section B below.

8  
9 **b. Advanced Progressive Illness**

10 This is what I want if:

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

12 AND

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

15 AND

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

17 - Communicate

18 - Swallow food and water safely

19 - Care for myself

20 - Recognize my family and other people

21  
22 Initial one option only.

23 \_\_\_ I want to try all available treatments to sustain my life, such as artificial feeding and  
24 hydration with feeding tubes, IV fluids, kidney dialysis and breathing machines.

25 \_\_\_ I want to try to sustain my life with artificial feeding and hydration with feeding  
26 tubes and IV fluids. I do not want other treatments to sustain my life, such as kidney  
27 dialysis and breathing machines.

28 \_\_\_ I do not want treatments to sustain my life, such as artificial feeding an hydration  
29 with feeding tubes, IV fluids, kidney dialysis or breathing machines. I want to be kept com-  
30 fortable and be allowed to die naturally.

31 \_\_\_ I want my health care representative to decide for me, after talking with my health  
32 care providers and taking into account the things that matter to me. I have expressed what  
33 matters to me in section B below.

34  
35 **c. Permanently Unconscious**

36 This is what I want if:

37 I am not conscious.

38 AND

39 If my health care providers believe it is very unlikely that I will ever become conscious  
40 again.

41  
42 Initial one option only.

43 \_\_\_ I want to try all available treatments to sustain my life, such as artificial feeding and  
44 hydration with feeding tubes, IV fluids, kidney dialysis and breathing machines.

45 \_\_\_ I want to try to sustain my life with artificial feeding and hydration with feeding

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

3 \_\_\_ I do not want treatments to sustain my life, such as artificial feeding and hydration  
4 with feeding tubes, IV fluids, kidney dialysis or breathing machines. I want to be kept com-  
5 fortable and be allowed to die naturally.

6 \_\_\_ I want my health care representative to decide for me, after talking with my health  
7 care providers and taking into account the things that matter to me. I have expressed what  
8 matters to me in section B below.

9  
10 You may write in the space below or attach pages to say more about what kind of care  
11 you want or do not want.

12 \_\_\_\_\_  
13 \_\_\_\_\_  
14 \_\_\_\_\_  
15 \_\_\_\_\_  
16 \_\_\_\_\_

17  
18  
19 **B. WHAT MATTERS MOST TO ME AND FOR ME:**

20 This section only applies when you are in a terminal condition, have an advanced pro-  
21 gressive illness or are permanently unconscious. If you wish to use this section, you can  
22 communicate the things that are really important to you and for you. This will help your  
23 health care representative.

24 This is what you should know about what is important to me about my life:

25 \_\_\_\_\_

26  
27 This is what I value the most about my life:

28 \_\_\_\_\_

29  
30 This is what is important for me about my life:

31 \_\_\_\_\_

32  
33  
34 I do not want life-sustaining procedures if I can not be supported and be able to engage  
35 in the following ways:

36  
37 Initial all that apply.

38 \_\_\_ Express my needs.

39 \_\_\_ Be free from long-term severe pain and suffering.

40 \_\_\_ Know who I am and who I am with.

41 \_\_\_ Live without being hooked up to mechanical life support.

42 \_\_\_ Participate in activities that have meaning to me, such as:

43 \_\_\_\_\_

44  
45 If you want to say more to help your health care representative understand what mat-

1 **ters most to you, write it here. (For example: I do not want care if it will result in . . . .)**

2 \_\_\_\_\_

3 \_\_\_\_\_

4 \_\_\_\_\_

5 \_\_\_\_\_

6 \_\_\_\_\_

7 \_\_\_\_\_

8 \_\_\_\_\_

9 **C. MY SPIRITUAL BELIEFS**

10 **Do you have spiritual or religious beliefs you want your health care representative and**  
11 **those taking care of you to know? They can be rituals, sacraments, denying blood product**  
12 **transfusions and more.**

13 **You may write in the space below or attach pages to say more about your spiritual or**  
14 **religious beliefs.**

15 \_\_\_\_\_

16 \_\_\_\_\_

17 \_\_\_\_\_

18 \_\_\_\_\_

19 \_\_\_\_\_

20 \_\_\_\_\_

21 \_\_\_\_\_

22 **4. MORE INFORMATION**

23 \_\_\_\_\_

24 **Use this section if you want your health care representative and health care providers**  
25 **to have more information about you.**

26 **A. LIFE AND VALUES**

27 **Below you can share about your life and values. This can help your health care repre-**  
28 **sentative and health care providers make decisions about your health care. This might in-**  
29 **clude family history, experiences with health care, cultural background, career, social**  
30 **support system and more.**

31 **You may write in the space below or attach pages to say more about your life, beliefs**  
32 **and values.**

33 \_\_\_\_\_

34 \_\_\_\_\_

35 \_\_\_\_\_

36 \_\_\_\_\_

37 \_\_\_\_\_

38 \_\_\_\_\_

39 \_\_\_\_\_

40 **B. PLACE OF CARE:**

41 **If there is a choice about where you receive care, what do you prefer? Are there places**  
42 **you want or do not want to receive care? (For example, a hospital, a nursing home, a mental**  
43 **health facility, an adult foster home, assisted living, your home.)**

44 **You may write in the space below or attach pages to say more about where you prefer**  
45 **to receive care or not receive care.**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45

---

---

---

**C. OTHER:**

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

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

---

---

---

**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.

Witness Name (print): \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Witness Name (print): \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**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: \_\_\_\_\_

---

**SECTION 3.** ORS 127.533 is amended to read:

127.533. (1) In accordance with public notice and stakeholder participation requirements pre-



1 scribed by the Oregon Health Authority [*and ORS 127.534*], the Advance Directive [*Adoption*] **Ad-**  
2 **visory** Committee established under ORS 127.532 shall:

3 (a) [*Adopt*] **Advise the Legislative Assembly regarding** the form of an advance directive to  
4 be used in this state; [*and*]

5 (b) Review the form **set forth in section 2 of this 2021 Act** not less than once every four years  
6 for the purpose of [*adopting*] **recommending** changes to the form that the **advisory** committee de-  
7 termines are necessary[.]; **and**

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

10 [(2) *Except as otherwise provided by ORS 127.505 to 127.660, the form of an advance directive*  
11 *adopted pursuant to this section is the only valid form of an advance directive in this state.*]

12 [(3)] (2) At a minimum, the form of an advance directive [*adopted*] **recommended** under this  
13 section must contain the following elements:

14 (a) A statement about the purposes of the advance directive, including:

15 (A) A statement about the purpose of the principal's appointment of a health care representative  
16 to make health care decisions for the principal if the principal becomes incapable;

17 (B) A statement about the priority of health care representative appointment in ORS 127.635 (2)  
18 in the event the principal becomes incapable and does not have a valid health care representative  
19 appointment;

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

22 (D) A statement about the purpose of the principal's expression of the principal's preferences  
23 with respect to placement in a care home or a mental health facility; [*and*]

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

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

28 (G) **A statement explaining that the principal may attach supplementary material de-**  
29 **scribing the principal's treatment preferences to the advance directive and that any attached**  
30 **supplementary material will be considered a part of the advance directive, consistent with**  
31 **ORS 127.505 (2)(b).**

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

34 (A) [*Accepted by signature or other applicable means*] **Signed by the principal;** and

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

36 (c) A statement explaining **the acceptance formalities under ORS 127.525, including** that, to  
37 be effective, the appointment of a health care representative or an alternate health care represen-  
38 tative must be accepted by the health care representative or the alternate health care represen-  
39 tative.

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

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

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

45 (g) A section providing the principal with an opportunity to state the principal's values and

1 beliefs with respect to health care decisions, including the opportunity to describe the principal's  
2 preferences, by completing a checklist, by providing instruction through narrative or other means,  
3 or by any combination of methods used to describe the principal's preferences, regarding:

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

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

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

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

12 (h) A section where the principal and the witnesses or notary may [*accept by signature or other*  
13 *means, including electronic or verbal means,*] **sign** the advance directive, **consistent with the exe-**  
14 **cution formalities required under ORS 127.515.**

15 (i) A section where any health care representative or any alternate health care representative  
16 appointed by the principal may accept [*the advance directive by signature or other means, including*  
17 *electronic or verbal means*] **the appointment, consistent with the requirements under ORS**  
18 **127.525.**

19 [(4)(a)] **(3)(a)** In [*adopting*] **recommending changes to** the form of an advance directive under  
20 this section, the **advisory** committee shall use plain language, such as “tube feeding” and “life  
21 support.”

22 (b) As used in this subsection:

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

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

25 [(5)] **(4)** In [*adopting*] **recommending changes to** the form of an advance directive under this  
26 section, the **advisory** committee shall use the components of the form for appointing a health care  
27 representative [*or*] **and** an alternate health care representative set forth in ORS 127.527.

28 [(6) *The principal may attach supplementary material to an advance directive. In addition to the*  
29 *form of an advance directive adopted under this section, supplementary material attached to an advance*  
30 *directive under this subsection is a part of the advance directive.*]

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

37 [(7)] **(6)** The Oregon Health Authority shall post the form of an advance directive [*adopted under*  
38 *this section*] **set forth in section 2 of this 2021 Act and the written materials described in**  
39 **subsection (1)(c) of this section** on the authority's website.

40 **SECTION 4.** ORS 127.505 is amended to read:

41 127.505. As used in ORS 127.505 to 127.660 and 127.995:

42 (1) “Adult” means an individual who:

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

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

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

- 1 (A) A form appointing a health care representative; and  
2 (B) Instructions to the health care representative.
- 3 (b) “Advance directive” includes any supplementary document or writing attached by the prin-  
4 cipal to the document described in paragraph (a) of this subsection.
- 5 (3) “Appointment” means a form appointing a health care representative, letters of guardianship  
6 or a court order appointing a health care representative.
- 7 (4)(a) “Artificially administered nutrition and hydration” means a medical intervention to pro-  
8 vide food and water by tube, mechanical device or other medically assisted method.
- 9 (b) “Artificially administered nutrition and hydration” does not include the usual and typical  
10 provision of nutrition and hydration, such as the provision of nutrition and hydration by cup, hand,  
11 bottle, drinking straw or eating utensil.
- 12 (5) “Attending health care provider” means the health care provider who has primary responsi-  
13 bility for the care and treatment of the principal, provided that the powers and duties conferred on  
14 the health care provider by ORS 127.505 to 127.660 are within the health care provider’s scope of  
15 practice.
- 16 (6) “Attending physician” means the physician who has primary responsibility for the care and  
17 treatment of the principal.
- 18 (7) “Capable” means not incapable.
- 19 (8) “Form appointing a health care representative” means:  
20 [(a) *The portion of the form adopted under ORS 127.533 used to appoint a health care represen-*  
21 *tative or an alternate health care representative;*]  
22 [(b)] (a) The portion of the form set forth in [section 6, chapter 36, Oregon Laws 2018] **section**  
23 **2 of this 2021 Act**, used to appoint a health care representative or an alternate health care repre-  
24 sentative; or  
25 [(c)] (b) The form set forth in ORS 127.527.
- 26 (9) “Health care” means diagnosis, treatment or care of disease, injury and congenital or de-  
27 generative conditions, including the use, maintenance, withdrawal or withholding of life-sustaining  
28 procedures and the use, maintenance, withdrawal or withholding of artificially administered nutri-  
29 tion and hydration.
- 30 (10) “Health care decision” means consent, refusal of consent or withholding or withdrawal of  
31 consent to health care, and includes decisions relating to admission to or discharge from a health  
32 care facility.
- 33 (11) “Health care facility” means a health care facility as defined in ORS 442.015, a domiciliary  
34 care facility as defined in ORS 443.205, a residential facility as defined in ORS 443.400, an adult  
35 foster home as defined in ORS 443.705 or a hospice program as defined in ORS 443.850.
- 36 (12)(a) “Health care provider” means a person licensed, certified or otherwise authorized or  
37 permitted by the laws of this state to administer health care in the ordinary course of business or  
38 practice of a profession.
- 39 (b) “Health care provider” includes a health care facility.
- 40 (13) “Health care representative” means:  
41 (a) A competent adult appointed to be a health care representative or an alternate health care  
42 representative under ORS 127.510.  
43 (b) A person who has authority to make health care decisions for a principal under the pro-  
44 visions of ORS 127.635 (2) or (3).  
45 (c) A guardian or other person, appointed by a court to make health care decisions for a prin-

1 cial.

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

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

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

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

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

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

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

25 (20) "Principal" means:

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

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

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

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

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

34 **SECTION 5.** ORS 127.510 is amended to read:

35 127.510. (1) A capable adult may execute an advance directive. The advance directive is effective  
36 when it is signed by the principal and witnessed or notarized as [*required by ORS 127.505 to*  
37 *127.660*] **described in ORS 127.515.**

38 (2)(a) A capable adult may use [*an advance directive or the form set forth in ORS 127.527*] **a form**  
39 **appointing a health care representative** to appoint a competent adult to serve as the health care  
40 representative for the capable adult. A health care representative appointed under this paragraph  
41 shall make health care decisions for the principal if the principal becomes incapable.

42 (b) A capable adult may use [*an advance directive or the form set forth in ORS 127.527*] **a form**  
43 **appointing health care representative** to appoint one or more competent adults to serve as al-  
44 ternate health care representatives for the capable adult. For purposes of ORS 127.505 to 127.660,  
45 an alternate health care representative has the rights and privileges of a health care representative

1 appointed under paragraph (a) of this subsection, including the rights described in ORS 127.535. An  
2 alternate health care representative appointed under this paragraph shall make health care deci-  
3 sions for the principal if:

4 (A) The principal becomes incapable; and

5 (B) The health care representative appointed under paragraph (a) of this subsection is unable,  
6 unwilling or unavailable to make timely health care decisions for the principal.

7 (c) For purposes of paragraph (b) of this subsection, the health care representative appointed  
8 under paragraph (a) of this subsection is unavailable to make timely health care decisions for the  
9 principal if the health care representative is not available to answer questions for the health care  
10 provider in person, by telephone or by another means of direct communication.

11 (d) An appointment made under this section is effective when it is accepted by the health care  
12 representative, **as described in ORS 127.525.**

13 (3) Unless the period of time that an advance directive or a form appointing a health care rep-  
14 resentative is effective is limited by the terms of the advance directive or the form appointing a  
15 health care representative, the advance directive or the form appointing a health care represen-  
16 tative continues in effect until:

17 (a) The principal dies; or

18 (b) The advance directive or the form appointing a health care representative is revoked, sus-  
19 pended or superseded pursuant to ORS 127.545.

20 (4) Notwithstanding subsection (3) of this section, if the principal is incapable at the expiration  
21 of the term of the advance directive or the form appointing a health care representative, the ad-  
22 vance directive or the form appointing a health care representative continues in effect until:

23 (a) The principal is no longer incapable;

24 (b) The principal dies; or

25 (c) The advance directive or the form appointing a health care representative is revoked, sus-  
26 pended or superseded pursuant to the provisions of ORS 127.545.

27 (5) A health care provider shall make a copy of an advance directive, a copy of a form ap-  
28 pointing a health care representative and a copy of any other instrument a part of the principal's  
29 medical record when a copy of the advance directive, form appointing a health care representative  
30 or instrument is provided to the principal's health care provider.

31 (6) Notwithstanding subsections (3)(a) and (4)(b) of this section, an advance directive remains in  
32 effect with respect to an anatomical gift, as defined in ORS 97.953, after the principal dies.

33 **SECTION 6.** ORS 127.515 is amended to read:

34 127.515. (1) An advance directive **form set forth in section 2 of this 2021 Act** or a form ap-  
35 pointing a health care representative **set forth in ORS 127.527** may be executed by [*a resident or*  
36 *nonresident adult of this state in the manner provided by ORS 127.505 to 127.660*] **an Oregon resident**  
37 **or by a resident of any other state while physically present in this state.**

38 (2) [*An advance directive or a form appointing a health care representative must reflect the date*  
39 *of the principal's signature or other method of accepting the advance directive or the form appointing*  
40 *a health care representative. To be valid, an advance directive or a form appointing a health care*  
41 *representative*] **The form described in subsection (1) of this section must be signed and:**

42 (a) Witnessed and signed by at least two adults; or

43 (b) Notarized by a notary public.

44 (3) If an advance directive or a form appointing a health care representative is validated under  
45 subsection (2)(a) of this section, each witness must witness:

1 (a) The principal signing the advance directive or the form appointing a health care represen-  
2 tative; or

3 (b) The principal acknowledging the signature of the principal on the advance directive or the  
4 form appointing a health care representative[, *or the principal acknowledging any other method by*  
5 *which the principal accepted the advance directive or the form appointing a health care*  
6 *representative*].

7 (4) For an advance directive or a form appointing a health care representative to be valid under  
8 subsection (2)(a) of this section, the witnesses may not, on the date the advance directive or the form  
9 appointing a health care representative is signed or acknowledged:

10 (a) Be the principal's attending physician or attending health care provider.

11 (b) Be the principal's health care representative or alternate health care representative ap-  
12 pointed under ORS 127.510.

13 (5) If an advance directive or a form appointing a health care representative is validated under  
14 subsection (2)(a) of this section, and if the principal is a patient in a long term care facility at the  
15 time the advance directive or the form appointing a health care representative is executed, one of  
16 the witnesses must be an individual who is designated by the facility and qualified as specified by  
17 the Department of Human Services by rule.

18 (6) Notwithstanding subsection (2) of this section, an advance directive, [*or*] a form appointing  
19 a health care representative **or a similar instrument**, that is executed by an adult who resides in  
20 another state at the time of execution, and that is executed in compliance with the laws of that  
21 state, the laws of the state where the principal is located at the time of the execution or the laws  
22 of this state, is validly executed for the purposes of ORS 127.505 to 127.660.

23 **SECTION 7.** ORS 127.525 is amended to read:

24 127.525. [*For an appointment of a health care representative or an alternate health care represen-*  
25 *tative in a form appointing a health care representative to be effective, the health care representative*  
26 *or the alternate health care representative must accept the appointment as described in ORS 127.510.*]

27 **(1) A person may accept appointment as a health care representative or an alternate**  
28 **health care representative in a form appointing a health care representative by:**

29 **(a) Signing the acceptance of appointment; or**

30 **(b) Representing to a third party that the person has accepted the authority and duties**  
31 **of a health care representative under an advance directive in which the person is named as**  
32 **the health care representative or alternate health care representative.**

33 **(2)** Subject to the right of the health care representative or the alternate health care represen-  
34 tative to withdraw, the acceptance imposes a duty on the health care representative or the alternate  
35 health care representative to make health care decisions on behalf of the principal as described in  
36 ORS 127.510.

37 **(3)** Until the principal becomes incapable, the health care representative or the alternate health  
38 care representative may withdraw by giving notice to the principal. After the principal becomes  
39 incapable, the health care representative or the alternate health care representative may withdraw  
40 by giving notice to the health care provider.

41 **SECTION 8.** ORS 127.658 is amended to read:

42 127.658. (1) ORS 127.505 to 127.660 as enacted, the repeal of any statute that was a part of ORS  
43 127.505 to 127.660 and subsequent amendments to the provisions of ORS 127.505 to 127.660 do not  
44 impair or supersede any advance directive, form appointing a health care representative or directive  
45 to physicians executed in accordance with:

1 (a) The provisions of ORS 127.505 to 127.660; or

2 (b) The provisions of ORS 127.505 to 127.660 or any other statute governing an advance direc-  
3 tive, a form appointing a health care representative or a directive to physicians that was in effect  
4 on the date that the advance directive, the form appointing a health care representative or the di-  
5 rective to physicians was executed.

6 (2) An advance directive, a form appointing a health care representative or a directive to phy-  
7 sicians executed before, on or after January 1, 2019, shall be governed by the provisions of ORS  
8 127.505 to 127.660 or any other statute that is in effect on the date on which[:]

9 [(a) *The issue giving rise to adjudication occurs; or*

10 [(b)] the advance directive, the form appointing a health care representative or the directive to  
11 physicians was executed.

12 **SECTION 9.** ORS 127.532 is amended to read:

13 127.532. (1) The Advance Directive [*Adoption*] **Advisory** Committee is established within the  
14 division of the Oregon Health Authority that is charged with performing the public health functions  
15 of the state.

16 (2)(a) The committee consists of 13 members.

17 (b) One member shall be the Long Term Care Ombudsman or the designee of the Long Term  
18 Care Ombudsman.

19 (c) The other 12 members shall be appointed by the Governor as follows:

20 (A) One member who represents primary health care providers.

21 (B) One member who represents hospitals.

22 (C) One member who is a clinical ethicist affiliated with a health care facility located in this  
23 state, or affiliated with a health care organization offering health care services in this state.

24 (D) Two members who are health care providers with expertise in palliative or hospice care, one  
25 of whom is not employed by a hospital or other health care facility, a health care organization or  
26 an insurer.

27 (E) One member who represents individuals with disabilities.

28 (F) One member who represents consumers of health care services.

29 (G) One member who represents the long term care community.

30 (H) One member with expertise advising or assisting consumers with end-of-life decisions.

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

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

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

37 (3) The term of office of each member of the committee is four years, but a member serves at  
38 the pleasure of the appointing authority. Before the expiration of the term of a member, the ap-  
39 pointing authority shall appoint a successor whose term begins on January 1 next following. A  
40 member is eligible for reappointment. If there is a vacancy for any cause, the appointing authority  
41 shall make an appointment to become immediately effective for the unexpired term.

42 (4) A majority of the members of the committee constitutes a quorum for the transaction of  
43 business.

44 (5) Official action by the committee requires the approval of a majority of the members of the  
45 committee.

1 (6) The committee shall elect one of its members to serve as chairperson.

2 (7) The committee shall meet at times and places specified by the call of the chairperson or of  
3 a majority of the members of the committee, provided that the committee meets at least twice a  
4 year.

5 (8) The committee may adopt rules necessary for the operation of the committee.

6 (9) Members of the committee are not entitled to compensation, but may be reimbursed for ac-  
7 tual and necessary travel and other expenses incurred by them in the performance of their official  
8 duties in the manner and amounts provided for in ORS 292.495. Claims for expenses shall be paid  
9 out of funds appropriated to the Oregon Health Authority for purposes of the committee.

10 **SECTION 10.** Section 29, chapter 36, Oregon Laws 2018, is amended to read:

11 **Sec. 29.** Notwithstanding the term of office specified by [*section 2 of this 2018 Act*] **ORS**  
12 **127.532**, of the members first appointed by the Governor to the Advance Directive [*Adoption*] **Ad-**  
13 **visory** Committee:

14 (1) Four shall serve for a term ending January 1, 2021.

15 (2) Four shall serve for a term ending January 1, 2022.

16 (3) Four shall serve for a term ending January 1, 2023.

17 **SECTION 11.** **Section 6, chapter 36, Oregon Laws 2018, and ORS 127.534 are repealed.**

18 **SECTION 12.** **This 2021 Act takes effect on the 91st day after the date on which the 2021**  
19 **regular session of the Eighty-first Legislative Assembly adjourns sine die.**

20