

Senate Bill 652

Sponsored by Senator LINTHICUM (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**.

Modifies laws relating to advance directives to clarify that principal's delegation of authority to health care representative to withhold or withdraw certain treatments must be in writing in advance directive. Makes temporary advance directive form permanent.

Terminates Advance Directive Adoption Committee.

A BILL FOR AN ACT

1
2 Relating to advance directives; amending ORS 125.315, 127.505, 127.510, 127.540, 127.580 and 127.658
3 and section 6, chapter 36, Oregon Laws 2018; and repealing ORS 127.532, 127.533 and 127.534
4 and section 29, chapter 36, Oregon Laws 2018.

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

6 **SECTION 1.** ORS 127.505 is amended to read:

7 127.505. As used in ORS 127.505 to 127.660 and 127.995:

8 (1) "Adult" means an individual who:

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

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

11 (2)(a) "Advance directive" means a document executed by a principal that contains:

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

13 (B) Instructions to the health care representative.

14 (b) "Advance directive" includes any supplementary document or writing attached by the prin-
15 cipal to the document described in paragraph (a) of this subsection.

16 (3) "Appointment" means a form appointing a health care representative, letters of guardianship
17 or a court order appointing a health care representative.

18 (4)(a) "Artificially administered nutrition and hydration" means a medical intervention to pro-
19 vide food and water by tube, mechanical device or other medically assisted method.

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

23 (5) "Attending health care provider" means the health care provider who has primary responsi-
24 bility for the care and treatment of the principal, provided that the powers and duties conferred on
25 the health care provider by ORS 127.505 to 127.660 are within the health care provider's scope of
26 practice.

27 (6) "Attending physician" means the physician who has primary responsibility for the care and
28 treatment of the principal.

29 (7) "Capable" means not incapable.

30 (8) "Form appointing a health care representative" means:

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 *[(a) The portion of the form adopted under ORS 127.533 used to appoint a health care represen-*
2 *tative or an alternate health care representative;]*

3 *[(b)] (a) The portion of the form set forth in section 6, chapter 36, Oregon Laws 2018, used to*
4 *appoint a health care representative or an alternate health care representative; or*

5 *[(c)] (b) The form set forth in ORS 127.527.*

6 (9) “Health care” means diagnosis, treatment or care of disease, injury and congenital or de-
7 generative conditions, including the use, maintenance, withdrawal or withholding of life-sustaining
8 procedures and the use, maintenance, withdrawal or withholding of artificially administered nutri-
9 tion and hydration.

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

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

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

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

20 (13) “Health care representative” means:

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

23 (b) A person who has authority to make health care decisions for a principal under the pro-
24 visions of ORS 127.635 (2) or (3).

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

27 (14) “Incapable” means that in the opinion of the court in a proceeding to appoint or confirm
28 authority of a health care representative, or in the opinion of the principal’s attending physician or
29 attending health care provider, a principal lacks the ability to make and communicate health care
30 decisions to health care providers, including communication through persons familiar with the
31 principal’s manner of communicating if those persons are available.

32 (15) “Instrument” means an advance directive, form appointing a health care representative,
33 disqualification, withdrawal, court order, court appointment or other document governing health
34 care decisions.

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

37 (b) “Life-sustaining procedure” does not include routine care necessary to sustain patient
38 cleanliness and comfort.

39 (17) “Medically confirmed” means the medical opinion of the attending physician or attending
40 health care provider has been confirmed by a second physician or second health care provider who
41 has examined the patient and who has clinical privileges or expertise with respect to the condition
42 to be confirmed.

43 (18) “Permanently unconscious” means completely lacking an awareness of self and external
44 environment, with no reasonable possibility of a return to a conscious state, and that condition has
45 been medically confirmed by a neurological specialist who is an expert in the examination of unre-

1 sponsive individuals.

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

5 (20) "Principal" means:

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

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

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

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

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

14 **SECTION 2.** ORS 127.510 is amended to read:

15 127.510. (1) A capable adult may execute an advance directive. The advance directive is effective
 16 when it is:

17 **(a) In writing; and**

18 **(b)** Signed by the principal and witnessed or notarized as required by ORS 127.505 to 127.660.

19 (2)(a) A capable adult may use an advance directive or the form set forth in ORS 127.527 to
 20 appoint a competent adult to serve as the health care representative for the capable adult. A health
 21 care representative appointed under this paragraph shall make health care decisions for the princi-
 22 pal **as provided in ORS 127.535** if the principal becomes incapable.

23 (b) A capable adult may use an advance directive or the form set forth in ORS 127.527 to appoint
 24 one or more competent adults to serve as alternate health care representatives for the capable
 25 adult. For purposes of ORS 127.505 to 127.660, an alternate health care representative has the rights
 26 and privileges of a health care representative appointed under paragraph (a) of this subsection, in-
 27 cluding the rights described in ORS 127.535. An alternate health care representative appointed un-
 28 der this paragraph shall make health care decisions for the principal if:

29 (A) The principal becomes incapable; and

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

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

36 (d) An appointment made under this section is effective when it is accepted by the health care
 37 representative.

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

42 (a) The principal dies; or

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

45 (4) Notwithstanding subsection (3) of this section, if the principal is incapable at the expiration

1 of the term of the advance directive or the form appointing a health care representative, the ad-
 2 vance directive or the form appointing a health care representative continues in effect until:

3 (a) The principal is no longer incapable;

4 (b) The principal dies; or

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

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

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

13 **SECTION 3.** ORS 127.540 is amended to read:

14 127.540. ORS 127.505 to 127.660 do not authorize an appointed health care representative to
 15 make a health care decision with respect to any of the following on behalf of the principal:

16 (1) Convulsive treatment.

17 (2) Psychosurgery.

18 (3) Sterilization.

19 (4) Abortion.

20 (5) Withholding or withdrawing of a life-sustaining procedure unless:

21 (a) [*The appointed health care representative has been given authority to make decisions on with-*
 22 *holding or withdrawing life-sustaining procedures*] **The principal has completed section 4 of the**
 23 **advance directive form under section 6, chapter 36, Oregon Laws 2018, and indicated by initial**
 24 **or by separate written statement that the health care representative may make decisions**
 25 **regarding the withdrawal or withholding of life sustaining procedures; or**

26 (b) The principal has been medically confirmed to be in one of the following conditions:

27 (A) A terminal condition.

28 (B) Permanently unconscious.

29 (C) A condition in which administration of life-sustaining procedures would not benefit the
 30 principal's medical condition and would cause permanent and severe pain.

31 (D) A progressive, debilitating illness that will be fatal and is in its advanced stages, and the
 32 principal is consistently and permanently unable to communicate, swallow food and water safely,
 33 care for the principal, and recognize the principal's family and other people, and there is no rea-
 34 sonable chance that the principal's underlying condition will improve.

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

37 **SECTION 4.** ORS 127.580 is amended to read:

38 127.580. (1) It shall be presumed that every person who is temporarily or permanently incapable
 39 has consented to artificially administered nutrition and hydration, other than hyperalimentation,
 40 that are necessary to sustain life except in one or more of the following circumstances:

41 [*a) The person while a capable adult clearly and specifically stated that the person would have*
 42 *refused artificially administered nutrition and hydration.*]

43 [(b)] (a) Administration of such nutrition and hydration is not medically feasible or would itself
 44 cause severe, intractable or long-lasting pain.

45 [(c)] (b) The person has [*an appointed health care representative who has been given*] **completed**

1 **section 4 of the advance directive form under section 6, chapter 36, Oregon Laws 2018, and**
 2 **indicated by initial or by separate written statement that the health care representative has**
 3 **the** authority to make decisions on the use, maintenance, withholding or withdrawing of artificially
 4 administered nutrition and hydration.

5 [(d)] (c) The person does not have an appointed health care representative or an advance di-
 6 rective that clearly states that the person did not want artificially administered nutrition and hy-
 7 dration, and the person is permanently unconscious.

8 [(e)] (d) The person does not have an appointed health care representative or an advance di-
 9 rective that clearly states that the person did not want artificially administered nutrition and hy-
 10 dration, the person is incapable, and the person has a terminal condition.

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

15 (2) If a person does not have an appointed health care representative or an advance directive
 16 that clearly states that the person did not want artificially administered nutrition and hydration,
 17 but the presumption established by this section has been overcome under the provisions of sub-
 18 section [(1)(a), (b), (d), (e) or (f)] **(1)(a), (c), (d) or (e)** of this section, artificially administered nu-
 19 trition and hydration may be withheld or withdrawn under the provisions of ORS 127.635 (2), (3) and
 20 (4).

21 (3) The medical conditions specified in subsection [(1)(b), (d), (e) and (f)] **(1)(a), (c), (d) or (e)**
 22 of this section must be medically confirmed to overcome the presumption established by subsection
 23 (1) of this section.

24 **SECTION 5.** Section 6, chapter 36, Oregon Laws 2018, is amended to read:

25 **Sec. 6.** [(1) *In lieu of the form of an advance directive adopted by the Advance Directive Adoption*
 26 *Committee under section 3 of this 2018 Act, on or before January 1, 2022, a principal may execute an*
 27 *advance directive that is in a form that is substantially the same as the form of an advance directive*
 28 *set forth in this section.*]

29 [(2) *Notwithstanding section 3 (2) of this 2018 Act, the form of an advance directive set forth in this*
 30 *section is a valid form of an advance directive in this state.*]

31 [(3) *The form of an advance directive executed as described in subsection (1) of this section is as*
 32 *follows]* **An advance directive executed in this state or by an Oregon resident must be in**
 33 **substantially the following form:**

34
 35
 36 **ADVANCE DIRECTIVE**
 37 **(STATE OF OREGON)**
 38

39 This form may be used in Oregon to choose a person to make health care decisions for you if
 40 you become too sick to speak for yourself. The person is called a health care representative. If you
 41 do not have an effective health care representative appointment and become too sick to speak for
 42 yourself, a health care representative will be appointed for you in the order of priority set forth in
 43 ORS 127.635 (2).

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

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

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

6 • **If you want to authorize your health care representative to make decisions regarding**
7 **the withholding or withdrawal of life support or tube feeding, you must provide specific in-**
8 **structions by either initialing the appropriate selections in section 4 of this form or attaching**
9 **to this form separate written instructions for your health care representative.**

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

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

15
16 1. ABOUT ME.

17
18 Name: _____

19 Date of Birth: _____

20 Telephone numbers: (Home)_____

21 (Work)_____ (Cell)_____

22 Address: _____

23 E-mail: _____
24

25 2. MY HEALTH CARE REPRESENTATIVE.

26
27 I choose the following person as my health care representative to make health care decisions
28 for me if I can't speak for myself.

29
30 Name: _____

31 Relationship: _____

32 Telephone numbers: (Home)_____

33 (Work)_____ (Cell)_____

34 Address: _____

35 E-mail: _____
36

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

40
41 First alternate health care representative:

42 Name: _____

43 Relationship: _____

44 Telephone numbers: (Home)_____

45 (Work)_____ (Cell)_____

1 Address: _____

2 E-mail: _____

3

4 Second alternate health care representative:

5 Name: _____

6 Relationship: _____

7 Telephone numbers: (Home)_____

8 (Work)_____ (Cell)_____

9 Address: _____

10 E-mail: _____

11

12 3. INSTRUCTIONS TO MY HEALTH CARE REPRESENTATIVE.

13

14 If you wish to give instructions to your health care representative about your health care de-
15 cisions, initial one of the following three statements:

16

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

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

20 ___ Other instructions: _____

21

22 4. DIRECTIONS REGARDING MY END OF LIFE CARE.

23

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

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

29 • The term “life support” **means “life sustaining procedures” as defined in ORS 127.505,**
30 **which in plain language** means any medical treatment that maintains life by sustaining, restoring
31 or replacing a vital function.

32 • The term “tube feeding” **means “artificially administered nutrition and hydration” as**
33 **defined in ORS 127.505, which in plain language** means artificially administered food and water.

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

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

37

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

41

42 ___ I do not want my life to be prolonged by life support. I also do not want tube feeding as life
43 support. I want my health care provider to allow me to die naturally if my health care provider and
44 another knowledgeable health care provider confirm that I am in any of the medical conditions
45 listed below.

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

4
5 a. Close to Death. If I am close to death and life support would only postpone the moment of
6 my death:

7
8 INITIAL ONE:

9 ___ I want to receive tube feeding.

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

11 ___ I DO NOT WANT tube feeding.

12
13 INITIAL ONE:

14 ___ I want any other life support that may apply.

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

16 ___ I DO NOT WANT life support.

17
18 b. Permanently Unconscious. If I am unconscious and it is very unlikely that I will ever become
19 conscious again:

20
21 INITIAL ONE:

22 ___ I want to receive tube feeding.

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

24 ___ I DO NOT WANT tube feeding.

25
26 INITIAL ONE:

27 ___ I want any other life support that may apply.

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

29 ___ I DO NOT WANT life support.

30
31 c. Advanced Progressive Illness. If I have a progressive illness that will be fatal and is in an
32 advanced stage, and I am consistently and permanently unable to communicate by any means,
33 swallow food and water safely, care for myself and recognize my family and other people, and it is
34 very unlikely that my condition will substantially improve:

35
36 INITIAL ONE:

37 ___ I want to receive tube feeding.

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

39 ___ I DO NOT WANT tube feeding.

40
41 INITIAL ONE:

42 ___ I want any other life support that may apply.

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

44 ___ I DO NOT WANT life support.

1 d. Extraordinary Suffering. If life support would not help my medical condition and would make
2 me suffer permanent and severe pain:

3
4 INITIAL ONE:

5 ___ I want to receive tube feeding.

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

7 ___ I DO NOT WANT tube feeding.
8

9 INITIAL ONE:

10 ___ I want any other life support that may apply.

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

12 ___ I DO NOT WANT life support.
13

14 C. Additional Instruction. You may attach to this document any writing or recording of your
15 values and beliefs related to health care decisions. These attachments will serve as guidelines for
16 health care providers. Attachments may include a description of what you would like to happen if
17 you are close to death, if you are permanently unconscious, if you have an advanced progressive
18 illness or if you are suffering permanent and severe pain.
19

20 5. MY SIGNATURE.

21
22 My signature: _____

23 Date: _____
24

25 6. WITNESS.

26
27 COMPLETE EITHER A OR B WHEN YOU SIGN.
28

29 A. NOTARY:

30
31 State of _____

32 County of _____

33 Signed or attested before me on _____,

34 2_____, by _____.

35 _____

36 Notary Public - State of Oregon
37

38 B. WITNESS DECLARATION:
39

40 The person completing this form is personally known to me or has provided proof of identity,
41 has signed or acknowledged the person's signature on the document in my presence and appears to
42 be not under duress and to understand the purpose and effect of this form. In addition, I am not the
43 person's health care representative or alternate health care representative, and I am not the
44 person's attending health care provider.
45

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 6.** ORS 127.658 is amended to read:

33 127.658. (1) ORS 127.505 to 127.660 as enacted, the repeal of any statute that was a part of ORS
34 127.505 to 127.660 and subsequent amendments to the provisions of ORS 127.505 to 127.660 do not
35 impair or supersede any advance directive, form appointing a health care representative or directive
36 to physicians executed in accordance with:

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

42 (2) An advance directive, a form appointing a health care representative or a directive to phy-
43 sicians executed before, on or after January 1, 2019, shall be governed by the provisions of ORS
44 127.505 to 127.660 or any other statute that is in effect on the date on which:

- 45 (a) The issue giving rise to adjudication occurs; or

1 (b) The advance directive, the form appointing a health care representative or the directive to
2 physicians was executed.

3 **(3) If an advance directive executed by a principal is not in the form prescribed by section**
4 **6, chapter 36, Oregon Laws 2018, but was a valid form of advance directive at the time or in**
5 **the place in which it was executed, any provision in ORS 127.505 to 127.660 that refers to a**
6 **specific section of the form in section 6, chapter 36, Oregon Laws 2018, shall apply to the**
7 **equivalent section of the form of advance directive executed by the principal.**

8 **SECTION 7.** ORS 125.315 is amended to read:

9 125.315. (1) A guardian has the following powers and duties:

10 (a) Except to the extent of any limitation under the order of appointment, the guardian has
11 custody of the protected person and may establish the protected person's place of abode within or
12 without this state.

13 (b) The guardian shall provide for the care, comfort and maintenance of the protected person
14 and, whenever appropriate, shall arrange for training and education of the protected person.
15 Without regard to custodial rights of the protected person, the guardian shall take reasonable care
16 of the person's clothing, furniture and other personal effects unless a conservator has been ap-
17 pointed for the protected person.

18 (c) Subject to the provisions of ORS 127.505 to 127.660 and subsection (3) of this section, the
19 guardian may consent, refuse consent or withhold or withdraw consent to health care, as defined in
20 ORS 127.505, for the protected person. A guardian is not liable solely by reason of consent under
21 this paragraph for any injury to the protected person resulting from the negligence or acts of third
22 persons.

23 (d) The guardian may:

24 (A) Make advance funeral and burial arrangements;

25 (B) Subject to the provisions of ORS 97.130, control the disposition of the remains of the pro-
26 tected person; and

27 (C) Subject to the provisions of ORS 97.965, make an anatomical gift of all or any part of the
28 body of the protected person.

29 (e) The guardian of a minor has the powers and responsibilities of a parent who has legal cus-
30 tody of a child, except that the guardian has no obligation to support the minor beyond the support
31 that can be provided from the estate of the minor, and the guardian is not liable for the torts of the
32 minor. The guardian may consent to the marriage or adoption of a protected person who is a minor.

33 (f) Subject to the provisions of ORS 125.320 (2), the guardian may receive money and personal
34 property deliverable to the protected person and apply the money and property for support, care and
35 education of the protected person. The guardian shall exercise care to conserve any excess for the
36 protected person's needs.

37 (g) The guardian shall promote the self-determination of the protected person and, to the extent
38 practicable, encourage the protected person to participate in decisions, act on the protected person's
39 own behalf and develop or regain the capacity to manage the protected person's personal affairs.
40 To accomplish the duties under this paragraph, the guardian shall:

41 (A) Become or remain personally acquainted with the protected person and maintain sufficient
42 contact with the protected person, including through regular visitation, to know the protected
43 person's abilities, limitations, needs, opportunities and physical and mental health;

44 (B) To the extent practicable, identify the values and preferences of the protected person and
45 involve the protected person in decisions affecting the protected person, including decisions about

1 the protected person's care, dwelling, activities or social interactions; and

2 (C) Make reasonable efforts to identify and facilitate supportive relationships and services for
3 the protected person.

4 (h) In making decisions for the protected person, the guardian shall make the decisions the
5 guardian reasonably believes the protected person would make if the protected person were able,
6 unless doing so would unreasonably harm or endanger the welfare or personal or financial interests
7 of the protected person. To determine the decision the protected person would make if able, the
8 guardian shall consider the protected person's previous or current instructions, preferences, opin-
9 ions, values and actions, to the extent actually known or reasonably ascertainable by the guardian.

10 (i) If the guardian cannot make a decision under paragraph (h) of this subsection because the
11 guardian does not know and cannot reasonably determine the decision the protected person would
12 make if able, or the guardian reasonably believes the decision the protected person would make
13 would unreasonably harm or endanger the welfare or personal or financial interests of the protected
14 person, the guardian shall act in accordance with the best interest of the protected person. In de-
15 termining the best interest of the protected person, the guardian shall consider:

16 (A) Information received from professionals and persons that demonstrate sufficient interest in
17 the welfare of the protected person;

18 (B) Other information the guardian believes the protected person would consider if the protected
19 person were able; and

20 (C) Other factors a reasonable person in the circumstances of the protected person would con-
21 sider, including consequences for others.

22 (2) If a conservator has been appointed for the protected person, the guardian may file a motion
23 with the court seeking an order of the court on the duties of the conservator relating to payment
24 of support for the protected person.

25 (3) A guardian may consent to the withholding or withdrawing of artificially administered nu-
26 trition and hydration for a protected person only under the circumstances described in ORS 127.580
27 [(1)(a), (b), (d), (e) or (f)] **(1)(a), (c), (d) or (e)** and, if the protected person has a medical condition
28 specified in ORS 127.580 [(1)(b), (d), (e) or (f)] **(1)(a), (c), (d) or (e)**, the condition has been medically
29 confirmed.

30 **SECTION 8. ORS 127.532, 127.533 and 127.534 and section 29, chapter 36, Oregon Laws**
31 **2018, are repealed.**

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