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Testimony of Arthur Towers

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In Opposition to Senate Bill 219

Before the Senate Committee on Judiciary and Ballot Measure 110 Implementation

March 3, 2021

Chair Prozanski, Vice-Chair Thatcher, and members of the committee, thank you for the opportunity to testify in opposition to a couple important provisions of SB 219.

OTLA members fight for the rights of injured Oregonians and for families who lose loved ones. We see first-hand how severe injuries or illnesses can traumatize families. We are concerned about preserving the rights of these families when the process of administering an advanced directive is botched.

Section 2(7) harms the very families that advanced directives are supposed to help by shielding from liability those administer the directives or the program improperly. Section 2(7) immunizes a provider who refuses to follow a directive that is not in the registry. If a revocation of a directive is inaccurately recorded, if there is a technological failure, or if a provider is otherwise negligent, the family would not be allowed to seek justice.

To compound the problem, Section 2(6) creates secrecy around these records so that families who suffer the trauma of losing a loved one, and then have the subsequent trauma of a botched advanced directive, cannot find out what happened and why. Sections 2 (6) and 2(7) in combination deny grieving families justice and closure.

More broadly, Americans have a 7th Amendment right to a trial by jury. The legislature cannot foresee all the possible outcomes when a law is passed. That is why the framers of the Constitution set up a civil justice system in which a local jury sets a community standard of justice based on the specific set of facts affecting a family or individual.

Over the years, this committee has stood up time and again to defend this Constitutional right. We urge you defend it once again in this instance.

We have seen a disturbing trend this session in terms of government secrecy. This is one of a number of bills this session that seeks to deny records to victims and their families. Secrecy is the enemy of justice and we urge the committee to remove these two subsections if you decide to advance this legislation.