



TO: Senate Judiciary Committee  
FROM: Disability Rights Oregon  
DATE: February 28, 2023  
RE: Opposition to SB 793

Chair Prozanski and members of the Senate Judiciary Committee,

Disability Rights Oregon (DRO) opposes SB 793, having been the Protection and Advocacy agency and having advocated for protected persons for nearly fifty (50) years. DRO opposes SB 793 because it takes away fundamental human and civil rights of protected persons and create more problems than it solves.

In particular, the rebuttable presumption proposed in SB 793 sets up both legal and moral problems including but not limited to the following:

- It's incredibly broad, including "ordinary and necessary" health care and "necessary" is in the judgment of the medical provider;
- Protected persons would be denied from having their preferences and values considered in their own health care;
- Protected persons could no longer rely on their guardian having a duty to access and consider their choice as prescribed in ORS 125.315(g)-(i) because SB 793 over-rides this;
- Removes both the protected person and the guardian as advocates for the protected person's health care and decision-making;
- Health care decision-making for protected persons is left solely to the judgment of their treating health care providers;
- Protected persons are denied basic informed consent for their health care, and are subject to their health care provider's judgment only;
- Rebutting process is onerous for protected persons and/ or guardians who disagree with a health care decision in terms of timing, court requirement, etc; and
- Protected persons would be cut out of their own health care decision-making and then forced to meet a high burden of proof in a court proceeding if they disagree—this would be challenging for any patient who's disagreeing; and

SB 793 is entirely counter to the current role of guardianships to support the protected person in gaining independence, self-reliance and dignity.

DRO does not object to sections (3) to (5) that help clarify current law.

### **About Disability Rights Oregon**

Since 1977 Disability Rights Oregon has been the State's Protection and Advocacy System.<sup>1</sup> We are authorized by Congress to protect, advocate, and enforce the rights of people with disabilities under the U.S. Constitution and Federal and State laws, investigate abuse and neglect of people with disabilities, and “pursue administrative, legal, and other appropriate remedies”.<sup>2</sup> We are also mandated to “educate policymakers” on matters related to people with disabilities.<sup>3</sup>

**If you have any questions regarding DRO’s position on this legislation, please call Meghan Moyer at 503-432-5777 or email her at [mmoyer@droregon.org](mailto:mmoyer@droregon.org).**

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<sup>1</sup> See ORS 192.517.

<sup>2</sup> See 42 U.S.C. § 15041 et seq; 42 U.S.C. § 10801 et seq.

<sup>3</sup> See 42 U.S. Code § 15043(a)(2)(L).