

Submitter: Jasper Smith  
On Behalf Of: SB 793  
Committee: Senate Committee On Judiciary  
Measure: SB793

### SB 793 Testimony

My name is Jasper Smith, and I am with the Benton County Developmental Diversity Program. We provide services and supports to people with intellectual and developmental disabilities in our community. I am here to testify in support of Senate Bill 793 which establishes a presumption to provide basic preventative health care for protected people who have a guardian. This is the same presumption they would have if they did not have a guardian or if any of us were to be temporarily incapacitated and need to access health care. The current presumption of our medical system is that if people are unable to communicate their wishes, they should get appropriate care. This is not true if people have a guardian who makes health care decisions for them. A guardian as a substitute decision maker is supposed to make the decision the protected person would make for themselves if they were able to communicate their decision. In reality, the guardian can deny a protected person health care and the reasons may have nothing to do with the person's wishes or their health care concerns.

Oregon voters recently passed Measure 111 amending the Oregon Constitution to affirm access to health care as a constitutional right. Constitutional rights should not be denied without due process. This legislation is in line with the voters' intention that everyone has a right to health care. A protected person can still refuse care. A guardian may also still deny the protected person their right to health care, but this legislation introduces appropriate due process for that to happen.

The Oregon developmental disabilities system did a phenomenal job at protecting people with developmental disabilities during the pandemic. Nationally, the death rate from COVID-19 for the DD population was more than 2.5 times the rate for the general population. In Oregon, the death rate from COVID-19 for the general population was six times the rate for people supported by the developmental disabilities system.

In Benton County, the only person we supported who died from COVID-19 was someone who died after the vaccine was available, but the guardian refused to allow the person to receive the vaccine. The person lived in a medical group home and all the other residents were vaccinated. Currently, guardians can refuse health care without giving any medical justification regardless of the desires of the protected person. If she had not had a guardian, she would have received the life-saving vaccine because we would presume she should access appropriate preventive care.

Years ago, we also had a case where the guardian denied a protected person access to antibiotics and he died of an easily treatable bacterial infection.

This bill also offers some protection to health care providers and care givers when they are doing due diligence and trying to provide appropriate care and support to vulnerable people.

Protected people under guardianship need to have their basic right to basic health care protected. People under guardianship have many rights removed from them, but they still have some constitutional rights. Oregon voters have affirmed a constitutional right to access health care and all Oregonians, including protected people under guardianship, should have the right to access basic and ordinary preventive health care and that right should not be denied without due process.

I hope you will support this important common-sense legislation to help protect some of Oregon's most vulnerable people.

Thank you.