

## **SB 1003 -2, -4 STAFF MEASURE SUMMARY**

### **Senate Committee On Judiciary**

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**Meeting Dates:** 3/3, 4/7, 4/9

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#### **WHAT THE MEASURE DOES:**

The measure modifies provisions of the Oregon Death with Dignity Act. It expands the class of health care providers authorized to prescribe medication, authorizes the electronic transmission of prescriptions and filing of reports, reduces waiting periods, modifies witness criteria, and requires advance disclosure of health care program policies regarding the Oregon Death with Dignity Act.

#### Detailed Summary

##### **Policy disclosure** (Sections 1 and 2)

- Requires a hospice program to publicly disclose its current policy regarding the Oregon Death with Dignity Act, including providing disclosure to each patient and posting it to the program's website, and requires other health care facilities to post a disclosure on the health care facilities' websites.

##### **Definitions** (Section 3 and conforming amendments throughout)

- Expands authorized health care providers who may provide services under the Act to include physician assistants and nurse practitioners.
- Changes the term attending physician to proscribing provider, and the term consulting physician to consulting provider.
- Changes the definition of terminal illness to a 'terminal disease' instead of an 'incurable and irreversible disease', which has been medically confirmed and will, within reasonable medical judgment, produce death within six months.

##### **Witnesses** (Section 5)

- Eliminates the prohibition on a witness being an employee, operator, or owner of the health care facility where the terminally ill person is a patient or resident.
- Removes the requirement for patients of long term care facility that one witness be designated by the facility and have qualifications determined by Department of Human Services rules.

##### **Waiting periods** (Sections 11, 13)

- Reduces the waiting period from 15 days to 48 hours after a patient makes a first oral request and a written request, before the patient can make the second required oral request.
- Allows the patient to make the second request at any time, if the prescribing provider has medically confirmed that the patient will within reasonable medical judgment die within 48 hours.
- Shortens the minimum time from 15 days to 48 hours in which prescription may be written following the patient's first request.

##### **Provider responsibilities** (Sections 6, 7, 14, 15)

- Permits health care providers to electronically submit required records to the Oregon Health Authority.
- Allows a consulting provider to confirm a patient's diagnosis after evaluating the patient and the patient's medical records, or by reviewing and signing a hospice program's certification for the patient's terminal illness.
- Removes the requirement that the consulting provider separately determine, in addition to the prescribing provider's determination, that the patient is capable and making the request voluntarily.

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- Allows prescriptions to be delivered to a pharmacist by facsimile or electronic means and requires the pharmacist delivering the medication requested in this manner to first confirm the prescription verbally with the prescribing provider in person, on the phone, or by a two-way communication device.

### **ISSUES DISCUSSED:**

- Lack of providers in rural areas
- Current paper filing requirements
- Suicidal ideation at a societal level
- Licensing requirements of practitioners

### **EFFECT OF AMENDMENT:**

-2 The amendment revises terminology, waiting periods, operative dates, and the measure's effective date.

#### Detailed Summary

- Changes the term attending physician to 'attending practitioner', and the term consulting physician to 'consulting practitioner'.
- Requires policy disclosures to be provided to patients in writing prior to admission into a hospice program, and prior to or at the time of admission to a health care facility.
- Requires the patient's diagnosis to be confirmed by a licensed physician, as either the attending or consulting practitioner.
- Revises the minimum waiting periods to seven days, instead of 48 hours.
- Sets effective and operative dates as follows:
  - Takes effect on the 91st day following adjournment sine die.
  - Authorizes the Oregon Health Authority (OHA) to take any action before the measure's operative dates which may be necessary to exercise duties upon the operative dates.
  - Allows OHA until Jan. 2, 2028, to establish an electronic filing system for receiving required records from the attending practitioner, required by Sec. 15 of the measure.
  - Sets January 1, 2026, as the operative date for the measure's requirements, except for Sec. 15.

-4 The amendment incorporates the -2 amendment but changes the definition of practitioner to mean only a physician licensed under ORS 677.100 to 677.228.

### **BACKGROUND:**

Oregon enacted its Death with Dignity Act (Act) in 1997 to allow terminally ill patients who meet certain criteria to end their lives through voluntary self-administration of a lethal dose of a medication prescribed by a physician for that purpose. A qualified patient is at least 18 years of age, has been diagnosed with a terminal illness that will lead to death within six months, and is capable of informed decision-making and communication about health care decisions. The terminal diagnosis and capacity for informed decision-making must be confirmed by both an attending and a consulting physician. Either of the physicians must refer the patient to counseling if of the opinion that the patient is suffering from a psychiatric or psychological disorder or depression causing impaired judgment, and no life-ending medication may be prescribed during such impairment.

A qualified patient must make both an oral and a written request and must make a second oral request at least 15 days after the first oral request. The physician must wait 15 days after the first oral request before writing the prescription, unless the attending physician determines with reasonable medical judgment that the patient will die within that time period, and the patient makes a second request orally or in writing. The patient has the right to rescind the request at any time. A physician must document certain information in the medical record, and health care providers must file medication dispensing records with the Oregon Health Authority (OHA). OHA reviews a sample of medical records, reports annually with statistical information, and refers any instances of noncompliance with the Act to the applicable licensing authority. Other proposed legislation, Senate Bill 424,

would provide funding to OHA for an electronic filing system to be able to receive the records electronically.

PRELIMINARY