

A-Engrossed House Bill 3211

Ordered by the House April 7
Including House Amendments dated April 7

Sponsored by Representatives LEVY E, JAVADI; Representative DIEHL, Senator BROADMAN (Presession 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. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act directs OHA to create a directive form about certain drugs a person does not want to be given. (Flesch Readability Score: 68.6).

Requires the Oregon Health Authority to develop and make available a nonopioid directive form.

A BILL FOR AN ACT

Relating to health directives.

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

SECTION 1. (1) As used in this section:

(a) **"Emergency medical services provider" means a person practicing within the scope of the person's license to practice as an emergency medical services provider under ORS chapter 682.**

(b) **"Health care advocate" has the meaning given that term in ORS 127.765.**

(c) **"Health care facility" has the meaning given that term in ORS 442.015.**

(d) **"Health care provider" has the meaning given that term in ORS 127.505.**

(e) **"Health care representative" has the meaning given that term in ORS 127.505.**

(f) **"Hospital" has the meaning given that term in ORS 442.015.**

(g) **"Skilled nursing facility" has the meaning given that term in ORS 442.015.**

(2)(a) **The Oregon Health Authority shall develop by rule a nonopioid directive form indicating to health care providers and emergency medical services providers that, except as otherwise provided in subsection (4) of this section or by rule, an individual who has executed the nonopioid directive form or who has had a nonopioid directive form executed on the individual's behalf may not be administered an opioid or offered a prescription for an opioid.**

(b) **The authority shall include on the nonopioid directive form:**

(A) **A warning that execution of the nonopioid directive form may result in the individual having unrelieved or breakthrough pain that would otherwise be adequately managed with the use of an opioid;**

(B) **Instructions on how the form may be revoked; and**

(C) **Any other information that the authority considers relevant.**

(c) **The authority shall make the form available to the public electronically on the authority's website.**

(d) **An individual may not be required to execute a nonopioid directive form as a condition for receiving health care services.**

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 (e) Upon being presented with a nonopioid directive form, a physician or other health
2 care provider shall make the form a part of the individual's medical record.

3 (3)(a) An individual or an individual's health care representative or health care advocate
4 may execute a nonopioid directive form on the individual's behalf.

5 (b) If a nonopioid directive form is executed by or on behalf of an individual and is pre-
6 sented to a health care provider, the health care provider shall make the nonopioid directive
7 form a part of the individual's medical record.

8 (c) A nonopioid directive form may be revoked:

9 (A) If the form was executed by the individual, by the individual at any time and in any
10 manner by which the individual is able to communicate the individual's intent to revoke the
11 form;

12 (B) If the form was executed by the individual's health care representative, by the health
13 care representative at any time by issuing the revocation in writing and providing notice of
14 the revocation to the individual's health care provider; or

15 (C) If the form was executed by the individual's health care advocate, by the health care
16 advocate at any time by issuing the revocation in writing and providing notice of the revo-
17 cation to the individual's health care provider.

18 (4) A health care provider who is authorized to prescribe controlled substances may ad-
19 minister or direct the administration of an opioid to an individual who has executed a
20 nonopioid directive form or who has had a nonopioid directive form executed on the
21 individual's behalf if:

22 (a) The individual is being treated at a hospital or in a setting outside of a hospital in the
23 case of an emergency and, in the health care provider's professional opinion, the adminis-
24 tration of the opioid is medically necessary to treat the individual. If an opioid is adminis-
25 tered under this paragraph, the health care provider shall ensure that the individual is
26 provided with information on substance use disorder treatment and services as defined in
27 ORS 414.780;

28 (b) The opioid is for intraoperative use; or

29 (c) The individual is being treated at a skilled nursing facility.

30 (5) The following are not subject to civil or criminal liability or professional disciplinary
31 action for failing to administer, prescribe or dispense an opioid, or for the inadvertent ad-
32 ministration of an opioid, to an individual who has executed a nonopioid directive form or
33 who has had a nonopioid directive form executed on the individual's behalf, if the failure to
34 act or act was done in good faith:

35 (a) A health care provider whose scope of practice includes the prescribing, administering
36 or dispensing of a controlled substance.

37 (b) A health care facility.

38 (c) An employee of a health care provider.

39 (d) An employee of a health care facility.

40 (e) Emergency medical services providers.

41 (6) The authority shall adopt rules to implement this section. The rules must include, but
42 are not limited to, the following:

43 (a) Procedures to record a nonopioid directive form in a patient's medical record.

44 (b) Procedures to revoke a nonopioid directive form.

45 (c) Procedures to ensure that the recording, disclosure or distribution of data relating

1 to a nonopioid directive form or the transmission of a nonopioid directive form complies with
2 state and federal confidentiality and consent laws, rules and regulations.

3 (d) Exemptions for administering or prescribing an opioid to an individual who has exe-
4 cuted a nonopioid directive form or who has had a nonopioid directive form executed on the
5 individual's behalf if the opioid is administered or prescribed to treat the individual for a
6 substance use disorder.

7 (e) Exemptions for administering or prescribing an opioid to an individual who has exe-
8 cuted a nonopioid directive form or who has had a nonopioid directive form executed on the
9 individual's behalf if the individual is a hospice patient.

10
