

House Bill 3211

Sponsored by Representative LEVY E; Senator BROADMAN (Pre-session 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 **as introduced**. 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

1
2 Relating to health directives.

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

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

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

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

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

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

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

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

13 (2) **The Oregon Health Authority shall develop by rule a nonopioid directive form indi-**
14 **cating to health care providers and emergency medical services providers that, except as**
15 **otherwise provided in subsection (4) of this section or by rule, an individual who has executed**
16 **the nonopioid directive form or who has had a nonopioid directive form executed on the**
17 **individual's behalf may not be administered an opioid or offered a prescription for an opioid.**
18 **The authority shall include on the nonopioid directive form instructions on how the form**
19 **may be revoked and any other information that the authority considers relevant. The au-**
20 **thority shall make the form electronically available to the public.**

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

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

26 (c) **A nonopioid directive form may be revoked:**

27 (A) **If the form was executed by the individual, by the individual at any time and in any**
28 **manner by which the individual is able to communicate the individual's intent to revoke the**
29 **form;**

30 (B) **If the form was executed by the individual's health care representative, by the health**

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 care representative at any time by issuing the revocation in writing and providing notice of
 2 the revocation to the individual's health care provider; or

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

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

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

16 (b) The opioid is for intraoperative use.

17 (5) Except as otherwise provided by law, the following are not subject to civil or criminal
 18 liability or professional disciplinary action for failing to administer, prescribe or dispense an
 19 opioid, or for the inadvertent administration of an opioid, to an individual who has executed
 20 a nonopioid directive form or who has had a nonopioid directive form executed on the
 21 individual's behalf, if the failure to act or act was done reasonably and in good faith:

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

24 (b) A health care facility.

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

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

27 (e) Emergency medical services providers.

28 (6) Subject to subsection (7) of this section, the authority shall adopt rules to implement
 29 this section. The rules must include, but are not limited to, the following:

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

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

32 (c) Procedures to ensure that the recording, disclosure or distribution of data relating
 33 to a nonopioid directive form or the transmission of a nonopioid directive form complies with
 34 state and federal confidentiality and consent laws, rules and regulations.

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

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

42 (7) The rules adopted under this section must allow a health care provider or health care
 43 facility to incorporate a nonopioid directive form into an existing patient form or into other
 44 documentation used by the health care provider or health care facility or agency.