

# SELECT OREGON STATUTES

## **ORS 127.635 Withdrawal of life-sustaining procedures; conditions; selection of health care representative in certain cases; required consultation.**

(1) Life-sustaining procedures as defined in ORS 127.505 which would otherwise be applied to an incapable principal who does not have an appointed health care representative or applicable valid advance directive may be withheld or withdrawn in accordance with subsections (2) and (3) of this section if the principal has been medically confirmed to be in one of the following conditions:

- (a) A terminal condition;
- (b) Permanently unconscious;
- (c) A condition in which administration of life-sustaining procedures would not benefit the principal's medical condition and would cause permanent and severe pain; or
- (d) The person has a progressive illness that will be fatal and is in an advanced stage, the person is consistently and permanently unable to communicate by any means, swallow food and water safely, care for the person's self and recognize the person's family and other people, and it is very unlikely that the person's condition will substantially improve.

(2) If a principal's condition has been determined to meet one of the conditions set forth in subsection (1) of this section, and the principal does not have an appointed health care representative or applicable advance directive, the principal's health care representative shall be the first of the following, in the following order, who can be located upon reasonable effort by the health care facility and who is willing to serve as the health care representative:

- (a) A guardian of the principal who is authorized to make health care decisions, if any;
- (b) The principal's spouse;
- (c) An adult designated by the others listed in this subsection who can be so located, if no person listed in this subsection objects to the designation;
- (d) A majority of the adult children of the principal who can be so located;
- (e) Either parent of the principal;
- (f) A majority of the adult siblings of the principal who can be located with reasonable effort; or
- (g) Any adult relative or adult friend.

(3) If none of the persons described in subsection (2) of this section is available, then life-sustaining procedures may be withheld or withdrawn upon the direction and under the supervision of the attending physician.

(4) Life-sustaining procedures may be withheld or withdrawn upon the direction and under the supervision of the attending physician at the request of a person designated the health care representative under subsections (2) and (3) of this section only after the person has consulted with concerned family and close friends, and if the principal has a case manager, as defined by rules adopted by the Department of Human Services, after giving notice to the principal's case manager. [Formerly 97.083; 1993 c.767 s.21]

**ORS 127.580 Presumption of consent to artificially administered nutrition and hydration; exceptions.**

(1) It shall be presumed that every person who is temporarily or permanently incapable has consented to artificially administered nutrition and hydration, other than hyperalimentation, that are necessary to sustain life except in one or more of the following circumstances:

(a) The person while a capable adult clearly and specifically stated that the person would have refused artificially administered nutrition and hydration.

(b) Administration of such nutrition and hydration is not medically feasible or would itself cause severe, intractable or long-lasting pain.

(c) The person has an appointed health care representative who has been given authority to make decisions on the use, maintenance, withholding or withdrawing of artificially administered nutrition and hydration.

(d) The person does not have an appointed health care representative or an advance directive that clearly states that the person did not want artificially administered nutrition and hydration, and the person is permanently unconscious.

(e) The person does not have an appointed health care representative or an advance directive that clearly states that the person did not want artificially administered nutrition and hydration, the person is incapable, and the person has a terminal condition.

(f) The person has a progressive illness that will be fatal and is in an advanced stage, the person is consistently and permanently unable to communicate by any means, swallow food and water safely, care for the person's self and recognize the person's family and other people, and it is very unlikely that the person's condition will substantially improve.

(2) If a person does not have an appointed health care representative or an advance directive that clearly states that the person did not want artificially administered nutrition and hydration, but the presumption established by this

section has been overcome under the provisions of subsection (1)(a), (b), (d), (e) or (f) of this section, artificially administered nutrition and hydration may be withheld or withdrawn under the provisions of ORS 127.635 (2), (3) and (4).

(3) The medical conditions specified in subsection (1)(b), (d), (e) and (f) of this section must be medically confirmed to overcome the presumption established by subsection (1) of this section. [1989 c.914 s.16; 1993 c.767 s.18a]