

This Quick Reference is intended to provide a summary of Oregon Senate Bill 1606: End of Life Orders and Support Persons for organizational awareness and immediate implementation. SB 1606 includes **prohibitions related to end-of-life orders applicable to all patients and affects access to support persons for patients with disabilities**. Additional detail on requirements can be found in the references noted below.

### SB 1606 – SUMMARY

- **Prohibits hospitals from conditioning treatment** on a patient having a POLST, advance directive or any instruction related to life-sustaining care and **prohibits discrimination** in any way against an individual based on whether the individual has a POLST, advance directive or similar instruction.
- **Requires hospitals to allow a patient with a disability** to designate at least three **support persons**, and to allow at least **one support person to be present with the patient to facilitate care**:
  - in the emergency department and during the hospital stay
  - for any discussions when the patient is asked to make an end-of-life decision, unless the patient requests otherwise
- **Before life-sustaining procedures are withheld or withdrawn** from a patient who has an intellectual or developmental disability, the patient's designated support person(s), health care representative or attending provider shall **contact Oregon DHS** to provide notice to the patient's case manager.
- **Requires hospitals to inform patients by 8/1/2020 upon scheduling and admission** of the patient's right to support persons.
- **Requires hospitals to post by 8/1/2020** the hospital's policy requirements applicable to support persons on the hospital's website and at hospital entry points.
- **Allows a hospital to place limits on support persons** to ensure safety requiring PPE, infection control protocols, and screening for infectious disease; and **allows limitation of the number of support persons** present at any time or during the day.

***Failure of the hospital to comply with certain sections may result in a civil penalty of up to \$10,000 for each violation, in addition to any other penalty or remedy provided by law.***

### SB 1606 – DEFINITIONS

**Patient:** A patient admitted to a hospital or in an emergency department **who needs assistance** to effectively communicate with hospital staff, make health care decisions or engage in activities of daily living **due to a disability**, including by not limited to:

- a. A physical, intellectual, behavioral or cognitive impairment;
- b. Deafness, being hard of hearing or other communication barrier;
- c. Blindness;
- d. Autism; or
- e. Dementia

**Support Person:** A family member, guardian, personal care assistant or other paid or unpaid attendant selected by the patient to physically or emotionally assist the patient or ensure effective communication with the patient.

Questions? Contact Corporate Compliance Officer Jim Schlenker at 541-667-3412.

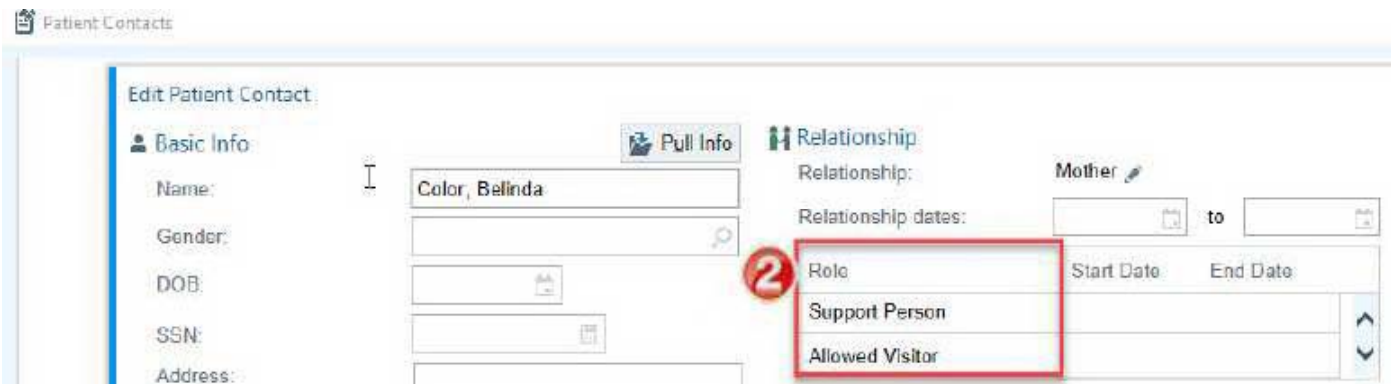
**References:** Oregon Senate Bill 1606: <https://olis.leg.state.or.us/liz/2020S1/Downloads/MeasureDocument/SB1606>

This FAQ was created to support the Senate Bill 1606 Quick Reference document, which summarizes requirements regarding **prohibitions related to end-of-life orders applicable to all patients and access to support persons for patients with disabilities**. Additional detail on requirements can be found in the references noted below.

### FREQUENTLY ASKED QUESTIONS

#### 1. Question: Who is asking patients to designate at least three support persons?

Answer: Upon registration to the ED or admission, Patient Access will ask each patient "Do you have a disability with which you'd like to designate at least 3 support persons who can help facilitate your care during your hospitalization?" Support Persons will be identified in Patient Contacts (Demographics) in Epic as shown below:



The screenshot shows the 'Edit Patient Contact' interface in Epic. The patient's name is 'Color, Belinda'. The 'Relationship' section is highlighted with a red box, and a red circle with the number '2' is placed over the 'Role' dropdown menu. The dropdown menu is open, showing 'Support Person' and 'Allowed Visitor' as options.

#### 2. Question: Who determines if the patient is disabled as defined?

Answer: Patient.

#### 3. Question: Who determines if a support person is necessary or not?

Answer: The patient and/or their legal representative.

#### 4. Question: Does this apply to outpatients?

Answer: The support person requirement applies to a patient admitted to the hospital or in an emergency department.

#### 5. Question: What is the difference between designated support person and an allowed visitor?

Answer: A support person is a family member, guardian, personal care assistant or other paid or unpaid attendant **selected by the patient to physically or emotionally assist the patient or ensure effective communication with the patient, due to the patient's disability**. An allowed visitor are individuals present to visit with *any* patient but not designated to support a *disabled* patient.

#### 6. Question: Who will determine the number of support persons and/or visitors present at one time?

Answer: Patient care team; however, we must always allow one designated support person with the disabled patient during their hospital stay and in the emergency department to facilitate care, if requested.

**7. Question: When do we notify DHS?**

Answer: Before life-sustaining procedures are withheld or withdrawn for a **patient with intellectual or development disability**, the support person shall contact DHS to determine if the patient has a case manager and provide notice to the case manager.

**8. Question: Who notifies DHS?**

Answer: The support person. However, per DHS “the attending physician or attending hospital is responsible for notifying DHS and the case manager if they are the one designated under the authority of ORS 127.635(3) to making the decision to withhold or withdraw life-sustaining treatment.” ORS 127.635(3) states “if [no health care representative] is available, then life-sustaining procedures may be withheld or withdrawn upon the direction and under the supervision of the attending physician or attending health care provider.”

**9. Question: How do we document DHS notification?**

Answer: A clinical note documenting that the support person or the provider notified DHS is sufficient.

**10. Question: How do we identify the DHS Case Manager?**

Answer: Refer to the patient contact list in Epic if patient’s case manager is listed. If not, contact DHS to determine if the patient has a case manager.

**11. Question: Does the hospital or provider need to wait for an answer from DHS and, if applicable, the case manager?**

Answer: No. Only notification to DHS is required. DHS is not required to respond.

**12. Question: What if patient has Support Person, POA and Legal Surrogate Decision Maker and all are different individuals? Who do we call in for end-of-life discussions? Who decides?**

Answer: TBD.

**13. Question: Can the Support Person be “present” virtually (telephone or video) for end-of-life discussions?**

Answer: Yes, virtual alternatives are acceptable if the patient and/or legal representative agree to the method of communication. Currently we offer telephone conversation through the patient’s device first, then use of department iPads for Zoom or FaceTime, if necessary.

**14. Question: How often do we ask patients to designate (at each admission, annually)?**

Answer: Currently we are asking patients to designate support persons at each admission or when the patient presents to the emergency department.

**15. Question: If an incapacitated patient presents with a health care representative, does the representative designate support persons? Or does hospital wait until the patient is capacitated and can designate?**

Answer: TBD. Awaiting response from the Oregon Health Authority.

**16. Question: If we are unable to inform the patient of their right to a support person upon scheduling, is the hospital still compliant if we inform upon admission?**

Answer: Yes. A hospital must inform a patient at the time the hospital services are scheduled and upon admission, of the patient's right to support persons.

**17. Question: Are support persons required to accommodate patients in restricted areas or when visitation is restricted (outside ICU visitation hours)? What about COVID-19 positive patients?**

Answer: Awaiting clarification from the Oregon Health Authority; however, current guidance from OHA states: "Allow support persons same rights as for any other patients. Support persons' access may be limited in areas where hospital staff regularly provide services to all patients that that support persons would be providing. Assume that ORs are restricted areas for non-staff and non-patients."

**18. Question: What is considered adequate documentation?**

Answer: Organization to operationalize

**19. Question: If support person is impeding care, can they be asked to leave?**

Answer: Follow normal process if individual (visitor or support person) is impeding care.

**20. Question: What is the patient already has a POLST or advanced directive? Can the support person change the POLST or advanced directive without the patient's involvement?**

Answer: Use the existing POLST and/or advanced directive. The support person cannot change the existing documentation.

**21. Question: Are we required to provide the support persons personal protective equipment?**

Answer: Yes. The hospital may impose conditions to ensure safety of the patient, support person and staff, such as wearing PPE provided by the hospital.

This document will continue to be updated as additional information is known.

Questions? Contact Corporate Compliance Officer Jim Schlenker at 541-667-3412.

**References:**

1. Oregon Senate Bill 1606:  
<https://olis.leg.state.or.us/liz/2020S1/Downloads/MeasureDocument/SB1606>
2. Oregon Association of Hospitals and Health Systems, End of Life & Support Person Resource:  
<https://oahhs.org/compliance/compliance.html>