

ENGROSSED SENATE AMENDMENTS  
TO  
ENGROSSED HOUSE BILL NO. 1893

BY: HAMILTON (Jeff), HUDSON,  
NIEMI, MONSON, ROACH,  
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PELTIER, THOMPSON,  
MAXEY, WIDENER and  
STOTTLEMYRE of the HOUSE

and

HOBSON of the SENATE

( PUBLIC HEALTH AND SAFETY - OKLAHOMA RIGHTS OF  
THE TERMINALLY ILL OR PERSISTENTLY UNCONSCIOUS  
ACT - AMENDING 30 O.S. 1991, SECTION 3-119 -  
OKLAHOMA GUARDIANSHIP AND CONSERVATORSHIP ACT -  
CODIFICATION -  
EFFECTIVE DATE )

AUTHORS: Add the following Senate Coauthors: SHEDRICK, RUBOTTOM  
and CHANDLER

AMENDMENT NO. 1. Page 2, Section 2, line 20, before the word  
"will" delete the words "right to decide" and insert the  
words

"advance directive for health care"

AMENDMENT NO. 2. Page 4, Section 4, line 26, after the word  
"older" and before the period insert the words

"who are not legatees, devisees or heirs at law"

AMENDMENT NO. 3. Page 15, Section 15, lines 12 through 16, delete  
all language beginning with the word "Any" on line 12  
through the word "execution." on line 16 and insert

"Any directive to a physician executed pursuant to the former  
Oklahoma Natural Death Act, 63 O.S. 1991, Section 3101 et seq.,  
which was executed prior to the effective date of this act shall be  
enforceable according to its terms until revoked and shall have the

same force and effect as if made pursuant to this act. Such directive shall be binding on the attending physician whether or not the person who executed the directive was in a terminal condition at the time of execution unless there is evidence that the person executing the directive intended that it should be binding only if executed or re-executed after the person became afflicted with a terminal condition as defined by the former Oklahoma Natural Death Act."

AMENDMENT NO. 4. Page 15, line 29 1/2, insert a new Section 17 and Section 18 to read

"SECTION 17. AMENDATORY 63 O.S. 1991, Section 3080.4, is amended to read as follows:

Section 3080.4 A. The presumption pursuant to Section 3080.3 of this title shall not apply if:

1. the attending physician of the incompetent patient knows, or a court finds, by clear and convincing evidence that the patient, when competent ~~and with a specific illness or injury,~~ decided on the basis of information sufficient to constitute informed consent that artificially administered hydration or artificially administered nutrition should be withheld or withdrawn from him. A directive executed pursuant to the Oklahoma Natural Death Act specifically authorizing the withholding or withdrawal of nutrition and/or hydration shall be deemed to satisfy the provisions of this paragraph. An advance directive for health care executed pursuant to the Oklahoma Rights of the Terminally Ill or Persistently Unconscious Act specifically authorizing the withholding or withdrawal of nutrition and/or hydration shall be deemed to satisfy the provisions of this paragraph; or

2. in the reasonable medical judgment of the incompetent patient's attending physician and a second consulting physician, artificially administered hydration or artificially administered nutrition will itself cause severe, intractable, and long-lasting

pain to the incompetent patient or such nutrition or hydration is not medically possible; or

3. in the reasonable medical judgment of the incompetent patient's attending physician and a second consulting physician:

- a. the incompetent patient is chronically and irreversibly incompetent,
- b. the incompetent patient is in the final stage of a terminal illness or injury, and
- c. the death of the incompetent patient is imminent.

B. Hydration or nutrition may not be withheld or withdrawn pursuant to paragraph 3 of subsection A of this section if this would result in death from dehydration or starvation rather than from the underlying terminal illness or injury.

SECTION 18. AMENDATORY 63 O.S. 1991, Section 3080.5, is amended to read as follows:

Section 3080.5 A. Notwithstanding any other provision of law, no person and no health care facility shall be required to participate in or provide facilities for medical treatment or care of an incompetent patient who is to die as the result of dehydration or starvation.

B. The law of this state shall not be construed to permit withdrawal or withholding of medical treatment, care, nutrition or hydration from an incompetent patient because of the mental disability or mental status of that patient.

C. No guardian, public or private agency, court, or any other person shall have the authority to make a decision on behalf of an incompetent patient to withhold or withdraw hydration or nutrition from said patient except in the circumstances and under the conditions specifically provided for in ~~paragraph 3 of subsection A of Section 4~~ Section 3080.4 of this ~~act~~ title."

and renumber subsequent sections

AMENDMENT NO. 5. Page 16, Section 18, line 34, after the numeral "3103," and before the numeral "3104," insert the numeral "3103.1,"

AMENDMENT NO. 6. Page 1, lines 10 through 15, restore the title to read

AN ACT RELATING TO PUBLIC HEALTH AND SAFETY; AMENDING  
63 O.S. 1991, SECTIONS 3080.4 AND 3080.5, WHICH  
RELATE TO THE HYDRATION AND NUTRITION FOR  
INCOMPETENT PATIENTS ACT; REMOVING CERTAIN  
RESTRICTIONS; AUTHORIZING CERTAIN COURTS TO MAKE  
CERTAIN DECISIONS; MODIFYING CERTAIN RESTRICTIONS;  
CONFORMING CERTAIN LANGUAGE; CREATING THE OKLAHOMA  
RIGHTS OF THE TERMINALLY ILL OR PERSISTENTLY  
UNCONSCIOUS ACT; PROVIDING PURPOSES; PROVIDING FOR  
CONSTRUCTION OF ACT; DEFINING TERMS; PROVIDING FOR  
ADVANCE DIRECTIVES; SPECIFYING REQUIREMENTS;  
PROVIDING FOR CONTENTS OF FORM; AUTHORIZING CERTAIN  
DECISIONS; AUTHORIZING CERTAIN DESIGNATION BY  
CERTAIN PERSONS IN CERTAIN CASES; SPECIFYING  
CERTAIN CONDITIONS; PROVIDING WHEN AND WHICH  
ADVANCE DIRECTIVES BECOME OPERATIVE; PROVIDING FOR  
REVOCATION AND PROCEDURES; MAKING CERTAIN DOCUMENTS  
AND INFORMATION PART OF CERTAIN MEDICAL RECORDS;  
PROVIDING FOR RIGHTS OF CERTAIN PATIENTS; PROVIDING  
FOR CONSTRUCTION OF ACT; PROHIBITING OPERATION OF  
MEDICAL DIRECTIVE AT CERTAIN TIMES; PROVIDING FOR  
OTHER ARRANGEMENT OF CARE FOR CERTAIN PATIENTS IN  
CERTAIN INSTANCES; PROVIDING FOR CIVIL AND CRIMINAL  
LIABILITY AND DISCIPLINARY ACTION; MAKING CERTAIN  
PERSONS NOT SUBJECT TO CERTAIN LIABILITY AND  
DISCIPLINARY ACTION; SPECIFYING CERTAIN PENALTIES  
FOR CERTAIN CONDUCT; MAKING CERTAIN ACTIONS  
UNLAWFUL; PROVIDING FOR PUNISHMENT OF CERTAIN

ACTIONS; PROVIDING FOR CONSTRUCTION OF ACT;  
PROHIBITING CERTAIN AFFECT OF ACT ON CERTAIN  
POLICIES AND TERMS; LIMITING THE EFFECT OF A  
DIRECTIVE ON INSURANCE POLICIES; PROVIDING CERTAIN  
PURPOSES, INTENTS, AND INTERPRETATIONS OF ACT AND  
HOW ACT IS TO BE OR NOT BE CONSTRUED; AUTHORIZING  
PHYSICIAN TO RELY ON VALIDITY OF CERTAIN ADVANCE  
DIRECTIVES; MAKING CERTAIN OTHER FORMAL DOCUMENTS  
EXECUTED OUT-OF-STATE VALID FOR CERTAIN PURPOSE;  
PROVIDING FOR VALIDITY OF CERTAIN DIRECTIVE  
EXECUTED IN THIS STATE PRIOR TO ACT; SETTING  
CONDITIONS FOR MAKING CERTAIN DECISIONS; AMENDING  
30 O.S. 1991, SECTION 3-119, WHICH RELATES TO THE  
OKLAHOMA GUARDIANSHIP AND CONSERVATORSHIP ACT;  
CONFORMING CERTAIN LANGUAGE; PROVIDING CERTAIN  
AUTHORITY TO GUARDIANS; REPEALING 63 O.S. 1991,  
SECTIONS 3101, 3102, 3103, 3103.1, 3104, 3105,  
3106, 3107, 3108, 3109, 3110, AND 3111, WHICH  
RELATE TO THE OKLAHOMA NATURAL DEATH ACT; PROVIDING  
FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE."

Passed the Senate the 13th day of April, 1992.

President of the Senate

Passed the House of Representatives the \_\_\_\_ day of  
\_\_\_\_\_, 1992.

Speaker of the House of

