

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

HOUSE BILL NO. 2285

BY: VAUGHN (Ray)

AS INTRODUCED

AN ACT RELATING TO PUBLIC HEALTH AND SAFETY; AMENDING  
63 O.S. 1991, SECTIONS 3102 AND 3103, WHICH RELATE  
TO THE OKLAHOMA NATURAL DEATH ACT; MODIFYING  
DEFINITIONS; MODIFYING DIRECTIVE; AND PROVIDING AN  
EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 63 O.S. 1991, Section 3102, is  
amended to read as follows:

Section 3102. As used in the Oklahoma Natural Death Act:

1. "Attending physician" means the physician who has primary  
responsibility for the treatment and care of the declarant. The  
attending physician may be selected by the declarant or assigned by  
the physician selected by the declarant;

2. "Declarant" means any person who has issued a directive  
according to the procedure provided for in Section 3103 of this  
title in contemplation of death;

3. "Directive" means a written document voluntarily executed by  
the declarant in accordance with the requirements of Section 3103 of  
this title;

4. "Life-sustaining procedure" means any medical procedure or  
intervention, including, but not limited to, the invasive

administration of nourishment and hydration if specifically authorized, which utilizes mechanical or other artificial means to sustain, restore, or supplant a vital bodily function. When applied to a qualified patient, a life-sustaining procedure would serve only to artificially prolong the moment of death when in the judgment of the attending physician, as noted in the medical records of the qualified patient, death is imminent whether or not such procedures are utilized. "Life-sustaining procedure" shall not include the administration of medication or the performance of any medical procedure deemed necessary to alleviate pain nor the normal consumption of food and water;

5. "Person" means any person twenty-one (21) years of age or older;

6. "Physician" means a physician or surgeon licensed by the State Board of Medical Licensure and Supervision or State Board of Osteopathy;

7. "Qualified patient" means a declarant who has been personally and independently examined by each of two physicians and who has been diagnosed and certified in writing by each of the two physicians to be afflicted with a terminal condition;

8. "Terminal condition" means an incurable and irreversible condition caused by injury, disease or illness which, even with the administration of any life-sustaining procedure and within reasonable medical judgment, will result in the death of a person from that condition or a complication arising from that condition ~~within hours or days~~; and

9. "Health care provider" means a person twenty-one (21) years of age or older who is licensed, certified or otherwise authorized by the law of this state to administer health care in the ordinary course of business or practice of a profession.

SECTION 2. AMENDATORY 63 O.S. 1991, Section 3103, is amended to read as follows:

Section 3103. A. Any person may execute a directive for withholding or withdrawal of life-sustaining procedures in the event of a terminal condition. The directive shall be signed by the declarant in the presence of two witnesses.

B. Witnesses to the execution of the directive shall not be:

1. Under twenty-one (21) years of age;
2. Related to the declarant by blood or marriage;
3. Financially responsible for the medical care of the declarant;
4. Entitled to any portion of the estate of the declarant pursuant to any will of the declarant, any codicil thereto, or by operation of law;
5. The attending physician;
6. An employee of the attending physician or an employee of a health care facility in which the declarant is a patient;
7. A patient in a health care facility in which the declarant is a patient; or
8. A person who, at the time of the execution of the directive, has a claim against any portion of the estate of the declarant.

C. The signature of the declarant shall be acknowledged. Witnesses shall subscribe and swear to having witnessed the signing of the directive before a notary public.

D. The directive shall be substantially in the following form, but may include other specific directions. If any of the other specific directions are held invalid, the invalidity shall not affect other directions of the directive which can be given effect without the invalid direction.

#### DIRECTIVE TO PHYSICIANS

Directive made this \_\_\_\_\_ day of \_\_\_\_\_ (month, year).

I, \_\_\_\_\_, being of sound mind and twenty-one (21) years of age or older, willfully and voluntarily make known my desire that my

life shall not be artificially prolonged under the circumstances set forth below, and do hereby declare:

1. If at any time I should have an incurable and irreversible condition caused by injury, disease or illness certified to be a terminal condition by two physicians, I direct that life-sustaining procedures be withheld or withdrawn and that I be permitted to die naturally, if the application of life-sustaining procedures would only serve to artificially prolong the process of my dying and my attending physician determines that my death ~~will occur within hours or days~~ is imminent, whether or not life-sustaining procedures are utilized;

2. I understand that I am authorizing the withdrawal of any medical procedure or intervention that will only prolong the process of dying, when I have been diagnosed as having a terminal condition (If declarant does not wish to authorize the withdrawal of any specific medical procedure or intervention specific directions shall be specified in the directive);

3. I understand that when I have been diagnosed as having a terminal condition, the subject of the artificial administration of food and water that will only prolong the process of dying is of particular importance. Therefore, unless I sign this paragraph, I am not authorizing the withholding of nutrition or hydration (food or water):

a. I wish not to have artificial administration of food by tube or intravenous feeding,

(signed)

b. I wish not to have artificial administration of water by tube or intravenously,

(signed)

4. I understand that if I have given no specific directive concerning the artificial administration of food and water, it shall be presumed that I wish to receive nutrition and hydration to a degree sufficient to sustain life;

5. In the absence of my ability to give directions regarding the use of life-sustaining procedures, it is my intention that this directive shall be honored by my family and physicians as the final expression of my legal right to refuse medical or surgical treatment including, but not limited to, the administration of any life-sustaining procedures and accept the consequences of such refusal;

6. If I have been diagnosed as pregnant and that diagnosis is known to my physician, this directive shall have no force or effect during the course of my pregnancy;

7. I have been diagnosed and notified as having a terminal condition by \_\_\_\_\_, M.D. or D.O., whose address is \_\_\_\_\_, and whose telephone number is \_\_\_\_\_. I understand that if I have not filled in the name and address of the physician, it shall be presumed that I did not have a terminal condition when I made out this directive;

8. This directive shall be in effect until it is revoked;

9. I understand the full import of this directive and I am emotionally and mentally competent to make this directive; and

10. I understand that I may revoke this directive at any time.

Signed \_\_\_\_\_

City, County and State of Residence \_\_\_\_\_

The declarant is personally known to me and I believe said declarant to be of sound mind. I am twenty-one (21) years of age or older, I am not related to the declarant by blood or marriage, nor would I be entitled to any portion of the estate of the declarant upon the death of said declarant, nor am I the attending physician of the declarant or an employee of the attending physician or a

health care facility in which the declarant is a patient, or a patient in the health care facility in which the declarant is a patient, nor am I financially responsible for the medical care of the declarant, or any person who has a claim against any portion of the estate of the declarant upon the death of the declarant.

Witness \_\_\_\_\_

Witness \_\_\_\_\_

State of Oklahoma

County of \_\_\_\_\_

Before me, the undersigned authority, on this day personally appeared \_\_\_\_\_ (declarant), \_\_\_\_\_ (witness) and \_\_\_\_\_ (witness) whose names are subscribed to the foregoing instrument in their respective capacities, and, all of said persons being by me duly sworn, the declarant declared to me and to the said witnesses in my presence that said instrument is his or her "Directive to Physicians", and that the declarant has willingly and voluntarily made and executed it as the free act and deed of the declarant for the purposes therein expressed.

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

Signed \_\_\_\_\_

Notary Public in and for

\_\_\_\_\_ County, Oklahoma

My Commission Expires \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

SECTION 3. This act shall become effective September 1, 1992.

43-2-7785 KSM