

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 436

By: Wright

COMMITTEE SUBSTITUTE

An Act relating to anatomical gifts; creating the Revised Uniform Anatomical Gift Act and providing short title; defining terms; providing for making, amending, revoking, refusing to make, and objecting to anatomical gifts; authorizing the Medical Examiner to release or permit removal of a part of a body for transplantation or therapy; requiring routine inquiry and request; requiring search and notification; stating who may become a donee; stating purposes for which anatomical gifts may be made; providing for delivery of document or gift; stating rights and duties of donees; requiring hospitals to coordinate procurement and use of anatomical gifts; prohibiting sale or purchase of a part of a body for transplantation or therapy; authorizing examination of anatomical gift; making act subject to certain laws on autopsies; limiting liability of certain persons for certain acts in good faith; providing transitional provisions; requiring uniformity of application and construction; amending 63 O.S. 1991, Section 944.1 and Section 4, Chapter 114, O.S.L. 1992, as amended by Section 1, Chapter 99, O.S.L. 1995 (63 O.S.

Supp. 1996, Section 3101.4), which relate to donation of pituitary glands and advance directives to physicians; clarifying and conforming language; repealing 63 O.S. 1991, Sections 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2210.1, 2211, as amended by Section 18, Chapter 217, O.S.L. 1992, 2212, 2213, 2214, 2215, 2216, 2217, and 2218 (63 O.S. Supp. 1996, Section 2211), which relate to the Uniform Anatomical Gift Act; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2220 of Title 63, unless there is created a duplication in numbering, reads as follows:

SHORT TITLE

Sections 1 through 14 of this act may be cited as the "Revised Uniform Anatomical Gift Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2221 of Title 63, unless there is created a duplication in numbering, reads as follows:

DEFINITIONS

As used in this act:

1. "Anatomical gift" means a donation of all or part of a human body to take effect upon or after death;
2. "Decedent" means a deceased individual;
3. "Document of gift" means a card, a statement attached to or imprinted on a motor vehicle operator's or chauffeur's license, a

will, an advance directive for health care, or other writing used to make an anatomical gift;

4. "Donor" means an individual who makes an anatomical gift of all or part of the individual's body;

5. "Enucleator" means an individual who is authorized to remove or process eyes or parts of eyes;

6. "Hospital" means a facility licensed, accredited, or approved as a hospital under the law of any state or a facility operated as a hospital by the United States government, a state, or a subdivision of a state;

7. "Part" means an organ, tissue, eye, bone marrow, bone, artery, blood (including cord or placental blood), fluid, or other portion of a human body;

8. "Person" means an individual, corporation, business trust, estate, trust, partnership, joint venture, association, government, governmental subdivision or agency, or any other legal or commercial entity;

9. "Physician" or "surgeon" means an individual licensed or otherwise authorized to practice medicine and surgery or osteopathic medicine under the laws of any state;

10. "Procurement organization" means a person licensed, accredited, or approved under the laws of any state for procurement, distribution, or storage of human bodies or parts;

11. "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico; and

12. "Technician" means an individual who is authorized to remove or process a part.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2222 of Title 63, unless there is created a duplication in numbering, reads as follows:

MAKING, AMENDING, REVOKING, AND REFUSING

TO MAKE ANATOMICAL GIFTS BY INDIVIDUAL

A. An individual who is at least eighteen (18) years of age may (i) make an anatomical gift for any of the purposes stated in subsection A of Section 7 of this act, (ii) limit an anatomical gift to one or more of those purposes, or (iii) refuse to make an anatomical gift.

B. An anatomical gift may be made only by a document of gift signed by the donor. If the donor cannot sign, the document of gift must be signed by another individual and by two witnesses, all of whom have signed at the direction and in the presence of the donor and of each other, and state that it has been so signed.

C. If a document of gift is attached to or imprinted on a donor's driver's license or identification card, the document of gift must comply with subsection B of this section. Revocation, suspension, expiration, or cancellation of the license or card does not invalidate the anatomical gift.

D. A document of gift may designate a particular physician or surgeon to carry out the appropriate procedures. In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the anatomical gift may employ or authorize any physician, surgeon, technician, or enucleator to carry out the appropriate procedures.

E. An anatomical gift by will takes effect upon death of the testator, whether or not the will is probated. If, after death, the will is declared invalid for testamentary purposes, the validity of the anatomical gift is unaffected.

F. A donor may amend or revoke an anatomical gift, not made by will, only by:

1. A signed statement;
2. An oral statement made in the presence of two individuals;
3. Any form of communication during a terminal illness or injury addressed to a physician or surgeon; or

4. The delivery of a signed statement to a specified donee to whom a document of gift had been delivered.

G. The donor of an anatomical gift made by will may amend or revoke the gift in the manner provided for amendment or revocation of wills, or as provided in subsection F of this section.

H. An anatomical gift that is not revoked by the donor before death is irrevocable and does not require the consent or concurrence of any person after the donor's death.

I. An individual may refuse to make an anatomical gift of the individual's body or part by (i) a writing signed in the same manner as a document of gift, (ii) a statement attached to or imprinted on a donor's motor vehicle operator's or chauffeur's license, or (iii) any other writing used to identify the individual as refusing to make an anatomical gift. During a terminal illness or injury, the refusal may be an oral statement or other form of communication.

J. In the absence of contrary indications by the donor, an anatomical gift of a part is neither a refusal to give other parts nor a limitation on an anatomical gift under Section 4 of this act or on a removal or release of other parts under Section 5 of this act.

K. In the absence of contrary indications by the donor, a revocation or amendment of an anatomical gift is not a refusal to make another anatomical gift. If the donor intends a revocation to be a refusal to make an anatomical gift, the donor shall make the refusal pursuant to subsection I of this section.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2223 of Title 63, unless there is created a duplication in numbering, reads as follows:

MAKING, REVOKING, AND OBJECTING TO
ANATOMICAL GIFTS, BY OTHERS

A. Any member of the following classes of persons, in the order of priority listed, may make an anatomical gift of all or a part of

the decedent's body for an authorized purpose, unless the decedent, at the time of death, has made an unrevoked refusal to make that anatomical gift:

1. The spouse of the decedent;
2. An adult son or daughter of the decedent;
3. Either parent of the decedent;
4. An adult brother or sister of the decedent;
5. A grandparent of the decedent; and
6. A guardian of the person of the decedent at the time of death.

B. An anatomical gift may not be made by a person listed in subsection A of this section if:

1. A person in a prior class is available at the time of death to make an anatomical gift;
2. The person proposing to make an anatomical gift knows of a refusal or contrary indications by the decedent; or
3. The person proposing to make an anatomical gift knows of an objection to making an anatomical gift by a member of the person's class or a prior class.

C. An anatomical gift by a person authorized under subsection A of this section must be made by (i) a document of gift signed by the person or (ii) the person's telegraphic, recorded telephonic, or other recorded message, or other form of communication from the person that is contemporaneously reduced to writing and signed by the recipient.

D. An anatomical gift by a person authorized under subsection A of this section may be revoked by any member of the same or a prior class if, before procedures have begun for the removal of a part from the body of the decedent, the physician, surgeon, technician, or enucleator removing the part knows of the revocation.

E. A failure to make an anatomical gift under subsection A of this section is not an objection to the making of an anatomical gift.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2224 of Title 63, unless there is created a duplication in numbering, reads as follows:

AUTHORIZATION BY MEDICAL EXAMINER

A. The Medical Examiner may release and permit the removal of a part from a body within the Medical Examiner's custody or subject to the Medical Examiner's control for transplantation or therapy, if:

1. The official has received a request for the part from a hospital, physician, surgeon, or procurement organization;

2. The official has made a reasonable effort, taking into account the useful life of the part, to locate and examine the decedent's medical records and inform persons listed in subsection A of Section 4 of this act of their option to make, or object to making, an anatomical gift;

3. The official does not know of a refusal or contrary indication by the decedent or objection by a person having priority to act as listed in subsection A of Section 4 of this act;

4. The removal will be by a physician, surgeon, or technician; but in the case of eyes, by one of them or by an enucleator;

5. The removal will not interfere with any autopsy or investigation;

6. The removal will be in accordance with accepted medical standards; and

7. Cosmetic restoration will be done, if appropriate.

B. A Medical Examiner releasing and permitting the removal of a part shall maintain a permanent record of the name of the decedent, the person making the request, the date and purpose of the request, the part requested, and the person to whom it was released.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2225 of Title 63, unless there is created a duplication in numbering, reads as follows:

ROUTINE INQUIRY AND REQUIRED REQUEST;

SEARCH AND NOTIFICATION

A. On or before admission to a hospital, or as soon as possible thereafter, a person designated by the hospital shall ask each patient who is at least eighteen (18) years of age: "Are you an organ or tissue donor?" If the answer is affirmative the person shall request a copy of the document of gift. If the answer is negative or there is no answer and the attending physician consents, the person designated shall discuss with the patient the option to make or refuse to make an anatomical gift. The answer to the question, an available copy of any document of gift or refusal to make an anatomical gift, and any other relevant information, must be placed in the patient's medical record.

B. If, at or near the time of death of a patient, there is no medical record that the patient has made or refused to make an anatomical gift, the hospital administrator or a representative designated by the administrator shall discuss the option to make or refuse to make an anatomical gift and request the making of an anatomical gift pursuant to subsection A of Section 4 of this act. The request must be made with reasonable discretion and sensitivity to the circumstances of the family. A request is not required if the gift is not suitable, based upon accepted medical standards, for a purpose specified in Section 7 of this act. An entry must be made in the medical record of the patient, stating the name and affiliation of the individual making the request, and of the name, response, and relationship to the patient of the person to whom the request was made. The Commissioner of Health shall, by rule, establish guidelines to implement this subsection.

C. The following persons shall make a reasonable search for a document of gift or other information identifying the bearer as a donor or as an individual who has refused to make an anatomical gift:

1. A law enforcement officer, fireman, paramedic, or other emergency rescuer finding an individual who the searcher believes is dead or near death; and

2. A hospital, upon the admission of an individual at or near the time of death, if there is not immediately available any other source of that information.

D. If a document of gift or evidence of refusal to make an anatomical gift is located by the search required by paragraph 1 of subsection C of this section, and the individual or body to whom it relates is taken to a hospital, the hospital must be notified of the contents and the document or other evidence must be sent to the hospital.

E. If, at or near the time of death of a patient, a hospital knows that an anatomical gift has been made pursuant to subsection A of Section 4 of this act or a release and removal of a part has been permitted pursuant to Section 5 of this act, or that a patient or an individual identified as in transit to the hospital is a donor, the hospital shall notify the donee if one is named and known to the hospital; if not, it shall notify an appropriate procurement organization. The hospital shall cooperate in the implementation of the anatomical gift or release and removal of a part.

F. A person who fails to discharge the duties imposed by this section is not subject to criminal or civil liability but is subject to appropriate administrative sanctions.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2226 of Title 63, unless there is created a duplication in numbering, reads as follows:

PERSONS WHO MAY BECOME DONEES; PURPOSES

FOR WHICH ANATOMICAL GIFTS MAY BE MADE

A. The following persons may become donees of anatomical gifts for the purposes stated:

1. A hospital, physician, surgeon, or procurement organization, for transplantation, therapy, medical or dental education, research, or advancement of medical or dental science;

2. An accredited medical or dental school, college, or university for education, research, advancement of medical or dental science; or

3. A designated individual for transplantation or therapy needed by that individual.

B. An anatomical gift may be made to a designated donee or without designating a donee. If a donee is not designated or if the donee is not available or rejects the anatomical gift, the anatomical gift may be accepted by any hospital.

C. If the donee knows of the decedent's refusal or contrary indications to make an anatomical gift or that an anatomical gift by a member of a class having priority to act is opposed by a member of the same class or a prior class under subsection A of Section 4 of this act, the donee may not accept the anatomical gift.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2227 of Title 63, unless there is created a duplication in numbering, reads as follows:

DELIVERY OF DOCUMENT OF GIFT

A. Delivery of a document of gift during the donor's lifetime is not required for the validity of an anatomical gift.

B. If an anatomical gift is made to a designated donee, the document of gift, or a copy, may be delivered to the donee to expedite the appropriate procedures after death. The document of gift, or a copy, may be deposited in any hospital, procurement organization, or registry office that accepts it for safekeeping or for facilitation of procedures after death. On request of an

interested person, upon or after the donor's death, the person in possession shall allow the interested person to examine or copy the document of gift.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2228 of Title 63, unless there is created a duplication in numbering, reads as follows:

RIGHTS AND DUTIES AT DEATH

A. Rights of a donee created by an anatomical gift are superior to rights of others except with respect to autopsies under subsection B of Section 12 of this act. A donee may accept or reject an anatomical gift. If a donee accepts an anatomical gift of an entire body, the donee, subject to the terms of the gift, may allow embalming and use of the body in funeral services. If the gift is of a part of a body, the donee, upon the death of the donor and before embalming, shall cause the part to be removed without unnecessary mutilation. After removal of the part, custody of the remainder of the body vests in the person under obligation to dispose of the body.

B. The time of death must be determined by a physician or surgeon who attends the donor at death or, if none, the physician or surgeon who certifies the death. Neither the physician or surgeon who attends the donor at death nor the physician or surgeon who determines the time of death may participate in the procedures for removing or transplanting a part unless the document of gift designates a particular physician or surgeon pursuant to subsection D of Section 3 of this act.

C. If there has been an anatomical gift, a technician may remove any donated parts and an enucleator may remove any donated eyes or parts of eyes, after determination of death by a physician or surgeon.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2229 of Title 63, unless there is created a duplication in numbering, reads as follows:

COORDINATION OF PROCUREMENT AND USE

Each hospital in this State, after consultation with other hospitals and procurement organizations, shall establish agreements or affiliations for coordination of procurement and use of human bodies and parts.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2230 of Title 63, unless there is created a duplication in numbering, reads as follows:

SALE OR PURCHASE OF PARTS PROHIBITED

A. A person may not knowingly, for valuable consideration, purchase or sell a part for transplantation or therapy, if removal of the part is intended to occur after the death of the decedent.

B. Valuable consideration does not include reasonable payment for the removal, processing, disposal, preservation, quality control, storage, transportation, or implementation of a part.

C. A person who violates this section is guilty of a felony and upon conviction is subject to a fine not exceeding Fifty Thousand Dollars (\$50,000.00) or imprisonment not exceeding five (5) years, or both.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2231 of Title 63, unless there is created a duplication in numbering, reads as follows:

EXAMINATION, AUTOPSY, LIABILITY

A. An anatomical gift authorizes any reasonable examination necessary to assure medical acceptability of the gift for the purposes intended.

B. The provisions of this act are subject to the laws of this State governing autopsies.

C. A hospital, physician, surgeon, Medical Examiner, Commissioner of Health, enucleator, technician, or other person, who acts in accordance with this act or with the applicable anatomical gift law of another state or a foreign country or attempts in good faith to do so is not liable for that act in a civil action or criminal proceeding.

D. An individual who makes an anatomical gift pursuant to Section 3 or 4 of this act and the individual's estate are not liable for any injury or damage that may result from the making or the use of the anatomical gift.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2232 of Title 63, unless there is created a duplication in numbering, reads as follows:

TRANSITIONAL PROVISIONS

This act applies to a document of gift, revocation, or refusal to make an anatomical gift signed by the donor or a person authorized to make or object to making an anatomical gift before, on, or after the effective date of this act.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2233 of Title 63, unless there is created a duplication in numbering, reads as follows:

UNIFORMITY OF APPLICATION AND CONSTRUCTION

This act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this act among states enacting it.

SECTION 15. AMENDATORY 63 O.S. 1991, Section 944.1, is amended to read as follows:

Section 944.1 A. Any licensed physician ~~licensed~~ or otherwise qualified person in this state, when performing an autopsy, whether by statutory authority or permission of the next of kin, may remove or cause to have removed by a qualified person the pituitary gland from the body of the decedent if a cranial examination is performed.

The physician or other qualified person or hospital ~~is further authorized to~~ shall donate the pituitary gland to the National Hormone and Pituitary Program as established by the National Institute of Health for the preparation of human growth hormone. ~~Said persons and~~ No physician, qualified person or hospital shall ~~not~~ be subject to either criminal or civil liability for ~~such an~~ authorized removal or donation.

B. The pituitary gland shall not be donated pursuant to the provisions of this section if the next of kin of the decedent notifies the ~~physician~~ person performing the autopsy prior to ~~said~~ the autopsy that he or she objects to ~~such~~ the donation.

C. This section is not subject to the provisions of the Revised Uniform Anatomical Gift Act.

SECTION 16. AMENDATORY Section 4, Chapter 114, O.S.L. 1992, as amended by Section 1, Chapter 99, O.S.L. 1995 (63 O.S. Supp. 1996, Section 3101.4), is amended to read as follows:

Section 3101.4 A. An individual of sound mind and eighteen (18) years of age or older may execute at any time an advance directive governing the withholding or withdrawal of life-sustaining treatment. The advance directive shall be signed by the declarant and witnessed by two individuals who are eighteen (18) years of age or older who are not legatees, devisees or heirs at law.

B. An advance directive shall be in substantially the following form:

Advance Directive for Health Care

I, _____, being of sound mind and eighteen (18) years of age or older, willfully and voluntarily make known my desire, by my instructions to others through my living will, or by my appointment of a health care proxy, or both, that my life shall not be artificially prolonged under the circumstances set forth below. I thus do hereby declare:

I. Living Will

a. If my attending physician and another physician determine that I am no longer able to make decisions regarding my medical treatment, I direct my attending physician and other health care providers, pursuant to the Oklahoma Rights of the Terminally Ill or Persistently Unconscious Act, to withhold or withdraw treatment from me under the circumstances I have indicated below by my signature. I understand that I will be given treatment that is necessary for my comfort or to alleviate my pain.

b. If I have a terminal condition:

(1) I direct that life-sustaining treatment shall be withheld or withdrawn if such treatment would only prolong my process of dying, and if my attending physician and another physician determine that I have an incurable and irreversible condition that even with the administration of life-sustaining treatment will cause my death within six (6) months. _____ (signature)

(2) I understand that the subject of the artificial administration of nutrition and hydration (food and water) that will only prolong the process of dying from an incurable and irreversible condition is of particular importance. I understand that if I do not sign this paragraph, artificially administered nutrition and hydration will be administered to me. I further understand that if I sign this paragraph, I am authorizing the withholding or withdrawal of artificially administered nutrition (food) and hydration (water).
_____ (signature)

(3) I direct that (add other medical directives, if any)

_____. _____ (signature)

c. If I am persistently unconscious:

(1) I direct that life-sustaining treatment be withheld or withdrawn if such treatment will only serve to maintain me in an irreversible condition, as determined by my attending physician and another physician, in which thought and awareness of self and environment are absent. _____ (signature)

(2) I understand that the subject of the artificial administration of nutrition and hydration (food and water) for individuals who have become persistently unconscious is of particular importance. I understand that if I do not sign this paragraph, artificially administered nutrition and hydration will be administered to me. I further understand that if I sign this paragraph, I am authorizing the withholding or withdrawal of artificially administered nutrition (food) and hydration (water). _____ (signature)

(3) I direct that (add other medical directives, if any)

_____. _____ (signature)

II. My Appointment of My Health Care Proxy

a. If my attending physician and another physician determine that I am no longer able to make decisions regarding my medical treatment, I direct my attending physician and other health care providers pursuant to the Oklahoma Rights of the Terminally Ill or Persistently Unconscious Act to follow the instructions of _____, whom I appoint as my health care proxy.

If my health care proxy is unable or unwilling to serve, I appoint _____ as my alternate health care proxy with the same authority. My health care proxy is authorized to make whatever medical treatment decisions I could make if I were able, except that decisions regarding life-sustaining treatment can be made by my health care proxy or alternate health care proxy only as I indicate in the following sections.

b. If I have a terminal condition:

(1) I authorize my health care proxy to direct that life-sustaining treatment be withheld or withdrawn if such treatment would only prolong my process of dying and if my attending physician and another physician determine that I have an incurable and irreversible condition that even with the administration of life-sustaining treatment will cause my death within six (6) months. _____
(signature)

(2) I understand that the subject of the artificial administration of nutrition and hydration (food and water) is of particular importance. I understand that if I do not sign this paragraph, artificially administered nutrition (food) or hydration (water) will be administered to me. I further understand that if I sign this paragraph, I am authorizing the withholding or withdrawal of artificially administered nutrition and hydration. _____ (signature)

(3) I authorize my health care proxy to (add other medical directives, if any)

_____. _____ (signature)

c. If I am persistently unconscious:

(1) I authorize my health care proxy to direct that life-sustaining treatment be withheld or withdrawn if such treatment will only serve to maintain me in an irreversible condition, as determined by my attending physician and another physician, in which thought and awareness of self and environment are absent.

_____ (signature)

(2) I understand that the subject of the artificial administration of nutrition and hydration (food and water) is of particular importance. I understand that if I do not sign this paragraph, artificially administered nutrition (food) and hydration (water) will be administered to me. I further understand that if I sign this paragraph, I am authorizing the withholding and withdrawal of artificially administered nutrition and hydration. _____ (signature)

(3) I authorize my health care proxy to (add other medical directives, if any)

_____. _____ (signature)

III. Anatomical Gifts

I direct that at the time of my death my entire body or designated body organs or body parts be donated for purposes of transplantation, therapy, advancement of medical or dental science or research or education pursuant to the provisions of the Revised Uniform Anatomical Gift Act. Death means either irreversible cessation of circulatory and respiratory functions or irreversible cessation of all functions of the entire brain, including the brain stem. I specifically donate:

[] My entire body; or

[] The following body organs or parts:

() lungs, () liver, () pancreas,

() heart, () kidneys, () brain,

() skin, () bones/marrow,

() bloods/fluids, () tissue,

() arteries, () eyes/cornea/lens,

() glands, () other _____

_____. _____ (signature)

IV. Conflicting Provision

I understand that if I have completed both a living will and have appointed a health care proxy, and if there is a conflict between my health care proxy's decision and my living will, my living will shall take precedence unless I indicate otherwise.

_____. _____ (signature)

V. General Provisions

a. I understand that if I have been diagnosed as pregnant and that diagnosis is known to my attending physician, this advance directive shall have no force or effect during the course of my pregnancy.

b. In the absence of my ability to give directions regarding the use of life-sustaining procedures, it is my intention that this advance 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 I accept the consequences of such refusal.

c. This advance directive shall be in effect until it is revoked.

d. I understand that I may revoke this advance directive at any time.

e. I understand and agree that if I have any prior directives, and if I sign this advance directive, my prior directives are revoked.

f. I understand the full importance of this advance directive and I am emotionally and mentally competent to make this advance directive.

Signed this _____ day of _____, 19 __.

(Signature)

City, County and State of Residence

This advance directive was signed in my presence.

(Signature of Witness)

(Address)

(Signature of Witness)

(Address)

C. A physician or other health care provider who is furnished the original or a photocopy of the advance directive shall make it a part of the declarant's medical record and, if unwilling to comply with the advance directive, promptly so advise the declarant.

D. In the case of a qualified patient, the patient's health care proxy, in consultation with the attending physician, shall have the authority to make treatment decisions for the patient including the withholding or withdrawal of life-sustaining procedures if so indicated in the patient's advance directive.

E. A person executing an advanced directive appointing a health care proxy who may not have an attending physician for reasons based on established religious beliefs or tenets may designate an

individual other than the designated health care proxy, in lieu of an attending physician and other physician, to determine the lack of decisional capacity of the person. Such designation shall be specified and included as part of the advanced directive executed pursuant to the provisions of this section.

SECTION 17. REPEALER 63 O.S. 1991, Sections 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2210.1, 2211, as amended by Section 18, Chapter 217, O.S.L. 1992, 2212, 2213, 2214, 2215, 2216, 2217 and 2218 (63 O.S. Supp. 1996, Section 2211), are hereby repealed.

SECTION 18. This act shall become effective November 1, 1997.

46-1-1078 KSM