

ENROLLED SENATE
BILL NO. 840

By: Henry of the Senate

and

Deutschendorf of the House

An Act relating to health care instructions; amending Section 9, Chapter 114, O.S.L. 1992, as amended by Section 2, Chapter 99, O.S.L. 1995 (63 O.S. Supp. 1997, Section 3101.9), which relates to the Oklahoma Rights of the Terminally Ill or Persistently Unconscious Act; providing for situations in which the physician or health care provider refuses to comply with a medical treatment decision with certain person; requiring certain actions; providing exception; amending Sections 4, 7 and 11, Chapter 327, O.S.L. 1997 (63 O.S. Supp. 1997, Sections 3131.4, 3131.7 and 3131.11), which relate to the Oklahoma Do-Not-Resuscitate Act; providing for presumed consent of the parent or guardian of a minor child for a child; specifying certain procedures and notifications; providing for certain determinations; prohibiting the withdrawal of certain treatments; specifying certain limitations; providing for withdrawal of consent to certain medical treatment for minor child; providing for revocation of do-not-resuscitate consent for minor child; requiring notification; clarifying statute; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 9, Chapter 114, O.S.L. 1992, as amended by Section 2, Chapter 99, O.S.L. 1995 (63 O.S. Supp. 1997, Section 3101.9), is amended to read as follows:

Section 3101.9 An attending physician or other health care provider who is unwilling to comply with the Oklahoma Rights of the Terminally Ill or Persistently Unconscious Act shall as promptly as practicable take all reasonable steps to arrange care of the declarant by another physician or health care provider when the declarant becomes a qualified patient. Once a patient has established a physician-patient relationship with a physician or a provider-patient relationship with another health care provider, if the physician or other health care provider refuses to comply with a medical treatment decision made by or on behalf of the patient pursuant to the Oklahoma Rights of the Terminally Ill or Persistently Unconscious Act, or with a medical treatment decision made by such a patient who has decision-making capacity, and if the refusal would in reasonable medical judgment be likely to result in the death of the patient, then the physician or other health care provider must comply with the medical treatment decision pending the completion of the transfer of the patient to a physician or health care provider willing to comply with the decision. Nothing in this section shall require the provision of treatment if the physician or other health care provider is physically or legally unable to provide or is physically or legally unable to provide without thereby denying the same treatment to another patient. Nothing in this section may be construed to alter any legal obligation or lack of legal obligation of a physician or other health care provider to provide medical treatment, nutrition, or hydration to a patient who refuses or is unable to pay for them.

SECTION 2. AMENDATORY Section 4, Chapter 327, O.S.L. 1997 (63 O.S. Supp. 1997, Section 3131.4), is amended to read as follows:

Section 3131.4 A. Every person shall be presumed to consent to the administration of cardiopulmonary resuscitation in the event of cardiac or respiratory arrest, unless one or more of the following conditions, of which the health care provider has actual knowledge, apply:

1. The person has notified such person's attending physician that the person does not consent to the administration of cardiopulmonary resuscitation in the event of cardiac or respiratory arrest and that notification has been entered in the patient's medical records; or

2. The parent or guardian of a minor child, after consultation with the minor child's attending physician, has notified the minor child's attending physician that the parent or guardian does not consent to the administration of cardiopulmonary resuscitation in the event of the minor child's cardiac or respiratory arrest, and that the minor child, if capable of doing so and possessing sufficient understanding and appreciation of the nature and consequences of the treatment decision despite the minor child's chronological age, has not objected to this decision of the parent or guardian, and such notification has been entered in the minor child's medical records; provided, medically indicated treatment may not be withheld from a disabled infant with life-threatening conditions to the extent that such medically indicated treatment is required by federal law or regulations as a condition for the receipt of federally funded grants to this state for child abuse and neglect prevention and treatment programs.

3. An incapacitated person's representative has notified the incapacitated person's attending physician that the representative, based on the known wishes of the incapacitated person, does not consent to the administration of cardiopulmonary resuscitation in

the event of the incapacitated person's cardiac or respiratory arrest and that notification has been entered in the patient's medical records; or

4. An attending physician of an incapacitated person without a representative knows by clear and convincing evidence that the incapacitated person, when competent, decided on the basis of information sufficient to constitute informed consent that the person would not have consented to the administration of cardiopulmonary resuscitation in the event of cardiac or respiratory arrest. Clear and convincing evidence for this purpose shall include oral, written, or other acts of communication between the patient, when competent, and family members, health care providers, or others close to the patient with knowledge of the patient's personal desires; or

5. A do-not-resuscitate consent form in accordance with the provisions of the Oklahoma Do-Not-Resuscitate Act has been executed for that person; or

6. An executed advance directive for health care, or other document recognized by the Oklahoma Rights of the Terminally Ill or Persistently Unconscious Act, directing that life-sustaining treatment not be performed in the event of cardiac or respiratory arrest, is in effect for that person, pursuant to the provisions of paragraph 1 of Section 3101.3 or Section 3101.14 of this title.

B. Nothing in the Oklahoma Do-Not-Resuscitate Act shall require a health care agency to institute or maintain the ability to provide cardiopulmonary resuscitation or to expand its existing equipment, facilities, or personnel to provide cardiopulmonary resuscitation; provided, if such health care agency does not provide cardiopulmonary resuscitation, this policy shall be communicated in writing to the person or representative prior to the person coming under the care of the health care agency.

SECTION 3. AMENDATORY Section 7, Chapter 327, O.S.L. 1997 (63 O.S. Supp. 1997, Section 3131.7), is amended to read as follows:

Section 3131.7 A. At any time, a person under the care of a health care agency may revoke such person's do-not-resuscitate consent by making an oral, written, or other act of communication to a physician or other health care provider of a health care agency.

B. At any time, a person not under the care of a health care agency may revoke such person's do-not-resuscitate consent by destroying the form and removing all do-not-resuscitate identification from the person. The person is responsible for notifying such person's attending physician of the revocation.

C. At any time, the parent or guardian of a minor child, or the minor child, if capable of doing so and possessing sufficient understanding and appreciation of the nature and consequences of the treatment decision despite the minor child's chronological age, may revoke the do-not-resuscitate consent for the minor child by making an oral, written, or other act of communication to a physician or other health care provider. The parent or guardian of the minor child is responsible for notifying the minor child's attending physician of the revocation.

D. At any time, a representative may revoke the do-not-resuscitate consent for an incapacitated person under the care of a health care agency by notifying a physician or other health care provider of the health care agency of the revocation of consent in writing or by orally notifying the attending physician.

E. At any time, a representative may revoke the do-not-resuscitate consent for an incapacitated person not under the care of a health care agency by destroying the form and removing all do-not-resuscitate identification from the person. The representative is responsible for notifying the person's attending physician of the revocation.

F. The attending physician who is informed of or provided with a revocation of consent to a do-not-resuscitate order pursuant to this section shall immediately cancel the order if the person is under the care of a health care agency and shall notify the health care providers of the health care agency responsible for the person's care of the revocation and cancellation. Any professional staff of the health care agency who is informed of or provided with a revocation of consent for a do-not-resuscitate order pursuant to this section shall immediately notify the attending physician of the revocation.

SECTION 4. AMENDATORY Section 11, Chapter 327, O.S.L. 1997 (63 O.S. Supp. 1997, Section 3131.11), is amended to read as follows:

Section 3131.11 A. Except as otherwise provided in the Oklahoma Do-Not-Resuscitate Act, a person's right to receive and a health care provider's responsibility to administer cardiopulmonary resuscitation shall not be impaired. Nothing in the Oklahoma Do-Not-Resuscitate Act shall impair or supersede a person's right to choose to have cardiopulmonary resuscitation withheld or provided or a health care provider's responsibility to withhold or provide cardiopulmonary resuscitation as provided by law. In this respect, the provisions of the Oklahoma Do-Not-Resuscitate Act are cumulative.

B. In the event of cardiac or respiratory arrest, a patient's attending physician or other health care provider must comply with such patient's request for cardiopulmonary resuscitation whether requested by such patient or such patient's representative, or required by such patient's advance directive.

C. Nothing in the Oklahoma Do-Not-Resuscitate Act shall be construed to preclude a court of competent jurisdiction from approving the issuance of a do-not-resuscitate order under circumstances other than those under which such an order may be issued pursuant to the provisions of the Oklahoma Do-Not-Resuscitate Act.

D. The provisions of the Oklahoma Do-Not-Resuscitate Act shall not affect the validity of do-not-resuscitate consents or orders that were executed prior to November 1, 1997.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.