

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

2ND CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED

HOUSE BILL NO. 1381

By: Roach, Ostrander and
Deutschendorf of the House

and

Henry of the Senate

2ND CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to public health and safety; amending Section 4, Chapter 327, O.S.L. 1997, as amended by Section 2, Chapter 164, O.S.L. 1998 (63 O.S. Supp 1998, Section 3131.4), which relates to the Oklahoma Do-Not-Resuscitate Act; requiring maintenance of certain policies and procedures; providing for contents; requiring decisions to be made by patient; providing exceptions; requiring documentation; providing for and requiring certain written instructions; providing for consultations; providing for certain explanations; requiring ongoing education; adding to construction of act; and providing an effective date.

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

SECTION 1. AMENDATORY Section 4, Chapter 327, O.S.L. 1997, as amended by Section 2, Chapter 164, O.S.L. 1998 (63 O.S. Supp. 1998, 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

1 arrest and that notification has been entered in the patient's
2 medical records; ~~or~~

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

19 3. An incapacitated person's representative has notified the
20 incapacitated person's attending physician that the representative,
21 based on the known wishes of the incapacitated person, does not
22 consent to the administration of cardiopulmonary resuscitation in
23 the event of the incapacitated person's cardiac or respiratory
24 arrest and that notification has been entered in the patient's
25 medical records; ~~or~~

26 4. An attending physician of an incapacitated person without a
27 representative knows by clear and convincing evidence that the
28 incapacitated person, when competent, decided on the basis of
29 information sufficient to constitute informed consent that the
30 person would not have consented to the administration of
31 cardiopulmonary resuscitation in the event of cardiac or respiratory
32 arrest. Clear and convincing evidence for this purpose shall

1 include oral, written, or other acts of communication between the
2 patient, when competent, and family members, health care providers,
3 or others close to the patient with knowledge of the patient's
4 personal desires; ~~or~~

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

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

14 B. Health care agencies shall maintain written policies and
15 procedures with respect to do-not-resuscitate orders, do-not-
16 resuscitate consent forms, and certifications of physician. Such
17 written policies and procedures shall ensure the following rights to
18 all persons under the care of health care agencies:

19 1. All decisions with respect to the administration of
20 cardiopulmonary resuscitation shall be made by the patient unless it
21 is appropriate under this section for the patient's representative,
22 as defined by Section 3131.3 of this title, to do so. The reason
23 the representative, rather than the patient, has made a decision
24 shall be documented in the patient's medical record.

25 2. a. No decision by the patient's representative shall be
26 made until the representative has been instructed in
27 writing by the patient's attending physician that such
28 representative is deciding what the incapacitated
29 person would have wanted if the incapacitated person
30 could speak for himself or herself. In addition, the
31 attending physician shall encourage consultation among
32 all reasonably available representatives, family

1 members, and persons close to the incapacitated person
2 to the extent feasible in the circumstances of the
3 case.

4 b. Whenever possible, the attending physician shall
5 explain to the representative and family members the
6 nature and consequences of the decision to be made.
7 Evidence that this explanation was provided shall be
8 documented in the medical records of the incapacitated
9 person.

10 3. Health care agencies shall provide ongoing education to
11 patients, health care providers, and the community on issues
12 concerning use of the do-not-resuscitate consent form.

13 C. Nothing in the Oklahoma Do-Not-Resuscitate Act shall require
14 a:

15 1. A health care agency to institute or maintain the ability to
16 provide cardiopulmonary resuscitation or to expand its existing
17 equipment, facilities, or personnel to provide cardiopulmonary
18 resuscitation; provided, if such health care agency does not provide
19 cardiopulmonary resuscitation, this policy shall be communicated in
20 writing to the person or representative prior to the person coming
21 under the care of the health care agency; and

22 2. A physician, health care provider, or health care agency to
23 begin or continue the administration of cardiopulmonary
24 resuscitation when, in reasonable medical judgment, it would not
25 prevent the imminent death of the patient.

26 SECTION 2. This act shall become effective November 1, 1999.

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