

Committee Substitute for House Bill No. 1381

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1381 -- By ROACH of the House and HENRY of the Senate.

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; listing certain persons eligible to inform attending physician that incapacitated person would not have consented to administration of cardiopulmonary resuscitation; providing for 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 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~~. For purposes of this provision, notification may be provided by the following family members and others close to the incapacitated person in the following order of priority:

- a. the spouse, unless the patient has no spouse, or is separated, or the spouse is physically or mentally incapable of giving consent, or the spouse's location is unknown, or the spouse is overseas or the spouse is otherwise not available,
- b. an adult son or daughter,
- c. either parent,
- d. an adult brother or sister,
- e. a relative by blood or marriage, or
- f. persons with a close personal relationship;

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;

1. 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; and

2. Any physician or health care provider to take any action contrary to reasonable medical standards.

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

COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 2-18-99 -- DO PASS, As Coauthored.