STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1611 By: Wilt

COMMITTEE SUBSTITUTE

An Act relating to public health and safety; amending 63 O.S. 2001, Section 3101.4, which relates to the Oklahoma Rights of the Terminally Ill or Persistently Unconscious Act; modifying form; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 2001, 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(1) I direct that life-sustaining treatment shall be withheld or withdrawn if such treatment would only prolong my process of dying, and if my attending physician and another physician determine that I have an incurable and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~~ initials)

(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~~ initials)

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

_____

_____

_____. _____

(~~signature~~ initials)

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~~ initials)

(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~~ initials)

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

_____

_____

_____. _____

(~~signature~~ initials)

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~~ initials)

(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~~ initials)

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

_____

_____

_____. _____

(~~signature~~ initials)

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~~ initials)

(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~~ initials)

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

_____

_____

_____. _____

(~~signature~~ initials)

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 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~~ initials)

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~~ initials)

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 2. This act shall become effective November 1, 2003.

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