

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2568

By: Morgan (Fred)

COMMITTEE SUBSTITUTE

An Act relating to public health and safety; amending 63 O.S. 2001, Section 3101.4, as amended by Section 1, Chapter 270, O.S.L. 2003 (63 O.S. Supp. 2003, Section 3101.4), which relates to the advance directive for health care; 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, as amended by Section 1, Chapter 270, O.S.L. 2003 (63 O.S. Supp. 2003, 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~~ initials. 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 or am persistently unconscious:

(1) I direct that life-sustaining treatment shall be withheld or withdrawn if such treatment would only prolong my process of dying, and if my attending physician and another physician determine that I:

(a) have an incurable and irreversible condition that even with the administration of life-sustaining treatment will cause my death within six (6) months. _____

(initials), or

(Initial one box only)

YES

NO

(b) am in an irreversible condition in which

thought and awareness of self and environment are absent.

(Initial one box only)

YES

NO

(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 or for individuals who have become persistently unconscious is of particular importance. I understand that if I do not ~~sign this paragraph~~ initial the "yes" boxes below, artificially administered nutrition and hydration will be administered to me. I further understand that if I ~~sign this paragraph~~ initial the "yes" boxes below, I am authorizing the withholding or withdrawal of artificially administered nutrition (food) and hydration (water). _____

~~(initials):~~

(a) if I have an incurable and irreversible condition that even with the administration of life-sustaining treatment will cause my death within six (6) months, or

(Initial one box only)

YES

NO

(b) if I am in an irreversible condition in which thought and awareness of self and environment are absent.

(Initial one box only)

YES

NO

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

_____ . _____

~~(initials)~~

(Initial one box only)

YES

NO

~~e. 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.~~

~~_____ (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).~~

~~_____ (initials)~~

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

~~_____

_____.~~

~~(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~~ have indicated in the ~~following~~ foregoing 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. _____ (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. _____ (initials)~~

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

_____.

_____ (initials)

~~e. 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. _____~~

_____ (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. _____ (initials)~~

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

_____.

~~(initials)~~

(Initial one box only)

YES

NO

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. If I initial the "yes" box below, I specifically donate:

~~(-)~~ entire body ~~or~~

Yes

Or

~~(-)~~ The following body organs or parts:

Yes

~~(-)~~ lungs

~~(-)~~ liver

~~(-)~~ pancreas ~~or~~

~~(-)~~ heart

~~(-)~~ kidneys

~~(-)~~ brain ~~or~~

~~(-)~~ skin

~~(-)~~ bones/marrow

~~(-)~~ blood/fluids ~~(-)~~ tissue

~~(-)~~ arteries

~~(-)~~ eyes/cornea/lens ~~or~~

~~(-)~~ glands, ~~(-)~~ other _____

_____. _____ (initials)

IV. Conflicting Provision

(Signature)

City of, ~~County and State of Residence~~

County, Oklahoma

Date of birth

(Optional for identification purposes)

This advance directive was signed in my presence.

~~(Signature of Witness)~~ Witness

_____, Oklahoma

~~(Address)~~ Residence

~~(Signature of Witness)~~ Witness

_____, Oklahoma

~~(Address)~~ Residence

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~~ advance 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~~ advance directive executed pursuant to the provisions of this section.

SECTION 2. This act shall become effective November 1, 2004.

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