

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

HOUSE BILL HB2427:

Miller (Doug)

AS INTRODUCED

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; updating language; adding conditions to form; providing for conflict of forms; requiring form for codicils; providing for contents; providing for preparation; making codicil part of advance directives; and declaring an emergency.

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:

(1) I direct that life-sustaining treatment shall be withheld or withdrawn if such treatment would only prolong my process of dying, and if my attending physician and another physician determine that I have an incurable and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

\_\_\_\_\_ (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~~ initial this paragraph, artificially administered nutrition and hydration will be administered to me. I further understand that if I ~~sign~~ initial this

paragraph, I am authorizing the withholding or withdrawal of artificially administered nutrition (food) and hydration (water). \_\_\_\_\_  
(initials)

(3) I do not want to be in pain. I want my doctor to give me enough medicine to relieve my pain, even if that means that I will be drowsy or sleep more than I would otherwise. \_\_\_\_\_ (initials)

(4) I direct that (add other medical directives, if any)  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_. \_\_\_\_\_  
(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.  
\_\_\_\_\_ (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~~ initial this paragraph, artificially administered nutrition and hydration will be administered to me. I further understand that if I ~~sign~~ initial this paragraph, I am authorizing the withholding or withdrawal of artificially administered

nutrition (food) and hydration (water).

\_\_\_\_\_

(initials)

(3) I do not want to be in pain. I want my doctor to give me enough medicine to relieve my pain, even if that means that I will be drowsy or sleep more than I would otherwise. (initials)

(4) 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 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. \_\_\_\_\_ (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~~ initial this paragraph, artificially administered nutrition (food) or hydration (water) will be administered to me. I further understand that if I ~~sign~~ initial this paragraph, I am authorizing the withholding or withdrawal of artificially administered nutrition and hydration.  
\_\_\_\_\_  
(initials)

(3) I do not want to be in pain. I want my doctor to give me enough medicine to relieve my pain, even if that means that I will be drowsy or sleep more than I would otherwise. \_\_\_\_\_ (initials)

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_. \_\_\_\_\_  
(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. \_\_\_\_\_

(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~~ initial this paragraph, artificially administered nutrition (food) and hydration (water) will be administered to me. I further understand that if I ~~sign~~ initial this paragraph, I am authorizing the withholding and withdrawal of artificially administered nutrition and hydration.

\_\_\_\_\_ (initials)

(3) I do not want to be in pain. I want my doctor to give me enough medicine to relieve my pain, even if that means that I will be drowsy or sleep more than I would otherwise. \_\_\_\_\_ (initials)

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ . \_\_\_\_\_

(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 \_\_\_\_\_

\_\_\_\_\_. \_\_\_\_\_ (initials)

#### IV. Conflicting Provision

I understand that if I have completed ~~both~~ a living will, a codicil pursuant to subsection C of this section, and have appointed a health care proxy, and if there is a conflict between my health care proxy's decision or the codicil, and my living will, my living will shall take precedence unless I indicate otherwise.

\_\_\_\_\_.

(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 \_\_\_\_\_, 20\_\_.

\_\_\_\_\_

(Signature)

\_\_\_\_\_

City, County and State of Residence

This advance directive was signed in my presence.

\_\_\_\_\_

(Signature of Witness)

\_\_\_\_\_

(Address)

\_\_\_\_\_

(Signature of Witness)

\_\_\_\_\_

(Address)

C. By November 1, 2004, the Department of Human Services shall have prepared a codicil form which may be attached to the advance

directive for health care provided for in this section. The codicil shall allow a declarant to further detail his or her end-of-life wishes or wishes if the declarant becomes persistently unconscious, including but not limited to comfort, personal care and treatment, notification of family and friends of a decedent, personal, emotional and spiritual expressions, visits and funeral or memorial arrangements. The codicil shall be prepared and enforced in the same manner as an advance directive executed by a declarant pursuant to the provisions of the Oklahoma Rights of the Terminally Ill or Persistently Unconscious Act. A codicil prepared and executed pursuant to this section shall be construed to be a part of the advance directive executed pursuant to this section.

D. 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.~~ E. 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, but not limited to, the withholding or withdrawal of life-sustaining procedures if so indicated in the patient's advance directive.

~~E.~~ F. 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. 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.

49-2-8235          KSM          01/21/04