

ENGROSSED HOUSE AMENDMENT

TO

ENGROSSED SENATE BILL NO. 1624

By: Lamb, Leftwich and  
Aldridge of the Senate

and

Ingmire of the House

An Act relating to public health and safety; amending 63 O.S. 2001, Section 1-2503, as amended by Section 1, Chapter 433, O.S.L. 2005 (63 O.S. Supp. 2005, Section 1-2503), which relates to emergency response systems; expanding stretcher aid van services; and declaring an emergency.

AMENDMENT NO. 1. Strike the title, enacting clause and entire bill and insert

"An Act relating to public health and safety; amending 63 O.S. 2001, Section 1-2503, as amended by Section 1, Chapter 433, O.S.L. 2005 (63 O.S. Supp. 2005, Section 1-2503), which relates to emergency response systems; expanding stretcher aid van services; amending 63 O.S. 2001, Section 3080.4, which relates to presumption of nutrition and hydration; expanding circumstances where presumption does not apply; amending 63 O.S. 2001, Section 3101.1, which relates to the Oklahoma Rights of the Terminally Ill or Persistently Unconscious Act; amending name of act to the Oklahoma Advance Directive Act; amending 63 O.S. 2001, Section 3101.2, which relates to the purpose of act; amending name of act; amending 63 O.S. 2001, Section 3101.3, which relates to definitions; adding definition; deleting definition; amending definition; amending 63 O.S. 2001, Section 3101.4, as last amended by Section 1, Chapter 166, O.S.L. 2004 (63 O.S. Supp. 2005, Section 3101.4), which relates to the advance directive form; clarifying certain terms; expanding certain options; explaining certain requirements; clarifying authority of health care proxy; declaring specifications for execution of document; amending 63 O.S. 2001, Section 3101.8, which relates to right to make life-sustaining treatment decisions; clarifying administration of pain medication; clarifying treatment during pregnancy; amending 63 O.S. 2001, Section 3101.9, which relates to physicians unwilling to comply with act; amending name of act; amending 63 O.S. 2001, Section 3101.10, which relates to liability for unprofessional conduct for carrying out advance

directive; declaring standard for decisions made by physicians; amending 63 O.S. 2001, Section 3101.11, which relates to unprofessional conduct; updating sections of act; amending 63 O.S. 2001, Section 3101.12, which relates to interpretation of act; clarifying intent; amending 63 O.S. 2001, Section 3101.13, which relates to presumption of compliance of act and validity; amending name of act; amending 63 O.S. 2001, Section 3101.14, which relates to execution of document in another state; specifying authorizations of advance directive in Oklahoma; specifying requirements for validity; amending 63 O.S. 2001, Section 3101.15, which relates to directives executed prior to September 1, 1992; including amendments to act in grandfather clause; amending 63 O.S. 2001, Section 3101.16, which relates to person making life-sustaining treatment decisions pursuant to the act; amending name of act; and declaring an emergency.

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

SECTION 1. AMENDATORY 63 O.S. 2001, Section 1-2503, as amended by Section 1, Chapter 433, O.S.L. 2005 (63 O.S. Supp. 2005, Section 1-2503), is amended to read as follows:

Section 1-2503. As used in the Oklahoma Emergency Response Systems Development Act:

1. "Ambulance" means any ground, air or water vehicle which is or should be approved by the Commissioner of Health, designed and equipped to transport a patient or patients and to provide appropriate on-scene and en route patient stabilization and care as required. Vehicles used as ambulances shall meet such standards as may be required by the State Board of Health for approval, and shall display evidence of such approval at all times;

2. "Ambulance authority" means any public trust or nonprofit corporation established by the state or any unit of local government or combination of units of government for the express purpose of providing, directly or by contract, emergency medical services in a specified area of the state;

3. "Ambulance patient" or "patient" means any person who is or will be transported in a reclining position to or from a health care facility in an ambulance;

4. "Ambulance service" means any private firm or governmental agency which is or should be licensed by the State Department of Health to provide levels of medical care based on certification standards promulgated by the Board;

5. "Ambulance service district" means any county, group of counties or parts of counties formed together to provide, operate and finance emergency medical services as provided by Section 9C of Article X of the Oklahoma Constitution or Sections 1201 through 1221 of Title 19 of the Oklahoma Statutes;

6. "Board" means the State Board of Health;

7. "Classification" means an inclusive standardized identification of stabilizing and definitive emergency services provided by each hospital that treats emergency patients;

8. "Commissioner" means the State Commissioner of Health;

9. "Council" means the Oklahoma Emergency Response Systems Development Advisory Council;

10. "Department" means the State Department of Health;

11. "Emergency medical services system" means a system which provides for the organization and appropriate designation of personnel, facilities and equipment for the effective and coordinated local, regional and statewide delivery of health care services primarily under emergency conditions;

12. "Emergency Medical Technician/Basic, Emergency Medical Technician/Intermediate, Emergency Medical Technician/Advanced Cardiac, or Emergency Medical Technician/Paramedic" means an individual licensed by the Department to perform emergency medical services in accordance with the Oklahoma Emergency Response Systems Development Act and in accordance with the rules and standards promulgated by the Board;

13. "First responder" means an individual certified by the Department to perform emergency medical services in accordance with the Oklahoma Emergency Response Systems Development Act and in accordance with the rules and standards promulgated by the Board;

14. "First response agency" means an organization of any type certified by the Department to provide emergency medical care, but not transport. First response agencies may utilize certified first responders or licensed emergency medical technicians; provided, however, that all personnel so utilized shall function under the direction of and consistent with guidelines for medical control;

15. "Licensure" means the licensing of emergency medical care providers and ambulance services pursuant to rules and standards promulgated by the Board at one or more of the following levels:

- a. Basic life support,
- b. Intermediate life support,
- c. Paramedic life support,
- d. Stretcher aid van, and
- e. Specialized Mobile Intensive Care, which shall be used solely for inter-hospital transport of patients requiring specialized en route medical monitoring and advanced life support which exceed the capabilities of the equipment and personnel provided by paramedic life support.

Requirements for each level of care shall be established by the Board. Licensure at any level of care includes a license to operate at any lower level, with the exception of licensure for Specialized Mobile Intensive Care; provided, however, that the highest level of care offered by an ambulance service shall be available twenty-four (24) hours each day, three hundred sixty-five (365) days per year.

Licensure shall be granted or renewed for such periods and under such terms and conditions as may be promulgated by the State Board;

16. "Medical control" means local, regional or statewide medical direction and quality assurance of health care delivery in an emergency medical service system. On-line medical control is the medical direction given to emergency medical personnel and stretcher aid van personnel by a physician via radio or telephone. Off-line medical control is the establishment and monitoring of all medical components of an emergency medical service system, which is to include stretcher aid van service including, but not limited to, protocols, standing orders, educational programs, and the quality and delivery of on-line control;

17. "Medical director" means a physician, fully licensed without restriction, who acts as a paid or volunteer medical advisor to a licensed ambulance service and who monitors and directs the care so provided. Such physicians shall meet such qualifications and requirements as may be promulgated by the Board;

18. "Region" or "emergency medical service region" means two or more municipalities, counties, ambulance districts or other political subdivisions exercising joint control over one or more providers of emergency medical services and stretcher aid van service through common ordinances, authorities, boards or other means;

19. "Regional emergency medical services system" means a network of organizations, individuals, facilities and equipment which serves a region, subject to a unified set of regional rules and standards which may exceed, but may not be in contravention of, those required by the state, which is under the medical direction of a single regional medical director, and which participates directly in the delivery of the following services:

- a. medical call-taking and emergency medical services dispatching, emergency and routine, including priority dispatching of first response agencies, stretcher aid van and ambulances,

- b. first response services provided by first response agencies,
- c. ambulance services, both emergency, routine and stretcher aid van including, but not limited to, the transport of patients in accordance with transport protocols approved by the regional medical director, and
- d. directions given by physicians directly via radio or telephone, or by written protocol, to first response agencies, stretcher aid van or ambulance personnel at the scene of an emergency or while en route to a hospital;

20. "Regional medical director" means a licensed physician, who meets or exceeds the qualifications of a medical director as defined by the Oklahoma Emergency Response Systems Development Act, chosen by an emergency medical service region to provide external medical oversight, quality control and related services to that region;

21. "Registration" means the listing of an ambulance service in a registry maintained by the Department; provided, however, registration shall not be deemed to be a license;

22. "Stretcher aid van" means any ground vehicle which is or should be approved by the State Commissioner of Health, which is designed and equipped to transport individuals on a stretcher or gurney type apparatus. Vehicles used as stretcher aid vans shall meet such standards as may be required by the State Board of Health for approval and shall display evidence of such approval at all times. Stretcher aid van services shall only be permitted and approved by the Commissioner in emergency medical service regions, ambulance service districts, or ~~municipalities~~ counties with populations in excess of 300,000 people. Notwithstanding the provisions of this paragraph, stretcher aid van transports may be made to and from any Oklahoma Veterans Center;

23. "Stretcher aid van patient" means any person who is or will be transported in a reclining position on a stretcher or gurney, who is medically stable, non-emergent and does not require any medical monitoring equipment or assistance during transport; and

24. "Transport protocol" means the written instructions governing decision-making at the scene of a medical emergency by ambulance personnel regarding the selection of the hospital to which the patient shall be transported. Transport protocols shall be developed by the regional medical director for a regional emergency medical services system or by the Department if no regional emergency medical services system has been established. Such transport protocols shall adhere to, at a minimum, the following guidelines:

- a. nonemergency, routine transport shall be to the facility of the patient's choice,
- b. urgent or emergency transport not involving life-threatening medical illness or injury shall be to the nearest facility, or, subject to transport availability and system area coverage, to the facility of the patient's choice, and
- c. life-threatening medical illness or injury shall require transport to the nearest health care facility appropriate to the needs of the patient as established by regional or state guidelines.

SECTION 2. AMENDATORY 63 O.S. 2001, Section 3080.4, is amended to read as follows:

Section 3080.4 A. The presumption pursuant to Section 3080.3 of this title shall not apply if:

1. The attending physician of the incompetent patient knows, ~~or a court finds, by clear and convincing evidence~~ that the patient, when competent, decided on the basis of information sufficient to constitute informed consent that artificially administered hydration

or artificially administered nutrition should be withheld or withdrawn from him. ~~A directive executed pursuant to the Oklahoma Natural Death Act specifically authorizing the withholding or withdrawal of nutrition and/or hydration shall be deemed to satisfy the provisions of this paragraph. An advance directive for health care executed pursuant to the Oklahoma Rights of the Terminally Ill or Persistently Unconscious Act specifically authorizing the withholding or withdrawal of nutrition and/or hydration shall be deemed to satisfy the provisions of this paragraph; or~~

2. A court finds by clear and convincing evidence that the patient, when competent, decided on the basis of information sufficient to constitute informed consent that artificially administered hydration or artificially administered nutrition should be withheld or withdrawn from him;

3. An advance directive has been executed pursuant to the Oklahoma Natural Death Act specifically authorizing the withholding or withdrawal of nutrition and/or hydration;

4. An advance directive has been executed pursuant to the Oklahoma Rights of the Terminally Ill or Persistently Unconscious Act specifically authorizing the withholding or withdrawal of nutrition and/or hydration;

5. An advance directive for health care has been executed pursuant to the Oklahoma Advance Directive Act specifically authorizing the withholding or withdrawal of nutrition and/or hydration;

6. In the reasonable medical judgment of the incompetent patient's attending physician and a second consulting physician, artificially administered hydration or artificially administered nutrition will itself cause severe, intractable, and long-lasting pain to the incompetent patient or such nutrition or hydration is not medically possible; or



~~3.~~ 7. In the reasonable medical judgment of the incompetent patient's attending physician and a second consulting physician:

- a. the incompetent patient is chronically and irreversibly incompetent,
- b. the incompetent patient is in the final stage of a terminal illness or injury, and
- c. the death of the incompetent patient is imminent.

B. No advance directive shall be deemed to satisfy the provisions of subsection A of this section unless the advance directive complies with the requirements of Section 3101.4 or Section 3101.14 of this title.

C. Hydration or nutrition may not be withheld or withdrawn pursuant to paragraph ~~3~~ 7 of subsection A of this section if this would result in death from dehydration or starvation rather than from the underlying terminal illness or injury.

SECTION 3. AMENDATORY 63 O.S. 2001, Section 3101.1, is amended to read as follows:

Section 3101.1 Sections ~~±~~ 3101.1 through ~~±~~ 3101.16 of this ~~act~~ title shall be known and may be cited as the "Oklahoma ~~Rights of the Terminally Ill or Persistently Unconscious~~ Advance Directive Act".

SECTION 4. AMENDATORY 63 O.S. 2001, Section 3101.2, is amended to read as follows:

Section 3101.2 A. The purpose of the Oklahoma ~~Rights of the Terminally Ill or Persistently Unconscious~~ Advance Directive Act is to:

1. Recognize the right of individuals to control some aspects of their own medical care and treatment, including but not limited to the right to decline medical treatment or to direct that it be withdrawn, even if death ensues;

2. Recognize that the right of individuals to control some aspects of their own medical treatment is protected by the Constitution of the United States and overrides any obligation the

physician and other health care providers may have to render care or to preserve life and health;

3. Recognize that decisions concerning one's medical treatment involve highly sensitive, personal issues that do not belong in court, even if the individual is incapacitated, so long as a proxy decision-maker can make the necessary decisions based on the known intentions, personal views, or best interests of the individual. If evidence of the individual's wishes is sufficient, those wishes should control; if there is not sufficient evidence of the individual's wishes, the proxy's decisions should be based on the proxy's reasonable judgment about the individual's values and what the individual's wishes would be based upon those values. The proper role of the court is to settle disputes and to act as the proxy decision-maker of last resort when no other proxy is authorized by the individual or is otherwise authorized by law;

4. Restate and clarify the law to ensure that the individual's advance directive for health care will continue to be honored during incapacity without court involvement; and

5. Encourage and support health care instructions by the individual in advance of incapacity and the delegation of decision-making powers to a health care proxy.

B. To be sure that the individual's health care instructions and proxy decision-making will be effective, the Oklahoma ~~Rights of the Terminally Ill or Persistently Unconscious~~ Advance Directive Act also includes necessary and appropriate protection for proxies and health care providers who rely in good faith on the instructions of the individual and the decisions of an authorized proxy.

C. The Oklahoma ~~Rights of the Terminally Ill or Persistently Unconscious~~ Advance Directive Act does not condone, authorize, or approve mercy killing, assisted suicide, or euthanasia.

SECTION 5. AMENDATORY 63 O.S. 2001, Section 3101.3, is amended to read as follows:

Section 3101.3 As used in the Oklahoma ~~Rights of the Terminally Ill or Persistently Unconscious~~ Advance Directive Act:

1. "Advance directive for health care" means any writing executed in accordance with the requirements of Section 4 3101.4 of this ~~act~~ title and may include a living will, the appointment of a health care proxy, or both such living will and appointment of a proxy;

2. "Attending physician" means the physician who has primary responsibility for the treatment and care of the patient;

3. "Declarant" means any individual who has issued an advance directive according to the procedure provided for in Section 4 3101.4 of this ~~act~~ title;

4. "End-stage condition" means a condition caused by injury, disease, or illness, which results in severe and permanent deterioration indicated by incompetency and complete physical dependency for which, to a reasonable degree of medical certainty, treatment of the irreversible condition would be medically ineffective;

5. "Health care provider" means a person who is licensed, certified, or otherwise authorized by the law of this state to administer health care in the ordinary course of business or practice of a profession;

~~5.~~ 6. "Health care proxy" is an individual eighteen (18) years old or older appointed by the declarant as attorney-in-fact to make health care decisions including, but not limited to, the provision, withholding, or withdrawal of life-sustaining treatment if a qualified patient, in the opinion of the attending physician and another physician, is persistently unconscious, incompetent, or otherwise mentally or physically incapable of communication;

~~6.~~ "Life-sustaining treatment" means any medical procedure or intervention, including but not limited to the artificial administration of nutrition and hydration if the declarant has

~~specifically authorized the withholding and withdrawal of artificially administered nutrition and hydration, that, when administered to a qualified patient, will serve only to prolong the process of dying or to maintain the patient in a condition of persistent unconsciousness. The term "life-sustaining treatment" shall not include the administration of medication or the performance of any medical treatment deemed necessary to alleviate pain nor the normal consumption of food and water;~~

7. "Persistently unconscious" means an irreversible condition, as determined by the attending physician and another physician, in which thought and awareness of self and environment are absent;

8. "Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity;

9. "Physician" means an individual licensed to practice medicine in this state;

10. "Qualified patient" means a patient eighteen (18) years of age or older who has executed an advance directive and who has been determined to be ~~in a terminal condition or in a persistently unconscious state~~ incapable of making an informed decision regarding health care, including the provision, withholding, or withdrawal of life-sustaining treatment, by the attending physician and another physician who have examined the patient;

11. "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico; and

12. "Terminal condition" means an incurable and irreversible condition that, even with the administration of life-sustaining treatment, will, in the opinion of the attending physician and another physician, result in death within six (6) months.

SECTION 6. AMENDATORY 63 O.S. 2001, Section 3101.4, as last amended by Section 1, Chapter 166, O.S.L. 2004 (63 O.S. Supp. 2005, 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 for health care governing the provision, 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 that is not in the form set forth in subsection C of this section and that is executed in Oklahoma shall not be deemed to authorize the withholding or withdrawal of artificially administered nutrition and/or hydration unless it specifically authorizes the withholding or withdrawal of artificially administered nutrition and/or hydration in the declarant's own words or by a separate section, separate paragraph, or other separate subdivision that deals only with nutrition and/or hydration and which section, paragraph, or other subdivision is separately initialed, separately signed, or otherwise separately marked by the declarant.

C. An advance directive ~~shall~~ may 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:~~

If I am incapable of making an informed decision regarding my health care, I direct my health care providers to follow my instructions below.

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 Advance Directive Act, to withhold or withdraw treatment from me under the circumstances I have indicated below by my initials. I understand that I will be given treatment that is necessary for my comfort or to alleviate my pain. follow my instructions as set forth below:~~

~~b. (1) If I have a terminal condition ~~or am~~ persistently unconscious, that is, an incurable and irreversible condition that even with the administration of life-sustaining treatment will, in the opinion of the attending physician and another physician, result in death within six (6) months:~~

~~(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, or  
(Initial one box only)~~



~~YES~~ \_\_\_\_\_ ~~NO~~

~~(b) am in~~

\_\_\_\_\_ I direct that my life not be extended by life-sustaining treatment, except that if I am unable to take food and water by mouth, I wish to receive artificially administered nutrition and hydration.

Initial only

one option

\_\_\_\_\_ I direct that my life not be extended by life-sustaining treatment, including artificially administered nutrition and hydration.

\_\_\_\_\_ I direct that I be given life-sustaining treatment and, if I am unable to take food and water by mouth, I wish to receive artificially administered nutrition and hydration.

\_\_\_\_\_ See my more specific instructions in paragraph (4) below.

(Initial if applicable)

(2) If I am persistently unconscious, that is, I have an irreversible condition, as determined by the attending physician and another physician, 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~~

~~initial the "yes" boxes below, artificially administered nutrition and hydration will be administered to me. I further understand that if I initial the "yes" boxes below, I am authorizing the withholding or withdrawal of artificially administered nutrition (food) and hydration (water):~~

~~(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)~~

~~\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.~~

~~(Initial one box only)~~

~~YES  NO~~

\_\_\_\_\_ I direct that my life not be extended by life-sustaining treatment, except that if I am unable to take food and water by mouth, I wish to receive artificially administered nutrition and hydration.

Initial only  
one option

\_\_\_\_\_ I direct that my life not be extended by life-sustaining treatment, including



artificially administered nutrition and hydration.

\_\_\_\_\_ I direct that I be given life-sustaining treatment and, if I am unable to take food and water by mouth, I wish to receive artificially administered nutrition and hydration.

\_\_\_\_\_ See my more specific instructions in paragraph (4) below.

(Initial if applicable)

(3) If I have an end-stage condition, that is, a condition caused by injury, disease, or illness, which results in severe and permanent deterioration indicated by incompetency and complete physical dependency for which treatment of the irreversible condition would be medically ineffective:

\_\_\_\_\_ I direct that my life not be extended by life-sustaining treatment, except that if I am unable to take food and water by mouth, I wish to receive artificially administered nutrition and hydration.

Initial only  
one option

\_\_\_\_\_ I direct that my life not be extended by life-sustaining treatment, including artificially administered nutrition and hydration.

\_\_\_\_\_ I direct that I be given life-sustaining treatment and, if I am unable to take food and water by mouth, I wish to receive artificially administered nutrition and hydration.

\_\_\_\_\_ See my more specific instructions in paragraph (4) below.

(Initial if applicable)

(4) OTHER. Here you may:

(a) describe other conditions in which you would want life-sustaining treatment or artificially administered nutrition and hydration provided, withheld, or withdrawn,

(b) give more specific instructions about your wishes concerning life-sustaining treatment or artificially administered nutrition and hydration if you have a terminal condition, are persistently unconscious, or have an end-stage condition, or

(c) do both of these:

---

---

---

---

---

---

---

---

---

---

Initial

II. My Appointment of My Health Care Proxy

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~~ Advance Directive 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 and artificially

administered nutrition and hydration can be made by my health care proxy or alternate health care proxy only as I have indicated in the foregoing sections.

~~(Initial one box only)~~

YES                      NO

If I fail to designate a health care proxy in this section, I am deliberately declining to designate a health care proxy.

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~~ Pursuant to the provisions of the Uniform Anatomical Gift Act~~-,~~ I direct that at the time of my death my entire body or designated body organs or body parts be donated for purposes of:

(Initial all that apply)

- transplantation
- therapy
- advancement of medical science, research, or education
- advancement of dental science, research, or education

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~~ line below, I specifically donate:

       My entire body  
Yes

or

       The following body organs or parts:  
Yes

<del><input type="checkbox"/></del> <u>      </u> lungs	<del><input type="checkbox"/></del> <u>      </u> liver
<del><input type="checkbox"/></del> <u>      </u> pancreas	<del><input type="checkbox"/></del> <u>      </u> heart
<del><input type="checkbox"/></del>	<del><input type="checkbox"/></del>

_____	_____	kidneys	_____	_____	brain
<input type="checkbox"/>	_____	skin	<input type="checkbox"/>	_____	bones/marrow
<input type="checkbox"/>	_____	blood/fluids	<input type="checkbox"/>	_____	tissue
<input type="checkbox"/>	_____	arteries	<input type="checkbox"/>	_____	eyes/cornea/lens

\_\_\_\_\_.

IV. General Provisions

- a. I understand that I must be eighteen (18) years of age or older to execute this form.
- b. I understand that my witnesses must be eighteen (18) years of age or older and shall not be related to me and shall not inherit from me.
- c. 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~~ I will be provided with life-sustaining treatment and artificially administered hydration and nutrition unless I have, in my own words, specifically authorized that during a course of pregnancy, life-sustaining treatment and/or artificially administered hydration and/or nutrition shall be withheld or withdrawn.
- ~~b.~~ d. 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 choose or refuse medical or surgical treatment including, but not limited to, the administration of life-sustaining procedures, and I accept the consequences of such choice or refusal.
- ~~e.~~ e. This advance directive shall be in effect until it is revoked.

- ~~d.~~ f. I understand that I may revoke this advance directive at any time.
- ~~e.~~ g. I understand and agree that if I have any prior directives, and if I sign this advance directive, my prior directives are revoked.
- ~~f.~~ h. I understand the full importance of this advance directive and I am emotionally and mentally competent to make this advance directive.
- i. I understand that my physician(s) shall make all decisions based upon his or her best judgment applying with ordinary care and diligence the knowledge and skill that is possessed and used by members of the physician's profession in good standing engaged in the same field of practice at that time, measured by national standards.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_.

\_\_\_\_\_  
 (Signature)

\_\_\_\_\_  
 City of

\_\_\_\_\_  
 County, Oklahoma

\_\_\_\_\_  
 Date of birth

\_\_\_\_\_  
 (Optional for identification purposes)

This advance directive was signed in my presence.

\_\_\_\_\_  
 Witness

\_\_\_\_\_, Oklahoma

Residence  
 \_\_\_\_\_

Witness

\_\_\_\_\_, Oklahoma

Residence

~~C.~~ 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 the provision, withholding, or withdrawal of life-sustaining procedures if so indicated in the patient's advance directive.

~~E.~~ F. A person executing an 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 advance directive executed pursuant to the provisions of this section.

SECTION 7. AMENDATORY 63 O.S. 2001, Section 3101.8, is amended to read as follows:

Section 3101.8 A. A ~~qualified~~ patient may make decisions regarding life-sustaining treatment as long as the patient is able to do so.

B. ~~The Oklahoma Rights of the Terminally Ill or Persistently Unconscious Act does not affect the responsibility of the attending physician or other health care provider to provide for a patient's comfort or alleviation of pain~~ Even if life-sustaining treatment or artificial administration of nutrition and hydration are withheld or withdrawn, the patient shall be provided with medication or other

medical treatment to alleviate pain and will be provided with oral consumption of food and water.

C. ~~The advance directive of a qualified patient known to the attending physician to be pregnant shall not be operative during the course of the pregnancy~~ If a qualified patient has been diagnosed as pregnant and that diagnosis is known to the attending physician, the pregnant patient shall be provided with life-sustaining treatment and artificially administered hydration and nutrition, unless the patient has specifically authorized, in her own words, that during a course of pregnancy, life-sustaining treatment and/or artificially administered hydration and/or nutrition shall be withheld or withdrawn. If it is not known if the patient is pregnant, the said physician shall, where appropriate considering age and other relevant factors, determine whether or not the patient is pregnant.

SECTION 8. AMENDATORY 63 O.S. 2001, Section 3101.9, is amended to read as follows:

Section 3101.9 An attending physician or other health care provider who is unwilling to comply with the Oklahoma ~~Rights of the Terminally Ill or Persistently Unconscious~~ Advance Directive Act shall as promptly as practicable take all reasonable steps to arrange care of the declarant by another physician or health care provider when the declarant becomes a qualified patient. Once a patient has established a physician-patient relationship with a physician or a provider-patient relationship with another health care provider, if the physician or other health care provider refuses to comply with a medical treatment decision made by or on behalf of the patient pursuant to the Oklahoma ~~Rights of the Terminally Ill or Persistently Unconscious~~ Advance Directive Act, or with a medical treatment decision made by such a patient who has decision-making capacity, and if the refusal would in reasonable medical judgment be likely to result in the death of the patient, then the physician or other health care provider must comply with

the medical treatment decision pending the completion of the transfer of the patient to a physician or health care provider willing to comply with the decision. Nothing in this section shall require the provision of treatment if the physician or other health care provider is physically or legally unable to provide or is physically or legally unable to provide without thereby denying the same treatment to another patient. Nothing in this section may be construed to alter any legal obligation or lack of legal obligation of a physician or other health care provider to provide medical treatment, nutrition, or hydration to a patient who refuses or is unable to pay for them.

SECTION 9. AMENDATORY 63 O.S. 2001, Section 3101.10, is amended to read as follows:

Section 3101.10 A. In the absence of knowledge of the revocation of an advance directive, a person is not subject to civil or criminal liability or discipline for unprofessional conduct for carrying out the advance directive pursuant to the requirements of the Oklahoma ~~Rights of the Terminally Ill or Persistently Unconscious~~ Advance Directive Act.

B. A physician or other health care provider, whose actions under the Oklahoma ~~Rights of the Terminally Ill or Persistently Unconscious~~ Advance Directive Act are in accord with reasonable medical standards, is not subject to criminal or civil liability or discipline for unprofessional conduct with respect to those actions; provided, that this subsection may not be construed to authorize a violation of Section 3101.9 of this title. In making decisions and determinations pursuant to the Oklahoma Advance Directive Act the physician shall use his or her best judgment applying with ordinary care and diligence the knowledge and skill that is possessed and used by members of the physician's profession in good standing engaged in the same field of practice at that time, measured by national standards.



C. An individual designated as a health care proxy, pursuant to Section 3101.4 of this title, to make health care decisions for a declarant and whose decisions regarding the declarant are made in good faith pursuant to the Oklahoma ~~Rights of the Terminally Ill or Persistently Unconscious~~ Advance Directive Act, is not subject to criminal or civil liability, or discipline for unprofessional conduct with respect to those decisions.

SECTION 10. AMENDATORY 63 O.S. 2001, Section 3101.11, is amended to read as follows:

Section 3101.11 A. A physician or other health care provider who willfully fails to arrange the care of a patient in accordance with Section ~~9~~ 3101.9 of this ~~act~~ title shall be guilty of unprofessional conduct.

B. A physician who willfully fails to record the determination of the patient's condition in accordance with Section ~~7~~ 3101.7 of this ~~act~~ title shall be guilty of unprofessional conduct.

C. Any person who willfully conceals, cancels, defaces, alters, or obliterates the advance directive of another without the declarant's consent, or who falsifies or forges a revocation of the advance directive of another shall be, upon conviction, guilty of a felony.

D. A person who in any way falsifies or forges the advance directive of another, or who willfully conceals or withholds personal knowledge of a revocation as provided in Section ~~6~~ 3101.6 of this ~~act~~ title shall be, upon conviction, guilty of a felony.

E. A person who requires or prohibits the execution of an advance directive as a condition for being insured for, or receiving, health care services shall be, upon conviction, guilty of a felony.

F. A person who coerces or fraudulently induces another to execute an advance directive or revocation shall be, upon conviction, guilty of a felony.

G. The sanctions provided in this section do not displace any sanction applicable under other law.

SECTION 11. AMENDATORY 63 O.S. 2001, Section 3101.12, is amended to read as follows:

Section 3101.12 A. Death resulting from the withholding or withdrawal of life-sustaining treatment in accordance with the Oklahoma ~~Rights of the Terminally Ill or Persistently Unconscious~~ Advance Directive Act shall not constitute, for any purpose, a suicide or homicide.

B. The making of an advance directive pursuant to Section 3101.4 of this title shall not affect in any manner the sale, procurement, or issuance of any policy of life insurance or annuity, nor shall it affect, impair, or modify the terms of an existing policy of life insurance or annuity. A policy of life insurance or annuity shall not be legally impaired or invalidated in any manner by the withholding or withdrawal of life-sustaining treatment from an insured qualified patient, regardless of any term of the policy or annuity to the contrary.

C. A person shall not prohibit or require the execution of an advance directive as a condition for being insured for, or receiving, health care services.

D. The Oklahoma ~~Rights of the Terminally Ill or Persistently Unconscious~~ Advance Directive Act creates no presumption concerning the intention of an individual who has revoked or has not executed an advance directive with respect to the use, withholding, or withdrawal of life-sustaining treatment ~~in the event the individual becomes persistently unconscious or in a terminal condition.~~

E. The Oklahoma ~~Rights of the Terminally Ill or Persistently Unconscious~~ Advance Directive Act shall not affect the right of a patient to make decisions regarding use of life-sustaining treatment, so long as the patient is able to do so, or impair or supersede any right or responsibility that a person has to effect

the withholding or withdrawal of medical care; provided, that this subsection may not be construed to authorize a violation of Section 3101.9 of this title.

F. ~~The Oklahoma Rights of the Terminally Ill or Persistently Unconscious Act shall not require any physician or other health care provider to take any action contrary to reasonable medical standards; provided, that this subsection may not be construed to authorize a violation of Section 3101.9 of this title.~~

G. ~~The Oklahoma Rights of the Terminally Ill or Persistently Unconscious~~ Advance Directive Act shall not be construed to condone, authorize, or approve mercy killing, assisted suicide, or euthanasia.

H. G. Failure to designate a health care proxy in accordance with Section 3101.4 of this title shall not be interpreted to invalidate the authority of a health care proxy to make life-sustaining treatment decisions if otherwise authorized by law.

SECTION 12. AMENDATORY 63 O.S. 2001, Section 3101.13, is amended to read as follows:

Section 3101.13 In the absence of knowledge to the contrary, a physician or other health care provider may presume that an advance directive complies with the ~~Oklahoma Rights of the Terminally Ill or Persistently Unconscious~~ Advance Directive Act and is valid.

SECTION 13. AMENDATORY 63 O.S. 2001, Section 3101.14, is amended to read as follows:

Section 3101.14 Execution of ~~a formal document~~ an advance directive by an individual, which provides for the provision, withholding, or withdrawal of life-sustaining treatment for that individual or for the appointment of another to give directions to provide, withhold, or withdraw life-sustaining treatment, executed in another state in compliance with the law of that state or of this state is valid for purposes of the ~~Oklahoma Rights of the Terminally Ill or Persistently Unconscious~~ Advance Directive Act to the extent

the ~~formal document~~ advance directive does not exceed authorizations allowed under the laws of this state; provided, that no such advance directive shall be deemed to authorize the withholding or withdrawal of artificially administered nutrition and/or hydration unless it specifically authorizes such withholding or withdrawal of artificially administered nutrition and/or hydration, and either the advance directive:

1. Was executed by a person who was not a resident of Oklahoma at the time of execution; or

2. Specifically authorizes the withholding or withdrawal of artificially administered nutrition and/or hydration in the declarant's own words or by a separate section, separate paragraph, or other separate subdivision that deals only with nutrition and/or hydration and which section, paragraph, or other subdivision is separately initialed, separately signed, or otherwise separately marked by the person executing the advance directive.

SECTION 14. AMENDATORY 63 O.S. 2001, Section 3101.15, is amended to read as follows:

Section 3101.15 A. Any directive to a physician executed pursuant to the former Oklahoma Natural Death Act, 63 O.S. 1991, Section 3101 et seq., which was executed prior to September 1, 1992, shall be enforceable according to its terms until revoked and shall have the same force and effect as if made pursuant to this act. Such directive shall be binding on the attending physician whether or not the person who executed the directive was in a terminal condition at the time of execution unless there is evidence that the person executing the directive intended that it should be binding only if executed or re-executed after the person became afflicted with a terminal condition as defined by the former Oklahoma Natural Death Act.

B. Any advance directive executed prior to the enactment of any amendment to the Oklahoma ~~Rights of the Terminally Ill~~ or

~~Persistently Unconscious~~ Advance Directive Act which substantially complied with the law in effect at the time of the execution of the directive shall be enforceable according to its terms until revoked and shall have the same force and effect as if made pursuant to this act, as amended.

SECTION 15. AMENDATORY 63 O.S. 2001, Section 3101.16, is amended to read as follows:

Section 3101.16 An individual making life-sustaining treatment decisions pursuant to the provisions of the Oklahoma ~~Rights of the Terminally Ill or Persistently Unconscious~~ Advance Directive Act for a declarant shall make such decisions based on the known intentions, personal views and best interests of the declarant. If evidence of the declarant's wishes is sufficient, those wishes shall control. If there is not sufficient evidence of the wishes of the declarant, the decisions shall be based on the reasonable judgment of the individual so deciding about the values of the declarant and what the wishes of the declarant would be based upon those values.

SECTION 16. 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."

Passed the House of Representatives the 25th day of April, 2006.

\_\_\_\_\_  
Presiding Officer of the House of  
Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
Presiding Officer of the Senate