

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 346

By: Crain of the Senate

and

Ritze of the House

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9 COMMITTEE SUBSTITUTE

10 (public health and safety - advance directives

11 registry - codification -

12 effective date)

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17 SECTION 1. NEW LAW A new section of law to be codified

18 in the Oklahoma Statutes as Section 3102.1 of Title 63, unless there
19 is created a duplication in numbering, reads as follows:

20 A. The State Department of Health shall establish and maintain
21 an advance directives registry which shall be accessible through a
22 website maintained by the Department. The registry shall be used to
23 store advance directives pursuant to the Oklahoma Advance Directive
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1 Act that are filed with the registry by or with the authorization of
2 those executing the advance directives.

3 B. The registry shall be maintained in a secure database that
4 is designed to provide access to each advance directive filed in the
5 database by the person who executed the advance directive, those
6 named as agents in the advance directive, any person related within
7 the fourth degree of consanguinity or affinity to the person who
8 executed the advance directive, or a health care provider caring for
9 the person who executed the advance directive.

10 C. 1. The State Board of Health shall promulgate rules as
11 necessary to implement the creation and maintenance of the advance
12 directives registry and to regulate access to the registry.

13 2. The rules shall establish a fee for the initial lodging of
14 an advance directive in the advance directives registry database
15 calculated to be adequate in the aggregate to cover the cost of
16 establishing and administering the advance directives registry
17 database, the Statutory Advance Directive Form portion of the
18 website containing the advance directive forms under Section 2 of
19 this act, and the disclosure statement under Section 3 of this act.
20 No fee shall be charged for the alteration or removal of an advance
21 directive from the advance directives registry database. The Board
22 is authorized to increase or decrease the fee as necessary to ensure
23 that the revenue from it is adequate to cover the cost for purposes
24 in accordance with this paragraph, but does not exceed that cost

1 together with an appropriate reserve fund to cover errors in
2 estimation.

3 3. The Board shall promulgate the initial rules no later than
4 one hundred eighty (180) days after the effective date of this act.

5 SECTION 2. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 3102.2 of Title 63, unless there
7 is created a duplication in numbering, reads as follows:

8 A. The State Department of Health shall maintain a website of
9 advance directive forms that may be downloaded for printing and into
10 word processing programs.

11 B. Under the heading "Statutory Advance Directive Form", the
12 website shall include the forms specified in subsection C of Section
13 3101.4 of this title.

14 C. 1. Under the heading "Alternative Advance Directive Forms",
15 the website shall include other advance directive forms submitted to
16 the Department by individuals and groups in an electronic format the
17 Department shall specify; provided, that before being posted on the
18 website, any such form shall be reviewed to ensure that the form
19 complies with the requirements of Section 3101.4 of this title and
20 other provisions of state law.

21 2. The State Board of Health shall establish a fee to be
22 charged for the submission of each Alternative Advance Directive
23 Form calculated to be adequate to cover the cost of reviewing and
24 posting the form. The Board is authorized to increase or decrease

1 the fee as necessary to ensure that the revenue from it is adequate
2 to cover the cost for purposes in accordance with this paragraph,
3 but does not exceed that cost together with an appropriate reserve
4 fund to cover errors in estimation.

5 D. In the section titled "Alternative Advance Directive Forms",
6 the website shall prominently post the following disclaimer:

7 "This website includes for your consideration alternative
8 advance directive forms submitted by individuals or groups
9 reflecting different perspectives on advance health care decisions
10 which you may wish to review before completing your own advance
11 directive. Although they have been reviewed to ensure that they do
12 not violate Oklahoma law, neither the State Department of Health nor
13 the State of Oklahoma endorses or assumes any responsibility for any
14 of these forms."

15 SECTION 3. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 3102.3 of Title 63, unless there
17 is created a duplication in numbering, reads as follows:

18 A. The State Department of Health shall prepare, and from time
19 to time amend, a disclosure statement designed to inform patients of
20 the availability of the advance directive forms on the Department's
21 website and of the option of filing executed advance directives with
22 the Department's advance directives registry. The Department shall
23 make the current disclosure statement available on the Department's
24 website and shall inform the entities specified in subsection B of

1 this section of the availability of the disclosure statement and how
2 to obtain the disclosure statement.

3 B. Any entity to which the requirements of 42 U.S.C., Section
4 1395cc(f) or of 42 U.S.C., Section 1396a(w) apply shall, at the time
5 of providing the written information required by 42 U.S.C., Section
6 1395cc(f)(1)(A)(i) or 42 U.S.C., Section 1396a(w)(1)(A)(i), include
7 a copy of the disclosure statement described in subsection A of this
8 section.

9 SECTION 4. This act shall become effective November 1, 2009.

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