

ENROLLED SENATE
BILL NO. 346

By: Crain, Johnson (Constance)
and Garrison of the Senate

and

Ritze and Faught of the
House

An Act relating to public health and safety;
directing the State Department of Health to establish
and maintain an advance directives registry;
requiring the registry to be maintained in a secure
database; directing the State Board of Health to
promulgate certain rules; providing for certain fees;
directing the Department to maintain a website
containing certain forms; specifying forms to be
included in certain headings; requiring certain
disclaimers; requiring disclosure statement;
providing for codification; and providing an
effective date.

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

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 3102.1 of Title 63, unless there
is created a duplication in numbering, reads as follows:

A. The State Department of Health shall establish and maintain
an advance directives registry which shall be accessible through a
website maintained by the Department. The registry shall be used to
store advance directives pursuant to the Oklahoma Advance Directive

Act that are filed with the registry by or with the authorization of those executing the advance directives.

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

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

2. The rules shall establish a fee for the initial lodging of an advance directive in the advance directives registry database calculated to be adequate in the aggregate to cover the cost of establishing and administering the advance directives registry database, the Statutory Advance Directive Form portion of the website containing the advance directive forms under Section 2 of this act, and the disclosure statement under Section 3 of this act. No fee shall be charged for the alteration or removal of an advance directive from the advance directives registry database. The Board is authorized to increase or decrease the fee as necessary to ensure that the revenue from it is adequate to cover the cost for purposes in accordance with this paragraph, but does not exceed that cost, together with an appropriate reserve fund to cover errors in estimation.

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

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

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

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

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

2. The State Board of Health shall establish a fee to be charged for the submission of each Alternative Advance Directive Form calculated to be adequate to cover the cost of reviewing and posting the form. The Board is authorized to increase or decrease the fee as necessary to ensure that the revenue from it is adequate to cover the cost for purposes in accordance with this paragraph, but does not exceed that cost, together with an appropriate reserve fund to cover errors in estimation.

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

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

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

A. The State Department of Health shall prepare, and from time to time amend, a disclosure statement designed to inform patients of the availability of the advance directive forms on the Department's website and of the option of filing executed advance directives with the Department's advance directives registry. The Department shall

make the current disclosure statement available on the Department's website and shall inform the entities specified in subsection B of this section of the availability of the disclosure statement and how to obtain the disclosure statement.

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

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

Passed the Senate the 13th day of May, 2009.

Presiding Officer of the Senate

Passed the House of Representatives the 15th day of May, 2009.

Presiding Officer of the House
of Representatives