

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 1366 By: Ivester of the Senate
3 and
4 Sherrer of the House
5
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7 An Act relating to advance directives for mental
8 health treatment; amending 43A O.S. 2011, Section 11-
9 107, which relates to contrary or conflicting
10 instructions; updating statutory references;
11 establishing priority of certain directive; and
12 providing an effective date.

12 AUTHOR: Add the following House Coauthor: McDaniel (Jeannie)

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

15 "An Act relating to advance directives for mental
16 health treatment; amending 43A O.S. 2011, Section
17 11-107, which relates to contrary or conflicting
18 instructions; updating statutory references;
19 establishing priority of certain directive; and
20 providing an effective date.

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

21 SECTION 1. AMENDATORY 43A O.S. 2011, Section 11-107, is
22 amended to read as follows:
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24

1 Section 11-107. A. The wishes of a declarant, at all times
2 while the declarant is capable, shall supersede the effect of an
3 advance directive for mental health treatment.

4 B. An advance directive for mental health treatment shall
5 become operative when:

6 1. It is delivered to the declarant's physician or
7 psychologist; and

8 2. The declarant is certified to be incapable and to require
9 mental health treatment as provided by Section ~~10 of this act~~ 11-110
10 of this title.

11 C. An advance directive for mental health treatment remains
12 valid until:

13 1. Revoked, expired or superseded by a subsequent advance
14 directive for mental health treatment; or

15 2. Superseded by a court order.

16 D. A court order shall supersede an advance directive for
17 mental health treatment in all circumstances.

18 E. Mental health treatment instructions contained in a
19 declaration executed in accordance with this act shall supersede any
20 contrary or conflicting instructions given by an attorney-in-fact
21 specifically for mental health treatment decisions unless the
22 authority given to the attorney-in-fact in the advance directive for
23 mental health treatment expressly provides otherwise.

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1 F. Except as provided by subsection E of this section, in the
2 event that more than one valid advance directive for mental health
3 treatment has been executed and not revoked, the last advance
4 directive for mental health treatment executed shall be construed to
5 be the mental health treatment wishes of the declarant and shall
6 become operative as provided by subsection B of this section.

7 G. In the absences of an advance directive for mental health
8 treatment, the powers vested in a guardianship of the person, or
9 grant of general health care decision-making authority or
10 designation of health care proxy contained in an advance directive
11 for health care or durable power of attorney with health care
12 decision-making authority shall be deemed to include mental health
13 treatment.

14 SECTION 2. This act shall become effective November 1, 2012."

15 Passed the House of Representatives the 24th day of April, 2012.

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18 _____
19 Presiding Officer of the House of
Representatives

20 Passed the Senate the ____ day of _____, 2012.

21
22
23 _____
24 Presiding Officer of the Senate

1 ENGROSSED SENATE
2 BILL NO. 1366

By: Ivester of the Senate

3 and

4 Sherrer of the House

5
6 An Act relating to advance directives for mental
7 health treatment; amending 43A O.S. 2011, Section 11-
8 107, which relates to contrary or conflicting
9 instructions; updating statutory references;
10 establishing priority of certain directive; and
11 providing an effective date.

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

13 SECTION 3. AMENDATORY 43A O.S. 2011, Section 11-107, is
14 amended to read as follows:

15 Section 11-107. A. The wishes of a declarant, at all times
16 while the declarant is capable, shall supersede the effect of an
17 advance directive for mental health treatment.

18 B. An advance directive for mental health treatment shall
19 become operative when:

20 1. It is delivered to the declarant's physician or
21 psychologist; and

22 2. The declarant is certified to be incapable and to require
23 mental health treatment as provided by Section ~~10 of this act~~ 11-110
24 of this title.

1 C. An advance directive for mental health treatment remains
2 valid until:

3 1. Revoked, expired or superseded by a subsequent advance
4 directive for mental health treatment; or

5 2. Superseded by a court order.

6 D. A court order shall supersede an advance directive for
7 mental health treatment in all circumstances.

8 E. Mental health treatment instructions contained in a
9 declaration executed in accordance with ~~this act~~ the Advance
10 Directives for Mental Health Treatment Act shall ~~supersede~~ be
11 superseded by an advance directive for health care, a durable power
12 of attorney pursuant to the Uniform Durable Power of Attorney Act or
13 any other contrary or conflicting instructions given by an attorney-
14 in-fact for mental health treatment decisions unless the authority
15 given to the attorney-in-fact in the advance directive for mental
16 health treatment expressly provides otherwise.

17 F. Except as provided by subsection E of this section, in the
18 event that more than one valid advance directive for mental health
19 treatment has been executed and not revoked, the last advance
20 directive for mental health treatment executed shall be construed to
21 be the mental health treatment wishes of the declarant and shall
22 become operative as provided by subsection B of this section.

23 SECTION 4. This act shall become effective November 1, 2012.

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