

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED  
5 SENATE BILL NO. 1366

By: Ivester of the Senate

and

6 Sherrer of the House

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8  
9 COMMITTEE SUBSTITUTE

10 An Act relating to advance directives for mental  
11 health treatment; amending 43A O.S. 2011, Section 11-  
12 107, which relates to contrary or conflicting  
13 instructions; updating statutory references;  
14 establishing priority of certain directive; and  
15 providing an effective date.

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

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

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

22 B. An advance directive for mental health treatment shall  
23 become operative when:

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

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

4           C. An advance directive for mental health treatment remains  
5 valid until:

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 Revoked, expired or superseded by a subsequent advance  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

8           2. Superseded by a court order.

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

11           E. Mental health treatment instructions contained in a  
12 declaration executed in accordance with this act shall supersede any  
13 contrary or conflicting instructions given by an attorney-in-fact  
14 specifically for mental health treatment decisions unless the  
15 authority given to the attorney-in-fact in the advance directive for  
16 mental 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           G. In the absences of an advance directive for mental health  
24 treatment, the powers vested in a guardianship of the person, or

1 grant of general health care decision-making authority or  
2 designation of health care proxy contained in an advance directive  
3 for health care or durable power of attorney with health care  
4 decision-making authority shall be deemed to include mental health  
5 treatment.

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

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8 53-2-10200 GRS 04/03/12

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