

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL 1366

6 By: Ivester

7 COMMITTEE SUBSTITUTE

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

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

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

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

20 B. An advance directive for mental health treatment shall
21 become operative when:

22 1. It is delivered to the declarant's physician or
23 psychologist; and
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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 Revoked, expired or superseded by a subsequent advance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 Superseded by a court order.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~~ the Advance
13 Directives for Mental Health Treatment Act shall ~~supersede~~ be
14 superseded by an advance directive for health care, a durable power
15 of attorney pursuant to the Uniform Durable Power of Attorney Act or
16 any other contrary or conflicting instructions given by an attorney-
17 in-fact for mental health treatment decisions unless the authority
18 given to the attorney-in-fact in the advance directive for mental
19 health treatment expressly provides otherwise.

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

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

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