

ENROLLED SENATE
BILL NO. 1366

By: Ivester of the Senate

and

Sherrer and McDaniel
(Jeannie) of the House

An Act relating to advance directives for mental health treatment; amending 43A O.S. 2011, Section 11-107, which relates to contrary or conflicting instructions; updating statutory references; clarifying priority of certain instructions; clarifying authority under certain guardianship, proxy or power of attorney; and providing an effective date.

SUBJECT: Advance directives for mental health treatment

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

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

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

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

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

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

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

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 Revoked, expired or superseded by a subsequent advance directive for mental health treatment; or

2. Superseded by a court order.

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

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

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

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

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

Passed the Senate the 2nd day of May, 2012.

Presiding Officer of the Senate

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

Presiding Officer of the House
of Representatives