

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 53rd Legislature (2012)

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

By: Ivester of the Senate

and

Sherrer of the House

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10 COMMITTEE SUBSTITUTE

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

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

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

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

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

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

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

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

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 Revoked, expired or superseded by a subsequent advance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

10 2. Superseded by a court order.

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

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

19 F. Except as provided by subsection E of this section, in the
20 event that more than one valid advance directive for mental health
21 treatment has been executed and not revoked, the last advance
22 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 G. In the absences of an advance directive for mental health
4 treatment, the powers vested in a guardianship of the person, or
5 grant of general health care decision-making authority or
6 designation of health care proxy contained in an advance directive
7 for health care or durable power of attorney with health care
8 decision-making authority shall be deemed to include mental health
9 treatment.

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

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12 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 04/03/2012 - DO
13 PASS, As Amended.

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