

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1366

By: Ivester

4
5
6 AS INTRODUCED

7 An Act relating to advance directives; amending 63
8 O.S. 2011, Section 3101.4, which relates to form of
9 directive; clarifying applicability of certain
10 directive; and providing an effective date.

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

12 SECTION 1. AMENDATORY 63 O.S. 2011, Section 3101.4, is
13 amended to read as follows:

14 Section 3101.4. A. An individual of sound mind and eighteen
15 (18) years of age or older may execute at any time an advance
16 directive for health care governing the provision, withholding, or
17 withdrawal of life-sustaining treatment. The advance directive
18 shall be signed by the declarant and witnessed by two individuals
19 who are eighteen (18) years of age or older who are not legatees,
20 devisees, or heirs at law.

21 B. An advance directive that is not in the form set forth in
22 subsection C of this section and that is executed in Oklahoma shall
23 not be deemed to authorize the withholding or withdrawal of
24 artificially administered nutrition and/or hydration unless it

1 specifically authorizes the withholding or withdrawal of
2 artificially administered nutrition and/or hydration in the
3 declarant's own words or by a separate section, separate paragraph,
4 or other separate subdivision that deals only with nutrition and/or
5 hydration and which section, paragraph, or other subdivision is
6 separately initialed, separately signed, or otherwise separately
7 marked by the declarant.

8 C. An advance directive may be in substantially the following
9 form:

10 Advance Directive for Health Care

11 If I am incapable of making an informed decision regarding my health
12 care, I direct my health care providers to follow my instructions
13 below.

14 I. Living Will

15 If my attending physician and another physician determine
16 that I am no longer able to make decisions regarding my
17 medical treatment, I direct my attending physician and
18 other health care providers, pursuant to the Oklahoma
19 Advance Directive Act, to follow my instructions as set
20 forth below:

21 (1) If I have a terminal condition, that is, an incurable
22 and irreversible condition that even with the
23 administration of life-sustaining treatment will, in
24

1 the opinion of the attending physician and another
2 physician, result in death within six (6) months:

3 _____ I direct that my life not be extended by
4 life-sustaining treatment, except that if I
5 am unable to take food and water by mouth, I
6 wish to receive artificially administered
7 nutrition and hydration.

8 Initial only
9 one option

_____ I direct that my life not be extended by
life-sustaining treatment, including
artificially administered nutrition and
hydration.

12 _____

I direct that I be given life-sustaining
treatment and, if I am unable to take food
and water by mouth, I wish to receive
artificially administered nutrition and
hydration.

17 _____ See my more specific instructions in paragraph (4) below.

18 (Initial if applicable)

19 (2) If I am persistently unconscious, that is, I have
20 an irreversible condition, as determined by the
21 attending physician and another physician, in
22 which thought and awareness of self and
23 environment are absent:
24

1 _____ I direct that my life not be extended by
2 life-sustaining treatment, except that if I
3 am unable to take food and water by mouth, I
4 wish to receive artificially administered
5 nutrition and hydration.

6 Initial only _____ I direct that my life not be extended by
7 one option life-sustaining treatment, including
8 artificially administered nutrition and
9 hydration.

10 _____ I direct that I be given life-sustaining
11 treatment and, if I am unable to take food
12 and water by mouth, I wish to receive
13 artificially administered nutrition and
14 hydration.

15 _____ See my more specific instructions in paragraph (4) below.
16 (Initial if applicable)

17 (3) If I have an end-stage condition, that is, a
18 condition caused by injury, disease, or illness,
19 which results in severe and permanent deterioration
20 indicated by incompetency and complete physical
21 dependency for which treatment of the irreversible
22 condition would be medically ineffective:

23 _____ I direct that my life not be extended by
24 life-sustaining treatment, except that if

1 I am unable to take food and water by mouth,
2 I wish to receive artificially administered
3 nutrition and hydration.

4 Initial only _____ I direct that my life not be extended by
5 one option life-sustaining treatment, including
6 artificially administered nutrition and
7 hydration.

8 _____ I direct that I be given life-sustaining
9 treatment and, if I am unable to take food
10 and water by mouth, I wish to receive
11 artificially administered nutrition and
12 hydration.

13 _____ See my more specific instructions in paragraph (4) below.
14 (Initial if applicable)

- 15 (4) OTHER. Here you may:
 - 16 (a) describe other conditions in which you would
17 want life-sustaining treatment or
18 artificially administered nutrition and
19 hydration provided, withheld, or withdrawn,
 - 20 (b) give more specific instructions about your
21 wishes concerning life-sustaining treatment
22 or artificially administered nutrition and
23 hydration if you have a terminal condition,
24

1 are persistently unconscious, or have an
2 end-stage condition, or

3 (c) do both of these:

4 _____
5 _____
6 _____
7 _____
8 _____
9 _____
10 _____

11 Initial

12 II. My Appointment of My Health Care Proxy

13 If my attending physician and another physician determine that I am
14 no longer able to make decisions regarding my medical treatment, I
15 direct my attending physician and other health care providers
16 pursuant to the Oklahoma Advance Directive Act to follow the
17 instructions of _____, whom I appoint as my health care
18 proxy. If my health care proxy is unable or unwilling to serve, I
19 appoint _____ as my alternate health care proxy with the
20 same authority. My health care proxy is authorized to make whatever
21 medical treatment decisions I could make if I were able, except that
22 decisions regarding life-sustaining treatment and artificially
23 administered nutrition and hydration can be made by my health care
24 proxy or alternate health care proxy only as I have indicated in the

1 foregoing sections. This health care proxy applies to any health
2 condition pursuant to the Advance Directives for Mental Health
3 Treatment Act.

4 If I fail to designate a health care proxy in this section, I am
5 deliberately declining to designate a health care proxy.

6 III. Anatomical Gifts

7 Pursuant to the provisions of the Uniform Anatomical Gift Act, I
8 direct that at the time of my death my entire body or designated
9 body organs or body parts be donated for purposes of:

10 (Initial all that apply)

- 11 _____ transplantation
- 12 _____ therapy
- 13 _____ advancement of medical science, research, or education
- 14 _____ advancement of dental science, research, or education

15 Death means either irreversible cessation of circulatory and
16 respiratory functions or irreversible cessation of all functions of
17 the entire brain, including the brain stem. If I initial the "yes"
18 line below, I specifically donate:

- 19 _____ My entire body
- 20 _____ or
- 21 _____ The following body organs or parts:
 - 22 _____ lungs _____ liver
 - 23 _____ pancreas _____ heart
 - 24 _____ kidneys _____ brain

1 limited to, the administration of life-sustaining
2 procedures, and I accept the consequences of such
3 choice or refusal.

4 e. This advance directive shall be in effect until it is
5 revoked.

6 f. I understand that I may revoke this advance directive
7 at any time.

8 g. I understand and agree that if I have any prior
9 directives, and if I sign this advance directive, my
10 prior directives are revoked.

11 h. I understand the full importance of this advance
12 directive and I am emotionally and mentally competent
13 to make this advance directive.

14 i. I understand that my physician(s) shall make all
15 decisions based upon his or her best judgment applying
16 with ordinary care and diligence the knowledge and
17 skill that is possessed and used by members of the
18 physician's profession in good standing engaged in the
19 same field of practice at that time, measured by
20 national standards.

21 Signed this _____ day of _____, 20 __.

22 _____
23 (Signature)
24 _____

1 City of

2 _____

3 County, Oklahoma

4 _____

5 Date of birth

6 _____

7 (Optional for identification purposes)

8 This advance directive was signed in my presence.

9 _____

10 Witness

11 _____, Oklahoma

12 Residence

13 _____

14 Witness

15 _____, Oklahoma

16 Residence

17 D. A physician or other health care provider who is furnished
18 the original or a photocopy of the advance directive shall make it a
19 part of the declarant's medical record and, if unwilling to comply
20 with the advance directive, promptly so advise the declarant.

21 E. In the case of a qualified patient, the patient's health
22 care proxy, in consultation with the attending physician, shall have
23 the authority to make treatment decisions for the patient including
24

1 the provision, withholding, or withdrawal of life-sustaining
2 procedures if so indicated in the patient's advance directive.

3 F. A person executing an advance directive appointing a health
4 care proxy who may not have an attending physician for reasons based
5 on established religious beliefs or tenets may designate an
6 individual other than the designated health care proxy, in lieu of
7 an attending physician and other physician, to determine the lack of
8 decisional capacity of the person. Such designation shall be
9 specified and included as part of the advance directive executed
10 pursuant to the provisions of this section.

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

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