

SENATE CHAMBER

STATE OF OKLAHOMA

DISPOSITION BY SENATE

FLOOR AMENDMENT

No. _____

(Date)

Mr./Madame President:

I move to amend House Bill No. 1403, by striking the title, enacting clause and entire body of the bill and substituting the attached floor substitute.

Submitted by:

Senator Sykes

Sykes-JAM-FS-Req#1743
4/10/2013 2:22 PM

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 FLOOR SUBSTITUTE
4 FOR ENGROSSED

5 HOUSE BILL NO. 1403

By: Johnson, Ritze, Coody, Kern
and Sherrer of the House

6 and

7 Sykes of the Senate

8
9 FLOOR SUBSTITUTE

10 [public health and safety - Nondiscrimination in
11 Treatment Act - injunctive relief - codification -
12 effective date]

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

14 SECTION 1. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 3090.1 of Title 63, unless there
16 is created a duplication in numbering, reads as follows:

17 This act shall be known and may be cited as the
18 "Nondiscrimination in Treatment Act".

19 SECTION 2. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 3090.2 of Title 63, unless there
21 is created a duplication in numbering, reads as follows:

22 As used in the Nondiscrimination in Treatment Act:

23 1. "Health care provider" means a person who is licensed,
24 certified, or otherwise authorized by the laws of this state to

1 practice a health care or healing arts profession or who administers
2 health care in the ordinary course of business;

3 2. "Health care service" means any phase of patient medical
4 care, treatment or procedure, including, but not limited to,
5 therapy, testing, diagnosis or prognosis, prescribing, dispensing or
6 administering any device, drug or medication, surgery, or any other
7 care or treatment rendered by health care providers;

8 3. "Life-preserving health care service" means a health care
9 service, the denial of which, in reasonable medical judgment, will
10 result in or hasten the death of the patient; and

11 4. "Person legally authorized to make health care decisions"
12 means, in the case of an adult patient, or of a minor patient who
13 may consent to have services provided by health professionals under
14 Section 2602 of Title 63 of the Oklahoma Statutes, the person or
15 persons designated to make health care decisions:

16 a. a general guardian of the person appointed pursuant to
17 subsection A of Section 3-112 of Title 30 of the
18 Oklahoma Statutes, or a limited guardian of the person
19 appointed pursuant to subsection B of Section 3-112 of
20 Title 30 of the Oklahoma Statutes with authority to
21 make personal medical decisions as determined under
22 paragraph 5 of subsection B of Section 3-113 of Title
23 30 of the Oklahoma Statutes,

24

1 b. a health care proxy (or alternate health care proxy)
2 authorized to act pursuant to the Oklahoma Advance
3 Directive Act, Sections 3101.1 through 3101.16 of
4 Title 63 of the Oklahoma Statutes, as defined in
5 paragraph 6 of Section 3101.3 of Title 63 of the
6 Oklahoma Statutes,

7 c. an attorney-in-fact authorized to act pursuant to the
8 Uniform Durable Power of Attorney Act, Sections 1071
9 through 1077 of Title 58 of the Oklahoma Statutes with
10 authority to act regarding the patient's health and
11 medical care decisions, subject to the limitations
12 under paragraph 1 of subsection B of Section 1072.1 of
13 Title 58 of the Oklahoma Statutes, or

14 d. another person with such authority under common law.

15 In the case of any other minor, it means the minor's custodial
16 parent or guardian.

17 SECTION 3. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 3090.3 of Title 63, unless there
19 is created a duplication in numbering, reads as follows:

20 A. A health care provider shall not deny to a patient a life-
21 preserving health care service the provider provides to other
22 patients, and the provision of which is directed by the patient or a
23 person legally authorized to make health care decisions for the
24 patient:

1 1. On the basis of a view that treats extending the life of an
2 elderly, disabled, or terminally ill individual as of lower value
3 than extending the life of an individual who is younger,
4 nondisabled, or not terminally ill; or

5 2. On the basis of disagreement with how the patient or person
6 legally authorized to make health care decisions for the patient
7 values the trade-off between extending the length of the patient's
8 life and the risk of disability.

9 B. In an action pursuant to this Act, if the plaintiff pleads a
10 prima facie case, the health care provider may defend his or her or
11 its actions by pleading a legitimate, nondiscriminatory reason or
12 reasons that provided a basis for the denial of treatment, subject
13 to an opportunity for the plaintiff to plead that the reason or
14 reasons for the denial of treatment are discriminatory in their
15 application.

16 SECTION 4. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 3090.4 of Title 63, unless there
18 is created a duplication in numbering, reads as follows:

19 A cause of action for injunctive relief may be maintained
20 against any health care provider who is reasonably believed to be
21 about to violate, who is in the course of violating, or who has
22 violated the Nondiscrimination in Treatment Act by an affected
23 patient or a person legally authorized to make health care decisions
24

1 for the patient. However, a violation of the Act does not constitute
2 negligence per se for purposes of a civil action for damages.

3 SECTION 5. This act shall become effective November 1, 2013.
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