

SENATE CHAMBER
STATE OF OKLAHOMA

DISPOSITION

☐ FLOOR AMENDMENT

No. _____

☐ COMMITTEE AMENDMENT

(Date)

Mr./Madame President:

I move to amend House Bill No. 1191, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

Senator Silk

Silk-LB-FS-Req#1754
4/19/2017 2:53 PM

(Floor Amendments Only) Date and Time Filed: _____

☐ Untimely

☐ Amendment Cycle Extended

☐ Secondary Amendment

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

FLOOR SUBSTITUTE
FOR ENGROSSED

HOUSE BILL NO. 1191

By: West (Rick) of the House

and

Silk of the Senate

FLOOR SUBSTITUTE

An Act relating to public health and safety; amending
63 O.S. 2011, Section 3101.4, which relates to
advance directives; providing certain limitations;
adding artificially implanted medical device to
advance directive form; and providing an effective
date.

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

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

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

1 B. An advance directive that is not in the form set forth in
2 subsection C of this section and that is executed in Oklahoma shall
3 not be deemed to authorize the withholding or withdrawal of
4 artificially administered nutrition and/or hydration unless it
5 specifically authorizes the withholding or withdrawal of
6 artificially administered nutrition and/or hydration in the
7 declarant's own words or by a separate section, separate paragraph,
8 or other separate subdivision that deals only with nutrition and/or
9 hydration and which section, paragraph, or other subdivision is
10 separately initialed, separately signed, or otherwise separately
11 marked by the declarant.

12 C. An advance directive executed on or after the effective date
13 of this act may be in substantially the following form:

14 Advance Directive for Health Care

15 If I am incapable of making an informed decision regarding my health
16 care, I direct my health care providers to follow my instructions
17 below.

18 I. Living Will

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

(1) If I have a terminal condition, that is, an incurable and irreversible condition that even with the administration of life-sustaining treatment will, in the opinion of the attending physician and another physician, result in death within six (6) months:

_____ I direct that my life not be extended by life-sustaining treatment, including an artificially implanted medical device except that if I am unable to take food and water by mouth, I wish to receive artificially administered nutrition and hydration.

Initial only _____ I direct that my life not be extended by one option life-sustaining treatment, including artificially administered nutrition and hydration and an artificially implanted medical device.

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

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

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

_____ I direct that my life not be extended by life-sustaining treatment, except that if I am unable to take food and water by mouth, I wish to receive artificially administered nutrition and hydration or an artificially implanted medical device.

Initial only
one option

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

_____ 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 or an artificially implanted medical device.

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

1 (3) If I have an end-stage condition, that is, a
2 condition caused by injury, disease, or illness,
3 which results in severe and permanent deterioration
4 indicated by incompetency and complete physical
5 dependency for which treatment of the irreversible
6 condition would be medically ineffective:

7 _____ I direct that my life not be extended by
8 life-sustaining treatment, including an
9 artificially implanted medical device,
10 except that if I am unable to take food and
11 water by mouth, I wish to receive
12 artificially administered nutrition and
13 hydration.

14 Initial only
15 one option

_____ I direct that my life not be extended by
life-sustaining treatment, including
artificially administered nutrition and
17 hydration or an artificially implanted
18 medical device.

19 _____ I direct that I be given life-sustaining
20 treatment, including an artificially
21 implanted medical device, and, if I am
22 unable to take food and water by mouth, I
23 wish to receive artificially administered
24 nutrition and hydration.

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

3 (4) OTHER. Here you may:

4 (a) describe other conditions in which you would
5 want life-sustaining treatment or
6 artificially administered nutrition and
7 hydration or an artificially implanted
8 medical device provided, withheld, or
9 withdrawn,

10 (b) give more specific instructions about your
11 wishes concerning life-sustaining treatment
12 or artificially administered nutrition and
13 hydration or an artificially implanted
14 medical device if you have a terminal
15 condition, are persistently unconscious, or
16 have an end-stage condition, or

17 (c) do both of these:

18 _____
19 _____
20 _____
21 _____
22 _____
23 _____
24 _____

1 Initial

2 II. My Appointment of My Health Care Proxy

3 If my attending physician and another physician determine that I am
4 no longer able to make decisions regarding my medical treatment, I
5 direct my attending physician and other health care providers
6 pursuant to the Oklahoma Advance Directive Act to follow the
7 instructions of _____, whom I appoint as my health care
8 proxy. If my health care proxy is unable or unwilling to serve, I
9 appoint _____ as my alternate health care proxy with the
10 same authority. My health care proxy is authorized to make whatever
11 medical treatment decisions I could make if I were able, except that
12 decisions regarding life-sustaining treatment and artificially
13 administered nutrition and hydration or an artificially implanted
14 medical device can be made by my health care proxy or alternate
15 health care proxy only as I have indicated in the foregoing
16 sections.

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

19 III. Anatomical Gifts

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

23 (Initial all that apply)

24 _____ transplantation

1 _____ therapy
2 _____ advancement of medical science, research, or education
3 _____ advancement of dental science, research, or education

4 Death means either irreversible cessation of circulatory and
5 respiratory functions or irreversible cessation of all functions of
6 the entire brain, including the brain stem. If I initial the "yes"
7 line below, I specifically donate:

8 _____ My entire body

9 or

10 _____ The following body organs or parts:

11 _____ lungs _____ liver

12 _____ pancreas _____ heart

13 _____ kidneys _____ brain

14 _____ skin _____ bones/marrow

15 _____ blood/fluids _____ tissue

16 _____ arteries _____ eyes/cornea/lens

17 IV. General Provisions

18 a. I understand that I must be eighteen (18) years of age
19 or older to execute this form.

20 b. I understand that my witnesses must be eighteen (18)
21 years of age or older and shall not be related to me
22 and shall not inherit from me.

23 c. I understand that if I have been diagnosed as pregnant
24 and that diagnosis is known to my attending physician,

1 I will be provided with life-sustaining treatment and
2 artificially administered hydration and nutrition and
3 will continue to receive an artificially implanted
4 medical device unless I have, in my own words,
5 specifically authorized that during a course of
6 pregnancy, life-sustaining treatment and/or
7 artificially administered hydration and/or nutrition
8 and/or artificially implanted medical device shall be
9 withheld or withdrawn.

10 d. In the absence of my ability to give directions
11 regarding the use of life-sustaining procedures, it is
12 my intention that this advance directive shall be
13 honored by my family and physicians as the final
14 expression of my legal right to choose or refuse
15 medical or surgical treatment including, but not
16 limited to, the administration of life-sustaining
17 procedures, and I accept the consequences of such
18 choice or refusal.

19 e. This advance directive shall be in effect until it is
20 revoked.

21 f. I understand that I may revoke this advance directive
22 at any time.
23
24

- 1 g. I understand and agree that if I have any prior
2 directives, and if I sign this advance directive, my
3 prior directives are revoked.
- 4 h. I understand the full importance of this advance
5 directive and I am emotionally and mentally competent
6 to make this advance directive.
- 7 i. I understand that my physician(s) shall make all
8 decisions based upon his or her best judgment applying
9 with ordinary care and diligence the knowledge and
10 skill that is possessed and used by members of the
11 physician's profession in good standing engaged in the
12 same field of practice at that time, measured by
13 national standards.

14 Signed this ____ day of _____, 20 __.

15 _____
16 (Signature)

17 _____
18 City of

19 _____
20 County, Oklahoma

21 _____
22 Date of birth

23 _____
24 (Optional for identification purposes)

This advance directive was signed in my presence.

Witness

_____, Oklahoma

Residence

Witness

_____, Oklahoma

Residence

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

E. In the case of a qualified patient, the patient's health care proxy, in consultation with the attending physician, shall have the authority to make treatment decisions for the patient including the provision, withholding, or withdrawal of life-sustaining procedures if so indicated in the patient's advance directive.

F. A person executing an advance directive appointing a health care proxy who may not have an attending physician for reasons based on established religious beliefs or tenets may designate an individual other than the designated health care proxy, in lieu of an attending physician and other physician, to determine the lack of decisional capacity of the person. Such designation shall be

1 specified and included as part of the advance directive executed
2 pursuant to the provisions of this section.

3 SECTION 2. This act shall become effective November 1, 2017.
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5 56-1-1754 LB 4/19/2017 2:53:01 PM
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