HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

HOUSE BILL 1191 By: West (Rick)

AS INTRODUCED

An Act relating to public health and safety; amending 63 O.S. 2011, Section 3101.4, which relates to advance directives; providing that certain advance directive that withholds artificially implanted medical device contains certain requirements; adding artificially implanted medical device to advance direct 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.

B. An advance directive that is not in the form set forth in subsection C of this section and that is executed in Oklahoma shall not be deemed to authorize the withholding or withdrawal of artificially administered nutrition and/or hydration or an artificially implanted medical device unless it specifically authorizes the withholding or withdrawal of artificially administered nutrition and/or hydration or an artificially implanted medical device in the declarant's own words or by a separate section, separate paragraph, or other separate subdivision that deals only with nutrition and/or hydration or an artificially implanted medical device and which section, paragraph, or other subdivision is separately initialed, separately signed, or otherwise separately marked by the declarant.

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

Advance Directive for Health Care

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

I. Living Will

If my attending physician and another physician determine that I am no longer able to make decisions regarding my medical treatment, I direct my attending physician and other health care providers, pursuant to the Oklahoma

Advance Directive Act, to follow my instructions as set 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, except that if I am unable to take food and water by mouth, I wish to receive artificially administered nutrition and hydration.

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.

_____ 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.

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.

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

(3) If I have an end-stage condition, that is, a condition caused by injury, disease, or illness,

which results in severe and permanent deterioration indicated by incompetency and complete physical dependency for which treatment of the irreversible condition would be medically ineffective:

_____ 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.

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.

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

(4) OTHER. Here you may:

(a) describe other conditions in which you would want life-sustaining treatment or

artificially administered nutrition and hydration or an artificially implanted medical device provided, withheld, or withdrawn,

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

(c) do both of these:

_____

_____

_____

_____

_____

_____

_____

_____

Initial

II. My Appointment of My Health Care Proxy

If my attending physician and another physician determine that I am no longer able to make decisions regarding my medical treatment, I direct my attending physician and other health care providers

pursuant to the Oklahoma Advance Directive Act to follow the instructions of _____, whom I appoint as my health care proxy. If my health care proxy is unable or unwilling to serve, I appoint _____ as my alternate health care proxy with the same authority. My health care proxy is authorized to make whatever medical treatment decisions I could make if I were able, except that decisions regarding life-sustaining treatment and artificially administered nutrition and hydration or an artificially implanted medical device can be made by my health care proxy or alternate health care proxy only as I have indicated in the foregoing sections.

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

III. Anatomical Gifts

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

(Initial all that apply)

_____ transplantation

_____ therapy

_____ advancement of medical science, research, or education

_____ advancement of dental science, research, or education

Death means either irreversible cessation of circulatory and respiratory functions or irreversible cessation of all functions of

the entire brain, including the brain stem. If I initial the "yes" line below, I specifically donate:

_____ My entire body

or

_____ The following body organs or parts:

_____ lungs _____ liver

_____ pancreas _____ heart

_____ kidneys _____ brain

_____ skin _____ bones/marrow

_____ blood/fluids _____ tissue

_____ arteries _____ eyes/cornea/lens

IV. General Provisions

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

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

c. I understand that if I have been diagnosed as pregnant and that diagnosis is known to my attending physician, I will be provided with life-sustaining treatment and artificially administered hydration and nutrition and will continue to receive an artificially implanted medical device unless I have, in my own words, specifically authorized that during a course of

pregnancy, life-sustaining treatment and/or artificially administered hydration and/or nutrition and/or artificially implanted medical device shall be withheld or withdrawn.

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

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

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

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

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

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

Signed this _____ day of _____, 20 __.

_____

(Signature)

_____

City of

_____

County, Oklahoma

_____

Date of birth

_____

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

SECTION 2. This act shall become effective November 1, 2017.

COMMITTEE REPORT BY: COMMITTEE ON HEALTH SERVICES AND LONG-TERM CARE, dated 02/08/2017 - DO PASS.