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April 4, 2017

ENGROSSED HOUSE
BILL NO. 1191

By: West (Rick) of the House

and

Silk of the Senate

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

1 not be deemed to authorize the withholding or withdrawal of
2 artificially administered nutrition and/or hydration or an
3 artificially implanted medical device unless it specifically
4 authorizes the withholding or withdrawal of artificially
5 administered nutrition and/or hydration or an artificially implanted
6 medical device in the declarant's own words or by a separate
7 section, separate paragraph, or other separate subdivision that
8 deals only with nutrition and/or hydration or an artificially
9 implanted medical device and which section, paragraph, or other
10 subdivision is separately initialed, separately signed, or otherwise
11 separately marked by the declarant.

12 C. An advance directive may be in substantially the following
13 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 (1) If I have a terminal condition, that is, an incurable
2 and irreversible condition that even with the
3 administration of life-sustaining treatment will, in
4 the opinion of the attending physician and another
5 physician, result in death within six (6) months:

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

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

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

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

22 (Initial if applicable)

23 (2) If I am persistently unconscious, that is, I have
24 an irreversible condition, as determined by the

1 attending physician and another physician, in
2 which thought and awareness of self and
3 environment are absent:

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

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

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

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

21 (3) If I have an end-stage condition, that is, a
22 condition caused by injury, disease, or illness,
23 which results in severe and permanent deterioration
24 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 _____ I direct that my life not be extended by one option 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

1 medical device provided, withheld, or
2 withdrawn,

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

10 (c) do both of these:

11 _____
12 _____
13 _____
14 _____
15 _____
16 _____
17 _____

18 Initial

19 II. My Appointment of My Health Care Proxy

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

1 proxy. If my health care proxy is unable or unwilling to serve, I
2 appoint _____ as my alternate health care proxy with the
3 same authority. My health care proxy is authorized to make whatever
4 medical treatment decisions I could make if I were able, except that
5 decisions regarding life-sustaining treatment and artificially
6 administered nutrition and hydration or an artificially implanted
7 medical device can be made by my health care proxy or alternate
8 health care proxy only as I have indicated in the foregoing
9 sections.

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

12 III. Anatomical Gifts

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

16 (Initial all that apply)

17 _____ transplantation

18 _____ therapy

19 _____ advancement of medical science, research, or education

20 _____ advancement of dental science, research, or education

21 Death means either irreversible cessation of circulatory and
22 respiratory functions or irreversible cessation of all functions of
23 the entire brain, including the brain stem. If I initial the "yes"
24 line below, I specifically donate:

1 _____ My entire body

2 or

3 _____ The following body organs or parts:

4 _____ lungs _____ liver

5 _____ pancreas _____ heart

6 _____ kidneys _____ brain

7 _____ skin _____ bones/marrow

8 _____ blood/fluids _____ tissue

9 _____ arteries _____ eyes/cornea/lens

10 IV. General Provisions

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

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

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

1 and/or artificially implanted medical device shall be
2 withheld or withdrawn.

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

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

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

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

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

22 i. I understand that my physician(s) shall make all
23 decisions based upon his or her best judgment applying
24 with ordinary care and diligence the knowledge and

1 skill that is possessed and used by members of the
2 physician's profession in good standing engaged in the
3 same field of practice at that time, measured by
4 national standards.

5 Signed this _____ day of _____, 20 ____.

6 _____
7 (Signature)

8 _____
9 City of

10 _____
11 County, Oklahoma

12 _____
13 Date of birth

14 _____
15 (Optional for identification purposes)

16 This advance directive was signed in my presence.

17 _____
18 Witness

19 _____, Oklahoma

20 Residence

21 _____
22 Witness

23 _____, Oklahoma

24 Residence

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

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

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

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

19 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
20 April 4, 2017 - DO PASS
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