

<DateSubmitted>

HOUSE OF REPRESENTATIVES
CONFERENCE COMMITTEE REPORT

Mr. President:
Mr. Speaker:

The Conference Committee, to which was referred

HB1191

By: West (Rick) of the House and Silk of the Senate

Title: Public health and safety; adding artificially implanted medical device to advance directive form; effective date.

Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the Senate recede from its amendment; and
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

House Action _____ Date _____ Senate Action _____ Date _____

SENATE CONFEREES

Silk	_____
Sykes	_____
Griffin	_____
Smalley	_____
Pugh	_____
Floyd	_____
Bass	_____

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

CONFERENCE COMMITTEE
SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1191

By: West (Rick) of the House
and
Silk of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

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

1 who are eighteen (18) years of age or older who are not legatees,
2 devisees, or heirs at law.

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

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

16 Advance Directive for Health Care

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

20 I. Living Will

21 If my attending physician and another physician determine
22 that I am no longer able to make decisions regarding my
23 medical treatment, I direct my attending physician and
24 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, 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
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, 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.

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

2 (Initial if applicable)

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

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

14 Initial only _____ I direct that my life not be extended by
15 one option life-sustaining treatment, including
16 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 implanted
21 medical device, and, if I am unable to take
22 food and water by mouth, I wish to receive
23 artificially administered nutrition and
24 hydration.

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

2 (Initial if applicable)

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

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

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

21 _____ I direct that I be given life-sustaining
22 treatment, including an artificially
23 implanted medical device, and, if I am
24 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:

1 _____
2 _____
3 Initial

4 II. My Appointment of My Health Care Proxy

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

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

21 III. Anatomical Gifts

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

1 (Initial all that apply)

2 _____ transplantation

3 _____ therapy

4 _____ advancement of medical science, research, or education

5 _____ advancement of dental science, research, or education

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

10 _____ My entire body

11 or

12 _____ The following body organs or parts:

13 _____ lungs _____ liver

14 _____ pancreas _____ heart

15 _____ kidneys _____ brain

16 _____ skin _____ bones/marrow

17 _____ blood/fluids _____ tissue

18 _____ arteries _____ eyes/cornea/lens

19 IV. General Provisions

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

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

- 1 c. I understand that if I have been diagnosed as pregnant
2 and that diagnosis is known to my attending physician,
3 I will be provided with life-sustaining treatment and
4 artificially administered hydration and nutrition and
5 will continue to receive an artificially implanted
6 medical device unless I have, in my own words,
7 specifically authorized that during a course of
8 pregnancy, life-sustaining treatment and/or
9 artificially administered hydration and/or nutrition
10 and/or artificially implanted medical device shall be
11 withheld or withdrawn.
- 12 d. In the absence of my ability to give directions
13 regarding the use of life-sustaining procedures, it is
14 my intention that this advance directive shall be
15 honored by my family and physicians as the final
16 expression of my legal right to choose or refuse
17 medical or surgical treatment including, but not
18 limited to, the administration of life-sustaining
19 procedures, and I accept the consequences of such
20 choice or refusal.
- 21 e. This advance directive shall be in effect until it is
22 revoked.
- 23 f. I understand that I may revoke this advance directive
24 at any time.

- 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.

4 56-1-7861 SD 05/08/17
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