

SENATE CHAMBER
STATE OF OKLAHOMA

DISPOSITION

☐ FLOOR AMENDMENT

No. _____

☐ COMMITTEE AMENDMENT

(Date)

Mr./Madame President:

I move to amend Senate Bill No. 333, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

Senator Standridge

Standridge-TEK-FS-Req#1982
3/4/2019 1:40 PM

(Floor Amendments Only) Date and Time Filed: _____

☐ Untimely

☐ Amendment Cycle Extended

☐ Secondary Amendment

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

FLOOR SUBSTITUTE

FOR

SENATE BILL NO. 333

By: Standridge of the Senate

and

Roberts (Sean) of the House

FLOOR SUBSTITUTE

[Oklahoma Advance Directive Act - health care
decisions - abuse or exploitation by certain person -
liability of health care provider or entity -
effective date]

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

SECTION 1. AMENDATORY Section 2, Chapter 144, O.S.L.

2017 (63 O.S. Supp. 2018, Section 3102.4), is amended to read as
follows:

Section 3102.4. A. When an adult patient or a person under
eighteen (18) years of age who may consent to have services provided
by health professionals under Section 2602 of ~~Title 63 of the~~
~~Oklahoma Statutes~~ this title is persistently unconscious,
incompetent or otherwise mentally or physically incapable of
communicating, ~~these~~ a person who is reasonably available and
willing in the following classes, in the order of priority ~~below~~ set
forth in this subsection, ~~are~~ shall be authorized to make health

1 care decisions for the patient under the same standard as that
2 applicable to making life-sustaining treatment decisions under
3 Section 3101.16 of ~~Title 63 of the Oklahoma Statutes~~ this title,
4 excluding any person who is disqualified from exercising such
5 authority by Section ~~3~~ 3102.5 of this ~~act~~ title. If those within a
6 class disagree, a majority within the class may make a health care
7 decision for the patient. However, a provider of health care to the
8 patient or any member or members of any of the following classes may
9 petition a court that would have jurisdiction over a guardianship
10 proceeding concerning the patient under Section 1-115 of Title 30 of
11 the Oklahoma Statutes to seek an order directing a different health
12 care decision on the ground that the health care decision or
13 decisions made violate the standard required by this section,
14 granting another member or other members from among the following
15 classes (notwithstanding the statutory order of priority)
16 supervening authority to make health care decisions for the patient
17 on the ground that clear and convincing evidence demonstrates they
18 are more likely to adhere to that standard, or both. Upon motion by
19 any party, the court shall issue an order requiring that pending its
20 decision on the merits and the resolution of any appeal the patient
21 be provided with health care of which denial, in reasonable medical
22 judgment, would be likely to result in or hasten the death of the
23 patient, unless its provision would require denial of the same
24 health care to another patient. The classes are as follows:

1 1. A general guardian of the person appointed pursuant to
2 subsection A of Section 3-112 of Title 30 of the Oklahoma Statutes
3 or a limited guardian of the person appointed pursuant to subsection
4 B of Section 3-112 of Title 30 of the Oklahoma Statutes with
5 authority to make personal medical decisions as determined under
6 paragraph 5 of subsection B of Section 3-113 of Title 30 of the
7 Oklahoma Statutes;

8 2. A health care proxy, or alternate health care proxy,
9 designated by the patient, as defined in paragraph 6 of Section
10 3101.3 of Title 63 of the Oklahoma Statutes;

11 3. An attorney-in-fact authorized to act pursuant to the
12 Uniform Durable Power of Attorney Act, Sections 1071 through 1077 of
13 Title 58 of the Oklahoma Statutes, with authority to act regarding
14 the patient's health and medical care decisions, subject to the
15 limitations under paragraph 1 of subsection B of Section 1072.1 of
16 Title 58 of the Oklahoma Statutes;

17 4. The patient's spouse;

18 5. Adult children of the patient;

19 6. Parents of the patient;

20 7. Adult siblings;

21 8. Other adult relatives of the patient in order of kinship; or

22 9. Close friends of the patient who have maintained regular
23 contact with the patient sufficient to be familiar with the
24 patient's personal values. Execution of an affidavit stating

1 specific facts and circumstances documenting such contact
2 constitutes prima facie evidence of close friendship.

3 B. Prior to making a health care decision for a patient
4 pursuant to subsection A of this section, a person shall provide to
5 the health care provider or health care entity a signed copy of the
6 following statement to be entered into the patient's medical record:

7 "I hereby certify that:

8 I have not been convicted of, pleaded guilty to or pleaded no
9 contest to the crimes of abuse, verbal abuse, neglect or financial
10 exploitation by a caregiver; exploitation of an elderly person or
11 disabled adult; or abuse, neglect, exploitation or sexual abuse of a
12 child;

13 I have not been found to have committed abuse, verbal abuse or
14 exploitation by a final investigative finding of the State
15 Department of Health or Department of Human Services or by a finding
16 of an administrative law judge, unless it was overturned on appeal;
17 and

18 I have not been criminally charged as a person responsible for
19 the care of a vulnerable adult with a crime resulting in the death
20 or near death of a vulnerable adult."

21 SECTION 2. AMENDATORY Section 3, Chapter 144, O.S.L.
22 2017 (63 O.S. Supp. 2018, Section 3102.5), is amended to read as
23 follows:
24

1 Section 3102.5. A. No person shall be authorized under Section
2 ~~2~~ 3102.4 of this ~~act~~ title to make health care decisions for a
3 patient if that person:

4 1. Has been convicted of, pled guilty to, or pled no contest to
5 any violation of Section 843.1, 843.2, 843.4 or 843.5 of Title 21 of
6 the Oklahoma Statutes;

7 2. Has been found to have committed abuse, verbal abuse or
8 exploitation, as these terms are defined in Section 10-103 of Title
9 43A of the Oklahoma Statutes, by a final State Department of Health
10 or Department of Human Services investigative finding or by an
11 administrative law judge finding, unless that finding has been
12 overturned through judicial review; or

13 3. Has been criminally charged as described in subsection B of
14 Section 10-110.1 of Title 43A of the Oklahoma Statutes, unless the
15 person has been acquitted or those charges have been finally
16 dismissed.

17 B. No health care provider or health care entity shall be
18 liable for following in good faith the instructions of a person
19 otherwise authorized to make health care decisions for a patient and
20 who has submitted the statement as required by Section 3102.4 of
21 this title, but whom the health care provider or health care entity
22 does not know or have reason to know is disqualified from exercising
23 such authority by subsection A of this section.
24

SECTION 3. This act shall become effective November 1, 2019.

57-1-1982 TEK 3/4/2019 1:40:13 PM