

1 ENGROSSED SENATE  
2 BILL NO. 164

By: Stanley of the Senate

3 and

4 Roe of the House

5  
6 An Act relating to medical care; amending 63 O.S.  
7 2011, Section 3102A, which relates to experimental  
8 treatments, tests or drugs; authorizing parent or  
9 legal guardian to provide informed consent for  
10 incapacitated minor; modifying certain condition;  
11 providing for participation in a research program or  
12 experimental procedures without informed consent  
under certain conditions; specifying applicability of  
certain provisions; providing certain construction;  
and providing an effective date.

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

14 SECTION 1. AMENDATORY 63 O.S. 2011, Section 3102A, is  
15 amended to read as follows:

16 Section 3102A. A. When ~~an adult person~~ a patient, because of a  
17 medical condition, is treated by a licensed medical doctor or doctor  
18 of osteopathy holding a faculty appointment at a medical school  
19 accredited by the Liaison Committee on Medical Education or American  
20 Osteopathic Association, or holding clinical privileges at a  
21 healthcare institution that conducts human subject research approved  
22 by ~~local~~ an accredited institutional review board, and such ~~person~~  
23 patient is incapable of giving informed consent for a ~~local~~  
24 ~~institutional-review-board-approved~~ an accredited-institutional-

1 review-board-approved experimental treatment, test or drug, then the  
2 administration of such treatment, test or drug may proceed upon  
3 obtaining informed consent of a parent, legal guardian, attorney-in-  
4 fact with health care decision authority, or a family member in the  
5 following order of priority:

6 1. ~~The~~ If the patient is a minor, the parent or legal guardian;  
7 and

8 2. If the patient is an adult:

9 a. the spouse, unless the patient has no spouse, or is  
10 separated, or the spouse is physically or mentally  
11 incapable of giving consent, or the spouse's location  
12 is unknown or the spouse is overseas, or the spouse is  
13 otherwise not available~~+~~,

14 ~~2.—An~~

15 b. an adult son or daughter~~+~~,

16 ~~3.—Either~~

17 c. either parent~~+~~,

18 ~~4.—An~~

19 d. an adult brother or sister~~+~~, or

20 ~~5.—A~~

21 e. a relative by blood or marriage.

22 B. ~~Nothing~~ If the patient is an adult, nothing in this section  
23 shall authorize such legal guardian, attorney-in-fact or family  
24 member to consent to treatment in contravention to such

1 incapacitated ~~person's~~ patient's expressed permission or prohibition  
2 regarding such treatment.

3 C. In a life-threatening emergency, consent of such an  
4 incapacitated person to any research program or experimental  
5 procedure shall not be required when the accredited institutional  
6 review board responsible for the review, approval and continuing  
7 review of the research activity has approved both the research  
8 activity and a waiver of informed consent and has both found and  
9 documented that the requirements for an exception from informed  
10 consent requirements for emergency research, as provided under Part  
11 50 of Title 21 or Part 46 of Title 45 of the Code of Federal  
12 Regulations, as amended, have been satisfied. This subsection shall  
13 apply to all pre-hospital or hospital research conducted by a  
14 licensed medical doctor or doctor of osteopathy.

15 D. Nothing in this section shall permit a parent, legal  
16 guardian, attorney-in-fact or family member to authorize the use of  
17 an experimental treatment, test or drug on a pregnant patient.

18 SECTION 2. This act shall become effective November 1, 2021.  
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1 Passed the Senate the 2nd day of March, 2021.

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3 \_\_\_\_\_  
4 Presiding Officer of the Senate

5 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
6 2021.

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8 \_\_\_\_\_  
9 Presiding Officer of the House  
10 of Representatives