HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

ENGROSSED SENATE
BILL NO. 164 By: Stanley of the Senate

and

Roe of the House

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

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

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

Section 3102A. A. When ~~an adult person~~ a patient, because of a medical condition, is treated by a licensed medical doctor or doctor of osteopathy holding a faculty appointment at a medical school accredited by the Liaison Committee on Medical Education or American Osteopathic Association, or holding clinical privileges at a healthcare institution that conducts human subject research approved

by ~~local~~ an accredited institutional review board, and such ~~person~~ patient is incapable of giving informed consent for ~~a local-institutional-review-board-approved~~ an accredited-institutional-review-board-approved experimental treatment, test or drug, then the administration of such treatment, test or drug may proceed upon obtaining informed consent of a parent, legal guardian, attorney-in-fact with health care decision authority, or a family member in the following order of priority:

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

2. If the patient is an adult:

a. the spouse, unless the patient has no spouse, or is separated, or the spouse is physically or mentally incapable of giving consent, or the spouse's location is unknown or the spouse is overseas, or the spouse is otherwise not available~~;~~,

~~2. An~~

b. an adult son or daughter~~;~~,

~~3. Either~~

c. either parent~~;~~,

~~4. An~~

d. an adult brother or sister~~;~~, or

~~5. A~~

e. a relative by blood or marriage.

B. ~~Nothing~~ If the patient is an adult, nothing in this section shall authorize such legal guardian, attorney-in-fact or family member to consent to treatment in contravention to such incapacitated ~~person's~~ patient's expressed permission or prohibition regarding such treatment.

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

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

SECTION 2. This act shall become effective November 1, 2021.

COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 03/31/2021 - DO PASS.