

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 SENATE BILL 1596

By: Howard

4  
5  
6 AS INTRODUCED

7 An Act relating to health care power of attorney;  
8 creating the Oklahoma Health Care Agent Act;  
9 providing short title; defining terms; authorizing  
10 execution of power of attorney for health care;  
11 establishing requirements for execution of power of  
12 attorney for health care; specifying when power of  
13 attorney for health care is effective; establishing  
14 requirements for revocation of power of attorney for  
15 health care; creating optional form for execution of  
16 power of attorney for health care; authorizing  
17 surrogate to make health care decisions under certain  
18 circumstances; specifying priority of persons  
19 eligible to act as surrogate; specifying requirements  
20 for health care provider when class of surrogates is  
21 in disagreement; providing for disqualification of  
22 surrogate; prohibiting certain persons from serving  
23 as surrogate; requiring compliance by guardian;  
24 providing exception; requiring certain communication  
by health care provider; requiring record of certain  
information; requiring certain compliance by health  
care provider; providing exceptions; requiring notice  
of certain noncompliance; authorizing access to  
certain information; establishing immunity from  
liability for certain actions; creating certain  
presumption; stating effectiveness of copy;  
construing provisions; providing for judicial relief;  
requiring retroactive application of provisions to  
certain documents; amending 63 O.S. 2021, Sections 1-  
1973, 3102.4, 3105.2, 3105.4, 3131.3 and 3131.5,  
which relate to the Home Care Act, the Oklahoma  
Advance Directive Act, the Physician Orders for Life-  
Sustaining Treatment Act, and the Oklahoma Do-Not-  
Resuscitate Act; updating statutory references;  
providing for codification; and declaring an  
emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3111.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Health Care Agent Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3111.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Health Care Agent Act:

1. "Advance health care directive" means an individual instruction to a health care proxy in substantial compliance with the Oklahoma Advance Directive Act, Section 3101 et seq. of Title 63 of the Oklahoma Statutes;

2. "Agent" means an individual designated in a power of attorney for health care to make a health care decision for the individual granting the power;

3. "Capacity" means an individual's ability to understand the significant benefits, risks, and alternatives to proposed health care and to make and communicate a health care decision;

1 4. "Guardian" means a judicially appointed guardian or  
2 conservator having authority to make a health care decision for an  
3 individual;

4 5. "Health care" means any care, treatment, service, or  
5 procedure to maintain, diagnose, or otherwise affect an individual's  
6 physical or mental condition;

7 6. "Health care decision" means a decision made by an  
8 individual or the individual's agent, guardian, or surrogate,  
9 regarding the individual's health care, including:

10 a. selection and discharge of health care providers and  
11 institutions,

12 b. approval or disapproval of diagnostic tests, surgical  
13 procedures, programs of medication, and orders not to  
14 resuscitate, and

15 c. directions to provide, withhold, or withdraw artificial  
16 nutrition and hydration and all other forms of health care, if  
17 nomination is made in compliance with the Oklahoma Advance Directive  
18 Act;

19 7. "Health care institution" means an institution, facility, or  
20 agency licensed, certified, or otherwise authorized or permitted by  
21 law to provide health care in the ordinary course of business;

22 8. "Health care provider" means an individual licensed,  
23 certified, or otherwise authorized or permitted by law to provide  
24

1 health care in the ordinary course of business or practice of a  
2 profession;

3 9. "Individual instruction" means an individual's direction  
4 concerning a health care decision for the individual;

5 10. "Person" means an individual, corporation, business trust,  
6 estate, trust, partnership, association, joint venture, government,  
7 governmental subdivision, agency, or instrumentality, or any other  
8 legal or commercial entity;

9 11. "Physician" means an individual authorized to practice  
10 medicine or osteopathy pursuant to Chapter 11 or Chapter 14 of Title  
11 59 of the Oklahoma Statutes;

12 12. "Power of attorney for health care" means the designation  
13 of an agent to make health care decisions for the individual  
14 granting the power;

15 13. "Primary physician" means a physician designated by an  
16 individual or the individual's agent, guardian, or surrogate, to  
17 have primary responsibility for the individual's health care or, in  
18 the absence of a designation or if the designated physician is not  
19 reasonably available, a physician who undertakes the responsibility;

20 14. "Reasonably available" means readily able to be contacted  
21 without undue effort and willing and able to act in a timely manner  
22 considering the urgency of the patient's health care needs;

1 15. "State" means a State of the United States, the District of  
2 Columbia, the Commonwealth of Puerto Rico, or a territory or insular  
3 possession subject to the jurisdiction of the United States;

4 16. "Supervising health care provider" means the primary  
5 physician or, if there is no primary physician or the primary  
6 physician is not reasonably available, the health care provider who  
7 has undertaken primary responsibility for an individual's health  
8 care; and

9 17. "Surrogate" means an individual, other than a patient's  
10 agent or guardian, authorized under this act to make a health care  
11 decision for the patient.

12 SECTION 3. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 3111.3 of Title 63, unless there  
14 is created a duplication in numbering, reads as follows:

15 A. An adult or emancipated minor may give an oral or written  
16 individual instruction. The instruction may be limited to take  
17 effect only if a specified condition arises.

18 B. An adult or emancipated minor may execute a power of  
19 attorney for health care, which may authorize the agent to make any  
20 health care decision the principal could have made while having  
21 capacity. The power shall be in writing and signed by the  
22 principal. The power remains in effect notwithstanding the  
23 principal's later incapacity and may include individual  
24 instructions. Unless related to the principal by blood, marriage,

1 or adoption, an agent may not be an owner, operator, or employee of  
2 a residential long-term health care institution at which the  
3 principal is receiving care.

4 C. Unless otherwise specified in a power of attorney for health  
5 care, the authority of an agent becomes effective only upon a  
6 determination that the principal lacks capacity and ceases to be  
7 effective upon a determination that the principal has recovered  
8 capacity.

9 D. Unless otherwise specified in a power of attorney for health  
10 care, a determination that an individual lacks or has recovered  
11 capacity, or that another condition exists that affects an  
12 individual instruction or the authority of an agent, shall be made  
13 by the primary physician.

14 E. An agent shall make a health care decision in accordance  
15 with the principal's individual instructions, if any, and other  
16 wishes to the extent known to the agent. Otherwise, the agent shall  
17 make the decision in accordance with the agent's determination of  
18 the principal's best interest. In determining the principal's best  
19 interest, the agent shall consider the principal's personal values  
20 to the extent known to the agent.

21 F. A health care decision made by an agent for a principal is  
22 effective without judicial approval.

23 G. A power of attorney for health care may include the  
24 individual's nomination of a guardian of the person.

1 H. A power of attorney for health care is valid for purposes of  
2 this act if it is in substantial compliance with this act,  
3 regardless of when or where executed or communicated.

4 SECTION 4. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 3111.4 of Title 63, unless there  
6 is created a duplication in numbering, reads as follows:

7 A. An individual may revoke the designation of an agent by a  
8 signed writing or by personally informing the supervising health  
9 care provider at any time and in any manner that communicates an  
10 intent to revoke.

11 B. A health care provider, agent, guardian, or surrogate who is  
12 informed of a revocation shall promptly communicate the fact of the  
13 revocation to the supervising health care provider and to any health  
14 care institution at which the patient is receiving care.

15 C. A decree of annulment, divorce, dissolution of marriage, or  
16 legal separation revokes a previous designation of a spouse as agent  
17 unless otherwise specified in the decree or specifically enumerated  
18 in a power of attorney for health care.

19 D. A power of attorney for health care that conflicts with an  
20 earlier power of attorney for health care revokes the earlier power  
21 of attorney to the extent of the conflict.

22 SECTION 5. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 3111.5 of Title 63, unless there  
24 is created a duplication in numbering, reads as follows:

1 The following form may, but need not, be used to create a power  
2 of attorney for health care. The other sections of this act govern  
3 the effect of this form or any other writing used to create a power  
4 of attorney for health care. An individual may complete or modify  
5 all or any part of the following form:

6 HEALTH CARE POWER OF ATTORNEY

7 You have the right to give instructions about your own health  
8 care. You also have the right to name someone else to make health  
9 care decisions for you. This form lets you do either or both of  
10 these things. It also lets you express your wishes regarding the  
11 designation of your primary physician. If you use this form, you  
12 may complete or modify all or any part of it. You are free to use a  
13 different form.

14 Part 1 of this form is a power of attorney for health care.  
15 Part 1 lets you name another individual as agent to make health care  
16 decisions for you if you become incapable of making your own  
17 decisions or if you want someone else to make those decisions for  
18 you now even though you are still capable. You may also name an  
19 alternate agent to act for you if your first choice is not willing,  
20 able, or reasonably available to make decisions for you. Unless  
21 related to you, your agent may not be an owner, operator, or  
22 employee of a residential long-term health care institution at which  
23 you are receiving care.

1 Unless the form you sign limits the authority of your agent,  
2 your agent may make all health care decisions for you. This form  
3 has a place for you to limit the authority of your agent. You need  
4 not limit the authority of your agent if you wish to rely on your  
5 agent for all health care decisions that may have to be made. If  
6 you choose not to limit the authority of your agent, your agent will  
7 have the right to:

8 1. consent or refuse consent to any care, treatment, service,  
9 or procedure to maintain, diagnose, or otherwise affect a physical  
10 or mental condition;

11 2. select or discharge health care providers and institutions;

12 3. approve or disapprove diagnostic tests, surgical procedures,  
13 programs of medication, and orders not to resuscitate; and

14 4. direct the provision, withholding, or withdrawal of  
15 artificial nutrition and hydration and all other forms of health  
16 care.

17 Part 2 of this form lets you designate a physician to have  
18 primary responsibility for your health care.

19 After completing this form, sign and date the form at the end.

20 It is recommended but not required that you request two other  
21 individuals to sign as witnesses. Give a copy of the signed and  
22 completed form to your physician, to any other health care providers  
23 you may have, to any health care institution at which you are  
24 receiving care, and to any health care agents you have named. You

1 should talk to the person you have named as agent to make sure that  
2 he or she understands your wishes and is willing to take the  
3 responsibility.

4 You have the right to revoke this power of attorney for health  
5 care or replace this form at any time.

6 PART 1

7 POWER OF ATTORNEY FOR HEALTH CARE

8 1. DESIGNATION OF AGENT: I designate the following individual  
9 as my agent to make health care decisions for me:

10 \_\_\_\_\_  
11 (name of individual you choose as agent)

12 \_\_\_\_\_  
13 (address) (city) (state) (zip code)

14 \_\_\_\_\_  
15 (home phone) (work phone)

16 OPTIONAL: If I revoke my agent's authority or if my agent is  
17 not willing, able, or reasonably available to make a health care  
18 decision for me, I designate as my first alternate agent:

19 \_\_\_\_\_  
20 (name of individual you choose as first alternate agent)

21 \_\_\_\_\_  
22 (address) (city) (state) (zip code)

23 \_\_\_\_\_  
24 (home phone) (work phone)



1 4. AGENT'S OBLIGATION: My agent shall make health care  
2 decisions for me in accordance with this power of attorney for  
3 health care and my other wishes to the extent known to my agent. To  
4 the extent my wishes are unknown, my agent shall make health care  
5 decisions for me in accordance with what my agent determines to be  
6 in my best interest. In determining my best interest, my agent  
7 shall consider my personal values to the extent known to my agent.

8 \_\_\_\_\_

9 (Initials)

10 5. NOMINATION OF GUARDIAN: If a guardian of my person needs to  
11 be appointed for me by a court, I nominate the agent designated in  
12 this form. If that agent is not willing, able, or reasonably  
13 available to act as guardian, I nominate the alternate agents whom I  
14 have named, in the order designated.

15 \_\_\_\_\_

16 (Initials)

17 6. RELIEF FROM PAIN: Except as I state in the following space,  
18 I direct that treatment for alleviation of pain or discomfort be  
19 provided at all times, even if it hastens my death:

20 \_\_\_\_\_  
21 \_\_\_\_\_

22 7. OTHER WISHES: (If you do not agree with any of the optional  
23 choices above and wish to write your own, or if you wish to add to

24  
25

1 the instructions you have given above, you may do so here.) I  
2 direct that:

3 \_\_\_\_\_  
4 \_\_\_\_\_

5 (Add additional sheets if needed.)

6 PART 2  
7 PRIMARY PHYSICIAN  
8 (OPTIONAL)

9 8. I designate the following physician as my primary physician:

10 \_\_\_\_\_  
11 (name of physician)

12 \_\_\_\_\_  
13 (address) (city) (state) (zip code)

14 \_\_\_\_\_  
15 (phone)

16 OPTIONAL: If the physician I have designated above is not  
17 willing, able, or reasonably available to act as my primary  
18 physician, I designate the following physician as my primary  
19 physician:

20 \_\_\_\_\_  
21 (name of physician)

22 \_\_\_\_\_  
23 (address) (city) (state) (zip code)

24 \_\_\_\_\_  
25 \_\_\_\_\_

1 (phone)

2  
3 9. EFFECT OF COPY: A copy of this form has the same effect as  
4 the original.

5 10. SIGNATURES: Sign and date the form here:

6 \_\_\_\_\_  
7 (date)

\_\_\_\_\_ (sign your name)

8 \_\_\_\_\_  
9 (address)

\_\_\_\_\_ (print your name)

10 \_\_\_\_\_  
11 (city)

(state)

12 (Optional) SIGNATURES OF WITNESSES:

13 First witness

Second witness

14 \_\_\_\_\_  
15 (print name)

\_\_\_\_\_ (print name)

16 \_\_\_\_\_  
17 (address)

\_\_\_\_\_ (address)

18 \_\_\_\_\_  
19 (city)

(state)

\_\_\_\_\_ (city)

(state)

20 \_\_\_\_\_  
21 (signature of witness)

\_\_\_\_\_ (signature of witness)

22 \_\_\_\_\_  
23 (date)

\_\_\_\_\_ (date)

1 SECTION 6. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 3111.6 of Title 63, unless there  
3 is created a duplication in numbering, reads as follows:

4 A. A surrogate may make a health care decision for a patient  
5 who is an adult or emancipated minor if the patient has been  
6 determined by the primary physician to lack capacity and no agent or  
7 guardian has been appointed or the agent or guardian is not  
8 reasonably available.

9 B. An adult or emancipated minor may designate any individual  
10 to act as surrogate by personally informing the supervising health  
11 care provider. In the absence of a designation, or if the designee  
12 is not reasonably available, any member of the following classes of  
13 the patient's family who is reasonably available, in descending  
14 order of priority, may act as surrogate:

- 15 1. The spouse, unless legally separated;
- 16 2. An adult child;
- 17 3. A parent; or
- 18 4. An adult sibling.

19 C. If none of the individuals eligible to act as surrogate  
20 under subsection B of this section is reasonably available, an adult  
21 who has exhibited special care and concern for the patient, who is  
22 familiar with the patient's personal values, and who is reasonably  
23 available may act as surrogate.

1 D. A surrogate shall communicate his or her assumption of  
2 authority as promptly as practicable to the members of the patient's  
3 family specified in subsection B of this section who can be readily  
4 contacted.

5 E. If more than one member of a class assumes authority to act  
6 as surrogate, and they do not agree on a health care decision and  
7 the supervising health care provider is so informed, the supervising  
8 health care provider shall comply with the decision of a majority of  
9 the members of that class who have communicated their views to the  
10 provider. If the class is evenly divided concerning the health care  
11 decision and the supervising health care provider is so informed,  
12 that class and all individuals having lower priority are  
13 disqualified from making the decision.

14 F. A surrogate shall make a health care decision in accordance  
15 with the patient's individual instructions, if any, and other wishes  
16 to the extent known to the surrogate. Otherwise, the surrogate  
17 shall make the decision in accordance with the surrogate's  
18 determination of the best interest of the patient. In determining  
19 the best interest of the patient, the surrogate shall consider the  
20 patient's personal values to the extent known to the surrogate.

21 G. A health care decision made by a surrogate for a patient is  
22 effective without judicial approval.

23 H. An individual at any time may disqualify another, including  
24 a member of the individual's family, from acting as the individual's  
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1 surrogate by a signed writing or by personally informing the  
2 supervising health care provider of the disqualification.

3 I. Unless related to the patient by blood, marriage, or  
4 adoption, a surrogate may not be an owner, operator, or employee of  
5 a residential long-term health care institution at which the patient  
6 is receiving care.

7 J. A supervising health care provider may require an individual  
8 claiming the right to act as surrogate for a patient to provide a  
9 written declaration under penalty of perjury stating facts and  
10 circumstances reasonably sufficient to establish the claimed  
11 authority.

12 SECTION 7. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 3111.7 of Title 63, unless there  
14 is created a duplication in numbering, reads as follows:

15 A guardian shall comply with the individual instructions of the  
16 ward and may not revoke the ward's power of attorney for health care  
17 unless the appointing court expressly so authorizes.

18 SECTION 8. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 3111.8 of Title 63, unless there  
20 is created a duplication in numbering, reads as follows:

21 A. Before implementing a health care decision made for a  
22 patient, a supervising health care provider, if possible, shall  
23 promptly communicate to the patient the decision made and the  
24 identity of the person making the decision.

1 B. A supervising health care provider who knows of the  
2 existence of an advance health care directive, a power of attorney  
3 for health care, a revocation of either, or a designation or  
4 disqualification of a surrogate, shall promptly record its existence  
5 in the patient's health care record and, if it is in writing, shall  
6 request a copy and if one is furnished shall arrange for its  
7 maintenance in the health care record.

8 C. A primary physician who makes or is informed of a  
9 determination that a patient lacks or has recovered capacity, or  
10 that another condition exists which affects an individual  
11 instruction or the authority of an agent, guardian, or surrogate,  
12 shall promptly record the determination in the patient's health care  
13 record and communicate the determination to the patient, if  
14 possible, and to any person then authorized to make health care  
15 decisions for the patient.

16 D. Except as provided in subsections E and F of this section, a  
17 health care provider or institution providing care to a patient  
18 shall:

19 1. Comply with an individual instruction of the patient and  
20 with a reasonable interpretation of that instruction made by a  
21 person then authorized to make health care decisions for the  
22 patient; and

23 2. Comply with a health care decision for the patient made by a  
24 person then authorized to make health care decisions for the patient

1 to the same extent as if the decision had been made by the patient  
2 while having capacity.

3 E. A health care provider may decline to comply with an  
4 individual instruction or health care decision for reasons of  
5 conscience. A health care institution may decline to comply with an  
6 individual instruction or health care decision if the instruction or  
7 decision is contrary to a policy of the institution which is  
8 expressly based on reasons of conscience and if the policy was  
9 timely communicated to the patient or to a person then authorized to  
10 make health care decisions for the patient.

11 F. A health care provider or institution may decline to comply  
12 with an individual instruction or health care decision that requires  
13 medically ineffective health care or health care contrary to  
14 generally accepted health care standards applicable to the health  
15 care provider or institution.

16 G. A health care provider or institution that declines to  
17 comply with an individual instruction or health care decision shall:

18 1. Promptly so inform the patient, if possible, and any person  
19 then authorized to make health care decisions for the patient;

20 2. Provide continuing care to the patient until a transfer can  
21 be effected; and

22 3. Unless the patient or person then authorized to make health  
23 care decisions for the patient refuses assistance, immediately make  
24 all reasonable efforts to assist in the transfer of the patient to  
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1 another health care provider or institution that is willing to  
2 comply with the instruction or decision.

3 H. A health care provider or institution may not require or  
4 prohibit the execution or revocation of an advance health care  
5 directive as a condition for providing health care.

6 SECTION 9. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 3111.9 of Title 63, unless there  
8 is created a duplication in numbering, reads as follows:

9 Unless otherwise specified in a power of attorney for health  
10 care, a person then authorized to make health care decisions for a  
11 patient has the same rights as the patient to request, receive,  
12 examine, copy, and consent to the disclosure of medical or any other  
13 health care information.

14 SECTION 10. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 3111.10 of Title 63, unless  
16 there is created a duplication in numbering, reads as follows:

17 A. A health care provider or institution acting in good faith  
18 and in accordance with generally accepted health care standards  
19 applicable to the health care provider or institution is not subject  
20 to civil or criminal liability or to discipline for unprofessional  
21 conduct for:

22 1. Complying with a health care decision of a person apparently  
23 having authority to make a health care decision for a patient,  
24 including a decision to withhold or withdraw health care;

1           2. Declining to comply with a health care decision of a person  
2 based on a belief that the person then lacked authority; or

3           3. Complying with a power of attorney for health care and  
4 assuming that the designation was valid when made and has not been  
5 revoked or terminated.

6           B. An individual acting as agent or surrogate under this act is  
7 not subject to civil or criminal liability or to discipline for  
8 unprofessional conduct for health care decisions made in good faith.

9           SECTION 11.       NEW LAW       A new section of law to be codified  
10 in the Oklahoma Statutes as Section 3111.11 of Title 63, unless  
11 there is created a duplication in numbering, reads as follows:

12           A. This act shall not be construed to affect the right of an  
13 individual to make health care decisions while having capacity to do  
14 so.

15           B. An individual is presumed to have capacity to make a health  
16 care decision, to give or revoke an advance health care directive,  
17 powers of attorney for health care, and to designate or disqualify a  
18 surrogate.

19           SECTION 12.       NEW LAW       A new section of law to be codified  
20 in the Oklahoma Statutes as Section 3111.12 of Title 63, unless  
21 there is created a duplication in numbering, reads as follows:

22           A copy of a written advance health care directive, written power  
23 of attorney for health care, revocation of either, or designation or  
24 disqualification of a surrogate has the same effect as the original.

1 SECTION 13. NEW LAW A new section of law to be codified

2 in the Oklahoma Statutes as Section 3111.13 of Title 63, unless  
3 there is created a duplication in numbering, reads as follows:

4 A. This act does not create a presumption concerning the  
5 intention of an individual who has not made or who has revoked a  
6 power of attorney for health care.

7 B. Death resulting from the withholding or withdrawal of health  
8 care in accordance with this act does not for any purpose constitute  
9 a suicide or homicide or legally impair or invalidate a policy of  
10 insurance or an annuity providing a death benefit, notwithstanding  
11 any term of the policy or annuity to the contrary.

12 C. This act shall not be construed to authorize mercy killing,  
13 assisted suicide, euthanasia, or the provision, withholding, or  
14 withdrawal of health care, to the extent prohibited by other  
15 statutes of this state.

16 D. This act shall not be construed to authorize or require a  
17 health care provider or institution to provide health care contrary  
18 to generally accepted health care standards applicable to the health  
19 care provider or institution.

20 E. This act shall not be construed to authorize an agent or  
21 surrogate to consent to the admission of an individual to a mental  
22 health care institution unless the individual's written directive  
23 expressly so provides.

1 F. This act shall not affect other statutes of this state  
2 governing treatment for mental illness of an individual  
3 involuntarily committed to a mental health care institution under  
4 Chapter 1 of Title 43A of the Oklahoma Statutes.

5 SECTION 14. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 3111.14 of Title 63, unless  
7 there is created a duplication in numbering, reads as follows:

8 On petition of a patient, the patient's agent, guardian, or  
9 surrogate, a health care provider or institution involved with the  
10 patient's care, or an individual described in subsection B or C of  
11 Section 6 of this act, the court may enjoin or direct a health care  
12 decision or order other equitable relief. A proceeding under this  
13 section shall be governed by Title 12 of the Oklahoma Statutes.

14 SECTION 15. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 3111.15 of Title 63, unless  
16 there is created a duplication in numbering, reads as follows:

17 Any document made in substantial compliance with the  
18 requirements of the Oklahoma Health Care Agent Act on or after  
19 November 1, 2021, shall have full force and effect.

20 SECTION 16. AMENDATORY 63 O.S. 2021, Section 1-1973, is  
21 amended to read as follows:

22 Section 1-1973. A. Patients who are capable of self-  
23 administering their own medications without assistance shall be  
24 encouraged and allowed to do so. However, a certified nurse aide  
25

1 may assist a patient whose condition is medically stable with the  
2 self-administration of routine, regularly scheduled medications that  
3 are intended to be self-administered, if the following conditions  
4 are met:

5 1. For an oral medication, the medication shall have been  
6 placed in a medication planner by a registered nurse, a relative of  
7 the patient or nursing staff of an Oklahoma licensed home health or  
8 hospice agency that is currently serving the patient; and

9 2. For all other forms, the certified nurse aide shall assist  
10 with self-administration consistent with a dispensed prescription's  
11 label or the package directions of an over-the-counter medication.

12 B. For purposes of this section, self-administered medications  
13 include both legend and over-the-counter oral dosage forms, topical  
14 dosage forms and topical ophthalmic, otic and nasal dosage forms,  
15 including solutions, suspensions, sprays and inhalers.

16 C. Assistance with self-administration of medication by a  
17 certified nurse aide may occur only upon a documented request by,  
18 and the written informed consent of, a patient or the patient's  
19 surrogate, guardian or attorney-in-fact.

20 D. For purposes of this section, assistance with self-  
21 administration of medication includes:

22 1. Taking an oral medication out of a pill planner and bringing  
23 it to the patient;

1           2. Placing an oral dosage in the patient's hand or placing the  
2 dosage in another container and helping the patient by lifting the  
3 container to his or her mouth;

4           3. If ordered by a physician, placing an oral medication in  
5 food before the patient self-administers;

6           4. Crushing an oral medication pursuant to orders given by a  
7 physician or health care professional;

8           5. Applying topical medications; and

9           6. Keeping a record of when a patient receives assistance with  
10 self-administration pursuant to this section.

11           E. For purposes of this section, assistance with self-  
12 administration of medication does not include:

13           1. Removing oral medication from any container other than a  
14 pill planner;

15           2. Mixing, compounding, converting or calculating medication  
16 doses;

17           3. The preparation of syringes for injection or the  
18 administration of medications by any injectable route;

19           4. Administration of medications through intermittent positive  
20 pressure breathing machines;

21           5. Administration of medications by way of a tube inserted in a  
22 cavity of the body;

23           6. Administration of parenteral preparations;

1 7. Irrigations or debriding agents used in the treatment of a  
2 skin condition;

3 8. Rectal, urethral, or vaginal preparations;

4 9. Medications ordered by the physician or health care  
5 professional with prescriptive authority to be given "as needed",  
6 unless the order is written with specific parameters that preclude  
7 independent judgment on the part of the certified nurse aide, and at  
8 the request of a competent patient;

9 10. Medications for which the time of administration, the  
10 amount, the strength of dosage, the method of administration or the  
11 reason for administration requires judgment or discretion on the  
12 part of the certified nurse aide; or

13 11. Assistance with the self-administration of medication by a  
14 certified nurse aide in an assisted living center through home care  
15 services as provided for in Section 1-890.8 of Title 63 of the  
16 Oklahoma Statutes.

17 F. Assistance with the self-administration of medication by a  
18 certified nurse aide as described in this section does not  
19 constitute administration as defined in Section 353.1 of Title 59 of  
20 the Oklahoma Statutes.

21 G. The State Commissioner of Health may by rule establish  
22 procedures and interpret terms as necessary to implement the  
23 provisions of this section.

24 H. For purposes of this section:  
25

1 1. "Informed consent" means advising the patient, or the  
2 patient's surrogate, guardian or attorney-in-fact, that the patient  
3 may be receiving assistance with self-administration of medication  
4 from a certified nurse aide; and

5 2. "Attorney-in-fact" means an attorney-in-fact authorized to  
6 act pursuant to the ~~Uniform Durable Power of Attorney Act, Sections~~  
7 ~~1071 through 1077 of Title 58 of the Oklahoma Statutes~~ Oklahoma  
8 Health Care Agent Act, with authority to act regarding the patient's  
9 health and medical care decisions, subject to the limitations under  
10 ~~paragraph 1 of subsection B of Section 1072.1 of Title 58 of the~~  
11 ~~Oklahoma Statutes~~ the Oklahoma Health Care Agent Act.

12 SECTION 17. AMENDATORY 63 O.S. 2021, Section 3102.4, is  
13 amended to read as follows:

14 Section 3102.4. A. When an adult patient or a person under  
15 eighteen (18) years of age who may consent to have services provided  
16 by health professionals under Section 2602 of this title is  
17 persistently unconscious, incompetent or otherwise mentally or  
18 physically incapable of communicating, a person who is reasonably  
19 available and willing in the following classes, in the order of  
20 priority set forth in this subsection, shall be authorized to make  
21 health care decisions for the patient under the same standard as  
22 that applicable to making life-sustaining treatment decisions under  
23 Section 3101.16 of this title, excluding any person who is  
24 disqualified from exercising such authority by Section 3102.5 of

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

20 The classes are as follows:

21 1. A general guardian of the person appointed pursuant to  
22 subsection A of Section 3-112 of Title 30 of the Oklahoma Statutes  
23 or a limited guardian of the person appointed pursuant to subsection  
24 B of Section 3-112 of Title 30 of the Oklahoma Statutes with

1 authority to make personal medical decisions as determined under  
2 paragraph 5 of subsection B of Section 3-113 of Title 30 of the  
3 Oklahoma Statutes;

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

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

14 4. The patient's spouse;

15 5. Adult children of the patient;

16 6. Parents of the patient;

17 7. Adult siblings;

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

19 9. Close friends of the patient who have maintained regular  
20 contact with the patient sufficient to be familiar with the  
21 patient's personal values. Execution of an affidavit stating  
22 specific facts and circumstances documenting such contact  
23 constitutes prima facie evidence of close friendship.

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

5 "I hereby certify that:

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

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

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

19 SECTION 18. AMENDATORY 63 O.S. 2021, Section 3105.2, is  
20 amended to read as follows:

21 Section 3105.2. As used in the Physician Orders for Life-  
22 Sustaining Treatment Act:

23 1. "Attorney-in-fact" means an attorney-in-fact authorized to  
24 act pursuant to the ~~Uniform Durable Power of Attorney Act, Sections~~

1 ~~1071 through 1077 of Title 58 of the Oklahoma Statutes~~ Oklahoma  
2 Health Care Agent Act, with authority to act regarding the patient's  
3 health and medical care decisions, subject to the limitations under  
4 ~~paragraph 1 of subsection B of Section 1072.1 of Title 58 of the~~  
5 ~~Oklahoma Statutes~~ the Oklahoma Health Care Agent Act;

6 2. "Guardian" means a general guardian of the person appointed  
7 pursuant to subsection A of Section 3-112 of Title 30 of the  
8 Oklahoma Statutes or a limited guardian of the person appointed  
9 pursuant to subsection B of Section 3-112 of Title 30 of the  
10 Oklahoma Statutes with the authority to make personal medical  
11 decisions as determined under paragraph 5 of subsection B of Section  
12 3-113 of Title 30 of the Oklahoma Statutes;

13 3. "Health care provider" means a person who is licensed,  
14 certified or otherwise authorized by the laws of this state to  
15 administer health care in the ordinary course of business or  
16 practice of a profession;

17 4. "Health care proxy" means a health care proxy ~~(or alternate~~  
18 ~~health care proxy)~~ authorized to act pursuant to the Oklahoma  
19 Advance Directive Act, Sections 3101.1 through 3101.16 ~~of Title 63~~  
20 ~~of the Oklahoma Statutes~~ this title, as defined in paragraph 6 of  
21 Section 3101.3 ~~of Title 63 of the Oklahoma Statutes~~ this title; and

22 5. "Other legally authorized person" means a person, other than  
23 a minor's custodial parent or guardian, the patient or the patient's  
24

1 attorney-in-fact, guardian or health care proxy, who has authority  
2 to make health care decisions for the patient under common law.

3 SECTION 19. AMENDATORY 63 O.S. 2021, Section 3105.4, is  
4 amended to read as follows:

5 Section 3105.4. 1. At the top of the first page of the  
6 standardized format Oklahoma physician orders for life-sustaining  
7 treatment form the following wording in all capitals shall appear  
8 against a contrasting color background: "FORM SHALL ACCOMPANY  
9 PERSON WHEN TRANSFERRED OR DISCHARGED"; at the bottom of the first  
10 page the following wording in all capitals shall appear against a  
11 contrasting color background: "HIPAA PERMITS DISCLOSURE TO HEALTH  
12 CARE PROFESSIONALS AND PROXY DECISION MAKERS AS NECESSARY FOR  
13 TREATMENT".

14 2. There shall be an introductory section, the left block of  
15 which shall contain the name "Oklahoma Physician Orders for Life-  
16 Sustaining Treatment (POLST)" followed by the words, "This Physician  
17 Order set is based on the patient's current medical condition and  
18 wishes and is to be reviewed for potential replacement in the case  
19 of a substantial change in either, as well as in other cases listed  
20 under F. Any section not completed indicates full treatment for  
21 that section. Photocopy or fax copy of this form is legal and  
22 valid." and the right block of which shall contain lines for the  
23 patient's name, the patient's date of birth and the effective date  
24

1 of the form followed by the statement, "Form must be reviewed at  
2 least annually."

3 3. In Section A of the form, the left block shall contain, in  
4 bold font, "A. Check One", and the right block shall be headed, in  
5 bold font, "Cardiopulmonary Resuscitation (CPR): Person has no  
6 pulse and is not breathing." below which there shall be a checkbox  
7 followed by "Attempt Resuscitation (CPR)", then a checkbox followed  
8 by "Do Not Attempt Resuscitation (DNR/ no CPR)", and below which  
9 shall be the words, "When not in cardiopulmonary arrest, follow  
10 orders in B, C and D below."

11 4. In Section B of the form, the left block shall contain, in  
12 bold, "B. Check One", and the right block shall be headed, in bold,  
13 "Medical Interventions: Person has pulse and/or is breathing."  
14 Below this there shall be a checkbox followed by, in bold, "Full  
15 Treatment" followed by, "Includes the use of intubation, advanced  
16 airway interventions, mechanical ventilation, defibrillation or  
17 cardio version as indicated, medical treatment, intravenous fluids,  
18 and cardiac monitor as indicated. Transfer to hospital if  
19 indicated. Include intensive care. Includes treatment listed under  
20 "Limited Interventions" and "Comfort Measures", followed by, in  
21 bold, "Treatment Goal: Attempt to preserve life by all medically  
22 effective means."

23 Below this there shall be a checkbox followed by, in bold,  
24 "Limited Interventions" followed by, "Includes the use of medical  
25

1 treatment, oral and intravenous medications, intravenous fluids,  
2 cardiac monitoring as indicated, noninvasive bi-level positive  
3 airway pressure, a bag valve mask or other advanced airway  
4 interventions. Includes treatment listed under "Comfort Measures",  
5 followed by, "Do not use intubation or mechanical ventilation.  
6 Transfer to hospital if indicated. Avoid intensive care." followed  
7 by, in bold, "Treatment Goal: Attempt to preserve life by basic  
8 medical treatments."

9 Below this there shall be a checkbox followed by, in bold,  
10 "Comfort Measures only" followed by, "Includes keeping the patient  
11 clean, warm and dry; use of medication by any route; positioning,  
12 wound care and other measures to relieve pain and suffering. Use  
13 oxygen, suction and manual treatment of airway obstruction as needed  
14 for comfort. Transfer from current location to intermediate  
15 facility only if needed and adequate to meet comfort needs and to  
16 hospital only if comfort needs cannot otherwise be met in the  
17 patient's current location (e.g., hip fracture; if intravenous route  
18 of comfort measures is required)."

19 Below this there shall be, in italics, "Additional Orders:"  
20 followed by an underlined space for other instructions.

21 5. In Section C of the form, the left block shall contain, in  
22 bold, "C. Check One" and the right block shall be headed, in bold,  
23 "Antibiotics".  
24

1 Below this there shall be a checkbox followed by, in bold, "Use  
2 antibiotics to preserve life."

3 Below this there shall be a checkbox followed by, in bold,  
4 "Trial period of antibiotics if and when infection occurs." After  
5 this there shall be, in italics, "\*Include goals below in E."

6 Below this there shall be a checkbox followed by, in bold,  
7 "Initially, use antibiotics only to relieve pain and discomfort."  
8 After this there shall be, in italics, "+Contact patient or  
9 patient's representative for further direction."

10 Below this there shall be, in italics, "Additional Orders:"  
11 followed by an underlined space for other instructions.

12 6. In Section D of the form, the left block shall contain, in  
13 bold, "D. Check One in Each Column", and the right block shall be  
14 headed in bold, "Assisted Nutrition and Hydration", below which  
15 shall be "Administer oral fluids and nutrition, if necessary by  
16 spoon feeding, if physically possible." Below these the right block  
17 shall be divided into three columns.

18 The leftmost column shall be headed, "TPN (Total Parenteral  
19 Nutrition-provision of nutrition into blood vessels)." Below this  
20 there shall be a checkbox followed by, in bold, "TPN long-term"  
21 followed by "if needed". Below this there shall be a checkbox  
22 followed by, in bold, "TPN for a trial period\*". Below this there  
23 shall be a checkbox followed by, in bold, "Initially, no TPN+".  
24

1 The middle column shall be headed "Tube Feeding". Below this  
2 there shall be a checkbox followed by, in bold, "Long-term feeding  
3 tube" followed by "if needed". Below this there shall be a checkbox  
4 followed by, in bold, "Feeding tube for a trial period\*". Below  
5 this there shall be a checkbox followed by, in bold, "Initially, no  
6 feeding tube".

7 The rightmost column shall be headed, "Intravenous (IV) Fluids  
8 for Hydration". Below this there shall be a checkbox followed by,  
9 in bold, "Long-term IV fluids" followed by "if needed". Below this  
10 there shall be a checkbox followed by, in bold, "IV fluids for a  
11 trial period\*". Below this there shall be a checkbox followed by,  
12 in bold, "Initially, no IV fluids+".

13 Running below all the columns there shall be, in italics,  
14 "Additional Orders:" followed by an underlined space for other  
15 instructions, followed by, in italics, "\*Include goals below in E.  
16 +Contact patient or patient's representative for further direction."

17 7. In Section E of the form, the left block shall contain, in  
18 bold, "E. Check all that apply" and the right block shall be  
19 headed, in bold, "Patient Preferences as a Basis for this POLST  
20 Form" shall include the following:

- 21 a. below the heading there shall be a box including the  
22 words, in bold, "Patient Goals/Medical Condition:"  
23 followed by an adequate space for such information,  
24

1           b.    below this there shall be a checkbox followed by, "The  
2           patient has an advance directive for health care in  
3           accordance with Sections 3101.4 or 3101.14 of Title 63  
4           of the Oklahoma Statutes." Below that there shall be  
5           a checkbox followed by, "The patient has a durable  
6           power of attorney for health care decisions in  
7           accordance with ~~paragraph 1 of subsection B of Section~~  
8           ~~1072.1 of Title 58 of the Oklahoma Statutes~~ the  
9           Oklahoma Health Care Agent Act." Below that shall be  
10          the indented words, "Date of execution" followed by an  
11          underlined space. Below that shall be the words, "If  
12          POLST not being executed by patient: We certify that  
13          this POLST is in accordance with the patient's advance  
14          directive." Below this there shall be an underlined  
15          space underneath which shall be positioned the words,  
16          "Name and Position (print) Signature" and "Signature  
17          of Physician",

18          c.    below these shall be the words, "Directions given by:"  
19          and below that a checkbox followed by "Patient", a  
20          checkbox followed by "Minor's custodial parent or  
21          guardian", a checkbox followed by "Attorney-in-fact",  
22          a checkbox followed by "Health care proxy", and a  
23          checkbox followed by "Other legally authorized  
24          person:" followed by an underlined space. Beneath or

1           beside the checkbox and "Other legally authorized  
2           person:" and the underlined space shall be the words  
3           "Basis of Authority:" followed by an underlined space,  
4           and

5           d.   below these shall be a four-column table with four  
6           rows. In the top row the first column shall be blank;  
7           the second column shall have the words, "Printed  
8           Name"; the third column shall have the word,  
9           "Signature", and the fourth column shall have the  
10          word, "Date". In the remaining rows the second  
11          through fourth columns shall be blank. In the first  
12          column of these rows, in the second row shall be the  
13          words, "Attending physician"; in the third row shall  
14          be the words, "Patient or other individual checked  
15          above (patient's representative)"; and in the fourth  
16          row shall be the words, "Health care professional  
17          preparing form (besides doctor)."

18          8. Section F of the form, which shall have the heading, in  
19          bold, "Information for Patient or Representative of Patient Named on  
20          this Form", shall include the following language, appearing in bold  
21          on the form:

22                 "The POLST form is always voluntary and is usually for persons  
23                 with advanced illness. Before providing information for or signing  
24                 it, carefully read "Information for Patients and Their Families -  
25

1 Your Medical Treatment Rights Under Oklahoma Law", which the health  
2 care provider must give you. It is especially important to read the  
3 sections on CPR and food and fluids, which have summaries of  
4 Oklahoma laws that may control the directions you may give. POLST  
5 records your wishes for medical treatment in your current state of  
6 health. Once initial medical treatment is begun and the risks and  
7 benefits of further therapy are clear, your treatment wishes may  
8 change. Your medical care and this form can be changed to reflect  
9 your new wishes at any time. However, no form can address all the  
10 medical treatment decisions that may need to be made. An advance  
11 health care directive is recommended, regardless of your health  
12 status. An advance directive allows you to document in detail your  
13 future health care instructions and/or name a health care agent to  
14 speak for you if you are unable to speak for yourself.

15 The State of Oklahoma affirms that the lives of all are of equal  
16 dignity regardless of age or disability and emphasizes that no one  
17 should ever feel pressured to agree to forego life-preserving  
18 medical treatment because of age, disability or fear of being  
19 regarded as a burden.

20 If this form is for a minor for whom you are authorized to make  
21 health care decisions, you may not direct denial of medical  
22 treatment in a manner that would violate the child abuse and neglect  
23 laws of Oklahoma. In particular, you may not direct the withholding  
24 of medically indicated treatment from a disabled infant with life-

1 threatening conditions, as those terms are defined in 42 U.S.C.,  
2 Section 5106g or regulations implementing it and 42 U.S.C., Section  
3 5106a."

4 9. Section G of the form, which shall have the heading, in  
5 bold, "Directions for Completing and Implementing Form", shall  
6 include the following three subdivisions:

7 a. the first subdivision, entitled "COMPLETING POLST",  
8 shall have the following language with the words, "The  
9 signature of the patient or the patient's  
10 representative is required" appearing in bold on the  
11 form:

12 "POLST must be reviewed and prepared in consultation  
13 with the patient or the patient's representative after  
14 that person has been given a copy of "Information for  
15 Patients and Their Families - Your Medical Treatment  
16 Rights Under Oklahoma Law". POLST must be reviewed  
17 and signed by a physician to be valid. Be sure to  
18 document the basis for concluding the patient had or  
19 lacked capacity at the time of execution of the form  
20 in the patient's medical record. If the patient lacks  
21 capacity, any current advance directive form must be  
22 reviewed and the patient's representative and  
23 physician must both certify that POLST complies with  
24 it. The signature of the patient or the patient's

1 representative is required; however, if the patient's  
2 representative is not reasonably available to sign the  
3 original form, a copy of the completed form with the  
4 signature of the patient's representative must be  
5 placed in the medical record as soon as practicable  
6 and "on file" must be written on the appropriate  
7 signature line on this form.",

- 8 b. the second subdivision, entitled "IMPLEMENTING POLST",  
9 shall have the following language:

10 "If a minor protests a directive to deny the minor  
11 life-preserving medical treatment, the denial of  
12 treatment may not be implemented pending issuance of a  
13 judicial order resolving the conflict. A health care  
14 provider unwilling to comply with POLST must comply  
15 with the transfer and treatment pending transfer  
16 requirements of Section 3101.9 of Title 63 of the  
17 Oklahoma Statutes as well as those of the  
18 Nondiscrimination in Treatment Act, Sections 3090.2  
19 and 3090.3 of Title 63 of the Oklahoma Statutes", and

- 20 c. the third subdivision, entitled "REVIEWING POLST",  
21 shall have the following language:

22 "This POLST must be reviewed at least annually or  
23 earlier if:  
24  
25

1           The patient is admitted to or discharged from a  
2           medical care facility; there is substantial change in  
3           the patient's health status; or the treatment  
4           preferences of the patient or patient's representative  
5           change."

6           The same requirements for participation of the patient or  
7           patient's representative, and signature by both a physician and the  
8           patient or the patient's representative, that are described under  
9           "COMPLETING POLST" shall also apply when POLST is reviewed, and must  
10          be documented in Section I.

11          10. Section H of the form, which shall have the heading, in  
12          bold, "REVOCATION OF POLST", shall have the following language, with  
13          the words specified below appearing in bold on the form:

14          "If POLST is revised or becomes invalid, write in bold the word  
15          "VOID" in large letters on the front of the form. After voiding the  
16          form a new form may be completed. A patient with capacity or the  
17          individual or individuals authorized to sign on behalf of the  
18          patient in Section E of this form may void this form. If no new  
19          form is completed, full treatment and resuscitation is to be  
20          provided, except as otherwise authorized by Oklahoma law."

21          11. Section I of the form, which shall have the heading, in  
22          bold, "REVIEW SECTION", followed by: "Periodic review confirms  
23          current form or may require completion of new form," shall include  
24

1 the following columns and a number of rows determined by the Office  
2 of the Attorney General:

- 3 a. Date of Review,
- 4 b. Location of Review,
- 5 c. Patient or Representative Signature,
- 6 d. Physician Signature, and
- 7 e. Outcome of Review.

8 Each row in column (5) shall include a checkbox followed by,  
9 "FORM CONFIRMED - No Change", below which there shall be a checkbox  
10 followed by, "FORM VOIDED, see updated form.", below which there  
11 shall be a checkbox followed by, "FORM VOIDED, no new form."

12 A final section of the form, which shall have the heading, in  
13 bold, "Contact Information:", shall include two rows of four  
14 columns. In the first column, the first row shall include  
15 "Patient/Representative" followed by an adequate space for such  
16 information, and the second column shall include "Health Care  
17 Professional Preparing Form" followed by an adequate space for such  
18 information. In the second column both rows shall include  
19 "Relationship" followed by an adequate space for such information;  
20 in the third column both rows shall include "Phone Number" followed  
21 by an adequate space for such information; and in the fourth column  
22 both rows shall include "Email Address" followed by an adequate  
23 space for such information.

1 SECTION 20. AMENDATORY 63 O.S. 2021, Section 3131.3, is

2 amended to read as follows:

3 Section 3131.3. As used in the Oklahoma Do-Not-Resuscitate Act:

4 1. "Attending physician" means a licensed physician who has  
5 primary responsibility for treatment or care of the person. If more  
6 than one physician shares that responsibility, any of those  
7 physicians may act as the attending physician under the provisions  
8 of the Oklahoma Do-Not-Resuscitate Act;

9 2. "Cardiopulmonary resuscitation" means those measures used to  
10 restore or support cardiac or respiratory function in the event of a  
11 cardiac or respiratory arrest;

12 3. "Do-not-resuscitate identification" means a standardized  
13 identification necklace, bracelet, or card as set forth in the  
14 Oklahoma Do-Not-Resuscitate Act that signifies that a do-not-  
15 resuscitate consent or order has been executed for the possessor;

16 4. "Do-not-resuscitate order" means an order issued by a  
17 licensed physician that cardiopulmonary resuscitation should not be  
18 administered to a particular person;

19 5. "Emergency medical services personnel" means firefighters,  
20 law enforcement officers, emergency medical technicians, paramedics,  
21 or other emergency services personnel, providers, or entities,  
22 acting within the usual course of their professions;

23 6. "Health care decision" means a decision to give, withhold,  
24 or withdraw informed consent to any type of health care including,

1 but not limited to, medical and surgical treatments including life-  
2 prolonging interventions, nursing care, hospitalization, treatment  
3 in a nursing home or other extended care facility, home health care,  
4 and the gift or donation of a body organ or tissue;

5 7. "Health care agency" means an agency established to  
6 administer or provide health care services and which is commonly  
7 known by a wide variety of titles including, but not limited to,  
8 hospitals, medical centers, ambulatory health care facilities,  
9 physicians' offices and clinics, extended care facilities operated  
10 in connection with hospitals, nursing homes, extended care  
11 facilities operated in connection with rehabilitation centers, home  
12 care agencies and hospices;

13 8. "Health care provider" means any physician, dentist, nurse,  
14 paramedic, psychologist, or other person providing medical, dental,  
15 nursing, psychological, hospice, or other health care services of  
16 any kind;

17 9. "Incapacity" means the inability, because of physical or  
18 mental impairment, to appreciate the nature and implications of a  
19 health care decision, to make an informed choice regarding the  
20 alternatives presented, and to communicate that choice in an  
21 unambiguous manner; and

22 10. "Representative" means an attorney-in-fact for health care  
23 decisions acting pursuant to the ~~Uniform Durable Power of Attorney~~  
24 ~~Act~~ Oklahoma Health Care Agent Act, a health care proxy acting

1 pursuant to the Oklahoma Rights of the Terminally Ill or  
2 Persistently Unconscious Act, or a guardian of the person appointed  
3 under the Oklahoma Guardianship and Conservatorship Act.

4 SECTION 21. AMENDATORY 63 O.S. 2021, Section 3131.5, is  
5 amended to read as follows:

6 Section 3131.5. A. For persons under the care of a health care  
7 agency, a do-not-resuscitate order shall, if issued, be in  
8 accordance with the policies and procedures of the health care  
9 agency as long as not in conflict with the provisions of the  
10 Oklahoma Do-Not-Resuscitate Act.

11 B. The do-not-resuscitate consent form shall be in  
12 substantially the following form:

13 FRONT PAGE

14 OKLAHOMA DO-NOT-RESUSCITATE (DNR) CONSENT FORM

15 I, \_\_\_\_\_, request limited health care as  
16 described in this document. If my heart stops beating or if I stop  
17 breathing, no medical procedure to restore breathing or heart  
18 function will be instituted by any health care provider including,  
19 but not limited to, emergency medical services (EMS) personnel.

20 I understand that this decision will not prevent me from  
21 receiving other health care such as the Heimlich maneuver or oxygen  
22 and other comfort care measures.

23 I understand that I may revoke this consent at any time in one  
24 of the following ways:

1 1. If I am under the care of a health care agency, by making an  
2 oral, written, or other act of communication to a physician or other  
3 health care provider of a health care agency;

4 2. If I am not under the care of a health care agency, by  
5 destroying my do-not-resuscitate form, removing all do-not-  
6 resuscitate identification from my person, and notifying my  
7 attending physician of the revocation;

8 3. If I am incapacitated and under the care of a health care  
9 agency, my representative may revoke the do-not-resuscitate consent  
10 by written notification to a physician or other health care provider  
11 of the health care agency or by oral notification to my attending  
12 physician; or

13 4. If I am incapacitated and not under the care of a health  
14 care agency, my representative may revoke the do-not-resuscitate  
15 consent by destroying the do-not-resuscitate form, removing all do-  
16 not-resuscitate identification from my person, and notifying my  
17 attending physician of the revocation.

18 I give permission for this information to be given to EMS  
19 personnel, doctors, nurses, and other health care providers. I  
20 hereby state that I am making an informed decision and agree to a  
21 do-not-resuscitate order.

22 \_\_\_\_\_ OR \_\_\_\_\_  
23 Signature of Person Signature of Representative

24  
25

(Limited to an attorney-in-fact for health care decisions acting under the ~~Durable Power of Attorney Act~~ Oklahoma Health Care Agent Act, a health care proxy acting under the Oklahoma Advance Directive Act or a guardian of the person appointed under the Oklahoma Guardianship and Conservatorship Act.)

This DNR consent form was signed in my presence.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Address

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Address

BACK OF PAGE

CERTIFICATION OF PHYSICIAN

(This form is to be used by an attending physician only to certify that an incapacitated person without a representative would not have consented to the administration of cardiopulmonary resuscitation in the event of cardiac or respiratory arrest. An attending physician of an incapacitated person without a representative must know by clear and convincing evidence that the incapacitated person, when competent, decided on the basis of information sufficient to constitute informed consent that such

1 person would not have consented to the administration of  
2 cardiopulmonary resuscitation in the event of cardiac or respiratory  
3 arrest. Clear and convincing evidence for this purpose shall  
4 include oral, written, or other acts of communication between the  
5 patient, when competent, and family members, health care providers,  
6 or others close to the patient with knowledge of the patient's  
7 desires.)

8 I hereby certify, based on clear and convincing evidence  
9 presented to me, that I believe that \_\_\_\_\_

10 Name of Incapacitated Person

11 would not have consented to the administration of cardiopulmonary  
12 resuscitation in the event of cardiac or respiratory arrest.

13 Therefore, in the event of cardiac or respiratory arrest, no chest  
14 compressions, artificial ventilation, intubations, defibrillation,  
15 or emergency cardiac medications are to be initiated.

16 \_\_\_\_\_  
17 Physician's Signature/Date

\_\_\_\_\_  
Physician's Name (PRINT)

18 \_\_\_\_\_  
19 Physician's Address/Phone

20 C. Witnesses must be individuals who are eighteen (18) years of  
21 age or older who are not legatees, devisees or heirs at law.

22 D. It is the intention of the Legislature that the preferred,  
23 but not required, do-not-resuscitate form in Oklahoma shall be the  
24 form set out in subsection B of this section.

1           SECTION 22. It being immediately necessary for the preservation  
2 of the public peace, health or safety, an emergency is hereby  
3 declared to exist, by reason whereof this act shall take effect and  
4 be in full force from and after its passage and approval.

5  
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