1	SENATE FLOOR VERSION February 14, 2023			
2	rebluary 14, 2025			
3	SENATE BILL NO. 1094 By: Howard			
4				
5				
6	An Act relating to the Oklahoma Health Care Agent			
7	Act; amending Sections 3 and 5, Chapter 136, O.S.L. 2022 (63 O.S. Supp. 2022, Sections 3111.3 and 2111 5) which relate to execution for never of			
8	3111.5), which relate to execution for power of attorney for health care and form; modifying			
9	signature requirement for power of attorney for health care; updating statutory reference; modifying			
10	certain form; and declaring an emergency.			
11				
12	BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:			
13	SECTION 1. AMENDATORY Section 3, Chapter 136, O.S.L.			
14	2022 (63 O.S. Supp. 2022, Section 3111.3), is amended to read as			
15	follows:			
16	Section 3111.3. A. A person with capacity may give an oral or			
17	written individual instruction. The instruction may be limited to			
18	take effect only if a specified condition arises.			
19	B. A person with capacity may execute a power of attorney for			
20	health care, which may authorize the agent to make any health care			
21	decision the principal could have made while having capacity other			
22	than the withholding or withdrawal of life-sustaining treatment,			
23	nutrition, or hydration, which may only be authorized in compliance			
24	with the Oklahoma Advance Directive Act; provided, however, the			

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1 power of attorney for health care may authorize the agent to sign a do-not-resuscitate consent in accordance with the provisions of the 2 Oklahoma Do-Not-Resuscitate Act, Section 3131.1 et seq. of Title 63 3 of the Oklahoma Statutes. The power shall be in writing and signed 4 5 by the principal. The power remains in effect notwithstanding the principal's later incapacity and may include individual 6 instructions. Unless related to the principal by blood, marriage, 7 or adoption, an agent may not be an owner, operator, or employee of 8 9 a residential long-term health care institution at which the 10 principal is receiving care.

11 C. Unless otherwise specified in a power of attorney for health 12 care, the authority of an agent becomes effective only upon a 13 determination that the principal lacks capacity and ceases to be 14 effective upon a determination that the principal has recovered 15 capacity.

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

E. An agent shall make health care decisions in accordance with the principal's individual instructions, if any, and other wishes to the extent known to the agent. Otherwise, the agent shall make the decision in accordance with the agent's determination of the

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1 principal's best interest. In determining the principal's best 2 interest, the agent shall consider the principal's personal values 3 to the extent known to the agent.

4 F. A health care decision made by an agent for a principal is5 effective without judicial approval.

G. A power of attorney for health care shall be signed by the
principal and in the presence of a notary public or witnessed by two
(2) individuals who are at least eighteen (18) years of age and who
are not legatees, devisees, or heirs at law of the principal.

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

SECTION 2. AMENDATORY Section 5, Chapter 136, O.S.L. 2022 (63 O.S. Supp. 2022, Section 3111.5), is amended to read as follows:

Section 3111.5. The following form may, but need not, be used to create a power of attorney for health care. The other sections of this act govern the effect of this form or any other writing used to create a power of attorney for health care. An individual may complete or modify all or any part of the following form to the extent consistent with subsection B of Section <u>3</u> <u>3111.3</u> of this act <u>title</u>:

23

HEALTH CARE POWER OF ATTORNEY

24

You have the right to give instructions about your own health care. You also have the right to name someone else to make health care decisions for you. This form lets you do either or both of these things. If you use this form, you may complete or modify all or any part of it. You are free to use a different form.

This form is a power of attorney for health care that lets you 6 name another individual as agent to make health care decisions for 7 you if you become incapable of making your own decisions or if you 8 9 want someone else to make those decisions for you now even though 10 you are still capable. You may also name an alternate agent to act 11 for you if your first choice is not willing, able, or reasonably 12 available to make decisions for you. Unless related to you, your agent may not be an owner, operator, or employee of a residential 13 long-term health care institution at which you are receiving care. 14

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

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

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 and

3

3. Sign a do-not-resuscitate consent.

This form does not authorize the agent to make any decisions
directing the withholding or withdrawal of life-sustaining
treatment, nutrition, or hydration, which may only be authorized in
compliance with the Oklahoma Advance Directive Act, except that this
form may authorize the agent to sign a do-not-resuscitate consent.

9 After completing this form, sign and date the form at the end. It is required that two other individuals sign as witnesses. These 10 witnesses must be at least 18 years old and not related to you or 11 12 named to inherit from you. Give a copy of the signed and completed form to your physician, to any other health care providers you may 13 have, to any health care facility at which you are receiving care, 14 and to any health care agents you have named. You should talk to 15 the person you have named as agent to make sure that he or she 16 understands your wishes and is willing to take the responsibility. 17 You have the right to revoke this power of attorney for health 18 care or replace this form at any time. 19

20

POWER OF ATTORNEY FOR HEALTH CARE

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

23

24

(name of individual you choose as agent)

1								
2	(address) (city) (stat		(state)	(zip code)				
3								
4	(home pho	ome phone) (work phone)						
5	OPTIONAL:	If I revoke my age	nt's authority or if m	ny agent is				
6	not willing, able, or reasonably available to make a health care							
7	decision for me, I designate as my first alternate agent:							
8								
9	(name of t	individual you choos	e as first alternate a	agent)				
10								
11	(address)	(city)	(state)	(zip code)				
12								
13	(home pho	ne)	(work phone)					
14	OPTIONAL:	If I revoke the au	thority of my agent ar	nd first				
15	alternate agent or if neither is willing, able, or reasonably							
16	available to m	make a health care d	ecision for me, I desi	lgnate as my				
17	second alterna	ate agent:						
18								
19	(name of t	individual you choos	e as second alternate	agent)				
20								
21	(address)	(city)	(state)	(zip code)				
22								
23	(home pho	ne)	(work phone)					
24								

1	2. AGENT'S AUTHORITY: My agent is authorized to make all
2	health care decisions (not to include the withholding or withdrawal
3	of life-sustaining treatment, nutrition, or hydration, other than
4	signing a do-not-resuscitate consent) for me that I could make if I
5	were able, except as I state here:
6	
7	
8	
9	(Add additional sheets if needed.)
10	3. WHEN AGENT'S AUTHORITY BECOMES EFFECTIVE: My agent's
11	authority becomes effective when my attending physician determines
12	that I am unable to make my own health care decisions unless I mark
13	the following box. If I mark this box [], my agent's authority
14	to make health care decisions for me takes effect immediately.
15	
16	(Initials)
17	4. AGENT'S OBLIGATION: My agent shall make health care
18	decisions for me in accordance with this power of attorney for
19	health care and my other wishes to the extent known to my agent. To
20	the extent my wishes are unknown, my agent shall make health care
21	decisions for me in accordance with what my agent determines to be
22	in my best interest. In determining my best interest, my agent
23	shall consider the decisions I would have made myself to the extent
24	known to my agent.

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1 _____

2	(Initials)				
3	5. RELIEF FROM PAIN: Except as I state in the following space,				
4	I direct that treatment for alleviation of pain or discomfort be				
5	provided at all times, even if it hastens my death:				
6					
7					
8	6. OTHER WISHES: (If you do not agree with any of the optional				
9	choices above and wish to write your own, or if you wish to add to				
10	the instructions you have given above, you may do so here.) I				
11	direct that:				
12					
13					
14	(Add additional sheets if needed.)				
15	7. EFFECT OF COPY: A copy of this form has the same effect as				
16	the original.				
17	8. SIGNATURES: Sign and date the form here:				
18					
19	(date) (sign your name)				
20					
21	(address) (print your name)				
22					
23	(city) (state)				
24	State of Oklahoma				

1	County of		-		
2	Subscribed and sworn to be	fore me	e this	day of	, 20 .
3					
4	Notary Public				
5	OR				
6	SIGNATURES	OF WIT	NESSES:		
7	First witness		Second	witness	
8 9 10	(print name)				(print name)
10 11 12	(address)				(address)
13 14	(city) (state)			(city)	(state)
15 16	(signature of witness)			(signatu	ce of witness)
17	(date)				(date)
18	SECTION 3. It being immed	iately	necessa	ry for the	preservation
19	of the public peace, health or	safety	, an eme	ergency is	hereby
20	declared to exist, by reason wi	hereof	this act	t shall tał	ke effect and
21	be in full force from and after its passage and approval.				
22	COMMITTEE REPORT BY: COMMITTEE February 14, 2023 - DO PASS	ON JUI	DICIARY		
23					
24					