

1 ENGROSSED SENATE AMENDMENT
TO
2 ENGROSSED HOUSE
BILL NO. 1191

By: West (Rick) of the House
and
Silk of the Senate

7 An Act relating to public health and safety; amending
8 63 O.S. 2011, Section 3101.4, which relates to
9 advance directives; providing that certain advance
10 directive that withholds artificially implanted
11 medical device contains certain requirements; adding
12 artificially implanted medical device to advance
13 direct form; and providing an effective date.

13 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and
14 entire bill and insert

15 "[public health and safety - advance directives -
16 artificially implanted medical device - effective
17 date]

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

18 SECTION 1. AMENDATORY 63 O.S. 2011, Section 3101.4, is
19 amended to read as follows:

20 Section 3101.4. A. An individual of sound mind and eighteen
21 (18) years of age or older may execute at any time an advance
22 directive for health care governing the provision, withholding, or
23 withdrawal of life-sustaining treatment. The advance directive
24 shall be signed by the declarant and witnessed by two individuals

1 who are eighteen (18) years of age or older who are not legatees,
2 devisees, or heirs at law.

3 B. An advance directive that is not in the form set forth in
4 subsection C of this section and that is executed in Oklahoma shall
5 not be deemed to authorize the withholding or withdrawal of
6 artificially administered nutrition and/or hydration unless it
7 specifically authorizes the withholding or withdrawal of
8 artificially administered nutrition and/or hydration in the
9 declarant's own words or by a separate section, separate paragraph,
10 or other separate subdivision that deals only with nutrition and/or
11 hydration and which section, paragraph, or other subdivision is
12 separately initialed, separately signed, or otherwise separately
13 marked by the declarant.

14 C. An advance directive executed on or after the effective date
15 of this act may be in substantially the following form:

16 Advance Directive for Health Care

17 If I am incapable of making an informed decision regarding my health
18 care, I direct my health care providers to follow my instructions
19 below.

20 I. Living Will

21 If my attending physician and another physician determine
22 that I am no longer able to make decisions regarding my
23 medical treatment, I direct my attending physician and
24 other health care providers, pursuant to the Oklahoma

1 Advance Directive Act, to follow my instructions as set
2 forth below:

3 (1) If I have a terminal condition, that is, an incurable
4 and irreversible condition that even with the
5 administration of life-sustaining treatment will, in
6 the opinion of the attending physician and another
7 physician, result in death within six (6) months:

8 _____ I direct that my life not be extended by
9 life-sustaining treatment, including an
10 artificially implanted medical device except
11 that if I am unable to take food and water
12 by mouth, I wish to receive artificially
13 administered nutrition and hydration.

14 Initial only
15 one option

_____ I direct that my life not be extended by
16 life-sustaining treatment, including
17 artificially administered nutrition and
18 hydration and an artificially implanted
medical device.

19 _____ I direct that I be given life-sustaining
20 treatment, including an artificially
21 implanted medical device, and, if I am unable
22 to take food and water by mouth, I wish to
23 receive artificially administered nutrition
24 and hydration.

1 _____ See my more specific instructions in paragraph (4) below.

2 (Initial if applicable)

3 (2) If I am persistently unconscious, that is, I have
4 an irreversible condition, as determined by the
5 attending physician and another physician, in
6 which thought and awareness of self and
7 environment are absent:

8 _____ I direct that my life not be extended by
9 life-sustaining treatment, except that if I
10 am unable to take food and water by mouth, I
11 wish to receive artificially administered
12 nutrition and hydration or an artificially
13 implanted medical device.

14 Initial only
15 one option

_____ I direct that my life not be extended by
life-sustaining treatment, including
artificially administered nutrition and
hydration or an artificially implanted
medical device.

19 _____ I direct that I be given life-sustaining
20 treatment and, if I am unable to take food
21 and water by mouth, I wish to receive
22 artificially administered nutrition and
23 hydration or an artificially implanted medical
24 device.

1 _____ See my more specific instructions in paragraph (4) below.

2 (Initial if applicable)

3 (3) If I have an end-stage condition, that is, a
4 condition caused by injury, disease, or illness,
5 which results in severe and permanent deterioration
6 indicated by incompetency and complete physical
7 dependency for which treatment of the irreversible
8 condition would be medically ineffective:

9 _____ I direct that my life not be extended by
10 life-sustaining treatment, including an
11 artificially implanted medical device,
12 except that if I am unable to take food and
13 water by mouth, I wish to receive
14 artificially administered nutrition and
15 hydration.

16 Initial only _____ I direct that my life not be extended by
17 one option life-sustaining treatment, including
18 artificially administered nutrition and
19 hydration or an artificially implanted
20 medical device.

21 _____ I direct that I be given life-sustaining
22 treatment, including an artificially
23 implanted medical device, and, if I am
24 unable to take food and water by mouth, I

1 wish to receive artificially administered
2 nutrition and hydration.

3 _____ See my more specific instructions in paragraph (4) below.

4 (Initial if applicable)

5 (4) OTHER. Here you may:

6 (a) describe other conditions in which you would
7 want life-sustaining treatment or
8 artificially administered nutrition and
9 hydration or an artificially implanted
10 medical device provided, withheld, or
11 withdrawn,

12 (b) give more specific instructions about your
13 wishes concerning life-sustaining treatment
14 or artificially administered nutrition and
15 hydration or an artificially implanted
16 medical device if you have a terminal
17 condition, are persistently unconscious, or
18 have an end-stage condition, or

19 (c) do both of these:

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Initial

II. My Appointment of My Health Care Proxy

If my attending physician and another physician determine that I am no longer able to make decisions regarding my medical treatment, I direct my attending physician and other health care providers pursuant to the Oklahoma Advance Directive Act to follow the instructions of _____, whom I appoint as my health care proxy. If my health care proxy is unable or unwilling to serve, I appoint _____ as my alternate health care proxy with the same authority. My health care proxy is authorized to make whatever medical treatment decisions I could make if I were able, except that decisions regarding life-sustaining treatment and artificially administered nutrition and hydration or an artificially implanted medical device can be made by my health care proxy or alternate health care proxy only as I have indicated in the foregoing sections.

If I fail to designate a health care proxy in this section, I am deliberately declining to designate a health care proxy.

III. Anatomical Gifts

Pursuant to the provisions of the Uniform Anatomical Gift Act, I direct that at the time of my death my entire body or designated body organs or body parts be donated for purposes of:

1 (Initial all that apply)

2 _____ transplantation

3 _____ therapy

4 _____ advancement of medical science, research, or education

5 _____ advancement of dental science, research, or education

6 Death means either irreversible cessation of circulatory and
7 respiratory functions or irreversible cessation of all functions of
8 the entire brain, including the brain stem. If I initial the "yes"
9 line below, I specifically donate:

10 _____ My entire body

11 or

12 _____ The following body organs or parts:

13 _____ lungs _____ liver

14 _____ pancreas _____ heart

15 _____ kidneys _____ brain

16 _____ skin _____ bones/marrow

17 _____ blood/fluids _____ tissue

18 _____ arteries _____ eyes/cornea/lens

19 IV. General Provisions

20 a. I understand that I must be eighteen (18) years of age
21 or older to execute this form.

22 b. I understand that my witnesses must be eighteen (18)
23 years of age or older and shall not be related to me
24 and shall not inherit from me.

1 c. I understand that if I have been diagnosed as pregnant
2 and that diagnosis is known to my attending physician,
3 I will be provided with life-sustaining treatment and
4 artificially administered hydration and nutrition and
5 will continue to receive an artificially implanted
6 medical device unless I have, in my own words,
7 specifically authorized that during a course of
8 pregnancy, life-sustaining treatment and/or
9 artificially administered hydration and/or nutrition
10 and/or artificially implanted medical device shall be
11 withheld or withdrawn.

12 d. In the absence of my ability to give directions
13 regarding the use of life-sustaining procedures, it is
14 my intention that this advance directive shall be
15 honored by my family and physicians as the final
16 expression of my legal right to choose or refuse
17 medical or surgical treatment including, but not
18 limited to, the administration of life-sustaining
19 procedures, and I accept the consequences of such
20 choice or refusal.

21 e. This advance directive shall be in effect until it is
22 revoked.

23 f. I understand that I may revoke this advance directive
24 at any time.

- 1 g. I understand and agree that if I have any prior
2 directives, and if I sign this advance directive, my
3 prior directives are revoked.
- 4 h. I understand the full importance of this advance
5 directive and I am emotionally and mentally competent
6 to make this advance directive.
- 7 i. I understand that my physician(s) shall make all
8 decisions based upon his or her best judgment applying
9 with ordinary care and diligence the knowledge and
10 skill that is possessed and used by members of the
11 physician's profession in good standing engaged in the
12 same field of practice at that time, measured by
13 national standards.

14 Signed this _____ day of _____, 20 __.

15 _____
16 (Signature)

17 _____
18 City of

19 _____
20 County, Oklahoma

21 _____
22 Date of birth

23 _____
24 (Optional for identification purposes)

1 This advance directive was signed in my presence.

2 _____
3 Witness

4 _____, Oklahoma

5 Residence
6 _____

7 Witness

8 _____, Oklahoma

9 Residence

10 D. A physician or other health care provider who is furnished
11 the original or a photocopy of the advance directive shall make it a
12 part of the declarant's medical record and, if unwilling to comply
13 with the advance directive, promptly so advise the declarant.

14 E. In the case of a qualified patient, the patient's health
15 care proxy, in consultation with the attending physician, shall have
16 the authority to make treatment decisions for the patient including
17 the provision, withholding, or withdrawal of life-sustaining
18 procedures if so indicated in the patient's advance directive.

19 F. A person executing an advance directive appointing a health
20 care proxy who may not have an attending physician for reasons based
21 on established religious beliefs or tenets may designate an
22 individual other than the designated health care proxy, in lieu of
23 an attending physician and other physician, to determine the lack of
24 decisional capacity of the person. Such designation shall be

1 specified and included as part of the advance directive executed
2 pursuant to the provisions of this section.

3 SECTION 2. This act shall become effective November 1, 2017."

4 and when the title is restored, amend the title to conform

5 Passed the Senate the 24th day of April, 2017.

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Presiding Officer of the Senate

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9 Passed the House of Representatives the ____ day of _____,

10 2017.

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Presiding Officer of the House
of Representatives

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1 ENGROSSED HOUSE
2 BILL NO. 1191

By: West (Rick) of the House

3 and

4 Silk of the Senate

5
6
7 An Act relating to public health and safety; amending
8 63 O.S. 2011, Section 3101.4, which relates to
9 advance directives; providing that certain advance
10 directive that withholds artificially implanted
11 medical device contains certain requirements; adding
12 artificially implanted medical device to advance
13 direct form; and providing an effective date.

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

15 SECTION 3. AMENDATORY 63 O.S. 2011, Section 3101.4, is
16 amended to read as follows:

17 Section 3101.4 A. An individual of sound mind and eighteen
18 (18) years of age or older may execute at any time an advance
19 directive for health care governing the provision, withholding, or
20 withdrawal of life-sustaining treatment. The advance directive
21 shall be signed by the declarant and witnessed by two individuals
22 who are eighteen (18) years of age or older who are not legatees,
23 devisees, or heirs at law.

24 B. An advance directive that is not in the form set forth in
subsection C of this section and that is executed in Oklahoma shall

1 not be deemed to authorize the withholding or withdrawal of
2 artificially administered nutrition and/or hydration or an
3 artificially implanted medical device unless it specifically
4 authorizes the withholding or withdrawal of artificially
5 administered nutrition and/or hydration or an artificially implanted
6 medical device in the declarant's own words or by a separate
7 section, separate paragraph, or other separate subdivision that
8 deals only with nutrition and/or hydration or an artificially
9 implanted medical device and which section, paragraph, or other
10 subdivision is separately initialed, separately signed, or otherwise
11 separately marked by the declarant.

12 C. An advance directive may be in substantially the following
13 form:

14 Advance Directive for Health Care

15 If I am incapable of making an informed decision regarding my health
16 care, I direct my health care providers to follow my instructions
17 below.

18 I. Living Will

19 If my attending physician and another physician determine
20 that I am no longer able to make decisions regarding my
21 medical treatment, I direct my attending physician and
22 other health care providers, pursuant to the Oklahoma
23 Advance Directive Act, to follow my instructions as set
24 forth below:

1 (1) If I have a terminal condition, that is, an incurable
2 and irreversible condition that even with the
3 administration of life-sustaining treatment will, in
4 the opinion of the attending physician and another
5 physician, result in death within six (6) months:

6 _____ I direct that my life not be extended by
7 life-sustaining treatment, except that if I
8 am unable to take food and water by mouth, I
9 wish to receive artificially administered
10 nutrition and hydration.

11 Initial only
12 one option

_____ I direct that my life not be extended by
life-sustaining treatment, including
artificially administered nutrition and
hydration or an artificially implanted
medical device.

16 _____ I direct that I be given life-sustaining
17 treatment and, if I am unable to take food
18 and water by mouth, I wish to receive
19 artificially administered nutrition and
20 hydration.

21 _____ See my more specific instructions in paragraph (4) below.
22 (Initial if applicable)

23 (2) If I am persistently unconscious, that is, I have
24 an irreversible condition, as determined by the

1 attending physician and another physician, in
2 which thought and awareness of self and
3 environment are absent:

4 _____ I direct that my life not be extended by
5 life-sustaining treatment, except that if I
6 am unable to take food and water by mouth, I
7 wish to receive artificially administered
8 nutrition and hydration.

9 Initial only
10 one option

_____ I direct that my life not be extended by
life-sustaining treatment, including
artificially administered nutrition and
hydration or an artificially implanted
medical device.

14 _____ I direct that I be given life-sustaining
15 treatment and, if I am unable to take food
16 and water by mouth, I wish to receive
17 artificially administered nutrition and
18 hydration.

19 _____ See my more specific instructions in paragraph (4) below.

20 (Initial if applicable)

21 (3) If I have an end-stage condition, that is, a
22 condition caused by injury, disease, or illness,
23 which results in severe and permanent deterioration
24 indicated by incompetency and complete physical

1 dependency for which treatment of the irreversible
2 condition would be medically ineffective:

3 _____ I direct that my life not be extended by
4 life-sustaining treatment, except that if
5 I am unable to take food and water by mouth,
6 I wish to receive artificially administered
7 nutrition and hydration.

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_____ I direct that my life not be extended by
life-sustaining treatment, including
artificially administered nutrition and
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13 _____ I direct that I be given life-sustaining
14 treatment and, if I am unable to take food
15 and water by mouth, I wish to receive
16 artificially administered nutrition and
17 hydration.

18 _____ See my more specific instructions in paragraph (4) below.

19 (Initial if applicable)

20 (4) OTHER. Here you may:

21 (a) describe other conditions in which you would
22 want life-sustaining treatment or
23 artificially administered nutrition and
24 hydration or an artificially implanted

1 medical device provided, withheld, or
2 withdrawn,

3 (b) give more specific instructions about your
4 wishes concerning life-sustaining treatment
5 or artificially administered nutrition and
6 hydration or an artificially implanted
7 medical device if you have a terminal
8 condition, are persistently unconscious, or
9 have an end-stage condition, or

10 (c) do both of these:

11 _____
12 _____
13 _____
14 _____
15 _____
16 _____
17 _____

18 Initial

19 II. My Appointment of My Health Care Proxy

20 If my attending physician and another physician determine that I am
21 no longer able to make decisions regarding my medical treatment, I
22 direct my attending physician and other health care providers
23 pursuant to the Oklahoma Advance Directive Act to follow the
24 instructions of _____, whom I appoint as my health care

1 proxy. If my health care proxy is unable or unwilling to serve, I
2 appoint _____ as my alternate health care proxy with the
3 same authority. My health care proxy is authorized to make whatever
4 medical treatment decisions I could make if I were able, except that
5 decisions regarding life-sustaining treatment and artificially
6 administered nutrition and hydration or an artificially implanted
7 medical device can be made by my health care proxy or alternate
8 health care proxy only as I have indicated in the foregoing
9 sections.

10 If I fail to designate a health care proxy in this section, I am
11 deliberately declining to designate a health care proxy.

12 III. Anatomical Gifts

13 Pursuant to the provisions of the Uniform Anatomical Gift Act, I
14 direct that at the time of my death my entire body or designated
15 body organs or body parts be donated for purposes of:

16 (Initial all that apply)

17 _____ transplantation

18 _____ therapy

19 _____ advancement of medical science, research, or education

20 _____ advancement of dental science, research, or education

21 Death means either irreversible cessation of circulatory and
22 respiratory functions or irreversible cessation of all functions of
23 the entire brain, including the brain stem. If I initial the "yes"
24 line below, I specifically donate:

1 _____ My entire body

2 or

3 _____ The following body organs or parts:

4 _____ lungs _____ liver

5 _____ pancreas _____ heart

6 _____ kidneys _____ brain

7 _____ skin _____ bones/marrow

8 _____ blood/fluids _____ tissue

9 _____ arteries _____ eyes/cornea/lens

10 IV. General Provisions

11 a. I understand that I must be eighteen (18) years of age
12 or older to execute this form.

13 b. I understand that my witnesses must be eighteen (18)
14 years of age or older and shall not be related to me
15 and shall not inherit from me.

16 c. I understand that if I have been diagnosed as pregnant
17 and that diagnosis is known to my attending physician,
18 I will be provided with life-sustaining treatment and
19 artificially administered hydration and nutrition and
20 will continue to receive an artificially implanted
21 medical device unless I have, in my own words,
22 specifically authorized that during a course of
23 pregnancy, life-sustaining treatment and/or
24 artificially administered hydration and/or nutrition

1 and/or artificially implanted medical device shall be
2 withheld or withdrawn.

3 d. In the absence of my ability to give directions
4 regarding the use of life-sustaining procedures, it is
5 my intention that this advance directive shall be
6 honored by my family and physicians as the final
7 expression of my legal right to choose or refuse
8 medical or surgical treatment including, but not
9 limited to, the administration of life-sustaining
10 procedures, and I accept the consequences of such
11 choice or refusal.

12 e. This advance directive shall be in effect until it is
13 revoked.

14 f. I understand that I may revoke this advance directive
15 at any time.

16 g. I understand and agree that if I have any prior
17 directives, and if I sign this advance directive, my
18 prior directives are revoked.

19 h. I understand the full importance of this advance
20 directive and I am emotionally and mentally competent
21 to make this advance directive.

22 i. I understand that my physician(s) shall make all
23 decisions based upon his or her best judgment applying
24 with ordinary care and diligence the knowledge and

1 skill that is possessed and used by members of the
2 physician's profession in good standing engaged in the
3 same field of practice at that time, measured by
4 national standards.

5 Signed this _____ day of _____, 20 __.

6 _____

7 (Signature)

8 _____

9 City of

10 _____

11 County, Oklahoma

12 _____

13 Date of birth

14 _____

15 (Optional for identification purposes)

16 This advance directive was signed in my presence.

17 _____

18 Witness

19 _____, Oklahoma

20 Residence

21 _____

22 Witness

23 _____, Oklahoma

24 Residence

1 D. A physician or other health care provider who is furnished
2 the original or a photocopy of the advance directive shall make it a
3 part of the declarant's medical record and, if unwilling to comply
4 with the advance directive, promptly so advise the declarant.

5 E. In the case of a qualified patient, the patient's health
6 care proxy, in consultation with the attending physician, shall have
7 the authority to make treatment decisions for the patient including
8 the provision, withholding, or withdrawal of life-sustaining
9 procedures if so indicated in the patient's advance directive.

10 F. A person executing an advance directive appointing a health
11 care proxy who may not have an attending physician for reasons based
12 on established religious beliefs or tenets may designate an
13 individual other than the designated health care proxy, in lieu of
14 an attending physician and other physician, to determine the lack of
15 decisional capacity of the person. Such designation shall be
16 specified and included as part of the advance directive executed
17 pursuant to the provisions of this section.

18 SECTION 4. This act shall become effective November 1, 2017.
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1 Passed the House of Representatives the 22nd day of February,
2017.

4 _____
Presiding Officer of the House
of Representatives

6 Passed the Senate the ___ day of _____, 2017.

8 _____
Presiding Officer of the Senate