

FLOOR AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB1687 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By deleting the content of the entire measure, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Cynthia Roe _____

Reading Clerk

STATE OF OKLAHOMA

1st Session of the 60th Legislature (2025)

FLOOR SUBSTITUTE
FOR

HOUSE BILL NO. 1687

By: Roe of the House

and

Rosino of the Senate

FLOOR SUBSTITUTE

An Act relating to advance health care directives; creating the Uniform Health Care Decisions Act of 2025; providing definitions; specifying capacity; providing for presumption of capacity; providing for overcoming presumption; providing notice; authorizing the right to object; providing for judicial review; providing for health care instruction; establishing power of attorney for health care; establishing advance mental health care directive; providing for certain conflicting health care directives; providing an optional form; providing for a default surrogate; providing for disagreement; providing for disqualification; providing for revocation; providing for validity; providing for conflict of law; providing for duties; providing for powers; limiting powers; providing for coagents and alternate agents; providing for duties of health care professionals; providing for responsibilities of health care professionals and health care institutions; providing

1 for decisions by guardians; providing for immunity;
2 prohibiting conduct; providing for damages; providing
3 for judicial relief; providing for construction;
4 providing for application; providing for
5 codification; and providing an effective date.

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

7 SECTION 1. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 3100 of Title 63, unless there
9 is created a duplication in numbering, reads as follows:

10 This act shall be known and may be cited as the "Uniform Health
11 Care Decisions Act of 2025".

12 SECTION 2. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 3100.1 of Title 63, unless there
14 is created a duplication in numbering, reads as follows:

15 As used in this act:

16 1. "Advance health care directive" means a power of attorney
17 for health care, health care instruction, or both. The term
18 includes an advance mental health care directive;

19 2. "Advance mental health care directive" means a power of
20 attorney for health care, health care instruction, or both, created
21 under Section 9 of this act;

22 3. "Agent" means an individual appointed under a power of
23 attorney for health care to make a health care decision for the
24

1 individual who made the appointment. The term includes a coagent or
2 alternate agent appointed under Section 20 of this act;

3 4. "Capacity" means having capacity under Section 3 of this
4 act;

5 5. "Cohabitant" means each of two individuals who have been
6 living together as a couple for at least one (1) year after each
7 became an adult or was emancipated and who are not married to one
8 another;

9 6. "Default surrogate" means an individual authorized under
10 Section 12 of this act to make a health care decision for another
11 individual;

12 7. "Electronic" means relating to technology having electrical,
13 digital, magnetic, wireless, optical, electromagnetic, or similar
14 capabilities;

15 8. "Family member" means a spouse, domestic partner, adult
16 child, parent, or grandparent, or an adult descendant of a spouse,
17 child, parent, or grandparent;

18 9. "Guardian" means a person appointed under other law by a
19 court to make decisions regarding the personal affairs of an
20 individual, which may include health care decisions. The term does
21 not include a guardian ad litem;

22 10. "Health care" means care or treatment or a service or
23 procedure to maintain, monitor, diagnose, or otherwise affect an
24

1 individual's physical or mental illness, injury, or condition. The
2 term includes mental health care;

3 11. "Health care decision" means a decision made by an
4 individual or the individual's surrogate regarding the individual's
5 health care, including:

6 a. selection or discharge of a health care professional
7 or health care institution,

8 b. approval or disapproval of a diagnostic test, surgical
9 procedure, medication, therapeutic intervention, or
10 other health care, and

11 c. direction to provide, withhold, or withdraw artificial
12 nutrition or hydration, mechanical ventilation, or
13 other health care;

14 12. "Health care institution" means a facility or agency
15 licensed, certified, or otherwise authorized or permitted by other
16 law to provide health care in this state in the ordinary course of
17 business;

18 13. "Health care instruction" means a direction, whether or not
19 in a record, made by an individual that indicates the individual's
20 goals, preferences, or wishes concerning the provision, withholding,
21 or withdrawal of health care. The term includes a direction
22 intended to be effective if a specified condition arises;

23 14. "Health care professional" means a physician or other
24 individual licensed, certified, or otherwise authorized or permitted

1 by other law of this state to provide health care in this state in
2 the ordinary course of business or the practice of the physician's
3 or individual's profession;

4 15. "Individual" means an adult or emancipated minor;

5 16. "Mental health care" means care or treatment or a service
6 or procedure to maintain, monitor, diagnose, or otherwise affect an
7 individual's mental illness or other psychiatric, psychological, or
8 psychosocial condition;

9 17. "Nursing home" means a nursing facility as defined in
10 Section 1919(a)(1) of the Social Security Act, 42 U.S.C., Section
11 1396r(a)(1), as amended, or skilled nursing facility as defined in
12 Section 1819(a)(1) of the Social Security Act, 42 U.S.C., Section
13 1395i-3(a)(1), as amended;

14 18. "Person" means an individual, estate, business or nonprofit
15 entity, government or governmental subdivision, agency, or
16 instrumentality, or other legal entity;

17 19. "Person interested in the welfare of the individual" means:

- 18 a. the individual's surrogate,
19 b. a family member of the individual,
20 c. the cohabitant of the individual,
21 d. a public entity providing health care case management
22 or protective services to the individual,
23
24

1 e. a person appointed under other law to make decisions
2 for the individual under a power of attorney for
3 finances, or

4 f. a person that has an ongoing personal or professional
5 relationship with the individual, including a person
6 that has provided educational or health care services
7 or supported decision making to the individual;

8 20. "Physician" means an individual authorized to practice
9 medicine from the State Board of Medical Licensure and Supervision
10 or the State Board of Osteopathic Examiners;

11 21. "Power of attorney for health care" means a record in which
12 an individual appoints an agent to make health care decisions for
13 the individual;

14 22. "Reasonably available" means being able to be contacted
15 without undue effort and being willing and able to act in a timely
16 manner considering the urgency of an individual's health care
17 situation. When used to refer to an agent or default surrogate, the
18 term includes being willing and able to comply with the duties under
19 Section 17 of this act in a timely manner considering the urgency of
20 an individual's health care situation;

21 23. "Record" means information:

22 a. inscribed on a tangible medium, or

23 b. stored in an electronic or other medium and
24 retrievable in perceivable form;

1 24. "Responsible health care professional" means:

2 a. a health care professional designated by an individual
3 or the individual's surrogate to have primary
4 responsibility for the individual's health care or for
5 overseeing a course of treatment, or

6 b. in the absence of a designation under subparagraph a
7 of this paragraph, or if the professional designated
8 under subparagraph a of this paragraph is not
9 reasonably available, a health care professional who
10 has primary responsibility for overseeing the
11 individual's health care or for overseeing a course of
12 treatment;

13 25. "Sign" means with present intent to authenticate or adopt a
14 record:

15 a. execute or adopt a tangible symbol, or

16 b. attach to or logically associate with the record an
17 electronic symbol, sound, or process;

18 26. "State" means a state of the United States, the District of
19 Columbia, Puerto Rico, the United States Virgin Islands, or any
20 other territory, or possession subject to the jurisdiction of the
21 United States. The term includes a federally recognized Indian
22 tribe;

23 27. "Supported decision making" means assistance, from one or
24 more persons of an individual's choosing, that helps the individual

1 make or communicate a decision, including by helping the individual
2 understand the nature and consequences of the decision; and

3 28. "Surrogate" means:

4 a. an agent,

5 b. a default surrogate, or

6 c. a guardian authorized to make health care decisions.

7 SECTION 3. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 3100.2 of Title 63, unless there
9 is created a duplication in numbering, reads as follows:

10 A. An individual has capacity for the purpose of this act if
11 the individual:

12 1. Is willing and able to communicate a decision independently
13 or with appropriate services, technological assistance, supported
14 decision making, or other reasonable accommodation; and

15 2. In making or revoking:

16 a. a health care decision, understands the nature and
17 consequences of the decision, including the primary
18 risks and benefits of the decision,

19 b. a health care instruction, understands the nature and
20 consequences of the instruction, including the primary
21 risks and benefits of the choices expressed in the
22 instruction, and

23 c. an appointment of an agent under a health care power
24 of attorney or identification of a default surrogate

1 under paragraph 1 of subsection B of Section 12 of
2 this act, recognizes the identity of the individual
3 being appointed or identified and understands the
4 general nature of the relationship of the individual
5 making the appointment or identification with the
6 individual being appointed or identified.

7 B. The right of an individual who has capacity to make a
8 decision about the individual's health care is not affected by
9 whether the individual creates or revokes an advance health care
10 directive.

11 SECTION 4. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 3100.3 of Title 63, unless there
13 is created a duplication in numbering, reads as follows:

14 A. An individual is presumed to have capacity to make or revoke
15 a health care decision, health care instruction, and power of
16 attorney for health care unless:

- 17 1. A court has found the individual lacks capacity to do so; or
- 18 2. The presumption is rebutted under subsection B of this
19 section.

20 B. Subject to Sections 5 and 6 of this act, a presumption under
21 subsection A of this section may be rebutted by a finding that the
22 individual lacks capacity:

- 23 1. Subject to subsection C of this section, made on the basis
24 of a contemporaneous examination by any of the following:

- 1 a. a physician,
- 2 b. a psychologist licensed or otherwise authorized to
3 practice in this state, or
- 4 c. an individual with training and expertise in the
5 finding of lack of capacity who is licensed or
6 otherwise authorized to practice in this state as:
 - 7 (1) a physician assistant,
 - 8 (2) an advanced practice registered nurse, or
 - 9 (3) a social worker, or
- 10 d. a responsible health care professional not described
11 in subparagraph a, b, or c of this paragraph if:
 - 12 (1) the individual about whom the finding is to be
13 made is experiencing a health condition requiring
14 a decision regarding health care treatment to be
15 made promptly to avoid loss of life or serious
16 harm to the health of the individual, and
 - 17 (2) an individual listed in subparagraph a, b, or c
18 of this paragraph is not reasonably available;

19 2. Made in accordance with accepted standards of the profession
20 and the scope of practice of the individual making the finding and
21 to a reasonable degree of certainty; and

22 3. Documented in a record signed by the individual making the
23 finding that includes an opinion of the cause, nature, extent, and
24 probable duration of the lack of capacity.

1 C. The finding under subsection B of this section may not be
2 made by:

3 1. A family member of the individual presumed to have capacity;

4 2. The cohabitant of the individual or a descendant of the
5 cohabitant; or

6 3. The individual's surrogate, a family member of the
7 surrogate, or a descendant of the surrogate.

8 D. If the finding under subsection B of this section was based
9 on a condition the individual no longer has or a responsible health
10 care professional subsequently has good cause to believe the
11 individual has capacity, the individual is presumed to have capacity
12 unless a court finds the individual lacks capacity or the
13 presumption is rebutted under subsection B of this section.

14 SECTION 5. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 3100.4 of Title 63, unless there
16 is created a duplication in numbering, reads as follows:

17 A. As soon as reasonably feasible, an individual who makes a
18 finding under subsection B of Section 4 of this act shall inform the
19 individual about whom the finding was made or the individual's
20 responsible health care professional of the finding.

21 B. As soon as reasonably feasible, a responsible health care
22 professional who is informed of a finding under subsection B of
23 Section 4 of this act shall inform the individual about whom the
24 finding was made and the individual's surrogate.

1 C. An individual found under subsection B of Section 4 of this
2 act to lack capacity may object to the finding:

3 1. By orally informing a responsible health care professional;

4 2. In a record provided to a responsible health care
5 professional or the health care institution in which the individual
6 resides or is receiving care; or

7 3. By another act that clearly indicates the individual's
8 objection.

9 D. If the individual objects under subsection C of this
10 section, the finding under subsection B of Section 4 of this act is
11 not sufficient to rebut a presumption of capacity under subsection A
12 of Section 4 of this act and the individual must be treated as
13 having capacity unless:

14 1. The individual withdraws the objection;

15 2. A court finds the individual lacks the presumed capacity;

16 3. The individual is experiencing a health condition requiring
17 a decision regarding health care treatment to be made promptly to
18 avoid imminent loss of life or serious harm to the health of the
19 individual; or

20 4. Subject to subsection B of this section, the finding is
21 confirmed by a second finding made by an individual authorized under
22 paragraph 1 of subsection B of Section 4 of this act who:

23 a. did not make the first finding,

24

1 b. is not a family member of the individual who made the
2 first finding, and

3 c. is not the cohabitant of the individual who made the
4 first finding or a descendant of the cohabitant.

5 E. A second finding that the individual lacks capacity under
6 paragraph 4 of subsection D of this section is not sufficient to
7 rebut the presumption of capacity if the individual is requesting
8 the provision or continuation of life-sustaining treatment and the
9 finding is being used to make a decision to withhold or withdraw the
10 treatment.

11 F. As soon as reasonably feasible, a health care professional
12 who is informed of an objection under subsection C of this section
13 shall:

14 1. Communicate the objection to a responsible health care
15 professional; and

16 2. Document the objection and the date of the objection in the
17 individual's medical record or communicate the objection and the
18 date of the objection to an administrator with responsibility for
19 medical records of the health care institution providing health care
20 to the individual, who shall document the objection and the date of
21 the objection in the individual's medical record.

22 SECTION 6. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 3100.5 of Title 63, unless there
24 is created a duplication in numbering, reads as follows:

1 A. An individual found under subsection B of Section 4 of this
2 act to lack capacity, a responsible health care professional, the
3 health care institution providing health care to the individual, or
4 a person interested in the welfare of the individual may petition
5 the court in the respective county in which the individual resides
6 or is located to determine whether the individual lacks capacity.

7 B. The court in which a petition under subsection A of this
8 section is filed shall appoint legal counsel to represent the
9 individual if the individual does not have legal counsel and a
10 guardian ad litem. The court shall hear the petition as soon as
11 possible, but not later than seven (7) days after the petition is
12 filed. As soon as possible, but not later than seven (7) days after
13 the hearing, the court shall determine whether the individual lacks
14 capacity. The court may determine the individual lacks capacity
15 only if the court finds by clear and convincing evidence that the
16 individual lacks capacity.

17 SECTION 7. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 3100.6 of Title 63, unless there
19 is created a duplication in numbering, reads as follows:

20 A. An individual may create a health care instruction that
21 expresses the individual's preferences for future health care,
22 including preferences regarding:

- 23 1. Health care professionals or health care institutions;
- 24 2. How a health care decision will be made and communicated;

1 3. Persons that should or should not be consulted regarding a
2 health care decision;

3 4. A person to serve as guardian for the individual if one is
4 appointed; and

5 5. An individual to serve as a default surrogate.

6 B. A health care professional to whom an individual
7 communicates or provides an instruction under subsection A of this
8 section shall document the instruction and the date of the
9 instruction in the individual's medical record or communicate the
10 instruction and date of the instruction to an administrator with
11 responsibility for medical records of the health care institution
12 providing health care to the individual, who shall document the
13 instruction and the date of the instruction in the individual's
14 medical record.

15 C. A health care instruction made by an individual that
16 conflicts with an earlier health care instruction made by the
17 individual, including an instruction documented in a medical order,
18 revokes the earlier instruction to the extent of the conflict.

19 D. A health care instruction may be in the same record as a
20 power of attorney for health care.

21 SECTION 8. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 3100.7 of Title 63, unless there
23 is created a duplication in numbering, reads as follows:

24

1 A. An individual may create a power of attorney for health care
2 to appoint an agent to make health care decisions for the
3 individual.

4 B. An individual is disqualified from acting as agent for an
5 individual who lacks capacity to make health care decisions if:

6 1. A court finds that the potential agent poses a danger to the
7 individual's well-being, even if the court does not issue a
8 restraining order against the potential agent; or

9 2. The potential agent is an owner, operator, employee, or
10 contractor of a nursing home, or other residential care facility, in
11 which the individual resides or is receiving care, unless the owner,
12 operator, employee, or contractor is a family member of the
13 individual, the cohabitant of the individual, or a descendant of the
14 cohabitant.

15 C. A health care decision made by an agent is effective without
16 judicial approval.

17 D. A power of attorney for health care must be in a record,
18 signed by the individual creating the power, and signed by an adult
19 witness who:

20 1. Reasonably believes the act of the individual to create the
21 power of attorney is voluntary and knowing; and

22 2. Is not:

23 a. the agent appointed by the individual,

24 b. the agent's spouse, or cohabitant, or

1 c. if the individual resides or is receiving care in a
2 nursing home, or other residential care facility, the
3 owner, operator, employee, or contractor of the
4 nursing home, or other residential care facility; and

5 3. Is present when the individual signs the power of attorney
6 or when the individual represents that the power of attorney
7 reflects the individual's wishes.

8 E. A witness under subsection D of this section is considered
9 present if the witness and the individual are:

10 1. Physically present in the same location;

11 2. Using electronic means that allow for real time audio and
12 visual transmission and communication in real time to the same
13 extent as if the witness and the individual were physically present
14 in the same location; or

15 3. Able to speak to and hear each other in real time through
16 audio connection if:

17 a. the identity of the individual is personally known to
18 the witness, or

19 b. the witness is able to authenticate the identity of
20 the individual by receiving accurate answers from the
21 individual that enables the authentication.

22 F. A power of attorney for health care may include a health
23 care instruction.

1 SECTION 9. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3100.8 of Title 63, unless there
3 is created a duplication in numbering, reads as follows:

4 A. An individual may create an advance health care directive
5 that addresses only mental health care for the individual. The
6 directive may include a health care instruction, a power of attorney
7 for health care, or both.

8 B. A health care instruction under this section may include the
9 individual's:

10 1. General philosophy and objectives regarding mental health
11 care; and

12 2. Specific goals, preferences, and wishes regarding the
13 provision, withholding, or withdrawal of a form of mental health
14 care, including:

15 a. preferences regarding professionals, programs, and
16 facilities,

17 b. admission to a mental health facility, including
18 duration of admission,

19 c. preferences regarding medications,

20 d. refusal to accept a specific type of mental health
21 care, including a medication, and

22 e. preferences regarding crisis intervention.

23 C. A power of attorney for health care under this section may
24 appoint an agent to make decisions only for mental health care.

1 D. An individual may direct in an advance mental health care
2 directive that, if the individual is experiencing a psychiatric or
3 psychological event specified in the directive, the individual may
4 not revoke the directive or a part of the directive.

5 E. If an advance mental health care directive includes a
6 direction under subsection D of this section, the advance mental
7 health care directive must be in a record that is separate from any
8 other advance health care directive created by the individual and
9 signed by the individual creating the advance mental health care
10 directive and at least two adult witnesses who:

11 1. Attest that to the best of their knowledge the individual:

- 12 a. understood the nature and consequences of the
- 13 direction, including its risks and benefits, and
- 14 b. made the direction voluntarily and without coercion or
- 15 undue influence;

16 2. Are not:

- 17 a. the agent appointed by the individual,
- 18 b. the agent's spouse, or cohabitant, and
- 19 c. if the individual resides in a nursing home, or other
- 20 residential care facility, the owner, operator,
- 21 employee, or contractor of the nursing home, or other
- 22 residential care facility; and

23 3. Are physically present in the same location as the
24 individual.

1 SECTION 10. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3100.9 of Title 63, unless there
3 is created a duplication in numbering, reads as follows:

4 A. If a direction in an advance mental health care directive of
5 an individual conflicts with a direction in another advance health
6 care directive of the individual, the later direction revokes the
7 earlier direction to the extent of the conflict.

8 B. An appointment of an agent to make decisions only for mental
9 health care for an individual does not revoke an earlier appointment
10 of an agent to make other health care decisions for the individual.
11 A later appointment revokes the authority of an agent under the
12 earlier appointment to make decisions about mental health care
13 unless otherwise specified in the power of attorney making the later
14 appointment.

15 C. An appointment of an agent to make health care decisions for
16 an individual other than decisions about mental health care made
17 after appointment of an agent authorized to make only mental health
18 care decisions does not revoke the appointment of the agent
19 authorized to make only mental health care decisions.

20 SECTION 11. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 3100.10 of Title 63, unless
22 there is created a duplication in numbering, reads as follows:

23 The following form may be used to create an advance health care
24 directive:

1 ADVANCE HEALTH CARE DIRECTIVE

2 HOW YOU CAN USE THIS FORM

3 You can use this form if you wish to name someone to make health
4 care decisions for you in case you cannot make decisions for
5 yourself. This is called giving the person a power of attorney for
6 health care. This person is called your agent.

7 You can also use this form to state your wishes, preferences,
8 and goals for health care, and to say if you want to be an organ
9 donor after you die.

10 YOUR NAME AND DATE OF BIRTH

11 Name:

12 Date of birth:

13 PART A: NAMING AN AGENT

14 This part lets you name someone else to make health care
15 decisions for you. You may leave any item blank.

16 1. NAMING AN AGENT

17 I want the following person to make health care decisions for me
18 if I cannot make decisions for myself:

19 Name:

20 Optional contact information (it is helpful to include
21 information such as address, phone, and email):

22 2. NAMING AN ALTERNATE AGENT

1 I want the following person to make health care decisions for me
2 if I cannot and my agent is not able or available to make them for
3 me:

4 Name:

5 Optional contact information (it is helpful to include
6 information such as address, phone, and email):

7 3. LIMITING YOUR AGENT'S AUTHORITY

8 I give my agent the power to make all health care decisions for
9 me if I cannot make those decisions for myself, except the
10 following:

11 (If you do not add a limitation here, your agent will be able
12 make all health care decisions that an agent is permitted to make
13 under state law.)

14 PART B: HEALTH CARE INSTRUCTIONS

15 This part lets you state your priorities for health care and to
16 state types of health care you do and do not want.

17 1. INSTRUCTIONS ABOUT LIFE-SUSTAINING TREATMENT

18 This section gives you the opportunity to say how you want your
19 agent to act while making decisions for you. You may mark or
20 initial each choice. You also may leave any choice blank.

21 Treatment. Medical treatment needed to keep me alive but not
22 needed for comfort or any other purpose should (mark or initial all
23 that apply):

24

1 (____) Always be given to me. (If you mark or initial this
2 choice, you should not mark or initial other choices in this
3 "treatment" section.)

4 (____) Not be given to me if I have a condition that is not
5 curable and is expected to cause my death soon, even if treated.

6 (____) Not be given to me if I am unconscious and I am not
7 expected to be conscious again.

8 (____) Not be given to me if I have a medical condition from
9 which I am not expected to recover that prevents me from
10 communicating with people I care about, caring for myself, and
11 recognizing family and friends.

12 (____) Other (write what you want or do not want):

13 Food and liquids. If I can't swallow and staying alive requires
14 me to get food or liquids through a tube or other means for the rest
15 of my life, then food or liquids should (mark or initial all that
16 apply):

17 (____) Always be given to me. (If you mark or initial this
18 choice, you should not mark or initial other choices in this "food
19 and liquids" section.)

20 (____) Not be given to me if I have a condition that is not
21 curable and is expected to cause me to die soon, even if treated.

22 (____) Not be given to me if I am unconscious and am not
23 expected to be conscious again.

24

1 (____) Not be given to me if I have a medical condition from
2 which I am not expected to recover that prevents me from
3 communicating with people I care about, caring for myself, and
4 recognizing family and friends.

5 (____) Other (write what you want or do not want):

6 Pain relief. If I am in significant pain, care that will keep
7 me comfortable but is likely to shorten my life should (mark or
8 initial all that apply):

9 (____) Always be given to me. (If you mark or initial this
10 choice, you should not mark or initial other choices in this "pain
11 relief" section.)

12 (____) Never be given to me. (If you mark or initial this
13 choice, you should not mark or initial other choices in this "pain
14 relief" section.)

15 (____) Be given to me if I have a condition that is not curable
16 and is expected to cause me to die soon, even if treated.

17 (____) Be given to me if I am unconscious and am not expected
18 to be conscious again.

19 (____) Be given to me if I have a medical condition from which
20 I am not expected to recover that prevents me from communicating
21 with people I care about, caring for myself, and recognizing family
22 and friends.

23 (____) Other (write what you want or do not want):

24 2. MY PRIORITIES

1 You can use this section to indicate what is important to you,
2 and what is not important to you. This information can help your
3 agent make decisions for you if you cannot. It also helps others
4 understand your preferences.

5 You may mark or initial each choice. You also may leave any
6 choice blank.

7 Staying alive as long as possible even if I have substantial
8 physical limitations is:

9 Very important

10 Somewhat important

11 Not important

12 Staying alive as long as possible even if I have substantial
13 mental limitations is:

14 Very important

15 Somewhat important

16 Not important

17 Being free from significant pain is:

18 Very important

19 Somewhat important

20 Not important

21 Being independent is:

22 Very important

23 Somewhat important

24 Not important

1 Having my agent talk with my family before making decisions
2 about my care is:

3 (____) Very important

4 (____) Somewhat important

5 (____) Not important

6 Having my agent talk with my friends before making decisions
7 about my care is:

8 (____) Very important

9 (____) Somewhat important

10 (____) Not important

11 3. OTHER INSTRUCTIONS

12 You can write in this section more information about your goals,
13 values, and preferences for treatment, including care you want or do
14 not want. You can also use this section to name anyone who you do
15 not want to make decisions for you under any conditions.

16 PART C: OPTIONAL SPECIAL POWERS AND GUIDANCE

17 This part lets you give your agent additional powers, and to
18 provide more guidance about your wishes. You may mark or initial
19 each choice. You also may leave any choice blank.

20 1. OPTIONAL SPECIAL POWERS

21 My agent can do the following things ONLY if I have marked or
22 initialed them below:

23 (____) Admit me as a voluntary patient to a facility for mental
24 health treatment for up to ____ days (write in the number of days

1 you want like 7, 14, 30 or another number). (If I do not mark or
2 initial this choice, my agent MAY NOT admit me as a voluntary
3 patient to this type of facility.)

4 (____) Place me in a nursing home for more than 100 days even
5 if my needs can be met somewhere else, I am not terminally ill, and
6 I object. (If I do not mark or initial this choice, my agent MAY
7 NOT do this.)

8 2. ACCESS TO MY HEALTH INFORMATION

9 My agent may obtain, examine, and share information about my
10 health needs and health care if I am not able to make decisions for
11 myself. If I mark or initial below, my agent may also do that at
12 any time my agent thinks it will help me.

13 (____) I give my agent permission to obtain, examine, and share
14 information about my health needs and health care whenever my agent
15 thinks it will help me.

16 3. FLEXIBILITY FOR MY AGENT

17 Mark or initial below if you want to give your agent flexibility
18 in following instructions you provide in this form. If you do not,
19 your agent must follow the instructions even if your agent thinks
20 something else would be better for you.

21 (____) I give my agent permission to be flexible in applying
22 these instructions if my agent thinks it would be in my best
23 interest based on what my agent knows about me.

24 4. NOMINATION OF GUARDIAN

1 You can say who you would want as your guardian if you needed
2 one. A guardian is a person appointed by a court to make decisions
3 for someone who cannot make decisions. Filling this out does NOT
4 mean you want or need a guardian.

5 If a court appoints a guardian to make personal decisions for
6 me, I want the court to choose:

7 (____) My agent named in this form. If my agent cannot be a
8 guardian, I want the alternate agent named in this form.

9 (____) Other (write who you would want and their contact
10 information):

11 PART D: ORGAN DONATION

12 This part lets you donate your organs after you die. You may
13 leave any item blank.

14 1. DONATION

15 You may mark or initial only one choice.

16 (____) I donate my organs, tissues, and other body parts after
17 I die, even if it requires maintaining treatments that conflict with
18 other instructions I have put in this form, EXCEPT for those I list
19 below (list any body parts you do NOT want to donate):

20 (____) I do not want my organs, tissues, or body parts donated
21 to anybody for any reason. (If you mark or initial this choice, you
22 should skip the "PURPOSE OF DONATION" section.)

23 2. PURPOSE OF DONATION

24

1 You may mark or initial all that apply. (If you do not mark or
2 initial any of the purposes below, your donation can be used for all
3 of them.)

4 Organs, tissues, or body parts that I donate may be used for:

5 Transplant

6 Therapy

7 Research

8 Education

9 All of the above

10 PART E: SIGNATURES

11 YOUR SIGNATURE

12 Sign your name:

13 Today's date:

14 City/Town/Village and State (optional):

15 SIGNATURE OF A WITNESS

16 You need a witness if you are using this form to name an agent.

17 The witness must be an adult and cannot be the person you are naming
18 as agent or the agent's spouse, or someone the agent lives with as a
19 couple. If you live or are receiving care in a nursing home, the
20 witness cannot be an employee or contractor of the home or someone
21 who owns or runs the home.

22 Name of Witness:

23 Signature of Witness:

24

1 (Only sign as a witness if you think the person signing above is
2 doing it voluntarily.)

3 Date witness signed:

4 PART F: INFORMATION FOR AGENTS

5 1. If this form names you as an agent, you can make decisions
6 about health care for the person who named you when the person
7 cannot make their own.

8 2. If you make a decision for the person, follow any
9 instructions the person gave, including any in this form.

10 3. If you do not know what the person would want, make the
11 decision that you think is in the person's best interest. To figure
12 out what is in the person's best interest, consider the person's
13 values, preferences, and goals if you know them or can learn them.
14 Some of these preferences may be in this form. You should also
15 consider any behavior or communication from the person that
16 indicates what the person currently wants.

17 4. If this form names you as an agent, you can also get and
18 share the person's health information. Unless the person has said
19 so in this form, you can get or share this information only when the
20 person cannot make decisions about the person's health care.

21 SECTION 12. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 3100.11 of Title 63, unless
23 there is created a duplication in numbering, reads as follows:

24

1 A. A default surrogate may make a health care decision for an
2 individual who lacks capacity to make health care decisions and for
3 whom an agent, or guardian authorized to make health care decisions,
4 has not been appointed or is not reasonably available.

5 B. Unless the individual has an advance health care directive
6 that indicates otherwise, a member of the following classes, in
7 descending order of priority, who is reasonably available and not
8 disqualified under Section 14 of this act, may act as a default
9 surrogate for the individual:

10 1. An adult the individual has identified, other than in a
11 power of attorney for health care, to make a health care decision
12 for the individual if the individual cannot make the decision;

13 2. The individual's spouse, unless:

14 a. a petition for annulment, divorce, dissolution of
15 marriage, legal separation, or termination has been
16 filed and not dismissed or withdrawn,

17 b. a decree of annulment, divorce, dissolution of
18 marriage, legal separation, or termination has been
19 issued,

20 c. the individual and the spouse have agreed in a record
21 to a legal separation, or

22 d. the spouse has abandoned the individual for more than
23 one (1) year;

24 3. The individual's adult child or parent;

1 4. The individual's cohabitant;

2 5. The individual's adult sibling;

3 6. The individual's adult grandchild or grandparent;

4 7. An adult not listed in paragraphs 1 through 6 of this
5 subsection who has assisted the individual with supported decision
6 making routinely during the preceding six (6) months;

7 8. The individual's adult stepchild not listed in paragraphs 1
8 through 7 of this subsection whom the individual actively parented
9 during the stepchild's minor years and with whom the individual has
10 an ongoing relationship; or

11 9. An adult not listed in paragraphs 1 through 8 of this
12 subsection who has exhibited special care and concern for the
13 individual and is familiar with the individual's personal values.

14 C. A responsible health care professional may require an
15 individual who assumes authority to act as a default surrogate to
16 provide a declaration in a record under penalty of perjury stating
17 facts and circumstances reasonably sufficient to establish the
18 authority.

19 D. If a responsible health care professional reasonably
20 determines that an individual who assumed authority to act as a
21 default surrogate is not willing or able to comply with a duty under
22 Section 17 of this act or fails to comply with the duty in a timely
23 manner, the professional may recognize the individual next in
24

1 priority under subsection B of this section as the default
2 surrogate.

3 E. A health care decision made by a default surrogate is
4 effective without judicial approval.

5 SECTION 13. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 3100.12 of Title 63, unless
7 there is created a duplication in numbering, reads as follows:

8 A. A default surrogate who assumes authority under Section 12
9 of this act shall inform a responsible health care professional if
10 two or more members of a class under subsection B of Section 12 of
11 this act have assumed authority to act as default surrogates and the
12 members do not agree on a health care decision.

13 B. A responsible health care professional shall comply with the
14 decision of a majority of the members of the class with highest
15 priority under subsection B of Section 12 of this act who have
16 communicated their views to the professional and the professional
17 reasonably believes are acting consistent with their duties under
18 Section 17 of this act.

19 C. If a responsible health care professional is informed that
20 the members of the class who have communicated their views to the
21 professional are evenly divided concerning the health care decision,
22 the professional shall make a reasonable effort to solicit the views
23 of members of the class who are reasonably available but have not
24 yet communicated their views to the professional. The professional,

1 after the solicitation, shall comply with the decision of a majority
2 of the members who have communicated their views to the professional
3 and the professional reasonably believes are acting consistent with
4 their duties under Section 17 of this act.

5 D. If the class remains evenly divided after the effort is made
6 under subsection C of this section, the health care decision must be
7 made as provided by other law of this state regarding the treatment
8 of an individual who is found to lack capacity.

9 SECTION 14. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 3100.13 of Title 63, unless
11 there is created a duplication in numbering, reads as follows:

12 A. An individual for whom a health care decision would be made
13 may disqualify another individual from acting as default surrogate
14 for the first individual. The disqualification must be in a record
15 signed by the first individual or communicated verbally or
16 nonverbally to the individual being disqualified, another
17 individual, or a responsible health care professional.
18 Disqualification under this subsection is effective even if made by
19 an individual who lacks capacity to make an advance directive if the
20 individual clearly communicates a desire that the individual being
21 disqualified cannot make health care decisions for the individual.

22 B. An individual is disqualified from acting as a default
23 surrogate for an individual who lacks capacity to make health care
24 decisions if:

1 1. A court finds that the potential default surrogate poses a
2 danger to the individual's well-being, even if the court does not
3 issue a restraining order against the potential surrogate;

4 2. The potential default surrogate is an owner, operator,
5 employee, or contractor of a nursing home, or other residential care
6 facility, in which the individual is residing or receiving care
7 unless the owner, operator, employee, or contractor is a family
8 member of the individual, the cohabitant of the individual, or a
9 descendant of the cohabitant; or

10 3. The potential default surrogate refuses to provide a timely
11 declaration under subsection C of Section 12 of this act.

12 SECTION 15. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 3100.14 of Title 63, unless
14 there is created a duplication in numbering, reads as follows:

15 A. An individual may revoke the appointment of an agent, the
16 designation of a default surrogate, or a health care instruction in
17 whole or in part, unless:

18 1. A court finds the individual lacks capacity to do so;

19 2. The individual is found under subsection B of Section 4 of
20 this act to lack capacity to do so, and if the individual objects to
21 the finding, the finding is confirmed under paragraph 4 of
22 subsection D of Section 5 of this act; or

23 3. The individual created an advance mental health care
24 directive that includes the provision under subsection D of Section

1 9 of this act and the individual is experiencing the psychiatric or
2 psychological event specified in the directive.

3 B. Revocation under subsection A of this section may be by any
4 act of the individual that clearly indicates that the individual
5 intends to revoke the appointment, designation, or instruction,
6 including an oral statement to a health care professional.

7 C. Except as provided in Section 10 of this act, an advance
8 health care directive of an individual that conflicts with another
9 advance health care directive of the individual revokes the earlier
10 directive to the extent of the conflict.

11 D. Unless otherwise provided in an individual's advance health
12 care directive appointing an agent, the appointment of a spouse of
13 an individual as agent for the individual is revoked if:

14 1. A petition for annulment, divorce, dissolution of marriage,
15 legal separation, or termination has been filed and not dismissed or
16 withdrawn;

17 2. A decree of annulment, divorce, dissolution of marriage,
18 legal separation, or termination has been issued;

19 3. The individual and the spouse have agreed in a record to a
20 legal separation; or

21 4. The spouse has abandoned the individual for more than one
22 (1) year.

23

24

1 SECTION 16. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3100.15 of Title 63, unless
3 there is created a duplication in numbering, reads as follows:

4 A. An advance health care directive created outside this state
5 is valid if it complies with:

6 1. The law of the state specified in the directive or, if a
7 state is not specified, the state in which the individual created
8 the directive; or

9 2. This act.

10 B. A person may assume without inquiry that an advance health
11 care directive is genuine, valid, and still in effect, and may
12 implement and rely on it, unless the person has good cause to
13 believe the directive is invalid or has been revoked.

14 C. An advance health care directive, revocation of a directive,
15 or a signature on a directive or revocation may not be denied legal
16 effect or enforceability solely because it is in electronic form.

17 D. Evidence relating to an advance health care directive,
18 revocation of a directive, or a signature on a directive or
19 revocation may not be excluded in a proceeding solely because the
20 evidence is in electronic form.

21 E. This act does not affect the validity of an electronic
22 record or signature that is valid under Section 15-101 et seq. of
23 Title 12A of the Oklahoma Statutes.

24

1 F. If this act conflicts with other law of this state relating
2 to the creation, execution, implementation, or revocation of an
3 advance health care directive, this act prevails.

4 SECTION 17. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 3100.16 of Title 63, unless
6 there is created a duplication in numbering, reads as follows:

7 A. An agent or default surrogate has a fiduciary duty to the
8 individual for whom the agent or default surrogate is acting when
9 exercising or purporting to exercise a power under Section 18 of
10 this act.

11 B. An agent or default surrogate shall make a health care
12 decision in accordance with the direction of the individual in an
13 advance health care directive and other goals, preferences, and
14 wishes of the individual to the extent known or reasonably
15 ascertainable by the agent or default surrogate.

16 C. If there is not a direction in an advance health care
17 directive and the goals, preferences, and wishes of the individual
18 regarding a health care decision are not known or reasonably
19 ascertainable by the agent or default surrogate, the agent or
20 default surrogate shall make the decision in accordance with the
21 agent's or default surrogate's determination of the individual's
22 best interest.

23 D. In determining the individual's best interest under
24 subsection C of this section, the agent or default surrogate shall:

1 1. Give primary consideration to the individual's
2 contemporaneous communications, including verbal and nonverbal
3 expressions;

4 2. Consider the individual's values to the extent known or
5 reasonably ascertainable by the agent or default surrogate; and

6 3. Consider the risks and benefits of the potential health care
7 decision.

8 E. As soon as reasonably feasible, an agent or default
9 surrogate who is informed of a revocation of an advance health care
10 directive or disqualification of the agent or default surrogate
11 shall communicate the revocation or disqualification to a
12 responsible health care professional.

13 SECTION 18. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 3100.17 of Title 63, unless
15 there is created a duplication in numbering, reads as follows:

16 A. Except as provided in subsection C of this section, the
17 power of an agent or default surrogate commences when the individual
18 is found under subsection B of Section 4 of this act or by a court
19 to lack capacity to make a health care decision. The power ceases
20 if the individual later is found to have capacity to make a health
21 care decision, or the individual objects under subsection C of
22 Section 5 of this act to the finding of lack of capacity under
23 subsection B of Section 4 of this act. The power resumes if:

24

1 1. The power ceased because the individual objected under
2 subsection C of Section 5 of this act; and

3 2. The finding of lack of capacity is confirmed under paragraph
4 4 of subsection D of Section 5 of this act or a court finds that the
5 individual lacks capacity to make a health care decision.

6 B. An agent or default surrogate may request, receive, examine,
7 copy, and consent to the disclosure of medical and other health care
8 information about the individual if the individual would have the
9 right to request, receive, examine, copy, or consent to the
10 disclosure of the information.

11 C. A power of attorney for health care may provide that the
12 power of an agent under subsection B of this section commences on
13 appointment.

14 D. If no other person is authorized to do so, an agent or
15 default surrogate may apply for public or private health insurance
16 and benefits on behalf of the individual. An agent or default
17 surrogate who may apply for insurance and benefits does not, solely
18 by reason of the power, have a duty to apply for the insurance or
19 benefits.

20 E. An agent or default surrogate may not consent to voluntary
21 admission of the individual to a facility for mental health
22 treatment unless:

23 1. Voluntary admission is specifically authorized by the
24 individual in an advance health care directive in a record; and

1 2. The admission is for no more than the maximum of the number
2 of days specified in the directive.

3 F. Except as provided in subsection G of this section, an agent
4 or default surrogate may not consent to placement of the individual
5 in a nursing home if the placement is intended to be for more than
6 one hundred (100) days if:

- 7 1. An alternative living arrangement is reasonably feasible;
- 8 2. The individual objects to the placement; or
- 9 3. The individual is not terminally ill.

10 G. If specifically authorized by the individual in an advance
11 health care directive in a record, an agent or default surrogate may
12 consent to placement of the individual in a nursing home for more
13 than one hundred (100) days even if:

- 14 1. An alternative living arrangement is reasonably feasible;
- 15 2. The individual objects to the placement; and
- 16 3. The individual is not terminally ill.

17 SECTION 19. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 3100.18 of Title 63, unless
19 there is created a duplication in numbering, reads as follows:

20 A. If an individual has a long-term disability requiring
21 routine treatment by artificial nutrition, hydration, or mechanical
22 ventilation and a history of using the treatment without objection,
23 an agent or default surrogate may not consent to withhold or
24 withdraw the treatment unless:

1 1. The treatment is not necessary to sustain the individual's
2 life or maintain the individual's well-being;

3 2. The individual has expressly authorized the withholding or
4 withdrawal in a health care instruction that has not been revoked;
5 or

6 3. The individual has experienced a major reduction in health
7 or functional ability from which the individual is not expected to
8 recover, even with other appropriate treatment, and the individual
9 has not:

10 a. given a direction inconsistent with withholding or
11 withdrawal, or

12 b. communicated by verbal or nonverbal expression a
13 desire for artificial nutrition, hydration, or
14 mechanical ventilation.

15 B. A default surrogate may not make a health care decision if,
16 under other law of this state, the decision:

17 1. May not be made by a guardian; or

18 2. May be made by a guardian only if the court appointing the
19 guardian specifically authorizes the guardian to make the decision.

20 SECTION 20. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 3100.19 of Title 63, unless
22 there is created a duplication in numbering, reads as follows:

23 A. An individual in a power of attorney for health care may
24 appoint multiple individuals as coagents. Unless the power of

1 attorney provides otherwise, each coagent may exercise independent
2 authority.

3 B. An individual in a power of attorney for health care may
4 appoint one or more individuals to act as alternate agents if a
5 predecessor agent resigns, dies, becomes disqualified, is not
6 reasonably available, or otherwise is unwilling or unable to act as
7 agent.

8 C. Unless the power of attorney provides otherwise, an
9 alternate agent has the same authority as the original agent:

10 1. At any time the original agent is not reasonably available
11 or is otherwise unwilling or unable to act, for the duration of the
12 unavailability, unwillingness, or inability to act; or

13 2. If the original agent and all other predecessor agents have
14 resigned or died or are disqualified from acting as agent.

15 SECTION 21. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 3100.20 of Title 63, unless
17 there is created a duplication in numbering, reads as follows:

18 A. No person shall be authorized under Section 3102.4 of this
19 title to make health care decisions for a patient if that person:

20 1. Has been convicted of, pled guilty to, or pled no contest to
21 any violation of Section 843.1, 843.2, 843.4 or 843.5 of Title 21 of
22 the Oklahoma Statutes;

23 2. Has been found to have committed abuse, verbal abuse or
24 exploitation, as these terms are defined in Section 10-103 of Title

1 43A of the Oklahoma Statutes, by a final State Department of Health
2 or Department of Human Services investigative finding or by an
3 administrative law judge finding, unless that finding has been
4 overturned through judicial review; or

5 3. Has been criminally charged as described in subsection B of
6 Section 10-110.1 of Title 43A of the Oklahoma Statutes, unless the
7 person has been acquitted or those charges have been finally
8 dismissed.

9 SECTION 22. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 3100.21 of Title 63, unless
11 there is created a duplication in numbering, reads as follows:

12 A. A responsible health care professional who is aware that an
13 individual has been found to lack capacity to make a decision shall
14 make a reasonable effort to determine if the individual has a
15 surrogate.

16 B. If possible before implementing a health care decision made
17 by a surrogate, a responsible health care professional, as soon as
18 reasonably feasible, shall communicate to the individual the
19 decision made and the identity of the surrogate.

20 C. A responsible health care professional who makes or is
21 informed of a finding that an individual lacks capacity to make a
22 health care decision or no longer lacks capacity, or that other
23 circumstances exist that affect a health care instruction or the
24 authority of a surrogate, as soon as reasonably feasible, shall:

1 1. Document the finding or circumstance in the individual's
2 medical record; and

3 2. If possible, communicate to the individual and the
4 individual's surrogate the finding or circumstance and that the
5 individual may object under subsection C of Section 5 of this act to
6 the finding under subsection B of Section 4 of this act.

7 D. A responsible health care professional who is informed that
8 an individual has created or revoked an advance health care
9 directive, or that a surrogate for an individual has been appointed,
10 designated, or disqualified, shall:

11 1. Document the information as soon as reasonably feasible in
12 the individual's medical record; and

13 2. If evidence of the directive, revocation, appointment,
14 designation, or disqualification is in a record, request a copy and,
15 on receipt, cause the copy to be included in the individual's
16 medical record.

17 E. Except as provided in subsections F and G of this section, a
18 health care professional or health care institution providing health
19 care to an individual shall comply with:

20 1. A health care instruction given by the individual regarding
21 the individual's health care;

22 2. A reasonable interpretation by the individual's surrogate of
23 an instruction given by the individual; and

24

1 3. A health care decision for the individual made by the
2 individual's surrogate in accordance with Sections 17 and 18 of this
3 act to the same extent as if the decision had been made by the
4 individual at a time when the individual had capacity.

5 F. A health care professional or a health care institution may
6 refuse to provide health care consistent with a health care
7 instruction or health care decision if:

8 1. The instruction or decision is contrary to a policy of the
9 health care institution providing care to the individual that is
10 based expressly on reasons of conscience and the policy was timely
11 communicated to the individual or to the individual's surrogate;

12 2. The care would require health care that is not available to
13 the professional or institution; or

14 3. Compliance with the instruction or decision would:

15 a. require the professional to provide care that is
16 contrary to the professional's religious belief or
17 moral conviction if other law permits the professional
18 to refuse to provide care for that reason,

19 b. require the professional or institution to provide
20 care that is contrary to generally accepted health
21 care standards applicable to the professional or
22 institution, or

23 c. violate a court order or other law.
24

1 G. A health care professional or health care institution that
2 refuses to provide care under subsection F of this section shall:

3 1. As soon as reasonably feasible, inform the individual, if
4 possible, and the individual's surrogate of the refusal;

5 2. Immediately make a reasonable effort to transfer the
6 individual to another health care professional or health care
7 institution that is willing to comply with the instruction or
8 decision; and

9 3. Either:

10 a. if care is refused under paragraph 1 or 2 of
11 subsection F of this section, provide life-sustaining
12 care and care needed to keep or make the individual
13 comfortable, consistent with accepted medical
14 standards to the extent feasible, until a transfer is
15 made, or

16 b. if care is refused under paragraph 3 of subsection F
17 of this section, provide life-sustaining care and care
18 needed to keep or make the individual comfortable,
19 consistent with accepted medical standards, until a
20 transfer is made or, if the professional or
21 institution reasonably believes that a transfer cannot
22 be made, for at least ten (10) days after the refusal.
23
24

1 SECTION 23. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3100.22 of Title 63, unless
3 there is created a duplication in numbering, reads as follows:

4 A. A guardian may refuse to comply with or revoke the
5 individual's advance health care directive only if the court
6 appointing the guardian expressly orders the noncompliance or
7 revocation.

8 B. Unless a court orders otherwise, a health care decision made
9 by an agent appointed by an individual subject to guardianship
10 prevails over a decision of the guardian appointed for the
11 individual.

12 SECTION 24. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 3100.23 of Title 63, unless
14 there is created a duplication in numbering, reads as follows:

15 A. A health care professional or health care institution acting
16 in good faith is not subject to civil or criminal liability or to
17 discipline for unprofessional conduct for:

18 1. Complying with a health care decision made for an individual
19 by another person if compliance is based on a reasonable belief that
20 the person has authority to make the decision, including a decision
21 to withhold or withdraw health care;

22 2. Refusing to comply with a health care decision made for an
23 individual by another person if the refusal is based on a reasonable
24

1 belief that the person lacked authority or capacity to make the
2 decision;

3 3. Complying with an advance health care directive based on a
4 reasonable belief that the directive is valid;

5 4. Refusing to comply with an advance health care directive
6 based on a reasonable belief that the directive is not valid,
7 including a reasonable belief that the directive was not made by the
8 individual or, after its creation, was substantively altered by a
9 person other than the individual who created it;

10 5. Determining that an individual who otherwise might be
11 authorized to act as an agent or default surrogate is not reasonably
12 available; or

13 6. Complying with an individual's direction under subsection D
14 of Section 9 of this act.

15 B. An agent, default surrogate, or individual with a reasonable
16 belief that the individual is an agent or a default surrogate is not
17 subject to civil or criminal liability or to discipline for
18 unprofessional conduct for a health care decision made in a good
19 faith effort to comply with Section 17 of this act.

20 SECTION 25. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 3100.24 of Title 63, unless
22 there is created a duplication in numbering, reads as follows:

23 A. A person may not:
24

1 1. Intentionally falsify, in whole or in part, an advance
2 health care directive;

3 2. For the purpose of frustrating the intent of the individual
4 who created an advance health care directive or with knowledge that
5 doing so is likely to frustrate the intent:

6 a. intentionally conceal, deface, obliterate, or delete
7 the directive or a revocation of the directive without
8 consent of the individual who created or revoked the
9 directive, or

10 b. intentionally withhold knowledge of the existence or
11 revocation of the directive from a responsible health
12 care professional or health care institution providing
13 health care to the individual who created or revoked
14 the directive;

15 3. Coerce or fraudulently induce an individual to create,
16 revoke, or refrain from creating or revoking an advance health care
17 directive or a part of a directive; or

18 4. Require or prohibit the creation or revocation of an advance
19 health care directive as a condition for providing health care.

20 B. An individual who is the subject of conduct prohibited under
21 subsection A of this section, or the individual's estate, has a
22 cause of action against a person that violates subsection A of this
23 section for statutory damages of Twenty-five Thousand Dollars

24

1 (\$25,000.00) or actual damages resulting from the violation,
2 whichever is greater.

3 C. Subject to subsection D of this section, an individual who
4 makes a health care instruction, or the individual's estate, has a
5 cause of action against a health care professional or health care
6 institution that intentionally violates Section 22 of this act for
7 statutory damages of Fifty Thousand Dollars (\$50,000.00) or actual
8 damages resulting from the violation, whichever is greater.

9 D. A health care professional who is an emergency medical
10 responder is not liable under subsection C of this section for a
11 violation of subsection E of Section 22 of this act if:

12 1. The violation occurs in the course of providing care to an
13 individual experiencing a health condition for which the
14 professional reasonably believes the care was appropriate to avoid
15 imminent loss of life or serious harm to the individual;

16 2. The failure to comply is consistent with accepted standards
17 of the profession of the professional; and

18 3. The provision of care does not begin in a health care
19 institution in which the individual resides or was receiving care.

20 E. In an action under this section, a prevailing plaintiff may
21 recover reasonable attorney fees, court costs, and other reasonable
22 litigation expenses.

23 F. A cause of action or remedy under this section is in
24 addition to any cause of action or remedy under other law.

1 SECTION 26. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3100.25 of Title 63, unless
3 there is created a duplication in numbering, reads as follows:

4 A. A physical or electronic copy of an advance health care
5 directive, revocation of an advance health care directive, or
6 appointment, designation, or disqualification of a surrogate has the
7 same effect as the original.

8 B. An individual may create a certified physical copy of an
9 advance health care directive or revocation of an advance health
10 care directive that is in electronic form by affirming under penalty
11 of perjury that the physical copy is a complete and accurate copy of
12 the directive or revocation.

13 SECTION 27. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 3100.26 of Title 63, unless
15 there is created a duplication in numbering, reads as follows:

16 A. On petition of an individual, the individual's surrogate, a
17 health care professional or health care institution providing health
18 care to the individual, or a person interested in the welfare of the
19 individual, the court may:

20 1. Enjoin implementation of a health care decision made by an
21 agent or default surrogate on behalf of the individual, on a finding
22 that the decision is inconsistent with Section 17 or 18 of this act;

1 2. Enjoin an agent from making a health care decision for the
2 individual, on a finding that the individual's appointment of the
3 agent has been revoked or the agent:

4 a. is disqualified under subsection B of Section 8 of
5 this act,

6 b. is unwilling or unable to comply with Section 17 of
7 this act, or

8 c. poses a danger to the individual's well-being;

9 3. Enjoin another individual from acting as a default
10 surrogate, on a finding that the other individual acting as a
11 default surrogate did not comply with Section 12 of this act or the
12 other individual:

13 a. is disqualified under Section 14 of this act,

14 b. is unwilling or unable to comply with Section 17 of
15 this act, or

16 c. poses a danger to the first individual's well-being; or

17 4. Order implementation of a health care decision made:

18 a. by and for the individual, or

19 b. by an agent or default surrogate who is acting in
20 compliance with the powers and duties of the agent or
21 default surrogate.

22 B. In this act, advocacy for the withholding or withdrawal of
23 health care or mental health care from an individual is not itself
24

1 evidence that an agent or default surrogate, or a potential agent or
2 default surrogate, poses a danger to the individual's well-being.

3 C. A proceeding under this section is governed by Sections 2-
4 101 et seq. and 3-101 et seq. of Title 30 of the Oklahoma Statutes.

5 SECTION 28. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 3100.27 of Title 63, unless
7 there is created a duplication in numbering, reads as follows:

8 A. This act does not authorize mercy killing, assisted suicide,
9 or euthanasia.

10 B. This act does not affect other law of this state governing
11 treatment for mental illness of an individual involuntarily
12 committed to a mental health care institution under Section 5-410 et
13 seq. of Title 43A of the Oklahoma Statutes.

14 C. Death of an individual caused by withholding or withdrawing
15 health care in accordance with this act does not constitute a
16 suicide or homicide or legally impair or invalidate a policy of
17 insurance or an annuity providing a death benefit, notwithstanding
18 any term of the policy or annuity.

19 D. This act does not create a presumption concerning the
20 intention of an individual who has not created an advance health
21 care directive.

22 E. An advance health care directive created before, on, or
23 after the effective date of this act must be interpreted in
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1 accordance with law of this state, excluding the state's choice of
2 law rules, at the time the directive is implemented.

3 SECTION 29. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 3100.28 of Title 63, unless
5 there is created a duplication in numbering, reads as follows:

6 In applying and construing this uniform act, a court shall
7 consider the promotion of uniformity of the law among jurisdictions
8 that enact it.

9 SECTION 30. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 3100.29 of Title 63, unless
11 there is created a duplication in numbering, reads as follows:

12 A. An advance health care directive created before the
13 effective date of this act is valid if it complies with this act or
14 complied at the time of creation with the law of the state in which
15 it was created.

16 B. This act does not affect the validity or effect of an act
17 done before the effective date of this act.

18 C. An individual who assumed authority to act as default
19 surrogate before the effective date of this act may continue to act
20 as default surrogate until the individual for whom the default
21 surrogate is acting has capacity or the default surrogate is
22 disqualified, whichever occurs first.

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1 SECTION 31. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3100.30 of Title 63, unless
3 there is created a duplication in numbering, reads as follows:

4 This act applies to an advance health care directive created
5 before, on, or after the effective date of this act.

6 SECTION 32. REPEALER 63 O.S. 2021, Sections 3101.1,
7 3101.2, 3101.3, 3101.4, 3101.5, 3101.6, 3101.7, 3101.8, 3101.9,
8 3101.10, 3101.11, 3101.12, 3101.13, 3101.14, 3101.15, and 3101.16,
9 are hereby repealed.

10 SECTION 33. This act shall become effective November 1, 2025.

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