

## BILL SUMMARY

1<sup>st</sup> Session of the 60<sup>th</sup> Legislature

<b>Bill No.:</b>	<b>HB1687</b>
<b>Version:</b>	<b>FA1</b>
<b>Request Number:</b>	<b>13353</b>
<b>Author:</b>	<b>Rep. Roe</b>
<b>Date:</b>	<b>3/24/2025</b>
<b>Impact:</b>	<b>\$0</b>

### Research Analysis

The floor amendment to HB 1687 creates the Uniform Health Care Decisions Act of 2025, which provides that an individual is presumed to have the capacity to make or revoke a health care decision, instruction, and the power of attorney unless a court finds the individual lacks this capacity or the presumption is rebutted. The presumption may be rebutted based on an examination from a responsible health care professional and documented in a signed record. This finding may not be made by a family member, cohabitant or relation thereof, or a surrogate or relation thereof. If this finding is based on a condition the individual no longer has or a responsible health care professional has good cause to believe the individual has capacity then the individual is presumed to have capacity unless the court finds otherwise. As soon as reasonably feasible, an individual about whom the finding was made or their responsible health care professional or a surrogate should be informed of the decision. The individual may object to the finding and if that is the case the individual must be treated as having capacity unless the objection is withdrawn, a court finds they lacked the presumed capacity, the individual has a health condition requiring a decision regarding health care treatment to be made promptly to avoid imminent loss of life or serious harm, or the finding is confirmed by a second finding. A second finding is not sufficient to rebut the presumption of capacity if the individual is requesting the provision or continuation of life-sustaining treatment and the finding is making the decision to withhold or withdraw treatment.

An individual found to lack capacity or a designee may petition the county court to determine whether they lack capacity. The court must hear the petition within seven days after it is filed. The measure allows an individual to create a health care instruction that expresses their preferences for future health care. This may be in the same record as the power of attorney for health care, which this measure also allows this individual to create to appoint an agent to make health care decisions for the individual. An individual is also allowed to create an advanced health care directive that addresses only mental health for the individual. The measure contains a form that may be used to create an advance health care directive. The measure allows for a default surrogate to make a health care decision for an individual who lacks capacity and for whom the appointed person is not available and lays out a hierarchy of who may serve as the default surrogate, unless the advance health care directive states otherwise. An individual may disqualify another individual from acting as their default surrogate. An individual may also revoke the appointment of an agent, the designation of a default surrogate, or a health care instruction in whole or in part unless certain conditions listed in the measure are met. An advance health care directive created outside the state will be valid if it complies with listed requirements. If this measure conflicts with other state law relating to advance health care directive, this act prevails. An agent or default surrogate may not commit to voluntary admission of the individual to a mental health treatment facility or placement in a nursing facility unless certain conditions are met. An individual who has power of attorney for health care may appoint multiple individuals as coagents. A health care professional or institution acting in good faith is

not subject to civil or criminal liability or to discipline for unprofessional conduct for acting under the conditions listed in the measure. The measure sets up amounts for statutory damages for violating this measure. This measure does not authorize mercy killing, assisted suicide, or euthanasia and also does not create a number of other presumptions listed in the measure. An advance health care directive created before the act's effective date is valid if it complies with this act or the one that was in effect when the directive was created. This act will apply to advance health care directives created before, on, and after the effective date of this act.

The measure also repeals 63 O.S. 2021, Sections [3101.1](#), [3101.2](#), [3101.3](#), [3101.4](#), [3101.5](#), [3101.6](#), [3101.7](#), [3101.8](#), [3101.9](#), [3101.10](#), [3101.11](#), [3101.12](#), [3101.13](#), [3101.14](#), [3101.15](#), and [3101.16](#).

#### CHANGES IN FLOOR SUB VERSION FROM COMMITTEE SUBSTITUTE:

The floor substitute adds section 21 which provides that no person will be authorized to make health care decisions for a patient if that person has been convicted of, pled guilty to, or pled no contest to any listed violation in Oklahoma Statutes, has been found to have committed abuse, verbal abuse or exploitation, or has been criminally charged unless that person has been acquitted or the charges have been finally dismissed.

Prepared By: Suzie Nahach, House Research Staff

#### **Fiscal Analysis**

HB 1687 establishes the Uniform Health Care Decisions Act of 2025, modernizing state laws on advanced health care directives and decision making for individuals unable to make their own medical choices. In its current form, HB 1687 is not anticipated to have a direct fiscal impact on the state budget or appropriations.

The floor amendment does not change the fiscal impact of the measure.

Prepared By: Alexandra Ladner, House Fiscal Staff

#### **Other Considerations**

None.