

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 60th Legislature (2025)

4 HOUSE BILL 1687

 By: Roe of the House

5 and

6 **Rosino** of the Senate

7
8
9 AS INTRODUCED

10 An Act relating to advance health care directives;
11 creating the Uniform Health Care Decisions Act of
12 2025; providing definitions; specifying capacity;
13 providing for presumption of capacity; providing for
14 overcoming presumption; providing notice; authorizing
15 the right to object; providing for judicial review;
16 providing for health care instruction; establishing
17 power of attorney for health care; establishing
18 advance mental health care directive; providing for
19 certain conflicting health care directives; providing
20 an optional form; providing for a default surrogate;
21 providing for disagreement; providing for
22 disqualification; providing for revocation; providing
23 for validity; providing for conflict of law;
24 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
 for decisions by guardians; providing for immunity;
 prohibiting conduct; providing for damages; providing
 for judicial relief; providing for construction;
 providing for application; providing for
 codification; and providing an effective date.

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

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

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

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

9 As used in this act:

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

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

16 3. "Agent" means an individual appointed under a power of
17 attorney for health care to make a health care decision for the
18 individual who made the appointment. The term includes a coagent or
19 alternate agent appointed under Section 20 of this act;

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

22 5. "Cohabitant" means each of two individuals who have been
23 living together as a couple for at least one (1) year after each
24

1 became an adult or was emancipated and who are not married to one
2 another;

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

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

9 8. "Family member" means a spouse, domestic partner, adult
10 child, parent, or grandparent, or an adult descendant of a spouse,
11 child, parent, or grandparent;

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

16 10. "Health care" means care or treatment or a service or
17 procedure to maintain, monitor, diagnose, or otherwise affect an
18 individual's physical or mental illness, injury, or condition. The
19 term includes mental health care;

20 11. "Health care decision" means a decision made by an
21 individual or the individual's surrogate regarding the individual's
22 health care, including:

23 a. selection or discharge of a health care professional
24 or health care institution,

1 b. approval or disapproval of a diagnostic test, surgical
2 procedure, medication, therapeutic intervention, or
3 other health care, and

4 c. direction to provide, withhold, or withdraw artificial
5 nutrition or hydration, mechanical ventilation, or
6 other health care;

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

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

16 14. "Health care professional" means a physician or other
17 individual licensed, certified, or otherwise authorized or permitted
18 by other law of this state to provide health care in this state in
19 the ordinary course of business or the practice of the physician's
20 or individual's profession;

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

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

1 individual's mental illness or other psychiatric, psychological, or
2 psychosocial condition;

3 17. "Nursing home" means a nursing facility as defined in
4 Section 1919(a)(1) of the Social Security Act, 42 U.S.C., Section
5 1396r(a)(1), as amended, or skilled nursing facility as defined in
6 Section 1819(a)(1) of the Social Security Act, 42 U.S.C., Section
7 1395i-3(a)(1), as amended;

8 18. "Person" means an individual, estate, business or nonprofit
9 entity, government or governmental subdivision, agency, or
10 instrumentality, or other legal entity;

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

- 12 a. the individual's surrogate,
- 13 b. a family member of the individual,
- 14 c. the cohabitant of the individual,
- 15 d. a public entity providing health care case management
16 or protective services to the individual,
- 17 e. a person appointed under other law to make decisions
18 for the individual under a power of attorney for
19 finances, or
- 20 f. a person that has an ongoing personal or professional
21 relationship with the individual, including a person
22 that has provided educational or health care services
23 or supported decision making to the individual;

24

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

4 21. "Power of attorney for health care" means a record in which
5 an individual appoints an agent to make health care decisions for
6 the individual;

7 22. "Reasonably available" means being able to be contacted
8 without undue effort and being willing and able to act in a timely
9 manner considering the urgency of an individual's health care
10 situation. When used to refer to an agent or default surrogate, the
11 term includes being willing and able to comply with the duties under
12 Section 17 of this act in a timely manner considering the urgency of
13 an individual's health care situation;

14 23. "Record" means information:

- 15 a. inscribed on a tangible medium, or
- 16 b. stored in an electronic or other medium and
- 17 retrievable in perceivable form;

18 24. "Responsible health care professional" means:

- 19 a. a health care professional designated by an individual
- 20 or the individual's surrogate to have primary
- 21 responsibility for the individual's health care or for
- 22 overseeing a course of treatment, or
- 23 b. in the absence of a designation under subparagraph a
- 24 of this paragraph, or if the professional designated

1 under subparagraph a of this paragraph is not
2 reasonably available, a health care professional who
3 has primary responsibility for overseeing the
4 individual's health care or for overseeing a course of
5 treatment;

6 25. "Sign" means with present intent to authenticate or adopt a
7 record:

- 8 a. execute or adopt a tangible symbol, or
- 9 b. attach to or logically associate with the record an
10 electronic symbol, sound, or process;

11 26. "State" means a state of the United States, the District of
12 Columbia, Puerto Rico, the United States Virgin Islands, or any
13 other territory, or possession subject to the jurisdiction of the
14 United States. The term includes a federally recognized Indian
15 tribe;

16 27. "Supported decision making" means assistance, from one or
17 more persons of an individual's choosing, that helps the individual
18 make or communicate a decision, including by helping the individual
19 understand the nature and consequences of the decision; and

20 28. "Surrogate" means:

- 21 a. an agent,
- 22 b. a default surrogate, or
- 23 c. a guardian authorized to make health care decisions.

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

4 A. An individual has capacity for the purpose of this act if
5 the individual:

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

9 2. In making or revoking:

10 a. a health care decision, understands the nature and
11 consequences of the decision, including the primary
12 risks and benefits of the decision,

13 b. a health care instruction, understands the nature and
14 consequences of the instruction, including the primary
15 risks and benefits of the choices expressed in the
16 instruction, and

17 c. an appointment of an agent under a health care power
18 of attorney or identification of a default surrogate
19 under paragraph 1 of subsection B of Section 12 of
20 this act, recognizes the identity of the individual
21 being appointed or identified and understands the
22 general nature of the relationship of the individual
23 making the appointment or identification with the
24 individual being appointed or identified.

1 B. The right of an individual who has capacity to make a
2 decision about the individual's health care is not affected by
3 whether the individual creates or revokes an advance health care
4 directive.

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

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

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

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

- 17 1. Subject to subsection C of this section, made on the basis
18 of a contemporaneous examination by any of the following:
 - 19 a. a physician,
 - 20 b. a psychologist licensed or otherwise authorized to
21 practice in this state, or
 - 22 c. an individual with training and expertise in the
23 finding of lack of capacity who is licensed or
24 otherwise authorized to practice in this state as:

- (1) a physician assistant,
- (2) an advanced practice registered nurse, or
- (3) a social worker, or

d. a responsible health care professional not described in subparagraph a, b, or c of this paragraph if:

- (1) the individual about whom the finding is to be made is experiencing a health condition requiring a decision regarding health care treatment to be made promptly to avoid loss of life or serious harm to the health of the individual, and
- (2) an individual listed in subparagraph a, b, or c of this paragraph is not reasonably available;

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

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

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

1. A family member of the individual presumed to have capacity;
2. The cohabitant of the individual or a descendant of the cohabitant; or

1 3. The individual's surrogate, a family member of the
2 surrogate, or a descendant of the surrogate.

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

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

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

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

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

22 1. By orally informing a responsible health care professional;
23
24

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

4 3. By another act that clearly indicates the individual's
5 objection.

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

11 1. The individual withdraws the objection;

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

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

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

20 a. did not make the first finding,

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

23 c. is not the cohabitant of the individual who made the
24 first finding or a descendant of the cohabitant.

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

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

10 1. Communicate the objection to a responsible health care
11 professional; and

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

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

21 A. An individual found under subsection B of Section 4 of this
22 act to lack capacity, a responsible health care professional, the
23 health care institution providing health care to the individual, or
24 a person interested in the welfare of the individual may petition

1 the court in the respective county in which the individual resides
2 or is located to determine whether the individual lacks capacity.

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

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

16 A. An individual may create a health care instruction that
17 expresses the individual's preferences for future health care,
18 including preferences regarding:

- 19 1. Health care professionals or health care institutions;
- 20 2. How a health care decision will be made and communicated;
- 21 3. Persons that should or should not be consulted regarding a
22 health care decision;
- 23 4. A person to serve as guardian for the individual if one is
24 appointed; and

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

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

11 C. A health care instruction made by an individual that
12 conflicts with an earlier health care instruction made by the
13 individual, including an instruction documented in a medical order,
14 revokes the earlier instruction to the extent of the conflict.

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

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

20 A. An individual may create a power of attorney for health care
21 to appoint an agent to make health care decisions for the
22 individual.

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

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

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

10 C. A health care decision made by an agent is effective without
11 judicial approval.

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

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

17 2. Is not:

18 a. the agent appointed by the individual,

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

20 c. if the individual resides or is receiving care in a
21 nursing home, or other residential care facility, the
22 owner, operator, employee, or contractor of the
23 nursing home, or other residential care facility; and

24

1 3. Is present when the individual signs the power of attorney
2 or when the individual represents that the power of attorney
3 reflects the individual's wishes.

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

6 1. Physically present in the same location;

7 2. Using electronic means that allow for real time audio and
8 visual transmission and communication in real time to the same
9 extent as if the witness and the individual were physically present
10 in the same location; or

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

13 a. the identity of the individual is personally known to
14 the witness, or

15 b. the witness is able to authenticate the identity of
16 the individual by receiving accurate answers from the
17 individual that enables the authentication.

18 F. A power of attorney for health care may include a health
19 care instruction.

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

23 A. An individual may create an advance health care directive
24 that addresses only mental health care for the individual. The

1 directive may include a health care instruction, a power of attorney
2 for health care, or both.

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

5 1. General philosophy and objectives regarding mental health
6 care; and

7 2. Specific goals, preferences, and wishes regarding the
8 provision, withholding, or withdrawal of a form of mental health
9 care, including:

10 a. preferences regarding professionals, programs, and
11 facilities,

12 b. admission to a mental health facility, including
13 duration of admission,

14 c. preferences regarding medications,

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

17 e. preferences regarding crisis intervention.

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

20 D. An individual may direct in an advance mental health care
21 directive that, if the individual is experiencing a psychiatric or
22 psychological event specified in the directive, the individual may
23 not revoke the directive or a part of the directive.

24

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

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

8 a. understood the nature and consequences of the
9 direction, including its risks and benefits, and

10 b. made the direction voluntarily and without coercion or
11 undue influence;

12 2. Are not:

13 a. the agent appointed by the individual,

14 b. the agent's spouse, or cohabitant, and

15 c. if the individual resides in a nursing home, or other
16 residential care facility, the owner, operator,
17 employee, or contractor of the nursing home, or other
18 residential care facility; and

19 3. Are physically present in the same location as the
20 individual.

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

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

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

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

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

20 The following form may be used to create an advance health care
21 directive:

22 ADVANCE HEALTH CARE DIRECTIVE
23 HOW YOU CAN USE THIS FORM

24

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

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

8 YOUR NAME AND DATE OF BIRTH

9 Name:

10 Date of birth:

11 PART A: NAMING AN AGENT

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

14 1. NAMING AN AGENT

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

17 Name:

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

20 2. NAMING AN ALTERNATE AGENT

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

24 Name:

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

3 3. LIMITING YOUR AGENT'S AUTHORITY

4 I give my agent the power to make all health care decisions for
5 me if I cannot make those decisions for myself, except the
6 following:

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

10 PART B: HEALTH CARE INSTRUCTIONS

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

13 1. INSTRUCTIONS ABOUT LIFE-SUSTAINING TREATMENT

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

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

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

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

1 Not be given to me if I am unconscious and I am not
2 expected to be conscious again.

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

7 Other (write what you want or do not want):

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

12 Always be given to me. (If you mark or initial this
13 choice, you should not mark or initial other choices in this "food
14 and liquids" section.)

15 Not be given to me if I have a condition that is not
16 curable and is expected to cause me to die soon, even if treated.

17 Not be given to me if I am unconscious and am not
18 expected to be conscious again.

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

23 Other (write what you want or do not want):
24

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

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

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

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

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

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

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

19 2. MY PRIORITIES

20 You can use this section to indicate what is important to you,
21 and what is not important to you. This information can help your
22 agent make decisions for you if you cannot. It also helps others
23 understand your preferences.

24

1 You may mark or initial each choice. You also may leave any
2 choice blank.

3 Staying alive as long as possible even if I have substantial
4 physical limitations is:

5 (____) Very important

6 (____) Somewhat important

7 (____) Not important

8 Staying alive as long as possible even if I have substantial
9 mental limitations is:

10 (____) Very important

11 (____) Somewhat important

12 (____) Not important

13 Being free from significant pain is:

14 (____) Very important

15 (____) Somewhat important

16 (____) Not important

17 Being independent is:

18 (____) Very important

19 (____) Somewhat important

20 (____) Not important

21 Having my agent talk with my family before making decisions
22 about my care is:

23 (____) Very important

24 (____) Somewhat important

1 Not important

2 Having my agent talk with my friends before making decisions
3 about my care is:

4 Very important

5 Somewhat important

6 Not important

7 3. OTHER INSTRUCTIONS

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

12 PART C: OPTIONAL SPECIAL POWERS AND GUIDANCE

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

16 1. OPTIONAL SPECIAL POWERS

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

19 Admit me as a voluntary patient to a facility for mental
20 health treatment for up to _____ days (write in the number of days
21 you want like 7, 14, 30 or another number). (If I do not mark or
22 initial this choice, my agent MAY NOT admit me as a voluntary
23 patient to this type of facility.)

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

5 2. ACCESS TO MY HEALTH INFORMATION

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

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

13 3. FLEXIBILITY FOR MY AGENT

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

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

21 4. NOMINATION OF GUARDIAN

22 You can say who you would want as your guardian if you needed
23 one. A guardian is a person appointed by a court to make decisions
24

1 for someone who cannot make decisions. Filling this out does NOT
2 mean you want or need a guardian.

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

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

7 (____) Other (write who you would want and their contact
8 information):

9 PART D: ORGAN DONATION

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

12 1. DONATION

13 You may mark or initial only one choice.

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

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

21 2. PURPOSE OF DONATION

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

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

2 (____) Transplant

3 (____) Therapy

4 (____) Research

5 (____) Education

6 (____) All of the above

7 PART E: SIGNATURES

8 YOUR SIGNATURE

9 Sign your name:

10 Today's date:

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

12 SIGNATURE OF A WITNESS

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

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

19 Name of Witness:

20 Signature of Witness:

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

23 Date witness signed:

24 PART F: INFORMATION FOR AGENTS

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

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

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

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

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

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

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

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

9 2. The individual's spouse, unless:

10 a. a petition for annulment, divorce, dissolution of
11 marriage, legal separation, or termination has been
12 filed and not dismissed or withdrawn,

13 b. a decree of annulment, divorce, dissolution of
14 marriage, legal separation, or termination has been
15 issued,

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

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

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

21 4. The individual's cohabitant;

22 5. The individual's adult sibling;

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

24

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

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

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

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

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

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

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

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

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

15 C. If a responsible health care professional is informed that
16 the members of the class who have communicated their views to the
17 professional are evenly divided concerning the health care decision,
18 the professional shall make a reasonable effort to solicit the views
19 of members of the class who are reasonably available but have not
20 yet communicated their views to the professional. The professional,
21 after the solicitation, shall comply with the decision of a majority
22 of the members who have communicated their views to the professional
23 and the professional reasonably believes are acting consistent with
24 their duties under Section 17 of this act.

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

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

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

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

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

24

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

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

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

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

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

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

20 3. The individual created an advance mental health care
21 directive that includes the provision under subsection D of Section
22 9 of this act and the individual is experiencing the psychiatric or
23 psychological event specified in the directive.

24

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

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

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

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

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

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

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

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

24

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

3 1. The law of the state specified in the directive or, if a
4 state is not specified, the state in which the individual created
5 the directive; or

6 2. This act.

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

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

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

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

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

24

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

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

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

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

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

22 1. Give primary consideration to the individual's
23 contemporaneous communications, including verbal and nonverbal
24 expressions;

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

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

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

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

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

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

23
24

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 a. given a direction inconsistent with withholding or
9 withdrawal, or

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

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

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

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

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

21 A. An individual in a power of attorney for health care may
22 appoint multiple individuals as coagents. Unless the power of
23 attorney provides otherwise, each coagent may exercise independent
24 authority.

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

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

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

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

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

16 A. A responsible health care professional who is aware that an
17 individual has been found to lack capacity to make a decision shall
18 make a reasonable effort to determine if the individual has a
19 surrogate.

20 B. If possible before implementing a health care decision made
21 by a surrogate, a responsible health care professional, as soon as
22 reasonably feasible, shall communicate to the individual the
23 decision made and the identity of the surrogate.

24

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

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

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

12 D. A responsible health care professional who is informed that
13 an individual has created or revoked an advance health care
14 directive, or that a surrogate for an individual has been appointed,
15 designated, or disqualified, shall:

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

18 2. If evidence of the directive, revocation, appointment,
19 designation, or disqualification is in a record, request a copy and,
20 on receipt, cause the copy to be included in the individual's
21 medical record.

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

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

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

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

9 F. A health care professional or a health care institution may
10 refuse to provide health care consistent with a health care
11 instruction or health care decision if:

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

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

18 3. Compliance with the instruction or decision would:

19 a. require the professional to provide care that is
20 contrary to the professional's religious belief or
21 moral conviction if other law permits the professional
22 to refuse to provide care for that reason,

23 b. require the professional or institution to provide
24 care that is contrary to generally accepted health

1 care standards applicable to the professional or
2 institution, or

3 c. violate a court order or other law.

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

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

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

12 3. Either:

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

19 b. if care is refused under paragraph 3 of subsection F
20 of this section, provide life-sustaining care and care
21 needed to keep or make the individual comfortable,
22 consistent with accepted medical standards, until a
23 transfer is made or, if the professional or
24

1 institution reasonably believes that a transfer cannot
2 be made, for at least ten (10) days after the refusal.

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

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

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

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

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

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

1 2. Refusing to comply with a health care decision made for an
2 individual by another person if the refusal is based on a reasonable
3 belief that the person lacked authority or capacity to make the
4 decision;

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

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

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

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

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

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

1 A. A person may not:

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

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

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

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

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

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

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

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 21 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 21 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 25. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3100.24 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 26. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 3100.25 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;
23
24

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 27. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 3100.26 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
24

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 28. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 3100.27 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 29. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 3100.28 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 30. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3100.29 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 31. 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 32. This act shall become effective November 1, 2025.

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12 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY AND PUBLIC SAFETY
13 OVERSIGHT, dated 02/27/2025 - DO PASS, As Coauthored.

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