

**BILL SUMMARY**  
2<sup>nd</sup> Session of the 58<sup>th</sup> Legislature

<b>Bill No.:</b>	<b>HB3815</b>
<b>Version:</b>	<b>FA1 (Floor Substitute)</b>
<b>Request Number:</b>	<b>11103</b>
<b>Author:</b>	<b>Rep. Stinson</b>
<b>Date:</b>	<b>3/21/2022</b>
<b>Impact:</b>	<b>\$0</b>

**Research Analysis**

The floor substitute to HB 3815 creates the Oklahoma Health Care Agent Act. The measure provides that a person with capacity may execute a power of attorney for health care, including signing do-not-resuscitate orders, other than the withholding or withdrawal of life-sustaining treatment, nutrition, or hydration, which may only be authorized in compliance with the Oklahoma Advance Directive Act. Such persons shall be empowered to make any health care decision the principal could have made while having capacity. Such power must be in writing and signed by the principal and witnessed by two persons who are at least 18 years of age and are not legatees, devisees, or heirs at law of the principal. No agent may be an owner, operator, or employee of a residential long-term health care institution unless the agent is directly related to the principal.

The measure provides a descending order of priority for persons to act as the agent in the absence of a written agreement to designate an agent. Power of attorney shall only become effective upon a determination of incapacity of the principal unless stated otherwise. Agents are directed by the measure to make health care decisions based on the initial instructions of the principal and shall be effective without judicial approval. Principals may revoke the designation of an agent by a signed writing or by personally informing the supervising health care provider at any time and in any manner that communicates an intent to revoke. The measure provides an example form to be used when designating an agent for healthcare power of attorney.

The measure requires supervising health care authorities to record the power of attorney into the patient's record and to record the determination made to designate a patient as incapacitated. The measure provides that health care providers may decline to comply with an individual instruction or health care decision for reasons of conscience. Such providers must promptly inform the patient and agent of the declined instruction, provide continuing care until the patient can be transferred and assist in efforts to transfer the patient. Health care providers acting in good faith and in accordance with generally accepted health care standards applicable to the health care provider or institution are exempted from criminal and civil liability for complying with health care decisions, declining to comply in certain circumstances, and complying with a power of attorney for health care and assuming that the designation was valid when made and has not been revoked or terminated. The measure specifies certain construing provisions in the bill. Lastly, the measure adds and modifies certain definitions.

Prepared By: Dan Brooks

**Fiscal Analysis**

HB 3815 in its current form creates the Oklahoma Health Care Agent Act. The measure does not task the state or its subdivisions with additional efforts. For this reason HB 3815 is not expected to have a direct fiscal impact on the state budget or state revenues.

Prepared By: John McPhetridge

**Other Considerations**

None.

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