

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 HOUSE BILL 3815

By: Stinson

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5
6 AS INTRODUCED

7 An Act relating to public health and safety; enacting
8 the Oklahoma Uniform Health Care Decisions Act;
9 defining terms; providing applicability to all
10 advance health directives executed in conformity with
11 the requirements of this act; providing that all
12 advance health directives validly executed prior to
13 the effective date are valid and enforceable
14 according the statutory provisions in effect at the
15 time of execution; providing applicability to all
16 powers of attorney for health care executed in
17 conformity with the requirements of this act;
18 providing that all powers of attorney for health care
19 validly executed prior to the effective date are
20 valid and enforceable according the statutory
21 provisions in effect at the time of execution;
22 providing that all powers of attorney for health care
23 executed in accordance with a certain statute after
24 and before a specified date are valid and
enforceable; providing for oral or written advance
health care directives; providing for a power of
attorney for health care; providing when a power of
attorney for health care becomes effective and when
it ceases; providing for when an individual lacks or
has recovered capacity under advance health care
directive; providing guidance health care decisions
made by an agent; providing that health care decision
made by an agent is effective without judicial
approval; providing that a written advance health
care directive may include the individual's
nomination of a guardian of the person; providing
guidance for validity of an advance health care
directive; providing for revocation of an advance
health care directive; providing an optional advance
health care directive form; providing when a
surrogate may make a health care decision for a

1 patient; providing how a health care surrogate is
2 designated; providing guidance on how a surrogate
3 makes health care decisions; providing that a health
4 care decision made by a surrogate for a patient is
5 effective without judicial approval; providing for
6 disqualifying of a surrogate; providing who may not
7 be a surrogate; providing that a supervising health
8 care provider may require an individual claiming the
9 right to act as surrogate for a patient to provide a
10 written declaration; providing guidelines for
11 decisions by guardians; providing obligations of a
12 health care provider; providing rights in relation to
13 health care information; providing immunity in
14 certain circumstances; providing for statutory
15 damages; providing right to make health care
16 decisions while having capacity to do so; providing
17 the presumption of capacity; providing that copy of a
18 written advance health care directive, revocation of
19 an advance health care directive, or designation or
20 disqualification of a surrogate has the same effect
21 as the original; providing the effect of the act;
22 providing for judicial relief; providing for
23 uniformity of application and construction; providing
24 a severability clause; providing for codification;
repealing 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, 3101.16, 3102.1, 3102.2, 3102.3, 3102.4,
3102.5 and 3102A, which relate to adverse medical
directives; and declaring an emergency.

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

19 SECTION 1. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 7320 of Title 63, unless there
21 is created a duplication in numbering, reads as follows:

22 This act shall be known and may be cited as the "Oklahoma
23 Uniform Health Care Decisions Act".
24

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 7321 of Title 63, unless there
3 is created a duplication in numbering, reads as follows:

4 As used in this act:

5 1. "Advance health care directive" means an individual
6 instruction or a power of attorney for health care;

7 2. "Agent" means an individual designated in a power of
8 attorney for health care to make a health care decision for the
9 individual granting the power;

10 3. "Capacity" means an individual's ability to understand the
11 significant benefits, risks, and alternatives to proposed health
12 care and to make and communicate a health care decision;

13 4. "Guardian" means a judicially appointed guardian or
14 conservator having authority to make a health care decision for an
15 individual;

16 5. "Health care" means any care, treatment, service, or
17 procedure to maintain, diagnose, or otherwise affect an individual's
18 physical or mental condition;

19 6. "Health care decision" means a decision made by an
20 individual or the individual's agent, guardian, or surrogate,
21 regarding the individual's health care, including:

22 a. selection and discharge of health care providers and
23 institutions,

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1 b. approval or disapproval of diagnostic tests, surgical
2 procedures, programs of medication, and orders not to
3 resuscitate, and

4 c. directions to provide, withhold, or withdraw
5 artificial nutrition and hydration and all other forms
6 of health care;

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

10 8. "Health care provider" means an individual licensed,
11 certified, or otherwise authorized or permitted by law to provide
12 health care in the ordinary course of business or practice of a
13 profession;

14 9. "Individual instruction" means an individual's direction
15 concerning a health care decision for the individual;

16 10. "Person" means an individual, corporation, business trust,
17 estate, trust, partnership, association, joint venture, government,
18 governmental subdivision, agency, or instrumentality, or any other
19 legal or commercial entity;

20 11. "Physician" means an individual authorized to practice
21 medicine or osteopathy under Chapter 11 or 14 of Title 59 of the
22 Oklahoma Statutes;

1 12. "Power of attorney for health care" means the designation
2 of an agent to make health care decisions for the individual
3 granting the power;

4 13. "Primary physician" means a physician designated by an
5 individual or the individual's agent, guardian, or surrogate, to
6 have primary responsibility for the individual's health care or, in
7 the absence of a designation or if the designated physician is not
8 reasonably available, a physician who undertakes the responsibility;

9 14. "Reasonably available" means readily able to be contacted
10 without undue effort and willing and able to act in a timely manner
11 considering the urgency of the patient's health care needs;

12 15. "State" means a state of the United States, the District of
13 Columbia, the Commonwealth of Puerto Rico, or a territory or insular
14 possession subject to the jurisdiction of the United States;

15 16. "Supervising health care provider" means the primary
16 physician or, if there is no primary physician or the primary
17 physician is not reasonably available, the health care provider who
18 has undertaken primary responsibility for an individual's health
19 care; and

20 17. "Surrogate" means an individual, other than a patient's
21 agent or guardian, authorized under this act to make a health care
22 decision for the patient.

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1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 7322 of Title 63, unless there
3 is created a duplication in numbering, reads as follows:

4 A. The provisions of this act shall be applicable to all
5 advance health directives executed in conformity with the
6 requirements this act.

7 B. All advance health directives validly executed prior to the
8 effective date of this act shall be valid and enforceable according
9 the statutory provisions in effect at the time the directive was
10 executed.

11 C. The provisions of this act shall be applicable to all powers
12 of attorney for health care executed in conformity with the
13 requirements this act.

14 D. All powers of attorney for health care validly executed
15 prior to the effective date of this act shall be valid and
16 enforceable according the statutory provisions in effect at the time
17 the directive was executed.

18 E. All powers of attorney for health care executed on or after
19 November 1, 2021, but no later than the effective date of this act,
20 that were executed in accordance with the requirements of Section
21 1071 et seq. of Title 58 of the Oklahoma Statutes are valid and
22 enforceable according to those statutes.

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1 SECTION 4. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 7323 of Title 63, unless there
3 is created a duplication in numbering, reads as follows:

4 A. An adult or emancipated minor may give an individual
5 instruction concerning his or her health care. The instruction may
6 be oral or written. The instruction may be limited to take effect
7 only if a specified condition arises.

8 B. An adult or emancipated minor may execute a power of
9 attorney for health care, which may authorize the agent to make any
10 health care decision the principal could have made while having
11 capacity. The power must be in writing and signed by the principal.
12 The power remains in effect notwithstanding the principal's later
13 incapacity and may include individual instructions. Unless related
14 to the principal by blood, marriage, or adoption, an agent may not
15 be an owner, operator, or employee of a residential long-term health
16 care institution where the principal is receiving care.

17 C. Unless otherwise specified in a power of attorney for health
18 care, the authority of an agent becomes effective only upon a
19 determination that the principal lacks capacity, and ceases to be
20 effective upon a determination that the principal has recovered
21 capacity.

22 D. Unless otherwise specified in a written advance health care
23 directive, a determination that an individual lacks or has recovered
24 capacity, or that another condition exists that affects an

1 individual instruction or the authority of an agent, must be made by
2 the primary physician.

3 E. An agent shall make a health care decision in accordance
4 with the principal's individual instructions, if any, and other
5 wishes to the extent known to the agent. Otherwise, the agent shall
6 make the decision in accordance with the agent's determination of
7 the principal's best interest. In determining the principal's best
8 interest, the agent shall consider the principal's personal values
9 to the extent known to the agent.

10 F. A health care decision made by an agent for a principal is
11 effective without judicial approval.

12 G. A written advance health care directive may include the
13 individual's nomination of a guardian of the person.

14 H. An advance health care directive is valid for purposes of
15 this act if it complies with this act, regardless of when or where
16 executed or communicated.

17 SECTION 5. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 7324 of Title 63, unless there
19 is created a duplication in numbering, reads as follows:

20 A. An individual may revoke the designation of an agent only by
21 a signed statement or by personally informing the supervising health
22 care provider.

23

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1 B. An individual may revoke all or part of an advance health
2 care directive, other than the designation of an agent, at any time
3 and in any manner that communicates an intent to revoke.

4 C. A health care provider, agent, guardian, or surrogate who is
5 informed of a revocation shall promptly communicate the fact of the
6 revocation to the supervising health care provider and to any health
7 care institution at which the patient is receiving care.

8 D. A decree of annulment, divorce, dissolution of marriage, or
9 legal separation revokes a previous designation of a spouse as agent
10 unless otherwise specified in the decree or in a power of attorney
11 for health care.

12 E. An advance health care directive that conflicts with an
13 earlier advance health care directive revokes the earlier directive
14 to the extent of the conflict.

15 SECTION 6. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 7325 of Title 63, unless there
17 is created a duplication in numbering, reads as follows:

18 The following form may, but need not, be used to create an
19 advance health care directive. The other sections of this act
20 govern the effect of this or any other writing used to create an
21 advance health care directive. An individual may complete or modify
22 all or any part of the following form:

23 ADVANCE HEALTH CARE DIRECTIVE

24 Explanation

1 You have the right to give instructions about your own health
2 care. You also have the right to name someone else to make health
3 care decisions for you. This form lets you do either or both of
4 these things. It also lets you express your wishes regarding
5 donation of organs and the designation of your primary physician.
6 If you use this form, you may complete or modify all or any part of
7 it. You are free to use a different form.

8 Part 1 of this form is a power of attorney for health care.

9 Part 1 lets you name another individual as agent to make health care
10 decisions for you if you become incapable of making your own
11 decisions or if you want someone else to make those decisions for
12 you now even though you are still capable. You may also name an
13 alternate agent to act for you if your first choice is not willing,
14 able, or reasonably available to make decisions for you. Unless
15 related to you, your agent may not be an owner, operator, or
16 employee of a residential long-term health care institution at which
17 you are receiving care.

18 Unless the form you sign limits the authority of your agent,
19 your agent may make all health care decisions for you. This form
20 has a place for you to limit the authority of your agent. You need
21 not limit the authority of your agent if you wish to rely on your
22 agent for all health care decisions that may have to be made. If
23 you choose not to limit the authority of your agent, your agent will
24 have the right to:

- 1 1. Consent or refuse consent to any care, treatment, service,
2 or procedure to maintain, diagnose, or otherwise affect a physical
3 or mental condition;
- 4 2. Select or discharge health care providers and institutions;
- 5 3. Approve or disapprove diagnostic tests, surgical procedures,
6 programs of medication, and orders not to resuscitate; and
- 7 4. Direct the provision, withholding, or withdrawal of
8 artificial nutrition and hydration and all other forms of health
9 care.

10 Part 2 of this form lets you give specific instructions about
11 any aspect of your health care. Choices are provided for you to
12 express your wishes regarding the provision, withholding, or
13 withdrawal of treatment to keep you alive, including the provision
14 of artificial nutrition and hydration, as well as the provision of
15 pain relief. Space is also provided for you to add to the choices
16 you have made or for you to write out any additional wishes.

17 Part 3 of this form lets you express an intention to donate your
18 bodily organs and tissues following your death.

19 Part 4 of this form lets you designate a physician to have
20 primary responsibility for your health care.

21 After completing this form, sign and date the form at the end.
22 It is recommended but not required that you request two other
23 individuals to sign as witnesses. Give a copy of the signed and
24 completed form to your physician, to any other health care providers

1 you may have, to any health care institution at which you are
2 receiving care, and to any health care agents you have named. You
3 should talk to the person you have named as agent to make sure that
4 he or she understands your wishes and is willing to take the
5 responsibility.

6 You have the right to revoke this advance health care directive
7 or replace this form at any time.

8 * * * * *

9 PART 1

10 POWER OF ATTORNEY FOR HEALTH CARE

11 (1) DESIGNATION OF AGENT: I designate the following individual
12 as my agent to make health care decisions for me:

13 _____

14 (name of individual you choose as agent)

15 _____
16 (address) (city) (state) (zip code)

17 _____
18 (home phone) (work phone)

19 OPTIONAL: If I revoke my agent's authority or if my agent is
20 not willing, able, or reasonably available to make a health care
21 decision for me, I designate as my first alternate agent:

22 _____

23 (name of individual you choose as first alternate agent)

24 _____

1 (address) (city) (state) (zip code)

2 _____

3 (home phone) (work phone)

4 OPTIONAL: If I revoke the authority of my agent and first
5 alternate agent or if neither is willing, able, or reasonably
6 available to make a health care decision for me, I designate as my
7 second alternate agent:

8 _____

9 (name of individual you choose as second alternate agent)

10 _____

11 (address) (city) (state) (zip code)

12 _____

13 (home phone) (work phone)

14 (2) AGENT'S AUTHORITY: My agent is authorized to make all
15 health care decisions for me, including decisions to provide,
16 withhold, or withdraw artificial nutrition and hydration and all
17 other forms of health care to keep me alive, except as I state here:

18 _____

19 _____

20 _____

21 (Add additional sheets if needed.)

22 (3) WHEN AGENT'S AUTHORITY BECOMES EFFECTIVE: My agent's
23 authority becomes effective when my primary physician determines
24 that I am unable to make my own health care decisions unless I mark

1 the following box. If I mark this box [], my agent's authority
2 to make health care decisions for me takes effect immediately.

3 (4) AGENT'S OBLIGATION: My agent shall make health care
4 decisions for me in accordance with this power of attorney for
5 health care, any instructions I give in Part 2 of this form, and my
6 other wishes to the extent known to my agent. To the extent my
7 wishes are unknown, my agent shall make health care decisions for me
8 in accordance with what my agent determines to be in my best
9 interest. In determining my best interest, my agent shall consider
10 my personal values to the extent known to my agent.

11 (5) NOMINATION OF GUARDIAN: If a guardian of my person needs
12 to be appointed for me by a court, I nominate the agent designated
13 in this form. If that agent is not willing, able, or reasonably
14 available to act as guardian, I nominate the alternate agents whom I
15 have named, in the order designated.

16 PART 2

17 INSTRUCTIONS FOR HEALTH CARE

18 If you are satisfied to allow your agent to determine what is
19 best for you in making end-of-life decisions, you need not fill out
20 this part of the form. If you do fill out this part of the form,
21 you may strike any wording you do not want.

22 (6) END-OF-LIFE DECISIONS: I direct that my health care
23 providers and others involved in my care provide, withhold, or

24

1 withdraw treatment in accordance with the choice I have marked
2 below:

3 [] (a) Choice Not To Prolong Life

4 I do not want my life to be prolonged if (i) I have an incurable
5 and irreversible condition that will result in my death within a
6 relatively short time, (ii) I become unconscious and, to a
7 reasonable degree of medical certainty, I will not regain
8 consciousness, or (iii) the likely risks and burdens of treatment
9 would outweigh the expected benefits, OR

10 [] (b) Choice To Prolong Life

11 I want my life to be prolonged as long as possible within the
12 limits of generally accepted health care standards.

13 (7) ARTIFICIAL NUTRITION AND HYDRATION: Artificial nutrition
14 and hydration must be provided, withheld, or withdrawn in accordance
15 with the choice I have made in paragraph (6) unless I mark the
16 following box. If I mark this box [], artificial nutrition and
17 hydration must be provided regardless of my condition and regardless
18 of the choice I have made in paragraph (6).

19 (8) RELIEF FROM PAIN: Except as I state in the following
20 space, I direct that treatment for alleviation of pain or discomfort
21 be provided at all times, even if it hastens my death:

22 _____
23 _____

24

1 (9) OTHER WISHES: (If you do not agree with any of the
2 optional choices above and wish to write your own, or if you wish to
3 add to the instructions you have given above, you may do so here.)
4 I direct that:

7 (Add additional sheets if needed.)

8 PART 3
9 DONATION OF ORGANS AT DEATH
10 (OPTIONAL)

- 11 (10) Upon my death (mark applicable box)
12 [] (a) I give any needed organs, tissues, or parts, OR
13 [] (b) I give the following organs, tissues, or parts only

- 15 (c) My gift is for the following purposes (strike any of
16 the following you do not want)
17 (i) Transplant
18 (ii) Therapy
19 (iii) Research
20 (iv) Education

21 PART 4
22 PRIMARY PHYSICIAN
23 (OPTIONAL)

24

1 (11) I designate the following physician as my primary
2 physician:

3 _____
4 (name of physician)

5 _____
6 (address) (city) (state) (zip code)

7 _____
8 (phone)

9 OPTIONAL: If the physician I have designated above is not
10 willing, able, or reasonably available to act as my primary
11 physician, I designate the following physician as my primary
12 physician:

13 _____
14 (name of physician)

15 _____
16 (address) (city) (state) (zip code)

17 _____
18 (phone)

19 * * * * *

20 (12) EFFECT OF COPY: A copy of this form has the same effect
21 as the original.

22 (13) SIGNATURES: Sign and date the form here:

23 _____
24 (date) (sign your name)

1		
2	(address)	(print your name)
3		
4	(city) (state)	
5	(Optional) SIGNATURES OF WITNESSES:	
6	First witness	Second witness
7		
8	(print name)	(print name)
9		
10	(address)	(address)
11		
12	(city) (state) (zip code)	(city) (state) (zip code)
13		
14	(signature of witness)	(signature of witness)
15		
16	(date)	(date)

17 SECTION 7. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 7326 of Title 63, unless there
19 is created a duplication in numbering, reads as follows:

20 A. A surrogate may make a health care decision for a patient
21 who is an adult or emancipated minor if the patient has been
22 determined by the primary physician to lack capacity and no agent or
23 guardian has been appointed or the agent or guardian is not
24 reasonably available.

1 B. An adult or emancipated minor may designate any individual
2 to act as surrogate by personally informing the supervising health
3 care provider. In the absence of a designation, or if the designee
4 is not reasonably available, any member of the following classes of
5 the patient's family who is reasonably available, in descending
6 order of priority, may act as surrogate:

- 7 1. The spouse, unless legally separated;
- 8 2. An adult child;
- 9 3. A parent; or
- 10 4. An adult brother or sister.

11 C. If none of the individuals eligible to act as surrogate
12 under subsection B of this section is reasonably available, an adult
13 who has exhibited special care and concern for the patient, who is
14 familiar with the patient's personal values, and who is reasonably
15 available may act as surrogate.

16 D. A surrogate shall communicate his or her assumption of
17 authority as promptly as practicable to the members of the patient's
18 family specified in subsection B of this section who can be readily
19 contacted.

20 E. If more than one member of a class assumes authority to act
21 as surrogate, and they do not agree on a health care decision and
22 the supervising health care provider is so informed, the supervising
23 health care provider shall comply with the decision of a majority of
24 the members of that class who have communicated their views to the

1 provider. If the class is evenly divided concerning the health care
2 decision and the supervising health care provider is so informed,
3 that class and all individuals having lower priority are
4 disqualified from making the decision.

5 F. A surrogate shall make a health care decision in accordance
6 with the patient's individual instructions, if any, and other wishes
7 to the extent known to the surrogate. Otherwise, the surrogate
8 shall make the decision in accordance with the surrogate's
9 determination of the patient's best interest. In determining the
10 patient's best interest, the surrogate shall consider the patient's
11 personal values to the extent known to the surrogate.

12 G. A health care decision made by a surrogate for a patient is
13 effective without judicial approval.

14 H. An individual at any time may disqualify another, including
15 a member of the individual's family, from acting as the individual's
16 surrogate by a signed statement or by personally informing the
17 supervising health care provider of the disqualification.

18 I. Unless related to the patient by blood, marriage, or
19 adoption, a surrogate may not be an owner, operator, or employee of
20 a residential long-term health care institution at which the patient
21 is receiving care.

22 J. A supervising health care provider may require an individual
23 claiming the right to act as surrogate for a patient to provide a
24 written declaration under penalty of perjury stating facts and

1 circumstances reasonably sufficient to establish the claimed
2 authority.

3 SECTION 8. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 7327 of Title 63, unless there
5 is created a duplication in numbering, reads as follows:

6 A. A guardian shall comply with the ward's individual
7 instructions and may not revoke the ward's advance health care
8 directive unless the appointing court expressly so authorizes.

9 B. Absent a court order to the contrary, a health care decision
10 of an agent takes precedence over that of a guardian.

11 C. A health care decision made by a guardian for the ward is
12 effective without judicial approval.

13 SECTION 9. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 7328 of Title 63, unless there
15 is created a duplication in numbering, reads as follows:

16 A. Before implementing a health care decision made for a
17 patient, a supervising health care provider, if possible, shall
18 promptly communicate to the patient the decision made and the
19 identity of the person making the decision.

20 B. A supervising health care provider who knows of the
21 existence of an advance health care directive, a revocation of an
22 advance health care directive, or a designation or disqualification
23 of a surrogate, shall promptly record its existence in the patient's
24 health care record and, if it is in writing, shall request a copy

1 and if one is furnished shall arrange for its maintenance in the
2 health care record.

3 C. A primary physician who makes or is informed of a
4 determination that a patient lacks or has recovered capacity, or
5 that another condition exists which affects an individual
6 instruction or the authority of an agent, guardian, or surrogate,
7 shall promptly record the determination in the patient's health care
8 record and communicate the determination to the patient, if
9 possible, and to any person then authorized to make health care
10 decisions for the patient.

11 D. Except as provided in subsections E and F of this section, a
12 health care provider or institution providing care to a patient
13 shall:

14 1. Comply with an individual instruction of the patient and
15 with a reasonable interpretation of that instruction made by a
16 person then authorized to make health care decisions for the
17 patient; and

18 2. Comply with a health care decision for the patient made by a
19 person then authorized to make health care decisions for the patient
20 to the same extent as if the decision had been made by the patient
21 while having capacity.

22 E. A health care provider may decline to comply with a
23 patient's individual instruction or health care decision for reasons
24 of conscience. A health care institution may decline to comply with

1 a patient's individual instruction or health care decision if the
2 instruction or decision is contrary to a policy of the institution
3 which is expressly based on reasons of conscience and if the policy
4 was timely communicated to the patient or to a person then
5 authorized to make health care decisions for the patient.

6 F. A health care provider or institution may decline to comply
7 with an individual instruction or health care decision that requires
8 medically ineffective health care or health care contrary to
9 generally accepted health care standards applicable to the health
10 care provider or institution.

11 G. A health care provider or institution that declines to
12 comply with an individual instruction or health care decision shall:

13 1. Promptly so inform the patient, if possible, and any person
14 then authorized to make health care decisions for the patient;

15 2. Provide continuing care to the patient until a transfer can
16 be effected; and

17 3. Unless the patient or person then authorized to make health
18 care decisions for the patient refuses assistance, immediately make
19 all reasonable efforts to assist in the transfer of the patient to
20 another health care provider or institution that is willing to
21 comply with the instruction or decision.

22 H. A health care provider or institution may not require or
23 prohibit the execution or revocation of an advance health care
24 directive as a condition for providing health care.

1 SECTION 10. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 7329 of Title 63, unless there
3 is created a duplication in numbering, reads as follows:

4 Unless otherwise specified in an advance health care directive,
5 a person then authorized to make health care decisions for a patient
6 has the same rights as the patient to request, receive, examine,
7 copy, and consent to the disclosure of medical or any other health
8 care information.

9 SECTION 11. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 7330 of Title 63, unless there
11 is created a duplication in numbering, reads as follows:

12 A. A health care provider or institution acting in good faith
13 and in accordance with generally accepted health care standards
14 applicable to the health care provider or institution is not subject
15 to civil or criminal liability or to discipline for unprofessional
16 conduct for:

17 1. Complying with a health care decision of a person apparently
18 having authority to make a health care decision for a patient,
19 including a decision to withhold or withdraw health care;

20 2. Declining to comply with a health care decision of a person
21 based on a belief that the person then lacked authority; or

22 3. Complying with an advance health care directive and
23 assuming that the directive was valid when made and has not been
24 revoked or terminated.

1 B. An individual acting as agent or surrogate under this act is
2 not subject to civil or criminal liability or to discipline for
3 unprofessional conduct for health care decisions made in good faith.

4 SECTION 12. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 7331 of Title 63, unless there
6 is created a duplication in numbering, reads as follows:

7 A. A health care provider or institution that intentionally
8 violates this act is subject to liability to the aggrieved
9 individual for damages of One Thousand Dollars (\$1,000.00) or actual
10 damages resulting from the violation, whichever is greater, plus
11 reasonable attorney fees.

12 B. A person who intentionally falsifies, forges, conceals,
13 defaces, or obliterates an individual's advance health care
14 directive or a revocation of an advance health care directive
15 without the individual's consent, or who coerces or fraudulently
16 induces an individual to give, revoke, or not to give an advance
17 health care directive, is subject to liability to that individual
18 for damages of Five Thousand Dollars (\$5,000.00) or actual damages
19 resulting from the action, whichever is greater, plus reasonable
20 attorney fees.

21 SECTION 13. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 7332 of Title 63, unless there
23 is created a duplication in numbering, reads as follows:

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1 A. This act does not affect the right of an individual to make
2 health care decisions while having capacity to do so.

3 B. An individual is presumed to have capacity to make a health
4 care decision, to give or revoke an advance health care directive,
5 and to designate or disqualify a surrogate.

6 SECTION 14. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 7333 of Title 63, unless there
8 is created a duplication in numbering, reads as follows:

9 A copy of a written advance health care directive, revocation of
10 an advance health care directive, or designation or disqualification
11 of a surrogate has the same effect as the original.

12 SECTION 15. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 7334 of Title 63, unless there
14 is created a duplication in numbering, reads as follows:

15 A. This act does not create a presumption concerning the
16 intention of an individual who has not made or who has revoked an
17 advance health care directive.

18 B. Death resulting from the withholding or withdrawal of health
19 care in accordance with this act does not for any purpose constitute
20 a suicide or homicide or legally impair or invalidate a policy of
21 insurance or an annuity providing a death benefit, notwithstanding
22 any term of the policy or annuity to the contrary.

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1 C. This act does not authorize mercy killing, assisted suicide,
2 euthanasia, or the provision, withholding, or withdrawal of health
3 care, to the extent prohibited by other statutes of this state.

4 D. This act does not authorize or require a health care
5 provider or institution to provide health care contrary to generally
6 accepted health care standards applicable to the health care
7 provider or institution.

8 E. This act does not authorize an agent or surrogate to consent
9 to the admission of an individual to a mental health care
10 institution unless the individual's written advance health care
11 directive expressly so provides.

12 F. This act does not affect other statutes of this state
13 governing treatment for mental illness of an individual
14 involuntarily committed to a mental health care institution under
15 Chapter 1 of Title 43A of the Oklahoma Statutes.

16 SECTION 16. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 7335 of Title 63, unless there
18 is created a duplication in numbering, reads as follows:

19 On petition of a patient, the patient's agent, guardian, or
20 surrogate, a health care provider or institution involved with the
21 patient's care, or an individual described in subsection B or C of
22 Section 4 of this act, the court may enjoin or direct a health care
23 decision or order other equitable relief. A proceeding under this
24 section is governed by Title 59 of the Oklahoma Statutes.

1 SECTION 17. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 7336 of Title 63, unless there
3 is created a duplication in numbering, reads as follows:

4 This act shall be applied and construed to effectuate its
5 general purpose to make uniform the law with respect to the subject
6 matter of this act among states enacting it.

7 SECTION 18. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 7337 of Title 63, unless there
9 is created a duplication in numbering, reads as follows:

10 If any provision of this act or its application to any person or
11 circumstance is held invalid, the invalidity does not affect other
12 provisions or applications of this act which can be given effect
13 without the invalid provision or application, and to this end the
14 provisions of this act are severable.

15 SECTION 19. REPEALER 63 O.S. 2021, Sections 3101.1,
16 3101.2, 3101.3, 3101.4, 3101.5, 3101.6, 3101.7, 3101.8, 3101.9,
17 3101.10, 3101.11, 3101.12, 3101.13, 3101.14, 3101.15, 3101.16,
18 3102.1, 3102.2, 3102.3, 3102.4, 3102.5 and 3102A, are hereby
19 repealed.

20 SECTION 20. It being immediately necessary for the preservation
21 of the public peace, health or safety, an emergency is hereby
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1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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