



YOUR MEDICAL TREATMENT RIGHTS UNDER OKLAHOMA LAW

Effective Date: November 1, 2014

INFORMATION FOR PATIENTS AND THEIR FAMILIES

No Discrimination Based on Mental Status or Disability:

Medical treatment, care, nutrition or hydration may not be withheld or withdrawn from an incompetent patient because of the mental disability or mental status of the patient.

Required by Section 3080.5(B) of Title 63 of the Oklahoma Statutes)

What Are Your Rights If A Health Care Provider Denies Life-Preserving Health Care?

• If a patient or person authorized to make health care decisions for the patient directs **life-preserving treatment** that the health care provider gives to other patients, your health care provider **may not deny it**:

1. On the basis of a view that treats extending the life of an elderly, disabled, or terminally ill individual as of lower value than extending the life of an individual who is younger, nondisabled, or not terminally ill; or
2. On the basis of disagreement with how the patient or person legally authorized to make health care decisions for the patient values the trade-off between extending the length of the patient's life and the risk of disability.

Required by Nondiscrimination in Treatment Act (Sections 3090.2 and 3090.3 of Title 63 of the Oklahoma Statutes)

Your Rights When Treatment Is Denied for Other Reasons:

- If treatment is directed by a patient with decision-making capacity, or by or on behalf of the patient under a valid advance directive:
 - The health care provider must, as promptly as practicable, take all reasonable steps to arrange care of a qualified patient by another physician or health care provider willing to comply, and
 - Pending completion of the transfer, the health care provider must provide any directed treatment whose denial would in reasonable medical judgment be likely to result in the death of the patient

EXCEPT

- treatment the provider is physically or legally unable to provide
- treatment the provider is physically or legally unable to provide without thereby denying the same treatment to another patient
- the requirement does not change any legal obligation or lack of legal obligation the provider may have to provide treatment, nutrition, or hydration to a patient who refuses or is unable to pay for them

Required by Oklahoma Advance Directive Act (Section 3101.9 of Title 63 of the Oklahoma Statutes)

What If a Health Care Provider Disagrees with Your Direction to *Withhold* or *Withdraw* Medical Treatment?

The health care provider must, as promptly as practicable, take all reasonable steps to arrange care of a qualified patient by another physician or health care provider willing to comply.

Required by Oklahoma Advance Directive Act (Section 3101.9 of Title 63 of the Oklahoma Statutes)

What Laws Govern Cardio-Pulmonary Resuscitation (CPR) and Do Not Resuscitate (DNR) Orders?

- Every patient is assumed to **consent to CPR whenever the patient undergoes cardiac or respiratory arrest UNLESS** the health care provider has actual knowledge of one of the following:
 - The patient's medical record accurately records the **patient's refusal** to consent to CPR, given to the attending physician
 - A Do Not Resuscitate (DNR) order under the Oklahoma Rights of the Terminally Ill or Persistently Unconscious Act was executed for the patient
 - The patient's valid advance directive directs that life-sustaining treatment not be performed in the event of cardiac or respiratory arrest
 - A **minor's** medical records accurately record the **parent or guardian's refusal** to consent to CPR for the minor, *provided*
 - if the minor has sufficient understanding and appreciation of the nature and consequences of the refusal and is capable of objecting, the medical record accurately records that the minor has not objected
 - in the case of a disabled infant with life-threatening conditions, if in reasonable medical judgment CPR will be most likely to be effective in correcting or ameliorating the life-threatening conditions, in reasonable medical judgment:
 - (A) the infant is chronically and irreversibly comatose;
 - (B) the provision of such treatment would -
 - (i) merely prolong dying;

- (ii) not be effective in ameliorating or correcting all of the infant's life-threatening conditions; or
 - (iii) otherwise be futile in terms of the survival of the infant;
- (C) the provision of such treatment would be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane

- The patient's medical record accurately records **refusal** to consent to CPR based on the known wishes of the patient by an **incapacitated patient's guardian, health care proxy, or attorney-in-fact for health care decisions** AND
 - The reason the guardian, proxy, or attorney-in-fact, rather than the patient, directed the DNR is recorded in the patient's medical record
 - Prior to the decision, the patient's attending physician has:
 - (A) instructed the guardian, proxy, or attorney-in-fact *in writing* that he or she is deciding what the incapacitated patient would have wanted if the patient could speak for himself or herself
 - (B) encouraged consultation among all reasonably available representatives, family members, and persons close to the incapacitated patient to the extent feasible in the circumstances of the case
 - (C) whenever possible, explained to the guardian, proxy, or attorney-in-fact and family members the nature and consequences of the decision to be made; evidence of its provision is to be documented in the patient's medical record
- The attending physician for an **incapacitated patient without a representative** knows by clear and convincing evidence that when competent, on the basis of information sufficient to constitute informed consent, the **patient refused to consent to CPR**
 - "Clear and convincing evidence" includes oral, written, or other acts of communication between the patient, when competent, and family members, health care providers, or others close to the patient with knowledge of the patient's personal desires
- A health care provider is not required to begin or continue CPR when, in reasonable medical judgment, it would not prevent the imminent death of the patient
- A health care agency is not required to institute or maintain the ability to provide CPR or to expand its equipment, facilities or personnel to provide CPR, but an agency must **communicate in writing** to a patient or the patient's representative **prior to the person coming under the care of the health care agency** that it does not provide CPR

Required by Oklahoma Do-Not-Resuscitate Act (Section 3131.4 of Title 63 of the Oklahoma Statutes) and 42 U.S.C. §§ 5106a(b)(2)(C)(iii) & 5106g(5)

What are Oklahoma's Requirements Concerning Food and Fluids for Patients?

- It is assumed that any incompetent patient has directed hydration and nutrition (fluids and food) to a degree that is sufficient to sustain life UNLESS their withdrawal or withholding would not be because of the mental disability or mental status of the patient AND:
 - the patient's advance directive specifically authorizes the withholding or withdrawal of nutrition and/or hydration and the advance directive:
 - is an Oklahoma advance directive (under current or prior law) that is either in the statutory form or that specifically authorizes the withholding or withdrawal of artificially administered nutrition and/or hydration in the patient's own words or by a separate section, separate paragraph, or other separate subdivision that deals only with nutrition and/or hydration and which is separately initialed, separately signed, or otherwise separately marked by the patient or
 - is an out-of-state advance directive that was executed by a person who was not a resident of Oklahoma at the time of execution or specifically authorizes the withholding or withdrawal of artificially administered nutrition and/or hydration in the patient's own words or by a separate section, separate paragraph, or other separate subdivision that deals only with nutrition and/or hydration and which section, paragraph, or other subdivision is separately initialed, separately signed, or otherwise separately marked by the person executing the advance directive.
 - a court has directed that artificially administered hydration or nutrition be withheld or withdrawn (a court can do so only based on clear and convincing evidence that the patient, when competent, decided on the basis of information sufficient to constitute informed consent to reject them)
 - the attending physician knows that the patient, when competent, decided on the basis of information sufficient to constitute informed consent that artificially administered hydration or nutrition should be withheld or withdrawn from the patient
 - withholding or withdrawal of hydration or nutrition would not result in death from dehydration or starvation (rather than from the underlying terminal illness or injury) and in the reasonable medical judgment of the attending doctor and a second consulting doctor:
 - (A) the patient is chronically and irreversibly incompetent,
 - (B) the patient is in the final (last) stage of a terminal illness or injury (meaning that, even with the use of medical treatment, the patient is in the dying process and will die within a reasonably short period of time, and
 - (C) the patient's death is imminent

Required by Hydration and Nutrition for Incompetent Patients Act (Sections 3080.2 through 3080.5 of Title 63 of the Oklahoma Statutes)

Whom Can You Contact If You Suspect a Health Care Provider Is Violating Your Rights under the Laws Described in this Disclosure Statement?

Report suspected violations of any of the laws summarized in this brochure listed above, or attempts to violate any such laws, to the state Licensing Board of the profession(s) of all health care providers involved in the violation.

Oklahoma Board of Medical Licensure and Supervision
 www.okmedicalboard.org
 405- 962-1400
 1-800-381-4519 (Toll free outside the 405 area code)

Oklahoma Board of Osteopathic Examiners
 www.ok.gov/osboe/
 405- 528-8625

Oklahoma Board of Nursing
 www.ok.gov/nursing
 405-962-1800

If you are unsure which profession or Licensing Board applies to a particular health care provider, you may call the Oklahoma Board of Medical Licensure and Supervision at 405-962-1400, or outside the 405 area code, call toll-free 1-800-381-4519

Original Date: September 1, 2015

Pursuant to state law (Title 63, Okla. Stat. Ann, Section 3163B), any entity to which the requirements of the federal Patient Self-Determination Act under Medicare or Medicaid [42 U.S.C., Section 1395cc(f) or 42 U.S.C., Section 1396a(w)] apply shall, at the time of providing the written information relating to advance directives required by 42 U.S.C., Section 1395cc(f)(1)(A)(i) or 42 U.S.C., Section 1396a(w)(1)(A)(i), include a copy of this disclosure statement with the materials federal law requires be provided to the patient or the patient's representative.

Notes

