An Act

ENROLLED HOUSE
BILL NO. 1403

By: Johnson, Ritze, Coody, Kern and Sherrer of the House

and

Sykes of the Senate

An Act relating to public health and safety; creating the Nondiscrimination in Treatment Act; defining terms; providing for nondiscrimination in the provision of life-preserving health care services; permitting health care providers to defend certain actions; providing for injunctive relief; providing for codification; and providing an effective date.

SUBJECT: Nondiscrimination in Treatment Act

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3090.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Nondiscrimination in Treatment Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3090.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

As used in the Nondiscrimination in Treatment Act:

1. "Health care provider" means a person who is licensed, certified, or otherwise authorized by the laws of this state to practice a health care or healing arts profession or who administers health care in the ordinary course of business;

2. "Health care service" means any phase of patient medical care, treatment or procedure, including, but not limited to, therapy, testing, diagnosis or prognosis, prescribing, dispensing or administering any device, drug or medication, surgery, or any other care or treatment rendered by health care providers;

3. "Life-preserving health care service" means a health care service, the denial of which, in reasonable medical judgment, will result in or hasten the death of the patient; and

4. "Person legally authorized to make health care decisions" means, in the case of an adult patient, or of a minor patient who may consent to have services provided by health professionals under Section 2602 of Title 63 of the Oklahoma Statutes, the person or persons designated to make health care decisions:

a. a general guardian of the person appointed pursuant to subsection A of Section 3-112 of Title 30 of the Oklahoma Statutes, or a limited guardian of the person appointed pursuant to subsection B of Section 3-112 of Title 30 of the Oklahoma Statutes with authority to make personal medical decisions as determined under paragraph 5 of subsection B of Section 3-113 of Title 30 of the Oklahoma Statutes,

b. a health care proxy (or alternate health care proxy) authorized to act pursuant to the Oklahoma Advance Directive Act, Sections 3101.1 through 3101.16 of Title 63 of the Oklahoma Statutes, as defined in paragraph 6 of Section 3101.3 of Title 63 of the Oklahoma Statutes,

c. an attorney-in-fact authorized to act pursuant to the Uniform Durable Power of Attorney Act, Sections 1071 through 1077 of Title 58 of the Oklahoma Statutes with authority to act regarding the patient's health and medical care decisions, subject to the limitations under paragraph 1 of subsection B of Section 1072.1 of Title 58 of the Oklahoma Statutes, or

d. another person with such authority under common law.

In the case of any other minor, it means the minor's custodial parent or guardian.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3090.3 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. A health care provider shall not deny to a patient a life-preserving health care service the provider provides to other patients, and the provision of which is directed by the patient or a person legally authorized to make health care decisions for the patient:

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.

B. In an action pursuant to this act, if the plaintiff pleads a prima facie case, the health care provider may defend his or her or its actions by pleading a legitimate, nondiscriminatory reason or reasons that provided a basis for the denial of treatment, subject to an opportunity for the plaintiff to plead that the reason or reasons for the denial of treatment are discriminatory in their application.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3090.4 of Title 63, unless there is created a duplication in numbering, reads as follows:

A cause of action for injunctive relief may be maintained against any health care provider who is reasonably believed to be about to violate, who is in the course of violating, or who has violated the Nondiscrimination in Treatment Act by an affected patient or a person legally authorized to make health care decisions for the patient. However, a violation of the act does not constitute negligence per se for purposes of a civil action for damages.

SECTION 5. This act shall become effective November 1, 2013.

Passed the House of Representatives the 18th day of April, 2013.

Presiding Officer of the House
of Representatives

Passed the Senate the 11th day of April, 2013.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 22nd
day of April, 20 13, at 2:21 o'clock P M.
By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 26th
day of April, 20 13, at 1:10 o'clock P M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 26th
day of April, 20 13, at 1:24 o'clock P. M.
By: