



STATE OF OKLAHOMA  
OKLAHOMA HEALTH CARE AUTHORITY

OHCA 2008-30

July 8, 2008

Dear Provider:

During the 2006 legislative session, the Oklahoma legislature passed important amendments to laws concerning patient advance directives, including significant changes to the advance directive statutory form. As the state Medicaid agency, the Oklahoma Health Care Authority is charged with notifying all Medicaid providers of these statutory changes. Because we believe this information is imperative to all Oklahomans, we have broadened the scope of this communication to include providers outside the Medicaid network.

Four major changes to the law and form were made:

- The Oklahoma Advance Directive for Health Care now goes into effect any time two physicians declare that a patient is incapacitated and incapable of making an informed decision regarding health care. Under the old law the advance directive was not in effect until a person was determined to be terminally ill or persistently unconscious and incapacitated.
- The powers of the proxy have been greatly expanded to speak on behalf of the patient about all health care decisions, not just end-of-life decisions. The named health care proxy is now able to make whatever health care decisions the patient would make if he or she were able.
- The advance directive now offers clear choices about artificially administered hydration and nutrition. The choices as outlined in the new Oklahoma Advance Directive for Health Care are:
  - (1) no life-sustaining treatment except tube feeding;
  - (2) no life-sustaining treatment of any kind; or
  - (3) all life-sustaining treatment and tube feeding.

Space is provided to allow a person to indicate other conditions in which he or she would or would not want treatment, or to clarify his or her instructions about the three conditions listed above.

- The advance directive has been expanded to cover an "end-stage condition." This is defined as any "... condition caused by injury, disease, or illness, which results in severe and permanent deterioration indicated by incompetency and complete physical dependency for which treatment of the irreversible condition would be medically ineffective." An example of an end-stage condition is late-stage Alzheimer's disease or other similar conditions.

Terminal illness and persistent unconsciousness are still included on the form. A terminal condition is one that is incurable and irreversible and expected to result in death within six months. Persistent unconsciousness is defined as a condition in which thought and awareness of self and environment are absent.

It is important to remember that as long as patients are capacitated and able to communicate their wishes, there is no reason to use the advance directive.

The changes noted above alleviate the need for a Durable Power of Attorney for Health Care for the majority of individuals. Under HIPAA, the health care proxy is considered a Personal Representative and is entitled to all information necessary to make health care decisions.

The new law specifically states that older versions of the Oklahoma advance directive are still valid. However, it is recommended that everyone complete the new form even if they have executed an older version in the past.

Enclosed herewith you will find the revised Oklahoma Notice to Patients as required by the Federal Patient Self-Determination Act as well as the new Oklahoma Advance Directive for Health Care. The new advance directive form can also be downloaded from the Oklahoma Palliative Care Resource Center's website, <http://okpalliative.nursing.ouhsc.edu>, DHS's website, [www.okdhs.org](http://www.okdhs.org), as well as OHCA's website, [www.okhca.org](http://www.okhca.org). For more information about advance directives, contact the Oklahoma Department of Human Services Aging Services Division by calling (405) 521-2281.

Thank you for your continued desire to provide education and assistance regarding advance directives to your clients and patients.

Sincerely,

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Oklahoma Health Care Authority

Drew Edmondson  
Attorney General

Howard Hendrick  
Oklahoma Department of Human Services

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