

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 SENATE BILL 1035

By: Newhouse

4
5
6 AS INTRODUCED

7 An Act relating to informed consent; defining terms;
8 requiring informed consent for medical procedures and
9 treatments; establishing certain requirements and
10 exceptions; establishing certain standard; providing
11 for codification; and providing an effective date.

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

13 SECTION 1. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 3170 of Title 63, unless there
15 is created a duplication in numbering, reads as follows:

16 A. For purposes of this section:

17 1. The process of "informed consent" occurs when communication
18 between a patient and physician results in the patient's
19 authorization or agreement to undergo a specific medical
20 intervention; and

21 2. "Physician" means a person licensed to practice medicine in
22 this state.

23 B. Except as provided in subsection C of this section, a
24 physician shall obtain informed consent from a patient before
25

1 performing any medical procedure or treatment. In seeking a
2 patient's informed consent, or the consent of the patient's
3 surrogate if the patient lacks decision-making capacity or declines
4 to participate in making decisions, the physician shall:

5 1. Assess the patient's ability to understand relevant medical
6 information and the implications of treatment alternatives and to
7 make an independent, voluntary decision;

8 2. Present relevant information accurately and sensitively, in
9 keeping with the patient's preferences for receiving medical
10 information. Such information shall include, but not be limited to:

11 a. the diagnosis, when known,

12 b. the nature and purpose of recommended interventions,
13 and

14 c. the burdens, risks and expected benefits of all
15 options, including forgoing treatment; and

16 3. Document the informed consent conversation and the patient's
17 or surrogate's decision in the medical record in some manner. When
18 the patient or surrogate has provided specific written consent, the
19 consent form shall be included in the record.

20 C. A physician in a medical facility may initiate treatment
21 without prior informed consent if all of the following conditions
22 are met:

23 1. There is an emergency;

24 2. A decision must be made urgently;

1 3. The patient is not able to participate in decision making;

2 and

3 4. The patient's surrogate is not available.

4 In such situations, the physician shall inform the patient or
5 surrogate at the earliest opportunity and obtain consent for ongoing
6 treatment in keeping with subsection B of this section.

7 D. The standard to be applied in informed consent cases shall
8 be an objective standard, defined as whether a reasonable person in
9 the patient's position would have consented to the specific medical
10 intervention in question if adequately informed of all significant
11 perils.

12 SECTION 2. This act shall become effective November 1, 2019.

13
14 57-1-244 DC 1/17/2019 6:17:03 PM

15
16
17
18
19
20
21
22
23
24
25