STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

SENATE BILL 586 By: Garvin

AS INTRODUCED

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

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 3170 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. For purposes of this section:

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

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

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

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

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

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

a. the diagnosis, when known,

b. the nature and purpose of recommended interventions, and

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

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

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

1. There is an emergency;

2. A decision must be made urgently;

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

4. The patient's surrogate is not available.

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

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

SECTION 2. This act shall become effective November 1, 2021.

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