

By: Creighton

S.B. No. 1381

A BILL TO BE ENTITLED

AN ACT

relating to advance directives and health care and treatment decisions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 166.002, Health and Safety Code, is amended by adding Subdivision (16) to read as follows:

(16) "Reasonable medical judgment" means a medical judgment that would be made by a reasonably prudent physician, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

SECTION 2. Sections 166.045(c) and (d), Health and Safety Code, are amended to read as follows:

(c) If an attending physician refuses to comply with a directive or treatment decision for a reason permitted by Section 166.046(a-1) and not prohibited by Section 166.0455 [~~and does not wish to follow the procedure established under Section 166.046,~~] life-sustaining treatment shall be provided to the patient, but only until a reasonable opportunity has been afforded for the transfer of the patient to another physician or health care facility willing to comply with the directive or treatment decision in accordance with Section 166.046.

(d) A physician, health professional acting under the direction of a physician, or health care facility is not civilly or criminally liable or subject to review or disciplinary action by

1 the person's appropriate licensing board if the person has complied
2 with the procedures and limitations outlined in Sections 166.0455
3 and [Section] 166.046.

4 SECTION 3. Subchapter B, Chapter 166, Health and Safety
5 Code, is amended by adding Section 166.0455 to read as follows:

6 Sec. 166.0455. LIMITATION ON REFUSAL TO EFFECTUATE CERTAIN
7 ADVANCE DIRECTIVES OR TREATMENT DECISIONS. A physician or other
8 health care professional, a health care facility, or an ethics or
9 medical committee shall not override or refuse to honor and comply
10 with a patient's advance directive or a health care or treatment
11 decision made by or on behalf of a patient that directs the
12 provision of life-sustaining treatment and shall not consider
13 life-sustaining treatment to be inappropriate treatment under
14 Section 166.046 based on:

15 (1) the lesser value the physician or professional,
16 facility or committee places on sustaining the life of an elderly,
17 disabled, or terminally ill patient compared to the value of
18 sustaining the life of a patient who is younger, not disabled, or
19 not terminally ill; or

20 (2) a disagreement between the physician or
21 professional, facility, or committee and the patient, or the person
22 authorized to make a treatment decision for the patient under
23 Section 166.039, over the greater weight the patient or person
24 places on sustaining the patient's life than the risk of
25 disability.

26 SECTION 4. Section 166.046, Health and Safety Code, is
27 amended by amending Subsections (a), (b), (c), and (g) and adding

1 Subsections (a-1), (a-2), (c-1), and (d-1) to read as follows:

2 (a) If an attending physician refuses to honor or comply
3 with a patient's advance directive or a health care or treatment
4 decision made by or on behalf of a patient for a reason permitted by
5 Subsection (a-1) and not prohibited by Section 166.0455, the
6 physician's refusal shall be reviewed by an ethics or medical
7 committee. The attending physician may not be a member of that
8 committee. The patient shall be given life-sustaining treatment
9 during the review. A person may not coerce or attempt to coerce a
10 physician not to comply with a patient's advance directive or a
11 health care or treatment decision made by or on behalf of a patient
12 by threatening or implementing adverse employment decisions or
13 professional discipline.

14 (a-1) The ethics or medical committee reviewing the
15 physician's refusal under Subsection (a) shall not consider
16 life-sustaining treatment inappropriate unless, based on
17 reasonable medical judgment, the life-sustaining treatment
18 requested by or on behalf of the patient is:

19 (1) futile because the treatment is physiologically
20 ineffective in achieving the specific intended benefit to the
21 patient as intended by or on behalf of the patient; or

22 (2) medically inappropriate because providing the
23 treatment to the patient would clearly create a substantially
24 greater risk of causing or hastening the death of the patient than
25 would withholding or withdrawing the treatment.

26 (a-2) An ethics or medical committee shall record a meeting
27 held under this section. The recording must:

1 (1) include audio; and

2 (2) be on a tangible medium, including a disc, tape,
3 wire, film, or electronic storage drive.

4 (b) The patient, the patient's attorney, the patient's
5 advocate, or the person responsible for the health care decisions
6 of the individual who has made the decision regarding the directive
7 or treatment decision:

8 (1) may be given a written description of the ethics or
9 medical committee review process and any other policies and
10 procedures related to this section adopted by the health care
11 facility;

12 (2) unless the patient or person responsible for the
13 health care decisions of the patient requests an earlier meeting,
14 must [shall] be informed in writing [of the committee review
15 process] not less than seven days [48 hours] before the meeting
16 called to discuss the patient's directive of:

17 (A) the committee review process;

18 (B) the right to representation by an attorney
19 and patient advocate present at the committee review meeting;

20 (C) the date, time, and location of the meeting;

21 and

22 (D) the name and title of each of the individuals
23 on the ethics or medical committee [~~unless the time period is~~
24 waived by mutual agreement];

25 (3) at the time of being so informed, shall be
26 provided:

27 (A) a copy of the appropriate statement set forth

1 in Section 166.052; and

2 (B) a copy of the registry list of health care
3 providers and referral groups that have volunteered their readiness
4 to consider accepting transfer or to assist in locating a provider
5 willing to accept transfer that is posted on the website maintained
6 by the department under Section 166.053; and

7 (4) is entitled to:

8 (A) attend and participate in the entire meeting;

9 (B) receive a written explanation of the decision
10 reached during the review process;

11 (C) receive a copy of the portion of the
12 patient's medical record related to the treatment received by the
13 patient in the facility for the lesser of:

14 (i) the period of the patient's current
15 admission to the facility; or

16 (ii) the preceding 30 calendar days; ~~and~~

17 (D) receive a copy of all of the patient's
18 reasonably available diagnostic results and reports related to the
19 medical record provided under Paragraph (C);

20 (E) during the committee review meeting, have an
21 opportunity to:

22 (i) explain the justification for the
23 treatment decision made by or on behalf of the patient;

24 (ii) if applicable, receive a written
25 explanation of the manner in which the attending physician's and
26 ethics or medical committee's decision to refuse to honor or comply
27 with the treatment decision made by or on behalf of the patient

1 complies with Section 166.0455; and

2 (iii) respond to the attending physician's
3 or ethics or medical committee's description, prognosis, or
4 assessment of the patient, treatment decision, and compliance with
5 this section and Section 166.0455; and

6 (F) after the ethics or medical committee has
7 rendered a decision:

8 (i) receive a written explanation of the
9 ethics or medical committee's decision; and

10 (ii) receive an audio recording of the
11 committee review meeting.

12 (c) The written explanation required by Subsections
13 [~~Subsection~~ (b)(4)(B), (E), and (F) must be included in the
14 patient's medical record.

15 (c-1) The ethics or medical committee shall not approve
16 withdrawing or withholding life-sustaining treatment if the ethics
17 or medical committee determines during the review described by
18 Subsection (a) that the physician refused to honor a patient's
19 advance directive or a health care or treatment decision made by or
20 on behalf of the patient for a reason prohibited by Section
21 166.0455.

22 (d-1) The attending physician may comply with Subsection
23 (d) by:

24 (1) providing to the patient or person responsible for
25 the health care decisions of the patient:

26 (A) a list of at least 10 facilities able to
27 provide the level of care requested;

1 (B) a written explanation of whether the patient
2 could be discharged to the patient's home and the health care
3 services required to provide the requested treatment; and

4 (C) the explanations and recommendations
5 described by Subdivision (3), if applicable;

6 (2) contacting the appropriate administrators and
7 physicians at the facilities on the list described by Subdivision
8 (1) to initiate a transfer;

9 (3) if all of the facilities on the list described by
10 Subdivision (1) refuse the transfer, for each facility:

11 (A) requesting a written explanation of the
12 facility's reasons for refusal; and

13 (B) developing a written recommendation that
14 includes:

15 (i) the reason for the facility's refusal;

16 (ii) the action the physician, facility,
17 and patient or person responsible for the health care decisions of
18 the patient may take to transfer to the facility; and

19 (iii) the name of any administrator and
20 physician contacted by the attending physician under Paragraph (A);
21 and

22 (4) facilitating the transfer of the patient to any
23 appropriate facility willing to accept the patient.

24 (g) At the request of the patient or the person responsible
25 for the health care decisions of the patient, the appropriate
26 [~~district or county~~] court shall extend the time period provided
27 under Subsection (e) [~~only~~] if the court finds, by a preponderance

1 of the evidence, that there is a reasonable expectation that a
2 physician or health care facility that will honor the patient's
3 directive will be found if the time extension is granted.

4 SECTION 5. Subchapter B, Chapter 166, Health and Safety
5 Code, is amended by adding Sections 166.0463 and 166.0465 to read as
6 follows:

7 Sec. 166.0463. ETHICS OR MEDICAL COMMITTEE MEMBERS. (a) An
8 individual may not be a member of an ethics or medical committee of
9 a health care facility if the individual or individual's spouse:

10 (1) is employed by or participates in the management
11 of the facility or another affiliated facility;

12 (2) owns or controls, directly or indirectly, an
13 interest in the facility or another affiliated facility; or

14 (3) uses or receives a substantial amount of tangible
15 goods, services, or money from the facility or another affiliated
16 facility.

17 (b) An ethics or medical committee must include as members:

18 (1) if the patient is an adherent or member of a
19 recognized religious organization, a chaplain, spiritual advisor,
20 or spiritual care professional of that religious organization;

21 (2) an individual with experience as an advocate for
22 patients and patients' family caregivers; and

23 (3) a representative of an established patient
24 advocacy organization.

25 Sec. 166.0465. COURT PROCEEDINGS; APPEAL; FILING FEE AND
26 COURT COSTS. (a) A patient, the person responsible for the
27 patient's health care decisions, or the person who has made the

1 decision regarding the advance directive or treatment decision may
2 file a motion for injunctive relief in any county court at law,
3 court having probate jurisdiction, or district court, including a
4 family district court, based on:

5 (1) a request for extension of time to effect a patient
6 transfer for relief under Section 166.046(g); or

7 (2) an allegation that a physician or other health
8 care professional, health care facility, or ethics or medical
9 committee is violating or threatening to violate this chapter.

10 (b) The person filing a motion under Subsection (a) shall
11 immediately serve a copy of the motion on the defendant.

12 (c) The court shall promptly set a time for a hearing on a
13 motion filed under Subsection (a) and shall keep a record of all
14 testimony and other oral proceedings in the action. The court shall
15 rule on the motion and issue written findings of fact and
16 conclusions of law not later than the fifth business day after the
17 date the motion is filed with the court.

18 (d) The time for the hearing and the date by which the court
19 must rule on the motion under Subsection (c) may be extended, for
20 good cause shown, by the court.

21 (e) Any party may appeal the decision of the court under
22 Subsection (c) to the court of appeals having jurisdiction over
23 civil matters in the county in which the motion was filed by filing
24 a notice of appeal with the clerk of the court that ruled on the
25 motion not later than the first business day after the date the
26 decision of the court was issued.

27 (f) On receipt of a notice of appeal under Subsection (e),

1 the clerk of the court that ruled on the motion shall deliver a copy
2 of the notice of appeal and record on appeal to the clerk of the
3 court of appeals. On receipt of the notice and record, the clerk of
4 the court of appeals shall place the appeal on the docket of the
5 court, and the court of appeals shall promptly issue an expedited
6 briefing schedule and set a time for a hearing.

7 (g) The court of appeals shall rule on an appeal under
8 Subsection (f) not later than the fifth business day after the
9 date the notice of appeal is filed with the court that ruled on the
10 motion.

11 (h) The times for the filing of briefs, the hearing, and the
12 date by which the court of appeals must rule on the appeal under
13 Subsection (g) may be extended, for good cause shown, by the court
14 of appeals.

15 (i) Any party may file a petition for review of the decision
16 of the court of appeals under Subsection (g) with the clerk of the
17 supreme court not later than the third business day after the date
18 the decision of the court of appeals was issued. Other parties may
19 file responses not later than the third business day after the date
20 the petition for review was filed. The supreme court shall grant,
21 deny, refuse, or dismiss the petition, without regard to whether a
22 reply to any response has been filed, not later than the third
23 business day after the date the response was due. If the supreme
24 court grants the petition for review, the court shall exercise the
25 court's sound discretion in determining how expeditiously to hear
26 and decide the case.

27 (j) If a motion is filed under Subsection (a) and the

1 dispute concerns whether life-sustaining treatment should be
2 provided to the patient, life-sustaining treatment must be provided
3 through midnight of the day by which a notice of appeal must be
4 filed unless the court directs that the life-sustaining treatment
5 be provided for a longer period. If a notice of appeal is under
6 Subsection (e) is filed, life-sustaining treatment must be
7 provided through midnight of the day by which a petition for review
8 to the supreme court must be filed, unless the court of appeals
9 directs that the life-sustaining treatment be provided for a longer
10 period. If a petition for review to the supreme court is filed
11 under Subsection (i), life-sustaining treatment must be provided
12 through midnight of the day on which the supreme court denies,
13 refuses, or dismisses the petition or issues a ruling on the merits,
14 unless the supreme court directs that the life-sustaining treatment
15 be provided for a longer period.

16 (k) A filing fee or court cost may not be assessed for any
17 proceeding in a trial or appellate court under this section.

18 SECTION 6. Section 166.051, Health and Safety Code, is
19 amended to read as follows:

20 Sec. 166.051. LEGAL RIGHT OR RESPONSIBILITY NOT AFFECTED.
21 This subchapter does not impair or supersede any legal right or
22 responsibility a person may have to effect the withholding or
23 withdrawal of life-sustaining treatment in a lawful manner,
24 provided that if an attending physician or health care facility is
25 unwilling to honor and comply with a patient's advance directive or
26 a treatment decision to provide life-sustaining treatment for a
27 reason permitted by Section 166.046(a-1) and not prohibited by

1 Section 166.0455, life-sustaining treatment is required to be
2 provided the patient, but only until a reasonable opportunity has
3 been afforded for transfer of the patient to another physician or
4 health care facility willing to comply with the advance directive
5 or treatment decision in accordance with Section 166.046.

6 SECTION 7. Sections 166.052(a) and (b), Health and Safety
7 Code, are amended to read as follows:

8 (a) In cases in which the attending physician refuses to
9 honor an advance directive or health care or treatment decision
10 requesting the provision of life-sustaining treatment, the
11 statement required by Section 166.046(b)(3)(A) shall be in
12 substantially the following form:

13 When There Is A Disagreement About Medical Treatment: The
14 Physician Recommends Against Certain Life-Sustaining Treatment
15 That You Wish To Continue

16 You have been given this information because you have
17 requested life-sustaining treatment* for yourself as the patient or
18 on behalf of the patient, as applicable, which the attending
19 physician believes is not medically appropriate. This information
20 is being provided to help you understand state law, your rights, and
21 the resources available to you in such circumstances. It outlines
22 the process for resolving disagreements about treatment among
23 patients, families, and physicians. It is based upon Section
24 166.046 of the Texas Advance Directives Act, codified in Chapter
25 166, Texas Health and Safety Code.

26 When an attending physician refuses to comply with an advance
27 directive or other request for life-sustaining treatment because of

1 the physician's judgment that the treatment would be medically
2 inappropriate, the case will be reviewed by an ethics or medical
3 committee. Life-sustaining treatment will be provided through the
4 review.

5 You will receive notification of this review at least seven
6 days [~~48 hours~~] before a meeting of the committee related to your
7 case. You are entitled to attend and participate in the entire
8 meeting. With your agreement, the meeting may be held sooner than
9 48 hours, if possible.

10 A physician or other health care professional, a health care
11 facility, or an ethics or medical committee may not deny a patient
12 life-sustaining treatment based on:

13 1. the lesser value the physician or professional, facility,
14 or committee places on sustaining the life of an elderly, disabled,
15 or terminally ill patient compared to the value of sustaining the
16 life of a patient who is younger, not disabled, or not terminally
17 ill; or

18 2. a disagreement between the physician or professional,
19 facility, or committee and the patient, or the person authorized to
20 make a treatment decision for the patient under Section 166.039,
21 over the greater weight the patient or person places on sustaining
22 the patient's life than the risk of disability.

23 Life-sustaining treatment may be denied if the treatment is:

24 1. futile because the treatment is physiologically
25 ineffective in achieving the specific intended benefit to the
26 patient as intended by or on behalf of the patient; or

27 2. medically inappropriate because providing the treatment

1 to the patient would clearly create a substantially greater risk of
2 causing or hastening the death of the patient than would
3 withholding or withdrawing it.

4 You are entitled to receive a written explanation of the
5 decision reached during the review process and the medical judgment
6 and reason leading to the decision in accordance with Section
7 166.0455, Health and Safety Code.

8 If after this review process both the attending physician and
9 the ethics or medical committee conclude that life-sustaining
10 treatment is medically inappropriate and yet you continue to
11 request such treatment, then the following procedure will occur:

12 1. The physician, with the help of the health care facility,
13 will assist you in trying to find a physician and facility willing
14 to provide the requested treatment.

15 2. You are being given a list of health care providers,
16 licensed physicians, health care facilities, and referral groups
17 that have volunteered their readiness to consider accepting
18 transfer, or to assist in locating a provider willing to accept
19 transfer, maintained by the Department of State Health Services.
20 You may wish to contact providers, facilities, or referral groups
21 on the list or others of your choice to get help in arranging a
22 transfer.

23 3. The patient will continue to be given life-sustaining
24 treatment until the patient can be transferred to a willing
25 provider for up to 10 days from the time you were given both the
26 committee's written decision and explanation that life-sustaining
27 treatment is not appropriate and the patient's medical record. The

1 patient will continue to be given after the 10-day period treatment
2 to enhance pain management and reduce suffering, including
3 artificially administered nutrition and hydration, unless, based
4 on reasonable medical judgment, providing artificially
5 administered nutrition and hydration would hasten the patient's
6 death, be medically contraindicated such that the provision of the
7 treatment seriously exacerbates life-threatening medical problems
8 not outweighed by the benefit of the provision of the treatment,
9 result in substantial irremediable physical pain not outweighed by
10 the benefit of the provision of the treatment, be medically
11 ineffective in prolonging life, or be contrary to the patient's or
12 surrogate's clearly documented desires.

13 4. If a transfer can be arranged, the patient will be
14 responsible for the costs of the transfer.

15 5. If a provider cannot be found willing to give the
16 requested treatment within 10 days, life-sustaining treatment may
17 be withdrawn unless a court of law has ruled otherwise [~~granted an~~
18 ~~extension~~].

19 6. You may ask the [~~appropriate district or county~~] court to
20 extend the 10-day period if the court finds that there is a
21 reasonable expectation that you may find a physician or health care
22 facility willing to provide life-sustaining treatment if the
23 extension is granted. Patient medical records will be provided to
24 the patient or surrogate in accordance with Section [241.154](#), Texas
25 Health and Safety Code.

26 7. The law gives you the right to seek a court order to
27 require a physician or other health care professional, health care

1 as applicable, and the attending physician disagrees with and
2 refuses to comply with that request. The information is being
3 provided to help you understand state law, your rights, and the
4 resources available to you in such circumstances. It outlines the
5 process for resolving disagreements about treatment among
6 patients, families, and physicians. It is based upon Section
7 [166.046](#) of the Texas Advance Directives Act, codified in Chapter
8 [166](#), Texas Health and Safety Code.

9 When an attending physician refuses to comply with an advance
10 directive or other request for withdrawal or withholding of
11 life-sustaining treatment for any reason, the case will be reviewed
12 by an ethics or medical committee. Life-sustaining treatment will
13 be provided through the review.

14 You will receive notification of this review at least seven
15 days [~~48 hours~~] before a meeting of the committee related to your
16 case. You are entitled to attend and participate in the entire
17 meeting. With your agreement, the meeting may be held sooner than
18 48 hours, if possible.

19 You are entitled to receive a written explanation of the
20 decision reached during the review process and the medical judgment
21 and reason leading to the decision in accordance with Section
22 166.0455.

23 If you or the attending physician do not agree with the
24 decision reached during the review process, and the attending
25 physician still refuses to comply with your request to withhold or
26 withdraw life-sustaining treatment, then the following procedure
27 will occur:

1 1. The physician, with the help of the health care facility,
2 will assist you in trying to find a physician and facility willing
3 to withdraw or withhold the life-sustaining treatment.

4 2. You are being given a list of health care providers,
5 licensed physicians, health care facilities, and referral groups
6 that have volunteered their readiness to consider accepting
7 transfer, or to assist in locating a provider willing to accept
8 transfer, maintained by the Department of State Health Services.
9 You may wish to contact providers, facilities, or referral groups
10 on the list or others of your choice to get help in arranging a
11 transfer.

12 3. The law gives you a right to seek a court order to require
13 a physician or other health care professional, health care
14 facility, or ethics or medical committee to comply with your rights
15 under the Texas Advance Directives Act if the physician, facility,
16 or committee is violating or threatening to violate a provision of
17 that Act. You may wish to talk to legal counsel for further
18 information about your right to seek a court order.

19 *"Life-sustaining treatment" means treatment that, based on
20 reasonable medical judgment, sustains the life of a patient and
21 without which the patient will die. The term includes both
22 life-sustaining medications and artificial life support, such as
23 mechanical breathing machines, kidney dialysis treatment, and
24 artificially administered nutrition and hydration. The term does
25 not include the administration of pain management medication or the
26 performance of a medical procedure considered to be necessary to
27 provide comfort care, or any other medical care provided to

1 alleviate a patient's pain.

2 SECTION 8. Subchapter B, Chapter 166, Health and Safety
3 Code, is amended by adding Section 166.054 to read as follows:

4 Sec. 166.054. REPORTING REQUIREMENTS REGARDING ETHICS OR
5 MEDICAL COMMITTEE. (a) A health care facility shall complete and
6 submit an annual report to the commission, in the form and manner
7 prescribed by commission rule, of all meetings of an ethics or
8 medical committee held under Section 166.046 during the preceding
9 year.

10 (b) The report required by Subsection (a) must include:

11 (1) whether the health care facility held any ethics
12 or medical committee meetings during the preceding year; and

13 (2) for each meeting held during the preceding year:

14 (A) the patient's age, sex, race, and state and
15 county of residence;

16 (B) the patient's type of health benefit plan, if
17 applicable;

18 (C) the date of the meeting;

19 (D) whether the patient was transferred to
20 another physician in the same facility;

21 (E) whether the patient was transferred to
22 another facility;

23 (F) whether the patient was discharged to the
24 patient's home;

25 (G) whether treatment was withheld or withdrawn
26 without the consent of the patient or person authorized to make
27 treatment decisions on behalf of the patient after the meeting;

1 (H) whether treatment was withheld or withdrawn
2 with the consent of the patient or the person authorized to make
3 treatment decisions on behalf of the patient after the meeting; and

4 (I) whether the patient died while receiving
5 life-sustaining treatment at the facility.

6 (c) The commission shall publish on its Internet website an
7 annual report compiled by the commission containing aggregate data
8 of the information in each report submitted under Subsection (a),
9 including:

10 (1) the total number of patients for whom a review by
11 the ethics or medical committee is held under Section 166.046 in the
12 reported year;

13 (2) de-identified demographic data of patients,
14 including age, sex, and state and county of residence, and health
15 benefit plan status;

16 (3) de-identified data on facilities that initiated
17 the ethics or medical committee meeting, including:

18 (A) the county in which the facilities are
19 located;

20 (B) the type of facilities; and

21 (C) whether the facilities are nonprofit,
22 for-profit, or a public hospital;

23 (4) the decisions of the ethics or medical committee;

24 (5) the total number of patients transferred to
25 another physician in the same facility;

26 (6) the total number of patients transferred to
27 another facility;

1 (7) the total number of patients discharged to the
2 patient's home;

3 (8) the total number of patients for whom treatment
4 was withheld or withdrawn without the consent of the patient or
5 person authorized to make treatment decisions on behalf of the
6 patient after the ethics or medical committee meeting;

7 (9) the total number of patients for whom treatment
8 was withheld or withdrawn with the consent of the patient or person
9 authorized to make treatment decisions on behalf of the patient
10 after the ethics or medical committee meeting;

11 (10) the total number of patients who died while
12 receiving life-sustaining treatment at the facility;

13 (11) the total number of facilities reporting no
14 ethics or medical committee meetings during the reported year; and

15 (12) the total number of facilities reporting ethics
16 or medical committee meetings during the reported year.

17 (d) The report required by Subsection (c) may not contain
18 any identifying data of a patient, facility, or physician.

19 SECTION 9. Section [166.158\(c\)](#), Health and Safety Code, is
20 amended to read as follows:

21 (c) A principal's health or residential care provider who
22 finds it impossible to follow a directive by the agent because of a
23 conflict with this subchapter or the medical power of attorney
24 shall inform the agent as soon as is reasonably possible. The agent
25 may select another attending physician. The procedures and
26 limitations established under Sections [166.045](#), [166.0455](#), and
27 [166.046](#) apply if the agent's directive concerns providing,

1 withholding, or withdrawing life-sustaining treatment.

2 SECTION 10. Section 166.166, Health and Safety Code, is
3 amended to read as follows:

4 Sec. 166.166. OTHER RIGHTS OR RESPONSIBILITIES NOT
5 AFFECTED. This subchapter does not limit or impair any legal right
6 or responsibility that any person, including a physician or health
7 or residential care provider, may have to make or implement health
8 care decisions on behalf of a person, provided that if an attending
9 physician or health care facility is unwilling to honor and comply
10 with a patient's advance directive or a treatment decision to
11 provide life-sustaining treatment for a reason permitted by Section
12 166.046(a-1) and not prohibited by Section 166.0455,
13 life-sustaining treatment is required to be provided the patient,
14 but only until a reasonable opportunity has been afforded for
15 transfer of the patient to another physician or health care
16 facility willing to comply with the advance directive or treatment
17 decision in accordance with Section 166.046.

18 SECTION 11. Not later than December 1, 2021, the Supreme
19 Court of Texas shall issue the rules and prescribe the forms
20 necessary for the process established by Section 166.0465, Health
21 and Safety Code, as added by this Act. The rules shall prescribe
22 the method of service of the application under Section 166.0465,
23 Health and Safety Code, and may require filing and service of
24 notices, petitions, and briefs electronically to the extent the
25 Supreme Court of Texas considers appropriate.

26 SECTION 12. The changes in law made by this Act apply only
27 to a health care or treatment decision made on or after the

1 effective date of this Act.

2 SECTION 13. This Act takes effect immediately if it
3 receives a vote of two-thirds of all the members elected to each
4 house, as provided by Section 39, Article III, Texas Constitution.
5 If this Act does not receive the vote necessary for immediate
6 effect, this Act takes effect September 1, 2021.