

## **BILL ANALYSIS**

Senate Research Center  
78R11535 DLF-F

H.B. 3009  
By: Capelo (Nelson)  
Administration  
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Engrossed

### **DIGEST AND PURPOSE**

The 76th Texas Legislature created the "Advance Directives Act." The United States Supreme Court has held that individuals have a constitutional right to consent or refuse to consent to medical treatment. H.B. 3009 amends the Advance Directives Act to clarify the scope and applicability of certain provisions of the Act and to provide additional information to patients or their surrogate decision makers regarding its effects.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 166.002, Health and Safety Code, by amending Subdivision (7) and adding Subdivision (15) to redefine "health care or treatment decision" and to define "cardiopulmonary resuscitation."

SECTION 2. Amends Subchapter A, Chapter 166, Health and Safety Code, by adding Section 166.010, as follows:

Sec. 166.010. APPLICABILITY OF FEDERAL LAW RELATING TO CHILD ABUSE AND NEGLECT. Provides that this chapter is subject to applicable federal law and regulations relating to child abuse and neglect to the extent applicable to the state based on its receipt of federal funds.

SECTION 3. Amends Section 166.044, Health and Safety Code, by adding Subsection (e), as follows:

(e) Provides that a physician, nurse, or other person acting under the direction of a physician who participates in the withholding or withdrawal of cardiopulmonary resuscitation from a patient who, in reasonable medical judgment, has a terminal or irreversible condition is not civilly or criminally liable for failure to provide resuscitation if, in reasonable medical judgment, in the event of cardiopulmonary arrest, the patient's death would occur within minutes to hours regardless of the provision of resuscitation. Authorizes nothing in this section to be construed to limit the authority of a physician, nurse, or other person to comply with an otherwise valid and applicable patient's directive to physicians or out-of-hospital do-not-resuscitate order, or the decision of a competent patient or the person responsible for the health care decisions of the patient, that authorizes a do-not-resuscitate order under other circumstances.

SECTION 4. Amends the heading to Section 166.046, Health and Safety Code, to read as follows:

Sec. 166.046. PROCEDURE IF NOT EFFECTUATING A DIRECTIVE OR TREATMENT DECISION.

SECTION 5. Amends Section 166.046, Health and Safety Code, by amending Subsections (a), (b) and (e), and adding Subsection (e-1), as follows:

(a) Requires the physician's refusal, if an attending physician refuses to honor a health care treatment decision made by or on behalf of a patient, to be reviewed by an ethics or medical committee.

(b) Requires the patient or the person responsible for the health care decisions to be provided with certain information.

(e) Adds new language to existing text relating to a person responsible for the health care decisions of a patient requesting life-sustaining treatment.

(e-1) Provides that if during a previous admission to a facility, a patient's attending physician and the review process under Subsection (b) have determined that life-sustaining treatment is inappropriate, and the patient is readmitted to the same facility within six months from the date of the decision reached during the review process conducted upon the previous admission, Subsections (b) through (e) need not be followed if the patient's attending physician and a consulting physician who is a member of the ethics or medical committee of the facility document on the patient's readmission that the patient's condition either has not improved or has deteriorated since the review process was conducted.

SECTION 6. Amends Subchapter B, Chapter 166, Health and Safety Code, by adding Sections 166.052 and 166.053, as follows:

Sec. 166.052. STATEMENTS EXPLAINING PATIENT'S RIGHT TO TRANSFER. (a) Sets forth the language in a statement in cases in which the attending physician refuses to honor an advance directive or treatment decision requesting the provision of life-sustaining treatment.

(b) Sets forth the language in a statement in cases in which the attending physician refuses to comply with an advance directive or treatment decision requesting the withholding or withdrawal of life-sustaining treatment.

(c) Authorizes an attending physician or health care facility to, if it chooses, include any additional information concerning the physician's or facility's policy, perspective, experience, or review procedure.

Sec. 166.053. REGISTRY TO ASSIST TRANSFERS. (a) Requires the Texas Health Care Information Council (council) to maintain a registry listing the identity of and contact information for health care providers and referral groups, situated inside and outside this state, that have voluntarily notified the council they may consider accepting or may assist in locating a provider willing to accept transfer of a patient under Sections 166.045 or 166.046.

(b) Provides that the listing of a provider or referral group in the registry described in this section does not obligate the provider or group to accept transfer of, or provide services to, any particular patient.

(c) Requires the council to post the current registry list on its website in a form appropriate for easy comprehension by patients and persons responsible for the health care decisions of patients and to provide a clearly identifiable link from its home page to the registry page. Requires the list to separately indicate those providers and groups that have indicated their interest in assisting the transfer of certain patients.

(d) Requires the registry list described in this section to include the following disclaimer:

"This registry lists providers and groups that have indicated to the Texas Health Care Information Council their interest in assisting the transfer of

patients in the circumstances described, and is provided for information purposes only. Neither the Texas Health Care Information Council nor the State of Texas endorses or assumes any responsibility for any representation, claim or act of the listed providers or groups."

SECTION 7. Amends Subchapter C, Chapter 166, Health and Safety Code, by adding Section 166.102, as follows:

Sec. 166.102. PHYSICIAN'S DNR ORDER MAY BE HONORED BY HEALTH CARE PERSONNEL OTHER THAN EMERGENCY MEDICAL SERVICES PERSONNEL. (a) Authorizes a licensed nurse or person providing health care services in an out-of-hospital setting, except as provided by Subsection (b), to honor a physician's do-not-resuscitate order.

(b) Requires emergency medical services personnel, when responding to a call for assistance, to honor only a properly executed or issued of-of-hospital DNR order or prescribed DNR identification device in accordance with this subchapter.

SECTION 8. Repealer: Section 166.081(1), Health and Safety Code.

SECTION 9. Effective date: upon passage or September 1, 2003.