

Suspending limitations on conference committee
jurisdiction, S.B. No. 1320

By: Nelson

S.R. No. 1041

R E S O L U T I O N

1 BE IT RESOLVED by the Senate of the State of Texas, 78th
2 Legislature, Regular Session, 2003, That Senate Rule 12.03 be
3 suspended in part as provided by Senate Rule 12.08 to enable the
4 conference committee appointed to resolve the differences on Senate
5 Bill 1320, relating to certain advance directives for medical
6 treatment and medical treatment decisions, to consider and take
7 action on the following matter:

8 (1) Senate Rules 12.03(1) and (4) are suspended to permit
9 the committee to change the text of added Subsection (e) and add new
10 Subsection (f), Section 166.044, Health and Safety Code, to read
11 as follows:

12 (e) A physician, nurse, or other person acting under the
13 direction of a physician who participates in the withholding or
14 withdrawal of cardiopulmonary resuscitation from a patient who, in
15 reasonable medical judgment, has a terminal or irreversible
16 condition is not civilly or criminally liable for failure to
17 provide resuscitation if, in reasonable medical judgment, in the
18 event of cardiopulmonary arrest, the patient's death would occur
19 within minutes to hours regardless of the provision of
20 resuscitation. Nothing in this section may be construed to
21 prohibit a physician, nurse, or other person from honoring an
22 otherwise valid and applicable patient's directive to physicians or
23 out-of-hospital do-not-resuscitate order, or the decision of a
24 competent patient or the person responsible for the health care

1 decisions of the patient, that authorizes a do-not-resuscitate
2 order under other circumstances.

3 (f) In this section, "reasonable medical judgment" means
4 judgment which is exercised in accordance with the standard of care
5 described by Section 166.044(d).

6 Explanation: The change is necessary to clarify that the
7 section may not be construed to prohibit certain persons from
8 honoring certain patients' advance directives and to define
9 "reasonable medical judgment" for purposes of the section.

10 (2) Senate Rule 12.03(4) is suspended to permit the
11 committee to add a new section to the bill to read as follows:

12 SECTION 9. Section 22.041, Penal Code, is amended by adding
13 Subsection (j) to read as follows:

14 (j) It is a defense to prosecution under Subsection (c-1),
15 as amended by S.B. No. 827, Acts of the 78th, Regular Session, 2003,
16 that the person is a health care facility licensed under a law or a
17 licensed health care professional providing medical treatment at,
18 or is an employee of, a health care facility licensed under a law
19 and that the person's conduct is the result of:

20 (1) a decision in compliance with Subchapter B,
21 Chapter 166, Health and Safety Code, to withhold or withdraw
22 life-sustaining treatment from a qualified terminal or
23 irreversible patient;

24 (2) a power of attorney executed in compliance with
25 Subchapter D, Chapter 166, Health and Safety Code, or under Chapter
26 XII, Probate Code;

27 (3) consent to medical treatment of a minor in

1 compliance with Chapter 32, Family Code;

2 (4) consent for emergency care received in compliance
3 with Chapter 773, Health and Safety Code;

4 (5) a hospital patient transfer made in compliance
5 with Subchapter B, Chapter 241, Health and Safety Code;

6 (6) a decision made by a patient's legal guardian who
7 has the authority to make a decision regarding the patient's
8 medical treatment;

9 (7) a reasonable decision consistent with:

10 (A) the diagnosis or medical condition of the
11 child, elderly individual, or disabled individual;

12 (B) the scope and nature of a health care
13 provider's license or certification; or

14 (C) an individual contract for services with the
15 health care provider, entered into by the child, elderly
16 individual, disabled individual, or a legal guardian with authority
17 to make health care decisions for the child, elderly individual, or
18 disabled individual; or

19 (8) a decision to discharge a child, elderly
20 individual, or disabled individual from a health care facility
21 licensed under a law based on the child's, elderly individual's, or
22 disabled individual's inability to pay for care or treatment
23 provided by the health care facility.

24 Explanation: The added provision is necessary to establish a
25 defense to prosecution for the offense of failing to provide food,
26 medical care, or shelter for a child, elderly individual, or
27 disabled individual in certain circumstances.