

By: Parker

H.B. No. 3180

A BILL TO BE ENTITLED

AN ACT

relating to the obligation of a physician and a health care facility to provide life-sustaining treatment.

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

SECTION 1. Section 166.046(e), Health and Safety Code, is amended to read as follows:

(e) If the patient or the person responsible for the health care decisions of the patient is requesting life-sustaining treatment that the attending physician has decided and the review process has affirmed is inappropriate treatment, the patient shall be given available life-sustaining treatment pending transfer under Subsection (d). The patient is responsible for any costs incurred in transferring the patient to another facility. The physician and the health care facility are not obligated to provide life-sustaining treatment after the 90th ~~[10th]~~ day after the written decision required under Subsection (b) is provided to the patient or the person responsible for the health care decisions of the patient unless ordered to do so under Subsection (g).

SECTION 2. Section 166.052(a), Health and Safety Code, is amended to read as follows:

(a) In cases in which the attending physician refuses to honor an advance directive or treatment decision requesting the provision of life-sustaining treatment, the statement required by Section 166.046(b)(3)(A) ~~[166.046(b)(2)(A)]~~ shall be in

1 substantially the following form:

2 When There Is A Disagreement About Medical Treatment: The
3 Physician Recommends Against Life-Sustaining Treatment That You
4 Wish To Continue

5 You have been given this information because you have
6 requested life-sustaining treatment,* which the attending
7 physician believes is not appropriate. This information is being
8 provided to help you understand state law, your rights, and the
9 resources available to you in such circumstances. It outlines the
10 process for resolving disagreements about treatment among
11 patients, families, and physicians. It is based upon Section
12 166.046 of the Texas Advance Directives Act, codified in Chapter
13 166 of the Texas Health and Safety Code.

14 When an attending physician refuses to comply with an advance
15 directive or other request for life-sustaining treatment because of
16 the physician's judgment that the treatment would be inappropriate,
17 the case will be reviewed by an ethics or medical committee.
18 Life-sustaining treatment will be provided through the review.

19 You will receive notification of this review at least 48
20 hours before a meeting of the committee related to your case. You
21 are entitled to attend the meeting. With your agreement, the
22 meeting may be held sooner than 48 hours, if possible.

23 You are entitled to receive a written explanation of the
24 decision reached during the review process.

25 If after this review process both the attending physician and
26 the ethics or medical committee conclude that life-sustaining
27 treatment is inappropriate and yet you continue to request such

1 treatment, then the following procedure will occur:

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

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

12 3. The patient will continue to be given life-sustaining
13 treatment until he or she can be transferred to a willing provider
14 for up to 90 [~~10~~] days from the time you were given the committee's
15 written decision that life-sustaining treatment is not
16 appropriate.

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

19 5. If a provider cannot be found willing to give the
20 requested treatment within 90 [~~10~~] days, life-sustaining treatment
21 may be withdrawn unless a court of law has granted an extension.

22 6. You may ask the appropriate district or county court to
23 extend the 90-day [~~10-day~~] period if the court finds that there is a
24 reasonable expectation that a physician or health care facility
25 willing to provide life-sustaining treatment will be found if the
26 extension is granted.

27 *"Life-sustaining treatment" means treatment that, based on

1 reasonable medical judgment, sustains the life of a patient and
2 without which the patient will die. The term includes both
3 life-sustaining medications and artificial life support, such as
4 mechanical breathing machines, kidney dialysis treatment, and
5 artificial nutrition and hydration. The term does not include the
6 administration of pain management medication or the performance of
7 a medical procedure considered to be necessary to provide comfort
8 care, or any other medical care provided to alleviate a patient's
9 pain.

10 SECTION 3. This Act takes effect immediately if it receives
11 a vote of two-thirds of all the members elected to each house, as
12 provided by Section 39, Article III, Texas Constitution. If this
13 Act does not receive the vote necessary for immediate effect, this
14 Act takes effect September 1, 2007.