

By: Deuell, et al.

S.B. No. 439

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 amending Subdivisions (6) and (13) and adding Subdivision (16) to read as follows:

(6) "Ethics or medical committee" means a committee established under Sections 161.031-161.033 or a subcommittee of an ethics or medical committee.

(13) "Terminal condition" means an incurable condition that:

(A) is caused by injury, disease, or illness that according to reasonable medical judgment will produce death within six months, even with available life-sustaining treatment provided in accordance with the prevailing standard of medical care;

(B) presumes a ~~[A]~~ patient who has been admitted to a program under which the person receives hospice services provided by a home and community support services agency licensed under Chapter 142 has ~~[is presumed to have]~~ a terminal condition for purposes of this chapter; and

(C) permanently requires in an intensive care unit and according to reasonable medical judgment two or more of the following therapies in order to keep the patient alive for more than

1 six months without which the patient would die:

2 (i) mechanical ventilation;

3 (ii) dialysis; or

4 (iii) blood pressure maintenance drugs or
5 devices.

6 (16) "Surrogate" means a legal guardian, an agent
7 under a medical power of attorney, or a person authorized under
8 Section 166.039(b) to make a health care decision or treatment
9 decision for an incompetent patient under this chapter.

10 SECTION 2. Subsection (e), Section 166.039, Health and
11 Safety Code, is amended to read as follows:

12 (e) If the patient does not have a legal guardian or agent
13 under a medical power of attorney and a person listed in Subsection
14 (b) is not available, a treatment decision made under Subsection
15 (b) must be concurred with [~~in~~] by another physician who is not
16 involved in the treatment of the patient or who is a representative
17 of an ethics or medical committee of the health care facility in
18 which the person is a patient.

19 SECTION 3. Subsection (c), Section 166.045, Health and
20 Safety Code, is amended to read as follows:

21 (c) If an attending physician disagrees with a health care
22 or treatment decision of a surrogate made on behalf of an
23 incompetent patient who has been diagnosed with a terminal
24 condition that has been certified in writing by the attending
25 physician, and the attending physician [~~refuses to comply with a~~
26 ~~directive or treatment decision and~~] does not wish to follow the
27 procedure established under Section 166.046, life-sustaining

1 treatment shall be provided to the patient, but only until a
2 reasonable opportunity has been afforded for the transfer of the
3 patient to another physician or health care facility willing to
4 comply with the health care ~~[directive]~~ or treatment decision.

5 SECTION 4. Section 166.046, Health and Safety Code, is
6 amended to read as follows:

7 Sec. 166.046. PROCEDURE IF PHYSICIAN DISAGREES WITH HEALTH
8 CARE ~~[NOT EFFECTUATING A DIRECTIVE]~~ OR TREATMENT DECISION. (a) If
9 an attending physician disagrees with the health care or treatment
10 decision of a surrogate made on behalf of an incompetent patient who
11 has been diagnosed with a terminal condition that has been
12 certified in writing by the attending physician, the attending
13 physician shall request a consultation with ~~[refuses to honor a~~
14 ~~patient's advance directive or a health care or treatment decision~~
15 ~~made by or on behalf of a patient, the physician's refusal shall be~~
16 ~~reviewed by]~~ an ethics or medical committee under Subsection (a-1).
17 ~~[The attending physician may not be a member of that committee.]~~
18 The patient shall be given life-sustaining treatment during the
19 process described by this section ~~[review]~~. If artificial
20 nutrition and hydration are the only life-sustaining treatment
21 being provided to a patient with a terminal condition, the process
22 established under this section may not be invoked unless reasonable
23 medical evidence indicates the provision of artificial nutrition
24 and hydration may hasten the patient's death or seriously
25 exacerbate other major medical problems and the risk of serious
26 medical pain or discomfort that cannot be alleviated based on
27 reasonable medical judgment outweighs the benefit of continued

1 artificial nutrition and hydration.

2 (a-1) If an attending physician requests a consultation
3 with an ethics or medical committee, the ethics or medical
4 committee shall:

5 (1) appoint a patient liaison familiar with
6 end-of-life issues and hospice care options to assist the patient's
7 surrogate throughout the process described by this section; and

8 (2) appoint one or more representatives of the ethics
9 or medical committee to conduct an advisory ethics consultation
10 with the surrogate, which must be documented in the patient's
11 medical record.

12 (a-2) If a disagreement over a health care or treatment
13 decision persists following an advisory ethics consultation
14 described in Subsection (a-1)(2), the attending physician may
15 request a meeting with the ethics or medical committee and shall
16 advise the surrogate that the attending physician will initiate the
17 review process and present medical facts at the meeting described
18 in Subsection (b). The attending physician may not participate as a
19 member of the ethics or medical committee in the case being
20 evaluated.

21 (b) On receipt of a request for a meeting of the ethics or
22 medical committee as described in Subsection (a-2) [~~The patient or~~
23 ~~the person responsible for the health care decisions of the~~
24 ~~individual who has made the decision regarding the directive or~~
25 ~~treatment decision]:~~

26 (1) not later than the seventh calendar day before the
27 date of the meeting requested under Subsection (a-2), unless the

1 time period is waived by mutual agreement, the surrogate shall:

2 (A) be offered [~~may be given~~] a written
3 description of the ethics or medical committee review process and
4 may be offered any other policies and procedures related to this
5 section adopted by the health care facility;

6 (B) be provided information that the surrogate is
7 entitled to receive the continued assistance of a patient liaison
8 to assist the surrogate throughout the process described in this
9 section;

10 (C) be provided information that the surrogate
11 may seek a second opinion from other medical professionals
12 regarding the patient's medical status and treatment requirements
13 and communicate the resulting information to the members of the
14 ethics or medical committee for consideration before the meeting;

15 (D) [(2) shall be informed of the committee
16 review process not less than 48 hours before the meeting called to
17 discuss the patient's directive, unless the time period is waived
18 by mutual agreement,

19 [~~(3) at the time of being so informed, shall~~] be
20 provided[+]

21 [~~(A)] a copy of the appropriate statement set~~

22 forth in Section 166.052; and

23 (E) be provided [~~(B)] a copy of the registry~~

24 list of health care providers, health care facilities, and referral

25 groups that have volunteered their readiness to consider accepting

26 transfer or to assist in locating a provider willing to accept

27 transfer that is posted on the website maintained by the department

1 ~~[Texas Health Care Information Council]~~ under Section 166.053; and

2 (2) if requested in writing by the surrogate, the
3 surrogate is entitled to receive:

4 (A) not later than 72 hours after the request is
5 made, a free copy of the portion of the patient's medical record
6 related to the current admission to the facility or the treatment
7 received by the patient during the preceding 30 calendar days in the
8 facility, whichever is shorter, together with requested diagnostic
9 results and reports reasonably requested by the surrogate; and

10 (B) not later than the fifth calendar day after
11 the date of the request, a free copy of the remainder of the
12 patient's medical record, if any, related to the current admission
13 to the facility.

14 (b-1) The surrogate ~~[, and~~

15 ~~[(4)]~~ is entitled to:

16 (1) [(A)] attend and participate in the meeting,
17 excluding the committee's deliberations;

18 (2) be accompanied at the meeting at the surrogate's
19 discretion by five or more persons for support, subject to the
20 hospital's reasonable written attendance policy as necessary to:

21 (A) facilitate information sharing and
22 discussion of the patient's medical status and treatment
23 requirements; and

24 (B) preserve the order and decorum of the
25 meeting; and

26 (3) [(B)] receive a written explanation of the
27 decision reached during the review process.

1 (c) The written explanation required by Subsection (b-1)(3)
2 [~~(b)(2)(B)~~] must be included in the patient's medical record.

3 (d) If the attending physician or the surrogate[~~, the~~
4 ~~patient, or the person responsible for the health care decisions of~~
5 ~~the individual~~] does not agree with the decision reached during the
6 review process [~~under Subsection (b)~~], the physician shall make a
7 reasonable effort to transfer the patient to a physician who is
8 willing to comply with the surrogate's health care or treatment
9 decision [~~directive~~]. The [~~If the patient is a patient in a health~~
10 ~~care facility, the~~] facility's personnel shall assist the physician
11 in arranging the patient's transfer to:

12 (1) another physician;

13 (2) an alternative care setting within that facility;

14 or

15 (3) another facility.

16 (e) If the surrogate [~~patient or the person responsible for~~
17 ~~the health care decisions of the patient~~] is requesting
18 life-sustaining treatment that the attending physician has decided
19 and the ethics or medical committee [~~review process~~] has affirmed
20 is medically inappropriate treatment, the patient shall be given
21 available life-sustaining treatment pending transfer under
22 Subsection (d). The patient shall receive treatment to enhance
23 pain relief and minimize suffering, which must include the
24 provision of artificial nutrition and hydration unless providing
25 the artificial nutrition and hydration would hasten death or
26 seriously exacerbate other major medical conditions and the risk of
27 serious medical pain or discomfort that cannot be alleviated based

1 on reasonable medical judgment outweighs the benefit of continued
2 artificial nutrition and hydration. The patient is responsible for
3 any costs incurred in transferring the patient to another facility.
4 The attending physician, any other physician responsible for the
5 care of the patient, and the health care facility are not obligated
6 to provide life-sustaining treatment, except for the provision of
7 artificial nutrition and hydration, unless providing the
8 artificial nutrition and hydration would hasten death or seriously
9 exacerbate other major medical conditions and the risk of serious
10 medical pain or discomfort that cannot be alleviated based on
11 reasonable medical judgment outweighs the benefit of continued
12 artificial nutrition and hydration, after the 21st calendar [~~10th~~]
13 day after the written decision required under Subsection (b) is
14 provided to the surrogate [~~patient or the person responsible for~~
15 ~~the health care decisions of the patient~~] unless ordered to do so
16 under Subsection (g).

17 (e-1) If during a previous admission to a facility a
18 patient's attending physician and the review process [~~under~~
19 ~~Subsection (b)~~] have determined that life-sustaining treatment is
20 medically inappropriate, and the patient is readmitted to the same
21 facility within six months from the date of the decision reached
22 during the review process conducted upon the previous admission,
23 Subsections (b) through (e) need not be followed if the patient's
24 attending physician and a consulting physician who is a member of
25 the ethics or medical committee of the facility document on the
26 patient's readmission that the patient's condition either has not
27 improved or has deteriorated since the review process was

1 conducted.

2 (f) Life-sustaining treatment under this section may not be
3 entered in the patient's medical record as medically unnecessary
4 treatment until the time period provided under Subsection (e) and
5 Section 166.0465, if applicable, has expired.

6 (g) At the request of the patient or the surrogate [~~person~~
7 ~~responsible for the health care decisions of the patient~~], the
8 appropriate district or county court shall extend the time period
9 provided under Subsection (e) only if the court in a proceeding
10 conducted under Section 166.0465 finds, by a preponderance of the
11 evidence, that there is a reasonable expectation that a physician
12 or health care facility that will honor the surrogate's health care
13 or treatment decision [~~patient's directive~~] will be found if the
14 time extension is granted.

15 (h) This section may not be construed to impose an
16 obligation on a facility or a home and community support services
17 agency licensed under Chapter 142 or similar organization that is
18 beyond the scope of the services or resources of the facility or
19 agency. This section does not apply to hospice services provided by
20 a home and community support services agency licensed under Chapter
21 142.

22 SECTION 5. Subchapter B, Chapter 166, Health and Safety
23 Code, is amended by adding Section 166.0465 to read as follows:

24 Sec. 166.0465. COURT ORDER FOR LIFE-SUSTAINING TREATMENT;
25 APPEAL; FILING FEE AND COURT COSTS. (a) A patient's surrogate may
26 submit a motion for extension of time to effect a patient transfer
27 for relief under Section 166.046(g) in any county court at law,

1 court having probate jurisdiction, or district court, including a
2 family district court and immediately serve a copy on the health
3 care facility.

4 (b) The court shall set a time for a hearing on a motion
5 filed under Subsection (a) and shall keep a record of all testimony
6 and other oral proceedings in the action. The court shall rule on
7 the motion and issue written findings of fact and conclusions of law
8 not later than the fifth business day after the date the motion is
9 filed with the court. The time for the hearing and the date by which
10 the court must rule on the motion may be extended by stipulation of
11 the parties, with the approval of the court.

12 (c) Any party may appeal the decision of the court under
13 Subsection (b) to the court of appeals having jurisdiction over
14 civil matters in the county in which the motion was filed by filing
15 a notice of appeal with the clerk of the court that ruled on the
16 motion not later than the first business day after the day on which
17 the decision of the court was issued.

18 (d) On receipt of a notice of appeal under Subsection (c),
19 the clerk of the court that ruled on the motion shall deliver a copy
20 of the notice of appeal and record on appeal to the clerk of the
21 court of appeals. On receipt of the notice and record, the clerk of
22 the court of appeals shall place the appeal on the docket of the
23 court, and the court of appeals shall promptly issue an expedited
24 briefing schedule and set a time for a hearing.

25 (e) The court of appeals shall rule on an appeal under
26 Subsection (d) not later than the fifth business day after the date
27 the notice of appeal is filed with the court that ruled on the

1 motion. The times for the filing of briefs, the hearing, and the
2 date by which the court of appeals must rule on the appeal may be
3 extended by stipulation of the parties, with the approval of the
4 court of appeals.

5 (f) Any party may file a petition for review of the decision
6 of the court of appeals with the clerk of the supreme court not
7 later than the third business day after the day on which the
8 decision of the court of appeals was issued. Other parties may file
9 responses not later than the third business day after the day on
10 which the petition for review was filed. The supreme court shall
11 grant the petition, deny it, refuse it, or dismiss it for want of
12 jurisdiction, whether or not a reply to any response has been filed,
13 not later than the third business day after the day on which the
14 response was due. If the supreme court grants the petition for
15 review, it shall exercise its sound discretion in determining how
16 expeditiously to hear and decide the case.

17 (g) If a motion is filed under Subsection (a),
18 life-sustaining treatment shall be provided through midnight of the
19 day by which a notice of appeal must be filed unless the court
20 directs that it be provided for a longer period. If a notice of
21 appeal under Subsection (c) is filed, life-sustaining treatment
22 shall be provided through midnight of the day by which a petition
23 for review to the supreme court must be filed, unless the court of
24 appeals directs that it be provided for a longer period. If a
25 petition for review to the supreme court is filed under Subsection
26 (f), life-sustaining treatment shall be provided through midnight
27 of the day on which the supreme court denies, refuses, or dismisses

1 the petition or issues a ruling on the merits, unless the supreme
2 court directs that it be provided for a longer period.

3 (h) A filing fee or court cost may not be assessed for any
4 proceeding in a trial or appellate court under this section.

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

7 (a) In cases in which the attending physician disagrees with
8 a [~~refuses to honor an advance directive or~~] treatment decision
9 requesting the provision of life-sustaining treatment, the
10 statement required by Section 166.046(b)(5) [~~166.046(b)(2)(A)~~]
11 shall be in substantially the following form:

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

15 You have been given this information because you have
16 requested life-sustaining treatment[~~7~~]* on behalf of the patient,
17 which the attending physician believes is not medically
18 appropriate. This information is being provided to help you
19 understand state law, your rights, and the resources available to
20 you in such circumstances. It outlines the process for resolving
21 disagreements about treatment among patients, families, and
22 physicians. It is based upon Section 166.046 of the Texas Advance
23 Directives Act, codified in Chapter 166 of the Texas Health and
24 Safety Code.

25 When an attending physician disagrees with a [~~refuses to~~
26 ~~comply with an advance directive or other~~] request for
27 life-sustaining treatment because of the physician's medical

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

4 As the patient's decision-maker, you [~~You~~] will receive
5 notification of this review at least seven calendar days [~~48 hours~~]
6 before a meeting of the committee related to your case. [~~You are~~
7 ~~entitled to attend the meeting.~~] With your agreement, the meeting
8 may be held sooner than seven calendar days [~~48 hours~~], if possible.

9 The committee will appoint a patient liaison to assist you
10 through this process. You are entitled to attend the meeting,
11 address the committee, and be accompanied by five or more persons,
12 at your discretion, to support you, subject to the hospital's
13 reasonable written attendance policy to facilitate information
14 sharing and discussion of the patient's medical status and
15 treatment requirements and preserve the order and decorum of the
16 meeting. On written request, you are also entitled to receive:

17 (1) not later than 72 hours after the request is made,
18 a free copy of the portion of the patient's medical record related
19 to the patient's current admission to the facility or the treatment
20 received by the patient during the preceding 30 calendar days in the
21 facility, whichever is shorter, together with requested diagnostic
22 results and reports reasonably requested by you on behalf of the
23 patient; and

24 (2) not later than the fifth calendar day following
25 the request, a free copy of the remainder of the patient's medical
26 record, if any, related to the current admission to the facility.

27 You are free to seek a second opinion from other medical

1 professionals regarding the patient's medical status and treatment
2 requirements and communicate the resulting information to the
3 members of the ethics or medical committee for consideration before
4 the meeting. You are entitled to receive a written explanation of
5 the decision reached during the review process.

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

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

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

21 3. The patient will continue to be given life-sustaining
22 treatment and treatment to enhance pain management and reduce
23 suffering, including artificial nutrition and hydration, unless
24 providing the artificial nutrition and hydration would hasten death
25 or seriously exacerbate other major medical conditions and the risk
26 of serious medical pain or discomfort that cannot be alleviated
27 based on reasonable medical judgment outweighs the benefit of

1 continued artificial nutrition and hydration, until the patient [~~he~~
2 ~~or she~~] can be transferred to a willing provider for up to 21
3 calendar [~~10~~] days from the time you were given the committee's
4 written decision that life-sustaining treatment is not medically
5 appropriate.

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

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

12 6. You may ask the appropriate district or county court to
13 extend the 21-day [~~10-day~~] period if the court finds that there is a
14 reasonable expectation that a physician or health care facility
15 willing to provide life-sustaining treatment will be found if the
16 extension is granted.

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

27 (b) In cases in which the attending physician disagrees with

1 may be held sooner than seven calendar days [~~48 hours~~], if possible.

2 You will be appointed a patient liaison familiar with
3 end-of-life issues and hospice care options to assist you
4 throughout this process. A representative of the ethics or medical
5 committee will also conduct an advisory consultation with you.

6 On written request you are entitled to receive:

7 (1) not later than 72 hours after the request is made,
8 a free copy of the portion of the patient's medical record related
9 to the current admission to the facility or the treatment received
10 by the patient during the preceding 30 calendar days in the
11 facility, whichever is shorter, together with requested diagnostic
12 results and reports reasonably requested by you on behalf of the
13 patient; and

14 (2) not later than the fifth calendar day following
15 the date of the request, a free copy of the remainder of the
16 patient's medical record, if any, related to the current admission
17 to the facility.

18 You are free to seek a second opinion from other medical
19 professionals regarding the patient's medical status and treatment
20 requests and communicate the resulting information to the members
21 of the ethics or medical committee for consideration before the
22 meeting.

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

25 If you or the attending physician do not agree with the
26 decision reached during the review process, and the attending
27 physician still disagrees [~~refuses to comply~~] with your request to

1 withhold or withdraw life-sustaining treatment, then the following
2 procedure will occur:

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

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

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

24 SECTION 7. Subchapter B, Chapter 166, Health and Safety
25 Code, is amended by adding Section 166.054 to read as follows:

26 Sec. 166.054. REPORTING REQUIREMENTS REGARDING ETHICS OR
27 MEDICAL COMMITTEE PROCESSES OF DATA. (a) On submission of a

1 health care facility's application to renew its license, a facility
2 in which one or more meetings of an ethics or medical committee is
3 held shall file a report with the department that contains
4 aggregate information regarding the number of cases considered by
5 an ethics or medical committee under Section 166.046(a-2) and the
6 disposition of those cases by the facility.

7 (b) Aggregate data submitted to the department under this
8 section may include only the following:

9 (1) the total number of patients for whom the Section
10 166.046(b) review process was initiated;

11 (2) the number of patients under Subdivision (1) who
12 were transferred to:

13 (A) another physician within the same facility;
14 or

15 (B) a different facility;

16 (3) the number of patients under Subdivision (1) who
17 were discharged to home;

18 (4) the number of patients under Subdivision (1) for
19 whom treatment was withheld or withdrawn pursuant to surrogate
20 consent:

21 (A) before the Section 166.046(b) review
22 consultation;

23 (B) after the Section 166.046(b) review
24 consultation; or

25 (C) during or after the 21-day period described
26 by Section 166.046(e);

27 (5) the number of patients under Subdivision (1) for

1 whom treatment was withheld or withdrawn without surrogate consent:

2 (A) before expiration of the 21-day period; or

3 (B) after expiration of the 21-day period;

4 (6) the number of patients under Subdivision (1) who
5 died while still receiving life-sustaining treatment:

6 (A) before the Section 166.046(b) review
7 consultation;

8 (B) during the 21-day period; or

9 (C) during extension of the 21-day period, if
10 any; and

11 (7) the average length of stay before a Section
12 166.046(b) review consultation.

13 (c) The report required by this section may not contain any
14 data specific to an individual patient.

15 (d) The department shall adopt rules to:

16 (1) establish a standardized form for the reporting
17 requirements of this section; and

18 (2) post on the department's Internet website the data
19 submitted under Subsection (b) in the format provided by rule.

20 SECTION 8. Subsections (a) and (c), Section 166.082, Health
21 and Safety Code, are amended to read as follows:

22 (a) A competent adult [~~person~~] may at any time execute a
23 written out-of-hospital DNR order directing health care
24 professionals acting in an out-of-hospital setting to withhold
25 cardiopulmonary resuscitation and certain other life-sustaining
26 treatment designated by the board.

27 (c) If the person is incompetent but previously executed or

1 issued a directive to physicians in accordance with Subchapter B
2 requesting that all treatment, other than treatment necessary for
3 keeping the person comfortable, be discontinued or withheld, the
4 physician may rely on the directive as the person's instructions to
5 issue an out-of-hospital DNR order and shall place a copy of the
6 directive in the person's medical record. The physician shall sign
7 the order in lieu of the person signing under Subsection (b).

8 SECTION 9. Subsection (d), Section 166.152, Health and
9 Safety Code, is amended to read as follows:

10 (d) The principal's attending physician shall make
11 reasonable efforts to inform the principal of any proposed
12 treatment or of any proposal to withdraw or withhold treatment
13 before implementing an agent's health care decision [~~advance~~
14 ~~directive~~].

15 SECTION 10. (a) Not later than November 1, 2007, the
16 Supreme Court of Texas shall issue the rules and prescribe the forms
17 necessary for the process established by Section 166.0465, Health
18 and Safety Code, as added by this Act. The rules shall prescribe
19 the method of service of the application under Section 166.0465,
20 Health and Safety Code, and may require filing and service of
21 notices, petitions, and briefs electronically to the extent the
22 Supreme Court of Texas considers appropriate.

23 (b) Not later than March 1, 2008, the executive commissioner
24 of the Health and Human Services Commission shall adopt the rules
25 necessary to implement the changes in law made by this Act to
26 Chapter 166, Health and Safety Code.

27 SECTION 11. This Act takes effect September 1, 2007.