

1-1 By: Deuell, et al. S.B. No. 439
1-2 (In the Senate - Filed February 5, 2007; February 21, 2007,
1-3 read first time and referred to Committee on Health and Human
1-4 Services; May 8, 2007, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 8, Nays 0;
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1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 439 By: Deuell

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to advance directives and health care and treatment
1-11 decisions.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 166.002, Health and Safety Code, is
1-14 amended by amending Subdivision (6) and adding Subdivisions (16)
1-15 and (17) to read as follows:

1-16 (6) "Ethics or medical committee" means a committee
1-17 established under Sections 161.031-161.033 or a subcommittee of an
1-18 ethics or medical committee.

1-19 (16) "Preterminal condition" means a condition,
1-20 injury, or illness that:

1-21 (A) according to reasonable medical judgment
1-22 will eventually cause death, even with available life-sustaining
1-23 treatment provided in accordance with the prevailing standard of
1-24 medical care;

1-25 (B) is currently being treated with
1-26 life-sustaining treatment; and

1-27 (C) causes the person to be permanently unaware
1-28 of the person's environment and permanently incapable of engaging
1-29 in voluntary interaction with the person's environment.

1-30 (17) "Surrogate" means a legal guardian, an agent
1-31 under a medical power of attorney, or a person authorized under
1-32 Section 166.039(b) to make a health care decision or treatment
1-33 decision for an incompetent patient under this chapter.

1-34 SECTION 2. Subdivision (2), Section 166.031, Health and
1-35 Safety Code, is amended to read as follows:

1-36 (2) "Qualified patient" means a patient with a
1-37 terminal, preterminal, or irreversible condition that has been
1-38 diagnosed and certified in writing by the attending physician.

1-39 SECTION 3. Subsection (e), Section 166.039, Health and
1-40 Safety Code, is amended to read as follows:

1-41 (e) If the patient does not have a legal guardian or agent
1-42 under a medical power of attorney and a person listed in Subsection
1-43 (b) is not available, a treatment decision made under Subsection
1-44 (b) must be concurred with ~~in~~ by another physician who is not
1-45 involved in the treatment of the patient or who is a representative
1-46 of an ethics or medical committee of the health care facility in
1-47 which the person is a patient.

1-48 SECTION 4. Subsection (c), Section 166.045, Health and
1-49 Safety Code, is amended to read as follows:

1-50 (c) If an attending physician disagrees with a health care
1-51 or treatment decision of a surrogate made on behalf of an
1-52 incompetent patient who has been diagnosed with a terminal or
1-53 preterminal condition that has been certified in writing by the
1-54 attending physician, and the attending physician ~~refuses to comply~~
1-55 with a directive or treatment decision and] does not wish to follow
1-56 the procedure established under Section 166.046, life-sustaining
1-57 treatment of at least the same level shall be provided to the
1-58 patient, but only until a reasonable opportunity has been afforded
1-59 for the transfer of the patient to another physician or health care
1-60 facility willing to comply with the health care ~~directive~~ or
1-61 treatment decision.

1-62 SECTION 5. Section 166.046, Health and Safety Code, is
1-63 amended to read as follows:

2-1 Sec. 166.046. PROCEDURE IF PHYSICIAN DISAGREES WITH HEALTH
 2-2 CARE [NOT EFFECTUATING A DIRECTIVE] OR TREATMENT DECISION. (a) If
 2-3 an attending physician disagrees with the health care or treatment
 2-4 decision of a surrogate made on behalf of an incompetent patient who
 2-5 has been diagnosed with a terminal or preterminal condition that
 2-6 has been certified in writing by the attending physician, the
 2-7 attending physician shall request a consultation with [refuses to
 2-8 honor a patient's advance directive or a health care or treatment
 2-9 decision made by or on behalf of a patient, the physician's refusal
 2-10 shall be reviewed by] an ethics or medical committee under
 2-11 Subsection (a-1). [The attending physician may not be a member of
 2-12 that committee.] The patient shall be given life-sustaining
 2-13 treatment during the process described by this section [review].
 2-14 If artificial nutrition and hydration are the only life-sustaining
 2-15 treatment being provided to a patient with a terminal or
 2-16 preterminal condition, the process established under this section
 2-17 may not be invoked unless reasonable medical evidence indicates the
 2-18 provision of artificial nutrition and hydration may hasten the
 2-19 patient's death or seriously exacerbate other major medical
 2-20 problems.

2-21 (a-1) If an attending physician requests a consultation
 2-22 with an ethics or medical committee, the ethics or medical
 2-23 committee shall:

2-24 (1) appoint a patient liaison familiar with
 2-25 end-of-life issues and hospice care options to assist the patient's
 2-26 surrogate throughout the process described by this section; and

2-27 (2) appoint one or more representatives of the ethics
 2-28 or medical committee to conduct an advisory ethics consultation
 2-29 with the surrogate, which must be documented in the patient's
 2-30 medical record.

2-31 (a-2) If a disagreement over a health care or treatment
 2-32 decision persists following an advisory ethics consultation
 2-33 described in Subsection (a-1)(2), the attending physician may
 2-34 request a meeting with the ethics or medical committee and shall
 2-35 advise the surrogate that the attending physician will initiate the
 2-36 review process and present medical facts at the meeting described
 2-37 in Subsection (b). The attending physician may not participate as a
 2-38 member of the ethics or medical committee in the case being
 2-39 evaluated.

2-40 (b) On receipt of a request for a meeting of the ethics or
 2-41 medical committee as described in Subsection (a-2) [The patient or
 2-42 the person responsible for the health care decisions of the
 2-43 individual who has made the decision regarding the directive or
 2-44 treatment decision]:

2-45 (1) not later than the seventh calendar day before the
 2-46 date of the meeting requested under Subsection (a-2), unless the
 2-47 time period is waived by mutual agreement, the surrogate shall be
 2-48 offered [may be given] a written description of the ethics or
 2-49 medical committee review process and may be offered any other
 2-50 policies and procedures related to this section adopted by the
 2-51 health care facility;

2-52 (2) if requested in writing by the surrogate, the
 2-53 surrogate is entitled to receive:

2-54 (A) not later than 72 hours after the request is
 2-55 made, a free copy of the portion of the patient's medical record
 2-56 related to the current admission to the facility or the treatment
 2-57 received by the patient during the preceding 30 calendar days in the
 2-58 facility, whichever is shorter, together with requested diagnostic
 2-59 results and reports reasonably requested by the surrogate; and

2-60 (B) not later than the fifth calendar day after
 2-61 the date of the request, a free copy of the remainder of the
 2-62 patient's medical record, if any, related to the current admission
 2-63 to the facility [shall be informed of the committee review process
 2-64 not less than 48 hours before the meeting called to discuss the
 2-65 patient's directive, unless the time period is waived by mutual
 2-66 agreement];

2-67 (3) the surrogate shall be provided information that
 2-68 the surrogate is entitled to receive the continued assistance of a
 2-69 patient liaison to assist the surrogate throughout the process

3-1 described in this section;

3-2 (4) the surrogate shall be provided information that
 3-3 the surrogate may seek a second opinion from other medical
 3-4 professionals regarding the patient's medical status and treatment
 3-5 requirements and communicate the resulting information to the
 3-6 members of the ethics or medical committee for consideration before
 3-7 the meeting;

3-8 (5) the surrogate [at the time of being so informed,]
 3-9 shall be provided[+]

3-10 [(-A)] a copy of the appropriate statement set
 3-11 forth in Section 166.052; and

3-12 (6) the surrogate shall be provided [(-B)] a copy of
 3-13 the registry list of health care providers, health care facilities,
 3-14 and referral groups that have volunteered their readiness to
 3-15 consider accepting transfer or to assist in locating a provider
 3-16 willing to accept transfer that is posted on the website maintained
 3-17 by the department [Texas Health Care Information Council] under
 3-18 Section 166.053.

3-19 (b-1) The surrogate [+, and

3-20 [(-4)] is entitled to:

3-21 (1) [(-A)] attend and participate in the meeting,
 3-22 excluding the committee's deliberations;

3-23 (2) be accompanied at the meeting by one or more
 3-24 persons for support, subject to the hospital's reasonable written
 3-25 attendance policy and the ability of the ethics or medical
 3-26 committee to accommodate the persons attending; and

3-27 (3) [(-B)] receive a written explanation of the
 3-28 decision reached during the review process.

3-29 (c) The written explanation required by Subsection (b-1)(3)
 3-30 [(-b)(2)(B)] must be included in the patient's medical record.

3-31 (d) If the attending physician or the surrogate [+, the
 3-32 patient, or the person responsible for the health care decisions of
 3-33 the individual] does not agree with the decision reached during the
 3-34 review process [under Subsection (b)], the physician shall make a
 3-35 reasonable effort to transfer the patient to a physician who is
 3-36 willing to comply with the surrogate's health care or treatment
 3-37 decision [directive]. The [If the patient is a patient in a health
 3-38 care facility, the] facility's personnel shall assist the physician
 3-39 in arranging the patient's transfer to:

3-40 (1) another physician;

3-41 (2) an alternative care setting within that facility;

3-42 or

3-43 (3) another facility.

3-44 (e) If the surrogate [patient or the person responsible for
 3-45 the health care decisions of the patient] is requesting
 3-46 life-sustaining treatment that the attending physician has decided
 3-47 and the ethics or medical committee [review process] has affirmed
 3-48 is medically inappropriate treatment, the patient shall be given
 3-49 available life-sustaining treatment of at least the same level as
 3-50 was provided at the time the meeting with the ethics or medical
 3-51 committee was held under Subsection (a-2) pending transfer under
 3-52 Subsection (d). The patient shall receive treatment to enhance
 3-53 pain relief and minimize suffering, which must include the
 3-54 provision of artificial nutrition and hydration unless providing
 3-55 the artificial nutrition and hydration would hasten death or
 3-56 seriously exacerbate other major medical conditions. The patient
 3-57 is responsible for any costs incurred in transferring the patient
 3-58 to another facility. The attending physician, any other physician
 3-59 responsible for the care of the patient, and the health care
 3-60 facility are not obligated to provide life-sustaining treatment,
 3-61 except for the provision of artificial nutrition and hydration,
 3-62 unless providing the artificial nutrition and hydration would
 3-63 hasten death or seriously exacerbate other major medical
 3-64 conditions, after the 21st calendar [10th] day after the written
 3-65 decision required under Subsection (b) is provided to the surrogate
 3-66 [patient or the person responsible for the health care decisions of
 3-67 the patient] unless ordered to do so under Subsection (g).

3-68 (e-1) If during a previous admission to a facility a
 3-69 patient's attending physician and the review process [under

4-1 ~~Subsection (b)]~~ have determined that life-sustaining treatment is
 4-2 medically inappropriate, and the patient is readmitted to the same
 4-3 facility or another facility in the same health care system within
 4-4 six months from the date of the decision reached during the review
 4-5 process conducted upon the previous admission, Subsections (b)
 4-6 through (e) need not be followed if the patient's attending
 4-7 physician and a consulting physician who is a member of the ethics
 4-8 or medical committee of the facility document on the patient's
 4-9 readmission that the patient's condition either has not improved or
 4-10 has deteriorated since the review process was conducted.

4-11 (f) Life-sustaining treatment under this section may not be
 4-12 entered in the patient's medical record as medically unnecessary
 4-13 treatment until the time period provided under Subsection (e) and
 4-14 Section 166.0465, if applicable, has expired.

4-15 (g) At the request of the patient or the surrogate [~~person~~
 4-16 ~~responsible for the health care decisions of the patient~~], the
 4-17 appropriate district or county court shall extend the time period
 4-18 provided under Subsection (e) only if the court in a proceeding
 4-19 conducted under Section 166.0465 finds, by a preponderance of the
 4-20 evidence, that there is a reasonable expectation that a physician
 4-21 or health care facility that will honor the surrogate's health care
 4-22 or treatment decision [~~patient's directive~~] will be found if the
 4-23 time extension is granted.

4-24 (h) This section may not be construed to impose an
 4-25 obligation on a facility or a home and community support services
 4-26 agency licensed under Chapter 142 or similar organization that is
 4-27 beyond the scope of the services or resources of the facility or
 4-28 agency. This section does not apply to hospice services provided by
 4-29 a home and community support services agency licensed under Chapter
 4-30 142.

4-31 SECTION 6. Subchapter B, Chapter 166, Health and Safety
 4-32 Code, is amended by adding Section 166.0465 to read as follows:

4-33 Sec. 166.0465. COURT ORDER FOR LIFE-SUSTAINING TREATMENT;
 4-34 APPEAL; FILING FEE AND COURT COSTS. (a) A patient's surrogate may
 4-35 submit a motion for extension of time to effect a patient transfer
 4-36 for relief under Section 166.046(g) in any county court at law,
 4-37 court having probate jurisdiction, or district court, including a
 4-38 family district court and immediately serve a copy on the health
 4-39 care facility.

4-40 (b) The court shall set a time for a hearing on a motion
 4-41 filed under Subsection (a) and shall keep a record of all testimony
 4-42 and other oral proceedings in the action. The court shall rule on
 4-43 the motion and issue written findings of fact and conclusions of law
 4-44 not later than the fifth business day after the date the motion is
 4-45 filed with the court. The time for the hearing and the date by which
 4-46 the court must rule on the motion may be extended by stipulation of
 4-47 the parties, with the approval of the court.

4-48 (c) Any party may appeal the decision of the court under
 4-49 Subsection (b) to the court of appeals having jurisdiction over
 4-50 civil matters in the county in which the motion was filed by filing
 4-51 a notice of appeal with the clerk of the court that ruled on the
 4-52 motion not later than the first business day after the day on which
 4-53 the decision of the court was issued.

4-54 (d) On receipt of a notice of appeal under Subsection (c),
 4-55 the clerk of the court that ruled on the motion shall deliver a copy
 4-56 of the notice of appeal and record on appeal to the clerk of the
 4-57 court of appeals. On receipt of the notice and record, the clerk of
 4-58 the court of appeals shall place the appeal on the docket of the
 4-59 court, and the court of appeals shall promptly issue an expedited
 4-60 briefing schedule and set a time for a hearing.

4-61 (e) The court of appeals shall rule on an appeal under
 4-62 Subsection (d) not later than the fifth business day after the date
 4-63 the notice of appeal is filed with the court that ruled on the
 4-64 motion. The times for the filing of briefs, the hearing, and the
 4-65 date by which the court of appeals must rule on the appeal may be
 4-66 extended by stipulation of the parties, with the approval of the
 4-67 court of appeals.

4-68 (f) Any party may file a petition for review of the decision
 4-69 of the court of appeals with the clerk of the supreme court not

5-1 later than the third business day after the day on which the
 5-2 decision of the court of appeals was issued. Other parties may file
 5-3 responses not later than the third business day after the day on
 5-4 which the petition for review was filed. The supreme court shall
 5-5 grant the petition, deny it, refuse it, or dismiss it for want of
 5-6 jurisdiction, whether or not a reply to any response has been filed,
 5-7 not later than the third business day after the day on which the
 5-8 response was due. If the supreme court grants the petition for
 5-9 review, it shall exercise its sound discretion in determining how
 5-10 expeditiously to hear and decide the case.

5-11 (g) If a motion is filed under Subsection (a),
 5-12 life-sustaining treatment shall be provided through midnight of the
 5-13 day by which a notice of appeal must be filed unless the court
 5-14 directs that it be provided for a longer period. If a notice of
 5-15 appeal under Subsection (c) is filed, life-sustaining treatment
 5-16 shall be provided through midnight of the day by which a petition
 5-17 for review to the supreme court must be filed, unless the court of
 5-18 appeals directs that it be provided for a longer period. If a
 5-19 petition for review to the supreme court is filed under Subsection
 5-20 (f), life-sustaining treatment shall be provided through midnight
 5-21 of the day on which the supreme court denies, refuses, or dismisses
 5-22 the petition or issues a ruling on the merits, unless the supreme
 5-23 court directs that it be provided for a longer period.

5-24 (h) A filing fee or court cost may not be assessed for any
 5-25 proceeding in a trial or appellate court under this section.

5-26 SECTION 7. Subsections (a) and (b), Section 166.052, Health
 5-27 and Safety Code, are amended to read as follows:

5-28 (a) In cases in which the attending physician disagrees with
 5-29 a [~~refuses to honor an advance directive or~~] treatment decision
 5-30 requesting the provision of life-sustaining treatment, the
 5-31 statement required by Section 166.046(b)(5) [~~166.046(b)(2)(A)~~]
 5-32 shall be in substantially the following form:

5-33 When There Is A Disagreement About Medical Treatment: The
 5-34 Physician Recommends Against Certain Life-Sustaining Treatment
 5-35 That You Wish To Continue

5-36 You have been given this information because you have
 5-37 requested life-sustaining treatment[~~7~~]* on behalf of the patient,
 5-38 which the attending physician believes is not medically
 5-39 appropriate. This information is being provided to help you
 5-40 understand state law, your rights, and the resources available to
 5-41 you in such circumstances. It outlines the process for resolving
 5-42 disagreements about treatment among patients, families, and
 5-43 physicians. It is based upon Section 166.046 of the Texas Advance
 5-44 Directives Act, codified in Chapter 166 of the Texas Health and
 5-45 Safety Code.

5-46 When an attending physician disagrees with a [~~refuses to~~
 5-47 ~~comply with an advance directive or other~~] request for
 5-48 life-sustaining treatment because of the physician's medical
 5-49 judgment that the treatment would be medically inappropriate, the
 5-50 case will be reviewed by an ethics or medical committee.
 5-51 Life-sustaining treatment will be provided through the review.

5-52 As the patient's decision-maker, you [~~You~~] will receive
 5-53 notification of this review at least seven calendar days [~~48 hours~~]
 5-54 before a meeting of the committee related to your case. [~~You are~~
 5-55 ~~entitled to attend the meeting.~~] With your agreement, the meeting
 5-56 may be held sooner than seven calendar days [~~48 hours~~], if possible.

5-57 The committee will appoint a patient liaison to assist you
 5-58 through this process. You are entitled to attend the meeting,
 5-59 address the committee, and be accompanied by one or more persons to
 5-60 support you, subject to the hospital's reasonable written
 5-61 attendance policy and ability of the committee to accommodate the
 5-62 persons attending. On written request, you are also entitled to
 5-63 receive:

5-64 (1) not later than 72 hours after the request is made,
 5-65 a free copy of the portion of the patient's medical record related
 5-66 to the patient's current admission to the facility or the treatment
 5-67 received by the patient during the preceding 30 calendar days in the
 5-68 facility, whichever is shorter, together with requested diagnostic
 5-69 results and reports reasonably requested by you on behalf of the

6-1 patient; and
 6-2 (2) not later than the fifth calendar day following
 6-3 the request, a free copy of the remainder of the patient's medical
 6-4 record, if any, related to the current admission to the facility.

6-5 You are free to seek a second opinion from other medical
 6-6 professionals regarding the patient's medical status and treatment
 6-7 requirements and communicate the resulting information to the
 6-8 members of the ethics or medical committee for consideration before
 6-9 the meeting. You are entitled to receive a written explanation of
 6-10 the decision reached during the review process.

6-11 If after this review process both the attending physician and
 6-12 the ethics or medical committee conclude that life-sustaining
 6-13 treatment is medically inappropriate and yet you continue to
 6-14 request such treatment, then the following procedure will occur:

6-15 1. The physician, with the help of the health care facility,
 6-16 will assist you in trying to find a physician and facility willing
 6-17 to provide the requested treatment.

6-18 2. You are being given a list of health care providers,
 6-19 health care facilities, and referral groups that have volunteered
 6-20 their readiness to consider accepting transfer, or to assist in
 6-21 locating a provider willing to accept transfer, maintained by the
 6-22 Department of State [Texas] Health Services [Care Information
 6-23 Council]. You may wish to contact providers or referral groups on
 6-24 the list or others of your choice to get help in arranging a
 6-25 transfer.

6-26 3. The patient will continue to be given life-sustaining
 6-27 treatment and treatment to enhance pain management and reduce
 6-28 suffering, including artificial nutrition and hydration, unless
 6-29 providing the artificial nutrition and hydration would hasten death
 6-30 or seriously exacerbate other major medical conditions, until the
 6-31 patient [he or she] can be transferred to a willing provider for up
 6-32 to 21 calendar [10] days from the time you were given the
 6-33 committee's written decision that life-sustaining treatment is not
 6-34 medically appropriate.

6-35 4. If a transfer can be arranged, the patient will be
 6-36 responsible for the costs of the transfer.

6-37 5. If a provider cannot be found willing to give the
 6-38 requested treatment within 21 calendar [10] days, life-sustaining
 6-39 treatment may be withdrawn unless a court of law has granted an
 6-40 extension.

6-41 6. You may ask the appropriate district or county court to
 6-42 extend the 21-day [10-day] period if the court finds that there is a
 6-43 reasonable expectation that a physician or health care facility
 6-44 willing to provide life-sustaining treatment will be found if the
 6-45 extension is granted.

6-46 *"Life-sustaining treatment" means treatment that, based on
 6-47 reasonable medical judgment, sustains the life of a patient and
 6-48 without which the patient will die. The term includes both
 6-49 life-sustaining medications and artificial life support, such as
 6-50 mechanical breathing machines, kidney dialysis treatment, and
 6-51 artificial nutrition and hydration. The term does not include the
 6-52 administration of pain management medication or the performance of
 6-53 a medical procedure considered to be necessary to provide comfort
 6-54 care, or any other medical care provided to alleviate a patient's
 6-55 pain.

6-56 (b) In cases in which the attending physician disagrees with
 6-57 a health care [refuses to comply with an advance directive] or
 6-58 treatment decision requesting the withholding or withdrawal of
 6-59 life-sustaining treatment, the statement required by Section
 6-60 166.046(b)(5) [166.046(b)(3)(A)] shall be in substantially the
 6-61 following form:

6-62 When There Is A Disagreement About Medical Treatment: The
 6-63 Physician Recommends Life-Sustaining Treatment That You Wish To
 6-64 Stop

6-65 You have been given this information because you have
 6-66 requested the withdrawal or withholding of life-sustaining
 6-67 treatment* on behalf of the patient and the attending physician
 6-68 disagrees [refuses to comply] with that request. The information
 6-69 is being provided to help you understand state law, your rights, and

7-1 the resources available to you in such circumstances. It outlines
 7-2 the process for resolving disagreements about treatment among
 7-3 patients, families, and physicians. It is based upon Section
 7-4 166.046 of the Texas Advance Directives Act, codified in Chapter
 7-5 166 of the Texas Health and Safety Code.

7-6 When an attending physician disagrees [~~refuses to comply~~]
 7-7 with a [~~an advance directive or other~~] request for withdrawal or
 7-8 withholding of life-sustaining treatment for any reason, the case
 7-9 will be reviewed by an ethics or medical committee.
 7-10 Life-sustaining treatment will be provided through the review.

7-11 As the patient's decision-maker, you [~~You~~] will receive
 7-12 notification of this review at least seven calendar days [~~48 hours~~]
 7-13 before a meeting of the committee related to your case. You are
 7-14 entitled to attend the meeting. With your agreement, the meeting
 7-15 may be held sooner than seven calendar days [~~48 hours~~], if possible.

7-16 You will be appointed a patient liaison familiar with
 7-17 end-of-life issues and hospice care options to assist you
 7-18 throughout this process. A representative of the ethics or medical
 7-19 committee will also conduct an advisory consultation with you.

7-20 On written request you are entitled to receive:

7-21 (1) not later than 72 hours after the request is made,
 7-22 a free copy of the portion of the patient's medical record related
 7-23 to the current admission to the facility or the treatment received
 7-24 by the patient during the preceding 30 calendar days in the
 7-25 facility, whichever is shorter, together with requested diagnostic
 7-26 results and reports reasonably requested by you on behalf of the
 7-27 patient; and

7-28 (2) not later than the fifth calendar day following
 7-29 the date of the request, a free copy of the remainder of the
 7-30 patient's medical record, if any, related to the current admission
 7-31 to the facility.

7-32 You are free to seek a second opinion from other medical
 7-33 professionals regarding the patient's medical status and treatment
 7-34 requests and communicate the resulting information to the members
 7-35 of the ethics or medical committee for consideration before the
 7-36 meeting.

7-37 You are entitled to receive a written explanation of the
 7-38 decision reached during the review process.

7-39 If you or the attending physician do not agree with the
 7-40 decision reached during the review process, and the attending
 7-41 physician still disagrees [~~refuses to comply~~] with your request to
 7-42 withhold or withdraw life-sustaining treatment, then the following
 7-43 procedure will occur:

7-44 1. The physician, with the help of the health care facility,
 7-45 will assist you in trying to find a physician and facility willing
 7-46 to withdraw or withhold the life-sustaining treatment.

7-47 2. You are being given a list of health care providers,
 7-48 health care facilities, and referral groups that have volunteered
 7-49 their readiness to consider accepting transfer, or to assist in
 7-50 locating a provider willing to accept transfer, maintained by the
 7-51 Department of State [~~Texas~~] Health Services [~~Care Information~~
 7-52 ~~Council~~]. You may wish to contact providers or referral groups on
 7-53 the list or others of your choice to get help in arranging a
 7-54 transfer.

7-55 *"Life-sustaining treatment" means treatment that, based on
 7-56 reasonable medical judgment, sustains the life of a patient and
 7-57 without which the patient will die. The term includes both
 7-58 life-sustaining medications and artificial life support, such as
 7-59 mechanical breathing machines, kidney dialysis treatment, and
 7-60 artificial nutrition and hydration. The term does not include the
 7-61 administration of pain management medication or the performance of
 7-62 a medical procedure considered to be necessary to provide comfort
 7-63 care, or any other medical care provided to alleviate a patient's
 7-64 pain.

7-65 SECTION 8. Subchapter B, Chapter 166, Health and Safety
 7-66 Code, is amended by adding Section 166.054 to read as follows:

7-67 Sec. 166.054. REPORTING REQUIREMENTS REGARDING ETHICS OR
 7-68 MEDICAL COMMITTEE PROCESSES OF DATA. (a) On submission of a
 7-69 health care facility's application to renew its license, a facility

8-1 in which one or more meetings of an ethics or medical committee is
 8-2 held shall file a report with the department that contains
 8-3 aggregate information regarding the number of cases considered by
 8-4 an ethics or medical committee under Section 166.046(a-2) and the
 8-5 disposition of those cases by the facility.

8-6 (b) Aggregate data submitted to the department under this
 8-7 section may include only the following:

8-8 (1) the total number of patients for whom the Section
 8-9 166.046(b) review process was initiated;

8-10 (2) the number of patients under Subdivision (1) who
 8-11 were transferred to:

8-12 (A) another physician within the same facility;
 8-13 or

8-14 (B) a different facility;

8-15 (3) the number of patients under Subdivision (1) who
 8-16 were discharged to home;

8-17 (4) the number of patients under Subdivision (1) for
 8-18 whom treatment was withheld or withdrawn pursuant to surrogate
 8-19 consent:

8-20 (A) before the Section 166.046(b) review
 8-21 consultation;

8-22 (B) after the Section 166.046(b) review
 8-23 consultation; or

8-24 (C) during or after the 21-day period described
 8-25 by Section 166.046(e);

8-26 (5) the number of patients under Subdivision (1) for
 8-27 whom treatment was withheld or withdrawn without surrogate consent:

8-28 (A) before expiration of the 21-day period; or

8-29 (B) after expiration of the 21-day period;

8-30 (6) the number of patients under Subdivision (1) who
 8-31 died while still receiving life-sustaining treatment:

8-32 (A) before the Section 166.046(b) review
 8-33 consultation;

8-34 (B) during the 21-day period; or

8-35 (C) during extension of the 21-day period, if
 8-36 any; and

8-37 (7) the average length of stay before a Section
 8-38 166.046(b) review consultation.

8-39 (c) The report required by this section may not contain any
 8-40 data specific to an individual patient.

8-41 SECTION 9. Subsections (a) and (c), Section 166.082, Health
 8-42 and Safety Code, are amended to read as follows:

8-43 (a) A competent ~~adult~~ ~~[person]~~ may at any time execute a
 8-44 written out-of-hospital DNR order directing health care
 8-45 professionals acting in an out-of-hospital setting to withhold
 8-46 cardiopulmonary resuscitation and certain other life-sustaining
 8-47 treatment designated by the board.

8-48 (c) If the person is incompetent but previously executed or
 8-49 issued a directive to physicians in accordance with Subchapter B
 8-50 requesting that all treatment, other than treatment necessary for
 8-51 keeping the person comfortable, be discontinued or withheld, the
 8-52 physician may rely on the directive as the person's instructions to
 8-53 issue an out-of-hospital DNR order and shall place a copy of the
 8-54 directive in the person's medical record. The physician shall sign
 8-55 the order in lieu of the person signing under Subsection (b).

8-56 SECTION 10. Subsection (d), Section 166.152, Health and
 8-57 Safety Code, is amended to read as follows:

8-58 (d) The principal's attending physician shall make
 8-59 reasonable efforts to inform the principal of any proposed
 8-60 treatment or of any proposal to withdraw or withhold treatment
 8-61 before implementing an agent's health care decision [~~advance~~
 8-62 directive].

8-63 SECTION 11. (a) Not later than November 1, 2007, the
 8-64 Supreme Court of Texas shall issue the rules and prescribe the forms
 8-65 necessary for the process established by Section 166.0465, Health
 8-66 and Safety Code, as added by this Act. The rules shall prescribe
 8-67 the method of service of the application under Section 166.0465,
 8-68 Health and Safety Code, and may require filing and service of
 8-69 notices, petitions, and briefs electronically to the extent the

9-1 Supreme Court of Texas considers appropriate.

9-2 (b) Not later than March 1, 2008, the executive commissioner
9-3 of the Health and Human Services Commission shall adopt the rules
9-4 necessary to implement the changes in law made by this Act to
9-5 Chapter 166, Health and Safety Code.

9-6 SECTION 12. This Act takes effect September 1, 2007.

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