

By: Klick

H.B. No. 1889

A BILL TO BE ENTITLED

AN ACT

relating to withdrawal of certain life-sustaining treatment.

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

SECTION 1. Subchapter B, Chapter 166, Health and Safety Code, is amended by adding Section 166.0335 to read as follows:

Sec. 166.0335. ADDITIONAL FORM FOR WITHHOLDING ARTIFICIAL NUTRITION AND HYDRATION. (a) If the patient or person responsible for the health care decisions of the patient desires the withholding of artificial nutrition and hydration, the patient or responsible person must execute a written, signed statement on a form prescribed by the department that the patient does not wish to receive artificial nutrition, artificial hydration, or both.

(b) The form described by Subsection (a) must be delivered in person by the patient or person responsible for the health care decisions of the patient to the physician and the facility administrator, who shall provide a signed receipt to the patient or responsible person acknowledging that the physician and facility administrator have received the completed form.

(c) On receipt of the form under Subsection (b), the physician shall place that form in a separate and conspicuously colored section at or near the top of the patient's medical chart or record.

(d) Notwithstanding any other provision of this chapter, artificial nutrition and hydration may not be withdrawn if a form

1 has not been delivered under this section.

2 (e) The department by rule shall adopt a form for use under
3 this section.

4 SECTION 2. Section 166.046, Health and Safety Code, is
5 amended by adding Subsection (b-1) to read as follows:

6 (b-1) An ethics or medical committee under this section may
7 not find that the provision of artificial nutrition and hydration
8 is inappropriate treatment if the patient or the person responsible
9 for the health care decisions of the patient has not delivered an
10 executed form under Section 166.0335.

11 SECTION 3. Section 166.052(a), Health and Safety Code, is
12 amended to read as follows:

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

18 When There Is A Disagreement About Medical Treatment: The
19 Physician Recommends Against Life-Sustaining Treatment That You
20 Wish To Continue

21 You have been given this information because you have
22 requested life-sustaining treatment,* which the attending
23 physician believes is not appropriate. This information is being
24 provided to help you understand state law, your rights, and the
25 resources available to you in such circumstances. It outlines the
26 process for resolving disagreements about treatment among
27 patients, families, and physicians. It is based upon Section

1 166.046 of the Texas Advance Directives Act, codified in Chapter
2 166 of the Texas Health and Safety Code.

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

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

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

14 The ethics or medical review committee may not determine that
15 the provision of artificial nutrition and hydration is
16 inappropriate if you wish to continue artificial nutrition and
17 hydration. Artificial nutrition and hydration may only be
18 withdrawn at your written, signed request.

19 If after this review process both the attending physician and
20 the ethics or medical committee conclude that life-sustaining
21 treatment, other than artificial nutrition and hydration, is
22 inappropriate and yet you continue to request such treatment, then
23 the following procedure will occur:

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

27 2. You are being given a list of health care providers and

1 referral groups that have volunteered their readiness to consider
2 accepting transfer, or to assist in locating a provider willing to
3 accept transfer, maintained by the Texas Health Care Information
4 Council. You may wish to contact providers or referral groups on
5 the list or others of your choice to get help in arranging a
6 transfer.

7 3. The patient will continue to be given life-sustaining
8 treatment until he or she can be transferred to a willing provider
9 for up to 10 days from the time you were given the committee's
10 written decision that life-sustaining treatment is not
11 appropriate.

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

14 5. If a provider cannot be found willing to give the
15 requested treatment within 10 days, life-sustaining treatment may
16 be withdrawn unless a court of law has granted an extension.

17 6. You may ask the appropriate district or county court to
18 extend the 10-day period if the court finds that there is a
19 reasonable expectation that a physician or health care facility
20 willing to provide life-sustaining treatment will be found if the
21 extension is granted.

22 *"Life-sustaining treatment" means treatment that, based on
23 reasonable medical judgment, sustains the life of a patient and
24 without which the patient will die. The term includes both
25 life-sustaining medications and artificial life support, such as
26 mechanical breathing machines, kidney dialysis treatment, and
27 artificial nutrition and hydration. The term does not include the

1 administration of pain management medication or the performance of
2 a medical procedure considered to be necessary to provide comfort
3 care, or any other medical care provided to alleviate a patient's
4 pain.

5 SECTION 4. (a) Except as provided by Subsection (b) of this
6 section, the change in law made by this Act applies only to a health
7 care or treatment decision made on or after the effective date of
8 this Act.

9 (b) A physician, facility, or other health care provider may
10 not withdraw artificial nutrition and hydration on or after the
11 effective date of this Act without a form issued in accordance with
12 Section 166.0335, Health and Safety Code, as added by this Act,
13 regardless of whether the patient or other person responsible for
14 the health care decisions of the patient has issued an advance
15 directive that authorizes the withdrawal of artificial nutrition
16 and hydration before, on, or after the effective date of this Act.
17 This section does not require the resumption of the provision of
18 artificial nutrition and hydration for a patient for whom that
19 treatment was legally discontinued before the effective date of
20 this Act under the law as it existed immediately before the
21 effective date of this Act.

22 SECTION 5. This Act takes effect September 1, 2013.