

By: Uresti

S.B. No. 1752

A BILL TO BE ENTITLED

AN ACT

relating to advance directives for persons with mental illness.

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

SECTION 1. Section 166.002(1), Health and Safety Code, is amended to read as follows:

(1) "Advance directive" means:

(A) a directive, as that term is defined by Section 166.031;

(B) an out-of-hospital DNR order, as that term is defined by Section 166.081; ~~or~~

(C) a medical power of attorney under Subchapter D; or

(D) an advance directive for a person with mental illness.

SECTION 2. Chapter 166, Health and Safety Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. ADVANCE DIRECTIVE FOR PERSON WITH MENTAL ILLNESS

Sec. 166.201. DEFINITIONS. In this subchapter:

(1) "Assisted outpatient treatment team" means a team that assists a person with mental illness to:

(A) obtain outpatient services necessary to treat the person's mental illness;

(B) maintain the person's independence;

(C) protect the person's autonomy;

1 (D) avoid court-ordered treatment; and
2 (E) avoid involvement with the criminal justice
3 system, including arrest and incarceration in jail.

4 (2) "Mental illness" has the meaning assigned by
5 Section 571.003.

6 Sec. 166.202. WRITTEN DIRECTIVE BY COMPETENT ADULT; NOTICE
7 TO PHYSICIAN. (a) A competent adult may at any time execute a
8 written directive under this subchapter.

9 (b) Except as provided by Subsection (c), the declarant must
10 sign the directive in the presence of two witnesses who qualify
11 under Section 166.003, at least one of whom must be a witness who
12 qualifies under Section 166.003(2). The witnesses must sign the
13 directive. A judge of a court with probate jurisdiction may not be
14 a witness.

15 (c) The declarant, in lieu of signing in the presence of
16 witnesses, may sign the directive and have the signature
17 acknowledged before a notary public.

18 (d) A declarant shall notify the declarant's physician of
19 the existence of a written directive. If the declarant is
20 incompetent or otherwise mentally or physically incapable of
21 communication, another person may notify the declarant's physician
22 of the existence of the written directive. The physician shall make
23 the directive a part of the declarant's medical record.

24 Sec. 166.203. FORM OF WRITTEN DIRECTIVE. A written
25 directive may be in the following form:

1 DIRECTIVE TO PHYSICIANS, FAMILY OR SURROGATES, AND MEMBERS OF THE

2 ASSISTED OUTPATIENT TREATMENT TEAM:

3 Instructions for completing this document:

4 This is an important legal document known as an Advance
5 Directive. It is designed to help you communicate your wishes about
6 treatment at some time in the future when you are unable to make
7 rational decisions because of mental illness. An assisted
8 outpatient treatment team, as defined by Section 166.201, Health
9 and Safety Code, will assist you on a course of action tailored to
10 your individual needs and circumstances. The directive must be in
11 your own words or ratified by you.

12 If you decide to execute this directive, you should provide a
13 copy of your directive to your physician, assisted outpatient
14 treatment team, usual hospital, family, and spokesperson. Consider
15 a periodic review of this document. By periodic review, you can best
16 assure that the directive reflects your preferences.

17 In addition to this Advance Directive, Texas law provides for
18 a Medical Power of Attorney.

19 DIRECTIVE

20 I, _____, recognize that the best health care is based
21 upon a partnership of trust and communication with people who care
22 about my mental health. As long as I am of sound mind and able to
23 make my wishes known, I will make decisions regarding my mental
24 health. If there comes a time that I am unable to make competent
25 decisions about myself because of mental illness, I direct that the
26 following treatment preferences be honored:

27 1. If, in the judgment of my physician, assisted outpatient

1 treatment team, usual hospital, or my designated spokesperson, my
2 judgment has become severely impaired from mental illness, as I
3 have determined that condition to be, I request that I be
4 transported, forcibly if necessary, to a safe place, which does not
5 include jail or inpatient hospitalization.

6 2. How to tell when my judgment is severely impaired from my
7 mental illness:

8 _____
9 _____
10 _____

11 3. Additional requests:

12 _____
13 _____
14 _____

15 If I do not have a Medical Power of Attorney, and I am unable
16 to make my wishes known, I designate the following person(s) to make
17 treatment decisions with my physician compatible with my personal
18 values:

19 1. _____
20 2. _____

21 (If a Medical Power of Attorney has been executed, then an
22 agent already has been named and you should not list additional
23 names in this document.)

24 If the above persons are not available, or if I have not
25 designated a spokesperson, I understand that a spokesperson will be
26 chosen for me following standards specified in the laws of Texas.

27 Signed _____ Date _____ City, County, State of _____

1 Residence

2 Two competent adult witnesses must sign below, acknowledging
3 the signature of the declarant. A witness designated as either
4 Witness 1 or 2 may not be a judge of a court with probate
5 jurisdiction:

6 Witness 1

7 Witness 2

8 SECTION 3. This Act takes effect immediately if it receives
9 a vote of two-thirds of all the members elected to each house, as
10 provided by Section 39, Article III, Texas Constitution. If this
11 Act does not receive the vote necessary for immediate effect, this
12 Act takes effect September 1, 2013.