

By: Hughes

H.B. No. 2984

A BILL TO BE ENTITLED

AN ACT

relating to advance directives or health care or treatment decisions made by or on behalf of patients.

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

SECTION 1. This Act may be cited as the Patient and Family Treatment Choice Rights Act of 2015.

SECTION 2. The purpose of this Act is to protect the right of patients and their families to decide whether and under what circumstances to choose or reject life-sustaining treatment. This Act amends the applicable provisions of the Advance Directives Act (Chapter 166, Health and Safety Code) to ensure that, when an attending physician is unwilling to respect a patient's advance directive or a patient's or family's decision to choose the treatment necessary to prevent the patient's death, life-sustaining medical treatment will be provided until the patient can be transferred to a health care provider willing to honor the directive or treatment decision.

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

(c) If an attending physician refuses to comply with a directive or treatment decision to provide life-sustaining treatment to a patient and does not wish to follow the procedure established under Section 166.046, life-sustaining treatment shall be provided to the patient~~[, but only]~~ until ~~[a reasonable~~

1 ~~opportunity has been afforded for the transfer of]~~ the patient is
2 transferred to another physician or health care facility willing to
3 comply with the directive or treatment decision.

4 SECTION 4. Sections 166.046(a) and (e), Health and Safety
5 Code, are amended to read as follows:

6 (a) If an attending physician refuses to honor a patient's
7 advance directive or a health care or treatment decision made by or
8 on behalf of a patient, other than a directive or decision to
9 provide artificial nutrition and hydration to the patient, the
10 physician's refusal shall be reviewed by an ethics or medical
11 committee. The attending physician may not be a member of that
12 committee. The patient shall be given life-sustaining treatment
13 during the review.

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

26 SECTION 5. Section 166.051, Health and Safety Code, is
27 amended to read as follows:

13 SECTION 6. Sections 166.052(a) and (b), Health and Safety
14 Code, are amended to read as follows:

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

You have been given this information because you have requested life-sustaining treatment,* other than artificial nutrition and hydration, which the attending physician believes is not appropriate. This information is being provided to help you

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

7 When an attending physician refuses to comply with an advance
8 directive or other request for life-sustaining treatment, other
9 than artificial nutrition and hydration, because of the physician's
10 judgment that the treatment would be inappropriate, the case will
11 be reviewed by an ethics or medical committee. Life-sustaining
12 treatment will be provided through the review.

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

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

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 finding [~~trying to find~~] a physician and facility
26 willing 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 Department of State Health
4 Services [~~Texas Health Care Information Council~~]. You may wish to
5 contact providers or referral groups on the list or others of your
6 choice to get help in arranging a 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 (b) In cases in which the attending physician refuses to
6 comply with an advance directive or treatment decision requesting
7 the withholding or withdrawal of life-sustaining treatment, the
8 statement required by Section 166.046(b)(3)(A) shall be in
9 substantially the following form:

10 When There Is A Disagreement About Medical Treatment: The
11 Physician Recommends Life-Sustaining Treatment That You Wish To
12 Stop

13 You have been given this information because you have
14 requested the withdrawal or withholding of life-sustaining
15 treatment*, other than artificial nutrition and hydration, and the
16 attending physician refuses to comply with that request. The
17 information is being provided to help you understand state law,
18 your rights, and the resources available to you in such
19 circumstances. It outlines the process for resolving disagreements
20 about treatment among patients, families, and physicians. It is
21 based upon Section 166.046 of the Texas Advance Directives Act,
22 codified in Chapter 166 of the Texas Health and Safety Code.

23 When an attending physician refuses to comply with an advance
24 directive or other request for withdrawal or withholding of
25 life-sustaining treatment for any reason, the case will be reviewed
26 by an ethics or medical committee. Life-sustaining treatment will
27 be provided through the review.

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

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

7 If you or the attending physician do not agree with the
8 decision reached during the review process, and the attending
9 physician still refuses to comply with your request to withhold or
10 withdraw life-sustaining treatment, then the following procedure
11 will occur:

12 1. The physician, with the help of the health care facility,
13 will assist you in finding [~~trying to find~~] a physician and facility
14 willing to withdraw or withhold the life-sustaining treatment.

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

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 7. Section 25.0021(b), Government Code, is amended
6 to read as follows:

7 (b) A statutory probate court as that term is defined in
8 Section 3(ii), Texas Probate Code, has:

9 (1) the general jurisdiction of a probate court as
10 provided by the Texas Probate Code; and

11 (2) the jurisdiction provided by law for a county
12 court to hear and determine actions, cases, matters, or proceedings
13 instituted under:

14 (A) Section ~~166.046~~, 192.027, 193.007, 552.015,
15 552.019, 711.004, or 714.003, Health and Safety Code;

16 (B) Chapter 462, Health and Safety Code; or

17 (C) Subtitle C or D, Title 7, Health and Safety
18 Code.

19 SECTION 8. Sections 166.046(f) and (g), Health and Safety
20 Code, are repealed.

21 SECTION 9. This Act takes effect immediately if it receives
22 a vote of two-thirds of all the members elected to each house, as
23 provided by Section 39, Article III, Texas Constitution. If this
24 Act does not receive the vote necessary for immediate effect, this
25 Act takes effect September 1, 2015.