

By: Naishtat

H.B. No. 3183

A BILL TO BE ENTITLED

AN ACT

1
2 relating to an advance directive and do-not-resuscitate order of a
3 pregnant patient.

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

5 SECTION 1. Section 166.033, Health and Safety Code, is
6 amended to read as follows:

7 Sec. 166.033. FORM OF WRITTEN DIRECTIVE. A written
8 directive may be in the following form:

9 DIRECTIVE TO PHYSICIANS AND FAMILY OR SURROGATES

10 Instructions for completing this document:

11 This is an important legal document known as an Advance
12 Directive. It is designed to help you communicate your wishes about
13 medical treatment at some time in the future when you are unable to
14 make your wishes known because of illness or injury. These wishes
15 are usually based on personal values. In particular, you may want
16 to consider what burdens or hardships of treatment you would be
17 willing to accept for a particular amount of benefit obtained if you
18 were seriously ill.

19 You are encouraged to discuss your values and wishes with
20 your family or chosen spokesperson, as well as your physician. Your
21 physician, other health care provider, or medical institution may
22 provide you with various resources to assist you in completing your
23 advance directive. Brief definitions are listed below and may aid
24 you in your discussions and advance planning. Initial the

1 treatment choices that best reflect your personal preferences.
2 Provide a copy of your directive to your physician, usual hospital,
3 and family or spokesperson. Consider a periodic review of this
4 document. By periodic review, you can best assure that the
5 directive reflects your preferences.

6 In addition to this advance directive, Texas law provides for
7 two other types of directives that can be important during a serious
8 illness. These are the Medical Power of Attorney and the
9 Out-of-Hospital Do-Not-Resuscitate Order. You may wish to discuss
10 these with your physician, family, hospital representative, or
11 other advisers. You may also wish to complete a directive related
12 to the donation of organs and tissues.

13 DIRECTIVE

14 I, _____, recognize that the best health care is based
15 upon a partnership of trust and communication with my physician. My
16 physician and I will make health care decisions together as long as
17 I am of sound mind and able to make my wishes known. If there comes
18 a time that I am unable to make medical decisions about myself
19 because of illness or injury, I direct that the following treatment
20 preferences be honored:

21 If, in the judgment of my physician, I am suffering with a
22 terminal condition from which I am expected to die within six
23 months, even with available life-sustaining treatment provided in
24 accordance with prevailing standards of medical care:

25 _____ I request that all treatments other than those needed to
26 keep me comfortable be discontinued or withheld and my
27 physician allow me to die as gently as possible; OR

1 _____ I request that I be kept alive in this terminal
2 condition using available life-sustaining treatment.

3 (THIS SELECTION DOES NOT APPLY TO HOSPICE CARE.)

4 If, in the judgment of my physician, I am suffering with an
5 irreversible condition so that I cannot care for myself or make
6 decisions for myself and am expected to die without life-sustaining
7 treatment provided in accordance with prevailing standards of care:

8 _____ I request that all treatments other than those needed to
9 keep me comfortable be discontinued or withheld and my
10 physician allow me to die as gently as possible; OR

11 _____ I request that I be kept alive in this irreversible
12 condition using available life-sustaining treatment.

13 (THIS SELECTION DOES NOT APPLY TO HOSPICE CARE.)

14 Additional requests: (After discussion with your physician,
15 you may wish to consider listing particular treatments in this
16 space that you do or do not want in specific circumstances, such as
17 artificial nutrition and fluids, intravenous antibiotics, etc. Be
18 sure to state whether you do or do not want the particular
19 treatment.)

20 _____
21 _____
22 _____

23 After signing this directive, if my representative or I elect
24 hospice care, I understand and agree that only those treatments
25 needed to keep me comfortable would be provided and I would not be
26 given available life-sustaining treatments.

27 If I do not have a Medical Power of Attorney, and I am unable

1 to make my wishes known, I designate the following person(s) to make
2 treatment decisions with my physician compatible with my personal
3 values:

- 4 1. _____
5 2. _____

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

9 If the above persons are not available, or if I have not
10 designated a spokesperson, I understand that a spokesperson will be
11 chosen for me following standards specified in the laws of Texas.
12 If, in the judgment of my physician, my death is imminent within
13 minutes to hours, even with the use of all available medical
14 treatment provided within the prevailing standard of care, I
15 acknowledge that all treatments may be withheld or removed except
16 those needed to maintain my comfort. [~~I understand that under Texas
17 law this directive has no effect if I have been diagnosed as
18 pregnant.~~] This directive will remain in effect until I revoke it.
19 No other person may do so.

20 Signed _____ Date _____ City, County, State of
21 Residence _____

22 Two competent adult witnesses must sign below, acknowledging
23 the signature of the declarant. The witness designated as Witness 1
24 may not be a person designated to make a treatment decision for the
25 patient and may not be related to the patient by blood or marriage.
26 This witness may not be entitled to any part of the estate and may
27 not have a claim against the estate of the patient. This witness

1 may not be the attending physician or an employee of the attending
2 physician. If this witness is an employee of a health care facility
3 in which the patient is being cared for, this witness may not be
4 involved in providing direct patient care to the patient. This
5 witness may not be an officer, director, partner, or business
6 office employee of a health care facility in which the patient is
7 being cared for or of any parent organization of the health care
8 facility.

9 Witness 1 _____ Witness 2 _____

10 Definitions:

11 "Artificial nutrition and hydration" means the provision of
12 nutrients or fluids by a tube inserted in a vein, under the skin in
13 the subcutaneous tissues, or in the stomach (gastrointestinal
14 tract).

15 "Irreversible condition" means a condition, injury, or
16 illness:

17 (1) that may be treated, but is never cured or
18 eliminated;

19 (2) that leaves a person unable to care for or make
20 decisions for the person's own self; and

21 (3) that, without life-sustaining treatment provided
22 in accordance with the prevailing standard of medical care, is
23 fatal.

24 Explanation: Many serious illnesses such as cancer, failure
25 of major organs (kidney, heart, liver, or lung), and serious brain
26 disease such as Alzheimer's dementia may be considered irreversible
27 early on. There is no cure, but the patient may be kept alive for

1 prolonged periods of time if the patient receives life-sustaining
2 treatments. Late in the course of the same illness, the disease may
3 be considered terminal when, even with treatment, the patient is
4 expected to die. You may wish to consider which burdens of
5 treatment you would be willing to accept in an effort to achieve a
6 particular outcome. This is a very personal decision that you may
7 wish to discuss with your physician, family, or other important
8 persons in your life.

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

18 "Terminal condition" means an incurable condition caused by
19 injury, disease, or illness that according to reasonable medical
20 judgment will produce death within six months, even with available
21 life-sustaining treatment provided in accordance with the
22 prevailing standard of medical care.

23 Explanation: Many serious illnesses may be considered
24 irreversible early in the course of the illness, but they may not be
25 considered terminal until the disease is fairly advanced. In
26 thinking about terminal illness and its treatment, you again may
27 wish to consider the relative benefits and burdens of treatment and

1 discuss your wishes with your physician, family, or other important
2 persons in your life.

3 SECTION 2. Sections 166.049 and 166.098, Health and Safety
4 Code, are repealed.

5 SECTION 3. This Act takes effect immediately if it receives
6 a vote of two-thirds of all the members elected to each house, as
7 provided by Section 39, Article III, Texas Constitution. If this
8 Act does not receive the vote necessary for immediate effect, this
9 Act takes effect September 1, 2015.