

By: Wray

H.B. No. 1787

A BILL TO BE ENTITLED

AN ACT

relating to the execution of a declaration for mental health treatment.

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

SECTION 1. The heading to Section 137.003, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 137.003. EXECUTION AND WITNESSES; EXECUTION AND ACKNOWLEDGMENT BEFORE NOTARY PUBLIC.

SECTION 2. Section 137.003(a), Civil Practice and Remedies Code, is amended to read as follows:

(a) A declaration for mental health treatment must be:

(1) signed by the principal in the presence of two or more subscribing witnesses; or

(2) signed by the principal and acknowledged before a notary public.

SECTION 3. Section 137.011, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 137.011. FORM OF DECLARATION FOR MENTAL HEALTH TREATMENT. The declaration for mental health treatment must be in substantially the following form:

DECLARATION FOR MENTAL HEALTH TREATMENT

I, _____, being an adult of sound mind, wilfully and voluntarily make this declaration for mental health treatment to be followed if it is determined by a court that my ability to

1 understand the nature and consequences of a proposed treatment,
2 including the benefits, risks, and alternatives to the proposed
3 treatment, is impaired to such an extent that I lack the capacity to
4 make mental health treatment decisions. "Mental health treatment"
5 means electroconvulsive or other convulsive treatment, treatment
6 of mental illness with psychoactive medication, and preferences
7 regarding emergency mental health treatment.

8 (OPTIONAL PARAGRAPH) I understand that I may become
9 incapable of giving or withholding informed consent for mental
10 health treatment due to the symptoms of a diagnosed mental
11 disorder. These symptoms may include:

12 _____

13 PSYCHOACTIVE MEDICATIONS

14 If I become incapable of giving or withholding informed
15 consent for mental health treatment, my wishes regarding
16 psychoactive medications are as follows:

17 _____ I consent to the administration of the following
18 medications:

19 _____

20 _____ I do not consent to the administration of the following
21 medications:

22 _____

23 _____ I consent to the administration of a federal Food and
24 Drug Administration approved medication that was only approved and
25 in existence after my declaration and that is considered in the same
26 class of psychoactive medications as stated below:

27 _____

SIGNATURE ACKNOWLEDGED BEFORE NOTARY PUBLIC

State of Texas

County of _____

This instrument was acknowledged before me on _____ (date) by _____ (name of notary public).

NOTARY PUBLIC, State of Texas

Printed name of Notary Public:

My commission expires:

SIGNATURE IN PRESENCE OF TWO WITNESSES

STATEMENT OF WITNESSES

I declare under penalty of perjury that the principal's name has been represented to me by the principal, that the principal signed or acknowledged this declaration in my presence, that I believe the principal to be of sound mind, that the principal has affirmed that the principal is aware of the nature of the document and is signing it voluntarily and free from duress, that the principal requested that I serve as witness to the principal's execution of this document, and that I am not a provider of health or residential care to the principal, an employee of a provider of health or residential care to the principal, an operator of a community health care facility providing care to the principal, or an employee of an operator of a community health care facility providing care to the principal.

I declare that I am not related to the principal by blood,

1 marriage, or adoption and that to the best of my knowledge I am not
2 entitled to and do not have a claim against any part of the estate of
3 the principal on the death of the principal under a will or by
4 operation of law.

5 Witness

6 Signature: _____

7 Print

8 Name: _____

9 Date: _____

10 Address: _____

11 Witness

12 Signature: _____

13 Print

14 Name: _____

15 Date: _____

16 Address: _____

17 NOTICE TO PERSON MAKING A DECLARATION FOR MENTAL HEALTH TREATMENT

18 This is an important legal document. It creates a
19 declaration for mental health treatment. Before signing this
20 document, you should know these important facts:

21 This document allows you to make decisions in advance about
22 mental health treatment and specifically three types of mental
23 health treatment: psychoactive medication, convulsive therapy,
24 and emergency mental health treatment. The instructions that you
25 include in this declaration will be followed only if a court
26 believes that you are incapacitated to make treatment decisions.
27 Otherwise, you will be considered able to give or withhold consent

1 for the treatments.

2 This document will continue in effect for a period of three
3 years unless you become incapacitated to participate in mental
4 health treatment decisions. If this occurs, the directive will
5 continue in effect until you are no longer incapacitated.

6 You have the right to revoke this document in whole or in part
7 at any time you have not been determined to be incapacitated. YOU
8 MAY NOT REVOKE THIS DECLARATION WHEN YOU ARE CONSIDERED BY A COURT
9 TO BE INCAPACITATED. A revocation is effective when it is
10 communicated to your attending physician or other health care
11 provider.

12 If there is anything in this document that you do not
13 understand, you should ask a lawyer to explain it to you. This
14 declaration is not valid unless it is either acknowledged before a
15 notary public or signed by two qualified witnesses who are
16 personally known to you and who are present when you sign or
17 acknowledge your signature.

18 SECTION 4. The changes in law made by this Act to Sections
19 [137.003](#) and [137.011](#), Civil Practice and Remedies Code, apply to a
20 declaration for mental health treatment executed on or after the
21 effective date of this Act. A declaration for mental health
22 treatment executed before the effective date of this Act is
23 governed by the law as it existed on the date the declaration for
24 mental health treatment was executed, and the former law is
25 continued in effect for that purpose.

26 SECTION 5. This Act takes effect September 1, 2017.