

Amend SB 2089 (senate committee printing) as follows:

(1) In SECTION 2 of the bill, in the legislative intent language (page 1, line 32), strike "until" and substitute "for 45 days after a ethics or medical committee's review so that".

(2) In SECTION 3 of the bill, strike amended Section 166.045(c), Health and Safety Code (page 1, lines 37-45), and substitute the following:

(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 for 45 days under the procedures prescribed by Section 166.046 so that ~~[, but only until a reasonable opportunity has been afforded for the transfer of]~~ the patient can be transferred to another physician or health care facility willing to comply with the directive or treatment decision.

(3) In the recital to SECTION 4 of the bill (page 1, lines 46-47), strike "(e), (e-1), and (f)" and substitute "(e), and (e-1)".

(4) In SECTION 4 of the bill, in amended Section 166.046(a), Health and Safety Code (page 1, lines 55-58), strike "and until the patient is transferred to another physician or health care facility willing to comply with the directive or treatment decision to provide life-sustaining treatment to the patient".

(5) In SECTION 4 of the bill, strike amended Section 166.046(b)(3), Health and Safety Code (page 2, lines 9-17), and substitute the following:

(3) at the time of being so informed, shall be provided:

(A) a copy of the appropriate statement set forth in Section 166.052; and

(B) a copy of the registry list of health care providers and referral groups that have volunteered their readiness to consider accepting transfer or to assist in locating a provider willing to accept transfer that is posted on the website maintained by the department under Section 166.053; and

(6) In SECTION 4 of the bill, in amended Section 166.046(e),

Health and Safety Code (page 2, line 52 through page 3, line 5), strike the third and fourth sentences and substitute the following:
[~~The patient is responsible for any costs incurred in transferring the patient to another facility.~~] The attending physician, any other physician responsible for the care of the patient, and the health care facility are not obligated to provide life-sustaining treatment after the 45th [~~10th~~] day after both the written recommendation [~~decision~~] and the patient's medical record required under Subsection (b) are provided to the patient or the person responsible for the health care decisions of the patient unless ordered to do so under Subsection (g), except that artificially administered nutrition and hydration must be provided unless, based on reasonable medical judgment, providing artificially administered nutrition and hydration would:

- (1) hasten the patient's death;
- (2) be medically contraindicated such that the provision of the treatment seriously exacerbates life-threatening medical problems not outweighed by the benefit of the provision of the treatment;
- (3) result in substantial irremediable physical pain not outweighed by the benefit of the provision of the treatment;
- (4) be medically ineffective in prolonging life; or
- (5) be contrary to the patient's or surrogate's clearly documented desire not to receive artificially administered nutrition or hydration.

(7) In SECTION 4 of the bill, strike amended Section 166.046(f), Health and Safety Code (page 3, lines 18-21).

(8) Add the following appropriately numbered SECTION to the bill:

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

(a) In cases in which the attending physician refuses to honor an advance directive or health care or treatment decision requesting the provision of life-sustaining treatment, the statement required by Section 166.046(b)(3)(A) shall be in substantially the following form:

When There Is A Disagreement About Medical Treatment: The Physician

Recommends Against Certain Life-Sustaining Treatment That You Wish
To Continue

You have been given this information because you have requested life-sustaining treatment* for yourself as the patient or on behalf of the patient, as applicable, which the attending physician believes is not medically appropriate. This information is being provided to help you understand state law, your rights, and the resources available to you in such circumstances. It outlines the process for resolving disagreements about treatment among patients, families, and physicians. It is based upon Section 166.046 of the Texas Advance Directives Act, codified in Chapter 166, Texas Health and Safety Code.

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

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

You are entitled to receive a written explanation of the recommendations made [~~decision reached~~] during the review process.

If after this review process both the attending physician and the ethics or medical committee conclude that life-sustaining treatment is medically inappropriate and yet you continue to request such treatment, then the following procedure will occur:

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

2. You are being given a list of health care providers, licensed physicians, health care facilities, and referral groups that have volunteered their readiness to consider accepting transfer, or to assist in locating a provider willing to accept transfer, maintained by the Department of State Health Services. You may wish to contact providers, facilities, or referral groups

on the list or others of your choice to get help in arranging a transfer.

3. The patient will continue to be given life-sustaining treatment until the patient can be transferred to a willing provider for up to 45 ~~[10]~~ days from the time you were given both the committee's written decision that life-sustaining treatment is not appropriate and the patient's medical record. The patient will continue to be given after the 45-day ~~[10-day]~~ period treatment to enhance pain management and reduce suffering, including artificially administered nutrition and hydration, unless, based on reasonable medical judgment, providing artificially administered nutrition and hydration would hasten the patient's death, be medically contraindicated such that the provision of the treatment seriously exacerbates life-threatening medical problems not outweighed by the benefit of the provision of the treatment, result in substantial irremediable physical pain not outweighed by the benefit of the provision of the treatment, be medically ineffective in prolonging life, or be contrary to the patient's or surrogate's clearly documented desires.

~~4. [If a transfer can be arranged, the patient will be responsible for the costs of the transfer.]~~

~~[5.]~~ If a provider cannot be found willing to give the requested treatment within 45 ~~[10]~~ days, life-sustaining treatment may be withdrawn unless a court of law has granted an extension.

5. ~~[6.]~~ You may ask the appropriate district or county court to extend the 45-day ~~[10-day]~~ period if the court finds that there is a reasonable expectation that you may find a physician or health care facility willing to provide life-sustaining treatment if the extension is granted. Patient medical records will be provided to the patient or surrogate in accordance with Section 241.154, Texas Health and Safety Code.

*"Life-sustaining treatment" means treatment that, based on reasonable medical judgment, sustains the life of a patient and without which the patient will die. The term includes both life-sustaining medications and artificial life support, such as mechanical breathing machines, kidney dialysis treatment, and artificially administered nutrition and hydration. The term does

not include the administration of pain management medication or the performance of a medical procedure considered to be necessary to provide comfort care, or any other medical care provided to alleviate a patient's pain.

(9) Strike SECTION 6 of the bill amending Section 25.0021(b), Government Code (page 3, lines 36-49).

(10) Strike SECTION 7 of the bill adding repealer language (page 3, lines 50-51).

(11) Renumber SECTIONS of the bill accordingly.