

1-1 By: Hughes, Hall, Perry S.B. No. 2089  
 1-2 (In the Senate - Filed March 7, 2019; March 21, 2019, read  
 1-3 first time and referred to Committee on Health & Human Services;  
 1-4 May 1, 2019, reported favorably by the following vote: Yeas 6,  
 1-5 Nays 3; May 1, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13		X		
1-14		X		
1-15		X		
1-16	X			

1-17 A BILL TO BE ENTITLED  
 1-18 AN ACT

1-19 relating to advance directives or health care or treatment  
 1-20 decisions made by or on behalf of patients.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. This Act may be cited as the Respecting Texas  
 1-23 Patients' Right to Life Act of 2019.

1-24 SECTION 2. The purpose of this Act is to protect the right  
 1-25 of patients and their families to decide whether and under what  
 1-26 circumstances to choose or reject life-sustaining treatment. This  
 1-27 Act amends the applicable provisions of the Advance Directives Act  
 1-28 (Chapter 166, Health and Safety Code) to ensure that, when an  
 1-29 attending physician is unwilling to respect a patient's advance  
 1-30 directive or a patient's or family's decision to choose the  
 1-31 treatment necessary to prevent the patient's death,  
 1-32 life-sustaining medical treatment will be provided until the  
 1-33 patient can be transferred to a health care provider willing to  
 1-34 honor the directive or treatment decision.

1-35 SECTION 3. Section 166.045(c), Health and Safety Code, is  
 1-36 amended to read as follows:

1-37 (c) If an attending physician refuses to comply with a  
 1-38 directive or treatment decision to provide life-sustaining  
 1-39 treatment to a patient [and does not wish to follow the procedure  
 1-40 established under Section 166.046], life-sustaining treatment  
 1-41 shall be provided to the patient[, but only] until [~~a reasonable~~  
 1-42 ~~opportunity has been afforded for the transfer of]~~ the patient is  
 1-43 transferred to another physician or health care facility willing to  
 1-44 comply with the directive or treatment decision to provide  
 1-45 life-sustaining treatment to the patient.

1-46 SECTION 4. Sections 166.046(a), (b), (d), (e), (e-1), and  
 1-47 (f), Health and Safety Code, are amended to read as follows:

1-48 (a) If an attending physician refuses to honor a patient's  
 1-49 advance directive or a health care or treatment decision made by or  
 1-50 on behalf of a patient, other than a directive or decision to  
 1-51 provide artificial nutrition and hydration to the patient, the  
 1-52 physician's refusal shall be reviewed by an ethics or medical  
 1-53 committee. The attending physician may not be a member of that  
 1-54 committee. The patient shall be given life-sustaining treatment  
 1-55 during the review and until the patient is transferred to another  
 1-56 physician or health care facility willing to comply with the  
 1-57 directive or treatment decision to provide life-sustaining  
 1-58 treatment to the patient.

1-59 (b) The patient or the person responsible for the health  
 1-60 care decisions of the individual who has made the decision  
 1-61 regarding the directive or treatment decision:

2-1 (1) may be given a written description of the ethics or  
 2-2 medical committee review process and any other policies and  
 2-3 procedures related to this section adopted by the health care  
 2-4 facility;

2-5 (2) shall be informed of the committee review process  
 2-6 not less than 48 hours before the meeting called to discuss the  
 2-7 patient's directive, unless the time period is waived by mutual  
 2-8 agreement;

2-9 (3) at the time of being so informed, shall be  
 2-10 provided[+  
 2-11 ~~[(A) a copy of the appropriate statement set~~  
 2-12 ~~forth in Section 166.052; and~~  
 2-13 ~~[(B)]~~ a copy of the registry list of health care  
 2-14 providers and referral groups that have volunteered their readiness  
 2-15 to consider accepting transfer or to assist in locating a provider  
 2-16 willing to accept transfer that is posted on the website maintained  
 2-17 by the department under Section 166.053; and

2-18 (4) is entitled to:  
 2-19 (A) attend the meeting;  
 2-20 (B) receive a written explanation of the  
 2-21 recommendations made ~~[decision reached]~~ during the review process;  
 2-22 (C) receive a copy of the portion of the  
 2-23 patient's medical record related to the treatment received by the  
 2-24 patient in the facility for the lesser of:  
 2-25 (i) the period of the patient's current  
 2-26 admission to the facility; or  
 2-27 (ii) the preceding 30 calendar days; and  
 2-28 (D) receive a copy of all of the patient's  
 2-29 reasonably available diagnostic results and reports related to the  
 2-30 medical record provided under Paragraph (C).

2-31 (d) If the attending physician, the patient, or the person  
 2-32 responsible for the health care decisions of the individual does  
 2-33 not agree with the recommendations made ~~[decision reached]~~ during  
 2-34 the review process under Subsection (b), the physician shall make a  
 2-35 reasonable effort to transfer the patient to a physician who is  
 2-36 willing to comply with the directive. If the patient is a patient  
 2-37 in a health care facility, the facility's personnel shall assist  
 2-38 the physician in arranging the patient's transfer to:  
 2-39 (1) another physician;  
 2-40 (2) an alternative care setting within that facility;  
 2-41 or  
 2-42 (3) another facility.

2-43 (e) If the patient or the person responsible for the health  
 2-44 care decisions of the patient is requesting life-sustaining  
 2-45 treatment that the attending physician ~~[has decided]~~ and the ethics  
 2-46 or medical committee consider ~~[has affirmed is]~~ medically  
 2-47 inappropriate treatment, the patient shall be given available  
 2-48 life-sustaining treatment pending transfer under Subsection (d).  
 2-49 This subsection does not authorize withholding or withdrawing pain  
 2-50 management medication, medical procedures necessary to provide  
 2-51 comfort, or any other health care provided to alleviate a patient's  
 2-52 pain. Artificially ~~[The patient is responsible for any costs~~  
 2-53 ~~incurred in transferring the patient to another facility. The~~  
 2-54 ~~attending physician, any other physician responsible for the care~~  
 2-55 ~~of the patient, and the health care facility are not obligated to~~  
 2-56 ~~provide life-sustaining treatment after the 10th day after both the~~  
 2-57 ~~written decision and the patient's medical record required under~~  
 2-58 ~~Subsection (b) are provided to the patient or the person~~  
 2-59 ~~responsible for the health care decisions of the patient unless~~  
 2-60 ~~ordered to do so under Subsection (g), except that artificially]~~  
 2-61 administered nutrition and hydration must be provided unless, based  
 2-62 on reasonable medical judgment, providing artificially  
 2-63 administered nutrition and hydration would:  
 2-64 (1) hasten the patient's death;  
 2-65 (2) be medically contraindicated such that the  
 2-66 provision of the treatment seriously exacerbates life-threatening  
 2-67 medical problems not outweighed by the benefit of the provision of  
 2-68 the treatment;  
 2-69 (3) result in substantial irremediable physical pain

3-1 not outweighed by the benefit of the provision of the treatment;  
3-2 (4) be medically ineffective in prolonging life; or  
3-3 (5) be contrary to the patient's or surrogate's  
3-4 clearly documented desire not to receive artificially administered  
3-5 nutrition or hydration.

3-6 (e-1) If during a previous admission to a facility a  
3-7 patient's attending physician and the review process under  
3-8 Subsection (b) have determined that life-sustaining treatment is  
3-9 inappropriate, and the patient is readmitted to the same facility  
3-10 within six months from the date of the recommendations made  
3-11 [~~decision reached~~] during the review process conducted upon the  
3-12 previous admission, Subsections (b) through (e) need not be  
3-13 followed if the patient's attending physician and a consulting  
3-14 physician who is a member of the ethics or medical committee of the  
3-15 facility document on the patient's readmission that the patient's  
3-16 condition either has not improved or has deteriorated since the  
3-17 review process was conducted.

3-18 (f) Life-sustaining treatment under this section may not be  
3-19 entered in the patient's medical record as medically unnecessary  
3-20 treatment [~~until the time period provided under Subsection (e) has~~  
3-21 ~~expired~~].

3-22 SECTION 5. Section 166.051, Health and Safety Code, is  
3-23 amended to read as follows:

3-24 Sec. 166.051. LEGAL RIGHT OR RESPONSIBILITY NOT AFFECTED.  
3-25 This subchapter does not impair or supersede any legal right or  
3-26 responsibility a person may have to effect the withholding or  
3-27 withdrawal of life-sustaining treatment in a lawful manner,  
3-28 provided that if an attending physician or health care facility is  
3-29 unwilling to honor a patient's advance directive or a treatment  
3-30 decision to provide life-sustaining treatment, life-sustaining  
3-31 treatment must [~~is required to~~] be provided to the patient in  
3-32 accordance with this chapter [~~, but only until a reasonable~~  
3-33 ~~opportunity has been afforded for transfer of the patient to~~  
3-34 ~~another physician or health care facility willing to comply with~~  
3-35 ~~the advance directive or treatment decision~~].

3-36 SECTION 6. Section 25.0021(b), Government Code, is amended  
3-37 to read as follows:

3-38 (b) A statutory probate court as that term is defined in  
3-39 Section 22.007(c), Estates Code, has:

3-40 (1) the general jurisdiction of a probate court as  
3-41 provided by the Estates Code; and

3-42 (2) the jurisdiction provided by law for a county  
3-43 court to hear and determine actions, cases, matters, or proceedings  
3-44 instituted under:

3-45 (A) Section [~~166.046~~] 192.027, 193.007,  
3-46 552.015, 552.019, 711.004, or 714.003, Health and Safety Code;

3-47 (B) Chapter 462, Health and Safety Code; or

3-48 (C) Subtitle C or D, Title 7, Health and Safety  
3-49 Code.

3-50 SECTION 7. Sections 166.046(g) and 166.052, Health and  
3-51 Safety Code, are repealed.

3-52 SECTION 8. This Act takes effect immediately if it receives  
3-53 a vote of two-thirds of all the members elected to each house, as  
3-54 provided by Section 39, Article III, Texas Constitution. If this  
3-55 Act does not receive the vote necessary for immediate effect, this  
3-56 Act takes effect September 1, 2019.

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