

By: Coleman

H.B. No. 3099

A BILL TO BE ENTITLED

AN ACT

relating to advance directives in Texas.

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

SECTION 1. Subchapter A, Chapter 166, Health and Safety Code, is amended by adding Section 166.012 to read as follows:

Sec. 166.012. PATIENT AND PROVIDER AUTONOMY. Nothing in this chapter shall:

(a) permit a surrogate or patient's proxy to supersede the patient's wishes or desires, if known by the patient's physician, family member, or surrogate;

(b) subject to the provisions under Sec. 166.046, require a health care provider to continue treatment or care deemed outside the appropriate scope of care or in violation of the provider's ethical duties; or

(c) prevent a health care provider or facility from undertaking any test or diagnostic necessary to determine the patient's medical condition or related functions.

SECTION 2. Section 166.046, Health and Safety Code, is amended by amending Subsections (b), (c), and (e), and adding Subsections (a-1), (a-2), and (b-1) to read as follows:

(a-1) When an ethics or medical committee review has been convened under this chapter, the ethics or medical committee shall:

(1) inform the patient or surrogate that the patient or surrogate may discontinue the process under this section by

1 providing written notice to the ethics or medical committee;

2 (2) appoint a patient liaison familiar with
3 end-of-life issues and hospice care options to assist the patient
4 or surrogate throughout the process described by this section; and

5 (3) advise the patient or surrogate that the patient's
6 attending physician may present medical facts at the meeting.

7 (a-2) The patient's attending physician may attend and
8 present facts at an ethics or medical committee review convened
9 under this chapter but may not participate as a member of the
10 committee in the case being evaluated.

11 (b) When a meeting of the ethics or medical committee is
12 required under this section [~~The patient or the person responsible~~
13 ~~for the health care decisions of the individual who has made the~~
14 ~~decision regarding the directive or treatment decision] :~~

15 (1) not later than the seventh calendar day before the
16 scheduled date of the meeting required under this section, unless
17 this period is waived by mutual agreement, the committee shall
18 provide to the patient or surrogate:

19 (A) [may be given] a written description of the
20 ethics or medical committee review process and any other policies
21 and procedures related to this section adopted by the health care
22 facility;

23 (B) notice that the patient or surrogate is
24 entitled to receive the continued assistance of a patient liaison
25 to assist the patient or surrogate throughout the process described
26 in this section;

27 (C) notice that the patient or surrogate may:

1 (i) seek a second opinion at the patient's
2 or surrogate's expense from other medical professionals regarding
3 the patient's medical status and treatment requirements; and

4 (ii) communicate the resulting information
5 to the members of the committee for consideration before the
6 meeting;

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

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

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

14 (E) [~~(B)~~ a copy of the registry list of health
15 care providers, health care facilities, and referral groups that,
16 in compliance with any state laws prohibiting barratry, have
17 volunteered their readiness to consider accepting transfer or to
18 assist in locating a provider willing to accept transfer that is
19 posted on the website maintained by the department under Section
20 166.053 [~~, and~~].

21 (b-1) The patient or surrogate

22 ~~(4)]~~ is entitled to:

23 (1) [~~(A)] an invitation to attend and participate in,~~
24 should they elect to do so, the meeting of the ethics or medical
25 committee, excluding the committee's deliberations;

26 (2) be accompanied at the meeting by up to five
27 persons, or more persons at the committee's discretion, for

1 support, subject to the facility's reasonable written attendance
2 policy as necessary to:

3 (A) facilitate information sharing and
4 discussion of the patient's medical status and treatment
5 requirements; and

6 (B) preserve the order and decorum of the
7 meeting;

8 (3) [~~(B)~~] receive a written explanation of the
9 decision reached during the review process;

10 (4) [~~(C)~~] receive a copy of the portion of the
11 patient's medical record related to the treatment received by the
12 patient in the facility for the lesser of:

13 (A) [~~(i)~~] the period of the patient's current
14 admission to the facility; or

15 (B) [~~(ii)~~] the preceding 30 calendar days; and

16 (5) [~~(D)~~] receive a copy of all of the patient's
17 reasonably available diagnostic results and reports related to the
18 medical record provided under [~~Paragraph~~] Subdivision (4).

19 (c) The written explanation required by Subsection (b-1)(3)
20 [~~(b)(4)(B)~~] must be included in the patient's medical record.

21 (e) If the patient or the person responsible for the health
22 care decisions of the patient is requesting life-sustaining
23 treatment that the attending physician has decided and the ethics
24 or medical committee has affirmed is medically inappropriate
25 treatment, the patient shall be given available life-sustaining
26 treatment pending transfer under Subsection (d). This subsection
27 does not authorize withholding or withdrawing pain management

1 medication, medical procedures necessary to provide comfort, or any
2 other health care provided to alleviate a patient's pain. The
3 patient is responsible for any costs incurred in transferring the
4 patient to another facility. The attending physician, any other
5 physician responsible for the care of the patient, and the health
6 care facility are not obligated to provide life-sustaining
7 treatment after the 14~~0~~th calendar day after both the written
8 decision and the patient's medical record required under Subsection
9 (b) are provided to the patient or the person responsible for the
10 health care decisions of the patient unless ordered to do so under
11 Subsection (g), except that artificially administered nutrition
12 and hydration must be provided unless, based on reasonable medical
13 judgment, providing artificially administered nutrition and
14 hydration would:

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

26 SECTION 3. Subchapter B, Chapter 166, Health and Safety
27 Code, is amended by adding Section 166.0465 to read as follows:

1 Sec. 166.0465. ETHICS OR MEDICAL COMMITTEE POLICIES;
2 CONFLICTS OF INTEREST AND DISCRIMINATION. Each health care facility
3 that provides review by an ethics or medical committee under
4 Section 166.046 shall adopt and implement polices to:

5 (1) prevent financial and health care professional
6 conflicts of interest that may arise during a review under that
7 section;

8 (2) permit participation on, and interaction with, the
9 committee via secure telephonic and teleconference means; and

10 (3) prohibit consideration of a patient's permanent
11 physical or mental disability during a review under that section
12 unless the disability is relevant in determining whether a medical
13 or surgical intervention is medically appropriate.

14 SECTION 4. Sections 166.052 (a) and (b), Health and Safety
15 Code, are amended to read as follows:

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

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

24 You have been given this information because you have
25 requested life-sustaining treatment* for yourself as the patient or
26 on behalf of the patient, as applicable, which the attending
27 physician believes is not medically appropriate. This information

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

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

13 You will receive notification of this review at least 7
14 calendar days [~~48 hours~~] before a meeting of the committee related
15 to your case. You are entitled to attend the meeting. With your
16 agreement, the meeting may be held sooner than 7 calendar days [~~48~~
17 ~~hours~~], if possible.

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

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

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

27 2. You are being given a list of health care providers,

1 licensed physicians, health care facilities, and referral groups
2 that have volunteered their readiness to consider accepting
3 transfer, or to assist in locating a provider willing to accept
4 transfer, maintained by the Department of State Health Services.
5 You may wish to contact providers, facilities, or referral groups
6 on the list or others of your choice to get help in arranging a
7 transfer.

8 3. The patient will continue to be given life-sustaining
9 treatment until the patient can be transferred to a willing
10 provider for up to 14[0] calendar days from the time you were given
11 both the committee's written decision that life-sustaining
12 treatment is not appropriate and the patient's medical record. The
13 patient will continue to be given after the 14[0]-calendar day
14 period treatment to enhance pain management and reduce suffering,
15 including artificially administered nutrition and hydration,
16 unless, based on reasonable medical judgment, providing
17 artificially administered nutrition and hydration would hasten the
18 patient's death, be medically contraindicated such that the
19 provision of the treatment seriously exacerbates life-threatening
20 medical problems not outweighed by the benefit of the provision of
21 the treatment, result in substantial irremediable physical pain not
22 outweighed by the benefit of the provision of the treatment, be
23 medically ineffective in prolonging life, or be contrary to the
24 patient's or surrogate's clearly documented desires.

25 4. If a transfer can be arranged, the patient will be
26 responsible for the costs of the transfer.

27 5. If a provider cannot be found willing to give the

1 requested treatment within 14[0] calendar days, life-sustaining
2 treatment may be withdrawn unless a court of law has granted an
3 extension.

4 6. You may ask the appropriate district or county court to
5 extend the 14[0]-calendar day period if the court finds that there
6 is a reasonable expectation that you may find a physician or health
7 care facility willing to provide life-sustaining treatment if the
8 extension is granted. Patient medical records will be provided to
9 the patient or surrogate in accordance with Section 241.154, Texas
10 Health and Safety Code.

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

21 (b) In cases in which the attending physician refuses to
22 comply with an advance directive or treatment decision requesting
23 the withholding or withdrawal of life-sustaining treatment, the
24 statement required by Section 166.046(b)(3)(A) shall be in
25 substantially the following form:

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

1 Stop

2 You have been given this information because you have
3 requested the withdrawal or withholding of life-sustaining
4 treatment* for yourself as the patient or on behalf of the patient,
5 as applicable, and the attending physician disagrees with and
6 refuses to comply with that request. The information is being
7 provided to help you understand state law, your rights, and the
8 resources available to you in such circumstances. It outlines the
9 process for resolving disagreements about treatment among
10 patients, families, and physicians. It is based upon Section
11 [166.046](#) of the Texas Advance Directives Act, codified in Chapter
12 [166](#), Texas Health and Safety Code.

13 When an attending physician refuses to comply with an advance
14 directive or other request for withdrawal or withholding of
15 life-sustaining treatment for any reason, the case will be reviewed
16 by an ethics or medical committee. Life-sustaining treatment will
17 be provided through the review.

18 You will receive notification of this review at least 7
19 calendar days [~~48 hours~~] before a meeting of the committee related
20 to your case. You are entitled to attend the meeting. With your
21 agreement, the meeting may be held sooner than 7 calendar days [~~48~~
22 ~~hours~~], if possible.

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

25 If you or the attending physician do not agree with the
26 decision reached during the review process, and the attending
27 physician still refuses to comply with your request to withhold or

1 withdraw life-sustaining treatment, then the following procedure
2 will occur:

3 1. The physician, with the help of the health care facility,
4 will assist you in trying to find a physician and facility willing
5 to withdraw or withhold the life-sustaining treatment.

6 2. You are being given a list of health care providers,
7 licensed physicians, health care facilities, and referral groups
8 that have volunteered their readiness to consider accepting
9 transfer, or to assist in locating a provider willing to accept
10 transfer, maintained by the Department of State Health Services.
11 You may wish to contact providers, facilities, or referral groups
12 on the list or others of your choice to get help in arranging a
13 transfer.

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

24 SECTION 5. Subchapter B, Chapter 166, Health and Safety
25 Code, is amended by adding Section 166.054 to read as follows:

26 Sec. 166.054. REPORTING REQUIREMENTS REGARDING ETHICS OR
27 MEDICAL COMMITTEE PROCESSES. (a) On submission of a health care

1 facility's application to renew its license, a facility in which
2 one or more meetings of an ethics or medical committee are held
3 under this chapter shall file a report with the department that
4 contains aggregate information regarding the number of cases
5 initiated by an ethics or medical committee under Section 166.046
6 and the disposition of those cases by the facility.

7 (b) Aggregate data submitted to the department under this
8 section may include only the following:

9 (1) the total number of patients for whom a review by
10 the ethics or medical committee was initiated under Section
11 166.046(b);

12 (2) the number of patients under Subdivision (1) who
13 were transferred to:

14 (A) another physician within the same facility;
15 or

16 (B) a different facility;

17 (3) the number of patients under Subdivision (1) who
18 were discharged to home;

19 (4) the number of patients under Subdivision (1) for
20 whom treatment was withheld or withdrawn pursuant to surrogate
21 consent:

22 (A) before the decision was rendered following a
23 review under Section 166.046(b);

24 (B) after the decision was rendered following a
25 review under Section 166.046(b); or

26 (C) during or after the 14-calendar day period
27 described by Section 166.046(e);

1 (5) the average length of stay before a review meeting
2 is held under Section 166.046(b); and

3 (6) the number of patients under Subdivision (1) who
4 died while still receiving life-sustaining treatment:

5 (A) before the review meeting under Section
6 166.046(b);

7 (B) during the 14-calendar day period described
8 by Section 166.046(e); or

9 (C) during any extension of the 14-calendar day
10 period described by Section 166.046(e).

11 (c) The report required by this section may not contain any
12 data specific to an individual patient or physician.

13 (d) The department shall adopt rules to:

14 (1) establish a standard form for the reporting
15 requirements of this section; and

16 (2) post on the department's Internet website the data
17 submitted under Subsection (b) in the format provided by rule.

18 (e) Data collected as required by, or submitted to the
19 department under, this section:

20 (1) is not admissible in a civil or criminal
21 proceeding in which a physician, health care professional acting
22 under the direction of a physician, or health care facility is a
23 defendant; and

24 (2) may not be used in relation to any disciplinary
25 action by a licensing board or other body with professional or
26 administrative oversight of a physician, health care professional
27 acting under the direction of a physician, or health care facility.

1 SECTION 6. Section 166.202(a), Health and Safety Code, is
2 amended to read as follows:

3 (a) This subchapter applies to a DNR order issued for a
4 patient who has been admitted to [~~in~~] a health care facility or
5 hospital.

6 SECTION 7. Sections 166.203(a), (b), and (c), Health and
7 Safety Code, is amended to read as follows:

8 (a) A DNR order issued for a patient is valid only if a
9 physician providing direct care to the patient [~~patient's attending~~
10 ~~physician~~] issues the order, the order is dated, and the order:

11 (1) is issued in compliance with:

12 (A) the written and dated directions of a patient
13 who was competent at the time the patient wrote the directions;

14 (B) the oral directions of a competent patient
15 delivered to or observed by two competent adult witnesses, at least
16 one of whom must be a person not listed under Section 166.003(2)(E)
17 or (F);

18 (C) the directions in an advance directive
19 enforceable under Section 166.005 or executed in accordance with
20 Section 166.032, 166.034, [~~or~~] 166.035, 166.082, 166.084, or
21 166.085;

22 (D) the directions of a patient's legal guardian
23 [~~or~~], a patient's agent under a medical power of attorney acting in
24 accordance with Subchapter D, or a patient's proxy as designated
25 and authorized by a directive executed or issued in accordance with
26 Subchapter B to make a treatment decision for the patient in the
27 event the patient becomes incompetent or otherwise mentally or

1 physically incapable of communication; or

2 (E) a treatment decision made in accordance with
3 Section [166.039](#); or

4 (2) is not contrary to the directions of a patient who
5 was competent at the time the patient conveyed the directions and,
6 in the reasonable medical judgment of the physician issuing the
7 order [~~the patient's attending physician~~]:

8 (A) the patient's death is imminent, regardless
9 of the provision of cardiopulmonary resuscitation; and

10 (B) the DNR order is medically appropriate.

11 (b) The DNR order:

12 (1) takes effect at the time the order is issued,
13 provided the order is placed in the patient's medical record as soon
14 as practicable; and

15 (2) may be issued and entered in any format acceptable
16 under the policies of the hospital or health care facility.

17 (c) Unless notice is provided in accordance with Section
18 [166.204](#)(a-1), before [~~Before~~] placing in a patient's medical record
19 a DNR order issued under Subsection (a)(2), a [~~the~~] physician,
20 physician assistant, nurse, or other person acting on behalf of a
21 health care facility or hospital shall:

22 (1) inform the patient of the order's issuance; or

23 (2) if the patient is incompetent, make a reasonably
24 diligent effort to contact or cause to be contacted and inform of
25 the order's issuance:

26 (A) the patient's known agent under a medical
27 power of attorney or legal guardian; or

1 (B) for a patient who does not have a known agent
2 under a medical power of attorney or legal guardian, a person
3 described by Section 166.039(b)(1), (2), or (3).

4 SECTION 8. Section 166.204, Health and Safety Code, is
5 amended by amending Subsection (a) and adding Subsection (a-1) to
6 read as follows:

7 (a) If a physician issues a DNR order under Section
8 166.203(a)(2), notice of the order shall be provided to the
9 appropriate persons in accordance with either Section 166.203(c) or
10 Subsection (a-1).

11 (a-1) Unless notice is provided in accordance with Section
12 166.203(c), if ~~if~~ an individual arrives at a health care facility
13 or hospital that is treating a patient for whom a DNR order is
14 issued under Section 166.203(a)(2) and the individual notifies a
15 physician, physician assistant, or nurse providing direct care to
16 the patient of the individual's arrival, the physician, physician
17 assistant, or nurse who has actual knowledge of the order shall
18 disclose the order to the individual, provided the individual is:

19 (1) the patient's known agent under a medical power of
20 attorney or legal guardian; or

21 (2) for a patient who does not have a known agent under
22 a medical power of attorney or legal guardian, a person described by
23 Section 166.039(b)(1), (2), or (3).

24 SECTION 9. Sections 166.205(a), (b), and (c), Health and
25 Safety Code, are amended to read as follows:

26 (a) A physician providing direct care to a patient for whom
27 a DNR order is issued shall revoke the patient's DNR order if:

1 (1) the advance directive on which the DNR order is
2 based is properly revoked in accordance with the applicable
3 provisions of this chapter; or

4 (2) the patient or the individual at whose direction
5 the DNR order was issued [~~or, as applicable, the patient's agent~~
6 ~~under a medical power of attorney or the patient's legal guardian if~~
7 ~~the patient is incompetent.~~

8 ~~[(1) effectively revokes an advance directive, in~~
9 ~~accordance with Section 166.042, for which a DNR order is issued~~
10 ~~under Section 166.203(a); or~~

11 ~~[(2)]~~ expresses to any person providing direct care to
12 the patient a revocation of consent to or intent to revoke a DNR
13 order issued under Section 166.203(a).

14 (b) A person providing direct care to a patient under the
15 supervision of a physician shall notify the physician of revocation
16 of the advance directive or the request to revoke a DNR order under
17 Subsection (a).

18 (c) A physician who issued [~~patient's attending physician~~
19 ~~may at any time revoke]~~ a DNR order [~~issued~~] under Section
20 166.203(a)(2) , or any other attending physician providing direct
21 care to the patient in accordance with applicable hospital bylaws,
22 may at any time revoke the DNR order.

23 SECTION 10. Sections 166.206(a) and (b), Health and Safety
24 Code, are amended to read as follows:

25 (a) If a [~~an attending]~~ physician, health care facility, or
26 hospital does not wish to execute or comply with a DNR order or the
27 patient's instructions concerning the provision of cardiopulmonary

1 resuscitation, the physician, facility, or hospital shall inform
2 the patient, the legal guardian or qualified relatives of the
3 patient, or the agent of the patient under a medical power of
4 attorney of the benefits and burdens of cardiopulmonary
5 resuscitation.

6 (b) If, after receiving notice under Subsection (a), the
7 patient or another person authorized to act on behalf of the patient
8 and the ~~[attending]~~ physician, health care facility, or hospital
9 remain in disagreement, the physician, facility, or hospital shall
10 make a reasonable effort to transfer the patient to another
11 physician, facility, or hospital willing to execute or comply with
12 a DNR order or the patient's instructions concerning the provision
13 of cardiopulmonary resuscitation.

14 SECTION 11. Section 166.209, Health and Safety Code, is
15 amended to read as follows:

16 Sec. 166.209. ENFORCEMENT. (a) Subject to Sections
17 166.205(d), 166.207, and 166.208, a ~~[A]~~ physician, physician
18 assistant, nurse, or other person commits an offense if, with the
19 specific intent to violate the requirements of this subchapter, the
20 person intentionally:

21 (1) conceals, cancels, effectuates, or falsifies
22 another person's DNR order; or

23 (2) [if the person intentionally] conceals or
24 withholds personal knowledge of another person's revocation of a
25 DNR order ~~[in violation of this subchapter]~~.

26 (a-1) An offense under Subsection (a) [this subsection] is a
27 Class A misdemeanor. This subsection does not preclude prosecution

1 for any other applicable offense.

2 (b) Subject to Sections 166.205(d), 166.207, and 166.208, a
3 [A] physician, health care professional, health care facility,
4 hospital, or entity is subject to review and disciplinary action by
5 the appropriate licensing authority for intentionally:

6 (1) failing to effectuate a DNR order in violation of
7 this subchapter; or

8 (2) issuing a DNR order in violation of this
9 subchapter.

10 SECTION 12. Section 313.004(a), Health and Safety Code, is
11 amended to read as follows:

12 Sec. 313.004. CONSENT FOR MEDICAL TREATMENT. (a) If an
13 adult patient of a home and community support services agency or in
14 a hospital or nursing home, or an adult inmate of a county or
15 municipal jail, is comatose, incapacitated, or otherwise mentally
16 or physically incapable of communication, and does not have a legal
17 guardian or an agent under a medical power of attorney who can
18 concur with the patient's attending physician, an adult surrogate
19 from the following list, in order of priority, who has
20 decision-making capacity, is available after a reasonably diligent
21 inquiry, and is willing to consent to medical treatment on behalf of
22 the patient, may consent to medical treatment on behalf of the
23 patient in concurrence with the patient's attending physician:

24 (1) the patient's spouse;

25 (2) the patient's reasonably available adult children

26 ~~an adult child of the patient who has the waiver and consent of all~~
27 ~~other qualified adult children of the patient to act as the sole~~

1 ~~decision-maker;~~

2 (3) ~~a majority of the patient's~~ parents ~~reasonably~~
3 ~~available adult children;~~

4 (4) the patient's nearest living relative ~~parents~~; or

5 (5) if the patient does not have a legal guardian or an
6 agent under a medical power of attorney, and a person listed in this
7 Subsection is not available, a treatment decision made under this
8 Subsection must be concurred in by the patient's attending
9 physician and another licensed physician who is not involved in the
10 direct treatment of the patient ~~the individual clearly identified~~
11 ~~to act for the patient by the patient before the patient became~~
12 ~~incapacitated, the patient's nearest living relative, or a member~~
13 ~~of the clergy.~~

14 SECTION 13. This Act takes effect September 1, 2022.