

BILL ANALYSIS

Senate Research Center
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S.B. 675
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Health & Human Services
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Section 166.046 (Procedure If Not Effectuating a Directive or Treatment Decision), Health and Safety Code, allows physicians to withdraw life-sustaining treatment to patients, provided the doctor gives 10 days notice to the patient's family and, if the patient/family disagrees with the doctor's decision, upon review and approval of the facility's ethics committee. Currently, Texas patients are being denied life-sustaining treatment because of their age, a disability, or because they have a terminal illness. S.B. 675 seeks to ensure that these vulnerable Texans are not discriminatorily being denied appropriate life-sustaining medical treatment.

As defined in Section 166.002(10), 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. This includes artificially administered food and water, dialysis, and ventilator use.

S.B. 675 prohibits doctors from withdrawing such treatment on the basis that the physician believes that extending the life of an elderly, disabled, or terminally ill person is not as valuable as that of a younger, non-disabled, non-terminally ill patient; or the physician believes extending the life of the patient is not worth the risk of further disability associated with providing the treatment. Under S.B. 675, a hospital ethics committee is prohibited from approving the withholding of life-sustaining treatment if the committee finds that the physician's reasons for wanting to withhold treatment is based on the patient's age, the patient's disability, or because the patient has a terminal illness.

S.B. 675 will ensure that life-sustaining treatment, which in reasonable medical judgment could preserve the patient's life, cannot be termed inappropriate or futile simply because of the patient's age, disability, or terminal illness.

As proposed, S.B. 675 amends current law relating to certain advance directives and health care and treatment decisions.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 166.045(c) and (d), Health and Safety Code, as follows:

(c) Requires that life-sustaining treatment, if an attending physician refuses to comply with a directive or treatment decision for a reason not prohibited under Section 166.0455 and does not wish to follow the procedure established under Section 166.046, be provided to the patient, but only until a reasonable opportunity has been afforded for the transfer of the patient to another physician or health care facility willing to comply with the directive or treatment decision.

(d) Provides that a physician, health professional acting under the direction of a physician, or health care facility is not civilly or criminally liable or subject to review or

disciplinary action by the person's appropriate licensing board if the person has not violated Section 166.0455 and has complied with the procedures outlined in Section 166.046.

SECTION 2. Amends Subchapter B, Chapter 166, Health and Safety Code, by adding Section 166.0455, as follows:

Sec. 166.0455. LIMITATION ON REFUSAL TO EFFECTUATE CERTAIN ADVANCE DIRECTIVES OR TREATMENT DECISIONS. Prohibits a physician, health care facility, or health care professional from refusing to honor a patient's advance directive or a health care or treatment decision made by or on behalf of a patient that directs the provision of life-sustaining treatment and prohibits such persons from considering life-sustaining treatment to be inappropriate treatment under Section 166.046 based on:

- (1) the lesser value the physician, facility, or professional places on extending the life of an elderly, disabled, or terminally ill patient compared to the value of extending the life of a patient who is younger, not disabled, or not terminally ill; or
- (2) a disagreement between the physician, facility, or professional and the patient, or the person authorized to make a treatment decision for the patient under Section 166.039 (Procedure When Person Has Not Executed or Issued a Directive and Is Incompetent or Incapable of Communication), over the greater weight the patient or person places on extending the patient's life above the risk of disability.

SECTION 3. Amends Section 166.046, Health and Safety Code, by amending Subsections (a) and (g) and adding Subsection (c-1), as follows:

(a) Requires the physician's refusal, if an attending physician refuses to honor a patient's advance directive or a health care or treatment decision made by or on behalf of a patient for a reason not prohibited under Section 166.0455, to be reviewed by an ethics or medical committee.

(c-1) Prohibits the committee if, during the course of the committee review process, the ethics or medical committee finds that the physician refused to honor a patient's advanced directive or health care or treatment decision made by or on behalf of the patient for a reason prohibited under Section 166.0455, from approving withdrawal of life-sustaining treatment to that patient on the basis of that physician's evaluation.

(g) Requires the appropriate district or county court, at the request of the patient or the person responsible for the health care decisions of the patient, to extend the time period provided under Subsection (e) only if the court finds, by a preponderance of evidence, that the decision to withdraw life-sustaining treatment is for a reason prohibited under Section 166.0455. Makes nonsubstantive changes.

SECTION 4. Amends Section 166.051, Health and Safety Code, to provide that this subchapter (Directive to Physicians) does not impair or supersede any legal right or responsibility a person may have to effect the withholding or withdrawal of life-sustaining treatment in a lawful manner, provided that if an attending physician or health care facility is unwilling to honor a patient's advance directive or a treatment decision to provide life-sustaining treatment for a reason not prohibited under Section 166.0455, life-sustaining treatment is required to be provided the patient, but only until a reasonable opportunity has been afforded for transfer of the patient to another physician or health care facility willing to comply with the advance directive or treatment decision.

SECTION 5. Amends Section 166.158(c), Health and Safety Code, to provide that the procedures established under Sections 166.045 and 166.046 and the limitations provided under Section 166.0455 apply if the adult to whom authority to make health care decisions is delegated

under a medical power of attorney directive concerns providing, withholding, or withdrawing life-sustaining treatment.

SECTION 6. Amends Section 166.166, Health and Safety Code, to provide that this subchapter (Medical Power of Attorney) does not limit or impair any legal right or responsibility that any person, including a physician or health or residential care provider, may have to make or implement health care decisions on behalf of a person, provided that if an attending physician or health care facility is unwilling to honor a patient's advance directive or a treatment decision to provide life-sustaining treatment for a reason not prohibited under Section 166.0455, life-sustaining treatment is required to be provided the patient, but only until a reasonable opportunity has been afforded for transfer of the patient to another physician or health care facility willing to comply with the advance directive or treatment decision.

SECTION 7. Provides that the changes in law made by this Act apply only to a health care or treatment decision made on or after the effective date of this Act.

SECTION 8. Effective date: upon passage or September 1, 2013.