

BILL ANALYSIS

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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Advanced practice registered nurses (APRNs) and physician assistants (PAs) play a key role in providing palliative and hospice care to Texas patients. State law allows APRNs to be the attending provider of record if a hospice patient elects them to be. They are intimately involved in the plan of care, treatment, and care coordination for the patient and their families. Despite their vital role in end-of-life care as palliative/hospice care providers, under current Texas law, APRNs and PAs are not authorized to sign out-of-hospital do-not-resuscitate orders (OOHDNRs) and death certificates for their patients, which results in unnecessary delays in care during an emotionally fragile time for patients and families.

In 2015, H.B. 1784 established the Texas Palliative Care Interdisciplinary Advisory Council (PCIAC), a statewide advisory group of physicians, nurses, social workers, and other palliative care providers charged with identifying barriers to quality, accessible palliative care in Texas. In its report to the Texas Legislature, the PCIAC published a number of recommendations for state lawmakers and included a personal statement highlighting specific barriers APRNs and PAs face when it comes to signing death certificates and OOHDNRs for patients.

Since APRNs and PAs cannot legally sign certain documents related to end-of-life care, patients and families can experience significant delays when it comes time to find a physician who can sign their OOHDNR or death certificate. This is especially the case in outpatient facilities where the physician provider may not be located on site, or in rural areas where the next closest physician provider may be many miles away and is reluctant to sign documents for a patient he or she may have never seen.

S.B. 919 amends the Health and Safety Code to allow APRNs and PAs to sign OOHDNRs and death certificates, which will prevent unnecessary delays in care for patients receiving palliative and hospice care.

As proposed, S.B. 919 amends current law relating to the authority of an advanced practice registered nurse or physician assistant to sign a death certificate or out-of-hospital do-not-resuscitate order.

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 Section 166.081(6), Health and Safety Code, to redefine "out-of-hospital DNR order."

SECTION 2. Amends Sections 166.082(b) and (c), as follows:

(b) Requires the attending physician, a physician assistant (PA), or an advanced practice registered nurse (APRN), rather than an attending physician only, providing care to the declarant to sign the out-of-hospital do-not-resuscitate order (order) and to make the fact

of the existence of the order and the reasons for execution of the order a part of the declarant's medical record.

(c) Authorizes the physician, PA, or APRN providing care to a person, if the person is incompetent, but previously executed or issued a directive to physicians, to rely on the directive and the person's instructions to issue an order and requires those medical professionals to place a copy of the directive in the person's file. Requires the physician, the PA, or the APRN, rather than only a physician, to sign the order in lieu of the person signing under Subsection (b) and authorizes those medical professionals to use a digital or electronic signature authorized under Section 166.011 (Digital or Electronic Signature).

SECTION 3. Amends Section 166.083(b), Health and Safety Code, as follows:

(b) Requires the standard form of an order to, at a minimum, contain the following:

(1) through (3) makes no changes to these subdivisions;

(4) a statement that the physician, PA, or APRN, rather than a physician only, signing the document is the person's attending physician, PA, or APRN of the person and is directing health care professionals acting in certain out-of-hospital settings;

(5) makes no changes to this subdivision;

(6) places for printed names and signatures of certain persons, including the physician, PA, or APRN of the person and the professional's medical license number, rather than the attending physician of the person and the medical license number of the attending physician;

(7) makes conforming and nonsubstantive changes;

(8) through (13) makes no changes to these subdivisions.

SECTION 4. Amends Sections 166.084(b) and (c), Health and Safety Code, as follows:

(b) Requires a declarant to issue the nonwritten order in the presence of the person's attending physician or a PA or APRN of the person, rather than the attending physician only.

(c) Makes conforming changes.

SECTION 5. Amends Sections 166.087(b) and (c), Health and Safety Code, as follows:

(b) Requires an adult person's attending physician or a PA or APRN of the person and the designated person, rather than the attending physician or designated person only, to comply with the order if the person has designated a person to make certain treatment decisions.

(c) Requires an adult person's attending physician or a PA or APRN of the person, rather than the attending physician, to comply with the order, unless the physician, PA, or APRN believes that the order does not reflect the person's present desire, if the person has not designated a person to make certain treatment decisions.

SECTION 6. Amends Sections 166.088(a), (b), and (f), Health and Safety Code, as follows:

(a) Includes a PA or APRN of an adult person who has not executed or issued an order and is incompetent or otherwise mentally or physically incapable of communication among certain persons authorized to execute an order on behalf of the incapable person.

(b) Makes conforming changes.

(f) Makes conforming changes.

SECTION 7. Amends Sections 166.089(d), (h), and (i), Health and Safety Code, as follows:

(d) Includes the signature or digital or electronic signature of an attending physician, PA, or APRN, rather than an attending physician only, among certain information necessary for an order form to be valid.

(h) Makes conforming and nonsubstantive changes.

(i) Makes conforming changes.

SECTION 8. Amends Section 166.092(b), Health and Safety Code, to provide that an oral revocation of an order takes effect only when the declarant or certain representatives of the declarant who executed the order communicated the intent to revoke the order to the responding health care professionals or the person's attending physician, PA, or APRN, rather than the attending physician only. Makes conforming changes.

SECTION 9. Amends Section 166.095(c), Health and Safety Code, as follows:

(c) Requires a person's attending physician, PA, or APRN, if the attending physician, PA, or APRN refuses to comply with an order, to inform the person or certain representatives of the person and, if directed, to make a reasonable effort to transfer the person to another physician, PA, or APRN willing to execute or comply with the order.

SECTION 10. Amends the heading to Section 166.102, Health and Safety Code, to read as follows:

Sec. 166.102. DNR ORDER MAY BE HONORED BY HEALTH CARE PERSONNEL OTHER THAN EMERGENCY MEDICAL SERVICES PERSONNEL.

SECTION 11. Amends Section 166.102(a), Health and Safety Code, to authorize a licensed nurse or person providing health care services in an out-of-hospital setting to honor a physician's, PA's, or APRN's, rather than only a physician's, do-not-resuscitate order.

SECTION 12. Amends Sections 193.005(a), (b), and (c), Health and Safety Code, as follows:

(a) Requires a person required to file a death certificate or fetal death certificate to obtain the required medical certification from the decedent's attending physician or a PA or APRN, rather than attending physician only, if the death occurred under the care of the person in connection with, rather than medical attendance for the care and, treatment of the condition or disease process that contributed to the death.

(b) Makes conforming changes.

(c) Authorizes certain persons, including a PA or APRN at the institution where the death occurred, to complete the medical certification under certain conditions. Makes conforming and nonsubstantive changes.

SECTION 13. Amends Section 671.001(d), Health and Safety Code, to include an APRN among the persons authorized to determine and pronounce a person dead,

SECTION 14. Amends Section 671.002(a), Health and Safety Code, to include an APRN among certain persons who when determining death are not liable for civil damages or subject to criminal prosecutions for actions based on the determination of death.

SECTION 15. Effective date: upon passage or September 1, 2017.