

BILL ANALYSIS

Senate Research Center

S.B. 80
By: Perry
Health & Human Services
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

A Do-Not-Resuscitate (DNR) Order is a medical directive that instructs medical professionals not to perform certain cardiopulmonary resuscitation (CPR) and other life-sustaining procedures if the patient suffers cardiac or respiratory arrest.

Current Texas law is silent on requirements for the authorization, execution, or revocation of a DNR Order in a hospital setting. Chapter 166, Health and Safety Code, only addresses Out-Of-Hospital Do-Not-Resuscitate Orders. Doctors can (and have) unilaterally written DNR Orders for patients without discussion, let alone consent, from either the patient or a surrogate decision-maker.

S.B. 80 expressly applies to a DNR order used in a health care facility, hospital, or assisted living facility or in hospice settings, including hospice services provided by a home and community support services agency and expressly does not apply to an out of hospital DNR order as defined under the Advance Directives Act.

S.B. 80 contains a number of provisions where a DNR order issued for a patient in certain settings is valid and requires notification of family or surrogates.

As proposed, S.B. 80 amends current law relating to general procedure and requirements for do-not-resuscitate orders.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to executive commissioner of the Health and Human Services Commission in SECTION 2 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 166, Health and Safety Code, by adding Section 166.012, as follows:

Sec. 166.012. GENERAL PROCEDURES AND REQUIREMENTS FOR DO-NOT-RESUSCITATE ORDERS. (a) Defines "DNR order."

(b) Provides that this section applies to a DNR order used in a health care facility, hospital, or assisted living facility or in hospice settings, including hospice services provided by a home and community support services agency. Provides that this section does not apply to an out-of-hospital DNR order as defined by Section 166.081 (Definitions).

(c) Provides that a DNR order issued for a patient is valid only if the order:

(1) is issued in compliance with certain criteria; or

(2) is not contrary to the directions of a patient who was competent at the time the patient conveyed the directions and, in the reasonable medical judgment of the patient's attending physician, the patient's death is

imminent, regardless of the provision of cardiopulmonary resuscitation, and the DNR order is medically appropriate.

(d) Requires that the order, if an individual described by Section 166.039(b)(1) (relating to authorizing the patient's spouse to make a treatment decision that may include a decision to withhold or withdraw life-sustaining treatment), (2) (relating to authorizing the patient's reasonably available adult children to make a treatment decision that may include a decision to withhold or withdraw life-sustaining treatment), or (3) (relating to authorizing the patient's parents to make a treatment decision that may include a decision to withhold or withdraw life-sustaining treatment) arrives at the facility and notifies the facility of the individual's arrival after a DNR order is issued under Subsection (c)(2), be disclosed to the individual in accordance with the priority established under Section 166.039(b) (relating to authorizing the attending physician and one certain person, if the patient does not have a legal guardian or an agent under a medical power of attorney, to make a treatment decision that may include a decision to withhold or withdraw life-sustaining treatment).

(e) Authorizes the facility to satisfy the notice requirement under Subsection (d) by notifying one person in accordance with the priority established under Section 166.039(b). Provides that the facility is not required to notify additional persons beyond the first person notified.

(f) Provides that a DNR order takes effect at the time the order is issued, provided the order is placed in the patient's medical record as soon as practicable.

(g) Requires the facility or service provider, on admission to a health care facility or on initial provision of hospice services, as applicable, to provide to the patient or person authorized to make treatment decisions on behalf of the patient notice of the policies of the facility or service provider regarding the rights of the patient and person authorized to make treatment decisions on behalf of the patient under this section.

SECTION 2. Requires the executive commissioner of the Health and Human Services Commission to adopt rules necessary to implement Section 166.012, Health and Safety Code, as added by this Act, as soon as practicable after the effective date of this Act.

SECTION 3. Makes application of Section 166.012, Health and Safety Code, as added by this Act, prospective.

SECTION 4. Effective date: January 15, 2018.