

## **BILL ANALYSIS**

Senate Research Center

H.B. 880  
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Jurisprudence  
4-24-97  
Engrossed

### **DIGEST**

Currently, there are two types of living wills and advanced directives in Texas, directive to physicians and a durable power of attorney for health care. Current law establishes different witness qualifications for each type of directive and provides unnecessary requirements which undermine the patient-physician confidentiality. This bill conforms witness qualifications for a directive to physicians and a durable power of attorney for health care into a standard qualification and removes the witness requirement from situations in which a physician-family decision is being made without an already existing patient directive.

### **PURPOSE**

As proposed, H.B. 880 conforms witness qualifications for a directive to physicians and a durable power of attorney for health care into a standard qualification and removes the witness requirement from situations in which a physician-family decision is being made without an already existing patient directive.

### **RULEMAKING AUTHORITY**

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

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 672.003(c), Health and Safety Code, to prohibit a witness from being a person designated by a declarant to make a treatment decision; or an officer, director, partner, or business office employee of the health care facility, or of any parent organization of the health care facility, rather than an employee directly involved in the financial affairs of the facility, and a person who at the time a written directive is executed or if the directive is a nonwritten directive issued under Section 672.005, at the time the nonwritten directive is issued. Deletes existing Subdivision (6). Makes conforming changes.

SECTION 2. Amends Section 672.004, Health and Safety Code, to provide the form of a written directive.

SECTION 3. Amends Sections 672.009(d) and (e), Health and Safety Code, to require a treatment decision made under Subsection (b) to be documented in the patient's medical record and signed by the attending physician, rather than made in the presence of certain persons. Requires a treatment decision to be witnessed by another physician who is not involved in the treatment of the patient, if the patient does not have a legal guardian and a person listed in Subsection (b) is not available.. Makes a conforming change.

SECTION 4. Effective date: January 1, 1998.  
Makes application of this Act prospective.

SECTION 5. Emergency clause.