

## **BILL ANALYSIS**

Senate Research Center  
78R8244 T

S.B. 1320  
By: Nelson  
Health & Human Services  
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### **DIGEST AND PURPOSE**

The 76th Texas Legislature created the "Advance Directives Act." The United States Supreme Court has held that individuals have a constitutional right to consent or refuse to consent to medical treatment. As proposed, S.B. 1320 amends the Advance Directives Act to clarify the scope and applicability of certain provisions of the Act and to provide additional information to patients or their surrogate decisionmakers regarding its effects.

### **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 Subsection (7), Section 166.002, Health and Safety Code, to redefine "health care or treatment decision."

SECTION 2. Amends Section 166.046, Health and Safety Code, by amending the heading of the section and Subsections (a), (b) and (e), inserting new Subsections (f) and (g), and renumbering subsequent subsections accordingly, as follows:

Sec. 166.046. PROCEDURE IF NOT EFFECTUATING A DIRECTIVE OR TREATMENT DECISION. (a) Requires the physician's refusal, if an attending physician refuses to honor a health care treatment decision made by or on behalf of a patient, to be reviewed by an ethics or medical committee.

(b) Requires the patient or the person responsible for the health care decisions to be provided with certain information.

(e) Adds new language to existing text relating to a person responsible for health care decisions of a patient requesting life-sustaining treatment.

(f) Provides that a physician, nurse or other person acting under the direction of a physician who participates in the stopping or withholding of cardiopulmonary resuscitation from a qualified patient, is not civilly or criminally liable for failure to provide resuscitation if, in reasonable medical judgment, the patient's death would occur within minutes to hours regardless of the provision of resuscitation.

(g) Authorizes the review process described in this section, if during a previous admission to a facility, a patient's attending physician and the review process under Subsection (b) have determined that life-sustaining treatment is inappropriate, and the patient is readmitted to the same facility within six months from the date of the decision reached during the review process conducted upon the previous admission, to be omitted if the patient's attending physician and a consulting physician who is a member of the ethics or medical committee of the facility document on the patient's readmission that the patient's condition either has not changed or has deteriorated since the review process was conducted.

Redesignates Subsections (f)- (h) as (h)-(j).

SECTION 3. Amends Chapter 166, Health and Safety Code, by adding Section 166.052, as follows:

Sec. 166.052. STATEMENTS EXPLAINING PATIENT'S RIGHT TO TRANSFER. (a) Sets forth the language in a statement in cases in which the attending physician refuses to honor an advance directive or treatment decision requesting the provision of life-sustaining treatment.

(b) Sets forth the language in a statement in cases in which the attending physician refuses to honor an advance directive or treatment decision requesting the withholding or withdrawal of life-sustaining treatment.

(c) Authorizes an attending physician or health care facility to, if it chooses, include any additional information concerning the physician's or facility's policy, perspective, experience, or review procedure.

SECTION 4. Amends Chapter 166, Health and Safety Code, by adding Section 166.053, as follows:

Sec. 166.053. REGISTRY TO ASSIST TRANSFERS. (a) Requires the Texas Health Care Information Council (council) to maintain a registry listing the identity of and contact information for health care providers and referral groups, situated inside and outside the State of Texas, that have voluntarily notified the council they may consider accepting, or may assist in locating a provider willing to accept transfer of a patient under Sections 166.045 or 166.046.

(b) Provides that the listing of a provider or referral group in the registry described in this section does not obligate the provider or group to accept transfer of, or provide services to, any particular patient.

(c) Requires the council to post the current registry list on its website in a form appropriate for easy comprehension by patients and persons responsible for the health care decisions of patients and to provide a clearly identifiable link from its home page to the registry page. Requires the list to separately indicate those providers and groups that have indicated their interest in assisting the transfer of certain patients.

(d) Requires the registry list described in this section to include the following disclaimer:

"This registry lists providers and groups that have indicated to the Texas Health Care Information Council their interest in assisting the transfer of patients in the circumstances described, and is provided for information purposes only. Neither the Texas Health Care Information Council nor the State of Texas endorses or assumes any responsibility for any representation, claim or act of the listed providers or groups."

SECTION 5. Amends Section C, Chapter 166, Health and Safety Code, by adding Section 166.102, as follows:

Sec. 166.102. PHYSICIAN'S DO-NOT-RESUSCITATE ORDER MAY BE HONORED BY NON-EMS HEALTH CARE PROFESSIONALS. (a) Authorizes a health care professional, except as provided by Subsection (b) of this section, to honor a physician's do-not-resuscitate order in an out-of-hospital setting.

(b) Provides that Subsection (a) does not apply to emergency medical services personnel, who must honor only a properly completed Out-of-Hospital DNR

Order in accordance with this subchapter.

SECTION 6. Effective date: upon passage or September 1, 2003.