

BILL ANALYSIS

Senate Research Center
80R4982 YDB-F

S.B. 439
By: Deuell
Health and Human Services
4/10/2007
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, if a physician refuses to honor the advance directive or treatment decision, the physician's decision must be reviewed by an ethics or medical committee, during which time life-sustaining treatment is required to be provided to the patient. Some hospitals are withdrawing life-sustaining treatment from patients before they can be transferred to an alternative facility, often resulting in their death.

As proposed, S.B. 439 requires life-support treatment to continue to be provided to the patient until their transfer to another facility is complete and the facility from which the patient is being transferred is required to provide a list of facilities, maintained by the Department of State Health Services, that have volunteered their readiness to accept transfers. The bill ensures the rights of patients and their families in deciding to accept or reject life-sustaining treatment, improves the doctor-patient relationship, allows doctors to refuse to continue a treatment that conflicts with their personal code of ethics, strengthens the power and legitimacy of advanced directives, and promotes the public's trust in hospitals.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Authorizes this Act to be cited as the Patient and Family Treatment Choice Rights Act of 2007.

SECTION 2. Provides that the purpose of this Act is to protect the right of patients and their families to choose or reject life-sustaining treatment. Amends the applicable provisions of the Advance Directives Act (Chapter 166, Health and Safety Code) to ensure that the request of a patient or a patient's families request is honored.

SECTION 3. Amends Section 166.045(c), Health and Safety Code, as follows:

(c) Requires that if an attending physician refuses to comply with a directive or treatment decision requesting the provision of life-sustaining treatment to a patient and either the attending physician does not wish to follow the procedure established under Section 166.046 or the procedure is not applicable, the appropriate life-sustaining treatment is to be provided to the patient until the patient is transferred to another physician or health care facility willing to comply with the directive or treatment decision when the patients, rather than until after a there has been a reasonable attempt to transfer the patient.

SECTION 4. Amends Sections 166.046(a) and (e), Health and Safety Code, as follows:

(a) Requires an ethics or medical committee to review a physician's refusal to honor a directive in situations when it does not concern a directive or decision to provide artificial nutrition and hydration to the patient.

(e) Deletes existing text providing that the physician and the health care facility are not obligated to provide life-sustaining treatment for a period exceeding 10 days, under certain conditions.

SECTION 5. Amends Section 166.051, Health and Safety Code, as follows:

Sec. 166.051. LEGAL RIGHT OR RESPONSIBILITY NOT AFFECTED. Makes conforming changes.

SECTION 6. Amends Section 166.052(a), Health and Safety Code, as follows:

(a) Makes conforming changes to the statement required by Section 166.046(b)(3) for cases when the physician refuses to honor the advance directive or treatment decision requesting the provision of life-sustaining treatment, other than a directive or decision to provide artificial nutrition and hydration. Requires the statement to include a reference to information maintained by the Department of State Health Services, rather than the Texas Health Care Information Council, regarding health care providers and referral groups that have volunteered their readiness to consider accepting transfer, or to assist in locating a provider willing to accept transfer. Deletes sections relating to the authorization of life-sustaining treatment being withdrawn, and requests for an extension to continue life-sustaining treatment beyond a 10-day period.

SECTION 7. Repealer: Sections 166.046(f) (regarding prohibiting life-sustaining treatment from being entered into the medical record) and (g) (requiring the appropriate district or county court to continue life-sustaining treatment beyond a 10-day period at the request of the patient or the person responsible for the health care decision of the patient), Health and Safety Code.

SECTION 8. Effective date: upon passage or September 1, 2007.