

By: Deuell, et al.

S.B. No. 439

Substitute the following for S.B. No. 439:

By: Cohen

C.S.S.B. No. 439

A BILL TO BE ENTITLED

AN ACT

1
2 relating to advance directives and health care and treatment
3 decisions.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 166.002, Health and Safety Code, is
6 amended by amending Subdivision (6) and adding Subdivision (16) to
7 read as follows:

8 (6) "Ethics or medical committee" means a committee
9 established under Sections 161.031-161.033 or a subcommittee of an
10 ethics or medical committee.

11 (16) "Surrogate" means a legal guardian, an agent
12 under a medical power of attorney, or a person authorized under
13 Section 166.039(b) to make a health care decision or treatment
14 decision for an incompetent patient under this chapter.

15 SECTION 2. Subsection (e), Section 166.039, Health and
16 Safety Code, is amended to read as follows:

17 (e) If the patient does not have a legal guardian or agent
18 under a medical power of attorney and a person listed in Subsection
19 (b) is not available, a treatment decision made under Subsection
20 (b) must be concurred with [~~in~~] by another physician who is not
21 involved in the treatment of the patient or who is a representative
22 of an ethics or medical committee of the health care facility in
23 which the person is a patient.

24 SECTION 3. Subsection (c), Section 166.045, Health and

1 Safety Code, is amended to read as follows:

2 (c) If an attending physician disagrees with a health care
3 or treatment decision of a surrogate made on behalf of an
4 incompetent patient who has been diagnosed with a terminal
5 condition that has been certified in writing by the attending
6 physician, and the attending physician [~~refuses to comply with a~~
7 directive or treatment decision and] does not wish to follow the
8 procedure established under Section 166.046, life-sustaining
9 treatment shall be provided to the patient, but only until a
10 reasonable opportunity has been afforded for the transfer of the
11 patient to another physician or health care facility willing to
12 comply with the health care [~~directive]~~ or treatment decision.

13 SECTION 4. Section 166.046, Health and Safety Code, is
14 amended to read as follows:

15 Sec. 166.046. PROCEDURE IF PHYSICIAN DISAGREES WITH HEALTH
16 CARE [~~NOT EFFECTUATING A DIRECTIVE]~~ OR TREATMENT DECISION. (a) If
17 an attending physician disagrees with the health care or treatment
18 decision of a surrogate made on behalf of an incompetent patient who
19 has been diagnosed with a terminal condition that has been
20 certified in writing by the attending physician, or permanently
21 requires an intensive care unit and according to reasonable medical
22 judgment one or more of the following therapies in order to keep the
23 patient alive for more than six months without which the patient
24 would die: mechanical ventilation, dialysis, blood pressure
25 maintenance drugs, or blood pressure maintenance devices, the
26 attending physician shall request a consultation with [~~refuses to~~
27 honor a patient's advance directive or a health care or treatment

1 ~~decision made by or on behalf of a patient, the physician's refusal~~
2 ~~shall be reviewed by~~ an ethics or medical committee under
3 Subsection (a-1). [~~The attending physician may not be a member of~~
4 ~~that committee.~~] The patient shall be given life-sustaining
5 treatment during the process described by this section [~~review~~].
6 If artificial nutrition and hydration are the only life-sustaining
7 treatment being provided to a patient with a terminal condition,
8 the process established under this section may not be invoked
9 unless reasonable medical evidence indicates the provision of
10 artificial nutrition and hydration may hasten the patient's death
11 or seriously exacerbate other major medical problems and the risk
12 of serious medical pain or discomfort that cannot be alleviated
13 based on reasonable medical judgment outweighs the benefit of
14 continued artificial nutrition and hydration.

15 (a-1) If an attending physician requests a consultation
16 with an ethics or medical committee, the ethics or medical
17 committee shall:

18 (1) appoint a patient liaison familiar with
19 end-of-life issues and hospice care options to assist the patient's
20 surrogate throughout the process described by this section; and

21 (2) appoint one or more representatives of the ethics
22 or medical committee to conduct an advisory ethics consultation
23 with the surrogate, which must be documented in the patient's
24 medical record.

25 (a-2) If a disagreement over a health care or treatment
26 decision persists following an advisory ethics consultation
27 described in Subsection (a-1)(2), the attending physician may

1 request a meeting with the ethics or medical committee and shall
2 advise the surrogate that the attending physician will initiate the
3 review process and present medical facts at the meeting described
4 in Subsection (b). The attending physician may not participate as a
5 member of the ethics or medical committee in the case being
6 evaluated.

7 (b) On receipt of a request for a meeting of the ethics or
8 medical committee as described in Subsection (a-2) [~~The patient or~~
9 the person responsible for the health care decisions of the
10 individual who has made the decision regarding the directive or
11 treatment decision]:

12 (1) not later than the seventh calendar day before the
13 date of the meeting requested under Subsection (a-2), unless the
14 time period is waived by mutual agreement, the surrogate shall:

15 (A) be offered [~~may be given~~] a written
16 description of the ethics or medical committee review process and
17 may be offered any other policies and procedures related to this
18 section adopted by the health care facility;

19 (B) be provided information that the surrogate is
20 entitled to receive the continued assistance of a patient liaison
21 to assist the surrogate throughout the process described in this
22 section;

23 (C) be provided information that the surrogate
24 may seek a second opinion from other medical professionals
25 regarding the patient's medical status and treatment requirements
26 and communicate the resulting information to the members of the
27 ethics or medical committee for consideration before the meeting;

1 (D) [~~(2)~~ shall be informed of the committee
2 review process not less than 48 hours before the meeting called to
3 discuss the patient's directive, unless the time period is waived
4 by mutual agreement;

5 [~~(3)~~ at the time of being so informed, shall] be
6 provided[+]

7 [~~(A)~~] a copy of the appropriate statement set
8 forth in Section 166.052; and

9 (E) be provided [~~(B)~~] a copy of the registry
10 list of health care providers, health care facilities, and referral
11 groups that have volunteered their readiness to consider accepting
12 transfer or to assist in locating a provider willing to accept
13 transfer that is posted on the website maintained by the department
14 [~~Texas Health Care Information Council~~] under Section 166.053; and

15 (2) if requested in writing by the surrogate, the
16 surrogate is entitled to receive:

17 (A) not later than 72 hours after the request is
18 made, a free copy of the portion of the patient's medical record
19 related to the current admission to the facility or the treatment
20 received by the patient during the preceding 30 calendar days in the
21 facility, whichever is shorter, together with requested diagnostic
22 results and reports reasonably requested by the surrogate; and

23 (B) not later than the fifth calendar day after
24 the date of the request, a free copy of the remainder of the
25 patient's medical record, if any, related to the current admission
26 to the facility.

27 (b-1) The surrogate [~~, and~~

1 ~~[(4)]~~ is entitled to:

2 (1) ~~[(A)]~~ attend and participate in the meeting,
3 excluding the committee's deliberations;

4 (2) be accompanied at the meeting at the surrogate's
5 discretion by five or more persons for support, subject to the
6 hospital's reasonable written attendance policy as necessary to:

7 (A) facilitate information sharing and
8 discussion of the patient's medical status and treatment
9 requirements; and

10 (B) preserve the order and decorum of the
11 meeting; and

12 (3) ~~[(B)]~~ receive a written explanation of the
13 decision reached during the review process.

14 (c) The written explanation required by Subsection (b-1)(3)
15 ~~[(b)(2)(B)]~~ must be included in the patient's medical record.

16 (d) If the attending physician or the surrogate~~[, the~~
17 ~~patient, or the person responsible for the health care decisions of~~
18 ~~the individual]~~ does not agree with the decision reached during the
19 review process ~~[under Subsection (b)]~~, the physician shall make a
20 reasonable effort to transfer the patient to a physician who is
21 willing to comply with the surrogate's health care or treatment
22 decision ~~[directive]. The~~ ~~[If the patient is a patient in a health~~
23 ~~care facility, the]~~ facility's personnel shall assist the physician
24 in arranging the patient's transfer to:

25 (1) another physician;

26 (2) an alternative care setting within that facility;

27 or

1 (3) another facility.

2 (e) If the surrogate [~~patient or the person responsible for~~
3 ~~the health care decisions of the patient~~] is requesting
4 life-sustaining treatment that the attending physician has decided
5 and the ethics or medical committee [~~review process~~] has affirmed
6 is medically inappropriate treatment, the patient shall be given
7 available life-sustaining treatment pending transfer under
8 Subsection (d). The patient shall receive treatment to enhance
9 pain relief and minimize suffering, which must include the
10 provision of artificial nutrition and hydration unless providing
11 the artificial nutrition and hydration would hasten death or
12 seriously exacerbate other major medical conditions and the risk of
13 serious medical pain or discomfort that cannot be alleviated based
14 on reasonable medical judgment outweighs the benefit of continued
15 artificial nutrition and hydration. The patient is responsible for
16 any costs incurred in transferring the patient to another facility.
17 The attending physician, any other physician responsible for the
18 care of the patient, and the health care facility are not obligated
19 to provide life-sustaining treatment, except for the provision of
20 artificial nutrition and hydration, unless providing the
21 artificial nutrition and hydration would hasten death or seriously
22 exacerbate other major medical conditions and the risk of serious
23 medical pain or discomfort that cannot be alleviated based on
24 reasonable medical judgment outweighs the benefit of continued
25 artificial nutrition and hydration, after the 21st calendar [~~10th~~]
26 day after the written decision required under Subsection (b) is
27 provided to the surrogate [~~patient or the person responsible for~~

1 ~~the health care decisions of the patient]~~ unless ordered to do so
2 under Subsection (g).

3 (e-1) If during a previous admission to a facility a
4 patient's attending physician and the review process [~~under~~
5 ~~Subsection (b)~~] have determined that life-sustaining treatment is
6 medically inappropriate, and the patient is readmitted to the same
7 facility within six months from the date of the decision reached
8 during the review process conducted upon the previous admission,
9 Subsections (b) through (e) need not be followed if the patient's
10 attending physician and a consulting physician who is a member of
11 the ethics or medical committee of the facility document on the
12 patient's readmission that the patient's condition either has not
13 improved or has deteriorated since the review process was
14 conducted.

15 (f) Life-sustaining treatment under this section may not be
16 entered in the patient's medical record as medically unnecessary
17 treatment until the time period provided under Subsection (e) and
18 Section 166.0465, if applicable, has expired.

19 (g) At the request of the patient or the surrogate [~~person~~
20 ~~responsible for the health care decisions of the patient~~], the
21 appropriate district or county court shall extend the time period
22 provided under Subsection (e) only if the court in a proceeding
23 conducted under Section 166.0465 finds, by a preponderance of the
24 evidence, that there is a reasonable expectation that a physician
25 or health care facility that will honor the surrogate's health care
26 or treatment decision [~~patient's directive~~] will be found if the
27 time extension is granted.

1 (h) This section may not be construed to impose an
2 obligation on a facility or a home and community support services
3 agency licensed under Chapter 142 or similar organization that is
4 beyond the scope of the services or resources of the facility or
5 agency. This section does not apply to hospice services provided by
6 a home and community support services agency licensed under Chapter
7 142.

8 SECTION 5. Subchapter B, Chapter 166, Health and Safety
9 Code, is amended by adding Section 166.0465 to read as follows:

10 Sec. 166.0465. COURT ORDER FOR LIFE-SUSTAINING TREATMENT;
11 APPEAL; FILING FEE AND COURT COSTS. (a) A patient's surrogate may
12 submit a motion for extension of time to effect a patient transfer
13 for relief under Section 166.046(g) in any county court at law,
14 court having probate jurisdiction, or district court, including a
15 family district court and immediately serve a copy on the health
16 care facility.

17 (b) The court shall set a time for a hearing on a motion
18 filed under Subsection (a) and shall keep a record of all testimony
19 and other oral proceedings in the action. The court shall rule on
20 the motion and issue written findings of fact and conclusions of law
21 not later than the fifth business day after the date the motion is
22 filed with the court. The time for the hearing and the date by which
23 the court must rule on the motion may be extended by stipulation of
24 the parties, with the approval of the court.

25 (c) Any party may appeal the decision of the court under
26 Subsection (b) to the court of appeals having jurisdiction over
27 civil matters in the county in which the motion was filed by filing

1 a notice of appeal with the clerk of the court that ruled on the
2 motion not later than the first business day after the day on which
3 the decision of the court was issued.

4 (d) On receipt of a notice of appeal under Subsection (c),
5 the clerk of the court that ruled on the motion shall deliver a copy
6 of the notice of appeal and record on appeal to the clerk of the
7 court of appeals. On receipt of the notice and record, the clerk of
8 the court of appeals shall place the appeal on the docket of the
9 court, and the court of appeals shall promptly issue an expedited
10 briefing schedule and set a time for a hearing.

11 (e) The court of appeals shall rule on an appeal under
12 Subsection (d) not later than the fifth business day after the date
13 the notice of appeal is filed with the court that ruled on the
14 motion. The times for the filing of briefs, the hearing, and the
15 date by which the court of appeals must rule on the appeal may be
16 extended by stipulation of the parties, with the approval of the
17 court of appeals.

18 (f) Any party may file a petition for review of the decision
19 of the court of appeals with the clerk of the supreme court not
20 later than the third business day after the day on which the
21 decision of the court of appeals was issued. Other parties may file
22 responses not later than the third business day after the day on
23 which the petition for review was filed. The supreme court shall
24 grant the petition, deny it, refuse it, or dismiss it for want of
25 jurisdiction, whether or not a reply to any response has been filed,
26 not later than the third business day after the day on which the
27 response was due. If the supreme court grants the petition for

1 review, it shall exercise its sound discretion in determining how
2 expeditiously to hear and decide the case.

3 (g) If a motion is filed under Subsection (a),
4 life-sustaining treatment shall be provided through midnight of the
5 day by which a notice of appeal must be filed unless the court
6 directs that it be provided for a longer period. If a notice of
7 appeal under Subsection (c) is filed, life-sustaining treatment
8 shall be provided through midnight of the day by which a petition
9 for review to the supreme court must be filed, unless the court of
10 appeals directs that it be provided for a longer period. If a
11 petition for review to the supreme court is filed under Subsection
12 (f), life-sustaining treatment shall be provided through midnight
13 of the day on which the supreme court denies, refuses, or dismisses
14 the petition or issues a ruling on the merits, unless the supreme
15 court directs that it be provided for a longer period.

16 (h) A filing fee or court cost may not be assessed for any
17 proceeding in a trial or appellate court under this section.

18 SECTION 6. Subsections (a) and (b), Section 166.052, Health
19 and Safety Code, are amended to read as follows:

20 (a) In cases in which the attending physician disagrees with
21 a [~~refuses to honor an advance directive or~~] treatment decision
22 requesting the provision of life-sustaining treatment, the
23 statement required by Section 166.046(b)(1)(D) [~~166.046(b)(2)(A)~~]
24 shall be in substantially the following form:

25 When There Is A Disagreement About Medical Treatment: The
26 Physician Recommends Against Certain Life-Sustaining Treatment
27 That You Wish To Continue

1 You have been given this information because you have
2 requested life-sustaining treatment[~~r~~]* on behalf of the patient,
3 which the attending physician believes is not medically
4 appropriate. This information is being provided to help you
5 understand state law, your rights, and the resources available to
6 you in such circumstances. It outlines the process for resolving
7 disagreements about treatment among patients, families, and
8 physicians. It is based upon Section 166.046 of the Texas Advance
9 Directives Act, codified in Chapter 166 of the Texas Health and
10 Safety Code.

11 When an attending physician disagrees with a [~~refuses to~~
12 ~~comply with an advance directive or other~~] request for
13 life-sustaining treatment because of the physician's medical
14 judgment that the treatment would be medically inappropriate, the
15 case will be reviewed by an ethics or medical committee.
16 Life-sustaining treatment will be provided through the review.

17 As the patient's decision-maker, you [~~You~~] will receive
18 notification of this review at least seven calendar days [~~48 hours~~]
19 before a meeting of the committee related to your case. [~~You are~~
20 ~~entitled to attend the meeting.~~] With your agreement, the meeting
21 may be held sooner than seven calendar days [~~48 hours~~], if possible.

22 The committee will appoint a patient liaison to assist you
23 through this process. You are entitled to attend the meeting,
24 address the committee, and be accompanied by five or more persons,
25 at your discretion, to support you, subject to the hospital's
26 reasonable written attendance policy to facilitate information
27 sharing and discussion of the patient's medical status and

1 treatment requirements and preserve the order and decorum of the
2 meeting. On written request, you are also entitled to receive:

3 (1) not later than 72 hours after the request is made,
4 a free copy of the portion of the patient's medical record related
5 to the patient's current admission to the facility or the treatment
6 received by the patient during the preceding 30 calendar days in the
7 facility, whichever is shorter, together with requested diagnostic
8 results and reports reasonably requested by you on behalf of the
9 patient; and

10 (2) not later than the fifth calendar day following
11 the request, a free copy of the remainder of the patient's medical
12 record, if any, related to the current admission to the facility.

13 You are free to seek a second opinion from other medical
14 professionals regarding the patient's medical status and treatment
15 requirements and communicate the resulting information to the
16 members of the ethics or medical committee for consideration before
17 the meeting. You are entitled to receive a written explanation of
18 the decision reached during the review process.

19 If after this review process both the attending physician and
20 the ethics or medical committee conclude that life-sustaining
21 treatment is medically inappropriate and yet you continue to
22 request such treatment, then the following procedure will occur:

23 1. The physician, with the help of the health care facility,
24 will assist you in trying to find a physician and facility willing
25 to provide the requested treatment.

26 2. You are being given a list of health care providers,
27 health care facilities, and referral groups that have volunteered

1 their readiness to consider accepting transfer, or to assist in
2 locating a provider willing to accept transfer, maintained by the
3 Department of State [Texas] Health Services [Care Information
4 Council]. You may wish to contact providers or referral groups on
5 the list or others of your choice to get help in arranging a
6 transfer.

7 3. The patient will continue to be given life-sustaining
8 treatment and treatment to enhance pain management and reduce
9 suffering, including artificial nutrition and hydration, unless
10 providing the artificial nutrition and hydration would hasten death
11 or seriously exacerbate other major medical conditions and the risk
12 of serious medical pain or discomfort that cannot be alleviated
13 based on reasonable medical judgment outweighs the benefit of
14 continued artificial nutrition and hydration, until the patient [he
15 or she] can be transferred to a willing provider for up to 21
16 calendar [10] days from the time you were given the committee's
17 written decision that life-sustaining treatment is not medically
18 appropriate.

19 4. If a transfer can be arranged, the patient will be
20 responsible for the costs of the transfer.

21 5. If a provider cannot be found willing to give the
22 requested treatment within 21 calendar [10] days, life-sustaining
23 treatment may be withdrawn unless a court of law has granted an
24 extension.

25 6. You may ask the appropriate district or county court to
26 extend the 21-day [10-day] period if the court finds that there is a
27 reasonable expectation that a physician or health care facility

1 willing to provide life-sustaining treatment will be found if the
2 extension is granted.

3 *"Life-sustaining treatment" means treatment that, based on
4 reasonable medical judgment, sustains the life of a patient and
5 without which the patient will die. The term includes both
6 life-sustaining medications and artificial life support, such as
7 mechanical breathing machines, kidney dialysis treatment, and
8 artificial nutrition and hydration. The term does not include the
9 administration of pain management medication or the performance of
10 a medical procedure considered to be necessary to provide comfort
11 care, or any other medical care provided to alleviate a patient's
12 pain.

13 (b) In cases in which the attending physician disagrees with
14 a health care [~~refuses to comply with an advance directive~~] or
15 treatment decision requesting the withholding or withdrawal of
16 life-sustaining treatment, the statement required by Section
17 166.046(b)(1)(D) [~~166.046(b)(3)(A)~~] shall be in substantially the
18 following form:

19 When There Is A Disagreement About Medical Treatment: The
20 Physician Recommends Life-Sustaining Treatment That You Wish To
21 Stop

22 You have been given this information because you have
23 requested the withdrawal or withholding of life-sustaining
24 treatment* on behalf of the patient and the attending physician
25 disagrees [~~refuses to comply~~] with that request. The information
26 is being provided to help you understand state law, your rights, and
27 the resources available to you in such circumstances. It outlines

1 the process for resolving disagreements about treatment among
2 patients, families, and physicians. It is based upon Section
3 166.046 of the Texas Advance Directives Act, codified in Chapter
4 166 of the Texas Health and Safety Code.

5 When an attending physician disagrees [~~refuses to comply~~]
6 with a [~~an advance directive or other~~] request for withdrawal or
7 withholding of life-sustaining treatment for any reason, the case
8 will be reviewed by an ethics or medical committee.
9 Life-sustaining treatment will be provided through the review.

10 As the patient's decision-maker, you [~~You~~] will receive
11 notification of this review at least seven calendar days [~~48 hours~~]
12 before a meeting of the committee related to your case. You are
13 entitled to attend the meeting. With your agreement, the meeting
14 may be held sooner than seven calendar days [~~48 hours~~], if possible.

15 You will be appointed a patient liaison familiar with
16 end-of-life issues and hospice care options to assist you
17 throughout this process. A representative of the ethics or medical
18 committee will also conduct an advisory consultation with you.

19 On written request you are entitled to receive:

20 (1) not later than 72 hours after the request is made,
21 a free copy of the portion of the patient's medical record related
22 to the current admission to the facility or the treatment received
23 by the patient during the preceding 30 calendar days in the
24 facility, whichever is shorter, together with requested diagnostic
25 results and reports reasonably requested by you on behalf of the
26 patient; and

27 (2) not later than the fifth calendar day following

1 the date of the request, a free copy of the remainder of the
2 patient's medical record, if any, related to the current admission
3 to the facility.

4 You are free to seek a second opinion from other medical
5 professionals regarding the patient's medical status and treatment
6 requests and communicate the resulting information to the members
7 of the ethics or medical committee for consideration before the
8 meeting.

9 You are entitled to receive a written explanation of the
10 decision reached during the review process.

11 If you or the attending physician do not agree with the
12 decision reached during the review process, and the attending
13 physician still disagrees [~~refuses to comply~~] with your request to
14 withhold or withdraw life-sustaining treatment, then the following
15 procedure will occur:

16 1. The physician, with the help of the health care facility,
17 will assist you in trying to find a physician and facility willing
18 to withdraw or withhold the life-sustaining treatment.

19 2. You are being given a list of health care providers,
20 health care facilities, and referral groups that have volunteered
21 their readiness to consider accepting transfer, or to assist in
22 locating a provider willing to accept transfer, maintained by the
23 Department of State [~~Texas~~] Health Services [~~Care Information~~
24 ~~Council~~]. You may wish to contact providers or referral groups on
25 the list or others of your choice to get help in arranging a
26 transfer.

27 *"Life-sustaining treatment" means treatment that, based on

1 reasonable medical judgment, sustains the life of a patient and
2 without which the patient will die. The term includes both
3 life-sustaining medications and artificial life support, such as
4 mechanical breathing machines, kidney dialysis treatment, and
5 artificial nutrition and hydration. The term does not include the
6 administration of pain management medication or the performance of
7 a medical procedure considered to be necessary to provide comfort
8 care, or any other medical care provided to alleviate a patient's
9 pain.

10 SECTION 7. Subchapter B, Chapter 166, Health and Safety
11 Code, is amended by adding Section 166.054 to read as follows:

12 Sec. 166.054. REPORTING REQUIREMENTS REGARDING ETHICS OR
13 MEDICAL COMMITTEE PROCESSES OF DATA. (a) On submission of a
14 health care facility's application to renew its license, a facility
15 in which one or more meetings of an ethics or medical committee is
16 held shall file a report with the department that contains
17 aggregate information regarding the number of cases considered by
18 an ethics or medical committee under Section 166.046(a-2) and the
19 disposition of those cases by the facility.

20 (b) Aggregate data submitted to the department under this
21 section may include only the following:

22 (1) the total number of patients for whom the Section
23 166.046(b) review process was initiated;

24 (2) the number of patients under Subdivision (1) who
25 were transferred to:

26 (A) another physician within the same facility;

27 or

1 (B) a different facility;

2 (3) the number of patients under Subdivision (1) who
3 were discharged to home;

4 (4) the number of patients under Subdivision (1) for
5 whom treatment was withheld or withdrawn pursuant to surrogate
6 consent:

7 (A) before the Section 166.046(b) review
8 consultation;

9 (B) after the Section 166.046(b) review
10 consultation; or

11 (C) during or after the 21-day period described
12 by Section 166.046(e);

13 (5) the number of patients under Subdivision (1) for
14 whom treatment was withheld or withdrawn without surrogate consent:

15 (A) before expiration of the 21-day period; or

16 (B) after expiration of the 21-day period;

17 (6) the number of patients under Subdivision (1) who
18 died while still receiving life-sustaining treatment:

19 (A) before the Section 166.046(b) review
20 consultation;

21 (B) during the 21-day period; or

22 (C) during extension of the 21-day period, if
23 any; and

24 (7) the average length of stay before a Section
25 166.046(b) review consultation.

26 (c) The report required by this section may not contain any
27 data specific to an individual patient.

1 (d) The department shall adopt rules to:

2 (1) establish a standardized form for the reporting
3 requirements of this section; and

4 (2) post on the department's Internet website the data
5 submitted under Subsection (b) in the format provided by rule.

6 SECTION 8. Subsections (a) and (c), Section 166.082, Health
7 and Safety Code, are amended to read as follows:

8 (a) A competent adult [~~person~~] may at any time execute a
9 written out-of-hospital DNR order directing health care
10 professionals acting in an out-of-hospital setting to withhold
11 cardiopulmonary resuscitation and certain other life-sustaining
12 treatment designated by the board.

13 (c) If the person is incompetent but previously executed or
14 issued a directive to physicians in accordance with Subchapter B
15 requesting that all treatment, other than treatment necessary for
16 keeping the person comfortable, be discontinued or withheld, the
17 physician may rely on the directive as the person's instructions to
18 issue an out-of-hospital DNR order and shall place a copy of the
19 directive in the person's medical record. The physician shall sign
20 the order in lieu of the person signing under Subsection (b).

21 SECTION 9. Subsection (d), Section 166.152, Health and
22 Safety Code, is amended to read as follows:

23 (d) The principal's attending physician shall make
24 reasonable efforts to inform the principal of any proposed
25 treatment or of any proposal to withdraw or withhold treatment
26 before implementing an agent's health care decision [~~advance~~
27 ~~directive~~].

1 SECTION 10. (a) Not later than November 1, 2007, the
2 Supreme Court of Texas shall issue the rules and prescribe the forms
3 necessary for the process established by Section 166.0465, Health
4 and Safety Code, as added by this Act. The rules shall prescribe
5 the method of service of the application under Section 166.0465,
6 Health and Safety Code, and may require filing and service of
7 notices, petitions, and briefs electronically to the extent the
8 Supreme Court of Texas considers appropriate.

9 (b) Not later than March 1, 2008, the executive commissioner
10 of the Health and Human Services Commission shall adopt the rules
11 necessary to implement the changes in law made by this Act to
12 Chapter 166, Health and Safety Code.

13 SECTION 11. This Act takes effect September 1, 2007.