

## **BILL ANALYSIS**

H.B. 2609  
By: Parker  
Public Health  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Under the Advance Directives Act, patients have the right to express in writing whether they want life-sustaining treatment if they become unable to make medical decisions for themselves. Many patients may be surprised to learn that the same law that gives them the right to document their desire for life-sustaining treatment also gives a health care provider the right to withdraw that treatment, overriding their written directives and the objections of their family. In case of such a decision by the provider, a family has only a 10-day window to transfer their loved one to a different facility before basic life-sustaining measures are discontinued. If the family cannot find another facility in 10 days the doctor can remove the treatment, hastening the patient's death. H.B. 2609 seeks to protect a patient's right to life by requiring that when a physician refuses to honor a patient's or surrogate's medical directives, the physician must continue to provide treatment until a facility that will provide the treatment is located and the patient is transferred.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

H.B. 2609 amends the Health and Safety Code to require that, if a patient's attending physician refuses to honor a patient's advance directive or a health care or treatment decision made by or on behalf of a patient, other than a directive or decision to provide artificial nutrition and hydration to the patient, the patient must be given life-sustaining treatment during the required review by an ethics or medical committee and until the patient is transferred to another physician or health care facility willing to comply with the directive or treatment decision to provide life-sustaining treatment. The bill replaces certain references to a decision made by the ethics or medical committee with references to recommendations made by the committee.

H.B. 2609 removes provisions making the patient responsible for any costs incurred in transferring the patient to another facility and establishing that the attending physician, any other physician responsible for the care of the patient, and the health care facility are not obligated to provide life-sustaining treatment after the 10th day after the written decision of the ethics or medical review committee and the patient's medical record are provided to the patient or to the person responsible for the health care decisions of the patient, unless the 10-day period is extended by a district or county court.

H.B. 2609 removes a requirement that the patient or the responsible person who has made the decision regarding the directive or treatment be provided, in connection with the committee's review, a copy of a certain statement explaining the patient's right to transfer to another physician or facility and repeals provisions setting out the form and content of the notice. The bill establishes the purposes of its provisions. The bill amends the Government Code to make a conforming change.

H.B. 2609 repeals the following provisions of the Health and Safety Code:

- Section 166.046(g); and
- Section 166.052.

**EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2021.