

- SUBJECT:** Consolidating statutes governing living wills and other advance directives
- COMMITTEE:** Public Health — favorable, with amendment
- VOTE:** 5 ayes — Berlanga, Hirschi, Davila, Glaze, Maxey
0 nays
3 absent — Coleman, Delisi, Janek
- SENATE VOTE:** On final passage, April 2 — 31-0
- WITNESSES:** For — Larry A. Farrow, Texas Hospice Association; Elizabeth Sjoberg, Texas Hospital Association; Steve Montgomery, Harris Methodist Health System; Mary Jo Magruder, Texas Planning Council for Developmental Disabilities; Greg Hooser, Texas Hospice Organization; Jonas Schwartz, United Cerebral Palsy of Texas; Anne Heiligenstein, Texas Conference of Catholic Health Facilities

Against — Burke Balch, National Right to Life Committee; Joseph Kral, Texas Right to Life Committee
- DIGEST:** SB 414 would amend the Health and Safety Code to consolidate three separate chapters regarding living wills and other forms of advanced directives under one chapter. The bill would make the following substantive changes to existing statutes:
- The definition of terminal condition would be modified to automatically include a person admitted to a hospice.
 - Doctors, health care facilities, and other health care professionals could not require that advanced directives be notarized or be completed on specific forms.
 - Adults delegated decisionmaking powers under a durable power of attorney would have primary authority, along with legal guardians, in making treatment decisions in consultation with the attending physician.

- Physicians and facilities would be protected from civil liability for following advance directives when done “in good faith” rather than “unless negligent.”
- Facilities would have to inform patients on admittance of their advance directive policies.

SB 414 would take effect January 1, 1998, and would apply only to documents executed or offenses committed on or after that date.

**SUPPORTERS
SAY:**

SB 414 would consolidate three separate provisions governing living wills, out-of-hospital do-not-resuscitate orders, and durable power of attorney for health care. These statutes contain many of the same provisions, which can cause confusion when individuals try to plan for situations in which they may not be able to make their own health care decisions.

The bill would prohibit doctors, facilities, or other health care providers from requiring that these documents be notarized or that the individual use forms authorized by the facility. Providers may now require that statements be notarized to protect themselves from liability, but the notarization requirement can present a significant hurdle for nursing home residents and others who do not have ready access to a notary public.

**OPPONENTS
SAY:**

SB 414 would encourage medical professionals to participate in euthanasia; the next step would be to have physicians and nurses actually promoting the practice by denying life-saving medical treatment, fluids and foods to patients whose lives they independently decide are not worth living.

NOTES:

The amendment to SB 414 made nonsubstantive clarifications to several sections of the bill.