

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 28
By: Nelson
Health & Human Services
2/21/2007
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law provides for advance directive forms, which can be misplaced during times of transfer between health care facilities. The law does not provide for a transferable physician orders form instructing health care providers regarding a patient's end-of-life care wishes that is placed in the patient's medical records and is transferred with the patient to another facility.

C.S.S.B. 28 requires the Health and Human Services Commission to create an easily identifiable standardized physician orders form regarding the provision or withholding of life-sustaining and related treatment based on the patient's medical condition and wishes during times of transfer of the patient between facilities and between health care providers.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 4 (Section 166.212, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 166.002, Health and Safety Code, by adding Subdivision (16), to define "transferable physician orders form."

SECTION 2. Amends Subchapter A, Chapter 166, Health and Safety Code, by adding Section 166.0075, as follows:

Sec. 166.0075. PERSON'S CHOICE. (a) Authorizes a person to elect to execute or have executed on the person's behalf under this chapter a directive, an out-of-hospital DNR order, a medical power of attorney, or a transferable physician orders form.

(b) Authorizes a person to elect to execute or have executed on the person's behalf a transferable physician orders form, as an alternative to or in addition to an advance directive, for the provision or withholding of life-sustaining and related treatment based on the person's wishes.

SECTION 3. Amends Section 166.008, Health and Safety Code, as follows:

Sec. 166.008. New heading: CONFLICT BETWEEN ADVANCE DIRECTIVES AND TRANSFERABLE PHYSICIAN ORDERS. Makes conforming changes.

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

SUBCHAPTER E. TRANSFERABLE PHYSICIAN ORDERS FOR LIFE-SUSTAINING AND RELATED TREATMENT

Sec. 166.201. DEFINITIONS. Defines "advanced practice nurse," "health care professional," "health care provider," "minor," and "transferable physician orders form."

Sec. 166.202. TRANSFERABLE PHYSICIAN ORDERS. (a) Authorizes that physician orders for the provision or withholding of life-sustaining and related treatment

in accordance with the patient's wishes be entered on a transferable physician orders form that complies with this subchapter.

(b) Requires a transferable physician orders form to be executed by a physician, an advanced practice nurse who has personally examined the patient, the patient, or an authorized representative of the patient to be valid.

(c) Provides that a transferable physician orders form is effective on execution.

(d) Requires a facility that is a health care provider to keep an executed transferable physician orders form as the first page in the patient's medical record and to send the form with the patient if the patient is transferred to another facility.

Sec. 166.203. FORM OF TRANSFERABLE PHYSICIAN ORDERS. (a) Requires transferable physician orders to be contained in the standard written form specified by rule. Requires the Department of State Health Services (DSHS) and the Department of Aging and Disability Services (DADS) to develop the form.

(b) and (c) Sets forth the requirements and format of the standard form.

Sec. 166.204. DUTY OF FACILITIES FOLLOWING PATIENT TRANSFER. Requires a transferring facility to communicate the existence of the transferable physician orders form to the receiving facility before a patient with a transferable physician orders form is transferred from one health care provider that is a facility to another facility. Requires that the transferable physician orders form accompany the patient to the receiving facility, and provides that the form remains in effect following the transfer. Requires that the form be placed as the first page in the patient's medical records, and requires the receiving facility and the health care professionals at the facility to honor the transferable physician orders as provided by this subchapter until the document becomes invalid.

Sec. 166.205. PATIENT DESIRE SUPERSEDES TRANSFERABLE PHYSICIAN ORDERS. Provides that the desire of a patient, including a patient who is a minor, supersedes the effect of transferable physician orders when the desire is communicated to a health care provider.

Sec. 166.206. TRANSFERABLE PHYSICIAN ORDERS FORM PREPARED FOR MINOR PATIENT. Authorizes the patient's parents or the patient's legal guardian to execute a transferable physician orders form on behalf of a patient who is a minor.

Sec. 166.207. DURATION OF TRANSFERABLE PHYSICIAN ORDERS FORM. Provides that a transferable physician orders form remains in effect until the document is replaced or the document otherwise becomes invalid.

Sec. 166.208. LIMITATION ON CIVIL OR CRIMINAL LIABILITY. Provides that a health care provider or an employee of a health care provider is not subject to criminal or civil liability for good faith compliance with or reliance on the physician orders in a transferable physician orders form.

Sec. 166.209. HONORING TRANSFERABLE PHYSICIAN ORDERS DOES NOT CONSTITUTE OFFENSE OF AIDING SUICIDE. Provides that a person does not commit an offense under Section 22.08, Penal Code, by withholding life-sustaining or related treatment from a person in accordance with transferable physician orders executed under this subchapter.

Sec. 166.210. PREGNANT PATIENTS. Prohibits a person from withholding life-sustaining treatment under transferable physician orders executed under this subchapter from a patient known by the person to be pregnant.

Sec. 166.211. MERCY KILLING NOT CONDONED. Provides that this subchapter does not condone, authorize, or approve mercy killing or permit an affirmative or deliberate act or omission to end life except to permit the natural process of dying as provided by this subchapter.

Sec. 166.212. RULES. Requires the executive commissioner of the Health and Human Services Commission (HHSC) to adopt rules necessary to implement and administer this subchapter.

SECTION 5. (a) Requires DSHS and DADS to develop the transferable physician orders form required by Subchapter E, Chapter 166, Health and Safety Code, as added by this Act, not later than January 1, 2008.

(b) Requires the executive commissioner of HHSC to adopt the rules necessary to implement Subchapter E, Chapter 166, Health and Safety Code, as added by this Act, not later than May 1, 2008.

SECTION 6. (a) Effective date: September 1, 2007.

(b) Effective date for Sections 166.202 and 166.204, Health and Safety Code: May 1, 2008.