

Texas Advance Directives Law

Signed into law by then-Governor George W. Bush in 1999, the Texas Advance Directives Act governs end-of-life planning and the use of advance directives and end-of-life care in the absence of advance planning by patients or when a patient's wishes cannot be known.

The law has four main provisions:



provides a means for competent adults to state their wishes through a living will (advance directives) to **request** or **reject** life-sustaining treatment in the event of terminal or irreversible illness;



prohibits physician-assisted suicide or “mercy killing.”



prohibits the withholding or withdrawal of medication or treatment necessary for a patient's comfort and of artificial nutrition and hydration; and



provides a dispute resolution process when ethical disagreements arise between doctors and families of terminally or irreversibly ill patients who cannot make their treatment wishes known.

The law defines
“life-sustaining treatment” as
“treatment that, based on reasonable
medical judgment, sustains the life of
a patient and without which the
patient will die.”

Dispute Resolution

The advance directives law requires hospitals to convene ethics committees to resolve disputes that emerge when the patient's family disagrees with a physician's assessment that life-sustaining treatment be discontinued. The precise composition of the committee is not dictated by law, but typically they are composed of medical professionals not directly connected with the case under review, clergy, social workers and community leaders. The patient's attending physician is not a member of the committee but presents the medical case to the committee. This group of compassionate, informed and objective individuals examine and assess the patient's medical case to determine whether treatment should continue. Patient liaisons are usually assigned to families in these situations to help them navigate the process.

The patient's medical record, including details about any care provided within 30 days of the patient's current hospitalization, must be given to families at the same time the family is notified that the ethics committee will meet.

During the ethics committee's review, the attending physician and other health care providers are explicitly prohibited from withholding or withdrawing pain medication or any medical procedures necessary to provide comfort or alleviate pain. In addition, artificial nutrition and hydration also must be provided, unless, based on reasonable medical judgment, providing nutrition and hydration would hasten the patient's death.

If the ethics committee concurs with the treating physician(s) that life support not be maintained but the family disagrees, the family can transfer the patient to another facility that agrees to continue care. The law specifies that transfer occur within 10 days of the ethics committee decision. During that time, all life support is continued. If another facility cannot be found, the family may seek a court injunction to prevent life support from being discontinued.

Convening ethics committees to resolve disputes over care happens very rarely. Most end-of-life cases are resolved between families and medical professionals without involving an ethics committee. The most recent survey data from Texas hospitals show that the dispute resolution process was invoked just 21 times at 16 hospitals in 2011. There are more than 2.9 million hospital stays in Texas each year.

For more information, contact:

Carrie Kroll
Vice President
Advocacy, Quality and Public Health
Texas Hospital Association
512/465-1043
ckroll@tha.org

Cesar Lopez, J.D.
Associate General Counsel
Legal Services
Texas Hospital Association
512/465-1500
clopez@tha.org



1108 Lavaca, Suite 700
Austin, TX, 78701-2180
www.tha.org

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