



## Necessary Revision to Chapter 166.046 of the Texas Health & Safety Code in support of continued treatment

**Goal:** To respect the right of individuals and families to determine when life sustaining treatment should be removed. Require doctors who no longer want to treat terminally ill patients to do so until another facility willing to provide the needed care can be found.

**Problem:** The Texas Advance Directives Act (1999), also known as the Texas Futile Care Law, allows a health care facility to discontinue life-sustaining treatment against the wishes of the patient and/or guardian ten days after giving written notice from the facility ethics committee if the continuation of life-sustaining treatment is considered "futile" by the treating medical team.

**Recommendation:** The Disability Policy Consortium (DPC) recommends revisions to Chapter 166.046 of the Texas Health & Safety Code to provide "treatment pending transfer" in order to allow the individual needing life sustaining treatment to continue receiving treatment until transfer to an alternative facility can be arranged.

**Background:** The House Public Health Committee was charged with "the review of issues relating to Chapter 166.046 of the Texas Health & Safety Code, as part of that review, the committee was directed to assess if patients and/or their loved ones have sufficient opportunity to obtain transfer to an alternate facility and subsequent care in end-of-life situations." This chapter currently provides for a "10-day" time period for another facility to be found when the hospital providing the treatment determines the treatment to be futile.

With respect to the value of all people, including those with disabilities, we oppose the premise of futility laws and legislation supporting involuntary euthanasia. The ability of the doctor to overrule both the patient and their surrogate in withdrawing life-sustaining treatment is in conflict of the principles of patient autonomy and self-determination.

**Justification:** The major criticisms of the Act involve the period of time allowed to transfer, and the ability of the ethics committee to make the final decision on whether continued care is considered futile.

The current Act only provides a 10-day period for the patient's family either to find another facility to accept the patient or to obtain a court injunction to extend the time period. If no other facility will accept the patient within the period of time and the family is unable to obtain a court injunction, then the hospital is legally permitted to withdraw life sustaining-treatment from the patient, and to allow the disease/disability to bring about patient's death.

Furthermore, the ethics committee, with no regulation, oversight, monitoring, or accountability, is essentially the final decision-maker in determining whether a patient's care will continue or be terminated. The committee can decide to cease care even when 1) the patient has the financial ability (via insurance or other means) to continue to pay for care, 2) the patient has executed a living will or other written advance directive stating a desire to continue treatment, 3) the patient has communicated to the health care providers the desire to continue treatment, or 4) the patient's family members, with medical decision-making authority have communicated the desire to continue treatment.