



Defend **PATIENT DECISIONS** at the End of Life

TMA OPPOSES:

- ✘ **Senate Bill 917** by Sen. Kelly Hancock
- ✘ **House Bill 2609** by Rep. Tan Parker

Perhaps no decision we make is more personal, difficult, or profound as choosing how we wish to spend our final days, and it's one physicians encourage patients to make long before the need arises.

Texas physicians abide by the principle, "First, do no harm." Thus TMA supports the Texas Advance Directives Act as signed into law by then-Gov. George W. Bush. It enables patients to make their care preferences known before they need care, and to protect patients from unnecessary discomfort, pain, and suffering due to excessive medical intervention in the dying process.

Don't mandate inappropriate care

TMA strongly opposes any bill to legalize physician-assisted suicide or euthanasia, practices fundamentally inconsistent with the physician's role as healer.

Conversely, in previous legislative sessions, drastic proposals, if passed, would have set a dangerous precedent for the legislature to mandate physician services and treatments that could be medically inappropriate. Because medicine is an art and no human can dictate the final stages of disease, physicians need clear pathways to resolve conflict with the surrogates of our sickest patients, especially in these patients' final days when additional care may be medically inappropriate or conflict with a physician's morals and ethics.

Yet legislation proposed in 2019 would have required hospitals, physicians, nurses, and other health care professionals to provide medically inappropriate care for an unlimited time to terminally ill patients.

It also would have required a hospital – even after its ethics or medical committee under the dispute resolution process determines further treatment would be medically inappropriate – to continue providing unlimited medical interventions until the patient is transferred to another facility. Mandating care in perpetuity would prolong dying and potentially exacerbate suffering for patients and loved ones. Physicians should not be required to use their skills and technologies in a medically inappropriate way. This violates the physician's ethical principal of "First, do no harm."

Respect patient wishes

In 2017, legislation was passed that allows patient surrogates to override a patient's expressed wishes on a do-not-resuscitate (DNR) order. Physicians often are the person to whom patients disclose their wishes when faced with death. Patient wishes should be honored over those of family and friends.

A medical power of attorney (MPOA) is a useful statutory tool for patients to identify a single decisionmaker for their care when they can no longer make decisions. Probate attorneys and others have sought to muddle this ability by allowing the listing of multiple agents on the Texas MPOA form with simultaneous equal authority. This removes the efficacy of having a single surrogate decisionmaker and further complicates an already legally complex process. Medicine has suggested pathways to simplify the MPOA but preserve the intent of a single decisionmaker: use of alternative MPOA forms; liability protection for physicians who presume a form is valid in good faith; and the essential prohibition of co-agents to ensure clarity of communication.

TMA's Legislative Recommendations

- Ensure the law does not force physicians to violate the ethical principle of "First, do no harm" or usurp their moral and ethical conscience in end-of-life care.
- Amend the Chapter 166 revocation provision of current law regarding do-not-resuscitate orders to ensure patient wishes are honored over surrogate wishes.
- For medical powers of attorney, ensure dual agents are not enabled to complicate an already difficult process.
- Oppose changes that escalate conflict and legal jeopardy in end-of-life care.
- Oppose attempts to legalize physician-assisted suicide or euthanasia.



Physicians Caring for Texans