

## Resolution Repealing the Anti-Life 25-Day Rule

**Whereas**, the 88th Legislature made significant, yet incremental, improvements to Chapter 166 of the Texas Health and Safety Code (the Texas Advance Directives Act), including extending the 10-Day Rule to 25 days, prohibiting the law from being used based on “quality-of-life” judgments, and requiring hospitals to perform procedures necessary to facilitate a transfer before the countdown may begin; and

**Whereas**, Section 166.046, Texas Health and Safety Code, still enables hospitals to unilaterally withhold or withdraw a patient’s basic life-sustaining treatment (like a ventilator) against the patient’s or patient’s family’s will without any appeal; and

**Whereas**, even with the reforms, no other state has such an egregious and unethical law that violates the patient’s Right to Life by handing over critical and personal medical decisions to physicians and hospital committees comprised of strangers, rather than relying on the patient’s expressed medical decision, written directive, or designated surrogate decision-maker; and

**Whereas**, the 2022 Platform of the Republican Party of Texas asserts that we support reform of current law so that “The Advance Directives Act is strengthened by requiring hospitals intending or threatening to withdraw life-sustaining treatment against the patient’s wishes or their advance directive to continue all treatment and care for such patients pending transfer to another facility” (Plank 169); and

**Whereas**, the 2022 Platform of the Republican Party of Texas further asserts that “The discriminatory rationing of healthcare services premised on any aspect of the patient, including a patient’s age, race, sex, disability, or perceived quality of life is prohibited” (Plank 169);

**Therefore, be it resolved** that the Republican Party of \_\_\_\_\_ County recommends the Platform Committee of the State Convention update Plank 170 to read:

170. Repeal the Anti-Life 25-Day Rule: We call for the Texas Legislature to secure due process and the right to life for vulnerable Texas patients by continuing to reform Chapter 166 of the Health and Safety Code (Texas Advance Directives Act) by:

- a. Repealing the unethical, unconstitutional, unprecedented, and anti-life 25-Day Rule in Section 166.046, Health and Safety Code, and replace it with a truly life-affirming law that requires physicians to adhere to a patient’s or surrogate’s medical decision about life-sustaining treatment and that provides for physicians who disagree with the patient’s decision to transfer the patient to another physician or facility that will honor the decision to continue life-sustaining treatment.
- b. Improving language that protects Texas patients with disabilities to clarify and strengthen that disability should not be a considered factor.
- c. Guaranteeing judicial review, ensuring the ability to appeal a hospital committee’s decision and provide impartial legal recourse.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2024, at the Precinct Convention of Precinct # \_\_\_\_ of the \_\_\_\_\_ County Republican Party of Texas.

## **Background for Repealing the Anti-Life 25-Day Rule**

**Problem:** The unethical, unconstitutional, and unprecedented 25-Day Rule in the Texas Advance Directives Act (TADA) authorizes a physician to unilaterally withdraw or withhold basic life-sustaining medical treatment (like a ventilator) from a patient against the will of the patient's advance directive, expressed medical decisions, or direction of the patient's surrogate (Section 166.046, Texas Health and Safety Code). Once the physician's decision is reviewed and agreed upon by the hospital's own ethics committee, **the patient or surrogate is given only 25 days to transfer to another facility or physician willing to honor this basic medical decision of the patient before the hospital can legally pull the plug.** By providing complete civil, criminal, and administrative immunity, physicians and hospitals can commit involuntary euthanasia by removing basic life-sustaining treatment, inevitably speeding or causing the death of patients.

No other state has such an egregious law that violates the patient's Right to Life by handing over such critical and personal medical decisions to a hospital's ethics committee without even a safety mechanism for appeal and judicial review of the decision. In an amicus brief, Texas Attorney General Ken Paxton laid out why the current Texas law is unconstitutional. Like many other medical and legal scholars, Paxton concluded that "the Section 166.046 review process violates the Due Process Clause."

**Background:** After two decades of little progress, the 88th Texas Legislature passed House Bill 3162, taking significant, yet incremental, steps to reform the law, including:

- Extending the countdown from 10 to 25 days (prompting the name change to the "25-Day Rule"
- Prohibiting the law from being used based on "quality-of-life" judgments
- Protecting competent patients from the countdown
- Requiring that hospitals perform procedures necessary to facilitate a transfer before the countdown may begin
- Reporting on the use of this process.

While this legislation made a broken process more humane and restored some rights to patients, **the law still allows vulnerable patients to have their life-sustaining treatment removed against their will.**

**Solution:** Texas must secure due process and the Right to Life for vulnerable Texas patients by continuing to reform the Texas Advance Directives Act by:

- Repealing the anti-Life 25-Day Rule and replace it with a truly life-affirming law that requires physicians to adhere to a patient's or surrogate's medical decision about life-sustaining treatment and that provides for physicians who disagree with the patient's decision to transfer the patient to another physician or facility that will honor the decision to continue life-sustaining treatment.
- Improving language to protect Texas patients with disabilities, strengthening and clarifying that disability should not be a considered factor.
- Ensuring the ability to appeal a hospital committee's decision and guarantee impartial review by a judge.