

## **Resolution to Protect Patients' Right to Life**

**Whereas**, the 88th Texas Legislature made improvements to Chapter 166 of the Texas Health and Safety Code (the Texas Directives Act), extending the 10-Day Rule to 25 days, prohibiting the law from being applied to conscious patients, 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 a patient’s basic life-sustaining treatment (like a ventilator) against the patient’s and family’s expressed directives, and Section 671.001, Texas Health Safety Code enables hospitals to unilaterally withhold a patient’s basic life-sustaining treatment based on brain death, contrary to the expressed directives of the patient and family, without any appeal; and

**Whereas**, notwithstanding recent reforms, no other state has such an egregious and unethical law in addition to brain death law that denies the patient’s right to life by diverting critical, personal medical decisions to physicians and hospital committees, rather than relying on the patient’s expressed medical decision, written directive, or designated surrogate decision-maker; and

**Whereas**, the 2024 Platform of the Republican Party of Texas calls for “repealing the unethical, unconstitutional, unprecedented, and anti-life 25-Day Rule in Section 166.046, Health and Safety Code” (Plank 146); and

**Whereas**, brain death declarations are routinely weaponized against patients, and the tests used to determine brain death, particularly the apnea test, can cause further brain damage and even death, and are routinely administered without informed consent;

**Therefore, be it resolved** that the Republican Party of \_\_\_\_\_ County recommends the Platform Committee of the State Convention amend Plank 146 in the 2024 Platform to read:

146. Life-Affirming Patient Protection: We call for the Texas Legislature to secure due process and the right for vulnerable Texas patients by reforming Chapter 671 of the Health and Safety Code (Brain Death) and 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 replacing 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 disabilities of any kind should not be the excuse to remove a patient’s life-sustaining treatment.
- c. Guaranteeing judicial review, ensuring the ability to appeal a hospital committee’s decision and provide impartial legal recourse over life-and-death medical decisions.
- d. Protecting patients’ rights to opt out of the dangerous apnea test to declare brain death, receive an independent second opinion and to have their beliefs about brain death to be respected.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2026, at the Precinct Convention of Precinct # \_\_\_\_\_ of the \_\_\_\_\_ County Republican Party of Texas.

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### **Problem:**

Current Texas law allows physicians to withdraw or withhold basic life-sustaining treatment even when a patient's advance directive or surrogate demands continued care. Two legal avenues permit this: brain death and the Texas Advance Directives Act's (TADA) 25-Day Rule.

Under the 25-Day Rule (Tex. Health & Safety Code §166.046), a physician may unilaterally withdraw life-sustaining treatment (including a ventilator) against a patient's advance directive or surrogate's wishes. Once the hospital's own ethics committee affirms the decision, the family has only 25 calendar days to secure a transfer. Separately, brain death, legally recognized as death, is used to justify the premature withdrawal of life-sustaining treatment despite the lack of a uniform national standard and documented errors in current protocols.

By providing complete civil, criminal, and administrative immunity, these laws allow physicians and hospitals to remove basic life-sustaining treatment over objections from patients and their families, hastening or causing death. Patients are left without any safeguards for appeal or judicial review. No other state has such an egregious combination of laws that violate a patient's right to life.

### **Background:**

In 2023, the 88th Texas Legislature passed House Bill 3162, making incremental reforms to TADA, including:

- Banning the law's use on competent patients and decisions based on "quality-of-life" judgments
- Extending the countdown from 10 to 25 days ("25-Day Rule")
- Requiring hospitals to facilitate transfers before the countdown begins
- Requiring reporting on use of the process

In 2021, the 87th Texas Legislature failed to pass House Bill 4329, which would have protected patients and families facing a brain death prognosis by:

- Requiring confirmation by two qualified physicians and permitting an outside opinion
- Providing a 28-day delay before treatment removal
- Preventing conflicts of interest related to organ donation
- Protecting the right to invoke a religious objection

HB 4329 died in the House Public Health Committee. Current brain death law leaves patients and families vulnerable, with little transparency, independent review, or ability to pursue alternatives.

While legislation has improved patient protections, vulnerable Texans can still have life-sustaining treatment removed against their will.

### **Solution:**

Texas must secure due process and the right to life by reforming brain death law and the Texas Advance Directives Act:

- Repeal the 25-Day rule and require physicians to honor the patient's or surrogate's decision, with the options to transfer the patient if a physician objects
- Strengthen protections for patients with disabilities to stop deadly discrimination
- Guarantee the right to appeal hospital committee decisions with impartial judicial review
- Right to object to a brain death prognosis or declaration based on moral/ethical beliefs
- Require confirmation of brain death by two qualified physicians with the options to seek an independent opinion before determination is made
- Protect patients' right to opt out of the dangerous apnea test that could cause brain damage

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