



Physicians Caring for Texans

July 24, 2017

The Honorable Charles Perry
Texas State Senate
P. O. Box 12068
Austin, Texas 78768

Dear Senator Perry,

On behalf of the 50,000-plus physician and medical student members of the Texas Medical Association, I am writing to express our appreciation for your ongoing consideration of the concerns we have raised regarding Senate Bill 11.

In the spirit of cooperation, we have reviewed several proposed floor amendments to SB 11 that purport to address our concerns, most specifically regarding the lack of express liability protections for physicians who write what SB 11 defines as a “valid” do-not-resuscitate (DNR) order. Unfortunately, neither the original language nor the amendments we have seen build upon the carefully created scaffolding of the Texas Advance Directives Act. That original statutory construction was the result of months of stakeholder meetings in which the authors examined the possible outcomes — intended and otherwise — of numerous “what-if” scenarios.

Until now, we have stood by the neutrality agreement we reached on this issue during the regular session. In our previous letter regarding SB 11, we asked that the liability language be clarified so that if a physician or provider acting in good faith will not be held liable for writing or effectuating a DNR order. We asked that you clarify that only one DNR order may be in effect at a time. We have provided your office with language that addresses those and other issues and is consistent with the statutory construction of the Advance Directives Act.

The amendments we have seen not only do not meet our liability requests, they actually increase a physician’s liability. Regarding the other policy issues in the bill, the amendments are actually moving away from the regular session agreement. Not permitting evaluation of the ethical or medical appropriateness of a patient’s treatment in the medical ethics committee review process of §166.046 of current law will leave physicians with no recourse when they believe their moral and ethical conscience or professional judgement is being compromised.

SB 11 addresses one of the most difficult issues that physicians encounter in their professional careers. It addresses one of the most serious decisions that any of us might make in our lives. We must move carefully, and in concert with other stakeholders, to avoid significant, unforeseen ramifications.

Please understand that it is our desire and intention to continue to work constructively with you and Representative Bonnen on this bill. However, to be clear, the proposed floor amendments that we have seen do not adequately address all of our concerns regarding this important legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "C.J. Cardenas", written over a horizontal line.

Carlos J. Cardenas, MD
President