



HOUSE OF REPRESENTATIVES  
AUSTIN

December 18, 2019

Honorable Greg W. Abbott, Esq.  
Texas State Capitol  
Room 2S.1  
1100 Congress Avenue  
Austin, Texas 78701

Dear Governor Abbott,

The mother and family of 10-month-old Tinslee Lewis are fighting for her life at Cook Children's Hospital in Fort Worth because of the current Texas Advance Directive Act. Baby Tinslee's story has cast a state, national, and international spotlight on the unjust and unethical 10-Day Rule in Section 166.046, Texas Health and Safety Code, which explicitly authorizes the removal of any and all life-sustaining treatment to a patient after a mere 10 days' notice. During that 10-day period, the family of the patient, *not the current treating facility or physicians*, scrambles to seek a facility that will comply with the patient or surrogate's directive to continue treatment; the family only scrambles *if* they understand the nature of 10 day notice, and many do not. Transferring the patient under this draconian 10-day countdown is nearly impossible since the family is not capable of transferring their loved one without the cooperation of the adversarial hospital utilizing the law against the patient.

No other state has codified such gross deprivation of due process for the ailing and disabled, yet a dozen states have enacted a protective measure that fosters cooperation between the current facility and the family. The 10-Day Rule is a black mark on our state's record of how we care for the ailing and disabled.

The 10-Day Rule in the Texas Advance Directive Act overrides and nullifies any legal directive, medical directive, medical Power of Attorney, and medical decisions made by patients themselves or their designated surrogate. This law authorizes an internally appointed hospital committee, the members of which have no relationship to the patient, to be the final authority on this life and death decision for the patient. The law lacks any medical or ethical criteria to guide the committee's decision and has been applied to fully conscious, semi-conscious, and disabled patients ranging in age from 4 months to 89 years old (based on testimony from witnesses in legislative hearings).

In Baby Tinslee's case, the hospital letter to her mother clearly states that Tinslee is not terminal but will be dependent upon machines for the foreseeable future. The decision to love and care for a family member with long term health complications and disabilities belongs to the patient and her family—not to the hospital committee. The benefits and burdens are to be weighed by those who reap and shoulder them, respectively, not by the hospital committee. Tinslee's mother and family recognize that Tinslee's life has immeasurable value, regardless of her health challenges, and wish to provide care for Tinslee.

The shocking, but undeniable, truth is that death-row prisoners are afforded due process, appeals, medical treatment, and additional time, yet these same rights are denied to innocent vulnerable Texans, simply because they seek care and treatment in a Texas hospital. Hospitalized patients in Texas do not have the benefit of an appeal or unbiased third-party review once the hospital committee makes a decision under the 10-Day Rule—as has happened with Tinslee.

The Attorney General of Texas has now filed two *amici curiae* briefs regarding the unconstitutional nature of the 10-Day Rule, focusing specifically on the lack of due process for patients, one specifically based on Baby Tinslee's case.

As legislators, our solemn duty is to enact legislation to protect the most vulnerable in our state. The time is overdue to address this imbalance of power in Texas hospitals. While the fatal flaws in the law are too numerous to list, the most effective way to restore balance to the policy is to repeal the repugnant 10-Day countdown provision, which is an outright perversion of hospital power over vulnerable patients. Taking out the countdown and ensuring basic life-sustaining treatment is providing until the patient is sent to another physician or facility is the solution that is currently working in eleven other states.


Because no reporting is required on this internal process by hospitals, the scope and application of the statutory process to deny care under the Texas 10-Day Rule is unclear, and only anecdotal evidence is available. Many victims of this law have drawn the attention of national media outlets, and many have told their heartbreaking stories to us in legislative hearings which have been held since 2006. Four-year-old Clifton in 2012, Chris Dunn in 2015, and more recently, Carolyn Jones in 2019 are just some of the victims of this law. Since 2006, scores of families have testified in committee hearings in support of reforming the 10-Day Rule, sharing their heartbreaking sagas of losing parents, siblings, and even their young children, hoping to spare families of the pain and anguish of our state-sanctioned imposed involuntary euthanasia.

Therefore, we, the undersigned members of the Texas State Legislature, respectfully request that you call a special session immediately for the purpose of repealing the unethical and unprecedented 10-Day Rule. The circumstances are extraordinary enough to warrant immediate attention.

Sincerely,

  
Senator Brandon Creighton

  
Senator Bob Hall

  
Senator Kelly Hancock

  
Representative Kyle Biedermann

  
Representative Dwayne Bohac

  
Representative Matt Krause

  
Representative Mayes Middleton

  
Representative Tom Oliverson, M.D.

  
Representative Leo Pacheco

  
Representative Jared Patterson

  
Representative Scott Sanford

  
Representative Jonathan Stickland

  
Representative Valoree Swanson

  
Representative Tony Tinderholt

  
Representative Steve Toth

  
Representative James White