

Cause No.

DAVID CHRISTOPHER DUNN,  
  
                  PLAINTIFF,  
  
V.  
  
THE METHODIST HOSPITAL,  
  
                  DEFENDANT.

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IN THE DISTRICT COURT OF  
  
  
  
HARRIS COUNTY, TEXAS  
  
  
\_\_\_\_ JUDICIAL DISTRICT

**PLAINTIFF’S ORIGINAL VERIFIED PETITION AND APPLICATION FOR  
TEMPORARY RESTRAINING ORDER AND INJUNCTIVE RELIEF**

TO THE HONORABLE COURT:

David Christopher Dunn files this Original Petition and Application for Temporary Restraining Order and Injunctive Relief, seeking injunctive relief against The Methodist Hospital as follows:

**I.  
Discovery-Control Plan**

Plaintiff requests that a “Level 3” discovery plan be adopted and affirmatively pleads that it seeks injunctive relief. Rule 190.4, Texas Rules of Civil Procedure.

**II.  
Background Facts and Relief Requested**

David Christopher Dunn (“Dunn”), a Texas resident, is currently receiving life sustaining treatment<sup>1</sup> at The Methodist Hospital to treat an unidentified mass on his pancreas which is causing damage to other organs. Dunn faces immediate irreparable harm of death if the life sustaining treatment is discontinued. The Methodist Hospital seeks to discontinue his treatment,

<sup>1</sup> "Life-sustaining treatment" means treatment that, based on reasonable medical judgment, sustains the life of a patient and without which the patient will die. The term includes both life-sustaining medications and artificial life support, such as mechanical breathing machines, kidney dialysis treatment, and artificial nutrition and hydration. The term does not include the administration of pain management medication or the performance of a medical procedure considered to be necessary to provide comfort care, or any other medical care provided to alleviate a patient's pain. Tex. Health & Safety Code § 166.052.

and via a committee meeting for which Dunn had neither legal counsel nor the ability to provide rebuttal evidence, The Methodist Hospital found that it will discontinue life sustaining treatment Tuesday, November 24, 2015. Dunn believes the Texas Constitution and the U.S. Constitution guarantees him a representative to advocate for his life and opportunity to be heard when life sustaining treatment is being removed. Dunn seeks a temporary restraining order preserving the status quo of his treatment. Dunn further seeks a declaration that Texas Health and Safety Code Section 166.046 violates his due process rights under the Texas Constitution and the U.S. Constitution.

This case is brought to protect the constitutional right of Dunn, a man facing certain death at the hands of Defendant acting under color of state law.

Section 166.046 of the Texas Health & Safety Code allows doctors and hospitals the absolute authority and unfettered discretion to terminate life-sustaining treatment of any patient, despite the existence of an advanced directive, valid medical power of attorney, medical decision determined by a surrogate as outlined in Texas Health & Safety Code § 166.039, or expressed patient decision to the contrary. The defendant hospital, given its lack of full statutory compliance, has prematurely applied the procedures outlined in Section 166.046 to withdraw life sustaining treatment from Dunn. This implementation of Section 166.046 has resulted in the Defendant hospital scheduling Dunn's life sustaining treatment be discontinued on Tuesday, November 24, 2015, and Defendant administering, via injection, a combination of drugs which will end his life almost immediately, thus warranting immediate intervention by this court.

Section 166.046 violates Dunn's right to due process of law guaranteed him by the Fourteenth Amended of the United States Constitution and Article I, Section 19, of the Texas Constitution.

**III.  
Parties**

Plaintiff, David Christopher Dunn, is an individual who resides in Harris County, Texas.

Defendant, The Methodist Hospital, formerly known as Houston Methodist Hospital, is a domestic nonprofit corporation with its principle place of business in Harris County, Texas. Defendant may be served by serving its registered agent, C T Corporation System, at 1999 Bryan Street, Suite 900, Dallas, Dallas County, Texas 75201-3136

**IV.  
Jurisdiction and Venue**

This Court has jurisdiction over this cause under § 24.007 of the Texas Government Code and Article 5, Section 8 of the Texas Constitution. Venue is proper in this County under Texas Civil Practices & Remedies Code § 15.002(a)(2) and Texas Civil Practices & Remedies Code § 15.005.

**V.  
Conditions Precedent**

All conditions precedent to Plaintiffs' claim for relief have been performed or have occurred.

**VI.  
Injunctive Relief**

The purpose of a temporary restraining order is to preserve the status quo of the subject matter of the litigation until a preliminary hearing can be held on an application for a temporary injunction. *Cannan v. Green Oaks Apts., Ltd.*, 758 S.W.2d 753, 755 (Tex. 1988) (per curiam). The purpose of a temporary injunction is to preserve the status quo of the subject matter of the litigation until a final hearing can be held on the merits of the case. *Butnaru v. Ford Motor Co.*, 84 S.W.3d 198, 204 (Tex. 2002). The status quo is defined as "the last, actual, peaceable, non-contested status which preceded the pending controversy." *In re Newton*, 146 S.W.3d 648, 651

(Tex. 2004) (quoting *Janus Films, Inc. v. City of Fort Worth*, 163 Tex. 616, 358 S.W.2d 589 (1962) (per curiam)) (internal quotations omitted).

Whether to grant or deny a temporary injunction is within the trial court's sound discretion. *Walling v. Metcalfe*, 863 S.W.2d 56, 58 (Tex. 1993); *State v. Walker*, 679 S.W.2d 484, 485 (Tex. 1984). A reviewing court should reverse an order granting injunctive relief only if the trial court abused that discretion. *Walling*, 863 S.W.2d at 58; *Walker*, 679 S.W.2d at 485.

In order to obtain a temporary restraining order and a temporary injunction, an applicant must show: 1) a cause of action; 2) a probable right to the relief requested; and 3) imminent, irreparable harm in the interim. *Bell v. Texas Workers Comp. Comm'n*, 102 S.W.3d 299, 302 (Tex. App.—Austin 2003, no pet.) (citing *Butnaru*, 84 S.W.3d at 204). Dunn is able to establish each of these elements, and is therefore entitled to injunctive relief.

**A.**  
**Causes of Action and Probable Right to Relief**

As a direct result of the actions of the Defendant described above, Dunn has sustained injury, and brings the following claim for permanent relief:

**1. Application for extension of time.**

Dunn seeks an extension of his life sustaining treatment pursuant to Section 166.046(g)<sup>2</sup> while a physician or health care facility will honor his directives is found. Plaintiff points the court to the fact that although his life-sustaining treatment will be involuntarily removed on Tuesday, November 24, 2015, he is unable to prove whether or not a physician or health care facility will honor his medical decision to continue his life sustaining treatment because neither Dunn's attending physician, Dr. Sanchez, nor Dunn's case worker, Roslyn Reed, have spoken

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<sup>2</sup> "At the request of the patient or the person responsible for the health care decisions of the patient, the appropriate district or county court shall extend the time period provided under Subsection (e) only if the court finds, by a preponderance of the evidence, that there is a reasonable expectation that a physician or a health care facility that will honor the patient's directive will be found if the time extension is granted."

with any potential receiving physician to review and determine whether or nor any other physicians would accept the transfer of Dunn as required by Texas Health & Safety Code § 166.046(d). Moreover, at the time of this filing, Dunn has not received definitive responses from the five local major healthcare facilities that are equipped and capable of treating Dunn and honoring his medical decision regarding basic life-sustaining treatment.

**2. Declaratory judgment regarding violation of due process.**

Dunn petitions this Court for a declaratory judgment pursuant to Chapter 37 of the Texas Civil Practice & Remedies Code declaring that, pursuant to Amendment 14 to the United States Constitution and Article I, Section 19, of the Texas Constitution, Defendant's actions and planned discontinuance of life sustaining treatment under the Texas Health & Safety Code infringes the due process right of Dunn.

Texas Health & Safety Code § 166.046 indicates that if an attending physician refuses to honor a patient's treatment decision, such as continuing life sustaining treatment, the physician's refusal shall be reviewed by an "ethics committee". Tex. Health & Safety Code § 166.046(a).

There are no specific restrictions under the act regarding the qualifications of the persons serving on the committee, though the attending physician may not be a member of that committee. *Id.* The statute does not provide adequate safeguards to protect against the conflict of interest inherently present when the treating physician's decision is reviewed by the hospital "ethics committee" to whom the physician has direct financial ties.

**a. Texas Health & Safety Code § 166.046 violates procedural due process**

Texas Health & Safety Code § 166.046 violates Plaintiff's right to procedural due process by failing to provide an adequate venue for Plaintiff and those similarly situated to be heard in this critical life-ending decision. The law also fails to impose adequate evidentiary safeguards

against hospitals and doctors by allowing them to make the decision to terminate life-sustaining treatment in their own unfettered discretion. Finally, the law does not provide a reasonable time or process for a patient to be transferred.

Due process at a minimum requires notice and an opportunity to be heard at a meaningful time and in a meaningful manner. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976); *Mullane v. Central Hanover Trust Co.*, 339 U.S. 306 (1950). Procedural due process involves the preservation of both the appearance and reality of fairness so that “no person will be deprived of his interests in the absence of a proceeding in which he may present his case with assurance that the arbiter is not predisposed against him.” *Marsahll v. Jerrico, Inc.*, 446 U.S. 238 (1980). Under traditional notions of Due Process, the fourteenth amendment was “intended to secure the individual from the arbitrary exercise of the powers of government” which resulted in “grievous losses” for the individual. *Kentucky Dept. of Corrections v. Thompson*, 490 U.S. 454 (1989).

Procedural due process expresses the fundamental idea that people, as opposed to things, at least are entitled to be consulted about what is done to them. See Laurence H. Tribe, *American Constitutional Law* § 10-7, at 666 (2d ed. 1988). Modern procedural due-process analysis begins with determining whether the government’s deprivation of a person interest warrants procedural due-process protection. This interest may be either a so-called “core” interest, i.e., a life, liberty, or vested property interest, or an interest that stems from independent sources, such as state law. See *Board of Regents v. Roth*, 408 U.S. 564 (1972); *Perry v. Sindermann*, 408 U.S. 593 (1972). Procedural due-process analysis next determines what process is due, with courts looking almost exclusively to the Constitution for guidance. *Cleveland Bd. of Education v. Lourdermill*, 470 U.S. 532 (1985). What process is due is measured by a flexible standard that depends on the practical requirements of the circumstances.

*Mathews*, 424 U.S. at 334. This flexible standard includes three factors: (1) the private interest that will be affected by the official action; (2) the risk of an erroneous deprivation of such interest through the procedures used, and probable value, if any, of additional or substitute procedural safeguards; and (3) the government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail. *Mathews*, 424 U.S. at 335.

In this case, Plaintiff has not received due process. In fact, shortly before the hearing was to occur, and without adequate opportunity for preparation, Dunn's mother received notice that the relevant committee of the The Methodist Hospital would be hearing, on Friday, November 13, 2015, a recommendation to discontinue Dunn's life sustaining treatment.

Under Tex. Health & Safety Code § 166.046, a fair and impartial tribunal did not and could not hear Dunn's case. "Ethics committee" members from the treating hospital cannot be fair and impartial, when the propriety of giving Dunn's expensive life-sustaining treatment must be weighed against a potential economic loss to the very entity which provides those members of the "ethics committee" with privileges and a source of income. Members of a fair and impartial tribunal should not only avoid a conflict of interest, they should avoid even the appearance of a conflict of interest, especially when a patient's life is at stake. That does not occur, when a hospital "ethics committee" hears a case under Texas Health & Safety Code § 166.046 for a patient within its own walls. The objectivity and impartiality essential to due process are nonexistent in such a hearing.

Finally, Texas Health & Safety Code § 166.046 is so lacking in specificity that no meaningful due process can be fashioned from it and, as a result, it is unconstitutional. For example, it does not contain or suggest any ascertainable standard for determining the propriety

of continuing Dunn's life-sustaining treatment or the propriety of the attending physician's refusal to honor Dunn's health care decisions. Thus the statute is vague, ambiguous, and overbroad and should be declared unconstitutional.

**b. Texas Health & Safety Code § 166.046 violates substantive due process.**

It is unquestioned that a competent individual has a substantive privacy right to make his or her own medical decisions. "Before the turn of the century, this Court observed that 'no right is held more sacred, or is more carefully guarded, by the common law, than the right of every individual to the possession and control of his own person, free from all restraint or interference of others, unless by clear and unquestionable authority of law.'" *Cruzan v. Director, Missouri Dep't of Health*, 497 U.S. 261, 269 (U.S. 1990) (quoting *Union Pacific R. Co. v. Botsford*, 141 U.S. 250, 251 (1891)). "It cannot be disputed that the Due Process Clause protects an interest in life[.]" *Cruzan*, 497 U.S. at 281. This notion of bodily integrity has been embodied in the requirement that informed consent is generally required for medical treatment. In *Cruzan*, the Court noted that the Constitution requires that the State not allow anyone "but the patient" to make decisions regarding the cessation of life-sustaining treatment. *Id.* at 286. The Court went on to note that the state could properly require a "clear and convincing evidence" standard to prove the patient's wishes.

In this case, there is no evidentiary standard imposed by Section 166.046. The doctor and ethics committee are given complete autonomy in rendering a decision that further medical treatment is "inappropriate" for a person with an irreversible or terminal condition. This is an alarming delegation of power by the state law. When the final decision is rendered behind closed doors, and the Plaintiff is not allowed to challenge the evidence or present his own testimony or medical evidence, this does not reassemble a hearing with due process protecting



the first liberty mentioned in Article I, Section 19 of the Texas Constitution or the Fourteenth Amendment.

**3. Defendant has violated Dunn's Civil Rights.**

Section 1983 of Chapter 42 of the United States Code guarantees that every person who “under color of any statute...subjects or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any right ... secured by the Constitution...shall be liable to the party in an action[.]” *See* 42 U.S.C. § 1983. Based on the foregoing facts and allegations, a Section 1983 matter clearly lies in this case.

Private actors are subject to regulation under the United States Bill of Rights, including the First, Fifth, and Fourteenth Amendments, which prohibit the federal and state governments from violating certain rights and freedoms when taking state action. Because the Defendants utilize Texas Health & Safety Code § 166.046 to protect their decision to remove life sustaining treatment, they are taking state action and are subject to Constitutional regulation. *See Rendell-Baker v. Kohn*, 457 U.S. 830 (1982).

The Supreme Court has set forth a two-pronged inquiry for determining when a private party will be held to be a state actor. First, the Court considers whether the claimed constitutional deprivation has resulted from the exercise of a right or privilege having its source in state authority. *Georgia v. McCollum*, 505 U.S. 42, 51 (1992) (quoting *Lugar v. Edmonson Oil Co.*, 457 U.S. 922, 939 (1982)). Second, the Court considers several factors relevant to determining whether the private party charged with the deprivation is a person who can, in fairness, be said to be a state actor. *Lugar*, 457 U.S. at 937.

Private conduct pursuant to statutory or judicial authority is sufficient to establish the first prong. Thus, the Court has held this prong satisfied by a creditor who sought the assistance of

state authorities in attaching a debtor's property in a statutorily created pre-judgment attachment procedure, *Lugar*, 457 U.S. at 941-42, and by the racially discriminatory use of peremptory challenges to potential jurors in civil and criminal trials. See *Edmonson v. Leesville Concrete Co.*, 500 U.S. 614, 615 (1991); *Georgia v. McCollum*, 505 U.S. 42, 51-52 (1992). In each case the Court emphasized that the private party was using a state-created statutory procedure, and was reaping a privilege through the use of the statutorily prescribed procedure. Similarly, doctors and ethics committees empowered by the state to cloak their denial of life sustaining medical treatment with absolute immunity by acting pursuant to the procedures of section 166.046 are exercising a right or privilege having its source in state authority.

The hospital committee's action also satisfies the second prong of the Supreme Court's state-actor test. The Court has laid out three factors that must be considered in answering the question of whether the person charged with a deprivation may be fairly considered to be a state actor: (1) the extent to which the actor relies on governmental assistance and benefits, (2) whether the actor is performing a traditional governmental function and (3) whether the injury caused is aggravated in a unique way by the incidents of governmental authority. See *Lugar*, 457 U.S. at 942. Each of these factors weighs in support of the conclusion that the hospital committee should be held to be a state actor: The committees rely extensively on the state benefit of absolute immunity in determining whether a patient will receive life sustain medical treatment; the committee exercises the traditionally exclusive state function of a court when it issues final determinations of legal rights and duties with respect to life sustaining medical treatment, which cannot be reviewed under any circumstance; and the patient's injury is aggravated by incidents of state authority because the state allows the ethics review committee to bind the hands of state authorities with respect to societal protections that would otherwise be available to the patient.

**4. Permanent Injunction.**

The foregoing facts and authorities establish the imminent and irreparable injury that Defendant's conduct poses and Dunn's probable right to relief. For these reasons, Dunn also requests a permanent injunction, enjoining Defendant from withdrawing life sustaining treatment pursuant to Tex. Health & Safety Code § 166.046.

**B.  
Probable Injury**

Defendant's action of discontinuing the life sustaining of Dunn makes it highly probable that Defendant will die, resulting in imminent, irreparable harm to Dunn for which there is no adequate remedy at law.

**1. Imminent Harm**

On Friday, November 13, 2015, The Methodist Hospital determined that Dunn's life sustaining treatment should be discontinued. *See* Exhibit A, Correspondence dated November 13, 2015. The life sustaining treatment will be removed Tuesday, November 24, 2015.

**2. Irreparable Injury for which there is No Adequate Remedy at Law**

If Defendant is allowed to discontinue Dunn's treatment, Dunn will suffer irreparable injury of almost certain death. Dunn has no adequate remedy at law because damages cannot adequately compensate him for the loss of his life. *See Butnaru v. Ford Motor Co.*, 84 S.W.3d 198, 204 (Tex. 2002) ("An injury is irreparable if the injured party cannot be adequately compensated in damages or if the damages cannot be measured by any certain pecuniary standard."), citing *Canteen Corp. v. Republic of Tex. Props., Inc.*, 773 S.W.2d 398, 401 (Tex. App.-Dallas 1989, no writ).

**C.**  
**Ex Parte Hearing**

An ex parte hearing of this application for a temporary restraining order is necessary because of the imminent threat that Defendant will attempt to, and has indeed already voted to, remove Dunn's life sustaining treatment. There is no time for notice and a hearing prior to relief from the Court, and a temporary restraining order is necessary to prohibit the Defendant from interfering with Dunn's right to enjoyment of life and due process.

**VII.**  
**Attorney Fees and Costs**

Dunn is entitled to its reasonable attorney fees and costs incurred in pursuit of this action under the common law, and Texas Civil Practice and Remedies Code § 37.009.

**VIII.**  
**Conclusion and Prayer**

In conclusion, in order to maintain the status quo of the subject matter of the litigation, until a hearing can be held on a temporary injunction (and subsequently, until a final hearing can be held on the merits of the case), Dunn seeks a temporary restraining order and temporary injunction, prohibiting Defendant from any further actions toward discontinuing the life sustaining treatment of Dunn.

Accordingly, Plaintiff asks that this Court (a) set a bond in the amount it determines to be appropriate and, upon the posting of the bond; (b) issue a temporary restraining order enjoining Defendant from discontinuing Dunn's treatment, until a hearing on Plaintiff's request for injunctive relief can be had; (d) set a date and time for a hearing on Plaintiff's request for injunctive relief and order Defendant to appear and show cause why an injunction should not issue as requested; (e) upon the conclusion of that hearing, convert the temporary restraining order into an injunction enjoining Defendants from the activities listed above and setting a trial

date; and (f) grant Plaintiff such other and further relief, both general and special, at law or in equity, to which he may show himself to be justly entitled.

Respectfully submitted,

**BEIRNE, MAYNARD & PARSONS, L.L.P.**

*/s/ James E. Trainor, III*

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*Attorneys for Plaintiff*





13 November 2015

*By Hand Delivery*

Dear Ms. Evelyn Kelly and Mr. David Dunn:

On behalf of every member of the Houston Methodist Hospital Biomedical Ethics Committee, I express our sadness that your son, David "Chris" Dunn, is so ill. Thank you for meeting with the Committee to tell us of your hopes for Chris and of your request to continue life-sustaining treatment. After hearing from you and from Chris's physicians, the Committee has decided that life-sustaining treatment is medically inappropriate for Chris and that all treatments other than those needed to keep him comfortable should be discontinued and withheld.

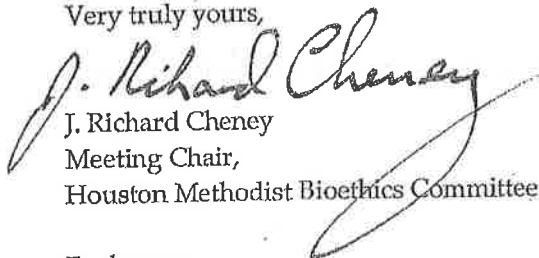
Eleven days from today, Chris's physicians are allowed to withdraw and withhold life-sustaining treatments and to establish a plan of care designed to promote his comfort and dignity. During this period, the physicians and others will assist you in trying to find a doctor and facility that are willing to provide the treatments that you request. A copy of Chris's medical record for the past 30 days at Houston Methodist Hospital is delivered to you at this time for your use in trying to find other providers.

Also, for additional information, please see the enclosed copies of "When There Is A Disagreement About Medical Treatment" and the Registry created by the Texas Department of State Health Services. Houston Methodist Hospital personnel will assist you with any medically appropriate transfer that you arrange.

The ethics consultants you have already met will continue to be available to help you. Simply contact them as you have in the past or by calling 713-790-2201 and asking the page operator to page the ethics consultant on call.

Houston Methodist is honored to serve your son and you in a spiritual environment of caring.

Very truly yours,

  
J. Richard Cheney  
Meeting Chair,  
Houston Methodist Bioethics Committee

Enclosures

J. Richard Cheney  
Project Director

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**When There Is A Disagreement About Medical Treatment: The  
Physician Recommends Against Life-Sustaining Treatment That You Wish  
To Continue**

You have been given this information because you have requested life-sustaining treatment,\* which the attending physician believes is not appropriate. This information is being provided to help you understand state law, your rights, and the resources available to you in such circumstances. It outlines the process for resolving disagreements about treatment among patients, families, and physicians. It is based upon Section 166.046 of the Texas Advance Directives Act, codified in Chapter 166 of the Texas Health and Safety Code.

When an attending physician refuses to comply with an advance directive or other request for life-sustaining treatment because of the physician's judgment that the treatment would be inappropriate, the case will be reviewed by an ethics or medical committee. Life-sustaining treatment will be provided through the review.

You will receive notification of this review at least 48 hours before a meeting of the committee related to your case. You are entitled to attend the meeting. With your agreement, the meeting may be held sooner than 48 hours, if possible.

You are entitled to receive a written explanation of the decision reached during the review process.



If after this review process both the attending physician and the ethics or medical committee conclude that life-sustaining treatment is inappropriate and yet you continue to request such treatment, then the following procedure will occur:

1. The physician, with the help of the health care facility, will assist you in trying to find a physician and facility willing to provide the requested treatment.

2. You are being given a list of health care providers and referral groups that have volunteered their readiness to consider accepting transfer, or to assist in locating a provider willing to accept transfer, maintained by the Texas Health Care Information Council. You may wish to contact providers or referral groups on the list or others of your choice to get help in arranging a transfer.

3. The patient will continue to be given life-sustaining treatment until he or she can be transferred to a willing provider for up to 10 days from the time you were given the committee's written decision that life-sustaining treatment is not appropriate.

4. If a transfer can be arranged, the patient will be responsible for the costs of the transfer.

5. If a provider cannot be found willing to give the requested treatment within 10 days, life-sustaining treatment may be withdrawn unless a court of law has granted an extension.

6. You may ask the appropriate district or county court to extend the 10-day period if the court finds that there is a reasonable expectation that a

physician or health care facility willing to provide life-sustaining treatment will be found if the extension is granted.

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\*"Life-sustaining treatment" means treatment that, based on reasonable medical judgment, sustains the life of a patient and without which the patient will die. The term includes both life-sustaining medications and artificial life support, such as mechanical breathing machines, kidney dialysis treatment, and artificial nutrition and hydration. The term does not include the administration of pain management medication or the performance of a medical procedure considered to be necessary to provide comfort care, or any other medical care provided to alleviate a patient's pain.



Registry List of Health Care Providers and Referral Groups

**Texas Health Care Information Collection  
Center for Health Statistics**

This registry lists providers and groups that have indicated to THCIC their interest in assisting the transfer of patients in the circumstances described, and is provided for information purposes only. Neither THCIC nor the State of Texas endorses or assumes any responsibility for any representation, claim, or act of the listed providers or groups.

Health Care Provider or Referral Group	Willing to Accept or Assist Transfer of Patients on Whose Behalf Life-sustaining Treatment is Being Sought
C. T. Viers, LLC DBA Exceptional Home Health Care 1330 Church Street Sulphur Springs, TX 75482 903-885-5566 Fax 903-885-7766	
Cuidado Casero(CC) Home Health Care (Bilingual Staff) 6448 Hwy 290 E, Suite E-102 Austin, Texas 78723 512-419-7738 <a href="http://www.cuidadocasero.com">www.cuidadocasero.com</a>	Willing to provide bilingual professional nursing services, therapy services, and home health provider services.
The Floyd Law Firm 401 Congress, Suite 1540 Austin, Texas 78701 512-687-3420 <a href="http://www.austinfirm.com">www.austinfirm.com</a>	
Jerrl Lynn Ward Garlo Ward, P.C. 505 E. Huntland Dr., Suite 335 Austin, Texas 78752 512-302-1103, extension 115 <a href="http://www.garloward.com">www.garloward.com</a>	Willing to receive requests for legal counsel from families that are going through a transfer.
Robert Painter Painter Law Firm PLLC 12750 Champion Forest Drive Houston, Texas 77066 281-580-8800 <a href="http://www.painterfirm.com">www.painterfirm.com</a>	
Phong P. Phan, Esq. The Phan Law Firm, PC P.O. Box 50227 Austin, Texas 78753 512-789-3890	Willing to receive requests for legal counsel from families that are going through a transfer. Assistance available in Vietnamese.

Health Care Provider or Referral Group	Willing to Accept or Assist Transfer of Patients on Whose Behalf Life-sustaining Treatment is Being Sought
<a href="http://www.phanlawaustin.com">www.phanlawaustin.com</a> or <a href="#">Facebook</a>	
Pro-Life Healthcare Alliance Program of Human Life Alliance 2900 Oak Shadow Circle Bedford, TX 76021 817-576-3022 or 651-484-1040 <a href="http://www.prolifehealthcare.org">www.prolifehealthcare.org</a>	
Texas Right to Life 6776 Southwest Freeway, Suite 430 Houston, Texas 77074 713-782-5433 <a href="http://www.TexasRightToLife.com">www.TexasRightToLife.com</a>	Willing to help transfer to a facility that provides treatment.
Woodrow W. Janese, MD, FACS BSME (G7246) 13303 Champlon Forest Drive #4 Houston, Texas 77069 281-537-6000	

Health Care Provider or Referral Group	Willing to accept or assist transfer of patients on whose behalf withholding or withdrawal of life-sustaining treatment is being sought
No health care providers or referral group registered.	
None of the facilities named above are withholding or withdrawing life sustaining treatment when it is being sought.	

Last updated August 14, 2013

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CASO

Cause No. 2015-69681

DAVID CHRISTOPHER DUNN,  
  
PLAINTIFF,  
  
V.  
  
THE METHODIST HOSPITAL,  
  
DEFENDANT.

By \_\_\_\_\_  
Deputy  
Time: \_\_\_\_\_  
Harris County, Texas

NOV 20 2015  
Chris Daniel  
District Clerk

IN THE DISTRICT COURT OF  
  
HARRIS COUNTY, TEXAS  
  
189TH JUDICIAL DISTRICT

**AGREED ORDER ON PLAINTIFF'S ORIGINAL VERIFIED PETITION AND APPLICATION FOR TEMPORARY RESTRAINING ORDER AND INJUNCTIVE RELIEF**

On this day came on to be considered Plaintiffs' Verified Motion and Application for Agreed Temporary Restraining Order and Injunctive Relief (the "Motion"). After examining the verified pleadings and holding a hearing of which Defendant had notice, the Court finds that the requirements for the issuance of an Agreed Temporary Restraining Order have been met.

More specifically, the Court finds evidence that Plaintiff is entitled to the issuance of an Agreed Temporary Restraining Order to protect and preserve the status quo. Plaintiff is suffering and will continue to suffer irreparable harm if Defendant is permitted to remove life sustaining treatment ("LST") from Christopher David Dunn. Plaintiff will be irreparably injured, and suffer loss and damage by likely death if LST is removed.

Such harm is imminent because if an injunction is not entered, Defendant may remove LST on Tuesday, November 24, 2015, and may administer drugs resulting in death.

Plaintiff has demonstrated a likelihood of the success on the merits of this case and a balance of the equities strongly favors the granting of injunctive relief in order to preserve the *status quo ante*.

IT IS THEREFORE ORDERED that the Clerk of the Court issue an Agreed Temporary Restraining Order that Defendant The Methodist Hospital, and all of their respective agents, servants, employees, representatives, attorneys, and all persons, firms, corporations or other entities acting or purporting to act or acting in concert or in participation with them who gets actual notice of this Order by service or otherwise, are hereby ORDERED and ENJOINED to cease and desist all actions of any nature to pursue the removal of Christopher David Dunn's LST through December 4, 2015.

Once this Order becomes effective, it shall remain in effect for a term of fourteen (14) days or until further Order of this Court.

**BOND**

IT IS FURTHER ORDERED that the Court Clerk, upon the filing of a bond in the amount of \$ Jim Ho - cc's - 0 - (or cash deposit in lieu thereof) and on approving the same according to law, shall issue an Agreed Temporary Restraining Order in conformity with the law and the terms of this Order.

**TEMPORARY INJUNCTION HEARING SETTING**

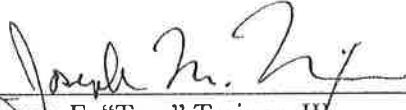
IT IS FURTHER ORDERED that a hearing on Plaintiffs' request for a Temporary Injunction is set before the <sup>18974</sup> 68<sup>th</sup> Judicial District Court, Dallas County, Texas on the <sup>30</sup> 4<sup>th</sup> day of December 2015, at 1:30 a.m. (p.m.) in the \_\_\_ District Court's courtroom located in the Harris County Courthouse, 201 Caroline, Houston, Harris County, Texas 77002.

Signed this 20 day of Nov 2015, at 2:45 a.m. (p.m.)

  
\_\_\_\_\_  
JUDGE PRESIDING

AGREED AS TO FORM AND SUBSTANCE:

**BEIRNE, MAYNARD & PARSONS, L.L.P.**



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