

**FIRST ENGROSSMENT
with House Amendments**

ENGROSSED SENATE BILL NO. 2320

Introduced by

Senators Kilzer, DeMers

1 A BILL for an Act to amend and reenact subsection 5 of section 23-06.5-03 and subsection 4 of
2 section 23-12-13 of the North Dakota Century Code, relating to withdrawing or withholding
3 nutrition and hydration from incapacitated patients; to provide an effective date; and to provide
4 an expiration date.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. AMENDMENT.** Subsection 5 of section 23-06.5-03 of the 1997
7 Supplement to the North Dakota Century Code is amended and reenacted as follows:

8 5. Nothing in this chapter permits an agent to consent to admission to a mental health
9 facility or state institution for a period of more than forty-five days without a mental
10 health proceeding or other court order, or to psychosurgery, abortion, or
11 sterilization, unless the procedure is first approved by court order. This chapter
12 does not permit an agent to withdraw or withhold nutrition or hydration, or both,
13 unless the patient:

- 14 a. Made a written statement concerning nutrition or hydration;
15 b. Made an oral statement to the agent concerning nutrition or hydration; or
16 c. Has a terminal condition as defined in subsection 7 of section 23-06.4-02 and
17 the attending physician determined the administration of nutrition or hydration
18 is inappropriate because the nutrition or hydration cannot be physically
19 assimilated by the patient, would be physically harmful, or would cause
20 unreasonable physical pain to the patient.

21 **SECTION 2. AMENDMENT.** Subsection 4 of section 23-12-13 of the 1997
22 Supplement to the North Dakota Century Code is amended and reenacted as follows:

23 4. No person authorized to provide informed consent pursuant to this section may
24 provide consent for sterilization, abortion, or psychosurgery or for admission to a

1 state mental health facility for a period of more than forty-five days without a
2 mental health proceeding or other court order. A person authorized to provide
3 informed consent pursuant to this section may not provide consent to withdraw or
4 withhold nutrition or hydration, or both, unless the patient:

- 5 a. Made a written statement concerning nutrition or hydration;
6 b. Made an oral statement to the authorized person concerning nutrition or
7 hydration; or
8 c. Has a terminal condition as defined in subsection 7 of section 23-06.4-02 and
9 the attending physician determined the administration of nutrition or hydration
10 is inappropriate because the nutrition or hydration cannot be physically
11 assimilated by the patient, would be physically harmful, or would cause
12 unreasonable physical pain to the patient.

13 **SECTION 3. EFFECTIVE DATE - EXPIRATION DATE.** This Act applies to every
14 durable power of attorney for health care executed after July 31, 1999. This Act is effective
15 until July 31, 2001, and after that date is ineffective.