

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; and to provide an expiration date.

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

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

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

13 a. The agent is acting pursuant to subdivision a of subsection 2 of this section;  
14 or

15 b. The patient has a terminal condition as defined in subsection 7 of section  
16 23-06.4-02 and the attending physician determined the administration of  
17 nutrition or hydration is inappropriate because the nutrition or hydration  
18 cannot be physically assimilated by the patient, would be physically harmful,  
19 or would cause unreasonable physical pain to the patient.

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

22 4. No person authorized to provide informed consent pursuant to this section may  
23 provide consent for sterilization, abortion, or psychosurgery or for admission to a  
24 state mental health facility for a period of more than forty-five days without a

1           mental health proceeding or other court order. A person authorized to provide  
2           informed consent pursuant to this section may not provide consent to withdraw or  
3           withhold nutrition or hydration, or both, unless the patient:

- 4           a. Made a written statement concerning nutrition or hydration contained in a  
5           declaration executed pursuant to chapter 23-06.4 or a durable power of  
6           attorney for health care executed pursuant to chapter 23-06.5; or  
7           b. Has a terminal condition as defined in subsection 7 of section 23-06.4-02 and  
8           the attending physician determined the administration of nutrition or hydration  
9           is inappropriate because the nutrition or hydration cannot be physically  
10          assimilated by the patient, would be physically harmful, or would cause  
11          unreasonable physical pain to the patient.

12          **SECTION 3. EXPIRATION DATE.** This Act is effective until July 31, 2001, and after  
13          that date is ineffective.