

SECOND REGULAR SESSION

# HOUSE BILL NO. 1235

## 95TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES DAVIS (Sponsor), NOLTE AND MCGHEE (Co-sponsors).

3337L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 404.820 and 404.850, RSMo, and to enact in lieu thereof three new sections relating to the provision of artificially supplied nutrition and hydration.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 404.820 and 404.850, RSMo, are repealed and three new sections  
2 enacted in lieu thereof, to be known as sections 404.820, 404.821, and 404.850, to read as  
3 follows:

404.820. 1. If a patient wishes to confer on an attorney in fact the authority to direct a  
2 health care provider to withhold or withdraw artificially supplied nutrition and hydration, the  
3 patient shall specifically grant such authority in the power of attorney. This limitation shall not  
4 be construed to require that artificially supplied nutrition and hydration be continued when, in  
5 the medical judgment of the attending physician, the patient cannot tolerate it. **Any withholding  
6 or withdrawal of artificially supplied nutrition and hydration shall be carried out in  
7 accordance with the provisions of section 404.821.**

8 2. Notwithstanding any other provision of sections 404.800 to 404.865 to the contrary,  
9 no attorney in fact may, with the intent of causing the death of the patient, authorize the  
10 withdrawal of nutrition or hydration which the patient may ingest through natural means.

11 3. Attorneys in fact shall consider appropriate measures in accord with current standards  
12 of medical practice to provide comfort to the patient.

13 4. Before an attorney in fact or physician may authorize the withdrawal of nutrition or  
14 hydration which the patient may ingest through artificial means, the physician must:

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 (1) Attempt to explain to the patient the intention to withdraw nutrition and hydration  
16 and the consequences for the patient and to provide the opportunity for the patient to refuse the  
17 withdrawal of nutrition and hydration; or

18 (2) Insert in the patient's file a certification that the patient is comatose or consistently  
19 in a condition which makes it impossible for the patient to understand the intention to withdraw  
20 nutrition and hydration and the consequences to the patient.

**404.821. 1. Any health care provider withholding or withdrawing artificially  
2 supplied nutrition and hydration in accordance with sections 404.800 to 404.872 shall not  
3 withhold or withdraw such artificially supplied nutrition and hydration unless:**

4 (1) A period of sixty days has elapsed during which artificial nutrition and  
5 hydration are supplied in conjunction with rehabilitative efforts regarding the patient's  
6 swallowing reflexes;

7 (2) After discontinuance of artificial supplied nutrition and hydration, oral feeding  
8 is offered to the patient at least three times per day. Such oral feedings shall be offered to  
9 the extent and degree that the patient is able and willing to swallow or hold food in the  
10 patient's mouth, unless there is clear and evident choking, distress, and pain.

11 2. If a patient swallows at any time during oral feeding, such swallowing shall be  
12 deemed a desire to continue oral feeding or artificially supplied nutrition and hydration  
13 and shall be considered a revocation of any health care directive to the contrary.

404.850. 1. A power of attorney for health care may be revoked at any time and in any  
2 manner by which the patient is able to communicate the intent to revoke, **including but not**  
3 **limited to the manner of revocation specified in section 404.821.** Revocation shall be  
4 effective upon communication of such revocation by the patient to the attorney in fact or to the  
5 attending physician or health care provider.

6 2. Upon learning of the revocation of a power of attorney for health care, the attending  
7 physician or other health care provider shall cause the revocation to be made a part of the  
8 patient's medical records.

9 3. Unless the power of attorney provides otherwise, execution by the patient of a valid  
10 power of attorney for health care revokes any prior power of attorney for health care.

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