

Summary of State Bills Restricting End-of-Life Choices Introduced in 2005 and 2006

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See key following chart for definition of abbreviations and terms

State	Bill Number and Title/Subject Matter	Status as of 2/16/06 ²	Summary of Restrictive Provisions		Additional Comments
			Special ANH Restrictions	Other End-of-Life Restrictions	
National Right to Life (NRL)	Starvation and Dehydration of Persons with Disabilities Prevention Act	Model Bill	P presumption N/A only if: 1) ANH medically ineffective/harmful, 2) AD specifically authorizes forgoing ANH, or 3) CCE of express and informed consent (when patient had decision-making capacity) for forgoing ANH (this prong eliminated in January 2006 revision) CR ANH must be provided pending final court determination unless court determines ANH medically ineffective/harmful		
Alabama	2005 HB 546 creation of crime of “cruelty to dependent persons” 2005 HB 592 Alabama NRL	inactive	crime for any conduct that results in “starvation,” “failure to thrive,” malnutrition; any person legally responsible for patient who fails to protect against conduct is also guilty of felony	criminal penalty also applies to conduct that results in patient ceasing to breathe	
Arizona	2006 SB 1501 guardianship and AD amendments	inactive	NRL Model Bill		
		committee (2/2/06)	NRL Model Bill, except: 1) additional exception to ANH presumption: AD appointing HCA, subject only to express limitation in AD (i.e., AD appointing HCA does not need to explicitly forgo ANH), but regardless, HCA cannot authorize “withdrawal of food or fluid that patient may ingest through natural means,” 2) no express CR, and 3) withdrawing ANH cannot occur until all appeals are exhausted		
Colorado	2006 SB 158 An Act Concerning the Circumstances Under Which a Proxy Decision-Maker for Medical Treatment May Withhold or Withdraw Artificial Nourishment and Hydration From a	committee postponed (2/16/06)	allows surrogate to forgo ANH only when ANH medically ineffective/harmful (NRL language, but requires two physicians to determine, while NRL does not specify number)		current law has separate provisions for surrogate forgoing ANH (as opposed to other LST), but current law allows ANH to be forgone if 2 MDs certify that providing ANH merely prolongs dying and is unlikely to restore patient to independent neurological functioning

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² Two Minnesota bills that were introduced after February 16, 2006 were included in this chart on March 24, 2006.

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	Patient Who Lacks Decisional Capacity				
Florida	2005 HB 701 An Act Relating to Artificially Provided Sustenance and Hydration	inactive (amended twice and passed house; died in senate committee 5/6/05)	ANH cannot be forgone for patients in persistent vegetative state (PVS) except if: 1) written AD authorizes forgoing LST, 2) CCE that patient expressly instructed forgoing ANH (can't use patient's "substituted judgment" or "best interest," current law explicitly allows using these for forgoing other LST), or 3) ANH medically ineffective/harmful CR		less restrictive than NRL Model Bill, since: 1) applies only to PVS patients, and 2) AD need not expressly address ANH for ANH to be forgone
	2005 HB 1345 An Act Relating to Health Care Advance Directives	inactive (amended once)		initial version prohibits forgoing any LST from pregnant patient unless determined with "reasonable medical certainty" that the fetus is "no longer viable," regardless of AD instructions (deleted in amendment)	amended version has positive provisions (e.g., health care directive notation on driver's license) initial version is companion to 2005 SB 2308 below
	2005 SB 804 An Act Relating to the Suspension of Artificially Provided Sustenance or Hydration from a Person in a Persistent Vegetative State	inactive (failed on senate floor vote)	ANH may not be forgone for patients in persistent vegetative state if: 1) purpose solely to end person's life, 2) conflict among surrogates about ANH decision, and 3) no patient AD authorizing forgoing LST CR		
	2005 SB 2128 An Act Relating to the Withholding or Withdrawal of Nutrition or Hydration from Incompetent Patients, but may be cited as NRL	inactive	NRL Model Bill LER HCA or surrogate can't use patient's "substituted judgment" or "best interest" to forgo ANH (current law explicitly allows using these for forgoing other LST) applies to litigation currently pending on effective date		
	2005 SB 2308 An Act Relating to Health Care Advance Directives	inactive		same as initial version of 2005 HB 1345	companion to initial 2005 HB 1345

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Georgia	2005 SB 372 Georgia NRL	inactive (prefiled, later withdrawn)	NRL Model Bill LER		Georgia RTL website urges bill's support
	2005 HB 1332 Hawaii NRL	carried over (5/5/05)	NRL Model Bill, except says definitions apply "unless the context clearly requires otherwise"		Hawaii RTL website urges bill's support same as 2005 HB 1577
	2005 HB 1577 Hawaii NRL	carried over (5/5/05)	same as 2005 HB 1332		Hawaii RTL website urges bill's support same as 2005 HB 1332
Hawaii	2005 HB 1987 requirement of LST for patients without AD or surrogate	to 3 committees; 1 recommended bill deferred (2/6/06)		patients without AD or surrogate must receive LST and health care provider must make "every reasonable effort to prolong a patient's life"	has positive provisions (e.g., changes hospice insurance eligibility from 6 months life expectancy to 2 years)
	2005 SB 1809 Hawaii NRL	carried over (5/5/05)	NRL Model Bill		Hawaii RTL website urges bill's support
	2005 HSB 302 Iowa NRL	committee (4/20/05)	NRL Model Bill		
Kansas	2005 HB 2307 guardian and conservator appointments	committee (2/7/05)	in addition to restrictions in next column, ANH cannot be forgone unless there is patient's "express written intent"	when no AD, guardian may not forgo LST unless can prove "beyond a reasonable doubt" patient's intent after "full informed consent"	restrictions same as amended 2005 SB 92
	2005 SB 92 initially, role of department of aging; amendments to address also patient abuse and forgoing LST	committee (3/25/05)	same as 2005 HB 2307	CR same as 2005 HB 2307	

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Kentucky	2005 HB 501 An Act Relating to Life-sustaining Medical Treatment for Persons with Disabilities	inactive	similar to NRL Model Bill, except also prohibits forgoing ANH if ANH is needed for comfort (i.e., ANH must be provided even if AD explicitly directs ANH forgone even if more discomfort in forgoing)		same as 2006 HB 389
	2006 HB 389 same title as 2005 HB 501	committee (1/19/06)	same as 2005 HB 501		same as 2005 HB 501 companion to 2006 SB 95
	2006 SB 95 title same as 2006 HB 389	committee (1/20/06)	same as 2006 HB 389		companion to 2006 HB 389
	2005 HB 675 living will amendments	adopted 2005 Act 447, codified RS 40:1299.58	see Additional Comments column for restrictions in initial bill (not in adopted law)	limits definition of spouse (for purposes of making LST decisions), including that spouse does NOT include person who cohabits with another "in the manner of married persons" ambiguities in bill must be interpreted to preserve life	amended several times before adopted living will form has explicit portion to indicate ANH preferences about provision or forgoing ADs executed before 8/15/05 that don't explicitly address ANH are not invalid for that reason; cannot presume that such ADs mean that patient wants ANH initial version prohibits forgoing ANH except if: 1) ANH medically ineffective/harmful, or 2) patient expressly rejects ANH in writing after informed consent and death is imminent
Louisiana	2005 SB 40 living will amendments; creation of new section of Starvation and Dehydration of Person with Disabilities	inactive	ANH is expressly excluded from definition of LST P presumption N/A only if: 1) patient consents to forgoing in writing, 2) CCE consents to forgoing orally or in writing, or 3) ANH medically ineffective/harmful ANH provided until all appeals or remedies are exhausted state must pay for costs of ANH if family unable to pay	SC	initial version does not allow forgoing based on CCE consent orally or in writing
	2005 HB 4743 amendment to public health law; creation of new part Withholding or Withdrawal of Nutrition or Hydration	committee (5/5/05)	similar to NRL Model Bill concerning situations in which ANH can be forgone, but applies only to patients in persistent vegetative state SC		
Michigan					

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	2005 HB 4752 amendment to Estates and Protected Individuals Code	committee (5/10/05)		interested person may petition court to remove guardian spouse authorized to make LST decisions if "marital conflict of interest," including "current, commonly known or openly acknowledged, adulterous affair"	Michigan RTL website urges bill's support, specifically invoking Schiavo
Minnesota	2005 HF 2369 health, creation of new section Presumption of Nutrition and Hydration Sufficient to Sustain life	committee (4/7/05)	similar to NRL Model Bill		same as several other Minnesota bills in the chart
	2005 HF 2450 title same as 2005 HF 2369	committee (4/19/05)	same as 2005 HF 2369		
	2005 HF 3255 Minnesota NRL	committee report to pass as amended (3/16/06)	similar to NRL Model Bill		initial bill is companion to 2005 SF 2861 bill amended to clarify that ANH presumption is overcome if any one of three exceptions occur includes an AD public information component
	2005 SF 2008 title same as 2005 HF 2369	committee (3/31/05)	same as 2005 HF 2369		
	2005 SF 2184 title same as 2005 HF 2369	committee (4/1/05)	same as 2005 HF 2369		
	2005 SF 2861 Minnesota NRL	committee (3/8/06)	similar to NRL Model Bill		companion to initial 2005 HF 3255
Mississippi	2006 HB 989 An Act to Provide that the State's Official Position is to Sustain Life When Conflicts Arise Regarding Removal of Life Support	inactive (died in committee 1/31/06)			SC CR

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	2006 SB 2193 An Act Relating to the Withholding or Withdrawal of Nutrition or Hydration from Incompetent Persons, to be cited as NRL	inactive (died in committee 1/31/06)	NRL Model Bill LER		
Missouri	2005 HB 905 amendments to AD law	inactive	ANH cannot be forgone unless: 1) AD specifically grants authority to forgo ANH, or 2) ANH medically ineffective/harmful before forgoing ANH, MD must: 1) try to explain forgoing ANH to patient, or 2) certify that patient is "comatose" or in condition that makes consistently unable to understand patient's death if patient can ingest "through natural means," regardless of other law (e.g., AD expressly requesting withdrawal) CR and criminal penalties same as 2005 HB 905		same as 2006 HB 973
	2006 HB 973 amendments to AD law	committee (1/12/06)			same as 2005 HB 905
	2005 SB 547 amendments to sections about LST for patients with terminal condition	inactive		SC applies only to patients in persistent vegetative state	
Nevada	2005 SB 206 amendments to health and HCA law	inactive		HCA can make decision contrary to patient wishes as expressed in AD if HCA believes, based on patient's circumstance, that patient's best interests are better served by doing so	
New Jersey	2006 AB 2117 NRL	committee (1/30/06)	NRL Model Bill		

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New York	2005 AB 7009 An Act to Amend the Mental Hygiene Law and the Public Health Law, in Relation to the Administration of Artificial Nutrition or Hydration	amended by committee (5/6/05)	P presumption N/A if: 1) ANH medically ineffective/harmful, or 2) patient expressed in writing that ANH should not be provided		companion to 2005 SB 4083
	2005 AB 7911 An Act to Amend the Public Health Law, in Relation to Requiring a Trial by Jury for Decisions by a Health Care Agent that Would Directly Result in the Death of an Individual	committee (5/3/05)		in absence of verified living will or AD, jury trial required for HCA decisions that "are intended to result in the death" of patient and HCA must provide CCE that such action are patient's wishes	
North Carolina	2005 AB 7912 An Act to Amend the Public Health Law, in Relation to Determinations Concerning the Hydration and Nutrition of Incapacitated Individuals	committee (5/3/05)	special provision about determining capacity to make decision about ANH P Presumption N/A if patient has AD, with certain execution requirement, but does not indicate that ANH must be expressly addressed		
	2005 SB 4083 title same as 2005 AB 7009	amended in committee (5/9/05)	same as 2005 AB 7009		companion to 2005 AB 7009
Ohio	2005 HB 1175 North Carolina Disabled Persons Protection Act	committee (4/12/05)	NRL Model Bill		
	2005 HB 201 amendments concerning surrogate decision-making about LST	committee (5/5/05)		SC	

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	2005 HB 216 amendments concerning surrogate decision-making about ANH for permanently unconscious patients	committee (5/5/05)	applies only to "permanently unconscious" patients SC CR		companion to 2005 SB 130
	2005 SB 130 title same as 2005 HB 216	committee (4/26/05)	same as 2005 HB 216		companion to 2005 HB 216
Oklahoma	2005 HR 1013 resolution supporting federal intervention in Schiavo	floor substitute adopted (3/22/05)	resolution 1) commending US Congress and President for Schiavo efforts, 2) urging federal courts to hear Schiavo anew, and 3) encouraging Congress to pursue any means necessary to protect Schiavo's life		
	2005 HB 1567	introduced (2/7/05)	deletes hydration (water) as a substance that can be forgone in AD		
	2005 HB 2054 The Affordable Access to Health Care Act	passed house (3/14/05); to senate committee (3/22/05)	no civil liability for health care provider who, based on religion or moral conviction, refuses to forgo ANH if forgoing would result in the patient's death from malnutrition or hydration rather than underlying illness and ANH is not "medically contraindicated"		refusal clause also for several other types of care applies to any patients, not only those without current decision-making capacity
South Carolina	2005 HB 4013 SC NRL	committee (4/28/05)	NRL Model Bill		
South Dakota	2005 SB 204 An Act to Revise Certain Provisions Regarding Living Wills and Health Care Decisions by Agents	inactive	P exceptions to presumption similar to NRL Model Bill, except requires only "preponderance of evidence" (rather than NRL's CCE) that, before incapacity, patient refused ANH or expressed desire to forgo ANH in applicable situation (unless needed for comfort)		if MD objects to providing medically ineffective/harmful care, MD can transfer, but must continue to provide care until patient is transferred
Wisconsin	2005 AB 207 amendments concerning employment discrimination and professional discipline based on moral or religious grounds	vetoed (10/17/05)	prohibits employment discrimination and professional discipline for people who refuse to "intentionally cause death" of patient not in a "terminal condition" by forgoing ANH		refusal clause also for several other types of care applies to any patients, not only those without current decision-making capacity

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KEY: Unless otherwise noted, provisions apply only to patients currently without decision-making capacity. Unless otherwise noted, the provisions described in the chart are from the most recent version of the bill. Below are definitions for abbreviations and terms as used in the chart, which may vary from the language in the bills themselves (e.g., some states refer to a patient-appointed decision-maker as a health care proxy, health care agent, or surrogate, but the chart always uses HCA for ease of comparison).

AD: advance directive (e.g., living will or durable power of attorney for health care)

ANH: artificially supplied nutrition and hydration (sometimes bills use “food” and “water” instead, and do not limit to artificial supplying, i.e., can include spoon feeding)

CCE: clear and convincing evidence (intermediate evidentiary standard, lower than “beyond a reasonable doubt,” higher than “preponderance of the evidence”)

Committee: unless otherwise indicated, bill referred to committee in chamber of origin

Companion: companion bills are same in all respects (not just those provisions summarized in chart)

CR: civil remedies (e.g., explicitly allowing categories of people to ask court to require ANH to be provided)

Forgo: withhold or withdraw

HCA: health care agent whom patient appoints (through advance directive such as health care proxy or durable power of attorney for health care) to make health care decisions on patient’s behalf when patient lacks decision-making capacity

LER: limits existing rights (e.g., constitution or other statutory protections to authorize forgoing ANH can not be used to override bill restriction)

LST: life-sustaining treatment (which may or may not include ANH, depending on state law)

Medically ineffective/harmful: bills vary on the scope of this category (e.g., ANH not medically possible, would hasten death or be very painful, patient incapable of processing ANH so its provision would not sustain life)

N/A: not applicable

NRL: National Right to Life Model Bill before 2006 revision

Patient: person without decision-making capacity for whom forgoing LST is at issue

P: presumption that patient wants ANH necessary to sustain life in patient’s current condition

SC: when conflict among categories of people about providing LST (or ANH as applicable), treatment must still be provided in certain circumstances, even if people with otherwise highest priority choose to forgo ANH on patient’s behalf

Surrogate: person to make health care decisions on patient’s behalf, but whom patient did not appoint