

Effective 1/1/2026

75A-9-118 Limitations on powers.

- (1) If an individual has a long-term disability requiring routine treatment by artificial nutrition, hydration, or mechanical ventilation and a history of using the treatment without objection, an agent or default surrogate may not consent to withhold or withdraw the treatment unless:
 - (a) the treatment is not necessary to sustain the individual's life or maintain the individual's well-being;
 - (b) the individual has expressly authorized the withholding or withdrawal in a health care instruction that has not been revoked; or
 - (c) the individual has experienced a major reduction in health or functional ability from which the individual is not expected to recover, even with other appropriate treatment, and the individual has not:
 - (i) given a direction inconsistent with withholding or withdrawal; or
 - (ii) communicated by verbal or nonverbal expression a desire for artificial nutrition, hydration, or mechanical ventilation.
- (2) A default surrogate may not make a health care decision if, under other law of this state, the decision:
 - (a) may not be made by a guardian; or
 - (b) may be made by a guardian only if the court appointing the guardian specifically authorizes the guardian to make the decision.

Enacted by Chapter 439, 2025 General Session