



# *ENACTMENT NEWS*

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## **House Bill 451** **Life-Sustaining Treatment Statutory Priority Changes** Effective March 2017

HB 451 provides that an individual's statutory priority to decide whether or not to withhold or withdraw life-sustaining treatment for the individual's relative is forfeited if any of the following applies: (1) the individual is married to the patient and they are parties to a pending divorce, dissolution, legal separation, or annulment; (2) the individual is the subject of a protection order, and the patient is the alleged victim; or (3) the individual has been charged with felonious or aggravated assault and the harm suffered by the patient as a result of the offense directly caused the patient to be in a terminal condition. (R.C. 2133.08(C)(2))

If an individual is not permitted, under R.C. 2133.08(C)(2), to decide whether or not to consent to withholding or withdrawing life-sustaining treatment for a relative, that individual also cannot object to consent given by a priority individual or class of individuals that is permitted to make that decision (R.C. 2133.05(B)(1)).

Pursuant to R.C. 2133.09, if a probate court hearing is ordered to determine whether to withhold or withdraw nutrition and hydration from a patient who has been in a permanent unconscious state for at least 12 months, then an individual whose statutory priority is forfeited under R.C. 2133.08(C)(2) is considered not competent to testify at the hearing. Also, such an individual may not commence an action in probate court for an order mandating comfort care (R.C. 2133.12(E)(2)(c)).

If an attorney-in-fact under a healthcare power of attorney agreement is the subject of a protection order and the principal is the alleged victim, the bill precludes the attorney-in-fact from making decisions pertaining to the use or continuation of life-sustaining treatment, nutrition, or hydration to a principal (R.C. 1337.13(H)). The principal's attending physician makes the determination, in good faith, whether the attorney-in-fact can or cannot refuse or withdraw treatment because the attorney-in-fact is the subject of a protection order and the principal is the alleged victim.