

# *New Hampshire Right to Life*

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## **A Critique of NH Senate Bill 130**

**Rep. Kathy Souza, NHRTL Legislative Director**

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We know some of you are not "into" legislative affairs but we write today asking you embark on a "growth opportunity". Since we NH pro-lifers were not able to elect enough pro-life legislators, we are left dealing with some bad legislation these last few weeks. We each can oppose these bills in person by speaking to legislators who are holding a meeting specifically and only to listen to the public. Once such critically important meeting occurs this TUESDAY, MARCH 22, starting at 2pm in Concord. Specifics are below.

Sen. Andre Martel has sponsored Senate Bill SB-134 which we implore you to oppose in any of the ways you can, starting with our requests below:

Step 1: Pray for Godly insight and wisdom as you embark on this. Then read the original text of SB-134 at: <http://www.gencourt.state.nh.us/legislation/2005/SB0134.html>

Step 2: Please read the below a series of SB-134 "Talking Points" developed by NH State Representative (and NHRTL Legislative Director) Kathy Souza

Step 3: Contact Sen. Andre Martel and implore him to revoke his bill. His NH Senate webpage is at: <http://www.gencourt.state.nh.us/senate/members/senate18.asp> Sen. Martel's address is 237 Riverdale Ave, Manchester 03103. His e-mail is [andre.martel@leg.state.nh.us](mailto:andre.martel@leg.state.nh.us) His home number is 622-8411 and his Senate office is 271-8567.

Step 4: Contact the Senator who was elected to represent you by looking up contact info here (if you don't already know): <http://www.gencourt.state.nh.us/ie/whosmyleg/> Ask your Senator, and as many others as you can reach, to stop SB-134 sponsored by Sen. Martel.

Step 5: Please try to attend the meeting THIS TUESDAY, MARCH 22 starting at 2pm to tell the legislators how poor his bill is. It will occur in Room 105A of the easy-to-see gold-domed NH State House, 2 blocks west of Route 93, Exit 14.

Step 6: Pray that your initiatives will bear fruit. Then take a 1/2 turn to the left and pat yourself on the back for being pro-actively pro-life in an age when too much apathy is allowing too many assaults against pro-life Americans who cherish life.

### **TALKING POINTS AGAINST SB-134:**

Context: Basically, there are two very important end-of-life documents being pushed in this state: the "living will" and the "durable power of attorney" for health care. NHRTL fought them mightily for years, until, in the nineties, the Diocese cooperated with former Sen. Susan McLane and others who did not respect life, to pass what we now have on the books. We had thought the Diocese was working with us but anyway we now have these two documents on the books. The living will is by far the more dangerous. It allows one to decide years ahead, what one might like - when one is not able to speak for oneself. This is BINDING, so NO ONE can intervene. As we grow older, we endure things we might not have thought we would - but I can say aging is not all bad! However, the "living will"

could ensure a death we did not envision. Without food and water we will die. The durable power document is not quite as bad, as long as you have someone you can really really trust to know your wishes and whom you can count on them to be PRESENT when you need them.

Senate Bill 134 is much like HB 656 (see last week's NHRTL Alert) but goes further in the direction of favoring dying over living. It revamps the current living will and durable power laws in the direction of death.

A look at the purpose, page one of the bill reveals the direction. Under existing laws, the patient is encouraged to communicate with their physician regarding wishes. We were told that patients trusted their own doctors and should be able to have their wishes respected with their own doctors. Now, SB 134 changes that. Line 10 of the first page, says that it aims to "encourage communication between patients and their attending physicians or ARNPs..." Question: if a patient is in the hospital, at what time does the ATTENDING nurse or doctor sit down and DISCUSS these documents with the patient? One could already be unconscious! Worse yet, these documents do not come into play until one is already unable to speak for oneself. Therefore, to communicate your wishes to the ATTENDING doctor or nurse \_when\_ these documents are applicable is impossible.

Also, page one, line 17: the term "near death" is a change from the old language. What does this mean? Have not we or people we know been "near death" any number of times" and gone on to recover just fine?

Page 1, line 18, shows the most dangerous part of this bill. It says that EVEN THOUGH we do not want to execute these end-of-life documents, we still fall under their provisions. So READ IT CAREFULLY. If we do not prepare these documents, no longer will the doctor, hospital, etc. assume we want to live. Rather, the nurse, yes the nurse, or the attending physician (whomever happens to be on duty), may CHOOSE someone to make decisions for us. The bill lists the people from among whom the nurse or doctor may CHOOSE TO MAKE LIFE AND DEATH DECISIONS FOR YOU. Yes, the nurse or the doctor on duty will decide who the most appropriate person is to decide if you live or die. It says "certain persons, having a special relationship by blood, marriage, or otherwise...." The decisions include those "to withhold or withdraw life-sustaining treatment and artificial nutrition and hydration." As you already know from last week's NHRTL Alert, Pope John Paul made it eminently clear in his March, 2004 speech, that food and water are NOT artificial.

Page 2 treats food and water delivered by tube or intravenous as "artificial nutrition and hydration." Page 2 has a change from the existing legislation, where the patient had to be able to understand and appreciate the nature and consequences of a health care decision. Under the proposed bill, he/she has only to be able to understand and appreciate GENERALLY the nature and consequences. This makes it easier to cause death.

Also, page 2 defines "attending physician or ARNP" to be ANY ONE of any number the patient comes in contact with - important to remember when reading WHO decides the patient's living will should become activated.

11 defines "life-sustaining treatment to include food and water by tube, intravenous, etc. and gives the power to any of the physicians or ARNP's around to decide if the person is "near death or permanently unconscious" for the purposes of not feeding! ANY of these persons can decide.

Line 25 tries to define "near death" - with a "reasonable degree of medical certainty." Again, the bill favors dying over living.

"Permanently unconscious" is defined on line 29, again as determined "to a reasonable degree of medical certainty by the attending physician or ARNP." If the nurse or doctor, who does not know the patient makes the wrong decision, no one will ever know if the person would have recovered.

Page 4, line 5 describes the "surrogate decision maker." Now, if one does not have a durable power of attorney, if one is unable to communicate, then there is a presumption that one wants to live and be treated. This section changes that. If one has not chosen a person to make decisions for them, the doctor or ARNP on duty will choose one for you. And not necessarily the next of kin. There is a listing of possibilities, including spouse, child, parent, friend, and ANY OTHER PERSON OR ENTITY. So, the doctor or nurse can choose anyone and bypass anyone.

Page 5 says that if one "requests medically reasonable treatment," treatment may not be given to or withheld ..." Precisely what would "REASONABLE" mean?

Line 24 is about pregnant woman and withholding life-sustaining treatment. It will be withheld unless it would be "physically harmful to the mother" How can it be physically harmful to the mother if she is supposed to be near death or permanently unconscious and food and water would keep her alive? A pro-abortion doctor or nurse might be inclined to decide that it would be "physically harmful" not to let her die of starvation/dehydration. Isn't that woefully convoluted?

Page 6 says that when one executes an advance directive, it shall be taken WITHOUT DELAY through the steps to enable it to be acted upon. Interesting, that when one revokes such a document, page 10, there is no such urgency required to make it known to the attending doctor or nurse. By the time the steps are taken with a revocation, it could be too late.

Page 6, line 33: "When the direction....requires an act or omission contrary to the moral or ethical principles or other standards of a health care provider....." IF this is perfectly OK, then why is this part even in here. This is a good question for the Diocese. It is in HB-656 also. Since the Diocese apparently approves of HB-656, it has to be asked regardless of the conflict it provokes.

The bill repeatedly refers to food and water provided by tubes as "artificial nutrition and hydration," which is flatly wrong and totally irrelevant in the light of the Terri Schiavo case.

Page 18 is interesting again regarding the "surrogate." The attending physician or ARNP "shall select as the principal's surrogate the person who reasonably appears to be best qualified." A doctor or nurse on duty who may never have known the patient will decide this.

We in NHRTL have not seen the expected amendments to supposedly "improve" SB-134, but since there are so many flaws and this subject is so fraught with danger, we summarily oppose it regardless, and we implore you to do so too.

Again, PLEASE try to come to Concord Tuesday at 2pm. Finally, on HB656 please call the Diocese at 669-3100 (fax via 669-0377 to report your objection to HB-656 with the Bishop's office.



An Associate of American Life League, Inc.