

State of Wisconsin



2019 Assembly Bill 287

Date of enactment: February 5, 2020

Date of publication*: February 6, 2020

2019 WISCONSIN ACT 90

AN ACT *to renumber* 155.01 (1); *to renumber and amend* 154.01 (1), 154.01 (3) and 302.384; *to amend* 50.94 (8), 154.01 (5) (intro.), subchapter II (title) of chapter 154 [precedes 154.02], 154.02 (3), 154.03 (title), 154.03 (1) (intro.), 154.03 (2), 154.05 (1) (c), 154.05 (2), 154.07 (1) (a) (intro.), 154.07 (1) (a) 3., 154.07 (2), 154.19 (1) (intro.), 154.19 (1) (e), 154.19 (2) (a), 154.19 (2) (b) (intro.), 154.21 (2), 154.23 (intro.), 154.27 (1), 155.05 (2), 155.20 (4), 155.30 (1), 155.30 (3), 155.50 (1) (b), 165.77 (1) (a) and 441.07 (1g) (d) (intro.); and *to create* 154.01 (1g), 154.01 (3) (a), 154.01 (3) (b), 154.01 (3) (c), 155.01 (1g), 302.384 (1m) and 448.015 (4) (am) 2m. of the statutes; **relating to:** certifications for advance directives, findings of incapacity related to powers of attorney for health care, and determinations that a person is incapacitated for admission to a hospice.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1s. 50.94 (8) of the statutes is amended to read:

50.94 (8) A determination that a person is incapacitated may be made only by 2 physicians or by one physician and one licensed psychologist, as defined in s. 455.01 (4) advanced practice clinician, as defined in s. 155.01 (1g), who personally examine the person and sign a statement specifying that the person is incapacitated. Mere old age, eccentricity or physical disabilities, singly or together, are insufficient to determine that a person is incapacitated. Whoever determines that the person is incapacitated may not be a relative, as defined in s. 242.01 (11), of the person or have knowledge that he or she is entitled to or has claim on any portion of the person's estate. A copy of the statement shall be included in the records of the incapacitated person in the hospice to which he or she is admitted.

SECTION 1u. 154.01 (1) of the statutes is renumbered 154.01 (1r) and amended to read:

154.01 (1r) "Attending physician health care professional" means a physician licensed under ch. 448 health care professional who has primary responsibility for the treatment and care of the patient.

SECTION 2. 154.01 (1g) of the statutes is created to read:

154.01 (1g) "Advanced practice registered nurse" means a nurse licensed under ch. 441 who is currently certified by a national certifying body approved by the board of nursing as a nurse practitioner, certified nurse-midwife, certified registered nurse anesthetist, or clinical nurse specialist.

SECTION 3. 154.01 (3) of the statutes is renumbered 154.01 (3) (intro.) and amended to read:

154.01 (3) (intro.) "Health care professional" means ~~a person licensed, certified or registered under ch. 441, 448 or 455.~~ any of the following:

SECTION 4. 154.01 (3) (a) of the statutes is created to read:

154.01 (3) (a) A physician licensed under ch. 448.

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

SECTION 5. 154.01 (3) (b) of the statutes is created to read:

154.01 (3) (b) A physician assistant licensed under ch. 448.

SECTION 6. 154.01 (3) (c) of the statutes is created to read:

154.01 (3) (c) An advanced practice registered nurse.

SECTION 7. 154.01 (5) (intro.) of the statutes is amended to read:

154.01 (5) (intro.) “Life-sustaining procedure” means any medical procedure or intervention that, in the judgment of the attending physician health care professional, would serve only to prolong the dying process but not avert death when applied to a qualified patient. “Life-sustaining procedure” includes assistance in respiration, artificial maintenance of blood pressure and heart rate, blood transfusion, kidney dialysis and other similar procedures, but does not include:

SECTION 8. Subchapter II (title) of chapter 154 [precedes 154.02] of the statutes is amended to read:

CHAPTER 154

SUBCHAPTER II

DECLARATION TO PHYSICIANS

HEALTH CARE PROFESSIONALS

SECTION 9. 154.02 (3) of the statutes is amended to read:

154.02 (3) “Qualified patient” means a declarant who has been diagnosed and certified in writing to be afflicted with a terminal condition or to be in a persistent vegetative state by 2 physicians health care professionals, one of whom is the attending physician health care professional and one of whom is a physician, who have personally examined the declarant.

SECTION 10. 154.03 (title) of the statutes is amended to read:

154.03 (title) Declaration to physicians health care professionals.

SECTION 11. 154.03 (1) (intro.) of the statutes is amended to read:

154.03 (1) (intro.) Any person of sound mind and 18 years of age or older may at any time voluntarily execute a declaration, which shall take effect on the date of execution, authorizing the withholding or withdrawal of life-sustaining procedures or of feeding tubes when the person is in a terminal condition or is in a persistent vegetative state. A declarant may not authorize the withholding or withdrawal of any medication, life-sustaining procedure or feeding tube if the declarant’s attending physician health care professional advises that, in his or her professional judgment, the withholding or withdrawal will cause the declarant pain or reduce the declarant’s comfort and the pain or discomfort cannot be alleviated through pain relief measures. A declarant may not authorize the withholding or withdrawal of nutrition or hydration that is administered or otherwise received by the declarant through means other than a feeding tube

unless the declarant’s attending physician health care professional advises that, in his or her professional judgment, the administration is medically contraindicated. A declaration must be signed by the declarant in the presence of 2 witnesses. If the declarant is physically unable to sign a declaration, the declaration must be signed in the declarant’s name by one of the witnesses or some other person at the declarant’s express direction and in his or her presence; such a proxy signing shall either take place or be acknowledged by the declarant in the presence of 2 witnesses. The declarant is responsible for notifying his or her attending physician health care professional of the existence of the declaration. An attending physician health care professional who is so notified shall make the declaration a part of the declarant’s medical records. No witness to the execution of the declaration may, at the time of the execution, be any of the following:

SECTION 12. 154.03 (2) of the statutes is amended to read:

154.03 (2) The department shall prepare and provide copies of the declaration and accompanying information for distribution in quantities to health care professionals persons licensed, certified, or registered under ch. 441, 448, or 455, hospitals, nursing homes, county clerks and local bar associations and individually to private persons. The department shall include, in information accompanying the declaration, at least the statutory definitions of terms used in the declaration, statutory restrictions on who may be witnesses to a valid declaration, a statement explaining that valid witnesses acting in good faith are statutorily immune from civil or criminal liability, an instruction to potential declarants to read and understand the information before completing the declaration and a statement explaining that an instrument may, but need not be, filed with the register in probate of the declarant’s county of residence. The department may charge a reasonable fee for the cost of preparation and distribution. The declaration distributed by the department of health services shall be easy to read, the type size may be no smaller than 10 point, and the declaration shall be in the following form, setting forth on the first page the wording before the ATTENTION statement and setting forth on the 2nd page the ATTENTION statement and remaining wording:

DECLARATION TO PHYSICIANS HEALTH CARE PROFESSIONALS

(WISCONSIN LIVING WILL)

I, ..., being of sound mind, voluntarily state my desire that my dying not be prolonged under the circumstances specified in this document. Under those circumstances, I direct that I be permitted to die naturally. If I am unable to give directions regarding the use of life-sustaining procedures or feeding tubes, I intend that my family and physician, physician assistant, or advanced practice registered nurse honor this document as the final expression of my legal right to refuse medical or surgical treatment.

1. If I have a TERMINAL CONDITION, as determined by ~~2 physicians~~ a physician, physician assistant, or advanced practice registered nurse who have has personally examined me, and if a physician who has also personally examined me agrees with that determination, I do not want my dying to be artificially prolonged and I do not want life-sustaining procedures to be used. In addition, the following are my directions regarding the use of feeding tubes:

.... YES, I want feeding tubes used if I have a terminal condition.

.... NO, I do not want feeding tubes used if I have a terminal condition.

If you have not checked either box, feeding tubes will be used.

2. If I am in a PERSISTENT VEGETATIVE STATE, as determined by ~~2 physicians~~ a physician, physician assistant, or advanced practice registered nurse who have has personally examined me, and if a physician who has also personally examined me agrees with that determination, the following are my directions regarding the use of life-sustaining procedures:

.... YES, I want life-sustaining procedures used if I am in a persistent vegetative state.

.... NO, I do not want life-sustaining procedures used if I am in a persistent vegetative state.

If you have not checked either box, life-sustaining procedures will be used.

3. If I am in a PERSISTENT VEGETATIVE STATE, as determined by ~~2 physicians~~ a physician, physician assistant, or advanced practice registered nurse who have has personally examined me, and if a physician who has also personally examined me agrees with that determination, the following are my directions regarding the use of feeding tubes:

.... YES, I want feeding tubes used if I am in a persistent vegetative state.

.... NO, I do not want feeding tubes used if I am in a persistent vegetative state.

If you have not checked either box, feeding tubes will be used.

If you are interested in more information about the significant terms used in this document, see section 154.01 of the Wisconsin Statutes or the information accompanying this document.

ATTENTION: You and the 2 witnesses must sign the document at the same time.

Signed

Date

Address

Date of birth

I believe that the person signing this document is of sound mind. I am an adult and am not related to the person signing this document by blood, marriage or adoption. I am not entitled to and do not have a claim on any

portion of the person's estate and am not otherwise restricted by law from being a witness.

Witness signature

Date signed

Print name

Witness signature

Date signed

Print name

DIRECTIVES TO ATTENDING PHYSICIAN, PHYSICIAN ASSISTANT, OR ADVANCED PRACTICE REGISTERED NURSE

1. This document authorizes the withholding or withdrawal of life-sustaining procedures or of feeding tubes when ~~2 physicians~~ a physician and another physician, physician assistant, or advanced practice registered nurse, one of whom is the attending ~~physician~~ health care professional, have personally examined and certified in writing that the patient has a terminal condition or is in a persistent vegetative state.

2. The choices in this document were made by a competent adult. Under the law, the patient's stated desires must be followed unless you believe that withholding or withdrawing life-sustaining procedures or feeding tubes would cause the patient pain or reduced comfort and that the pain or discomfort cannot be alleviated through pain relief measures. If the patient's stated desires are that life-sustaining procedures or feeding tubes be used, this directive must be followed.

3. If you feel that you cannot comply with this document, you must make a good faith attempt to transfer the patient to another physician, physician assistant, or advanced practice registered nurse who will comply. Refusal or failure to make a good faith attempt to do so constitutes unprofessional conduct.

4. If you know that the patient is pregnant, this document has no effect during her pregnancy.

* * * * *

The person making this living will may use the following space to record the names of those individuals and health care providers to whom he or she has given copies of this document:

.....
.....
.....

SECTION 13. 154.05 (1) (c) of the statutes is amended to read:

154.05 (1) (c) By a verbal expression by the declarant of his or her intent to revoke the declaration. This revocation becomes effective only if the declarant or a person who is acting on behalf of the declarant notifies the attending ~~physician~~ health care professional of the revocation.

SECTION 14. 154.05 (2) of the statutes is amended to read:

154.05 (2) RECORDING THE REVOCATION. The attending ~~physician~~ health care professional shall record in the patient's medical record the time, date and place of the revocation and the time, date and place, if different, that he or she was notified of the revocation.

SECTION 15. 154.07 (1) (a) (intro.) of the statutes is amended to read:

154.07 (1) (a) (intro.) No ~~physician~~ health care professional, inpatient health care facility or ~~health care professional person licensed, certified, or registered under ch. 441, 448, or 455~~ acting under the direction of a ~~physician~~ health care professional may be held criminally or civilly liable, or charged with unprofessional conduct, for any of the following:

SECTION 16. 154.07 (1) (a) 3. of the statutes is amended to read:

154.07 (1) (a) 3. Failing to comply with a declaration, except that failure by a ~~physician~~ health care professional to comply with a declaration of a qualified patient constitutes unprofessional conduct if the ~~physician~~ health care professional refuses or fails to make a good faith attempt to transfer the qualified patient to another ~~physician~~ health care professional who will comply with the declaration.

SECTION 17. 154.07 (2) of the statutes is amended to read:

154.07 (2) EFFECT OF DECLARATION. The desires of a qualified patient who is competent supersede the effect of the declaration at all times. If a qualified patient is adjudicated incompetent at the time of the decision to withhold or withdraw life-sustaining procedures or feeding tubes, a declaration executed under this subchapter is presumed to be valid. The declaration of a qualified patient who is diagnosed as pregnant by the attending ~~physician~~ health care professional has no effect during the course of the qualified patient's pregnancy. For the purposes of this subchapter, a ~~physician~~ health care professional or inpatient health care facility may presume in the absence of actual notice to the contrary that a person who executed a declaration was of sound mind at the time.

SECTION 18. 154.19 (1) (intro.) of the statutes is amended to read:

154.19 (1) (intro.) No person except an attending ~~physician~~ health care professional may issue a do-not-resuscitate order. An attending ~~physician~~ health care professional may issue a do-not-resuscitate order to a patient only if all of the following apply:

SECTION 19. 154.19 (1) (e) of the statutes is amended to read:

154.19 (1) (e) The ~~physician~~ health care professional does not know the patient to be pregnant.

SECTION 20. 154.19 (2) (a) of the statutes is amended to read:

154.19 (2) (a) The attending ~~physician~~ health care professional, or a person directed by the attending ~~physi-~~

~~cian~~ health care professional, shall provide the patient with written information about the resuscitation procedures that the patient has chosen to forego and the methods by which the patient may revoke the do-not-resuscitate order.

SECTION 21. 154.19 (2) (b) (intro.) of the statutes is amended to read:

154.19 (2) (b) (intro.) After providing the information under par. (a), the attending ~~physician~~ health care professional, or the person directed by the attending ~~physician~~ health care professional, shall document in the patient's medical record the medical condition that qualifies the patient for the do-not-resuscitate order, shall make the order in writing and shall do one of the following, as requested by the qualified patient:

SECTION 22. 154.21 (2) of the statutes is amended to read:

154.21 (2) RECORDING THE REVOCATION. The attending ~~physician~~ health care professional shall be notified as soon as practicable of the patient's revocation and shall record in the patient's medical record the time, date and place of the revocation, if known, and the time, date and place, if different, that he or she was notified of the revocation. A revocation under sub. (1) is effective regardless of when the attending ~~physician~~ health care professional has been notified of that revocation.

SECTION 23. 154.23 (intro.) of the statutes is amended to read:

154.23 Liability. (intro.) No physician, emergency medical services practitioner, emergency medical responder, health care ~~professional~~ provider, as defined in s. 146.81 (1), or emergency health care facility may be held criminally or civilly liable, or charged with unprofessional conduct, for any of the following:

SECTION 24. 154.27 (1) of the statutes is amended to read:

154.27 (1) The department shall establish by rule a uniform standard for the size, color, and design of all do-not-resuscitate bracelets. Except as provided in sub. (2), the rules shall require that the do-not-resuscitate bracelets include the inscription "Do Not Resuscitate"; the name, address, date of birth and gender of the patient; and the name, business telephone number and signature of the attending ~~physician~~ health care professional issuing the order.

SECTION 25. 155.01 (1) of the statutes is renumbered 155.01 (1r).

SECTION 26. 155.01 (1g) of the statutes is created to read:

155.01 (1g) "Advanced practice clinician" means any of the following:

(a) A licensed psychologist, as defined in s. 455.01 (4).

(b) A registered nurse under ch. 441 who is currently certified as a nurse practitioner by a national certifying body approved by the board of nursing.

(c) A physician assistant licensed under ch. 448 who a physician responsible for overseeing the physician assistant's practice affirms is competent to conduct evaluations of the capacity of patients to manage health care decisions.

SECTION 27. 155.05 (2) of the statutes is amended to read:

155.05 (2) Unless otherwise specified in the power of attorney for health care instrument, an individual's power of attorney for health care takes effect upon a finding of incapacity by 2 physicians, as defined in s. 448.01 (5), or one physician and one licensed ~~psychologist, as defined in s. 455.01 (4)~~ advanced practice clinician, who personally examine the principal and sign a statement specifying that the principal has incapacity. Mere old age, eccentricity or physical disability, either singly or together, are insufficient to make a finding of incapacity. Neither of the individuals who make a finding of incapacity may be a relative of the principal or have knowledge that he or she is entitled to or has a claim on any portion of the principal's estate. A copy of the statement, if made, shall be appended to the power of attorney for health care instrument.

SECTION 28. 155.20 (4) of the statutes is amended to read:

155.20 (4) A health care agent may consent to the withholding or withdrawal of a feeding tube for the principal if the power of attorney for health care instrument so authorizes, unless the principal's attending ~~physician~~ health care professional, as defined in s. 154.01 (1r), advises that, in his or her professional judgment, the withholding or withdrawal will cause the principal pain or reduce the principal's comfort. A health care agent may not consent to the withholding or withdrawal of orally ingested nutrition or hydration unless provision of the nutrition or hydration is medically contraindicated.

SECTION 29. 155.30 (1) of the statutes is amended to read:

155.30 (1) A printed form of a power of attorney for health care instrument that is sold or otherwise distributed for use by an individual in this state who does not have the advice of legal counsel shall provide no authority other than the authority to make health care decisions on behalf of the principal and shall contain the following statement in not less than 10-point boldface type:

"NOTICE TO PERSON
MAKING THIS DOCUMENT

YOU HAVE THE RIGHT TO MAKE DECISIONS ABOUT YOUR HEALTH CARE. NO HEALTH CARE MAY BE GIVEN TO YOU OVER YOUR OBJECTION, AND NECESSARY HEALTH CARE MAY NOT BE STOPPED OR WITHHELD IF YOU OBJECT.

BECAUSE YOUR HEALTH CARE PROVIDERS IN SOME CASES MAY NOT HAVE HAD THE OPPORTUNITY TO ESTABLISH A LONG-TERM RELATIONSHIP WITH YOU, THEY ARE OFTEN

UNFAMILIAR WITH YOUR BELIEFS AND VALUES AND THE DETAILS OF YOUR FAMILY RELATIONSHIPS. THIS POSES A PROBLEM IF YOU BECOME PHYSICALLY OR MENTALLY UNABLE TO MAKE DECISIONS ABOUT YOUR HEALTH CARE.

IN ORDER TO AVOID THIS PROBLEM, YOU MAY SIGN THIS LEGAL DOCUMENT TO SPECIFY THE PERSON WHOM YOU WANT TO MAKE HEALTH CARE DECISIONS FOR YOU IF YOU ARE UNABLE TO MAKE THOSE DECISIONS PERSONALLY. THAT PERSON IS KNOWN AS YOUR HEALTH CARE AGENT. YOU SHOULD TAKE SOME TIME TO DISCUSS YOUR THOUGHTS AND BELIEFS ABOUT MEDICAL TREATMENT WITH THE PERSON OR PERSONS WHOM YOU HAVE SPECIFIED. YOU MAY STATE IN THIS DOCUMENT ANY TYPES OF HEALTH CARE THAT YOU DO OR DO NOT DESIRE, AND YOU MAY LIMIT THE AUTHORITY OF YOUR HEALTH CARE AGENT. IF YOUR HEALTH CARE AGENT IS UNAWARE OF YOUR DESIRES WITH RESPECT TO A PARTICULAR HEALTH CARE DECISION, HE OR SHE IS REQUIRED TO DETERMINE WHAT WOULD BE IN YOUR BEST INTERESTS IN MAKING THE DECISION.

THIS IS AN IMPORTANT LEGAL DOCUMENT. IT GIVES YOUR AGENT BROAD POWERS TO MAKE HEALTH CARE DECISIONS FOR YOU. IT REVOKES ANY PRIOR POWER OF ATTORNEY FOR HEALTH CARE THAT YOU MAY HAVE MADE. IF YOU WISH TO CHANGE YOUR POWER OF ATTORNEY FOR HEALTH CARE, YOU MAY REVOKE THIS DOCUMENT AT ANY TIME BY DESTROYING IT, BY DIRECTING ANOTHER PERSON TO DESTROY IT IN YOUR PRESENCE, BY SIGNING A WRITTEN AND DATED STATEMENT OR BY STATING THAT IT IS REVOKED IN THE PRESENCE OF TWO WITNESSES. IF YOU REVOKE, YOU SHOULD NOTIFY YOUR AGENT, YOUR HEALTH CARE PROVIDERS AND ANY OTHER PERSON TO WHOM YOU HAVE GIVEN A COPY. IF YOUR AGENT IS YOUR SPOUSE OR DOMESTIC PARTNER AND YOUR MARRIAGE IS ANNULLED OR YOU ARE DIVORCED OR THE DOMESTIC PARTNERSHIP IS TERMINATED AFTER SIGNING THIS DOCUMENT, THE DOCUMENT IS INVALID.

YOU MAY ALSO USE THIS DOCUMENT TO MAKE OR REFUSE TO MAKE AN ANATOMICAL GIFT UPON YOUR DEATH. IF YOU USE THIS DOCUMENT TO MAKE OR REFUSE TO MAKE AN ANATOMICAL GIFT, THIS DOCUMENT REVOKES ANY PRIOR RECORD OF GIFT THAT YOU MAY HAVE MADE. YOU MAY REVOKE OR CHANGE ANY ANATOMICAL GIFT THAT YOU MAKE BY

THIS DOCUMENT BY CROSSING OUT THE ANATOMICAL GIFTS PROVISION IN THIS DOCUMENT.

DO NOT SIGN THIS DOCUMENT UNLESS YOU CLEARLY UNDERSTAND IT.

IT IS SUGGESTED THAT YOU KEEP THE ORIGINAL OF THIS DOCUMENT ON FILE WITH YOUR PHYSICIAN OR OTHER PRIMARY CARE PROVIDER."

SECTION 30. 155.30 (3) of the statutes is amended to read:

155.30 (3) The department shall prepare and provide copies of a power of attorney for health care instrument and accompanying information for distribution in quantities to health care professionals, hospitals, nursing homes, multipurpose senior centers, county clerks, and local bar associations and individually to private persons. The department shall include, in information accompanying the copy of the instrument, at least the statutory definitions of terms used in the instrument, statutory restrictions on who may be witnesses to a valid instrument, a statement explaining that valid witnesses acting in good faith are statutorily immune from civil or criminal liability and a statement explaining that an instrument may, but need not, be filed with the register in probate of the principal's county of residence. The department may charge a reasonable fee for the cost of preparation and distribution. The power of attorney for health care instrument distributed by the department shall include the notice specified in sub. (1) and shall be in the following form:

POWER OF ATTORNEY FOR HEALTH CARE

Document made this.... day of.... (month),.... (year).

CREATION OF POWER OF ATTORNEY

FOR HEALTH CARE

I,.... (print name, address and date of birth), being of sound mind, intend by this document to create a power of attorney for health care. My executing this power of attorney for health care is voluntary. Despite the creation of this power of attorney for health care, I expect to be fully informed about and allowed to participate in any health care decision for me, to the extent that I am able. For the purposes of this document, "health care decision" means an informed decision to accept, maintain, discontinue or refuse any care, treatment, service or procedure to maintain, diagnose or treat my physical or mental condition.

In addition, I may, by this document, specify my wishes with respect to making an anatomical gift upon my death.

DESIGNATION OF HEALTH CARE AGENT

If I am no longer able to make health care decisions for myself, due to my incapacity, I hereby designate.... (print name, address and telephone number) to be my health care agent for the purpose of making health care decisions on my behalf. If he or she is ever unable or

unwilling to do so, I hereby designate.... (print name, address and telephone number) to be my alternate health care agent for the purpose of making health care decisions on my behalf. Neither my health care agent nor my alternate health care agent whom I have designated is my health care provider, an employee of my health care provider, an employee of a health care facility in which I am a patient or a spouse of any of those persons, unless he or she is also my relative. For purposes of this document, "incapacity" exists if 2 physicians or a physician and a psychologist, nurse practitioner, or physician assistant who have personally examined me sign a statement that specifically expresses their opinion that I have a condition that means that I am unable to receive and evaluate information effectively or to communicate decisions to such an extent that I lack the capacity to manage my health care decisions. A copy of that statement must be attached to this document.

GENERAL STATEMENT OF AUTHORITY GRANTED

Unless I have specified otherwise in this document, if I ever have incapacity I instruct my health care provider to obtain the health care decision of my health care agent, if I need treatment, for all of my health care and treatment. I have discussed my desires thoroughly with my health care agent and believe that he or she understands my philosophy regarding the health care decisions I would make if I were able. I desire that my wishes be carried out through the authority given to my health care agent under this document.

If I am unable, due to my incapacity, to make a health care decision, my health care agent is instructed to make the health care decision for me, but my health care agent should try to discuss with me any specific proposed health care if I am able to communicate in any manner, including by blinking my eyes. If this communication cannot be made, my health care agent shall base his or her decision on any health care choices that I have expressed prior to the time of the decision. If I have not expressed a health care choice about the health care in question and communication cannot be made, my health care agent shall base his or her health care decision on what he or she believes to be in my best interest.

LIMITATIONS ON MENTAL HEALTH TREATMENT

My health care agent may not admit or commit me on an inpatient basis to an institution for mental diseases, an intermediate care facility for persons with an intellectual disability, a state treatment facility or a treatment facility. My health care agent may not consent to experimental mental health research or psychosurgery, electroconvulsive treatment or drastic mental health treatment procedures for me.

ADMISSION TO NURSING HOMES OR COMMUNITY-BASED RESIDENTIAL FACILITIES

My health care agent may admit me to a nursing home or community-based residential facility for short-term stays for recuperative care or respite care.

If I have checked "Yes" to the following, my health care agent may admit me for a purpose other than recuperative care or respite care, but if I have checked "No" to the following, my health care agent may not so admit me:

- 1. A nursing home — Yes.... No....
- 2. A community-based residential facility — Yes.... No....

If I have not checked either "Yes" or "No" immediately above, my health care agent may admit me only for short-term stays for recuperative care or respite care.

PROVISION OF A FEEDING TUBE

If I have checked "Yes" to the following, my health care agent may have a feeding tube withheld or withdrawn from me, unless my physician, physician assistant, or nurse practitioner has advised that, in his or her professional judgment, this will cause me pain or will reduce my comfort. If I have checked "No" to the following, my health care agent may not have a feeding tube withheld or withdrawn from me.

My health care agent may not have orally ingested nutrition or hydration withheld or withdrawn from me unless provision of the nutrition or hydration is medically contraindicated.

Withhold or withdraw a feeding tube — Yes.... No....

If I have not checked either "Yes" or "No" immediately above, my health care agent may not have a feeding tube withdrawn from me.

HEALTH CARE DECISIONS FOR PREGNANT WOMEN

If I have checked "Yes" to the following, my health care agent may make health care decisions for me even if my agent knows I am pregnant. If I have checked "No" to the following, my health care agent may not make health care decisions for me if my health care agent knows I am pregnant.

Health care decision if I am pregnant — Yes.... No....

If I have not checked either "Yes" or "No" immediately above, my health care agent may not make health care decisions for me if my health care agent knows I am pregnant.

STATEMENT OF DESIRES, SPECIAL PROVISIONS OR LIMITATIONS

In exercising authority under this document, my health care agent shall act consistently with my following stated desires, if any, and is subject to any special provisions or limitations that I specify. The following are specific desires, provisions or limitations that I wish to state (add more items if needed):

- 1) -
- 2) -
- 3) -

INSPECTION AND DISCLOSURE OF INFORMATION RELATING TO MY PHYSICAL OR MENTAL HEALTH

Subject to any limitations in this document, my health care agent has the authority to do all of the following:

- (a) Request, review and receive any information, oral or written, regarding my physical or mental health, including medical and hospital records.
- (b) Execute on my behalf any documents that may be required in order to obtain this information.
- (c) Consent to the disclosure of this information. (The principal and the witnesses all must sign the document at the same time.)

SIGNATURE OF PRINCIPAL

(person creating the power of attorney for health care) Signature.... Date....

(The signing of this document by the principal revokes all previous powers of attorney for health care documents.)

STATEMENT OF WITNESSES

I know the principal personally and I believe him or her to be of sound mind and at least 18 years of age. I believe that his or her execution of this power of attorney for health care is voluntary. I am at least 18 years of age, am not related to the principal by blood, marriage, or adoption, am not the domestic partner under ch. 770 of the principal, and am not directly financially responsible for the principal's health care. I am not a health care provider who is serving the principal at this time, an employee of the health care provider, other than a chaplain or a social worker, or an employee, other than a chaplain or a social worker, of an inpatient health care facility in which the declarant is a patient. I am not the principal's health care agent. To the best of my knowledge, I am not entitled to and do not have a claim on the principal's estate.

Witness No. 1: (print) Name.... Date.... Address.... Signature....

Witness No. 2: (print) Name.... Date.... Address.... Signature....

STATEMENT OF HEALTH CARE AGENT AND ALTERNATE HEALTH CARE AGENT

I understand that... (name of principal) has designated me to be his or her health care agent or alternate health care agent if he or she is ever found to have incapacity and unable to make health care decisions himself or herself. (name of principal) has discussed his or her desires regarding health care decisions with me.

Agent's signature.... Address.... Alternate's signature....

Address....

Failure to execute a power of attorney for health care document under chapter 155 of the Wisconsin Statutes creates no presumption about the intent of any individual with regard to his or her health care decisions.

This power of attorney for health care is executed as provided in chapter 155 of the Wisconsin Statutes.

ANATOMICAL GIFTS (optional)

Upon my death:

.... I wish to donate only the following organs or parts: (specify the organs or parts).

.... I wish to donate any needed organ or part.

.... I wish to donate my body for anatomical study if needed.

.... I refuse to make an anatomical gift. (If this revokes a prior commitment that I have made to make an anatomical gift to a designated donee, I will attempt to notify the donee to which or to whom I agreed to donate.)

Failing to check any of the lines immediately above creates no presumption about my desire to make or refuse to make an anatomical gift.

Signature.... Date....

SECTION 31. 155.50 (1) (b) of the statutes is amended to read:

155.50 (1) (b) Failing to comply with a power of attorney for health care instrument or the decision of a health care agent, except that failure of a physician health care professional, as defined in s. 154.01 (3), to comply constitutes unprofessional conduct if the physician health care professional refuses or fails to make a good faith attempt to transfer the principal to another physician health care professional who will comply.

SECTION 32. 165.77 (1) (a) of the statutes is amended to read:

165.77 (1) (a) “Health care professional” ~~has the meaning given in s. 154.01 (3)~~ means a person licensed, certified, or registered under ch. 441, 448, or 455.

SECTION 33. 302.384 of the statutes is renumbered 302.384 (2m), and 302.384 (2m) (a), as renumbered, is amended to read:

302.384 (2m) (a) A sheriff, jailer, keeper or officer arranges for a health care professional, ~~as defined in s. 154.01 (3)~~, to observe the prisoner.

SECTION 34. 302.384 (1m) of the statutes is created to read:

302.384 (1m) In this section, “health care professional” means a person licensed, certified, or registered under ch. 441, 448, or 455.

SECTION 35. 441.07 (1g) (d) (intro.) of the statutes is amended to read:

441.07 (1g) (d) (intro.) Misconduct or unprofessional conduct. In this paragraph, “unprofessional conduct” includes making a determination under ch. 154 or 155 if the person does not have sufficient education, training, and experience to make the determination. In this paragraph, “misconduct” and “unprofessional conduct” do not include any of the following:

SECTION 36. 448.015 (4) (am) 2m. of the statutes is created to read:

448.015 (4) (am) 2m. A determination made by a physician assistant under ch. 154 or 155 if the physician assistant does not have sufficient education, training, and experience to make the determination.