



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-1737/1
CMH:kjf

2019 ASSEMBLY BILL 287

1 **AN ACT** *to renumber* 155.01 (1); *to renumber and amend* 154.01 (1), 154.01
2 (3) and 302.384; *to amend* 50.94 (8), 154.01 (5) (intro.), subchapter II (title) of
3 chapter 154 [precedes 154.02], 154.02 (3), 154.03 (title), 154.03 (1) (intro.),
4 154.03 (2), 154.05 (1) (c), 154.05 (2), 154.07 (1) (a) (intro.), 154.07 (1) (a) 3.,
5 154.07 (2), 154.19 (1) (intro.), 154.19 (1) (e), 154.19 (2) (a), 154.19 (2) (b) (intro.),
6 154.21 (2), 154.23 (intro.), 154.27 (1), 155.05 (2), 155.20 (4), 155.30 (1), 155.30
7 (3), 155.50 (1) (b), 165.77 (1) (a) and 441.07 (1g) (d) (intro.); and *to create* 154.01
8 (1g), 154.01 (3) (a), 154.01 (3) (b), 154.01 (3) (c), 155.01 (1g), 302.384 (1m) and
9 448.015 (4) (am) 2m. of the statutes; **relating to:** certifications for advance
10 directives, findings of incapacity related to powers of attorney for health care,
11 and determinations that a person is incapacitated for admission to a hospice.

Analysis by the Legislative Reference Bureau

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

ASSEMBLY BILL 287**SECTION 1s**

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

2 50.94 (8) A determination that a person is incapacitated may be made only by
3 2 physicians or by one physician and one licensed ~~psychologist, as defined in s. 455.01~~
4 (4) advanced practice clinician, as defined in s. 155.01 (1g), who personally examine
5 the person and sign a statement specifying that the person is incapacitated. Mere
6 old age, eccentricity or physical disabilities, singly or together, are insufficient to
7 determine that a person is incapacitated. Whoever determines that the person is
8 incapacitated may not be a relative, as defined in s. 242.01 (11), of the person or have
9 knowledge that he or she is entitled to or has claim on any portion of the person's
10 estate. A copy of the statement shall be included in the records of the incapacitated
11 person in the hospice to which he or she is admitted.

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

14 154.01 (1r) “Attending ~~physician~~ health care professional” means a ~~physician~~
15 ~~licensed under ch. 448~~ health care professional who has primary responsibility for
16 the treatment and care of the patient.

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

18 154.01 (1g) “Advanced practice registered nurse” means a nurse licensed
19 under ch. 441 who is currently certified by a national certifying body approved by the
20 board of nursing as a nurse practitioner, certified nurse-midwife, certified registered
21 nurse anesthetist, or clinical nurse specialist.

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

24 154.01 (3) (intro.) “Health care professional” means ~~a person licensed, certified~~
25 ~~or registered under ch. 441, 448 or 455.~~ any of the following:

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

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

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.

ASSEMBLY BILL 287**SECTION 10**

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

2 **154.03** (title) **Declaration to physicians health care professionals.**

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

4 154.03 (1) (intro.) Any person of sound mind and 18 years of age or older may
5 at any time voluntarily execute a declaration, which shall take effect on the date of
6 execution, authorizing the withholding or withdrawal of life-sustaining procedures
7 or of feeding tubes when the person is in a terminal condition or is in a persistent
8 vegetative state. A declarant may not authorize the withholding or withdrawal of
9 any medication, life-sustaining procedure or feeding tube if the declarant's
10 attending ~~physician~~ health care professional advises that, in his or her professional
11 judgment, the withholding or withdrawal will cause the declarant pain or reduce the
12 declarant's comfort and the pain or discomfort cannot be alleviated through pain
13 relief measures. A declarant may not authorize the withholding or withdrawal of
14 nutrition or hydration that is administered or otherwise received by the declarant
15 through means other than a feeding tube unless the declarant's attending ~~physician~~
16 health care professional advises that, in his or her professional judgment, the
17 administration is medically contraindicated. A declaration must be signed by the
18 declarant in the presence of 2 witnesses. If the declarant is physically unable to sign
19 a declaration, the declaration must be signed in the declarant's name by one of the
20 witnesses or some other person at the declarant's express direction and in his or her
21 presence; such a proxy signing shall either take place or be acknowledged by the
22 declarant in the presence of 2 witnesses. The declarant is responsible for notifying
23 his or her attending ~~physician~~ health care professional of the existence of the
24 declaration. An attending ~~physician~~ health care professional who is so notified shall

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1 make the declaration a part of the declarant's medical records. No witness to the
2 execution of the declaration may, at the time of the execution, be any of the following:

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

4 154.03 (2) The department shall prepare and provide copies of the declaration
5 and accompanying information for distribution in quantities to ~~health-care~~
6 professionals persons licensed, certified, or registered under ch. 441, 448, or 455,
7 hospitals, nursing homes, county clerks and local bar associations and individually
8 to private persons. The department shall include, in information accompanying the
9 declaration, at least the statutory definitions of terms used in the declaration,
10 statutory restrictions on who may be witnesses to a valid declaration, a statement
11 explaining that valid witnesses acting in good faith are statutorily immune from civil
12 or criminal liability, an instruction to potential declarants to read and understand
13 the information before completing the declaration and a statement explaining that
14 an instrument may, but need not be, filed with the register in probate of the
15 declarant's county of residence. The department may charge a reasonable fee for the
16 cost of preparation and distribution. The declaration distributed by the department
17 of health services shall be easy to read, the type size may be no smaller than 10 point,
18 and the declaration shall be in the following form, setting forth on the first page the
19 wording before the ATTENTION statement and setting forth on the 2nd page the
20 ATTENTION statement and remaining wording:

21 **DECLARATION TO PHYSICIANS HEALTH CARE PROFESSIONALS**

22 **(WISCONSIN LIVING WILL)**

23 I,...., being of sound mind, voluntarily state my desire that my dying not be
24 prolonged under the circumstances specified in this document. Under those
25 circumstances, I direct that I be permitted to die naturally. If I am unable to give

ASSEMBLY BILL 287**SECTION 12**

1 directions regarding the use of life-sustaining procedures or feeding tubes, I intend
2 that my family and physician, physician assistant, or advanced practice registered
3 nurse honor this document as the final expression of my legal right to refuse medical
4 or surgical treatment.

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

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

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

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

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

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

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

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

24 3. If I am in a PERSISTENT VEGETATIVE STATE, as determined by ~~2~~
25 physicians a physician, physician assistant, or advanced practice registered nurse

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1 who have has personally examined me, and if a physician who has also personally
2 examined me agrees with that determination, the following are my directions
3 regarding the use of feeding tubes:

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

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

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

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

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

12 Signed

Date

13 Address

Date of birth

14 I believe that the person signing this document is of sound mind. I am an adult
15 and am not related to the person signing this document by blood, marriage or
16 adoption. I am not entitled to and do not have a claim on any portion of the person's
17 estate and am not otherwise restricted by law from being a witness.

18 Witness signature

Date signed

19 Print name

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21 Witness signature

Date signed

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SECTION 12

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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:

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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.

ASSEMBLY BILL 287**SECTION 17**

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

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

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

13 154.19 (1) (intro.) No person except an attending ~~physician~~ health care
14 professional may issue a do-not-resuscitate order. An attending ~~physician~~ health
15 care professional may issue a do-not-resuscitate order to a patient only if all of the
16 following apply:

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

18 154.19 (1) (e) The ~~physician~~ health care professional does not know the patient
19 to be pregnant.

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

21 154.19 (2) (a) The attending ~~physician~~ health care professional, or a person
22 directed by the attending ~~physician~~ health care professional, shall provide the
23 patient with written information about the resuscitation procedures that the patient
24 has chosen to forego and the methods by which the patient may revoke the
25 do-not-resuscitate order.

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

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

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

9 154.21 **(2)** RECORDING THE REVOCATION. The attending ~~physician~~ health care
10 professional shall be notified as soon as practicable of the patient's revocation and
11 shall record in the patient's medical record the time, date and place of the revocation,
12 if known, and the time, date and place, if different, that he or she was notified of the
13 revocation. A revocation under sub. (1) is effective regardless of when the attending
14 ~~physician~~ health care professional has been notified of that revocation.

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

16 **154.23 Liability.** (intro.) No physician, emergency medical services
17 practitioner, emergency medical responder, ~~health care professional~~ provider, as
18 defined in s. 146.81 (1), or emergency health care facility may be held criminally or
19 civilly liable, or charged with unprofessional conduct, for any of the following:

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

21 154.27 **(1)** The department shall establish by rule a uniform standard for the
22 size, color, and design of all do-not-resuscitate bracelets. Except as provided in sub.
23 (2), the rules shall require that the do-not-resuscitate bracelets include the
24 inscription "Do Not Resuscitate"; the name, address, date of birth and gender of the

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1 patient; and the name, business telephone number and signature of the attending
2 physician health care professional issuing the order.

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

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

5 155.01 (1g) “Advanced practice clinician” means any of the following:

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

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

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

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

13 155.05 (2) Unless otherwise specified in the power of attorney for health care
14 instrument, an individual’s power of attorney for health care takes effect upon a
15 finding of incapacity by 2 physicians, as defined in s. 448.01 (5), or one physician and
16 one licensed ~~psychologist, as defined in s. 455.01 (4)~~ advanced practice clinician, who
17 personally examine the principal and sign a statement specifying that the principal
18 has incapacity. Mere old age, eccentricity or physical disability, either singly or
19 together, are insufficient to make a finding of incapacity. Neither of the individuals
20 who make a finding of incapacity may be a relative of the principal or have knowledge
21 that he or she is entitled to or has a claim on any portion of the principal’s estate.
22 A copy of the statement, if made, shall be appended to the power of attorney for health
23 care instrument.

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

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

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

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

15 “NOTICE TO PERSON
16 MAKING THIS DOCUMENT

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

21 BECAUSE YOUR HEALTH CARE PROVIDERS IN SOME CASES MAY NOT
22 HAVE HAD THE OPPORTUNITY TO ESTABLISH A LONG-TERM
23 RELATIONSHIP WITH YOU, THEY ARE OFTEN UNFAMILIAR WITH YOUR
24 BELIEFS AND VALUES AND THE DETAILS OF YOUR FAMILY

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1 RELATIONSHIPS. THIS POSES A PROBLEM IF YOU BECOME PHYSICALLY
2 OR MENTALLY UNABLE TO MAKE DECISIONS ABOUT YOUR HEALTH CARE.

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

16 THIS IS AN IMPORTANT LEGAL DOCUMENT. IT GIVES YOUR AGENT
17 BROAD POWERS TO MAKE HEALTH CARE DECISIONS FOR YOU. IT
18 REVOKES ANY PRIOR POWER OF ATTORNEY FOR HEALTH CARE THAT YOU
19 MAY HAVE MADE. IF YOU WISH TO CHANGE YOUR POWER OF ATTORNEY
20 FOR HEALTH CARE, YOU MAY REVOKE THIS DOCUMENT AT ANY TIME BY
21 DESTROYING IT, BY DIRECTING ANOTHER PERSON TO DESTROY IT IN
22 YOUR PRESENCE, BY SIGNING A WRITTEN AND DATED STATEMENT OR BY
23 STATING THAT IT IS REVOKED IN THE PRESENCE OF TWO WITNESSES. IF
24 YOU REVOKE, YOU SHOULD NOTIFY YOUR AGENT, YOUR HEALTH CARE
25 PROVIDERS AND ANY OTHER PERSON TO WHOM YOU HAVE GIVEN A COPY.

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1 IF YOUR AGENT IS YOUR SPOUSE OR DOMESTIC PARTNER AND YOUR
2 MARRIAGE IS ANNULLED OR YOU ARE DIVORCED OR THE DOMESTIC
3 PARTNERSHIP IS TERMINATED AFTER SIGNING THIS DOCUMENT, THE
4 DOCUMENT IS INVALID.

5 YOU MAY ALSO USE THIS DOCUMENT TO MAKE OR REFUSE TO MAKE
6 AN ANATOMICAL GIFT UPON YOUR DEATH. IF YOU USE THIS DOCUMENT
7 TO MAKE OR REFUSE TO MAKE AN ANATOMICAL GIFT, THIS DOCUMENT
8 REVOKES ANY PRIOR RECORD OF GIFT THAT YOU MAY HAVE MADE. YOU
9 MAY REVOKE OR CHANGE ANY ANATOMICAL GIFT THAT YOU MAKE BY
10 THIS DOCUMENT BY CROSSING OUT THE ANATOMICAL GIFTS PROVISION
11 IN THIS DOCUMENT.

12 DO NOT SIGN THIS DOCUMENT UNLESS YOU CLEARLY UNDERSTAND
13 IT.

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

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

18 155.30 (3) The department shall prepare and provide copies of a power of
19 attorney for health care instrument and accompanying information for distribution
20 in quantities to health care professionals, hospitals, nursing homes, multipurpose
21 senior centers, county clerks, and local bar associations and individually to private
22 persons. The department shall include, in information accompanying the copy of the
23 instrument, at least the statutory definitions of terms used in the instrument,
24 statutory restrictions on who may be witnesses to a valid instrument, a statement
25 explaining that valid witnesses acting in good faith are statutorily immune from civil

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1 or criminal liability and a statement explaining that an instrument may, but need
2 not, be filed with the register in probate of the principal's county of residence. The
3 department may charge a reasonable fee for the cost of preparation and distribution.
4 The power of attorney for health care instrument distributed by the department
5 shall include the notice specified in sub. (1) and shall be in the following form:

6 **POWER OF ATTORNEY FOR HEALTH CARE**

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

8 **CREATION OF POWER OF ATTORNEY**

9 **FOR HEALTH CARE**

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

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

20 **DESIGNATION OF HEALTH CARE AGENT**

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

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1 of making health care decisions on my behalf. Neither my health care agent nor my
2 alternate health care agent whom I have designated is my health care provider, an
3 employee of my health care provider, an employee of a health care facility in which
4 I am a patient or a spouse of any of those persons, unless he or she is also my relative.
5 For purposes of this document, “incapacity” exists if 2 physicians or a physician and
6 a psychologist, nurse practitioner, or physician assistant who have personally
7 examined me sign a statement that specifically expresses their opinion that I have
8 a condition that means that I am unable to receive and evaluate information
9 effectively or to communicate decisions to such an extent that I lack the capacity to
10 manage my health care decisions. A copy of that statement must be attached to this
11 document.

GENERAL STATEMENT OF AUTHORITY GRANTED

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

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

4 LIMITATIONS ON MENTAL HEALTH TREATMENT

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

11 ADMISSION TO NURSING HOMES OR 12 COMMUNITY-BASED RESIDENTIAL FACILITIES

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

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

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

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

22 PROVISION OF A FEEDING TUBE

23 If I have checked “Yes” to the following, my health care agent may have a
24 feeding tube withheld or withdrawn from me, unless my physician, physician
25 assistant, or nurse practitioner has advised that, in his or her professional judgment,

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1 this will cause me pain or will reduce my comfort. If I have checked “No” to the
2 following, my health care agent may not have a feeding tube withheld or withdrawn
3 from me.

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

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

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

10 **HEALTH CARE DECISIONS FOR**

11 **PREGNANT WOMEN**

12 If I have checked “Yes” to the following, my health care agent may make health
13 care decisions for me even if my agent knows I am pregnant. If I have checked “No”
14 to the following, my health care agent may not make health care decisions for me if
15 my health care agent knows I am pregnant.

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

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

20 **STATEMENT OF DESIRES,**

21 **SPECIAL PROVISIONS OR LIMITATIONS**

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

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SECTION 30

1 1) -

2 2) -

3 3) -

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

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

9 (a) Request, review and receive any information, oral or written, regarding my
10 physical or mental health, including medical and hospital records.

11 (b) Execute on my behalf any documents that may be required in order to obtain
12 this information.

13 (c) Consent to the disclosure of this information.

14 (The principal and the witnesses all must sign the document at the same time.)

15 SIGNATURE OF PRINCIPAL

16 (person creating the power of attorney for health care)

17 Signature.... Date....

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

20 STATEMENT OF WITNESSES

21 I know the principal personally and I believe him or her to be of sound mind and
22 at least 18 years of age. I believe that his or her execution of this power of attorney
23 for health care is voluntary. I am at least 18 years of age, am not related to the
24 principal by blood, marriage, or adoption, am not the domestic partner under ch. 770
25 of the principal, and am not directly financially responsible for the principal's health

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1 care. I am not a health care provider who is serving the principal at this time, an
 2 employee of the health care provider, other than a chaplain or a social worker, or an
 3 employee, other than a chaplain or a social worker, of an inpatient health care facility
 4 in which the declarant is a patient. I am not the principal's health care agent. To
 5 the best of my knowledge, I am not entitled to and do not have a claim on the
 6 principal's estate.

7 Witness No. 1:
 8 (print) Name.... Date....
 9 Address....
 10 Signature....

11 Witness No. 2:
 12 (print) Name.... Date....
 13 Address....
 14 Signature....

15 STATEMENT OF HEALTH CARE AGENT AND
 16 ALTERNATE HEALTH CARE AGENT

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

21 Agent's signature....
 22 Address....
 23 Alternate's signature....
 24 Address....

ASSEMBLY BILL 287**SECTION 30**

1 Failure to execute a power of attorney for health care document under chapter
2 155 of the Wisconsin Statutes creates no presumption about the intent of any
3 individual with regard to his or her health care decisions.

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

6 ANATOMICAL GIFTS (optional)

7 Upon my death:

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

10 I wish to donate any needed organ or part.

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

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

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

17 Signature.... Date....

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

19 155.50 (1) (b) Failing to comply with a power of attorney for health care
20 instrument or the decision of a health care agent, except that failure of a ~~physician~~
21 health care professional, as defined in s. 154.01 (3), to comply constitutes
22 unprofessional conduct if the ~~physician~~ health care professional refuses or fails to
23 make a good faith attempt to transfer the principal to another ~~physician~~ health care
24 professional who will comply.

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

