



2005 ASSEMBLY BILL 791

October 31, 2005 - Introduced by Representatives WASSERMAN, BENEDICT, HUNDERTMARK, HINES, ALBERS, HAHN, MURSAU, VOS, CULLEN, FIELDS, GRIGSBY, LEHMAN, MOLEPSKE, PARISI, POCAN, POPE-ROBERTS, SEIDEL, STASKUNAS, TURNER and VRUWINK, cosponsored by Senators DARLING, ERPENBACH, BROWN, RISSER and WIRCH. Referred to Committee on Aging and Long-Term Care.

1 **AN ACT** *to create* 49.45 (54) of the statutes; **relating to:** execution of a
2 declaration to physicians, also known as a living will, by a Medical Assistance
3 recipient.

Analysis by the Legislative Reference Bureau

Under current law, the Medical Assistance (MA) program, which is administered by the Department of Health and Family Services (DHFS), county departments of social services or human services, and tribal governing bodies, provides health care services to eligible low-income persons. Health care services under MA are paid for primarily with federal funds and state general purpose revenue funds.

Current law also sets forth a form, which DHFS prepares, and execution, revocation, and filing procedures for a declaration to physicians, also known as a living will. A person who executes a declaration to physicians authorizes the withholding or withdrawal of life-sustaining procedures or of feeding tubes when the person is in a terminal condition or in a persistent vegetative state.

This bill requires DHFS, county, and tribal governing body employees who administer MA to discuss the execution of a declaration to physicians with persons who are eligible for or receiving MA and who are admitted or protectively placed in long-term care facilities and with persons who reside in long-term care facilities and who become eligible for MA. An employee must also assist a person who desires to execute a declaration to physicians with the execution and filing. Long-term care facilities are defined in the bill as adult homes, residential care apartment

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complexes, community-based residential care facilities, nursing homes, and hospices.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 49.45 (54) of the statutes is created to read:

2 49.45 (54) DECLARATION TO PHYSICIANS. (a) In this subsection, “long-term care
3 facility” means any of the following:

4 1. An adult home, as defined in s. 50.01 (1).

5 2. A residential care apartment complex, as defined in s. 50.01 (1d).

6 3. A community-based residential care facility, as defined in s. 50.01 (1g).

7 4. A nursing home, as defined in s. 50.01 (3).

8 5. A hospice, as defined in s. 50.90 (1).

9 (b) A department, county, or tribal governing body employee who administers
10 the Medical Assistance program shall discuss the execution and filing of a
11 declaration to physicians under subch. II of ch. 154 with all of the following:

12 1. A person who is eligible for or receiving medical assistance and who, on or
13 after the effective date of this subdivision [revisor inserts date], is admitted to or
14 protectively placed in a long-term care facility.

15 2. A person who resides in a long-term care facility and who, on or after the
16 effective date of this subdivision [revisor inserts date], becomes eligible for
17 medical assistance.

