



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-5134/1
SWB&TJD:ah&wlj

2017 ASSEMBLY BILL 987

February 28, 2018 - Introduced by Representatives HORLACHER, MACCO, BALLWEG, CONSIDINE, EDMING, KOLSTE, SINICKI, SUBECK, SPIROS, TUSLER, MURSAU, WACHS and SPREITZER, cosponsored by Senator BEWLEY. Referred to Committee on Health.

1 **AN ACT** *to amend* subchapter I (title) of chapter 154 [precedes 154.01], 154.03
2 (2) (intro.), 154.13 (title), 154.13 (3), 155.30 (3) (intro.), 155.65 (title) and 155.65
3 (3); and *to create* 154.015, 154.13 (1m), 154.13 (2m), 155.65 (1m) and 155.65
4 (2m) of the statutes; **relating to:** authorizing creation and implementation of
5 an advance directive registry and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This bill authorizes the Department of Health Services to develop and implement a registry for power of attorney for health care instruments, declarations to physicians, do-not-resuscitate orders, authorizations for final disposition, and any other advance directives included by DHS. If DHS develops a registry, DHS may promulgate rules to implement the registry.

For further information see the **state** 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:

6 **SECTION 1.** Subchapter I (title) of chapter 154 [precedes 154.01] of the statutes
7 is amended to read:

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CHAPTER 154

SUBCHAPTER I

DEFINITIONS AND

GENERAL PROVISIONS

SECTION 2. 154.015 of the statutes is created to read:

154.015 Advance directive registry. (1) In this section:

(a) “Advance directive” has the meaning given in 42 CFR 489.100.

(b) “Authorization for final disposition” has the meaning given in s. 154.30 (1)

(a).

(c) “Declaration” has the meaning given in s. 154.02 (1).

(d) “Do-not-resuscitate order” has the meaning given in s. 154.17 (2).

(e) “Health care provider” has the meaning given in s. 155.01 (7).

(f) “Power of attorney for health care instrument” means an instrument designating a power of attorney for health care executed under ch. 155.

(2) The department may develop and implement a registry for power of attorney for health care instruments, declarations to physicians, do-not-resuscitate orders, authorizations for final disposition, and any other advance directives included by the department.

(3) (a) Registration of a document or failure to register a document with a registry maintained by the department under this section does not affect the validity of the document. Failure to notify the department of the revocation of a document included on a registry under this section does not affect the validity of a revocation that otherwise meets the statutory requirements for revocation.

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1 (b) The department is not required to review a document submitted for
2 inclusion on a registry under this section to determine whether the document
3 complies with statutory requirements applicable to that document.

4 (4) The department may promulgate rules to implement any registry
5 established under this section.

6 (5) All data and information submitted to or contained in a registry under this
7 section shall remain confidential and is not subject to public inspection or copying
8 under s. 19.35 (1).

9 (6) The department and its employees and agents are immune from liability
10 for any act or omission, in good faith, relating to the creation, installation,
11 implementation, operation, maintenance, or use of any registry established by the
12 department under this section. This subsection does not limit immunity otherwise
13 available under s. 893.80 (4).

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

15 154.03 (2) (intro.) The department shall prepare and provide copies of the
16 declaration and accompanying information for distribution in quantities to health
17 care professionals, hospitals, nursing homes, county clerks, and local bar
18 associations and individually to private persons. The department shall include, in
19 information accompanying the declaration, at least the statutory definitions of terms
20 used in the declaration, statutory restrictions on who may be witnesses to a valid
21 declaration, a statement explaining that valid witnesses acting in good faith are
22 statutorily immune from civil or criminal liability, an instruction to potential
23 declarants to read and understand the information before completing the
24 declaration, and a statement explaining that an instrument may, but need not be,
25 filed with the register in probate of the declarant's county of residence or submitted

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1 to any registry established by the department under s. 154.015. The department
2 may charge a reasonable fee for the cost of preparation and distribution. The
3 declaration distributed by the department of health services shall be easy to read,
4 the type size may be no smaller than 10 point, and the declaration shall be in the
5 following form, setting forth on the first page the wording before the ATTENTION
6 statement and setting forth on the 2nd page the ATTENTION statement and
7 remaining wording:

8 **SECTION 4.** 154.13 (title) of the statutes is amended to read:

9 **154.13** (title) **Filing or registering declaration.**

10 **SECTION 5.** 154.13 (1m) of the statutes is created to read:

11 154.13 **(1m)** A declarant or an individual authorized by the declarant may
12 submit a copy of the declarant's declaration to any registry established by the
13 department under s. 154.015.

14 **SECTION 6.** 154.13 (2m) of the statutes is created to read:

15 154.13 **(2m)** If the department establishes a registry under s. 154.015, access
16 to documents on the registry is subject to any rules established by the department.

17 **SECTION 7.** 154.13 (3) of the statutes is amended to read:

18 154.13 **(3)** Failure to file a declaration under sub. (1) or submit a declaration
19 under sub. (1m) creates no presumption about the intent of an individual with regard
20 to his or her health care decisions.

21 **SECTION 8.** 155.30 (3) (intro.) of the statutes is amended to read:

22 155.30 **(3)** (intro.) The department shall prepare and provide copies of a power
23 of attorney for health care instrument and accompanying information for
24 distribution in quantities to health care professionals, hospitals, nursing homes,
25 multipurpose senior centers, county clerks, and local bar associations and

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1 individually to private persons. The department shall include, in information
2 accompanying the copy of the instrument, at least the statutory definitions of terms
3 used in the instrument, statutory restrictions on who may be witnesses to a valid
4 instrument, a statement explaining that valid witnesses acting in good faith are
5 statutorily immune from civil or criminal liability, and a statement explaining that
6 an instrument may, but need not, be filed with the register in probate of the
7 principal's county of residence or submitted to any registry established by the
8 department under s. 154.015. The department may charge a reasonable fee for the
9 cost of preparation and distribution. The power of attorney for health care
10 instrument distributed by the department shall include the notice specified in sub.
11 (1) and shall be in the following form:

12 **SECTION 9.** 155.65 (title) of the statutes is amended to read:

13 **155.65 (title) Filing or registering power of attorney instrument.**

14 **SECTION 10.** 155.65 (1m) of the statutes is created to read:

15 155.65 **(1m)** A principal or a principal's health care agent may submit a copy
16 of the principal's power of attorney for health care instrument to any registry
17 established by the department under s. 154.015.

18 **SECTION 11.** 155.65 (2m) of the statutes is created to read:

19 155.65 **(2m)** If the department establishes a registry under s. 154.015, access
20 to documents on the registry is subject to any rules established by the department.

21 **SECTION 12.** 155.65 (3) of the statutes is amended to read:

22 155.65 **(3)** Failure to file a power of attorney for health care instrument under
23 sub. (1) or to submit a power of attorney for health care instrument under sub. (1m)

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1 creates no presumption about the intent of an individual with regard to his or her
2 health care decisions.

3 (END)