

2003 ASSEMBLY BILL 554

October 2, 2003 – Introduced by Representatives KRAWCZYK, COLON, LADWIG, BOYLE, CULLEN, J. LEHMAN, STASKUNAS, TAYLOR, BIES, MUSSER, SERATTI, OWENS, HUEBSCH, HAHN, HUNDERTMARK, MCCORMICK, JESKEWITZ, GRONEMUS, HUBER, BLACK, HINES, VAN ROY, ZEPNICK, OLSEN and TOWNSEND, cosponsored by Senators ROESSLER, ERPENBACH, LASSA, M. MEYER and SCHULTZ. Referred to Committee on Health.

1 **AN ACT** *to create* 154.07 (1) (c), 155.50 (4) and 155.70 (10) of the statutes;
2 **relating to:** declarations to physicians regarding life-sustaining measures
3 and powers of attorney for health care.

Analysis by the Legislative Reference Bureau

Under current law, a person may execute a health care power of attorney granting an agent authority to make health care decisions for the person if the person becomes incapacitated. A person may also execute a written declaration to physicians that authorizes the withholding or withdrawal of life-sustaining procedures or of a feeding tube if the person is in a terminal condition or in a persistent vegetative state. Current law establishes certain requirements for the execution of a health care power of attorney or a declaration to physicians, including, for example, that it must be signed by the person in the presence of two witnesses. Current law also limits the authority that a person may grant under a power of attorney or a declaration. For example, a person may not grant an agent the authority to commit the person to a mental facility nor authorize a physician to withhold or withdraw life-sustaining procedures in situations in which such withholding or withdrawal would cause the person pain.

Current law also provides health care facilities and health care providers immunity from civil or criminal action for certain acts or omissions in connection with a health care power of attorney or a declaration to physicians. Finally, current law provides that a declaration to physicians that is executed in another state or jurisdiction in compliance with the law in that state or jurisdiction is valid and

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enforceable in Wisconsin to the extent that the declaration is consistent with Wisconsin law concerning declarations to physicians.

This bill provides that a health care power of attorney executed in another state or jurisdiction in compliance with the laws of that state or jurisdiction is valid and enforceable in Wisconsin to the extent that it authorizes a health care agent to make decisions that a health care agent may make under Wisconsin law. The bill further provides that the immunities relating to health care powers of attorney and declarations to physicians apply to acts or omissions in connection with a provision of a health care power of attorney or a declaration to physicians that is executed in another state or jurisdiction if the provision is valid and enforceable in Wisconsin.

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

1 **SECTION 1.** 154.07 (1) (c) of the statutes is created to read:

2 154.07 **(1)** (c) Pars. (a) and (b) apply to acts or omissions in connection with a
3 provision of a document that is executed in another jurisdiction if the provision is
4 valid and enforceable under s. 154.11 (9).

5 **SECTION 2.** 155.50 (4) of the statutes is created to read:

6 155.50 **(4)** Subsections (1), (2), and (3) apply to acts or omissions in connection
7 with a provision of a power of attorney for health care that is executed in another
8 jurisdiction if the provision is valid and enforceable under s. 155.70 (10).

9 **SECTION 3.** 155.70 (10) of the statutes is created to read:

10 155.70 **(10)** A valid document granting a health care agent authority to make
11 health care decisions for a principal that is executed in another state or jurisdiction
12 in compliance with the law of that state or jurisdiction is valid and enforceable in this
13 state to the extent that the document authorizes the health care agent to make
14 decisions for the principal that a health care agent may make for a principal under
15 this chapter.

16 **SECTION 4. Initial applicability.**

