

**2003 DRAFTING REQUEST**

**Bill**

Received: 02/11/2003

Received By: dkennedy

Wanted: As time permits

Identical to LRB:

For: Judy Krawczyk (608) 266-0485

By/Representing: Rob Gunderman

This file may be shown to any legislator: NO

Drafter: rryan

May Contact:

Addl. Drafters:

Subject: Health - decisionmaking

Extra Copies: DAK

Submit via email: YES

Requester's email: Rep.Krawczyk@legis.state.wi.us

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Portability of advance directives

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**Instructions:**

See Attached

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**Drafting History:**

| <u>Vers.</u> | <u>Drafted</u>         | <u>Reviewed</u>     | <u>Typed</u>           | <u>Proofed</u> | <u>Submitted</u>       | <u>Jacketed</u>        | <u>Required</u> |
|--------------|------------------------|---------------------|------------------------|----------------|------------------------|------------------------|-----------------|
| /?           | dkennedy<br>02/17/2003 |                     |                        | _____          |                        |                        |                 |
| /1           | rryan<br>03/25/2003    | jdyer<br>04/02/2003 | jfrantze<br>04/02/2003 | _____          | sbasford<br>04/02/2003 | Inorthro<br>09/11/2003 |                 |
|              |                        | jdyer<br>04/02/2003 |                        | _____          |                        |                        |                 |

Vers.   Drafted   Reviewed   Typed   Proofed   Submitted   Jacketed   Required

FE Sent For:

↳ Not  
Needed

<END>

**2003 DRAFTING REQUEST**

**Bill**

Received: **02/11/2003**

Received By: **dkennedy**

Wanted: **As time permits**

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For: **Judy Krawczyk (608) 266-0485**

By/Representing: **Rob Gunderman**

This file may be shown to any legislator: **NO**

Drafter: **rryan**

May Contact:

Addl. Drafters:

Subject: **Health - decisionmaking**

Extra Copies: **DAK**

Submit via email: **YES**

Requester's email: **Rep.Krawczyk@legis.state.wi.us**

Carbon copy (CC:) to:

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|--------------|------------------------|---------------------|------------------------|----------------|------------------------|-----------------|-----------------|
| /?           | dkennedy<br>02/17/2003 |                     |                        | _____          |                        |                 |                 |
| /1           | rryan<br>03/25/2003    | jdyer<br>04/02/2003 | jfrantze<br>04/02/2003 | _____          | sbasford<br>04/02/2003 |                 |                 |
|              |                        | jdyer<br>04/02/2003 |                        | _____          |                        |                 |                 |

Vers.    Drafted    Reviewed    Typed    Proofed    Submitted    Jacketed    Required

FE Sent For:

<END>

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Bill

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Received By: dkennedy

Wanted: As time permits

Identical to LRB:

For: Judy Krawczyk (608) 266-0485

By/Representing: Rob Gunderman

This file may be shown to any legislator: NO

Drafter: ~~dkennedy~~ rryan

May Contact:

Addl. Drafters:

Subject: Health - decisionmaking

Extra Copies: ~~WR~~ DAK

Submit via email: YES

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|--------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|
| 1/?          | dkennedy       | 1 4/2 jld       | 7/6 4/2      | Self<br>4/2    |                  |                 |                 |

FE Sent For:

<END>

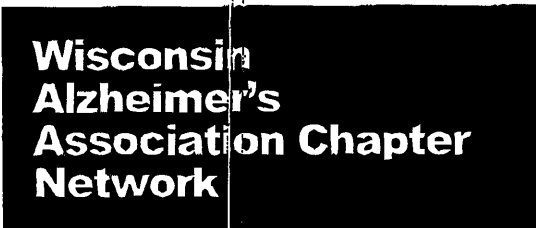
## TELEPHONE DRAFTING INSTRUCTIONS

Drafting instructions received by Debora Kennedy.

DATE: 2/10/03  
CONVERSATION WITH: Rob Gauderman  
OF: for Rep. K  
TELEPHONE NO: 232-3408 or 236-0191  
REGARDING LRB # OR DRAFT TOPIC: Advance directives from other states  
INSTRUCTIONS:

Advance directives initiated in other states apply in Wis. insofar as not in conflict w/ Wis. law. If that is the case + followed, unun. from liab. attaches. He will FAX references to advance directives in wh / they are interested.

R. Gundermann  
517 N. Segoe Rd., #301  
Madison, WI 53705  
Phone # (608) 232-3400



# Fax

|                                    |                             |
|------------------------------------|-----------------------------|
| <b>To:</b> Debora Kennedy          | <b>From:</b> Rob Gundermann |
| <b>Fax:</b> 264-6948               | <b>Pages:</b> 2             |
| <b>Phone:</b> 266-0137             | <b>Date:</b> 02/10/03       |
| <b>Re:</b> Advance Directives Bill |                             |

**Urgent**     **For Review**     **Please Comment**     **Please Reply**     **Please Recycle**

Hi Debora,

Here is the information we discussed. I hope you find it helpful. If there is anything else I can provide, please let me know. Thanks again for your help!

Rob

DATE: 2/10/03  
TO: Debora Kennedy, Managing Attorney  
FROM: Rob Gundermann, WI Alzheimer's Association Chapter Network  
RE: Portability of Advance Directives Bill for Representative Krawczyk  
Bill Draft Language and Statutory citations

1. Portability. Provide under sec. 155.70, Stats. [see the current provision for Living Wills, sec. 154.11(9), Stats.,] that documents executed in another state or jurisdiction, in compliance with the law of that state or jurisdiction, are valid and enforceable in Wisconsin, except for any provisions that authorize any decision-making that Wisconsin would not allow (e.g., Wisconsin would not honor a provision that authorized assisted suicide).
2. Immunity. Provide under secs. 154.07 and 155.50, Stats., that health care providers have the same immunities for following out-of-state documents that were validly executed in the state where completed, except for any provisions that authorize any decision-making that Wisconsin would not allow (e.g., Wisconsin would not honor a provision that authorized assisted suicide).



In 3/25/03

RLR: a:...

ild  
RMK

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

Gen

1 AN ACT ...; relating to: declarations to physicians regarding life-sustaining  
2 measures 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 they 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 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) <sup>Subsections</sup> ~~Subs~~ (1), (2), and (3) apply to acts or omissions in connection with  
7 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 <sup>principal</sup> ~~principle~~ under  
15 this chapter.

16           SECTION 4. Initial applicability.



## Emery, Lynn

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**From:** Emery, Lynn  
**Sent:** Thursday, September 11, 2003 10:06 AM  
**To:** Machtan, Ken  
**Subject:** LRB-2026/1 (attached as requested)

Lynn Emery  
Program Assistant  
Legislative Reference Bureau  
608-266-3561  
lynn.emery@legis.state.wi.us

## Emery, Lynn

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**From:** Machtan, Ken

**Sent:** Thursday, September 11, 2003 10:23

**To:** Emery, Lynn

**Subject:** RE: LRB-2026/1 (attached as requested)

thanks much. Could you also jacket this for introduction in the Assembly?

-----Original Message-----

**From:** Emery, Lynn

**Sent:** Thursday, September 11, 2003 10:06 AM

**To:** Machtan, Ken

**Subject:** LRB-2026/1 (attached as requested)

Lynn Emery  
Program Assistant  
Legislative Reference Bureau  
608-266-3561  
lynn.emery@legis.state.wi.us