

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3655/P2dn  
PJH:bjk:rs

January 26, 2010

Brett:

Please review this draft to ensure that it is consistent with your intent. Please note that, as used in s. 804.10 (2), under current law, and in s. 804.10 (6), as created in this draft, "X-ray photograph" is one phrase. If you want the sections to say "X-ray or photograph, or hospital, medical, or other record," please let me know. Under current law, "X-ray" is used without the word "photograph," elsewhere in the statutes, but not in current s. 804.10 (2).

Please also note that s. 804.10 (2m), as created in this draft, includes "physical, psychological, or psychiatric" discovery instead of separating "physical" and "psychological or psychiatric" into two subsections. I did this to comply with our drafting standards and to avoid unnecessary repetition. As drafted, this subsection requires "clear, satisfactory, and convincing evidence." As we discussed, this standard of proof is used six times in current law. The standard of "clear and convincing evidence" is used 140 times in current law. The suggested standard of "clear, satisfactory, and convincing evidence" is used in conjunction with the phrase "to a reasonable certainty" twice in current law. If you want me to use a different phrase from what is in this draft, please let me know.

If you have any other questions, concerns, or comments about the draft, please let me know.

Peggy Hurley  
Legislative Attorney  
Phone: (608) 266-8906  
E-mail: [peggy.hurley@legis.wisconsin.gov](mailto:peggy.hurley@legis.wisconsin.gov)