



State of Wisconsin  
2023 - 2024 LEGISLATURE

LRB-4023/1  
KMS:amn

## 2023 SENATE BILL 898

January 11, 2024 - Introduced by Senators BALLWEG and FEYEN, cosponsored by Representatives TUSLER, BALDEH, BEHNKE, DOYLE, KITCHENS, O'CONNOR, RATCLIFF, RETTINGER and SUBECK. Referred to Committee on Government Operations.

1     AN ACT **to amend** 154.30 (8) (d) 2.; **to repeal and recreate** 244.05; and **to create**  
2       140.147, 154.03 (1) (e), 154.03 (3), 154.30 (8m), 155.10 (3) and 853.03 (2) (c) of  
3       the statutes; **relating to:** electronic and remote witnessing and notarization of  
4       estate planning documents.

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***Analysis by the Legislative Reference Bureau***

Under current law, an individual executing an estate planning document that requires a notarial act must appear personally before a notarial officer. In addition, current law requires an individual executing a declaration to health care professionals, an authorization for final disposition, or a power of attorney for health care to sign the document in the presence of two witnesses, in addition to certain other requirements. Current law also requires an individual executing a will to sign the will, acknowledge the will, or acknowledge the individual's signature on the will in the conscious presence of two witnesses.

This bill makes several changes to the notarization and witnessing requirements for these documents. Specifically, under the bill, a declaration of health care professionals may be witnessed only by individuals who are at least 18 years of age. In addition, under the bill, an individual may execute a power of attorney for finances and property by signing the document before two witnesses via two-way, real-time audiovisual communication according to the requirements detailed below, whereas, under current law, an individual may execute a power of attorney for finances and property only by acknowledging the document before a notarial officer. Additionally, under current law, if an individual executing an

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authorization for final disposition is physically unable to sign the authorization, another individual may sign the authorization on his or her behalf; the bill specifies that, in these situations, the signing individual must be at least 18 years of age and must sign in the physical presence of the individual executing the authorization.

The bill authorizes remote notarization of an estate planning document and remote witnessing of a declaration to health care professionals, an authorization for final disposition, a power of attorney for health care, a power of attorney for finances and property, or a will via two-way, real-time audiovisual communication if a remotely located individual, declarant, person executing a power of attorney for health care (principal), or testator, or an individual signing on that person's behalf, signs the document in accordance with the following requirements:

1. The signing is supervised by an attorney.
2. The remotely located individual, declarant, principal, or testator is physically located in this state during the two-way, real-time audiovisual communication.
3. Each notary public or remote witness, as applicable, attests to being physically located in this state during the two-way, real-time audiovisual communication.
4. The remotely located individual, declarant, principal, or testator and each remote witness, as applicable, is positively identified.
5. The remotely located individual, declarant, principal, or testator identifies anyone else present in the same physical location as the remotely located individual, declarant, principal, or testator.
6. The remotely located individual, declarant, principal, or testator displays the document; confirms the number of pages in the document and the page number on which the signature is to be affixed; and declares to the notary public or remote witnesses, as applicable, and the supervising attorney that the remotely located individual, declarant, principal, or testator is 18 years of age or older and that the document is being executed as a voluntary act.
7. The remotely located individual, declarant, principal, or testator, or another individual 18 years of age or older authorized to sign on that person's behalf in that person's physical presence, signs the document in a manner that allows the notary public or remote witnesses, as applicable, and supervising attorney to see the signing.
8. The audiovisual communication technology allows communication by which a person is able to see, hear, and communicate in an interactive way with another person in real time using electronic means, except that if the remotely located individual, declarant, principal, or testator, the notary public or remote witnesses, as applicable, or the supervising attorney has an impairment that affects hearing, sight, or speech, assistive technology or learned skills may be substituted for audio or visual if it allows that person to actively participate in the signing in real time.
9. The document indicates that it is being executed pursuant to these requirements.

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10. The document is signed by the remotely located individual, declarant, principal, or testator and the notary or remote witnesses, as applicable, and delivered to the supervising attorney.

11. The supervising attorney completes and attaches to the document an affidavit of compliance that contains certain information and serves as conclusive evidence that the document was executed in compliance with the requirements under the bill.

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

1           **SECTION 1.** 140.147 of the statutes is created to read:

2           **140.147 Notarial act performed for remote execution of estate**  
3           **planning documents.** (1) In this section:

4           (a) “Estate planning document” means any of the following:

5           1. A will or a codicil.

6           2. A declaration of trust or other document creating a trust as provided in s.  
7           701.0401 or an amendment to a declaration of trust or other document creating a  
8           trust.

9           3. A certification of trust as provided in s. 701.1013.

10           4. A power of attorney for finances and property.

11           5. A power of attorney for health care.

12           6. A marital property agreement or an amendment to a marital property  
13           agreement.

14           7. A written instrument evidencing a nonprobate transfer pursuant to s.  
15           705.10, 705.15, 705.18, or 766.58 (3) (f).

16           8. A declaration to health care professionals.

17           9. An authorization for final disposition.

18           10. An authorization for use and disclosure of protected health information.

1           11. An instrument of disclaimer under s. 854.13.

2           12. An instrument exercising a power of appointment under ch. 702.

3           (b) “Remotely located individual” means an individual who is not in the  
4 physical presence of the notary public who performs the notarial act pursuant to this  
5 section.

6           (c) “Sign” means, with respect to a remotely located individual, the execution  
7 of an estate planning document that is required or intended to be executed in the  
8 presence of a notary public.

9           (2) (a) An estate planning document may not be denied legal effect or  
10 enforceability relating to a transaction solely because a notarial act was performed  
11 in compliance with this section.

12          (b) Except as provided in par. (a), this section shall not apply to, or impact the  
13 legal effect or enforceability of, any electronic records or electronic signatures  
14 governed by ch. 137.

15          (3) For purposes of signing an estate planning document, a remotely located  
16 individual may comply with s. 140.06 by appearing before a notary public via 2-way,  
17 real-time audiovisual communication technology if all of the following requirements  
18 are satisfied:

19           (a) The signing is supervised by an attorney in good standing licensed to  
20 practice law in this state. The supervising attorney may serve as the notary public.

21           (b) The remotely located individual attests to being physically located in this  
22 state during the 2-way, real-time audiovisual communication.

23           (c) The notary public attests to being physically located in this state during the  
24 2-way, real-time audiovisual communication.

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1                   (d) The remotely located individual positively confirms the remotely located  
2 individual's identity. If the remotely located individual is not personally known to  
3 the notary public and the supervising attorney, the remotely located individual shall  
4 provide satisfactory evidence of the remotely located individual's identity as  
5 provided in s. 140.07.

6                   (e) The remotely located individual identifies anyone else present in the same  
7 physical location as the remotely located individual. If possible, the remotely located  
8 individual shall make a visual sweep of the remotely located individual's physical  
9 surroundings so that the notary public and the supervising attorney can confirm the  
10 presence of any other persons.

11                  (f) The remotely located individual displays the estate planning document,  
12 confirms the total number of pages and the page number on which the remotely  
13 located individual's signature is to be affixed, and declares to the notary public and  
14 the supervising attorney that the remotely located individual is 18 years of age or  
15 older, that the document is the remotely located individual's estate planning  
16 document, and that the document is being executed as a voluntary act.

17                  (g) The remotely located individual, or another individual 18 years of age or  
18 older authorized to sign on behalf of the remotely located individual at the express  
19 direction and in the physical presence of the remotely located individual, signs the  
20 estate planning document in a manner that allows the notary public and the  
21 supervising attorney to see the signing. If the estate planning document is signed  
22 by someone on behalf of the remotely located individual, the signing shall comply  
23 with s. 140.09.

24                  (h) The audiovisual communication technology used allows communication by  
25 which a person is able to see, hear, and communicate in an interactive way with

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1 another person in real time using electronic means, except that if the remotely  
2 located individual, the notary public, or the supervising attorney has an impairment  
3 that affects hearing, sight, or speech, assistive technology or learned skills may be  
4 substituted for audio or visual if it allows that person to actively participate in the  
5 signing in real time.

6           (i) The estate planning document indicates that it is being executed pursuant  
7 to this section.

8           (j) One of the following occurs:

9           1. The remotely located individual, or another person at the direction of the  
10 remotely located individual, personally delivers or transmits by U.S. mail or  
11 commercial courier service the entire signed original estate planning document to  
12 the supervising attorney within a reasonable time after the signing. The supervising  
13 attorney then personally delivers or transmits by U.S. mail or commercial courier  
14 service the entire signed original estate planning document to the notary public  
15 within a reasonable time. The notary public then performs the intended notarial act  
16 and forwards the entire original estate planning document by personal delivery or  
17 U.S. mail or commercial courier service to the supervising attorney within a  
18 reasonable time.

19           2. The remotely located individual, or another person at the direction of the  
20 remotely located individual, personally delivers or transmits by U.S. mail or  
21 commercial courier service the entire signed original estate planning document to  
22 the supervising attorney within a reasonable time after the signing and transmits  
23 by facsimile or electronic means a legible copy of the entire signed estate planning  
24 document directly to the notary public within a reasonable time after the signing.  
25 The notary public then performs the intended notarial act and personally delivers

1 or transmits by U.S. mail or commercial courier service the entire signed copy of the  
2 estate planning document to the supervising attorney within a reasonable time. The  
3 signed original and signed copy together shall constitute one original document  
4 unless the supervising attorney, within a reasonable time after receiving the signed  
5 original and signed copy, compiles the signed original and signed copy into one  
6 document by attaching the page or pages containing the notarial act to the original  
7 signed by or on behalf of the remotely located individual, in which case the compiled  
8 document shall constitute the original.

9       3. The remotely located individual, or another person at the express direction  
10 of the remotely located individual, and the notary public sign identical copies of the  
11 original estate planning document. The remotely located individual, or another  
12 person at the direction of the remotely located individual, and the notary public  
13 personally deliver or transmit by U.S. mail or commercial courier service the signed  
14 originals to the supervising attorney within a reasonable time after the signing and  
15 performance of the notarial act. All of the originals together shall constitute one  
16 document unless the supervising attorney, within a reasonable time after receiving  
17 all signed originals, compiles the originals into one document by attaching the page  
18 or pages containing the notarial act to the original signed by or on behalf of the  
19 remotely located individual, in which case the compiled document shall constitute  
20 the original.

21       (k) The supervising attorney completes and attaches to the estate planning  
22 document an affidavit of compliance that contains the following information:

- 23       1. The name and residential address of the remotely located individual.  
24       2. The name and residential or business address of the notary public.

1       3. The address within the state where the remotely located individual was  
2 physically located at the time that the estate planning document was signed by the  
3 remotely located individual or another individual on behalf of the remotely located  
4 individual.

5       4. The address within the state where the notary public was physically located  
6 at the time the notary public witnessed the remotely located individual's signing of  
7 the estate planning document.

8       5. A statement that the remotely located individual and notary public were  
9 known to each other and the supervising attorney or a description of the form of  
10 identification used to confirm the identity of the remotely located individual.

11      6. The identity of anyone else present in the same physical location as the  
12 remotely located individual during the signing.

13      7. Confirmation that the remotely located individual declared that the  
14 remotely located individual is 18 years of age or older, that the document is the  
15 remotely located individual's estate planning document, and that the document was  
16 being executed as the remotely located individual's voluntary act.

17      8. Confirmation that the notary public and the supervising attorney were able  
18 to see the remotely located individual, or an individual 18 years of age or older at the  
19 express direction and in the physical presence of the remotely located individual,  
20 sign, and that the remotely located individual appeared to be 18 years of age or older  
21 and acting voluntarily.

22      9. A description of the audiovisual technology used for the signing process.

23      10. If the estate planning document was not signed in counterpart, a  
24 description of the method used to forward the estate planning document to the notary  
25 public and to the supervising attorney upon completion of the signing process.

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1           11. If the estate planning document was signed in counterpart, a description  
2         of the method used to forward each counterpart to the supervising attorney and, if  
3         applicable, how and when the supervising attorney physically compiled the signed  
4         paper counterparts into a single document.

5           12. The name, state bar number, and business or residential address of the  
6 supervising attorney.

7           13. Any other information that the supervising attorney considers to be  
8 material with respect to the remotely located individual's capacity to sign a valid  
9 estate planning document, the remotely located individual's and notary public's  
10 compliance with this section, or any other information that the supervising attorney  
11 deems relevant to the signing of the estate planning document.

12                   **(4)** An affidavit of compliance completed and attached to the estate planning  
13 document pursuant to sub. (3) (k) shall serve as conclusive evidence that the estate  
14 planning document was executed in compliance with this section.

15                   **(5)** An affidavit of compliance shall be in substantially the following form:

## AFFIDAVIT OF COMPLIANCE

17 State of ....

18 County of ....

19 The undersigned, being first duly sworn under oath, states as follows:

This Affidavit of Compliance is executed pursuant to Wis. Stat. § 140.147 to document the signing of the [name of estate planning document] of [name of remotely located individual] via remote appearance by 2-way, real-time audiovisual communication technology on [date].

24           1. The name and residential address of the remotely located individual is ....

25           2. The name and [residential or business] address of the notary public is ....

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1       3. The address within the state of Wisconsin where the remotely located  
2 individual was physically located at the time the remotely located individual signed  
3 the estate planning document is ....

4       4. The address within the state of Wisconsin where the notary public was  
5 physically located at the time the notary public witnessed the remotely located  
6 individual's signing of the estate planning document is ....

7       5. The remotely located individual and notary public were known to each other  
8 and to the supervising attorney. - OR - The remotely located individual and notary  
9 public were not known to each other and to the supervising attorney. The remotely  
10 located individual produced the following form of photo identification to confirm his  
11 or her identity:

12       ....

13       6. The following persons were in the same physical location as the remotely  
14 located individual during the signing:

15       ....

16       7. The remotely located individual declared that the remotely located  
17 individual is 18 years of age or older, that the document is the remotely located  
18 individual's [name of estate planning document], and that the document was being  
19 executed as the remotely located individual's voluntary act.

20       8. The notary public and the supervising attorney were able to see the remotely  
21 located individual sign or another individual on behalf of the remotely located  
22 individual sign. The remotely located individual appeared to be 18 years of age or  
23 older and acting voluntarily.

24       9. The audiovisual technology used for the signing process was ....

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1           10. The estate planning document was not signed in counterpart. The following  
2 methods were used to forward the estate planning document to the notary public and  
3 to the supervising attorney after signing. – OR – The estate planning document was  
4 signed in counterpart. The following methods were used to forward each counterpart  
5 to the supervising attorney. [If applicable] – The supervising attorney physically  
6 compiled the signed paper counterparts into a single document containing the estate  
7 planning document, the signature of the remotely located individual, and the  
8 notarial act on [date] by [e.g., attaching page 7 from each counterpart signed by the  
9 notary public to the back of the estate planning document signed by the remotely  
10 located individual].

11           11. The name, state bar number, and [business or residential] address of the  
12 supervising attorney is ....

13           12. [Optional] Other information that the supervising attorney considers to be  
14 material is as follows: ....

15           .... (signature of supervising attorney)

16           Subscribed and sworn to before me on .... (date) by .... (name of supervising  
17 attorney).

18           .... (signature of notarial officer)

19           Stamp

20           .... (Title of office)

21           [My commission expires: ....]

22           **(6)** If a supervising attorney is required to complete an affidavit in order to  
23 execute an estate planning document pursuant to another provision of law, the  
24 information required in that affidavit may be combined with the information  
25 required in the affidavit of compliance into a single affidavit.

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1                   **(7)** For a notarial act performed under this section, the certificate of notarial  
2 act required under s. 140.15 may be in the following short form, if completed with the  
3 information required by s. 140.15 (1) and (2):

4                   State of ....

5                   County of ....

6                   This record was virtually acknowledged before me pursuant to Wis. Stat. §  
7 140.147 on .... (date) by .... (name(s) of individual(s)).

8                   .... (signature of notarial officer)

9                   Stamp

10                  .... (Title of office)

11                  [My commission expires: ....]

12                  **SECTION 2.** 154.03 (1) (e) of the statutes is created to read:

13                  **154.03 (1) (e)** Under the age of 18.

14                  **SECTION 3.** 154.03 (3) of the statutes is created to read:

15                  **154.03 (3)** For purposes of this section, “presence” includes the simultaneous  
16 remote appearance by 2-way, real-time audiovisual communication technology if all  
17 of the following conditions are satisfied:

18                  (a) The signing is supervised by an attorney in good standing licensed by this  
19 state. The supervising attorney may serve as one of the remote witnesses.

20                  (b) The declarant attests to being physically located in this state during the  
21 2-way, real-time audiovisual communication.

22                  (c) Each remote witness attests to being physically located in this state during  
23 the 2-way, real-time audiovisual communication.

24                  (d) The declarant and each of the remote witnesses identify themselves. If the  
25 declarant and remote witnesses are not personally known to each other and to the

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1 supervising attorney, the declarant and each of the remote witnesses display photo  
2 identification.

3 (e) The declarant identifies anyone else present in the same physical location  
4 as the declarant and, if possible, the declarant makes a visual sweep of the  
5 declarant's physical surroundings so that the supervising attorney and each remote  
6 witness can confirm the presence of any other person.

7 (f) The declarant displays the declaration to health care professionals, confirms  
8 the total number of pages and the page number of the page on which the declarant's  
9 signature will be affixed, and declares to the remote witnesses and the supervising  
10 attorney all of the following:

- 11 1. That the declarant is 18 years of age or older.
- 12 2. That the document is a declaration to health care professionals.
- 13 3. That the document is being executed as a voluntary act.

14 (g) The declarant, or an individual 18 years of age or older at the express  
15 direction and in the physical presence of the declarant, dates and signs the  
16 declaration to health care professionals in a manner that allows each of the remote  
17 witnesses and the supervising attorney to see the execution.

18 (h) The audiovisual communication technology used allows communication by  
19 which a person is able to see, hear, and communicate in an interactive way with  
20 another person in real time using electronic means, except that if the declarant, a  
21 remote witness, or the supervising attorney has an impairment that affects hearing,  
22 sight, or speech, assistive technology or learned skills may be substituted for audio  
23 or visual if it allows that person to actively participate in the signing in real time.

24 (i) The declaration to health care professionals indicates that it is being  
25 executed pursuant to this subsection.

1                   (j) One of the following occurs:

2                   1. The declarant, or another person at the direction of the declarant, personally  
3                   delivers or transmits by U.S. mail or commercial courier service the entire signed  
4                   original declaration to health care professionals to the supervising attorney within  
5                   a reasonable time after execution. The supervising attorney then personally delivers  
6                   or transmits by U.S. mail or commercial courier service the entire signed original  
7                   declaration to health care professionals to the remote witnesses within a reasonable  
8                   time. The first remote witness to receive the original declaration to health care  
9                   professionals signs and dates the original declaration to health care professionals as  
10                  a witness and forwards the entire signed original declaration to health care  
11                  professionals by personal delivery or U.S. mail or commercial courier service within  
12                  a reasonable time to the 2nd remote witness, who signs and dates it as a witness and  
13                  forwards the entire signed original declaration to health care professionals by  
14                  personal delivery or U.S. mail or commercial courier service within a reasonable time  
15                  to the supervising attorney.

16                  2. The declarant, or another person at the direction of the declarant, personally  
17                  delivers or transmits by U.S. mail or commercial courier service the entire signed  
18                  original declaration to health care professionals to the supervising attorney within  
19                  a reasonable time after execution, and transmits by facsimile or electronic means a  
20                  legible copy of the entire signed declaration to health care professionals directly to  
21                  each remote witness within a reasonable time after execution. Each remote witness  
22                  then signs the transmitted copy of the declaration to health care professionals as a  
23                  witness and personally delivers or transmits by U.S. mail or commercial courier  
24                  service the entire signed copy of the declaration to health care professionals to the  
25                  supervising attorney within a reasonable time after witnessing. The signed original

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1 and signed copies together shall constitute one original document, unless the  
2 supervising attorney, within a reasonable time after receiving the signed original  
3 and signed copies, compiles the signed original and signed copies into one document  
4 by attaching the signature pages of each remote witness to the original signed by or  
5 on behalf of the declarant, in which case the compiled document shall constitute the  
6 original.

7       3. The declarant and each of the remote witnesses sign identical copies of the  
8 original. The declarant, or another person at the direction of the declarant, and each  
9 of the remote witnesses personally deliver or transmit by U.S. mail or commercial  
10 courier service the signed originals to the supervising attorney within a reasonable  
11 time after execution. All of the signed originals together shall constitute one original  
12 document, unless the supervising attorney, within a reasonable time after receiving  
13 all signed originals, compiles the originals into one document by attaching the  
14 signature pages of each remote witness to the original signed by or on behalf of the  
15 declarant, in which case the compiled document shall constitute the original.

16       (k) The supervising attorney completes an affidavit of compliance that contains  
17 the following information:

- 18       1. The name and residential address of the declarant.
- 19       2. The name and residential or business address of each remote witness.
- 20       3. The address within this state where the declarant was physically located at  
21 the time the declarant signed the declaration to health care professionals.
- 22       4. The address within this state where each remote witness was physically  
23 located at the time the remote witness witnessed the declarant's execution of the  
24 declaration to health care professionals.

1       5. A statement that the declarant and remote witnesses were all known to each  
2 other and the supervising attorney or a description of the form of photo identification  
3 used to confirm the identity of the declarant and each remote witness.

4       6. Confirmation that the declarant declared that the declarant is 18 years of  
5 age or older, that the document is the declarant's declaration to health care  
6 professionals, and that the document was being executed as the declarant's  
7 voluntary act.

8       7. Confirmation that each of the remote witnesses and the supervising attorney  
9 were able to see the declarant, or an individual 18 years of age or older at the express  
10 direction and in the physical presence of the declarant, sign, and that the declarant  
11 appeared to be 18 years of age or older and acting voluntarily.

12      8. A description of the audiovisual technology used for the signing process.

13      9. If the declaration to health care professionals was not signed in counterpart,  
14 a description of the method used to forward the declaration to health care  
15 professionals to each remote witness for signing and to the supervising attorney after  
16 signing.

17      10. If the declaration to health care professionals was signed in counterpart,  
18 a description of the method used to forward each counterpart to the supervising  
19 attorney and, if applicable, how and when the supervising attorney physically  
20 compiled the signed paper counterparts into a single document containing the  
21 declaration to health care professionals, the signature of the declarant, and the  
22 signatures of the remote witnesses.

23      11. The name, state bar number, and business or residential address of the  
24 supervising attorney.

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1           12. Any other information that the supervising attorney considers to be  
2 material with respect to the declarant's capacity to sign a valid declaration to health  
3 care professionals, the declarant's and witnesses' compliance with this section, or  
4 any other information that the supervising attorney deems relevant to the execution  
5 of the declaration to health care professionals.

(L) The affidavit of compliance is attached to the declaration to health care professionals.

8                   (m) An affidavit of compliance described in this subsection shall be  
9 substantially in the following form:

## AFFIDAVIT OF COMPLIANCE

## 11 State of ....

## 12 County of ....

13 The undersigned, being first duly sworn under oath, states as follows:

This Affidavit of Compliance is executed pursuant to Wis. Stat. § 154.03 (3) to document the execution of the declaration to health care professionals of [name of declarant] via remote appearance by 2-way, real-time audiovisual communication technology on [date].

1. The name and residential address of the declarant is ....

19 2. The name and [residential or business] address of remote witness 1 is ....

20 3. The name and [residential or business] address of remote witness 2 is ....

21       4. The address within the state of Wisconsin where the declarant was  
22 physically located at the time the declarant signed the declaration to health care  
23 professionals is ....

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1       5. The address within the state of Wisconsin where remote witness 1 was  
2 physically located at the time the remote witness witnessed the declarant's execution  
3 of the declaration to health care professionals is ....

4       6. The address within the state of Wisconsin where remote witness 2 was  
5 physically located at the time the remote witness witnessed the declarant's execution  
6 of the declaration to health care professionals is ....

7       7. The declarant and remote witnesses were all known to each other and to the  
8 supervising attorney. - OR - The declarant and remote witnesses were not all known  
9 to each other and to the supervising attorney. Each produced the following form of  
10 photo identification to confirm his or her identity:

11       ....

12       8. The declarant declared that the declarant is 18 years of age or older, that the  
13 document is the declarant's declaration to health care professionals, and that the  
14 document was being executed as the declarant's voluntary act.

15       9. Each of the remote witnesses and the supervising attorney were able to see  
16 the declarant sign. The declarant appeared to be 18 years of age or older and acting  
17 voluntarily.

18       10. The audiovisual technology used for the signing process was ....

19       11. The declaration to health care professionals was not signed in counterpart.  
20 The following methods were used to forward the declaration to health care  
21 professionals to each remote witness for signing and to the supervising attorney after  
22 signing. - OR - The declaration to health care professionals was signed in  
23 counterpart. The following methods were used to forward each counterpart to the  
24 supervising attorney. [If applicable] - The supervising attorney physically compiled  
25 the signed paper counterparts into a single document containing the declaration to

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1 health care professionals, the signature of the declarant, and the signatures of the  
2 remote witnesses on [date] by [e.g., attaching page 7 from each counterpart signed  
3 by a remote witness to the back of the declaration to health care professionals signed  
4 by the declarant].

5 12. The name, state bar number, and [business or residential] address of the  
6 supervising attorney is ....

7 13. [Optional] Other information that the supervising attorney considers to be  
8 material is as follows: ....

9 .... (signature of supervising attorney)

10 Subscribed and sworn to before me on .... (date) by .... (name of supervising  
11 attorney).

12 .... (signature of notarial officer)

13 Stamp

14 .... (Title of office)

15 [My commission expires: ....]

16 **SECTION 4.** 154.30 (8) (d) 2. of the statutes is amended to read:

17 154.30 (8) (d) 2. Be signed and dated by the declarant, with the signature  
18 witnessed by 2 witnesses who each have attained age 18 and who are not related by  
19 blood, marriage, or adoption to the declarant, or acknowledged before a notary  
20 public. If the declarant is physically unable to sign an authorization for final  
21 disposition, the authorization shall be signed in the declarant's name by an  
22 individual 18 years of age or older at the declarant's express direction and in his or  
23 her physical presence; such a proxy signing shall take place or be acknowledged by  
24 the declarant in the presence of 2 witnesses or a notary public.

25 **SECTION 5.** 154.30 (8m) of the statutes is created to read:

**SENATE BILL 898****SECTION 5**

1       **154.30 (8m) REMOTE EXECUTION.** For purposes of sub. (8) (d) 2., “witnessed by”  
2       and “in the presence of” include the simultaneous remote appearance by 2-way,  
3       real-time audiovisual communication technology if all of the following conditions are  
4       satisfied:

5               (a) The signing is supervised by an attorney in good standing licensed by this  
6       state. The supervising attorney may serve as one of the remote witnesses.

7               (b) The declarant attests to being physically located in this state during the  
8       2-way, real-time audiovisual communication.

9               (c) Each remote witness attests to being physically located in this state during  
10      the 2-way, real-time audiovisual communication.

11               (d) The declarant and each of the remote witnesses identify themselves. If the  
12      declarant and remote witnesses are not personally known to each other and to the  
13      supervising attorney, the declarant and each of the remote witnesses display photo  
14      identification.

15               (e) The declarant identifies anyone else present in the same physical location  
16      as the declarant and, if possible, the declarant makes a visual sweep of the  
17      declarant’s physical surroundings so that the supervising attorney and each remote  
18      witness can confirm the presence of any other person.

19               (f) The declarant displays the authorization for final disposition, confirms the  
20      total number of pages and the page number of the page on which the declarant’s  
21      signature will be affixed, and declares to the remote witnesses and the supervising  
22      attorney all of the following:

- 23               1. That the declarant is 18 years of age or older.
- 24               2. That the document is an authorization for final disposition.
- 25               3. That the document is being executed as a voluntary act.

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1                         (g) The declarant, or an individual 18 years of age or older at the express  
2 direction and in the physical presence of the declarant, dates and signs the  
3 authorization for final disposition in a manner that allows each of the remote  
4 witnesses and the supervising attorney to see the execution.

5                         (h) The audiovisual communication technology used allows communication by  
6 which a person is able to see, hear, and communicate in an interactive way with  
7 another person in real time using electronic means, except that if the declarant, a  
8 remote witness, or the supervising attorney has an impairment that affects hearing,  
9 sight, or speech, assistive technology or learned skills may be substituted for audio  
10 or visual if it allows that person to actively participate in the signing in real time.

11                         (i) The authorization for final disposition indicates that it is being executed  
12 pursuant to this subsection.

13                         (j) One of the following occurs:

14                         1. The declarant, or another person at the direction of the declarant, personally  
15 delivers or transmits by U.S. mail or commercial courier service the entire signed  
16 original authorization for final disposition to the supervising attorney within a  
17 reasonable time after execution. The supervising attorney then personally delivers  
18 or transmits by U.S. mail or commercial courier service the entire signed original  
19 authorization for final disposition to the remote witnesses within a reasonable time.  
20 The first remote witness to receive the original authorization for final disposition  
21 signs and dates the original authorization for final disposition as a witness and  
22 forwards the entire signed original authorization for final disposition by personal  
23 delivery or U.S. mail or commercial courier service within a reasonable time to the  
24 2nd remote witness, who signs and dates it as a witness and forwards the entire

**SENATE BILL 898****SECTION 5**

1 signed original authorization for final disposition by personal delivery or U.S. mail  
2 or commercial courier service within a reasonable time to the supervising attorney.

3       2. The declarant, or another person at the direction of the declarant, personally  
4 delivers or transmits by U.S. mail or commercial courier service the entire signed  
5 original authorization for final disposition to the supervising attorney within a  
6 reasonable time after execution, and transmits by facsimile or electronic means a  
7 legible copy of the entire signed authorization for final disposition directly to each  
8 remote witness within a reasonable time after execution. Each remote witness shall  
9 then sign the transmitted copy of the authorization for final disposition as a witness  
10 and personally deliver or transmit by U.S. mail or commercial courier service the  
11 entire signed copy of the authorization for final disposition to the supervising  
12 attorney within a reasonable time after witnessing. The signed original and signed  
13 copies together shall constitute one original document, unless the supervising  
14 attorney, within a reasonable time after receiving the signed original and signed  
15 copies, compiles the signed original and signed copies into one document by  
16 attaching the signature pages of each remote witness to the original signed by or on  
17 behalf of the declarant, in which case the compiled document shall constitute the  
18 original.

19       3. The declarant and each of the remote witnesses sign identical copies of the  
20 original. The declarant, or another person at the direction of the declarant, and each  
21 of the remote witnesses personally deliver or transmit by U.S. mail or commercial  
22 courier service the signed originals to the supervising attorney within a reasonable  
23 time after execution. All of the signed originals together shall constitute one original  
24 document unless the supervising attorney, within a reasonable time after receiving  
25 all signed originals, compiles the originals into one document by attaching the

**SENATE BILL 898**

1 signature pages of each remote witness to the original signed by the declarant, in  
2 which case the compiled document shall constitute the original.

3 (k) The supervising attorney completes an affidavit of compliance that contains  
4 the following information:

5 1. The name and residential address of the declarant.

6 2. The name and residential or business address of each remote witness.

7 3. The address within this state where the declarant was physically located at  
8 the time the declarant signed the authorization for final disposition.

9 4. The address within this state where each remote witness was physically  
10 located at the time the remote witness witnessed the declarant's execution of the  
11 authorization for final disposition.

12 5. A statement that the declarant and remote witnesses were all known to each  
13 other and the supervising attorney or a description of the form of photo identification  
14 used to confirm the identity of the declarant and each remote witness.

15 6. Confirmation that the declarant declared that the declarant is 18 years of  
16 age or older, that the document is the declarant's authorization for final disposition,  
17 and that the document was being executed as the declarant's voluntary act.

18 7. Confirmation that each of the remote witnesses and the supervising attorney  
19 were able to see the declarant, or an individual 18 years of age or older at the express  
20 direction and in the physical presence of the declarant, sign, and that the declarant  
21 appeared to be 18 years of age or older and acting voluntarily.

22 8. A description of the audiovisual technology used for the signing process.

23 9. If the authorization for final disposition was not signed in counterpart, a  
24 description of the method used to forward the authorization for final disposition to  
25 each remote witness for signing and to the supervising attorney after signing.

**SENATE BILL 898****SECTION 5**

1        10. If the authorization for final disposition was signed in counterpart, a  
2 description of the method used to forward each counterpart to the supervising  
3 attorney and, if applicable, how and when the supervising attorney physically  
4 compiled the signed paper counterparts into a single document containing the  
5 authorization for final disposition, the signature of the declarant, and the signatures  
6 of the remote witnesses.

7        11. The name, state bar number, and business or residential address of the  
8 supervising attorney.

9        12. Any other information that the supervising attorney considers to be  
10 material with respect to the declarant's capacity to sign a valid authorization for final  
11 disposition, the declarant's and witnesses' compliance with this section, or any other  
12 information that the supervising attorney deems relevant to the execution of the  
13 authorization for final disposition.

14        (L) The affidavit of compliance is attached to the authorization for final  
15 disposition.

16        (m) An affidavit of compliance described in this subsection shall be  
17 substantially in the following form:

**AFFIDAVIT OF COMPLIANCE**

19        State of ....

20        County of ....

21        The undersigned, being first duly sworn under oath, states as follows:

22        This Affidavit of Compliance is executed pursuant to Wis. Stat. § 154.30 (8m)  
23 to document the execution of the authorization for final disposition of [name of  
24 declarant] via remote appearance by 2-way, real-time audiovisual communication  
25 technology on [date].

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- 1        1. The name and residential address of the declarant is ....
- 2        2. The name and [residential or business] address of remote witness 1 is ....
- 3        3. The name and [residential or business] address of remote witness 2 is ....
- 4        4. The address within the state of Wisconsin where the declarant was  
5        physically located at the time the declarant signed the authorization for final  
6        disposition is ....
- 7        5. The address within the state of Wisconsin where remote witness 1 was  
8        physically located at the time the remote witness witnessed the declarant's execution  
9        of the authorization for final disposition is ....
- 10       6. The address within the state of Wisconsin where remote witness 2 was  
11       physically located at the time the remote witness witnessed the declarant's execution  
12       of the authorization for final disposition is ....
- 13       7. The declarant and remote witnesses were all known to each other and to the  
14       supervising attorney. - OR - The declarant and remote witnesses were not all known  
15       to each other and to the supervising attorney. Each produced the following form of  
16       photo identification to confirm his or her identity:  
  
17       ....
- 18       8. The declarant declared that the declarant is 18 years of age or older, that the  
19       document is the declarant's authorization for final disposition, and that the  
20       document was executed as the declarant's voluntary act.
- 21       9. Each of the remote witnesses and the supervising attorney were able to see  
22       the declarant, or an individual 18 years of age or older at the express direction and  
23       in the physical presence of the declarant, sign. The declarant appeared to be 18 years  
24       of age or older and acting voluntarily.
- 25       10. The audiovisual technology used for the signing process was ....

1           11. The authorization for final disposition was not signed in counterpart. The  
2 following methods were used to forward the authorization for final disposition to  
3 each remote witness for signing and to the supervising attorney after signing. - OR  
4 - The authorization for final disposition was signed in counterpart. The following  
5 methods were used to forward each counterpart to the supervising attorney. [If  
6 applicable] - The supervising attorney physically compiled the signed paper  
7 counterparts into a single document containing the authorization for final  
8 disposition, the signature of the declarant, and the signatures of the remote  
9 witnesses on [date] by [e.g., attaching page 7 from each counterpart signed by a  
10 remote witness to the back of the authorization for final disposition signed by the  
11 declarant].

12           12. The name, state bar number, and [business or residential] address of the  
13 supervising attorney is ....

14           13. [Optional] Other information that the supervising attorney considers to be  
15 material is as follows: ....

16           .... (signature of supervising attorney)

17           Subscribed and sworn to before me on .... (date) by .... (name of supervising  
18 attorney).

19           .... (signature of notarial officer)

20           Stamp

21           .... (Title of office)

22           [My commission expires: ....]

23           **SECTION 6.** 155.10 (3) of the statutes is created to read:

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1           155.10 (3) For purposes of sub. (1) (c), "in the presence of" includes the  
2 simultaneous remote appearance by 2-way, real-time audiovisual communication  
3 technology if all of the following conditions are satisfied:

4           (a) The signing is supervised by an attorney in good standing licensed by this  
5 state. The supervising attorney may serve as one of the remote witnesses.

6           (b) The principal attests to being physically located in this state during the  
7 2-way, real-time audiovisual communication.

8           (c) Each remote witness attests to being physically located in this state during  
9 the 2-way, real-time audiovisual communication.

10          (d) The principal and each of the remote witnesses identify themselves. If the  
11 principal and remote witnesses are not personally known to each other and to the  
12 supervising attorney, the principal and each of the remote witnesses display photo  
13 identification.

14          (e) The principal identifies anyone else present in the same physical location  
15 as the principal and, if possible, the principal makes a visual sweep of the principal's  
16 physical surroundings so that the supervising attorney and each remote witness can  
17 confirm the presence of any other person.

18          (f) The principal displays the power of attorney for health care, confirms the  
19 total number of pages and the page number of the page on which the principal's  
20 signature will be affixed, and declares to the remote witnesses and the supervising  
21 attorney all of the following:

- 22           1. That the principal is 18 years of age or older.
- 23           2. That the document is the principal's power of attorney for health care.
- 24           3. That the document is being executed as a voluntary act.

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1                         (g) The principal, or an individual 18 years of age or older at the express  
2 direction and in the physical presence of the principal, dates and signs the power of  
3 attorney for health care in a manner that allows each of the remote witnesses and  
4 the supervising attorney to see the execution.

5                         (h) The audiovisual communication technology used allows communication by  
6 which a person is able to see, hear, and communicate in an interactive way with  
7 another person in real time using electronic means, except that if the principal, a  
8 remote witness, or the supervising attorney has an impairment that affects hearing,  
9 sight, or speech, assistive technology or learned skills may be substituted for audio  
10 or visual if it allows that person to actively participate in the signing in real time.

11                         (i) The power of attorney for health care indicates that it is being executed  
12 pursuant to this subsection.

13                         (j) One of the following occurs:

14                         1. The principal, or another person at the direction of the principal, personally  
15 delivers or transmits by U.S. mail or commercial courier service the entire signed  
16 original power of attorney for health care to the supervising attorney within a  
17 reasonable time after execution. The supervising attorney then personally delivers  
18 or transmits by U.S. mail or commercial courier service the entire signed original  
19 power of attorney for health care to the remote witnesses within a reasonable time.  
20 The first remote witness to receive the original power of attorney for health care signs  
21 and dates the original power of attorney for health care as a witness and forwards  
22 the entire signed original power of attorney for health care by personal delivery or  
23 U.S. mail or commercial courier service within a reasonable time to the 2nd remote  
24 witness, who signs and dates it as a witness and forwards the entire signed original

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1 power of attorney for health care by personal delivery or U.S. mail or commercial  
2 courier service within a reasonable time to the supervising attorney.

3       2. The principal, or another person at the direction of the principal, personally  
4 delivers or transmits by U.S. mail or commercial courier service the entire signed  
5 original power of attorney for health care to the supervising attorney within a  
6 reasonable time after execution and transmits by facsimile or electronic means a  
7 legible copy of the entire signed power of attorney for health care directly to each  
8 remote witness within a reasonable time after execution. Each remote witness then  
9 signs the transmitted copy of the power of attorney for health care as a witness and  
10 personally delivers or transmits by U.S. mail or commercial courier service the entire  
11 signed copy of the power of attorney for health care to the supervising attorney  
12 within a reasonable time after witnessing. The signed original and signed copies  
13 together shall constitute one original document, unless the supervising attorney,  
14 within a reasonable time after receiving the signed original and signed copies,  
15 compiles the signed original and signed copies into one document by attaching the  
16 signature pages of each remote witness to the original signed by or on behalf of the  
17 principal, in which case the compiled document shall constitute the original.

18       3. The principal and each of the remote witnesses sign identical copies of the  
19 original. The principal, or another person at the direction of the principal, and each  
20 of the remote witnesses personally deliver or transmit by U.S. mail or commercial  
21 courier service the signed originals to the supervising attorney within a reasonable  
22 time after execution. All of the signed originals together shall constitute one original  
23 document, unless the supervising attorney, within a reasonable time after receiving  
24 all signed originals, compiles the originals into one document by attaching the

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1       signature pages of each remote witness to the original signed by or on behalf of the  
2       principal, in which case the compiled document shall constitute the original.

3           (k) The supervising attorney completes an affidavit of compliance that contains  
4       the following information:

5              1. The name and residential address of the principal.

6              2. The name and residential or business address of each remote witness.

7              3. The address within this state where the principal was physically located at  
8       the time the principal signed the power of attorney for health care.

9              4. The address within this state where each remote witness was physically  
10       located at the time the remote witness witnessed the principal's execution of the  
11       power of attorney for health care.

12              5. A statement that the principal and remote witnesses were all known to each  
13       other and the supervising attorney or a description of the form of photo identification  
14       used to confirm the identity of the principal and each remote witness.

15              6. Confirmation that the principal declared that the principal is 18 years of age  
16       or older, that the document is the principal's power of attorney for health care, and  
17       that the document was being executed as the principal's voluntary act.

18              7. Confirmation that each of the remote witnesses and the supervising attorney  
19       were able to see the principal, or an individual 18 years of age or older at the express  
20       direction and in the physical presence of the principal, sign, and that the principal  
21       appeared to be 18 years of age or older and acting voluntarily.

22              8. A description of the audiovisual technology used for the signing process.

23              9. If the power of attorney for health care was not signed in counterpart, a  
24       description of the method used to forward the power of attorney for health care to  
25       each remote witness for signing and to the supervising attorney after signing.

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1           10. If the power of attorney for health care was signed in counterpart, a  
2         description of the method used to forward each counterpart to the supervising  
3         attorney and, if applicable, how and when the supervising attorney physically  
4         compiled the signed paper counterparts into a single document containing the power  
5         of attorney for health care, the signature of the principal, and the signatures of the  
6         remote witnesses.

7           11. The name, state bar number, and business or residential address of the  
8 supervising attorney.

9           12. Any other information that the supervising attorney considers to be  
10 material with respect to the principal's capacity to sign a valid power of attorney for  
11 health care, the principal's and witnesses' compliance with this section, or any other  
12 information that the supervising attorney deems relevant to the execution of the  
13 power of attorney for health care.

14                   (L) The affidavit of compliance is attached to the power of attorney for health  
15 care.

16                   (m) An affidavit of compliance described in this subsection shall be  
17 substantially in the following form:

## AFFIDAVIT OF COMPLIANCE

19 State of ....

20 County of ....

21 The undersigned, being first duly sworn under oath, states as follows:

22 This Affidavit of Compliance is executed pursuant to Wis. Stat. § 155.10 (3) to  
23 document the execution of the power of attorney for health care of [name of principal]  
24 via remote appearance by 2-way, real-time audiovisual communication technology  
25 on [date].

- 1           1. The name and residential address of the principal is ....
- 2           2. The name and [residential or business] address of remote witness 1 is ....
- 3           3. The name and [residential or business] address of remote witness 2 is ....
- 4           4. The address within the state of Wisconsin where the principal was physically  
5 located at the time the principal signed the power of attorney for health care is ....
- 6           5. The address within the state of Wisconsin where remote witness 1 was  
7 physically located at the time the remote witness witnessed the principal's execution  
8 of the power of attorney for health care is ....
- 9           6. The address within the state of Wisconsin where remote witness 2 was  
10 physically located at the time the remote witness witnessed the principal's execution  
11 of the power of attorney for health care is ....
- 12          7. The principal and remote witnesses were all known to each other and to the  
13 supervising attorney. - OR - The principal and remote witnesses were not all known  
14 to each other and to the supervising attorney. Each produced the following form of  
15 photo identification to confirm his or her identity:
- 16          ....
- 17          8. The principal declared that the principal is 18 years of age or older, that the  
18 document is the principal's power of attorney for health care, and that the document  
19 was being executed as the principal's voluntary act.
- 20          9. Each of the remote witnesses and the supervising attorney were able to see  
21 the principal, or an individual 18 years of age or older at the express direction and  
22 in the physical presence of the principal, sign. The principal appeared to be 18 years  
23 of age or older and acting voluntarily.
- 24          10. The audiovisual technology used for the signing process was ....

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1           11. The power of attorney for health care was not signed in counterpart. The  
2 following methods were used to forward the power of attorney for health care to each  
3 remote witness for signing and to the supervising attorney after signing. – OR – The  
4 power of attorney for health care was signed in counterpart. The following methods  
5 were used to forward each counterpart to the supervising attorney. [If applicable]  
6           – The supervising attorney physically compiled the signed paper counterparts into  
7 a single document containing the power of attorney for health care, the signature of  
8 the principal, and the signatures of the remote witnesses on [date] by [e.g., attaching  
9 page 7 from each counterpart signed by a remote witness to the back of the power of  
10 attorney for health care signed by the principal].

11           12. The name, state bar number, and business or residential address of the  
12 supervising attorney is ....

13           13. [Optional] Other information that the supervising attorney considers to be  
14 material is as follows: ....

15           .... (signature of supervising attorney)

16           Subscribed and sworn to before me on .... (date) by .... (name of supervising  
17 attorney).

18           .... (signature of notarial officer)

19           Stamp

20           .... (Title of office)

21           [My commission expires: ....]

22           **SECTION 7.** 244.05 of the statutes is repealed and recreated to read:

23           **244.05 Execution of power of attorney.** (1) To execute a power of attorney,  
24 the principal must sign the power of attorney, or an individual 18 years of age or older

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1 at the express direction and in the physical presence of the principal must sign the  
2 principal's name on the power of attorney.

3 (2) A signature of the principal, or the signature of an individual signing on  
4 behalf of the principal, on a power of attorney is presumed to be genuine if the  
5 principal makes an acknowledgment of the power of attorney before a notarial officer  
6 authorized under ch. 140 to take acknowledgments.

7 (3) A signature of the principal, or the signature of an individual signing on  
8 behalf of the principal, on a power of attorney is presumed to be genuine if the signing  
9 is witnessed by 2 witnesses via simultaneous remote appearance by 2-way,  
10 real-time audiovisual communication technology if all of the following conditions are  
11 satisfied:

12 (a) The signing is supervised by an attorney in good standing licensed by this  
13 state. The supervising attorney may serve as one of the remote witnesses.

14 (b) The principal attests to being physically located in this state during the  
15 2-way, real-time audiovisual communication.

16 (c) Each remote witness attests to being physically located in this state during  
17 the 2-way, real-time audiovisual communication.

18 (d) The principal and each of the remote witnesses identify themselves. If the  
19 principal and remote witnesses are not personally known to each other and to the  
20 supervising attorney, the principal and each of the remote witnesses display photo  
21 identification.

22 (e) The principal identifies anyone else present in the same physical location  
23 as the principal and, if possible, the principal makes a visual sweep of the principal's  
24 physical surroundings so that the supervising attorney and each remote witness can  
25 confirm the presence of any other person.

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1                   (f) The principal displays the power of attorney, confirms the total number of  
2 pages and the page number of the page on which the principal's signature will be  
3 affixed, and declares to the remote witnesses and the supervising attorney all of the  
4 following:

- 5                   1. That the principal is 18 years of age or older.
- 6                   2. That the document is the principal's power of attorney.
- 7                   3. That the document is being executed as a voluntary act.

8                   (g) The principal, or another individual 18 years of age or older at the express  
9 direction and in the physical presence of the principal, signs the power of attorney  
10 in a manner that allows each of the remote witnesses and the supervising attorney  
11 to see the execution.

12                  (h) The audiovisual communication technology used allows communication by  
13 which a person is able to see, hear, and communicate in an interactive way with  
14 another person in real time using electronic means, except that if the principal, a  
15 remote witness, or the supervising attorney has an impairment that affects hearing,  
16 sight, or speech, assistive technology or learned skills may be substituted for audio  
17 or visual if it allows that person to actively participate in the signing in real time.

18                  (i) The power of attorney indicates that it is being executed pursuant to this  
19 section.

20                  (j) One of the following occurs:

21                  1. The principal, or another person at the direction of the principal, personally  
22 delivers or transmits by U.S. mail or commercial courier service the entire signed  
23 original power of attorney to the supervising attorney within a reasonable time after  
24 execution. The supervising attorney then personally delivers or transmits by U.S.  
25 mail or commercial courier service the entire signed original power of attorney to the

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1 remote witnesses within a reasonable time. The first remote witness to receive the  
2 original power of attorney signs the original power of attorney as a witness and  
3 forwards the entire signed original power of attorney by personal delivery or U.S.  
4 mail or commercial courier service within a reasonable time to the 2nd remote  
5 witness, who signs it as a witness and forwards the entire signed original power of  
6 attorney by personal delivery or U.S. mail or commercial courier service within a  
7 reasonable time to the supervising attorney.

8       2. The principal, or another person at the direction of the principal, personally  
9 delivers or transmits by U.S. mail or commercial courier service the entire signed  
10 original power of attorney to the supervising attorney within a reasonable time after  
11 execution and transmits by facsimile or electronic means a legible copy of the entire  
12 signed power of attorney directly to each remote witness within a reasonable time  
13 after execution. Each remote witness then signs the transmitted copy of the power  
14 of attorney as a witness and personally delivers or transmits by U.S. mail or  
15 commercial courier service the entire signed copy of the power of attorney to the  
16 supervising attorney within a reasonable time after witnessing. The signed original  
17 and signed copies together shall constitute one original document, unless the  
18 supervising attorney, within a reasonable time after receiving the signed original  
19 and signed copies, compiles the signed original and signed copies into one document  
20 by attaching the signature pages of each remote witness to the original signed by or  
21 on behalf of the principal, in which case the compiled document shall constitute the  
22 original.

23       3. The principal and each of the remote witnesses sign identical copies of the  
24 original. The principal, or another person at the direction of the principal, and each  
25 of the remote witnesses personally deliver or transmit by U.S. mail or commercial

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1       courier service the signed originals to the supervising attorney within a reasonable  
2       time after execution. All of the signed originals together shall constitute one original  
3       document, unless the supervising attorney, within a reasonable time after receiving  
4       all signed originals, compiles the originals into one document by attaching the  
5       signature pages of each remote witness to the original signed by or on behalf of the  
6       principal, in which case the compiled document shall constitute the original.

7                     (k) The supervising attorney completes an affidavit of compliance that contains  
8       all of the following information:

9                     1. The name and residential address of the principal.

10                    2. The name and residential or business address of each remote witness.

11                    3. The address within this state where the principal was physically located at  
12       the time the principal signed the power of attorney.

13                    4. The address within this state where each remote witness was physically  
14       located at the time the remote witness witnessed the principal's execution of the  
15       power of attorney.

16                    5. A statement that the principal and remote witnesses were all known to each  
17       other and the supervising attorney or a description of the form of photo identification  
18       used to confirm the identity of the principal and each remote witness.

19                    6. Confirmation that the principal declared that the principal is 18 years of age  
20       or older, that the document is the principal's power of attorney, and that the  
21       document was being executed as the principal's voluntary act.

22                    7. Confirmation that each of the remote witnesses and the supervising attorney  
23       were able to see the principal, or another individual 18 years of age or older at the  
24       express direction and in the physical presence of the principal, sign, and that the  
25       principal appeared to be 18 years of age or older and acting voluntarily.

#### 8. A description of the audiovisual technology used for the signing process.

9. If the power of attorney was not signed in counterpart, a description of the method used to forward the power of attorney to each remote witness for signing and to the supervising attorney after signing.

10. If the power of attorney was signed in counterpart, a description of the method used to forward each counterpart to the supervising attorney and, if applicable, how and when the supervising attorney physically compiled the signed paper counterparts into a single document containing the power of attorney, the signature of the principal, and the signatures of the remote witnesses.

11. The name, state bar number, and business or residential address of the supervising attorney.

12. Any other information that the supervising attorney considers to be material with respect to the principal's capacity to sign a valid power of attorney, the principal's and witnesses' compliance with this section, or any other information that the supervising attorney deems relevant to the execution of the power of attorney.

(L) The affidavit of compliance is attached to the power of attorney.

(m) An affidavit of compliance described in this subsection shall be substantially in the following form:

## AFFIDAVIT OF COMPLIANCE

State of ....

## County of ....

The undersigned, being first duly sworn under oath, states as follows:

This Affidavit of Compliance is executed pursuant to Wis. Stat. § 244.05 to document the execution of the power of attorney of [name of principal] via remote appearance by 2-way, real-time audiovisual communication technology on [date].

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1       1. The name and residential address of the principal is ....

2       2. The name and [residential or business] address of remote witness 1 is ....

3       3. The name and [residential or business] address of remote witness 2 is ....

4       4. The address within the state of Wisconsin where the principal was physically  
5 located at the time the principal signed the power of attorney is ....

6       5. The address within the state of Wisconsin where remote witness 1 was  
7 physically located at the time the remote witness witnessed the principal's execution  
8 of the power of attorney is ....

9       6. The address within the state of Wisconsin where remote witness 2 was  
10 physically located at the time the remote witness witnessed the principal's execution  
11 of the power of attorney is ....

12       7. The principal and remote witnesses were all known to each other and to the  
13 supervising attorney. - OR - The principal and remote witnesses were not all known  
14 to each other and to the supervising attorney. Each produced the following form of  
15 photo identification to confirm his or her identity:

16       ....

17       8. The principal declared that the principal is 18 years of age or older, that the  
18 document is the principal's power of attorney, and that the document was being  
19 executed as the principal's voluntary act.

20       9. Each of the remote witnesses and the supervising attorney were able to see  
21 the principal, or another individual 18 years of age or older at the express direction  
22 and in the physical presence of the principal, sign. The principal appeared to be 18  
23 years of age or older and acting voluntarily.

24       10. The audiovisual technology used for the signing process was ....

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1        11. The power of attorney was not signed in counterpart. The following  
2 methods were used to forward the power of attorney to each remote witness for  
3 signing and to the supervising attorney after signing. - OR - The power of attorney  
4 was signed in counterpart. The following methods were used to forward each  
5 counterpart to the supervising attorney. [If applicable] - The supervising attorney  
6 physically compiled the signed paper counterparts into a single document containing  
7 the power of attorney, the signature of the principal, and the signatures of the remote  
8 witnesses on [date] by [e.g., attaching page 7 from each counterpart signed by a  
9 remote witness to the back of the power of attorney signed by the principal].

10        12. The name, state bar number, and business or residential address of the  
11 supervising attorney is ....

12        13. [Optional] Other information that the supervising attorney considers to be  
13 material is as follows: ....

14                .... (signature of supervising attorney)

15                Subscribed and sworn to before me on .... (date) by .... (name of supervising  
16 attorney).

17                .... (signature of notarial officer)

18                Stamp

19                .... (Title of office)

20                [My commission expires: ....]

21                **SECTION 8.** 853.03 (2) (c) of the statutes is created to read:

22        853.03 (2) (c) For purposes this subsection, "conscious presence" includes the  
23 simultaneous remote appearance by 2-way, real-time audiovisual communication  
24 technology if all of the following conditions are satisfied:

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1           1. The signing is supervised by an attorney in good standing licensed by this  
2 state. The supervising attorney may serve as one of the remote witnesses.

3           2. The testator attests to being physically located in this state during the  
4 2-way, real-time audiovisual communication.

5           3. Each remote witness attests to being physically located in this state during  
6 the 2-way, real-time audiovisual communication.

7           4. The testator and each of the remote witnesses identify themselves. If the  
8 testator and remote witnesses are not personally known to each other and to the  
9 supervising attorney, the testator and each of the remote witnesses display photo  
10 identification.

11          5. The testator identifies anyone else present in the same physical location as  
12 the testator and, if possible, the testator makes a visual sweep of the testator's  
13 physical surroundings so that the supervising attorney and each remote witness can  
14 confirm the presence of any other person.

15          6. The testator displays the will, confirms the total number of pages and the  
16 page number of the page on which the testator's signature will be affixed, and  
17 declares to the remote witnesses and the supervising attorney all of the following:

18           a. That the testator is 18 years of age or older.

19           b. That the document is the testator's will.

20           c. That the document is being executed as a free and voluntary act.

21          7. The testator, the testator with the assistance of another person 18 years of  
22 age or older with the testator's consent, or another person 18 years of age or older  
23 signing in the testator's name at the testator's direction and in the testator's physical  
24 presence, executes the will in a manner that allows each of the remote witnesses and  
25 the supervising attorney to see the execution.

1       8. The audiovisual communication technology used allows communication by  
2 which a person is able to see, hear, and communicate in an interactive way with  
3 another person in real time using electronic means, except that if the testator, a  
4 remote witness, or the supervising attorney has an impairment that affects hearing,  
5 sight, or speech, assistive technology or learned skills may be substituted for audio  
6 or visual if it allows that person to actively participate in the signing in real time.

7       9. The will indicates that it is being executed pursuant to this section.

8       10. One of the following occurs:

9           a. The testator, or another person at the direction of the testator, personally  
10 delivers or transmits by U.S. mail or commercial courier service the entire signed  
11 original will to the supervising attorney within a reasonable time after execution.  
12 The supervising attorney then personally delivers or transmits by U.S. mail or  
13 commercial courier service the entire signed original will to the remote witnesses  
14 within a reasonable time. The first remote witness to receive the original will signs  
15 the original will as a witness and forwards the entire signed original will by personal  
16 delivery or U.S. mail or commercial courier service within a reasonable time to the  
17 2nd remote witness, who signs it as a witness and forwards the entire signed original  
18 will by personal delivery or U.S. mail or commercial courier service within a  
19 reasonable time to the supervising attorney.

20           b. The testator, or another person at the direction of the testator, personally  
21 delivers or transmits by U.S. mail or commercial courier service the entire signed  
22 original will to the supervising attorney within a reasonable time after execution and  
23 transmits by facsimile or electronic means a legible copy of the entire signed original  
24 will directly to each remote witness within a reasonable time after execution. Each  
25 remote witness then signs the transmitted copy of the will as a witness and transmits

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1 the entire signed copy of the will by personal delivery or U.S. mail or commercial  
2 courier service to the supervising attorney within a reasonable time after witnessing.  
3 The signed original and signed copies together shall constitute one original  
4 document, unless the supervising attorney, within a reasonable time after receiving  
5 the signed original and signed copies, compiles the signed original and signed copies  
6 into one document by attaching the signature pages of each remote witness to the  
7 original signed by or on behalf of the testator, in which case the compiled document  
8 shall constitute the original.

9 c. The testator and each of the remote witnesses sign identical copies of the  
10 original. The testator, or another person at the direction of the testator, and each of  
11 the remote witnesses personally deliver or transmit by U.S. mail or commercial  
12 courier service the signed originals to the supervising attorney within a reasonable  
13 time after execution. All of the signed originals together shall constitute one original  
14 document, unless the supervising attorney, within a reasonable time after receiving  
15 all signed originals, compiles the originals into one document by attaching the  
16 signature pages of each remote witness to the original signed by or on behalf of the  
17 testator, in which case the compiled document shall constitute the original.

18 11. The supervising attorney completes an affidavit of compliance that contains  
19 the following information:

- 20 a. The name and residential address of the testator.
- 21 b. The name and residential or business address of each remote witness.
- 22 c. The address within this state where the testator was physically located at  
23 the time the testator signed the will.
- 24 d. The address within this state where each remote witness was physically  
25 located at the time the remote witness witnessed the testator's execution of the will.

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1           e. A statement that the testator and remote witnesses were all known to each  
2 other and the supervising attorney or a description of the form of photo identification  
3 used to confirm the identity of the testator and each remote witness.

4           f. Confirmation that the testator declared that the testator is 18 years of age  
5 or older, that the document is the testator's will, and that the document was being  
6 executed as the testator's free and voluntary act.

7           g. Confirmation that each of the remote witnesses and the supervising attorney  
8 were able to see the testator, the testator with the assistance of another person 18  
9 years of age or older with the testator's consent, or another person 18 years of age  
10 or older signing in the testator's name at the testator's direction and in the testator's  
11 physical presence, sign, and that the testator appeared to be 18 years of age or older  
12 and acting freely and voluntarily.

13           h. A description of the audiovisual technology used for the signing process.

14           i. If the will was not signed in counterpart, a description of the method used to  
15 forward the will to each remote witness for signing and to the supervising attorney  
16 after signing.

17           j. If the will was signed in counterpart, a description of the method used to  
18 forward each counterpart to the supervising attorney and, if applicable, how and  
19 when the supervising attorney physically compiled the signed paper counterparts  
20 into a single document containing the will, the signature of the testator, and the  
21 signatures of the remote witnesses.

22           k. The name, state bar number, and business or residential address of the  
23 supervising attorney.

24           L. Any other information that the supervising attorney considers to be material  
25 with respect to the testator's capacity to sign a valid will, the testator's and witnesses'

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1 compliance with this section, or any other information that the supervising attorney  
2 deems relevant to the execution of the will.

3           12. The affidavit of compliance is attached to the will.

4           13. An affidavit of compliance executed in compliance with this section shall  
5 constitute a self-proving affidavit executed in compliance with s. 853.04 (2).

6           14. An affidavit of compliance described in this paragraph shall be  
7 substantially in the following form:

## AFFIDAVIT OF COMPLIANCE

9 State of ....

10 County of ....

The undersigned, being first duly sworn under oath, states as follows:

This Affidavit of Compliance is executed pursuant to Wis. Stat. § 853.03 (2) (c) to document the execution of the will of [name of testator] via remote appearance by 2-way, real-time audiovisual communication technology on [date].

15 1. The name and residential address of the testator is ....

16 2. The name and [residential or business] address of remote witness 1 is ....

17           3. The name and [residential or business] address of remote witness 2 is ....

18       4. The address within the state of Wisconsin where the testator was physically  
19 located at the time the testator signed the will is ....

20       5. The address within the state of Wisconsin where remote witness 1 was  
21 physically located at the time the remote witness witnessed the testator's execution  
22 of the will is ....

23       6. The address within the state of Wisconsin where remote witness 2 was  
24 physically located at the time the remote witness witnessed the testator's execution  
25 of the will is ...

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1       7. The testator and remote witnesses were all known to each other and to the  
2 supervising attorney. - OR - The testator and remote witnesses were not all known  
3 to each other and to the supervising attorney. Each produced the following form of  
4 photo identification to confirm his or her identity:

5       ....

6       8. The testator declared that the testator is 18 years of age or older, that the  
7 document is the testator's will, and that the document was being executed as the  
8 testator's free and voluntary act.

9       9. Each of the remote witnesses and the supervising attorney were able to see  
10 the testator, the testator with the assistance of another person 18 years of age or older  
11 with the testator's consent, or another person 18 years of age or older signing in the  
12 testator's name at the testator's direction and in the testator's physical presence,  
13 sign. The testator appeared to be 18 years of age or older and acting freely and  
14 voluntarily.

15       10. The audiovisual technology used for the signing process was ....

16       11. The will was not signed in counterpart. The following methods were used  
17 to forward the will to each remote witness for signing and to the supervising attorney  
18 after signing. - OR - The will was signed in counterpart. The following methods were  
19 used to forward each counterpart to the supervising attorney. [If applicable] - The  
20 supervising attorney physically compiled the signed paper counterparts into a single  
21 document containing the will, the signature of the testator, and the signatures of the  
22 remote witnesses on [date] by [e.g., attaching page 7 from each counterpart signed  
23 by a remote witness to the back of the will signed by the testator].

24       12. The name, state bar number, and [business or residential] address of the  
25 supervising attorney is ....

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1           13. [Optional] Other information that the supervising attorney considers to be  
2 material is as follows: ....

3 .... (signature of supervising attorney)

4 Subscribed and sworn to before me on .... (date) by .... (name of supervising  
5 attorney).

6 .... (signature of notarial officer)

7 Stamp

8 .... (Title of office)

9 [My commission expires: ....]

10 (END)