CHAPTER 52
SUPPORTED DECISION–MAKING AGREEMENTS

SUBCHAPTER I
DEFINITIONS AND GENERAL PROVISIONS

52.01 Definitions. In this chapter:
(1) “Abuse” has the meaning given in s. 46.90 (1) (a).
(1m) “Financial exploitation” has the meaning given in s. 46.90 (1) (ed).

NOTE: Chapter 52 was created as Chapter 53 by 2017 Wis. Act 345 and renumbered to Chapter 52 by the legislative reference bureau under s. 13.92 (1) (bm) 2.

52.03 Agreement not evidence of incapacity or incompetency. Execution of a supported decision–making agreement may not be used as evidence of incapacity or incompetency and does not preclude an adult with a functional impairment who has entered into such an agreement from acting independently of the agreement.

NOTE: Section 52.01 was created as s. 53.01 by 2017 Wis. Act 345 and renumbered to s. 52.01 by the legislative reference bureau under s. 13.92 (1) (bm) 2. History: 2017 a. 345; s. 13.92 (1) (bm) 2.; Stats. 2017 s. 52.01.

SUBCHAPTER II
SCOPE OF AGREEMENT AND AGREEMENT REQUIREMENTS

52.10 Scope. (1) If an adult with a functional impairment decides voluntarily, without coercion, to enter into a supported decision–making agreement with a supporter, that adult may, in the agreement, authorize the supporter to do any of the following:

(a) Provide supported decision–making to the adult with a functional impairment, including assistance in understanding the options, responsibilities, and consequences of that person’s life decisions, without making those decisions on behalf of that person.

(b) Assist the adult with a functional impairment in accessing, collecting, and obtaining information that is relevant to a given life decision, including medical, psychological, financial, educational, or treatment records, from any person.

(c) Assist the adult with a functional impairment in understanding the information described in par. (b).

(d) Assist the adult with a functional impairment in communicating the adult’s decisions to appropriate persons.

(2) A supporter is not a surrogate decision maker for the adult with a functional impairment and does not have the authority to sign legal documents on behalf of the adult with a functional impairment or bind the adult with a functional impairment to a legal agreement.

NOTE: Section 52.10 was created as s. 53.10 by 2017 Wis. Act 345 and renumbered to s. 52.10 by the legislative reference bureau under s. 13.92 (1) (bm) 2. History: 2017 a. 345; s. 13.92 (1) (bm) 2.; Stats. 2017 s. 52.10.

52.12 Authority of supporter. A supporter may exercise the authority granted to the supporter in the supported decision–making agreement.

NOTE: Section 52.12 was created as s. 53.12 by 2017 Wis. Act 345 and renumbered to s. 52.12 by the legislative reference bureau under s. 13.92 (1) (bm) 2. History: 2017 a. 345; s. 13.92 (1) (bm) 2.; Stats. 2017 s. 52.12.

52.14 Term of agreement; revocation. (1) Except as otherwise provided in this section, a supported decision–making agreement extends until terminated by either party or by the terms of the agreement.

(2) A supported decision–making agreement is terminated if any of the following is true:

(a) County adult protective services substantiated an allegation of neglect or abuse by the supporter.

(b) The supporter is found criminally liable for conduct described under par. (a).

(c) There is a restraining order against the supporter as described under s. 813.123.

NOTE: Section 52.03 was created as s. 53.03 by 2017 Wis. Act 345 and renumbered to s. 52.03 by the legislative reference bureau under s. 13.92 (1) (bm) 2. History: 2017 a. 345; s. 13.92 (1) (bm) 2.; Stats. 2017 s. 52.03.

NOTE: Section 52.30 was created as s. 53.30 by 2017 Wis. Act 345 and renumbered to s. 52.30 by the legislative reference bureau under s. 13.92 (1) (bm) 2. History: 2017 a. 345; s. 13.92 (1) (bm) 2.; Stats. 2017 s. 52.30.

NOTE: Section 52.32 was created as s. 53.32 by 2017 Wis. Act 345 and renumbered to s. 52.32 by the legislative reference bureau under s. 13.92 (1) (bm) 2. History: 2017 a. 345; s. 13.92 (1) (bm) 2.; Stats. 2017 s. 52.32.
An adult with a functional impairment may revoke his or her supported decision-making agreement and invalidate the supported decision-making agreement at any time by doing any of the following:

(a) Canceling, defacing, obliterating, burning, tearing, or otherwise destroying the supported decision-making agreement or directing another in the presence of the adult with a functional impairment to so destroy the supported decision-making agreement.

(b) Executing a statement, in writing, that is signed and dated by the adult with a functional impairment, expressing his or her intent to revoke the supported decision-making agreement.

(c) Verbally expressing the intent of the adult with a functional impairment to revoke the supported decision-making agreement, in the presence of 2 witnesses.

(4) Unless the supported decision-making agreement provides a different method for the supporter’s resignation, a supporter may resign by giving notice to the adult with a functional impairment.

NOTE: Section 52.14 was created as s. 53.14 by 2017 Wis. Act 345 and renumbered to s. 52.14 by the legislative reference bureau under s. 13.92 (1) (bmn) 2. History: 2017 a. 345; s. 13.92 (1) (bmn) 2; Stats. 2017 s. 52.14; s. 35.17 correction in (2) (intro.).

52.16 Access to personal information. (1) A supporter is only authorized to assist the adult with a functional impairment in accessing, collecting, or obtaining information that is relevant to a decision authorized under the supported decision-making agreement.

(2) A supporter may assist with accessing or obtaining any information that will help the adult with a functional impairment make health care decisions, including medical, psychological, financial, education, or treatment records or research under ss. 51.30 and 146.83 and the federal Health Insurance Portability and Accountability Act of 1996, 45 CFR 164.502. A supporter may only access or obtain patient health care records, as defined under s. 146.81 (4), if the adult with a functional impairment has signed a release allowing the supporter to see protected health information, as defined under s. 146.816 (1) (f).

(3) A supporter may assist with accessing or obtaining any information on education records under the federal Family Educational Rights and Privacy Act of 1974, 20 USC 1232g, if the adult with a functional impairment has signed a release allowing the supporter to access information under this subsection.

(4) The supporter shall ensure the information under this section is kept privileged and confidential, as applicable, and is not subject to unauthorized access, use, or disclosure.

(5) Notwithstanding the existence of a supported decision-making agreement, an adult with a functional impairment continues to have unrestricted access to personal information without the assistance of a supporter.

(6) Notwithstanding the existence of a supported decision-making agreement, an adult with a functional impairment is able to request and receive assistance on any decision that is not covered under the supported decision-making agreement at any time.

NOTE: Section 52.16 was created as s. 53.16 by 2017 Wis. Act 345 and renumbered to s. 52.16 by the legislative reference bureau under s. 13.92 (1) (bmn) 2. History: 2017 a. 345; s. 13.92 (1) (bmn) 2; Stats. 2017 s. 52.16.

52.18 Authorization and witnesses. (1) An adult with a functional impairment and his or her supporter entering into a supported decision-making agreement must sign and date the agreement in the presence of 2 or more subscribing witnesses or a notary public.

(2) If the adult with a functional impairment and his or her supporter choose to sign and date the supported decision-making agreement before witnesses, the attesting witnesses must be at least 18 years of age.

NOTE: Section 52.18 was created as s. 53.18 by 2017 Wis. Act 345 and renumbered to s. 52.18 by the legislative reference bureau under s. 13.92 (1) (bmn) 2. History: 2017 a. 345; s. 13.92 (1) (bmn) 2; Stats. 2017 s. 52.18.
(print) Name of person designating a supporter ....
Signature ....
Date ....

CONSENT OF SUPPORTER
I know .... (name of person) personally or I have received proof of his or her identity and I believe him or her to be at least 18 years of age and entering this agreement knowingly and voluntarily. I am at least 18 years of age.
I .... (name of supporter), consent to act as a supporter under this agreement.

Supporter:
(print) Name ....
Address ....
E-mail address ....
Phone number(s) ....
Signature ....
Date ....

STATEMENT AND SIGNATURE OF WITNESSES OR SIGNATURE OF NOTARY
(This agreement must be signed either by 2 witnesses who are at least 18 years of age or by a notary public.)

OPTION I: WITNESSES
I know .... (name of person) personally or I have received proof of his or her identity and I believe him or her to be at least 18 years of age and entering this agreement knowingly and voluntarily. I am at least 18 years of age.

Witness No. 1:
(print) Name ....
Address ....
Phone number(s) ....
Signature ....
Date ....

Witness No. 2:
(print) Name ....
Address ....
Phone number(s) ....
Signature ....
Date ....

OPTION II: NOTARY PUBLIC
State of ....
County of ....
This document was acknowledged before me on .... (date), by (name of adult with a functional impairment) and .... (name of supporter).

Signature of notary ....
(Seal, if any, of notary)

Phone number(s) ....
Address ....

NOTE: Section 52.20 was created as s. 53.20 by 2017 Wis. Act 345 and renumerated to s. 52.20 by the legislative reference bureau under s. 13.92 (1) (bm) 2. of s. 53.20, as created by 2017 Wis. Act 345.
abilities, including the obligation to provide reasonable accommodations or auxiliary aids and services, including interpretation services and communication supports to individuals with disabilities under the federal Americans with Disabilities Act.

(8) A supporter acting in the context of a valid supported decision-making agreement is immune from civil liability for his or her acts or omissions in performing duties as the supporter if he or she performs the duties in good faith, in conformance with the supported decision-making agreement or document of the adult with a functional impairment, and with the degree and prudence that an ordinarily prudent person exercises in his or her own affairs.

NOTE: Section 52.30 was created as s. 53.30 by 2017 Wis. Act 345 and renumbered to s. 52.30 by the legislative reference bureau under s. 13.92 (1) (bm) 2.

History: 2017 a. 345; s. 13.92 (1) (bm) 2.; Stats. 2017 s. 52.30.

52.32 Reporting of suspected abuse, neglect, or financial exploitation. (1) If a person who receives a copy of a supported decision-making agreement or is aware of the existence of a supported decision-making agreement has cause to believe that the adult with a functional impairment is being abused, neglected, or financially exploited by the supporter, the person may report under s. 46.90 or 55.043 the alleged abuse, neglect, or financial exploitation.

(2) Nothing in this section may be construed as eliminating or limiting a person’s requirement to report under any other statute or regulation.

NOTE: Section 52.32 was created as s. 53.32 by 2017 Wis. Act 345 and renumbered to s. 52.32 by the legislative reference bureau under s. 13.92 (1) (bm) 2.

History: 2017 a. 345; s. 13.92 (1) (bm) 2.; Stats. 2017 s. 52.32.