

Comparison of Wisconsin’s Living Will and Power of Attorney for Health Care

Updated 08/2023

Living Will (Declaration to Health Care Professionals), Ch. 154, Wis. Stats.

Power of Attorney for Health Care, Ch. 155, Wis. Stats.

What it is	Document signed by a patient giving instructions to attending health care professionals under certain circumstances.	Document signed by a "principal" appointing another individual as "agent" to make health care decisions for principal.
When it becomes effective	When two health care professionals, one of who must be a physician, personally examine patient and sign statement that they are "terminal" and death is imminent <u>or</u> they are in a "persistent vegetative state."	When two physicians (or one physician and one advanced practice clinician – a nurse practitioner, physician assistant, or psychologist) personally examine patient and sign statement that they are incapacitated (not able to make health care decisions).
Conditions under which document is effective	<ul style="list-style-type: none"> • "Terminal" and death imminent; or • "Persistent vegetative state." 	Anytime incapacitated. A Power of Attorney is more comprehensive than a Living Will because it covers more situations.
Procedures covered	<ul style="list-style-type: none"> • "Life-sustaining" procedures to be used or withheld/withdrawn if in "persistent vegetative state." • Feeding tubes to be used or withheld/withdrawn if "terminal" or in "persistent vegetative state." 	Almost anything. Agent may consent to or decline procedure. <i>Authority must be specifically authorized for:</i> <ul style="list-style-type: none"> • Long-term nursing home/CBRF admissions; • Tube feeding withholding/withdrawal; and • Continued effect during pregnancy.
Does not apply	<ul style="list-style-type: none"> • Neither "terminal" nor in "persistent vegetative state;" or • Terminal but death not imminent; or • Pregnant. 	<ul style="list-style-type: none"> • Electroshock therapy; • Experimental mental health, drugs and treatment; and • Admission to mental facilities, certain treatment facilities, or intermediate care facilities for persons with intellectual disabilities.
Use of alternative forms	Permitted; not required to use the state form.	Permitted; not required to use the state form.
Individuals who may be agent or alternate agent	NOT APPLICABLE	Anyone, other than health care provider, employee of a provider or facility where patient or resident, or spouse of provider/employee, unless also a relative. Usually a family member or close friend.
Witnessing requirements	Two disinterested persons. May <u>not</u> be: relative, person who will inherit or has claim on estate, directly financially responsible for patient’s health care, or health care provider/facility employee (except social worker or chaplain).	Two disinterested persons. May <u>not</u> be: relative, person who will inherit or has claim on estate, directly financially responsible for patient’s health care, or health care provider/facility employees (except social worker or chaplain).
Distribution and storage	Sign one original and make several copies. Copies to doctor/clinic, hospital, a family member. Original at safe place at home; may file with Register in Probate for small fee. Complete wallet card.	Sign one original and make several copies. Copies to doctor/clinic, hospital, agent, alternate agent, family member. Original at safe place at home; may file with Register in Probate for small fee. Complete wallet card.
Procedures to revoke document	<ol style="list-style-type: none"> 1) Destroy all copies; 2) Signed & dated written revocation; 3) Oral Revocation with notice to doctor; 4) Execute new Declaration; or 5) Revoke with POAHC. 	<ol style="list-style-type: none"> 1) Destroy all copies; 2) Signed & dated written revocation; 3) Oral revocation in presence of 2 witnesses; or 4) Execute new POAHC.
Where to obtain	https://www.dhs.wisconsin.gov/forms/advdirectives/adformspoa.htm or for forms with instructions and informational materials, go to https://gwaar.org/guardianship-resources or call (855) 409-9410.	