

COMPARISON OF WISCONSIN'S LIVING WILL AND POWER OF ATTORNEY FOR HEALTH CARE

03/2011, updated 07/2017

LIVING WILL (DECLARATION TO PHYSICIANS) *Ch. 154, Wis. Stats.*

POWER OF ATTORNEY FOR HEALTH CARE *Ch. 155, Wis. Stats.*

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| What it is | Document signed by a patient giving instructions to physicians 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 physicians personally examine patient and sign statement that he or she is "terminal" and death is imminent, <u>or</u> is in a "persistent vegetative state." | When two physicians (or one physician and one psychologist) personally examine patient and sign statement that he or she is 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 • "Life-sustaining" procedures to be used or withheld/withdrawn if in "persistent vegetative state." • Feeding tubes to be used or withheld/withdrawn if "terminal" or in "persistent vegetative state."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, but no immunities for health care providers apply. | Permitted, and immunities for health care provider apply. |
| 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 | http://www.dhs.wisconsin.gov/forms/AdvDirectives/index.htm or for forms with instructions and informational materials, go to www.gwaar.org or call (855) 409-9410. | |