

Memorandum

TO: Drafting Committee Members, Advisors and Observers
FROM: Linda Whitton, Reporter
RE: 2nd Draft of the Interjurisdictional Recognition of Substitute Decision-Making Documents Act
DATE: March 13, 2013

The following is a summary of the significant revisions to our first draft. I look forward to continuing our discussion in DC.

Revisions:

- Changed name from “Advance Planning” to “Substitute Decision-Making”
- Clarified in the prefatory note that this is a joint ULC-ULCC endeavor
- Changed “agent” to “decision maker”
- Deleted definitions of “good faith,” “principal,” and “state”
- Re-wrote provisions to avoid use of the term “principal”
- Sec. 3(a) now directly incorporates language from Sec. 4 in order to eliminate the need to cross-reference Sec. 4.
- Added the phrase “or administrative rule” in Sec. 3(b)
- Changed the tense in Sec. 5(a) from subjunctive to present and added the words “may assume without inquiry” for clarity
- Changed decision maker’s “certification under penalty of perjury” to “assertion” in Sec. 5(b)
- Bracketed Sec. 5(c) pending further committee discussion
- Reworded “timely accept” in Sec. 6(a) to “accept within a reasonable time”
- Expanded the comment to Sec. 6 to clarify that the duty to accept a decision maker’s authority for health care decisions is subject to other law in the adopting jurisdiction and that such law may reflect public policy limits on a decision maker’s authority in certain contexts or with respect to certain medical procedures
- Added a new Sec. 10 to address the effect of the Act on existing substitute decision-making documents