

**2003-04 SESSION  
COMMITTEE HEARING  
RECORDS**

Committee Name:

Senate Committee on  
Health, Children,  
Families, Aging and  
Long Term Care  
(SC-HCFALTC)

Sample:

Record of Comm. Proceedings ... RCP

- 03hrAC-EdR\_RCP\_pt01a
- 03hrAC-EdR\_RCP\_pt01b
- 03hrAC-EdR\_RCP\_pt02

➤ Appointments ... Appt

➤ \*\*

➤ Clearinghouse Rules ... CRule

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➤ Committee Hearings ... CH

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➤ Committee Reports ... CR

➤ \*\*

➤ Executive Sessions ... ES

➤ \*\*

➤ Hearing Records ... HR

➤ 03hr\_ab0554b\_pt01

➤ Miscellaneous ... Misc

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as of Monday, February 23, 2004

**2003-2004 legislative session**  
**Legislative bills and resolutions**

(search for another legislative bill or resolution at the bottom of this page)

- Text, Sponsors and Analysis
- Status and Fiscal Estimate
- Lobbying Effort on this item

**Assembly Bill 554**

declarations to physicians regarding life-sustaining measures and powers of attorney for health care.

Organization		These organizations have reported lobbying on this proposal:	Place pointer on icon to display comment click icon to display prior comments		
Profile	Interests		Date Notified	Position	Comr
●	●	AARP	10/28/2003	↑	
●	●	Coalition of Wisconsin Aging Groups Inc	1/7/2004	↑	
●	●	Froedtert and Community Health	1/5/2004	↑	
●	●	League of Women Voters of Wisconsin Inc	1/19/2004	↑	
●	●	Marshfield Clinic	2/17/2004	?	
●	●	Medical College of Wisconsin	1/7/2004	↑	
●	●	State Bar of Wisconsin	11/10/2003	↑	
●	●	Wisconsin Academy of Family Physicians	12/18/2003	↑	
●	●	Wisconsin Alzheimers Association Chapter Network	2/20/2004	↑	
●	●	Wisconsin Health Care Association Inc	12/3/2003	↑	

Select a legislative proposal and click "go"

House

- Assembly
- Senate

Proposal Type

- Bill
- Joint Resolution
- Resolution

Proposal Number

554

(enter

proposal number)

Legislative Session

2003 Regular Session

Go



WISCONSIN CHAPTER NETWORK

517 N. Segoe Rd., Suite 301, Madison, WI 53705
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3-5-04
Public Hearing
Sen. Health
Committee

March 5, 2004

Senate Committee on Health, Children, Families, Aging and Long Term Care
testimony in support of AB 554 by Rob Gundermann, Public Policy Director

Good morning Chairperson Roessler, Committee members, thank you for the
opportunity to speak today. The Wisconsin Alzheimer's Association Chapter
Network requested that this legislation because of problems families are having
with Health Care Powers of Attorney (HCPOA) that were drafted in other states.

For various reasons many people living in our state have HCPOA's that were
drafted in other states. A parent with Alzheimer's disease, for example, may move
to Wisconsin because they have an adult child living here.

Unfortunately, out of state HCPOA documents are not always being honored. This
is happening for a number of reasons. Some states require one witness while others
require two. Some states require cover sheets, others don't. Also, because the
language in the statutes isn't clear, some people don't even understand that
HCPOA's are portable to Wisconsin

These technical problems also have the potential to create further problems with
family members who may not be ready for their loved one to pass on and are
looking for a means to defeat the HCPOA.

This bill fixes these problems by clearly stating that a health care power of attorney
executed in another state is valid in Wisconsin, while also clearly stating that
advance directives not allowed under Wisconsin law, such as assisted suicide,
would not be honored. This bill only applies to advance directives that are
currently legal in Wisconsin.

This bill will also help families avoid spending money to draft HCPOA's that later
turn out to be worthless. This is especially difficult when the patient has dementia
because often times it's too late to go back and have the document re-drafted.

Thank you again for the opportunity to speak today.

\* Sometimes
families don't
want to let
loved ones go +
will look for technicalities
to prevent directives
from being
followed.

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ALZHEIMER'S DISEASE AND RELATED DISORDERS ASSOCIATION, INC.

Please remember your local Alzheimer's Association chapter in your will.

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Workforce Development  
**Vice Chair:**  
State Affairs



**Member:**  
Colleges and Universities  
Health  
Natural Resources

## JUDY KRAWCZYK

STATE REPRESENTATIVE • 88TH ASSEMBLY DISTRICT

**MEMO TO:** SENATE COMMITTEE ON HEALTH, CHILDREN, FAMILIES,  
AGING AND LONG TERM CARE  
SEN. CAROL ROESSLER - CHAIR

**FROM:** REP. JUDY KRAWCZYK

**DATE:** MARCH 5, 2004

**RE:** ASSEMBLY BILL 554

Thank you Sen. Roessler for the opportunity to appear before you today in support of Assembly Bill 554 which I've introduced at the request of the Wisconsin Alzheimer's Association Chapter Network which relates to the portability of advance directives (Health Care Power of Attorney) drafted in other states.

A problem has come to our attention that advance directives drafted in other states are not always being honored in Wisconsin. Under current law, advance directives initiated in other states should be followed unless the directive conflicts with what is allowed under Wisconsin law. For example, assisted suicide is not allowed under Wisconsin law. Therefore advance directives drafted in other states allowing for assisted suicide could not be followed in Wisconsin.

Many health care facilities do not understand that advance directives should be followed regardless of where the directive was drafted as long as the directive is allowed under Wisconsin law. Additionally, there have been instances of technical differences interfering with the implementation of the directives. One question that has come up is whether a directive initiated in a state that does not require a coversheet is valid in Wisconsin since Wisconsin does require a coversheet when drafting advance directives. This bill clarifies that technical differences should not interfere with the implementation of advance directives drafted in other states.

This bill does not make new law or in any way broaden allowable advance directives in Wisconsin. The bill simply makes it clear that advance directives already allowable under Wisconsin law but drafted in other states are portable to Wisconsin.

Again, I would like to thank Sen. Roessler for her speedy hearing on this legislation.

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## MEMORANDUM

**To:** Members of the Senate Committee on Health, Children, Families, Aging and Long Term Care

**From:** Elder Law Section & Public Interest Law Section, State Bar of Wisconsin

**Date:** March 5, 2004

**Re:** Assembly Bill 554 - SUPPORT

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The **Elder Law Section** and the **Public Interest Law Section** of the State Bar of Wisconsin support Assembly Bill 554 because it will eliminate the confusion regarding the portability of health care power of attorney (HCPOA) documents drafted in other states.

Mirroring current law with regard to declarations to physicians regarding end of life care, AB 554 provides that a health care power of attorney executed in another state or jurisdiction in compliance with that state's law is valid and enforceable in Wisconsin to the extent that it authorizes a health care agent to make decisions that a health care agent may make under Wisconsin law.

Portability of health care power of attorney documents from state to state is critical so patients can direct their medical care and medical professionals can have the confidence that they are working with the individuals that have the legal authority to consent to procedures and access health care information.

It is common for people who have executed health care power of attorney documents in other states to feel they have taken the necessary steps to ensure the person of their choosing will be able to make health care decisions for them if they become incapacitated. Imagine their surprise when they discover, for example, that the document created by their family lawyer in Minnesota is not accepted by a Wisconsin hospital.

Executing a Wisconsin HCPOA for out-of-state residents seeking care in Wisconsin is not always a possibility. Time constraints may make it difficult in the case of emergent medical needs. It is simply not an option if the person is incapacitated. Consider the following scenario. Wisconsin parents retire to Florida where they have HCPOA documents prepared. Later they return to Wisconsin to be near their adult children in their final years. If the Florida documents are not valid in Wisconsin, the children would have to initiate guardianship proceedings, unnecessarily burdening the court system.

To ensure the portability of HCPOA documents and eliminate the confusion for patients and health care professionals alike, the Elder Law Section and the Public Interest Law Section of the State Bar of Wisconsin urge committee members to support AB 554.

*If you have any questions, please feel free to contact Deb Sybell, Government Relations Coordinator for the State Bar of Wisconsin at (608) 250-6128.*

### State Bar of Wisconsin

5302 Eastpark Blvd. ♦ P.O. Box 7158 ♦ Madison, WI 53707-7158  
(800) 728-7788 ♦ (608) 257-3838 ♦ Fax (608) 257-5502 ♦ Internet: [www.wisbar.org](http://www.wisbar.org) ♦ Email: [service@wisbar.org](mailto:service@wisbar.org)

**Assembly Bill 554... relating to declarations to physicians regarding life-sustaining measures and powers of attorney for health care.**

**BILL  
SPONSORS**

Introduced by Representatives Krawczyk, Colon, Ladwig, Boyle, Cullen, J. Lehman, Staskunas, Taylor, Bies, Musser, Seratti, Owens, Huebsch, Hahn, Hundertmark, McCormick, Jeskewitz, Gronemus, Huber, Black, Hines, Van Roy, Zepnick, Olsen and Townsend.

Cosponsored by Senators **Roessler, Erpenbach**, Lassa, M. Meyer and **Schultz**.

**BILL HISTORY**

On October 2, 2003 AB 554 was referred to the Assembly Committee on Health. A public hearing was held on January 6, 2004. An executive session was held on February 25, 2004. The Assembly Health Committee recommended AB 554 for passage on a vote of 14-0.

On March 3, 2004 AB 554 was referred to the Senate Committee on Health, Children, Families, Aging and Long Term Care. A public hearing and executive session were held on March 3, 2004.

**The Committee recommended passage on a vote of 9-0.**

**LRB  
ANALYSIS**

**Current Law:**

Under current law, a person may execute a health care power of attorney granting an agent authority to make health care decisions for the person if the person becomes incapacitated. A person may also execute a written declaration to physicians that authorizes the withholding or withdrawal of life-sustaining procedures or of a feeding tube if the person is in a terminal condition or in a persistent vegetative state. Current law establishes certain requirements for the execution of a health care power of attorney or a declaration to physicians, including, for example, that it must be signed by the person in the presence of two witnesses. Current law also limits the authority that a person may grant under a power of attorney or a declaration. For example, a person may not grant an agent the authority to commit the person to a mental facility nor authorize a physician to withhold or withdraw life-sustaining procedures in situations in which such withholding or withdrawal would cause the person pain.

Current law also provides health care facilities and health care providers immunity from civil or criminal action for certain acts or omissions in connection with a health care power of attorney or a declaration to physicians. Finally, current law provides that a declaration to physicians that is executed in another state or jurisdiction in compliance with the law in that state or jurisdiction is valid and enforceable in Wisconsin to the extent that the declaration is consistent with Wisconsin law concerning declarations to physicians.

**Proposed Changes:**

This bill provides that a health care power of attorney executed in another state or jurisdiction in compliance with the laws of that state or jurisdiction is valid and enforceable in Wisconsin to the extent that it authorizes a health care agent to make decisions that a health care agent may make under Wisconsin law. The bill further provides that the immunities relating to health care powers of attorney and declarations to physicians apply to acts or omissions in connection with a provision of a health care power of attorney or a declaration to physicians that is executed in another state or jurisdiction if the provision is valid and enforceable in Wisconsin.

	<b>Major Impact:</b> AB 554 makes it clear that advance directives already allowable under Wisconsin law but drafted in other state are portable to Wisconsin.
<b>FISCAL EFFECT</b>	<b>A Fiscal Note was not prepared for this bill.</b>
<b>SUPPORT</b>	<p><b>The following people appeared in favor of this bill:</b> (1) Ken Machtan, Office of Representative Krawczyk; and (2) Rob Gundermann, Alzheimer's Association, Madison.</p> <p><b>The following people registered in favor of this bill:</b> (1) Tim Hoven, WI. Academy of Family Physicians; (2) Jim McGinn, WI. Health Care Assoc.; (3) Jodi Bloch, Wisconsin Hospital Association; (4) Jeremy Levin, WI. Medical Society; (5) Alice O'Connor, Wisconsin Medical Society, Madison; and (6) Deb Sybell, Public Interest Law Section, State Bar of WI.</p>
<b>OPPOSITION</b>	<b>No one registered or appeared in opposition to this bill.</b>
<b>CONTACT</b>	<b>Jennifer Halbur, Senator Carol Roessler, 266-5300</b>
<b>DATE</b>	<b>March 9, 2004</b>

TUCKER

March 15, 2004

Senator Carol Roessler  
P.O. Box 7882  
Madison, WI 53707-7882

Dear Senator Roessler:

On behalf of the Wisconsin Alzheimer's Association Chapter Network, I want to thank you for co-sponsoring AB 554 and for all the help you have provided in addressing the portability of Health Care Powers of Attorney (HCPOA) issue. This issue is very important to many families who have had problems when they needed to use an HCPOA.

I very much appreciate your registering in support of the bill when it had a hearing in the Assembly Health Committee and for scheduling the bill for a hearing in the Senate Committee on Health, Children, Families, Aging and Long Term Care so quickly. It means a lot to me that you took the time to help us with this, especially with all the other important issues that come up at the end of the session.

I also want to compliment you for hiring such a professional, competent and pleasant staff. Jennifer has been extremely helpful to the Alzheimer's Association on this issue and others as well.

Thank you again for your support and I look forward to working with you in the future.

Sincerely,

Robert M. Gundermann  
Public Policy Director

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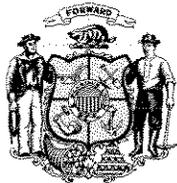
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**Carol Roessler**  
STATE SENATOR

**TESTIMONY ON ASSEMBLY BILL 554**  
SENATE SESSION  
MARCH 10, 2004

- AB 554 SIMPLY MAKES IT CLEAR THAT ADVANCE DIRECTIVES ALREADY ALLOWABLE UNDER WISCONSIN LAW BUT DRAFTED IN OTHER STATES ARE PORTABLE TO WISCONSIN.
- IT HAS COME TO MY ATTENTION THAT ADVANCE DIRECTIVES DRAFTED IN OTHER STATES ARE NOT ALWAYS BEING HONORED IN WISCONSIN.
- MANY HEALTH CARE FACILITIES DO NOT UNDERSTAND THAT, UNDER CURRENT LAW, ADVANCE DIRECTIVES SHOULD BE FOLLOWED REGARDLESS OF WHERE THE DIRECTIVE WAS DRAFTED AS LONG AS THE DIRECTIVE IS ALLOWED UNDER WISCONSIN LAW.
- ADDITIONALLY, THERE HAVE BEEN INSTANCES OF TECHNICAL DIFFERENCES INTERFERING WITH THE IMPLEMENTATION OF THE DIRECTIVES. ONE QUESTION THAT HAS COME UP IS WHETHER A DIRECTIVE INITIATED IN A STATE THAT DOES NOT REQUIRE A

COVERSHEET IS VALID IN WISCONSIN SINCE WISCONSIN DOES REQUIRE A COVERSHEET WHEN DRAFTING ADVANCE DIRECTIVES.

- AB 554 CLARIFIES THAT TECHNICAL DIFFERENCES SHOULD NOT INTERFERE WITH THE IMPLEMENTATION OF ADVANCE DIRECTIVES IN OTHER STATES.
- THIS BILL DOES NOT IN ANY WAY BROADEN ALLOWABLE ADVANCE DIRECTIVES IN WISCONSIN.

Clare -  
FYI -  
Most of these points  
were taken from  
Rep. Krawczyk's  
committee testimony.