



Report on Public Policy Position

Name of Section:

Probate and Estate Planning

Contact Person:

Henry Grix

Email or Phone:

hgrix@dickinsonwright.com

Bill Number:

HB 5718

Date position was adopted:

April 24, 2004

Process used to take the ideological position:

Vote at meeting of Council of the Probate and Estate Planning Section

Number of members in the decision-making body:

20

Number who voted in favor and opposed to the position:

14 were present and all voted in favor

FOR SECTIONS ONLY:

- ✓ This subject matter of this position is within the jurisdiction of the section.
- ✓ The position was adopted in accordance with the Section's bylaws.
- ✓ The requirements of SBM Bylaw Article VIII have been satisfied.

If the boxes above are checked, SBM will notify the Section when this notice is received, at which time the Section may advocate the position.

Position:

The Council of the Section supports the concept of adopting in Michigan legislation expressly authorizing an individual to sign a legally enforceable statement, commonly known as an advance directive or as a "living will" to state the kind of care the individual should receive--or not receive--in the event of mortal illness or injury. A subcommittee of the Council is studying the actual proposed legislation.

The text (may be provided by hyperlink) of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report:

<http://www.michiganlegislature.org/mileg.asp?page=getObject&objName=2004-HB-5718>

RECOMMEND STATE BAR ACTION ON THIS ISSUE:

Arguments for the position:

N/A

Arguments against the position (if any):

N/A

If the State Bar currently has a position on this subject matter, state the position, and an analysis of whether the recommended position and the current State Bar position are in conflict.

N/A

Fiscal implications of the recommended policy to the State Bar of Michigan:

N/A

FOR LEGISLATIVE ISSUES ONLY:

This position falls within the following Keller-permissible category:

- The regulation and discipline of attorneys**
- ✓ **The improvement of the functioning of the courts**
- ✓ **The availability of legal services to society**
- The regulation of attorney trust accounts**
- The regulation of the legal profession, including the education, the ethics, the competence, and the integrity of the profession.**

Keller- permissible explanation:

The legislation involves the right of individuals to make a legally enforceable declarations about the kind of health care they should receive, and, accordingly, should reduce conflict and the resort to courts for this personal matter, improving the overall functioning of the courts and the need for legal services on a very personal matter.