

1999 HOUSE JUDICIARY
HCR 3043

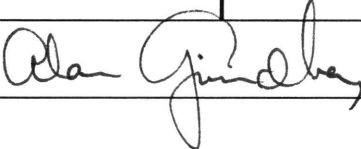
1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 3043

House Judiciary Committee

Conference Committee

Hearing Date February 8, 1999

Tape Number	Side A	Side B	Meter #
2		X	3.3
Committee Clerk Signature 			

Minutes:

LLOYD SUHR (Hum Ser) Presented written testimony, a copy of which is attached.

REP. PRICE There is a lot of confusion between Durazble Power of Attorney and Living Wills.

This area needs to be studied to try to find some vehicle that will give people what they want.

COMMITTEE ACTION February 9, 1999

REP HAWKEN moved that the committee recommend that the bill DO PASS. Rep Gunter

seconded and the motion passed on a roll call vote with 13 ayes, 1 nay and 1 absent. Rep.

Hawken will carry the bill on the floor.

Date: 2/9/09
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 3043

House JUDICIARY Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do pass

Motion Made By Hawken Seconded By Gunter

Representatives	Yes	No	Representatives	Yes	No
REP. DEKREY	✓		REP. KELSH	✓	
REP. CLEARY	✓		REP. KLEMIN	✓	
REP. DELMORE	✓	✓	REP. KOPPELMAN		✓
REP. DISRUD	✓		REP. MAHONEY	✓	
REP. FAIRFIELD	✓		REP. MARAGOS		
REP. GORDER	✓		REP. MEYER	✓	
REP. GUNTER	✓		REP. SVEEN	✓	
REP. HAWKEN	✓				

Total Yes 13 No 1

Absent 1

Floor Assignment Hawken

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
February 11, 1999 11:39 a.m.

Module No: HR-27-2570
Carrier: Hawken
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HCR 3043: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS
(13 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HCR 3043 was placed on the
Eleventh order on the calendar.

1999 SENATE HUMAN SERVICES

HCR 3043

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR3043

Senate Human Services Committee

Conference Committee

Hearing Date MARCH 16, 1999

Tape Number	Side A	Side B	Meter #
1	X		3,080
3/22/99 1	X		1,865
Committee Clerk Signature <i>Baral Holodychuk</i>			

Minutes:

The hearing was opened on HCR3043.

REPRESENTATIVE CLARA SUE PRICE, sponsor, introduced the bill. In addition to this study there is a task force and the interim committee needs to be involved to stay informed to what is happening. The one area that did not pass the House is the issue of organ donation. I think this should be considered. SENATOR LEE: Would you like us to include that or just that we needed to be aware, but it was not included in this resolution. REP PRICE: Just to be aware that it is coming. SENATOR DEMERS: Why are we looking at durable power of attorney in other states but not the other statutes in other states. REP PRICE: I would be interested in looking at all the other states in all of the issues. There are great concerns from ST. A's from people that have done these directives in other states. They want to know exactly where they stand when that patient is in that facility. SENATOR DEMERS: The third act that we

often talk about is not included either; would that be a problem if that were to be included, the priority list for giving permission. REP PRICE: I believe you are talking about the informed consent and order of rank of family members in making decisions. This should be included. Guardianship at that stage of life needs to be looked at.

LLOYD SUHR, Dept of Human Services, supports bill with written testimony. SENATOR DEMERS: Is there a model available? MR. SUHR replied, "Yes, the Uniform Health Care Act."

MURRAY SAGSVEEN, State Health Officer, supports bill. There are four laws that you've all used separately in the state. 1. Universally Terminally Ill Act for living wills. 2 Durable power of attorney. 3. Statutory implied consent laws, 23-12-13. 4. Uniform Determination of Death Act. Under this resolution perhaps all four of those would be considered at the same time. It would be useful to see how they all work together now.

No neutral or opposition.

The hearing on HCR3043 was closed.

Discussion resumed on 3/22/99.

SENATOR DEMERS explained the amendment which she and SENATOR LEE worked on and it is a hoghouse amendment. SENATOR DEMERS moved the amendments 98351.0101.

SENATOR LEE seconded it. Roll call vote carried 6-0-0. SENATOR LEE moved DO PASS AS AMENDED. SENATOR KILZER seconded it. Roll call vote carried 6-0-0. SENATOR DEMERS will carry the bill.

PROPOSED AMENDMENTS TO HOUSE CONCURRENT RESOLUTION NO. 3043

Page 1, line 1, after "resolution" replace the remainder of the resolution with "directing the Legislative Council to study the clarity and continuity of end-of-life decisionmaking issues and related laws.

WHEREAS, a broad variety of state laws address end-of-life issues, including informed consent for health care, guardianship, organ donation, living will, durable power of attorney for health care, durable power of attorney, and power of attorney; and

WHEREAS, state law addressing these issues was enacted over the course of several years, resulting in the lack of continuity and dispersal throughout the North Dakota Century Code; and

WHEREAS, many North Dakotans fail to adequately plan for issues that arise at the end of life because of the complexity of relevant laws; and

WHEREAS, the National Conference of Commissioners on Uniform State Laws recognized the value of clarity and continuity in making health care decisions and therefore recommended the Uniform Health Care Decision Act to the states for enactment; and

WHEREAS, at least 16 states have studied the advantages and disadvantages of enacting comprehensive advanced health care directive statutes, concluding a comprehensive statutory scheme is a reasonable solution; and

WHEREAS, the Roger Wood Johnson Foundation provided a grant to the North Dakota End of Life Task Force, which is in part studying end-of-life decisionmaking issues;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Council study the clarity and continuity of end-of-life decisionmaking issues and related laws; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Fifty-seventh Legislative Assembly."

Renumber accordingly

Date: 3/22/99
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HCR 3043

Senate HUMAN SERVICES COMMITTEE Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number 98351.0101

Action Taken Amendment

Motion Made By Sen DeMers Seconded By Sen Lee

Senators	Yes	No	Senators	Yes	No
Senator Thane	✓				
Senator Kilzer	✓				
Senator Fischer	✓				
Senator Lee	✓				
Senator DeMers	✓				
Senator Mutzenberger	✓				

Total 6 (yes) 0 (no)

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 3/22/99

Roll Call Vote #: 2

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HCR 3043

Senate HUMAN SERVICES COMMITTEE Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number 98351.0101

Action Taken Do pass as amended

Motion Made By Sen La Seconded By Sen Kilzer

Senators	Yes	No	Senators	Yes	No
Senator Thane	✓				
Senator Kilzer	✓				
Senator Fischer	✓				
Senator Lee	✓				
Senator DeMers	✓				
Senator Mutzenberger	✓				

Total 6 (yes) 0 (no)

Absent 0

Floor Assignment Sen DeMers

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HCR 3043: Human Services Committee (Sen. Thane, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3043 was placed on the Sixth order on the calendar.

Page 1, line 1, after "resolution" replace the remainder of the resolution with "directing the Legislative Council to study the clarity and continuity of end-of-life decisionmaking issues and related laws.

WHEREAS, a broad variety of state laws address end-of-life issues, including informed consent for health care, guardianship, organ donation, living will, durable power of attorney for health care, durable power of attorney, and power of attorney; and

WHEREAS, state law addressing these issues was enacted over the course of several years, resulting in the lack of continuity and dispersal throughout the North Dakota Century Code; and

WHEREAS, many North Dakotans fail to adequately plan for issues that arise at the end of life because of the complexity of relevant laws; and

WHEREAS, the National Conference of Commissioners on Uniform State Laws recognized the value of clarity and continuity in making health care decisions and therefore recommended the Uniform Health Care Decision Act to the states for enactment; and

WHEREAS, at least 16 states have studied the advantages and disadvantages of enacting comprehensive advanced health care directive statutes, concluding a comprehensive statutory scheme is a reasonable solution; and

WHEREAS, the Robert Wood Johnson Foundation provided a grant to the North Dakota End of Life Task Force, which is in part studying end-of-life decisionmaking issues;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Council study the clarity and continuity of end-of-life decisionmaking issues and related laws; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Fifty-seventh Legislative Assembly."

Renumber accordingly

1999 TESTIMONY
HCR 3043

**TESTIMONY BEFORE THE
HOUSE JUDICIARY COMMITTEE
REGARDING H.C.R. 3043
MONDAY, FEBRUARY 8, 1999**

Chairman DeKrey, members of the Committee, my name is Lloyd Suhr. I am with the Legal Advisory Unit of the Department of Human Services. I am here on behalf of the Department to testify in support of House Concurrent Resolution 3043.

The Department, through its Aging Services Division, administers the State Ombudsman Program. This program uses state, regional, and volunteer ombudsmen to investigate and resolve complaints concerning the health, safety, welfare, or civil rights of persons residing in long-term care facilities in North Dakota. The ombudsmen frequently encounter residents and their family members who are faced with medical treatment issues such as the administration of medication, life-prolonging treatment, or artificial nutrition or hydration. Advance health care directives such as the living will or durable power of attorney for health care are intended to facilitate advance planning for these decisions.

However, at least with regard to the population served through the Ombudsman program, it has been the Department's experience that many people do not have either a living will or a durable power of attorney for health care. While there could be any number of reasons for this, one primary reason is that people do not understand what these documents do, when they should be used, whether they should or must be used separately or together, or how one interacts with the other. Presently, living wills and durable powers of attorneys are each executed on separate forms and governed by separate statutes, yet overlap and interact in ways that may make them awkward to use and understand.

In light of this, it may be necessary to re-examine the living will and durable power of attorney for health care statutes to see if they can be made easier to use and understand. A number of other states have addressed this exact same concern, have

studied the advantages and disadvantages of enacting comprehensive advanced medical directive statutes in addressing such problems, and have concluded that a comprehensive statutory scheme was a reasonable solution. These states include Alabama, Arizona, Connecticut, Delaware, Florida, Kentucky, Maine, Maryland, Minnesota, Mississippi, New Jersey, New Mexico, North Carolina, Oklahoma, Oregon, and Virginia.

I do not suggest that this issue be studied simply because other states have done so. Rather, I suggest that there are problems with having separate living will and durable power of attorney for health care statutes which warrant serious consideration of whether the separate nature of these mechanisms is causing people to shy away from using them - thereby defeating the very purpose for having them.

Again, I urge your support of House Concurrent Resolution 3043. I will try to answer any questions that you might have.

Prepared by:

Lloyd C. Suhr
Legal Advisory Unit
Department of Human Services

**TESTIMONY BEFORE THE
SENATE HUMAN SERVICES COMMITTEE
REGARDING H.C.R. 3043
TUESDAY, MARCH 16, 1999**

Chairman Thane, members of the Committee, my name is Lloyd Suhr. I am with the Legal Advisory Unit of the Department of Human Services. I am here on behalf of the Department to testify in support of House Concurrent Resolution 3043.

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Again, I urge your support of House Concurrent Resolution 3043. I will try to answer any questions that you might have.

Prepared by:

Lloyd C. Suhr
Legal Advisory Unit
Department of Human Services