

January 16, 1992 LB 696

SENATOR LANDIS: In the event that was the theory, it seems to me that it probably would also apply to the attorneys in fact because the argument there is, is it not, that there is a conflict of interest. In fact, doesn't that make the durable power of attorney susceptible to a challenge because the parent might not tell the child that they are a part of the will and yet the child winds up signing the will? Put that aside, we can come back and talk to it later. Okay. I actually happen to think that the list that you have on the...on who can be attorney in fact is a sound piece of public policy. I endorse it and I think probably it ought to be the one for the witnesses as well. Secondly, let me go on to a different topic. There is no affirmative duty for the doctor under this bill to carry out the wishes of the patient. It falls, as I understood your answer, from a general unspecified professional obligation. But, if not, tell me because the question I've got is this, the civic...the civil medical malpractice...

SPEAKER BAACK: One minute.

SENATOR LANDIS: ...statute is a particular and rather slow moving and cumbersome procedure. It involves a panel. It involves some special time for negotiation. It is, in my estimation, as I recall, one of the slower mechanisms for making a civil determination. Is there no quicker way of getting an answer than moving through the rather creaky process of our specialized medical malpractice statute for getting this? Because, if that's the case, aren't we in a situation where an action, according to an attorney in fact, ask of a doctor who is unwilling to do it, then providing the basis of a civil medical malpractice could run easily 12 months to 18 months before a determination under the normal procedures of using a medical malpractice act, in which case the patient is laying there with their durable power of attorney...

SPEAKER BAACK: Time.

SENATOR LANDIS: ...but with no doctor that will, you know, without relief.

SPEAKER BAACK: Thank you, Senator Landis. Senator Lynch.

SENATOR LYNCH: Mr. Chairman and members, I wasn't able to be here this morning when similar legislation was discussed. I am here now and I have to admit that I would like to know more