Reinhart

Wisconsin Recognizes Validity of Out-of-State Advanced Directives

A new provision in Wisconsin law has changed the way Wisconsin health care providers view end-of-life care decisions made through an advanced directive executed in another state. Effective May 5, 2004, Wisconsin Act 290 revises Wis. Stat. 154, Declarations to Physician and Do-Not-Resuscitate Orders, and Wis. Stat. 155, Power of Attorney for Health Care, so that health care providers may recognize the validity of out-of-state advanced directives even if such documents do not meet the technical requirements of an advanced directive executed under Wisconsin law. Formerly, Wisconsin health care providers could only recognize the validity of out-of-state advanced directives if such documents met all of the requirements for a valid advanced directive under Wisconsin law.

Specifically, Wisconsin Act 290 revises the duties and immunities section of Wis. Stats. 154.07 and 155.50 so that "no physician, inpatient health care facility or health care professional acting under the direction of a physician may be held criminally or civilly liable, or charged with unprofessional conduct" for any acts or omissions in reliance on an advanced directive executed in another state "to the extent that the document authorizes the health care agent to make decisions for the principal" that could be made under Wisconsin law. This new provision extends the liability protection for Wisconsin health care providers who rely on an advanced directive executed in another state.

Under Wisconsin Act 290, the scope of the out-of-state advanced directive is limited to the authority that the individual would have under Wisconsin law. For example, Wisconsin law requires that an individual specifically indicate in writing that the individual is giving the designated health care agent the authority to withhold or withdraw a feeding tube. If the out-of-state advanced directive does not include a written statement providing the health care agent with this authority, the health care agent does not have authority to withhold or withdraw a feeding tube. The same result applies even if the law of the state in which the advanced directive was originally signed would automatically allow the health care agent to make this decision without a written statement.

For further information regarding the Wisconsin Act 290 or other issues related to advanced directives, contact Robert Heath or Amy Jerdee in the Reinhart Boerner Van Deuren s.c. Health Care Department.

POSTED:

Jan 31, 2005

RELATED PRACTICES:

Health Care

https://www.reinhartlaw.com/practices/health-care

All materials copyright © 2025 Reinhart Boerner Van Deuren S.C. All rights reserved.

These materials provide general information which does not constitute legal or tax advice and should not be relied upon as such. Particular facts or future developments in the law may affect the topic(s) addressed within these materials. Always consult with a lawyer about your particular circumstances before acting on any information presented in these materials because it may not be applicable to you or your situation. Providing these materials to you does not create an attorney/client relationship. You should not provide confidential information to us until Reinhart agrees to represent you.

All materials copyright © 2025 Reinhart Boerner Van Deuren S.C. All rights reserved.