

STATE OF WISCONSIN
SUPREME COURT

Case No. 2009AP000728

WISCONSIN MEDICAL SOCIETY, INC.
and DAVID M. HOFFMAN, M.D.,

Plaintiffs-Appellants,

vs.

MICHAEL L. MORGAN,

Defendant-Respondent.

APPEAL FROM THE DECEMBER 19, 2008 DECISION AND
ORDER OF THE CIRCUIT COURT OF DANE COUNTY, THE
HONORABLE MICHAEL N. NOWAKOWSKI PRESIDING

**MOTION BY THE ADVOCATES FOR
MEDICAID PATIENTS FOR PERMISSION
TO FILE A NON-PARTY BRIEF**

A group of organizations described below and referred to
as "Advocates For Medicaid Patients," by their attorneys,
Cullen Weston Pines & Bach LLP, hereby respectfully moves
the Court pursuant to Wis. Stat. § 809.19(7) for permission to
file a non-party brief in this appeal.

FILED

MAR 17 2010

CLERK OF SUPREME COURT
OF WISCONSIN

As grounds for this motion "Advocates for Medicaid Patients" respectfully represents it is a group of organizations sharing the common goal of advocating for the interests of low-income citizens and disabled citizens of Wisconsin. The group includes, but is not limited to the following organizations, the description of which is representative of the nature of the entire group comprising the "Advocates for Medicaid Patients."

Disability Rights Wisconsin is an advocacy organization that serves people of all ages, including people with developmental disabilities, people with mental illness, people with physical or sensory disabilities, and people with traumatic brain injury. Many such individuals receive medical insurance through the State's Medicaid program and would be adversely effected were the Medicaid budget to be cut.

ABC for Health (Advocacy and Benefits Counseling for Health Inc.) is a Wisconsin-based nonprofit public interest law firm dedicated to linking children and families, particularly those with special health care needs, to health care benefits and services. ABC for Health's mission is to provide information, advocacy tools, legal services, and expert support needed to

obtain, maintain, and finance health care coverage and services. Its vision is to develop a nationally recognized, integrated model of Health Benefits Counseling, legal services, and policy advocacy that promotes a universal system of health care coverage and access for all people. It develops multi-purpose education strategies to inform customers, providers, and the broader community of health care coverage options while also advocating directly for individuals disenfranchised from health care coverage and services. ABC for Health also serves as a catalyst in the development of local Health Watch Coalitions as well as other partnerships and strategic alliances to influence public policy and opinion while also working to maximize all available health care coverage options for all people.

The Community Advocates Public Policy Institute, which was founded in 2008, has as its primary goal to help design and put in place the policy changes that will dramatically reduce the level of poverty in Milwaukee and Wisconsin. To that end, it works closely with many individuals and organizations in Milwaukee, throughout Wisconsin, and across the nation who also focus on greatly reducing poverty.

While the Institute's primary task is reducing poverty itself, the Institute also seeks to reduce the many frustrations and burdens that the poor face as they navigate through life. It is committed to working closely with other advocates of the poor to ensure that low-income individuals can easily obtain affordable health insurance, AODA treatment, mental health services, housing, and utility services, as well as quality education for their children

The "Advocates for Medicaid Patients" intends to file a brief that will explain that the Patients' Compensation Fund is part of the State's overall effort to provide quality health care to all of its citizens and that the Fund must be considered in that light because it is a mechanism to ensure that physicians have ample malpractice coverage available to them that, in turn, helps to maintain a steady cadre of experienced physicians in this state. The Medicaid program is a significant part of the State's effort as well. In a time of an unprecedented fiscal crisis the Legislature, in order to meet its goal of protecting the health and welfare of the citizens of Wisconsin, has the authority to

allocate funds as it deems necessary, including the power to transfer funds from the Patients' Compensation Fund.

Were the State required to refund \$200 million to the Fund, the outlook for the health of poor and disabled Wisconsin citizens, who are served by Medicaid, will be grim. The State's budget outlook is perilous as the current recession continues. Forcing the Legislature to prefer the limited interests of physicians over adequate funding for the treatment of sick, injured and disabled Wisconsin citizens would be an extraordinary restriction on legislative power.

WHEREFORE, the "Advocates for Medicaid Patients" requests that it be allowed to file a brief *amicus curiae* in this appeal and further requests that the Court set a date on which its non-party brief must be filed.

Dated this 17th day of March, 2010

Respectfully submitted,

CULLEN WESTON PINES & BACH LLP

By: 

Lester A. Pines, SBN 1016543
Attorneys for the Advocates for
Medicaid Patients

122 W. Washington Ave., Ste. 900
Madison, WI 53703
(608) 251-0101 (telephone)
(608) 251-2883 (facsimile)
pinet@cwpb.com