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Re: AB 365

From: Kathleen Buchanan
Clark County Public Guardian

Good Morning Mr./Mrs. Chair and Committee Members,

The Clark County Public Guardian's Office supports this bill.

The Clark County Public Guardian's Office oversees the personal and/or financial affairs of approximately 700 individuals in the Guardianship Program. Many of these victims lack the capacity to recognize their own compromised cognitive condition and, therefore, are unable to protect themselves or their financial affairs. The court appoints our office when there is no other willing or able person to serve in this capacity. Our office responds to numerous referrals, investigations and court reports on a routine basis.

It is from a practical view that I share my experience and insight in support of the recommended revised changes. My tenure began 18 years ago as a case manager with the Clark County Public Guardian's Office. On August 4, 2000 I was appointed as the Clark County Public Guardian. I have grown with the program as we have expanded from basic Medicaid/County cases to highly complex cases, requiring us to address the sale of businesses, filing bankruptcies, management of real and personal property, enter into contracts and secure divorces. The existing statutes have been vague and ambiguous in lending guidance to guardians, attorneys, guardianship commissioners and judges. We have worked within the confines of the law by applying the applicable chapters of the probate code and the guardianship statutes in finding resolve. However, the applicability of many of the provisions of Chapter 159 to a person's current needs, in today's society, is antiquated. Likewise, the statutes do not address many aspects, which are common and routine in today's society, leaving every ward and guardian open to potential liability.

For instance, it is common to find a ward with investment accounts, such as stocks and mutual funds. However, the existing statutory scheme does not permit a guardian to hold these types of accounts nor can a sufficiently liquid ward be permitted to seek higher rates of returns by investing in acceptable financial vehicles.

Another on-going concern from the case management perspective arises when a ward has executed a revocable trust. It is cost-prohibitive and inefficient for a guardian to be forced to file a separate court case for authority to appoint a successor trustee. Additionally, from the care management perspective, it is not logical to have a court, which is unfamiliar with the ward's personal daily needs making decisions on the ward's welfare.

The suggested changes are welcomed and are designed to make the Guardianship Code stand on its own.

The expertise, time and energy placed into this body of work has been thoughtfully orchestrated to protect everyone it serves. I thank all of the individuals who devoted their talents to urge its adoption. The changes are necessary, appropriate and timely. I welcome the bill and know the changes will enable the Public Guardian's Office to more efficiently manage the needs of a ward.

Thank you for the opportunity to speak on AB365.