



# NORTHWOODS LAW GROUP, P.A.

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March 4, 2024

Representative Ginny Klevorn  
Chair, State and Local Government Finance and Policy Committee  
Minnesota House of Representatives  
Via e-mail only: [Amanda.Rudolph@house.mn.gov](mailto:Amanda.Rudolph@house.mn.gov)

Re: HF 3483, Guardianship immunity amended, guardianship taskforce created

Dear Representative Klevorn and members of the Committee:

I am an attorney who has represented guardians, families, and persons subject to guardianship in guardianship and conservatorship matters in Minnesota for more than 11 years. I am also the Vice President of the Minnesota Association for Guardianship and Conservatorship (MAGiC), a nonprofit organization committed to ensuring that the appropriate level of quality substitute decision-making is applied consistently for persons subject to guardianship in Minnesota. We have 150 members, including many professional guardians, we do not have access to lobbying services, and our Board members are not paid for their service.

I write today in support of the task force proposed by this bill. All stakeholders agree that a task force is necessary, helpful and appropriate. I also believe that supported decision-making and less restrictive alternatives to guardianship must be a part of the work of the task force.

I have grave concerns about the portion of the bill that modifies liability for guardians, because the modification pulls on many other cords within the guardianship system including the general lack of available professional guardians throughout the state, the systems we already have in place to supervise guardians, and the progress our state has made towards allowing as much self-determination as possible for the vulnerable adult themselves. The “dignity of risk”, meaning the right to make less than perfect choices, is a fundamental American freedom. We believe that along with appropriate supports, persons subject to guardianship should be allowed to have friends, romantic partners, a can of pop, a vacation away from their care facility, and even a cigarette. By giving guardians reason to be more risk-averse, we make it more likely that this right of self-determination will be further constrained for vulnerable adults in Minnesota.

It’s important to remember that guardians are decision-makers and not care providers, and their immunity only covers what they have authority to do. The proponents of this bill allege that a guardian would have no liability for starving a person to death, which is plainly absurd, and

Letter to House State and Local Government Finance and Policy Committee

March 4, 2024

Page 2 of 2

frankly insulting to those guardians who do this work every day – guardianship is not a lucrative profession and those of us who practice in this area do it because we have a fire in our bellies for the rights and dignity of vulnerable adults.

We believe these complex issues need further discussion before a change to the law should be made, and given that guardians do not have blanket immunity in Minnesota, that this law has only been litigated once in 40 years, and that other mechanisms exist to supervise guardians in Minnesota, we do not believe this change is urgent enough to push through so quickly. We believe the liability issue is important enough that it warrants close examination and discussion by all stakeholders. If the liability piece is pushed through, guardians in Minnesota are likely to stop taking the difficult cases that we as a State need them to handle. This will be felt throughout our communities, hospitals, nursing homes, assisted living facilities and group homes.

MAGiC welcomes the opportunity to speak with any legislator with questions on this bill and we continue to be in discussion with Representative Feist regarding the language – while we believe the language is improving significantly, our strong preference would be to allow the task force to examine it before changing the law. Thank you.

Very truly yours,



Megan C. Kelly

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