

House Human Services Committee

Testimony on Senate Bill 2345

Representative Robin Weisz – Chairman

March 8th, 2023

Chairman Weisz and members of the House Human Services Committee, my name is Donna Byzewski and I am the Program Director of the corporate guardianship program for individuals with intellectual disabilities at Catholic Charities North Dakota. I am respectfully asking your committee to support SB 2345 as it relates to the creation of a task force on guardianship monitoring to promote the accountability of all guardians.

Among guardianship service providers, nothing is more devastating than a professional guardian, guardianship service provider or family guardian providing poor, unethical or criminal care of a person who is incapacitated.

Currently, there are some protections in place. In an effort to ensure that guardians are qualified to provide guardianship services on behalf of a person who is incapacitated, the North Dakota Supreme Court has implemented Administrative Rule 59. In part, Rule 59 requires that the proposed guardian submit a criminal background check and an affidavit to the court stating whether the proposed guardian has been investigated for offenses related to theft, fraud, or the abuse, neglect, or exploitation of an adult or child. Also, Rule 59 requires that all professional guardians either be certified guardians through the Center for Guardianship Certification (CGC) or their guardianship program must be accredited by the Council on Accreditation. In addition, the North Dakota State Court has the Guardianship Monitoring Program which investigates specific guardianship cases upon order of the court. Additional protections include existing programs such as Vulnerable Adult Services, Protection and Advocacy, North Dakota Social Work Examiners, the Ombudsman Program and the ND Medicaid Fraud Unit as possible options to investigate reports of neglect, abuse and exploitation.

While Rule 59, the Guardianship Monitoring Program, and investigative programs such as Vulnerable Adult Services and Protection and Advocacy, etc. have had a positive impact towards ensuring that only ethical, responsible and skilled guardians are appointed, a significant concern

has arisen because it may take months or years to remove a guardian who is providing inadequate care or has financially exploited a person who is incapacitated. The problem is further intensified because the guardian may provide guardianship services on behalf of many persons who are incapacitated and, again, it may take months or years to rectify the situation.

In order to close this gap in guardian accountability, the task force would utilize the expertise of its members to evaluate the current protections in place, identify gaps as well as solutions with the ultimate outcomes of further protecting the person under guardianship as well as setting a high bar that only qualified and ethical guardians are carrying out their duties and responsibilities.

Thank you for the opportunity to provide testimony and I would be happy to try to answer any questions you may have.