



HOUSE HUMAN SERVICES COMMITTEE

CHAIRMAN MATTHEW RUBY

SENATE BILL 2029

GUARDIANSHIP ASSOCIATION OF ND

MARGO HAUT, PRESIDENT

MARCH 18, 2025

Chairman Ruby & Members of the House Human Services Committee, my name is Margo Haut, Founder and Co-Director of Guardian Angels, Inc., a nonprofit corporation located in Jamestown, ND. I also am a member & the current President of the **Guardianship Association of ND (GAND)**.

The Guardianship Association of ND is a 501(c)3 nonprofit organization established in 1987. GAND provides educational resources and collaboration for guardianship providers while advocating for guardianship services throughout ND. Numerous staff from each entity are members of GAND, with a current total of 55 members.

GAND asks for your consideration to adopt Senator Judy Lee's proposed amendments. We extend our appreciation to Senator Lee & Austin Gunderson of the Legislative Council for their time, expertise and vision.

Guardianship is a relationship between a court appointed competent adult or agency designated as the Guardian & the Protected Person who has been deemed incapacitated by the courts. This determination is by reason of mental illness, physical illness, disability or chemical dependency lacking the capacity to make or communicate responsible decisions. This law applies to persons over the age of eighteen.

In launching Guardian Angels, Inc. in 2014, I was shocked to learn the only statute in ND to be a legal guardian was to be 18 years of age. Over the following years, the continued work and efforts provided by the Guardianship Workgroup resulted in Administrative Rule 59 which came into effect on March 1, 2018.

To summarize, the purpose of Administrative Rule 59 establishes qualifications and training requirements for nonprofessional and professional guardians appointed under N.D.C.C. ch. 30.1-28. For purposes of this rule, "nonprofessional guardian" means an individual who serves as guardian for two or fewer individuals at the same time, and "professional guardian" means an individual or entity that serves as guardian for three or more individuals at the same time, an individual or entity appointed to serve as a public guardian or administrator, or an individual or entity that holds itself out as providing guardianship services for hire.

The qualifications for an entity proposed to serve as a professional guardian must either be accredited through the Council on Accreditation or its employed guardians must possess certification through the Center for Guardianship Certification (CGC).



As Director for Guardian Angels Inc & a Professional Guardian with the CGC since 2015, I personally observed the impact of Administrative Rule 59. The mandate of Certification from the Center for Guardianship Certification (CGC) resulted in several guardianship entities closing their doors due to lack of interest in testing the national exam. I personally observed the standards for guardianship services throughout ND were raised due to the mandate & resources via the Center for Guardianship Certification including but not limited to training, accountability & oversight. Guardians who made the decision not to meet the criteria of Administrative Rule 59 were given a timeframe by the court to seek successor guardians for their caseloads by 2019. Guardian Angels, Inc. & other Guardianship entities accepted cases throughout ND.

The other important guide & resource for Professional Guardians is the National Guardianship Association (NGA) Standards of Practice adopted in 2000 with the fifth edition in 2022. The NGA Standards of Practice capture the fundamental principles for use by all guardians. The Standards seek to shape a mirror that guardians can use to evaluate their efforts. The Standards also reflect the mandate that all guardians must perform in accordance with current state law governing guardianships and certification of guardians.

To be frank, **the current version of SB 2029 proposed by the judicial branch is perceived as an ideal solution – for them, but the Amended Version of SB 2029 reflects reality – for guardians.**

As you heard last week, GAND has consistently reiterated our opposition and concerns throughout the interim and legislative discussion to date. I will direct you to my previous testimony for more detail, but to summarize: we cannot support the current version as it 1) unfairly positions a new office against guardians; 2) constitutes a clear conflict of interest placing the court as appointer, appropriator, monitor, complaint processor, and adjudicator; and 3) limits the advocacy of both guardians and the vulnerable individuals they serve.

GAND now supports the proposed amendments to SB 2029 for the following reasons:

- **Integrates Services Effectively** – Creates an independent division of the Office of Guardianship & Conservatorship (OGC) under **Health & Human Services (DHHS)**, warranting a **seamless continuum of care** (page 3, line 19).
- **Incorporates Guardian Representation** – Incorporates guardian input and participation within the Office of Guardianship & Conservatorship and Review Board (pg. 3, lines 21-22; pg. 3, line 24; pg. 6, line 24; pg. 8, lines 3-14), in place of the Supreme Court's discretionary powers and penalties which are removed (page 8, lines 15-31 through page 10, line 12) – all while establishing accountability and standards of practice for guardians.
- **Ensures Transparency & Accountability** – Promotes **open communication without conflicts of interest**, as seen with Catholic Charities of ND, which has provided guardianship services for individuals with intellectual disabilities for 37 years without issue.



- **Protects Due Process** – Guarantees access to all branches of government, safeguarding the rights of both guardians and vulnerable individuals across North Dakota.
- **Consolidates Necessary Funding** – Centralizes funding for guardianship services in a single location, as initially requested by the legislature. The budget change to include \$1.2 million reflects the funding that is necessary for the various functions and operation costs of the office, and the change from \$7.1 million to \$9.1 million reflects support for additional guardians (page 12, lines 17 and 20).

Overall, it's GAND's vision to ensure good quality ethical guardians & conservators to enhance & grow the profession. GAND knows the importance of training, monitoring & accountability, which is also addressed in the amendments:

- **Training** – Given the complexity of the role, Guardians and Conservators require extensive training. In North Dakota, professional guardians must obtain national certification through the Center for Guardianship Certification and state certification via the Court (page 3, line 24).
- **Monitoring** – Guardians must be monitored thoroughly in a way that is efficient, fair, and non-oppressive. While GAND supports oversight, it must be conducted by those who fully understand the realities of guardianship (page 3, lines 21-22).
- **Accountability** – Guardians must uphold high ethical standards. Those who violate best practices should face appropriate consequences, including potential removal from guardianship practice (page 1, lines 13-19 & page 2, lines 8-14; page 4, lines 12-30 & page 5, lines 1-10 – changing these lines from a “may” to a “shall”; page 6, line 24; page 8, line 3-14).

In closing, Chairman Ruby & Members of the Committee, thank you again for providing GAND and its members the opportunity to work with Senator Lee to propose a simpler approach to the OGC. We stand united in favor of this amendment, **focused on positively impacting guardians & conservators while assuring high quality services.**

We respectfully request your consideration to adopt these amendments and thank you for your time.

Margo Haut
President, Guardianship Association of North Dakota (GAND)

Breakdown of Appropriations in Senator Lee's Amended Version of SB 2029

<p>Establishment costs for indigent individuals who are not eligible for DD services</p>	<ul style="list-style-type: none"> • 310 petitioning cases @ \$5,000 cap each = \$1,550,000 • Presently the cap is \$3,000 each...unless changed in SB 2029. 	<p>\$1,550,000</p>
<p>Establishment costs for individuals with developmental disabilities</p>	<ul style="list-style-type: none"> • 100 petitioning cases @ \$3,000 cap each for families wanting to be guardian for individuals with DD = \$300,000 • Petitioning expenses for cases within the DD corporate guardianship contract = \$480,000 • \$288,000 for State Hospital petitioning expenses for individuals with DD • \$28,400 for petitioning costs at LSTC in Grafton 	<p>\$300,000 + \$480,000 + \$288,000 + \$28,400 = \$1,096,400</p>
<p>Public guardian and conservator fees – indigent (PASS funding)</p>	<ul style="list-style-type: none"> • The appropriation is in the OMB Budget. • It is transferred to NDACo at their request. • They charge no fee to handle the funding. • The daily rate was set by a collaborative group but now appears to be set in a conversation with the court. • Present daily rate of reimbursement: \$17 a day...less than needed to add staff. 	<p>\$9,100,000</p> <p>*Requesting an appropriation of \$9.1 to lift the daily rate to a minimum of \$20 a day to allow agencies to increase staffing and take more cases.</p>

Breakdown of Appropriations in Senator Lee's Amended Version of SB 2029

Guardianship contracts for individuals with developmental disabilities	611 cases at \$12.14 per day/ per individual for 1 st year of biennium = \$2,707,402; 611 cases at \$12.50 per day/per individual for 2 nd year = \$2,787,688	\$5,500,000
Office of Guardianship and Conservatorship. The office consists of a staff of four.	The OGC consists of a staff of four: Executive Director, Court Monitor, Accountant and an Ethical Standards/Training Coordinator.	\$1,200.000

TOTAL APPROPRIATION: \$18,446,400

Senator Lee's amended version has PASS fund appropriation at \$9.1.

The Office of Guardianship and Conservatorship is \$1.2.