

House Judiciary Committee
Proponent Testimony HB2345
January 17, 2024
By Camille Russell, Kansas State Long-Term Care Ombudsman
Office of Kansas Long-Term Care Ombudsman

I am Camille K. Russell, the Kansas State Long-Term Care Ombudsman. Thank you for allowing me to provide written testimony as a proponent for HB2345. At the mandate of state and federal law, the Long-Term Care Ombudsman Program advocates for the rights of individuals in long-term adult care homes throughout Kansas. This includes nursing homes, long-term care units of hospitals, and assisted living, home plus, residential health care, and boarding care homes.

In the course of our work in adult care homes with residents, we have identified the overuse of guardianship and abuse by guardians as a systemic concern in Kansas. We believe HB2345 would provide an alternative to guardianship in many circumstances and prevent various detrimental situations.

There certainly is a time and place for a guardianship when both an impairment and the lack of appropriate alternatives for meeting essential needs exists. Ombudsmen frequently find individuals who have been placed under the most severe restriction of freedom that a court can impose, when alternatives were not first explored. A guardianship or conservatorship is only intended to be used only as a method of last resort and be considered only after all other lesser restrictive alternatives have been explored. Many times, a brief situation creates a request for a temporary guardianship where individuals subject to that scenario find themselves effectively captured in a process, with inadequate representation, and constrained by the temporary guardians, which restricts them from “escape” of the guardianship.

Hospitals, financial organizations, housing entities, service providers and other service organizations have come to utilize guardianship and conservatorship arrangements as convenient and easier ways to transact business with individuals who need assistance or support in decision making. It should never be the case that the interests and rights of the individual human should be violated for the benefit or convenience of these business or service organizations. We are finding more instances of that occurring; currently hospitals in Kansas are lobbying for easier paths to guardianship for their organization’s convenience and benefit at the detriment of individuals rights to human dignity and self-determination.

In our resident advocacy in adult care homes we find individuals well capable of participating in their decisions who are living in untenable situations, where guardians are not following court orders, their property sold with no involvement or communication, forced institutionalization, being isolated from friends and family, being deprived of personal property, including sufficient clothing, not being provided their personal financial information or any money, and deprived of state identification, or use of a telephone.

Many of the individuals we work with, who are subject to guardianship, would be better served by less restrictive options, less formal and less costly options such as supported decision-making. This would relieve the life-long burden a guardianship imposes on the person and on the courts to monitor and address guardianship plans as well as annual reports by guardians.

Everyone uses the tenets of supported decision making, in some form, without written agreement. Supported Decision Making formalizes a common human practice. There are individuals who have a smaller circle of support, have undeveloped skills in informally using trusted sources to seek out when making choices, or just need a slightly more formal arrangement to successfully utilize trusted sources who are willing to be available to lend an ear, provide them information and resources to help them act upon the choice they make and ensure their freedom and self-determination. HB2345 provides an organized path to have that assistance and support productively occur.

I ask your consideration in passing HB2345 to provide safety and security in decision making for individuals to maintain and retain their right to human dignity, autonomy, and self-determination.

Respectfully Submitted

Camille K Russell

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State Long-Term Care Ombudsman