

Feb. 25, 2014

To: Joint Committee On Ways and Means Subcommittee On Human Services

Re: Testimony on SB 1553 A

Dear Committee:

I cannot imagine a more direct conflict of interest created by legislative action than will occur if you pass SB 1553. This bill asks that you fund and place in the Long Term Care Ombudsman's Office the proposed Oregon Public Guardian and Conservator. Here is the conflict: the LTCO advocates for patient rights in care facilities; the Public Guardian frequently must negate patient rights. So, on the "right hand" the LTCO will promote rights; on its "left hand," it will remove them.

To illustrate, consider a person with dementia who refuses medicine and insists on leaving the facility to "go home." The key issue will be informed consent. Does the person understand the consequences of her/his actions?

SB 1553 posits the LTCO on *both sides* of the informed consent question: in effect, telling the person "I am your advocate for your rights," (your right to make your own medical decisions) while at the same time telling the person, "But I must initiate a legal action that will remove your rights" (and hand your decision-making to *me*, the ombudsman). This is an unacceptable configuration!

SB 1553 makes the LTCO the "effective" Public Guardian of Oregon. The LTCO may appoint and may remove the PG. The PG is "subject to the direction, supervision and control of the LTCO." (p. 2, line 25)

I was a member of the Public Guardian Task Force that worked for four years

on this project. At the end of last year's session, we agreed to a "toe-hold" concept: place a greatly reduced program with the LTCO just to get a start. But in that bill (HB 2671), the *Governor* appointed the PG, it had its own governing board, and it was not under the direct control of the LTCO. The drafters of 1553 have gone too far in their latest attempt to gain a toe-hold. It crosses the lines of sensibility. I state this with some regret because I have been working in Salem for the past eight years to get a Public Guardian bill passed.

Recently, a very respected lobbyist stated that "no bill gets through the short session without being cooked." This bill has *not* been cooked. That means it has not been vetted. The prior task force was not consulted, even as a courtesy. No committee of experts or interested parties was formed to guide this bill. It has a myriad of other issues within it that are highly questionable.

SB 1553 needs to be "properly cooked." The issues have not been aired. It needs to be seriously amended, or, simply rejected. The State needs to create a proper Public Guardian program.

Thank you for your consideration,

Jeff Brandon