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Charles A. Kovas  
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Senate Committee On Judiciary  
Complete Address

Re: SB 528 – as amended

Chair Prozanski and members of the committee:

I am writing to express my strong concerns and opposition to SB 528, as amended. I am a lawyer in private practice, past chair of the Elder Law Section of the Oregon State Bar and a longtime member of the Elder Law and Estate Planning and Administration sections. My practice includes assisting families needing to obtain a guardianship and/or conservatorship over a loved one. I am writing to you as a concerned elder law attorney.

I do not believe practitioners, judges, or other stakeholders were consulted while the bill was formulated, drafted, presented, or amended. This bill would increase the burden and expense on families already struggling to help their loved ones in need of assistance. The bill purports to add additional safeguards, but sufficient safeguards are already in place to protect the rights of individuals subject to a guardianship or conservatorship.

The added provisions requiring the designated advocacy system to establish professional qualifications for court-appointed counsel is alarming. The Oregon Supreme Court is ultimately responsible for determining an attorney's qualifications to practice law. The courts in general are in a much better position to establish qualification standards and have already begun to develop systems to ensure attorneys wanting to be appointed in protected proceeding matters are qualified.

The bill could also cause professional fiduciaries to refuse to be appointed as a guardian because of the fear of not meeting unknown, or knowable, standards that are only vaguely expressed in the bill.

As you know, the court system is already underfunded and overburdened with cases. Where will the funds for the additional requirements come from? Where will the additional attorneys needed

to represent individuals subject to a protective proceeding be found? How will the necessary additional court staff be paid for? While the proponents of the bill are no doubt well intended, they have not addressed potential unintended consequences if the bill is passed. The current bill does not address fiscal impacts, nor does it provide for any funding source. This is not the way to update Oregon's laws. There is no question that an individual's civil rights need to be safeguarded. My fellow attorneys in the elder law and estate planning sections practicing in this area understand this and are advocates for the protected person as well as their families.

Rather than continue with the amended SB 528, it would be better use of resources to address the lack of funding for courts in general and specifically the program that requires court appointed attorneys in any protected proceeding where the respondent/protected person files an objection. Further, if the proponents are concerned about the current protections and requirements under ORS 125, a committee of all stakeholders should be formed by the Oregon legislature to address those concerns and provide input to develop more thoughtful revisions.

I respectfully request that you oppose this amended bill and consider more appropriate options to address all stakeholders' concerns.

Sincerely,

Darin Dooley  
Attorney at Law