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March 5, 2025

SB 1029

Chair Gelser Bloun, members of the committee:

My name is Darin Dooley. I am a lawyer in private practice at Draneas Huglin Dooley LLC focusing on Elder Law and Estate Planning and Administration, and I am writing in support of SB 1029. I am a past Chair of the Elder Law section of the Oregon State Bar and was a long time member of the Elder Law section executive committee until December 31, 2024. As an Elder Law and Estate Planning Attorney, I help clients with a variety of issues including long term care planning. Most of my clients cannot pay privately for long term care for any length of time. They need to qualify for Long term Services & Supports paid for by Medicaid.

In general, you cannot qualify for the Medicaid resource limits by transferring resources for less than fair market value. There are some exceptions to this rule, including the transfer of a Medicaid recipient's home to a care giving child under OAR 461-140-0242(3).

I have recent experience where the Oregon Department of Human Services (ODHS), Estate Administration Unit (EAU), sued to revoke the transfer of a parent's home to a care giving child for the purpose of seeking estate recovery. I had assisted the parent's Conservator in obtaining court approval of this allowable transfer to the care giving child who met all the requirements under the administrative rule and had cared for the parent in parent's home so the parent did not have to go into more expensive community based care. There is good public policy behind this exception to the transfer of assets by a Medicaid recipient. The child is using their sweat equity in providing care to the parent to be able to receive the parent's home. It allows the parent to remain at home, which most of us would want for ourselves, and reduces the amount the State of Oregon pays for care for a Medicaid recipient.

After the Medicaid recipient died, I filed a final account in the conservatorship and provided notice to ODHS EAU. ODHS EAU used the Oregon Department of Justice (DOJ) to file an objection to the Conservator's final account, to set aside the transfer of the home, and filed a separate civil suit against the care giving child who had received the home.

This was clearly done for the purpose of returning the home to the parent / Medicaid recipient's name so that estate recovery for care paid for by ODHS could attach to the home. My client

decided to settle with DOJ out of frustration, fear, and uncertainty over the length and expense of litigation to defend the actions of the Conservator and the Court's decision.

ODHS has taken an extreme position on this allowable transfer and SB 1029 seeks to provide clarification on the allowable transfer and stop the State from continuing to seek estate recovery from the recipient of the home. I urge you to support this important bill and would be happy to answer any questions.

Respectfully Submitted,



Darin Dooley
Attorney at Law