

1 A MEMORIAL

2 REQUESTING THE OFFICE OF GUARDIANSHIP TO CONVENE A FOCUSED
3 WORKING GROUP TO DEVELOP SPECIFIC LEGISLATION TO CHANGE THE
4 TREATMENT GUARDIAN PROVISIONS OF THE MENTAL HEALTH AND
5 DEVELOPMENTAL DISABILITIES CODE, TAKING THE FINDINGS AND
6 DISCUSSION OF THE HOUSE MEMORIAL 45 TASK FORCE REPORT INTO
7 CONSIDERATION.

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9 WHEREAS, a treatment guardian is a person temporarily
10 appointed by a court to make mental health treatment
11 decisions on behalf of a person who the court finds, by clear
12 and convincing evidence, is not capable of making the
13 person's own treatment decisions or of giving informed
14 consent to treatment; and

15 WHEREAS, access to treatment guardians in outpatient
16 settings, including the process to obtain one, is not as
17 commonly understood as the use of treatment guardians during
18 a person's hospitalization; and

19 WHEREAS, House Memorial 45 of the first session of the
20 fiftieth legislature requested the interagency behavioral
21 health purchasing collaborative to convene a
22 multidisciplinary task force that included a variety of
23 public and private stakeholders to study New Mexico's law on
24 treatment guardianship; and

25 WHEREAS, the House Memorial 45 task force recommended

1 increasing the accessibility and accountability of treatment
2 guardians throughout the state in outpatient settings and
3 increasing public information about how to use the treatment
4 guardian process but did not reach consensus on specific
5 legislation to implement these recommendations; and

6 WHEREAS, the House Memorial 45 task force also
7 recommended that legislation be crafted to transfer
8 responsibilities currently held by district attorneys for
9 treatment guardianship proceedings to the office of the
10 attorney general;

11 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE
12 STATE OF NEW MEXICO that the office of guardianship of the
13 developmental disabilities planning council be requested to
14 convene, no later than July 1, 2013, a focused working group
15 facilitated by a not-for-profit health care organization that
16 leads the aligning forces for quality initiative in
17 Albuquerque to recommend specific legislative changes to the
18 treatment guardian provisions of the Mental Health and
19 Developmental Disabilities Code; and

20 BE IT FURTHER RESOLVED that, in forming its recommended
21 specific legislative changes to the treatment guardian
22 provisions of the Mental Health and Developmental
23 Disabilities Code, the focused working group take into
24 consideration the findings and discussion of treatment
25 guardianship set forth on pages eleven through fourteen of

1 the December 2012 House Memorial 45 task force report; and

2 BE IT FURTHER RESOLVED that the focused working group
3 include a representative from each of the office of the
4 attorney general, the administrative office of the district
5 attorneys, the public defender department, the office of
6 guardianship of the developmental disabilities planning
7 council, the administrative office of the courts, the
8 department of health, the human services department, the
9 national alliance on mental illness New Mexico and one
10 individual living with mental illness who is a member of the
11 behavioral health planning council; and

12 BE IT FURTHER RESOLVED that the focused working group be
13 requested to report its specific legislative recommendations
14 to the legislative health and human services committee and to
15 the appropriate interim legislative committee that studies
16 courts and corrections issues no later than October 30, 2013;
17 and

18 BE IT FURTHER RESOLVED that copies of this memorial be
19 transmitted to the secretary of health, the secretary of human
20 services, the chief public defender, the director of the
21 administrative office of the courts, the director of the
22 administrative office of the district attorneys, the executive
23 director of the New Mexico association of counties, the
24 secretary of public safety, the secretary of aging and
25 long-term services, the manager of the office of guardianship

1 of the developmental disabilities planning council and the
2 co-chairs of the New Mexico supreme court commission on access
3 to justice. _____

SM 102
Page 4

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