

A MEMORIAL

REQUESTING THAT THE DEVELOPMENTAL DISABILITIES PLANNING COUNCIL CONVENE A TASK FORCE TO REVIEW THE PROCESSES BY WHICH GUARDIANS OF ADULTS ARE APPOINTED, TRAINED, SUPERVISED AND REVIEWED.

WHEREAS, the appointment of a guardian pursuant to the Uniform Probate Code for an adult with diminished capacity limits or eliminates the legal authority of the adult to make decisions and control the adult's own life; and

WHEREAS, appointment of plenary guardians, with authority to control all aspects of a ward's life, is still the typical outcome of guardianship petitions to the district courts, despite the preference in New Mexico law for limited guardianships that would maximize the autonomy and authority of adults with limited capacity; and

WHEREAS, recent studies have demonstrated that there is very little effective oversight of guardianship arrangements once they have been established, including one study that showed that only twelve percent of private guardians have filed required annual reports; and

WHEREAS, there is no systematic process through which existing guardianship orders and arrangements are reviewed to determine whether such arrangements are still needed or appropriate, even though some existing orders are twenty years

old or more and the ward's circumstances or capacity may have changed;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NEW MEXICO that the developmental disabilities planning council be directed to convene a task force to review the processes by which guardians of adults under the Uniform Probate Code are appointed, trained, supervised and reviewed; and

BE IT FURTHER RESOLVED that the task force be composed of persons who have sufficient authority to engage in policy planning and implementation on behalf of the departments or agencies they represent. The participants shall include representatives of the developmental disabilities planning council, the administrative office of the courts, the adult protective services division of the aging and long-term services department, the department of health, the attorney general's office, other appropriate state agencies, New Mexico district court judges, the New Mexico guardianship association, the protection and advocacy system, the senior citizens law office, individual and corporate guardians, elders, individuals with disabilities, advocates or other representatives of elders or adults with disabilities and other interested individuals; and

BE IT FURTHER RESOLVED that representatives of state agencies constitute less than fifty percent of the membership

of the task force; and

BE IT FURTHER RESOLVED that the task force consider potential statutory or regulatory changes, training requirements, identification and dissemination of best practices and other recommendations that would improve New Mexico's system for qualification, appointment and oversight of guardians of adults with limited capacity; and

BE IT FURTHER RESOLVED that the task force present its recommendations no later than October 31, 2008 to the interim legislative health and human services committee and the courts, corrections and justice interim committee; and

BE IT FURTHER RESOLVED that copies of this memorial be transmitted to the developmental disabilities planning council.