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On Behalf Of: Martin and Richards PLLC
Committee: Senate Committee On Judiciary
Measure: SB528

To the Senate Committee on Judiciary;

Our firm recently received information regarding the proposed bill, SB528. We believe this bill intends to change the protected proceeding process in Oregon as to create a significant burden on Oregon probate courts, protected persons under guardianship/conservatorship, lay parties and attorneys that serve this extremely vulnerable population. Our practice has been serving in this area of law for both Oregon and Washington more than 13 years. We believe both states have robust monitoring programs and existing measures in place for accountability on all sides. We are opposed to this current proposal and are unsure of the necessity of the changes being proposed.

Specifically, we have many concerns but will highlight a few here. The fiscal impact of re-petitioning for guardianship every five years will bury the already overburdened probate court system as well as Oregon's hard-working guardians, protected persons and their families. The Court will have to increase their budgets for handling additional pleadings that will be required. Staff and judges will need to increase and will need the addition of more court visitors. Re-pleading what will essentially be a new guardianship/conservatorship every five years is an undue burden on all involved. Most families seeking guardianship barely have the funds to initially establish the guardianship. Legal aid doesn't help with these types of cases and there are no self-help forms available. We believe enforcement of this proposed legislation will result in people refusing to act as protectors, leaving many vulnerable Oregonians without desperately needed assistance.

Some of our colleagues have compiled a list of other concerns so I am sharing those here.

CONCERNS FROM THOSE OPPOSED TO SB528

- the impact this will have on the costs of guardianships and conservatorships (but especially guardianships where often none of the parties have the resources to support these costs)
- the impact this will have on the willingness of parties to serve as guardians and the related harms that will come to persons in need of guardians for whom no one is willing to serve
- the reduction in the willingness and availability of professional fiduciaries to

serve as guardians

- the likelihood of this trapping more people in hospitals who can't be discharged without a guardian
- the lack of any legal structure to implement "supported decision making"
- the requirement that notices talk about an underfunded and failing program to appoint attorneys for respondents that is currently only operational in a handful of counties
- the strain created on the already over-taxed pool of court visitors
- the logistical issues and burden added to the courts in counties that currently have parties secure the services of a court visitor from the court-approved list
- the shifting of so much burden and cost onto individuals and their families when systems, like DRO, that are meant to help them are throwing their hands up due to funding issues
- the over-limitation and burdening of guardians
- the creation of additional burdens to end-of-life care decisions that don't even exist for individuals not adjudicated to be incapacitated
- the logistical issues, costs, and psychological impacts on all parties associated with requiring the guardian's report to be reviewed by the protected person, especially with the added language about adding restrictions on the guardian's authority

These are just a few things our firm and other members of the Oregon bar who practice in this area of the law are concerned with. We ask that you reconsider these proposed changes. For all the reasons listed above, we respectfully oppose SB528.