My name is Nathan Parker. I am an attorney and professional fiduciary in Salem. 75% of my practice is devoted to professional fiduciary work where I serve as guardian, conservator, power of attorney, health care representative, and various other roles. I hope to provide additional perspective as someone who works closely with Protected Persons.

I have read a lot of testimony from attorneys who are concerned that individuals and professionals will be less willing to serve as guardian if this bill is passed. I can confirm that is true. If SB 528 bill were to pass, I can confidently say that I would only take on a guardianship case under very specific circumstances. I certainly wouldn't take on any guardianship that had any chance to last beyond five years.

Years ago, as a new professional guardian, I was paid for very few of my guardianship cases. The majority of my wards were indigent and on Medicaid. I made sure to use the very little money the government allotted to them for personal and incidental funds to pay for incidentals and, hopefully, entertainment or outings. There was no money left to pay me.

If I was required to file a motion to extend the guardianship every five years, I would have paid any fees associated with that motion out-of-pocket, including the court visitor fee. This week I sent a check to a court visitor for one report. The bill was over $500.00. Under SB 528, I would be paying that out of my pocket. I am not willing to do that, and I can't imagine many professional fiduciaries would.

There is an ever-growing need for individuals to have guardians and there is already a shortage of individuals willing to serve as guardian. If this bill passes, the supply of willing guardians will dwindle, while demand for guardians continues to increase.

There is much ado in SB 528 about Supported Decision Making. The bill fails to recognize that there are three standards for guardianship Decision Making. The National Guardianship Association (NGA) has set those standards for professional guardians to follow. Those standards are:

Substituted Judgment

Best Interest

Supported Decision Making

1. The NGA standard is that the Guardian has to determine the best method of decision-making for the ward
    a. Substituted Judgment
        i. Decision making that substitutes the decision the person would have made when the person had capacity
        ii. Promotes the underlying values of self-determination and well-being of the person
        iii. Not use when following the person's wishes would cause substantial harm to the person or when the guardian cannot establish the person's goals, needs, and preferences even with support.
    b. Best Interest
        i. Should be only used when the person has never had capacity, when the person's goals, needs and preferences cannot be ascertained even with

support, or when the person's wishes would cause substantial harm to the person

ii. Guardian must consider the least intrusive, most normalizing, and least restrictive court of action to provide for the person's needs

iii. Guardian must consider

1. Information received from professionals
2. Information the guardian believes the person would have considered if the person could act
3. Other factors a reasonable person would have considered, including the consequences of others

c. Supported Decision Making

i. A series of relationships, practices, arrangements, and agreements, of more or less formality and intensity, designed to assist an individual with a disability to make and communicate decisions about the individual's life

What this bill fails to take into account is that there are many, many individuals under guardianship who do not fall under the category of having a Developmental Disability or other disability where the individual retains some capacity to make or participate in decision-making. The majority of my clients are elderly individuals who suffer from dementia, stroke, or other diseases that come with age, all of which can take away their ability to communicate, reason, or understand what is going on around them. There is no way to use supported decision-making with these individuals, yet SB 528 seeks to codify supported decision making as the rule, rather than giving the guardian the ability to determine the best decision-making method. What is worse is that the cost to overcome this presumption will be born by the very people this bill purports to protect.

There are other provisions in the proposed legislation that make no sense. For example:

Section 20 line 12 states that the guardian is not authorized to withhold or withdraw life sustaining procedures unless the guardian is the health care representative under an advanced directive. What? The vast majority of the individuals I serve do not have a health care directive and do not have the capacity to create one.

On December 25, 2016, I got a call in the morning from a doctor at the hospital. My ward had been rushed to the hospital the night before. He was diagnosed with gastric volvulus and his health had taken a turn for the worse overnight and the doctor needed to know if he should be placed on life support and taken to surgery. In the doctor's opinion, surgery might prolong my ward's life for a short time, but his body would likely not handle the surgery well and he would suffer until he died. My ward did not have an advanced directive.

If this bill were in effect at the time, I would have had to inform the doctor that I could not make end of life decisions. My ward's life would have been prolonged, and he would have been in pain until he died.

I recently read a book by John Grisham, titled *Camino Winds*. It is about a corrupt long-term care corporation that would drug its dying residents in order to prolong their life so the corporation could continue to collect a monthly check to "care" for them. I thought such an outlandish concept was a work of fiction, but after reading this portion of the bill, I am not so sure anymore.

Similarly, the requirements that the guardian discuss the annual guardian's report and any potential change in placement with the protected person make little sense. I have been appointed guardian in at least 85 cases over the last seven years and I can only think of two where I could have had a conversation with the protected person about the guardian's report. Ask any elderly person where they want to live, and 99 times out of 100, the answer will be, I want to die in my home. Unfortunately, that is not realistic in most cases.

Consider this wonderful lady:

https://www.youtube.com/watch?v=RviXU4teimw

I don't know if this lovely lady has a guardian, but if she did, imagine the difficulty that guardian would have implementing the requirements of this bill.

Even if you have never been someone's guardian, surely you have all been impacted within your own families or social circles by someone who suffers from some form of advanced dementia or loss of capacity. Think about what it would be like to have these kinds of conversations with someone who can't remember who you are and who certainly can't understand the concept of a guardian. I already have to go offer to provide oral notice of the appointment of guardian to a comatose or severely demented person. Don't make it worse.

Oregon's guardianship system is not perfect. This bill will not make it better. I respectfully request you reject Senate Bill 528.