

Testimony of Salli Pung, State Long Term Care Ombudsman
House Judiciary Committee
House Bills 4909-4912
September 27, 2023

Good morning, Chair Breen and members of the committee. I am Salli Pung, the State Long Term Care Ombudsman. The Michigan Long Term Care Ombudsman Program which I direct, seeks to improve the quality of care and life for residents who live in nursing homes, homes for the aged, and adult foster care homes. I am pleased to be here today because many of the residents we serve are subject to guardianship.

Guardians often are granted the power and responsibility to make all personal, medical, and financial decisions for another person. Some residents report being well served by their guardian which we are very grateful for, but many residents are not as fortunate and some report they have never even met their guardian.

I would like to share a few examples of issues reported to the ombudsman program related to guardianship petitions.

1. Several residents were facing guardianship petition because they had an outstanding bill with the nursing home. Our ombudsman intervened and was able to help resolve all cases without a single guardianship petition being filed. Guardianship should not be used for the mere purpose of debt collection. The New York legislature is considering legislation that would bar a nursing home from petitioning purely to collect debt.
2. Another concern is when providers have indicated they anticipate the person's capacity might diminish in the future, prompting the petition for guardianship. No person with capacity should be subject to a guardianship petition simply because they may have diminished capacity in the future. How frightening for a fully capable person to face guardianship which too often results in the devastating loss of autonomy, humiliation, despair and even the negative consequences to physical and mental health.
3. We know of guardianship petitions being sought as a resolution to a resident's "poor decision" making. Each of us has the right to take risks and make poor decisions. Guardianship should only be based on the individual's capacity and not on poor decision making.

I'd like to speak about the resident's experience under full guardianship. Take a moment to live in their shoes.

1. Imagine people saying, "They are not their own person anymore" when referring to you. This is the label that comes with having a guardian.
2. Hearing "You cannot live in the community again. This is now your home." Guardians may insist on facility placement because it is too time consuming and more expensive to manage a person in the community.
3. You are no longer allowed to make decisions about simple, daily tasks. Imagine not being allowed to go outside to enjoy the fresh air and sunshine, not being able to see your family members or long-time friends, not going to church service where you have attended since you were a child, or not being allowed to enjoy a piece of cake during the monthly birthday celebration. The list of restrictions goes on and on, yet the intent of a guardian is not to be restrictive, but to be supportive of the person subject to the guardianship.

Because ombudsmen know the incredible difference it makes for residents to have a capable, caring, and knowledgeable guardian and to only have a guardian appointed when a person's decision-making capacity is diminished, I am happy to support this legislative package because we can do better.

Thank you.