

1 SENATE JOINT MEMORIAL 58

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

4 Mary Kay Papen

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10 A JOINT MEMORIAL

11 REQUESTING THE OFFICE OF GUARDIANSHIP TO CONVENE A FOCUSED
12 WORKING GROUP TO DEVELOP SPECIFIC LEGISLATION TO CHANGE THE
13 TREATMENT GUARDIAN PROVISIONS OF THE MENTAL HEALTH AND
14 DEVELOPMENTAL DISABILITIES CODE, TAKING THE FINDINGS AND
15 DISCUSSION OF THE HOUSE MEMORIAL 45 TASK FORCE REPORT INTO
16 CONSIDERATION.

17
18 WHEREAS, a treatment guardian is a person temporarily
19 appointed by a court to make mental health treatment decisions
20 on behalf of a person who the court finds, by clear and
21 convincing evidence, is not capable of making the person's own
22 treatment decisions or of giving informed consent to treatment;
23 and

24 WHEREAS, access to treatment guardians in outpatient
25 settings, including the process to obtain one, is not as

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1 commonly understood as the use of treatment guardians during a
2 person's hospitalization; and

3 WHEREAS, House Memorial 45 of the first session of the
4 fiftieth legislature requested the interagency behavioral
5 health purchasing collaborative to convene a multidisciplinary
6 task force that included a variety of public and private
7 stakeholders to study New Mexico's law on treatment
8 guardianship; and

9 WHEREAS, the House Memorial 45 task force recommended
10 increasing the accessibility and accountability of treatment
11 guardians throughout the state in outpatient settings and
12 increasing public information about how to use the treatment
13 guardian process but did not reach consensus on specific
14 legislation to implement these recommendations; and

15 WHEREAS, the House Memorial 45 task force also recommended
16 that legislation be crafted to transfer responsibilities
17 currently held by district attorneys for treatment guardianship
18 proceedings to the office of the attorney general;

19 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE
20 STATE OF NEW MEXICO that the office of guardianship of the
21 developmental disabilities planning council be requested to
22 convene, no later than July 1, 2013, a focused working group
23 facilitated by a not-for-profit health care organization that
24 leads the aligning forces for quality initiative in Albuquerque
25 to recommend specific legislative changes to the treatment

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1 guardian provisions of the Mental Health and Developmental
2 Disabilities Code; and

3 BE IT FURTHER RESOLVED that, in forming its recommended
4 specific legislative changes to the treatment guardian
5 provisions of the Mental Health and Developmental Disabilities
6 Code, the focused working group take into consideration the
7 findings and discussion of treatment guardianship set forth on
8 pages eleven through fourteen of the December 2012 House
9 Memorial 45 task force report; and

10 BE IT FURTHER RESOLVED that the focused working group
11 include a representative from each of the office of the
12 attorney general, the administrative office of the district
13 attorneys, the public defender department, the office of
14 guardianship of the developmental disabilities planning
15 council, the administrative office of the courts, the
16 department of health, the national alliance on mental illness
17 New Mexico and one individual living with mental illness who is
18 a member of the behavioral health planning council; and

19 BE IT FURTHER RESOLVED that the focused working group be
20 requested to report its specific legislative recommendations to
21 the legislative health and human services committee and to the
22 appropriate interim legislative committee that studies courts
23 and corrections issues no later than October 30, 2013; and

24 BE IT FURTHER RESOLVED that copies of this memorial be
25 transmitted to the secretary of health, the chief public

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1 defender, the director of the administrative office of the
2 courts, the director of the administrative office of the
3 district attorneys, the executive director of the New Mexico
4 association of counties, the secretary of public safety, the
5 secretary of aging and long-term services, the manager of the
6 office of guardianship of the developmental disabilities
7 planning council and the co-chairs of the New Mexico supreme
8 court commission on access to justice.

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