

alzheimer's association®

LATE TESTIMONY

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Testimony before the House Finance Committee

Representative Marcus R. Oshiro, Chair
Representative Marilyn B. Lee, Vice Chair

H.B. 2248 – Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act.

February 25, 2010, 11:00 am

by **Elizabeth Stevenson**
Executive Director and CEO
Alzheimer's Association, Aloha Chapter

Chair Oshiro and members of the Finance Committee:

The Alzheimer's Association, Aloha Chapter and our national organization strongly support HB2248 which will establish a uniform set of rules for determining jurisdiction, and thus, simplify the process for determining jurisdiction between multiple states in adult guardianship cases. Our Chapter serves the State of Hawaii, and we have offices on Oahu, Maui, Kauai and the island of Hawaii.

Due to the impact of dementia on a person's ability to make decisions and in the absence of other advanced directives, people with Alzheimer's disease may need the assistance of a guardian. Jurisdiction in adult guardianship cases often becomes complicated because multiple states, each with its own adult guardianship system, may have an interest in the case. Consequently, it may be unclear which state court has jurisdiction to decide the guardianship issue.

The Aloha Chapter has several firsthand accounts of how the lack of uniform adult guardianship across state lines negatively impacts some of the most vulnerable members of the community; persons with Alzheimer's disease. Attached are examples from throughout the state of cases that the Chapter deals with not infrequently. (Please see attachment A.)

The situations described on the attachment demonstrate that adult guardianship issues can frequently intersect with the needs of people with Alzheimer's disease and their families. Not surprisingly, complicated adult guardianship issues are often cultivated in situations where people failed to engage in comprehensive end of life planning.

As the Alzheimer's Association works towards increasing awareness of the need for advanced planning, advocating for a more workable adult guardianship system is important. The current systems are barriers to addressing end of life issues, in part, due to the disorganized array of state adult guardianship laws and the lack of communication between states. Simplifying one aspect of the adult guardianship system by enacting H.B. 2248, the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act may encourage more states to dedicate increased resources to meaningful end of life systems change.

Thank you for this opportunity to submit written testimony.

Attachment A

Hawaii

Frank lives in New York and has guardianship over his sister Betsy who has Alzheimer's disease. Betsy lived in her own home in Florida, assisted by an in-home caregiver that Frank employed. Frank would regularly travel to Florida to assist his sister and oversee her care. Betsy's son Jim and daughter-in-law live on the island of Hawaii and decided it would be good for Betsy to move in with them. Jim travels frequently for business and the idea was that when he is traveling, Betsy's daughter-in-law would look after her. Betsy was amenable to the move, but Frank disagreed. Last fall, Jim moved Betsy from her home in Florida and brought her to live with them in Kona. The move turned out to be very upsetting to Betsy, and with Jim gone most of the time, she is often disoriented and doesn't know who the daughter-in-law is or why she is in a strange place. Now, Betsy calls Frank several times a day in tears, unhappy and confused. Frank has initiated guardianship proceedings in Hawaii, but feels powerless to help his sister in Hawaii from his home in New York as neither state recognizes his Florida guardianship.

Kauai

Kate cares for her mother who lives in California and has been living with Alzheimer's disease for several years. Kate has been appointed as her mother's legal guardian in California. In 2008 and 2009 Kate's mother had to undergo a series of operations requiring Kate to travel to California to provide support, and to help her mother make important medical decisions. In December 2009, Kate and her husband decided it was time to move her mother into an assisted living facility. She and her husband had to make the tough decision to move to the mainland to be in closer proximity, and also to be available for any urgent medical care her mother may require. Their decision to move to the mainland instead of having their mother join them in Kauai was partly due to the fact that her guardianship was not transferable to Hawaii.

Maui

Mary's mother lives in North Carolina and Mary has legal guardianship in North Carolina. She must travel to North Carolina three or four times a year to tend to her mother's affairs. Mary recently moved to Maui (in 2008) and is finding it increasingly difficult, as well as terribly expensive to make the trips. Her husband was in agreement with the situation in principle, but now, after facing the reality is urging Mary to give up this arrangement. Mary states this situation is "driving a wedge" between her and her husband, but she sees no alternative.

Oahu

Joe and Vicky are residents of Wyoming, but visit Hawaii every year, staying at their condo in Waikiki for several months each winter. Vicky has Alzheimer's disease and Joe is her primary caregiver. In December, just after Christmas, Joe had a heart attack and passed away unexpectedly. Becky, the couple's daughter, arrived to find that her mother had stopped taking her medication and is incapable of dealing with the death of her husband. Becky plans to bring her mother back with her to San Diego, but wanted to sell her parents condo first. She decided to initiate guardianship proceedings here in Hawaii. Neither Joe nor Vicky were permanent residents of Hawaii, so she has been advised to initiate proceedings in her own home state of California. Her initial inquiries to California have run into a road block because her mother has never lived in California. If Wyoming, Hawaii and California had a uniform adult guardianship and protective proceedings jurisdiction act, the courts could communicate with each other to help determine the best course of action for Becky who should be able to grieve for the loss of her father, but instead is tied up in legal issues trying to help her mother.