

Nancy T. Wimmer
Testimony - Pennsylvania Bill regarding
Standby Guardianship Act
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Thank you to the members of the House Judiciary Committee for allowing me to share my support for the House bill before you to establish as state law a means for cancer patients and others to designate a caretaker for their children. I am Nancy Wimmer - a cancer survivor who was diagnosed with non-Hodgkins lymphoma while I was in law school. When I was able to complete my legal studies, I established a non-profit organization, the **cancer Patient Legal Advocacy Network**, to provide free legal advocacy services to cancer patients in northeastern PA and in the Philadelphia area. Part of my treatment for cancer included a bone-marrow transplant, where I was required to be hospitalized in Baltimore, Maryland for four months. My children were five and nine years old at the time and my main concern, before I considered my own health needs, was for their well-being. I was fortunate that their father was an active participant in their lives and could assume the continuation of their care in my absence - many of my clients are not so fortunate and I would like to share two of their stories with you and show you the positive effect of this law.

Before I tell you about the peace of mind this law will give to terminally ill cancer patients, I will share with you that as a law student, I participated in the Families Affected by HIV clinical program at Temple University School of Law. During my time there, I assisted the program director in drafting sample documents to submit to the Philadelphia courts on Standby Guardianship. We recommended language and began preparing and presenting these documents to the courts as non-binding recommendations for guardianship by other than a parent after the death of the custodial parent.

I want to tell you the stories of Mr. H., of Scranton and Ms. D., of Philadelphia, both are terminally ill cancer patients that have sought out my services in the last year.

Ms. D., the mother of an eleven year old, was diagnosed with lung cancer which metastasized to her brain. After undergoing surgery, chemotherapy and radiation treatment, she was entered into hospice care. Her son's father was killed before the child was born. Ms. D. owned her home, which she shared with her 21 year old son and her sister. She knew that she was dying and was concerned about the ongoing care of her younger son. She did not feel that his older brother was ready to assume responsibility for an 11 year old and this weighed heavily upon her. She had a close friend who had taken in her son on occasion when she was hospitalized but she preferred to name her own mother as the guardian for this minor. Ms. D. was relieved when I informed her that we could execute a document that would be presented to the court to uphold her wishes. As she drew closer to death, she had episodes of incapacity; her mother moved into the house and assumed the role of caregiver to her daughter and her grandson. This was an easier transition for the whole family and gave my client the peace of mind that her son could stay in his own home and continue at his current neighborhood school where he was doing

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well. It also helped her 21 year old son to see that he would not have the burden of raising his younger brother as they both struggled with their mother's death.

When a cancer patient enters the end stages of the disease, as Ms. D. had, there are more and more areas of life over which they lose control. To know that one can designate a care giver as guardian of your children, during times when illness renders a parent incapable and after death, has a beneficial effect on the seriously ill person. It is an additional way that a dying person can feel that they are tying up the loose ends in their lives and like the evidentiary requirements for Advanced Directives for health care decisions, the Standby Guardianship law would clearly indicate the desires of the parent. The presumption that this is the best interest of the child will deter others from coming forward for conflicting reasons.

The situation of Mr. H. of Scranton is somewhat different. Mr. H. is a single parent of an eight year old daughter, whose mother's parental rights were terminated. The cancer treatment he receives, requires his hospitalization for a week at a time, every six weeks. His daughter stayed with a friend's family, where she could attend her school with the children of this family, for the first two rounds of his treatment. During the summer months the other family was not available and Mr. H. became increasingly upset about his daughter's future as his condition worsened. He discussed with his brother and sister-in-law, who are currently in the military, and out of the state, the long term plans for his daughter, and they agreed to become her named guardians. Once he had this in place he felt more comfortable to ask others to take physical custody of his daughter for the individual weeks when he was hospitalized. He was uncomfortable before this, to ask others, because in his mind, he assumed they would feel he was asking for more than was fair to ask. The plan is for his daughter to spend this summer with her aunt and uncle regardless of her father's condition. Without a Standby Guardianship law, each temporary caregiver feels overburdened for decision making for those times when the father is hospitalized and incapacitated. Mr. H. and his daughter need this law in place so that they and her temporary caregivers know that a long term plan has been made and that decisions for her care and well-being have been considered, that her uncle has authority on her behalf when her father is incapable.

With the safeguards of notification and rebuttable presumption as drafted into this bill, this legislation would give to seriously and terminally ill cancer patients and others, the peace of mind to know that their wishes for the best futures for their children are being upheld. There will not be any losers by enacting the Standby Guardianship law - the Courts, the children, and their very sick and dying parents can feel more secure in the decisions that are made. For Ms.D., Mr. H., all cancer patients, and others who are temporarily incapable of caring for their children, I strongly urge you to consider amending Title 23 and enacting the provisions of the Standby Guardianship Act.

Thank you once again for the opportunity to speak to your committee today.