



Maryland Developmental Disabilities Council

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Health & Government Operations Committee

March 3, 2020

HB 691: Health Occupations – Nurse Practitioners – Certifications of Competency and Incapacity

Position: Oppose

The Maryland Developmental Disabilities Council (DD Council) is an independent, public policy organization. The DD Council envisions a state where all people with developmental disabilities exercise control over their lives, reach their full potential, and lead healthy, fulfilling lives with enriching relationships. We join our colleagues at Disability Rights Maryland in opposition to HB691 for the reasons stated in their testimony and because **HB691 makes it easier for a person to be placed under guardianship.**

All adults, including people with disabilities, are entitled to make their own decisions. Some adults may need help making some decisions, but can still make others on their own. Other adults are not able to make decisions at all. Ideally, people are responsible for as many life decisions as possible, relying on others only for those decisions too big or complex for them to handle alone. **The most restrictive way to assist a person with decision-making is through guardianship.** Although guardianship is available to enable others to make decisions on behalf of people with disabilities, it should be used only as a last resort, after considering all of the options.

WHAT does this legislation do?

- HB 691 proposes adding nurse practitioners to this list of people that can sign a certificate of incompetency.
- However, as drafted, HB 691 does not require that a nurse practitioner have any specific specialization or training in capacity assessment to sign a certificate, meaning that a nurse practitioner with a specialization in dermatology would be able to sign this certificate. Not all nurse practitioners are trained to make determinations on person's competency and capacity.

WHAT are the negative consequences for people with disabilities?

- Guardianship results in the loss of a person's right to make decisions affecting their lives, which in turn can negatively impact their quality of life.
- Current law requires two certificates finding a person incompetent to make responsible decisions due to their disability. One of these certificates must be signed by a physician due to the significant liberty interest at stake. The other certificate may be signed by a physician, a licensed psychologist or a licensed certified, clinical social worker.
- **Because guardianships are so restrictive and because so many life decisions are made for a person under guardianship, limits should be placed on who can sign the certificates of incompetency. Yet, HB691 instead adds nurse practitioners to the list of professionals who can sign these certificates.**

If a guardian is appointed, people lose valuable rights. Therefore, the Council believes Maryland should look to reform guardianship laws to limit the use of guardianship, and ensure that only those with specialized knowledge in disability and competency matters are able to sign certificates of incompetency.

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