
New York State Coalition

Statement of Conditional Support: **A1350 (Weinstein) / S4083 (Golden)**

Requires the petitioner for appointment as the guardian for an incapacitated person to identify all other persons who may be able to manage the affairs of such incapacitated person; prohibits appointment solely for the purposes of bill collection or resolving a bill collection dispute.

The **Alzheimer's Association, New York State Coalition** advocates for the 390,000 New Yorkers with Alzheimer's disease and dementia, their caregivers, and all those facing Alzheimer's in New York State.

Financial exploitation of vulnerable adults is on the rise and this legislation is another step in the right direction to protect victims with dementia. The Alzheimer's Association advocates for advance care planning in all instances, but recognizes that in many cases, advance directives have not been executed or the designated agent may no longer be suited to make decisions for the person with Alzheimer's disease or dementia. In such cases, individuals with Alzheimer's disease or a related dementia who are incapable of managing his or her personal decisions or property may require assistance from a court appointed guardian. A guardian makes decisions on behalf of the cognitively impaired person; these decisions can be related to personal property, medical care, living arrangements and financial issues. While guardianship may be legally necessary, it is imperative that guardians are only seeking the best interest of the person, rather than have any self-interest, like debt collection. This bill prohibits use of Article 81S its use for debt collection.

The Coalition conditionally supports this legislation to prohibit nursing homes from bringing guardianship petitions for the primary purpose of resolving a debt dispute, except to allow filing of article 81s by nursing homes to allow for Medicaid planning. The bill seeks to ensure that nursing homes and other petitioners have exhausted all other options before seeking the appointment of a guardian and would close a loophole that permits a creditor to serve as guardian over an incapacitated individual when no one else is available to serve. The Coalition notes, however, that too often, family members and friends are not available to serve as guardians and a skilled nursing facility is absolutely the right guardian in said cases. This legislation acknowledges this caveat, and seems to have the best interest of a vulnerable resident at heart.

Guardianship is the last resort in managing a person's affairs, and should only be used when other alternatives and agents are not available or suitable. While management of Medicaid application may be necessary, the Coalition implores that a guardian be appointed only upon a showing that it is truly necessary to provide for the needs of the individual and that other alternatives are not available. The Coalition recommends including language that supports securing the opinion of a neutral party to verify no other party other than the petitioner is available or appropriate to serve as a guardian. **The Coalition conditionally supports passage of A1350 (Weinstein) / S4083 (Golden) with this inclusion to protect vulnerable New Yorkers from financial exploitation.**

About the Coalition

The Coalition is the leading statewide organization advocating for all New Yorkers affected by Alzheimer's disease and dementia. Our mission is to eliminate Alzheimer's disease through the advancement of research, to provide and enhance care and support for all affected and to reduce the risk of dementia through the promotion of brain health. In support of our mission and together with our seven statewide member chapters, we advance public policy, increase concern and awareness of Alzheimer's disease and the services available through the Alzheimer's Association, and provide and enhance care and support statewide.