

1 SENATE MEMORIAL 102

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

3 INTRODUCED BY

4 Mary Kay Papen

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10 A 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 SENATE OF THE STATE  
20 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 human services department, the  
17 national alliance on mental illness New Mexico and one  
18 individual living with mental illness who is a member of the  
19 behavioral health planning council; and

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

25 BE IT FURTHER RESOLVED that copies of this memorial be

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

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