



**TESTIMONY BEFORE THE
HOUSE JUDICIARY COMMITTEE**

House Bill 529: Estates and Trusts - Supported Decision Making

March 9, 2022

Written Testimony Only

POSITION: FAVORABLE

On behalf of the members of the Health Facilities Association of Maryland (HFAM), we appreciate the opportunity to express our support for House Bill 529. HFAM represents over 170 skilled nursing centers and assisted living communities in Maryland, as well as nearly 80 associate businesses that offer products and services to healthcare providers. Our skilled nursing members provide the majority of long-term and post-acute care to Marylanders in need.

We are pleased to support House Bill 529, with the understanding that the House bill will be amended to match the text of Senate Bill 559 as passed by the Senate, reflecting important clarifications to this proposed legislation.

HFAM endorses this legislation because it helps adults with decision making capacity to obtain the assistance of supporters who will help give effect to directions from the decision makers. This will help caregivers, including the dedicated staff of healthcare facilities such as those HFAM represents.

We offer this support with the understanding of the following legislative intent in adopting this bill.

- Because the authority of supporters is derived from the ability of adults to identify supporters and make their own decisions, supporters will not have the authority to act for an adult who lacks decision making capacity.
- Supporters will not make independent decisions for others; their authority is derived from and is only to act at the direction of a competent adult.
- Adults who wish to appoint decision makers who have authority that survives incapacity can still use durable powers of attorney and healthcare advance directives to appoint agents with such authority. Also, guardianships of person or property and surrogate decision makers under the Health Care Decisions Act will still have authority to act for adults who lack capacity and have not appointed an agent.
- The legislation authorizes the designation of more than one supporter. The potential for disagreements among supporters is mitigated because the supported decision making agreement can give direction. Moreover, if there is any uncertainty over the action of a supporter or the supporter that is inconsistent with direction an agent under a power of attorney or healthcare advance directive, the appointing adult still has capacity and decision making control and can always be consulted to give the final say over what should be done.

For these reasons, we respectfully request a favorable report from the Committee on House Bill 529.

Submitted by:

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