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Senator William Smith, Chair
Senator Jeff Waldstreicher, Vice Chair
Judicial Proceedings Committee
2 East
Miller Senate Office Building
Annapolis, Maryland 21401

Re: Favorable-SB 559 Estates and Trust-Supported Decision Making

Dear Senator Smith, Senator Waldstreicher and Members of the Judicial Proceedings Committee,

I am writing on behalf of the Brain Injury Association of Maryland (BIAMD) in support of SB 559. Through advocacy, education, and research partnerships, BIAMD has sought to improve the lives of Marylanders affected by brain injury. We are part of the no wrong door system for access to long-term care services and regularly responds to over 300 phone calls a month from individuals living with brain injury, family members, and professionals seeking information and assistance on how best to help. Our organization regularly provides information on supported decision making and other alternatives to guardianship when individuals and family members navigating the changes after a brain injury that impact decision making.

A brain injury can cause physical, cognitive, and emotional changes that may last a few days or weeks but can be life-long. The ongoing symptoms of brain injury can impact all domains of a person's life, resulting changes in roles and relationships, employment, and finances in addition to physical and mental health. The ripple effects can alter a person's sense of self as they navigate changes in their roles and routines. Maintaining self-determination, control, and autonomy through supported decision-making allows the individual to define how they want to move forward.

During the acute phase of recovery from a moderate to severe brain injury, rehabilitation providers utilize the surrogate decision maker law because the person may be in a coma or have limited ability to participate in decision making but family and health providers cannot project the person's needs in the coming days, weeks, or months as they are trying to navigate a very traumatic situation for all involved. The expectation, according to the Attorney General's office, is that while a surrogate decision maker is in place, decisions should be consistent with the person's wishes¹. Currently there is no clear gradual process for shifting decision making back to the person as they regain capacity during recovery. Implementing supported decision making can allow the process of shifting decision making back to the individual gradually with updates to supported decision-making agreements as the individual regains capacity to make increasing complex decisions with supports. Using this process allows them to avoid guardianship, which in our organization's experience, is difficult to terminate, even when those supporting a person see evidence that they want to make decisions consistent with the values and considerations that they did prior to their brain injury.

A person's frontal lobe that controls executive functions that critical to decision making. Due to its position in the front of the skull and anatomy of the skull itself it makes it the lobe that is most likely to be injured. Injury to the

frontal lobe can impact attention, memory, understanding and processing information and self-awareness. A person may need the assistance of supporters to gather information, understand or interpret information, understand the consequences of making their decision and implement their decisions. Putting a person centered, structured framework for considering important decisions may lead to better clinical outcomes for individuals. Using supported decision making can improve self-awareness, which is associated with better rehabilitation outcomesⁱⁱ.

We request that the Committee give a favorable report to HB559.

Thank you for your consideration of our position.

Sincerely,
Catherine Rinehart Mello
Brain Injury Association of Maryland
443-364-9856

ⁱ <https://www.marylandattorneygeneral.gov/Health%20Policy%20Documents/HCDASummary.pdf>

ⁱⁱ Robertson K, Schmitter-Edgecombe M. Self-awareness and traumatic brain injury outcome. *Brain Inj.* 2015;29(7-8):848-58. doi: 10.3109/02699052.2015.1005135. Epub 2015 Apr 27. PMID: 25915097; PMCID: PMC4769700.