

## STATEMENT OF CHAIRMAN GORDON H. SMITH

U.S. Senate Special Committee on Aging  
**“Exploitation of Seniors: America’s Ailing Guardianship System”**  
September 7, 2006

Good morning, and thank you all for attending this morning’s important hearing, “Exploitation of Seniors: America’s Ailing Guardianship System.”

I recently learned of an interstate guardianship dispute that has tied up the courts, conservators, attorneys, hospitals, police, ambulances, nursing homes, adult protective services, friends and family in three different states – all because a native New Yorker fell ill while at the Connecticut home of his daughter. The ensuing year long battle over his guardianship, which continues today, has cost thousands of dollars, torn apart the family, drained tax payer dollars and administrative resources, and illustrates how ill-equipped the courts are to handle such disputes.

Regrettably, this situation is far from unique. Horror stories abound in the press regarding the plundering of assets, physical neglect, and the indignity with which elderly wards have been treated by their guardians. As we have learned from the highly publicized Brooke Astor case, no matter your age, finances or social status, none of us in this room today are beyond potential abuse or neglect, and any one of us, at any time, could become incapacitated and in need of assistance.

We are here today because sadly, after 20 years of Congressional hearings on elder abuse, most state guardianship systems are still failing vulnerable seniors.

Every state in the country requires a license to practice medicine, law, or even drive. Unfortunately, the same cannot be said for guardians, who in most states remain largely unregulated and unsupervised. According to a recent LA Times series, there are approximately 500 professional conservators in California overseeing more than \$1.5 billion in assets, and these conservators are subject to less regulation than a hair dresser or guide dog trainer. Although states have made recent legislative strides to reform guardianship laws and ensure better oversight, experts feel there has been little progress when it comes to actual court practice.

What has become clear is that federal leadership is desperately needed. Senator Kohl and I, along with many members of the Aging Committee, are co-sponsors of the Elder Justice Act, a critical and necessary step in guardianship reform. The Act funds public education, data collection and training for law enforcement and elder care professionals. I urge my colleagues in the Senate and House to quickly pass this important legislation.

However, states also must step forward and provide courts with the necessary staff and resources. And individuals must plan ahead to ensure that someone they trust is in control of their financial and personal decision making, should help be needed.

This morning we will hear from guardianship experts, including Ira Salzman, an attorney in the Brooke Astor case, a long term care ombudsman, a probate judge, and the National Guardianship Association. I hope we all leave here today with a better understanding of the protections needed by the elderly to grow old with dignity, while also keeping their fundamental freedoms intact.

With that, I will turn to Senator Kohl for his opening remarks.