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Sectional Summary
HB 139
Guardians; Life-Sustaining Procedures

House Bill 139 would accomplish three things:

- First, it would give legal guardians of incapacitated adult wards the authority to consent on behalf of the ward to cease or withhold lifesaving medical procedures when those procedures will only prolong an agonizing dying process and offer no reasonable expectation of cure or relief from the illness being treated.

- Second, it would allow a guardian of an adult incapacitated ward to make a testamentary (that is, by will) appointment of a subsequent guardian for the ward if the current guardian should die.

- Third, a guardian would be able to name a successor guardian to take over guardianship of the ward should the guardian themself become incapacitated.

Section 1 amends AS 13.26.211 by adding a new subsection that allows the guardian of an incapacitated person to appoint by will a person to act as guardian for the ward if the current guardian dies. The subsection also states that the appointment of the new guardian takes effect when the appointee has given notice to the persons and in one of the manners described in AS 133.26.296 and files acceptance of the appointment in the court in which the will is probated.

Section 2 amends 13.26.281(a), which refers to the termination of guardianships, to add that the subsection is subject to subsection (c) in the same section.

Section 3 amends AS 13.26.281 by adding a new subsection—(c)—that allows a guardian of an incapacitated person, while having capacity, to name a person to become a successor guardian for the incapacitated person in the event that the guardian themself becomes incapacitated.
This subsection also notes that the person named by the guardian has priority as successor, even despite the categories of priority described in AS 13.26.311.

The subsection also states that the appointment of the successor guardian takes effect when the appointee has given notice to the persons and in one of the manners described in AS 133.26.296 and has accepted the appointment.

Section 4 amends AS 13.26.316(c)—which has to do with the general powers and duties of guardians—in two ways.

The first is a handful of "housekeeping" measures—substituting the word "assure" for "ensure" in four places where it appears in the section.

The second is the addition of a new subparagraph (8), which states that a guardian may make the decision to withdraw or withhold life-sustaining procedures from the ward if doing so is in the best interest of the ward. Any such decision must be made according to AS 13.52.045—which is addressed in Section 5 of the bill.

Section 5 amends AS 13.52.045, which pertains to the conditions under which life-sustaining procedures may be withdrawn or withheld, including that the ward mush have a qualifying condition as determined by the ward's primary physician and at least one other physician, if another is available. (A determination of permanent unconsciousness must include a consultation with a neurologist.)

In this section, "a guardian of an incapacitated person under AS 13.26" is added to those persons who may determine that life-sustaining procedures may be withheld or withdrawn from a patient if doing so would be consistent with the patient's best interests.