Office of Public Guardianship
Health Care Alternatives Subcommittee
AOC SeaTac Office, SeaTac Office Center
Friday, June 12, 2009 9:30 a.m. – 2:00 p.m.

Members Present:
David Armes
Jerry Fireman
David Lord
Mary Jo Magruder
David Maltman
Louise Ryan
Laird Pisto
Toby Olson (by telephone)

Members Absent:
Vickie Foster
Linda McClain (participation not confirmed)
Julie Peterson

Office of Public Guardianship Staff
Shirley Bondon, Manager
Kim Rood (Recorder)

Called to order by Shirley Bondon 9:30 a.m.

I. Introductions.
Subcommittee members introduced themselves.

II. Brief Review of May 7th Minutes.
Minutes of the May 7th meeting were approved.

III. Review of Research.

A. Consent Boards.

Loosely defined a Consent Board (also called Surrogate Decision Maker Committee) is a panel of volunteers from the community who convene to review specific cases where the patient is not able to consent to a routine medical procedure. The Consent Board evaluates if the patient needs a surrogate decision maker and if so then evaluates and recommends a course of treatment for the patient. In the Hierarchy of Decision Makers in Washington State – the Consent Board would be at the bottom of the list as a resort when no other legally authorized decision makers are available

Ideally, Consent Boards are comprised of three to five people, including one medical personnel (doctor, etc.), one layperson and one patient advocate. Family members may not serve as panel members. After a lengthy discussion, the committee reached consensus.

Consensus: The OPG proposal to the Supreme Court should include a recommendation to draft legislation to develop Consent Boards.

B) Guardianship Reform:

Although not an alternative to guardianship, comprehensive guardianship reform has the potential to reduce the need for guardianships.

1. Guardianship Support and Training. Currently few counties provide training for guardians. Providing information, assistance and training to guardians statewide should increase the quality of guardianship services. In addition, appropriate advance care planning may reduce the need for guardianships. To encourage appropriate advance care planning individuals need accurate, comprehensive and practical technical assistance on issues pertaining to substitute decision-making (guardianship, advance directives, representative payeeship, family consent and Powers of Attorney).
Consensus: **The OPG should be the centralized clearinghouse for information, assistance and support on advance care planning and guardianship.**

2. Statewide Guardianship Monitoring Program: Guardianship monitoring programs are essential components of guardianship oversight. The level of monitoring currently practiced ranges from almost no monitoring to very consistent monitoring. Monitoring models include programs similar to the Spokane and Snohomish county programs where volunteers visit incapacitated persons and file a report stating their conclusions and recommendations concerning the persons care or programs where the court partners with organizations that already use volunteers to provide services to incapacitated persons such as long term care ombudsman, to accomplish informal monitoring.
Consensus: A statewide monitoring program is necessary. The exact model should be determined later.

3. Statewide Title 11 Guardian ad litem (GAL) Training: Title 11 GALs greatly influence the courts decision to approve or deny petitions for guardianship. With this influence comes a huge responsibility. GALs need training and time to thoroughly investigate the need for guardianships. RCW 11.88.090 (4) (e) required DSHS to convene an advisory committee to develop a model GAL training curriculum and update the program every two years. DSHS contracts with the King County Bar Association for manual updates. The 2008 Title 11 GAL Manual indicates that the advisory committee has not convened since1997.
Consensus: Topic needs more discussion.

4. Professional Guardianship Services provided via Contract with the OPG. In cases of abuse, neglect or exploitation the Attorney General's Office will file a petition for guardianship on behalf of Adult Protective Services (APS) or Division of Developmental Disabilities (DDD). If the incapacitated person is eligible for participation a guardian can be paid from Medicaid funds. Under the current program, although paid from Medicaid funds the guardian is not accountable to DSHS and DSHS does not provide

supervision. Under the alternative reviewed, the OPG would contract with certified professional guardians to provide guardianship services to incapacitated persons who are eligible and receive Medicaid benefits. This has the potential to improve the quality of guardianship services provided and encourage more consistent and uniform practice.
Consensus: Topic needs more discussion.

C) Healthcare Advocates:
Healthcare Advocates could be used when a serious medical treatment or a change in accommodation is considered for a person over the age of 18 who lacks capacity to make the decision and has no family or friends who are willing to support that person in making their decisions. Serious medical treatment involves a new treatment, stopping treatment that has been initiated, or withholding treatment. A change in accommodation relates to moves to or from a hospital or care home.

Healthcare Advocates are independent of caregivers or services delivered to support the person. They work one on one with a person to ensure that the person feels as empowered as possible to take control of their decisions. Individuals who use a Healthcare Advocate may be people with significant barriers to communication associated with developmental disabilities, dementia, brain injury or mental illness. Additionally, Healthcare Advocates may be useful for people who are unconscious due to injury that temporarily lack capacity.
Consensus: A Health Care Advocate should serve on each Consent Board. The advocate will not make recommendations regarding the need for treatment, but will assist the person with diminished capacity with decision making.

D) Necessary Supplemental Advocate:
This item was tabled.

E) Power of Attorney (POA) and Durable Power of Attorney (DPOA). Although the power of attorney document can be a valuable tool, in the hands of someone dishonest it can be considered a “license to steal” due to the broad grant of authority given to an agent with minimal or no accountability. The Uniform Power of Attorney Act provides additional needed protection for vulnerable adults Advantages and disadvantages were discussed.
Consensus: The adoption of the Uniform Power of Attorney Act along with its form is recommended.
Consensus: The Office of Public Guardianship should develop standards for agents who serve as attorneys in fact, develop a program to provide attorneys in fact under contract with the OPG and oversee their training and service.

F) Pre-planning Resource: Examples of pre-planning include: Circles of Support, Transition Planning, Microboards, Person-Centered Planning, Self-Advocacy and Self-Determination. In developing alternatives to guardianship advocates urge the development and promotion of the use of accommodations and supports people need to make choices and decisions, to have their preferences honored and recognized, and to have their rights to self-determination protected. Education to people with disabilities, family members, educators, service providers, community members, health and legal

professionals about the supports above and the use of these in planning and/or service delivery changes the conversation. The need for guardianship is mitigated because the preferences of the individual are known and supported.

Definitions as follows:
Circles of Support are formed when a selected group of individuals agree to meet on a regular basis to assist the focus person to accomplish personal visions or goals. While getting and giving support is a critical component of the circle the real purpose of the circle is to take action.

Transition Planning is planning for the future and transition services should be comprised of a coordinated set of activities that is based upon an outcome-oriented process that promotes movement from school to post-school activities.

Microboards are formed when a small group of committed family and friends join together with a person who is vulnerable to create a non-profit organization. Together this small group of people addresses the person's planning and support needs in an empowering and customized fashion.

Person-Centered Planning involves the development of a “toolbox” of methods and resources that enable people with disability labels to choose their own pathways to success. The planners simply help them to figure out where they want to go and how best to get there.

Self-Advocacy is about people with disabilities advocating for themselves. It is about civil rights and supporting people in speaking up for themselves in order to bring about changes in policies, attitudes, and opportunities.

Self-Determination During the 1990's, notable proponents of self-determination such as the Robert Woods Johnson Foundation (RJWF), forged four governing principles that serve as the framework for self-advocates as they speak out across the country for the right to enjoy a life that is self-determined.

The Four Robert Wood Johnson Principles:

Freedom: the ability to plan a life with supports, rather than purchase a program.
Authority: the ability to control a certain sum of dollars to purchase supports.
Responsibility: accepting a role in the community through competitive employment, organizational affiliations, and general caring for others in the community and accountability for spending public dollars in life enhancing ways.
Support: through use of resources, arranging formal and informal supports to live within the community
Consensus: Wherever possible the principles embodied in person-centered planning, self determination, and self advocacy will be stressed, taught and utilized.

G) Protective Payee: A representative payee or sometimes called *protective payee* is an individual or organization that receives Social Security, and/or SSI payments veteran's benefits, civil service or Black Lung benefits or Temporary Disability Program for someone who cannot manage or direct the management of his/her money. These agencies generally look for family or friends to serve in a payee capacity. When friends and family are not able to serve as payee, Social Security looks for qualified organizations to serve as representative payee. The Social Security Administration has guides for organizational and individual payees and identifies best practices.
Consensus: The OPG should develop training for representative payees, and provide protective payee under contract with OPG

III. Next Steps.
Staff of the OPG will draft a proposal and send it to the Subcommittee members for their input sometime in July.

V. Schedule next meeting or phone conference.
The next meeting will be scheduled after completion of the draft proposal.

Meeting adjourned at 1:05 p.m.