

# Meeting Materials

## 1/14/2013



December 9, 2012

Honorable James Lawler, Chair  
Certified Professional Guardianship Board  
Lewis County Superior Court  
345 W Main Street, Floor 4  
Chehalis, WA 98532-0336

Dear Judge Lawler:

On behalf of Justice Susan J. Owens, Chair of the 2013 Annual Judicial Conference Planning Committee, you are invited to submit an Education Session Proposal form for the *55<sup>th</sup> Washington Judicial Conference*. The conference is tentatively scheduled for September 22 – 25, 2013; however, these dates may change due to unforeseen scheduling conflicts.

This request is for an educational proposal from your commission, committee, or group that meets the needs of all levels of court and provides thought-provoking, educational content.

For those on association education committees, it is important that we receive your input. If there were programs you were unable to bring to your spring programs, due to costs or space on the conference agenda, please submit them for review.

The enclosed form will be helpful as you consider various aspects of your proposal. Please complete as much of the form as possible, including any details about possible funding and what your group will sponsor (faculty costs, audiovisual costs, material costs). This information will be helpful to the Committee in determining the sessions to include in the Conference.

Please submit your Proposal Form(s) to me by **January 11, 2013**. The Committee will convene in early February to determine the educational programming for the Annual Conference and will advise you of their decision by the end of February.

If you have any questions or concerns, please do not hesitate to contact me at (360) 705-5280 or [jesse.walker@courts.wa.gov](mailto:jesse.walker@courts.wa.gov).

Sincerely,

Ms. Jesse B. Walker, Court Education Professional  
Court Education Services

JBW/dmd  
Attachment

cc: Ms. Shirley Bondon

**EDUCATION SESSION PROPOSAL FORM**

Due Date: February 28, 2013

<b>Proposed by:</b>		
<b>Type:</b> <input type="checkbox"/> Plenary <input type="checkbox"/> Choice	<b>Time:</b> <input type="checkbox"/> 60 Minutes <input type="checkbox"/> 90 Minutes <input type="checkbox"/> 120 Minutes <input type="checkbox"/> 180 Minutes <input type="checkbox"/> Other:	<b>Limit Class Size?</b> <input type="checkbox"/> Yes    How Many?: <input type="checkbox"/> No
<b>Target Audience</b>		
<b>Court Level:</b> <input type="checkbox"/> All Levels <input type="checkbox"/> Appellate <input type="checkbox"/> Superior <input type="checkbox"/> District <input type="checkbox"/> Municipal	<b>Job Type:</b> <input type="checkbox"/> Full-Time <input type="checkbox"/> Part-Time <input type="checkbox"/> Other:	<b>Career Level:</b> <input type="checkbox"/> All Judges <input type="checkbox"/> Senior Judges <input type="checkbox"/> Mid-Career Judges <input type="checkbox"/> New Judges <input type="checkbox"/> Retired
<b>Session Information</b>		
<i>Session Topic/Title:</i>		
<i>Session Description (articulating key issues to be presented):</i>		
<i>Session Objectives (Participants will be able to . . . ):</i>		
<b>Materials</b>		
<i>Are there materials for the session? (i.e., case law, rules, seminal law review articles, etc.) If so, please briefly describe:</i>		

## EDUCATION SESSION PROPOSAL FORM

### Faculty & Planning

*Recommended person(s) to be involved in planning:*

*Has any preparatory work been completed?*

*Recommended or Potential Faculty:*

### Funding

*Please estimate any expenses associated with this session:*

- Honorarium: \$
- Travel: \$
- Lodging: \$
- Audio Visual: \$
- Other: \$

*What expenses are you sponsoring?*

**National Guardianship Network Requests Proposals  
for Working Interdisciplinary Networks of Guardianship Stakeholders (WINGS)**

In 2011, the Third National Guardianship Summit recommended that states create Working Interdisciplinary Networks of Guardianship Stakeholders (WINGS) to advance adult guardianship reform.

With support from the State Justice Institute and the Albert and Elaine Borchard Foundation Center on Law and Aging, the National Guardianship Network (NGN) has invited the chief justice and state court administrator of each state to partner with community entities in establishing and maintaining such ongoing interdisciplinary problem-solving stakeholder networks.

A total of four states each will receive a \$7,000 incentive grant plus technical assistance from NGN experts to develop a WINGS group. Experience in these four demonstration states will be used to promote ongoing WINGS groups in other jurisdictions, and the selected states will gain high visibility nationally.

Applications are due by Thursday January 31, 2013. The court must partner with the State Unit on Aging under the Older Americans Act, the state Adult Protective Services office, and the federally-mandated state Protection & Advocacy agency or state Council on Developmental Disabilities. Applications that also include additional stakeholders will be favorably rated.

See example of the individualized cover letter and attached ***Request for Proposals*** sent to each chief justice and state court administrator at [http://www.americanbar.org/content/dam/aba/administrative/law\\_aging/2012\\_NGN\\_WING\\_project\\_Ltr\\_with\\_RFP\\_11-12.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/administrative/law_aging/2012_NGN_WING_project_Ltr_with_RFP_11-12.authcheckdam.pdf)

(The example is for New York, but each chief justice and state court administrator received the same personalized letter in hard copy, and it will be posted online on judicial sites as well.)

Now is the time for state units on aging, APS, Protection and Advocacy Agencies, bar associations, state guardianship associations, long-term care ombudsman programs and others to approach the court about partnering to establish WINGS in your state. Such partnerships will be the real engine driving reform.

Erica Wood  
ABA Commission on Law and Aging  
740 15th Street NW  
Washington DC 20005  
202-662-8693  
[erica.wood@americanbar.org](mailto:erica.wood@americanbar.org)  
[www.americanbar.org/aging](http://www.americanbar.org/aging)

# Conference of Chief Justices Conference of State Court Administrators

Government Relations Office  
111 2<sup>nd</sup> Street, NE  
Washington, DC 20002  
(866) 941-0229  
FAX: (202) 544-0978

## CCJ PRESIDENT

Honorable Myron T. Steele  
Supreme Court of Delaware  
57 The Green  
Dover, DE 19901  
(302) 739-4214  
(302) 739-2004 (fax)

## COSCA PRESIDENT

Donald D. Goodnow  
Director  
Administrative Office of the Courts  
Supreme Court of New Hampshire  
Two Charles Doe Drive  
Concord, NH 03301  
(603) 513-5401  
(603) 513-5454 (fax)

November 28, 2012

Honorable Barbara A. Madsen  
Chief Justice  
Supreme Court of Washington  
Temple of Justice  
415 12th Avenue, SW  
Olympia, WA 98504

Ms. Callie Dietz  
State Court Administrator  
Administrative Office of the Courts  
415 12th Avenue, SW  
Olympia, WA 98504

## **RE: Request for Proposals for Working Interdisciplinary Networks of Guardianship Stakeholders**

Dear Chief Justice Madsen and Ms. Dietz:

A mark of court excellence is how it works with its partners in the justice system and community on cases involving vulnerable individuals, such as the growing number of elders and those with disabilities who need decision-making support. Indeed the older population is expected to increase by 36% between 2010 and 2020, with an especially rapid rise in the 85+ group. Thus, in 2012, at the initiative of the CCJ/COSCA Elders and the Courts Committee, the Conference of Chief Justices and the Conference of State Court Administrators passed a resolution encouraging each state court system to review and consider implementation of the 2011 *Third National Guardianship Summit Standards and Recommendations* – including the development of “Working Interdisciplinary Networks of Guardianship Stakeholders” (WINGS).

In the attached Request for Proposals, the National Guardianship Network (NGN) invites the highest court in each state to take a leadership role in adult guardianship reform – and specifically in the creation of an ongoing WINGS group. Under the WINGS project, NGN will support the highest court in four states in partnering with key community stakeholders to assess the state’s system of guardianship and alternatives, address policy and practice issues, and begin to serve as an ongoing problem-solving mechanism. Courts selected for the WINGS project will:

- Receive a start-up mini-grant of \$7,000 toward the establishment of a state WINGS group – which can be applied toward convening meetings, commissioning research, conducting initial needs assessments and engaging in outreach;
- Receive at least one technical assistance visit by an NGN expert;

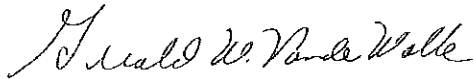
November 28, 2012

- Increase public trust and confidence in the role of the courts for at-risk individuals who may need help in decision-making;
- Be at the forefront of reform and gain national visibility as a model for other courts; and
- Advance CCJ and COSCA policy.

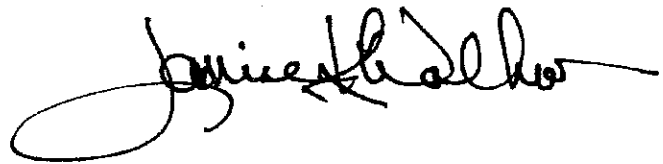
The National Guardianship Network, established in 2002, consists of 10 national organizations dedicated to effective adult guardianship law and practice, including the National Center for State Courts and the National College of Probate Judges.

The due date for applications is January 31, 2013. These grants will provide an opportunity to demonstrate the impact of leadership for ensuring that the growing number of elders, individuals with intellectual disabilities, and persons with mental illness or brain injuries receive the decision-making support they need.

Sincerely,



Hon. Gerald W. VandeWalle  
Co-Chair  
CCJ/COSCA Elders in the Court Committee



Ms. Janice K. Walker  
Co-Chair  
CCJ/COSCA Elders in the Court Committee

c: Ms. Kay Farley  
Ms. Brenda Williams  
Ms. Shelley Rockwell  
Ms. Brenda Uekert

Enclosure

# NGN

## National Guardianship Network

**Mary Joy Quinn**  
Chair

**Peter G. Wacht, CAE**  
Executive Director

Member Organizations  
**AARP**

**ABA Commission on Law  
and Aging**

**ABA Section of Real  
Property, Trust and Estate  
Law**

**Alzheimer's Association**  
**American College of Trust  
and Estate Counsel**

**Center for Guardianship  
Certification**

**National Academy of Elder  
Law Attorneys**

**National Center for State  
Courts**

**National College of Probate  
Judges**

**National Guardianship  
Association**

## Working Interdisciplinary Networks of Guardianship Stakeholders (WINGS) -- Request for Proposals from State Courts

**Purpose:** The aim of this Project is for the state's highest court to partner with community groups in establishing and maintaining "working interdisciplinary networks of guardianship stakeholders" (WINGS). Such a stakeholder network will: (1) identify strengths and weaknesses in the state's current system of adult guardianship and less restrictive decision-making options; (2) address key policy and practice issues; (3) engage in outreach, education and training; and (4) serve as an ongoing problem-solving mechanism to enhance the quality of care and quality of life of adults in or potentially in the guardianship and alternatives system.

**Eligible Applicants:** Eligible applicants are the highest court of each state, in collaboration with key community stakeholders. Stakeholders must include at minimum the State Unit on Aging under the Older Americans Act, the state Adult Protective Services office, and the federally-mandated state Protection & Advocacy agency or state Council on Developmental Disabilities. Applications that also include additional stakeholders such as the following will be favorably rated: state guardianship associations (including family guardian representation), regional VA offices, local Social Security offices, the public and private bar, the long-term care ombudsman, and aging & disability resource centers (ADRCs).

**Awards and Requirements:** A total of four states each will receive a \$7,000 incentive grant plus technical assistance from the National Guardianship Network. Experience in these four demonstration states will be used to promote ongoing WINGS groups in other jurisdictions; and the selected states will gain high visibility nationally. Each state will receive at least one in-person visit from NGN experts. States must agree to participate in at least two planning calls before the WINGS meeting and the NGN visit, and two calls following the visit. States that can contribute additional matching funds, including supporting the cost of a second NGN site visit, will be favorably rated.

**Sponsoring and Funding Entities:** The WINGS Project is sponsored by the National Guardianship Network (NGN), which includes ten national organizations dedicated to effective adult guardianship law and practice: AARP, the American Bar Association Commission on Law and Aging, the American Bar Association Section of Real Property, Trust and Estate Law, the Alzheimer's Association, the American College of Trust and Estate Counsel, the Center for Guardianship Certification, the National Academy of Elder Law Attorneys, the National Center for State Courts, the National College of Probate Judges, and the National Guardianship Association. The ABA Commission on Law and Aging is coordinating the WINGS Project on behalf of NGN.

Funding for the WINGS Project is provided by the State Justice Institute and the Borchard Center on Law and Aging (a program of the Albert and Elaine Borchard Foundation).



**Application Requirements:** Applications are due by *Thursday, January 31, 2013*. Applications must provide contact information and must address the questions below, which will serve as the basis for the evaluation. Applications should be no longer than three pages. Letters of commitment and collaboration from stakeholders are required. Applications should be emailed to: [Erica.wood@americanbar.org](mailto:Erica.wood@americanbar.org). For questions, contact Erica Wood at 202-662-8693.

## APPLICATION

**Name of court:**

**Court Project Point Person:**

Name  
Address  
Phone  
Email

**Name and Signature of State Chief Justice:**

Name  
Signature

**Principal Project Stakeholders and Contact Information**

- 1.
- 2.
- 3.

**Letters of Collaboration.** List letters of collaboration attached to the proposal.

**a. Statement of Need.** (30 of 100 evaluation points) Explain the need for WINGS in your state; outline key issues.

**b. Project Approach** (50 of 100 evaluation points)

- Describe any current collaborative efforts and how the project will build on or coordinate with such initiatives.
- How will the project establish and convene a WINGS group? What key tasks will be involved?
- How will the state WINGS group set working goals and objectives?
- What kinds of technical assistance will the project need from NGN?

**c. Budget** (20 of 100 evaluation points)

- How will the project use the \$7,000 incentive funds? Submit brief budget.
- In addition to the \$7,000 incentive grant, what other resources can be devoted to the project?
- How will the WINGS group be sustained beyond the grant period?

**Background:** In October 2011, the National Guardianship Network (NGN) convened the Third National Guardianship Summit, a landmark consensus conference funded by the State Justice Institute and the Borchard Center on Law and Aging (a program of the Albert and Elaine Borchard Foundation). The Summit focused on post-appointment guardian performance and decision-making across several key areas of practice. Its 93 participants crafted some 43 Standards for Guardians and 21 Recommendations for Action by courts, legislators and others. See [www.guardianshipsummit.org](http://www.guardianshipsummit.org).

A key Summit focus was the need for coordinated court-community partnerships to implement the Standards and Recommendations, and to drive changes that will affect the ways courts and guardian practice, as well as improve the lives of incapacitated people. A central thrust of the Summit Recommendations was that implementation and reform can best be accomplished by ongoing state multidisciplinary entities for problem-solving, trend identification, and action strategies.

States have lacked this kind of ongoing mechanism to continually evaluate “on the ground” guardian practice, to consistently target solutions for key problems, and to ensure a regular protocol of communication among stakeholders. All too often, state task forces gather, discuss needed legislative changes, and advocate effectively for those changes – only to disappear before the changes are fully implemented. Moreover, such state task forces may not always include the essential gamut of stakeholders to involve aging and disability advocates, family members, the mental health community, and guardianship professionals.

The Summit recommended that states create ongoing WINGS – Working Interdisciplinary Networks of Guardianship Stakeholders. Through the WINGS Project, NGN will work with states to establish such active stakeholder networks. NGN will select four states to receive technical assistance and a small incentive grant of \$7,000 toward the establishment of a state WINGS group. The incentive funds could be used, for instance, for commissioning research, conducting an initial needs assessment, convening meetings, and conducting outreach. NGN will work intensively with each grant-funded state to create a WINGS group, help the group define priorities for reform, and develop a sustainability plan. Examples of WINGS priorities, as set out in the Summit Recommendations, include: encouraging and supporting court monitoring and data collection; evaluating court procedures; expanding the use of technology, developing standardized forms and web resources; supporting education and cross-training; and promoting standards of conduct and best practices for guardians.

The creation of state WINGS is squarely in line with policy of the Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA). In 2010, COSCA adopted a policy paper (*The Demographic Imperative: Guardianships and Conservatorships*) that called for the creation of statewide multi-disciplinary task forces “to review the guardianship process, court rules, and statutes; to make and prioritize recommendations for improvement; and to implement best practices.” In 2012 CCJ and COSCA passed resolutions encouraging each state court system to review and consider implementation of the Summit Standards and Recommendations, including the development of WINGS.

The WINGS vision is that at the state level, key players will be involved on an ongoing basis to consider how adult guardianship is working in the state, what the priority needs and pressure points are, what solutions might work, and how to promote other less restrictive decision-making options. In the end, this may be the real engine driving reform.



**APPLICATION**

**Name of Court:** Washington State Supreme Court

**Court Project Point Person:**

Name Shirley Bondon Phone 360.705.5302  
Address PO Box 41170, Olympia, WA Email [shirley.bondon@courts.wa.gov](mailto:shirley.bondon@courts.wa.gov)  
98504

**Name and Signature of State Chief Justice:**

Name Chief Justice Barbara Madsen  
Signature *Barbara Madsen*

**Principal Project Stakeholders and Contact Information** (see Attachment A).

- |  |                                       |
|--|---------------------------------------|
| 1. Washington State Supreme Court      | 4. Adult Protective Services          |
| 2. Administrative Office of the Courts | 5. Disability Rights Washington       |
| 3. State Unit on Aging                 | 6. Developmental Disabilities Council |

**Letters of Collaboration.** List letters of collaboration attached to the proposal (see Attachment B).

- a. **Statement of Need.** (30 of 100 evaluation points) Explain the need for WINGS in your state; outline key issues.

Washington has been a leader in guardianship matters. However, despite a mature guardianship certification process established and supervised by a Guardianship Regulatory Board since 2001, which also developed and consistently updates guardianship standards of practice; one of the best certification training programs in the country; and a public guardianship program, there are some guardianships issues the state has not addressed effectively.

Today, in the absence of an emergency, obtaining treatment for vulnerable patients who lack decisional capacity to give informed consent to the recommended treatment; have not executed an advance directive; have no legally authorized surrogate, and no family or friends willing and able to assist in the decision-making process requires appointment of a guardian.

Guardianship can be costly, time-consuming and procedurally difficult. With respect to low income individuals, there is limited availability of public guardianship services. Guardianship may also unnecessarily restrict the individual's ability to make decisions in other areas of his or her life, as guardianship appointments are usually plenary and wrongly assume that an inability to consent to a recommended treatment equates to an inability to make other decisions. Thus, guardianship may not be the answer when informed consent is all that is needed.

In 2007, the Washington State Legislature took a progressive step to establish the Office of Public Guardianship (OPG) to promote the availability of guardianship services for individuals who need them and for whom the services may not otherwise be available. Despite best efforts, lack of funding continues to impede OPG's ability to provide services statewide. Addressing the need for a dedicated funding stream remains high on the list of priorities.

State statutes provide that anyone can file a petition for guardianship, but when low income, at-risk alleged incapacitated persons are involved, research informs that few individuals are willing to petition the court. Research indicates that often individuals and organizations will be unwilling to serve as petitioner, either due to a perceived conflict of interest, as is the case with nursing homes, an unwillingness to intercede, an inability to proceed pro se due to lack of confidence or understanding of the legal system, or a lack of resources to pay an attorney. Regardless of the reason, frequently a backlog of cases develops, in which at-risk individuals in need are not served, or in which preventable emergencies that could be avoided are not addressed.

Guardianship matters, unlike other cases, may remain open for years or even decades, particularly in cases involving individuals with developmental disabilities or mental disorders. Once incapacity has been determined, there are usually no "adversaries" to alert the court to potential problems. The absence of adversaries requires the court to be proactive to discover and respond to disputes and issues. The need to be proactive is even more important when the incapacitated person has no family or friends involved in his or her life. Yet, courts find it challenging to find the resources to effectively use guardianship and guardianship monitoring to identify, reduce and stop abuse and neglect of incapacitated individuals.

These unresolved issues comprise Washington's future challenges and the need for WINGS in Washington State. Past achievement, current energy and dedication positions Washington to successfully build on its foundation of industry leadership to develop a better guardianship system, including alternatives to guardianships, a dedicated funding stream for public guardianships, a mechanism to petition for guardianship when no one is willing and effective guardianship monitoring practices.

b. Project Approach (50 of 100 evaluation points).

The Chief Justice of the Supreme Court will appoint a five to ten member steering committee with representation from essential stakeholder groups charged with developing the governance structure, obtaining a community assessment and recruiting and involving effectively the greatest number of stakeholders from four key groups; (1) individuals who are affected by guardianship; (2) individuals who work with those affected by guardianship; (3) individuals with guardianship content knowledge; and (4) guardianship policy and procedure decision-makers.

Within approximately six months, the steering committee will transform and be charged with developing a vision and broad goals based on the results of the community assessment and input from members of the stakeholder network. They will also be charged with managing, inspiring and supporting the work of the stakeholder network.

The community assessment will guide the organization and work of the stakeholder network. Stakeholders will organize around specific priorities established through the community assessment. They will develop broad strategic approaches to solve the problems identified in the assessment to bring about specific changes in programs, policies and practices.

Once the groundwork is done, members of the network will continue working together to implement an action plan, evaluate and adjust the plan and work, institutionalize the work and celebrate successes along the way.

The work of the network can build on ongoing and completed research, reports and proposals developed by the Access to Justice’s Disability Committee on Informed Consent, the Office of Public Guardianship Advisory Committee’s work on Alternatives to Guardianship, the Administrative Office of the Court’s Best Practices Workgroup on Guardianship Monitoring and the Washington State Bar Association’s Elder Law Section Guardianship Taskforce.

Staff of the Guardianship Program of the Administrative Office of the Courts, student interns and volunteers from stakeholder groups will provide research and administrative support to the network. NGN will be contacted to provide technical assistance with assessment and evaluation.

c. Budget (20 of 100 evaluation points)

<b>d. FISCAL YEAR 1 - PROJECTED PROJECT INCOME</b>	
<b>Source</b>	<b>Amount Sought</b>
<b>NGN Mini-grant</b>	<b>\$7,000</b>
<b>Stakeholder Case Match</b>	<b>\$7,000</b>
<b>Supreme Court In-Kind Support</b>	<b>\$14,000</b>
<b>NGN Technical Assistance</b>	<b>Unknown</b>
<b>TOTAL</b>	<b>\$28,000</b>

<b>e. FISCAL YEAR 1 - PROJECTED PROJECT EXPENSES</b>	
<b>Item</b>	<b>Amount</b>
<b>In-Kind</b>	<b>\$14,000</b>
<ul style="list-style-type: none"> <li>• Salaries, Office Supplies, Telephone, Copying, Postage, Facility Usage</li> <li>• Travel Expense and ProTem Fee for Judicial Officers</li> </ul>	
<b>Travel Expense Stipends</b>	<b>\$7,000</b>
<b>Accommodations</b>	<b>\$7,000</b>
<b>NGN Technical Assistance</b>	<b>Unknown</b>
<b>TOTAL</b>	<b>\$28,000</b>

The NGN mini-grant will be used to provide travel expense stipends for non-professional participants, when travel expense won’t be paid by an employer and ADA accommodations, including ASL interpreters. The WINGS group will be sustained with grants, stakeholder volunteers, student interns and in-kind support.

## **Attachment B - Letters of Commitment for WINGS**

### **Agencies & Organizations**

1. State Unit on Aging/Aging and Disability Services/Adult Protective Services
2. Disability Rights Washington
3. Developmental Disabilities Council
4. Washington State Attorney General
5. Office of Prosecuting Attorney, King County
6. Superior Court Judges' Association, Guardianship and Probate Committee
7. Certified Professional Guardian Board
8. AARP
9. Governor's Committee on Disability Issues and Employment
10. Washington State Senior Citizen's Lobby
11. Washington Association of Area Agencies on Aging
12. Washington Association of Professional Guardians
13. ElderCare Alliance
14. Coalition of Responsible Disabled – CORD
15. Access to Justice Board
16. Washington State Hospital Association
17. Washington State Bar Association

### **Individuals**

1. Mindi Blanchard, Bridge Builders Guardianship Agency
2. Bridge Disability Ministries Professional Guardianship Agency
3. Claudia Donnelly, Interested Citizen
4. Malinda Frey, Public Guardian
5. Bobby Gee, Interested Citizen
6. Thomas Goldsmith, Interested Citizen
7. Eric Knight, Family Guardian
8. Dan Smerken, Smerken Consulting, Professional Guardianship Agency
9. William Morris, Hallmark Care Services Professional Guardianship Agency
10. Karen Mount, Interested Citizen
11. Beagle, Burke & Associates, Professional Guardianship Agency

### **Subject Matter Expert**

1. Professor Winsor Schmidt  
Endowed Chair/Distinguished Scholar in Urban Health Policy  
University of Louisville School of Medicine



## Certified Professional Guardian Board

December 20, 2012

Honorable Barbara Madsen, Chief Justice  
Washington State Supreme Court  
PO Box 41170  
Olympia, WA 98504-1170

Dear Chief Justice Madsen:

Please accept this letter of commitment in support of the Washington State Supreme Court's grant application for establishment of a "Working Interdisciplinary Network of Guardianship Stakeholders" (WINGS). The proposed project will provide a foundation for future public policies, laws and/or programs that will enhance the quality of life for persons with disabilities and the elderly.

Since 2000, the Board had been the regulatory body for professional guardians in Washington State. The Board has promulgated rules and regulations which guide guardianship practice. Because the Board is not a true policy body, we have not been involved in legislation, but our involvement with guardian regulation helps us understand the many unique challenges faced by persons with disabilities, their family and friends and the professional and lay guardians assisting them in planning their futures, ensuring their safety and well-being, and making medical and end of life decisions. We support any effort seeking to improve the existing system without overburdening those involved.

The Board commits to participate respectfully and thoughtfully in the dialogue and to collaborate in a meaningful way. We will partner with the Supreme Court and agree to appoint at least one board member to serve on an issue committee and provide subject matter expertise.

Based on Washington State's history addressing guardianship issues, the Board is confident the WINGS project will result in the development of best practices to improve the guardianship system.

If you have any further questions, I will be glad to answer them. I can be reached at (360) 740-1174 and my e-mail address is [james.lawler@lewiscountywa.gov](mailto:james.lawler@lewiscountywa.gov).

Sincerely,

Honorable Judge James W. Lawler  
Chair, Certified Professional Guardian Board

Administrative Office of the Courts  
PO Box 41170  
Olympia, WA 98504-1170



January 14, 2013

TO: Certified Professional Guardian Board (Board)  
FROM: Shirley Bondon, Manager, Court Access Programs  
RE: Use of Debit Cards

**Issue: Should the Board develop a standard of practice or a best practice that addresses professional guardian use of debit cards?**

Recently, the Standards of Practice Committee reviewed a grievance where a professional guardian alleged that an employee used debit cards purchased for the use of the incapacitated person (IP) to steal funds from IP accounts without the guardian's knowledge. The Committee feels the practice of using debit cards can potentially put IP's at great risk for theft by employees and others.

Some SOPC members thought CPG's should have very strict guidelines regarding usage. They suggested addressing the following questions:

- 1) When should debit cards be used, if at all?
- 2) How should debit card usage be recorded and tracked?
- 3) Who should have access to debit cards?
- 4) How should access be limited, if at all?

**Background**

According to an ABC News article,<sup>1</sup> the problem with debit cards is that money comes right out of your checking account. With credit cards, you can dispute fraudulent changes without any affect to your bank account, but the same isn't true for debit cards

---

<sup>1</sup> *Eight Reasons to Worry About Debit Cards*, Lyneka Little, May 13, 2011  
<http://abcnews.go.com/Business/debit-card-security-top-reasons-concerned/story?id=13591862>



**The article describes the following eight reasons one should worry about debit card purchases:**

**No Account Access:** Consumers may be unable to access bank accounts if a debit card or banking information has been compromised. Consumers may be required to wait seven to ten business days for a new card to arrive to begin making charges using their personal funds.

- 1) **Reimbursement Delays:** If you lose money with a debit card, the bank may give you your money back, after a long delay, but until then you're out of your own money, and forced to try to pay for items in other ways. Consumers could wait two to three months for a credit on an unauthorized purchase.
- 2) **Hotels and Gas Stations Can Hold Your Money:** Some gas stations impose debit card blocks up to \$100 that are not removed for one or two day, and some charge a small fee if your purchase doesn't reach a certain threshold.
- 3) **Increasing Levels of Fraud:** Debit cards are being cloned and used at ATMs. Fraud is rampant.
  - Skimmers, devices attached to the card reader that supply a criminal with debit card information, have been discovered at three banks in Savannah, Georgia this year, according to the Savannah Morning News. Police found a skimmer at a SunTrust ATM. At the Georgia's Own Credit Union, 276 customers' information was compromised, according to a police report.
- 4) **Unlimited Liabilities:** The electronic banking act leaves debit card holders legally responsible for anywhere from \$0 to the balance of an account. The amount of consumer liability is based on when a missing debit card account is reported missing. The Federal Trade Commission (FTC) warns that if you fail to report an unauthorized transfer within 60 days after your statement is mailed to you, you risk unlimited loss. You could lose all the money in your account and the unused portion of your maximum line of credit established for overdrafts.
- 5) **Lack of Credit Building:** Debit cards do not impact your credit score. Unlike a credit card, debit cards don't help the user establish credit.
- 6) **You Pay Your Bank To Use Your Money:** You may be paying \$5 to \$9 ATM fees to use your own money.
- 7) **Debit Cards May Offer Some Convenience:** Debit cards have more risks than PIN-based ATM cards. Since the risk of credit card fraud on the Internet is so high, consumers are urged to only use credit cards on the Internet—never use debit

cards. In addition to this greater legal liability protection with a credit card, you have greater legal protection if goods are defective or don't arrive, under the Fair Credit Billing Act, which applies to credit cards.

**Debit cards make banks a lot of money.**

When you use the card like a credit card (with a signature, but not with a PIN), banks take a hefty fee from the merchant. When you use it with a PIN, like an ATM card, more and more banks are charging you a transaction fee (called a point of sale (POS) fee) of \$0.25-\$1. Other banks are charging a monthly card rental fee (even if you do not use it at all) of \$1-2/month. That adds up to \$12-24/year, plus transaction fees. Of course, banks are hitting you with a POS fee in hopes you use the card with a signature—so they can make more money from the merchant.



January 14, 2013

TO: Certified Professional Guardian Board (Board)  
FROM: Shirley Bondon, Manager, Court Access Programs  
RE: Standby Guardians

**Issue I – Should the Board limit the number of standby guardian appointments one individual can accept?**

Recently, the Education Committee reviewed an application for certification where the applicant had been appointed standby guardian for most (approximately 12) of the appointments held by a certified professional guardian. The committee was concerned that pursuant to RCW 11.88.125 provided in full below, in the event of the death or incapacity of the regular certified professional guardian, the standby guardian would become the regular guardian until a successor guardian could be appointed. Thus, a lay guardian with no guardianship appointments, little training and little experience could suddenly be the guardian for many incapacitated persons. Likewise a certified professional who also acts as a standby guardian could suddenly have more appointments than he or she can reasonably manage.

**Issue II – Should the Board establish a standard of practice for professional guardians to develop contingency plans or provide guidance to help professional guardians plan for time off for vacation and illnesses?**

RCW 11.88.125 provided in full below, give the standby guardian authority to provide timely, informed consent to necessary medical procedures, as authorized in statute, if the guardian or limited guardian cannot be located within four hours after the need for such consent arises. The statute does not authorize the standby to act when the guardian is on vacation or on extended leave due to illness.

**Background**

**NGA Definition**

**Standby Guardian** is a person, agency, or organization whose appointment as guardian becomes effective without further proceedings immediately upon the death, incapacity, resignation, or temporary absence or unavailability of the initially appointed guardian.

## **Applicable Standard of Practice**

SOP 401.6 All certified professional guardians and guardian agencies have a duty by statute to appoint a standby guardian. In appointing a standby guardian it is the best practice to appoint a certified professional guardian unless otherwise authorized by the local court with jurisdiction.

## **Applicable Statute**

RCW 11.88.125, Standby limited guardian or limited guardian

(1) The person appointed by the court as either guardian or limited guardian of the person and/or estate of an incapacitated person shall file in writing with the court, within ninety days from the date of appointment, a notice designating a standby limited guardian or guardian to serve as limited guardian or guardian at the death or legal incapacity of the court-appointed guardian or limited guardian. The notice shall state the name, address, zip code, and telephone number of the designated standby or limited guardian. Notice of the guardian's designation of the standby guardian shall be given to the standby guardian, the incapacitated person and his or her spouse or domestic partner and adult children, any facility in which the incapacitated person resides, and any person entitled to special notice under RCW [11.92.150](#) or any person entitled to receive pleadings pursuant to RCW [11.88.095](#)(2)(j). Such standby guardian or limited guardian shall have all the powers, duties, and obligations of the regularly appointed guardian or limited guardian and in addition shall, within a period of thirty days from the death or adjudication of incapacity of the regularly appointed guardian or limited guardian, file with the superior court in the county in which the guardianship or limited guardianship is then being administered, a petition for appointment of a substitute guardian or limited guardian. Upon the court's appointment of a new, substitute guardian or limited guardian, the standby guardian or limited guardian shall make an accounting and report to be approved by the court, and upon approval of the court, the standby guardian or limited guardian shall be released from all duties and obligations arising from or out of the guardianship or limited guardianship.

(2) Letters of guardianship shall be issued to the standby guardian or limited guardian upon filing an oath and posting a bond as required by RCW [11.88.100](#) as now or hereafter amended. The oath may be filed prior to the appointed guardian or limited guardian's death. Notice of such appointment shall be provided to the standby guardian, the incapacitated person, and any facility in which the incapacitated person resides. The provisions of RCW [11.88.100](#) through [11.88.110](#) as now or hereafter amended shall apply to standby guardians and limited guardians.

(3) In addition to the powers of a standby limited guardian or guardian as noted in subsection (1) of this section, the standby limited guardian or guardian shall have the authority to provide timely, informed consent to necessary medical procedures, as authorized in \*RCW [11.92.040](#) as now or hereafter amended, if the guardian or limited guardian cannot be located within four hours after the need for such consent arises.



January 14, 2013

TO: Certified Professional Guardian Board (Board)

FROM: Shirley Bondon

RE: Possible Planning Meeting Topics

The Board's Planning meeting is scheduled for Monday, April 8, 9 am to 3 pm, AOC SeaTac Office Facility, 18000 International Blvd, Ste 1106. Potential topics are:

1. Pros and cons of certified professional guardian agencies owned by non-professional guardians.
2. Could the Professional Guardian Board serve as the regulatory body for individuals providing fiduciary services as trustees or durable power of attorney for finances?
3. Consider Establishing an Accredited Education Sponsor Program

An accredited sponsor:

- a. Is given presumptive approval for Continuing Guardian Education courses; and
  - b. Pays one annual fee for an unlimited number of course accreditation applications, instead of a fee per application.
  - c. Consideration of Waiver of CE Sponsor Application for State Agency No-fee Courses.
4. UW Certificate Program Expiration.
  5. Define Meaningful Visit for Individual and Agency professional guardians.
  6. Standby Guardians.
  7. Postmortem Review Committee Recommendations.
  8. Understanding Credit Reports.