



**Certified Professional Guardianship Board**  
Monday, January 11, 2016 (9:00 am - 2:00 pm)  
SeaTac Office Center, 18000 International Blvd., Suite 1106,  
SeaTac, WA

**Proposed Meeting Minutes**

**Members Present**

Judge James Lawler, Chair  
Mr. Gary Beagle  
Ms. Rosslyn Bethmann  
Dr. Barbara Cochrane (by phone)  
Ms. Nancy Dapper  
Judge Gayle Harthcock  
Mr. Bill Jaback  
Commissioner Diana Kiesel  
Ms. Carol Sloan  
Mr. Gerald Tarutis

**Members Absent**

Commissioner Rachelle Anderson  
Ms. Amanda Witthauer

**Staff**

Ms. Shirley Bondon  
Ms. Kathy Bowman  
Ms. Carla Montejo  
Ms. Kim Rood

**1. Call to Order**

Judge Lawler called the meeting to order at 9:08 a.m.

**2. Welcome and Introductions**

Judge Lawler welcomed the Board members and the public to the meeting.

**3. Chair's Report**

**Approval of Minutes**

Judge Lawler asked for a motion to approve the minutes of the November 11, 2015 Board meeting. Ms. Bethmann first asked to confirm that the meeting adjourned at 8:30 a.m. The time of adjournment was confirmed.

**Motion:** *A motion was made and seconded to approve the November 11, 2015 Minutes. The motion passed. Abstained: Ms. Dapper*

**Grievance Update**

Ms. Montejo provided an updated Grievance report. In summary, the Certified Professional Guardianship Board received five new grievances since the last report, dated October 31, 2015. Seven cases have been resolved without Agreements Regarding Discipline(ARD) or Hearing, due either to no actionable

conduct by the Certified Professional Guardian(CPG), or the death of the CPG. There are currently 68 open grievances, 35 of which were received in 2015.

Mr. Beagle asked that in the future the report should include the number of Certified Professional Guardians with multiple grievances, and the percentage of total grievances each represents.

Judge Lawler inquired about the number of grievances remaining from 2013. There are nine grievances open from 2013.

### **State and National Updates**

Staff informed the Board about the recent Restoration of Rights Project conducted by the American Bar Association (ABA). They thought it important to note that many of those whose rights have been restored were temporarily incapacitated due to illness or accident at the time the guardianship appointment occurred, illustrating the need to explore alternatives for those who require only short term help with managing finances. The ABA will share statistics when their five-state study is complete.

Ms. Bondon reported that she will consult on a two-year project with Dr. Andrew B. Cohen, Section of Geriatrics, Yale School of Medicine on a study about guardianships and end of life decisions.

Staff provided updates on current Legislation, beginning with Senate Bill 5647, effective July 2015, which allows counties to create guardianship courthouse facilitator programs, to assist with guardianship filings. Due to a lack of funding, only two or three counties were considering establishing programs.

The adoption of Senate Bill 5607, the new complaint procedure for the modification or termination of guardianship, allows some tracking ability. At this time, three complaints have been tracked since July 2015. Only complaints that have been submitted on the model form can be tabulated, as there is no way currently to track complaints submitted by letter. Final Orders are still to be submitted to the Board.

House Bill 1035, protecting the personal information of a person acting as a guardian ad litem, was reintroduced in the 2015 session and has been retained in present status. While a guardian ad litem's business address would still be disclosable, personal information would no longer be available to the public.

### **Correspondence**

The Certified Professional Guardianship Board received an invitation to submit a education session proposal for the 2016 annual conference. Judge Lawler explained that it was important to pursue and encourage education on elder issues and noted that there is a higher than usual number of new judges. Judge Lawler thought that presenting at the Spring Conference next year would be preferred, and Judge Harthcock agreed, but voiced some concern that the Board would be able to put together an entire presentation, but should perhaps focus on providing a "nuts and bolts" portion to a session. Judge Lawler believed a 1-1/2

hour session would not be too difficult to put together by the Spring Conference but that the Board should decline participation at the earlier Fall Conference.

#### **4. Public Comment Period**

Ms. Claudia Donnelly and Tom Goldsmith provided public comments.

#### **5. Annual Planning Meeting Agenda Topics**

**Committee members discussed the following ideas for the annual planning meeting:**

- Send a special invitation to new certified professional guardians.
- Review the triage process for grievances and determine what needs to occur to assure grievances are resolved quickly.
- Review grievances from a historical perspective, with a comparison of year to date with the previous year.
- Prioritize grievances, in particular CPG with multiple grievances. Discuss workflow. One member noted that the grievance backlog occurred due to a lack of resources. Another member commented that a lack of resources shouldn't be used as an excuse for a backlog.
- One board member suggested doing something positive, rather than disciplinary. Certified Professional Guardians should be contacted to determine what they would like the Board to discuss. The Board can also identify where CPGs often get into trouble, and state these issues up front. A member noted that unfortunately, many of those who make these mistakes, probably aren't attending meetings.
- The Board should consider working with attorneys who assist CPGs, helping to better educate CPGs to help them avoid standard pitfalls, such as late filings.
- The Board should reconsider posting ethics advisory opinions, which would be a tangible way to provide input outside of a disciplinary proceeding.
- A member noted that in her court 99% of CPGs do a great job. The Board should find a way to provide a mechanism for acknowledging stellar CPGs. A statewide award should be considered. A process would be needed. The Board was cautioned against recognizing individuals, but asked to consider recognizing groups or specific actions that are positive – what you would want others to emulate.
- A member suggested writing positive stories about CPGs, for instance sending letters to the Editor.
- A member commented that an increasing number of guardians are not taking high-risk cases, and wondered how CPG Board discipline affected the number of CPGs willing to do this work. The number of regulations is a complaint he has heard from CPGs. The Washington Association of Professional

Guardians and other CPGs should be encouraged to communicate more with the Board so a solution can be found. As a public policy issue, advocacy is needed for incapacitated persons. Cases are being dismissed because no one will take the cases. Often due to family dynamics fraught with issues, the time required in just placating the family is overwhelming. Guardianship is a business, and there is a problem with guardians taking on additional caseload just to keep cash flow, which breeds “bad” guardianship. Often once a guardian is appointed, without a successor, you’re basically the guardian indefinitely as the Court will not terminate the guardianship, and if the client isn’t deemed as a danger to themselves, there is no way to enforce what needs to be done. Due to family conflicts, Guardians ad litem can’t find CPGs to serve as many have determined that this kind of family trouble isn’t worth it. CPGs grade cases, not just on the income but on the “grief” factor. The problem is that experienced CPGs won’t take the difficult cases, and that means inexperienced CPG are taking the low pay, high risk cases. A member suggested sending a report to the Supreme Court acknowledging the problem, and proposing the topic for discussion at the Spring Conference.

- All regulations should be reviewed for consistency, and to assure they are understood.
- Invite the Public Records Officer to attend a Board meeting to answer questions regarding GR 31.1 once the act has been in place for a while.
- The WINGS Standards and Practice Committee is developing proposed standards for Board review. These should be discussed during the planning meeting.

## **6. Brainstorm New Member Recruitment**

Mr. Beagle and Ms. Dapper reminded the Board that this is the last year of their term of service. Judge Lawler shared his concern that more CPGs haven’t shown an interest in applying to be a member of the Board. Mr. Jaback said he thinks the recruitment process is fine, but he too was also frustrated by the apparent lack of interest. Ms. Dapper suggested reaching out to the Senior Lobby and Aging Caucus as they are focused on elder issues. Judge Lawler encouraged Mr. Beagle and Ms. Dapper to recruit for their replacements. Mr. Beagle noted that if you have a business, it’s tough to make the time commitment needed to volunteer, to attend Board meetings, participate in WINGS, etc., especially for a sole practitioner. Mr. Tarutis offered to include the announcement on the bar association’s website, noting that many attorneys are also guardians. Judge Lawler would like to have the announcement out by April.

The search to replace the Board position vacated by Mr. Andrew Heinz has been extended. The Board’s Nominating Committee met, but still needs more candidate information. A 30 day extension was requested to complete this search. Both Ms. Dapper and Judge Harthcock indicated they were aware of interested candidates. A motion was made, seconded and approved to extend the time for the search.

7. **Executive Session (closed to public)**

8. **Vote on Executive Session Discussion**

**Certification Noncompliance for non-payment of fees:**

• **CPGS with Active Status:**

**Motion:** *A motion was made and seconded to decertify the following currently Active CPGS for failure to comply with recertification requirements. The motion passed.*

Samuel Ciapanna  
Jeannie Jones  
Monica Sattler-Summers  
Barbara Schreck  
Paul Van Wyk

**Abstained:** Mr. Jaback abstained from voting on Monica Sattler-Summers.  
Judge Harthcock abstained from voting on Paul Van Wyk.

• **CPGS with Inactive Status:**

**Motion:** *A motion was made and seconded to decertify the following currently Inactive CPGS for failure to comply with recertification. The motion passed.*

Kristi Holden  
Heather Kurt  
Tami Lauteren  
Marshan Raub

**CPGs with Active Status that submitted Requests for Reconsideration:**

**Motion:** *A motion was made and seconded to allow Gloria Muhammed to retain her certification, on the condition she files the required documents, pays the annual recertification fee, the required \$150 late fee and an additional \$150 special service fee. The motion passed.*

**Motion:** *A motion was made and seconded to allow Katherine Stratton to retain her certification, on the condition she pays the \$150 late filing fee. The motion passed.*

**Grievances**

- **Agreement Regarding Discipline:**

**Motion:** *A motion was made and seconded to approve a Letter of Admonishment regarding the conduct of Constance O’Hare per the Agreement Regarding Discipline and Stipulated Findings that was signed by Ms. O’Hare on December 28, 2015. The motion passed.*

**Recap of Motions from January 11, 2016 Meeting**

Motion Summary	Status
<b>Motion:</b> <i>A motion was made and seconded to decertify the following currently active CPGs for failure to comply with recertification requirements: Samuel Ciapanna, Jeannie Jones, Monica Sattler-Summers, Barbara Schreck, Paul Van Wyk</i>	Passed
<b>Motion:</b> <i>A motion was made and seconded to decertify the following currently inactive CPGs for failure to comply with recertification requirements: Kristi Holden, Heather Kurt, Tami Lauteren, Marshan Raub</i>	Passed
<b>Motion:</b> <i>A motion was made and seconded to allow Gloria Muhammed to retain her certification, on the condition she files required documents and pays recertification fee, late filing fee and special service fee.</i>	Passed
<b>Motion:</b> <i>A motion was made and seconded to allow Katherine Stratton to retain her certification, on the condition she files required documents and pays late filing fee.</i>	Passed
<b>Motion:</b> <i>A motion was made and seconded to approve a Letter of Admonishment regarding the conduct of Constance O’Hare per the ARD and Stipulated Findings signed by Ms. O’Hare on December 28, 2015.</i>	Passed

**9. Wrap Up / Adjourn**

The next Board meeting will be by teleconference on Monday March 14, 2016 at 8:00 am. Judge Lawler adjourned the meeting at 11:50 am.

Good morning:

WINGS

While on the Family and Friends committee, we made a recommendation that said isolation of seniors shouldn't occur. ~~Now on the Legislative Committee, we can't even talk about it or what is happening in our state today.~~ Kerri Kasem has sponsored a bill that would end isolation, <sup>also</sup> Catherine Falk and NASGA has done the same thing. ~~Yet, we are prohibited from talking about these bills.~~ <sup>or proposed</sup> In 2014, the AOC wrote a report – how many of you have seen it? The just of the report states that “it is our perception that isolation occurs in WA State”. I guess Dena's grandmother was isolated by a figment of her imagination as was Kerri's dad. I have <sup>2</sup> stories to share with you – one occurring in Seattle ~~and~~ <sup>+ one in Spokane.</sup> one in Omak. This board is supposed to be protecting the elderly; like I've said before, I don't see it. In November some members of the group I belong to talked to Rep. Kochmar and told her that there are laws on the books that this Board doesn't make guardians adhere to. So why is this Board in existence?

Guardians are given due process for any complaints filed against them. But what about the Vulnerable Adult <sup>one</sup> who is told to turn her heat down in the Spokane winter or isolated a senior from family member? What about their rights?

V  
or can't have any food

Thank you.

Claudia Donnelly

\*\*

I don't know the bill number,

xxx Again, I don't know the bill number or sponsor,

The press knows them as well as some legislators.

## Isolation & Financial Exploitation Story #46: Washington State

My parents put their house in trust in 1999. Mom has dementia/Alzheimer showing signs for a long time, this is probably why her sister and nephew took advantage of her. My mother's sister convinced my mother to move with her. She kept my mom from my sons and I for 3 years. In 2011 is the first time I got to see or speak to mom. Mom told me mother's sister took her to an attorney, she wanted her house, bank account and car. I started calling Adult protective services (APS) over this matter. When I was allowed to get mom, mother's sister wouldnt allow mom to have her check book, mother's sister would always state that her son had it and was balancing it. Son is not an account, he didnt attend college. I know my mom would have never allowed the son or mom's sister into her bank account. Mom needed to hire a contractor, it was someone from mom's sister's church. Long story the contractor took advantage of mom, mom's sister wouldnt give mom her mail (sister was picking the mail up since sister and sister's son disconnected mom's car) for the insurance, the insurance canceled her. We could have taken the contractor to court but mom's sister wouldnt allow it, it would make her look bad in church. Mom's house is destroyed. I contacted APS over the contractor Mom fell in 2012, mom's sister and her son took mom to the hospital the family didnt know for 8 hours. In mom's purse that night at the hospital her sister took out 5,000. It was never returned. When mom got out of the hospital, she was not to do anything or go anywhere, I couldnt get a hold of mom's sister or mom, I went there, mom's sister took her to the bank to cash more checks. Mom made many withdrawals from the bank for not having a driver license. I have contacted APS over the fall, mom's sister not giving mom her medicine and sister giving sister's medicine to mom. I have contacted the sister not feeding mom and keeping her clean. In 2014 mom came back home, when I got her belongings from her sister, I noticed some checks that were signed by the sister, sister stated she signed only one. Since looking through mom's checks the sister has been signing mom's checks since 2008, last time I checked forgery is forgery. I changed mom's bank account and looked through it, Wells Fargo told me that the sister announced in Wells Fargo that she was signing checks and Wells Fargo didnt report this. Wells Fargo told me that the sister's son had mom into the bank

weekly getting money for him. I know mom she would never have allowed her sister to sign her checks and she hated her sister's son. I have heard all my life how she hated that son.

But since I complained to the governor and APS, APS told me, I couldn't be in charge of mom, I made too many complaints to APS. APS stated they were going to make sure there was no money left and they would be appointing a guardian ad litem. The state called for an independent investigation his named initials are H.S There was nothing about H.S that was independent, he lied about all of us, H.S said what the state wanted him to say. H.S contacted the contractor that took advantage of mom for and interview. H.S the independent investigator for the state stated said I used APS, for my own gain. APS stated people cant call APS all the time. The governor wanted all cases closed in 30 days no matter what, this is what APS told me. APS stated there was an investigation into mom's missing money they asked mom's sister and son if they stole any thing from mom, they said no, case closed! So there is still over 100 thousand missing. So in the long run, since I called APS, I cant be my mother's power of attorney! I cant do anything for my mother because I called APS, and I am being punished. This so called guardian ad litem GAL and judges are trying to take moms house out of trust so they can get paid. This one GAL has 20 people, she is nothing but a thief. Now my son is guardian of mom, to keep mom's house insurance we had to get the trees trimmed and new roof, the guardian ad litem told my son about this house roofer and tree trimmer, my son tried to get a hold of this GAL (guardian ad litem) for 3 days to make sure this was ok to do since she recommend him, the GAL would not answer her phone, the GAL would not respond to his emails , so my son calls from a different phone, GAL picks up, my son states his name, GAL hangs up on him. My son wrote her a check in August, she just now cashed it, GAL was trying to screw up his banking. I kinda typed this fast trying to recall everything, if you have any questions please contact me. I want everyone to know about the state, but I dont want my mother taken from me. One other thing the last time in court the judge that never heard the case said the GAL had to stay on the case to teach him something, which could be taught in one day, but they are draining my mothers account, and since my son is Native American, the judge assumes he is too dumb to do anything. This county is very racist. My son has a good paying job, he is an account for his tribe! If you want to know more please

feel free to contact me

From: **Claudia Donnelly** thedonnelly@oo net  
Subject: another story  
Date: January 10, 2016 at 3:20 PM  
To:  
Bcc:

Here is another story you might be interested in reading.

Good day,

My grandmother [REDACTED] was isolated on numerous occasions from my mother [REDACTED]

[REDACTED] was taken from her Senior residence and admitted to [REDACTED] Hospital in Spokane for Morphine induced medical problems; at the hospital the doctors found she was being medicated at the Senior facility and gave a directive: NO MORE MORPHINE as well as numerous other laxatives and medications. When my grandmother returned to the senior facility my mother [REDACTED] ran across the nurses medication records that showed [REDACTED] was indeed back on Morphine even though the hospital had specifically stated NO and that is when the issues with isolation started.

[REDACTED] was restricted from visiting to certain hours, she was not allowed to see the medication list her mother was on and she was no longer able to question how her mother was being treated. When she was finally able to take her mother out for an afternoon she took her to an independent physician where again the Morphine was documented as unnecessary. Unfortunately the senior facility with the help of Adult protection and the state attorney generals office petitioned for a guardianship. Under the guise of going to lunch my grandmother was illegally taken to a locked Dementia ward where fraudulent powers of attorney were used to commit [REDACTED] and deny [REDACTED] the right to visit, care for her mother, question the medications that were being prescribed and the treatment [REDACTED] was receiving.

After [REDACTED] was locked in the Dementia ward with the assistance of the GAL and the State Attorney Generals office and without notifying [REDACTED] attorney, with the use of fraudulent powers of attorney a restraining order was filed against [REDACTED] and was granted. Anyone and everyone who has read the petition for the restraining order was shocked. There was no evidence of abuse or neglect in fact the in home care service that visited [REDACTED] when she was with [REDACTED] testified on [REDACTED] behalf. Regardless the restraining order was issued.

[REDACTED] was provided an independent guardian, locked permanently in a Dementia Ward (based on a \$50 verbal test done by an unqualified physician to a woman who [REDACTED] Hospital had declared legally deaf), denied the right to her attorney, and her visitations with [REDACTED] were restricted. Unfortunately [REDACTED] was concerned about her mother, [REDACTED] and when she again began to ask questions, the facility provided false testimony in court to deny [REDACTED] visitation rights. (On the days the facility stated [REDACTED] gave her mother unauthorized food, [REDACTED] wasn't there. [REDACTED] did not have a car, rode the senior bus to and from the facility and had documented proof she was at home on the days in question.)

Needless to say Judge [REDACTED] a member of the state guardian board, the director of the guardianship program in Spokane County presented a factual lie in his facts and findings to deny [REDACTED] visitations and re-enforced his position by stating [REDACTED] guardian "had an excellent reputation in the community" so the guardian was in the best position to make a decision.....

no one cared about the law, [REDACTED] legal rights or [REDACTED] legal rights. It is my belief that the system in Washington State is corrupt from start to finish. The Senior facilities use Adult protection to deny family members the right to visitation, if family members question what is going on Adult protection uses the State Attorney Generals office to appoint a guardian and thus denying the senior of any rights. Family members have no one to call when a senior is being abused by a facility or a guardian. A family's only recourse is to spend thousands of dollars hiring attorney's to attempt to get help for their loved one. No one in this state protects seniors or their family members. I believed so strongly that the system is corrupt that as a Republican/Independent I voted for Enslley a Democrat for Governor. [REDACTED] and his manipulation of the Attorney Generals office in denying senior rights scared me.

I appreciate and applaud anything that can be done to protect the rights of citizens of Washington State including seniors. My only concern with the bills being presented is that there is no enforcement procedure. In [REDACTED] case several laws were broken including RCW 11.92.190. When [REDACTED] attorney and [REDACTED] attorney argued this law and how [REDACTED] was being detained against her will in a locked Dementia Ward, Judge [REDACTED] the Spokane office of The Attorney General, DSHS Adult Protection and the GAL all laughed in their faces and stated the " the law means nothing" [REDACTED] was to remain locked in a Dementia Ward against her will with restricted visitation until she died and this is how she lived the remainder of her life.

The stress of not being able to help her mother contributed to [REDACTED] unexpected sudden death. [REDACTED] spent ten of thousands of dollars attempting to regain her rights, [REDACTED] also spent tens of thousands of dollars in attempt to get her mother off of the morphine and receive appropriate medical treatment; physical therapy, an appropriate dementia test (although [REDACTED] attorney believed she was elderly, she was 95; her attorney did not believe she had dementia that the Morphine had and continued to interfere with [REDACTED]s mental health), occupational therapy, the right to live where she wanted, the right to see who she wanted, the right to eat what she wanted; thousands were spent to no avail.

The State and the Judge both treated [REDACTED] as if she were mentally unstable, an inconvenience and a danger. She was in fact a retired college professor with a masters in psychology. She wanted her mother to be treated fairly, respectfully and legally.

Even to this day Ms. [REDACTED] helps the state escape responsibility by stating "you don't know the whole story". Unfortunately I do, I found [REDACTED] attorney and helped process the paperwork, I helped find [REDACTED] attorney and provided statements, legal documents and coordinated an investigation of [REDACTED] trust account covering a period of over 15 years with the IRS, the banks and social security. I knew 99.9% of everything that involved the life of [REDACTED] and [REDACTED] and it is my opinion that they were both denied their rights as citizens of this state.

So while any progress is good progress please address the need for enforcement. Again there were RCW's that could have helped [REDACTED] if anyone would have enforced the law.

Best wishes  
[REDACTED]  
[REDACTED]

**RCW 11.92.190**

**Detention of person in residential placement facility against will prohibited—Effect of court order—Service of notice of residential placement.**

No residential treatment facility which provides nursing or other care may detain a person within such facility against their will. Any court order, other than an order issued in accordance with the involuntary treatment provisions of chapters 10.77, 71.05, and 72.23 RCW, which purports to authorize such involuntary detention or purports to authorize a guardian or limited guardian to consent to such involuntary detention on behalf of an incapacitated person shall be void and of no force or effect. This section does not apply to the detention of a minor as provided in chapter 70.96A or 71.34 RCW.

Nothing in this section shall be construed to require a court order authorizing placement of an incapacitated person in a residential treatment facility if such order is not otherwise required by law: PROVIDED, That notice of any residential placement of an incapacitated person shall be served, either before or after placement, by the guardian or limited guardian on such person, the guardian ad litem of record, and any attorney of record.

#### 4 [REDACTED] isolation and abuse story- OK for the public

My friend, we'll call him [REDACTED] is now 83. The last 3 years of his life has been that of a captive because the Kitsap Superior court put him into guardianship. It was obvious that his "best friend" was stealing his money and lying to him about his health and friends, but the court gave Mr. "Best friend" the guardianship (he's a local) and brought charges against me when I tried to get [REDACTED] help. The APS agent told me; "We can't let [REDACTED] talk to his friends or that will make him sad" and then she filed to put me on the state wide abuse list with a list of false charges, some not even abusive. [REDACTED] was given a court appointed GAL who did not tell him he had rights. He had asked the APS agent for help and she refused.

[REDACTED] was transferred to a dementia ward at [REDACTED] Port Orchard, because [REDACTED] staff heard him telling someone on the phone that he wanted to go home and would escape. [\*RCW 11.92.190-holding a person against his will in a residential facility unlawful.\*] Park Vista was told [REDACTED] had dementia and quickly placed him in "memory care" (lock down ward.) He was not allowed visitors or calls and they started over drugging him. [REDACTED] does NOT have dementia. [REDACTED] had no lawyer to represent him. Any friend who reported the abuse to the APS agent was labeled "meddling and manipulating" and was no longer allowed to talk to [REDACTED]

\*It is unlawful, but there is no punishment for doing it.

Later that year, friends called the longterm care Ombudsman of Kitsap County. After talking to [REDACTED] "best friend" (now guardian) the Ombudsman declined to help [REDACTED] at all. After the State Ombudsman was contacted, the local was forced to help [REDACTED] and he got his right to return to his house in King county which he loves (and wants to die in) as he had built it for his now deceased wife. Then the real torture started.

The care-givers were told to try to keep [REDACTED] isolated from his "manipulating" friends. They would refuse to take him to his Parkinson's therapy (because "bad people" might show up there) and would screen calls from his friends and discourage visitors. One got dragged into court for "helping" [REDACTED] after talking to him on the phone once and others were threatened. Burglar alarms were installed inside his house to keep him under control and finally on his bedroom door. When he got up in the middle of the night, a 120 db alarm screamed in his ears. He had a visitor (his last) the next day and told her about it. He had 24 hour "care-givers" who were basically just to spy on him as he needed no help with ADLs. They took his phone away. They thought that someone might be talking to [REDACTED] at night, so they hired a night watchman at [REDACTED] expense. Finally they locked him in his bedroom. He escaped and ran down the street yelling for help, so they told the police that he had dementia and the police allowed him to be taken back to [REDACTED] Port Orchard again without an investigation.

Back in Port Orchard he was again locked in the isolation ward without the ability to contact anyone but APS. In the APS records it states that he called asking for help and then "records closed." Someone had, however, managed to get a lawyer for him while he was home. He was appointed a Certified Professional Guardian (CPG.) Sounds great? Nope. He allowed the

first guardian/best friend (whom [REDACTED] was wanting to get rid of) take care of [REDACTED] health care. The CPG proceeded to charge [REDACTED] outrageous fees and uses [REDACTED] money to hire his own firm to bring [REDACTED] to court to take away his home and money. He charges \$1000 a month for "property management" when all he does is have the yard mowed once every 6 months. No one was allowed to visit [REDACTED] except [REDACTED] "best friend" who takes him to medical appointments and convinces the doctors [REDACTED] needs more drugs. (Easy to do with Parkinson's medications.)

[REDACTED] lawyer? Oh, she quit. She got bought out by [REDACTED] CPG to keep her mouth shut by giving her a position in his firm. The new Kitsap court appointed lawyer won't do anything for him. The new lawyer has witnessed the overdosing and the financial embezzlement and wouldn't tell the court. The problem is that the court rubber stamps fees without looking at them. When the guardian does something bad the court can't do anything for fear of getting exposed. King county defense for the elderly, [REDACTED] told me that once the court signs for fees, no matter how outrageous they are, there is nothing that can be done to the guardian. It is probable that some in the courts don't even know guardianship law.

By 2015 [REDACTED] was so over drugged he can hardly get a sentence out. Because of fast turnover of care-givers at [REDACTED] (new care-givers hadn't learned to isolate him yet) 3 friends got in to visit and witnessed [REDACTED] body swinging and contorting from the drug over dose. His arms and legs flailing all over. Even though he was in a wheel chair because of breaking his hip (due to the excessive body movement) he could hardly stay in it. He couldn't get out a complete sentence because of the drugs had such a terrible effect on his mind, yet they brought him more right there while he was already being overdosed. [REDACTED] can't remember [REDACTED]

We took testimony to the court and court records showing his being over charged and over drugged and isolated- 400 pages of backing documentation. His guardian had even written in court documents that he was forcing pills on [REDACTED] and "had to" lock him in the dementia unit because someone gave him a copy of his rights and a book on healing. It was blatant. The Kitsap court judge said she would not do anything. Motion to stop abuse of VA- DENIED. She did tell the guardian to get [REDACTED] out of Kitsap before the month was over. (Elections are coming up.) Some time later the over-drugging stopped. We think a doctor must have found out.

[REDACTED] was brought to West Seattle and put in a care house with people from Russia. Foreign care-givers believe that it's OK to take old people's rights away. They were told that there are "evil people" out there and [REDACTED] was only to have approved visitors. None of his friends were allowed to talk to him. Visitors were turned away. [REDACTED] tried to escape in 90 degree heat just a few months after breaking his hip.

The state Ombudsman was told what was happening. Shortly after, [REDACTED] was moved north of Seattle with APS agent and social worker in tow. All are being told by [REDACTED] guardian that [REDACTED] has evil friends and it is important to keep 24 hour watch on [REDACTED] new care-givers are also foreign born, low on English skills and gullible. [REDACTED] didn't have a phone and they were "protecting" his address, so they were not in the court records. Friends didn't know he was close by until the state Ombudsman sent someone to help [REDACTED] get a cell phone. He is not allowed to go out of the house without a care-giver driving him (except his "best

friend") and permission from his guardian. Did I mention that [REDACTED] best friends had written a Trust for [REDACTED] giving himself all of [REDACTED] \$1 Million in assets and the wife is the one who can decide if [REDACTED] Trust money should be "handled" for him? [REDACTED] wants his money to go to woman's charities.

The cell phone only lasted one month. They decided to "save [REDACTED] money" and he could use the care-giver's home phone. Everyone has to check in with the care-giver- if she answers. Some are [REDACTED] long-term friends being turned away as "dangerous and manipulating."

[REDACTED] lawyer had helped write the CPG manual for WA state and knows that guardians are not allowed to hire their own firms with their ward's money. Conflict of interest. She knows it, but refuses to help [REDACTED] get a different guardian. [REDACTED] current CPG has other wards whom he uses to fund his firm with also. I have heard that he sells his ward's property to his friends at below cost. He has been doing guardianships long enough that the courts don't even check his records anymore. He has very accurate records. He itemizes everything, including charging [REDACTED] for general filing. He charges \$375 per hour to talk on the telephone to [REDACTED] or anyone else about [REDACTED] which is supposed to be covered by his monthly guardianship fee of \$1200 - over 3 times the state maximum.

[REDACTED] CPG possibly has 20 wards under his guardianship at \$1200 per month (\$24,000 per month) plus the money he collects from using his own law firm to "represent" them in court. \$360,000 plus \$375 per hour should exceed half a million per year "protecting" the elderly from abuse. Good racket.

Did I mention that guardianship is supposed to help protect the rights of the vulnerable, not take them away? This is America we are supposed to have ALL our rights protected until we die. Not just until we are old enough to be controlled.

# Wisconsin --Guardianship Support Help-Line

## Prepared for WA CPGB, 11 Jan 2016 In-Person Meeting

Good Morning,

Let me report to the Board on a piece of the WA WINGS project some of us have been working on. Where I have seen first-hand why further study of issues and suggestions already prioritized by stakeholders can be thought-provoking and fruitful.

I see the underlying objective of Washington State's WINGS **stakeholder** effort as being to encourage more "good" guardianships, and fewer "less-good" ones. Whether lay or paid professional guardianships, and with more "professionalism" and support for all fiduciary efforts involved, as the concept "**supported decision-making**" appears to be taking root in more and more peoples' thinking.

My WINGS work has been with the Long Range Planning Committee, which has set up a number of sub-committees to further examine prioritized questions. Our committee is looking at "**providing education and assistance**", by establishing "**a hot-line for guardianship questions**".

Shirley Bondon's national contacts have made her aware of a "**help-line**" which has been in operation in Wisconsin (WI) for almost 30 years. Working within a "Guardian Support Center" (GSC)<sup>1</sup>.

## **Wisconsin --Guardianship Support Help-Line**

### **Prepared for WA CPGB, 11 Jan 2016 In-Person Meeting**

Wisconsin, with almost six million rural and urban inhabitants, is similar in many ways to Washington State, with seven million. Details include:

- A decentralized 72-County Circuit Courts system, as compared to Washington's Superior Courts in 39 counties.
- A WINGS<sup>2</sup> effort, is led by a retired Judge recently appointed as Executive Assistant to the WI Chief Justice.<sup>3</sup> WI kicked off with a first summit 27 May 2015, and a second summit planned for this April.
- One person is running the help-line on a ca. \$100,000 core annual budget<sup>4</sup>, with volunteers, and limited matching funds from the state's Area Aging Agencies organization, the GWAAR (Greater Wisconsin Agency on Aging Resources). The GSC is housed within the GWAAR and receives support from the Department of Health Services (DHS) as it Works in collaboration with the LTC Ombudsman, Wisconsin Guardianship Association, Court Registers of Probate, Elder Law Section of the Wisconsin Bar Associations, and others, under a contract re-established every second year, starting with a DHS administered RFP procedure<sup>5</sup>.
- Five or six attorney GSC incumbents over the years have stayed in touch with each other, to provide mutual support and continuity. The current

# Wisconsin --Guardianship Support Help-Line

## Prepared for WA CPGB, 11 Jan 2016 In-Person Meeting

incumbent returned in November from her first-child maternity leave.

- Activities of the GSC, supported by volunteers, include:
  - Managing a telephone (with voice-mail) and e-mail **help-line** function that fields some 2,000 “calls” annually. Issues are tracked while working with a thousand or more callers, professionals, and other involved persons.
  - A quarterly newsletter<sup>6</sup>, with detailed “case law” descriptions, and published “help-line” topics. ....Similar in some ways to a Washington CPGB “Guardian Focus” newsletter<sup>7</sup> I’ve seen from 2007, which featured “Ethical Advisory Opinions”.
  - A statewide list-serve and web-site containing GSC newsletters, and other documents covering priorities and policies, geographic issues, and reform.
  - At least 12 and as many as 20 “out-reach” events per year, sometimes with 100-200 attendees each, across the state. (Like having several WINGS stakeholder conferences, and continuing education, all rolled into one?)
- Focus on providing legal information, and neutral, general consultation to inquiries. From

## **Wisconsin --Guardianship Support Help-Line**

**Prepared for WA CPGB, 11 Jan 2016 In-Person Meeting**

**“guardians, other surrogate decision makers, family members, wards, other vulnerable adults, professionals, and related agencies. “**

With explicit guidelines NOT to provide direct legal representation or specific legal advice.<sup>8</sup> Rather, to cite and clarify Wisconsin statutes, and applicable Federal law. ....Always following a policy of recommending that the caller engage a private attorney.

- As I understand it, only very limited Legislature lobbying is permitted, yet advisory consultations are provided, when asked.

Interestingly (although this is clearly only my own non-legal-mind impression) it appears that the case-law and help-line advisory writings describe a body of law more coherent / easily-understood than what I've seen in Washington State. Perhaps because the Legislature is the only “gate-keeper”, and is separate from the responsibilities of the Judiciary. That is, there is no duality, or gray-area Standards of Practice thinking, forming a supplement to statutes, which the Courts are not obliged to consider. With the result that perhaps newcomers to guardianships might feel able to more easily and intuitively understand the complex body of law they encounter.

# Wisconsin --Guardianship Support Help-Line

## Prepared for WA CPGB, 11 Jan 2016 In-Person Meeting

Also, I found that the incumbent coordinator appeared to be very interested in Washington State's:

- Paid guardian certification,
- CPG complaint and discipline system,
- County Court monitoring.

In the course of speaking with Attorney Susan Fisher, who is currently leading the Wisconsin GSC, I learned a lot about that state's approach to guardianships. I understand the WI Department of Health Services – Division of Quality Assurance Services regulates ca. 100 paid “corporate guardians”<sup>9</sup>, as described in four compact pages of Wisconsin's DHS Administrative code.<sup>10</sup> The WI Department of Financial Institutions (DFI) also plays a role. ....So our sub-committee will surely be studying these issues further.

Thank You.

Tom Goldsmith

Reference information, as we study further, includes:

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<sup>1</sup> An abbreviated Guardian Support Center Policy Manual is available, which describes the help-line activities and policies.

<sup>2</sup> For further information on WINGS see:

<https://www.naela.org/NAELADocs/PDF/Media/Press%20Releases/2015/Press%20Release%20-%20NGN%20WINGS%202015.pdf> and

[https://www.naela.org/NGN/WINGS/State\\_WINGS\\_Groups\\_in\\_Action/NGN/WINGS/State\\_WINGS.aspx](https://www.naela.org/NGN/WINGS/State_WINGS_Groups_in_Action/NGN/WINGS/State_WINGS.aspx)

<sup>3</sup> The appointment of retired Judge Bissonnette is described in a Wisconsin Court System, “The Third Branch” newsletter: Found at: <http://www.wicourts.gov/news/thirdbranch/current/special4.htm>

<sup>4</sup> A clearer picture of this budget would be helpful. I've been told the grant requires a minimum 10% matching, and that no more than 10% of the awarded grant may be used for administrative purposes. Also that because outreach activities are always provided “on request” (typically unsolicited) their costs are

# Wisconsin --Guardianship Support Help-Line

## Prepared for WA CPGB, 11 Jan 2016 In-Person Meeting

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modest, and do not include facility, catering, or related fees. While also, no payments or gifts are accepted, for presenting or for the help-line.

<sup>5</sup> Most recently with Wisconsin DHS Request for Proposal 1741 DLTC-JB.

<sup>6</sup> Find recent newsletter links at the bottom of the GWAAR home page, at:

<http://www.gwaar.org/component/content/article/10-articles/aging-programs-and-services/206-wi-guardianship-support-center.html>

<sup>7</sup> Find the year 2007 Washington newsletter at:

[http://www.courts.wa.gov/content/PublicUpload/Newsletter%20Guardian%20Focus/01\\_E-Newsletter.pdf](http://www.courts.wa.gov/content/PublicUpload/Newsletter%20Guardian%20Focus/01_E-Newsletter.pdf)

<sup>8</sup> Footings of all GSC e-mails include the following text:

“WI Guardianship Support Center

\* This email only contains and is only meant to contain general legal information. It does not provide legal advice. If you would like specific legal advice, please consult an attorney. No legal and/or attorney-client relationship has been formed between the sender, the recipient, or any named individual.”

<sup>9</sup> Two Wisconsin forms, helpful in understanding the nature and scope of this function, can be found at:

<https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=4&cad=rja&uact=8&ved=0ahUK EwidxMbw18XKAhVJx4MKHdE2ArYQFgg1MAM&url=https%3A%2F%2Fwww.dhs.wisconsin.gov%2Fforms1%2Ff6%2Ff62546.doc&usg=AFQjCNGzj6-qZTx8DR6V2ahMEyNH8GVW9A&sig2=SLO0wKAQ93lXWku2Yphg&bvm=bv.112454388,d.eWE>

and

[https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=5&cad=rja&uact=8&ved=0ahUK EwidxMbw18XKAhVJx4MKHdE2ArYQFgg7MAQ&url=https%3A%2F%2Fwww.dhs.wisconsin.gov%2Fforms1%2Ff6%2Ff60820.docx&usg=AFQjCNE7cSOXKBCUIVly\\_6pO\\_70amiLJ5Q&sig2=SRSQ6HoA19mOl3Qq2vPmdA&bvm=bv.112454388,d.eWE](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=5&cad=rja&uact=8&ved=0ahUK EwidxMbw18XKAhVJx4MKHdE2ArYQFgg7MAQ&url=https%3A%2F%2Fwww.dhs.wisconsin.gov%2Fforms1%2Ff6%2Ff60820.docx&usg=AFQjCNE7cSOXKBCUIVly_6pO_70amiLJ5Q&sig2=SRSQ6HoA19mOl3Qq2vPmdA&bvm=bv.112454388,d.eWE)

<sup>10</sup> See, Chapter DHS 85, NON-PROFIT CORPORATIONS AND UNINCORPORATED

ASSOCIATIONS AS GUARDIANS: [http://docs.legis.wisconsin.gov/code/admin\\_code/dhs/030/85.pdf](http://docs.legis.wisconsin.gov/code/admin_code/dhs/030/85.pdf)

## Chair's Report

## EILEEN MARGARET SCHOCK

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### PROFESSIONAL PROFILE

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- Staff Attorney  
(9/2012 – 4/2015) Columbia Legal Services  
101 Yesler Way, Suite 300  
Seattle, WA 98104-2552  
(206) 464-5911
  - Attorney/Of Counsel  
(11/2011 – 8/2012) Law Offices of Sanchez, Mitchell & Eastman  
4110 Kitsap Way, Suite 200  
Bremerton, WA 98312  
(360) 479-3000
  - Attorney/Partner-Principal  
(6/1996 -10/2011) Law Offices of Sanchez, Mitchell & Schock  
(Partner 2001-2011) 4110 Kitsap Way, Suite 200  
Bremerton, WA 98312  
(360) 479-3000
- Staff attorney at non-profit public interest firm focusing on senior issues; including long-term care, guardianship, probate, estate planning and Medicaid
  - Sixteen years experience as an attorney in private practice serving clients in addressing a broad array of legal issues
  - Successful practice in the Washington State Court of Appeals, Division II, drafting appellate briefs and arguing cases in various areas of the law including trusts, contracts, insurance coverage, promissory notes/debt collection, collection of judgments
  - Extensive experience at Superior Court level drafting pleadings and arguing motions in the areas of civil motions (contracts/agreements, debtor-creditor issues, real property issues, summary judgment motions), and probate petitions (probate estates, guardianships, trusts, and special needs trusts)

- Experience in Federal District Bankruptcy Court, Tribal Court, and State Administrative Hearings
- Acted as Hearing Examiner for Tribal Housing Authority
- Extensive experience in drafting and reviewing agreements, correspondence, and fiduciary accountings; and in conducting legal research and analyzing federal, state, and local laws and regulations
- Primary Practice Areas: Estate Planning, Trusts, Special Needs Trusts, Probate, Medicaid Planning Guardianship, Real Property, Contracts
- Additional Practice Areas: Court of Appeals, Copyright/State and Federal Trademark Registration, Foreclosures, Debtor/Creditor, Unlawful Detainers, Bankruptcy, Protection Orders
- Supervised associate attorneys, paralegals, legal assistants, and office staff
- Drafted written educational materials including publications on senior issues, estate planning, probate, guardianships, powers of attorney, wills, health care directives, and long-term care Medicaid programs
- Presented at continuing legal education seminars and community legal education events, taught in service trainings to case managers
- 1995 – Admitted to Practice of Law
  - Admitted to practice in Washington State and to United States District Court, Western District of Washington
- Additional Experience
  - Retail business/management:
    - Receiving Supervisor, Price Savers/Sam’s Club (Seattle, WA)
    - Manager, Linda Meier Gallery (Seattle, WA)

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## **EDUCATION**

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- Juris Doctor (cum laude)      Seattle University, December 1994
- Bachelor of Arts              Western Washington University, 1988

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## **RECOGNITION**

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- King County Bar Association Volunteer of Year Award - Volunteer Attorneys for Persons with AIDS (2006)
- Kitsap County Bar Association Professionalism Award (2003)

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## **PROFESSIONAL AFFILIATIONS**

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- Washington State Bar Association
- Washington State Bar Association Elder Law Section Executive Committee
- King County Elder Abuse Council
- Kitsap Legal Services - Pro Bono Attorney Services (2004-2011)

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## **COMMUNITY AFFILIATIONS**

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- Peninsula Community Health Services (Board of Directors, 1998-2007; Board President, 2003-2007; Quality Management Committee, 2007 to present)
- Olympic Peninsula Kidney Centers (Board of Directors, 2009 – present; current President)
- Sponsor - Olympic Community College Annual Student Photo Show (2005 - present)
- Klahowya Girls Club Lacrosse (Volunteer 2010 –2014)
- Leadership Kitsap (Class of 2001)

## Updates

**CERTIFIED PROFESSIONAL GUARDIAN GRIEVANCES**

Status as of February 29, 2016

<b>Grievances</b>	<b>2016</b>	<b>2015</b>	<b>2014</b>	<b>2013</b>	<b>Total</b>
Open-Needing Investigation (December 31, 2015)		35	24	9	68
Resolved w/o ARD or Hearing	3				3
Resolved w ARD	-				
Resolved w Hearing	-				
New Grievances (opened since late report)	13				13
Open-Needing Investigation (February 29, 2016)	10	35	24	9	78
					-
<b>Closed or Terminated since last report</b>	3	0	0	0	3

<b>Year Received</b>	<b>2015</b>	<b>2014</b>	<b>2013</b>	<b>2012</b>	<b>Total</b>
Dismissal - Administrative					0
Dismissal - No actionable conduct	1				1
Dismissal - No jurisdiction	2				2
Dismissal - Insufficient					
Admonishment					0
Reprimand					0
Suspension					0
Decertification					0
Administrative Decertification					0
Terminated - Death of Guardian					0
<b>Totals Closed or Terminated since last report</b>	3	0	0	0	3

<b>Summary Current Activity</b>	<b>December</b>
Opened since last report	13
Closed w/o ARD/Hearing	3
Closed w ARD	-
Closed w Hearing	-

## The Formation and Progress of Washington WINGS

### Background

Washingtonians age 65 and over have doubled since 1980 and are estimated to double again by 2040. According to the Office of Financial Management's (OFM's) November 2015 Population Forecast there are currently approximately 1,076,000 Washingtonians age 65 and over. The number of residents age eighty-five and older is increasing at an even faster rate, and is expected to more than double over the next two decades.

Currently, approximately 107,000 Washingtonians have Alzheimer's or other dementia. This number will increase significantly in the next 25 years. Using prevalence projections and population estimates, the Executive Summary of Washington State's Alzheimer's Plan, released January 2016, estimates between 215,000 and 270,000 citizens age 65 or older will have a form of dementia in 2040.

In 2009, the Washington State Department of Health shared national estimates indicating that about 2% of the United States population live with long-term or lifelong traumatic brain injury (TBI) related disability. If these national estimates hold true in Washington State, there are approximately 124,000 residents with TBI-related disabilities, and that number increases every year.

July 2015, the Center for Disease Control Prevention estimated that about one in six, or approximately 15%, of children ages 3 to 17 in the United States have one or more developmental disabilities. This translates to approximately 100,000 children in Washington State with developmental disabilities. According to the Washington State Department of Social and Health Services, in 2015, approximately 44,000 children ages 2 to 17 with developmental disabilities were receiving services from the Developmental Disabilities Administration.

In 2010, the National Institute of Mental Health reported that in any given year, an estimated 13 million American adults (approximately 1 in 17) have a serious debilitating mental illness. If these national estimates hold true in Washington State, there are nearly 230,000 adult Washingtonians with serious mental illness.

The effect of dementia, TBI, serious mental illness and developmental disabilities on decision-making creates particular challenges for individuals and systems, including courts. Challenges for the courts will likely include increases in the number of court cases involving the provision of decisional-support, and the protection of these vulnerable populations, including guardianships and alternatives.

Some national organizations have been preparing for demographic change, studying guardianship and making recommendations for some time. In 2011 the National Guardianship Network (NGN) sponsored the Third National Guardianship Summit and recommended a change in the approach taken to adult guardianships. Although well intended, studies concluded that state task forces that advocated for legislative changes did not always include all stakeholders and often did not continue functioning for long-term implementation of changes. The primary recommendation for change was a call for “coordinated state court-community partnerships” or WINGS to improve ways the courts and guardians practice and to improve the lives of people who may need guardians.

After the conference, NGN sought and received support from the State Justice Institute and the Albert and Elaine Borchard Foundation on Law and Aging to help implement state WINGS pilot programs. The goal was to have the state’s highest court partner with other guardianship stakeholders to establish a WINGS entity to:

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.

In 2014, NGN and the State Justice Institute sought applications from state high courts to create a WINGS program. The Washington State Supreme Court, with the support of other guardianship stakeholders, submitted a request for a WINGS grant. Washington, the District of Columbia, Indiana, Minnesota, and Mississippi each received a \$7,000 WINGS grant. In Washington, other stakeholders pledged more than \$14,000 in matching funds to leverage the \$7,000 WINGS grant.

## **Accomplishments**

Since receiving the grant, WINGS has:

### **1. Created a 12 person Steering Committee.**

The Steering Committee is responsible for managing, inspiring and supporting the work of the stakeholder network. The Steering Committee identified stakeholder groups and individual representatives; and discussed, prioritized and made decisions about WINGS priorities and strategy. They will make decisions regarding urgent matters and will vet recommendations from working groups and WINGS participants. They are also responsible for seeking funding to sustain WINGS. Judge Robert Lewis, Clark County Superior Court and Commissioner Tony Rugel co-chair the Steering Committee. Other members are:

- Callie Dietz, State Court Administrator
- Jay Lindh, Family Guardian
- David Lord, Director of Public Policy, Disability Rights Washington
- Shawn Meneely, Public Member
- Elaine Morgan, Certified Professional Guardian

- Robert Nettleton, Elder Law Attorney
- Paula Renz, State Unit on Aging
- Carol Sloan, Adult Protective Services
- Ivanova Smith, Self-Advocate
- Diana Zottman, Chair, Developmental Disabilities Council

Steering Committee members have met with various stakeholders to educate them about WINGS. The following presentations were completed:

- September 18, 2015 - Washington State Bar Association (WSBA) Elder Law Annual Meeting.
- October 27, 2015 – Lifetime Advocacy Plus Board Meeting (a non-profit guardianship agency).
- November 12, 2015 – Tacoma-Pierce County Bar Association Guardianship Fall Continuing Legal Education.
- January 21, 2016 – King County Bar Assn Guardianship and Elder Law Section
- February 18, 2016 – The Board for Judicial Administration (BJA), the policy body for the Washington Courts. WINGS drafted a resolution documenting support for the work of WINGS for consideration and adoption by BJA.

The WINGS Steering Committee was invited and agreed to collaborate with Washington Supreme Courts' Annual Judicial Conference Committee to provide a plenary educational session titled *Preparing Courts and Judicial Officers or the Age Wave* on September 11, 2016. San Diego County Prosecutor, [Paul Greenwood](#), an expert on elder abuse will present jointly with the Steering Committee Co-chairs.

### **1. Administered an online needs assessment survey.**

More than 400 stakeholders statewide responded to the online survey. The Steering Committee prioritized the high-level recommendations from the online survey and overlaid recommendations from several reports that were completed in Washington State in recent years. Prioritized recommendations clustered into three areas – (1) Supporting the family and friends of persons needing decisional support; (2) Improving assessment of persons needing decisional support; and (3) Improving Guardianship Standards and Practice. Three temporary subcommittees comprised of volunteers who expressed an interest in the topic areas met multiple times, refined recommendations in each area and prepared presentations for the first WINGS conference.

### **2. Held WINGS I Guardianship Conference.**

The Washington State Supreme Court convened its inaugural WINGS Conference in Wenatchee, Washington on August 7, 2015. More than 200 individuals representing a broad-based group of stakeholders, including judicial officers, court staff, professional guardians, lay/family guardians, persons with developmental disabilities, family members of persons in a guardianship, social workers, guardians ad litem, attorneys, advocates, mental health professionals, seniors, legislators and more attended and discussed

recommendations to improve Washington's delivery of decisional-support. Speakers included Chief Justice Barbara Madsen, Washington State Supreme Court and Mary Joy Quinn, WINGS Technical Advisor from the National Guardianship Network.

Structured, facilitated stakeholder discussions conducted during the conference resulted in 23 prioritized recommendations. Four ongoing workgroups were formed to refine recommendations further and implement.

**a) The Legislative Committee** chaired by Walt Bowen, president of the Washington State Senior Lobby will provide advice and recommendations on all matters dealing with legislation, including court rules, to WINGS. During active legislative session, the Committee will monitor bills of potential interest to WINGS and select those to be tracked. The Committee may recommend positions on bills for consideration by the full WINGS Steering Committee.

The Legislative Committee formed too late to submit legislation in 2016, but discussed and considered proposing legislation to change the term "Guardian ad litem" to "court investigator"; "alleged incapacitated person" to "respondent"; and "incapacitated person" to "protected person". The Committee hopes to finalize these and other proposals for the 2017 Legislative Session.

**b) The Long-Range Planning/Strategic Planning Committee** co-chaired by Associate Professor Lisa Brodoff, Seattle University School of Law and retired Professor Larry Weiser, Gonzaga School of Law will develop effective approaches to long-range planning for WINGS. Members shall be advocates for and play a leadership role in long-range planning and shall promote a long-term commitment to improving the state's system of decisional-support.

To date, the committee has focused its research on (1) providing access to conflict resolution to the family and friends of individuals needing decisional support; (2) providing a court-appointed attorney to the respondent in a guardianship proceeding; (3) establishing additional minimum qualifications for Title 11 Guardians ad litem; and (4) establishing a hotline to respond to questions from lay and professional guardians and other surrogate decision makers, family members and persons needing decisional-support.

**c) The Standards and Best Practice Committee** chaired by Professor Winsor C. Schmidt, University of North Carolina at Charlotte will develop and recommend that WINGS encourage and/or advocate adoption of standards, guidelines and best practices for entities involved in the delivery of decisional-support, including courts, guardians, Guardians ad litem, attorneys, and other professionals.

Since forming, the Standards of Practice Committee has developed proposed standards addressing specific conflicts of interest. The Committee has developed standards that respond to the following questions:

- 1) Is it appropriate for an attorney to represent the petitioner and the professional guardian in a guardianship proceeding?

- 2) May a professional guardian petition for guardianship?
- 3) May a professional guardian accept a referral from a nursing home or residential facility?
- 4) May a professional guardian who is an attorney represent an incapacitated person for whom he or she provided guardianship services?

**d) The Information and Training Committee** co-chaired by Meredith Childers, Attorney, Northwest Justice Project, Charlotte Jenson, AOC Court Business Information Coordinator and Donna Holt, Elder Law Attorney will develop and recommend development of educational resources and training materials for all entities involved in determining the need for, selecting or delivering decisional-support.

The Information and Training Committee has developed the Table of Contents and completion timeline for a lay guardian training manual and guidance for three levels of court guardianship monitoring. A new AOC website that provides information for persons needing decisional-support and their family and friends, lay and professional guardians and other professionals is in development. The website will include a page for WINGS information and updates.

### **3. Planned WINGS II Guardianship Conference.**

With the assistance of Conference Planning Committee Chair, Certified Professional Guardian Cathy Silins, staff planned a second WINGS conference. The conference will be held at the Bell Harbor International Conference Center, Seattle, Washington on March 17, 2016. The Second WINGS Conference will bring together professionals and lay persons who have an interest in improving the provision of decisional support in Washington State. The conference will offer a forum to learn methods and improve practice that results in better decisional support, improved outcomes, cost savings, and an overall better experience for those navigating complex systems.

The theme “Washington WINGS II – Delivering on Stakeholder Priorities” sets the tone for the topics that will be presented. Participants will learn from leaders in the field of decisional support and network with professionals and lay persons. The conference will provide training, policy discussion and networking opportunities that will improve support for individuals needing assistance making decisions. Training sessions and policy discussion will focus on the priorities identified during WINGS I. Robert Fleischner, Assistant Director, Center for Public Representation and Philip Marshall, grandson of Elder Abuse Victim, Philanthropist Brooke Astor are featured speakers.

### **4. Received a Hartford Change AGENTS Action Community Grant.**

Washington received a Hartford Change AGENTS Action Community Grant, to pursue practice change goals by utilizing the Hartford Change AGENT Online Platform as a focal point to drive conversation in conjunction with external activities. The Online Platform is a tool to keep stakeholders informed and for those stakeholders who enjoy a social media platform similar to Facebook and LinkedIn, it's a way to remain engaged between meetings and teleconferences. Please click on the link below to view the community.

<http://community.geron.org/communities/community-home?CommunityKey=1780d24b-1e60-4c8b-ae42-51d073b764cc>

Click on the following link to obtain the instructions to join the online community:

<http://www.courts.wa.gov/content/publicUpload/Guardian%20WINGS%20II/WINGS%20Online%20Community%20-%20Instructions%20to%20Join%20.pdf>

### **Next Steps**

WINGS is 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. The goal is for the WINGS Steering Committee and subcommittees to continue to develop plans and implement discreet solutions until the plans and solutions are no longer needed.

Currently, WINGS is focused on developing a comprehensive plan for the provision of decisional-support that will be implemented over several years. After an initial plan is developed, WINGS will consider developing other organizational issues, such as term limits for Steering Committee members. If funding is available, WINGS plans to host an annual stakeholder meeting.

Anyone interested in WINGS activities should consider joining the online community, the WINGS listserv and one of the WINGS subcommittees. To obtain information, contact Shirley Bondon at [shirley.bondon@courts.wa.gov](mailto:shirley.bondon@courts.wa.gov)

Callie T. Dietz  
State Court Administrator

## STATE AND NATIONAL DECISIONAL SUPPORT UPDATES

March 2016

### WASHINGTON UPDATE

During our state's non-budget legislative sessions, it has been the practice of the Chief Justice to issue a written report on the State of the Judiciary to the governor, state elected officials and legislators in an effort to keep them and members of the public apprised of significant progress and challenges occurring in our branch. To improve readability, that report has recently been redesigned and this year is available in an online magazine format. WINGS was featured in the State of the Judiciary Report found at [www.joom.ag/oSvp](http://www.joom.ag/oSvp).

### Update on 2016 State Legislation

#### Passed Bill

#### **SB 5635 – Passed March 3, 2016, headed for Governor's desk**

Enacts the Uniform Power of Attorney Act, which governs creation, termination, scope of authority, fiduciary duties, and related matters regarding powers of attorney

#### **Surviving Bill as of March 7, 2016**

#### **3SHB 1499 – Passed to Rules Committee for second reading 2/26**

- Makes it a Criminal Mistreatment offense when a person, with criminal negligence (instead of recklessly) withholds the basic necessities of life from a child or dependent person.
- Creates the crime of Theft from a Vulnerable Adult in the first and second degree.
- Adds the crimes of Criminal Mistreatment and Theft from a Vulnerable Adult to the list of crimes against persons.
- Limits the statute of limitations for the crime of Theft from a Vulnerable Adult to six years.

## **Dead Bills as of March 7, 2016**

**HB 1839** – Expands the services of the Office of Public Guardianship to include serving as Representative Payee, Attorney in Fact and Trustee.

### **HB 2300 - Scheduled for public hearing, executive session in the Senate Committee on Human Services, and Mental Health & Housing on 2/25**

- This act represents a commitment to safeguard the personal information of a guardian ad litem to further ensure his or her safety and the safety of his or her family.

### **HB 2379 – Referred to Appropriations 2/1**

- Requires the Department of Social and Health Services to establish two elder justice center demonstration programs, one in Clark County and the other in Spokane County, that coordinate a multidisciplinary approach to the prevention, investigation, prosecution, and treatment of abandonment, abuse, neglect, and financial exploitation of vulnerable adults.

**HB 2401** - Provides a process for a person to obtain a court order for visitation with his or her adult relative, close friend, or neighbor.

**HB 2402** - Requires a guardian or limited guardian of the person to inform an incapacitated person's relatives as soon as reasonably possible if the incapacitated person dies or has been hospitalized for three days or more.

**HB 2550** - Allows a person who is at least seventy years old to choose either to be excused from jury service because of age or choose to remain a prospective juror.

**HB 2797**- Prohibits a guardian or limited guardian from restricting an incapacitated person's right to communicate, visit, or interact with other persons unless specifically authorized by court order.

Authorizes the court, upon a guardian or limited guardian's motion and a showing of good cause, to enter an order allowing restrictions to be placed on an incapacitated person's ability to communicate, visit, or interact with another person.

Requires a guardian or limited guardian to promptly inform any relatives entitled to notice of proceedings and any other person designated by the incapacitated person if the incapacitated person: (1) Changes residence or is staying at a location other than his or her residence; (2) Has been admitted to a medical facility for emergency care in response to a life-threatening injury or medical condition, or for acute care; or (3) Dies, in which case the notification must be made in person or by telephone.

**HB 2869** - Requires any action by a guardian or limited guardian to prevent or limit contact between an incapacitated person and another to be made by motion to the court having jurisdiction over the guardianship.

**SB 6235** - Provides a process for a person to obtain a court order for visitation with a person who has been adjudicated incapacitated and has a court- appointed guardian.

## **NATIONAL PROJECTS**

### **CAAP**

The National Center for State Courts (NCSC), with support from the State Justice Institute announced the [Conservatorship Accountability Project \(CAP\)](#) pilot states. NCSC received five carefully drafted applications. Members of a review panel resolved to award three implementation awards and two planning awards. The planning awards were given to states that require some structural changes, such as updating Supreme Court rules, hiring staff, or improving technologies, before proceeding with implementation. **Indiana, Iowa** and **Texas** received full implementation awards; **Nevada** and **New Mexico** received planning awards. NCSC looks forward to providing technical assistance to the CAP pilot sites and building the CAP Network as a robust platform for sharing experiences and advice among the recipients.

### **Guardian/Conservator Abuse**

The National Center for State Courts (NCSC), in partnership with the American Bar Association and the Virginia Tech Center for Gerontology, is collecting data and case information for a project on conservator (guardian of the estate) fraud, which is funded by the Office for Victims of Crime. NCSC learned that, at the same time, the Government Accountability Office (GAO) is conducting a similar study on all abuses (i.e., physical abuse, neglect, financial exploitation) that occur in guardianship cases. In order to maximize efforts and findings, the three entities are collaborating on the following information request.

They are seeking cases of **physical abuse, neglect, and financial exploitation by guardians or conservators in which an adult protective services agency or the justice system substantiated the allegation and the case was closed between 2011 and the present.** The information will be used to help the organizations understand and describe the characteristics of abusive practices. If you have knowledge of such cases, they would greatly appreciate it if you can share the information.

Information to Send: Brief description of cases and the sources of information that they might access (e.g., media reports, court records). If you know that the victim was elderly (65+), please note.

Where to Send Information: Dr. Brenda K. Uekert, National Center for State Courts, [buekert@ncsc.org](mailto:buekert@ncsc.org). Dr. Uekert will follow up with you after reviewing the information.

### **Please send information by Thursday, March 31, 2016**

Upon receipt, Dr. Uekert will compile the information and share with the GAO. If you would like to contact the GAO directly, the project leads are John Ahern ([AhernJ@gao.gov](mailto:AhernJ@gao.gov)) and Nada Raouf ([RaoufN@gao.gov](mailto:RaoufN@gao.gov)).

Additionally, NCSC is searching for model programs and courts that use “innovative, evidence-based programs and practices that successfully detect and remedy conservator and guardianship fraud and abuse, such as alternatives to conservatorships and guardianships.” If you would like to nominate a model program or court, please send program information to Dr. Uekert.

### **Supported Decision Making**

Texas is the first state to pass a statute offering supported decision-making as an alternative to a guardianship (see [SB 1881](#)). The statute allows a person to designate a supporter whose job it is to help make decisions. The final decision-making power is retained with the individual. Texas has a [template](#) that can be used to draft a supported decision-making agreement. It is new legislation so there is some uncertainty as to how banks and hospitals might honor the agreement. The agreement requires two witnesses and must be notarized. If abuse is suspected, the abuse should be reported to the Department of Family and Protective Services.

### **North Dakota Guardianship Training**

Members of the Conference of State Court Administrators (COSCA) previewed the online educational tool that is being developed in a partnership between the North Dakota AOC and National Center for State Court’s (NCSC) Creative Learning Services. The target audience for the course are family and friends who are asked to serve as a guardian or conservator.



Dr. Uekert explained that an avatar was used to introduce the main sections and that the program included some interactive exercises. The main menu is divided into the following sections (1) overview of guardianship; (2) duties of the guardian of the ward; (3) financial duties of the guardian; (4) making the best decisions for the ward; (5) ongoing responsibilities and forms; and (6) termination of the guardianship. The total cost to develop the course was \$29,537.

Dr. Uekert indicated that the North Dakota training tool could provide an excellent template for other states and territories, as guardianship practices and requirements tend to be similar. The course could be easily modified to accommodate variations in terminology and processes. The NCSC Creative Learning Services staff could provide additional details and cost estimates for those interested in adapting this approach.