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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.