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# Colorado Office of Public Guardianship

**Director**, Sophia M. Alvarez

**Commissioners**

Kelsey Lesco, Chair  
Karen Kelley, Vice-Chair  
Deb Bennett-Woods  
Marco Chayet  
Alison Zinn



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## **PUBLIC MEETING**

**June 24, 2020**

### **RECORD OF PROCEEDINGS**

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#### **CONVENE**

The meeting of the Colorado Office of Public Guardianship Commission was convened by telephone conference at 10:03 AM by Commission Chair Kelsey Lesco.

A quorum of the Commission was present.

#### **Commission Members Present**

Kelsey Lesco, Chair  
Karen Kelley  
Deb Bennett-Woods  
Marco Chayet

#### **OPG Director**

Sophia M. Alvarez

#### **Others Present**

Jacquelyn Beal, Office of Public Guardianship  
Rhonda Sanchez, Office of Public Guardianship  
Camille Price, Office of Public Guardianship  
Erin McGavin, Office of Public Guardianship  
America Paz Pastrana, Office of Public Guardian  
Debbie Enck, Office of the Attorney General

## **Public Attendance**

Maureen Welch

Former State Senator Robert Hernandez

All participated by telephone.

## **AGENDA ITEMS**

### **I. Call to Order**

The meeting was called to order.

### **II. Approval of the May 13, 2020 Meeting Minutes**

Chair Lesco calls for amendments to the draft meeting minutes. There were no amendments to the meeting minutes. Commissioner Kelly moved to approve the May 13, 2020 Meeting Minutes as presented. Commissioner Chayet seconded the motion. Motion passes unanimously.

### **III. Chair Report (Kelsey Lesco)**

Chair Lesco begins meeting informing that she just returned from maternity leave as of yesterday. The first item she wants to address is the meetings format. Chair Lesco wishes to keep meetings via telephone because does not want to put anyone at risk due to COVID-19. Chair Lesco suggested to possibly have meetings via a virtual format. Chair Lesco will discuss with Director Alvarez if virtual meetings are feasible with no impact to the budget.

### **IV. Director Report (Sophia M. Alvarez)**

Director Alvarez's 6.24.2020 Director Report was distributed via email and discussed. Additional items discussed included but not limited to:

- a. Director Alvarez advised CO OPG Website is complete, but for some minor tweaks. In the Case Management System – court forms and e-signature capabilities were completed and Individualized Guardianship Plan still in progress.
- b. OPG office will continue to follow SCAO/Judicial work from home provision until July 6, 2020. Additionally, OPG is following COVID-19 health screen protocol that SCAO/Judicial is using. Director Alvarez is considering

- continuing work from home along with a work share for the Public Guardians, since their work area does not allow for 6 feet social distancing. Director Alvarez ordered reusable masks, disinfectant wipes, hand sanitizer, and work glasses for staff. However, Director Alvarez has not been successful in securing PPE for the office.
- c. The Colorado OPG Fiscal Policies draft is a work in progress with assistance of Commissioner Bennett-Woods. Once fiscal policies are updated, submitted and reviewed, the Fiscal Policies will be incorporated into the Operating Policies.
  - d. The Colorado OPG Operating Policies and Manual will be posted to CO OPG Website once updated.
  - e. There is no update regarding Internal Ethics Committee since the 05.13.2020 meeting. Director Alvarez will continue to research the creation of the Committee for discussion at another CO OPG Commission meeting.
  - f. In light of the death of George Floyd and many others, staff requested that the CO OPG have a policy related to the Office as well as clients indicating our commitment to ensuring systemic equality. As suggested by Chair Lesco and Commissioner Bennett-Woods, Director Alvarez will update Policy 8, Ensuring Systemic Equality, to include all vulnerable groups.
  - g. Director Alvarez informed that AG Enck provided a CORA policy that will be included in the CO OPG Operating Policies and Manual.
    - i. Chair Lesco requested to move discussion of CORA policy to an executive session because it requires legal advice from AG Enck. The executive session may take 20 minutes.
    - ii. Members of the public, Former State Senator Robert Hernandez and Maureen Welch, inquired about how they will be informed when to call back to the meeting.
    - iii. Commissioner Chayet volunteered to contact members of the public via email informing them when to log back in. Commissioner Chayet confirmed with Chair Lesco if was ok to proceed in that manner and Chair Lesco approved.
    - iv. Mr. Hernandez wanted to add comment and AG Enck asked to wait until end of the meeting for public comment.
    - v. Mr. Hernandez asked AG Enck to “not correct people.”
    - vi. Chair Lesco requested to move forward with the meeting.
    - vii. Mr. Hernandez requested Chair Lesco to keep AG Enck in check.
    - viii. Chair Lesco stated that AG Enck was appropriate with her request.

- h. Director Alvarez informed that legislation passed identifying the CO OPG as an employer allowed to request CAPS checks for employees and volunteers and is waiting for the effective date and for CO OPG to be added to the pick list.
- i. Director Alvarez gave the following update on number of registered users, referrals, accepted cases, etc. as of 06.23.2020.
  - i. 26 registered referrals
  - ii. 5 accepted cases
  - iii. 8 referrals – Partial/Incomplete referrals
  - iv. 1 declined – Arapahoe County
  - v. 12 streamlined referrals (Non-Denver County)
    - 1. Arapahoe County - 2
    - 2. Larimer County - 3
    - 3. Weld County - 4
    - 4. Montrose County - 1
    - 5. Washington County - 1
    - 6. Gunnison County - 1
  - vi. Director Alvarez expressed her concern about accepting all referrals, as cases would lean to CMHI/Jail populations, which are very intense and complicated cases.
    - 1. Of the 5 accepted referrals
      - a. 2 – CMHI
      - b. 2 – Hospital
      - c. 1 - MHCD
    - 2. Of the 8 pending referrals
      - a. 2 – VA referrals
      - b. 1 – DD (CO Cross Disability Coalition)
      - c. 3 – CMHI
      - d. 2 – Jail/Detention Center
- j. Commissioner Chayet informed that he serves in 18<sup>th</sup> judicial district and staff in Arapahoe county want to file referrals. Commissioner Chayet asked them to submit a streamline referral to collect data from that district.
- k. Commissioner Chayet expressed his concern with the number of referrals received from detention facilities and mental health hospitals given the contested nature of the proceedings and oversight of discharge from jail.
- l. Director Alvarez informed that these cases are deemed incapacitated and the ones that have criminal cases pending, charges will be dismissed if a guardian is in place.

- m. Director Alvarez stated that most of those cases seek discharge from Fort Logan to a locked secured facility.
- n. Commissioner Chayet is concerned with the criminal case component being an issue in finding placement and paying for it.
- o. Commissioner Bennett-Woods inquired if OPG is providing services to the 5 accepted cases.
- p. Director Alvarez informed that two cases have filed a petition with the court and two are at stand still due to the lack of legal assistance filing the petition with the court.
- q. Commissioner Bennett-Woods inquired about options of working around that obstacle.
- r. Director Alvarez advised she is working with attorneys who can help with filing the petition and putting them in contact with health facilities who need help.
- s. In addition, Director Alvarez is working with the Colorado Bar Association to put a call for attorneys who can help file petitions. Social workers are working on referrals possibly filing them as pro se but has not seen it happened.
- t. Commissioner Chayet stated that all cases need to be appropriate for guardianship and not a substitute for Fort Morgan or the Criminal Justice System.
- u. Commissioner Bennett-Woods stated she knew that cases from Mental Health and detention facilities were going to be main source of clients and inquired about the criteria applied to this kind of cases.
- v. Director Alvarez informed she has not developed any kind of procedure to this point but can work on a procedure based on how difficult the case would be.
- w. Commissioner Bennett-Woods suggested to look at other models from other offices. Commissioner Bennett-Woods is concern with the overload of these kinds of cases as it is a difficult caseload for guardians as well as not a representative sample of the overall need for guardian services and equity of services
- x. Commissioner Chayet states that there is a threshold issue to handle with the kind of referrals and profiles and suggested to start looking into tiers to attribute resources to.
- y. Commissioner Bennett-Woods stated that there are agencies that may not be in the loop and know that OPG exists. She suggested to do more marketing to balance the types of cases.

- z. Chair Lesco stated that this is a very complicated issue looking at the type of cases and what kind circumstances we are going to get involved.
- aa. Chair Lesco asked for additional comments. There were no comments as to this issue.

### **Representative Payee – In progress**

Director Alvarez informed that AG Enck is in communication with Colorado Fund for People with Disabilities and drafting a contract for Social Security Administration Representative Payee and VA Fiduciary services. Chair Lesco asked for comments. There were no additional comments.

## **V. Discussion of Director Evaluation Process (Kelsey Lesco and Deb Enck)**

Chair Lesco began discussion asking each Commission member to fill out the Interim Director's Evaluation and return it to her by July 1<sup>st</sup>. Chair Lesco informed that Director Alvarez has already provided her self-evaluation.

- a. Commissioner Bennett-Woods inquired whether the comments are to be anonymous.
- b. AG Enck advised that it does not matter whether the comments are anonymous or not because Chair Lesco will compile comments and draft evaluation.
- c. Commissioner Bennett-Woods informed she will add her initials to her comments. Commissioner Bennett-Woods added that given the circumstances finds it difficult to evaluate because Director Alvarez has not had the opportunity work at full capacity.
- d. Chair Lesco stated that she will take the pandemic into account. Additionally, Chair Lesco advised that from the 1 to 5 range, 3 is a good score which means that Director is doing everything that needs to be done.
- e. Chair Lesco inquired about adding public comment. AG Enck stated that for this Interim Evaluation there will only be a Commission Evaluation.
- f. Chair Lesco stated that next year will open evaluation for public comment.

**VI. Discussion of Colorado Open Records Act (CORA) and its applicability to the CO OPG (Deb Enck)**

The commission will discuss this topic in an Executive Session. AG Enck will start recording the session and a Commissioner needs to make a motion to go into Executive Session. Commissioner Chayet moves to go into Executive Session to discuss CORA and its applicability to the CO OPG. Commissioner Bennett-Woods seconds the motion. Motion passes unanimously. Executive session began at 10:55 a.m.

Executive Session ended at 11:29 a.m. Via email, Director Alvarez notified members of the public that the public meeting was to begin. The OPG Commission Meeting came back in session at 11:34 a.m.

**VII. Discussion of Proposed Policy 8. Ensuring Systemic Equity (Sophia M. Alvarez)**

Director Alvarez advised she doesn't have anything further to add regarding the proposed Policy 8.

- a. Commissioner Bennett-Woods stated she doesn't have a problem with the intent of the policy however, would like to see more clarity as to insuring the systematic equity because other populations were not included.
- b. Director Alvarez informs the intention was to include vulnerable groups and other populations and that this is just a proposed draft.
- c. Commissioner Bennett-Woods states that the policy mentions race but should also be addressed in the preamble. Commissioner Bennett-Woods posed the following questions: How is the policy intended to be used? Does the policy need to be modified in the direction of data we are collecting? How is that going to be addressed? How do you intend to rationalize the policy? Do we already have the data?
- d. Director Alvarez informed that data will be covered by this policy, however she will still need to review and update other policies as well.
- e. Commissioner Bennett-Woods asked whether the policy was intended to stand alone. Director Alvarez stated that it was not intended to stand alone.
- f. Commissioner Bennett-Woods asked to clarify and relook at the language to express the intent in the policy.
- g. Chair Lesco asked if the content is applicable to the office, and if other state offices have policies similar to this?
- h. Director Alvarez advised she obtained information from different community and advocacy groups but not state agencies.

- i. AG Enck stated she is not aware of any other state agencies using a similar policy.
- j. Chair Lesco informed she has no objection to policy but has concerns that other state agencies don't have a similar policy.

## **VIII. Public Comment**

- a. Mr. Hernandez read new language in state law, § 24 - 34 – 111, C.R.S., regarding public integrity in patterns and practices to prevent deprivation of any person's rights, and stated that this is a new statute that applies to CO OPG. Additionally, Mr. Hernandez stated that would like for Senate Bill 20-129 and ABA emergency guardianship to work in sync.
- b. Maureen Welch stated that she had the following 7 points to make:
  - i. Ms. Welch felt it was "sneaky" how the regular meeting in May was cancelled and rescheduled to an earlier date. Ms. Welch stated that a message could have been sent directly to her and Mr. Hernandez informing them of the change.
  - ii. Ms. Welch expressed that it is very disappointing to her that the Office of Public Guardianship is open for nominations and it is not serving anyone.
  - iii. Ms. Welch stated that OPG has \$700,000 in cash fund and that it would have been fiscally responsible to not hire any guardians until getting through the pandemic. Ms. Welch stated that the OPG shouldn't have worked through pandemic and furloughed all employees.
  - iv. Ms. Welch indicated that the Commission should pull the plug and end OPG before accepting any clients.
  - v. Ms. Welch suggested that it is discriminatory to say that the OPG does not want to take people from Mental Health and Detention facilities.
  - vi. Ms. Welch stated that the response to her CORA request was very creative in moving numbers. Ms. Welch expressed her concern regarding how Director Alvarez is moving money around.
  - vii. Ms. Welch stated that there is an email from 3.25.2020 where Commissioner Bennett-Woods suggested that Director Alvarez ask Representative Snyder to intervene because Ms. Welch spoke about free rental space to the Denver City Council.
- c. Ms. Welch stated that she wishes to email all appointed commissioners and asked for their email address.



- d. Chair Lesco asked AG Enck for ideas on the email and suggested to communicate through Director Alvarez in the meanwhile.
- e. Ms. Welch stated she doesn't want to go through Director Alvarez and requested direct communication with commission.
- f. Chair Lesco asked AG Enck about the best practice of direct communication with the public.
- g. AG Enck informed she is not comfortable discussing the present issue at this time.
- h. Chair Lesco suggested to discuss it at the next meeting.
- i. Commissioner Chayet asked for details of the mentioned email.
- j. Ms. Welch informed that the email was from 3.25.2020, between Director Alvarez and Representative Snyder to communicate with City Council.
- k. Mr. Hernandez stated he wishes to forward some emails to the commission from Director Alvarez where she was very hostile.
- l. Chair Lesco gave her email to public to communicate in the meanwhile.
- m. Commissioner Chayet requested to please find way to communicate with all other commission members.
- n. AG Enck informed she will figure out how to distribute to members.

**IX. Adjourn**

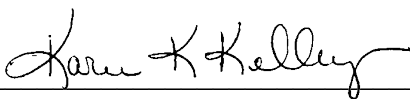
Commissioner Chayet moves to adjourn the meeting. Commissioner Bennett-Woods seconds the motion. Motion passes unanimously. Meeting adjourned at 12:05 p.m.

**ATTESTATION**

As Commission Chair and Commission Vice-Chair, we attest that these minutes of the open public meeting of the Colorado Office of Public Guardianship Commission substantially reflect the substance of the discussion and action taken related to the matters under the authority of the Commission.

  
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 Kelsey Lesco, Chair

8/18/2020  
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 Date

  
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 Karen Kelley, Vice-Chair

8/18/2020  
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 Date