

**COLORADO OFFICE OF PUBLIC GUARDIANSHIP  
PILOT PROGRAM**



**SMART Act Hearing**

**Performance Plan**

**01.24.2022**

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## EXECUTIVE SUMMARY

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The Colorado Office of Public Guardianship (OPG) Pilot Program established by the Colorado General Assembly will strive to meet the guardianship needs of incapacitated and indigent adults, within the targeted judicial district(s), who lack willing or appropriate family or friends, while implementing the least restrictive alternatives and person-centered planning. The Colorado OPG Pilot Program is entering its final full year. The primary goals will be to continue providing essential services to our clients while also completing the critical statutory requirement of a final report to the Colorado General Assembly by January 1, 2023. The final report will assess the need for, and feasibility of, a statewide office of public guardianship services and provide detailed recommendations for action.

With these goals in mind, the 2022 fiscal year performance plan is heavily weighted toward data collection, including broad stakeholder engagement, and the evaluation of strategies for establishing statewide services on a permanent basis. Of particular note is the potential opportunity to expand services in the coming year to the original statutory goal of three judicial districts that better represent Colorado's rural areas.

In addition, the Office will continue our dedication to the safety and well-being of our clients by creatively addressing the many challenges and barriers to services created by COVID-19.

# MISSION AND VALUES

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## MISSION STATEMENT

The Mission of the Colorado OPG Pilot Program is to provide guardianship services for indigent and incapacitated adults, within the targeted judicial district, when other guardianship possibilities are exhausted. If Colorado adults lack willing and appropriate family or friends, resources to compensate a private guardian, and access to public service organizations that offer guardianship, the Colorado OPG Pilot Program provides guardianship services to secure the health and safety of these individuals while safeguarding their individual rights and preserving their independence wherever possible.

## VALUE STATEMENTS

***Dignity:*** At-risk adults are treated with individual dignity and respect.

***Self-determination:*** The concerns and decisions of at-risk adults are, to the greatest extent possible, considered with the assistance to regain or develop capacities and participate in supported decision-making and person-centered planning.

***Access and Quality:*** At-risk adults should receive timely access to appropriate services, consistent with best practice, to ensure personal safety and well-being.

***Collaboration:*** The Colorado OPG Pilot Program actively seeks collaborative relationships with governmental and community stakeholders to maximize resources and support continuous improvement of policies and processes.

***Accountability and Transparency:*** Outcomes of the Colorado OPG Pilot Program are defined, documented and made available to the Colorado General Assembly and the public, as required by statute, accurately and on a timely basis.

## VISION STATEMENT

The Colorado OPG Pilot Program will serve at-risk adults, within the targeted judicial district, with dignity and collaborate with stakeholders to assist in ensuring individuals receive appropriate public guardianship services. The Colorado OPG Pilot Program will educate stakeholders of the value and dignity of at-risk adults to consistently implement least restrictive alternatives and supportive decision-making to ensure the appropriate level of public guardianship is tailored on an individual basis.

## AGENCY OVERVIEW

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### GOVERNING AUTHORITY

The Colorado Office of Public Guardianship (OPG) is a public agency established by the Colorado General Assembly. The Director and the Governing Body have the decision-making authority to determine agency policy. The Director serves at the pleasure of the Governing Body pursuant to § 13-94-104(3), C.R.S. (2019).

Pursuant to § 13-94-104(1), C.R.S. (2017), the Colorado General Assembly created the Office of Public Guardianship within the Judicial Department.

The OPG is a pilot program initially operating in the Second Judicial District and subsequently the Seventh and Sixteenth Judicial Districts conditional upon securing additional funding effective until June 30, 2023, at which time the agency will either continue, discontinue, or be expanded by the General Assembly pursuant to § 13-94-111, C.R.S. (2019).

### GOVERNING BODY

The Colorado Office of Public Guardianship (OPG) Commission is the Governing Body of the Colorado OPG.

Pursuant to § 13-94-104(1), C.R.S. (2017), the Colorado General Assembly created the Office of Public Guardianship Commission. The Commission is comprised of 5 members. Three of the members are appointed by the Colorado Supreme Court, of which two must be attorneys admitted to practice law in Colorado and one must be a resident of Colorado not admitted to practice law. The remaining two members are appointed by the Governor, one who must be an attorney admitted to practice law in this state and one who must be a resident of Colorado not admitted to practice law.

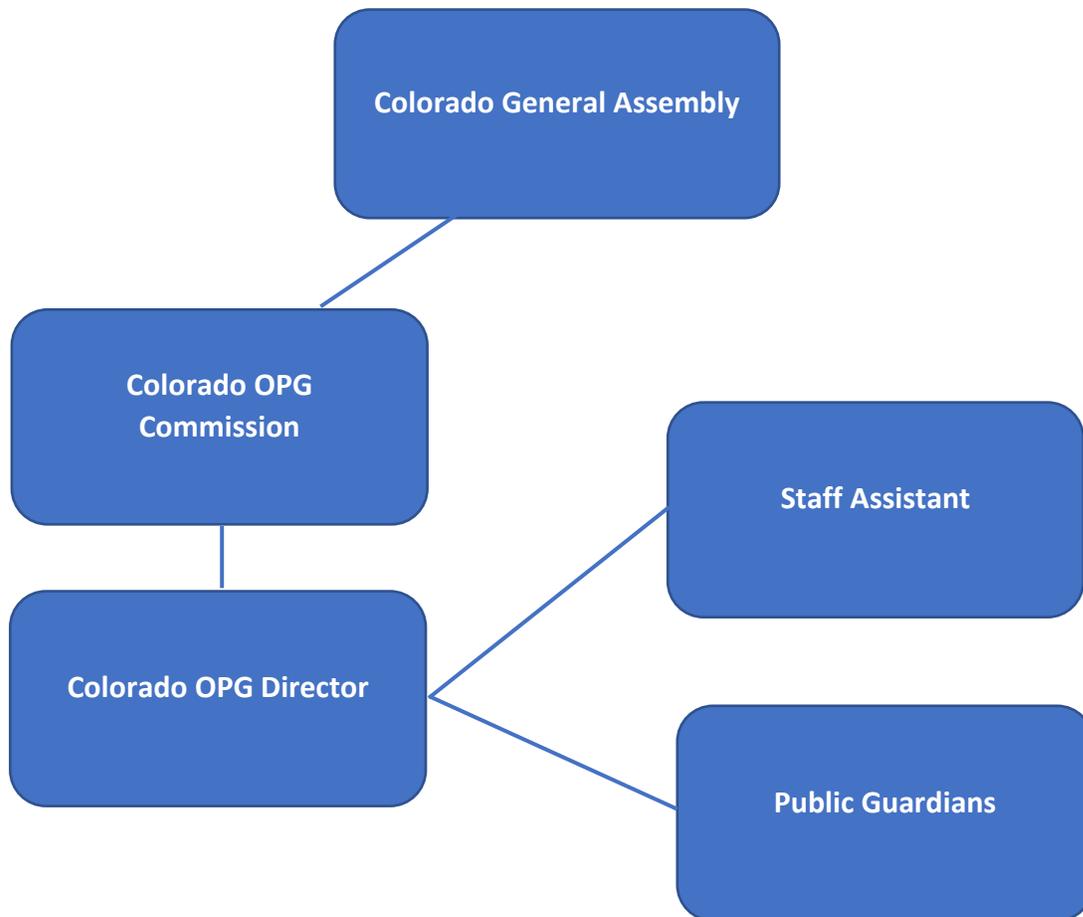
Pursuant to HB 19-1045, signed into law on May 30, 2019, effective on July 1, 2019, the Commission is charged with appointing the Director for the Office of Public Guardianship. The Director serves at the pleasure of the Commission pursuant to § 13-94-104(3), C.R.S. (2019).

## ORGANIZATIONAL STRUCTURE

The Colorado Office of Public Guardianship (OPG) operates at arms-length and functions independently from the Judicial Branch and other entities providing direct services and courts having direct decision-making authority.

The Colorado OPG operates separately from the services which many wards will need to access. This separation of powers ensures that Public Guardians are not providing services by contract or directly so that no conflict of interest or potential conflict of interest to the possible detriment to the ward.

## STRUCTURAL OVERVIEW



## DUTIES AND SERVICES PROVIDED BY THE OPG

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The Colorado Office of Public Guardianship (OPG) shall provide guardianship services; gather data to help the general assembly determine the need for, and the feasibility of, a statewide office of public guardianship; and that the office is a pilot program, to be evaluated and then continued, discontinued, or expanded at the discretion of the general assembly in 2023.

### GUARDIANSHIP SERVICES

The COPG provides guardianship services to eligible incapacitated and indigent adults 21 years of age and older, within the targeted judicial district, who lack willing or appropriate family or friends, while implementing the least restrictive alternatives and person-centered planning.

### REPORTING REQUIREMENTS

1. On or before January 1, 2023, the Director shall submit to the judiciary committees of the senate and house of representatives, or to any successor committees, a report concerning the office.
2. The Report, at a minimum, must:
  - a. Quantify, to the extent possible, Colorado's unmet need for public guardianship services for indigent and incapacitated adults;
  - b. Quantify, to the extent possible, the average annual cost of providing guardianship services to indigent and incapacitated adults;
  - c. Quantify, to the extent possible, the net cost or benefit, if any, to the state that may result from the provision of guardianship services to each indigent and incapacitated adult in each judicial district of the state;
  - d. Identify any notable efficiencies or obstacles that the office incurred in providing public guardianship services pursuant to statute;
  - e. Assess whether an independent statewide office of public guardianship or a nonprofit agency is preferable and feasible;
  - f. Analyze costs of and off-setting savings to the state from the delivery of public guardianship services;
  - g. Provide uniform and consistent data elements regarding service delivery in aggregate format that does not include any personal identifying information of any adult; and
  - h. Assess funding models and viable funding sources for an independent office of public guardianship or a nonprofit agency, including the possibility of funding with a statewide increase in probate court filing fees.

3. The Director, in consultation with the OPG Commission, shall develop a strategy for the discontinuation of the office in the event that the general assembly declines to continue or expand the office in 2023. The strategy must include consideration of how to meet the guardianship needs of adults who will no longer be able to receive guardianship services from the office.

# Establishment and Development of the Colorado Office of Public Guardianship

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## OVERVIEW

Although HB17-1087, the original OPG pilot project statute, was signed into law in 2017, funding was not secured until an amendment in 2019, which limited the pilot project to the 2nd Judicial District/Denver County. The Executive Director was hired effective November of 2019 and the basic infrastructure for the Office, including initial staff hires was completed in less than six months. Despite the barriers presented by the COVID-19 pandemic, the OPG began accepting referrals in April of 2020 and was serving a caseload of 20 clients by the end of the year. As of the end of November 2021, the caseload has grown to 73 clients and expanded services with the addition of a public guardian, funded by and dedicated to the Office of Behavioral Health, to serve transitioning clients in the Momentum program. In total, the OPG has served 86 clients in its first 18 months of operation. Thirty-three referrals are in a pending status. The OPG has handled at least 35 general inquiries about services, guardianship procedures, and interstate guardianship requests.

An additional 103 referrals have been denied or withdrawn for various reasons related to eligibility. El Paso County (4<sup>th</sup> Judicial District) is the most referred residence outside of the 2<sup>nd</sup> Judicial District. In fact, results from a statewide survey of unmet guardianship needs in August 2021 reveals an ongoing high demand for services. The 2022 – 2023 OPG Budget Request and Expansion allows the Office to meet the original statutory intent of serving the 2<sup>nd</sup>, 7<sup>th</sup> and 16<sup>th</sup> Judicial Districts and will allow for pilot data that reflects the needs of non-metro and rural areas of the state.

## IMPACT OF COVID-19 PANDEMIC

The Colorado OPG began accepting referrals on April 30, 2020, early on during the COVID-19 pandemic. The first referral was received on June 4, 2020, and the Colorado OPG's first appointment was on August 24, 2020.

There were/are four main issues that delayed the appointment of the Colorado OPG as guardian: Supreme Court and Denver Probate Court Administrative Orders Regarding Court Operations under COVID-19; hospitals not seeking a guardianship due to COVID-19 pandemic delays, facilities not accepting new patients due to the COVID-19 pandemic, and barriers for referring parties in obtaining legal representation.

Due to the COVID-19 pandemic Denver Probate Court was unable to address petitions for permanent guardianship for at least three months which delayed the appointment of the Colorado OPG as guardian. Once a petition for guardianship is filed, a hearing on the appointment of guardianship is typically scheduled within 30 – 60 days, depending on the court’s docket.

Due to the COVID-19 pandemic, hospitals were not making as many referrals for guardianship knowing that the Denver Probate Court was unable to address petitions for permanent guardianship and that facilities were not accepting patients due to the COVID-19 pandemic.

### **CONTINUING IMPACT OF COVID-19 PANDEMIC**

In the last few months, the Omicron Variant has dealt significantly more challenges to the Colorado OPG and the systems the Office intersects.

Assisted Living Facilities and Nursing Homes are short-staffed and having continuous COVID-19 outbreaks. This limits guardian access to visit clients as well obtaining even basic medical and treatment information from providers in a timely manner.

Hospitals are short-staffed as well and dealing with overcrowded emergency rooms. Hospitals are working under the Governor’s Order and Standards Crisis of Care, which allows healthcare systems to discharge patients without guardian notice and consent. The current system is unsustainable. Guardians are given limited information about their clients, not notified of discharged, and not consenting to discharges. This results in either the guardian scrambling to locate an appropriate placement, which is nearly impossible given that facilities are not accepting new clients due to their own COVID outbreaks and being short-staffed, or guardians being unaware that clients were discharged to placements that are not appropriate. This greatly impacts the ability of guardians to provide the best services as we strive to do.

### **OTHER CHALLENGES AND BARRIERS**

A delay in the Colorado OPG appointment as guardian was also due to referring parties facing barriers in obtaining legal representation. There were two referrals withdrawn due to the referring party not having funds to hire legal counsel and/or pay the filing and court fees. There were 8 cases where the referring party declined to file a referral due to not having funds to hire legal counsel and/or pay the filing and court fees. The Director reached out to the Denver Bar Association as well as other attorneys and organizations to help facilitate the referring parties to obtain legal representation.

Eventually, the Denver Probate Court, working with the Chief Justice's Office, created a Statement of Indigency court form that allows for the Colorado OPG to request waiver of court filing and fees based up on the alleged incapacitated person's indigency status.

Also, the Colorado OPG Commission determined that for certain situations where the referring party could not afford legal representation to file a petition for guardianship, the Colorado OPG could contract with external attorneys and agencies and pay for the legal representation. However, this solution is reserved for situations that show a strict financial need or criteria.

## OPG PERFORMANCE GOALS, OBJECTIVES, AND STRATEGIES

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### **Goal 1: Provide appropriate and quality public guardianship services within the targeted judicial district**

The Colorado OPG Pilot Program is committed to addressing the individual needs of eligible adults. The Colorado OPG Pilot Program will establish best practice standards to ensure it is meeting the needs of eligible adults.

**Objective 1.1:** Establish appropriate eligibility criteria in line with the Colorado OPG Pilot Program statutory mandates.

Strategy 1.1A: Formulate an intake, referral, and acceptance process that allows for confidential information sharing regarding referred individual's indigency, level and type of incapacity, that no other persons are available or appropriate to serve as guardian, and that the referred individual is not subject to a petition filed by a county Adult Protective Services.

Strategy 1.1B: Formulate a case acceptance policy in consideration of Public Guardians' experience, training and complexity of referred case.

Strategy 1.1D: Formulate a Colorado OPG Pilot Program intake and referral narrative to educate clients, the public, providers, and stakeholders.

**Objective 1.2:** Alternatives to guardianship.

Strategy 1.2A: Formulate an intake and referral process that allows for the consideration of least restrictive alternatives to ensure that the Colorado OPG Pilot Program is serving eligible adults.

Strategy 1.2B: Formulate a Colorado OPG Pilot Program alternatives to guardianship narrative to educate clients, the public, providers, and stakeholders.

Strategy 1.2C: Promote alternatives to guardianships education, training and clinics to educate clients, the public, providers, and stakeholders.

**Objective 1.3:** Establish ethics and best practices standards for Public Guardians and staff.

Strategy 1.3A: Establish and document minimum qualifications of Public Guardians and staff and hire four (4) Public Guardians and a Staff Assistant.

Strategy 1.3B: Establish best practices standards, including a conflict-of-interest policy, in line with the National Guardianship Association standards.

Strategy 1.3C: Provide initial and ongoing training of standards to Public Guardians and Staff Assistant.

Strategy 1.3D: Formulate a Colorado OPG Pilot Program best practices and standards of practice narrative to educate clients, the public, providers, and stakeholders.

**Objective 1.4:** Assess the needs of the clients.

Strategy 1.4A: Obtain thorough court visitor investigator reports.

Strategy 1.4B: Obtain thorough clinical evaluations.

Strategy 1.4C: Identify appropriate assessments and train Public Guardians to perform assessments.

Strategy 1.4D: Promote effective communication between Public Guardians and clients.

Strategy 1.4E: Promote effective communication between Public Guardians and service providers.

Strategy 1.4F: Formulate individualized client case plans.

Strategy 1.4G: Formulate a Colorado OPG Pilot Program narrative regarding the necessity of thorough reports and evaluations to assess client eligibility and ongoing and appropriate client needs to educate clients, the public, providers, and stakeholders.

Strategy 1.4H: Communicate the necessity for thorough reports and evaluations to clients, the public, providers, and stakeholders.

Strategy 1.4I: Promote quality education and training for court visitor investigators and clinicians.

**Objective 1.5:** Increase client access to appropriate services.

Strategy 1.5A: Formulate a Colorado OPG Pilot Program narrative regarding the need for appropriate services, including, but not limited to: housing, mental health services, medical services, and appropriate direct-care providers.

Strategy 1.5B: Identify, establish, and maintain relationships with direct-care providers and various stakeholders to collaborate on increasing client access to appropriate services.

Strategy 1.5C: Identify, establish, and maintain relationships with local, state and federal governmental agencies to collaborate on increasing client access to appropriate services.

## Goal 1 Process and Metrics

**Provide appropriate and quality public guardianship services within the targeted judicial district**

**Objective 1.1 - COMPLETE:** Establish appropriate eligibility criteria in line with the Colorado OPG Pilot Program statutory mandates.

The Case Management System houses eligibility and additional data for referrals. An intake case acceptance process and criteria are established and maintained in accordance with the Colorado Public Guardianship Act, national best practices and Colorado OPG policies and procedures. Consideration of Public Guardian’s experience and ability to provide quality services occurs with every referral. The Director and Staff Assistant review each referral for meeting eligibility criteria. The Director and Staff Assistant will audit CMS and client files annually for quality assurance.

A streamlined referral option is available to gather data related to the need for public guardianship services outside of the targeted Judicial District.

An intake and referral narrative are available on the Colorado OPG website to educate clients, the public, providers, and stakeholders. The Director provides ongoing intake and referral narrative presentations to various stakeholders across the state. The Director reports intake and referral data to the Colorado OPG Commission monthly.

### Referral Sources:

Denver Health Hospital	Private Attorneys	Rose Medical Center
CMHI – Ft. Logan	Department of Corrections	St. Joseph Medical Center
CMHI – Pueblo	Private Guardians	Porter Hospital
Colorado Fund for People with Disabilities	Boulder County Attorney’s Office	Denver Forensic Collaborative
UC Health Hospital	Veteran’s Administration Guardianship Program	Various nursing homes facilities
Swedish Hospital	El Paso County APS	Nebraska Office of Public Guardian
Denver County Adult Protective Services (APS)	Colorado Cross-Disability Coalition	Alaska Office of Public Advocacy (Attorney for Public Guardian)
Rocky Mountain Human Services Momentum Program	Mental Health Center of Denver	Innovage
Kindred Hospital System	Denver Health ACS Care Management	St. Mary’s Hospital, Grand Junction
Lutheran Family Services - LifeWork Aging Solutions	SkyRidge Medical Center	Mesa County Department of Human Services

Pueblo County APS	Additional referrals may be received by Denver Treatment courts in 2022	
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**Objective 1.2 - COMPLETE:** Alternatives to guardianship.

The Director and Staff Assistant complete a full review of referrals, which includes ensuring that the referral meets all statutory requirements and the necessity of a guardianship. Review includes a showing that least restrictive alternatives (alternatives to guardianship) have been attempted and been ineffective. The Director and Staff Assistant will audit CMS and client files annually for quality assurance.

A Guardianship and Alternatives to Guardianship narrative are available on the Colorado OPG website to educate clients, the public, providers, and stakeholders. The Director provides ongoing Guardianship and Alternatives to Guardianship narrative presentations to various stakeholders across the state. The Director will add surveys or evaluations for attendees to provide feedback and evaluate the effectiveness of the narrative. The Director will report attendee feedback data to the Colorado OPG Commission through Goal 3.

**Objective 1.3 - COMPLETE:** Establish ethics and best practices standards for Public Guardians and staff.

The Colorado OPG procedures and policies include ethics, conflict of interest, and best practices for Public Guardians and staff in accordance with the Colorado Public Guardianship Act, national best practices and Colorado OPG policies and procedures.

Minimum qualifications were established to hire Public Guardians and the Staff Assistant. All Colorado OPG policies and procedures are available on the Colorado OPG website to educate clients, the public, providers, and stakeholders.

Colorado OPG policies and procedures adopt and incorporate national agency standards, best practices, and ethics and principles of the National Guardianship Association.

Colorado OPG will seek client input through an internal evaluation, as well as seek external input from other stakeholders such as funding and referring agencies, courts, the Colorado OPG Commission, and/or family members.

The Director and Staff Assistant regularly request internal feedback from staff and will hold annual meetings for program evaluation and staff feedback.

Staff completes continuous trainings related to available services, compassion fatigue, communicating and interacting with clients, cultural competency, fiduciary best practices,

National Guardianship Association annual conference, and training for Certified Guardianship Certification National Certified Guardian.

Staff completes continuous trainings related to available services, compassion fatigue, communicating and interacting with clients, cultural competency, fiduciary best practices, National Guardianship Association annual conference, training for Certified Guardianship Certification National Certified Guardian.

**Total number of trainings attended by Public Guardians.**

2020	In-house/New employee trainings; 41
2021	NGA 2-Day Virtual Colloquium; 56

Colorado OPG policy states that the Director and Public Guardians will be Certified Guardianship Certification National Certified Guardians within five years of employment. There are specific requirements to be eligible to test for CGC certification. There are specific annual requirements to maintain CGC certification.

No. Staff Required to be CGC Certified	No. of Staff CGC National Certified in 2021
6	4

The Director reports data related to Objective 1.3 to the Colorado OPG Commission monthly and as requested through the Annual Director Staff Performance Review.

**Objective 1.4 - ONGOING:** Assess the needs of the clients.

As part of the referral process, the Colorado OPG requests, receives, and reviews medical documentation, clinical evaluations, and assessments. During the court appointment process, the Colorado OPG receives, and reviews Court Visitor Reports and additional medical documentation provided by the parties. The designated Public Guardian meets with the alleged incapacitated person prior to the hearing on appointment.

Public Guardians are trained to evaluate all information received and evaluating the client’s need for updated clinical evaluations and assessments. Colorado OPG policies and procedures include detailed outlines of how to gather information and assess client needs on an initial and ongoing basis.

Public Guardians create and maintain Individualized Guardianship Plans (IGP) as per best practice. IGP are updated monthly and reviewed every six-months by the Director and Public Guardian. IGP address all client services and goals and are created with the input of the client and service providers.

The Director and Staff Assistant will audit CMS and client files annually for quality assurance. The Director reports data related to Objective 1.4 to the Colorado OPG Commission monthly and as requested through the Annual Director Staff Performance Review.

**Objective 1.5 - ONGOING:** Increase client access to appropriate services.

As part of the Director Report due to the General Assembly in 2023, the Director is to report on notable efficiencies and obstacles that the office incurred in providing services. The limited or lack of availability of appropriate services is a continuous obstacle that Public Guardians encounter and impacts client’s access and goals.

Colorado OPG policy established a Stakeholder Engagement Plan to ensure stakeholder input and feedback. The Colorado OPG is in the process of creating a Stakeholder Advisory Panel (SAP). A goal of the SAP is to have a diverse membership that represents the distinct populations served by the OPG. One purpose of expansion is to increase the SAP applicant pool to expand the diversity of members.

Interested individuals can elect to receive a Colorado OPG email communication, “OPG Outlook,” available on the Colorado OPG website. This communication provides monthly notice of the Colorado OPG Commission meetings. It will be a tool for program updates, SAP recruitment, etc.

The Director and Public Guardians attend various trainings and presentations of service providers. The Director invites various service providers to train and present to Colorado OPG staff. The Director attends various service providers and agency stakeholder meetings which leads to better access to appropriate services. The Director provides ongoing presentations to educate various clients, the public, providers, and stakeholders across the state which leads to better access to appropriate services.

**Total number of presentations and stakeholder meetings by the Director to educate various clients, the public, providers, and stakeholders across the state.**

2019	13
2020	228
2021	265

The strongest metrics of providing appropriate and quality public guardianship services within the targeted judicial district is reaching caseload capacity in the 2<sup>nd</sup> Judicial District, Office of Behavioral Health funding for a dedicated Colorado OPG Public Guardian, and the Colorado OPG FY23 Budget Request for expansion of the Pilot Program.

In total, the OPG has served 86 clients in its first 18 months of operation with four Public Guardians serving a caseload of at least twenty clients each. Caseload capacity is fluid as some clients pass away due to health and age-related issues. The Director and Staff Assistant monitor the referral system so that active guardianship appointments and pending court appointments are at caseload capacity of 80 clients.

**86 clients: Male 51: Female 35                      8 Veterans**

Dementia related diagnoses	Intellectual/Developmental disability	Cognitive/Traumatic Brain Injury or Neurological disorder	Severe Mental Health Illness (schizophrenia and/or bipolar diagnosis)
24	9	22	18

<b>Ages served:</b> 21–30	30-45	45-60	60-75	75-90	91-100
5	5	27	33	15	1

Initial Number of **Homeless** Clients: 47

During 2019, the Office of Behavioral Health (OBH) recognized a need for a Public Guardian dedicated to serving CHMI clients transitioning from Ft. Logan and Pueblo and into the community. Beginning FY 2022, the OBH provides funding for a dedicated Public Guardian to serve a minimum of ten CHMI- Ft. Logan and Pueblo clients. The Colorado OPG is in discussions with the OBH to expand services to the OBH in FY 23 and beyond.

In August 2021, the Colorado OPG completed a statewide survey to quantify, to the extent possible, Colorado’s unmet need for public guardianship services for indigent and incapacitated adults. The results of the survey indicate that, statewide, there is a high need for public guardianship services indigent and incapacitated adults. Further details are discussed in Goal 2.

Due to the ongoing success of the Colorado OPG and the results of the survey, the Colorado OPG submitted a FY23 Budget Request for expansion of the Pilot Program. The expansion is to strengthen guardianship services in the 2<sup>nd</sup> Judicial District and expand the Pilot Program to the original scope of the Pilot Program to serve the 7<sup>th</sup> and 16<sup>th</sup> Judicial Districts. The expansion will allow the Colorado OPG to provide appropriate and quality public guardianship services beyond

the 2<sup>nd</sup> Judicial District as well as deepen the data collection needed for the 2023 Director Report to the General Assembly, see Goal 2. The Colorado OPG Cash Fund can support the additional expenses associated with this request in Fiscal Year 2023 and thereafter.

Adding three additional Public Guardians to serve the 2<sup>nd</sup>, 7<sup>th</sup>, and 16<sup>th</sup> Judicial Districts, the COPG will increase caseload capacity by **60 clients**.

## Preliminary Findings

### Primary Obstacles in Establishing Guardianships

- Lack of available family and friends to serve as guardians
- Lack of available guardians/services
  
- **98%** of direct service providers indicated that at least **SOME** (50%) of their clients would benefit from guardianship services
  
- **88%** of all participants indicated there was a **HIGH** or **EXTREMELY HIGH** need for Public Guardianship services in their community

### ON AVERAGE, IN THE 2<sup>ND</sup>, 7<sup>TH</sup>, AND 16<sup>TH</sup> JUDICIAL DISTRICTS:

- **93%** of participants indicated there was a **HIGH** or **EXTREMELY HIGH** need for Public Guardianship services
  
- **59%** of participants indicated they were unsuccessful in locating a guardian in their service area
  
- **52%** of participants indicated that the population of clients without available friends or family to serve as guardian increased in their service area

Expansion will also 1) strengthen and increase stakeholder engagement, 2) benefit other State agencies, such as VA Hospitals, Office of Behavioral Health, and Department of Corrections, by offering more placement options when discharging clients to the community, and 3) strengthen the Discontinuation Plan, see Goal 5.

The Director reports data related to Objective 1.5 to the Colorado OPG Commission monthly and as requested through the Annual Director Staff Performance Review.

## **GOAL 2: Complete data collection and present the final report and recommendations to the General Assembly in 2023**

**Objective 2.1:** Quantify, to the extent possible, Colorado’s unmet need for public guardianship services for indigent and incapacitated adults.

**Objective 2.2:** Quantify, to the extent possible, the average annual cost of providing guardianship services to indigent and incapacitated adults.

**Objective 2.3:** Quantify, to the extent possible, the net cost or benefit, if any, to the state that may result from the provision of guardianship services to each indigent and incapacitated adult in each judicial district of the state.

**Objective 2.4:** Identify any notable efficiencies and obstacles that the office incurred in providing public guardianship services.

**Objective 2.5:** Assess whether an independent statewide office of public guardianship or a nonprofit agency is preferable and feasible.

**Objective 2.6:** Analyze costs of off-setting savings to the state from the delivery of public guardianship services.

**Objective 2.7:** Provide uniform and consistent data elements regarding service delivery in an aggregate format that does not include any personal identifying information of any adult.

**Objective 2.8:** Assess funding models and viable funding sources for an independent office of public guardianship or a nonprofit agency, including the possibility of funding with a statewide increase in probate court filing fees.

## Goal 2 Process and Metrics

**Complete data collection and present the final report and recommendations to the General Assembly in 2023**

### **Objective 2.1 - 2.8 - ONGOING:**

**Strategy I. Establish and distribute a statewide survey to quantify the statewide need for public guardianship services for indigent and incapacitated adults.**

**Strategy II. Establish and complete qualitative interviews of various stakeholders for multiple data point representations.**

**Strategy III. Establish and complete various data collection activities related to multiple data point representations.**

**Strategy IV. Engage key stakeholders from Colorado to formulate and evaluate specific recommendations for expanding public guardianship services on a statewide basis including a staffing model, timeline and cost/benefit analysis for each judicial district.**

The Director reports results of Goal 2 Process and Metrics monthly to the Colorado OPG Commission and public members.

A Ph.D. graduate student was hired in December 2020 as a Research Assistant to assist in comprehensive research, funding models and streams, data-gathering, analyzing and cost-benefit analysis of the Colorado OPG Pilot Program and its potential expansion.

The Colorado OPG completed the statewide survey in August of 2021. Results of the survey indicate that, statewide, there is a high need for public guardianship services indigent and incapacitated adults. Using the survey results, the Colorado OPG began qualitative interviews to further identify specific data for the other stated Objectives. While the statewide survey was completed, we will further enhance the assessment with additional quantitative analysis. Simultaneously, the Colorado OPG is working with various agencies to establish and complete various data collection activities related to the other stated Objectives.

### **GOAL 3: ACCOUNTABILITY**

The Colorado OPG Pilot Program mandates are defined, will be documented, and made available to the public, as appropriate, and to the General Assembly, as required by statute.

**Objective 3.1:** Establish Colorado OPG Pilot Program performance standards.

Strategy 3.1A: Establish performance standards of the Colorado OPG Pilot Program and Public Guardians, including a disciplinary action policy.

Strategy 3.1B: Conduct annual review of Public Guardians and Staff Assistant.

**Objective 3.2:** Formulate a complaint policy to address and respond to complaints against the Colorado OPG Pilot Program.

Strategy 3.2A: Establish a complaint policy to allow for multiple methods of filing a complaint.

Strategy 3.2B: Perform investigations and sanction.

Strategy 3.2C: Formulate a Colorado OPG Pilot Program narrative regarding the complaint policy to educate clients, the public, providers, and stakeholders.

**Objective 3.3:** Improved organizational performance.

Strategy 3.3A: Formulate a uniform system of data collection.

Strategy 3.3B: Develop and maintain a guardianship case management system.

Strategy 3.3C: Formulate realistic performance measures.

Strategy 3.3D: Formulate a review policy of Colorado OPG Pilot Program operating policies.

Strategy 3.3E: Balance confidentiality and public access.

Strategy 3.3F: Achieve and report results of the OPG Pilot Program.

Strategy 3.3G: Ongoing Public Guardian training including, but not limited to: compassion fatigue, communicating and interacting with clients, and cultural competency.

## Goal 3 Process and Metrics

### Accountability

**Objective 3.1 - COMPLETE:** Establish Colorado OPG Pilot Program performance standards.

Colorado OPG policies and procedures are in line with the National Guardianship Association's best practices and standards, Colorado Probate statutes and best practices, and the Public Guardianship Act requirements. The Colorado OPG follows the Judicial Branch Human Resources policies.

The Colorado OPG policies and procedures include standards and best practices related to Public Guardian services. Public Guardians are evaluated and supervised on a weekly basis. The Director conducts staff Annual Performance Reviews. The Colorado OPG Commission conducts Director Annual Performance Reviews.

All Colorado OPG policies and procedures are available on the Colorado OPG website. The Director reports updates to policies and procedures and completion of annual staff performance reviews monthly to the Colorado OPG Commission and public members.

**Objective 3.2 - COMPLETE:** Formulate a complaint policy to address and respond to complaints against the Colorado OPG Pilot Program.

A two-tiered formal complaint process and policy are established and available on the Colorado OPG website. Complaints fall in to two categories: 1. Complaints against Public Guardians/staff and 2. Complaints against the Director/Office. Complaint 1 category is first reviewed by the Director and if not fully resolved, the Commission then reviews. Complaint 2 category is automatically reviewed by the Commission.

The Director has not received formal complaints under the two-tiered formal complaint process.

**Objective 3.3:** Improved organizational performance.

The Case Management System is a uniform system of data collection and allows for guardianship case management as well. The Case Management System allows for reporting of information and data in a confidential basis. The Director, with assistance from the Colorado OPG Commission, is formulating realistic performance measures. A Stakeholder Engagement Plan was formulated to assist in proving organizational performance. As this is a pilot program, basic performance measures include reaching caseload capacity, ensuring quality, ethical, and non-discriminatory public guardianship services. Review of these measures will be through internal review, Colorado OPG Commission review, client and provider surveys, and quarterly public meetings. A

Stakeholder Advisory Panel is in development and members will serve to provide feedback on the Colorado OPG's performance.

Reviews of Colorado OPG policies and procedures are continual as the pilot program grows, but an annual review by the Director, Colorado OPG Commission, and Stakeholder Advisory Panel will be scheduled.

The Colorado OPG will seek an independent third party who is clinically knowledgeable in guardianship services to perform a biennial external program evaluation. Where the program has outside programmatic assessments conducted periodically by a funding entity or other governmental unit, that program audit may be used to meet this requirement. Those interacting with certain policies and procedures will be responsible for evaluating their consistency with practices of the OPG. When an inconsistency is found, it will be noted, discussed by the staff, and adjusted per compliance with model practice and ethics as identified by the National Guardianship Association. Within five years of beginning operation, the Office of Public Guardian will solicit an external evaluation from a peer Office of Public Guardian from another state who operates under the judicial branch and/or from the National Guardianship Association.

The Director reports results of the Colorado OPG monthly to the Colorado OPG Commission and public members.

## **GOAL 4: ADEQUATE FUNDING**

To ensure successful expansion of the Colorado OPG Pilot Program, it is imperative to identify multiple avenues of funding.

**Objective 4.1:** Assess and maintain annual budgets.

**Objective 4.2:** Develop several funding streams.

Strategy 4.2A: Develop a fundraising plan, including, but not limited to: the solicitation and acceptance of gifts, grants, and donations pursuant to C.R.S. section 13-94-108(3).

Strategy 4.2B: Submit legislative budget requests, including continuance of filing fees as a revenue source.

Strategy 4.2C: Identify and apply for grants.

Strategy 4.2D: Consult, or contract, for comprehensive research, data-gathering, analyzing and cost-benefit analysis of the Colorado OPG Pilot Program and its potential expansion.

## Goal 4 Process and Metrics

### Adequate Funding

**Objective 4.1 - ONGOING:** Assess and maintain annual budgets.

The Director, with assistance of the State Court Administrator's Office Budget Manager's Office, maintains and reports annual and monthly budgets to the Colorado OPG Commission. The Director annually reports to the Joint Budget Committee about legislative budget requests and continuance of filing fees as a revenue source.

**Objective 4.2 - ONGOING:** Develop several funding streams.

The Director is working with other State of Colorado agencies and stakeholders for revenue funding streams and grants.

In 2021, the Colorado OPG and the Office of Behavioral Health (OBH) entered into an agreement wherein OBH provided funding for a dedicated Public Guardian to serve clients transitioning from CMHI-Ft. Logan and CMHI-Pueblo to the community.

Currently, the Director is exploring similar funding opportunities with a local hospital system.

The Director reports monthly budget information of the Colorado OPG monthly to the Colorado OPG Commission and public members.

## **GOAL 5: DEVELOP A STRATEGY FOR DISCONTINUATION OF THE OPG PILOT PROGRAM IN CONSULTATION WITH THE COMMISSION**

Pursuant to statute, the Director will work with the Commission to develop a strategy if the General Assembly chooses to discontinue the Colorado OPG Pilot Program.

**Objective 5.1:** Develop a wind-down procedure in consultation with the OPG Pilot Program Commission and appropriate SCAO Departments.

**Objective 5.2:** Identify, establish, and maintain relationships with various stakeholders to collaborate on available client resources.

**Objective 5.3:** Assess needs of clients to identify appropriate case plan and services required for ongoing/follow up services if the Colorado OPG Pilot Program is discontinued.

**Objective 5.4:** Promote education for various stakeholders and identify volunteer and private guardians willing to provide guardianship services if the Colorado OPG Pilot Program is discontinued.

## Goal 5 Process and Metrics

### Develop a Strategy for Discontinuation of the OPG pilot program in consultation with the Commission

#### Objective 5.1 - 5.4 - ONGOING:

Strategy I. **Establish and maintain relationships with guardian and fiduciary agencies and other key stakeholders that may serve as successor guardians of Colorado OPG clients.** The Director regularly searches for, and meets, with guardian and fiduciary agencies and other key stakeholders. The goal is that these relationships will lead to a body of successor guardians should the Colorado OPG Pilot Program be discontinued. We have identified at least six guardian and fiduciary agencies that are open to this discussion. The Director provides ongoing presentations to educate various clients, the public, providers, and stakeholders across the state.

Strategy II. **Funds to organizations to support successor guardians of Colorado OPG clients.** This involves working with SCAO Judicial Budget Manager on a plan to introduce new legislation to provide Colorado OPG with new spending authority or to create a new fund to appropriate the remaining OPG funds to other guardian and fiduciary agencies. There is precedence for an entity such as SCAO to “own a program” and distribute grants to non-profit organizations.

Strategy III. **Using Colorado OPG funds for legal services and emergency client funds.** The Colorado OPG will likely need to use funds for attorneys to file petitions to terminate guardianships and petitions for successor guardianships. There may be instances where locating successor guardians may require the use of locating emergency housing or services.

Strategy III. **Establish and maintain a Guardianship Academy,** a volunteer education program. The Deputy Director and Public Guardians will provide regular education opportunities and support to volunteers. Volunteers are lay persons willing learn National Guardianship Association best practices and standards, least restrictive alternatives, advance planning resources, successor guardianship planning, etc. Volunteers will be available to serve local agencies as Powers of Attorney, guardians, etc. Colorado OPG will collaborate and partner with local agencies that offer similar education programs. Public guardianship services will continue to search for clients’ family friend and other support to potentially serve as successor guardians.

## FINANCIAL FORECAST

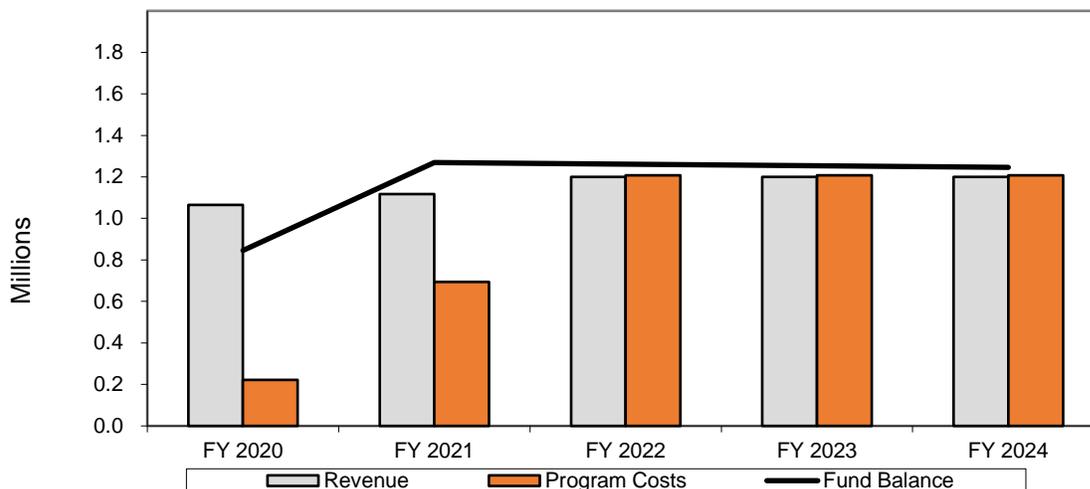
The Colorado OPG Pilot Program requested an appropriation for expansion based on its success in the 2<sup>nd</sup> Judicial District. As of the end of December 2021, the caseload has grown to 73 clients and expanded services with the addition of a public guardian, funded by and dedicated to the Office of Behavioral Health, to serve transitioning clients in the Momentum program. In total, the OPG has served 86 clients in its first 18 months of operation.

In fact, results from a statewide survey of unmet guardianship needs in August 2021 reveals an ongoing high demand for services. The 2022 – 2023 OPG Budget Request and Expansion allows the Office to meet the original statutory intent of serving the 2<sup>nd</sup>, 7<sup>th</sup> and 16<sup>th</sup> Judicial Districts and will allow for pilot data that reflects the needs of non-metro and rural areas of the state.

HB19-1045 allows for fees charged in relation to probate case filings. This funding source has allowed the Colorado OPG not request budget increases for Fiscal Years 2021 and 2022 and 2023.

### Office of Public Guardianship Cash Fund #OPGF\*

	Actual FY 2020	Actual FY 2021	Projected FY 2022	Projected FY 2023	Projected FY 2024
<b><u>Beginning Fund Balance</u></b>	<u>1,712</u>	<u>845,723</u>	<u>1,269,229</u>	<u>1,261,334</u>	<u>1,253,439</u>
Revenue	1,065,585	1,117,987	1,200,000	1,200,000	1,200,000
Program Costs	221,574	694,481	1,207,895	1,207,895	1,207,895
<b>Fund Balance</b>	<b>845,723</b>	<b>1,269,229</b>	<b>1,261,334</b>	<b>1,253,439</b>	<b>1,245,544</b>
% Reserve	n/a	n/a	181.6%	103.8%	103.1%
Reserve increase/(decrease)	844,011	423,506	(7,895)	(7,895)	(7,895)



## **CONCLUSION**

The Colorado Office of Public Guardianship (OPG) Pilot Program successfully formed and began serving clients within six months of the Director assuming her duties. The Pilot Program has exceeded expectations as evidenced by the need for an additional Public Guardians in the 2<sup>nd</sup> Judicial District. The statewide survey results exemplify the high unmet need for public guardianships services and support the pending request to expand services to the original scope of the 2017 legislation.

The Colorado OPG Pilot Program strives to provide quality public guardianship services to incapacitated and indigent adults and will continue to review and improve its policies and procedures to effectively expand its services statewide.