

**OPG Commission meeting
Director Report
08.26.2020**

Purpose: The Director Report will provide detailed information about new matters, updates about the previous month's matters, and next steps for the following month. The Director will provide the Director Report to all Commission members. Questions about the Director Report will be addressed at the Commission meetings, if necessary.

I. Administrative Infrastructure Update.

- a. Extending Work from Home Provisions of SCAO's Continuity of Operations Plan through October 18, 2020. We are following the COVID-19 health screen protocol that SCAO/Judicial is using when if we come to the office.
- b. OPG will continue working from home until new office space becomes available. Office space is not available in the Carr building. New office space will likely require ongoing expenditures for the space as well as IT support and for possibly furnishing the space if appropriate furniture cannot be borrowed. Also, office space may not be permanent.
- c. **Policy 7. COVID-19 Pandemic**
 - i. **Work Plan – In progress.** Developing a plan to address:
 1. Work plan for a shut down or disruption in services
 2. Work plan for clients contracting COVID-19
 3. Work plan for employees contracting COVID-19

II. Budget and MOU Update.

- a. As Mr. Wilson indicated at last month's Commission meeting, Judicial provides accounting and budgeting responsibilities. I, as Director, have no direct access to OPG funds. I can request that expenditures be updated by accurate fund coding.
- b. I previously provided the July 2020 monthly budget report that is provided to me from Hugh Wilson's office.

- i. Final FY20 numbers are somewhat different from Mr. Wilson's estimates at the July 22, 2020 Commission meeting, in part due to final case management expenditures:
 - 1. Total revenue: \$1,038,857.00
 - 2. Total expenditures: \$220,886.00
 - 3. Cash Fund balance: \$817,971.00
- ii. I previously provided a spreadsheet with final case management system (CMS) and website expenditures. When legislation and appropriate were recently passed, it did not account for expenditures related to a website, IT support, various licensing requirements, and ongoing maintenance of the case management system. Even with that, I was able to keep these expenditures under the original 2017 budget of \$300,000.00. However, there will be some ongoing costs for the CMS, but I expect that to cease by the end of the year.
- iii. Estimated EcoPass refund due to COVID-19 pandemic, \$696.46. I will consider request to remove OPG from upcoming EcoPass and State contract, depending on our ultimate office space location.
- c. In discussions with Hugh Wilson, we may seek a one-year extension to the Pilot Project due to the influence of the COVID-19 pandemic.
- d. I and AG Enck continue to work with Judicial to update the MOU to accurately reflect our relationship. It is very likely that it will need to be updated again due to moving office space and IT support issues.
- e. The NextFifty Collective Grant was not opened due to COVID-19 pandemic. I will consider a NextFifty grant due in January 2021 in collaboration with Colorado Fund for People with Disabilities and Lutheran Family Services to cover CFPD Representative Payee/VA Fiduciary fees for OPG clients.

- III. **Stakeholder Engagement Plan – In progress.** On 08.31.2020, I am scheduled for a video presentation for Swedish Medical Center about CO OPG and referrals.

- IV. **Colorado OPG Pilot Program Operating Policies – No update.** Operating Policies and Manual will be posted to CO OPG Website.
 - a. **Internal Ethics Committee – No update.** I will continue to research the creation of the Committee for discussion at another CO OPG Commission meeting

 - b. **Policy 8. Ensuring Systemic Equality – In progress.** No update.

 - c. **Policy 7. COVID-19 Pandemic Policy update – In progress.**
 - i. **COVID-19 Work Plan – In progress.** I am developing a plan to address:
 1. Work plan for a shut down or disruption in services
 2. Work plan for clients contracting COVID-19
 3. Work plan for employees contracting COVID-19

It will be submitted to the Commission for review by the September 2020 Commission meeting.

 - d. **Emergency Petition Policy Draft – In progress.** I will provide a draft for review at the 08.26.2020 meeting. Policies will reflect Commission input from the 08.20.2020 Emergency Commission Meeting.

 - e. **Colorado OPG Fiscal Policy (Policy 5) draft.** I previously provided a draft of the Fiscal Policy with the assistance of Commissioner Bennett-Woods and AG Enck. Once the Fiscal Policy is updated, submitted and reviewed, the Fiscal Policy will be incorporated into the Operating Policies.

f. **Colorado OPG Commission Conflict of Interest Policy draft.** AG Enck previously provided a draft for review. Once the Policy is reviewed and approved, the Policy will be incorporated into the Operating Policies.

g. **Trainings and Projects**

- i. Resource Project. Team review of other organization's online resources, etc. for creation of targeted and organized resources for CO OPG internal purposes and CO OPG website purposes
- ii. Welcome Packet Projects. Team review and creation of documents, etc. for a new client or provider to include how to contact CO OPG, etc.
 - a. CO OPG Clients
 - b. Providers
- iii. Various dates: Colorado Gerontological Society Webinars:
 - Moral Distress Amid COVID-19: A Virtual Conversation
 - How to Complete a Medical Durable Power of Attorney
 - Complete Your Living Will
 - National Healthcare Decision Day, 07.16.2020
- iv. 08.12.2020: Cross-training with Center for Trauma and Resilience
- v. Individual Director and guardian training for CGC National certification: In progress.
- vi. 08.12.2020: Attend Denver Forensic Collaborative meeting

- vii. 08.21.2020: Salute to Seniors, Colorado Gerontological Society
- viii. CU Anschutz Multidisciplinary Center on Aging Series
 - a. 07.24.2020: Talk with a Doc: Marijuana & Aging
 - b. 07.31.2020: Talk with a Doc: Hearing & Auditory Changes as We Age
 - c. 08.07.2020: Talk with a Doc: Nutrition & Healthy Aging
 - d. 08.21.2020: Talk with a Doc: Preventing Falls as We Age
- ix. 08.31.2020: Rocky Mountain Human Services Medicaid Waiver Training
- x. 11.19.2020: Booster training with Lifelong, Inc.
- xi. TBD: Data Collections Project. Team review of policies and research to assist in Director Report research needs
- xii. TBD: Cross-training with Brothers Redevelopment
- xiii. TBD: Cross-training session with Colorado Cross Disability Coalition
- xiv. TBD: Training with previous DFC Navigator
- h. **Representative Payee, etc. issue – In progress.** AG Enck and I are waiting for contract review & response by Colorado Fund for People with Disabilities.

i. Intake Eligibility, Prioritization and Referral Process.

i. Update on number of registered users, referrals, accepted cases, etc. as of **08.21.2020**. An update will be provided at the 08.26.2020 meeting.

1. First appointment on 08.17.2020
2. 67 registered users
3. 46 registered referrals
4. 23 accepted cases: 9 filed – attorneys, hospitals, VA
5. 3 Partial/Incomplete referrals
6. 1 filed referral passed away
7. Declined referrals
 1. Expired/Incomplete information – 1
 2. Inappropriate referral - 2
8. 13 streamlined referrals (Non-Denver County) – Declined
 1. Arapahoe County - 2
 2. Larimer County - 3
 3. Weld County - 4
 4. Montrose County - 1
 5. Washington County - 1
 6. Gunnison County – 1
 7. Jefferson County - 1

ii. Consideration of OPG filing guardianship petitions and Consideration of OPG funds to pay filing fees

1. Concern about OPG filing petitions and conflict with role to also preserve individual rights. While C.R.S. § 15-14-304 allows for a Petitioner to petition and nominate themselves as guardian, the OPG, as a State Agency, may be held to a different standard. I also have concerns it will look like the OPG is self-serving when petitioning and nominating the OPG.
2. Separation of role to serve as guardian and to be petition party. As the Petitioning party, the OPG will have to spend

more resources and time researching and preparing evidence for hearings. This may hinder the main responsibility of directly providing guardianship services.

3. While the OPG has funds to hire a staff attorney, there is a question of whether the workload calls for a part-time or full-time position.
4. **CRS § 13-94-106: Waiver of Court Costs & Filing Fees** and whether it applies to Filing fees related to a Petition or post-appointment issues only.
5. **CRS § 15-14-304: Judicial Appointment of Guardian - Petition**

iii. Consideration of OPG contracting with attorneys or organizations to file petitions. Potential organizations:

1. Does the OPG contract for an hourly rate or a flat fee and what are the parameters of the attorney/organization services?
 1. Services should include all matters up to appointment of OPG, including contested hearings. Potentially consider an additional flat fee for certain contested hearing issue parameters.
 2. Consideration of Attorney General role in post-appointment issues.
2. Medical Legal Partnership (MLP). MLP has filed 3 petitions nominating the OPG through their contract with Denver Health. MLP is willing to contract with OPG to file petitions.
3. Colorado Cross-Disability Coalition (CCDC). CCDC attorney has filed 2 petitions nominating the OPG using Mill Levy Funds, if alleged incapacitated person (AIP) is eligible. The CCDC attorney is willing to contract with OPG to file petitions.
4. Colorado Legal Services (CLS). Declined due to potential ethical concerns to allow CLS attorneys to file petitions to

take away the AIP's rights while also being charged with protecting AIP's rights

5. Colorado Disability Law. Declined, due to similar position as CLS.

6. Coalition of attorneys. There will likely need to be guidelines put in place on how to choose the attorney and whether they are willing to assist pro bono, reduced fee and/or flat fee. I am exploring this option with CBA Volunteer Attorney Coordinator, Anthony Periera.

iv. Consideration of clients being placed outside of Denver County. We have had 3 cases so far where the AIP has been moved or placed outside of Denver County AFTER we accept the referral and PRIOR to our appointment. In all instances, the AIP was originally a Denver County resident. I believe that as long as the AIP is placed/living near the Metro area, the OPG should still be appointed to serve the AIP. I would like feedback on this issue as it is likely to continue. Often times, we are not notified of the move to outside of Denver County until a few days before the hearing for appointment.

j. Data gathering and CMS coding issues - In progress.

i. Working with SCAO on creating a webinar for Judges and Court staff

ii. Working with Silver Key Senior Services on data collection

iii. I reached out to a DRCOG representative, Kirsti Klaverkamp and AJ Diamontopoulos for collaboration

iv. Judge Leith and I reached out to 7th & 16th Judicial Districts Judges, regarding CO OPG streamlined referral process and possible presentation to local attorneys – In progress

- v. 08.10.2020: Email correspondence with Jackie Glover – CU Anschutz Center for Bioethics & Humanities, possible data collection

V. **Colorado OPG Strategic Plan.** Draft previously provided – no updates.

VI. **Stakeholder Meeting Update** since 07.22.2020.

- a. 07.29.2020: Phone conference with Charles Golbert, Cook County IL Public Guardian
- b. 07.30.2020: Phone Conference with Hugh Wilson regarding OPG Budget & Program Status
- c. 08.04.2020: Email correspondence with Whitney Nettleton and David Bernhardt regarding presentation at Swedish Medical Hospital
- d. 8.06.2020: Phone conference with Genevieve Miller – Mental Health Center of Denver, regarding potential referral
- e. 8.06.2020 and 08.20.2020: Phone conference and email correspondence with Reenie Terjak – Colorado Legal Services, regarding filing of OPG petitions
- f. 8.06.2020: Phone conference with Desta Taye-Channel – Director of Student & Family Services, Florence Crittenton Services, regarding a potential referral
- g. 08.06.2020: Email correspondence with Megan Brand – Colorado Fund for People with Disabilities, regarding NextFifty Collective Grant

- h. 08.10.2020: Email correspondence with Jackie Glover – CU Anschutz Center for Bioethics & Humanities, regarding Ethics Grand Rounds presentation and possible data collection
- i. 08.12.2020: Attend Denver Forensic Collaborative meeting
- j. 08.12.2020 and 08.21.2020: Phone conference and email correspondence with David Bernhardt regarding petition information for referrals
- k. 08.18.2020: Email correspondence with Julia Cardi - Law Week, regarding first appointment
- l. 08.18.2020 and 08.21.2020: Email correspondence with attorney Michael Graetz regarding an emergency guardianship petition
- m. Various dates: Email correspondence and phone conferences with Lara Vandenberg – VA, regarding specific referrals
- n. Various dates: Email correspondence with Melissa Emery – Rocky Mountain Human Services, regarding Medicaid Waiver Training
- o. Various dates: Phone conference with various Court Visitors regarding various OPG filed cases

Case Management and Website Expenditures in FY20

SIPA/REVISIONS		Paid Date
Inv 5999 Task Order 1	\$ 555.00	01.06.2020
Inv 6042 SF Licenses	\$ 1,155.60	01.16.2020
Inv 6065	\$ 24,096.25	02.05.2020
Inv 6104 SF licenses	\$ 11,592.31	06.02.2020
Inv 6112 Task Order 2	\$ 40,145.00	03.09.2020
Inv 6124 Task Order 2	\$ 52,540.00	03.10.2020
Inv 6262 Task Order 2	\$ 32,606.25	06.09.2020
Inv 6263 Task Order 2	\$ 15,447.50	06.09.2020
Inv 6321 Task Order 2	\$ 37,740.00	07.01.2020
Inv 6334 Task Order 3 - Hosting	\$ 1,200.00	07.07.2020
Inv 6333 Task Order2	\$ 25,807.50	07.07.2020
Inv 6192 Task Order 2	\$ 53,141.25	07.21.2020
Inv 6194 Task Order 2	\$ 277.50	07.21.2020
\$296,304.16 TOTAL as of 06.30.2020		

Conga		Paid Date
Licensing	\$ 2,400.00	04.08.2020
\$ 2,400.00 TOTAL		

Microsoft		Paid Date
Microsoft O365 Business Standard	\$ 51.50	
Microsoft O365 Business Standard - REFUND	\$ (51.50)	
Microsoft O365 Business Premium - 6	\$ 1,483.20	02.22.2020
Microsoft O365 Business Premium - ADD 1	\$ 237.75	04.18.2020
\$1,720.95 TOTAL		

\$300,425.11 GRAND TOTAL

FY21 Cash Fund Revenue & Expenses - Office of Public Guardianship - YTD 8/

	FISCAL YEAR 2021		
	PRIOR YEAR (FY 2020)	YTD Revenue less YTD Expenses	Projected Revenue less Projected Revenue
Total Revenue	1,038,857	96,050	1,041,945
Total Expenditures	220,886	2,709	733,844
=Net Change	817,971	93,341	308,101
Beg Fund Balance	-	817,971	817,971
= Fund Balance	817,971	911,312	1,126,072

Sum of Jrnl Posting Amt	Column Labels		
Row Labels	1	2 Grand Total	
Revenue	245.00	(96,295.00)	(96,050.00)
5500	245.00	(96,295.00)	(96,050.00)
Expense	2,709.00		2,709.00
(blank)	2,709.00		2,709.00
1920 -Other Professional Services	1,200.00		1,200.00
1210 -Contractual & Non-Classified Full-Time Wages	-		-
4256 -Other Employee Benefits - Eco Pass	1,509.00		1,509.00

Revenue Source	Jrnl Doc Accountin g Line No	Jrnl Doc Cc	Jrnl Doc De	Jrnl Doc (C	Jrnl Doc Re	Jrnl Doc N:	Jrnl Doc Record	Jrnl Doc Run Date	Jrnl Vendo	Jrnl Vendo	Jrnl Vendo	Line No	Jrnl Accou	Event Type	Program P	Posting Co	Closing	Cl	Jrnl Posting	Rev/Exp	Object & Description - ADDED
	1	EFT	999A	EFT,999A,; GAX,JAAA,SCAO21000	7/16/2020 0:00	7/16/2020 0:00	VC000000(	STATEWID	1	INV 6334, ' DI01		D014	10	1200	Expense	1920 - Other Professional Svcs					
	4	CHC	JAAA	CHC,JAAA,SCAO2100(FY20 Accru	7/21/2020 0:00	7/21/2020 0:00			0	FY20 accru XG22		D014	10	-15447.5	Expense	1920 - Other Professional Svcs					
	1	EFT	999A	EFT,999A,; GAX,JAAA,SCAO21000	7/27/2020 0:00	7/27/2020 0:00	VC000000(	STATEWID	1	INV 6262, ' DI01		D014	10	32606.25	Expense	1920 - Other Professional Svcs					
	1	PRLNP	JJAA	PRLNP,JJAA,0710200000000000000	7/1/2020 0:00	7/13/2020 0:00			1	HR71		D014	10	33530.36	Expense	1210 - Contracual & Non-Classified Full-Time Wages					
	2	CHC	JAAA	CHC,JAAA,SCAO2100(FY20 Accru	7/21/2020 0:00	7/21/2020 0:00			0	FY21 accru XG22		D014	10	-32606.3	Expense	1920 - Other Professional Svcs					
	1	EFT	999A	EFT,999A,; GAX,JAAA,SCAO21000	7/16/2020 0:00	7/16/2020 0:00	VC000000(	STATEWID	1	INV 6333, ' DI01		D014	10	25807.5	Expense	1920 - Other Professional Svcs					
	1	JV1STND	JAAA	JV1STND,JAAA,20210000000000000	8/6/2020 0:00	8/6/2020 0:00			0	PREPAY FR XG19		D014	10	1509	Expense	4256 - Other Employee Benefits - EcoPass					
	2	EFT	999A	EFT,999A,; GAX,JAAA,SCAO21000	7/27/2020 0:00	7/27/2020 0:00	VC000000(	STATEWID	1	INV 6263, ' DI01		D014	10	15447.5	Expense	1920 - Other Professional Svcs					
	1	EFT	999A	EFT,999A,; GAX,JAAA,SCAO21000	7/16/2020 0:00	7/16/2020 0:00	VC000000(	STATEWID	1	INV 6334, ' AP01		D011	11	-1200	Expense	1920 - Other Professional Svcs					
	2	EFT	999A	EFT,999A,; GAX,JAAA,SCAO21000	7/27/2020 0:00	7/27/2020 0:00	VC000000(	STATEWID	1	INV 6263, ' AP01		D011	11	-15447.5	Expense	1920 - Other Professional Svcs					
	2	GAX	JAAA	GAX,JAAA,SCAO21000000000000000	7/27/2020 0:00	7/27/2020 0:00	VC000000(	STATEWID	1	INV 6263, ' AP01		D011	11	15447.5	Expense	1920 - Other Professional Svcs					
	1	GAX	JAAA	GAX,JAAA,SCAO21000000000000000	7/16/2020 0:00	7/16/2020 0:00	VC000000(	STATEWID	1	INV 6334, ' AP01		D011	11	1200	Expense	1920 - Other Professional Svcs					
	1	EFT	999A	EFT,999A,; GAX,JAAA,SCAO21000	7/27/2020 0:00	7/27/2020 0:00	VC000000(	STATEWID	1	INV 6262, ' AP01		D011	11	-32606.3	Expense	1920 - Other Professional Svcs					
	1	GAX	JAAA	GAX,JAAA,SCAO21000000000000000	7/27/2020 0:00	7/27/2020 0:00	VC000000(	STATEWID	1	INV 6262, ' AP01		D011	11	32606.25	Expense	1920 - Other Professional Svcs					
	1	PRLNP	JJAA	PRLNP,JJAA,0710200000000000000	7/1/2020 0:00	7/13/2020 0:00			1	HR71		D011	11	-33530.4	Expense	1210 - Contracual & Non-Classified Full-Time Wages					
	1	EFT	999A	EFT,999A,; GAX,JAAA,SCAO21000	7/16/2020 0:00	7/16/2020 0:00	VC000000(	STATEWID	1	INV 6333, ' AP01		D011	11	-25807.5	Expense	1920 - Other Professional Svcs					
5500	68	JV1ADVN	JAAA	JV1ADVN,JAAA,20210000000000000	7/8/2020 0:00	7/9/2020 0:00			0	Office of Public Guardianship Fur	R003	14	97057	Revenue							
5500	32	CR	JAAA	CR,JAAA,SCAO210000 FISCAL SU1	8/10/2020 0:00	8/12/2020 0:00	VC000000(	COLORAD(	1	OFFICE OF AR02		R003	14	-96295	Revenue						
5500	14	JV1ADVN	JAAA	JV1ADVN,JAAA,20210000000000000	7/15/2020 0:00	7/15/2020 0:00			0	CC DENVER OFFICE OF PUBLIC GI	R003	14	280	Revenue							
5500	32	CR	JAAA	CR,JAAA,SCAO210000 FISCAL SU1	7/13/2020 0:00	7/13/2020 0:00	VC000000(	COLORAD(	1	OFFICE OF AR02		R003	14	-97057	Revenue						
5500	14	CR	JAAA	CR,JAAA,SCAO210000 FY21 CC DI	7/24/2020 0:00	8/4/2020 0:00	JAAA1000(CITY & COI	1	CC DENVEI AR02		R003	14	-35	Revenue						

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C.R.S. 15-14-102

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Current through all laws passed during the 2019 Legislative Session.

[CO - Colorado Revised Statutes Annotated](#) [TITLE 15. PROBATE, TRUSTS, AND FIDUCIARIES](#) [COLORADO PROBATE CODE](#) [ARTICLE 14. PERSONS UNDER DISABILITY - PROTECTION](#) [PART 1. GENERAL PROVISIONS](#)

15-14-102. Definitions

In parts 1 to 4 of this article 14:

- (1) "Claim", with respect to a protected person, includes a claim against an individual, whether arising in contract, tort, or otherwise, and a claim against an estate which arises at or after the appointment of a conservator, including expenses of administration.
- (2) "Conservator" means a person at least twenty-one years of age, resident or non-resident, who is appointed by a court to manage the estate of a protected person. The term includes a limited conservator.
- (3) "Court" means the court or division thereof having jurisdiction in matters relating to the affairs of decedents and protected persons. This court is the district court, except in the city and county of Denver where it is the probate court.
- (4) "Guardian" means an individual at least twenty-one years of age, resident or non-resident, who has qualified as a guardian of a minor or incapacitated person pursuant to appointment by a parent or by the court. The term includes a limited, emergency, and temporary substitute guardian but not a guardian ad litem.
- (5) "Incapacitated person" means an individual other than a minor, who is unable to effectively receive or evaluate information or both or make or communicate decisions to such an extent that the individual lacks the ability to satisfy essential requirements for physical health, safety, or self-care, even with appropriate and reasonably available technological assistance.
- (6) "Legal representative" includes a representative payee, a guardian or conservator acting for a respondent in this state or elsewhere, a trustee or custodian of a trust or custodianship of which the respondent is a beneficiary, or an agent designated under a power of attorney, whether for health care or property, in which the respondent is identified as the principal.
- (7) "Letters" includes letters of guardianship or letters of conservatorship.
- (8) "Minor" means an unemancipated individual who has not attained eighteen years of age; except that in proceedings pursuant to section 15-14-204 (2.5) only, "minor" means an unmarried individual

who has not attained twenty-one years of age.

(9) "Parent" means a parent whose parental rights have not been terminated.

(10) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(10.5) "Post-adjudication" means after appointment of a permanent guardian or special or permanent conservator after a hearing for which a respondent was provided notice pursuant to section 15-14-309 or section 15-14-404, or both, and at which the respondent had an opportunity to present evidence and be heard.

(11) "Protected person" means a minor or other individual for whom a conservator has been appointed or other protective order has been made.

(12) "Respondent" means an individual for whom the appointment of a guardian or conservator or other protective order is sought.

(13) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(14) "Tribe" means an Indian tribe or band, or Alaskan Native village, which is recognized by federal law or formally acknowledged by a state.

(15) "Ward" means an individual for whom a guardian has been appointed.

History

Source: L. 2000: Entire part R&RE, p. 1778, § 1, effective January 1, 2001 (see § 15-17-103). **L. 2016:** (10.5) added, (SB 16-131), ch. 286, p. 1165, § 2, effective August 10. **L. 2019:** IP and (8) amended, (HB 19-1042), ch. 55, p. 192, § 1, effective March 28.

▼ Annotations

Notes

Editor's note: This section is similar to former § 15-14-101 as it existed prior to 2001.

Case Notes

ANNOTATION

Law reviews. For article, "Legal Guidelines and Methods for Evaluating Capacity", see 32 Colo. Law. 65 (June 2003). For article, "How to Reconcile Advance Care Directives With Attempted Suicide", see 42 Colo. Law. 97 (July 2013).

Government entity may serve as a guardian. Although subsection (4) provides that "guardian" means "an individual", the guardianship provisions as a whole lead to the conclusion that the probate court as a government entity may serve as a guardian. In re J.C.T., 176 P.3d 726 (Colo. 2007).

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C.R.S. 15-14-304

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The Colorado Constitution and Titles 3, 4, 21, and 41 have been updated and are current through all laws passed during the 2020 Legislative Session, subject to review by the Colorado Office of Legislative Legal Services. Other statutory titles are current through all laws passed during the 2019 Legislative Session and are in the process of being updated.

[CO - Colorado Revised Statutes Annotated](#) [TITLE 15. PROBATE, TRUSTS, AND FIDUCIARIES](#) [COLORADO PROBATE CODE](#) [ARTICLE 14. PERSONS UNDER DISABILITY - PROTECTION](#) [PART 3. GUARDIANSHIP OF INCAPACITATED PERSON](#)

15-14-304. Judicial appointment of guardian - petition

- (1) An individual or a person interested in the individual's welfare may petition for a determination of incapacity, in whole or in part, and for the appointment of a limited or unlimited guardian for the individual.
- (2) The petition must set forth the petitioner's name, residence, current address if different, relationship to the respondent, and interest in the appointment and, to the extent known, state or contain the following with respect to the respondent and the relief requested:
- (a) The respondent's name, age, principal residence, current street address, and, if different, the address of the dwelling in which it is proposed that the respondent will reside if the appointment is made;
- (b) (I) The name and address of the respondent's:
- (A) Spouse or partner in a civil union or, if the respondent has none, an adult with whom the respondent has resided for more than six months within one year before the filing of the petition; and
- (B) Adult children and parents; or
- (II) If the respondent has neither spouse, partner in a civil union, adult child, nor parent, at least one of the adults nearest in kinship to the respondent who can be found with reasonable efforts;

- (c) The name and address of each person responsible for care or custody of the respondent, including the respondent's treating physician;
- (d) The name and address of each legal representative of the respondent;
- (e) The name and address of each person nominated as guardian by the respondent;
- (f) The name and address of each proposed guardian and the reason why the proposed guardian should be selected;
- (g) The reason why guardianship is necessary, including a brief description of the nature and extent of the respondent's alleged incapacity;
- (h) If an unlimited guardianship is requested, the reason why limited guardianship is inappropriate and, if a limited guardianship is requested, the powers to be granted to the limited guardian; and
- (i) A general statement of the respondent's property with an estimate of its value, including any insurance or pension, and the source and amount of any other anticipated income or receipts.

History

Source: L. 2000: Entire part R&RE, p. 1792, § 1, effective January 1, 2001 (see § 15-17-103).
L. 2013: (2)(b)(I)(A) and (2)(b)(II) amended, (SB 13-011), ch. 49, p. 165, § 19, effective May 1.

▼ Annotations

Notes

Editor's note: This section is similar to former § 15-14-303 as it existed prior to 2001.

Case Notes

ANNOTATION

Law reviews. For note, "Settling the Personal Injury Claim of a Minor", see 38 U. Colo. L. Rev. 377 (1966). For article, "Adult Guardianships and Conservatorships: Protection of Constitutional Rights", see 15 Colo. Law. 820 (1986). For article, "Colorado Guardianship and Conservatorship Law: A Status Report", see 16 Colo. Law. 421 (1987). For article, "Interrogating Medical Witnesses As to Mental Capacity", see 23 Colo. Law. 2753 (1994). For article, "The Self-Interested Fiduciary: Implications in Guardianship and Conservatorship Law", see 24 Colo. Law. 2181 (1995). For article, "The Court Friends Program of the Denver Probate Court", see 25 Colo. Law. 49 (March 1996). For article, "Defects, Due Process, and Protective Proceedings", see 27 Colo. Law. 39 (April 1998). For article, "How to Reconcile Advance Care Directives With Attempted Suicide", see 42 Colo. Law. 97 (July 2013).

Annotator's note. Since § **15-14-304** is similar to repealed and reenacted § 15-14-303 and repealed § 152-9-2, CRS 53, relevant cases construing those provisions have been included in the annotations to this section.

The use of the term adjudicating in article 10 of title 27 indicates that a jury verdict is not an essential requisite of adjudication within the meaning of this section. Young v. Brofman, 139 Colo. 296, 338 P.2d 286 (1959).

Allegations of complaint insufficient to confer jurisdiction to appoint guardian. Nelson v. Nelson, 31 Colo. App. 63, 497 P.2d 1284 (1972).

Proof by clear and convincing evidence is required in guardianship proceedings because of the possibility of being deprived of basic liberties. Sabrosky v. Denver Dept. of Soc. Servs., 781 P.2d 106 (Colo. App. 1989).

An evidentiary hearing is necessary to consider the factual circumstances to determine whether a petitioner is a person interested in the welfare of the incapacitated person. In re Estate of Edwards, 794 P.2d 1092 (Colo. App. 1990).

No authority existed to interview allegedly incapacitated person in her home ex parte, even though the probate judge was motivated by her concern for the allegedly incapacitated person's welfare, by her deteriorated physical and mental condition, and by the court's desire to evaluate her without the undue influence of third parties. Estate of Milstein v. Ayers, 955 P.2d 78 (Colo. App. 1998).

This section unambiguously entitled the allegedly incapacitated person to attend her competency hearing. Anything less would implicate constitutional concerns because a potential deprivation of fundamental rights and liberties is involved. Estate of Milstein v. Ayers, 955 P.2d 78 (Colo. App. 1998).

A necessary inference from the express right to be present by counsel is the right to retain counsel. Estate of Milstein v. Ayers, 955 P.2d 78 (Colo. App. 1998).

No authority existed to deny the allegedly incapacitated person counsel on the grounds that she was incompetent to engage counsel. Estate of Milstein v. Ayers, 955 P.2d 78 (Colo. App. 1998).

Because a guardian ad litem and counsel represent different interests, appointment of a guardian ad litem for the allegedly incapacitated person did not substitute for counsel. Estate of Milstein v. Ayers, 955 P.2d 78 (Colo. App. 1998).

It is within the court's discretion to appoint legal counsel in addition to a guardian ad litem for an incapacitated person where the guardian ad litem does not undertake to represent the incapacitated person's legal interests in a proceeding to gain permission to withhold life-sustaining treatment. Dept. of Insts. v. Carothers, 821 P.2d 891 (Colo. App. 1991).

Although subsection (6) does not unambiguously grant the court power to assess attorney fees against another branch of government, it was within the court's discretion to assess attorney fees against the department of institutions. Dept. of Insts. v. Carothers, 821 P.2d 891 (Colo. App. 1991).

Defendant, department of institutions, waived its right to appeal issue that attorney fees may not be assessed against it on grounds that this section does

not contain express authorization for the assessment of such fees against state agencies where argument was not presented at trial and there was no indication that the court of appeals ruled on the issue. *Carothers v. Dept. of Insts.*, 845 P.2d 1179 (Colo. 1993).

Applied in *Romberg v. Slemon*, 778 P.2d 315 (Colo. App. 1989); *In Interest of Arguello*, 2019 COA 20M, -- P.3d --.

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[CO - Colorado Revised Statutes Annotated](#) [TITLE 13. COURTS AND COURT PROCEDURE](#) [ADVOCATES](#) [ARTICLE 94. OFFICE OF PUBLIC GUARDIANSHIP](#)

13-94-106. Waiver of court costs and filing fees

The court shall waive court costs and filing fees in any proceeding in which an indigent and incapacitated adult is receiving **public guardianship** services from the **office**.

History

Source: L. 2017: Entire article added, (HB 17-1087), ch. 319, p. 1719, § 1, effective June 5.

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