

**OPG Commission meeting
Director Report
06.23.2021**

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.

Attachments for the 06.23.2021 meeting:

- Attachment 1: SCAO/Judicial Provided Monthly Budget Summary as of 06.07.2021
- Attachment 2: Senate Bill 21 - 267
- Attachment 3: Policy 6.8.5.a. Successful Communication with Clients and 6.8.5.b. Verbal De-escalation Techniques
- Attachment 4: Policy 6.10 Internal Ethics Committee (No changes from previous meetings)
- Attachment 5: Complaint Process materials (No changes from previous meetings)
- Attachment 6: Guardianship and Alternatives to Guardianship
- Attachment 7: Data Presentation information
- Attachment 8. Stakeholder Advisory Panel Criteria

I. Budget Update.

- a. I previously provided the June 2021 monthly budget report that is provided to me from Hugh Wilson, Judicial Budget Manager. **See Attachment 1.** Please note that June 30th is the end of the Fiscal Year, so an end of the year report will not be finalized until August.

- b. Senate Bill 21 – 267, the bill passed to correct technical errors to match the extension dates of the Pilot Program. It is awaiting the Governor’s signature. **See Attachment 2.**
- c. AAG Enck and I are working on a MOU with OBH for the new FTE 1.0 Public Guardian position. The job description was posted by Judicial Human Resources on the Judicial Branch/State Career site on 05.19.2021 and will close on 06.18.2021.
- d. Discussion with Chair Lesco and AAG Enck regarding the need to file motions related to authority to access client financial information to obtain/maintain benefits.
 - i. 05.14.2021: Meeting with Hugh Wilson. Hugh indicates the OPG has funds to hire a contract attorney. Hugh is working on providing confirmation documentation to me
 - ii. AAG Enck is reviewing the Medical Legal Partnership MOU draft
- e. Colorado Fund for People with Disabilities (CFPD) was awarded a Next Fifty grant. This grant will cover the costs for CFPD to serve as SSA Representative Payee for 25 OPG clients over the age of 50, with the potential to serve more. CFPD is working on a news release and the CO OPG will be included.
- f. OPG Commission document retention. IT created an “OPG Commission Site” in SharePoint, as there was no additional cost. The site is accessible by the Director, Chair and AAG.
- g. ZOOM update. In process of obtaining a government account.

- II. **Stakeholder Engagement Plan – In progress.**
 - a. Stakeholder Advisory Panel (SAP) applications are completed but will wait to disburse and post until the member criteria is established. **See Attachment 8.**

- III. **Colorado OPG Pilot Program Operating Policies Updates – In progress.** Operating Policies and Manual were posted to CO OPG Website.
 - a. **Policy 6.8.5.a. Successful Communication with Clients.** This policy was previously provided for review at the June Commission meeting. This policy is meant to be a guideline as staff has completed various trainings on this topic. **See Attachment 3.**
 - b. **Policy 6.8.5.b. Verbal De-escalation Techniques.** This policy was previously provided for review at the June Commission meeting. This policy is meant to be a guideline as staff has completed various trainings on this topic. **See Attachment 3.**
 - c. **Policy 6.10. Internal Ethics Committee (IEC) – In progress. See Attachment 4** – no changes from March meeting.
 - d. **Complaint Processes – Updates. See Attachment 5.**
 - i. I am working with Revisions (Case Management System contractor) for a quote for an electronic complaint form option like the Office of the Child’s Representative. <https://coloradochildrep.org/feedback/>
 - e. **Policy 8. Ensuring Systemic Equality Services Standards – Completed.** No update from last meeting.
 - f. **Policy 5. Colorado OPG Fiscal Policy – Client Emergency Fund – In Progress, no updates.**

g. **New website content:** Guardianship and Alternatives to Guardianship – In Progress. **See Attachment 6.**

h. **Trainings and Projects**

- i. Resource Project - Ongoing. 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. Individual Director and guardian training for CGC National certification: In progress.
 - a. I am waiting for background check clearance to be allowed to schedule my CGC exam
- iii. 05.20.2021 and 05.26.2021: National Guardianship Association Colloquium on Guardianship – Details of Decision-Making
- iv. 06.02.2021: I attended the Defending Against “Bad Behavior” Evictions in Nursing Facilities – Justice in Aging webinar
- v. 06.09.2021: Attend Denver Forensic Collaborative meeting
- vi. Colorado Gerontological Society Aging in Place webinar series:
 - a. 04.15.2021: Using Technology to Stay in Your Home
 - b. 05.20.2021: Living with Someone – Family, Friends of Roommates
 - c. 06.17.2021: Downsizing to a Smaller Home
 - d. 07.15.2021: Bringing Services into the Home

- vii. 06.18.2021: Social Security Administration training – Eric Gonzalez, Benefits in Action

- viii. 06.25.2021: Team meeting with Vice-Chair Bennett-Woods. Vice-Chair Bennett-Woods will provide emergency coverage for me while I am on vacation from June 30 – July 9.

- ix. TBD: Compassion Fatigue workshop and a Social Justice training through Center for Trauma & Resilience

- i. **Intake Eligibility, Prioritization and Referral Process.**
 - i. Update on number of registered users, referrals, accepted cases, etc. as of **06.16.2021**. An update will be provided at the 06.23.2021 meeting.
 - 1. 54 Active guardianships
 - 2. 18 referrals pending in court proceedings [see withdrawn]
 - 3. 3 Partial/Incomplete referrals
 - 4. 6 clients passed away since CO OPG appointment (all non-COVID related)
 - 5. 6 “Hold” OBH/CHMI- Ft. Logan/Pueblo referrals
 - 6. Declined referrals
 - 1. Expired/Incomplete information – 4
 - 2. Withdrawn by Ft. Logan – 1
 - 3. Family available to serve - 1
 - 7. 50 streamlined referrals (Non-Denver County) – Declined
 - 1. Adams County – 2
 - 2. Arapahoe County – 9
 - 3. Boulder County – 4
 - 4. “Denver County” - 2
 - 5. El Paso County - 5
 - 6. Garfield County - 1

7. Gunnison County – 1
8. Huerfano County - 3
9. Jefferson County – 2
10. Lake County - 1
11. La Plata County – 2
12. Larimer County - 4
13. Las Animas County - 2
14. Mesa County – 2
15. Montrose County – 2
16. Otero County – 3
17. Pueblo County -1
18. Washington County - 1
19. Weld County – 5

ii. Rocky Mountain Human Services (RMHS) – See I.b.

1. Momentum/Community Transition clients. This program is considering funding additional OPG FTE to primarily serve this clientele
2. Mill Levy Program clients. RMHS established a relationship with Chris Brock – Colorado Cross-Disability Coalition, Managing Attorney of Probate Power, to make referrals and serve as legal counsel for Mill Levy eligible clients. The OPG received and accepted 4 referrals from this relationship so far

j. **Data gathering - In progress. Research Assistant.**

- i. Grant Yoder, Research Assistant will present at a future meeting. Grant and I meet weekly. Some preliminary key items to Phase I:
 1. National and local literature review
 2. Adding some data collection during the referral process and as we begin servicing clients, such as: Public Safety,

Housing, Hospital expenses and Medicaid/Medicare reimbursement, CMHI expenses and costs

3. Creating a Needs Assessment plan/Survey to quantify the statewide need for public guardianship services, cost benefit, etc.

ii. I was notified by Natalie DeVille, Director - LifeWork Aging Solutions – Lutheran Family Services, that due to internal restructuring they are unable to form a partnership at this time

iii. Various: Meeting with Pikes Peak Elder Abuse Coalition Guardianship Collaboration group regarding data collection in Colorado Springs area

iv. Various dates: Email correspondence with Jessica Brill - SCAO Research & Data Manager regarding statewide data collection

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

V. **Stakeholder Meeting Update** since 05.26.2021.

a. 06.09.2021: Attend Denver Forensic Collaborative meeting

b. 06.04.2021: Email correspondence with Danielle Pietsch – SW, Swedish Medical Center, regarding potential referral

c. Various: Email Correspondence and phone conference with Bruce Blankenship – Ethics Consultant, Boulder Community Hospital, regarding potential referral

d. 06.24.2021: Presentation to Colorado Healthcare Ethics Forum (CHEF) regarding OPG

- e. Various: Email correspondence with Summer Gathercole – Senior Advisor for Behavioral Health Transformation. Scheduled phone call to discuss BH barriers
- f. Various dates: Email correspondence with Laurie Kullby – Leads Contract Coordinator, CDHS and Deb Hutson - Program Manager, CDHS, regarding MOU for new FTE Public Guardian position
- g. Various: Check-in meetings with Emily Brager – COO and Megan Brand – Executive Director, Colorado Fund for People with Disabilities
- h. Various: Email correspondence with Rachel Dolnick – VA Social Worker, regarding potential referral

Attachment 1. OPG Personal Services and Operating Summary - FY21 - as of 06.07.2021

OPG Personal Services and Operating Summary - FY 2021

As of 6/7/2021

Budget Type	Budget	YTD + Projected Exp	Surplus / (Deficit)
Personal Services	\$560,000	\$ 551,049	\$8,951
Operating	\$173,844	\$ 98,391	\$75,453
Total Appropriation	\$733,844	\$649,440	\$84,404

YTD + projected expenditures
Balance remaining for operating
Total remaining in program line

	Cash Fund Balance		
	PRIOR YEAR (FY 2020)	YTD Revenue less YTD Expenses	Projected Revenue less Projected Expenses
Total Revenue	\$1,038,857	\$951,979	\$1,200,000
Total Expenditures	\$220,886	\$649,440	\$733,844
Net Change	\$817,971	\$302,539	\$466,156
Beg Fund Balance	\$0	\$817,971	\$817,971
= Fund Balance	\$817,971	\$1,120,510	\$1,284,127

Salaries	Pos. #	Actuals						Projections						
		July	August	September	October	November	December	January	February	March	April	May	June	Year-to-Date
Sophia Alvarez	87001	\$ 9,583	\$ 9,583	\$ 9,583	\$ 9,583	\$ 9,583	\$ 9,583	\$ 9,583	\$ 9,583	\$ 9,583	\$ 9,583	\$ 9,583	\$ 9,583	\$ 115,000
America Paz Pastrana	87002	\$ 4,447	\$ 4,447	\$ 4,587	\$ 4,467	\$ 4,467	\$ 4,467	\$ 4,467	\$ 4,467	\$ 4,467	\$ 4,467	\$ 4,467	\$ 4,467	\$ 53,684
Jacquelyn Beal	87003	\$ 5,000	\$ 5,000	\$ 5,000	\$ 5,000	\$ 5,000	\$ 5,000	\$ 5,000	\$ 5,000	\$ 5,000	\$ 5,000	\$ 5,000	\$ 5,000	\$ 60,000
Erin McGavin	87004	\$ 4,833	\$ 4,833	\$ 4,833	\$ 4,833	\$ 4,833	\$ 4,833	\$ 4,833	\$ 4,833	\$ 4,833	\$ 4,833	\$ 4,833	\$ 4,833	\$ 58,000
Camille Price	87005	\$ 4,833	\$ 4,833	\$ 4,833	\$ 4,833	\$ 4,833	\$ 4,833	\$ 4,833	\$ 4,833	\$ 4,833	\$ 4,833	\$ 4,833	\$ 4,833	\$ 58,000
Rhonda Sanchez	87006	\$ 4,833	\$ 4,833	\$ 4,833	\$ 4,833	\$ 4,833	\$ 4,833	\$ 4,833	\$ 4,833	\$ 4,833	\$ 4,833	\$ 4,833	\$ 4,833	\$ 58,000
Total Salaries		\$ 33,530	\$ 33,530	\$ 33,670	\$ 33,550	\$ 33,550	\$ 33,550	\$ 33,550	\$ 33,550	\$ 33,550	\$ 33,550	\$ 33,550	\$ 33,550	\$ 402,684
Employee Benefits		\$ 12,415	\$ 12,343	\$ 12,375	\$ 12,348	\$ 12,348	\$ 12,348	\$ 12,365	\$ 12,365	\$ 12,365	\$ 12,365	\$ 12,365	\$ 12,365	\$ 148,365
Total Personal Services		\$ 45,945	\$ 45,874	\$ 46,045	\$ 45,898	\$ 45,898	\$ 45,898	\$ 45,915	\$ 45,915	\$ 45,915	\$ 45,915	\$ 45,915	\$ 45,915	\$ 551,049
		Actuals												
1920 -Other Professional Services		\$ 1,200	\$ 10,684	\$ -	\$ 7,678	\$ 2,821	\$ 2,960	\$ -	\$ -	\$ 6,108	\$ 750	\$ -	\$ -	\$ 32,200
1940 -Medical Services		\$ -	\$ -	\$ -	\$ -	\$ -	\$ 388	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
1960 -Professional IT Services		\$ -	\$ -	\$ -	\$ -	\$ 2,960	\$ 3,525	\$ 300	\$ 300	\$ 8,394	\$ 3,839	\$ 3,538	\$ -	\$ 22,855
2255 -Rental of Meeting Rooms & Leased Space		\$ -	\$ -	\$ -	\$ 4,761	\$ 1,800	\$ -	\$ 3,616	\$ 1,833	\$ 1,800	\$ 1,800	\$ 1,800	\$ -	\$ 17,410
2513 -Mileage Reimbursement (Employee)		\$ -	\$ -	\$ -	\$ 16	\$ 81	\$ 80	\$ 187	\$ 58	\$ 183	\$ 330	\$ -	\$ -	\$ 935
2631 -Communication Services from Outside Sources		\$ -	\$ 529	\$ 522	\$ 256	\$ -	\$ 646	\$ 256	\$ -	\$ 514	\$ -	\$ -	\$ -	\$ 2,725
2680 -Printing & Reproduction Services - Vendors		\$ -	\$ -	\$ -	\$ -	\$ 18	\$ -	\$ -	\$ -	\$ -	\$ 0.48	\$ -	\$ -	\$ 18
3110 -Identification & Safety Supplies		\$ -	\$ -	\$ -	\$ -	\$ -	\$ 12	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 12
3121 -Case Jackets		\$ -	\$ -	\$ 1,128	\$ 267	\$ 254	\$ 93	\$ 233	\$ 261	\$ -	\$ 33	\$ 54	\$ -	\$ 2,323
3123 -Postage		\$ -	\$ -	\$ -	\$ -	\$ -	\$ 225	\$ -	\$ -	\$ -	\$ -	\$ 255	\$ -	\$ 479
3140 -Noncapitalized IT Software		\$ -	\$ -	\$ -	\$ 180	\$ -	\$ -	\$ -	\$ 300	\$ -	\$ -	\$ 44	\$ -	\$ 524
3145 -Noncapitalized IT Purchases		\$ -	\$ -	\$ -	\$ -	\$ 1,276	\$ (363)	\$ 134	\$ 134	\$ 578	\$ 2,400	\$ 134	\$ -	\$ 4,293
4220 -Registration Fees		\$ -	\$ -	\$ 535	\$ 1,965	\$ -	\$ -	\$ 1,500	\$ -	\$ 160	\$ 358	\$ -	\$ -	\$ 4,518
4256 -Other Employee Benefits - Eco Pass		\$ 1,509	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,509
Total		\$ 2,709	\$ 11,213	\$ 2,185	\$ 15,123	\$ 9,211	\$ 7,566	\$ 6,225	\$ 2,886	\$ 17,737	\$ 8,072	\$ 7,264	\$ 8,200	\$ 98,391
		Avg. Oper												
Total - YTD + Projections Program Line		\$ 48,654	\$ 57,087	\$ 48,230	\$ 61,021	\$ 55,109	\$ 53,464	\$ 52,141	\$ 48,801	\$ 63,652	\$ 53,987	\$ 53,179	\$ 54,115	\$ 649,440
		Over/(under) Program Line												
		\$84,404												

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.



SENATE BILL 21-267

BY SENATOR(S) Hansen, Moreno, Rankin, Gardner, Lee;
also REPRESENTATIVE(S) Herod, McCluskie, Ransom, Bacon, Bernett,
Bird, Duran, Exum, Hooton, Jodeh, Lontine, Mullica, Ortiz, Ricks,
Sandridge, Snyder, Soper, Valdez A., Young.

CONCERNING THE EXTENSION OF THE OFFICE OF PUBLIC GUARDIANSHIP.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 13-94-102, **amend** (2)(b) as follows:

13-94-102. Legislative declaration. (2) In establishing the office of public guardianship, the general assembly intends:

(b) That the office is a pilot program, to be evaluated and then continued, discontinued, or expanded at the discretion of the general assembly in ~~2021~~ 2023.

SECTION 2. In Colorado Revised Statutes, 13-94-108, **amend** (2) as follows:

13-94-108. Office of public guardianship cash fund - created.

(2) The money in the fund is annually appropriated to the judicial department to pay the expenses of the office. All interest and income derived from the investment and deposit of money in the fund is credited to the fund. Any unexpended and unencumbered money remaining in the fund at the end of a fiscal year must remain in the fund and not be credited or transferred to the general fund or any other fund; except that any money remaining in the fund on June 30, ~~2021~~ 2024, shall be transferred to the general fund.

SECTION 3. In Colorado Revised Statutes, **amend** 13-94-111 as follows:

13-94-111. Repeal - wind-up. (1) This article 94 is repealed, effective ~~December 31, 2023~~ JUNE 30, 2024. Prior to such repeal, the general assembly, after reviewing the report submitted by the director pursuant to section 13-94-105 (4), shall consider whether to enact legislation to continue, discontinue, or expand the office.

(2) If the general assembly has adjourned the legislative session beginning in January of 2023 sine die without enacting legislation to continue or expand the office, the office shall NOTIFY THE JOINT BUDGET COMMITTEE THAT THE OFFICE WILL NOT BE CONTINUED AND THAT COURT FEES MAY BE REDUCED BY THE AMOUNT DEPOSITED TO THE OFFICE OF PUBLIC GUARDIANSHIP CASH FUND, implement its discontinuation plan developed pursuant to section 13-94-105, and wind-up its affairs prior to the repeal of this article 94.

SECTION 4. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Leroy M. Garcia
PRESIDENT OF
THE SENATE

Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO

POLICY 6.8.5.a. SUCCESSFUL COMMUNICATION WITH CLIENTS

Adapted from trainings with Rocky Mountain Human Services, Lifelong, Inc. and Colorado Cross-Disability Coalition, and Philosophical Inclusive Design: Intellectual Disability and the Limits of Individual Autonomy in Moral and Political Theory, Laura Davy, *Hypatia* vol. 30, no. 1 (Winter 2015).

1. The Colorado OPG serves indigent and incapacitated adults. It is important to understand the client's incapacity, needs, and preferences. This will help guide successful communication with clients. First and foremost communicating with clients must be person-centered.
2. General concepts to consider when communicating and interacting with clients:
 - Remember that each individual is unique so be sure to get to know them and their preferences
 - Use Active Listening skills
 - Consider an individual's culture (experiences, disability culture, history, "norms & customs")
 - The client has likely experienced Ableism. Ableism is oppression or discrimination based on physical, intellectual, cognitive, psychiatric, sensory or other ability. This can shape an individual's experience
 - Use People First Language
 - Don't make assumptions about ability if an individual has speech difficulties
 - Time and sequencing of events can be a difficult concept, so reference activities, i.e. breakfast
 - An individual may be very concrete in their communication and thinking

 - Consider Multi-Modal Communication & Learning skills and tools such as kinesthetic, verbal, visual, audio, touch
 - Speak to and engage to the individual, not the parent or advocate
 - Don't assume an individual cannot understand if they do not communicate
 - Don't infantilize your speech, your client is an adult
 - Remember Dignity in Risk: refers to the concept of affording a person the right (or **dignity**) to take reasonable **risks**, and that the impeding of this right can suffocate personal growth, self-esteem and the overall quality of life (Marsh & Kelly, 2018; Ibrahim & Davis, 2013).
 - Communicate and act in a person-directed method

National Guardianship Association Standards of Practice for Agencies and Program Providing Guardianship Services I – III, V, VI, and VIII; Standards National Guardianship Association Ethical Principles 1 - 8; National Guardianship Association Standards of Practice 1, 3 - 16, 23, and 24.

POLICY 6.8.5.b. VERBAL DE-ESCALATION TECHNIQUES

Adapted from trainings with Rocky Mountain Human Services, Lifelong, Inc. and Colorado Cross-Disability Coalition, Mental Health First Aid of Colorado, and Crisis Intervention and De-Escalation Techniques.

1. The Colorado OPG serves indigent and incapacitated adults. It is important to understand the client's incapacity, needs, and preferences. This will help guide successful interactions and communications with clients.
2. In cases where a client may be under stress or experiencing a crisis (becoming agitated, upset, making threats, etc.), refer to specific Mental Health First Aid training and handbook and Guidelines for De-escalation.
3. General concepts to consider when attempting to de-escalate an interaction with a client:
 - Refer to Policy 6.8.5.a. Successful Communication with Clients
 - First and foremost, remain calm and ensure the client and you are safe
 - The client may feel a powerless and not in control. These concepts should help give the client a sense of control
 - Be active in helping, exploring and resolving the issue(s)
 - Focus only on support and goals addressing the crisis
 - Build hope and expectations leading to acceptable resolutions
 - You may have to allow the conflict for the time being
 - Remember that predictability provides security and safety. Tailoring your client's goals, meetings, etc. in a predictable manner may alleviate a client's stress

National Guardianship Association Standards of Practice for Agencies and Program Providing Guardianship Services I – III, V, VI, and VIII; Standards National Guardianship Association Ethical Principles 1 - 8; National Guardianship Association Standards of Practice 1, 3 - 16, 23, and 24.

Policy 6.10. GUARDIAN SUPERVISION

- a. The Colorado Office of Public Guardianship (OPG) shall model the highest standard of practice for guardians to improve the performance of all guardians in the state. As such, the Colorado OPG will provide experienced supervision and support to all Public Guardians. National Guardianship Association Standards of Practice for Agencies and Programs Providing Guardianship Services Standards I – III, V, and VI; National Guardianship Association Ethical Principles; National Guardianship Association Standards of Practice 1 – 16, 23, and 24.
- b. As such, the Director will seek certification from the Center for Guardianship Certification for National and Master Guardianship certifications within five years of employment with the Colorado OPG.
- c. The Colorado OPG training and curriculum for Public Guardians is geared toward becoming certified. Public Guardians are strongly encouraged to pursue National and Master Guardianship certifications within five years of employment.
- d. The Director for the Office of Public Guardian shall meet with each Public Guardian for a quarterly case review to ensure that individual goals are being met of both the Public Guardian and the wards whom the Public Guardian serves. These case reviews will be scheduled at a mutually agreed upon time and may take place in person or via an electronic meeting platform.
- e. A weekly team meeting is required of all staff members. The meeting may take place in person or via electronic meeting platform. The meeting is intended to serve as a way to touch base with all team members to update about cases that are currently at the forefront of each Public Guardian. The weekly meetings are also designed to be a way in which Public Guardians can problem solve with one another and consult with other members of the team about resources, strategies, and ideas. Finally, the weekly meeting serves as a way to announce information, receive feedback as a group, etc.
- f. The Office of Public Guardian will establish an Internal Ethics committee process for decisions that are ethically complex or controversial. The Ethics committee will establish guidelines for decision making in such controversial or complex areas. **Generally, the process will take place as follows:**
 1. **General Guidelines are available, but it must be recognized that ethical concerns may be considered on a case-by-case basis. In situations where the client's desires are unknown, it is especially important to follow ethical guidelines and input:**

- i. The Public Guardian may handle routine medical decisions that do not require the guardian to seek further consultation outside of the weekly individual conference with the Director.
 - ii. The Public Guardian may handle placement matters that do not require the guardian to seek further consultation outside of the weekly individual conference with the Director. Should a more restrictive placement than the current placement be recommended, the Public Guardian and Director may consult the Internal Ethics Committee.
 - iii. The Public Guardian must consult with the Director and the Internal Ethics Committee for high-risk medical procedures or interventions that require guardian consent.
 - iv. The Public Guardian must consult with the Director and the Internal Ethics Committee for end of life matters that require guardian consent.
2. The Public Guardian will consult the Director as outlined within this policy. The Director will review and be involved with any decision moving forward, as necessary.
3. If the Director believes more input is necessary to assist in making a decision, the Internal Ethics committee will be consulted in a timely manner depending upon how much time is available for a decision to be made on the matter.
4. For an individual that is hospitalized, the Internal Ethics Committee may consist of the Public Guardian, Director, hospital's Ethics Committee, and appropriate attending physician(s) and specialists.
5. For an individual that is not hospitalized, the Internal Ethics Committee may consist of an outside ethicist, Public Guardian, Director, OPG Commission member, and appropriate attending physician(s) and specialists. The outside ethicist may be a professor of ethics, bioethics and/or humanities.
6. If the decision is still too complex to proceed, the Colorado OPG will ask for the court's involvement to guide the decision.

Policy 6.18. Complaint Process

Pursuant to C.R.S. § 13-94-105 (2)(f), The Colorado Office of Public Guardianship establishes the following process for receipt and consideration of, and response to, complaints against the office, to include investigation in cases in which investigation appears warranted in the judgment of the director. National Guardianship Association Standards of Practice for Agencies and Programs Providing Guardianship Services Standards I – III, V - VII; National Guardianship Association Ethical Principles; National Guardianship Association Standards of Practice 1, 11 – 13, 23, and 24.

This process is NOT intended for private guardianship cases. To raise a complaint about a private guardianship, please contact the Denver Probate Court or the County Court where the guardianship was filed.

Steps for Filing a Complaint: All complaints against the office shall be in writing using Complaint Form 1. Complaint Form 1 is available on the Colorado OPG web site. Complaint Form 1 can be mailed to an individual upon their request.

1. Send or deliver the completed Complaint Form 1 to the Director.
 - a. You may attach copies of any supporting documents to Complaint Form 1. The Colorado OPG will not return the documents to you.
 - b. Complaint Form 1 must be sent by mail or electronically or by facsimile and delivered directly to the Director.

Colorado Office of Public Guardianship, Director
3900 East Mexico Avenue, Suite 300
Denver, Colorado 80210

Facsimile: 720.552.5215

Email: Info@Colorado-opg.org or Sophia.Alvarez@colorado-opg.org

2. Upon receipt of the Complaint Form 1, the Director will have fourteen (14) calendar days to respond in writing.
3. After review of Complaint Form 1, if further investigation appears warranted in the judgment of the Director, the Director shall seek more information and, if necessary, shall file a request to set the matter for hearing before the judge.

4. If the Director has not satisfactorily responded to your complaint, you may proceed to Step 6.
5. If you have a complaint specifically against the Colorado OPG Director, you may send Complaint Form 1 to the Colorado OPG Commission as indicated in Steps 1 and 6.
6. After fourteen (14) calendar days, if you are still dissatisfied with the response from the Director, please submit Complaint Form 2 to the Colorado OPG Commission.

Colorado Office of Public Guardianship Commission, Staff Assistant
3900 East Mexico Avenue, Suite 300
Denver, Colorado 80210

Facsimile: 720.552.5215

Email: Info@Colorado-opg.org

7. Upon receipt of Complaint Form 2, the Colorado OPG Commission will respond in writing to your complaint within fourteen (14) calendar days.

COLORADO OFFICE OF PUBLIC GUARDIANSHIP COMPLAINT FORM 1

IMPORTANT NOTE: This form should be used to make an initial complaint against the Colorado Office of Public Guardianship (OPG) and directed to the attention of the Director. Upon receipt, the Director will respond, in writing, within fourteen (14) calendar days.

This form and process is only for Colorado OPG clients. This form and process is not intended for private guardianship cases.

YOUR NAME: _____

TODAY'S DATE: _____

YOUR ADDRESS: _____

BEST WAY TO CONTACT YOU AND CONTACT INFORMATION:

TELEPHONE: _____

EMAIL: _____

US MAIL: _____

OTHER: _____

YOUR COMPLAINT

1. What is the name of the Colorado OPG client involved?

2. Where is this person located?

3. What is your relationship to the Colorado OPG client?

4. Is there a particular Colorado OPG employee involved? If yes, please state the name.

5. What happened to give rise to this complaint?

6. When did it happen?

7. Where did it happen?

8. Were you a witness to what happened?

9. Are there other eyewitnesses?

10. What action or remedy do you think is appropriate to address the situation?

11. Are you interested in serving as the guardian for the Colorado OPG client involved?

THIS FORM MUST BE SIGNED AND DATED

Signature: _____

Date: _____

COMPLAINT FORM SUBMISSION

Please submit this completed form to the Colorado Office of Public Guardianship (OPG) Director. To protect confidentiality, a Complaint Form 1 must be sent by mail or otherwise delivered directly to the Colorado OPG Director.

Colorado Office of Public Guardianship, Director
3900 East Mexico Avenue, Suite 300
Denver, Colorado 80210
Facsimile: 720.552.5215
Email: Info@Colorado-OPG.org or Sophia.Alvarez@Colorado-OPG.org

DIRECTOR USE ONLY

Date Received:

Date Addressed:

Comments:

COLORADO OFFICE OF PUBLIC GUARDIANSHIP COMPLAINT FORM 2

IMPORTANT NOTE: This form should be used only when your prior/initial complaint against the Colorado Office of Public Guardianship (OPG) has not been addressed to your satisfaction within fourteen (14) calendar days. Upon receipt, the Colorado OPG Commission will respond, in writing, within fourteen (14) calendar days.

The Colorado OPG Commission cannot address your complaint until you have completed the steps for Complaint Form 1.

YOUR NAME: _____

TODAY'S DATE: _____

YOUR ADDRESS: _____

BEST WAY TO CONTACT YOU AND CONTACT INFORMATION:

TELEPHONE: _____

EMAIL: _____

US MAIL: _____

OTHER: _____

Please attach a copy of your original Complaint Form 1, the written response that you received from the Director, and any additional supporting documentation you wish the Colorado OPG Commission to consider.

What was the outcome of your complaint to the Colorado OPG Director and when did this occur?

THIS FORM MUST BE SIGNED AND DATED

Signature: _____

Date: _____

COMPLAINT FORM SUBMISSION

Please submit this completed form to the Colorado Office of Public Guardianship (OPG) Commission. To protect confidentiality, a Complaint Form 2 must be sent by mail or otherwise delivered directly to the Colorado OPG Commission.

Colorado Office of Public Guardianship Commission
3900 East Mexico Avenue, Suite 300
Denver, Colorado 80210
Facsimile: 720.552.5215
Email: Commission@Colorado-OPG.org

COMMISSION USE ONLY

Date Received:

Date Addressed:

Comments:

COMPLAINT PROCESS AND PROCEDURE

COLORADO OFFICE OF PUBLIC GUARDIANSHIP – C.R.S. 13-94-101, ET. SEQ.

PURPOSE OF THE COMPLAINT PROCESS

The Colorado Office of Public Guardianship (OPG) is committed to ensuring that all stakeholders are treated fairly in accordance with all applicable laws and regulations. If you have a complaint against the Colorado OPG Director, this complaint process provides a prompt and fair process to address complaints.

STEP 1

Complete the **Complaint Form**. Send or deliver your original, completed Complaint Form to the Colorado OPG Commission. Upon receipt of the Complaint Form, the Colorado OPG Commission will have fourteen (14) days to respond to the complaint.

- a) **Contact Information for the Colorado OPG Commission:**
Colorado Office of Public Guardianship Commission
3900 East Mexico Avenue, Suite 300
Denver, Colorado 80210
Facsimile: 720.552.5215
Email: Commission@Colorado-OPG.org
- b) **Your Complaint to the Director Must Be in Writing:** Please use the Complaint Form to state your complaint in writing (and keep a copy for your records). The Complaint Form must be signed and dated. You may also attach any supporting documents you wish to the completed form.
- c) **Complaint Form Submission (Complaint Form):** Completed Complaint Forms must be sent by mail or otherwise delivered directly to the Colorado OPG Commission.
- d) **14 Calendar Days to Respond:** Upon receipt of your written complaint, the Colorado OPG Commission will have fourteen (14) calendar days to respond to the complaint, to you, in writing.

ADDITIONAL RESOURCES

- **COLORADO PUBLIC GUARDIANSHIP ACT – C.R.S. § 13-94-101, ET. SEQ.:**
CO - Colorado Revised Statutes Annotated, TITLE 13. COURTS AND COURT PROCEDURE, ADVOCATES, ARTICLE 94. OFFICE OF PUBLIC GUARDIANSHIP
Colo. Rev. Stat. § 13-94-101 (Lexis Advance through all laws passed during the 2019 Legislative Session)
- **GENERAL INFORMATION ABOUT THE COLORADO OFFICE OF PUBLIC GUARDIANSHIP:**
<https://COLORADO-OPG.org>

■ **COLORADO OPG COMMISSION:**

<https://COLORADO-OPG.org/About-Us/opg-commission>

■ **DISABILITY LAW COLORADO:** <https://disabilitylawco.org/>

■ **ADULT PROTECTIVE SERVICES (APS):** APS investigates reports of abuse, neglect, and exploitation of at-risk and incapacitated adults age 18 or older.
<https://www.coloradoaps.com/about-adult-protective-services.html>

To report suspected adult abuse, neglect, or exploitation, call the APS in the county where the ward/client resides: <https://www.coloradoaps.com/>

COLORADO OFFICE OF PUBLIC GUARDIANSHIP COMPLAINT FORM

IMPORTANT NOTE: This form should be used to make a complaint against the Colorado Office of Public Guardianship (OPG) Director and directed to the attention of the Colorado OPG Commission. Upon receipt, the Colorado OPG Commission will respond, in writing, within fourteen (14) calendar days.

YOUR NAME: _____

TODAY'S DATE: _____

YOUR ADDRESS: _____

BEST WAY TO CONTACT YOU AND CONTACT INFORMATION:

TELEPHONE: _____

EMAIL: _____

US MAIL: _____

OTHER: _____

YOUR COMPLAINT

1. What happened to give rise to this complaint?

2. When did it happen?

3. Where did it happen?

4. Were you a witness to what happened?

5. Are there other eyewitnesses?

6. What action or remedy do you think is appropriate to address the situation?

Please add additional pages and documentation as needed.

THIS FORM MUST BE SIGNED AND DATED

Signature: _____

Date: _____

COMPLAINT FORM SUBMISSION

Please submit this completed form to the Colorado Office of Public Guardianship (OPG) Commission. To protect confidentiality, a Complaint Form must be sent by mail or otherwise delivered directly to the Colorado OPG Commission.

Colorado Office of Public Guardianship Commission
3900 East Mexico Avenue, Suite 300
Denver, Colorado 80210
Facsimile: 720.552.5215
Email: Commission@Colorado-OPG.org

Guardianship and Alternatives to Guardianship

The following information is intended to give an overview of alternatives to guardianship. The information is provided for educational purposes only and is not a substitute for legal advice. For advice on making legal decisions, please seek the assistance of an attorney.

Guardianship

Guardianship is determined through a court process. Guardians are appointed and overseen by a court. Guardians are responsible for protecting the *person* and a Conservator is responsible for protecting *money and property* of the protected person. In Colorado, the law separates a guardianship and a conservatorship.

For a court to appoint a guardian, it must first determine that the individual for whom a guardianship is sought, is incapacitated and unable to make decisions necessary to protect the individual from harm. Once an individual is appointed a guardian, the individual is referred to as a “ward.”

A court gives a guardian the authority to make decisions for the ward. This means that the ward may no longer be able to make decisions to:

- Determine residence
- Consent to medical treatment
- Make end-of-life decisions
- Contract or file lawsuits

A guardian will take into account the wishes and desires of the incapacitated person when making all decisions. Pursuant to C.R.S. 15-94-314: Except as otherwise limited by the court, a guardian shall make decisions regarding the ward's support, care, education, health, and welfare. A guardian shall exercise authority only as necessitated by the ward's limitations and, to the extent possible, shall encourage the ward to participate in decisions, act on the ward's own behalf, and develop or regain the capacity to manage the ward's personal affairs. A guardian, in making decisions, shall consider the expressed desires and personal values of the ward to the extent known to the guardian. A guardian, at all times, shall act in the ward's best interest and exercise reasonable care, diligence, and prudence.

A guardian is a “fiduciary,” or a person having a duty to act primarily for the benefit of another person in matters related to that which gives rise to the duty.

A guardianship should be the last resort, therefore a Limited Guardianship or alternatives to guardianship should always be considered before seeking a full, or unlimited, guardianship.

Limited Guardianship

If an incapacitated person is able to make some of their own decisions, a court may limit the guardian's authority to make decisions on behalf of the incapacitated person.

The guiding principle in all guardianship is that of least restrictive measures to assure the incapacitated person has as much autonomy as possible.

Modification or Termination of a Guardianship

Guardianship can be modified or terminated by the court. The ward may ask the court to modify or terminate a guardianship at any time. Guardians file annual reports to the court indicating whether the guardianship should be modified or terminated. The guardian should regularly assess the ward to see if the ward has regained capacity to make their own decisions. Guardians should ask the court to modify or terminate a guardianship if the ward has regained capacity. The court usually requires medical evidence that the ward has regained capacity.

Alternatives to Guardianship

- Representative Payee
- Case/care management with Community advocacy systems or Community agencies/services
- Trusts
- Durable powers of attorney for property
- Durable powers of attorney for health care
- Living wills
- Joint checking accounts
- Supported decision-making networks

Representative Payee or Fiduciary

A Representative Payee is an individual or organization appointed by the Social Security Administration (or a Fiduciary appointed by the VA) to receive government benefits on behalf of an individual who cannot manage his/her money.

The payee's/fiduciary's responsibility is to use the benefits to pay for the current and foreseeable needs of the beneficiary and properly save any benefits not currently needed.

Case/care management with Community advocacy systems or Community agencies/services

There are state and local agencies that may offer case management services for the incapacitated person. This may allow the incapacitated person to live independently with support. There are national and local advocacy systems and agencies.

Some examples are:

- Rocky Mountain Human Services
- Arc of Colorado
- Area Agency on Aging
- Veterans Administration
- Aging and Disability Resource Center

Trusts

Special needs trusts provide oversight and management of money held in the trust. A special needs trust ensures that the individual's resources are spent for the benefit of the individual.

Durable powers of attorney

A Durable Power of Attorney is a legal document executed by an individual with capacity. Generally, the document gives an individual called the "agent" or "attorney in fact," the authority to act on behalf of the individual appointing them.

Powers of attorney may give authority to the agent or attorney in fact to act upon the individual's finances or medical decisions.

A Power of Attorney is a private agreement and not subject to automatic court oversight.

If you regain the ability to make your own medical decisions, your "agent" is no longer allowed to make medical decisions on your behalf.

Living Wills

Living Wills are a legal document. It allows a person to state future health care decisions when that person becomes incapacitated to make those decisions.

The living will describes the type of medical treatment the person would want or not want to receive at the end of life or if the person is terminally ill. Before your health care team uses your living will to guide medical decisions, two physicians must confirm that you are unable to make

your own medical decisions and you are in a medical condition that is specified by Colorado law as terminal illness or permanent unconsciousness.

Supported-decision making networks

Supported decision-making refers to ways of helping individuals of any age or ability understand information and make decisions that affect important areas of their life, such as legal, financial, medical, housing, education, and relationships. The individual is the decision maker.

References

- NCLER Overview of Guardianship and Alternatives to Guardianship Chapter Summary, David Godfrey, ABA Commission on Law and Aging, July 2018.

<https://ncler.acl.gov/Files/Overview-of-Guardianship-Alternatives-to-Guardians.aspx>

- National Guardianship Association. <https://www.guardianship.org/>
- Colorado Developmental Disabilities Council.

<http://www.coddc.org/Documents/SDM%20Web%20Version.pdf>

Overview of Guardianship and Alternatives to Guardianship

CHAPTER SUMMARY • July 2018

David Godfrey, ABA Commission on Law and Aging

About the American Bar Association Commission on Law and Aging

The mission of the American Bar Association Commission on Law and Aging is to serve as the collaborative, interdisciplinary leader of the Association's work to strengthen and secure the legal rights, dignity, autonomy, quality of life, and quality of care of aging persons, particularly low-income and vulnerable elders. Since 1979, the ABA Commission has carried out this mission through research, policy development, technical assistance, advocacy, education, and training.

Introduction

Lawyers working with older adults are often confronted with questions about guardianship, other types of agents, and alternative forms of decision-making. This Chapter Summary will help lawyers understand a guardian's responsibility and authority, as well as the roles of other agents, like default health care surrogates, health care agents, representative payees, joint account holders, and authorized signers. The Summary also explains how guardianship and its alternatives are created and terminated, and the responsibilities of individuals serving in different decision-making roles.

Key Lessons

- 1. There are important differences in the creation, authority, and termination of guardianship and powers of attorney.** Guardians are appointed and overseen by a Court based on a finding of incapacity or need. A power of attorney is created when an individual voluntarily appoints a decision-making agent. There are important differences in how each is created, the authority of each, and how each is terminated.
- 2. Review all documents to understand the agent's authority and limitations.** The best way to understand the authority of a guardian, a power of attorney, or health care agent is to know the underlying state law and read the paperwork.
- 3. An agent's authority can be modified or revoked.** An individual can modify or revoke an agent's authority as long as the individual who established the agency has the legal capacity to do so. In contrast, only the courts can modify or terminate guardianships.
- 4. Guardianship requires a court order.** When guardianship is necessary, it is essential to know the basic legal process.

Not All Agents Are Created Equal

An agent is an individual who can make decisions on behalf of the other person. An agent can be a guardian, conservator, agent appointed in a power of attorney, and a health care surrogate. The methods to appoint these agents, determine the scope of their authority, modify or terminate their authority are all very different. It is critical to understand both the *type* of agent, and the agent's *scope* of authority, to assure that the rights of the person are protected, and the actions authorized by the agent are appropriate. This section explores the basics of guardianship and distinguishes guardianship from other decision-making agents.

Guardianship

Historically, a Guardian was responsible for protecting the *person*, and a Conservator was responsible for the *money and property* of the protected person. By statute, many states use the term Guardian for both person and property, other states use the term Conservator for both the person and property, and other states split the two. Lawyers representing older adults should be familiar with the terms in their state. For simplicity, this Summary will refer to guardianship or conservatorship as Guardianship from this point.

Guardians are agents appointed by a Court. This appointment gives Guardians the responsibility and authority to make decisions on behalf of a person that the Court determines is a person in need of protection under the laws of the state the person is in. The person with authority is known as the Guardian, and the person whose rights are removed is called the protected person or ward.

Because of the severity of this appointment, before appointing a guardian, the Court must determine that the person is in need of protection as defined by state law. The Court needs to see evidence that the person is unable to make choices necessary to protect the person or property from harm. The evidence should include reports from one or more professionals who have evaluated the person. The person is always given written notice that a guardianship has been filed and an opportunity to object. The person has a right to be present at the hearing or trial, to be represented by an attorney, and to present evidence that a guardianship is not necessary, should be limited, or to express their preference for who should be appointed by the Court.

Limited guardianships

Guardianship can be limited in authority. In a way, all guardianships are limited, as there are some rights, such as voting, that a guardian can never exercise on behalf of the protected person. Asking for limited orders on guardianship protects and preserves the freedoms and Constitutional rights of the person. Guardianship should always be the last resort, and it is important to consider alternatives to guardianship and guardianship limitations. The American Bar Association Commission on Law and Aging's [PRACTICAL](#) guide includes suggestions for supporting decision-making to avoid guardianship and asking for a limited guardianship.

Guardians are accountable to the Court that appointed them. State statutes describe the records that must be kept, and reports that must be filed. When a guardian breaches a fiduciary duty or fails to act, the Court can take action to hold the guardian accountable, and to remove and replace the guardian.

PRACTICE TIP

When a person says they are the “power of attorney” or the “guardian” for someone, ask to see the document giving them authority. Reading the document will tell you the type of agent the person is, and give you some idea of the scope of the authority the person has to act on behalf of the person. If the agent is unable to provide the document, they likely lack legal authority to make decisions for the person.

Modifying or terminating a guardianship

Guardianship can be modified or terminated by a Court order. Some guardianships are overly broad from the beginning, allowing the guardian to make decisions that the person could well make for themselves. Other times the person regains the ability to make decisions after a guardian has been appointed, such as when they are created after an illness or injury and the person recovers. When a person asks for the return of their rights, they very likely have the capacity to make choices—especially with appropriate supports. The legal standards for modifying or terminating a guardianship will vary from state-to-state. In all states, the Court looks for evidence, usually in the form of evaluations by qualified professionals, that the person will be able to make informed choices and is no longer in need of protection on the issues for which the guardianship was formed.

Alternatives to Guardianship

Guardianship is always the last resort and it is important to always explore less intrusive alternatives that may preserve an individual's autonomy. The alternatives detailed below include options to allow an individual to designate an agent to make health, financial, and other decisions for the individual.

Power of attorney

A power of attorney is a legal document. The document grants one person, generally called an agent, sometimes known as an attorney in fact, the authority to act on behalf of the person appointing them. The person appointing the agent is called the grantor. To create a power of attorney, an adult must be able to understand they are appointing the agent and understand the kinds of authority they are giving the agent. The scope of the agent's authority is limited by the terms of the document and by state laws. A grantor with capacity can revoke or modify the appointment of an agent in a power of attorney. Revocation of a power of attorney should be in writing, signed by the grantor, with a copy delivered to the agent and anyone who is likely to be dealing with the agent. In some states, the revocation needs to be recorded in the public records like a deed. A power of attorney is a private agreement and is not subject to automatic oversight by the Courts.

Health care surrogate

A health care surrogate is a person who makes health care decisions for a person, when the person lacks capacity to make health care decisions. This person may also be called a health care agent or proxy. In every state, a person with capacity can appoint a health care surrogate in a durable power of attorney that includes health care authority. Many states have a short form for naming a health care surrogate. A person has capacity to appoint a health care surrogate if they understand what a health care decision is, and can name a person they trust to make health care decisions.

If a person does not appoint someone, 45 state statutes give guidance on who can make health care decisions. Generally, statutes turn to the nearest relatives to make health care decisions. Health care decision-making is the only area of decision-making where the law creates a default agent when a person does not name an agent in writing.

The authority of a health care surrogate to make health care decisions does not start until the person loses capacity, or knowingly defers to the agent. The determination of loss of capacity is made by the person's health care providers. The criteria and documentation for the loss of capacity is based on state law. The scope of the authority is defined in the document and by state law. As long as the person has capacity, the person can revoke or modify the appointment of a surrogate. Many states have a very low standard of capacity for revocation of an advance directive.

Aside from leaving directions on who can make health care decisions, many people leave directions about the health care they want or do not want in the form of an advance directive or living will directive. When making health care decisions for another person, it is helpful to understand their health care values, goals of care, and specific wishes.

Social Security Representative Payee

A Social Security Representative Payee (rep payee) receives the benefits for a beneficiary who has been determined unable to manage money by the Social Security Administration (SSA). Rep payee is specific to Social Security benefits, including Social Security Disability and Supplemental Security Income (SSI). VA pensions and some private pensions have separate payee systems.

Social Security will place the benefits in payee status if SSA has reason to believe that the beneficiary is unable to manage benefits. The evidence is either a verification from a physician who has seen the person

recently, or evidence in a disability case of serious mental illness or substance abuse. The beneficiary can file voluntarily if they are unable to manage their benefits. The process is entirely administrative. Social Security does not recognize any other agents. Guardians and agents under powers of attorney must apply to Social Security to be recognized as a representative payee.

Someone seeking to be appointed as a rep payee should contact Social Security with the name and identifying information for the beneficiary, the reason the person needs a payee, and name and contact information of a physician who has recently seen the person, and may include a proposed payee. Social Security then sends notice to the beneficiary, and a verification form to the physician. The beneficiary has a right to object to the need for a payee, or to the proposed payee.

Upon finding of need for a rep payee, Social Security does a basic background check on the proposed payee. The payments must be directly deposited into a separate account, titled “payee as representative payee” for the benefit of the named beneficiary. Most payees file a very basic annual accounting.

Representative Payee status can be terminated, at request of the beneficiary with proof that the beneficiary has regained the ability to manage benefits. If the payee resigns or becomes unable to serve, benefits are held until a replacement payee can be appointed. There is a shortage of reliable volunteer payees and a need for representative payees. All payees are volunteers, with an exception for narrowly defined non-profits who are allowed to receive a limited fee from the benefits. In some states, inpatient residential settings, such as nursing homes, are allowed by state law or regulation to serve as representative payees.

Bank accounts

A common way to manage another person’s finances is to authorize an agent to sign on to that person’s bank accounts. There are two ways to do this: 1) add a person authorized to transact business on the account; or 2) make the bank account a joint account. A joint account creates a presumption of ownership in the account assets, and may create inheritance rights. Joint accounts are very helpful for married or committed couples. For more distant family members or friends, joint accounts should be used with great caution. Rather than create a joint account, the bank can authorize someone to sign on the account without creating an ownership interest in the account. This is most commonly done by the bank recognizing the authority granted under a power of attorney. In many states, the banks may insist on a state standard form, or a bank approved power of attorney form. Banks can also authorize signers on accounts without creating an ownership interest; many business accounts are structured this way.

Direct deposit and automatic payment

All Social Security benefits and virtually all retirement benefits are paid by direct deposit. Direct deposit eliminates the need to make deposits, and prevents lost or stolen checks. Nearly all reoccurring bills can be set up on automatic payment. The combination of direct deposit and automatic payments can help to assure that necessary bills are paid when a person is unable to attend to finances. These arrangements should be monitored to assure that all income is properly received and automatic payments are correct. Increasingly, financial institutions and utility providers are willing to send copies of invoices and statements to a third party, or to arrange online access for accounts oversight.

PRACTICE TIPS: Basics At A Glance

Power of Attorney

- » Voluntary appointment of an agent
- » Person must have capacity to create, modify or terminate
- » Scope of authority is defined in the document and state law
- » Does not terminate authority of the person
- » Private agreement without automatic Court oversight

Guardianship/Conservatorship

- » Involuntary appointment of an agent
- » Requires Court finding of incapacity
- » Transfers all or part of the rights of the person to the guardian
- » Scope of authority is defined in the document and by state law
- » Can be modified or terminated by the Court
- » Actions of agent are subject to oversight by the Court

Health Care Surrogate

- » Voluntarily appointed
- » Must have capacity to appoint
- » Most states provide a statutory surrogate for persons who fail to name a surrogate
- » With capacity, the person can revoke or modify the appointment
- » The authority granted is defined in the document and limited by state laws

Representative Payee

- » Involuntary appointment of a person to manage Social Security benefits
- » Requires a documented or voluntary admission of inability to manage benefits
- » Beneficiary receives notice and opportunity to object
- » Entirely an administrative process
- » Can be terminated with evidence of capacity
- » Social Security does not recognize any other agent

Bank Accounts

- » With capacity, the account owner can arrange a joint account or an authorized signer
- » In many states, banks will insist on a specific approved form for a power of attorney
- » Caution should be exercised on joint accounts
- » With capacity, can be modified or terminated

Direct Deposit and Automatic Payment

- » Direct deposit has become the norm for income
- » Automatic payment assures essential expenses are paid
- » Oversight is essential, arrange access to records
- » With capacity, can be revoked or modified

CASE EXAMPLE 1

Fred is single, has income from Social Security, and a private pension. His obligations are utilities and property taxes. His three children are adults. One lives nearby and has a substance abuse problem. His middle child is a nurse who lives an hour away. His third child is an accountant. Fred has been talking to his doctor about forgetting things and is having a hard time making decisions. What are his planning options?

- Place all income on direct deposit and arrange for the utility bills and taxes to be paid automatically.
- Name the child who is a nurse as his health care surrogate, and have a family meeting to discuss Fred's personal values and the kind of care he wants to receive.
- Name the child who is an accountant as his agent in a power of attorney, and assure that the bank recognizes the authority of the agent.
- Ask the child who lives nearest to assist with shopping and errands, and have the financial agent review and oversee all transactions.
- If Fred's memory gets to the point that he is unable to manage his Social Security, ask Social Security to appoint the financial agent as representative payee.
- Instruct the family in the person-centered and person-directed model of Supported Decision-Making and encourage them to keep everyone involved and informed about Fred's wishes and values.

CASE EXAMPLE 2

Wilma never planned for being too sick to make health care decisions or manage her money, and suddenly she is. Her son Bam is scrambling to try to help. Her income from Social Security and a survivors pension from the Bedrock Quarry are directly deposited into an account in her name only. Her electric bill is past due. Her doctors are recommending a permanent feeding tube and transfer to a long-term care facility. What can Bam do or not do?

- Under state law, Bam is a default health care surrogate, so he can make a decision on the feeding tube and, in most states, can consent to the transfer to long-term care. He will need to file to be appointed as her Representative Payee. If the Bedrock Quarry has a payee option, he may be able to do that. Otherwise, he may need to file for a limited guardianship (conservatorship) to gain access to the pension and to her existing bank account.

Conclusion

Different types of agents have different authority, and are created and terminated differently. Some agents are voluntarily selected and appointed by a person with capacity. Other types of agents are appointed involuntarily for a person who lacks capacity. An essential step in working with any agent is reviewing the document granting the person authority, and understanding the applicable state law. By knowing how each type of agent is empowered, you can understand who can do what, and learn what options are available based on the abilities of the person.

Additional Resources

- [David Godfrey](#), Senior Attorney, ABA Commission on Law and Aging
- [American Bar Association Commission on Law and Aging](#)
- "[State Statutes or Court Rules on Guardianship Complaint Processes](#)," ABA Commission on Law and Aging
- "[Selected Issues in Power of Attorney Law](#)," ABA Commission on Law and Aging

- [Social Security Representative Payee](#)
- “[Default Surrogate Consent Statutes](#),” ABA Commission on Law and Aging
- “[State Health Care Power of Attorney Statutes](#),” ABA Commission on Law and Aging
- “[PRACTICAL Guide to Supported Decision-Making](#),” ABA Commission on Law and Aging
- [Surrogate decision-making guides](#), Consumer Financial Protection Bureau

Case consultation assistance is available for attorneys and professionals seeking more information to help older adults. Contact NCLER at ConsultNCLER@acl.hhs.gov.

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Supporting Individuals with Disabilities to Take Charge of Their Lives



Self-Determination and Supported Decision-Making

This guide provides important information about empowering individuals with disabilities to be in control of their lives, make their own choices, and have better life outcomes including safety and privacy.

Supported Decision-making is a natural process that many people use when making important decisions. It is “what really good family and friends do. It’s having conversations with each other about needs and wants and coming to a decision with their help when needed. Supported Decision-making is a set of strategies that can help individuals with disabilities have more control over their lives and their futures. It involves family and friends working together with individuals to support them in making complex decisions.” (Source: <https://ncd.gov/publications/2018/beyond-guardianship-toward-alternatives>)

“Supported Decision-making...retains the individual as the primary decision maker, while recognizing that the individual with a disability may need some assistance – and perhaps a great deal of it – in making and communicating a decision.”

(Source: http://supporteddecisionmaking.org/sites/default/files/implementing_legal_capacity_article_12_un_convention.pdf)

This guide is for people living with disabilities; family members and friends; legal and educational professionals; service providers; guardians, or other supporters.

It is the person’s will and preference, plus support, plus accommodations, that equals legal capacity.



“ Instead of guardianship of our mother, we chose Powers of Attorney in the areas of medical and financial. These were much easier to obtain and didn’t require going to court and having a judge tell her she would no longer make her own decisions. ”

– Daughter

Self-Determination

Being able to make choices about their own lives is crucial for the independence and happiness of all people, including those living with disabilities. Decision-making is a skill that everyone needs to practice, including people with

disabilities, so they can continue to grow and gain experience throughout their lives. Regularly involving young people with disabilities in decision-making results in adults who are able to make informed decisions and direct their own lives.

Everyone has the right to make decisions about their own lives.

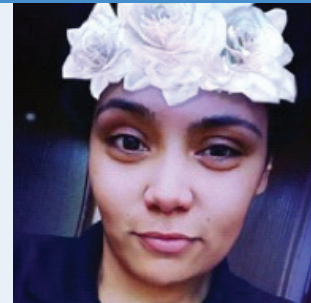
Did you know that being able to make your own decisions leads to a higher quality of life? Studies show that people living with disabilities who have more control of their lives and are more self-determined are:

- Healthier,
- More independent,
- More likely to be employed at a higher-paying job, and
- Better able to avoid and resist abuse.

When individuals living with disabilities are less able to make their own choices, they are more likely to feel helpless, hopeless, passive, and are at greater risk of abuse.

(Source: Khemka, Hickson, & Reynolds, 2005; Wehmeyer, Kelchner, & Reynolds, 1996; Wehmeyer & Schwartz, 1998. Deci. "Intrinsic Motivation," 208, 1975)

(Source: <https://www.nationalcoreindicators.org/>)



I think getting out of guardianship has changed me in many ways. Now I'm able to pay my own bills (with no assistance). I'm able to live in my apartment and as well cook my own meals. And also hold down a job.

When I was under guardianship of the state they wouldn't have let me do any of that.

But when I got out of the guardianship and Trudi started helping me, she taught me to cook and manage my money. I now need minimum to no help/assistance, but when I need help I can get it from Trudi and my friends.

– Caroline Glenn

Choice

People with intellectual and developmental disabilities who have more opportunities to make choices make better decisions. The more someone makes their own decisions, the better they can learn new skills, including problem-solving, goal-setting, and taking more responsibility. According to the 2010 Wisconsin Department of Health Services Handbook, *Guardianship of Adults*, "We all learn by making mistakes. If a person is denied the right to take risks, he or she is also denied the opportunity to learn and grow."

(Source: <https://www.dhs.wisconsin.gov/publications/p2/p20460.pdf>)

Making mistakes prepares everyone for future decision-making. There is dignity in being able to both succeed and fail, and to learn from our failures.

All people, including those with disabilities:

- Have the right to make decisions about things that impact their lives,
- Can learn new skills to be more independent over time when they have the right supports.

And...have the right to choose:

- Who will provide their decision-making support,
- What types of decisions they want support to make, and
- How this support will be provided.

We all make mistakes. Mistakes help people learn.

Learning is a lifelong process and does not end at age 18. People with disabilities can learn new skills to increase their independence throughout their lives.



Supported Decision-Making

Supported decision-making helps individuals with disabilities learn how to make decisions about their lives. They choose the people they trust to help them understand complex information and make informed decisions about their medical, legal, financial, and other life matters. It's how most people make decisions.

Supported decision-making enables people with disabilities to ask for support where and when they need it from family members, friends, and professionals. Alternatives to guardianship that support individual choice can include release of information forms, powers of attorney, special needs trusts, and representative payees. These options can help families, friends, and professionals provide the needed supports and safeguards without imposing guardianship restrictions.

When entering into a supported decision-making agreement, those who can provide help in making decisions are called Supporters. Supporters agree to help explain information, answer questions, weigh options, and let others know about decisions that are made. They do not make the decisions.



The Role of a Supporter:

A Supporter is available to help when needed. The individual with a disability chooses who they would like to support them, and determines when and for what reason they would like the assistance of the Supporter.

A Supporter can:

- Help read complicated documents and explain their meaning;
- Attend meetings and help share questions or concerns; and
- Help communicate the person's decisions and preferences to others.



Supported Decision-Making Agreements:

A supported decision-making agreement can be developed to clarify the type of support a person needs and identifies who will provide it. A supported decision-making agreement is not a legally-binding document; it is more like a person-centered plan. It includes a list of decisions the person with a disability wants assistance in making and identifies Supporters they trust to help them. Individuals and Supporters may use existing sample agreements or create one of their own. The following items should be included in an agreement:

- Name and contact information;
- Why or what role the Supporter plays (*example: a Supporter helps understand and figure out complex medical information*);
- Specific information about what the Supporter will do (*example: education Supporter helps decide what classes to take, who to invite to an Individualized Education Program meeting*); and
- Signature area for the individual and Supporters.



Samples of supported decision-making resource documents can be found at: www.supporteddecisionmaking.org/content/resource-library

Planning for the Future using Supported Decision-Making

Supported decision-making does not require one individual to take on full Supporter responsibility. Multiple family members can be Supporters, increasing the breadth of the support network and making transitions easier as family members and friends age and roles change.

Supported decision-making can be an important part of the person-centered planning process, which focuses on outcomes driven by the individual and implemented through the support of family, trusted allies, and professionals of the individual's choosing to achieve those outcomes.

Inviting Supporters to person-centered planning meetings can help keep the discussion focused on the individual's talents, gifts, and dreams for the future.

Person-centered planning and supported decision-making can:

- Help an individual with a disability share their hopes and dreams for the future and identify goals to improve the quality of their life.
- Identify strategies and opportunities to help achieve a goal.

We all want to improve our lives, not just maintain them.

“ We wanted our son to have the chance to grow and learn to make decisions that affect his life. As his parents, we won't always be around to guide him, and we didn't want to restrict his life and future happiness. So, we chose not to pursue guardianship and instead to develop a circle of supporters to help him make those big decisions in life. ”

– Parent



Facts About Guardianship

The decision to seek guardianship is an intensely personal one that only the people involved can make, after carefully reviewing all of the facts and alternatives. Guardianship can be a necessary support for some people under some circumstances; however, it can strip away **most or all** civil rights and has not been proven to make people safer.

Guardianship can take away the ultimate decision-making rights from both the individual with disabilities and their family members. Most courts follow the wishes of the individual petitioning for guardianship, but the judge presiding over the hearing makes the final decisions.

Full guardianships restrict or remove entirely the person's right to make decisions and give the guardian responsibility for making decisions on the person's behalf. Overly restrictive limited or full guardianships can limit the individual's independence, are difficult to change, can result in over-reliance on paid supports, and can be time-consuming and costly for families.

Guardianships and other forms of substitute decision-making tend to be overused because:

It can be more complicated and time-consuming to help a person who needs decision-making support to understand and make a decision for themselves, than it is to simply have someone else make the decision for the person.

(Source: <https://www.dhs.wisconsin.gov/publications/p2/p20460.pdf>)

You don't need a guardian just because:

- You are a certain age;
- You have a certain IQ;
- You need support; or
- Because things have always been done a certain way.

Important considerations about guardianship:

- 1** Establishing and declaring in court that a person is "incompetent" is painful for all involved because it emphasizes the person's limitations, rather than his or her strengths.
- 2** Being found "incompetent" means losing many basic, day-to-day rights, and the loss of dignity and respect because the ward must now seek the consent of the guardian for many activities that other people take for granted.
- 3** Taking away an individual's decision-making power reduces the ability to learn to make choices and develop decision-making skills.
- 4** Not knowing their basic rights and how to assert them, could put the person at greater risk of abuse and exploitation by others.
- 5** Having decisions made by someone else reduces self-confidence and the ability to develop decision-making skills.
- 6** Imposing guardianship and decision-making on a family member when it is not necessary creates potential for unnecessary conflict. Guardianship should not be imposed to protect the person from some risk of harm that may not exist.

(Source: <https://www.dhs.wisconsin.gov/publications/p2/p20460.pdf>)

Guardianship does NOT protect a person from abuse or neglect. Guardianship does NOT guarantee safety.

The Judge has the Ultimate Decision-making Power

1 In guardianship proceedings, the judge has ultimate decision-making power and may grant more restrictions than are even sought. (Example: A parent requesting guardianship may ask that their son or daughter be allowed to retain the right to marry. The judge may decide that since the individual is incompetent, then he or she should not be given those rights.)

2 Guardianship is not easy to reverse or change. Anyone wanting to reverse a guardianship must file a formal petition with an attorney, fill out multiple forms, and appear in court. Evidence and documentation that the protected person has re-gained capacity or that the guardian is unfit must be presented. Any changes in the terms of a guardianship also require going back to court. Reversing or changing a guardianship can take time and may be costly if an attorney is involved.

3 Capacity determinations often lack sufficient scientific or evidentiary basis.

4 People with disabilities often feel they are denied due process rights in guardianship proceedings.

5 Although most state laws require consideration of less-restrictive alternatives, courts typically do little to enforce those requirements.



[When I was under guardianship] I was not allowed to go to my job... I wasn't allowed to have my friends or co-workers visit or even call me. I wasn't allowed to have my cell phone or computer. I felt like a prisoner but I didn't do anything wrong.

I was told I had rights...but that wasn't true. [My guardian] took them away. It was like I didn't matter. Like I didn't exist. [My guardian] took away my rights, my choices, my independence. A guardian is supposed to help me reach my goals.

Instead, I was kept away from my community, my church, and my friends. I kept telling everyone I was unhappy but no one listened to me.

– Jenny Hatch

(Source: https://www.americanbar.org/groups/law_aging/resources/guardianship_law_practice/practical_tool.html)

(Source: <https://ncd.gov/publications/2018/beyond-guardianship-toward-alternatives>)

“Family members and others involved in the person's life often overestimate the security that guardianship can provide, fail to look to other forms of support that may provide better protection of both safety and rights, and fail to consider the benefits of risk-taking, in terms of the learning opportunity for the person in setting goals, trying new things, and learning from failures.”

(Source: Autistic Self-Advocacy Network (ASAN))

Colorado Law About Guardianship (CRS 15.14.311)

While Colorado does not currently have a legally-binding supported-decision making agreement in state statute, it does promote supported-decision making. Colorado's State Statute on Guardianship gives the court permission to appoint a limited or unlimited guardianship only if it finds by clear and convincing evidence that the person is an incapacitated person; and his or her needs cannot be met by less restrictive means, including use of appropriate and reasonably available technological assistance. It also states that the Court, whenever feasible, shall grant to the guardian only those powers necessitated by the ward's limitations and demonstrated needs and make appointive and other orders that will encourage the development of the ward's maximum self-reliance and independence.

(Source: <https://leg.colorado.gov/sites/default/files/images/olls/crs2019-title-15.pdf> (page 360 of 600))

The key question for a Court or anyone seeking guardianship is: "How do you know if the person is **incapable** or **unable**?" How can you know if you haven't tried something else, first, in an attempt to empower the person to be capable and able?

Supported decision-making can be used as a tool for guardians to:

- Provide a ward with the greatest amount of independence and self-determination.
- Place the least possible restriction on the individual's personal liberty and promote the greatest possible integration of the individual into her or his community.
- Make diligent efforts to identify and honor the individual's preferences with respect to choice of place of living, personal liberty and mobility, choice of associates, communication with others, personal privacy, and choices related to sexual expression and procreation.

“Alternatives to guardianship, including supported decision-making, should always be identified and considered whenever possible prior to the commencement of guardianship proceedings.”

– National Guardianship Association

Advantages to the supported decision-making process:

- Considers the individual's wishes first.
- Provides the least restrictive form of support.
- Allows for growth and maturity as a person experiences and practices new skills.
- Encourages Supporters to help the individual to learn to make decisions.
- Eliminates the need to go to court.
- Can be changed at any time, and
- The type of decision-making supports and Supporters can be easily changed.

Getting Started with Supported Decision-Making

Supported decision-making can help people with disabilities stay in control of their own lives. Each person decides the amount and type of support they want and need from people they trust to support them in reaching their goals.

STEP 1: START THE CONVERSATION

Talk about goals and needed supports to achieve them. Think about an individual's current abilities and areas where growth can occur.

STEP 2: IDENTIFY PEOPLE WHO ARE WILLING AND ABLE TO ASSIST

A Support person should know the individual well and be able to understand and communicate with him or her.

STEP 3: PLAN AND COMMUNICATE

Bring the supporting individuals together to determine how the group will communicate.

STEP 4: SET UP AN AGREEMENT

Supported decision-making agreements are as individual as the people using them. See sample resources from the National Resource Center for Supported Decision-Making. However, they are not legally-binding documents.

STEP 5: LET EVERYONE KNOW

Once the supported decision-making agreement is signed, share copies with doctors, financial institutions, schools, and others who are involved.

Find the Right Supports for Individuals with Disabilities to Live Full Lives.

Many families feel pressured into pursuing guardianships to retain access to medical or school records and to try to reduce the risk of victimization. Family members should include the individual with a disability in the exploration of and deciding upon which of the following supports would be beneficial for him/her/they.



To provide support at meetings:

Release of Information

Once they reach the age of majority (18 in most instances and 21 for school services in Colorado), individuals with disabilities have the right to choose who is invited to meetings with service providers. Access to information can be as simple as verbal permission or using a signed release form to communicate with a community service provider, or governmental entity, like the Social Security Administration, employment services, or a medical appointment.

- Ask the community service provider, governmental entity, or medical professional for a release of information form.
- This release form gives those named on the form permission to attend meetings and to speak to professionals involved.

To provide support for healthcare decisions:

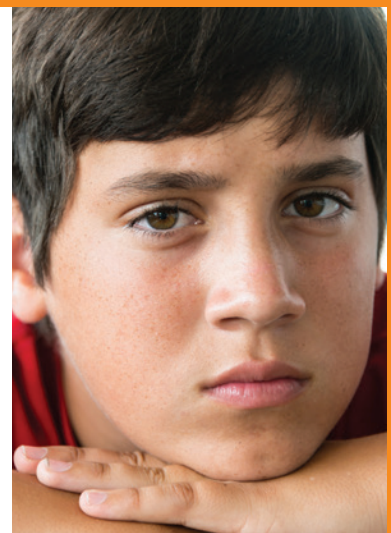
Power of Attorney (POA) for Healthcare

- Provides access to the individual's medical records,
- Free forms available online,
- Must be notarized.

Living Will

Allows the friend or family member to make end-of-life decisions when the individual is incapacitated.

- Free forms are available online or from a health care provider.



To provide support for financial decisions:

Power of Attorney for Finances

- Allows a friend or family member to make financial decisions,
- Free forms are available on line,
- Must be notarized.



ABLE Accounts

- Allows eligible individuals with disabilities to save money in a tax-exempt account that may be used for qualified disability expenses.
- Individuals with disabilities can save money while keeping their eligibility for federal public benefits.
- <https://www.coloradoable.org>



Supplemental or Special Needs Trust

- Managed by a trustee. Funds must be used to benefit the individual.
- Should be set up by an attorney who specializes in this area of law.

Representative Payee

- A Representative Payee may help manage a bank or credit union account, sign checks, and receive information from a bank. They may also provide financial management for people who are receiving Social Security payments, who are not able to manage it themselves.
- Forms are available from a bank or credit union. For Social Security, forms are available at a local Social Security Office or online at <https://www.ssa.gov/payee/form>

Dual Signature Bank Accounts

- Requires two signatures for each.
- Form is available at the bank or credit union.

In Conclusion

Supported decision-making embraces personal strengths and capacities, provides an alternative to guardianship and can strengthen ties to the community for a person living with a disability without reducing their civil rights and ability to make choices.

The following table summarizes some misconceptions about the need for guardianships and provides alternatives that support self-determination and personal choice.

When guardianship is believed to be needed	Alternatives that embrace self-determination
Attend the Individualized Education Program after the student's 18th birthday	Student can invite whomever they wish to their IEP meetings
Talk with social security	Use a release of information form
Have surgery	Use a medical power of attorney for the time period needed for surgery and recovery
Checking account	Set up a representative payee
Signing contracts	Use a double signature
Purchasing and closing on a home	Set up a financial power of attorney for one day
Service provider denies services unless guardianship is in place	Use the service provider's appeal process; Work with an advocate; Find a different service provider
For provider convenience in communication with divorced parents	Find communication options that work for all parties



Resources

American Bar Association offers *The Practical Tool*, which aims to help lawyers identify and implement decision-making options for persons with disabilities that are less restrictive than guardianships. https://www.americanbar.org/content/dam/aba/administrative/law_aging/PRACTICALGuide.authcheckdam.pdf

The Autistic Self-advocacy Network (ASAN) describes itself as a disability rights organization for the autistic community, advocating for systems change and providing a voice for autistic people. <http://www.autisticadvocacy.org>

Disability Law Colorado, the State Protection and Advocacy Organization for people living with disabilities and seniors. <https://www.disabilitylawco.org>

The National Resource Center for Supported Decision-Making has resources, publications, and a state-by-state guide to information on supported decision-making. <http://www.supporteddecisionmaking.org>

Beyond Guardianship: Toward Alternatives that Promote Greater Self-Determination for People with Disabilities <https://ncd.gov/publications/2018/beyond-guardianship-toward-alternatives>

.....

The Colorado Developmental Disabilities Council is working to help more families use Supported Decision-making tools and resources to decrease the number of unnecessary guardianships, while addressing concerns around safety and access to information.



The Council is pleased to be working collaboratively with the following organizations:



The Council would like to thank the Wisconsin and Missouri DD Councils and Jonathan Martinis, Esq., J.D., for the generous use of their Supported Decision-making resources. We would also like to thank Caroline Glenn and Jenny Hatch for sharing their stories.

There are approximately 12,000 people
in Colorado currently living under
a guardianship



The mission of the CDDC is to advocate for system change by promoting meaningful person-centered participation, self-determination, and inclusion for all individuals with developmental disabilities.



CONTACT US

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Attachment 7. Data presentation outline

Data presentation outline

06.23.2021

- Introduction of Grant Yoder, Research Assistant
- Draft of General Survey – In progress and will be updated by Monday, 06.21.2021.
https://ucdenver.co1.qualtrics.com/jfe/form/SV_aUYkhC924QTrZRA
 - Quarterly
 - Guided by **C.R.S. 13-94-105(4)(a)** statutory data requirements for Director Report
 - Service area/Judicial District
 - Population served (Table 4-2 stakeholders)
 - Incapacity type and how determined that individual lacks capacity
 - Availability (or lack thereof) of guardianship services in the area
 - Success rate at locating a guardian
 - Need for public guardianship services
 - Obstacles in obtaining a guardian

Other data:

- **CRS 13-94-105(4)(b): Quantify, to the extent possible, the average annual cost of providing guardianship services to indigent and incapacitated adults**
 - Internal data gathering using Case Management System (CMS) tracking. i.e. hours spent on preparing for hearing, client visits, etc.
 - Internal budget data gathering. i.e. annual budget and operating expenses, etc.
 - Compare with private guardian/guardian-attorney/guardianship agency rates. This question will likely be added to the Survey
- **CRS 13-94-105(4)(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 and CRS 13-94-105(4)(f): Analyze cost and off-setting savings to the state from the delivery of public guardianship services**
 - Internal data gathering using Case Management System(CMS)
 - Denver County
 - El Paso County
 - In the process of connecting to other counties and Health Economist at CU Anschutz
 - Data gathering from various county offices. i.e. Office of Public Safety, Police, Sheriff's Office, EMS/Fire Department, CDHS – APS/OBH/Medicaid, Community Center Boards, Ombudsman, etc.

- ***CRS 13-94-105(4)(d): Identify any notable efficiencies and obstacles that the office incurred in providing public guardianship services pursuant to this article 94***
 - Internal data gathering using Case Management System(CMS)
 - Internal experiences while serving clients. i.e. General lack of knowledge/understanding about guardianship/duties; mental health certificates and refusal or lack of a mental health facility to hold the certificate; Lack of appropriate housing, placements, group homes, etc.

- ***CRS 13-94-105(4)(e): Assess whether an independent statewide office of public guardianship service or a nonprofit agency is preferable and feasible and CRS 13-94-105(4)(h): Assess funding models & viable funding sources for an independent office of public guardianship services or nonprofit agency, including funding with a statewide increase in probate court filing fees***
 - Comparison with non-profit guardianship organizations. i.e. Lutheran Family Services, Guardianship Alliance, etc.
 - Update White Paper 2016
 - Consider fundraising opportunities, grant availability, funding partnerships such as CDHS-OBH, etc.

Colorado Office of Public Guardianship

Director, Sophia M. Alvarez

Commissioners

Kelsey Lesco, Chair
Deb Bennett-Woods, Vice Chair
Marco Chayet
Alison Zinn
Stephanie Garcia



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STAKEHOLDER ADVISORY PANEL APPLICATION

Thank you for your interest in serving as a member of the Stakeholder Advisory Panel of the Colorado Office of Public Guardianship (OPG). Completing this form will help you understand the skills, time and resource commitments required for this volunteer position. Please read through the entire application before you begin filling it out.

Please return the completed application to the Colorado Office of Public Guardianship, Attention: Sophia M. Alvarez, 3900 East Mexico Avenue, Suite 300, Denver, CO 80210 or by email to info@colorado-opg.org.

This application will be kept confidential. Applications are used to identify and evaluate potential Panel candidates.

Objectives of the Stakeholder Advisory Panel (SAP)

The Stakeholder Advisory Panel (SAP) wants to define technical and culturally appropriate approaches to collaboration and accountability and transparency. The member term will be through the end of the Pilot Program and may be renewed if/when the Program is continued/expanded. The goal of the SAP is to create an environment of understanding that actively involves clients and stakeholders in a timely manner and to give ample opportunity for clients and stakeholders to voice opinions and concerns that may influence the Colorado OPG. The SAP is a tool to manage communications between clients, stakeholders, and the Colorado OPG.

Key Objectives:

- Collaboration with governmental and community stakeholders to maximize resources and support continuous improvement of policies and processes;
- Provide guidance for stakeholder engagement;

- Identify stakeholders that are affected, and/or able to influence the Colorado OPG and its activities and services;
- Identify the most effective methods to disseminate information and to ensure regular, accessible, transparent and appropriate consultation;
- Guide the Colorado OPG to establish and foster respectful, long-lasting and mutually beneficial relationships with stakeholders;
- Develop a process that provides stakeholders with opportunities to influence Colorado OPG planning and design; and
- Defines reporting and monitoring measures to improve the Colorado OPG.

MISSION

The Mission of the Colorado OPG 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 provides guardianship services to secure the health and safety of these individuals while safeguarding their individual rights and preserving their independence wherever possible.

VALUE STATEMENT

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 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 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 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 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.

STAKEHOLDER ADVISORY PANEL CRITERIA

1. Leadership Experience

Members should include higher-level leaders in the guardianship, elder, legal, mental health and disability communities and other communities likely to have an impact on the affected populations that the Colorado Office of Public Guardianship (OPG) serves. Members should bring a broad range of experience to the Panel.

2. Relevant Sector Experience.

Members will be recruited from various Stakeholder Groups as identified in Table 4-2 Stakeholder Groups and Consultation Methods, Stakeholder Engagement Plan.

- a. **Non-Profit and Governmental Agencies.** Higher-level leaders are usually the Executive Director, Board President, or Policy Analyst of trusted non-profits and governmental offices.
- b. **Guardianship or Related Areas.** Individuals not associated with non-profits or identified Stakeholder Groups may be members if they have extensive combined expertise with and education (minimum of ten years) in guardianship issues, disability issues, advocacy for populations served by guardians, state and federal benefits, Colorado statutory requirements, guardianship legal process, state and federal regulations related to guardianships, working knowledge of community systems and services and the appropriate utilization for referral and placement of the elderly, people with mental illness, and individuals with intellectual and developmental disabilities.

3. Education.

Generally, it is desirable that a Panel candidate should hold an undergraduate degree. It is further desirable for the candidate to have earned a masters or doctoral degree. These criteria are not meant to exclude an exceptional candidate who does not meet these educational criteria.

4. Personal.

The Panel candidate should be of the highest moral and ethical character. Additionally, the candidate should demonstrate a personal commitment to areas aligned with the OPG's public interest commitments, such as education, the environment and welfare of the communities in which we operate.

5. Individual Characteristics.

The Panel candidate should have the personal qualities to be able to make a substantial active contribution to Panel deliberations. These qualities include intelligence, self-assuredness, a high ethical standard, inter-personal skills, independence, courage, a willingness to ask the difficult question, communication skills and commitment. In considering candidates for the Panel, the Panel should constantly be striving to achieve the diversity of the communities in which the OPG operates.

The Panel candidate should have identifiable strengths to enhance the Stakeholder Advisory Panel as a whole. These strengths may include: Knowledge and understanding as outlined in numbers 2 and 3; policy analysis; and established contacts within the identified populations.

6. Availability.

The Panel candidate must be willing to commit and have time available for meetings, and projects outside of meeting times.

7. Compatibility.

The Panel candidate should be able to have good communication and good working relationship with the other members and contribute with cultural competency and professionalism.

Colorado Office of Public Guardianship

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Alison Zinn
Stephanie Garcia



3900 East Mexico Avenue
Suite 300
Denver, CO 80210
(720) 552-5215
Info@Colorado-OPG.org

Stakeholder Advisory Panel Application Form

1. Candidate Name: _____

Home Address: _____

Home Phone: _____ Work Phone: _____

Email: _____

Preferred Method of Contact: Home Phone Work Phone Email

Gender identity/expression: _____ Prefer not to answer

Please describe yourself. Select all boxes that apply.:

- American Indian or Alaska Native
- Asian
- Black or African American
- Hispanic, Latino, or Spanish origin
- Middle Eastern or North African
- Native Hawaiian or Other Pacific Islander
- White or Caucasian
- Other race, ethnicity, or origin
- Decline to answer

Military Status. Check any that apply.:

- Active Military
- Active Reserve
- Veteran
- Not applicable
- Choose not to answer

2. Current position & employer: _____

Please feel free to attach additional pages to provide all information

3. Please describe your relevant leadership experience and/or employment related to relevant to sector experience. You may also attach a resume.

4. Please list degree(s) and name(s) of school and year(s) granted.

5. Please describe the area(s) of strengths/expertise/contributions you feel you can make to further the mission of OPG:

6. Please list your prior experience serving as a Board or Advisory member for other related organizations:

7. What other volunteer commitments do you currently have?

8. The OPG Stakeholder Advisory Panel may meet monthly during the lunchtime or evening. The meeting generally lasts about on (1) hour. Do you have any standing commitments that create a scheduling conflict for you? Yes _____ No _____

9. Why are you interested in serving as a member of the OPG Stakeholder Advisory Panel?

10. Please share any other information you feel important for consideration of your application to serve as a member of the OPG Stakeholder Advisory Panel.

11. Which of the following Stakeholder Groups do you identify? *[Check all that apply]*

- | | |
|---|---|
| <input type="checkbox"/> Government Official | <input type="checkbox"/> Attorney |
| <input type="checkbox"/> Health and Medical Care Provider | <input type="checkbox"/> Guardian |
| <input type="checkbox"/> Direct Service Provider | <input type="checkbox"/> Fiduciary |
| <input type="checkbox"/> Advocacy Agency | <input type="checkbox"/> OPG Commission |
| <input type="checkbox"/> Colorado OPG Client | <input type="checkbox"/> Colorado OPG Personnel |
| <input type="checkbox"/> Potential Client/Vulnerable Group/Advocate | <input type="checkbox"/> Donor |
| <input type="checkbox"/> University | <input type="checkbox"/> Volunteer/Intern |

For Stakeholder Advisory Panel Use

_____	Nominee has had a personal meeting with either a Member, Director, or Commissioner.	Date:
_____	Nominee reviewed by the Commission.	Date:
_____	Nominee proposed to the Panel.	Date:
Panel Action:	_____ Elected _____ Rejected	Date:

Table 4 – 2. Stakeholder Groups and Consultation Methods.

STAKEHOLDER GROUP	CONSULTATION METHODS
<p>Government officials</p> <ul style="list-style-type: none"> • Denver Police Department • Denver Probate Court (MHB?) • State Court Administrator’s Office • DHS – APS • DHS – Office of Community Access & Independence • DHS – Office of Behavioral Health • APS – Policy Group • Senators, Representatives/General Assembly • Joint Budget Committee • Medicaid Ombudsman • Long Term Ombudsman • Department of Education • Colorado Civil Rights Division • Department of Vocational Rehabilitation • Denver Forensic Collaborative for At-Risk Adults • Denver County Court Probation • Financial Security Coalition • Alzheimer’s Task Force 	<ul style="list-style-type: none"> • Correspondence by phone/text/email/instant message • CO OPGPP web site • One-on-one interviews • Formal meetings • Public meetings • Print media • Workshops
<p>Health and medical care providers</p> <ul style="list-style-type: none"> • Denver Health Medical Center • Rose Medical Center • St. Joseph Hospital • Behavioral Health Services • Area Agency on Aging • Mental Health Center of Denver • Vision • Dental • Primary Care • Colorado Mental Health Institute Pueblo • Colorado Mental Health Institute Fort Logan • Veterans Administration • Colorado Hospital Association • Colorado Guardianship Association • Similar providers in non-Denver and rural counties 	<ul style="list-style-type: none"> • Correspondence by phone/text/email/instant message • CO OPGPP web site • One-on-one interviews • Formal meetings • Public meetings • Print media • Workshops
<p>Direct service providers</p> <ul style="list-style-type: none"> • Lutheran Family Services • Colorado Fund for People with Disabilities • Colorado Coalition for the Homeless • Senior Support Services • Rocky Mountain Crisis Partners 	<ul style="list-style-type: none"> • Correspondence by phone/text/email/instant message • CO OPGPP web site • One-on-one interviews • Formal meetings • Public meetings

<ul style="list-style-type: none"> • Ability Connection Colorado • Center for Trauma and Resilience • Care facilities • Long-term care providers • Similar providers in non-Denver and rural counties 	<ul style="list-style-type: none"> • Print media • Workshops
<p>Advocacy agencies</p> <ul style="list-style-type: none"> • Alzheimer’s Association • Disability Law Colorado • Arc of Colorado • Area Agency on Aging • Brain Injury Alliance of Colorado • Colorado Guardianship Association • Colorado Gerontological Society • Denver Regional Council of Governments (DRCOG) Area Agency on Aging • Colorado Healthcare Ethics Forum • Similar agencies in non-Denver and rural counties 	<ul style="list-style-type: none"> • Correspondence by phone/text/email/instant message • CO OPGPP web site • One-on-one interviews • Formal meetings • Public meetings • Print media • Workshops
<p>Colorado OPG Clients</p>	<ul style="list-style-type: none"> • Correspondence by phone/text/email/instant message • CO OPGPP web site • One-on-one interviews • Formal meetings • Public meetings • Print media • Workshops
<p>Potential Clients/vulnerable groups</p>	<ul style="list-style-type: none"> • Correspondence by phone/text/email/instant message • CO OPGPP web site • One-on-one interviews • Formal meetings • Public meetings • Print media • Workshops
<p>Universities</p> <ul style="list-style-type: none"> • University Colorado Denver • University of Denver • Metropolitan State University of Denver • Similar entities in non-Denver and rural counties 	<ul style="list-style-type: none"> • Correspondence by phone/text/email/instant message • CO OPGPP web site • One-on-one interviews • Formal meetings • Public meetings • Print media • Workshops

<p>Attorneys</p> <ul style="list-style-type: none"> • Colorado Bar Association (CBA) • CBA, Elder Law Section • CBA, Professional Fiduciary Oversight Exploration Committee • Denver Bar Association • Similar Associations in non-Denver and rural counties 	<ul style="list-style-type: none"> • Correspondence by phone/text/email/instant message • CO OPGPP web site • One-on-one interviews • Formal meetings • Public meetings • Print media • Workshops
<p>Guardians</p> <ul style="list-style-type: none"> • Medical Legal Partnership Colorado • Guardianship Alliance of Colorado • ELDEResources • Aspen Guardianship & Care Services • Others TBD and in non-Denver and rural counties 	<ul style="list-style-type: none"> • Correspondence by phone/text/email/instant message • CO OPGPP web site • One-on-one interviews • Formal meetings • Public meetings • Print media • Workshops
<p>Fiduciaries</p> <ul style="list-style-type: none"> • Public Administrator of City/County of Denver • Bayshore & Christian • Chayet & Danzo • Others TBD non-Denver and rural counties 	<ul style="list-style-type: none"> • Correspondence by phone/text/email/instant message • CO OPGPP web site • One-on-one interviews • Formal meetings • Public meetings • Print media • Workshops
<p>OPG Commission</p>	<ul style="list-style-type: none"> • Correspondence by phone/text/email/instant message • CO OPGPP web site • One-on-one interviews • Formal meetings • Public meetings • Print media
<p>Colorado OPG personnel</p>	<ul style="list-style-type: none"> • Correspondence by phone/text/email/instant message • CO OPGPP web site • One-on-one interviews • Personnel meetings • Public meetings • Print media
<p>Donors</p>	<ul style="list-style-type: none"> • Correspondence by phone/text/email/instant message • CO OPGPP web site • One-on-one interviews • Formal meetings • Public meetings • Print media • Workshops

Volunteers/Interns

- Correspondence by phone/text/email/instant message
- CO OPGPP web site
- One-on-one interviews
- Formal meetings
- Public meetings
- Print media
- Workshops