

Chair Report

January 2023

Fellow Commissioners,

I assisted with completion of the final report as I could in the last weeks of December. I was pleased to have the report completed and submitted to the Legislative Council on time. The final report is a substantive document that makes a strong case for both the accomplishments and success of the pilot project as well as support of a permanent and expanded office moving forward. Thank you for your ongoing review and contributions to the process and to the report itself.

I have continued to assist with review and feedback on the draft bill for the upcoming session.

Returning now to a somewhat more normal level of activity, I have asked Director Alvarez to again schedule regular meetings with me.

With changes in the SMART Act schedule, I was able to attend and participate in our presentation on January 19th. Director Alvarez did a great job of narrowing the immense amount of information in the full final report to an informative and targeted report and short presentation of the highlights of the pilot project as they relate to our established performance goals. You received copies of those via email. She answered the few questions/comments received, including a warm acknowledgement from Representative Marc Snyder of the work accomplished. Thank you to Commissioner Crona for his articulate and well targeted testimony regarding both the need for the Office and the role of the Commission. My testimony is attached here (page 2) if you were unable to attend online or review the hearing after the fact. I also want to recognize and thank Ms. Coral Cosway of the Alzheimer's Association of Colorado for her supportive testimony.

With the final report produced, I look forward to shifting our attention to the future and a busy legislative session.

DBW / 1-21-23

Smart Act Hearing 2023

DBW Testimony – January 19, 2019

Good afternoon and thank you Chair and members of the Committee for the opportunity to talk about the OPG pilot project. As the current Commission Chair, and the last serving of the original commissioners appointed in 2017, I am perhaps uniquely positioned to comment on the many challenges faced and accomplishments achieved, from failed fundraising, to launching an office without a dedicated location, phone or email address, to navigating a pandemic.

I am also the odd man out on the Commission, with my background being health care rather than law or guardianship. It is no secret that, in health care, the right treatment, at the right time and in the right setting saves lives, improves system outcomes and saves money. I strongly believe this pilot project has revealed that the same is true for public guardianship.

Unlike the other departments present today, we are not an established agency but an ambitious demonstration project seeking, during this legislative session, the statutory opportunity to continue serving our clients in a permanent and expanded capacity. I would like to conclude this formal presentation with my own thoughts on what accountability and transparency mean to the current and future clients of the Office of Public Guardianship. I would start by encouraging everyone to read the client stories in the final report. Adapted and modified to meet our statutory obligations of confidentiality and privacy, the case studies capture the essence of our focus and purpose.

The OPG serves an array of extremely vulnerable, at-risk adults to which we, as a society, owe a duty of care. I believe that no at-risk adult should

*remain homeless or unsafely housed simply because there is no one to advocate for an alternative; or

*be without access to basic nutrition or medical care because there is no one to help them locate it or pay for it; or

*remain trapped in an overly restrictive environment such as a jail or acute stay hospital because there is no one able to arrange an appropriate setting and sign the paperwork; or

*suffer ongoing mental health crises because there is no one to facilitate continuity of care; or, and perhaps closest to my own heart,

*die alone without benefit of both appropriate end of life services and simple companionship.

The OPG has demonstrated accountability in all of these areas. For example, I know that questions have been raised in the media about the 20 deaths of OPG clients and whether the Office has been accountable and transparent. In fact, this is a perfect example of the nature of accountability and transparency for our clients. Consider how you might hold yourself accountable for your own loved one at the end of his or her life. Guardians provide the same end of life assistance that you or I would want

for someone we love and they do so with the same intention to honor client wishes, preserve privacy and respect a client's dignity.

For context, 80% of OPG clients had medical conditions at the time of referral, most of which are chronic and most in combination with behavioral or mental health diagnoses, resulting in high medical complexity and fragility. In reality, many of our clients come to us at the end of life. The median age at death was 69 and the average age 70, with the most common causes of death being cardiac and/or respiratory disease (6), end stage dementias, chronic brain disorders (5) and cancer (2). Client deaths are not just an expected occurrence but constitute a critical segment of services we provide. They also do not happen in a vacuum.

Client deaths have been reported publically every month via the Director's Report. Considered a critical incident, the Commission Chair is notified within hours of a client death and the full Commission receives a more comprehensive report within 24-48 hours or as the information becomes available. All deaths have occurred in medical facilities, which have their own internal mortality reporting and review systems. OPG policies and procedures provide for notification of the court and to social services or law enforcement if there are questions regarding quality of care or need for investigation. Family or other personal contacts are notified. A formal summary of death has been added to the case management system to expedite data retrieval and any subsequent reporting or quality assessments. Under the guidance of the AG's office, media requests have resulted in the public release of the basic, aggregated data allowed by state privacy statutes, and you will find a detailed mortality section in the final report. There is no lack of transparency and there are multiple opportunities for accountability to be evaluated.

The OPG pilot project was designed and implemented explicit to the legislative criteria set in its enabling statute and it has produced the requisite final report. However, for me, the ultimate measure of accountability for this pilot project has been whether it has met the needs of clients, be they housing, placement in a least restrictive setting, nutrition, basic medical care, mental health services, or compassionate advocacy and companionship at the end of life. I believe the project has done so, and admirably so, despite a range of internal and external constraints. Thank you.