

## Working Interdisciplinary Network of Guardianship Stakeholders

### April 27, 2016 summary minutes:

**Attending:** David Connors, James Brady, Karolina Abuzyarova, Kent Alderman, Rob Denton, Nan Mendenhall, Shannon Alvey, Daniel Musto, James Toledo

**Via phone:** Nancy Sylvester

**Excused:** Carol Fletcher, Wendy Fayles, Nels Holmgren, Holly Kees

Committee chair welcomed the group and minutes from the February meeting were approved.

### Legislative Update

Kent Alderman provided legislative update on three bills passed at the legislative session in 2016.

First bill HB 74 sponsored by Representative Snow related to the uniform power of attorney act. The bill expanded power of attorney code to 45 pages, expanded the definition of power of attorney including who are the people who could be nominated as power of attorney. Unless otherwise indicated in the act, the new power of attorney is durable and stays active even if the person designating power of attorney loses capacity. This is a major difference from the old version, with the new act extending beyond incapacity, where guardianship might not be needed if the power of attorney was prepared when the actor still had capacity and planned ahead. The power of attorney now provides enforcement in institutions that previously did not recognize it, as opposed to guardianship or conservatorship, or requested a new document every 6 months, e.g. banks, brokerages. HB 74 goes in effect on May 10, 2016.

HB101, sponsored by Representative Cox, was initiated by a group of parents with children with disabilities, who believe that their child should not have a counsel in guardianship proceedings under the condition that there are no assets and the parent is providing for the child. Utah State Bar and the Utah State Courts collaborated on the Guardianship Signature Program, where the respondent in guardianship case is provided a counsel for low cost or free of charge depending on the income level. Eventually Rep. Cox agreed to "sunset" the bill in 2016, if the Utah State Bar proves that the Signature Program is operational and counsel for the respondent in guardianship proceedings is available and accessible. According to the introduced bill, it is up to the judge to appoint the counsel or waive the need for counsel in each guardianship case.

Kent Alderman stated that in his practice he sees parents who are not protecting vulnerable adults and their children (before and after they turn 18), and having a counsel is the only way to represent interests of the person with diminished capacity. Rob Denton of the Disability Law Center said that this bill introduced a solution without a problem. Shannon Alvey of the Office of Public Guardian (OPG) indicated that as the parents learned more about the process and rights of the persons with disabilities and diminished capacity, they expressed opinions that it is very important to keep the counsel for their children. OPG provided some of the parents with a form to request a counsel from the Signature Program.

SB 111 was sponsored by Representative Todd Weiler related to the protected person's right of association in guardianship. The bill shifts the burden of proof from an interested party to a guardian, where a guardian has to prove that visitation is not appropriate and allows family members and other interested parties to have association with the protected person: "A guardian may not unreasonably restrict visitation with the ward by family, relatives, or friends", and "a guardian may not prohibit or place restrictions on association with a relative or qualified acquaintance of an adult ward, unless permitted by court order under Section 75-5-312.5".

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Nancy Sylvester indicated that Rep. Weiler could possibly be a sponsor for the Court Visitor bill, as he introduced this quite progressive bill on the right of association.

Karolina asked Nancy to provide an update on Council's decision on funding the Court Visitor Program with one-time funds for the Fiscal Year 2017. Unless permanent funding is secured through the legislative brunch, one time funding option might not be available for the FY 2018 due to limited State Courts' funds. A concise presentation will have to be made at the Court Management Committee meeting in August 2016, with information on achievements and future planning. It will be most beneficial if Judges Connors and Brady can make the presentation to the Council's Committee. Testimonies from other district court judges will be essential, as well as letters of support from WINGS partners on the ways the Court Visitor Program is being utilized by their organizations and how it helps the litigants.

Some Council members remain unaware of the Court Visitor Program and the purpose it serves. A lot of education has to be put in place for the district court judges. Judge Brady brought up an example of the Drug Court presentation that took place in Provo. A legislator attended the presentation and was not aware of all the work being put into Drug Courts and what it accomplished. The point was that the education has to be proactive and ongoing, rather than sporadic with only inviting legislators to the meetings hoping they will show up. If the Council decides to ask legislature for Court Visitor funding, Rick Schwermer will be Courts' representative on the Hill and will be meeting and discussing the subject with legislators.

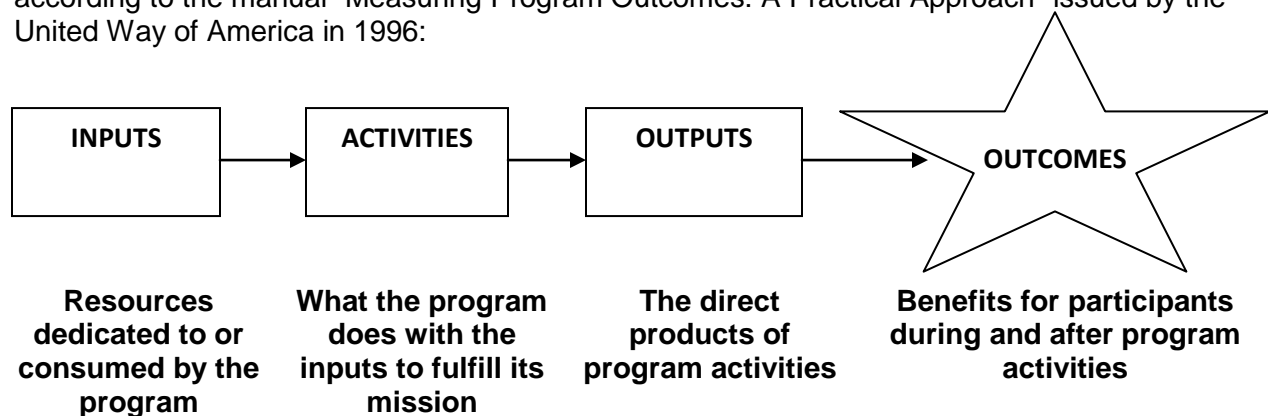
### Prioritizing WINGS Strategic Goals

The discussion of goals started with building capacity of the judiciary. While educational sessions related to guardianship are in place at the judicial conferences, it is not clear how to encourage the judges to seek the latest information through the national agencies like Center on Law and Aging of the American bar Association, National Center for State Courts, National Judicial College, National College of Probate Judges, etc.

Daniel Musto of the Long-Term Care Ombudsman Office said that points 2, 5, 8 and 9 are goals related to **program evaluation** correspondingly:

- Evaluate number of limited vs full guardianship cases (2)
- measuring outcomes for the Court Visitor and Signature Programs (5)
- estimating online traffic on the guardianship pages (8)
- tracking number of guardianship petitions and making quarterly reports (9)

Judge Brady volunteered to work with Kim Allard on getting information on guardianship numbers. Karolina Abuzyarova elaborated on the outcome evaluation of the Court Visitor Program, explaining to the Committee that program development involves the following process according to the manual "Measuring Program Outcomes: A Practical Approach" issued by the United Way of America in 1996:



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Judge Brady said that it would be good to at least start with the “outputs” (direct products of program activities), e.g. in how many cases visitor’s were assigned, in how many cases the guardian’s followed up with the court after the visitor’s assignment and follow up, how many guardianship cases are assigned each month. After that a rigorous lengthy evaluation process could be started that will look at the “outcomes” (benefits for participants during and after program activities). According to the United Way’s evaluation manual, it will require a team of professionals and a timeframe of at least a year or more. The goal is to identify through the evaluation process, if the Court Visitor Program is achieving the set goals, if the persons with diminished decisional abilities are benefiting from the program in any way, in particular, “safety, dignity and respect for vulnerable adults”, as outlined in the initial program proposal grant to the State Justice Institute.

Judge Connors outlined that the **educational and outreach** efforts are summarized in goals 3, 4, 6, 7 and 10:

- building capacity of the judiciary: continue providing ongoing education and encourage to see latest information **(3)**;
- provide educational support to family/lay guardians **(4)**
- offer guardianship training to the professionals **(6)**
- place links to Court guardianship related webpages on partner organizations’ websites and newsletters **(7)**
- raise awareness about protection of vulnerable adults among the tribal groups **(10)**

Just Connors also summarized goals 1, 2, 12 as the ones requiring **legislative action**:

- adopting national guardianship standards in Utah as part of the probate statutes **(1)**
- increase limited guardianship appointments **(2)**
- streamline APS related statutes by clarifying its role in providing protective services in emergency situations **(12)**

Judge Brady suggested instead of legislative action to focus on judiciary’s proactive role. Judge Brady elaborated that proactive and informed judges can reach out to districts 2, 3 and 4 in the Wasatch front and ask for ways to assist in promoting the probate standards. In this case the goal will be to identify a judge who solely handles probate matters or a clerk who is responsible for probate matters. Karolina added that a step beyond that effort would be to establish elder courts, e.g. as referred in the article published in Trends in State Courts 2014: “Elder Court: Enhancing Access to Justice for Seniors” by Hon. Joyce Cram, Judge, Contra Costa County, California. Among established elder courts are the ones in Contra Costa County and Alameda County in Northern California’s Bay area, and an elder justice center in Cook County, Illinois.

Proposed strategic goal **#11** on establishing transitional housing for individuals with mental illness could only be supported by WINGS, but will not be implemented directly.

Committee then discussed Latino community outreach effort. Judge Brady brought up contacting Catholic Church. Kent Alderman said that religious leaders would be a good point of contact.

Meeting schedule in 2016: June 22, August, 24, October 26, December 28.