

Working Interdisciplinary Network of Guardianship Stakeholders

December 13, 2017 Summary Minutes

Attendance

Dustin Hammers, Shannon Alvey, TantaLisa Clayton, Nels Holmgren, Nan Mendenhall, Andrew Riggle, Robert Denton, Judge David Connors (chair), Karolina Abuzyarova (staff), Mickie Douglas (presenter), Michelle Wilkes, Nancy Sylvester, Kent Alderman, Judge James Brady, Shane Bahr, and Senator Todd Weiler attended the meeting.

Minutes

Judge Connors requested a motion on the October 25, 2017 minutes. Dustin Hammers moved to approve them and Judge James Brady seconded the motion. The committee unanimously approved the minutes.

Roundtable follow up

Ms. Abuzyarova requested feedback on the roundtable report that Mary Jane Ciccarello had prepared and Nancy Sylvester had circulated to the committee. She said members could give feedback to Ms. Sylvester or Michelle Wilkes.

Elder Justice Innovation grant

Ms. Abuzyarova said there are now 3 online training modules on guardianship alternatives, guardianship procedures and serving as a court-appointed guardian on the courts' website, and first two parts are now posted in Spanish. She then informed the committee about the education on limited guardianship at the bench meetings that will happen throughout the state as a part of the Elder Justice Innovation grant from the American bar Association and National Center for State Courts.

Judge Connors then talked about how limited guardianship would become more of the norm if every judge asked just a few questions every time; for example whether counsel is needed for the respondent, whether limited guardianship has been considered and why a full guardianship is needed. He said judges also need to know the number for APS.

Michelle Wilkes handed out a list of questions she had developed based on her experiences in court and with Judge Laura Scott's feedback. She said Judge Scott requested that the questions be on a bench card. Ms. Wilkes asked the group to provide her feedback and suggestions for further questions. She will circulate the questions by email to remind the group. The questions are as follows:

- Have you been convicted of any crime?
- Does the Respondent have spouse, parents or any adult children not listed in the petition? (75-5-309)

- Why is a POA, Medical Advanced Directive, or Limited Guardianship not appropriate? Does the guardian understand the difference? Most people do not. In Utah we are supposed to prefer limited guardianship (75-5-304).
- What are your plans with the protected person's finances?
- If a minor is involved, where is the minor living? Where are their possessions? Who takes them to school? (It has occurred...grandparents trying to obtain guardianship while a parent is out of town)

Andrew Riggle said he spoke with Senator Hilyard, who said he will likely run the uniform guardianship bill next year after working with the bar sections.

Judge Brady suggested that judges can take a more active role now in guardianship in preparation for the uniform bill which provides much more involvement than previously.

Senator Weiler said he would keep an eye out for a bill that opens up the guardianship code and see if there is a way to insert something about criminal background checks and some of the other concerns the committee has. He asked Mr. Riggle to keep him updated if he sees something first.

Social Security Administration

Mickie Douglas introduced herself and said she is the public affairs person for the Social Security Administration (SSA) in Utah. She is the frontline person for inquiries from organizations and works to coordinate work with agencies and services. The SSA serves many of the same people as the WINGS group does. Disclosure of information is a question that has come up and the SSA is working through when it can do so with the agencies around the table.

She then discussed the role of a representative payee (rep payee). A rep payee administers benefits for the person. She said the SSA has a common interest in the prevention of fraud, misuse of funds, and elder abuse. She said there are many times that physical and mental abuse accompany abuse of SSA benefits. Awhile back, the ABA reached out to SSA at a national level. The SSA then produced a power point for the courts.

The power point presentation is a high level overview of social security benefits and includes information on its intersection with guardianship. Regarding investigation of SSA fraud, Ms. Douglas said the Office of the Inspector General (OIG) is charged with that responsibility. With respect to guardianship, she said people should consider a rep payee as an option to avoid guardianship of property if there is no other income or assets. A committee member asked whether the guardian has authority to ask for a change in rep payee. Ms. Douglas said they can request it and may be given priority, but SSA will still conduct an analysis of what is best for the protected person. A guardian does not necessarily trump a rep payee. The SSA is going to weigh that out.

The committee suggested that another question for the list is whether there is already a rep payee. Ms. Douglas said the SSA encourages the rep payees to help beneficiaries in other

ways, for example taking them shopping, creating a budget, etc. Their responsibility is making sure the recipient has food, clothing, shelter, and then managing what's remaining.

Ms. Douglas said every few years SSA visits the organizations that charge a fee to make sure they are doing things right. The SSA is also alerted to changes of address. Regarding reporting requirements, she said SSI beneficiaries have more reporting requirements because that is based on income and resources.

TantaLisa Clayton then mentioned that a related question for the list she is creating is whether the person receives fiduciary VA benefits.

With respect to background checks, Ms. Douglas said there might be a need for a background check on an individual basis if SSA is alerted to it. She said a judge can report a concern to the Office of Inspector General (OIG) if they encounter one. A judge can report anonymously, but it's better to provide contact information. If a judge contacts APS and says there are SSA benefits, APS will work with the OIG. Ms. Wilkes raised a case in which she contacted the OIG when the guardian kept filing tax returns on a million dollar bond after the protected person died. Ms. Douglas said when someone passes away, SSA relies on the state to notify them or a family member or relative.

Other business

Judge Brady raised an issue about posting notices of guardianship. He said training had been given to clerks about posting notices on the court's notices website. They were doing this for all guardianships, but the statute doesn't require public posting on all guardianship cases, only for those cases when people can't be located. He said Fourth District staff will follow the statute, which says to post the notice in three physical places, rather than internet posting. Judge Brady said he understands that this change will go to all clerks for statewide implementation.

Adjournment and next meeting

The meeting adjourned at 1:04 p.m.

The next meeting is currently scheduled for February 1, 2018 but will be rescheduled due to Judge Connors's unavailability on that date.