

Working Interdisciplinary Network of Guardianship Stakeholders

February 21, 2019 Summary Minutes

Attendees: James Brady, James Toledo, Nels Holmgren, Robert Denton, Kent Alderman, Kaye Lynn Wotton, Nan Mendenhall, TantaLisa Clayton, Cora Gant, Michelle Wilkes, David Connors, Keith Kelly, Karolina Abuzyarova, Todd Weiler, Michael Drechsel, Nini Rich
Excused: Wendy Fayles, Dustin Hammers, Nicholas Stiles, Shane Bahr
No show: Daniel Musto, Joanne Bueno Sayre, Xia Erickson, Andrew Riggle

Committee approved the minutes. Judge Brady and Karolina provided an overview of the WINGS report to the Judicial Council highlighting its accomplishments in 2018.

Uniform Guardianship Act update: Michael Drechsel informed the Committee that at this point legislature is not moving forward with HB53 in the 2019 legislative session. Apparently, fiscal note of 5mn attached to the bill drove it away from passing. Michael informed the committee that despite the fact that AOC legislative team decreased fiscal note from 5mn to 1.5mn, e.g. from assignment of visitors in 25% of cases to 16% of cases, as compared to the present 9% of cases where services of visitors are utilized, the bill still did not go through. Initial bill included judicial review of guardianship plans, and the revised version took that out of the judiciary. Senator Hillyard ran the bill to raise the issue and to generate dialogue. Despite that no action was taken on the bill, it will most likely move forward in summer. Michael mentioned that while the goal is to have the bill as uniform as possible, it adds a price tag to it. Introduction of the bill did not bring much of a discussion at the legislature. The goal was to increase the number of professionals in guardianship and introduce greater accountability.

Kent Alderman and Elder Law Section of Bar supported the bill as well. Kent mentioned that there is a need in accurate Court data that would support the case for the fiscal note. Judge Brady said that he receives quarterly reports on the number of filings by district, but Court database Coris doesn't track the estates in guardianship cases. Karolina gathered information on assets and income for the Signature Program purposes that seeks to provide pro bono representation to persons subject to guardianship, however the data was incomplete and inaccurate due to the way it was provided. On a different note, Judge Brady mentioned that the Courts made significant progress to catch up with compliance on reviewing the annual guardianship reports and checking how the funds are utilized.

Michelle Wilkes brought up an increase in the number of guardianship cases that involve mental health conditions. Kent Alderman noted that the new statute doesn't mention "capacity", but rather functional ability. He also mentioned that mental health cases are some of the most difficult he saw in his practice. According to Kent's experience, physicians only spend one hour performing evaluation, instead of speaking to and gathering observations from the family and people who live with and know the person.

Collaboration with Native American Tribes: James Toledo said that on January 14-17, 2019 the Office of Indian Affairs visited and discussed needs of vulnerable adults with the San Juan Southern Paiute Tribe, Navajo in Window Rock, and Ute Mountain Tribe. James obtained contacts for all three tribes that he would like to share with WINGS. Subcommittee on collaboration with tribes met in December 2018 and identified the following goals: improve understanding of state & tribal systems to resolve issues; establish communication with tribes and learn about tribal needs; establish referral procedure; improve education about state resources and services available to assist tribes in protecting vulnerable adults. Subcommittee

decided to develop: tribal contacts and communication flow chart for state agencies; resource table for tribes; map with the areas covered by tribal laws.

Some of the identified needs were: access to weatherization of homes, ADA access to homes, access to transportation. While Navajo tribe provides transportation services to elders, the area of where tribes reside is quite vast and covers Arizona, New Mexico and Utah. Access to transportation is vital to get medical services that are several hours of driving distance away. Navajo hospitals are funded by the trust fund and only Navajo tribes can access them. Navajo also have senior employment program. Ute Tribe, according to James, had similar issues. Some of the identified needs were eldercare training, e.g. reduction of falls.

Karolina asked about the ways that families address caregiving and decision-making for the persons with functional limitations. Judge Brady inquired about the tribal law and the way it addresses capacity. James responded that the tribes were either unaware and provided vague answers, or would defer to families to address these situations. James also mentioned local county governments that tribes communicate and work with.

Next steps, according to James, would be to continue building relationships with the tribes within the provided points of contact. Judge Brady was curious whether this subject of the needs of vulnerable adults came as a new ground or if it was addressed in the past. James said that the tribes were excited about the opportunity of addressing the need and that it was a new territory. James will provide a written report that will be distributed at the next meeting.

WINGS Annual Assessment: Nini Rich, Director of the Court Alternative Dispute Resolution Department, served as a moderator of the discussion. Karolina started with overview of the strategic goals chart. Committee agreed to discuss Signature Program at the next meeting and to look at how the program can be re-designed to not rely on volunteers. According to the email from Nicholas Stiles from the Access to Justice Department of the Utah State Bar, volunteer-based approach is not working.

When asked about value of WINGS and whether it should continue, Committee spoke strongly about the value that it brings to their organization and enhances quality of services provided. Committee members mentioned: collaboration, dedicated empathetic nature of the group, expertise, education provided, network, referrals, problem-solving platform, access to information for member organizations, raised awareness of the issues, and motivation.

Michael Drechsel pointed out that maybe WINGS does not belong to the Courts and other agency member can take it on. Committee went on to stating that placement with the Court legitimized the group and provided it a higher status vs being placed outside the Courts.

Judge Keith Kelly said that the Courts have strong interest in the case and often the question comes up on what resources are out there to address the problems. Courts adjudicate rights, identify issues and seek help to solve them. Teaming up with guardianship stakeholders helps identify solutions faster. Another example provided was guardianship data request that is only accessible within the Courts. James Toledo mentioned that speaking with tribes and relating to the Courts as WINGS host agency added legitimacy to his inquiry on tribal needs. Judge Connors brought up development of forms under the umbrella of WINGS that were then published on the Court website and could be utilized by the self-represented parties. Rob Denton stated that while Courts cannot lobby, WINGS subcommittee on legislative matters can address that. Therefore, Committee decided to keep WINGS within the Courts. Committee will continue discussing strategic goals at the meeting on April 18, 2019.