

**Utah Working Interdisciplinary Network of Guardianship Stakeholders (WINGS)**

Thursday, October 21, 2021 - 12:00 to 2:00 p.m.

Attended				Not Present
Judge Keith Kelly	Katie Cox	Leslie Francis	Andrew Riggle	Judge David Connors
Judge James Brady	Rob Denton	Nels Holmgren	Danaka Robles	Deborah Brown
Kent Alderman	Rob Ence	Nan Mendenhall	Keri Sargent	Katie Thomson
Brant Christiansen	Xia Erickson	Michelle Miranda	Shonna Thomas	James Toledo
Tantalisa Clayton	Wendy Fayles	Daniel Musto	Michelle Wilkes	Todd Weiler
		Alan Ormsby	Kaye Lynn Wootton	

Agenda			
AGENDA			
	Topic	Presenter	Materials
12:00	Meeting begins		
	<ul style="list-style-type: none"> <li>Housekeeping</li> <li>Minutes</li> </ul>	Judge Kelly	<i>WINGS Minutes (August 2021 – draft)</i>
12:10	Stakeholder Updates		
	<ul style="list-style-type: none"> <li>Court Visitor Program</li> <li>Other</li> </ul>	Shonna Thomas	<i>Order and Notice for Court Visitor</i>
12:30	Ongoing Projects		
	<ul style="list-style-type: none"> <li>Utah Code 75-5-303</li> </ul>	Shonna Thomas	<i>Code 75-5-303 (redline 9.17.21)</i>
	<ul style="list-style-type: none"> <li>Judicial Council committee</li> </ul>	Judge Kelly	<i>Rule 1-205 and WINGS rule</i>
1:30	Future Projects		
	<ul style="list-style-type: none"> <li>Report from national WINGS</li> </ul>	Shonna Thomas	<i>National Guardianship Summit - Recommendations (May 2021)</i>  <i>Prioritization of Recommendations (October 2021)</i>
	<ul style="list-style-type: none"> <li>Planning for 2022 (time permitting)</li> </ul>	Group discussion	
1:50	Other Business		
	<ul style="list-style-type: none"> <li>Sharing resources &amp; articles</li> </ul>	Shonna Thomas	
	<ul style="list-style-type: none"> <li>Thank You to Kent Alderman</li> </ul>	Judge Kelly	
	<ul style="list-style-type: none"> <li></li> </ul>		
2:00	Meeting adjourned		

## 1. Housekeeping

- Meeting began at 12:02pm.
- A motion was made to approve the minutes from the previous meeting (August 19, 2021). The motion was seconded and approved.
- Meeting adjourned at 1:54pm.

## 2. Stakeholder Updates

### Court Visitor Program

- The Court Visitor Program (CVP) has put in a funding request for a second Program Coordinator. This request was approved by the Judicial Council to move forward to the legislature, along with five other budget items.
- The CVP has also been approved to hire a temporary Program Coordinator, using ARPA funds, to address the problems the program has experienced because of COVID (i.e., request backlog, Court Visitor recruitment).
- The CVP put together a Notice to the Parties Regarding the Court Visitor Program that will help interested parties, attorneys, and others understand the parameters and restrictions of the Court Visitor Role at the beginning of a Court Visitor's assignment. This Notice will be included as additional language to the existing Order Assigning a Court Visitor.

The Board of District Court Judges reviewed the Notice earlier this month and gave approval. It will go before the Forms committee in December.

### Other

Rob Ence with the Utah Commission on Aging has been working with the Area Agencies on Aging and other older adult stakeholders to build a robust website on older adult issues. What they are missing right now is a good section on guardianship issues. There is also a section on the website called Resource Specialist, where an individual with an expertise in a particular area is highlighted, including guardianship/conservatorship. He would like to provide WINGS members with a brief overview/navigation of the website at the next meeting.

- Brant Christiansen reports that the Elder Law Section is always looking for interesting continuing education opportunities. Stakeholders are encouraged to contact Brant if any opportunities arise.
- Judge Kelly was asked to be on the planning committee for the District Court Judges Education Conference next spring. Some of the issues WINGS has been discussing may be helpful as a presentation during the conference. Stakeholders are encouraged to send suggestions to Judge Kelly to share with the planning committee.
- Katie Cox introduced herself to the WINGS committee. She is a staff attorney with the Disability Law Center and plans to start attending WINGS meetings. Katie is a trained Social Worker as well as an attorney.
- Keri Sargent was welcomed to the group. Keri recently took on the position of Assistant District Court Administrator. She works directly under Shane Bahr and will take his place on the WINGS committee. Keri comes from the 6<sup>th</sup> district where she served as the Clerk of Court.

### 3. Ongoing Projects

#### Utah Code 75-5-303

Some of the provisions in the statute are unclear. It is proposed that WINGS conduct a review and make recommendations. The redline version was included in the WINGS materials as a general overview of the potential concerns. These concerns include:

- The need to clarify the role of the Court Visitor in hearings, including the ability for a Court Visitor to be called as a witness to testify.
- Additional language to account for situations when the petitioner is asking to excuse the respondent from the hearing, but the respondent does not have an attorney.
- The medical criteria listed in subsection (5)(b), which is used to excuse a respondent from the hearing without requiring a Court Visitor.
- Subsection (5)(d), wherein all seven items must be met in order to waive the requirement for an attorney.

#### Discussion –

- Based on the language in the statute currently, the court could provide training to judges and staff on the purpose and meaning of the statute, especially subsection (5)(d).
- Under (5)(b), Dr. Michelle Miranda notes that fourth stage Alzheimer's disease is not an accurate term. When forming a diagnosis, it is listed as either a mild neuro-cognitive disorder or a major neuro-cognitive disorder.
- The diagnosis of fourth stage Alzheimer's disease has never been an official diagnosis in the DSM. It was created to be more informational and accessible for patients. It will not show up in a medical report.
- It could be problematic to tie this strictly to Alzheimer's, when other types of dementia could be equally problematic. Rather than trying to give a medical diagnosis, it may be better to use language that is common to all of us, something that covers the entire body of concerns about a person who does not have the ability to understand what is going on around them.
- It is important that the language used is not too vague. While the language needs to be updated and more in line with the broader concerns related to the types of dementia, if it is too vague or broad it opens it up for abuse.
- You want to have people attend their guardianship hearing in most circumstances, and it should be the rare exception when they do not.
- It is suggested that the Board of District Court Judges weigh in on this as well, before seeking a legislative modification or clarification on this topic.

#### Decisions made –

- Shonna will send information to Dr. Miranda and Rob Ence to review and obtain additional medical opinion/feedback.
- Dr. Miranda and Rob Ence will provide information to the Executive Committee in November (if possible) and plan to report to the WINGS groups at the December meeting.
- This item will remain on the agenda.

### Judicial Council Committee

In finalizing plans to propose WINGS as a Judicial Council committee, there has been some concern about retaining flexibility in our membership. In practice, it is likely the Judicial Council would defer to what WINGS suggests. However, as a practical matter, we may need to go through a formal process to approve the membership with the Judicial Council.

The next step is to bring this to the Policy and Planning committee and the Judicial Council for consideration as a rule change.

#### Discussion –

- The addition to Rule 1-205 and the unnamed WINGS rule would take the place of the current WINGS bylaws.
- Under (3)(B) on Rule 1-205, there is a description of the terms for members of committee. We may want to tweak the unnamed WINGS rule to include the succession plan described in the WINGS bylaws regarding representatives of agencies.

#### Decisions made –

- Shonna will send to the Executive Committee members an email with a copy of Rule 1-205, the unnamed WINGS rule, and the WINGS bylaws.
- The Executive Committee will discuss at the next meeting and revise the current draft.
- This item will remain on the agenda.

## 4. Future Projects

### Report from National WINGS / Planning for 2022

The National Guardianship Network held their guardianship summit in May. In that summit, they identified 22 recommendations for improvement of guardianship in the courts. Subsequently, the ABA Commission on Law and Aging asked for input from WINGS groups across the country for feedback on which items could be considered the top five priorities. The materials provided include the description of all 22 items and the results of the priority survey.

Some states are taking these priorities and forming smaller work groups to review and make recommendations for their state. As Utah WINGS looks toward future projects, the summit results may be useful.

#### Discussion –

- Utah may already be doing some of the items listed in the recommendations. Creating a list or tracking that identifies each item's status in Utah might be helpful (red, yellow, green code or similar). This would help us establish where we should focus.
- Recommendation 3.2 corresponds with the previously identified focus of improving the education and resources around the preference for a limited guardianship.
- Limited guardianship is a topic appropriate for a presentation or breakout session during the judicial conference next year. WINGS stakeholders could participate on a panel discussion.
- A good place for WINGS to start is to review the limited guardianship form on the court's website to ensure it is clear, specific, and comprehensive.
- WINGS could also review the clinical evaluation form used by medical professionals to assess the respondent's functional capabilities.

- Judges often receive only a few sentences describing the respondent’s capacity, and a revised clinical evaluation could be used to provide judges with more specific details and information.
- In the past, attorney Langdon Owen used a list that included approximately 30 things in which guardians could make decisions for protected persons. WINGS could obtain a copy for review.
- It may be useful to have a professional guardian review this list as well, since it is something they deal with a daily basis. Office of Public Guardian and the Medicaid Fraud Control Unit (MFCU) also expressed a desire to review the list.
- MFCU notes that isolation was added as an offense to the criminal code by Senator Weiler two years ago. MFCU is seeing an increase in isolation and visitor restriction issues, and this should be added to the list if it is not already.

#### Decisions made –

- Shonna will put together a shared spreadsheet with each of the recommendations from the summit. WINGS stakeholders are asked to review the items and indicate the status if known.
- Shonna will send to Dr. Miranda a copy of the court’s current clinical evaluation form for review and feedback.
- Kent Alderman and/Rob Denton will look for a copy of the list used by Langdon Owen and email to Shonna. Shonna will share the list with the Executive Committee for further discussion and dissemination.
- This item will remain on the agenda.

## **5. Other Business**

### **Sharing Resources & Articles**

If WINGS stakeholders have materials they are working on in their own agencies or items they come across in the news or elsewhere that may be of interest to members, send them to Shonna to pass along to the group.

### **Thank You to Kent Alderman**

Kent Alderman has been a long-time member of WINGS, a contributor to the courts, and the guardianship system as a whole. He is finishing his final term with WINGS. WINGS wants to thank Kent for his time and service to the committee. We appreciate Kent’s expertise and willingness to help. Kent is welcomed back for a visit at any time.

### **Rules 6-501 & 6-507**

These rules will go before the Policy & Planning committee in November. In conjunction with Rule 6-501, this committee developed a report coversheet that will be used by judges to formalize their review process of annual and court visitor reports, and make it easier for them to communicate the results of their review.

The coversheet received approval from the Board of District Court Judges earlier this year, and yesterday it received final approval from the Forms committee. The coversheet will be ready to go into circulation once the revisions to Rule 6-501 are approved.

### **December 2021 meeting**

Judge Kelly asked to move the December meeting one week earlier, to account for holidays and going out of town. None of the stakeholders in attendance expressed an issue with moving the meeting to December 9th. Shonna will send out an updated invitation.

<b>Action Items</b>	
<p><b>Utah Code 75-5-303</b></p> <ul style="list-style-type: none"> <li>– Send information to Dr. Miranda and Rob Ence to review and obtain additional medical opinion/feedback.</li> </ul>	Shonna Thomas
<ul style="list-style-type: none"> <li>– Provide information to the Executive Committee in November (if possible) and plan to report to the WINGS groups at the December meeting.</li> </ul>	Dr. Michelle Miranda Rob Ence
<p><b>Judicial Council Committee &amp; Rule 1-205</b></p> <ul style="list-style-type: none"> <li>– Send to the Executive Committee members an email with a copy of Rule 1-205, the unnamed WINGS rule, and the WINGS bylaws.</li> </ul>	Shonna Thomas
<ul style="list-style-type: none"> <li>– Discuss at the next meeting and revise the current draft.</li> </ul>	Executive Committee
<p><b>Report from National WINGS / Planning for 2022</b></p> <ul style="list-style-type: none"> <li>– Put together a shared spreadsheet with each of the recommendations from the summit.</li> </ul>	Shonna Thomas
<ul style="list-style-type: none"> <li>– Review the items on the spreadsheet and indicate the status if known.</li> </ul>	WINGS Stakeholders
<ul style="list-style-type: none"> <li>– Review the court’s current clinical evaluation form and provide feedback.</li> </ul>	Dr. Michelle Miranda
<ul style="list-style-type: none"> <li>– Email to Shonna a copy of the list used by Langdon Owen regarding limited guardianships.</li> </ul>	Kent Alderman Rob Denton

<b>Deferred / Continuing Items</b>
<ul style="list-style-type: none"> <li>– Utah Commission on Aging website tour</li> <li>– Utah Code 75-5-303</li> <li>– Judicial Council Committee &amp; Rule 1-205</li> <li>– Summit Recommendations &amp; Future Projects</li> <li>– Update on Rules 6-501 and 6-507</li> </ul>

<b>Next Meeting(s):</b>	<p><b>December 9, 2021</b></p> <p>February 17, 2022</p> <p>April 21, 2022</p> <p>June 16, 2022</p> <p>August 18, 2022</p>
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