

Utah Working Interdisciplinary Network of Guardianship Stakeholders (WINGS)

Thursday, December 9, 2021 - 12:00 to 2:00 p.m.

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

Agenda			
	Topic	Presenter	Materials
12:00	Meeting begins		
	<ul style="list-style-type: none"> • Housekeeping • Minutes 	Judge Kelly	<i>WINGS Minutes (October 2021 – draft)</i>
12:10	Stakeholder Updates		
	<ul style="list-style-type: none"> • GRAMP • Legislative Update • Other 	Stakeholders	
12:35	Utah Commission on Aging Website Tour	Rob Ence	
12:45	Ongoing Projects		
	<ul style="list-style-type: none"> • Rules 6-501 & 6-507 	Allison Barger Shonna Thomas	<i>(Recent revisions sent prior to meeting)</i>
	<ul style="list-style-type: none"> • Judicial Council committee 	Judge Kelly	<i>Rule 1-205 and WINGS rule (FINAL DRAFT)</i>
	<ul style="list-style-type: none"> • Utah Code 75-5-303 	Group Discussion	<i>Code 75-5-303 (to discuss)</i>
1:30	Future Projects		
	<ul style="list-style-type: none"> • Judicial Council annual report 	Shonna Thomas	
	<ul style="list-style-type: none"> • Summit recommendations table 	Group discussion	<i>2021 NGN Summit Recommendations – Utah Status</i> <i>National Guardianship Summit - Recommendations (May 2021)</i>
1:50	Other Business		
	<ul style="list-style-type: none"> • 		
2:00	Meeting adjourned		

1. Housekeeping

- Meeting began at 12:03pm.
- A motion was made to approve the minutes from the previous meeting (October 21, 2021). The motion was seconded and approved.
- Meeting adjourned at 2:00pm.

2. Stakeholder Updates

GRAMP

- The Court Visitor Program was approved to hire a temporary Program Coordinator, using ARPA funds, to address the problems the program has experienced because of COVID.
- The temporary Court Visitor Program Coordinator has been selected. Holly Thorson will begin work on December 27th. She has an extensive volunteering history, as well as professional experience with DCFS. She will introduce herself at the February meeting.
- The Guardianship Signature Program has noted a 100% increase in requests, comparing the last quarter of 2020 to the same period in 2021, in three specific districts (third, fifth, and eighth). The reasons for the increase are not yet known.
- The funding request for a permanent Court Visitor Program Coordinator is still set to be presented at the next legislative session, along with the court's other budget requests.

Discussion –

- It might help improve awareness of the programs to make the legislators in the areas experiencing increased requests aware of those increases.
- AARP is available to send out volunteer requests to their mailing lists.

Legislative Update

- Andrew Riggle reported on two bills that are in the early stages that may relate to guardianship. The first bill includes probate in the title and the second includes protected person in the title. Andrew plans to follow up with the sponsors of the bills to find out more information.

3. Utah Commission on Aging Website Tour

The main focal point of the Utah Commission on Aging (UCOA) in the past few years has been to become a connector between public policy, community resources, and research and education/academia. The pandemic amplified the need for a central point to navigate through the various resources. The UtahAging.org website was created to provide that central point and increase connections with resources across the state.

The website has several features that address both the challenges and the opportunities of aging, including:

- A headline section on the main page that includes rotating events and information, with updates and different featured topics.
- A search feature to help individuals if they are looking for something specific, with drop-down menus and a large list of topics and relevant issues, collaborative partners, and shortcuts.

- An interactive event calendar that incorporates all the different Area Agencies on Aging affiliated agencies. Links to other agency calendars can also be added, with the idea that events, activities, conferences, etc., can all be listed in one spot.
- A section dedicated to Utah’s aging services, with links to each Area Agencies on Aging in the state and the services they offer.
- A section on aging issues, with a variety of topics to choose from, such as information on falls prevention, arts and aging, and guardianship and conservatorship.
 - Some of the topic section include robust information, others still need to be filled in more completely, which is where WINGS stakeholders can assist.
- A professional portal that offers options such as lifelong learning resources, connections to organizations related to specific professions (e.g., geriatric society), research opportunities, and information on gerontology certification programs.
- A section for UCOA that describes the history and purpose of the commission, upcoming meeting information, members, and links to meeting materials.
- A subsection for Resource Specialists, who are experts in specific topics and available as educational speakers.
 - Interested WINGS members can offer to serve as an expert on a volunteer basis.
- A Media section that includes a blog, podcasts, videos, and more.

In January, a hotline will be offered that individuals can use to help navigate the site and access the resources the website offers. The goal is helping older adults learn how to navigate on the Internet; to make sure they have access, affordability, equipment, and the know how to use it safely.

4. Ongoing Projects

Rules 6-501 & 6-507

These rules went before the Policy & Planning committee in November. The Committee was supportive of the changes being recommended. Some minor changes were worked on during the meeting with the Policy and Planning committee. However, some suggestions required a bit more time. These will be presented again to the committee once they are complete.

Recommendations from Policy and Planning –

- The committee asked for some minor clean up, related to consistency in language (e.g., respondent, protected person) and in formatting for both rules.
- The committee asked for the language to be modified on 6-507, relating to objecting to a Court Visitor report. They did not have concerns about the intent of this revision, but they did have concerns that the language as written placed the more limitations on the court, as opposed to the party filing the objection.
- There was some discussion surrounding the timing of the required Private Information Record document found in 6-501. The committee expressed support for the document to be required before the guardianship is appointed (as opposed to after).

Judge Scott (Chair of the probate subcommittee) is working on the proposed language in Rule 6-507 related to making objections to Court Visitor reports.

Allison Barger is working on making sure these rules are consistent with how other rules are formatted.

Discussion –

- Leslie Frances shared a link to a recent report from Pew regarding the enhanced use of technology in the courts during the pandemic. (<https://www.pewtrusts.org/en/research-and-analysis/reports/2021/12/how-courts-embraced-technology-met-the-pandemic-challenge-and-revolutionized-their-operations>)
- Where the rule mentions an objection is to be made in writing, is there a way to add an accommodation for individuals who are unable to make an objection in writing?
 - There are two general processes for making an objection: (1) file the objection in writing, or (2) make the objection verbally during the hearing.
 - The review and approval process for annual reports does not typically include a hearing. Therefore, no procedure exists for objecting to the report other than in writing.
 - The Request to Submit for Decision plays a key role in the process. Filing a Request to Submit places the item on the under advisement tracking. If a judge has something on the tracking longer than 60 days, it is reported to the Judicial Performance Evaluation Commission.
 - Recent revisions to Rule 6-506, in regards to accessibility, may apply to this issue and could be used as a reference. It might also help if the Notice of Right to Object form was made more clear on the court's website.
 - The goal is to increase the ability of everyone, but particularly individuals with disabilities, to participate in court proceedings. This topic may be a broader issue on how individuals access the system, when accommodations and enhanced accessibility is needed.
 - The court is in the process of creating an electronic filing system for non-attorneys that may help with accommodations to make this process accessible. This may be a good time to connect individuals working on that project, the Self Help Center, and Disability Law Center.

Decisions made –

- Allison will reach out to WINGS members for any additional revisions to Rules 6-501 and 6-507, with a deadline for feedback due in one week.
- These rules will remain on the WINGS agenda.
- The Executive Committee will discuss accessibility within the courts at the next meeting and devise a plan to move the topic forward.

Judicial Council Committee

The final proposed changes to Rule 1-205 were shared with WINGS members as part of the meeting materials. WINGS members were given an opportunity to express any last-minute concerns or feedback before Rule 1-205 is brought to the Policy and Planning committee and Judicial Council.

A motion was made to advance this rule in its draft form to the appropriate committees and Judicial Council. The motion was seconded and approved.

Decisions made –

- Shonna will determine what the next steps are in the process.
- Judge Kelly will reach out to Judge Shaughnessy and inform him of the WINGS committee approval to move forward in this process.
- This item will remain on the agenda.

Utah Code 75-5-303

Dr. Michelle Miranda reported back to the group on her review of the medical criteria used in 75-5-303(5)(b).

It is unclear where statute's IQ criteria of 25 comes from; this level does not exist in general diagnoses. The average is 100, with a standard deviation of 15. Anything below 50 would be a profound impairment.

The DSM is moving towards functional impairment instead of using numbers like IQ scores. They use intellectual disability – mild, moderate, severe, or profound, with supporting documentation of functional impairment.

Dr. Miranda also reached out to Dr. Foster (former WINGS member) and received the following input:

- The fourth stage Alzheimer's, as described in the statute, came from the Alzheimer's Association. The FDA also uses these four stages. However, in medical notes, these are not consistently used.
- Dr. Foster's recommendation was that the respondent should have a separate medical visit specifically for the purposes of the petition, which includes (1) a medical diagnosis, (2) notes on the functional impairments that arise from that diagnosis and, (3) how the individual's capacity would be impacted by those functional impairments.
- Dr. Foster has written numerous articles on this topic, which can be shared with the group. In one article, Dr. Foster outlined a systematic approach for medical providers on conducting this process.
- Would this be a more appropriate approach for the courts to adopt, rather than level of dementia?

Discussion –

- If there is a detailed medical examination that concludes whether the individual has the capacity to engage in and understand the court proceeding, could this replace the fourth stage Alzheimer's and IQ of 25 criteria?
- When is the respondent's inability to participate so clear that the court can avoid assigning a Court Visitor? In some cases, the medical condition of the respondent clearly precludes them from participating, such as the other criterion noted in the statute – extended coma.
- Decisions on capacity should be based on an individual's functional level and abilities to do what is required of them to participate in these processes with or without assistance. There should be very limited, clear-cut situations when a Court Visitor is not required to investigate excusing a respondent from the hearing.
- Another consideration with (5)(b) of the statute is how it relates to (5)(a) – in what capacity the respondent attends the hearing (e.g., in-person, remote). For example, if someone is non-ambulatory, but could attend from a hospital bed with the right technology.
- Attendance in person at the hearing can be a problem or risk for respondents, outside of technical ability to attend. The remote attendance option provides outlets for people who may be physically capable of attending, but have other medical, functional, or sensory limitations that make in-person attendance high-risk. Perhaps in-person or virtual participation should also be based on the respondent's preferences.
- The practical effect of how (5)(b) is currently written is that a Court Visitor is needed to excuse someone from the hearing except in cases of extended coma, as the other criteria do not exist.
- If the statute is left as it is, it could perpetuate confusion for judges, especially those new to guardianship matters. A letter from a medical provider indicating the respondent should be excused for these reasons could mislead a judge into thinking it fits the criteria listed in (5)(b). There should either be a replacement standard or the inaccurate criteria needs to be removed.

- Decisions made –
 - Dr. Miranda will email to Shonna the materials from Dr. Foster for WINGS members to review.
 - This item will remain on the agenda.

5. Future Projects

Judicial Council Annual Report

The WINGS Annual Report is provided to the Judicial Council every year. In the past, WINGS has presented to the Judicial Council in January. However, a date for the upcoming presentation has not yet been set.

The Annual Report covers the accomplishments of the WINGS committee over the past year, and the current and ongoing projects. These items are generally identified via the meeting minutes, but stakeholders have an opportunity to add items or provide feedback.

Decisions made –

- Stakeholders will be given a draft copy of the report for review before it is presented to the Judicial Council.
- If WINGS stakeholders have any items they would like to see included on the report, those suggestions can be sent to Shonna
- This item will remain on the agenda for the Executive Committee and as an update to stakeholders at the next WINGS meeting.

Summit recommendations table

During the August meeting, a suggestion was made to take the Summit recommendations and create a list or tracking that identifies the status of each item in Utah. This suggestion has been completed and can be found in the meeting materials.

The table is currently in an Excel spreadsheet form. However, it will be uploaded to Google Drive and sent to WINGS stakeholders as a shared document. WINGS members will be able to review the information and add notes or suggestions to each item.

Decisions Made –

- Shonna will make the recommendations table a shared document and inform stakeholders when it is available for review and comment.

6. Other Business

- Judge Kelly shared an update from helping plan the annual meeting for district court judges.
 - Judge Kelly has asked to have recent guardianship topics on the agenda, such as Court Visitor reports and the annual report review and approval process.
 - This will be an opportunity to provide additional education to the entire district court bench of Utah on specific guardianship topics/issues.
 - The planning is still in the preliminary stages, but there was some support on the committee for including these topics.
 - The conference is March 23 – 25, 2022.

<p><u>Decisions Made –</u></p> <ul style="list-style-type: none"> ○ Leslie Francis offered to provide some information and stories about Court Visitors from her experience. She will send that information to Judge Kelly. ○ If other stakeholders have items to share, they can be emailed to Judge Kelly directly.

Action Items	
<p>CJA Rules 6-501 and 6-507</p> <ul style="list-style-type: none"> – Reach out to WINGS members for any additional revisions to Rule 6-501 and 6-507, with a deadline for feedback due in one week. 	<p>Allison Barger WINGS Stakeholders</p>
<p>Judicial Council Committee & Rule 1-205</p> <ul style="list-style-type: none"> – Determine the next steps for the review and approval process. – Reach out to Judge Shaughnessy and inform him of the WINGS committee approval to move forward in this process. 	<p>Shonna Thomas Judge Kelly</p>
<p>Utah Code 75-5-303</p> <ul style="list-style-type: none"> – Provide the materials from Dr. Foster to WINGS stakeholders for review. 	<p>Dr. Michelle Miranda Shonna Thomas</p>
<p>Judicial Council Annual Report</p> <ul style="list-style-type: none"> – Review the report and provide feedback as needed. 	<p>WINGS Stakeholders</p>
<p>Summit Recommendations Table</p> <ul style="list-style-type: none"> – Share the recommendations table with stakeholders. 	<p>Shonna Thomas</p>
<p>Other Business</p> <ul style="list-style-type: none"> – Email to Judge Kelly examples of information regarding Court Visitors 	<p>Leslie Francis</p>

Deferred / Continuing Items
<ul style="list-style-type: none"> – Legislative Session Updates – GRAMP Funding Request – Judicial Council Committee & Rule 1-205 – Annual Report to the Judicial Council – Utah Code 75-5-303 – Update on Rules 6-501 and 6-507 – Accessibility in the Courts

Next Meeting(s):	<p>February 17, 2022 April 21, 2022 June 16, 2022 August 18, 2022 October 20, 2022</p>
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