

COLORADO OFFICE OF PUBLIC GUARDIANSHIP

October 3, 2018 – Meeting Materials

**NOTE: CERTAIN MATERIALS DISTRIBUTED WILL BE POSTED
ONCE THEY ARE IN FINAL FORM.**

Please be advised that **all** the materials noted below are in '**Draft**' form and are materials for the OPG Commission to consider.

They are **not** in final form, **nor have they been approved** by the OPG Commission.

1. **Draft** – OPG Commission Minutes – August 29, 2018 (9 pages)
2. **Draft** – OPG Commission Minutes – September 6, 2018 (2 pages)
3. **Draft** – OPG Commission Public Comment Policy (2 pages)
4. **Draft** – Guardianships and Conservatorships Law 101 (13 pages)
5. **Draft** – OPG Commission Marketing Materials (2 pages)
6. **Draft / For Comment** – OPG Executive Director Job Description Edits and Notes (5 pages)

DRAFT

Colorado Office of Public Guardianship

Commissioners

Shari Caton, Chair
Deb Bennett Woods, Vice Chair
Marco Chayet
Kelsey Lesco
Karen Kelley



1300 Broadway, Suite 1250
Denver, CO 80203

(720) 625-5130
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PUBLIC MEETING

August 29, 2018

Record of Proceedings

CONVENE

The meeting of the Colorado Office of Public Guardianship Commission was convened in the Ralph L. Carr Judicial Center, 1300 Broadway, Conference Room 2B in Denver, Colorado 80202 at 10:07 AM by Commission Chair Caton.

A quorum of the Commission was present.

Commission Members Present

Shari Caton, Chair	Deb Bennett-Woods, Vice-Chair
Karen Kelley*	Kelsey Lesco
Marco Chayet*	

Others Present

Hugh Wilson, Office of the State Court Administrator
Connie Lind, Office of the State Court Administrator
Sueanna Johnson, Senior AAG

Public Attendance

Robert M. Hernandez*
Terry Lake, Lutheran Family Services
Maureen Welch*
Jeremy Schupbach, Colorado Bar Association
Ford Allison, Rocky Mountain Human Services

* Appeared/Participated by Telephone

AGENDA ITEMS

I. Approval of the July 25, 2018 Minutes

Commission Chair Chayet moved for adoption of the July 25, 2018 Minutes. The motion was seconded by Commissioner Lesco. The motion passed unanimously.

II. Chair Announcements

Commission Chair Caton holds comments until later when discussing the budget and fundraising.

III. Monthly Budget Report

Mr. Wilson provided a hand-out showing the OPG cash funds balance having \$1,877.00.

IV. Interim Report for General Assembly JBC

A. Draft 1331

Mr. Wilson handed out a draft of the 1331 to Commission members only. The Joint Budget Committee (JBC) meets Thursday, September 20th. The draft request is seeking \$597,842.00 from General Funds to get the Office going. Dates are Dec. 1, 2018 – June 30, 2019, covering this fiscal year. The 1331 will let the General Assembly know where the Commission is at and the current situation regarding funding.

The request includes:

- 3 Individuals – Executive Director, Controller, & Staff Assistant (6 months of salary and benefits).
- Case Management System and other capital/operating items (e.g., phones, computers, desks, etc.).
- Leasing office space for 6 months.

Further discussion included:

- Why not ask for full funding?

- Will the Commission continue with their fundraising efforts?
- There will be a need to seek General Funds again next fiscal year.
- There may be a need for expert services (e.g., IT consultants, grant writing, etc.)
- Mr. Wilson will speak to the Director of IT at SCAO regarding IT consultants.
- May be a need to run a bill.
- May need to extend the pilot project.
- Jeremy Schupbach advises it is always possible to run a bill; however, there is a need for a sponsor, etc. A good starting point would be to speak with Terry Scanlon, Legislative Liaison at SCAO, as well as the Colorado Bar Association. It makes sense to go back to the JBC regarding the pilot program, etc., and look at running a satellite bill rather than a parallel bill.

Mr. Wilson will finalize the 1331. The Commission will finalize their Interim Report. The Report will be an addendum to the 1331. Commission Chair Caton, Commission Vice-Chair Bennett-Woods, and Commissioner Lesco will be available to attend the 9/20 JBC meeting.

An emergency OPG meeting is scheduled for 9/6 @ 1:30 p.m. to approve and vote on the final 1331 and Interim Report.

B. Interim Report (fundraising/community outreach efforts)

There was discussion that included the following:

- Suggestion to add a brief paragraph regarding the pilot project being the result of three expert reports, how many states have an OPG and how many are seeking such an Office.
- Meeting with Hospital Association has been supportive, however, they are not in a position to fund the Office, and are not a likely path to funding in the future. They will provide a letter of support though. They did not have any suggestions as a viable path to the individual hospitals.
- Suggestion was made to look to the national chains (e.g. Kaiser) and have that conversation.

- Commission Vice-Chair Bennet-Woods advises she has worked for several years speaking to hospitals as well as some long term care facilities.
- Mr. Lake advises he understands the struggles; however, they have had success with certain health care entities, but a very small group for their program.
- Support of budget proposal since it is not feasible to obtain funding solely from grants, gifts, and donations. On-going fundraising to continue, need to extend the date of the pilot, and be transparent and clear of the expectations.
- Extension of the pilot program deadlines, on-going fundraising efforts, and transparent expectations.
- Revisions/comments to Ms. Johnson by Friday, 8/31. Johnson and Vice-Chair Bennett-Woods to finalize and out to the Commission by 9/4 or 9/5. Mr. Wilson to finalize the 1331.

Commission Chair Caton advises as a part of her Chair Announcements, that she was in contact with the Department of Human Services (Department) regarding the Office. The Department is supportive of assisting with funding in concept, however, no commitment. Discussions were very preliminary to address funding challenges of the Office.

Further discussion regarding possible solution/comments with Department:

- There are approximately 530 Adult Protective Services cases.
- Whether altering scope of the pilot project.
- Estimated at \$5,200,000.00 for a combined OPG pilot and Adult Protective Services guardianship program.
- Pre/post appointment attorney services.
- If this was to move forward, legislative changes would be needed to C.R.S. § 26-3.1-104 and the pilot program statutes.
- Contemplate that the Department would continue as petitioner, as APS being the investigator.

- Scope of the pilot program.
- OPG would run bill.
- Outreach preliminary in nature and details need addressed. Needs to be fully flushed out.
- The Department may be able to join a future OPG meeting to discuss.
- Mr. Lake advised APS investigates, but are last resort for appointments, and the Department does not have to accept appointments.

Commission Chair Caton asks if the Commission wishes for preliminary talks to continue with the Department. Noting, it will not impact 1331 and the Interim Report. The Chair called for a motion to continue discussions with the Department and delegating that task to Commission Chair Caton. Commissioner Lesco so motions. The motion was seconded by Commission Vice-Chair Bennett-Woods. The motion passed unanimously.

V. Update on Meeting with State Judicial re: Keeping Track of Donor Information

AAG Johnson provided a spreadsheet to Mr. Wilson. One check was recently received and needs to be added to the spreadsheet. AAG Johnson will continue to work with Mr. Wilson and Mr. Kribs at SCAO.

VI. Fiscal Sponsor Issue

Mr. Wilson does not have an update. Commission Chair Caton advises Mr. Kribs is working on Judicial serving as the fiscal sponsor and will follow-up with Mr. Kribs.

VII. Fundraising Efforts/Community Outreach

Commission Chair Caton

- Representative from Department of Human Services.
- Representative of CO Department of Health Care Policy and Finance (no return call yet).

- She and Commissioner Chayet presented at the 10th Annual Rocky Mountain Elder Law Retreat.
- In October, presenting to a long-term care group (case managers).
- Grant for Next 50 Application on 8/31 (in contact with CFO of Next 50 regarding last process to overcome last denial).

Commission Vice-Chair Bennett-Woods

- Health Benefits Director at Medicaid.
- University Hospital (4-6 patients at any given time that would benefit from the Office).

Commissioner Lesco

- Zimm Consulting.
- Sent off OPG Marketing Brochure to Commission (comments are needed back from the Commission ASAP).
- Still working on 7th Judicial District outreach.

AAG Johnson advises she will follow-up with SCAO regarding the website – button for donations. AAG Johnson advises she will put this on next month's agenda.

Commissioner Chayet

- Presented at the 10th Annual Rocky Mountain Elder Law Retreat
- Presentation to a nursing home/assisted living group.
- Asked to table discussion on hand-out.

Commissioner Kelley

- Commission Chair Caton advises Commissioner Kelley had a family emergency, but wanted to inform the Commission that she presented to the Otero County Commission and the La Junta Tribune reported on her presentation.

AAG Johnson advises the Attorney General's Office is considering a change in billing and how the AG bills for time. AAG Johnson will follow-up with Commission Chair Caton.

VIII. Review and Approval of Guardianship/Conservator Law 101 Talking Points

This item was tabled to the next regularly scheduled meeting.

IX. Review and Approval of OPG Executive Director Job Description

This item was tabled to the next regularly scheduled meeting.

X. Public Comment

There was no comment from those attending in-person.

Ms. Welch:

- Requests receiving a copy of 1331 and the updated documents (Interim Report).
- No mention of Civil Rights in the documents.
- Has attended 1331 hearing before and they are strictly for emergencies.
- Requests stakeholders such as herself be involved in further discussions with the Department of Human Services and asks that it be added to the next OPG meeting agenda.
- Expresses her on-going concerns.

Mr. Hernandez:

- Stated that discussion with the Department would be outside the scope of the OPG.
- Stated that meeting with the Department may not have been compliant with the open meeting statute.

- Stated that APS is a pipeline for wards and questioned who would petition the court.
- Stated that a recent audit was conducted on Adult Protective Services by the State Auditor's Office and recommended not moving forward with the dialogue with the Department until the audit has been completed.
- Stated that the Commission needs to meet with organizations to protect wards and there is no mention of a wards bill of rights.

Commission Chair Caton advises:

- Hand-outs were available in the room and will be made available via the website once they are finalized.
- Commissioners are always willing to meet with stakeholder organization(s) and asked for names of stakeholder(s) for the Commission to contact..
- Fundraising efforts and community outreach has resulted in less than \$2,000 being raised, however, the Commission must continue fundraising and seeking funding solutions.

Mr. Hernandez requested an invitation and public notice to discussions with the Department.

AAG Johnson:

- The AG's Office advises as to whether there is compliance with the Open Meetings Law or other state statutes.
- Advised the public attendees that when two or more Commission members meet, that is when it constitutes a public meeting.
- Commissioners may individually meet with other agency personnel or stakeholders without public notice.
- Confirmed that the Commission is in compliance with the Open Meetings Act.

XII. Adjourn

Commissioner Lesco moved for the meeting to be adjourned. The motion was seconded by Commission Vice-Chair Bennett-Woods. With no objections, the meeting was adjourned at 12:17 p.m.

ATTESTATION

As Commission Chair and Commission Vice-Chair, we attest that these minutes of the open public meeting of the Colorado Office of Public Guardianship Commission substantially reflect the substance of the discussion and action taken related to the matters under the authority of the Commission.

Shari Caton, Commission Chair

Deb Bennett-Woods, Commission
Vice-Chair

Date

Date

DRAFT

Colorado Office of Public Guardianship

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Karen Kelley



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PUBLIC MEETING September 6, 2018

Record of Proceedings

CONVENE

An emergency meeting of the Colorado Office of Public Guardianship Commission was convened in the Ralph L. Carr Judicial Center, 1300 Broadway, Headwaters Training Suite on the 2nd Floor in Denver, Colorado 80202 at 1:30 PM by Commission Chair Caton.

A quorum of the Commission was present.

Commission Members Present

Shari Caton, Chair	Deb Bennett-Woods, Vice-Chair
Karen Kelley*	Kelsey Lesco*
Marco Chayet*	

Others Present

Hugh Wilson, Office of the State Court Administrator
Connie Lind, Office of the State Court Administrator
Sueanna Johnson, Senior AAG*
Robert Finke, First AAG
Steve Allen, Joint Budget Committee Staff Member*

Public Attendance

Robert M. Hernandez
Terry Lake
Maureen Welch

* Appeared/Participated by Telephone

AGENDA ITEMS

I. Approval of the Interim Report and 1331 Budget Request

The highlighted portions of the Interim Report were questioned.

- Is FY 20 noted on page 3, last bullet point correct? Yes.
- Signature page – Mr. Wilson to complete.
- Needs page numbers.
- Executive Summary – only to Judiciary and JBC. Yes, keep as is.
- Total dollar amount needs to be corrected – made same throughout.
- Footnote re ‘ABA Chart’ to be clarified.
- Acronyms to be reviewed and corrected where need be.
- The ‘underline’ should be removed from Mr. Chayet’s comments.

Commission Chair Caton asked if there were any questions for Mr. Wilson?

- Cost reported for the case management system discussed.
- CAPS – case management system in the task force report reviewed.

Commission Chair Caton asked for a motion to approve the drafts with amendments discussed today. Commission Vice-Chair Bennett-Woods moved for adoption of the draft 1331 and Interim Report with amendments. The motion was seconded by Commissioner Chayet. The motion passed unanimously.

II. Adjourn

Vice-Chair Bennett-Woods moved for the meeting to be adjourned. The motion was seconded by Commissioner Kelley. With no objections, the meeting was adjourned at 1:56 p.m.

ATTESTATION

As Commission Chair and Commission Vice-Chair, we attest that these minutes of the open public meeting of the Colorado Office of Public Guardianship Commission substantially reflect the substance of the discussion and action taken related to the matters under the authority of the Commission.

Shari Caton, Commission Chair

Deb Bennett-Woods, Commission
Vice-Chair

Date

Date

THE OFFICE OF THE PUBLIC GUARDIANSHIP COMMISSION**PUBLIC COMMENT POLICY****ARTICLE I: PREAMBLE / AUTHORITY**

The Office of the Public Guardianship Commission (“Commission”) believes that information from the public is important to further the mission and achieve success for this pilot program. To that end, but also to ensure that Commission business may be completed in a timely manner, the Commission originally adopted a public comment policy at its publicly noticed meeting held November 20, 2017. This is a written promulgation of that policy, as amended.

ARTICLE II: PUBLIC COMMENT GUIDELINES

The Commission will set aside 15 minutes for public comment at the end beginning of its regular meetings, unless in the discretion of the Chair, or as publicly noticed, the comment period is moved to another time on the agenda to accommodate invited speakers/staff members, public attendance, or for other reasons as appropriate.

At each meeting, the Commission will provide a sign-in sheet for individuals to provide public comment. The individual must provide his/her name, organization represented (if applicable), and topic in which the individual would like to speak. This information will assist the Chair of the Commission, as well as provide accurate records.

The Chair is authorized to extend the public comment period, if necessary.

Each member of the public is limited to three minutes for comment

Public comment is on a first-come, first-serve sign-in sheet basis.

Members of the public are prohibited from deferring his/her time to others

Members of the public may comment on any topic, regardless whether such topic is on the agenda; and

The Chair is authorized to terminate public comment if a person is harassing, intimidating or disruptive.

ARTICLE III: AMENDMENTS

Section 3.1 Procedures.

The change in state or federal law, or other circumstances, may warrant the amendment of this ~~policy~~ ~~By-Laws~~. This ~~policy~~ ~~By-Laws~~ may be amended or repealed, in whole or in part, by a majority vote at any publicly noticed meeting of the Commission and are effective upon adoption or amendment.

Section 3.2 Distribution.

The Chair, as may be delegated to the Director, shall provide a copy of the latest version of this ~~policy~~ ~~By-Laws~~ to any person who requests a copy. The latest version of this ~~policy~~ ~~By-Laws~~ shall be made available to the public via the Office website, or through other means until an Office website is established.

Section 3.3 History.

Effective by the Commission on October 3, 2018.

Adopted and effective by the Commission on January 12, 2018, *nunc pro tunc* November 20, 2017.

COLORADO OFFICE OF THE PUBLIC GUARDIANSHIP COMMISSION:

SHARI CATON, ESQ.
Commission Chair

DEB BENNETT-WOODS
Commission Vice-Chair

Guardianships and Conservatorships In Colorado

These materials are provided by Marco Chayet, Esq., Commissioner for the Office of Public Guardianship and a partner in the law firm Chayet & Danzo, LLC, and the Public Administrator for the 18th Judicial District.

I. DEFINITIONS IN PROTECTIVE PROCEEDINGS

- A. **Guardian:** A person appointed by the court to make decisions concerning the person of an incapacitated person.
- B. **Incapacitated Person:** A person, other than a minor, who is unable to effectively receive or evaluate information or both or make or communicate decisions to such an extent that the individual lacks the ability to satisfy essential requirements for physical health, safety, or self-care, even with appropriate and reasonably available technological assistance.
- C. **Ward:** A person for whom a guardian has been appointed.
- D. **Conservator:** A person appointed by the court to make decisions concerning the estate of a protected person.
- E. **Protected Person:** A person for whom a conservator has been appointed.
- F. **Petitioner:** The person who petitions, or asks, the court for the appointment of a guardian or conservator.
- G. **Respondent:** The person for whom the appointment of a guardian or conservator is sought.
- H. **Guardianship:** The court procedure for the appointment of a guardian.
- I. **Conservatorship:** The court procedure for the appointment of a conservator.

II. THE DISTINCTION BETWEEN A GUARDIANSHIP OF AN INCAPACITATED PERSON AND A CONSERVATORSHIP

- A. A guardianship involves making personal decisions about the incapacitated person, such as where the individual will live, what kind of medical treatment, care and assistance the individual will receive, how the individual will be protected, what kind of supervision the individual will receive, etc. In order to appoint a guardian for an adult, the court must find that the person is incapacitated.
- B. A conservatorship involves making financial decisions for, and managing the estate and financial affairs of, a person who is unable to manage property and business affairs effectively because he or she is unable to effectively receive or evaluate

information, or both, or to make or communicate decisions, even with the use of appropriate and reasonably available technological assistance, or because the individual is missing, detained, or unable to return to the United States; and the individual has property that will be wasted or dissipated unless management is provided or money is needed for the support, care, education, health, and welfare of the individual or of individuals who are entitled to the individual's support and that protection is necessary or desirable to obtain or provide money.

III. THE DUTIES, POWERS, RIGHTS, IMMUNITIES AND LIMITATIONS OF A GUARDIAN AND CONSERVATOR

A. A **guardian** has the following **duties** with respect to his or her ward:

1. To make decisions regarding the ward's support, care, education, health, and welfare;
2. To exercise authority only as necessitated by the ward's limitations and, to the extent possible, to encourage the ward to participate in decisions;
3. To act on the ward's own behalf;
4. To help the ward to develop, or to regain, the capacity to manage his or her personal affairs;
5. To become, or to remain, personally acquainted with the ward, and to maintain sufficient contact with the ward to know of the ward's capacities, limitations, needs, opportunities, and physical and mental health;
6. To take reasonable care of the ward's personal effects, and to bring protective proceedings, if necessary, to protect the ward's property;
7. To expend the s money received by the guardian on behalf of the ward for the ward's current needs for support, care, education, health, and welfare;
8. To conserve any excess money of the ward for the ward's future needs, but, if a conservator has been appointed, to pay the money to the conservator;
9. To immediately notify the court should the ward's condition change;
10. To inform the court of any change in the ward's custodial dwelling or address;
11. To immediately notify the court in writing of the ward's death; and
12. **In making decisions, a guardian *shall* consider the expressed desires and personal values of the ward to the extent known to the guardian. At all**

times, a guardian *shall* act in the ward's best interest and exercise reasonable care, diligence, and prudence.

B. Unless limited by the court, a **guardian** has the following **powers** with respect to his or her ward:

1. To apply for and receive money payable to the ward;
2. To take custody of the ward, or to establish the ward's place of custodial dwelling within Colorado (the guardian must obtain court approval prior to relocating the ward out of state);
3. If a conservator has not been appointed, and under appropriate circumstances, to commence a proceeding to compel a person to support the ward or to pay money for the benefit of the ward;
4. To consent to medical and/or other care, treatment or service for the ward;
5. If reasonable under all of the circumstances, to delegate to the ward certain responsibilities for the ward's well-being;
6. To consent to the adoption or marriage of the ward, subject to court approval; and
7. The guardian may petition the court for authority to pursue a dissolution of marriage or legal separation on behalf of the ward.

C. A **guardian** has the following **rights** and **immunities** with respect to his ward:

1. To receive reasonable compensation for services as guardian, but only as approved by order of the court unless a conservator, who is not also the guardian, has been appointed;
2. To reimbursement for room and board provided to the ward by the guardian or by one who is affiliated with the guardian, but only as approved by order of the court unless a conservator, who is not also the guardian, has been appointed;
3. A guardian need not use the guardian's personal funds for the ward's expenses;
4. A guardian is not liable to a third person for acts of the ward solely by reason of the relationship;
5. A guardian who exercises reasonable care in choosing a medical provider for the ward is not liable for injury to the ward resulting from the negligent or wrongful conduct of the medical provider.

D. A **guardian** is subject to the following **limitations** with respect to his ward:

1. Without authorization of the court, a guardian may not revoke the ward's medical durable power of attorney. Moreover, if a medical durable power of attorney is in effect, and absent a court order to the contrary, a health-care decision of the agent takes precedence over that of a guardian.
 2. A guardian may not initiate commitment of a ward to a mental health-care institution for involuntary civil commitment, may not seek hospital or institutional care and treatment for mental illness, may not obtain care and treatment from an approved service agency for a ward with developmental disabilities, and may not obtain care and treatment for alcoholism or substance abuse using the guardianship. In each of these circumstances, the guardian must comply with the Colorado law which governs these medical conditions.
- E. A **conservator** has the following **powers and duties** with respect to the estate of the protected person:
1. With respect to the protected person and members of his or her household, all of the powers over his or her estate and affairs which he or she could exercise if present and not under disability;
 2. To expend or distribute income or principal of the estate without court authorization or confirmation for the support, education, care or benefit of the protected person and his dependents;
 3. To consider recommendations relating to the appropriate standard of support, education and benefit for the protected person or a dependent made by a parent or guardian, if any;
 4. To expend or distribute sums reasonably necessary for the support, education, care or benefit of the protected person with due regard to the size of the estate, the probable duration of the conservatorship, and the likelihood that the protected person, at some future time, may be fully able to manage his or her affairs and the estate which has been conserved for him or her; and with regard to the accustomed standard of living of the protected person and members of his or her household, and other funds or sources used for the support of the protected person;
 5. To expend funds of the estate for the support of persons legally dependent on the protected person, and others who are members of the protected person's household who are unable to support themselves, and who are in need of support;
 6. If the estate is ample to provide for the purposes implicit in the other distributions authorized by the statute, the conservator has the power to make gifts to charity and other objects as the protected person might have been expected to make, in

amounts which do not exceed in total for any year twenty percent of the net income from the estate, as determined under normally acceptable principles;

7. In investing the estate, and in selecting assets of the estate for distribution, the conservator should take into account any known estate plan of the protected person;
 8. To be paid reasonable compensation for services rendered as conservator; and
 9. Under a protective arrangement or authorization of a single transaction, without appointing a conservator, the court may authorize, direct or ratify any transaction necessary or desirable to achieve any security, service or care arrangement meeting the foreseeable needs of the protected person. Protective arrangements include, but are not limited to, payment, delivery, deposit or retention of funds or property, sale, mortgage, lease or other transfer of property, entry into an annuity contract, a contract for life care, a deposit contract, a contract for training and education or addition to or establishment of a suitable trust.
- F. A **conservator** must have **prior court approval** before he or she takes the following actions with the protected person's estate:
1. Makes gifts, if appropriate, which cumulatively exceed twenty percent of the protected person's annual income;
 2. Conveys, releases or disclaims contingent or expectant interests in property, including marital property rights and any right of survivorship incident to joint tenancy;
 3. Exercise or release a power of appointment;
 4. Exercise rights to elect options and to change beneficiaries under retirement plans, insurance policies and annuities or surrender the plans, policies and annuities for their cash value;
 5. Create a revocable or irrevocable trust of property of the estate, or revoke or amend a trust revocable by the protected person;
 6. Exercise a right to elective share in the estate of the protected person's deceased spouse and to renounce or disclaim any interest by testate or intestate succession or by transfer *inter vivos*; and
 7. To make, amend or revoke a protected person's will.

IV. THE LIMITS TO THE ROLES OF THE GUARDIAN AND CONSERVATOR

A. A guardian is subject to the following limitations and restrictions:

1. The court **shall** consider less restrictive alternative means of providing the necessary protective services for the ward.
2. The court **shall** consider the wishes of the alleged incapacitated person concerning his care, counsel, treatment, service and supervision. The court **shall** also consider such person's views concerning the selection of the guardian, the duties of the guardian, the scope and duration of the guardianship and any limitations or restrictions which should be imposed on the powers of the guardian.
3. The court may set forth limitations or restrictions of the guardian's powers or duties, thereby creating a **limited guardianship**, including the scope and duration of the guardianship and including the extent to which a guardian shall be permitted to give any consents or approvals that may be necessary to enable the ward to receive medical or other professional care, etc.
4. The guardian is not required to provide from his own funds for the incapacitated person and is not liable to third persons for acts of the ward solely by reason of the parental relationship except as provided by law.
5. The guardian cannot use the guardianship case to obtain hospital or institutional care and treatment for mental illness of a ward, to obtain care and treatment from an approved service agency for a ward with developmental disabilities, or to obtain care and treatment for alcoholism. Rather, these services must be secured under different sections of Colorado law. Additionally, the guardian shall not have the authority to consent to any such care or treatment against the will of the ward.
6. The guardian or the ward or any person concerned with the care, counsel, treatment or service of the ward may petition the court at any time for instructions with regard to any such care, counsel, treatment or service.

B. A conservator is subject to the following limitations and restrictions:

1. Any order entered in a conservatorship case or protective proceeding has no effect on the capacity of the protected person.
2. A conservator must act as a fiduciary, and shall observe the standards in dealing with the conservatorship estate that would be observed by a prudent man dealing

with the property of another, and if the conservator has special skills or expertise, he is under a duty to use those skills.

3. The Prudent Man Rule provides: In acquiring, investing, reinvesting, exchanging, retaining, selling and managing property for the benefit of others, fiduciaries (including conservators) shall be required to have in mind the responsibilities which are attached to such offices, the size, nature, and needs of the estates entrusted to their care, and shall exercise the judgment and care under the circumstances then prevailing, which men of prudence, discretion and intelligence exercise in the management of the property of another, not in regard to speculation but in regard to permanent disposition of their funds, considering the probable income as well as the probable safety of their capital.
4. A conservator cannot engage in self-dealing or use the protected person's estate for the conservator's benefit.
5. The court may limit the powers of a conservator, thereby creating a **limited conservatorship**.

V. THE STATE'S STANDARD FOR IMPOSING A GUARDIANSHIP

- A. The burden of proof refers to how much evidence must be presented in order to prevail in a case. In a guardianship, the petitioner must prove by **clear and convincing evidence** that a person needs a guardian. *Sabrosky v. Denver Department of Social Services*, 781 P.2d 106 (Colo. App. 1990). Compare this to a criminal case, in which the burden of proof is beyond a reasonable doubt, and a civil case, in which the burden of proof is by a preponderance of the evidence.
- B. When the court finds that a person is incapacitated, it must set forth its findings of fact concerning the nature and degree of incapacity and shall determine the nature and extent of the care, assistance, protection or supervision which is necessary or desirable under all of the circumstances, including consideration of less restrictive alternatives.

VI. DETERMINING WHERE TO FILE FOR GUARDIANSHIP--THE INTERSTATE GUARDIANSHIP ACT

- A. Colorado has adopted the Interstate Guardianship Act. It is located in the Colorado Statutes §15-14.5-101 to 15-14.5-503. This act is the source for all the statutes relating to determining which state and county a person can file for guardianship in. The rules on where you can file for a guardianship changer depending on whether you are filing for an emergency guardianship or a permanent guardianship.

- B. The Interstate Guardianship Act explains how to transfer a guardianship from one state to another and how to register the guardianship in the new state. If a guardianship is established, a ward cannot be moved from one state to another without court approval.

VII. THE GUARDIANSHIP AND CONSERVATORSHIP PROCESS

- A. A guardianship case is started by the filing of a Petition for the Appointment of a Guardian for an Incapacitated Person by the petitioner.
- B. A conservatorship case is started by the filing of a Petition for the Appointment of Conservator (Adult) by the petitioner.
- C. Venue for a guardianship case is in the place where the incapacitated person resides or is present, or, if the incapacitated person is admitted to an institution pursuant to order of a court of competent jurisdiction, venue is also in the county in which that court sits.
- D. Venue for a conservatorship case is the place where the person to be protected resides whether or not a guardian has been appointed in another place, or, if the person to be protected does not reside in Colorado, any place where he has property.
- E. Typically, the two petitions are filed at the same time, the actions are given the same case number and the petitions proceed through the process simultaneously. However, it is not unusual to file only for a guardianship or conservatorship, or to file the actions at different times. The facts of the case will determine how to proceed.
- F. Once a petition is filed, the court will set a date for a hearing on the appointment of a guardian and conservator.
- G. If an incapacitated person has no guardian, and an emergency exists, the court itself may exercise the power of a guardian, or may appoint an emergency (temporary) guardian without notice or a hearing. In such cases, the petitioner must set forth the allegation of an emergency and the need for a temporary guardian in the petition. The emergency guardian's authority cannot exceed 60 days.
- H. While a petition for appointment of a conservator or other protective order is pending, the court has the power to preserve and apply the property of the person as may be required for his or her benefit or the benefit of his or her dependents, including the power to appoint a special (temporary) conservator.
- I. Once a guardianship petition is filed, unless the alleged incapacitated person has an attorney of his own choice, the court **shall** appoint a court visitor, by entering an Order Appointing Visitor for Incapacitated Person, who, among other duties, must interview the allegedly incapacitated person; interview the person seeking to become guardian; visit or obtain information about where the allegedly incapacitated person

lives; interview any physician or other person who has provided care, counsel, treatment or service to the allegedly incapacitated person in the recent past; and provide the court with a written report on the form provided, called Visitor's Report -- Guardianship Proceedings. The court visitor is "the eyes and ears of the court."

- J. The court may also appoint a court visitor in a conservatorship case.
- K. In both a guardianship and conservatorship case, the court may appoint a guardian *ad litem* or an attorney to represent the alleged incapacitated/protected person.
- L. A physician's letter, setting forth the alleged incapacitated/protected person's medical circumstances and the need for a guardianship and/or conservatorship, is required before the court will appoint a guardian or conservator. If the petitioner cannot procure a physician's letter, the court has the authority to order an evaluation of the respondent.
- M. In a guardianship case, a Notice of Hearing and a copy of the petition must be provided as follows:
 - 1. To the alleged incapacitated person, a separate form, in large type, by personal service. The alleged incapacitated person cannot waive notice unless he attends the hearing, or his waiver of notice is confirmed in an interview with the court visitor;
 - 2. To the alleged incapacitated person's spouse, parents and adult children;
 - 3. To any person who is serving as his guardian or conservator, or who has his or her care and custody;
 - 4. In the event that no other person is available to receive notification as set forth above, to at least one of his or her closest adult relatives, if any can be found; and
 - 5. To other persons as the court may direct.
- N. In a conservatorship case, a Notice of Hearing and a copy of the petition must be provided as follows:
 - 1. To the alleged protected person, if he is thirteen years of age or older, a separate form, in large type, by personal service. The alleged incapacitated person cannot waive notice unless he attends the hearing;
 - 2. To the alleged protected person's spouse or, if none, his parents; and
 - 3. To any person who has filed a request for notice under C.R.S. § 15-14-406;
 - 4. To interested persons; and

5. To other persons as the court may direct.
- O. A Return of Service, indicating that the alleged incapacitated/protected person has been personally served with notice and the petition, and a Certificate of Mailing, indicating that the other appropriate individuals have received notice, must be filed with the court prior to the hearing.
- P. Once the hearing has been held and the court has determined that the appointment of a guardian and conservator is appropriate, an Order Appointing Guardian for Incapacitated Person and an Order Appointing Conservator (Adult) are signed by the judge and the probate registrar issues Letters of Guardianship and Letters of Conservatorship (Adult). If there are any limitations or restrictions on the guardian or conservator, they are noted on the Order and the Letters. The Letters are the documents used by the guardian and conservator to evidence his or her authority to act on behalf of the ward and protected person.
- Q. The guardian and conservator must sign a document called an Acceptance of Office, indicating that he or she is willing to assume the duties and obligations of a guardian and conservator and submitting, personally, to the jurisdiction of the court in any proceeding relating to the guardianship and conservatorship that may be instituted by any interested person. The submission of a credit report and a criminal background check likely will be required.
- R. If the guardian or conservator lives outside of the State of Colorado, he must sign an Irrevocable Power of Attorney Designating Clerk of Court as Agent for Service of Process, in which he designates the clerk of the court to accept service of all notices and process issued by a court or tribunal in the State of Colorado in relation to any suit, matter, cause, hearing, or thing, affecting or pertaining to the guardianship or conservatorship case.
- S. The guardian must file an Initial Report of Guardian within 60 days of appointment and must also file a Report of the Guardian at least once a year, or more frequently if required by the court.
- T. The conservator must file an Inventory of the Protected Person's income and assets within 90 days of appointment. A Financial Plan, which is similar to a budget, must also be filed within 90 days of appointment. Additionally, the conservator must file, on an annual basis, a Conservator's Report which reflects all income received, all funds paid, including the date, to whom paid and for what purpose, and the value of the remaining assets.
- U. The court may require a conservator to be bonded.

VIII. WHO MAY SERVE AS GUARDIAN AND CONSERVATOR

- A. If there are competing requests for appointment as a guardian or a conservator, the court must consider persons qualified in order of **priority**.
- B. In a guardianship proceeding, the following persons have priority for appointment:
 - 1. A guardian, other than a temporary or emergency guardian, currently acting for the respondent in this state or elsewhere;
 - 2. A person nominated as guardian by the respondent at a time when the respondent had sufficient capacity, including the respondent's specific nomination of a guardian made in a durable power of attorney;
 - 3. An agent appointed by respondent under a medical durable power of attorney;
 - 4. The spouse of the respondent or a person nominated by will or other signed writing of a deceased spouse;
 - 5. An adult child of the respondent;
 - 6. A parent of the respondent or a person nominated by will or other signed writing of a deceased parent; and
 - 7. An adult with whom the respondent has resided for more than six months immediately before the filing of the petition.
- C. In a conservatorship proceeding, the following persons have priority for appointment:
 - 1. A conservator, guardian of the estate, or other like fiduciary appointed or recognized by an appropriate court of any other jurisdiction in which the protected person resides;
 - 2. A person nominated as conservator by the respondent at a time when the respondent had sufficient capacity, including the respondent's specific nomination of a guardian made in a durable power of attorney;
 - 3. An agent appointed by respondent to manage the respondent's property under a general durable power of attorney;
 - 4. The spouse of the respondent;
 - 5. An adult child of the respondent;
 - 6. A parent of the respondent; and

7. An adult with whom the respondent has resided for more than six months immediately before the filing of the petition.

D. Restrictions on professionals

1. Unless the court makes specific findings for good cause shown, the same professional may not act as an incapacitated person's or protected person's:
 - a. Guardian and conservator;
 - b. Guardian and direct service provider; or
 - c. Conservator and direct service provider.
- (1) In addition, a guardian and conservator may not employ the same person to act as both care manager and direct service provider for the incapacitated person or protected person.

IX. THE RIGHTS OF THE ALLEGED INCAPACITATED/PROTECTED PERSON

- A. The alleged incapacitated/protected person is entitled to be present at any court proceeding and to see or hear all evidence presented. He is entitled to be represented by counsel, to present evidence, to cross-examine witnesses, including the court visitor.
- B. The court **may** appoint a physician to examine the person alleged to be incapacitated or in need of protection, who shall submit a written report to the court.
- C. In a guardianship case, the court **shall** appoint an attorney for the alleged incapacitated person if he does not have one and if he requests an attorney or expresses a desire to object to the appointment of a guardian. The court **shall** appoint an attorney for the alleged incapacitated person if an emergency guardianship is established. Additionally, if the court believes that the rights and interests of the allegedly incapacitated person cannot otherwise be adequately protected or represented, the court **shall** appoint an attorney to represent the person.
- D. In a guardianship case, the court **may** appoint a guardian *ad litem* for the alleged incapacitated person. A guardian *ad litem* is a special fiduciary with the responsibility to represent and protect the best interests the person in the guardianship proceeding.
- E. In a conservatorship case, the court **may** appoint an attorney for the alleged protected person if he does not have one. The court **may** also appoint a guardian *ad litem*
- F. In a guardianship case, the alleged incapacitated person is entitled to have the court

consider less restrictive alternatives of providing the necessary protective services for him. In a conservatorship case, although the statute does not directly address the issue of less restrictive alternatives, as a practical matter, the court will do so.

- G. In a guardianship case, the alleged incapacitated person is entitled to have the court consider his wishes concerning his care, counsel, treatment, service and supervision. In a conservatorship case, although the statute does not directly address this issue, as a practical matter, the court will do so.
- H. In a guardianship case, the alleged incapacitated person is entitled to have the court consider his views concerning the selection of the guardian, the duties of the guardian, the scope and duration of the guardianship and any limitations or restrictions which should be imposed on the powers of the guardian, thereby creating a **limited guardianship**. In a conservatorship case, the court can limit the powers of the conservator, thereby creating a **limited conservatorship**.
- I. In a conservatorship case, the conservator is required to take into account any known estate plan of the protected person when making investments or distributions.
 - a. Once a guardianship/conservatorship has been established, the incapacitated/protected person has the right to petition the court to terminate the guardianship/conservatorship on the grounds that the person is no longer incapacitated. He or she may also ask for the removal of a guardian/conservator and the appointment of a successor guardian/conservator.
 - b. If the guardianship/conservatorship is no longer necessary, the guardian and/or conservator must petition the court to be released from his or her appointment. Typically, a conservator is required to file a final accounting, and to provide proof of the disposition of any funds remaining in the protected person's estate.

X. HOW THE COURT MONITORS A GUARDIANSHIP AND CONSERVATORSHIP AND ITS ENFORCEMENT POWERS

- A. As indicated above, the court requires the guardian to file an Annual Report of Guardian, and requires a conservator to file an Inventory and Conservator's Report.
- J. If the required documents are not filed, the court may issue an Order to File, requiring the guardian/conservator to file the report by a certain date. Should the guardian/conservator fail to comply with the Order to File, he or she will be ordered to come before the probate registrar to show cause why the guardian/conservator should not be held in contempt of court for failure to comply with the statutes, or to be removed as the guardian/conservator.

Colorado Office of Public Guardianship

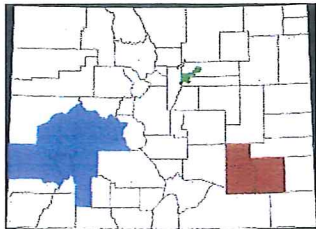


DRAFT



What Is the Office of Public Guardianship?

In 2017 the Colorado Legislature passed House Bill 17-1087. This bill authorized the establishment of an Office of Public Guardianship (OPG) pilot project that will provide legal guardianship services to incapacitated and indigent adults in the Second Judicial District (Denver County), the Seventh Judicial District (Delta, Gunnison, Hinsdale, Montrose, Ouray and San Miguel counties), and the Sixteenth Judicial District (Bent, Crowley, and Otero Counties). In order to fund the pilot five appointed OPG commissioners must raise \$1.7 million in gIGs, grants, or donations per year, in state fiscal years 2018-2019 and 2019-2020.



Why Support the Office of Public Guardianship Pilot Program?

The OPG will provide protection to a vulnerable population. Colorado does not have a statewide office of public guardianship. Without public guardianship services, individuals who are incapacitated and do not have an appropriate friend or family member to serve as guardian, and who lack resources to hire a private guardian, may be left without someone to make necessary decisions that safeguard their well-being. This can result in unnecessary and costly stays in hospitals and long-term care facilities.

The OPG will realize significant cost savings. In addition to the personal impact of delays in obtaining appropriate services, placement, and medical decision-making, the lack of access to guardianship can be financially costly to many state services including Medicaid, adult protective services and law enforcement. Based on the experience of other states, it is anticipated that Colorado will realize cost savings in these and other areas that could potentially offset the cost of the program over time.

What Will the Office of Public Guardianship Do?

- Provide legal guardianship services to indigent and incapacitated adults who have neither a suitable friend or family member to serve as guardian, nor the resources to hire a private guardian. It is anticipated that the Office will serve 200 clients per year in the targeted districts.
- Set eligibility criteria and prioritize cases to ensure individuals with the greatest need are served.
- Implement a data management system to gather previously uncollected data to assess the need, cost/savings, and benefits of a statewide office of public guardianship.
- Submit a report to the General Assembly that quantifies the need, net cost or benefit, savings, and feasibility of a statewide office of public guardianship.

www.courts.state.co.us/opgcommission



HISTORY & TIMELINE

2012: Elder Abuse Task Force releases its final report which includes a recommendation to create an office of public guardianship (OPG).

2013: In response to the Elder Abuse Task Force Report, the Chief Justice of the Colorado Supreme Court forms the Public Guardianship Advisory Committee to study the need for an office of public guardianship.

2014: The Public Guardianship Advisory Committee releases two reports to the Chief Justice of the Colorado Supreme Court affirming the need for an OPG and proposing a pilot project.

2017: HB 17-1087 directs the establishment of the pilot project recommended by the Public Guardianship Advisory Committee. The bill establishes the pilot program as an independent program within the Judicial Department and provides a framework for the program.

The Public Guardianship Commissioners are appointed and charged with initial fundraising and appointment of a Director.

2021: A final report is due, and the program will be continued, discontinued, or expanded at the discretion of the General Assembly.



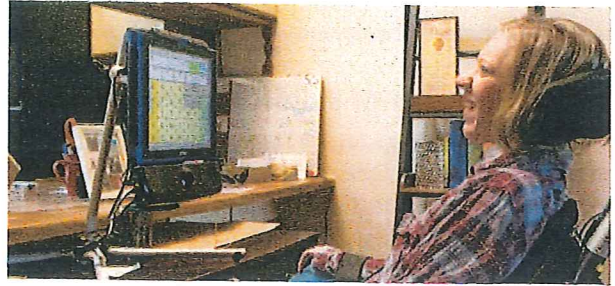
Commissioners:

Shari Caton, Chair
Deb Bennett Woods, Vice Chair
Marco Chayet
Kelsey Lesco
Karen Kelly

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Real Life Impact Story | Non-Verbal Woman with Cerebral Palsy

ML was in her mid-30's when she came to the attention of adult protective services (APS). Diagnosed with cerebral palsy, she was non-verbal and answered questions with eye movements. Her care providers reported that her mother, who was her guardian, was abusive and was isolating ML from friends, school, and other activities and forcing ML to be part of other activities against her will. ML had previously requested legal assistance to have mother removed as guardian but failed in getting the guardianship revoked. APS was able to petitioned the court on the client's behalf and have the guardianship transferred to APS. The guardianship was a limited guardianship and APS worked with ML to find a more appropriate placement that allowed ML to have enhanced communications and increased independence. ML's mother fought the county for several years to try and regain guardianship but the court found mother to be an inappropriate guardian. Had ML lived in a county where APS did not accept guardianships, she would have had no appropriate guardian.



Real Life Impact Story | Elderly Man with Dementia

An elderly man who had not sought healthcare in over 20 years collapsed with a blood stream infection on his way to the grocery store. He was treated in an acute care hospital and found to have dementia as well as require supervised treatment for tuberculosis. In addition, the healthcare team suspected he had bladder cancer. The patient's family had not been in touch for several decades, and refused to participate in healthcare decisions due to his past history of abusing them. The patient refused all evaluation or treatments, so he was kept in the acute care setting, without access to the outside environment, to receive supervised TB treatment mandated by public health officials. He eventually developed hospital-related infections and died in the hospital, 3 months after admission, on the day his guardianship hearing was finally scheduled.



What Does a Guardian Do?

A guardian is person appointed by the court to make decisions regarding the health and wellbeing of a person that a court has determined to be an incapacitated person.

A incapacitated person is a person, other than a minor, who is unable to effectively receive and/or evaluate information or make or communicate decisions to such an extent that the individual lacks the ability to satisfy essential requirements for physical health, safety, or self-care.

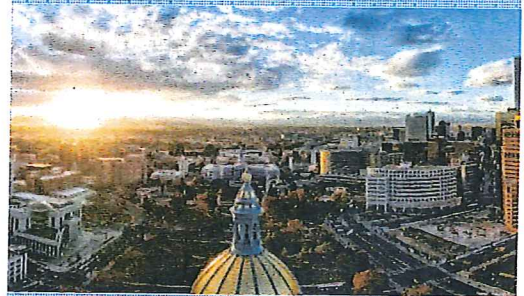
A guardian will make personal decisions for the incapacitated person such as where the incapacitated person will live, what medical treatment he will receive, and other decisions concerning care, support, education, health and welfare.

A guardian may on exercise authority necessitated by the wards limitations.

A guardian will encourage the incapacitated person to participate in decisions, help the ward to develop or regain the capacity to manage his own affairs, and a guardian must consider the wishes and personal values of the incapacitated person.



How Can You Help?



Make a donation.

Any commissioner can accept a donation or you can donate at: www.courts.state.co.us/opgcommission

Join the conversation.

Tell your elected representative that you support public guardianship services.



Sueanna Johnson

From: Bennett-Woods, Debra <dbennett@regis.edu>
Sent: Sunday, June 24, 2018 9:48 AM
To: Sueanna Johnson
Subject: RE: OPG Commission - Information on Executive Director Job Postings

Good morning. I apologize for the delay in responding. Thanks for the information and particularly thanks to Melanie for all of the excellent comparative material. Here are my thoughts at this point. Since I won't be at the meeting, I would like these comments fully shared as written.

In reviewing the job description again, along with all of the excellent resources that were provided, I am even more struck by the differences between what this position will need to accomplish in the pilot project versus what he or she would do if hired into the fully funded governmental entity envisioned for the future of the office. Our own efforts at fundraising are a clear indication of the struggle the Director will have to establish the financial base for the pilot project. In addition, this position is setting up an office from scratch, while also being charged with performing the cost/benefit analysis needed to justify permanent funding and expansion of the office. I do not believe that the job description with which we are currently working sufficiently communicates this specific scope, in part because it is too long and too detailed.

I would recommend organizing around a couple of very specific statements of responsibility that are front and center in the job description. In reality, this position is not the Executive Director of the OPG but the Director of the OPG Pilot Project. To suggest other than that is, in my view, overtly misleading.

Primary job responsibilities should clearly specify:

- Assures financial viability of the pilot project through development of a fundraising plan, policies, procedures and materials; identification, cultivation and solicitation of donor prospects; identification and pursuit of grant opportunities; and effective collaboration with the Commission on fundraising initiatives.
- Collects, analyzes and synthesizes data from the pilot project to prepare and justify strategic and operational plans and legislative funding requests for the permanent establishment and legislative funding of the statewide Office of Public Guardianship.

Qualifications should include:

- Strong marketing, public relations, fundraising experience and advocacy across non-profit, for-profit and governmental environments.
- Ability to engage the support and collaboration of a wide range of community stakeholders and state legislators and administrators.
- Experience in the collection, analysis, synthesis and reporting of data for needs assessment and service expansion.
- Prior experience with relevant project management responsibilities.

Deb

Deb Bennett-Woods, EdD
Professor Emerita
Regis University
Email: dbennett@regis.edu

FOR COMMENT

From: Kelsey Lesco <klesco@disabilitylawco.org>
Sent: Thursday, June 21, 2018 11:08 AM
To: Sueanna Johnson
Subject: Re: OPG Commission - Reminder Regarding Job Description Edits

Hi

I apologize for the delay in getting this to you.

After reading the other job descriptions my comments are relatively unchanged from what I stated in the last OPG meeting.

I believe that we are hiring for a position that is simply different from hiring for an established or funded office. In the job description I believe that we need to place a larger emphasis on fundraising. This will be a large part of the job of the executive director of the pilot program. I also see that a very important component of this position will be to write a report to the General Assembly where the director quantifies the unmet need for guardianship services, quantifies the cost and completes a cost-benefit analysis. This report is critical in the continuation of the office past the pilot program stage, which is the goal. I believe that the data analysis requirements of the position should be explicit. In the last meeting the use of two job descriptions was mentioned by HR and that may be appropriate in this situation.

Thanks
Kelsey

FOR COMMENT

EXECUTIVE DIRECTOR OF THE OFFICE OF PUBLIC GUARDIAN

The *Office of Public Guardian (OPG)* is now accepting applications for the position of Executive Director. Below is the position description.

Compensation for this position is allocated at \$_____ annually.

Mission of the Office of Public Guardian:

The mission of the Office of Public Guardian aims to oversee and provide guardianship for indigent and incapacitated adults when other guardianship possibilities are exhausted. If Colorado adults lack responsible family, resources to compensate a private guardian, and public service organizations cannot provide guardianship, the OPG provides guardianship legal services to secure the health and safety of these individuals while preserving their independence wherever possible.¹

OPG Values:

Availability of guardianship: The OPG should meet the need of guardianship for adults who possess no other options to ensure that all adults have their needs met.

Autonomy for adults: Guardianship should respect the concerns and decisions of those adults under a court appointed guardianship, and—where possible—assist adults to regain or develop their capacities.

~~Availability of guardianship:~~ The OPG should meet the need of guardianship for adults who possess no other options to ensure that all adults have their needs met.

Accountability for services: The OPG should track services provided in order to allocate resources to meet guardianship needs

Comment [M1]: Is this Ed for the pilot project only? Or for the pilot and any permanent OPG?

Comment [M2]: You do not want to say "legal" services. This implies representation of a guardian.

Comment [M3]: Assist? Where is a guardian ordered to do that? Is there a better word?

Executive Director Position Description:

Applicants should refer to C.R.S. § 13-94-104 et seq. for a comprehensive description of and minimum requirements for the position.

The Executive Director serves at the pleasure of the five-member appointing commission and is responsible for ensuring that the office meets the requirements of C.R.S. § 13-94-104 et seq.

The Executive Director will perform the following:

- ❖ Establishment, development, direction, and administration of the Office of the Public Guardian, including creation of professional standards for the and a code of ethics for office employees

¹ Until 2021, the Office of Public Guardian will be a pilot program serving the second, seventh, and seventeenth Judicial Districts of Colorado.

and guardian-designees, cultivation of relationships with relevant stakeholders, implementation of a data management system, and adoption of eligibility and prioritization criteria for referrals;

- ❖ Supervision, hiring, and termination of office employees, including
 - Establishing expectations and provide employee performance feedback on an on-going and annual basis, and assist employees in establishing goals,
 - Providing recommendations regarding employee's employment probationary/trial period;
- ❖ Contracting of ~~guardians~~attorneys and management of contracts, including
 - Engagement of outreach and recruitment efforts to obtain a diverse and qualified pool of applicants,
 - Interviewing and evaluating potential new attorney contractors,
 - Evaluation and monitoring ~~guardian~~attorney contractors' compliance with statutory requirements, best practices, any Chief Justice Directives and OPG policies, establish performance standards and provide performance feedback and evaluations,
 - Determination of appropriateness of ~~guardian~~lawyer appointments and adjust OPG guardian appointment lists —in each judicial district as necessary,
 - Establishing billing policies and procedures; reviews contractor invoices and approves payment requests, and
 - Provision of relevant, accessible attorney training statewide;
- ❖ A review of referrals to the office;
- ❖ Recruitment, training, and oversight of guardian-designees;
- ❖ Handling and responding to complaints against the office, and making judgments about whether investigations of cases should be pursued;
- ❖ Maintenance of a public guardianship data management system;
- ❖ Office management, financial planning, and budgeting for office;
- ❖ Securing funding in the form of gifts, grants, donations, and allocations secured through working with the General Assembly and Joint Budget Committee;
- ❖ Public education and outreach regarding the role of the office and guardian-designees, including requests for information;
- ❖ Analyze legislation impacting the OPG, and advocate for the interests of the OPG and the adults it represents;

Comment [M4]: I believe we are looking for guardians, not attorneys. This is a HUGE point we need to discuss. I thought OPG is to take guardian appointments NOT to be a substitute for the legal work done by a petitioner (like APS). If OPG is to be the petitioner than OPG will be put into contested guardianship proceedings and it will become more legal service than guardianship service. UNLESS, we expect OPG to do both. This changes the dynamic and funding significantly.. We have to figure this part out. Of course there will need to be a staff lawyer or two perhaps, but if OPG does every case from Petition forward (instead of being a nominee) this needs to be vetted out.

- ❖ Report on OPG activities, concerns, and issues to OPG commission members, including the OPG budget, legislation, policies, and mandates;
- ❖ Reporting on the activities of the OPG and the need of guardianship services in Colorado to the General Assembly;
- ❖ The Executive Director is also responsible for special duties pursuant to the statutory evaluation of the OPG occurring by January 1, 2021 and found in C.R.S. 13-94-105(4) et seq.