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# Colorado Office of Public Guardianship

## Commissioners

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



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## PUBLIC MEETING

October 24, 2018

## Record of Proceedings

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### 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 10:04 AM by Commission Chair Caton.

A quorum of the Commission was present.

### **Commission Members Present**

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

### **Commission Members Absent**

Karen Kelley

### **Others Present**

Hugh Wilson, Office of the State Court Administrator  
Terry Scanlon, Office of the State Court Administrator  
Connie Lind, Office of the State Court Administrator  
Sueanna Johnson, Senior AAG  
Steve Allen, Joint Budget Committee Staff Member

### **Public Attendance**

Terry Lake  
Robert M. Hernandez\*  
Maureen Welch\*

\* Appeared/Participated by Telephone

## **AGENDA ITEMS**

### **I. Approval of the October 3, 2018 Minutes**

Commission Vice-Chair Bennett-Woods asked for a minor change on page 3, the second to the last bullet point, to remove the word “but” in the sentence.

Commission Vice-Chair Bennett-Woods moved for adoption of the October 3, 2018 minutes as amended. The motion was seconded by Commissioner Chayet. The motion passed unanimously.

### **II. Chair Announcements**

Commission Chair Caton will hold her comments until the Fundraising Efforts/Community Outreach on the agenda.

Mr. Wilson stepped out of the room, therefore, Commission Chair Caton passed on item IV - Monthly Budget Report.

### **III. Update on Budget Supplemental Proposal for FY 19-20 due Dec. 31, 2018, and Presentation of Legislative Process**

Chair Caton welcomed Mr. Scanlon, Legislative Liaison for State Judicial, to the meeting. She briefly discussed the 1331 Request process, noting the request was denied.

Mr. Wilson returned to the room and provided a narrative for moving forward. Mr. Wilson provided a draft copy of the Colorado Office of Public Guardianship FY 2018-19 Funding Request, December 31, 2018.

The Request for the Supplemental/Budget Amendment highlights discussed:

- Nov. 1<sup>st</sup>, all state departments are to submit their budget request to the Joint Budget Committee (JBC) for FY20 (beginning July 1<sup>st</sup>);
- Proposed Supplemental/Budget Amendment to the JBC by Dec. 31, 2018;
- Legislation and appropriations of 1.7 million will be in the Nov. 1, 2018 submission;
- Legislation/Statutory deadline is the 1<sup>st</sup> working day of the new year;

- Request for \$565,469 in FY19 (usually available by March 1<sup>st</sup>) is to pay the salary of the Executive Director, Controller, and Staff Assistant, and for leasing space, the case management system, and IT Consultant; and
- FY20 – Amend the Nov. 1<sup>st</sup> submission; remove the cash fund to require 1.7 million General Funds, allowing for hiring the FTE/guardians.

Mr. Allen asked permission to provide insight as to his role in presenting the Request for Supplemental/Budget Amendment to the JBC. His request was granted. He wanted to assure the OPG Commission that he would make it clear that the amendment for FY20 includes removing the cash fund and requiring 1.7 million in General Funds.

Mr. Scanlon provided further clarification, including the legislative process, and advised the OPG that they should have a solid plan in place, and that it would be beneficial if all JBC Members were to hear about their plan/request prior to Dec. 12th. He also discussed reaching out to the Legislative Counsel Staff Member who sets the agenda for the Smart Act Hearings.

Mr. Wilson followed-up by adding:

- Dec. 10/12<sup>th</sup> Budget Briefing
  - Mr. Allen will present to the JBC all submissions; and
  - The JBC may ask questions at that time
- Dec. 18<sup>th</sup> Hearing
  - All agencies go before the JBC;
  - The JBC could be asked to run legislation; and
  - Commission Chair Caton would have the opportunity to address the JBC

The OPG Commission sought further clarification from Mr. Wilson, Mr. Scanlon, and Mr. Allen regarding:

- The processes;
- Whether to seek stakeholder support, and support from the organizations the Commission has been in contact with;
- Concerns if the JBC doesn't carry the legislation; and

- Concerns with moving forward with the pilot project, seeing that the funding request hasn't been reassessed since the 2014 report.

Mr. Wilson advised that the figures are an estimate, and the estimates are reasonable and are good faith estimates.

Mr. Allen advised if the Request/Supplemental Budget Amendment is approved for moving the pilot project forward, it is likely that funding would continue. The pilot project is to gain useful information and data, showing the cost benefit, case load totals, etc. Mr. Wilson and Mr. Scanlon agree, and add, the data is needed for moving from a pilot project to statewide implementation.

Mr. Lake also agrees and adds that the data legitimizes the needs for going statewide.

Mr. Scanlon requested permission to work with Commission Chair Caton on these matters.

Commission Chair Caton asked if there is a motion designating her, as the Commission Chair, to work directly with Mr. Scanlon on these matters. Commissioner Lesco moved to designate Commission Chair Caton as the commission member to work with Mr. Scanlon. The motion was seconded by Commission Vice-Chair Bennett-Woods. The motion passed unanimously.

Mr. Wilson asked that the Commission have their comments regarding the Request for Supplemental/Budget Amendment, proposed legislation, etc. to AAG Johnson no later than November 8<sup>th</sup>.

Commission Chair Caton asked if there is a motion to proceed as recommended in moving forward with the Request for Supplemental/Budget Amendment as presented by Mr. Wilson. Commission Vice-Chair Bennett-Woods moved to proceed as recommended with the Request for Supplemental/Budget Amendment as presented. The motion was seconded by Commissioner Lesco. The motion passed unanimously.

It is recommended that an emergency OPG meeting be held on November 14<sup>th</sup> at 10:00 a.m. to finalize the Request for Supplemental/Budget Amendment. Commission agrees. Ms. Lind is asked to find a room for holding the meeting.

#### **IV. Monthly Budget Report**

Mr. Wilson advises no change. No donations. No expenses.

#### **V. Review of Edits/Suggestions for Legislation of OPG Pilot Program and Update on Sponsorship/Activities Regarding Upcoming Legislative Session**

AAG Johnson advised the OPG Commission's comments were aggregated, attaching the emails from Commission Chair Caton and Commissioner Lesco to the legislation.

Commission Chair Caton addressed each of the comments.

- All references of 2021 will be changed to 2023 (i.e. section 13-94-102(2)(b), C.R.S. That the office is a pilot program, to be evaluated and then continued, discontinued, or expanded at the discretion of the general assembly in 2023.)
- Section 13-94-102(2)(a)(I)(B), C.R.S., is to be stricken
- Section 13-94-104(3), C.R.S., striking the first part of the sentence, and keeping the remaining language, beginning with, [t]he commission shall appoint a director to establish, ...
- Section 13-94-105(1), C.R.S., deleting the last sentence.
- Section 13-94-105(4) and (5), C.R.S., changing the year 2021 to 2023
- Section 13-94-108(2), C.R.S., change the year 2021 to 2023
- Section 13-94-111, C.R.S., change the year 2021 to 2023

Further discussion:

- Mr. Lake asked if there were any flexibility with the FTE (e.g. contract model) because of the labor intensive role of a guardian.
- Commission Chair Caton explained there were concerns regarding the lack of individuals to serve as guardian, therefore, immunity provisions were included in the fiscal note
- Mr. Allen recommends a wind-down provision

Commission Chair Caton asked if there is a motion to approve AAG Johnson making the suggested edits and approving the changes as the Commission proposal for proposed legislative amendments. Commission Vice-Chair Bennett-Woods moved to approve AAG Johnson making the suggested edits to the legislation that will be the proposed amendments for the Commission. The motion was seconded by Commissioner Lesco. The motion passed unanimously.

## **VI. Fundraising Efforts/Community Outreach**

### ***Commissioner Lesco***

- The Montrose Outreach Event was successful. It was a group of knowledgeable individuals. Approximately 10 attendees. Discussion included: considering a satellite office to meet the services needed for that area; concerns that the current FTE proposal will not be enough (approximately 100 individuals currently in need of a guardian in the Montrose area)
- Ideas for local grant organizations
- The OPG will be the legislative priority for the Senior Lobby Board. They've asked for talking points. There is a lobbyist in this organization
- Would like to finalize the marketing materials

### ***Commission Chair Caton***

- Presented at 2018 Rocky Mountain Case Management Conference – 150 attendees, who ran the gamut from hospital social workers, professional fiduciaries, case management folks in acute or long term care facilities, broad list of attendees; the Office is needed
- Contact with Representatives
- In contact with strategic planning groups
- Finalized the 9News story
- The Interim Report was sent to Governor Hickenlooper and Chief Justice Coats

- Request in Grand Junction for outreach program (outside Judicial District) but Commissioner Lesco would follow up on this to see if still interested – the Community Center Board)
- Several meetings scheduled with individual stakeholders (4 in the next week and half)

***Commission Vice-Chair Bennett-Woods***

- Primary activity was tracking down Representative Young
- Assisted w/ AAG Johnson on letters to appointing authorities
- Update knowledge base about research in guardianship statutes and looking at each state for annual reports to see what the state of guardianship law is and whether any relevant new data exists

Commission Chair Caton asks that Vice-Chair Bennett-Woods make herself available and all Commissioners with meetings for the JBC and the General Assembly or Representatives in the upcoming weeks.

Commission Chair Caton did not see report from Commissioner Kelley, but Commissioner Kelley is excused due to health issues.

Mr. Chayet was not able to stay connected on telephone.

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

Mr. Chayet is not on telephone so this item is tabled until he is present.

**VIII. Review and Approval of the Marketing Materials**

Commissioner Lesco has made all previous changes identified by Commissioners. AAG Johnson noted that Commissioner Kelley’s name is still misspelled, and Commissioner Lesco will fix it. All changes will be made and then the marketing materials will be posted on the website.

Commissioner Lesco indicated that the “cost saving” sentence was rewritten as suggested from previous meetings.

Commission Vice-Chair Bennett-Woods brings up a question about the language concerning raising money and whether that should be changed or what should be done given the legislative goal of amending the statute. Commission Chair Caton

indicates that the language should remain, as the OPG Commission is charged with raising money for now.

Commissioner Lesco indicates that at some point, could have two versions with and without donations request.

Commission Caton called for a motion approving the marketing materials as amended. Commission Vice-Chair Bennett-Woods made the motion. Commissioner Lesco seconded the motion. The motion passed unanimously.

## **IX. Public Comment**

Commission Chair asked for any public comment.

Mr. Lake indicate that the discussed that rural needs for mental help assistance, and he wanted to make clear that those cases are most often the most contested guardianship and most labor intensive matters.

Ms. Welch is extremely concerned that reading of minutes and discussion at OPG meetings is all about money and not about rights of individuals who are subject to guardianship. She is shocked that the OPG is going back to JBC, and wholly opposes and will make sure her voice as a stakeholder is heard. She does not believe that government immunity applies to the judicial branch. Finally, she does not want this Office to be funded unless the Office and Commission are working with the stakeholders.

Mr. Hernandez is concerned that there are no safeguards right now when taking control of another's life. He refers to guardianship reforms in other states, and brings up a New Yorker article about abuses in the guardianship system when there are no safeguards. He indicates that Adult Protective Services will be undergoing a compliance audit next year and the State Auditor is putting together a review. He advises the Commission to look at safeguards to push forward, and has not heard any discussion about safeguards or protections for the people who are to be protected. He suggests that legislators will like to see safeguards, that the senior lobby and AARP have concerns about protections and want the creation of a Protected Person Bill of Rights

AAG Johnson clarified that OPG is not part of the Judicial Branch but is independent of State Judicial.



**XII. Adjourn**

Commission Vice-Chair Bennett-Woods moved for the meeting to be adjourned. The motion was seconded by Commissioner Lesco. With no objections, the meeting was adjourned at 12:15 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.

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Shari Caton, Commission Chair

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Deb Bennett-Woods, Commission  
Vice-Chair

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

For OPG Commission Review - 12-7-2018