

GUARDIANSHIP ROUND TABLE

“A Bridge to the Future”

April 16 & 17, 2007

Hosted by:

Washoe County Public Guardian

Judge David Hardy District Court Judge, Family Court

Guardianship Round Table Worksheet

The following categories have been indicated to be areas of concern in the Washoe County Guardianship system in recent reports by the courts and the community.

Day One of the Guardianship Round Table ranked the following italicized items as being the most important; Day Two established and/or clarified suggestions (listed in bullet-point format below each item) as actions to help achieve the desired goal(s).

Courts:

Specialized guardianship courts

- Reallocate resources from or within Family Court to support specialized Guardianship Court.
- Fashion a department out of Family Court modeled after Probate Court structure.
- Establishing of specialized court provides leadership, expertise, continuity, predictability, oversight.
- Change in District Court rules.
 - The specialized Guardianship Court should consist of a minimum of a judge, investigator, auditor, and monitoring system. (20 votes)
 - The specialized Guardianship Court should consist of a minimum of a judge, professional investigator, professional auditor, and monitoring system. (23 votes)

Court staff specialization for guardianships

- Include specialized staff as indicated above.
- Explore funding options to include legislative appropriation, filing fees, grants, and/or County funding.
- Reassign qualified court personnel and reallocation for resources as indicated above.

Court investigator

- Adoption of standards for qualifications and duties of court investigators.
- Consideration of court staff investigator in pre-appointment situations.
- Consideration of appointment of guardian ad litem post-appointment.

Guardian training and reference materials

- Utilize Nevada Guardianship Association and other advocacy organizations for collaborative education and training.
- Adopt NGA standards and code of ethics, along with local adjustments.
- Develop collaborative community task force of trainers to conduct guardianship training.
- Utilize self-help center in developing educational opportunities for family guardians, including the Nevada Guardianship Association, Washoe County Public Guardian, Senior Law Project, Special Advocates For Elders, Nevada Legal Services, and the Washoe County Bar Association.

Wingspan Recommendation 9: Guardian Training

All guardians [should] receive training and technical assistance in carrying out their duties. Organizations, including the National Guardianship Network, should develop and offer specially designed introductory and continuing guardianship courses for judges, court personnel, families, guardians, proposed fiduciaries, and attorneys practicing in the guardianship area, including training on minimum guardianship standards and ethics.

Action Step 9-1: Guardian Education

The supreme court of each state should promulgate rules and/or the state legislature of each state should enact a statutory framework to require education and certification of guardians as well as continuing education within the appointment process to ensure that all (i.e. professional and family) guardians meet core competencies.

Wingspan Recommendation 56: Judicial Specialization

Guardianship issues [should] be delegated to judges who have special training and experience in guardianship matters. Comment: Judicial specialization should be encouraged. There is a need to increase expertise of the judiciary and the support staff in guardianship matters.

Action Step 56-1: Specialized Courts

States should consider the creation of specialized courts (on a local or regional basis) to handle guardianship matters.

Action Step 56-2: Judicial Training

The Supreme Court (or other appropriate judicial body) in each state should mandate training of judges to achieve core competency in guardianship matters prior to judges assuming responsibility for those cases.

Action Step 56-3: Court Staff Training

The Supreme Court (or other appropriate judicial body) in each state should mandate training of court staff to achieve core competency in guardianship matters prior to the court/support staff assuming responsibility for those cases.

Action Step 56-4: Funding for Court Staff Education

The funding entity for the court (whether statewide or county level) should allocate funds for the initial and continuing education of court staff in guardianship matters.

Action Step 56-5: Training Modules

NCPJ and/or NJC should develop and promote a judicial education module for judges and court staff in guardianship matters.

Development of model orders, inventories, reports, accountings

- Implementation of Nevada Supreme Court order regarding pro se guardianship forms.
- Create a multidisciplinary task force to work with specialized court in developing forms, orders, standardization, et cetera.

Wingspan Recommendation 39: Plenary Orders

Orders establishing a plenary guardianship rather than a limited guardianship [should] require proof of why the guardianship should be plenary.

Action Step 39-1: Model Orders

NGN should develop templates for court orders that ensure that guardianship orders address a menu of functional areas, with each area requiring specific proof to establish lack of capacity. Plenary guardianships would not be appropriate unless all areas have sufficient proof of lack of capacity (e.g., a finding of a need for help with financial management would not result in loss of the right to vote.)

Court monitoring of guardians

- Specialized court must have technology necessary to properly monitor guardianships.
- Specialized court should develop monitoring system with sufficient personnel to monitor all guardians.

Wingspan Recommendations 51: Mandatory Reports and Accounts

There [should] be mandatory annual reports of the person and annual financial accountings to determine the status of the person with diminished capacity. The report and the accounting should be audited as frequently as possible.

Wingspan Recommendations 52: Monitoring Requirements

To provide effective monitoring, the following are required:

- (a) a functional assessment of the abilities and limitations of the person with diminished capacity;*
- (b) an order appropriate to meet the needs of the person with diminished capacity (with preference given to as limited a guardianship if possible);*
- (c) an annual plan based on the assessment and an annual report, appropriately updated, based on the plan; and*
- (d) inclusion of any other mandated reports which are the guardian's responsibility, such as reports to the Social Security Administration or the Department of Veterans Affairs.*

Action Step 51/52-1: State Supreme Court Oversight

NGN should recommend that each state supreme court adopt the following approaches for strengthening guardianship oversight:

- (a) Requiring prospective personal and financial plans for wards at appointment and yearly thereafter;*
- (b) Developing a standardized statewide form for reporting;*
- (c) Creating a system of reviewing compliance;*
- (d) Developing data management and tracking systems;*
- (e) Establishing sanctions for failure to comply; and*
- (f) Creating support, training and technical assistance within the guardianship community.*

Action Step 51/52-2: White Paper on Monitoring Effect

NGN should develop a White Paper explaining the need for guardianship monitoring in order to effect change. NGN should use currently existing resources or resources in the process of being created in developing the White Paper.

Action Step 51/52-3: White Paper Dissemination

NGN should disseminate the White Paper to agents of changes identified in each state, explaining the need for guardianship monitoring and giving examples of why monitoring is essential – including the rise in elder abuse, neglect and exploitation.

Action Step 51/52-4: Protection of Privacy and Confidentiality

Since the information created as a result of enhanced monitoring and oversight raises serious questions of privacy and confidentiality concerning vulnerable people, each state and jurisdiction should address the issues of privacy and confidentiality when implementing programs of guardianship monitoring reform.

Action Step 51/52-5: Administrative Monitoring

NGN should recommend to the various state courts that the courts create an administrative entity for guardian training, and auditing, oversight and monitoring of guardianships. After the guardianship is established the case should be moved to the administrative entity.

Community:

Utilization of less restrictive alternatives to guardianship

- Define what is available for less restrictive.
- Education.
- Develop community based services.
- Development of community case management where feasible.
- Pull in resources before guardianship – person/estate geriatric case management.

Wingspan Recommendation 2: Functional Assessment

Functional and multi-disciplinary assessment [should] be used in determining diminished capacity. The terms “incapacity,” “incapacitated,” and “incompetent” should be rejected, and in place, the term “diminished capacity” should be used.

Action Step 2/8-1: Assessment Linked to Least Restrictive Alternative

NGN should encourage states to provide in their statutes and appropriations for the use of functional and multi-disciplinary assessments linked to least restrictive criteria, as well as the use of the term “diminished capacity.”

Action Step 2/8-2: National Templates for Ordering Assessment

At the national level, members of the NGN should develop templates or best practices for multi-disciplinary assessments that ensure that qualified evaluators are used for each type of presenting problems that comes before the guardianship courts (e.g., developmental disability, progressive dementia, chronic mental illness, traumatic brain injury), and that encourage the use of the least restrictive alternative.

Action Step 2/8-3: Implementation of Assessment Templates

At the local level, courts should adapt such templates or best practices, as described above in Action Step 2/8-2. Each local guardianship judge should then use his or her influence to convene a meeting with local stakeholders to implement the use of the multi-disciplinary assessments.

Action Step 2/8-4: Clearinghouse on Assessments

NGN (directly or through another organization it identifies) should develop a clearinghouse on best practices in multi-disciplinary assessments. NGN should establish interactive internet resources on the topic of multi-disciplinary assessments including a confidential component for judges.

Role of Elder Protective Services

- Money and better responsiveness.
- Interrelated and interactive.
- Statutory authority revision to increase.
- Increase resources to EPS and APS to provide services to avoid guardianship and to support ongoing guardianship.
- If community wants EPS role to expand, must ask legislature to fund and rewrite laws.
- Community investigators are needed as first report of a need.
- Education, collaboration between these entities.

Role of Adult Social Services

- Money and better responsiveness.
- Interrelated and interactive.
- Statutory authority revision to increase.
- Increase resources to EPS and APS to provide services to avoid guardianship and to support ongoing guardianship.
- Community investigators are needed as first report of a need.
- Education, collaboration between these entities.

Level of County support for vulnerable populations

- Educate the agencies so that they can be responsive and responsible.
- Community support and education.
- Advocate for reprioritization of tax dollars and statute expansion.
- Increase funding where possible and creative solutions by resource persons where funding is taken away or further limited.
- Vote with wallet.

Level of State support for vulnerable populations

- Educate the agencies so that they can be responsive and responsible.
- Community support and education.
- Increase funding.
- Advocate for reprioritization of tax dollars and statute expansion.
- Increase funding where possible and creative solutions by resource persons where funding is taken away or further limited.
- Vote with wallet.

Rights of Wards:

[Note that *Wingspan – The Second National Guardianship Conference, Recommendations* contained an entire section (**III. Due Process**) which discussed various rights for respondents (potential wards). A copy of said report is included with this worksheet for further reference.]

Appointment of guardian ad litem for ward

- Define guardian ad litem role and standardize it.
- A guardian ad litem shall be appointed in every guardianship case to represent the best interest of the proposed ward or ward, unless the court orders otherwise.

Out of state placement of wards

- Enhanced advocacy for in state placement.
- Develop local resources and better health services and develop incentives for in state facilities to take difficult-to-place patients/wards.
- Increase in state placement options for those in need and/or criteria to determine when order for out of state placement is last resort.
- Support efforts of Second Judicial District Task Force On Out Of State Placement.

Appointment of attorney for ward

- Every ward should be represented by counsel to advocate for the wishes of the proposed ward or ward for the duration of the competency proceeding.
- Increase funding for representation of indigent cases by implementing filing fees, through grants (AOA/ADRC), general revenue, et cetera.

Proper assessment of capacity

- Standardized multidisciplinary capacity assessment form.
- Possible continued reassessment.
- Educating the medical and mental health community on guardianship issues.
- Utilize resources of University of Nevada, Reno.

Cost of assessment of capacity

- Cost of capacity assessment in indigent cases to be paid by county through grants, if no other funding source is available.
- Rotate professionals to take reduced fee cases.

Committees:

Wingspan Recommendation 6: Interdisciplinary Guardianship Committees

State and local jurisdictions [should] have an interdisciplinary entity focused on guardianship implementation, evaluation, data collection, pilot projects, and funding.

Action Step 6-7: Local Efforts

Judges should initiate a local and/or regional interdisciplinary guardianship committee, which may include, for example, representatives of:

- *Local bar sections;*
- *State guardianship associations;*
- *Alzheimer's Association;*
- *Mental health associations;*
- *Area Agencies on Aging;*
- *Medical associations;*
- *State agencies for individuals who are chronically mentally ill or have developmental disabilities;*
- *The Arc;*
- *Universities;*
- *AARP;*
- *County social services;*
- *State adult protective services workers; and*
- *Legal aid attorneys*

Specialized Guardianship Court Committee:

- ◊ John Smith – 324-9100
- ◊ Patty Cafferata – 324-9970
- ◊ Alexandria Mason – 328-2592
- ◊ Jerry Nims – 331-4266, jnims@fielding.edu
- ◊ Dennis Travers – 331-1266
- ◊ Linda Bowman – 328-3100
- ◊ Ginny Casazza – 287-5005
- ◊ Stan Brown, Jr. – 337-8800
- ◊ Linda Daykin – 786-9918
- ◊ Ernie Nielson – 323-2592
- ◊ Manuel Coronado – 343-4200

Court Staff Specialization for Guardianships Committee:

- ◊ Linda Bowman – 328-3100
- ◊ Ginny Casazza – 287-5005
- ◊ Linda Daykin – 786-9918
- ◊ Manuel Coronado – 343-4200

Court Investigator Committee:

- ◇ Angela Dottei – 848-2290
- ◇ Jerry Nims – 331-4266, jnims@fielding.edu
- ◇ Kim Spoon – 331-1266
- ◇ Bonni Walker – 331-1266
- ◇ Anna Strub – 784-7308
- ◇ Gilda Johnstone – 853-1937
- ◇ Steven Hockenberry – 343-4200
- ◇ Liina Mandik – 343-4200

Guardianship Training Committee:

- ◇ Angela Dottei – 848-2290
- ◇ Ginny Casazza – 287-5005
- ◇ Gilda Johnstone – 853-1937
- ◇ Patrick Brumley – 343-4200
- ◇ Susan DeBoer – 343-4200

Development of Model Orders, Inventories, Reports, Accountings Committee:

- ◇ Patricia Winnie – 324-0844
- ◇ Shelly Register – 331-1266
- ◇ Patty Cafferata – 324-9970
- ◇ Kim Rowe – 827-2000
- ◇ Ginny Casazza – 287-5005
- ◇ Stan Brown, Jr. – 337-8800
- ◇ Manuel Coronado – 343-4200
- ◇ Linda Daykin – 786-9918
- ◇ Ernie Nielson – 323-2592
- ◇ Libby McKay – 343-4200

Court Monitoring of Guardians Committee:

- ◇ Angela Dottei – 848-2290
- ◇ Kim Spoon – 331-1266
- ◇ Gilda Johnstone – 853-1937
- ◇ Steven Hockenberry – 343-4200
- ◇ Ginny Casazza – 287-5005
- ◇ Ernie Nielson – 328-2592

Utilization of Less Restrictive Alternatives to Guardianship Committee:

- ◇ Jerry Nims – 331-4266, jnims@fielding.edu
- ◇ Donna Shilinsky – 786-6600
- ◇ Marietta Bobba – 328-2575
- ◇ Sue Weyl – 343-4200
- ◇ Ernie Nielson – 328-2592

Role of Elder Protective Services Committee:

- ◇ Jerry Nims – 331-4266, jnims@fielding.edu
- ◇ Kay Panelli – 688-2964
- ◇ Kay Rogne – 688-2964
- ◇ Marietta Bobba – 328-2575
- ◇ Kim Spoon – 331-1266
- ◇ Liina Mandik – 343-4200

Role of Adult Social Services Committee:

- ◇ Jerry Nims – 331-4266, jnims@fielding.edu
- ◇ Anna Strub – 784-7308

Level of County Support for Vulnerable Populations Committee:

- ◇ Pamela Johnston – 343-4200

Level of State Support for Vulnerable Populations Committee:

- ◇ Jane Gruner – 688-1930
- ◇ Fay Boise – 688-1930

Appointment of Guardian Ad Litem Committee:

- ◇ Jerry Nims – 331-4266, jnims@fielding.edu
- ◇ Donna Shilinsky – 786-6600
- ◇ Ginny Casazza – 287-5005
- ◇ Bonni Walker – 331-1266
- ◇ Ernie Nielson – 328-2592
- ◇ Marietta Bobba – 328-2575

Appointment of Attorney for Ward Committee:

- ◇ Ernie Nielson – 328-2592
- ◇ Shelly Register – 331-1266
- ◇ Marietta Bobba – 328-2575

Proper Assessment of Capacity Committee:

- ◇ Jerry Nims – 331-4266, jnims@fielding.edu
- ◇ Donna Shilinsky – 786-6600
- ◇ Ernie Nielson – 328-2592
- ◇ Jane Gruner – 688-1930
- ◇ Fay Boise – 688-1930
- ◇ Sue Weyl – 343-4200
- ◇ Marietta Bobba – 328-2575
- ◇ Kim Spoon – 331-1266

Cost of Assessment Committee:

- ◇ Ernie Nielson – 328-2592