

## Guardianship Council Meeting

*Friday, April 18, 2008*

*9:00 a.m. – DDPC Conference Room*

**Present:** Ann Christensen, Duane Christensen, Shannon Cupka, Grace DeSantiago, Dennis Drucker, Ling Faith-Heuertz, Vicki Hunt, Ed Kaul, Janice Ladnier, Gerald McBride, Terri McCaslin, Simon Romo, Christine Wester, Diane Griego, Frank Fajardo, Chris Rowland

**Recorder:** Mercy Gonzales-Clay

TOPIC	DISCUSSION	ACTION PLAN/ FOLLOW UP	STATUS
<i>Introductions</i>	Introductions were made around the room.	Information	Closed
<i>Article 5 re: appointment of membership</i>	<i>Frank</i> , expressed his hope that this would become self-sufficient council with officers to act as an advisory to the Office of Guardianship. He would like to have the council run their own meetings and his capacity would be to sit in on the meetings. He recommended that a subcommittee be set up to select officers from members listed on the handout. The members present went over the list and Dennis suggested that Guardian Angels, LLC should be listed under item 4 instead of item 3 since they won't be renewing their contract for this upcoming FY. The list was reviewed and it was suggested that Simon Romo be added to the list from interested stated agencies. It was suggested that Vicki Hunt from UNM Senior Assoc University Counsel be added to the list of possible appointments under the Community Based Services. A suggestion from Grace deSantiago to recruit someone from the VA Administration should be here as a representative. She will recruit someone. A discussion of who determines the voting members and who should not be a voting member. A question of amending the bylaws was discussed. Suggestions to amend article XII (quorum of 1/3 of the elected members). A meeting should be scheduled for amending the bylaws. Dennis suggested the first item on next meeting's agenda should be to have Pat appoint the 20 members and then have the election of officers. A conference call will be scheduled and then meet before the	Meeting to amend bylaws will be forthcoming to include 20 council members, 15 of who would be voting members.  Pat will review the list and appoint the council members.	Ongoing

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	next meeting.		
<b>Article 14 re: Officers – elect a Chair and Vice Chair on an annual basis.</b>	Decision was made to put off election of officers until appointments to the council were made.	Deferred to next meeting.	To be conducted at the next meeting
<b>Subcommittee – to examine the Role of the Guardian</b>	<p>Janice Ladnier reported that subcommittee was having some very good meetings. She inquired if they could recommend changes in the probate code. She would like to propose what other states are doing. She also would like to see The Handbook for Guardians and Conservators updated. She feels that it is a one-sided view of guardianship and can appear to be misleading. She informed the council that the subcommittee was meeting on 4/25/2008 @ 1:00 in the DDPC conference room.</p> <ul style="list-style-type: none"> <li>➤ Frank stated that we were not participants in the writing and updating of the book but perhaps could provide some funding.</li> <li>➤ Ling states the Alternatives handbook is currently being reworked and there were no plans to update the Handbook in the near future. She also stated that the NMGA was a volunteer organization and invited anyone interested in donating their time and talents were welcome to come to the meetings, which are open, and contribute.</li> <li>➤ Janice also informed the council that she is planning some trains in “How To Become a Guardian”.</li> </ul>	Information	Ongoing
<b>Guardianship Task Force HM6</b>	The first meeting of the new Guardianship Task Force will take place in May. The attached recommendations from the HJM34 Task Force were distributed. Frank stated that the contract with P & A was done and was hopeful that everyone involved the in the previous Task Force were as enthusiastic as they were previously.	Information	Ongoing
<b>RFP and Initiations to Bid</b>	Frank informed the council that the RFP for corporate guardians and invitations to bid for legal services were advertised. He also informed the council that according to the NM State Bar, in some areas of the state there is <u>no</u> legal	Information	Ongoing

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	<p>representation. Frank also announced that NM Legal Aid will not be renewing their contract with Office of Guardianship for this upcoming fiscal year. Dennis would like for Frank to let the council know how this is progressing and what the responses are.</p>		
<p><b><i>Recruiting for an in-house attorney (closes April 28)</i></b></p>	<p><i>Frank</i> informed the council that the recruiting for an in-house attorney met a few snags with the posting being lost in the SHARE system somewhere. The job has been reposted and closes on April 28, 2008.</p>	Information	Closed
<p><b><i>Training Sessions for Mental Health Treatment Guardians - Statewide</i></b></p>	<p><i>Frank</i> informed the council that treatment guardian training is taking place in different locations throughout the State. The training is free and the proposed treatment guardian must pass a criminal background report. There is a small stipend for those interested.</p>	Information	Closed
<p><b><i>Two corporate guardians have decided <u>not</u> to renew their contracts when they expire June 30th</i></b></p>	<p><i>Frank</i> informed the council that two of our corporate guardians currently under contract have informed the Office of Guardianship that they will not be renewing their contract when they expire June 30<sup>th</sup>. Dennis asked if there was a possibility of having these 68 or so clients evaluated to determine if there could be a possibility that these clients may require a change in their level of guardianship. The two who were present stated that they knew which of their clients would require a change in the level of guardianship and that there were in fact some clients, who even though their evaluations showed that their level of guardianship should be diminished were adamant that they required and guardian and in fact needed one. Questions were asked about whether there was enough time to transfer these wards by either stipulated order or hearings for those that had a change in the level of guardianship. Frank explained that there could be a possibility that some of these clients may in fact remain on these contractor's roles and perhaps arrangements could be worked out until all of the clients were moved to new guardians. Frank explained that if any of these clients needed to go back for hearings, he would like to contact with</p>	Information	Ongoing

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	only one attorney.								
<i>Office of Guardianship workload report</i>	<p>Frank reported on the Office of Guardianship's current work load in regards to clients being served, etc:</p> <table border="0"> <tr> <td>Corporate guardianship:</td> <td>544</td> </tr> <tr> <td>Assigned to Legal Services this FY</td> <td>238</td> </tr> <tr> <td>Waiting List for Legal Services</td> <td>187</td> </tr> </table> <p>Frank also explained that since there was not an increase in the Office of Guardianship budget from the legislature this year, he estimated that by September the guardianship services and resources would be seriously tested.</p>	Corporate guardianship:	544	Assigned to Legal Services this FY	238	Waiting List for Legal Services	187	Information	Ongoing
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<i>Discussion of New Business and Update of Old Business</i>	<p>Dennis Drucker asked that the proposals contained in his handout be put on the agenda for the next guardianship council meeting. These proposals are:</p> <ul style="list-style-type: none"> <li>• Require that any pet attorney set forth efforts made to locate other appointed guardians, persons with POA, agents named in advance directives, or surrogates appointed by the alleged incapacitated person, and require that any such persons be notified of guardianship proceedings. <b>This issue could be discussed with the provider attorneys to determine what actions should be required to meet the due diligence standard. Clearly, the search for such persons would obviously be limited if the guardian is being proposed for someone who never had capacity.</b></li> <li>• Require that the Office of Guardianship should seek the appointment of previously named agents or surrogate decision-makers as guardian if that person is willing and appropriate.</li> <li>• Require the petitioning attorney to serve a copy of the petition on the proposed guardian. In addition, the attorney shall also provide a copy of the proposed order before it is signed by the judge.</li> <li>• <b>Guardianship orders obtained by petitioning attorneys should not invalidate advance health care</b></li> </ul>	Information	Ongoing						

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	<p>or mental health care treatment instructions created by the ward when they had capacity without good cause.</p>		
<b>NEXT MEETING</b>	May 16, 2008		