

Virginia Public Guardian and Conservator Advisory Board

Policy Recommendations 2023

1. Training for the Public Guardian Program Multi-Disciplinary Panels

Public Guardian Program providers are required by 22VAC30-70-30(D) to “establish a multidisciplinary panel (MDP) to (i) screen cases to ensure that the appointment of a public guardian or public conservator is appropriate under the circumstances and is the least restrictive option available to assist the incapacitated person, and (ii) annually review cases being handled by the program to ensure that a public guardian or conservator appointment remains appropriate.” There are currently no requirements regarding training or education of the panel members, who may include representation from a variety of local organizations and individuals including departments of social services and adult protective services, community services boards, licensed attorneys, area agencies on aging, local health departments, long-term care administrators, physicians and other community representatives.

In order for the MDPs to effectively carry out their duties and responsibilities, the Board recommends that DARS, working together with the Public Guardian Program providers, develop a brief introductory training for MDP members on guardianship, conservatorship, less restrictive alternatives to these, and capacity determinations. This is a legislative request with budget implications.

2. Enhance Judicial Training on Public Guardian Program

Although judges make appointments of the Public Guardianship Program (PGP) providers to serve as guardian and/or conservator when no one else is willing and appropriate, there is no specific training available for the judiciary to describe the Public Guardian Program and the role it has within the guardianship and conservatorship structure in Virginia. Judges need to know about the process for case acceptance into the Program, the Program standards, and the practices of the local/regional providers. The PGCAB recommends that DARS work with the Supreme Court WINGS (Working Interdisciplinary Network of Guardianship Stakeholders) to create a judicial fact sheet,

video, and/or other training opportunity to be made available to circuit court judges across Virginia. The DARS should also create an awareness campaign to encourage utilization of the new training program.

This is a legislative request with budget implications.

3. Develop and Disseminate Training for All Guardians in Virginia

Guardianship is a legal process in which a court-appointed individual or entity makes decisions and supervises the affairs of an adult whom the court has found to be incapacitated. In conservatorship, a court-appointed person or entity manages the financial affairs of an incapacitated adult.

In 2021, the Virginia Joint Legislative Audit and Review Commission (JLARC) completed a study of the state's guardianship and conservatorship system.¹ The JLARC report made 42 recommendations to strengthen oversight, restore rights when possible, and prevent and detect abuse and exploitation. While many of these recommendations have been addressed in the past two years, one key legislative recommendation not yet acted upon is requiring initial and ongoing training for guardians and conservators.

The PGCAB understands that public guardians currently receive training in guardianship and conservatorship, while private guardians do not. Basic resources for private guardians have been made available by the Supreme Court of Virginia, working with WINGS. However, guardianship is a daunting responsibility, and private guardians – particularly family guardians – could benefit by additional help in better understanding their duties. The more private guardians are equipped to serve adults in need, there may be less reliance on the Public Guardianship Program, preserving it for cases of last resort. The VPGCAB recommends legislation requiring private guardians to complete initial training provided by DARS within four months of appointment, and requiring DARS to

¹ <http://jlarc.virginia.gov/landing-2021-virginias-adult-guardian-and-conservator-system.asp>

develop and provide this training. Such legislation was introduced in 2023 on both the House and Senate side, but was not passed by the House Appropriations Committee.

This is a legislative request with budget implications.