STATE OF
NEBRASKA
JUDICIAL BRANCH

Office of Public Guardian

IMPLEMENTATION AND DATA REPORT 2017

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We are all just a car crash,
a diagnosis,
an unexpected phone call,
a newfound love
or a broken heart away
from becoming a
completely
different
person.

How beautifully fragile are
we that so many things can
take but a moment
to alter
who
we are for
forever.

Samuel Decker Thompson, poet

INTRODUCTION

Nebraska Revised Statute §30-4111 requires the Nebraska Office of Public Guardian (OPG) to report to the Chief Justice and the Legislature on, or before, January 1 of each year. This 2017 Implementation and Data Report (Report) of the OPG is the third report since implementation began under the Public Guardian Act in 2015. In addition to the specific data required by the statute regarding the number of wards, types of guardianship/conservatorship cases, capacity of the OPG to serve, and the status of OPG waiting list, this Report provides information about the OPG people and programs. The Report relays some of the stories of the people served by the OPG whose lives, as the poem above describes, were changed forever in a moment, or through an event, or by a diagnosis. The report also highlights the people who serve vulnerable adults through the OPG- staff, council members, court visitors, attorneys, and students.

"There is no greater agony than bearing an untold story inside you."

Maya Anelou, *I Know Why the Caged Bird Sings, p*oet, memoirist, and civil rights activist

EXECUTIVE SUMMARY

Untold Stories

Due to respect for the privacy of the vulnerable adults served by the Office of Public Guardian (OPG), the OPG does not normally share information regarding specific wards and protected persons. In this Report the OPG has provided the untold stories of some of the wards and protected persons. In order to protect privacy, the stories shared are memorials to OPG wards who have passed away this year. Except for one individual whose family gave permission to use his name, all other names are pseudonyms.

It seems important to give voice to their untold stories. Data, information and program benchmarks are important reflections of OPG work; but it is the people the OPG serves that are the reason for the OPG's existence and the excellent job done by OPG staff. The OPG serves many people who led very different lives than they currently are experiencing; individuals who were bookkeepers, lawyers, U.S. veterans, meatpackers, pastors, students, judges, teachers, nurses, homemakers, beauticians, salespersons, as well as past foster children, and adults with developmental disabilities. ***Vulnerable adults who find themselves incapacitated are our Nebraska neighbors. OPG wards are of all races, from all across the state, represented by every economic strata, and a myriad of past professions. Given the right circumstances, anyone could be in need of the Office of Public Guardian in the future. This Reports shares some of these stories.***

Case Management Data

The 2017 case data has reaffirmed the previous years' data regarding the complexity of wards and protected persons served by the Office of Public Guardian (OPG), the expenditure of time per case per week, and the importance of screening cases for appropriate utilization of OPG resources.

The timeframe for data covered in this Report is December 2016 to November 2017, unless indicated as aggregate data.

As of November 30, 2017 the OPG had an aggregate of 237 Open cases- 205 Full, 5 Limited and 27 Temporary. Specifically, within this reporting year the OPG was nominated in 264 cases state wide: 155 resulted in OPG appointments; 23 are pending appointment; in 12 Emergency cases the OPG had no capacity at the time of nomination but were, also, nominated for a permanent case and subsequently appointed; and 17 cases were terminated due to lack of capacity of the OPG at the time of nomination.

The 264 wards had 657 identified categories involving complex issues, including cognitive impairment, mental health diagnoses, developmental disabilities, substance/alcohol abuse, medical conditions, history of criminal justice involvement, and/or history of Mental Health Board commitments.

From December 2016 through November 2017 the average hours per week per ward/protected person was 3.95 hours.

In accordance with the Public Guardianship Act's mandate that the OPG serves as guardian/conservator only for individuals for whom there is no other alternative, in the least restrictive manner, and as a last resort, cases for which the OPG is nominated are screened by a Court Visitor or Guardian ad Litem to determine qualification under the Act and provide information on the individual's capacity. As a result of information gathered, of the 264 cases nominated during this reporting year 74 cases were closed- 17 cases were terminated due to lack of capacity of the OPG at the time of nomination; and 15 individuals died. Of the remaining 42 closed cases, 18 cases were closed because the court determined a guardianship or conservatorship was not warranted. In another 18 cases, alternative guardian/conservators were found, prior to the OPG appointment. In 8 cases, after the OPG was appointed, a successor guardian was appointed. Accordingly, sixteen percent of OPG nominated cases closed either due to the guardianship petition being dismissed, an alternative guardian was identified, or a successor guardian was found. This screen resulted in correct utilization of OPG resources, identification of a more appropriate guardian, and protection of the freedom of individuals who should not have been placed under guardianships.

Associate Public Guardian Turnover

One of the of the challenges for the OPG has continued to be personnel turn over. The 2016 OPG Report recounted that the OPG replaced five Associate Public Guardians (APGs) in 2016. During the last year the OPG has, again, responded to 6 personnel changes- 3 Associate Public Guardian-Legal Counsels, an Associate Public Guardian, an Administrative Assistant and an Administrative Assistant for Intake.

A contributing factor of turn-over, and impact to OPG staff morale, is the stress of the type of work the OPG does- work that includes the challenges of incapacitated vulnerable adults who have a myriad of issues, as outlined in this report. The OPG has responded to the personnel challenges through increased emphasis of on-going training for stress management and coping skills. Additionally, the OPG is currently participating in a Pilot Training Program with the Nebraska Center on Reflective Practice, Center on Children, Families and the Law. The goal of Reflective Practice is to allow "individuals or groups to examine past actions, emotions, experiences and responses as a way to understand how and why the person responds in current situations, and to learn ways to adjust thoughts and actions to reduce the negative impact of emotionally intrusive work." Reflective Practice has demonstrated positive outcomes for caseworkers within the Child Welfare system with the stress and secondary trauma of case management. It is the hope that OPG participation will assist OPG staff in the same manner.

Court Visitors

Utilization of a Court Visitor, or Guardian ad Litem, as an independent screener, when the Office of Public Guardian is nominated, assists the OPG to comply with the Public Guardianship Act's requirement that the guardianship/conservatorship is required and least restrictive; the extent of the powers of the guardian/conservator are necessary; and that there is no one else to serve as guardian or conservator for the potential ward but the Office of Public Guardian. Court rules require the appointment of a Court Visitor or a Guardian ad Litem whenever the Office of Public Guardian is nominated for appointment. The Office of Public Guardian recruits, screens, and trains volunteer Court Visitors, and provides appointed Guardians ad Litem with information to assist the Office of Public Guardian in complying with the Public Guardianship Act.

The work of Volunteer Court Visitors, and Pro Bono Attorneys as Court Visitors and Guardians ad Litem, have assisted with correct utilization of OPG resources, identification of more appropriate individuals to serve as guardians, and protection of the freedom of individuals who should not have been placed under guardianships. The OPG has had 31 people serve (17 volunteers and 14 pro bono attorneys); 123 cases have had volunteers (90 Volunteer Court Visitors and 43 Pro Bono Attorneys who completed Court Visitor training.) These volunteers have provided 2,136 hours of assistance to the OPG, vulnerable adults and the courts in their roles since November 2015 (1491 Volunteer Court Visitors hours; 65 pro bono Attorney Court Visitor/Guardian ad Litem hours). See more information found within this Report for more specific information on who has provided this service and why. For example, Holly Morrison, who states ***"I do the work of the Volunteer Court Visitor because it allows me to contribute to the last big civil rights battle. For 35 years, in paid positions, I advocated for the rights of people with disabilities alongside and led by people with disabilities. Now that I'm retired I can continue the work because much is left to do."***

Financial and Court Processes

The Office of Public Guardian continues to utilize a web-based case management system, EMS, for ward information, medical documentation and financial management of individual wards' accounts. Through software development, information can be exported from EMS into Nebraska Probate Court Forms. Court documents involving OPG wards and protected persons are received and sent from the Lincoln Central Office, populated by information in EMS. Checks are written through EMS (2,460 from 12/1/2016 through 11/30/2017).

The OPG continues to export ACH (automated) transactions from the EMS system and import them into Union Bank and Trust's (UBT) Web Cash Manager Application. This file allows transactions to be processed via ACH and provide a less expensive option than writing and mailing checks. Approximately 3,700 ACH transactions were processed from 12/1/16 to 11/30/17.

UBT, also, offers an online bill pay option which has been used to reduce the costs associated with checks, envelopes, and stamps. Approximately 1,500 bill pay checks were issued from 12/1/16 to 11/30/17. Also, during a recent day in November, the UBT Organization Collective Account had ward and protected persons' deposited funds over $1 million dollars.

The OPG continues to work with key contacts in the Lincoln Social Security office to resolve issues related to Social Security applications and benefits. During the period 12/1/16 thru 11/30/17, the OPG was selected as payee for 139 SSA beneficiaries.

Private Guardianship Education

In January of 2016, the Office of Public Guardian (OPG) began providing the education and certification required for newly appointed private guardians and conservators. The Public Guardianship Act requires the OPG to maintain training programs for private guardians, successor guardians, and interested parties to insure successful guardians/conservators.

Between December 1st, 2016 through November 30, 2017, 101 Guardian/Conservator Education Classes were held in 27 sites throughout the state, training 1240 new Guardians and Conservators. Assisting the Associate Public Guardians in training are volunteer attorneys who provide general legal information

regarding guardianship and conservatorship in NE. 23 attorneys in Nebraska have provided pro bono services through the year. They have enhanced the quality of the educational experiences provided to new private guardians and conservators across the state. The have helped insure that participants leave their classes armed with information and resources necessary to fulfill their responsibilities to their wards and to the courts.

Guardian/Conservator Education Interpreter Usage

Interpreters are available for Guardian/Conservator Education classes through the Statewide Language Access Service in the NSC Administrative Office of the Court. 18 classes have had Spanish interpreters available to 88 participants. Additionally, interpreter services were used by participants speaking the following languages: 6 Karen; 4 Arabic; 1 Sudanese; 1 Nepali and 1 Nuer.

Pilot Process for Waiting List

Under the Public Guardianship Act public guardianship and public conservatorship cases are managed by the Public Guardian. The Public Guardian is limited to an average ratio of twenty public wards or public protected persons. ***Neb. Rev. Stat. §30-4115(2).*** When the average ratio is reached the Public Guardian shall not accept further appointments. ***Neb. Rev. Stat. §30-4115(3).*** Nebraska Court Rules state that when notified of the lack of caseload capacity by the OPG a court may *request* a case be place on the OPG Waiting List, as provided by the OPG. **Neb. Ct. R. §6-1433.01(D) and (J).** The OPG, in discussions with the Advisory Council and direction by the Supreme Court, will be implementing a Waiting List procedure in 2018. The initial procedure will be piloted for six months and then reviewed by the Supreme Court to consider changes for improvement of the process. The Pilot process requires a case to be screened by a Court Visitor, or Guardian ad Litem, report prior to the OPG determining whether a case qualifies for the Waiting List. Individuals can only be on the Waiting List for 90 days after which they will be removed from the Waiting List. Courts can request a case reactivated on the Waiting List, by ordering an updated Court Visitor or Guardian ad Litem Report and requesting to be put on the Waiting List.

Determination of when a case is chosen from the Waiting List will be solely at the discretion of the Office of Public Guardian, and will not be “first on the Waiting List, first chosen”. Rather, the choice will be in accordance with the Public Guardianship Act, (Neb. Rev. Stat. §§ 30-4101 to 30-4118), Nebraska Court Rules (Neb. Ct. R. §§ 6-1433.01 and 6-1434.02) and AOC/OPG policies. The determination will take into consideration the OPG appointment caseload capacity and caseload distribution criteria specified in the Public Guardianship Act: the identified needs of the service population; the complexity and status of each case; the geographical area covered by the public guardian assigned; the expertise of the OPG team member; the availability of services to support the guardianship and or conservatorship; organizational responsibilities of the team member and applicable legal requirements. In addition, priority consideration will be given to cases in which Nebraska Adult Protective Services has substantiated abuse, neglect, self-neglect and/or exploitation of a vulnerable adult.

Warren's Story

Warren G. Martin was born June 13, 1943 in Dalton, Georgia. He graduated from Berry College, located in Rome Georgia with a Bachelor of Science degree in history in 1965. Warren graduated from the Walter F. George School of Law at Mercer University in Macon, Georgia in 1970 and was admitted to the practice of law in Nebraska on February 28, 1972. Warren's classmates indicated that Warren specifically chose to serve as a lawyer in Nebraska because he observed a shortage in the field at the time. In 1979, Warren served the Eighth Judicial District of Nebraska as an associate county judge. Due to his health, Warren retired from law practice in 1985. In the years following Warren devoted himself to independent study of classic Greek and Roman History.

While living independently for many years Warren managed his physical health but slowly experienced a decline in his memory and cognitive skills. His age-based dementia led to behavioral disturbances, schizophrenia, Bipolar Disorder, Major Depressive Disorder and Generalized Anxiety Disorder. Warren became increasingly frequently involved in incidents in his community where he was unable to perform activities of daily living despite his best efforts. Eventually Warren was assigned a lawyer as Guardian and Warren was transferred to an Assisted Living Facility where his environment could be managed to allow him to still interact safely with others. Following the formation of the Office of Public Guardian, Warren was appointed as a ward of the OPG in late 2016.

During the OPG's time with Warren he consistently represented himself as an intelligent and kind individual. While he was often unable to accurately identify the current time or place, he could discuss his personal care succinctly and consistently identified staff and peers by their relationship to him even when he could not recall their name.

The greatest challenge experienced while working with Warren was early in the summer of 2017 when Warren's health took a sudden turn for the worse. He was no longer able to clearly communicate and struggled with basic mobility and balance. His physician identified a short prognosis. Warren's designated Associate Public Guardian (APG), Fred Graves, and explored possible treatment and, after speaking with Warren's family and doctors, it was decided hospice was the best option. It's important to recognize this decision wasn't based on simply making Warren comfortable as he passed. The transition to hospice care actually meant Warren's medication profile could be drastically simplified. Within a week of switching the standard of care to hospice, Warren showed improvement. Warren was able to communicate clearly and verbally again he regained much of his mobility although his balance was still unreliable. Most importantly though, this recovery allowed Fred to discuss the nature of hospice care more fully with Warren directly. Warren was able to lift a massive burden from the APG's conscience when he was able to not only indicate he was comfortable with hospice care but that he felt comfortable with the fact his life was coming to an end. Warren continued to remain active for months as Fred would visit with him and tell Fred about things he'd done and places he'd seen, as well as people he cared about. When Warren finally passed it wasn't a painful process. Following the Thanksgiving holiday he simply declined to eat or drink, his breathing slowed, and he stopped actively responding until he passed away peacefully.

Warren had arranged for his own humble funeral prior to his decline in mental health. Following Warren's death the OPG was contacted not only by his sole remaining family, in North Carolina, but also by his classmates who wished to honor and remember him. They shared stories about how intelligent

and kind he was. They recounted how Warren had always worked to serve a greater good; had fostered a love of the classical world, strived to appreciate art in all its forms, as well as valued the glory of nature. Warren had asked Fred to read at his funeral, which Fred did. While it would be easy to feel sad that, when Warren was laid to rest, only OPG staff were able to attend his funeral; Fred stated that it was an honor to provide Warren the respect he had earned through a lifetime of service, to be the representative of those who remember him so fondly, despite the distance and passage of time.

When asked permission to share Warren's story as part of this annual report Warren's brother told Fred, ***"Yes, you may use 'Warren's Story' as you desire for the State of Nebraska. As I see it, they (the State) were there when nobody else could help him. For this I am grateful."***

"Justice will not be served until those who are unaffected are as outraged as those who are."

Benjamin Franklin

COMPILATION OF SYSTEMS ISSUES OBSERVED OR ENCOUNTERD BY THE OPG

The Public Guardianship Act directs the Office of Public Guardian (OPG) to: provide equal access and protection for all individuals in need of guardianship or conservatorship services;[i] encourage more people to serve as private guardians and conservators;[ii] recruit members of the public and family to serve as guardians or conservators; [iii] act as resource to guardians and conservators for education, information, and support;[iv] safeguard the rights of individuals by supporting least restrictive manner possible and full guardianship only as last resort;[v] model the highest standard of practice for guardians and conservators to improve performance of all guardians and conservators in state;[vi] and develop and adopt standard of practice and code of ethics for public guardianship and conservatorship services,[vii] the OPG shares observations and encounters of system issues, and the actions the OPG has taken in regards to the issues.

Medical Provider's Confusion Regarding Guardian Rights and Responsibilities

The Office of Public Guardian has, at times, found it to be very difficult to provide appropriate medical treatment and mental health intervention for wards. There is a lack of understanding among some medical health providers regarding the rights and responsibilities of guardians. Despite a court determination of incapacity to make medical decisions, it is often difficult to obtain cooperation from providers and facilities for informed medical consents, medical treatment, mental health evaluations and compliance with patient rights and regulations.

- **Difficulty getting medical and mental health evaluations** if a ward communicates they do not want it. In one instance, despite support from the ward's primary care provider and being under guardianship, the emergency room doctor and hospital administration refused to provide assistance in transferring a patient to a pre-arranged evaluation, as directed by the guardian and primary care provider. The 80 year old woman had dementia and a long history of mental illness. The ward indicated she did not want services and threatened to sue. She was allowed by medical providers to leave the hospital and walk down a highway, against both the guardian and primary care providers' assertions that her current living conditions were dangerous and unhealthy, and her current mental state made her a danger to herself. (She had refused to go to the doctor for decades, had no electricity or running water, was in a hording situation, in the midst of hallucinations and a psychotic break). Law enforcement was called, the APG was told by an officer "to bring two strong, big guys next time and physically force her to go with the guardian" because law enforcement could not assist. He added, "Everyone knows she is bat-s*** crazy, but we cannot do anything". After discussions with law enforcement, they did assist with returning her to the hospital. The hospital administrator, after hours of argument with the

APG, Director of the OPG and the primary care provider (who was an employee of the hospital), finally exclaimed "That's what we needed to see!!!" when, after hours, of stress and anxiety, the 80 year old woman tried to assault a nurse and was wrestled to the ground. Only then was the APG allowed to get assistance to transfer to the facility that was waiting to admit her for a mental and physical evaluation.

- **Medical treatment and discharge by hospitals without consent of Guardian** Often, despite the knowledge of the patient being under guardianship, medical providers will have a ward provide consent for treatment rather than the guardian. In one case the OPG gave consent for a C-section; however, the hospital and obstetrician obtained from the ward, who was in an active psychotic state, an additional consent for a tubal ligation without the involvement of the guardian.

  In many institutions across the state, in a great number of instances, wards are discharged without consent of the OPG to inappropriate level of care, or to *homelessness*. In multiple cases the guardian is only aware of discharge from the hospital when they go to try to visit a ward, and are told he/she has been discharged; or when the receiving facilities contacts the guardian for permission to treat, after the fact. Additionally, hospitals discharge and provided the updated medical information to the facility, with direction to share it with the guardian- not involving the guardian in discharge planning or updated medical information.

- **Hospitals do not admit a ward, but hold (sometimes for days) for "observation" only** The OPG has had instances when an APG has not agreed with discharge planning for a ward with mental health or behavioral issues. When requesting discharge planning the hospitals then respond that the ward was never officially admitted to the hospital, was under "observation" only, therefore the hospital is not required to include the guardian in discharge planning and will make an independent decision regarding discharge.

- **Confusion regarding treatment protocols under Do Not Resuscitate and Hospice**- within Assisted Living and Nursing Home Facilities personnel often consider Do Not Resuscitate as "no medical treatment". The OPG has had instances when wards have medical conditions that have been left untreated; when questioned about the lack of care, the response has been that the person "was under a DNR".

  In one case, the ward was suffering from stage four breast cancer. While the OPG was supportive of not providing intensive, aggressive treatment given the ward's age and health status, a tumor had broken through the skin, causing pain and discomfort. The facility physician's opinion was that it did not warranted any treatment, since the ward had stage four cancer, advanced dementia, was a DNR, and was in her 80s. The physician suggested no medical intervention. The seeping wound was extremely disconcerting to the woman even in her state of dementia. The OPG requested a second opinion, outside of the facility. The second option suggested surgical removal of the tumor, which was done. In the months since the surgery the ward has been very relieved and much more comfortable.

Wards on hospice, at times, do not receive intervention for other medical issues-such as tooth infections and pain-because of their "hospice" status. If treatment is sought, it often results in conflict with medical personnel who do not agree with any medical intervention once the patient is placed on hospice. One ward, on hospice due to her advanced dementia (no other active disease process) had medical treatment for an infected tooth due to OPG intervention, which was in conflict with medical opinion. As a result, the ward has lived more comfortably for the last four months, and improved to the place where she is being considered to be removed from hospice.

Action Taken & Current Status of Issue- Each time inappropriate treatment or discharge had occurred the OPG has contacted the facility to initiate corrective action and provide information on the requirements of informed medical consent and the rights of patients under guardianship. Additionally, the OPG has developed information packets including the guardianship papers, designation of guardian, contact information, and emergency information for facilities upon admission of the ward to insure 24/7 contact with the OPG.

Efforts were made with the Lincoln Regional Center, after there were hospitalization and medical treatment of wards without notice to the OPG, to inform LRC administration about the OPG responsibilities. LRC administration were very responsive and met a number of times regarding situations. The administration adapted processes and protocols to ensure contact of the APG would occur whenever a ward was transported to the hospital, or required a change in medical treatment.

Recently, the OPG has begun researching and developing a complaint process, in accordance with federal Medicaid and Medicare Regional Administration, regarding facilities' failure to provide informed medical consent and discharge planning to guardians.

Finally, OPG APGs continue to take actions to ensure wards obtain appropriate treatment, informed medical consent and patient rights are adhered to, despite the ward being categorized as DNR or is in Hospice status.

Court Visitor Recruitment

The OPG is tasked with the recruitment and training of individuals to serve as court visitors when the OPG is named as guardian and/or conservator in a petition for guardianship and/or conservatorship. The individuals recruited as court visitors must "be trained in law, nursing, social work, mental health, gerontology, or developmental disabilities."[i] Recruitment of trained professionals, and retirees, has proven somewhat difficult for a number of reasons.

Potential volunteers voice concerns with personal safely during the interview process with individuals who may experience severe and persistent mental illness and have histories of volatile behaviors, or who may be involved with the criminal justice system. Traveling to neighborhoods with high crime rates to conduct interviews has also concerned potential volunteers.

For people who have had little or no experience working with court systems, there is sometimes a reluctance to become appointed by a court in a legal proceeding. Concern over how involved they may need to become in court proceedings is sometimes a deterrent.

Additionally, there exists a perception of conflict of interest among some DHHS workers regardless of the area of service in which they work. Such a perception eliminates a very large pool of potential court visitor volunteer base who have the training and knowledge the position requires. [ii]

Many counties still require additional court visitors to ensure that statutory requirements regarding a petition which names the OPG as guardian and/or conservator are being met by local courts.

Action Taken & Current Status of Issue: The OPG conducts recruitments effort targeting professionals, retirees, and family members of persons already under guardianship or conservatorship, and others to serve in this role. Need for Court Visitors is addressed at every Guardian/Conservator Education Class statewide. Presentations highlighting have been conducted with human service organizations, none-profit associations & groups across the state. Recruitment materials have been modified to address concerns that have surfaced with potential recruits. Other efforts include use of web based Volunteer recruitment sites, & print ads sponsored by volunteer recruitment websites.

To address the perceived conflict of interest issue, the OPG has met with and will continue to meet with DHHS division directors to see how court visitor duties and the professional duties of DHHS workers will not overlap so that this pool of expertise may be tapped to serve if an individual employee chooses to do so on their own time.

Expansion of Court Visitor Program

In building the court visitor program, the OPG foresees a potential conflict of interest in continued support to court visitors as they complete their duties. While the OPG is comfortable recruiting and training court visitors, once they begin their work to gather information as to the necessity and appropriateness of OPG involvement, the potential for conflict becomes greater if the court visitor needs technical assistance in their role.

Action Taken & Current Status of Issue: The OPG has connected with several stakeholder organizations to brainstorm ideas about how to sustain and support the court visitor program. The OPG recognizes that an independent organization may be necessary to provide support to court visitors as they perform their role. As such, the OPG is working to locate funding sources to launch efforts to develop an independent oversight entity for the Court Visitor Program.

General practice of guardianship appointments in Nebraska

Through its meetings across the state with several county court judges, the OPG has learned that a vast majority (likely over 95%) of the 10,000+ guardianships and conservatorships in the state are full guardianships. **Neb. Rev. Stat. § 30-2620 (a)** states, "If the court finds that a guardianship should be created, the guardianship shall be limited unless the court finds by clear and convincing evidence that a full guardianship is necessary." Without specific data, it is hard to identify the cause for the high percent of full guardianship. It may be that Nebraskan's avail themselves of other options until full guardianships are the last option, or it may be that full guardianships are requested by petitioners and potentially incapacitated persons do not present evidence to contradict the claims. It does seem that there is a lack of knowledge about the option or the parameters available through limited guardianships.

In OPG conversations with judges, we learned there is little information to which judges have access that would allow them to tailor each guardianship to the needs of the individual. The effect of this practice is arguably a "one size" fits all approach that potentially overreaches in its effect of the individual rights of potentially incapacitated persons.

OPG Action & Current Status of Issue: The OPG under the Public Guardianship Act is required to safeguard the rights of individuals by supporting least restrictive manner possible and full guardianship only as last resort;[viii] provide equal access and protection for all individuals in need of guardianship or conservatorship services; [ix]and model the highest standard of practice for guardians/conservators to improve performance of all guardians/conservators in state.[x] Accordingly, the OPG has committed to working towards assisting in crafting processes for determination of guardianships and conservatorships that are tailored toward the best "fit" for the necessary interventions to protect the potentially incapacitated person without overreach. The court visitor program is geared to provide the best information to the court so the potentially incapacitated person obtains a limited guardianship if that is all that is needed. Associate Public Guardians are educating and emphasizing the options of limited guardianships to private guardians as they go through the training. Additionally, the modeling provided by the OPG's practices is meant to impact and improve practice However, 100% of new appointments to OPG for this past year were full. In limited, it has sometimes been difficult to address some issues without having access to other areas of decision making

Reporting issues with private guardians/conservators

A repeated concern from direct service providers, court clerks, and other private guardians is the lack of oversight and/or investigation into private guardianship. Many individuals and organizations are under the mistaken belief that the OPG will assist in monitoring private guardians and conservators. When the OPG explains this is not within the OPG statutory authority, the reaction is disappointment. OPG has been informed people are interested in monitoring issues including, but not limited to: lack of information/lack of use of the "Application and Affidavit for Intervention on behalf of the Welfare of the Ward"; no statutory number of visits and/or amount of time spent with ward to ensure appropriate monitoring or that the guardian/conservator is accessible to the ward; lack of central registry of guardians/conservators to ensure that direct service providers, financial institutions, law enforcement and/or medical facilities are informed of the status of a guardianship/conservatorship and the role of a guardian/conservator; and reports of undefined problems stemming from long term guardianships in place before statewide reform of guardianship circa 2011.

OPG Action & Current Status of issue: Many of the systemic problems in this field will require policy makers to review issues and address concerns. However, the OPG has become aware of these current problems and has disseminated this information to every channel possible. Additionally, the OPG continues to educate as to the duties of guardians and conservators, has worked to encourage more individuals to serve as private guardians and conservators, to expand the pool of qualified candidates. The OPG recently gather data on individuals who have multiple wards. The data was difficult to "clean up" to insure accuracy, but it was determined the top private guardian/conservator with multiple wards (more than 25) across the state in multiple counties were: One with 79 wards; one with 77 wards; one with 68 wards; and one with 49. Despite the court rule requiring the number of wards an individual has

under guardianship be attached to a petition for guardianship, the collection of such information is not provided in the majority of petitions.

Right to counsel for those who are the subject of guardianships/conservatorships

Under Nebraska law, an individual has the right to counsel when under consideration for guardianship in order to contest the proposed guardianship. However, service providers have stated that in many situations, wards were either unaware of this right or moreover, unable to obtain counsel either due to limited funds for private legal representation or a lack of access to free or reduced legal representation. This issue arises again if/when the protected person is already the subject of a guardianship and/or conservatorship and desires a less restrictive option, yet cannot afford the legal representation to pursue it.

OPG Action & Current Status of Issue: The OPG recognizes the particular importance of equal access to justice for potentially incapacitated individuals and individuals currently under guardianship and/or conservatorship. Thus far, the OPG has approached this issue from two different angles. First, the OPG has designed a volunteer court visitor training curriculum, which brings the importance of this issue to light. As part of the screening/interviewing process the court visitor is to discuss whether the potential ward/protected person understands their rights. If during this process, the court visitor learns the potential ward/protected person wishes to have an attorney, this is helpful information to the court who may then appoint counsel to the proposed ward/protected person if he/she is unable to secure their own representation.

Second, the OPG in its creation and presentation of training curricula to private guardians and conservators, informs participants of the ward's/protected person's right to legal counsel even when they are under guardianship and/or conservatorship and even when such representation may be adversarial to their appointed guardian and/or conservator.

When the OPG is nominated and a court visitor/GAL is appointed, the proposed ward may communicate an interest in having counsel appointed. If such information is in the report the CV or GAL usually makes such request. If not and if the potential ward hasn't secured counsel, the OPG may raise this issue prior to appointment.

Lack of appropriate housing for people with mental illness

There is a lack of permanent supportive housing available in the community for individuals with mental illness. There is lack of appropriate services for individuals with mental health all along the continuum of care. Individuals with mental health issues are in desperate need of assistance, so that they do not end up homeless. There is a lack of intensive treatment for those who are trying to avoid in-patient hospitalizations or those who are just being discharged. There is also no follow up for those who come out of hospitalization. Many assisted living and nursing home facilities refuse to take wards with a history of mental illness because of behavior issues. Many of the assisted living facilities who do admit individuals with mental health are sub-par with multiple licensure and regulation issues. Issues include chronic bed bug infestations; wards being required to clean the facility; restriction on access to food;

retaliation of wards for reporting facility problems; and denial of access to phones, including their own cell phones.

OPG Action & Current Status of Issue: The OPG has filed complaints with facilities; contacted APS when appropriate; contacted the Long Term Care Ombudsmen; contacted DHHS Administration and Disability Rights Nebraska. The OPG has worked with social workers at hospitals to identify appropriate level of care for wards being discharged. The OPG has contacted the Medicaid Managed Care entities to discuss discharge planning and request the utilization of case aids under managed care. APGs serve on housing community development partnership organizations.

Difficulty accessing financial accounts, despite Letters of Conservatorships for ward, with banks, financial institutions and credit agencies.

Many institutions will not provide guardians/conservators access to wards' accounts despite court determination that the individual is incapacitated and has appointed a guardian/conservator. This, then, restricts the potentially incapacitated person's access to funds that should be used on their behalf. There are inconsistencies among and within banks as to the completion of required court forms and the ability to access ward funds. In situations where wards have been financially exploited prior to OPG involvement, the difficulty of accessing accounts becomes more pronounced as some accounts may be frozen and require court orders to access.

OPG Action & Current Status of Issue: OPG continues to try to educate financial institutions. At times it has been required to obtain court orders to access funds

Difficulties in obtaining Medicaid when a ward has been a victim of financial abuse through a family member or Power of Attorney

In at least four cases this year the OPG has been appointed a conservator/guardian due to a finding by Adult Protection Agency that the individual is a vulnerable adult and the victim of financial exploitation. These cases become very difficult to work through all of the financial issues for the ward- past due bills, bankruptcy, repossessed homes, frozen accounts, and denial of Medicaid benefits. Obtaining Medicaid benefits is especially difficult due to the five year look back requirement for ward assets. The financial history of the ward looks like the ward has had funds, or inappropriately spent funds; but in reality either family members or individuals with Power of Attorney have misappropriated the funds. The individual is the victim of fraudulent activities on their accounts. The OPG explains the financial exploitation and indicates that this application is due to a "hardship". However, Medicaid, due to the appearance of assets requests additional information- which the OPG tries to provide, but often is not available due to the misappropriation of funds. The perpetrator has specifically hidden their actions, making it extremely difficult, if not impossible to prove how funds were spent. Accordingly, wards are then denied Medicaid for "Failure to provide"; under which a "hardship" is not allowed. This is a catch 22 for wards. Trying to get copies of past financial accounts from banks for years in the past, is prohibitively expensive for wards who are victims of financial exploitation. This is extremely unfair to the ward. They are being victimized twice- losing their money and property; then being denied Medicaid benefits to assist with their care. In some instances the ward has been denied and Medicaid

workers state they should reapply. Reapplication results in non-payment of prior medical care; and of non-payment to facilities who have in good faith taken in the vulnerable adult. In many instances the OPG is faced with homelessness for the ward; or stoppage of medication by pharmacies who are not getting paid for the medications they are providing.

OPG Action & Current Status of Issue The OPG has met with representatives from Social Security and Medicaid to coordinate efforts to provide services to persons served by the OPG as efficiently and quickly as possible. In addition, the OPG has developed a good working relationship with the Nebraska and Regional Social Security offices to ensure that benefits due to persons served by Social Security are properly accounted for and distributed.

In regards to difficulties with Medicaid and the five year look back and failure to provide financial information, the OPG has met with DHHS Administration, DHHS Legal Counsel and representatives of Nebraska Medicaid to try to address the systemic issues these cases faces. They have all been responsive to the issues, but a solution for issue of vulnerable adults who are victims of financial exploitation's ability to provide documentation to overcome the five year look back and the lack of financial documentation has not been solved. Medicaid is currently reviewing policy requirements; and have provided the OPG with direct access to administrators working on the problem, which is much appreciated. In the short term he OPG has continues to appeal the denials to try to access the benefits these wards are entitled to receive; but this is an extremely frustrating issue for serving vulnerable adults, who through no fault of their own, are victims of financial exploitation and then denied benefits meant to assist them in their poverty.

Increasing numbers of young adults appointed as wards to the OPG

In the last year there has been a developing trend that has resulted in the OPG being appointed guardian/conservators of young adults. These individuals can have chronic, severe mental health disabilities and/or developmental disabilities; some of them are prior foster children whose guardianship ended when the youth reached the age a majority and the prior guardians refuse to continue as guardians once the prior foster child reached majority. These cases are extremely complicated and require a great deal of OPG time and resources to try to provide them the level of care, benefits and support required by the young adult; this includes navigating through school systems, in addition to transitioning into adult systems and supports. These are individuals who have the potential for life-long OPG involvement.

OPG Action & Current Status of Issue The OPG has worked to engage DD Service Coordinators, school social workers, probation officers (when appointed), and a myriad of service, support and medical providers. It is uniquely challenging to try to assist 19-30 year olds navigate life and develop skills for coping and addressing their disabilities, without a permanent parental, adult figure to care and support them.

OPG soon will be at capacity for the number of individuals able to serve under current resources

As this report indicates, as of November 30, 2017 the OPG was appointed to 237 wards/protected persons. If all 15 FTE Associate Public Guardians across Nebraska had a full caseload of 20

wards/protected persons the OPG could serve a maximum of 300 individuals. In some areas of the state the APGs are at full capacity. It is expected that sometime during this coming year all areas of the state will be at capacity.

The need for guardians/conservators will not end with the OPG reaching full capacity.

- Research indicates the need for public guardianship will continue to grow. Demographics show that families are becoming more geographically dispersed resulting in fewer options for family to serve as guardians, increasing the need for the OPG as "last resort" for individuals with no one else to become decision makers.
- Additionally, (as indicated above) the need of public guardianship among younger individuals is growing. Currently individuals age 65 or over constituted between 37% and 57% of public guardianship wards, while those age 18 to 64 comprised between 43% and 62% of total wards. As this Report indicates, younger clients include a range of individuals with mental illness, intellectual disability, developmental disability, head injuries, and substance abuse—all of which are rising in the general population. Some may have involvement in the criminal justice system. Public guardianship used to be regarded as a custodial program, but no longer. These complex cases involving people with challenging behavioral problems are much more labor intensive, younger, requiring longer term public guardianship than the previous population set.
- Finally, the demographics of elderly is on the rise, which will result in proportionately the need for more public guardians. Baby boomers, as they age, will result in 78% increase in 65+ nursing home care need in the United States from 1.3 million in 2010 to 2.3 million in 2013. Alzheimer disease, and elder care needs in response, will triple from 5 million in 2013 to 14 million by 2050
    - Nebraska population age 65+ is projected to increase from 240,000 in 2010 to 400,000 by 2030; growing from 15 % of population to 24%.
    - In Nebraska in 2009 those 65 years and older had a rate of 34.9% disability compared to 10.8 % of the younger general population. With the increase in elder population, there will be a proportionately increase in the disabled older population from 83,760 in 2010 to 139,600 in 2030.
    - Nebraska's 'oldest-old' – those 85 years of age and older – is also growing. In 2009, there were an estimated 39,544 residents - 2.2 percent of the population - age 85 and older in the state. By comparison, only 1.8 percent of the national population was age 85 and older in the same year. Data from the 2009 Census Estimates ranks the percentage of Nebraska's 85+ population as 8th highest in the nation.
- The change in age demographics will also result in the largest transfer of wealth in U.S. History, which will increase the risk and opportunity of financial exploitation for vulnerable older adults.
    - The "Great Transfer" from Greatest Generation (born 1920-30) is currently experiencing a $12 trillion shift.
    - "Greater" wealth transfer from Boomers (born 1946-1964) to heirs over next 30-40 years is much larger, over $30 trillion. At its peak between 2031 and 2045, 10 percent of total wealth in the United States will be changing hands every five years

<u>OPG Action regarding Public Guardian utilization</u>

- The OPG, as outlined in this Report, requires that all nominated cases are screened to ensure compliance with the Public Guardianship Act that the OPG is the last resort, guardianship is the least restrictive alternative, and services are necessary. The use of Court Visitor and Guardian ad Litem Reports, prior to OPG appointment, has resulted in 16% savings by determining that, in those nominated cases, either the wards did not require guardianships, or OPG appointment

was not appropriate because there were other individuals available to serve as guardians. The appropriate utilization of OPG resources requires determining accurate need and alternatives.

- The OPG will continue to work to find volunteer successor guardians for OPG cases, to increase the OPG capacity.

- The OPG will, also, continue to respond to the needs of wards to provide the appropriate level of services. This "right sizing" of the level of services in the least restrictive manner assists appropriate expenditures and cost savings. One research study in Virginia determined that the public guardianship program saved the state a total of over $2,600,000 for each year of the evaluation period through placements of wards in less restrictive settings and the recovery of ward assets (at a total program cost of $600,000).

- Additionally, the OPG will continue to expand private/family guardians supports so that public guardianship does not become necessary because private/family guardianship quit serving. The OPG will do this through assisting private guardians obtain information on needs resources for their wards; and piloting electronic financial reporting options; and other options and services.

- Finally, the OPG will continue to educate individuals and families on planning and preparing for circumstances so guardianship may not be necessary.

Need for Systemic Changes and Alternatives to Guardianships

It will be a certainty that the Nebraska OPG will require additional resources to respond to the future need for Public Guardianships; however, making systemic changes to how Nebraska utilizes guardianships can provide additional support of autonomy, maximize resources for Nebraskans along the continuum prior to guardianship, and better define the appropriate use of guardianships to meet future demand. This will require broad collaboration and intervention across community, social, government and court activities. Some examples of such:

- The freedom to make decisions play an important part in defining a person as a human being and determining their quality of life. Determining what alternatives best serve the support and protect a person are complex. Since guardianship involves the loss of fundamental rights, it should be considered only when a person cannot make informed decisions on their own, or cannot be accommodated and/or supported in their decision making in any other manner. It will take intentional data collection and system reviews to make a real determination of the status of guardianship in the state- need, utilization, and alternatives. There is a lack of clear understanding within the system of guardianship utilization.
- One systemic change will be the need for education of individuals regarding the importance of planning and legal actions early in life. This should become of highest importance when individuals are young, healthy and able to make informed decisions about their future. Options include maximizing alternatives to guardianships: Power of Attorney, Health Care Power of Attorney, Payee; Financial planning for care- aging in place, financing community based care, long term care; Decisions regarding living will, end of life care, DNR, and communication, legal documents of such, when individual has capacity to protect autonomy of decision making if later becomes incapacitated.
- Attorney can be a key to ensuring people are educated and prepared. Attorneys, at every opportunity should be encouraging clients to pre-plan for protection and documentation decision making prior to loss of capacity. Attorneys have a responsibility to protect clients' ability for decision making and protect client assets, resources and legal rights. At every interaction with individuals

lawyers should be considering future planning needs and ensuring clients' wishes are known when competent so they are protected and fulfilled when an individual is incapacitated.

- Adequate funding for home- and community-based care for individuals who are disabled, whether under guardianship or not, is imperative. Guardianship should not be a necessary evil required to ensure benefits and services. The *Olmstead* case offers a powerful mandate for funding services to integrate individuals with disabilities into the community. The "right sizing" to provide appropriate services in the least restrictive manner can maximize cost savings for individuals prior to considering guardianship. Public guardianship clients need basic services, as well as surrogate decision making and public guardians advocate for client needs, but without funding for community services such as transportation, in-home care, home-delivered and congregate meals, attendant care, care management, as well as supportive housing, public guardianship is an empty shell.
- Consider strengthening legal compliance, and supporting public policy, in the implementation of guardianships. Examples of some problems that could be addressed: full guardianships are requested as standard practice by many petitioning attorneys in all guardianships, rather than limited as required by statute; permanent guardianships are requested at the same time as an emergency guardianship, with no additional or different evidence- despite specific differences in standard of proof, time limit and evidence required; evidence of incapacity is often conclusory and broad, with no clinical supporting evidence, or specific functional capacity connected to the autonomy being restricted; parents are encouraged by some educators, service providers and other professionals to obtain a full guardianship prior to child turning 19 as a matter of course, rather than considering options to guardianship or determine whether limited guardianship is appropriate; there is an assumption of ongoing incapacity in successor guardianships because the belief is "capacity has already been determined", despite the potential for change in status; there is a lack of legal representation for potentially incapacitated person in guardianship actions both regarding the appointment and the determination of limited vs. full guardian, rarely are potentially incapacitated individuals represented by an attorney- except a guardian ad litem. However, the individual has a right to an attorney for legal representation of their rights, not a determination of "best interest", subjugating their autonomy before the change to provide evidence; despite a requirement that all guardianships should be limited unless by clear and convincing evidence a full guardianship is required, often due to the "checkbox approach" to Nebraska petitions for guardianship the actual result that almost 99% guardianship are full guardianships; and guardianships are rarely terminated or changed to limited during the lifetime of a ward, despite potential for habilitation and/or rehabilitation of wards.

"The care of human life and happiness and not their destruction is the first and only object of good government."

Thomas Jefferson

NEBRASKA'S OFFICE OF PUBLIC GUARDIAN

The OPG is directly responsible to the Supreme Court Administrator[xi] and is one of only four public guardianship offices under the judicial branch.[xii]

Public Guardian

The Supreme Court Administrator is responsible for appointing a director of the OPG known as the Public Guardian. The Public Guardian shall be an attorney hired based on a broad knowledge of human development, intellectual disabilities, sociology, and psychology and shall have business acuity and experience in public education and volunteer recruitment.[xiii] The Supreme Court Administrator, with the confirmation by Nebraska Supreme Court, appointed Michelle J. Chaffee as Public Guardian in December 2014. Previous to appointment as Public Guardian, Ms. Chaffee was Legal Counsel for the Health and Human Services Committee at the Nebraska Legislature. As Legal Counsel for the Health and Human Services Committee she was involved in multiple issues involving social services including long term care, Medicaid, health care, developmental disabilities, behavioral health, legal processes and procedures and licensure. She worked with a wide array of professionals including state, local and county officials, the judiciary, County attorneys, private attorneys, provider networks, facility administrators, caregivers, social service advocates, as well as the individuals who depend on Nebraska social services to provide care and support- children, juveniles, individuals with disabilities, and the elderly. As Legal Counsel she supported the Health and Human Services Committee and Chairs, Senators Tim Gay and Kathy Campbell, as they designed policies and programs to serve vulnerable citizens of Nebraska.

Prior to the Legislature, Ms. Chaffee spent ten years in higher education administration. In addition to her experiences as Legal Counsel to the Health and Human Services Committee and in higher education administration, Ms. Chaffee practiced law and utilized her law degree in a variety of different state

governmental agencies. She served in the Nebraska Legislature as Legislative Aide to Senators Gene Tyson and Mike Avery. During law school she interned for the Nebraska Attorney General's Office, in the Child Protection and Drug Enforcement Division. Additionally, as a Senior Law Clerk, she researched pre-trial diversion guidelines for the Office of Juvenile Services in the Nebraska Crime Commission. Upon graduation from UNL College of Law, Ms. Chaffee served as an attorney at Legal Aid, focusing on representing the needs of indigent individuals in civil court. As an attorney in private practice, she specialized as a Guardian ad Litem representing the needs of abused and neglected children in Juvenile Court. Prior to attending law school, Ms. Chaffee served for a number of years as a 7-12th grade English and History teacher in Nebraska, Iowa, Missouri and Texas.

Under the Act, the Public Guardian responsibilities include: to assume all duties assigned by the Administrator of the Courts; to fulfill the duties and responsibilities of guardian/conservator for appointed individuals; administer public guardianship/conservatorship [xiv]; serve as staff to Council[xv]; with advice from the Advisory Council on Public Guardianship[xvi], recommend rules to the Supreme Court[xvii]; designate authority to act on her behalf to deputy and associates;[xviii] and report to State Court Administrator, Chief Justice and Legislature on the implementation of the Act on or before January 1 each year[xix]. A summary of the duties completed in 2017 are included in this report.

Anna's Story

"Anna's" need for the Office of Public Guardian began prior to its inception. Anna's guardian was suspended and removed by the Court after a State Auditor's investigation uncovered flagrant financial exploitation. A staff member at her nursing facility was appointed as temporary guardian, the only option due to the lack of available guardians. The temporary guardian went to great lengths to alleviate the obvious conflict of interest, but unless Anna moved, or the guardian left employment, there was no way to completely eradicate the risk. The Office of Public Guardian (OPG) was nominated as part of its pilot program in November 2015, and an Associate Public Guardian (APG) was designated in January 2016.

Anna was born and raised in western Nebraska, but spent most of her adult life receiving developmental disability services from various providers across the state. She moved into a nursing home after she was diagnosed with dementia and required a higher level of care. Anna's dementia was pretty far advanced accordingly, obtaining information directly from her was difficult, if not impossible. Anna was almost completely nonverbal and her mobility was limited to pushing herself around in her wheelchair. The APG spent time with Anna learning about her preferences for Dr. Pepper, chocolate, and stuffed animals. Despite the circumstances, she lived the best life possible due to the supportive and loving staff at her nursing home. She was a figurehead among the residents and ***staff often remarked, "We're not supposed to have favorites, but Anna is a favorite."***

The APG learned more about Anna with the help of her former providers, case managers, and through genealogy resources online. The APG was able to locate Anna's family's cemetery plot near her hometown. Anna's preneed funeral had not been fully funded, and her assets were extremely minimal. The APG scrimped and saved every extra penny for Anna, with the intention of getting Anna and her brother, Joseph, "home" when the time came (Anna had been given her brother's urn when he passed away). That time would come sooner than anticipated.

In late November 2016, Anna's medical insurance refused to pay for one of her crucial dementia medications. Additional medical consultations and appeals were done, but Anna went without her dementia medication for nearly a month before the insurance company approved the doctor's orders. Anna's "sundowning" symptoms increased dramatically during the time period and her physical decline became more apparent. Her blood sugars were much higher than normal and her body was cold and clammy most of the time. Anna declined rapidly over the next few days and, in the midst of an ice storm in January 2017, Anna passed away. She died peacefully and without pain, surrounded by staff who loved her. The APG negotiated with the funeral home to make arrangements with Anna's available funds. OPG Administration granted the APG permission to transport Anna and Joseph's urns to western Nebraska. Anna's funeral was simple, with the APG and a representative from the cemetery in attendance. She was laid to rest, with her brother and parents, on a rolling hillside on the Nebraska prairie, finally returning home, and reunited as a family. 0"Say not in grief that she is no more
But say in thankfulness that she was.
A death is not the extinguishing of a light,
But the putting out of a lamp
Because dawn has come."
-Rabindranath Tagore

"The purpose of human life is to serve and to show compassion and the will to help others."

Albert Schweitzer

ADVISORY COUNCIL

The Office of Public Guardian (OPG) is assisted by an Advisory Council, appointed by the Administrator of the Courts[xx], to advise the Public Guardian on the administration of public guardianships and conservatorships.[xxi] Members of the Advisory Council, shall be comprised of individuals from a variety of disciplines who are knowledgeable in guardianship and conservatorship, and be representative of the geographical and cultural diversity of the state and reflect gender fairness[xxii]. As required by the Act, the appointments of initial members of the Advisory Council were made within ninety days after January 1, 2015. Initial appointments were staggered terms of one, two or three years, as determined by the State Court Administrator; subsequent terms shall be for three years. In 2017 the Advisory Council added members, Judge Todd Hutton to serve in the County Judge role, Dianne DeLair and Amanda Duffy Randall.

The Advisory Council membership for 2017 included:

Corey R. Steel was appointed State Court Administrator on May 2, 2014, to oversee the administrative operations of the statewide court system. The State Court Administrator plans for statewide Judicial Branch needs, develops and promotes statewide administrative practices and procedures, oversees the operation of trial court programs and strategic initiatives, and serves as a liaison with other branches of government. Prior to his appointment he served in the capacity of Deputy Probation Administrator for Juvenile Services. He played an active role in providing information to the Legislature regarding juvenile justice reform and coordination of state wide juvenile probation services. Throughout his employment, Steel has been heavily engaged in the transformation of Probation's Juvenile Justice System. Serving in a leadership capacity, he was and remains involved in the Juvenile Detention Alternative Initiative (JDAI), the Cross-Over Youth Practice Model, and the Juvenile Information Sharing Project. In addition to holding a Bachelor's degree in Criminal Justice from the University of Nebraska – Kearney and a Master's in Business Management from Doane College, he also holds two certifications from the Georgetown University Public Policy Institute in Juvenile Justice and Child Welfare and serves as an adjunct professor for Southeast Community College teaching Juvenile Justice, Criminal Justice, and Sociology.

Michael J. McCarthy is a partner in the North Platte law firm of McCarthy and Moore. He earned his undergraduate degree in 1972, and his law degree in 1975, both from the University of Nebraska at Lincoln. Immediately following his graduation he joined his father in the private practice of law in North Platte. Mike practices primarily in the areas of estate planning and probate, real estate, and corporate and business planning. Mike has served on the North Platte Board of Education, and served as the Board's President; the Great Plains Regional Medical Center Board of Directors, where he also served as the Board's Chair; the Board of Directors of the North Platte Area Chamber of Commerce and Development Corporation, where he served as Chairman; the Nebraska Commission on the Unauthorized Practice of Law, where he served as Chairman from 2008 to 2012; and he presently serves as the Chair Elect Designate of the House of Delegates on the Executive Council of the Nebraska State Bar Association.

Ann C. Mangiameli, JD, is the Managing Attorney of the Health, Education and Law Project at Legal Aid of Nebraska. The Project began in 2009 and includes eight hospitals, two ambulatory clinics and two community health centers. Ms. Mangiameli practices in the areas of Social Security Disability, Medicaid/Medicare and end of life planning. Her focus is on a holistic approach to medical care which improves client health by removing barriers to medical care and preventing poverty. Ms. Mangiameli serves on the newly formed development council for Creighton University School of Law charged with developing a Health Law Certificate for law and health care students. She also serves on the Nebraska Families Collaborative Advisory Board. Ms. Mangiameli is a 1991 graduate of Creighton University School of Law.

Patricia Cottingham fills the role as Intellectual and Developmental Disabilities (I/DD) expert on the Council. She has worked in the I/DD field for over 20 years and serves on several Human and Legal Rights committees for providers of services to this population. Ms. Cottingham is an adjunct instructor in the Human Services Department at Southeast Community College in Lincoln.

Dianne DeLair is the senior staff attorney with Disability Rights Nebraska, the designated Protection and Advocacy system for the state of Nebraska. Ms. DeLair's practice is devoted entirely to address abuse, neglect, and discrimination based on disability. She has represented individuals with disabilities for over 17 years in state and federal court. She has also represented individuals in county court guardianship matters, and administrative appeals.

Representing the County Judge role is **Judge Todd Hutton**, Omaha. Judge Hutton represents the 2nd Judicial District of Cass, Otoe & Sarpy counties in Nebraska. Todd Hutton attended the University of Miami where he received his Bachelor of Science. He then went on to further his education at the University of Creighton School of Law where he received his Juris Doctorate. He was sworn in to be a Sarpy County Court Judge in 1998. Prior to becoming a judge, Todd Hutton worked as a lawyer in the Omaha area for 8 years. Judge Hutton serves on many committees and organizations in the community. He currently is co-chair of the Nebraska Supreme Court Commission on Guardianships and Conservatorships.

Russ Leavitt is among the original 11 members of the Public Guardian Advisory Council selected by the Supreme Court Administrator to assist and support the Public Guardian in the early, arduous process of implementing the law by creating policies and procedures, and filtering the many logistical issues as the Public Guardian and his staff, worked toward and achieved operational ability. As one of the At-Large members of the Council he will be serving his second appointment. Russ also continues to serve on the Supreme Court Commission on Guardianship and Conservatorship, and serves on three subcommittees (Executive, Public Guardian and Protection of Vulnerable Adults) as part of this commission. Mr. Leavitt is a graduate of Creighton University, BSBA, with a Major in Accounting. He is the Chief Executive Officer of Finance and Technology and Co-owner at General Service Bureau and Early Out Services, Omaha NE.

Lisa Line is a partner with Brodkey, Peebles, Belmont and Line in Omaha. Ms. Line's primary areas of practice includes Probate, Estate, and Trust Planning and Administration; and Administrative Law, including Social Security Disability, Medicare and Medicaid. She assists families through estate planning and asset transfer issues; working with families during the probate or trust administration process; acts as a Court appointed Special Administrator, Guardian ad Litem, or Guardian/Conservator in probate, trust or guardianship/conservatorship actions; represents individuals in the legal process to determine entitlement for benefits; works with families of individuals with disabilities through the estate planning process, which includes both third party special needs trusts and self-settled special needs trusts; and advises Bank Trustees in the administration of special needs trusts, approval of expenditures and reporting to various agencies.

Dennis P. McNeilly, SJ, PsyD, is a clinical geropsychologist and professor of psychiatry in the University of Nebraska Medical School's Department of Psychiatry in Omaha, NE, where he also serves as the Section Chief for Geriatric Psychiatry and the Assistant Dean for Continuing Education. Dr. McNeilly's clinical practice and research interests include problem gambling in older adults, victimization of older adults, and the assessment and treatment of depression and dementia in older adults. Dr. McNeilly is a past President of the National Council on Problem Gambling, and past Chair of the Nebraska State Committee on Problem Gambling. He currently serves on the Nebraska Psychological Association's Ethics Committee, and previously served on the editorial board of Academic Psychiatry. Dr. McNeilly is also a member of the Creighton University Jesuit Community.

Julie Masters, PhD, is professor and chair of the department of Gerontology at the University of Nebraska Omaha. She also is the Terry Haney Chair of Gerontology. Dr. Masters teaches courses on death and dying on the Omaha and Lincoln campuses. In addition, she oversees the activities of the department on the Omaha, Lincoln and online campuses. In addition to her research on end of life planning, Dr. Masters conducts research on healthy aging, caregiving and aging inmates.

Amanda Duffy Randall received her BA from Michigan State University, her MSW from the University of Nebraska Omaha, and her Ph.D. from the University of Nebraska Lincoln in Cognitive and Developmental Psychology. She is an associate professor in the School of Social Work, and teaches clinical research and practice courses in the graduate program. She is the past president of the Association of Social Work Boards, the North American regulatory organization for social work licensure, and chaired the Nebraska Board of Mental Health Practice. Dr. Randall currently serves on the board of the Office of Public Guardian of the Nebraska Supreme Court, and consults with Joint Base Command San Antonio, providing training on the Department of Defense regulations on transgender service and family members. Dr. Randall is a member of the Professional Transgender Resource Network, and on the Executive Board of the Behavioral Health Education Center of Nebraska.

Kevin Ruser is the Director of Clinical Programs at the College of Law and teaches in the Civil Clinic and the Immigration Clinic. He also co-administers the Litigation Skills Program of Concentrated Study. He is a member of the Nebraska State Bar Association, the American Bar Association, the Clinical Section of the Association of American Law Schools, and the Clinical Legal Educators Association. Mr. Ruser began his role on the Advisory Council for the Office of Public Guardian in January 2016. He is currently a member of the Nebraska Supreme Court Self-Represented Litigants Committee and has been a member of the Robert Van Pelt American Inn of Court. He also serves on the boards of directors of various non-profit corporations.

Darla Schiefelbein, Clerk Magistrate, Platte County Court represents an At Large Member of the Advisory Council. She graduated from Wayne State College in 1981, with a Bachelor's of Science degree in Human Services Counseling and Sociology. Ms. Schiefelbein began employment with the Nebraska Department of Health and Human Services from 1981-1994 working in several caseload areas: Food Stamps, Aid to Dependent Children, Aid to the Aged, Blind and Disabled and preparing home studies for Adoption and Foster Care. She was appointed as Clerk Magistrate of the Platte County Court in 1994 until the present. Ms. Schiefelbein supervises six staff in the court and is responsible for the court caseload and progression. She also audits Guardian/Conservator cases for Sarpy and Hall Counties. Ms. Schiefelbein was appointed to the Nebraska Supreme Court Commission on Guardianships and Conservatorships in 2012. In 2013 she was selected to be one of three Guardian/Conservator Specialists for the state; serving as a resource for county court staff in Nebraska. The goals of the specialists are to work to insure uniformity among the courts and to improve process and forms used for Guardianships and Conservatorships.

The Advisory Council has been invaluable in assisting the OPG in developing policies and protocols to carry out the intent of the Public Guardianship Act. The statute requires the Council to meet four times a year. This dedicated group has met its statutory requirements through quarterly meetings throughout the year to provide thoughtful, insightful guidance to the OPG. Many members have also made their expertise available on an ongoing basis to the OPG outside of these regularly scheduled meetings. During 2017, the Council received updates on and offered feedback regarding the OPG financial management of the funds of wards and protected persons, new and ongoing OPG policies and procedures, personnel strategies for newly created and ongoing positions within the OPG, Court Visitor screening and report statistics, court rules, medical ethics, implementation of public guardianship and conservatorship processes, collective account court rules, guardian and conservator education, and communication with court personnel. The 2018 meetings of the Advisory Council have been scheduled for March, June, September, and December.

OFFICE OF PUBLIC GUARDIAN MULTI-DISCIPLINARY TEAM

The OPG staff, outlined in statute, includes the Public Guardian as Director of the Office, a Deputy Director and a multidisciplinary staff including Associate Public Guardians, Associate Public Guardian Legal Counsels, a Business Manager, an Education and Outreach Coordinator and two Administrative Assistants.

The **Deputy Public Guardian, Marla Fischer-Lempke**, was hired in January 2015.[xxiii] Ms. Fischer-Lempke received her Juris Doctor from the University of Nebraska, College of Law in 2004 and was licensed to practice law in Nebraska that same year. Since that time, she has held several positions and years of experience in advocating for and with people with disabilities and their families. Prior to coming to the Office of Public Guardian, Marla served as an Assistant Ombudsman with the Nebraska Office of Public Counsel where she addressed concerns of Nebraskans who experienced individual and systemic difficulties with programs administered by the Nebraska Department of Health and Human Services. Before Marla was with the Office of Public Counsel, she was the Executive Director for The Arc of Nebraska for five years. In this position, she provided support to thirteen local Arc chapters across Nebraska; provided advocacy in written and verbal testimony on proposed legislation within the Nebraska Unicameral in collaboration with other disability organizations; and provided information, ideas on problem solving, and action on statewide issues affecting the lives of people with developmental disabilities. In 2012, Marla joined the Nebraska Supreme Court Commission on Guardianships and Conservatorships. Marla was also the Public Information Attorney with Disability Rights Nebraska for four years, where she gained experience in developing informational materials for people with disabilities, family members, and interested citizens. She also provided several successful trainings on various topics pertinent to the lives of people with disabilities. She is experienced in the areas of individual and systems level advocacy and has successfully collaborated with other organizations and agencies on many occasions.

Brad Brake
Associate Public Guardian

Brad Brake originally grew up on a farm in southwest Minnesota. He attended college at Hamline University in St. Paul, MN where he majored in sociology/religious studies. During his time at Hamline, he worked at an after school program for Karen children. After graduating in 2010, Brad moved to Omaha, Nebraska in order to work on policy and development with the Nebraska Synod, ELCA. After that, he moved to Lincoln to attend law school at UNL. While at UNL, he worked at various nonprofits that included the ACLU and Nebraskans for Civic Reform. He graduated in May 2015 and began his next adventure with the Office of Public Guardian.

Janelle Cantu
Associate Public Guardian

Janelle Cantu graduated with a Bachelor's degree from the University of Nebraska at Omaha in 2001 with a major in Sociology, and holds a certificate from Boston University's Center for Aging and Disability Education and Research. Janelle was hired with the Department of Health and Human Services' Children and Family Services as an Economic Services Worker where she managed caseloads with individuals receiving food stamps, ADC, childcare, Medicaid and other economic services. Janelle was on the pilot team for the development of the new call center for AccessNebraska. She moved on to DHHS' Division of Developmental Disabilities and worked as a services coordinator, and managed a caseload of individuals with intellectual disabilities. She helped to transition individuals from the Beatrice State Developmental Center into the community. She also worked with individuals that were court ordered, by a board of mental health petition (BMHP), into the Division's custody. Janelle acted as for the individuals under the BMHP. Janelle also worked with Eastern Nebraska Office on Aging as a services coordinator for individuals over 65 years of age.

Jena Davenport
Associate Public Guardian

Jena is a rural Nebraska native who began her career in human services working with aging adults in a memory care setting. She attended Nebraska Wesleyan University in Lincoln and earned her Bachelor's Degree in Social Work and Sociology/Anthropology. Jena went on to attend the University of Nebraska - Omaha and earned her Master's Degree in Social Work. She completed graduate clinical hours providing family therapy at the Munroe Meyer Institute and worked with grandparents raising their grandchildren at Nebraska Children's Home Society. Jena's professional experience includes working with clients experiencing homelessness, substance abuse, mental health diagnoses, and interpersonal violence. She worked in the Intellectual Disability field for 7+ years in multiple roles, most recently as a Developmental Disability Community Coordination Specialist for the Nebraska Department of Health and Human Services. Jena is honored to serve individuals through her role with the Office of Public Guardian.

Chelsea Egenberger
Associate Public Guardian

Chelsea Egenberger is a Lincoln Native who obtained her bachelors in Social Work from the University of Nebraska – Omaha in 2009. She moved to Minneapolis where she worked in residential and day center programs for adults who lived with mental illness. During this time she continued her education at the University of Minnesota graduating with her masters in Social Work in 2012. Since then, Chelsea has found passion working in both the Clubhouse and Assertive Community Treatments (ACT) team models. Returning to Nebraska in 2015, Chelsea has sought to be a voice in her community to advocate for awareness and reform. She is excited to bring her commitment to Social Justice and mental health recovery to her role at the Office of Public Guardian.

Kimmie Fox
Associate Public Guardian

Kimmie Fox was born and raised in Omaha, Nebraska. She attended the University of Nebraska at Lincoln, completing a Bachelor's of Science in Biology. She received dual Masters' in Social Gerontology and Legal Studies from the University of Nebraska College of Public Affairs and Community Service and the Nebraska College of Law, respectively. Kimmie interned for AARP Nebraska and the Nebraska Office of Public Guardian, while in undergraduate and graduate school. She took a year of service as an AmeriCorps VISTA, working with the Nebraska State Unit on Aging as a resource developer for senior populations. Kimmie also worked as an adjunct professor at the University of Nebraska at Omaha. Kimmie is excited to be given the opportunity to again work with the Office of Public Guardian.

Fred Graves
Associate Public Guardian

Fred Graves was born and raised in Grand Island, Nebraska. He earned a BAeD with Teaching Endorsements in Communicative Arts at the University of Nebraska at Kearney. Fred started working part time with the Intellectually Delayed population in 1992 and worked on several projects at UNK including developing individualized curriculum for both gifted and special needs students. He worked briefly as a teacher in the central Nebraska area as a substitute teacher before accepting a full time position with a DD Community Based Service Provider. After working 10 years full time developing behavior support plans and skill training programs, Fred became a DD Service Coordinator for DHHS in 2006. Fred helped establish a non-profit tabletop gaming club with a mission statement to foster face to face social connections in his community and owns and helps operate a used bookstore he originally purchased with his father. Fred is a strong advocate for supported decision making and prioritizes fostering maximum independence with those he serves.

Jordan Harvey
Associate Public Guardian

Jordan attended the University of Nebraska at Omaha and received a bachelor's degree in psychology. She graduated with a Master's in Clinical Counseling from Bellevue University. Jordan's previous work experience includes working with uninsured individuals and assisting them with applying for state and federal programs, such as Medicaid and Social Security Disability. During her graduate internship, she provided counseling services for adults, children and families. Jordan has many years of case management experience and working with area agencies on obtaining resources for clients.

Alicia Husted
Associate Public Guardian

Alicia Husted, also known as Ali, grew up in Cortland, NE, a small town south of Lincoln. She attended the University of Nebraska at Kearney and received a bachelor's degree in psychobiology, with minors in health science and criminal justice. The majority of her experience has been within the field of developmental disabilities. Alicia started working in college at an Intermediate Care Facility for persons with Intellectual Disabilities. She then moved to providing community based services residentially and then as a Program Trainer for vocational services. Alicia moved back to the Lincoln area after college, briefly working in assisted living before taking a position with DHHS as a Developmental Disabilities service coordinator. She thoroughly enjoyed working in that position for the next 5 years until taking the position as Associate Public Guardian.

Kylie Joyce
Associate Public Guardian

Kylie Joyce was born and raised in Bassett, Nebraska. She received her Bachelor's degree in Social Work from the University of Nebraska - Kearney and her Master's in Clinical Social Work from the University of Nebraska - Omaha. While attending school in Kearney, she worked as a direct support professional in residential settings with adults and children with developmental disabilities. Her professional experience includes working in rural mental health and substance abuse treatment as an emergency community support worker, as a case manager within a hospital setting providing assessment and therapy in an inpatient psychiatric unit, and for the past 10 years has worked with DHHS as a Developmental Disabilities Service Coordinator. She is excited to join the team at the Office of Public Guardian, to continue her service in the public sector, serving the citizens of Nebraska.

Lisa Ludden
Associate Public Guardian

Lisa Ludden was born and raised in Norfolk, Nebraska. She attended Northeast Community College and received her Bachelor's degree in Education from Wayne State College. While attending school at Northeast Community College, she worked as a direct support manager in residential settings with adults with developmental disabilities. While attending school at Wayne, she worked substitute teaching through the Northeast Nebraska Teachers Association. Her professional career following college led her to being a social worker in long-term care facilities. She worked closely with hospitals and community resources to serve residents to discharge back to the community when able to do so. She is excited to join the team at the Office of Public Guardian, to continue her service in serving vulnerable adults and advocating for them.

Michelle Moore
Associate Public Guardian

Michelle Moore was born and raised in Ogallala, Nebraska. She attended the University of Nebraska at Kearney and received her Bachelor of Arts in Education for Elementary and Early Childhood Education. She went on to teach preschool for several years, which eventually led up to teaching elementary school for 10 years in North Platte, Nebraska. During that time, Michelle worked on her Master's Degree in Curriculum and Instruction from Doane College and received her degree in 2008. Most recently, she's been employed at the Nebraska Department of Health and Human Services, working as a Child and Family Services Specialist in the Kearney, Nebraska office. Michelle was with Child Protective Services for 2 ½ years before moving over to Adult Protective Services for her final six months with the department. Michelle has been with the Office of Public Guardian since June of 2015 and is honored to work with Nebraska's vulnerable adults as an Associate Public Guardian.

Josh Pazderka
Associate Public Guardian

Josh was born and raised in Omaha. He then attended Saint Louis University where he received his undergraduate degree in Social Work. After graduating he worked for a year as a case manager at a mental health transitional housing facility before attending the University of Washington School of Law. While in Law school Josh interned with a legal aid organization that provided Social Security assistance to low income and homeless individuals. He also interned with the Seattle public defenders association working in Mental Health Commitment Court. Josh is excited to continue pursuing his passion in public interest law with the Office of Public Guardian.

Stacy Rotherham was born and raised in the Scottsbluff/Gering area. She received her Bachelor of Arts in Kinesiology from the University of Northern Colorado. Stacy has worked in long term care for over 12 years as the Director of Alzheimer's Care, Certified Dementia Practitioner, and Certified Dementia Care Manager. She has loved being able to work and help those with Alzheimer's and other Dementias, and looks forward to being able to help other vulnerable adults as the Associate Public Guardian for the Panhandle.

Stacy Rotherham
Associate Public Guardian

Annette Scarlett
Associate Public Guardian

Annette Scarlett has a degree in Criminal Justice and Special Education. She has been working in the field of Developmental Disabilities since she was 16 years old and has worked at all levels, including the state level as a Services Coordinator for over nine years. She also has managed a six-bed nursing facility for those with intellectual disabilities and was a Services Coordinator for the Office on Aging for close to two years. Her latest experience was as an extended family home provider to a 24-year-old male with developmental disabilities. She is guardian and conservator for three others on a private basis, including a family member with developmental disabilities. Annette's passion is advocating for the rights of others when they are no longer able to do so for themselves.

Erin Wiesen
Associate Public Guardian

Erin Wiesen is a native Nebraskan who received her Bachelor of Arts in Applied Psychology and Human Services from College of Saint Mary in Omaha, Nebraska. She went on to receive a Master of Human Services from Concordia University in Seward, Nebraska, with a focus on Leadership and Management. Erin has spent her entire professional career engaged in case management and advocacy work; she has extensive experience in areas of developmental disabilities, mental health, substance abuse, homelessness, and employment readiness. Erin is honored to be a part of the Office of Public Guardian, where she can continue to serve vulnerable persons across Nebraska.

Sophia Alvarez
Associate Public Guardian
Senior Legal Counsel

Sophia grew up in Ft. Worth, Texas where she received a Bachelor of Science in Biology from Texas Woman's University in 1998. Sophia earned a Master of Science in Plant Breeding and Genetics from the University of Nebraska - Lincoln in 2001, and then worked as the Assistant Director for the UNL Upward Bound Math/Science Project. Sophia completed her JD at UNL - College of Law in 2006. During law school, Sophia clerked at Disability Rights Nebraska helping to draft the Law in Brief series and working on a grassroots voting rights campaign for people with disabilities. After graduating from the College of Law, Sophia worked at various private firms and Legal Aid in the areas of family law, juvenile law, criminal law, consumer law, Social Security law, and landlord/tenant law. Sophia's long held passion for public interest law has led her to this position with the Office of Public Guardian.

Seth Felton
Associate Public Guardian,
Legal Council

Seth, a native of Lincoln, graduated with a Bachelor of Arts in History and English from the University of Nebraska-Lincoln in 2001. He went on to receive his Master of Philosophy (M.Phil) from the University of Cambridge, UK, in 2003. After working in Washington, D.C., Seth returned to Lincoln and attended the University of Nebraska College of Law, graduating with his J.D. in 2010. Prior to joining the Office of Public Guardian, Seth was an attorney in private practice, where he focused on estate planning, probate, and guardianship/conservatorships; immigration law; and juvenile law. His estate planning practice also included a focus on those with special needs and their families. Motivated by a desire to return to public service, Seth joined the Office of Public Guardian as an Associate Public Guardian Legal Counsel.

Linda Kallhoff
Education and Outreach Coordinator

Linda was hired as the Education and Outreach Coordinator in June of 2015. Linda received her Bachelors of Arts Degree in Medical Social Services from Mount Marty College in Yankton, South Dakota. Linda served as the Social Services Director for Saint Anthony's Hospital in O'Neill, Nebraska, where she developed the hospital's first Social Service Department. She served in a Social Services position with Region IV Office of Developmental Disabilities, where she coordinated agency, medical, and other generic services for individuals using Region IV as their service provider. Linda went on to serve Region IV/NorthStar as an Area Director in their O'Neill, Bloomfield, Fremont, and Columbus area programs for 35 years. She focused her leadership efforts on transitioning from congregate, segregated services to community based services designed around each customer's goals, preferences, and support needs. In addition to area program administration, Linda developed curriculum and taught Person-Centered thinking and practices to all new NorthStar employees throughout the 22 counties of northeast Nebraska. During her career in the Intellectual Disabilities field, she served on boards for the Nebraska Association of Community Professionals (ACP), Nebraska Association of Persons Supporting EmploymentFirst (APSE), and Region IV Developmental Disabilities Council. Linda has presented on Person-Centered issues to statewide conferences through ACP, APSE, Nebraska People First, American Association of Intellectual and Developmental Disabilities, and at transition conferences for students who use Special Education Services through their local school districts.

Peggy Graham
Business Manager

Peggy attended college at the University of Nebraska-Kearney and graduated in 2006 with a BS in Business Administration with an emphasis in finance. She moved to Lincoln in 2008 and worked as an auditor with the Nebraska State Auditor's office from June 2008 to December 2014. She started working for the Supreme Court Finance Office in December 2014 and transitioned to the Business Manager position with the Office of Public Guardian in June 2015.

Jill joined the Office of Public Guardian in August of 2017. She came from the Lancaster County Court where she worked as a Records Clerk for four years. Her work experience includes working for Lincoln Public Schools for eight years as a Paraeducator for special needs children. Jill also worked seven years as an EMT in the ICU/Burn Unit at Avera McKennan Hospital in Sioux Falls, South Dakota. It has always been her passion to help people. Jill is honored to support the Office of Public Guardian and all of the needs of the Associate Public Guardians.

Jill VanDusen
Administrative Assistant

Katie was hired in August 2017. Katie was born and raised in Lincoln NE. She is the youngest of five siblings. She has a niece and nephew she loves to spend her free time with. Katie received her Associate's Degree in Accounting from Southeast Community College and a Bachelor's in Business Administration from Doane University. Katie's work experience includes working for Keating O'Gara Law Firm for six years. While working for the firm she helped with Guardianships cases and was one of the main persons of contact for the wards. She handled finances for 10 plus individuals. She also worked with the Department of Health & Human Services Mental Health Division as an accountant. Her desire to return to the legal profession and the joy she experiences helping others is what led her to the Office of Public Guardian.

Katie Mihulka
Administrative Assistant—Intake

Carol's Story

In January 2016 the Office of Public Guardian (OPG) became "Carol's" temporary guardian. Carol had been in the hospital for a couple of weeks and was refusing to comply with treatment options. Carol had a history of leaving facilities against medical advice and returning to her apartment where there was no one who could care for her. Carol lacked the ability to care for herself. She previously had a temporary guardian who placed her in a facility to get physical therapy and build her strength, however the temporary guardianship was terminated after placement. Once the temporary guardianship was terminated, Carol again left against medical advice. When the OPG was contacted, Carol did not want a guardian, nor did she believe she needed one (any more than she believed she needed medical care). Accordingly, she was unpleasant to hospital staff, health providers, and staff in facilities who tried to assist her and her Associate Public Guardian (APG). Carol had the reputation of being an extremely mean woman. She did not have any relationships with extended family and did not have any friends.

Initially, after the OPG was appointed, it was determined Carol required a consistently higher level of care and would not be able to safely return to her apartment. This was particularly hard for Carol since never going back to independent living meant disposing of her possessions because she could not afford to store her belongings. Carol spent approximately eight months at the hospital because all facilities in the state refused to accept her due to her unpleasant disposition and her history of refusing medical care. During these eight months she called at least daily to yell at the APG. Very few interactions with Carol were pleasant. The APG began the heart wrenching task of deciding what items should be kept and what should be sold from Carol's apartment. Carol was very private, angry and refused to divulge personal information and history to the APG. However, during the process of cleaning out Carol's apartment, the APG learned many things about her. Carol was a lover of romance novels, evidenced by the thousands of books in Carol's office. Carol also loved high-end kitchen utensils and infomercials. It seemed she had nearly every gadget sold on QVC. Additionally, the APG learned how deeply she loved her late husband and how much she missed him. She and her husband had met when they both were in the Navy and stationed in San Diego. They did not have any children. Thirteen years after his death, Carol still had all his clothes hanging in the closet. This shed some light on Carol's unpleasant disposition, maybe the root cause of her anger and bad temperament was loneliness and a broken heart. The majority of Carol's items were sold from the apartment. The only items kept were some of her pictures, clothing, her late husband's military flag, and a "hope chest" size trunk. It was locked and the key could not be located. When asked about the trunk, Carol chastised the APG to stay out of her personal items stating she had no right to get into the chest. Additionally, Carol told the APG she did not want the chest in her assisted living with her, but wanted it stored. As a result the chest remained locked and secured in the OPG storage unit.

In August 2016 Carol was accepted to a facility in the southeast corner of the state and the APG traveled once a month to visit her. Carol was initially excited to get out of the hospital but was soon calling the APG with the request to be moved to another facility. The facility tried many things to make her happy and to participate with physical and occupational therapy but still Carol refused. Carol was at the facility for less than a year before she passed away.

Shortly after Carol passed, the APG was determining how to handle her possessions, requiring her to gain access to the locked trunk. **In the trunk underneath pillows and blankets was**

Carol's will, her wedding ring, and boxes of gold coins and rare coins. Upon further investigation it was discovered the coins were worth a small fortune- approximately $100,000!

Though Carol could be unpleasant, she still was a very interesting person. She was a Veteran of the Navy. She was smart and strong willed; very independent. She previously worked as a book keeper in her younger days. In her will Carol specified many, many family members who were *not* to get any of her estate; instead she left all of her estate to the San Diego Zoo- evidently a place that represented special times and memories of Carol, and her husband's, life together. She did not have any family she was close with but she did have the fortune of finding the love of her life and that love never wavered even after he had passed away.

DUTIES OF THE OFFICE OF PUBLIC GUARDIAN

The Public Guardianship Act, Neb. Rev. Stat. §§ 30-4101 through 30-4118, outlines the responsibilities and duties of the Office of Public Guardian. The duties of the Public Guardian can be characterized by: responsibility for equitable appointment process (provided by the Court Visitor Program); direct service as public guardians and public conservators; maximizing resources and implementing effective financial and organizational management practices; facilitating model and best practices for services to wards and protected persons; providing education, support and education to all guardians and conservators in the state; and enhancing opportunity for recruitment of successor guardians/conservators in the private sector[24].

The duties of the Office of Public Guardian include:

- Provide immediate response when guardian/conservator needed in emergency situation- Neb. Rev. Stat. § 30-4105(1)
- Provide an option upon resignation, removal, or discharge of guardian/conservator so no lapse in service- Neb. Rev. Stat. § 30-4105(2)
- Provide equal access and protection for all individuals in need of guardianship or conservatorship services- Neb. Rev. Stat. § 30-4105(3)

- Provide public education to increase awareness of duties of guardians/conservators- Neb. Rev. Stat. § 30-4105(4)
- Encourage more people to serve as private guardians/conservators- Neb. Rev. Stat. § 30-4105(4)
- Recruit members of public and family to serve as guardians or conservators- Neb. Rev. Stat. § 30-4105(5)
- Provide adequate training and support to enhance [guardian/conservator] success- Neb. Rev. Stat. § 30-4105(5)
- Act as resource to guardians/conservators for education, information, and support- Neb. Rev. Stat. § 30-4105(6)
- Safeguard the rights of individuals by supporting least restrictive manner possible and full guardianship only as last resort- Neb. Rev. Stat. § 30-4105(7)
- Model the highest standard of practice for guardians/conservators to improve performance of all guardians/conservators in state- Neb. Rev. Stat. § 30-4105(8)
- Develop a uniform system of reporting and collecting statistical data- regarding guardianship/conservatorship- Neb. Rev. Stat. § 30-4109(1)
- Develop and adopt standard of practice and code of ethics for public guardianship/conservatorship services- Neb. Rev. Stat. § 30-4109(2)
- Prepare a biennial budget for the implementation of the act- Neb. Rev. Stat. § 30-4109(3)
- Develop guidelines for sliding scale of fees for public guardians/conservators- Neb. Rev. Stat. § 30-4109(4)
- Maintain a curricula for training of private and successor guardians/conservators- Neb. Rev. Stat. § 30-4109(5)
- Maintain training programs statewide to offer training curricula for interested parties- Neb. Rev. Stat. § 30-4109(6)
- Guardian and conservator understand disabilities and fiduciary needs of ward/protected person- Neb. Rev. Stat. § 30-4109(6)(a)
- Helping a guardian encourage independence by ward as appropriate- Neb. Rev. Stat. § 30-4109)(6)(b)
- Helping a guardian with plans/reports and conservator with accounting/reports- Neb. Rev. Stat. § 30-4109(6)(c)
- Advise a guardian/conservator on ways to secure rights, benefits, and services entitled by ward/protected person- Neb. Rev. Stat. § 30-4109(6)(d)
- Promote public awareness of need and responsibilities of guardianship/conservatorship- Neb. Rev. Stat. § 30-4109(7)
- Apply for and receive funds from public and private sources for purpose of act- Neb. Rev. Stat. § 30-4109(8)
- Once appointed, the office shall make reasonable effort to locate a successor guardian/conservator- Neb. Rev. Stat. § 30-4114(1)
- Provide appropriate and high-quality care and support including timely decision-making
- Serve wards through a multidisciplinary team through ward caseload distribution taking into consideration issues of complexity of case, geographic location, availability of auxiliary support and voluntary services, professional expertise, etc.

- May accept an appointment as guardian/conservator not to exceed average of twenty individuals per each member of the multidisciplinary team- Neb. Rev. Stat. § 30-4115 (2)
- Upon reaching the maximum the Public Guardian shall not accept appointments and …Shall notify the State Court Administrator that the maximum has been reached- Neb. Rev. Stat. § 30-4115(3)
- Has all powers and duties of guardian in sections 30-2626 and 30-2628; and all powers and duties of a conservator in section 30-2646, 30-2647, 30-2653 through 30-2657- Neb. Rev. Stat. § 30-4116(1)(a)
- If proposed that a ward/protected person be placed outside of their home, the Public Guardian will visit the facility- Neb. Rev. Stat. § 30-4116(2)(c)
- The Public Guardian shall monitor the ward/protected person and his or her care on a continuing basis- Neb. Rev. Stat. § 30-4116(2)(c)
- Maintain personal contact with ward/protected person- Neb. Rev. Stat. § 30-4116(2)(c)
- Public Guardian shall maintain a written record of each visit- Neb. Rev. Stat. § 30-4116(2)(c)
- Public Guardian shall maintain periodic contact with all individuals, agencies, public or private, providing care or related service to the ward or protected person- Neb. Rev. Stat. § 30-4116(2)(c)

Michael's Story

"Michael" was diagnosed with acute encephalopathy after a fall at work at a meat packing plant caused his health to decline. He was found malnourished and unconscious in his apartment in central Nebraska and taken to the hospital. He was in critical condition, and required transfer to Omaha for surgery. Doctors explained to Michael the seriousness of his condition and the potential consequences of his brain surgery; he was asked what level of intervention he wanted. Michael stated that he wanted a full medical response including resuscitation and life support (full code). Michael did not have any family in Nebraska; accordingly, after surgery the hospital identified the need for a guardian and petitioned for the Office of Public Guardian (OPG) to be appointed Temporary Guardian. Michael was on a ventilator. The OPG assisted with Michael's discharge from the hospital to the ventilator unit in a long term care facility.

The Court ordered a Court Visitor report for Michael's case to determine whether Michael had any family or friends, rather than the OPG, to serve as a permanent guardian. The OPG learned Michael was a lawful permanent resident of the U.S., who originally was from Nicaragua. The Court Visitor reported Michael's estranged son lived in Florida. The OPG contacted Michael's son for more information regarding Michael and his family. His son was willing to help, but was only 18 years old at the time. He was not willing to serve as guardian. No other family or person known to Michael were identified, so the OPG was appointed as permanent guardian.

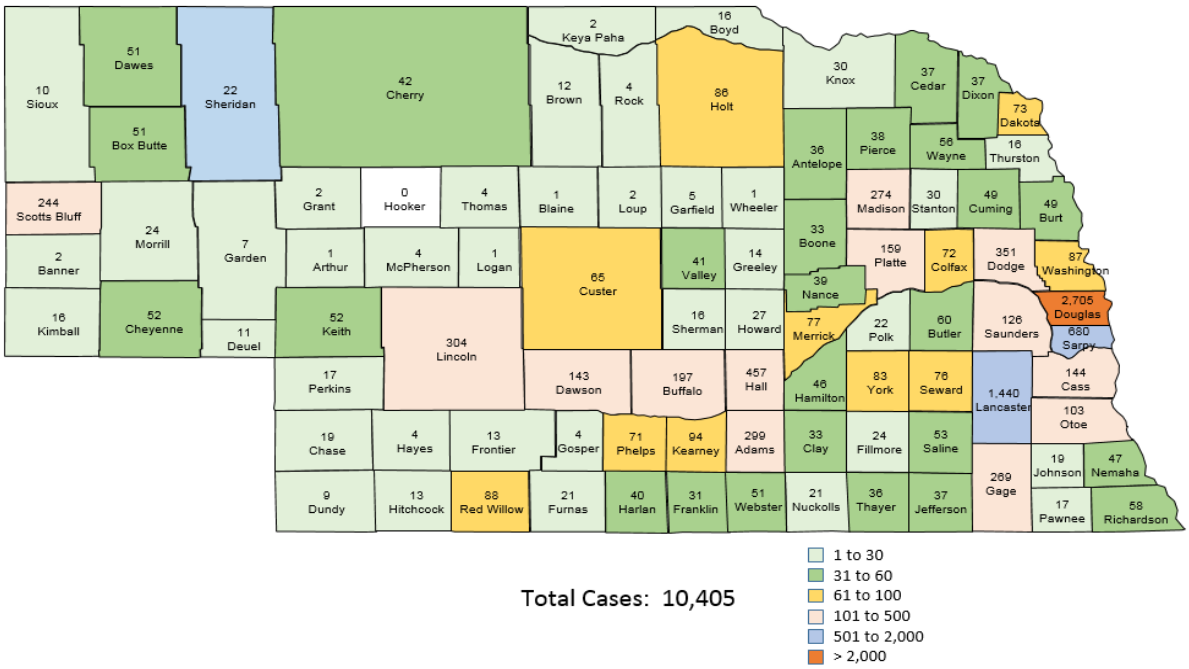
Michael did not speak English. His health began to deteriorate. He was unable to communicate due to his decreased cognitive functioning and use of a ventilator. Michael's care providers had to gauge his pain levels through facial grimacing. He was unable to track consistently with his eyes. His medical professionals recommended changing his status to "Do Not Resuscitate" and begin "compassionate weaning" of his ventilator. The OPG reviewed medical records, seeking documentation of Michael's wishes at a time that he had capacity to communicate such, and found the documentation of Michael's indication that he wished to be full code. Additionally, Michael's wallet had a card with a picture of the Virgin Mary, suggesting Michael's religious preference was Roman Catholic. Accordingly, the OPG was able to utilize substituted judgment model of decision-making for Michael's end of life wishes.

"**Substituted judgment" requires the decision maker to substitute the ward's wishes (communicated when they had capacity) for the usual "best interest" standard of guardians. The OPG was aware of specific, documented instances of Michaels's wishes on this matter, and took actions to ensure Michael's desires, and directives when he was competent, were followed. The "compassionate weaning" of the ventilator was not initiated; his code status remained a full code.**

The months passed, and Michael's health continued to decline, resulting in a "minimally conscious" state. The APG continued to update Michael's son on Michael's condition. Michael's son and Michael's son's mother (Michael's ex-wife) traveled to Nebraska to visit Michael. They were extremely disheartened at his condition. The APG met with them, and an interpreter, to discuss Michael's health status and share the medical opinion of the doctors regarding Michel's prognosis the doctors indicated

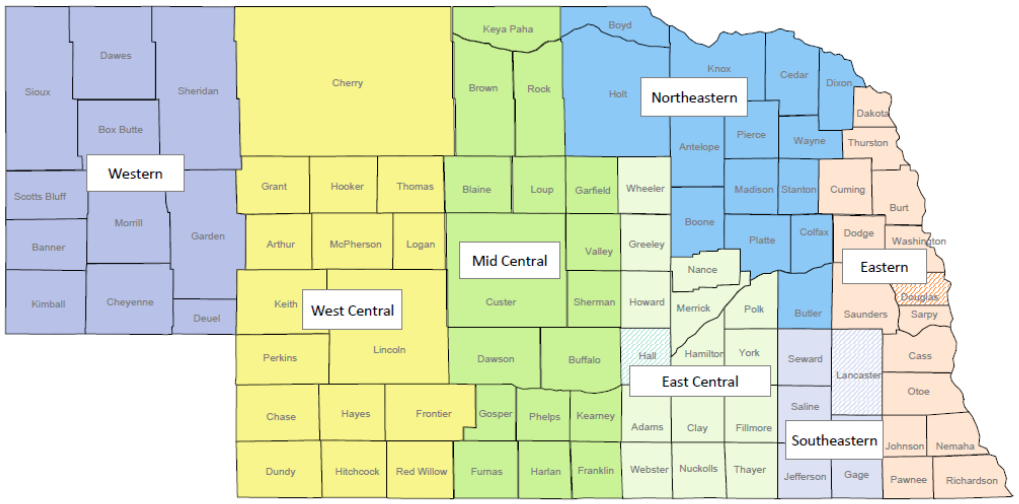
there was no hope for Michael's recovery; Michael's health and functioning capacity would not improve. His family indicated that they believed Michael would not want any additional heroic actions taken to keep him alive, should his condition continue to deteriorate-that Michael would not want to live in his present condition for a long period of time. Accordingly, after months of stagnation of progress regarding his condition; the communication from his family about what they believed Michael would have wanted given his current status and prognosis; and the professional opinion of his medical providers, the OPG changed Michael's status to "Do Not Resuscitate". Michael continued to be on life support, but the decision was made that, should Michael's condition result in his heart stopping, he was not to have CPR. Subsequently, Michael lived peacefully for a few months before passing away in his sleep.

Nebraska Active Guardian/Conservator Cases: Probate Code - as of June 30, 2017



Total Cases: 10,405

OFFICE OF PUBLIC GUARDIAN NEBRASKA SERVICE AREAS



The counties of Hall, Lancaster and Douglas are shared between multiple Associate Public Guardians as a part of their Service Areas.

Updated 11/22/2016

Panhandle: Scottsbluff/Gering - Banner, Box Butte, Cheyenne, Dawes, Deuel, Garden, Kimball, Morrill, Scottsbluff, Sheridan, and Sioux;

West Central: North Platte - Arthur, Chase, Cherry, Dundy, Frontier, Grant, Hayes, Hitchcock, Hooker, Keith, Lincoln, Logan, McPherson, Perkins, Red Willow, Thomas;

Mid Central: Kearney - Blain, Buffalo, Brown, Custer, Dawson, Franklin, Furnas, Garfield, Gosper, Hall*, Harlan, Keya Paha, Kearney, Loup, Phelps, Rock Sherman, Valley;

East Central: Grand Island/Hastings - Adams, Clay, Fillmore, Greely, Hall, Hamilton, Howard, Nance, Merrick, Nuckolls, Polk, Thayer, Webster, Wheeler, York;

Northeastern: Norfolk - Antelope, Boone, Boyd, Butler, Cedar, Colfax, Dixon, Holt, Knox, Madison, Pierce, Platte, Stanton, Wayne;

Southeastern: Lincoln - Gage, Jefferson, Lancaster*, Saline, Seward;

Eastern : Omaha, South Sioux City, Falls City - Burt, Cass, Cuming, Dakota, Dodge, Douglas*, Johnson, Nemaha, Otoe, Pawnee, Richardson, Sarpy, Saunders, Thurston, Washington.

**Shared counties within Service Areas by multiple Associate Public Guardians*

Offices

There are currently two office locations for the Office of Public Guardian (OPG). One office is in west Omaha and houses five Associate Public Guardians (APGs) and two Associate Public Guardian – Legal Counsels (APG-LCs) that serve the Eastern area of the state. Three APGs and one APG-LC share Lancaster County and the four surrounding counties. They are located in the OPG main office in Lincoln. All other APGs work from home offices located in their Service Areas.

PUBLIC GUARDIANSHIP AND PUBLIC CONSERVATORSHIP NOMINATION AND APPOINTMENT

Office of Public Guardian Court Rules

The Office of Public Guardian, in consultation with its Advisory Council, and in conjunction with the Forms, Court Rules and Statutes Subcommittee of the Commission on Guardianships and Conservatorships, worked together to develop and submit proposed amendments to the Uniform County Court Rules of Practice and Procedure and two new rules in accordance with Neb. Rev. Stat. § 30-4110 (2014).

In creating the Office of Public Guardian, it became apparent that the Office of Public Guardian may need to follow a somewhat different process from that of the current appointment process of private guardians and conservators. As such, rules were developed to ensure the intent of the legislature was kept intact in both the creation and implementation of the Office. The development of the rules was in keeping with the following intent language:

> The Legislature intends that establishment of the Office of Public Guardian will provide services for individuals when no private guardian or private conservator is available. The Legislature also finds that alternatives to full guardianship and less intrusive means of intervention should always be explored, including, but not limited to, limited guardianship, temporary guardianship, conservatorship, or the appointment of a payee. It is the intent of the Legislature to provide a public guardian or public conservator only to those individuals whose needs cannot be met through less intrusive means of intervention.[25]

Nebraska Supreme Court Rules were amended to address this intent under §§ 6-1441 and 6-1443 and specific to Office of Public Guardian implementation were created under §§ 6-144.01 and 6-1443.02.

Interested Person and Due Process

These rules followed statutory guidance and ensured that the Public Guardian is considered an interested person.[26] Additionally, the court rules were written to safeguard due process for potential wards and protected persons for whom the Office of Public Guardian may be nominated. In addition to statutory guidance, the Office of Public Guardian also looked to National Probate Code Standards to ensure a proper evidentiary hearing brings forth the required clear and convincing evidence to demonstrate that guardianship is needed and, when the Public Guardian is nominated, to ensure "necessity."[27]

The Office of Public Guardian looked to existing Nebraska Court Visitor and Guardian ad Litem statutes to shape its role in following due process and in the statutory requirement that the Office of Public Guardian is serving when a person's "needs cannot be met through less intrusive means of intervention."[28]

Rule Addition: Financial Accountability: Organizational Collective Account

In recognition that the Office of Public Guardian "shall model the highest standard of practice for guardians and conservators to improve the performance of all guardians and conservators in the state," it became apparent that the Office of Public Guardian needed to take steps to amend the court rules to allow for the creation and utilization of an organizational collective account.[29]

It is the opinion of the Office of Public Guardian that, due to the multiple wards and protected persons the Office of Public Guardian will be serving, and the oversight required of those multiple individuals, an organizational collective account is preferred to multiple, separate, individual ward/protected persons' accounts. An organizational collective account provides the highest security under current electronic banking practices for wards and protected persons; protecting against wards and protected persons from accessing funds through "on-line banking" features available to individual bank accounts. Additionally, the organizational collective account allows the Office of Public Guardian to centralize wards' and protected persons' financial processes so that Associate Public Guardians, who provide the direct personal care and decision making for wards and protected persons, have no access to any of the wards/protected persons' funds. Finally, the organizational collective account centralization provides for the segregation of financial duties and processes requiring different individuals to complete different actions so no one Office of Public Guardian staff member has access to wards' and protected persons' funds.

The use of an organizational collective account by the Office of Public Guardian required the amendment to existing rules and the adoption of new rules because financial processes and documentation is different than the process and documentation utilized by individual bank accounts, of which the then current rules addressed. The amended and new rules provide the framework for financial oversight by the court, including annual reports and financial documentation, of each individual ward's and protected person's funds, utilizing the organizational collective account, the Office of Public Guardian financial management system (EMS) software, and the centralized Office of Public Guardian financial process. The amendment and new rules require the system to track each individual ward or protected person's funds; and the Office of Public Guardian process requires monthly reconciliation between the ward and protected person's individual budget and the actual expenditures and receipts. Finally, the amendment and new rules require annual oversight of the Office of Public Guardian organizational collective account by the State Court Administrator, with assistance of the Advisory Council, allowing an audit to be conducted at any time; and mandating an independent audit every three years.[30]

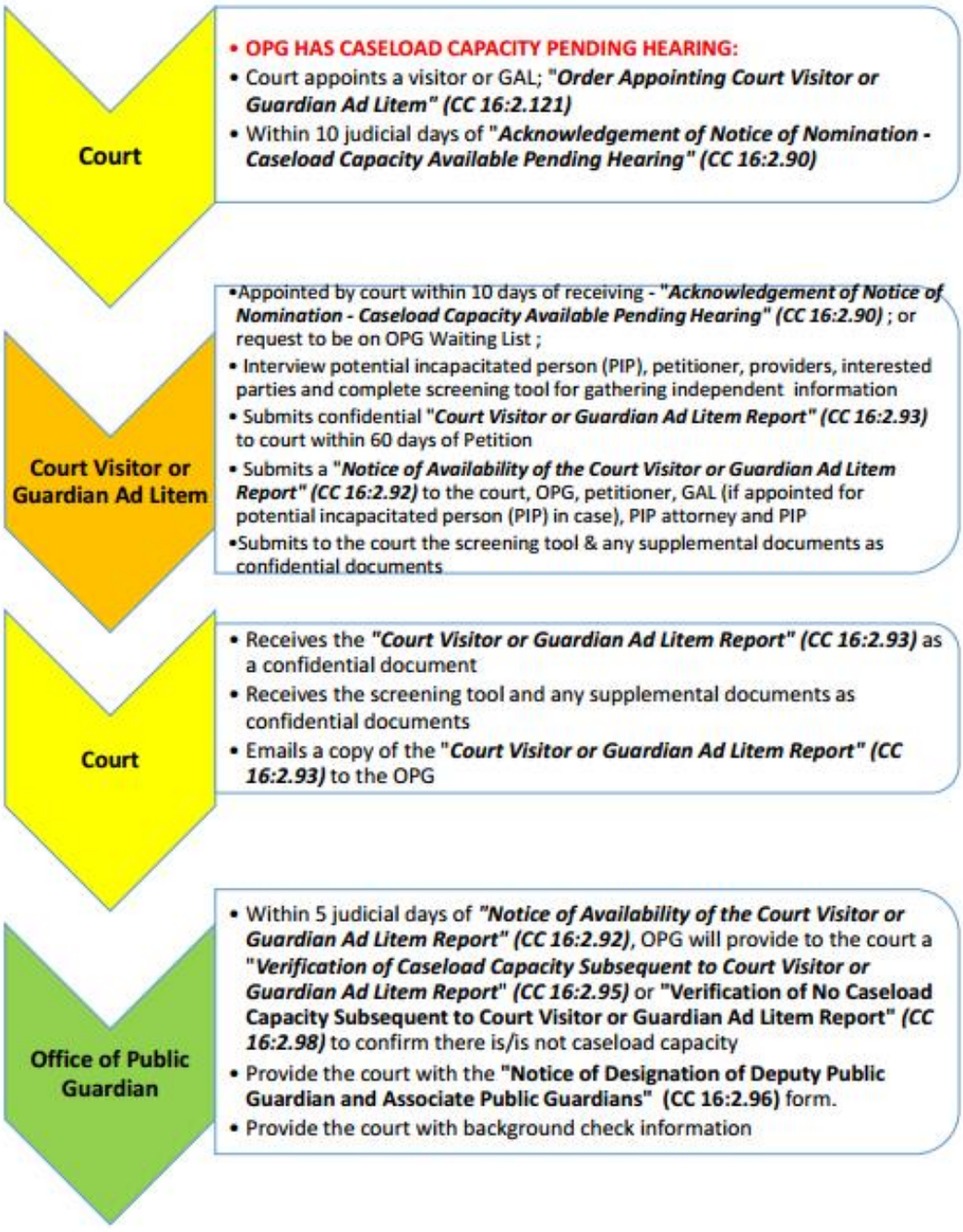
Forms

The Public Guardian; Trial Court Services of the Administrative Office of the Courts, especially the Forms Coordinator, Christina Werner; Forms, Court Rules, and Statutes Subcommittee of the Commission on Guardianships and Conservatorships; and the Guardianship and Conservatorship Specialists continue to work together to develop and provide the Court Forms required to process the nomination and appointment process of the Public Guardian. A court form for Court Visitor/GAL Reports when the Office of Public Guardian (OPG) is appointed was developed by the Administrative Office of the Courts, as required by the rules, in accordance with statutory requirements for Court Visitor evaluations, the potential areas of decision making potentially granted in guardianship and the criteria required to appoint the OPG.

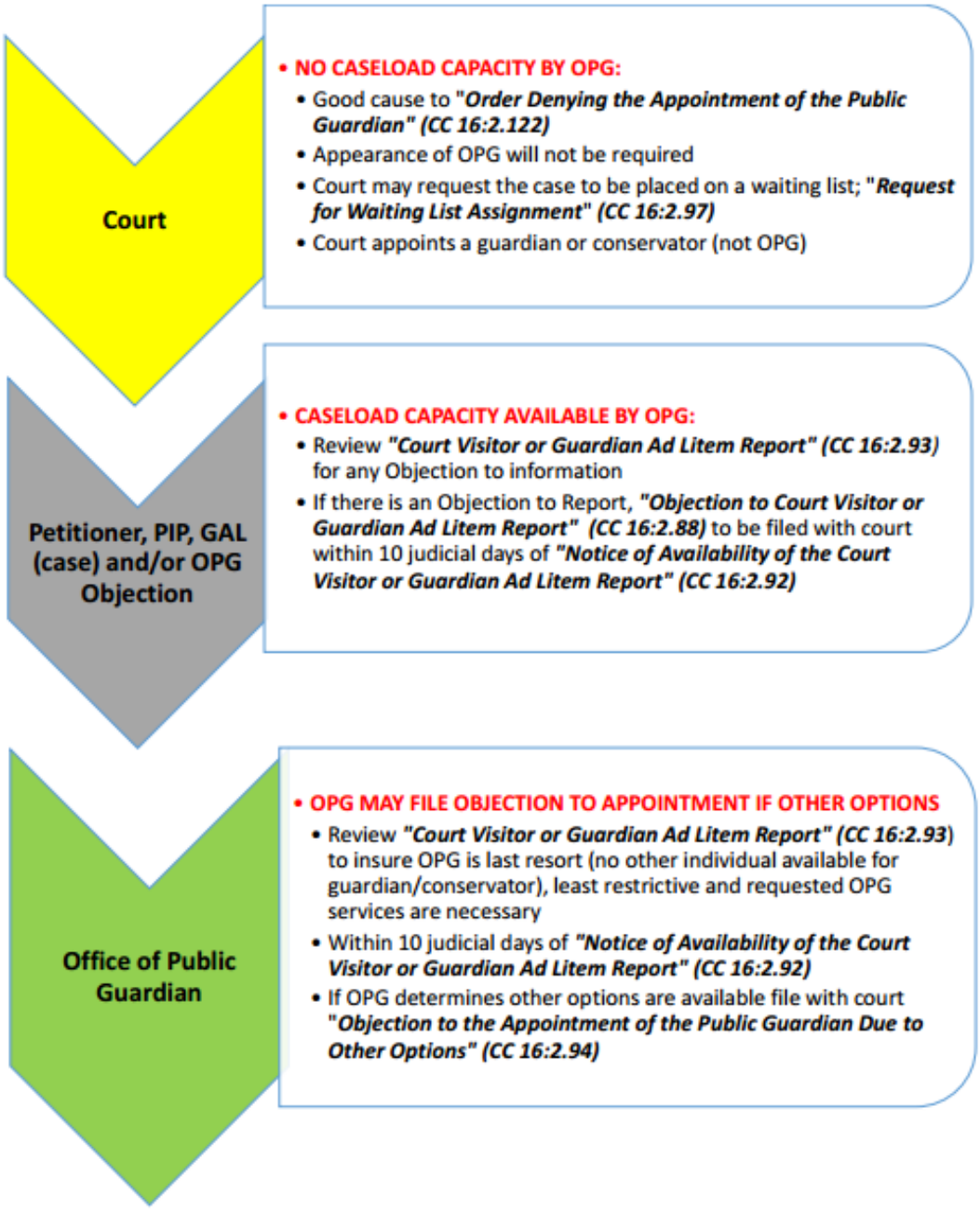
Intake Process-Flowchart

The flowchart below offers a visual format to the Public Guardian nomination process. This flowchart was widely distributed to all clerk magistrates and county judges to assist in understanding the nomination, appointment, and acceptance process for cases in which the Public Guardian is nominated. Flowcharts for both non-emergency (CC 16:2.221) and emergency (CC 16:2.222) cases were developed. Both flowcharts are accessible in electronic format as forms on the Supreme Court website.

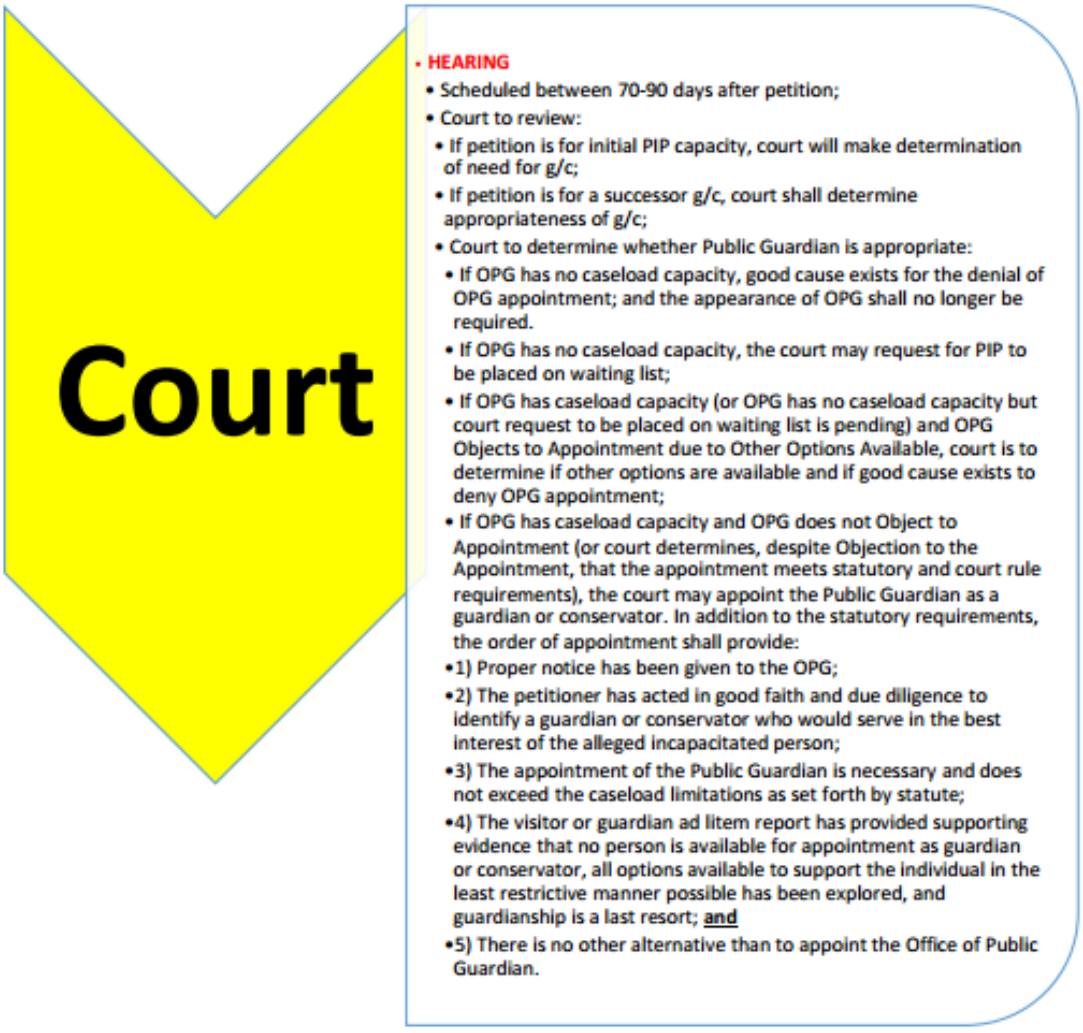
Nebraska Public Guardian Nomination Process



Nebraska Public Guardian Nomination Process



Nebraska Public Guardian Nomination Process



PILOT: OPG Waiting List

Enacted by AOC and Supreme Court November 22, 2017

INTRODUCTION

The Office of Public Guardian (OPG) is to serve as the public guardian and/or public conservator as last resort for vulnerable adults in Nebraska in accordance with the Public Guardian Act, ***Neb. Rev. Stat. §§ 30-4101 to 30-4118.*** Public guardianship and public conservatorship cases shall be managed by the Public Guardian through a caseload distribution of wards and protected persons taking into consideration: the identified needs of the service population; the complexity and status of each case; the geographical area covered by the public guardian assigned; the expertise of the OPG team member; the availability of services to support the guardianship and or conservatorship; organizational responsibilities of the team member and applicable legal requirements. ***Neb. Rev. Stat. §30-4115(1)(c).*** The Public Guardian may accept an appointment as public guardian or public conservator for an individual not to exceed an average ratio of twenty public wards or public protected persons to each member of the multidisciplinary team. ***Neb. Rev. Stat. §30-4115(2).*** When the average ratio is reached the Public Guardian shall not accept further appointments. ***Neb. Rev. Stat. §30-4115(3).***

In order to manage case load and case distribution assignments, the OPG has organized in geographic OPG Service Areas comprised of Nebraska counties with OPG personnel who provide guardianship/conservatorship management within the areas. The OPG may reach the maximum average ratio for an Associate Public Guardian in one service area, but not in others. Currently, the maximum case load and distribution capacity limit has been attained by some Associate Public Guardians within the Eastern and Southeastern OPG Service Areas. Accordingly, courts have begun to request cases be placed on an OPG Waiting List for future assignment of a public guardian/conservator when an opening occurs.

The OPG Waiting List Process (OPGWLP) Pilot has been developed in accordance with the Public Guardianship Act and Nebraska Court Rules, with input from the OPG Advisory Council, and final direction by the State Court Administrator.

The Public Guardianship Act does not specifically address the OPG utilization of a waiting list. However, the Act does direct that the OPG Annual Report include the status of the waiting list for public guardianship and public conservatorship services. ***Neb. Rev. Stat. §30-4111.*** In order to track, and accurately report those cases that legitimately meet the criteria for services by the OPG, the proposed OPG WLP reflects the Public Guardianship Act public policy directives that public guardianships and public conservatorships be last resort, least restrictive, provide only necessary services, and support individuals in the least restrictive manner possible.

Additionally, the OPG WLP complies with Nebraska Court Rules that a court may *request* a case be placed on the OPG Waiting List, as provided by the OPG. **Neb. Ct. R. §6-1433.01(D) and (J).** Within ten days of the request the court will assign a court visitor or guardian ad litem to provide a report, on a form developed by the Supreme Court Administrator's Office, to assist the OPG fulfill its duties mandated by the Public Guardianship Act. **Neb. Ct. R. §6-1433.01(E) and Neb. Ct. R. §6-1433.02(F)(2).**

The OPG WLP Pilot provides for a 90 day limit for placement on the Waiting List; allowing for subsequent requests for the case to be placed on the Waiting List again, subject to updated status information regarding the case. These requirements were included in the OPG WLP as a result of lengthy discussions with the members of the OPG Advisory Council. The Advisory Council was concerned that without a specific time limit, and a process for updated information outside of OPG's responsibility, the Waiting List would require ever expanding utilization of OPG time and resources to manage the hundreds of cases on the list; as well as heightened scrutiny, demands, and expectations of the OPG regarding the allocation of openings. The 90 day limit mirrors the time frame in temporary/emergency cases; and the requirement for updated reports, prior to repeat placement on the Waiting List, puts the burden for information justifying a request for a public guardianship or public conservatorship on the plaintiff who is requesting the appointment, rather than the OPG.

The criteria, under the OPG WLP for choosing a case from the waiting list or from an active emergency/temporary case when an opening for public guardianship/conservatorship occurs, seeks to align with case load and case distribution mandates, and the public interests undergirding the duties of the Public Guardianship Act. Those duties include the OPG to provide: immediate response in an emergency situation; an option, without a lapse in service, to a ward or protected person; equal access and protection for all individual in need of guardianship or conservatorship; and safeguard the rights of individuals by exploring all options available to support individuals in the least restrictive manner possible, and seek full guardianship only as a last resort. ***Neb. Rev. Stat. § 30-4115 and Neb. Rev. Stat. 30-4105.*** The limited resources of the OPG do not allow for full compliance with the duties listed for all cases and the OPG cannot meet all requests for public guardians and public conservators. However, the OPG Waiting List Process Pilot seeks to fulfill the public interests of OPG duties to: meet emergency needs, continue service for wards, provide equal access, give protection, safeguard individual rights, give least restrictive options and utilize public guardianship as a last resort. The Supreme Court has determined to initiate the OPG Waiting List Process as a Pilot Process through June 2018. At that time the process will be reviewed to determine if any adjustments should occur.

Waiting List Procedure

(A) If the acknowledgment and caseload capacity verification shows the Office of Public Guardian (OPG) does not have capacity to take the case, the court may request the case be placed on the Office of Public Guardian Waiting List.[31]

(B) Temporary/emergency guardianships are appointed because the welfare of the incapacitated person requires immediate action, or an emergency exists, and are to terminate at the end of a ninety-day period- or when the circumstances leading to the order for temporary guardianship no longer exist[32]. Accordingly, **placement on the OPG Waiting List is not appropriate, and *will not be available*, for temporary/emergency guardianship and/or conservatorship OPG nominations.**

(C) If the court *requests* the case be placed on the Office of Public Guardian Waiting List, the court shall appoint a court visitor consistent with Neb. Rev. Stat. § 30-2619.01, or a guardian ad litem pursuant to

Neb. Rev. Stat. § 30-2222(4), within 10 judicial days of the request to place the case on the Office of Public Guardian Waiting List and provide notification of such to the OPG.[33]

(D) The Court Visitor or Guardian ad Litem Report, on the form required by the State Court Administrator's Office[34], will:

(1) Provide an evaluation on the allegations of incapacity[35];
(2) address whether there is an appropriate private guardian and/or private conservator to serve in the case[36];
(3) Support the appointment of the OPG in accordance with the Public Guardianship Act, but for the lack of capacity by the OPG[37];
(4) Indicate that all options available to support the individual in the least restrictive manner possible has been explored;[38]
(5) State whether the guardianship is a last resort[39]; and
(6) Specify whether appointment is necessary and that no alternative to public guardianship or public conservatorship is available[40]

(E) Public guardianship and public conservatorship cases shall be managed by the Public Guardian[41] and the Waiting List shall be determined by the Office of Public Guardian[42]. Upon receipt of the required Court Visitor or Guardian ad Litem Report, the OPG shall file a response to the report within 10 days[43] indicating whether the OPG will accept or deny the case's placement on the Waiting List. The OPG may decline the request that the case be placed on the Waiting List if the information on the Court Visitor or GAL report fails to provide information required in (D) above.

(F) Upon notice that the OPG will accept the ward on the Waiting List, the court shall make findings, in accordance with Neb. Ct. R. § 6-1433.01 (J), and order the case be placed on the Waiting List for 90 days, as provided by the OPG Waiting List policy.

(G) If the case is not chosen from the Waiting List within 90 days the OPG will notify the court of the removal of the case from the Waiting List. Any subsequent request for consideration to be added to the Waiting List again will be subject to the same Waiting List process as originally required.

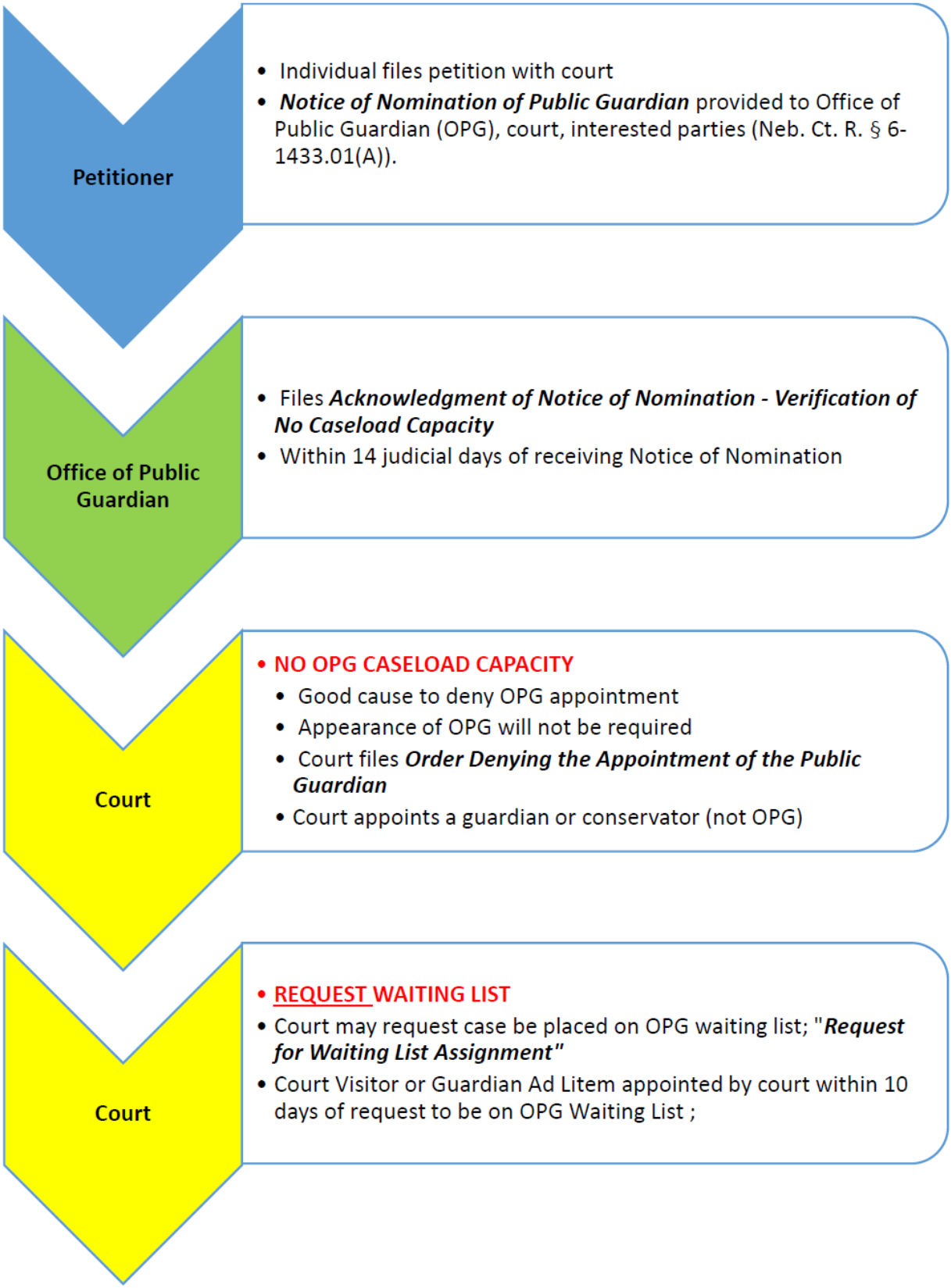
(H) If the OPG has an opening in its caseload capacity in an OPG Service Area from which a ward is on the Waiting List, the OPG shall determine the case to be chosen from the Waiting List, or to be accepted from a current Temporary/Emergency OPG Nomination.

(1) Determination will be solely at the discretion of the Office of Public Guardian, and will not be "first on the Waiting List, first chosen". Rather, the determination will be in accordance with the Public Guardianship Act, (Neb. Rev. Stat. §§ 30-4101 to 30-4118), Nebraska Court Rules (Neb. Ct. R. §§ 6-1433.01 and 6-1434.02) and AOC/OPG policies. The determination will take into consideration the OPG appointment caseload capacity[44] and caseload distribution criteria[45] found in the Public Guardianship Act.

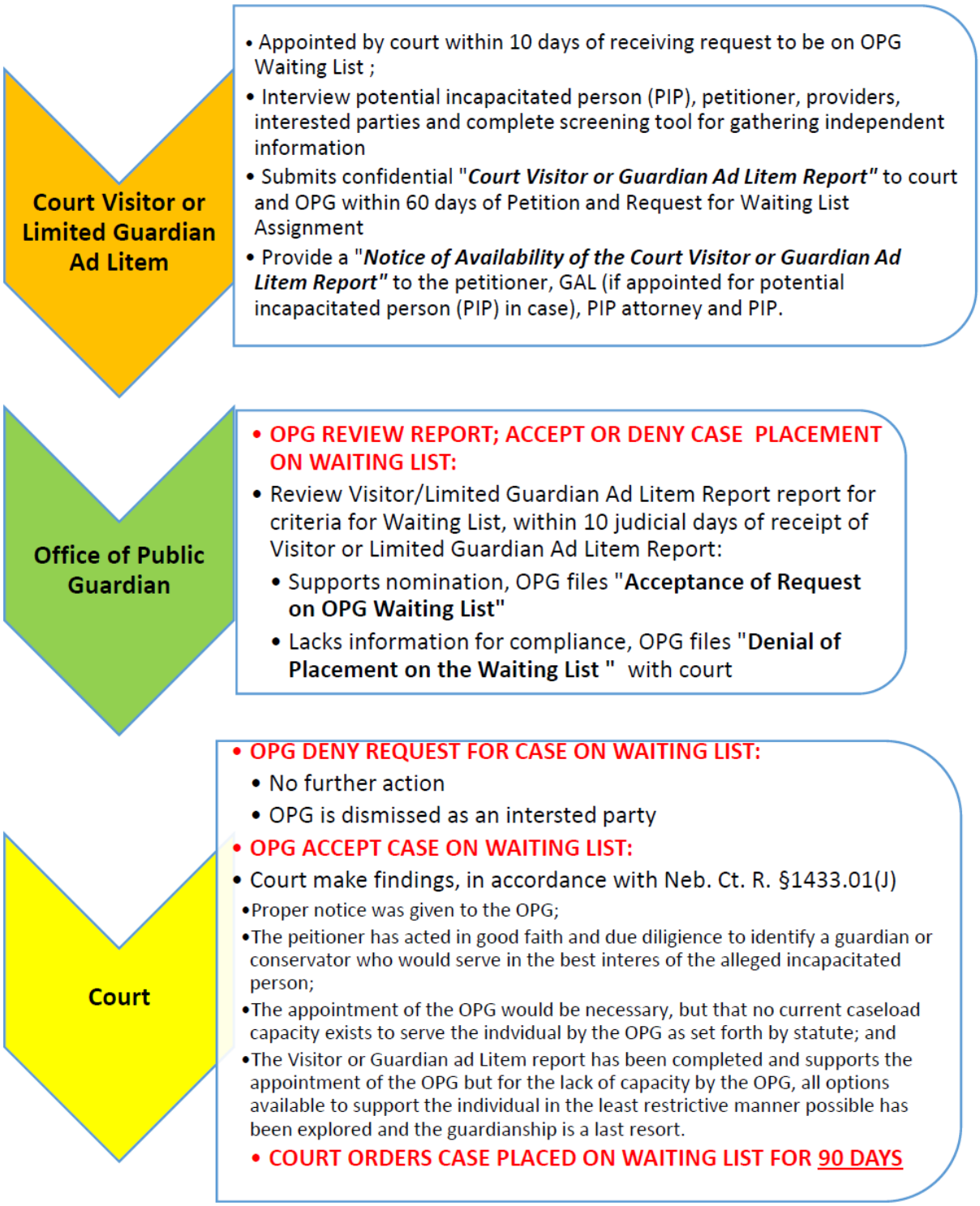
(2) In addition to the criteria in (H)(1) above, priority consideration will be given to cases in which Nebraska Adult Protective Services has substantiated abuse, neglect, self-neglect and/or exploitation of a vulnerable adult.[46]

(I) When the case has been chosen from the Waiting List the Office of Public Guardian will contact the court that there is capacity for the OPG to be appointed as guardian and/or conservator for the chosen ward. The court will then, on its own motion, determine whether the OPG should be appointed as guardian and/or conservator in the case.

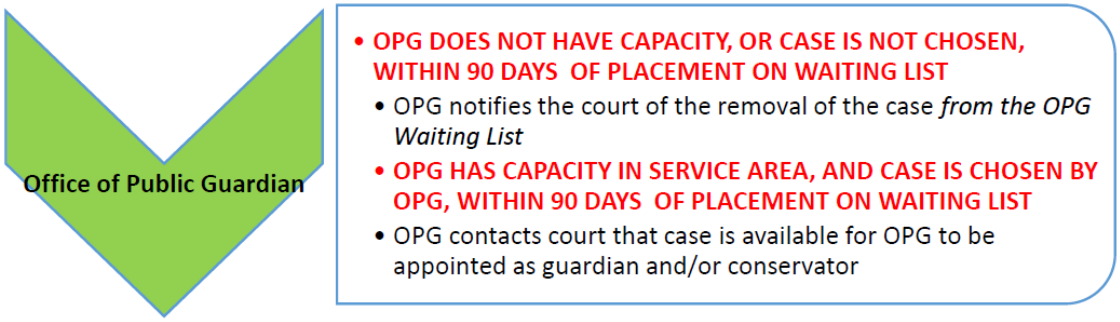
Nebraska Public Guardian WAITING LIST Process

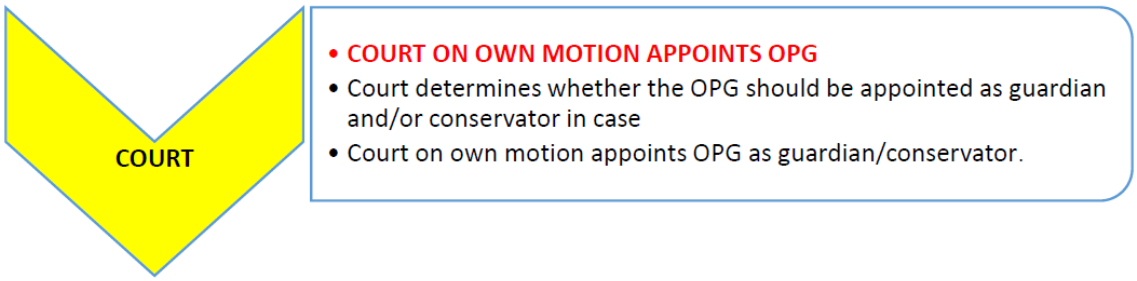


Nebraska Public Guardian WAITING LIST Process



Nebraska Public Guardian WAITING LIST Process





Jeff's Story

In March 2016 the Office of Public Guardian (OPG) became Temporary Guardian/Conservator for "Jeff." Jeff was referred for guardianship/conservatorship by a mental health facility for seniors who were in need of psychiatric care. He had been placed at the facility months prior to the creation of the Office of Public Guardian; it was here he was told he could not return to his previous assisted living facility. At the previous assisted living facility Jeff had stabbed another resident with a fork. As a result, Jeff was evicted and placed in his current facility.

The issue regarding Jeff's placement was that Jeff had already stabilized with the help of medication and mental health treatment, but he was stuck between two worlds – unable to go back to a lower level of care due to the lasting fear over his prior assaultive behavior, but lacking the need for continued intensive psychiatric care. Jeff reported to the Associate Public Guardian (APG) that he was bored and frustrated at his own inability to do something more than "sit around all day." After the OPG was assigned to his case, through the work of APGs, Jeff was discharged to a regular assisted care facility.

Jeff thrived at the assisted living facility! He made quick friends and often discussed with them his love of Westerns. He was a regular participant in the center's social activities and became a favorite of the staff. Jeff was able to regain the sense of dignity and self he had lost while stuck in the mental health facility waiting for discharge to an appropriate level of care.

Unfortunately, within a few months at the new assisted living facility, Jeff suffered a stroke that left him almost completely nonverbal and extremely limited in cognition and movement. Due to lessening fears of any psychiatric outbursts, the APG was able to move Jeff to an equal level of care facility in Omaha – where Jeff was from, and where he previously expressed hope of returning to. At this new facility in Omaha, he was put in hospice care. Jeff saw a brief increase in quality of life once hospice started. His cognition improved, he was more responsive, and he was more physically able to perform tasks like feeding himself.

Disappointingly, a few weeks after these initial improvements, Jeff's health took another bad turn and he began the end of life process. Hospice began focusing on managing his pain and making him comfortable. Three weeks later, a little over nine months after the OPG received Jeff as a ward, he passed away.

During those nine months, APGs were able to piece together some information about Jeff. He was often seen as a loner – an independent, educated, hard working person who desired to fend for himself and live in peace. APGs were able to track down a fully funded burial trust that Jeff had set up earlier in his life. This allowed the designated APG to aid in planning a funeral that Jeff would have deemed fit- a nice suit, a proper burial in a casket, and prayers to be said over him.

There were four people who attended Jeff's funeral – the funeral home representative, the pastor, the APG who acted as Jeff's guardian when he passed, and a second APG who had moved on from the OPG but who had been a designated APG for Jeff during the OPG's initial appointment and desired to pay respects to a great guy. This former APG would also go on to act as personal representative for Jeff's estate -further showing the impact an APG can have on a vulnerable adult's life but, also, showing the impact the vulnerable adult can have on an APG's life.

COURT VISITORS

> "Court visitors serve as the eyes and ears of probate courts, making an independent assessment of the need for guardianship/conservatorship." National Probate Standards Commentary 3.3.4 Court Visitor

Nebraska statutes allow the use of Court Visitors and/or Guardians ad Litem when appointing guardians and/or conservators for potential protected persons/wards.[47] Utilization of a Court Visitor or Guardian ad Litem as an independent screener, when the Office of Public Guardian is nominated, complies with the Public Guardianship Act requirement that the guardianship/conservatorship is necessary, the extent of the powers of the guardian/conservator are necessary, and there is no one else to serve for the potential ward in this capacity but the Office of Public Guardian.[48] Court Visitors and Guardians ad Litem acquire information that assists the court in determining necessity of the guardianship or conservatorship and, if necessary, the appropriate level of guardianship/conservatorship (limited vs. full). Court Visitors and Guardians ad Litem may also identify for the court when less restrictive alternatives to guardianship or conservatorship are more appropriate. Accessing this information at the forefront of a case helps tailor an appropriate level of service to the person, and ensures greater efficiency of the Office of Public Guardian's resources. Court rules require the appointment of a Court Visitor or a Guardian ad Litem whenever the Office of Public Guardian is nominated for appointment. The Office of Public Guardian recruits, screens, and trains volunteer Court Visitors, and provides appointed Guardians ad Litem with information to assist the Office of Public Guardian in complying with the Public Guardianship Act. These efforts have helped to ensure that the appointment of the Public Guardian occurs only when it is "least restrictive", as a "last resort" and as a "necessary service".

Visitor Screen (CC 16:2.93S) and Visitor/GAL Report (CC 16:2.93)

The Visitor Screen and the Visitor/GAL Report provide information to judges for considering a person's level of capacity. The categories of capacity that may be at issue include: medical condition, cognition, everyday functioning, values and preferences, risk and level of supervision, and means to enhance capacity.[49]

Without outside information to advise the court, it would be difficult to precisely pinpoint what level of intervention may be needed and whether the appointment of the Office of Public Guardian (OPG) is necessary, or if necessary, to what extent. In addition to assisting in providing information regarding capacity, Court Visitor screening information also assists to "identify the [proposed ward's/proposed protected person's] wants, needs, and values".[50] The Court Visitor Screening Tool uses the statutory language for topics of decision-making that appear on the Letters of Guardianship and Conservatorship.[51] This ensures that the screening tool provides information specific to the types of decisions a potentially incapacitated person may require assistance by statute. Mirroring the language used in the statute and Letters is meant to assist the court in determining exactly what level of support is needed, who the best person to provide the support is, and the appropriate duration for the support.

The Visitor/GAL Report was developed, with the assistance of the Advisory Council, in compliance with: Neb. Ct. R. § 6-1433.01 (E) "The visitor or guardian ad litem report shall comply with Neb. Rev. Stat. § 30-2619.03, and to assist the Office of Public Guardian fulfill its duties mandated by the Public Guardianship Act, the report will include a standard form approved by the State Court Administrator's Office to include information required by Neb. Rev. Stat. § 30-2619.01" and Neb. Ct. R. § 6-1433.02 (H). "An appointed visitor and/or guardian ad litem is to conduct an evaluation of the allegations of incapacity and whether there is an appropriate private guardian and/or private conservator to serve in

the case. The visitor or guardian ad litem shall provide a written report to the court, on a form approved by the State Court Administrator's Office, and allow for the filing of responses to the report" in accordance with Neb. Rev. Stat. §§ 30-2619 through 30-2619.04.

Court Visitor Education - Overview

Neb. Rev. Stat. § 30-2624 states, "The court shall maintain a current list of persons trained in or having demonstrated expertise in the areas of mental health, intellectual disability, drug abuse, alcoholism, gerontology, nursing and social work for the purpose of appointing a suitable visitor." The Office of Public Guardian (OPG) orients new Court Visitors in the use of the Court Visitor screening tool (CC 16:2-93S) and the Court Visitor or Guardian Ad Litem Report form (CC 16:2-93). Each Court Visitor completes a five hour on-line introduction and orientation to guardianship/conservatorship. Upon completion of the on-line modules, the court visitor completes approximately six hours of classroom orientation to the Court Visitor process.

Upon completion of the Court Visitor orientation process, new Court Visitors indicate which County Courts they are willing to serve. This list and contact information is made available to Clerk Magistrates in each of the counties where the Court Visitor has agreed to serve. At times, when no local Court Visitor is available to serve, a request is made to the statewide Court Visitor group to consider serving on a case outside their catchment area.

Volunteer Court Visitors

- 17 Volunteers have served as Court Visitors since the OPG began serving cases.
- 90 Court Visitor cases served by Volunteer Court Visitors
- 15 Average number of hours worked by a Court Visitor per case
- 1491 Estimated number of hours contributed by Volunteer Court Visitor since 10/2015

Guardians' ad Litem/Attorneys

The Office of Public Guardian (OPG) continues to collaborate with Nebraska Bar Association and Judicial Branch Education to offer Continuing Legal Education (CLE) credits for attorneys who complete both the online and live Court Visitor Education offered by the OPG. Attorneys who agree to serve as a volunteer Court Visitor on a court case where the OPG has been nominated for appointment, receive 11 CLE credits for a $25 processing fee. Attorneys who chose to charge courts for this service, are assessed $175.00.

- 14 Attorneys completed Court Visitor Orientation since the OPG began serving cases.
- 63 Court Visitor cases served by Attorneys who have completed the Court Visitor Orientation
- 43 Pro bono cases served by Attorneys who have completed the Court Visitor Orientation
- 645 Estimated number of pro bono hours contributed by Attorneys who have completed Court Visitor Orientation

    - 77 Court appointed Guardians ad Litem provided tutorial covering the topics addressed in the 6 hour classroom segment of the Court Visitor Orientation, and forms necessary to complete the Court Visitor process.
    - 141 Court Visitor cases served by attorneys who were emailed Court Visitor tutorial and forms.

Court Visitor Contributions
Volunteer Court Visitors and Attorneys from across Nebraska have stepped up to help courts access critical information about a vulnerable population of individuals in crisis. Court Visitors have been instrumental in identifying individuals from the personal networks of potentially incapacitated persons who were willing to serve as their private guardian or conservator.

Court Visitors have provided information that has lead courts to determine that a full guardianship was not necessary, thus allowing the person to retain some of their decision making rights. Information gathered by Court Visitors has been instrumental in helping courts balance a potentially incapacitated person's need for protection with their need to maintain some autonomy over their own life choices. Through their inquiry and report, they have contributed to court decisions tailored to a person's individual decision making needs. Their time and input has changed the quality of life for some of Nebraska's most vulnerable citizens who have lost abilities AND relationships!

Two groups of individuals serve and have served as Volunteer Court Visitors:

- Volunteers from various backgrounds and experience
- Attorneys contributing Pro Bono Court Visitor case work

Current Volunteer Court Visitors from Various Backgrounds and Experiences:
Court Visitors were asked during a recent semi-annual Court Visitor Update meeting to provide feedback to the question "Why do you accept the next case?" Comments are shared below with their biographical information.

Scot Adams:
Scot is a resident of Omaha who has been serving as a Volunteer Court Visitor since December of 2015. His areas of expertise include Social Work, Mental Health, and Gerontology. Scot describes his personal strengths as: being even tempered and easy to get along with, a sense of humor, able to see things from multiple points of view.

"I first became interested in this when I had responsibilities for the Norfolk and Lincoln Regional Centers where we had many people needing guardians. I was present when the catalyst for your enabling legislation first surfaced and through the process of its becoming law... You ask a lot from the volunteers to know - mental and physical health, access and ease with docs and other professionals, and so on. Listening to some of the cases, it takes a lot of time to do - more than most volunteers would be willing to give, I think. I continue to stay because the people clearly need a hand. ….some have literally been comatose, others with serious illnesses and conditions that preclude full comprehension of events. Even my last case which I thought was going to be an "easy" one had some pretty serious implications…"

Vicki Blattert:
Vicki lives in Norfolk, and serves as Court Visitor in Madison, Stanton, Platte, Pierce, Wayne Counties., since September of 2015. She holds the record for longest serving Court Visitor! Vicki's areas of expertise are Social Work, Mental Health, Drug Abuse and Alcoholism. Vicki has had experience with one-on-one situations through her counseling and therapy background. Vicki originally considered the volunteer Court Visitor program because she wanted to use skills from her practice, where she recognized how important a good guardian is to a person's quality of life.

Patti Hinrikus:
Patti lives in Wood River and serves as a Court Visitor in Adams and Hall Counties. Patti's areas of expertise are Social Work, Mental Health, Drug Abuse and Alcoholism. She originally applied as a Court Visitor to help vulnerable persons who may need someone to speak for them. Patti is also a CASA volunteer (Court Appointed Special Advocates who provide a voice for abused and neglected children in the court system so they can thrive in safe, permanent homes)

"*… many of the PIPs (Potentially Incapacitated Person) have burned family/friend bridges and have no one to see that they are in relatively safe and satisfying circumstances, having their basic needs met yet being allowed to make decisions as they are able… I believe that everyone should be afforded human dignity… I continue to volunteer because someone needs to and I believe I have something to offer to the community."*

Ryan Jewitt:
Ryan lives in Lincoln and serves Court Visitor cases in Lancaster County. Ryan has served as a combat medic in the US Army, and at Walter Reed National Military Medical Center. His areas of expertise are Nursing, Mental Health, Gerontology, Intellectual Disabilities, Alcoholism and Drug Abuse. Ryan identifies himself as a logical thinker who tends to approach life in a practical manner.

Gus Lieske:
Gus lives in Hayes Center and serves as Court Visitor for Red Willow, Hitchcock, Dundy, Chase, Hayes, Frontier, Keith, Perkins, Lincoln, Logan, McPherson, Arthur, Thomas, Hooker, Grant, Cherry, Garden, Deuel, Morrill, Cheyenne, Kimball, Franklin, and Kearney Counties. Gus has agreed to travel even further to serve as Court Visitor on a number of occasions! He has a Masters in Educational Psychology and Counseling. He lists his personal strengths as confidence, humor, empathy, and a desire to help.

"*I think that your work is necessary and enjoyable*."

Rita Skiles:
Rita is from Huntley and has agreed to serve Court Visitor cases in Harlan, Furnas, Franklin, Phelps, Kearney, and Buffalo Counties. Rita has had extensive experience with Intellectual and Developmental Disabilities during her career as the director of transition services for the Educational Service Unit. Rita is also a CASA Volunteer and recognizes that some people need a voice in court to make sure their ideas are being represented.

Sherry Woodard-Rush:
Sherry lives in Omaha and serves Court Visitor cases in Douglas and Sarpy Counties. Sherry has served more cases than any other Court Visitor since she first began in October of 2015! Her areas of expertise are Social Work, Mental Health, Gerontology, Developmental Disabilities, Drug Abuse and Alcoholism. Sherry brings skills of listening, organization, and "triage" from her services with the Eastern NE Office on Aging, where she served as an Ombudsman Advocate Assistant.

"I love being a Court Visitor! It's one more opportunity to advocate and protect those in our community who have no one else. It's a chance to know a potential ward on a personal level and delve into how this situation happened."

Kelly Werkmeister:
Kelly is from Kearney and serves Court Visitor cases in Buffalo County. Kelly brings experience from work with the Colorado State Public Defender's Office. She brings experience in law and a good work ethic. Through her experiences as an investigator, she has worked with many people with Mental Health and substance abuse issues.

Karla Woodard:
Karla is from Omaha and serves Court Visitor cases in Douglas County. Karla's areas of expertise are Social Work, Mental Health, Gerontology, Intellectual Disability, and Developmental Disabilities. Her strengths include the ability to be objective, being a self-starter, and a strong advocate. Karla serves as a private guardian for an elderly woman with developmental disabilities.

Holly Morrison:
Holly lives in Omaha and serves Court Visitor cases in Dodge, Douglas, Lancaster, Sarpy, and Saunders Counties. Holly spent 35 years advocating for people with disabilities as the COO of the Council on Quality and Leadership. Holly lists her personal strengths as: a great listener, highly empathetic, executive experience while understanding it is the person using a service who defines quality in service, organized, responsible.

"I do the work of the Court Visitor because it allows me to contribute to the last big civil rights battle. For 35 years, in paid positions, I advocated for the rights of people with disabilities alongside and led by people with disabilities. Now that I'm retired I can continue the work because much is left to do."

Lisa McGuire:
Lisa lives in Kearney. She serves as Court Visitor for Cherry, Holt, Boyd, Keya Paha, Brown, Rock, Blaine, Loup, Garfield, Custer, Valley, Sherman, Dawson, Buffalo, Gosper, Phelps, Kearney, Furnas, Harlan, and Franklin Counties. Lisa is a Long-Term Care Ombudsman for the South Central Nebraska Agency on Aging. She describes herself as a people person, organized, compassionate, a great listener and observer.

Kathleen Keenan:
Kathleen is from Milford and is one of the newest Court Visitors. She has agreed to serve Court Visitor cases in Lancaster and Seward Counties. Kathleen's personal strengths are patience, listening, written and verbal communication. She finds herself at a point in life where she is able to give back and wants to help those who may not be have to help themselves.

Additionally, these Volunteer Court Visitors are no longer active, but have served cases in the past:

- Janelle Cantu – Douglas and Dodge Counties
- Kimmie Fox – Lancaster County
- Linda Higgins – Scotts Bluff County
- Stephanie Mason – Lancaster County

Attorneys Contributing Pro Bono Court Visitor Case Work:

- **Sarah Centineo:**

Sarah lives in Bellevue. She currently practices law as a plaintiff's attorney with an emphasis on pediatric medical negligence cases. Her interest in and pursuit of this emphasis of practice grew during her years of nursing. Sarah's personal strengths include empathy, listening, and patience. With her educational and work background, she finds herself uniquely qualified to do Court Visitor work. She has spent time with complex issues and is able to evaluate and identify needs in the stories of others.

- **Tosha Rae Heavican:**

Tosha lives in Omaha and serves Court Visitor cases in Douglas County. She has been available to provide pro bono Court Visitor services since November of 2015, when she completed both the on-line modules and classroom sessions of the Court Visitor Orientation.

- **Jamie Hermanson:**

Jamie lives in Omaha and has agreed to serve Court Visitor cases in Dodge, Washington, Douglas, and Sarpy Counties. Jamie completed the 11 hour Court Visitor Orientation on February 13, 2017. Jamie has served both pro bono and for fee Court Visitor Cases.

- **Ann Moshman:**

Ann lives in Omaha and serves Court Visitor cases in Douglas County. Ann completed the Court Visitor Orientation on November 3, 2015. Ann has served both pro bono and for fee Court Visitor cases.

- **Shannon Prososki:**

Shannon lives in Omaha. She has agreed to serve cases in Douglas and Sarpy. Shannon has served pro bono Court Visitor cases since April 27, 2016 when she completed the Court Visitor Orientation.

- **Lizann Friend:**

Lizann lives in Papillion. She has agreed to serve Court Visitor cases in Sarpy, Cass, Otto, Douglas, and Nemaha Counties. Lizann has been available to serve cases since March 30, 2016 when she completed the Court Visitor Orientation.

- **Rick Smith:**

Rick lives in Tecumseh. He has agreed to serve cases in Richardson, Nemaha, Otoe, Pawnee, Johnson, Gage, and Saline Counties. Rick has served pro bono cases since completion of his Court Visitor Orientation on June 21, 2016.

- **Shellie Nelson:**

Shellie lives in Omaha or Elkhorn depending where you stand on her property. She is the newest attorney completing the Court Visitor Orientation on November 3, 2017. Shellie has agreed to serve Court Visitor cases in Douglas, Washington, Dodge, and Saunders Counties.

These Attorneys are no longer actively serving pro bono Court Visitor cases, but have contributed their work during the building of the Office of Public Guardian:

- Jeanne Burke - Douglas and Sarpy Counties
- David Thompson – Douglas, Sarpy, Washington, Cass Counties
- Joanne Mauer – Sarpy, Cass, Otto, Washington, Burt, Dodge, Saunders, Colfax, Butler, Douglas
- Jennifer Schuelke – Douglas, Sarpy
- Cheree Hatfield – Legal Aid initial Court Visitor case support
- Paula Fritz – Legal Aid initial Court Visitor case support
- Katelyn Cherney – Legal Aid initial Court Visitor case support
- Ann Mangiameli – Legal Aid initial Court Visitor case support

Verdel's Story

In September of 2017, the Nebraska Office of Public Guardian (OPG) was appointed as temporary guardian for "Verdel Ten Bears" (name changed to protect privacy of the ward). Verdel had been admitted to the hospital a few weeks prior due to having swallowing issues, but hospital staff and attending physicians had difficulties communicating with Verdel and questioned his ability to make informed decisions regarding his medical care. The hospital petitioned for an emergency appointment of a temporary guardian to make these medical decisions.

Verdel's swallowing issues turned out to be Stage 4 laryngeal cancer. Verdel's physicians inserted a feeding tube to provide Verdel with nourishment, and a tracheostomy tube to help Verdel breathe due to the laryngeal mass that had developed in his neck and muscle tissue.

The Associate Public Guardian (APG) assigned to the case met with Verdel at the hospital. The APG found Verdel to be pleasant, but unable to speak due to the tracheostomy tube. The APG and Verdel communicated by having the APG verbalize questions to Verdel and having Verdel write his answers down on a pad of paper. Verdel indicated no family or friends were to be notified of his condition. His responses were fairly simplistic, in that Verdel primarily indicated his desire to leave the hospital and to eat solid food again. The APG verbalized to Verdel that he understood those desires, but that those choices would not be safe considering his medical condition. Information available through court records and hospital social workers indicated that Verdel was a long time member of Lincoln's homeless community. No family or friends had been located or contacted by hospital staff at the time of OPG's appointment. The APG worked to try connect with any family through contacting the Bureau of Indian Affairs and the Sisseton-Wahpeton Sioux Tribe

The APG conferred with members of Verdel's treatment team, which included his oncologists. The oncology team had determined Verdel's cancer had advanced to the point that treatment through chemotherapy and radiation was not a compassionate option. The oncology team's conclusion was that, although tumor mass reduction could be accomplished through chemotherapy and radiation, "the risk of catastrophic complications is high." The reasoning of Verdel's treatment team was that, because the cancer had spread into Verdel's neck muscles, treatment could destroy muscle or bone tissue along with the cancerous mass, leading to the aforementioned complications.

On the advice of Verdel's treatment team, the APG authorized a treatment goal of moving Verdel to palliative care and worked with the hospital social worker. Because Verdel's cancer could no longer be treated and because medical interventions had allowed him to breathe and eat more comfortably, his treatment team concluded that he was stable enough to transition to a skilled nursing level of care with hospice services provided at the nursing home. Verdel moved to the nursing home, where he died on October 2, 2017.The APG then worked to obtain county assistance to pay for cremation of Verdel's remains. **A few weeks after his death, a cousin of Verdel's, having not heard from him for many months, contacted the Lincoln Police Department (LPD) for help in locating Verdel.** An officer from LPD contacted the OPG, who then made contact with Verdel's cousin and other family members, who lived in South Dakota. Verdel and his family are enrolled members of Sisseton-Wahpeton Sioux Tribe. Family members of Verdel's traveled to Lincoln and were provided with Verdel's cremains for burial with his family back home in South Dakota.

ASSOCIATE PUBLIC GUARDIAN-LEGAL COUNSEL

The addition of Associate Public Guardian-Legal Counsels are a result of the passage of LB 934 (2016) introduced by Senator Colby Coash. Associate Public Guardian-Legal Counsels serve as both Associate Public Guardian and provide legal assistance for issues arising within the Office of Public Guardian (OPG) guardianships. This includes providing legal advice to inform OPG Associate Public Guardians' decision making and court actions that benefit OPG wards and protected persons, including motions to terminate and limit guardianships.

The Public Guardian, Deputy Public Guardian and Associate Public Guardian-Legal Counsels will act in compliance with Neb. Rev. § 30-4104 "(3) An associate public guardian legal counsel shall be an attorney licensed to practice law in Nebraska. The deputy public guardian shall be an attorney licensed to practice law in Nebraska unless the State Court Administrator directs otherwise" and "(4) Legal representation provided by the Public Guardian, deputy public guardian, and associate public guardian legal counsel shall be limited to representing the Public Guardian and his or her designees in the roles and responsibilities of a court-appointed guardian or conservator in accordance with the Public Guardianship Act."

Legal Action Data (December 2016 – November 2017)

Associate Public Guardian-Legal Counsel and the Deputy Public Guardian attended 223 court hearings regarding actions involving ward and protected persons under the Public Guardianship Act.

Type of Motions drafted or responded to:

- Motion for GAL or Attorney Fees (to be paid by the County or the ward or unclear in the Motion)
- Motion to Continue
- Motion for Psychological Evaluation
- Motion to Proceed In Forma Pauperis
- Motion to Make More Definite and Certain
- Motion to Dispose or Sell Real Property
- Motion to Dispose or Sell Automobile (Mobile Home)
- Motion to Withdraw as Counsel
- Motion to Withdraw as Guardian ad Litem
- Motion to Dismiss
- Motion to Attend Hearing by Phone
- Motion to Terminate Guardianship/Conservatorship
- Motion for Approval of Final Accounting
- Motion for Approval of Annual Accounting and/or Fees
- Motion to Deposit Funds with the Court
- Motion for Access to Accounts
- Request by alleged incapacitated person to Appoint Counsel

Types of legal advice to Associate Public Guardians:

- Complaint procedure against hospitals and facilities
- How to respond to attorneys, Judges, Court Visitors
- Case specific discussion for drafting Associate Public Guardian (and other advocates) affidavits
- General information as to court procedures and legal terminology
- Review and discussion of contracts on behalf of the wards
- Case specific discussion for drafting of demand letters on behalf of the wards
- Case specific discussion to determine when in need of outside legal counsel and to make a request to Director of the Office of Public Guardian
- Case specific discussion to determine if it is necessary to obtain a protection order on behalf of the wards
- Case specific discussion for steps to take leading to dismissal or objection to Office of Public Guardian appointment (and Court Visitor Report)

PRO BONO ATTORNEY SERVICE TO OPG WARD

Brenda Spilker- Attorney at Baylor Evnen

Ms. Spilker provided pro bono legal representation to a ward who was suffering from mental illness and multiple physical disabilities. The ward had lost her Worker's Compensation payments while in assisted living. It was a complicated case, with a long history of past litigation, requiring a great deal of Brenda's time. The ward was contesting the guardianship. Brenda's representation provided the ward with assurance of high quality, independent legal representation and the ability to trust that her interests were being protected apart from the Office of Public Guardian.

Brenda works in Nebraska Workers' Compensation law, advising clients and representing them in hearings across the state. She also has an active practice on behalf of disabled clients seeking social security benefits. Through her one-on-one interaction with clients, Brenda brings insight to the application and appeal process. Serving as a Board Member of the Mental Health Association of Nebraska, Brenda is dedicated to improving the legal system to enhance the opportunities available to those affected by a mental health illness.

ANNUAL REPORT DATA

The Public Guardianship Act requires the Office of Public Guardian (OPG) to "Report to State Court Administrator, Chief Justice and Legislature on the implementation of the Act on or before January 1 each year."[52]

The following information is current as of **November 30, 2017.** (*The statute states "appointed", the data includes nominations and appointments currently being served in the OPG Pilot program that began November 9, 2015.)

OPG OPEN CASES

Total: 237

FULL

Guardianships	
Full guardianships	59 non-emergency
Successor guardianships	68 non-emergency
Conservatorship	
Full conservatorship	1 non-emergency
Successor conservatorships	2 non-emergency
Guardian/Conservatorships	
Full guardianship/conservatorship	35 non-emergency
Successor guardian/conservatorships	40 non-emergency

LIMITED

Limited guardianships	4 non-emergency
Limited conservatorship	0 non-emergency
Limited guardianship/conservatorship	1 non-emergency

TEMPORARY

Temporary guardianships	24 emergency
Temporary conservatorship	1 emergency
Temporary guardian/conservatorships	2 emergency

Disposition of cases between December 2016-November 30, 2017

Nominated 264

Appointed 104 current non-emergency guardian and/or conservatorships**,**
51 emergency guardian and/or conservatorships
155 Total
(12 Emergency had no Capacity at time of nomination but were also nominated for permanent and subsequently appointment)

Pending **23** non-emergency cases

Closed **74 Total**

Termination of G/C case 7 Emergency, 9 non-emergency

Termination of OPG after appointment- Successor Guardian/Conservator appointed-8 Emergency

Termination of case due to death of ward-Emergency 8, non-emergency 7

Alternative to OPG Guardian/Conservator prior to Appointed-3 Emergency, 15 non-emergency

No Capacity and closed, OPG denied- Emergency Nominations 8, non-emergency nominations 9

Fees – Qualifying fees under the OPG Sliding Scale policy

Collected- $3,585

WAITING LIST STATUS- 0 Current; 2017:6 previously on waiting list; all appointed to OPG

Current General Conditions of Wards/Protected Persons

As of November 30, 2017, there were 237 open cases in the Office of Public Guardian (OPG). Of those, 212 were permanent/ongoing appointments and 25 were temporary appointments. Twenty-four cases were in a "pending" status, meaning there had been a non-emergency nomination for the OPG to serve an individual, but the OPG had not yet been appointed by the court to serve the person. There were also 68 cases closed. Over the past year, the OPG has served five individuals whose primary language was not English. Two individuals speak Spanish, one person speaks Arabic, one person speaks Sudanese, and one person speaks Vietnamese. This has required the use of interpreters to ensure the OPG is meeting the needs of these individuals.

The following chart depicts a snapshot of data as of November 30, 2017. Specifically, this data tracks general conditions of people served by the OPG without specifying diagnoses as well as any involvement with the criminal justice system or commitment by the Mental Health Board. In cases in which the OPG has been nominated but not yet appointed (non-emergency) there may be limited information available, thus the "unknown" category is utilized in those instances.

Because a ward or protected person may experience more than one type of category or condition, one will note that the totals under categories and conditions do not add up to the total number of wards/protected persons served within each quarter. Instead, all categories and conditions which a ward/protected person experiences are indicated.

Categories of Experiences/Conditions	Number of individuals with this condition as of November 30, 2017* *includes both open and pending cases (262 total)		
	Non-Emergency* *includes both open and pending cases (237 total)	Emergency* *includes only open temporary cases (25 total)	Total
Cognitive Impairment	139	10	149
Mental Health Diagnosis	160	14	174
Developmental Disabilities	54	3	57
Substance/Alcohol Abuse	62	10	72
Medical Condition	100	9	109
Unknown	3	0	3
History of Criminal Involvement	49	10	59
History of Mental Health Board Commitment	29	5	34
Totals	596	61	657

Non-Emergency and Emergency Nominations by County
The information below lists data gathered for both non-emergency and emergency Office of Public Guardian (OPG) nomination cases. The cases are for nominations received **from December 1, 2016 through November 30, 2017.**

Non-Emergency Cases
The Office of Public Guardian (OPG) has been nominated for a total of 176 non-emergency cases during reporting timeframe; 153 non-emergency appointments have been made to the OPG and 23 non-emergency cases are pending appointment.

The following table represents the 176 non-emergency appointments and pending appointments by county. The status of the type of nomination (full vs. limited, guardianship, conservatorship, or both guardianship and conservatorship).

County	Full	Limited	Guardianship	Conservatorship	Both Guardianship and Conservatorship
Adams	4		4		
Boyd	1		1		
Buffalo	7			1	6
Cass	1				1
Chase	2				2
Clay	2		1		1
Cuming	1				1
Dawes	1		1		
Dodge	4		2		2
Douglas	72		54		18
Dundy	1				1
Gage	1		1		
Hall	6		3		3
Harlan	1				1
Knox	2				2
Lancaster	42		29	4	9
Lincoln	4		3		1
Madison	3		2		1
Morrill	1				1
Nance	3		2		1
Phelps	3		3		
Platte	1		1		

Red Willow	2		1		1
Saline	2		1		1
Sarpy	4		3		1
Scotts Bluff	3		2		1
York	2		2		
Totals	176	0	116	5	55

Emergency Cases

Between December 1, 2016 and November 30, 2017 the Office of Public Guardian (OPG) was nominated for a total of 88emergency cases: 51 have resulted in temporary guardian and/or conservator appointments, 37 of which have gone on to become permanent appointments. Twenty emergency cases were not accepted due to capacity limitations.

Closed Emergency Cases

In six emergency cases the OPG was appointed temporary guardian and/or conservator. The court later determined the guardian and/or conservatorship was no longer needed. In twelve cases the OPG was appointed temporary guardian and/or conservator. The court later appointed an alternative to the Office of Public Guardian.

The following table represents the 88 emergency nominations/temporary appointments by county. The status of the type of nomination (guardianship, conservatorship, or both guardianship and conservatorship) is depicted in the chart. Emergency appointments are limited to address the emergency situation.

County	Temporary Guardianship	Temporary Conservatorship	Temporary Guardianship and Conservatorship
Adams	4		
Boyd	1		
Buffalo			1
Chase			1
Clay	1		1
Cuming			1
Dodge			2
Douglas	44		4
Dundy			1
Hall	2		1
Knox			1
Lancaster	10	1	5
Lincoln	1		
Madison	1		
Nance	2		
Phelps	1		
Platte	1		
Scottsbluff	1		
Total	69	1	18

Successor Private Guardians

The OPG was appointed as temporary guardian in 12 cases. In working these cases, the OPG learned there was someone else in the person's life who was willing and able to become the guardian.

Closed Cases

Between December 1, 2016 and November 30, 2017 Office of Public Guardians closed 68 open cases (also includes individuals nominated and appointed prior to reporting period). The following table represents the closed cases by reason for closure. The definitions of reasons for closing a case are listed below the chart.

Deceased	Court Denied Guardian/Conservatorship	Court Terminated Guardianship	Alternative To OPG
22	27	1	18

Court Denied Guardian/ Conservatorship is defined as not having capacity or the court determined that the guardianship/conservatorship was longer needed after temp appointment established or prior to OPG being appointed.

Court terminated guardianship/conservatorship is defined as a after the guardianship/ conservatorship was established it was no longer needed.

Alternative to OPG is defined as after OPG being appointed as Temporary guardianship/conservatorship a private party was able to serve, or prior to OPG being appointed a private party was able to serve.

CASE MANAGEMENT DATA: Average Hours Served Per Ward per Week

Date	Ward Cases	Monthly Hours	Weekly Average
December 2016	153	3154	5.15
January 2017	162	3172	4.89
February 2017	173	3004	4.34
March 2017	187	3244	4.33
April 2017	196	3232	4.1
May 2017	197	3124	3.96
June 2017	212	2787	3.28
July 2017	225	2848	3.16
August 2017	243	3391	3.37
September 2017	251	3287	3.27
October 2017	261	3167	4.00
November 2017	262	2954	3.5
Reporting Year average			**3.95**

Kyle's Story

In June 2016 the Office of Public Guardian (OPG) became Temporary Guardian/Conservator for "Kyle". Four months previously, Kyle had been hospitalized as a result of intervention by his VA primary care provider due to his frequent falls, dizziness, and weakness. His medical records indicate that Kyle was a "75 year old Caucasian male" who told doctors, "his knees were going out from under him at home" and "he knows he needs help". His diagnosis included mental health issues that manifested with hallucinations and delusions; progressive supra-nuclear palsy (similar to Parkinson), weakness, falls, and hypertension. The doctor also noted that he was very cooperative, pleasant and looked much younger than he was.

Upon discharge from the hospital Kyle went to a nursing home. The nursing home's social worker noted he was in a wheelchair, but had frequent falls. The falls were a result of Kyle's delusions that the floors under his wheelchair opened up into large holes. He fell out of his wheelchair when he tried to avoid the holes. Additionally, Kyle repeatedly experienced delusions of men in military uniforms hunting him down to kill him, "company men" or "CIA". Kyle said they were trying to kill him for something he did 35 years ago. During the guardianship hearing the social worker testified regarding his finances that Kyle had been turned down for Medicaid; his mail forwarded to the nursing home indicated his bills were not getting paid, including his house payment; his Medicare payments for rehab at the nursing home had run out and his nursing home bill was over $8,000**. The social worker also testified Kyle was a Veteran, having spent 20 years in the U.S. Army. He did not have any family or friends to assist in his care, except a daughter in California. His daughter had agreed to act as POA for health care during his prior hospitalization, but did not want to be involved to any greater extent. She told the nursing home she did not have a relationship with her father, "he chose to end the relationship 35 years ago." The social worker stated that Kyle had spent time in prison, in a different state, from 1984 to 2009 for sexual assault of a minor. After prison he came to Nebraska to get a new start at life.** She concluded that the staff at the nursing home was concerned Kyle was a vulnerable adult without anyone to assist with his finances or medical care and, due to his medical issues, he was unable to appropriately care for himself or fulfill his responsibilities.

After the OPG Temporary appointment the Associate Public Guardian (APG) assigned to the case met with Kyle. The APG indicated Kyle was open and conversational, cognizant of time and his situation, able to share information regarding his personal life, but to Kyle the delusions were very real. Despite medication and reassurances no one was after him and the floors did not have holes, Kyle's hallucinations and paranoia evoked true terror and flight response in him. In addition to meeting with Kyle, the APG set about discovering Kyle's assets and debts, and addressing his financial problems. The APG discovered Kyle had pre-paid funeral arrangements and, through communications with Kyle's daughter, obtained a hand written will Kyle had drafted in 2009.

OPG staff worked to secure Kyle's house and his belongings. The house was a two bedroom, one and a half story home built in 1905. Kyle had worked hard on the house, replacing the roof, putting in new windows and siding. He and his neighbors had developed relationships that resulted in them voluntarily taking on the responsibility to mow his lawn, and keep an eye on his home while he was gone. When the APG went to Kyle's home the neighbors came over to talk about Kyle, and inquire how Kyle was doing.

Inside the home, despite Kyle's medical, mental and physical challenges, one could see that he worked to keep the house clean. His dishes were done, his bed was made, and his laundry was folded. His medications and mail sat where he had left them. It was clear that Kyle had planned on returning to his home and his life; instead APGs, as strangers (feeling almost as if they were invaders of his privacy) were there trying to decide how best to care for his things.

Shortly after the OPG took responsibility for Kyle he was again hospitalized. For a second time his VA health provider intervened for his care, concerned Kyle was losing weight, was dehydrated, and seemed more disoriented than normal. At the hospital, the diagnosis was grim. Kyle's palsy was progressing, he had difficulty eating, and the doctors were concerned he would aspirate his food. A Palliative Care consult was requested. The APG and the Palliative Care provider talked with Kyle. The APG was there when Kyle was told the prognosis was for a rapid decline leading to his imminent death. Kyle had difficulty communicating, so the APG and the medical provider went through the end of life issues with him one step at a time. Did he want a feeding tube? No. Did he want a ventilator? No. Did he want CPR? Yes, but he would think about it and consider a different answer. Did he understand the plan was to discharge him to the nursing home under hospice care? Yes. The discussion ended; to be revisited with Kyle twenty minutes later to see if he remembered, understood, and reconfirmed his answers. He did. Kyle was discharged as planned. The APG communicated with the nursing home to ensure Kyle's end of life wishes were respected and his medical and personal needs were addressed. It was determined that, if Kyle became unresponsive, the nursing home would provide CPR and call for emergency response. As expected Kyle declined rapidly in the days to come. Kyle's request for CPR continued and when he became unresponsive CPR was performed. However, Kyle did not regain consciousness and was pronounced dead at the hospital. His funeral was performed as he wanted and, as per his will, his daughter was named as personal representative of his estate. He was a ward/protected person of the Office of Public Guardian for 32 days.

OFFICE OF PUBLIC GUARDIAN ADMINISTRATION AND MANAGEMENT SYSTEMS

The goals of the systems implemented to administer and manage the Office of Public Guardian have been to maximize and leverage the resources provided to effectively fulfill the mandate of the Public Guardianship Act in an efficient, transparent manner that reflects the highest degree of accountability for, and commitment to, the vulnerable adults, wards, and protected persons for whom the Public Guardian is responsible.

Administering the Office of Public Guardian requires continued problem solving and commitment toward implementing and improving the many systems that have been established in our first two years of operation.

Case-Management Software (EMS System)
The Office of Public Guardian (OPG) utilizes EMS software for personal, medical, and financial case management. EMS is a web based software solution which provides 24/7 database access from any computer, mobile device, or Smartphone via an internet connection and a web browser, giving OPG staff full access to client data.

The EMS system allows the OPG to track all case notes and time spent on cases. The system holds all the personal, medical, and demographic information for wards, including addresses, important numbers and dates (e.g. SSN and date of birth, etc.), guardian status and ward status, insurance information, residence history, and support organizations (e.g. attorney and doctor's name), etc. The system allows the OPG to manage wards' finances, including receipts and disbursements, and maintain separate financial records (ledgers) for each ward using the organizational collective account. The OPG can export positive pay and ACH (automated) files from the EMS system to import into the bank.

SEM, the company who produces EMS software, offers the OPG the option to customize the application to meet our needs. The OPG has developed court forms, such as the initial inventory and annual accounting, which are populated with ward information in a court approved format, and extracted from the EMS system.

SEM developers developed and refined an ACH file export process, in an effort to reduce the need for check writing and streamline the payment process. ACH is a computer-based clearing facility established to process electronic transactions (both debit and credit) between participating banks. Instead of using paper checks, ACH entries are transmitted electronically. Each ACH transaction settles in one to two days.

SEM representatives provide continued support to the OPG. An EMS Web Training Manual is provided to all employees and procedures specific to our office are continually updated by the Business Manager.

The OPG's goal is to allow SEM to provide to Nebraska private guardians the use of the unified software/finance/court process and forms under their subscription fee, approximately $10 per ward per month. While not yet available to private guardians and private conservators, in the future this opportunity for software and case management should make the financial tracking and court reporting requirements much easier.

Centralized Finances

All financial transactions related to wards' funds are handled out of the central Lincoln business office in order to maintain an adequate system of internal control. The Public Guardian shall make deposits of checks or currency payable to the ward or the Office of Public Guardian (OPG), as the ward's guardian, as soon as possible. Deposits of checks will be carried out in the business office via a desktop check scanner. Whenever possible, recurring receipts (e.g. monthly Social Security benefits, VA benefits, etc.) will be set up as automatic (ACH) receipts into the Public Guardian's organizational collective bank account and posted to the protected person's account in EMS.

The Associate Public Guardian (APG) is responsible for investigating the facts and determining what disbursements should be made to pay claims and/or meet the needs of the ward. As required by court rules, the APG will provide the court with a budget for the ward. Additionally, the APG prepares a monthly budget and sends it to the Business Manager who processes payments via EMS check, ACH, or Union Bank and Trust (UBT) Bill Pay. The Business Manager records the receipts and disbursements in the EMS system. Each month, the APG reviews all disbursements recorded in the wards' ledgers and compares the disbursements to the original invoices to ensure the completeness and accuracy of charges to beneficiary accounts. In addition, the APG conducts a monthly reconciliation between each ward's proposed budget and actual receipts/disbursements.

The Business Manager performs a daily reconciliation between EMS, UBT, and Bill Pay to ensure all transactions are properly recorded. In addition, a monthly reconciliation between the EMS ledger and the organizational collective account bank statement will help to achieve the goals of completeness and accuracy.

Organizational Collective Account

After extensive research, the Office of Public Guardian opened an organizational collective bank account in 2015. Because the OPG is fiduciary manager of the organizational collective account, no protected person can access the account electronically.

Because there are no individual monthly bank account statements to provide for the annual report, the OPG sought a Supreme Court rule change.

Supreme Court Rule § 6-1433.03 allows the Office of Public Guardian to utilize an organizational collective account at a bank for individuals for whom the Office of Public Guardian has been appointed as guardian and/or conservator.

Under this rule, the account is appropriately titled to represent that the Office of Public Guardian holds the account in a fiduciary capacity on behalf of wards, incapacitated persons, protected persons, and/or minors who own the funds, but who shall have no access to the account. The account holds only the funds of wards, incapacitated persons, protected persons, and/or minors, and funds are not commingled with any other Office of Public Guardian funds and are separate and distinct from any other Office of Public Guardian accounts.

The interest earned on the organizational collective account is credited pro rata, net of pro rata bank fees and account costs, to the ward's, incapacitated person's, protected person's, and/or minor's individual ledger.

The Office of Public Guardian has developed financial policies and procedures to include:

(1) an individual ledger for each ward, incapacitated person, protected person, and/or minor for which the Public Guardian holds funds. This ledger gives the name of the ward, incapacitated person, protected person, and/or minor; details all money received and paid out on behalf of the ward, incapacitated person, protected person, and/or minor, and shows the ward's, incapacitated person's, protected person's, and/or minor's balance following every receipt or payment;

(2) disbursements from the ward's, incapacitated person's, protected person's, and/or minor's individual ledger shall not exceed the funds received from, or on behalf of, that individual;

(3) documentation comparing, and reconciling if necessary, the monthly prospective budget of the ward, incapacitated person, protected person, and/or minor, managed by the Associate Public Guardian, to the individual ledger of the actual monthly expenditures administrated by the Business Manager and disbursed from the ward's, incapacitated person's, protected person's, and/or minor's funds, shall be attached to the annual report for the ward, incapacitated person, protected person, and/or minor;

(4) the Business Manager will complete the certificate of proof of possession form certifying the balance on deposit, in accordance with the organizational collective account individual ledger for the ward incapacitated person, protected person, and/or minor; the certified balance on deposit shall be verified by the documentation in (C)(3); and

(5) ward funds are tracked through the collective account ledger and the EMS financial case management system and maintained by the Office of Public Guardian Business Manager. The EMS system is able to export ward financial information into court reporting forms for the annual report to the court.

Because an organizational collective account is utilized by the Office of Public Guardian, job functions within the Office of Public Guardian are structured to require segregation of duties relating to the handling of account funds.

Union Bank and Trust (UBT)

Union Bank and Trust (UBT) has provided excellent service and support to the Office of Public Guardian (OPG).

The OPG issued approximately 2,460 checks from EMS from 12/1/16 to 11/30/17. The OPG continues to enter all EMS checks into UBT's online positive pay site. This notifies UBT of any checks that have been written from the collective account, and UBT will match the file against any checks presented for payment. When a check is presented to UBT for payment and it was not entered on the positive pay site, the bank will email an exception notice to the Director, Deputy Director, and Business Manager, who will review the transactions before approving or denying the exceptions.

The OPG is currently exporting ACH (automated) transactions from the EMS system and importing them into UBT's Web Cash Manager Application. This file allows transactions to be processed via ACH and provide a less expensive option than writing and mailing checks. Approximately 3,700 ACH transactions were processed from 12/1/16 to 11/30/17.

UBT also offers an online bill pay option which has been used to reduce the costs associated with checks, envelopes, and stamps. Approximately 1,500 bill pay checks were issued from 12/1/16 to 11/30/17.

Social Security

The Office of Public Guardian (OPG) completed its first application to become an organizational representative payee in November 2015 in a face-to-face interview at the Lincoln Social Security office. . Applications are completed by the Associate Public Guardians, reviewed by the Business Manager, and faxed to the Social Security office in Lincoln. A representative from Social Security calls the OPG to verify all information in the application prior to approval. The OPG continues to work with key contacts in the Lincoln Social Security office to resolve issues related to Social Security applications and benefits. During the period 12/1/16 thru 11/30/17, the OPG was selected as payee for 139 SSA beneficiaries.

Veterans Administration

The Office of Public Guardian served as fiduciary payee for ten individuals in 2017. Office of Public Guardian representatives are in contact with Veterans Administration representatives as needed to establish fiduciary status and address concerns.

Income Tax Preparation

The Public Guardian prepared and filed 2016 federal and state income tax returns for wards served by the Public Guardian. The APG's determined the necessity of filing tax returns for their wards, computed any tax liability or refund due, and filed the completed returns to the IRS and Nebraska Department of Revenue. Eleven wards received tax refunds in 2017.

U.S. Bank ReliaCard

The U.S. Bank ReliaCard is a reloadable prepaid card which gives the Office of Public Guardian (OPG) the ability to deposit funds to wards' and protected persons' cards through standard ACH (automated) funding. It reduces costs associated with paper checks, postage, reconciliation or replacement of lost checks, etc. Cardholders can access real-time account information by calling Cardholder Services or going online. Because the program falls under the State's contract with U.S. Bank, it offers a no-cost option for providing personal needs allowances and funds to OPG's wards and protected persons. As of 11/30/17, 124 wards/protected persons held active Reliacards.

Office of Public Guardian (OPG) Office/General Fund Finances

The Office of Public Guardian (OPG) Director and Business Manager monitor the OPG's office finances. Invoices are approved by the OPG Director before being sent to the Administrative Office of the Court Finance Office for payment. The Business Manager runs monthly general ledger reports from EnterpriseOne, the State's accounting system. The Business Manager and OPG Director review the general ledgers to ensure all receipts and disbursements are appropriate.

The Business Manager prepares journal entries for receipting payments from Nebraska Interactive, the event registration site vendor for private guardian education. Any checks or money orders received for event registration fees are forwarded to the finance office for prompt deposit. The Business Manager maintains an adequate tracking system to ensure payment is received for all event registrations.

Audit

The Public Guardian performs periodic audits of financial and bank records to ensure funds are not used for the benefit of someone other than the ward or protected person and loans of any type are not made from funds. This is completed during the monthly bank reconciliation, when the reconciler reviews all cleared checks on the bank statement for propriety and investigates any unusual transactions. In addition, the Business Manager periodically runs and reviews receipt/disbursement reports in the financial case management software and investigates any unusual transactions. At least every three years, an external audit of client financial records will be conducted. If the Public Guardian is audited by a governmental or funding entity, that audit may be considered to meet this requirement, as long as the entity is independent of the agency managers or Advisory Council.

Sliding Fee Policy

The Public Guardianship Act requires the Office of Public Guardian (OPG) to develop guidelines for sliding scale of fees for public guardians/conservators.[53] The Advisory Council and the OPG developed the following sliding fee policy:

Ward, within the Public Guardian Sliding Fee Scale document, means a minor, protected person or an incapacitated person.

All Public Guardian wards shall be evaluated by the OPG to determine fee eligibility. Evaluation of each ward's estate shall be done prior to the filing of the initial inventory in their case.

The Public Guardian shall petition the court with jurisdiction of the guardianship and/or conservatorship for assessment of fees.

The Public Guardian shall not petition for fees where financial hardship to the ward would result. Financial hardship means that the total value of liquid assets of a living ward would fall below $5,000 or the ward's estate would otherwise be inadequate to provide or obtain care, assistance, education, training, sustenance, housing, treatment or other goods or services vital to the wellbeing of the ward or his dependents, resulting in the risk of harm to the ward or the ward's dependents.

Liquid Assets means the portion of a ward's estate comprised of cash, negotiable instruments, or other similar property which is readily convertible to cash and has a readily ascertainable fixed value, including savings accounts, checking accounts, certificates of deposit, money market accounts, bonds, publicly traded stocks, or other negotiable securities, and mutual fund shares.

No fees for guardianship and conservatorship services shall be assessed on estates smaller than $5,000. If the ward's estate is $5,000 or more at any time during the month, the Public Guardian is entitled to their fee unless it would create a financial hardship for the ward.

Any time, based on exigent circumstances, the Public Guardian may petition the court for additional fees.

Fees shall not be assessed on income or support derived from Medicaid, Supplemental Security Income, or Public Aid. Income or support derived from Social Security and Medicare shall be subject to Public Guardian fee assessment unless the funds have been expressly earmarked for another purpose.

The Public Guardian may waive fees where no substantial guardianship and/or conservatorship services have been provided to the ward.

Notice of the Request for Fees shall be given to the ward and all interested persons at least 14 days prior to the hearing. The notice shall advise the ward that his/her estate will be charged for guardianship and/or conservatorship services.

All wards with liquid assets valued at five thousand dollars ($5,000) or more on the date that the Office of Public Guardian is appointed shall be assessed a one-time case opening fee for establishment of the case by the Office of Public Guardian. The rate of the case opening fee shall be:
Opening fee for Guardianship ……$100.00
Opening fee for Conservatorship ……..$200.00
Opening fee for Guardianship and Conservatorship ……. $300.00

Guardianship and Conservatorship Monthly fee based on Total Value of Liquid Assets shall be:

$5,000 - $9,999 ……..$40.00
$10,000 - $14,999 ……$45.00
$15,000 - $19,999 ……$50.00
$20,000 - $24,999 ……$55.00
$25,000 - $29,999 ……$60.00
$30,000 - $34,999 ……$65.00
$35,000 - $39,999 ……$70.00
$40,000 - $44,999 ……$75.00
$45,000 - $49,999 ……$80.00
$50,000 - $54,999 ……$85.00
$55,000 - $59,999 ……$90.00
$60,000 - $64,999 ……$95.00
$65,000 - $69,999 ……..$100.00
$70,000 - $74,999 ……..$105.00
$75,000 - $79,999 ……..$110.00
$80,000 - $84,999 ……..$115.00
$85,000 - $89,999 ……..$120.00
$90,000 - $94,999 ……..$125.00
$95,000 - $99,999 ……..$130.00
$100,000 and above ……..$135.00

During the period 12/1/16 to 11/30/17, the Office of Public Guardian collected guardianship fees from 11 wards, totaling **$3,585.**

John's Story

The OPG received temporary/emergency guardianship over "John" in May of 2017. John was an 83 year old man who was hospitalized after being found living in his van in the parking lot of a Care and Rehabilitation Center where his significant other, Mary, had been living since January of 2017. Adult Protective Services and law enforcement became involved at that time.

John was diagnosed with cognitive decline/dementia with agitation and was considered by physicians as an individual will the functioning capabilities similar to a young teenager. John was in need of a higher level of care. After assessment he was approved for a nursing home level of care. He was accepted at the Care and Rehabilitation Center where the administration had approved for John to move into the same room as his significant other, Mary, even though they were not married.

John and Mary had been together for over 12 years. Mary was the only "family" John had. Mary had been taking care of John in their low income apartment prior to her illness which required a nursing home level of care. When Mary left, John was alone and unable to care for himself. He spent many days at the facility with Mary. Instead of going home at the end of the day, he would spend the night in his van.

The arrangement with John and Mary living in the same room worked very well. John was improving and seemed to be adapting to life in the nursing home. In discussions with John the APG learned that he loved a good cup of coffee, and fishing.

Then, suddenly, in early July of 2017, Mary became ill and passed away. John did not handle this well. It appeared his heart was broken and he started to decline. His dementia seemed to accelerate and his physical health deteriorated quite rapidly. Staff feared that John would abscond from the facility. There were many days where John became very angry with staff and other residents at the facility. On many occasions he talked about wanting to hitchhike to other communities in the state. It was at this point that the Associate Public Guardian (APG) began researching to try to locate possible family members for John. The APG was able to locate a nephew in Kansas who reported John had cut ties with all of his relatives many, many years ago. The only family member John had kept in contact with was his father, who passed away in 1985. Accordingly, John's family had no idea where he had been all of these years. John's nephew stated that John had a son in Blair, Nebraska. The APG had no luck finding that individual.

The Office of Public Guardian was appointed as permanent full guardian of John in September of 2017. The Guardian ad Litem report recommended the Office of Public Guardian as full guardian because John had no other person available in his life to serve in this capacity. The APG visited John, each time bringing him a cup of coffee.

Then, in September, John was diagnosed with colon cancer. Initially John refused all medical care and would not go to any appointments, despite encouragement from the APG. Finally, the APG was able to persuade John to attend an appointment to discuss his options regarding the cancer. **After the discussion with his physician, John decided he would have surgery for the**

cancer. However, on the morning of the surgery, John, again, refused surgery. His health continued to deteriorate.

John began to fall, resulting in trips to the emergency room. Additionally, he was rapidly losing weight. In early November, staff found John in his room in distress- apparently having a psychotic break. John was threatening himself and staff with a knife. He had cut most of his clothing off. He was transported to the ER, The hospital assessed him, but did not admit him and he was taken back to the facility. The facility made the decision, for John's safety and for the safety of others, to move John to the locked Alzheimer's Unit where he could be watched very closely. Three days later, John was found in his room experiencing a respiratory emergency. He was rushed to the hospital where he was placed on full life support.

Subsequently, the APG and OPG were confronted with decisions regarding John's medical treatment. The OPG reviewed John's prior end of life statements, his past medical history, and the doctor's medical opinion regarding his treatment options and medical prognosis. As a result of this information and in accordance with medical advice, it was determined that artificial life supports would be removed. John did not regain consciousness. The APG sat with him in the days to come. John passed away four days later. The APG contacted John's nephew who agreed, along with his sister (John's niece), to take John's cremains and have John laid to rest near John's father in the Blair Cemetery.

Where, after all, do universal human rights begin? In small places, close to home – so close and so small that they cannot be seen on any maps of the world. Yet they are the world of the individual person; the neighborhood he lives in; the school or college he attends; the factory, farm or office where he works. Such are the places where every man, woman and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere. Without concerned citizen action to uphold them close to home, we shall look in vain for progress in the larger world."

Eleanor Roosevelt

PRIVATE GUARDIAN/CONSERVATOR EDUCATION CLASSES

In January of 2016, the Office of Public Guardian (OPG) began providing the education and certification required for newly appointed private guardians and conservators. The Public Guardianship Act requires the OPG to maintain training programs for private guardians, successor guardians, and interested parties to insure successful guardians/conservators.[54]

Between December 1, 2016 through November 30, 2017:

- **101** Guardian/Conservator Education Classes were held
- **27** Nebraska Counties were training sites
- **1240** new Guardians and Conservators were trained

Guardian/Conservator Education Interpreter Usage

Interpreters are available for Guardian/Conservator Education classes through the Statewide Language Access Service in the NSC Administrative Office of the Court. The following people have been instrumental in making interpreter services available to Guardian/Conservator Education participants:

- Jennifer Verhein – NSC AOC Language Access Coordinator
- Raul Escobar – Interpreter Coordinator
- Adriana Hinojosa – Interpreter Coordinator

Use of the interpreter service is highlighted below:

- **18** Classes with Spanish interpreters available
- **88** Participants used Spanish Interpreters to complete G/C Ed classes

Interpreter services were used by participants speaking the following languages:

- **6** Karen
- **4** Arabic
- **1** Sudanese
- **1** Nepali
- **1** Nuer
- **1** Somali

Volunteer Attorney Support for Guardian/Conservator Education Classes

The Associate Public Guardians who teach Guardian/Conservator Education classes across the state appreciate the support of local attorneys who volunteer their legal expertise and experience during classes. New guardians and conservators have also expressed their appreciation for receiving input and having questions answered by attorneys available during the classes. The Office of Public Guardian would like to express their appreciation for the volunteer support of the following attorneys:

- **Kathryn Bellman**
  1905 C St, #A, Lincoln 68502
  Kathryn has provided support to Guardian/Conservator Education classes in **Lancaster County**
  Kathryn has provided this volunteer support for a number of years for both OPG and UNL Extension Service sponsored classes.

- **Robert Black**
  3906 Raynor Parkway, Suite 105, Bellevue NE 68123
  Robert has provided support to Guardian/Conservator Education classes in **Sarpy County**

- **Molly Blazek**
  444 Regency Pkway #103, Omaha NE 68114
  Molly has provided support to Guardian/Conservator Education classes in **Douglas County**

- **Jeff Davis**
  114 N 6th St, Beatrice NE 68310
  Jeff has provided support to Guardian/Conservator Education classes in **Gage County**
  Jeff has provided this volunteer support for a number of years for both OPG and UNL Extension Service sponsored classes.

- **John DeWald**
  1904 Farnam St. #410, Omaha, 68102
  John has provided support to Guardian/Conservator Education classes in **Douglas County**

- **Alissa Doerr**
  Box #398, 313 E Hwy 20, O'Neill, NE 68763
  Alissa has provided support to Guardian/Conservator Education classes in **Holt County**

- **John Frey**
  130 N 16th St, Lincoln NE 68508
  John has provided support to Guardian/Conservator Education classes in **Lancaster County**
  John has provided this volunteer support for a number of years for both OPG and UNL Extension Service sponsored classes.

- **Jill Harker**
  11620 Arbor St #200, Omaha NE 68144

- **Pam Hopkins**
  Box #421, Blair Ne 68008
  Pam has provided support to Guardian/Conservator Education classes in **Dodge County**
  Pam has provided this volunteer support for a number of years for both OPG and UNL Extension Service sponsored classes.

- **Ramzi Hynek**
  3 Landmark Centre 1128 Lincoln Mall #300 Lincoln NE 68508
  Ramzi has provided support to Guardian/Conservator Education classes in **Lancaster County**
  Ramzi has provided this volunteer support for a number of years for both OPG and UNL Extension Service sponsored classes.

- **Seamus Kelly**
  2807 S 87th Ave #3, Omaha NE 68124
  Seamus has provided support to Guardian/Conservator Education classes in **Douglas County**

- **Jeffrey Knapp**
  PO Box 1434, Kearney NE 68848
  Jeffrey has provided support to Guardian/Conservator Education classes in **Buffalo County**
  Jeffrey has provided this volunteer support for a number of years for both OPG and UNL Extension Service sponsored classes.

- **Susan Koenig**
  308 N Locust St #306, Grand Island NE 68802
  Susan has provided support to Guardian/Conservator Education classes in **Hall County**
  Susan has provided this volunteer support for a number of years for both OPG and UNL Extension Service sponsored classes.

- **Kurt Leffler**
  5625 O Street Suite 112 Lincoln NE 68510
  Kurt has provided support to Guardian/Conservator Education classes in **Lancaster County**
  Kurt has provided this volunteer support for a number of years for both OPG and UNL Extension Service sponsored classes.

- **Nicole Mailahn**
  Box #1060, 322 W 39th St, Kearney NE 68848
  Nicole has provided support to Guardian/Conservator Education classes in **Buffalo County**
  Nicole has provided this volunteer support for a number of years for both OPG and UNL Extension Service sponsored classes.

- **Brennon Malcom**
  Box #174, 108 E 8th St, Cozad 69130

- **Tom Maul**
  2468 18th Ave, Columbus, NE 68601
  Tom has provided support to Guardian/Conservator Education classes in **Platte County**
  Tom has provided this volunteer support for a number of years for both OPG and UNL Extension Service sponsored classes.

- **Lauren Micek**
  H50 Civic Center, Omaha NE 68183
  Lauren has provided support to Guardian/Conservator Education classes in **Douglas County**

- **Dennis Moreland**
  1310 N 13th St. #2, P.O. Box 691, Norfolk NE 68702
  Dennis has provided support to Guardian/Conservator Education classes in **Madison County**
  Dennis has provided this volunteer support for a number of years for both OPG and UNL Extension Service sponsored classes.

- **Gail Steen**
  1120 K St, Lincoln NE 68508
  Gail has provided support to Guardian/Conservator Education classes in **Lancaster County**

- **Jeanette Stull**
  233 N 13th St, #1400, Lincoln, NE 68508
  Jeanette has provided support to Guardian/Conservator Education classes in **Lancaster County**
  Jeanette has provided this volunteer support for a number of years for both OPG and UNL Extension Service sponsored classes.

- **Glenn Van Velson**
  410 East Francis Street, Suite 2, North Platte, NE 69101
  Glenn has provided support to Guardian/Conservator Education classes in **Lincoln County**
  Glenn has provided this volunteer support for a number of years for both OPG and UNL Extension Service sponsored classes.

- **Karin Walton**
  1023 Lincoln Mall, Lincoln NE 68508
  Karin has provided support to Guardian/Conservator Education classes in **Lancaster County**

These **23** attorneys have enhanced the quality of the educational experiences provided to new private guardians and conservators across the state. The have helped ensure that participants leave their classes armed with information and resources necessary to fulfill their responsibilities to their wards and to the courts.

Data Gathered from Guardian/Conservator Education Surveys

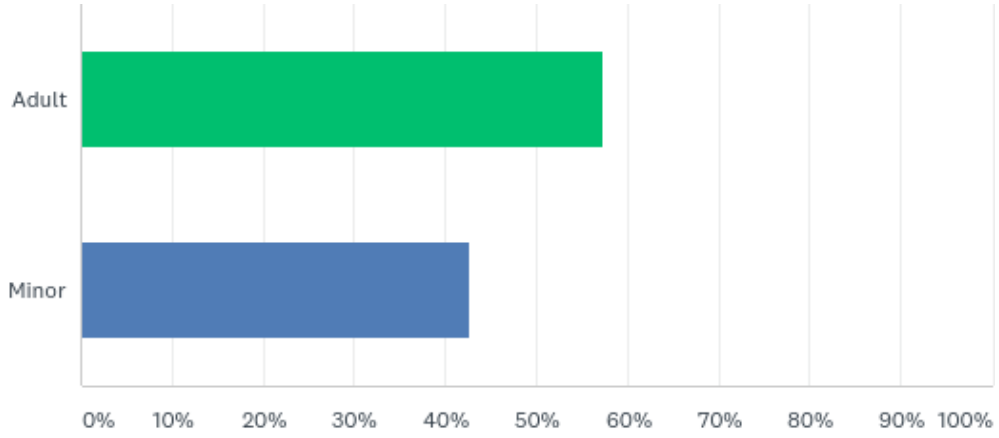
During Guardian/Conservator Education classes, each participant completed a survey gathering the following data:[55]

#1	Date of Appointment
#2	County where petition was filed
#3	Guardianship/Conservatorship of adult or minor
#4	Type of Guardian or Conservatorship
#5	Specific responsibilities if not a full guardianship
#6	If serving as a full guardian, why not a lesser restrictive option?
#7	Number of interested persons
#8	Relationship of Ward/Protected Person to Guardian or Conservator
#9	Ward/Protected Person's Age
#10	Ward/Protected Person's Gender
#11	Personal Services provided to Ward/Protected Person prior to appointment
#12	Types of Advance Directives in place for Ward/Protected Person
#13	Co-Guardianship, Yes or No
#14	Any other person who considered serving as Guardian or Conservator
#15	Use of no-cost or low cost legal services to file initial petition
#16	Ward/Protected Person's current use of social support/social service programs
#17	Prior to class, Guardian/Conservator's familiarity with process
#18	Difficulty of process to become appointed
#19	What Guardian/Conservator wished they would have known about process before becoming a Guardian/Conservator
#20	Most Helpful information gained from class
#21	What will Guardian/Conservator do differently concerning the Guardian/Conservatorship after the class
#22	Suggestions to improve class
#23	Suggestions on convenience of class sites, times, frequency
#24	Understanding of financial responsibilities (Prior to and after class participation)
#25	Understanding duty to encourage Ward's physical, financial and personal independence (Prior to and after class participation)
#26	Understanding of responsibilities to Court re: filing of annual report, and notifying court of major changes in Ward/Protected Person's life (Prior to and after class participation)
#27	Understanding Ward/Protected Person's rights (Prior to and after class participation)
#28	Understanding Office of Public Guardian's role to assist Guardian/Conservator to full duties (Prior to and after class participation)
#29	Understanding what Guardian/Conservator provides to Ward/Protected Person, and need for more private Guardians/Conservators (Prior to and after class participation)
#30	Age of Guardian/Conservator
#31	Race or Ethnicity of Guardian/Conservator
#32	Gender of Guardian/Conservator
#33	Number of Wards/Protected Persons served by Guardian/Conservator
#34	Is Guardian/Conservator being paid to serve as Guardian/Conservator

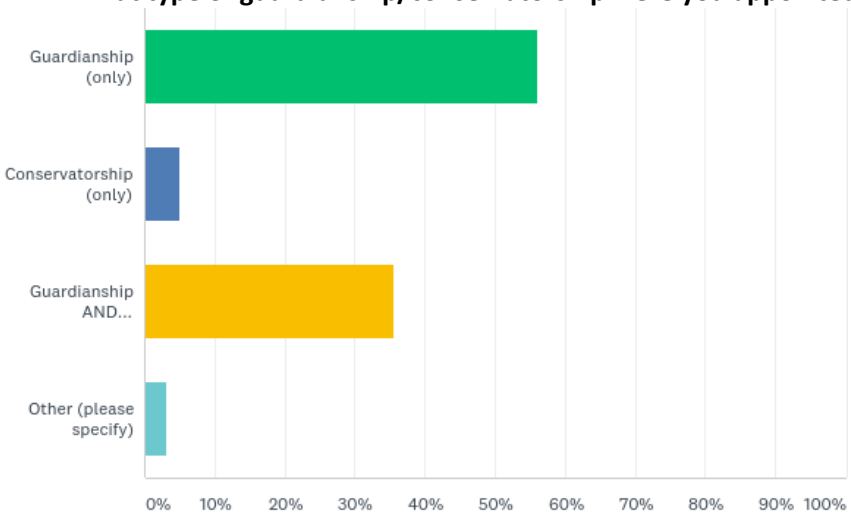
#35	Has Guardian/Conservator been paid to act as a representative payee for Ward/Protected Person
#36	How often will Guardian/Conservator interact with Ward/Protected Person on a face to face basis
#37	Does Guardian/Conservator have any specialize background pertaining to guardianship
#38	Interest in serving as Court Visitor
#39	Interest in serving as Successor Guardian

Data from Guardian/Conservator Surveys have been compiled in a Survey Monkey program. Information below has been collected from the Survey Monkey data:

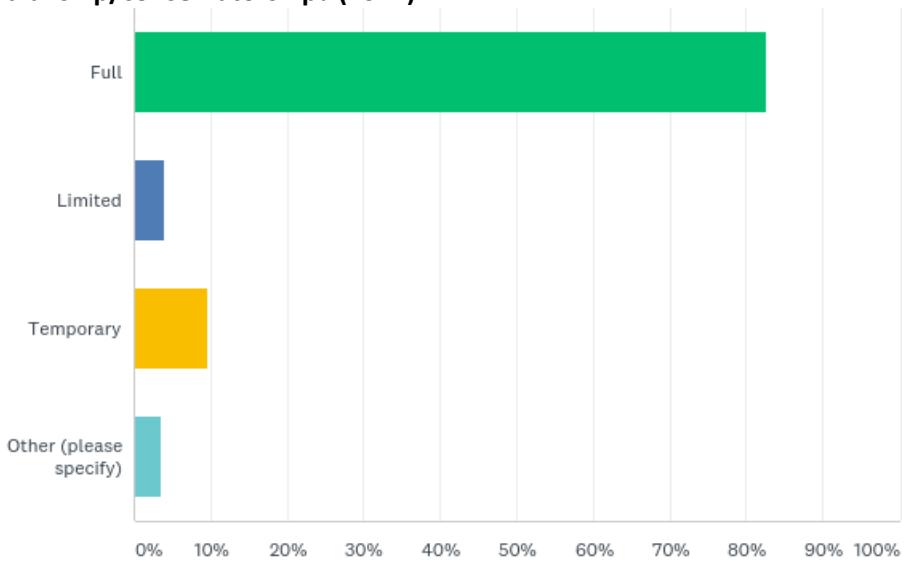
- **Is your guardianship of an adult or of a minor? (2017)**



- **What type of guardianship/conservatorship were you appointed? (2017)**

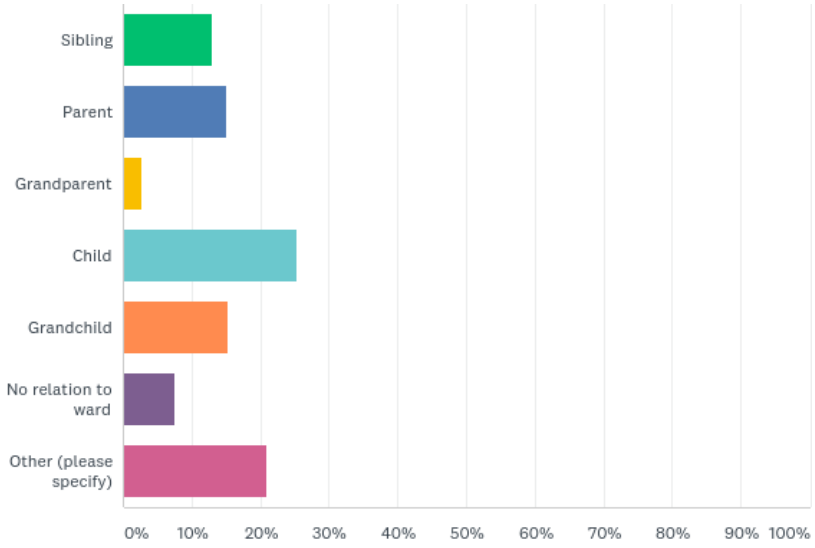


- **Is your guardianship/conservatorship a FULL, LIMITED, or TEMPORARY guardianship/conservatorship? (2017)**



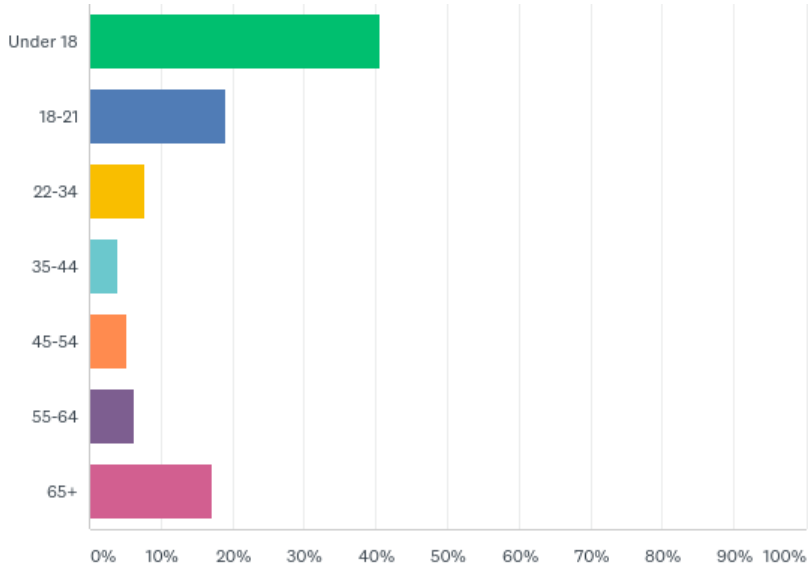
  - **Other: Petition not yet filed or been appointed**

- **What is the relationship of the ward to you? (2017)**

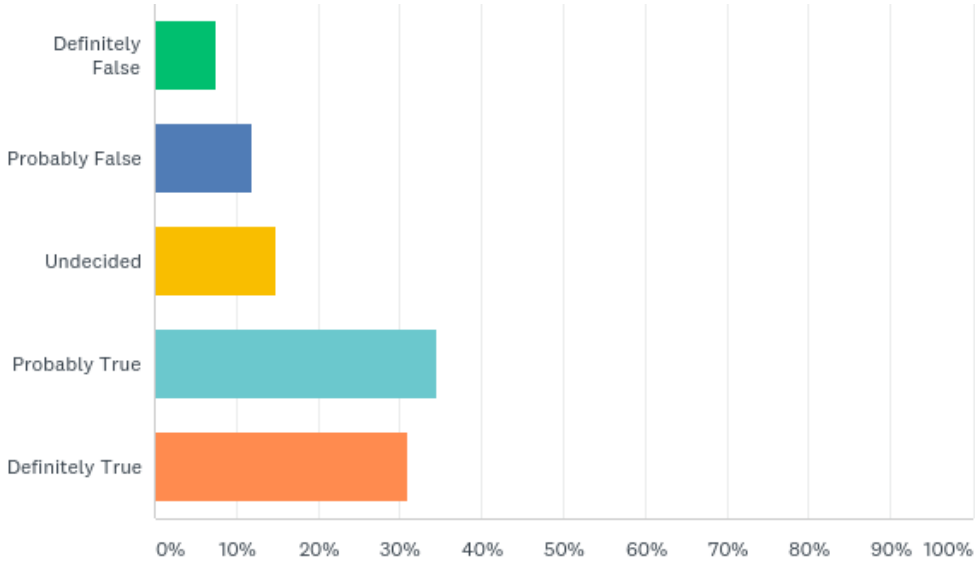


  - **Other: Extended Family**

What is the ward's age? (2017)

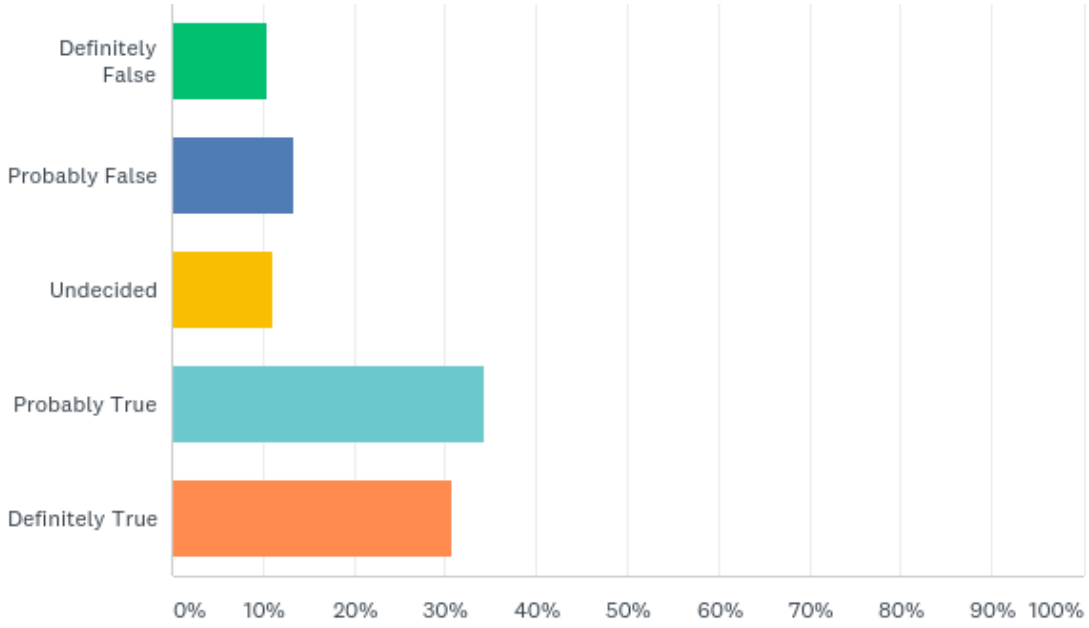


- **Prior to this class, I had a clear understanding of my financial responsibilities to my ward: (Neb. Rev. Stat. 30-4109 (6)(a)) (2017)**

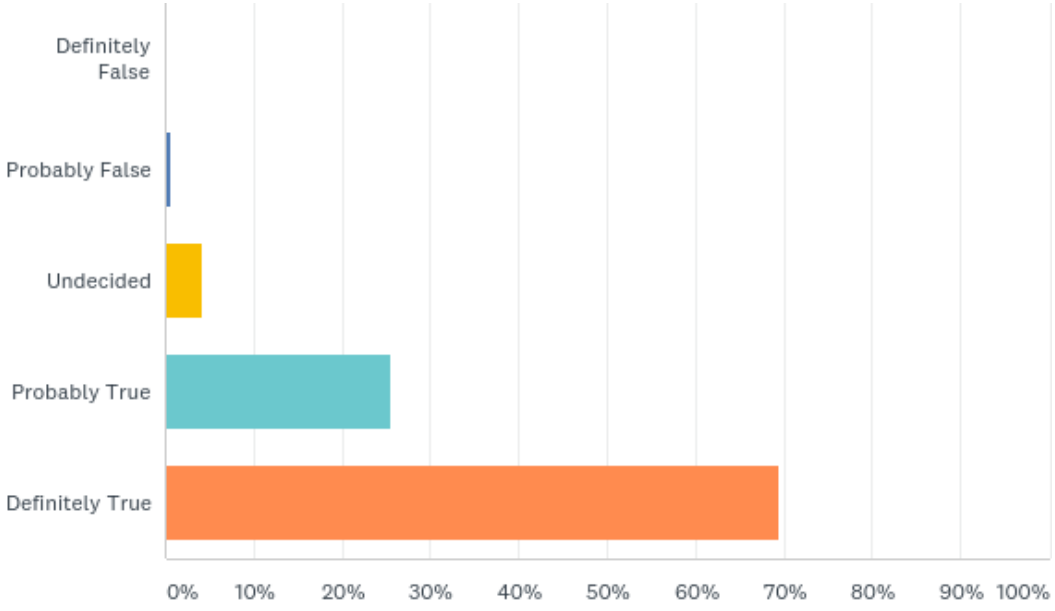


- **AFTER taking this class, I had a clear understanding of my financial responsibilities to my ward: (Neb. Rev. Stat. 30-4109 (6)(a)) (2017)**

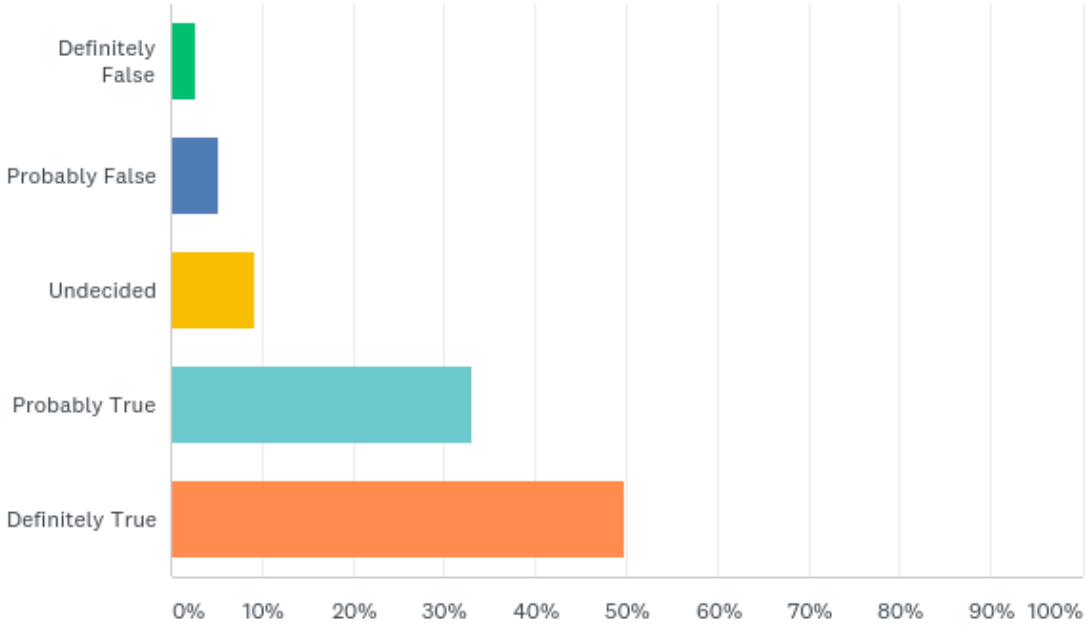
- **Prior to this class, I understood my responsibilities to the Court, including the filing of an annual report and notifying the Court of any major changes in the life of my ward: (Neb. Rev. Stat. 30-4109 (6)(c)),(7) (2017)**



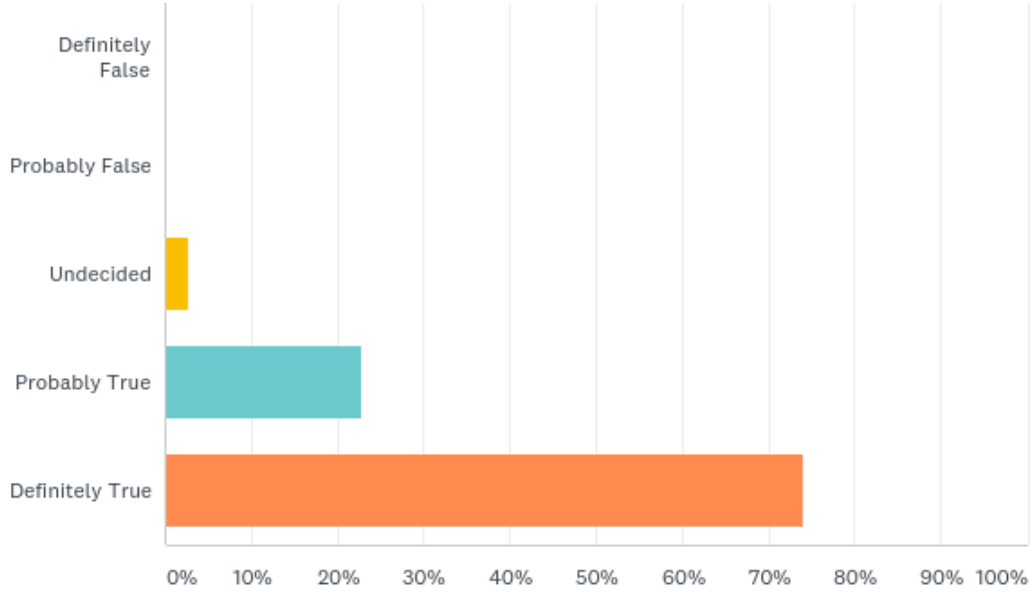
- **AFTER taking this class, I understood my responsibilities to the Court, including the filing of an annual report and notifying the Court of any major changes in the life of my ward: (Neb. Rev. Stat. 30-4109 (6)(c)),(7) (2017)**



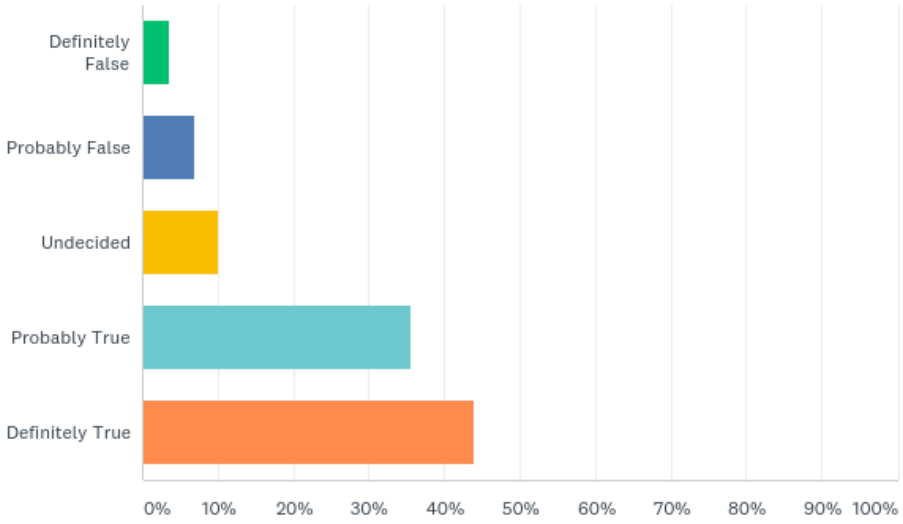
- **Prior to this class, I understood my duty to encourage my ward's physical, financial, and personal independence, as much as possible: (Neb. Rev. Stat. 30-4109 (6)(b)) (2017)**



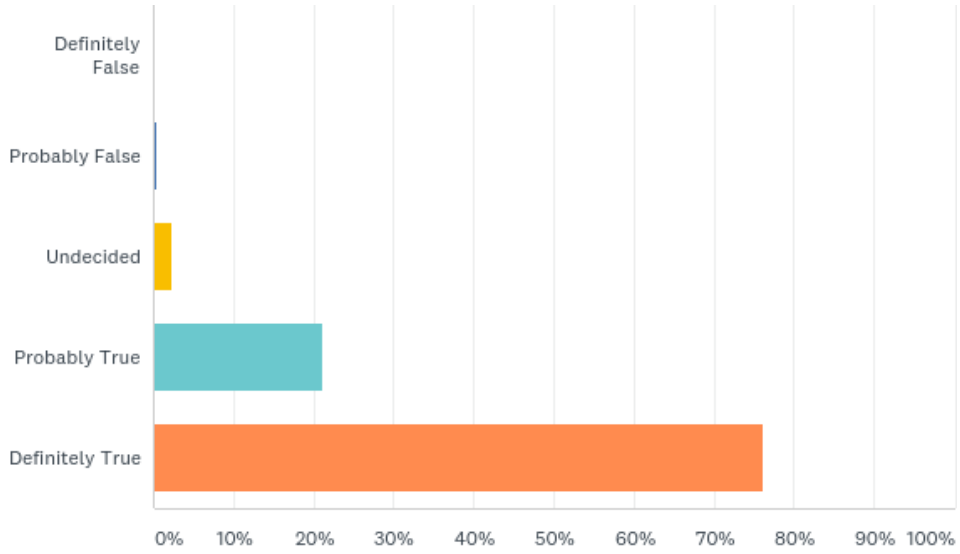
- **AFTER taking this class, I understood my duty to encourage my ward's physical, financial, and personal independence, as much as possible: (Neb. Rev. Stat. 30-4109 (6)(b)) (2017)**



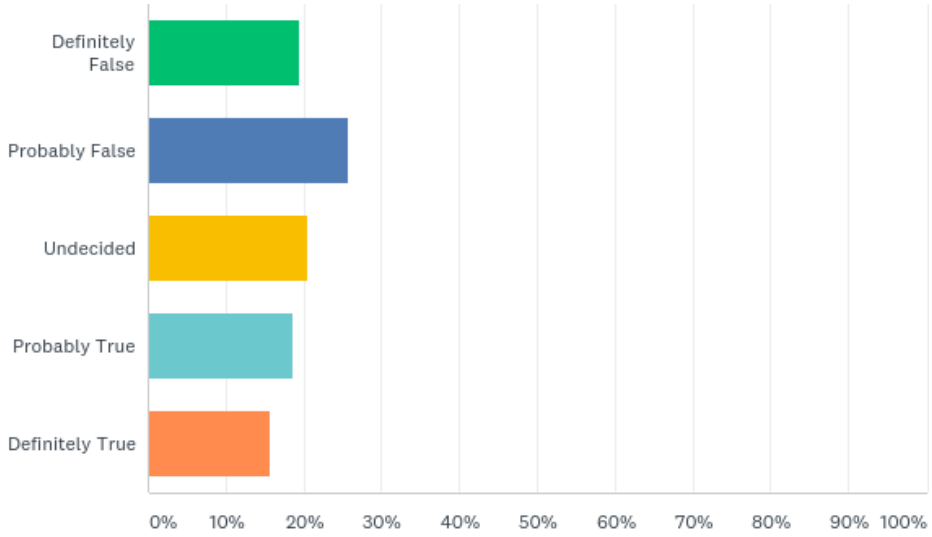
- **Prior to this class, I understood that my ward retains certain rights and responsibilities, such as the right to counsel and the right to privacy, even while under a guardianship/conservatorship: (Neb. Rev. Stat. 30-4109 (6)(d)) (2017)**



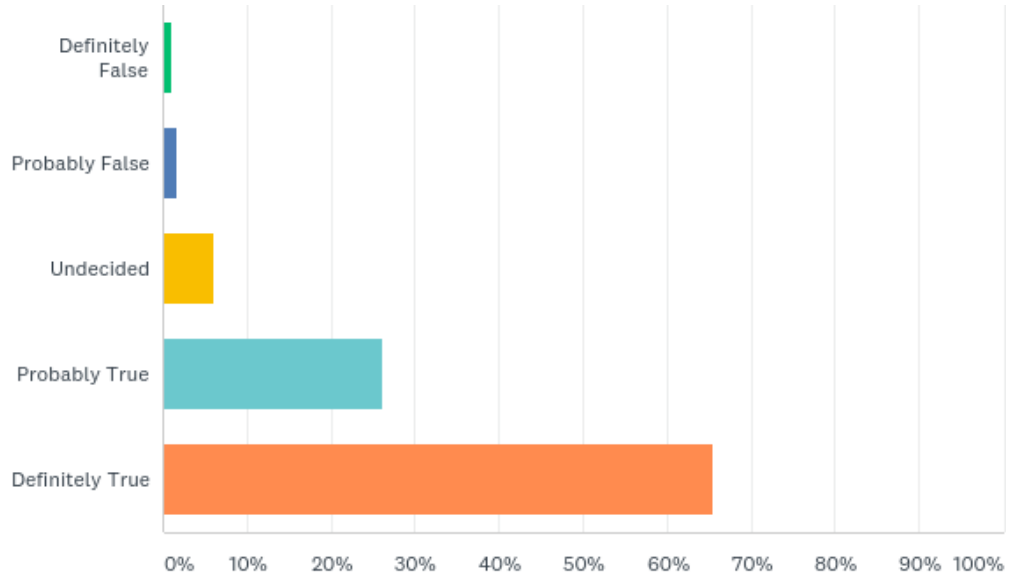
- **AFTER taking this class, I understood that my ward retains certain rights and responsibilities, such as the right to counsel and the right to privacy, even while under a guardianship/conservatorship: (Neb. Rev. Stat. 30-4109 (6)(d)) (2017)**



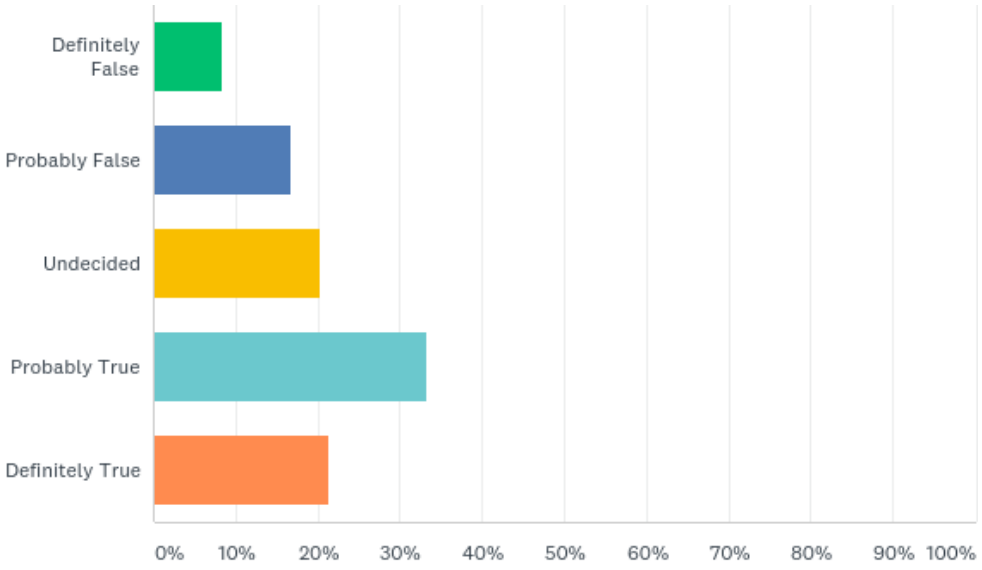
- **Prior to this class, I understood the role of the Public Guardian and how they can assist me in the fulfillment of my duties as a private guardian: (Neb. Rev. Stat. 30-4109 (6)(c)) (2017)**



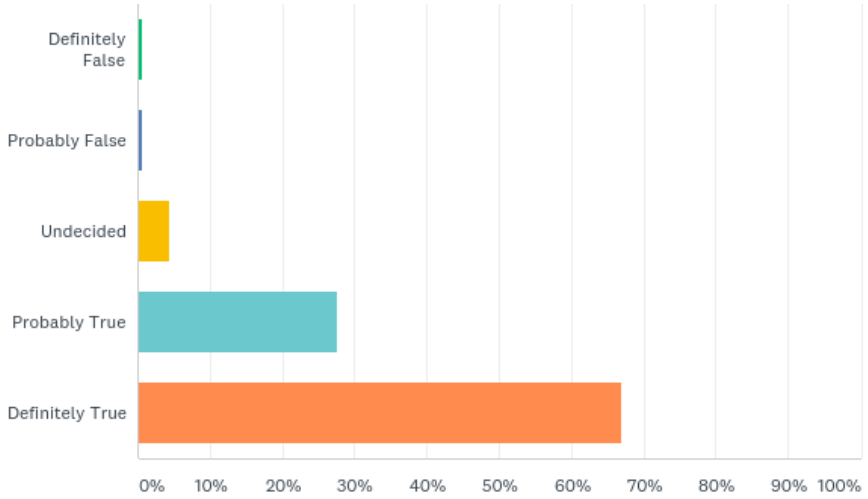
- **AFTER taking this class, I understood the role of the Public Guardian and how they can assist me in the fulfillment of my duties as a private guardian: (Neb. Rev. Stat. 30-4109 (6)(c)) (2017)**



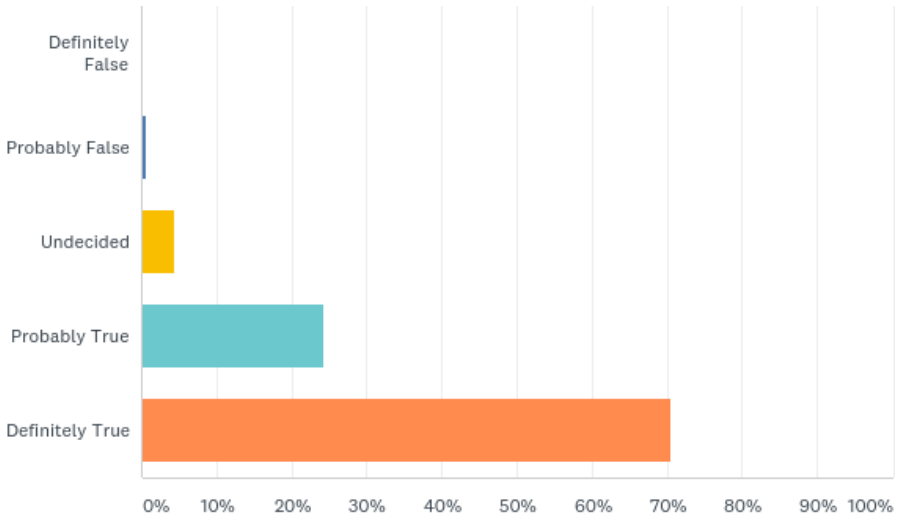
- **Prior to this class, I had a clear understanding of what a guardian/conservator provides to their ward and the need for more private guardians/conservators: (Neb. Rev. Stat. 30-4109 (7)) (2017)**



- **AFTER taking this class, I had a clear understanding of what a guardian/conservator provides to their ward and the need for more private guardians/conservators: (Neb. Rev. Stat. 30-4109 (7)) (2017)**



- **After taking this class, I feel prepared to serve as guardian/conservator for my ward (2017)**



Classes for Guardian and Conservator Education

The Office of Public Guardian provides Guardian and Conservator Education to meet Court Requirements

- Schedule: Training dates, sites, and times are located on the Office of the Public Guardian's website at **http://ne.gov/go/guardianeducation**
- Associate Public Guardians provide monthly education in the Office of Public Guardian service areas across the state. Each class is a 3 hour live session.
- Registration:

  Online: **http://ne.gov/go/guardianeducation**

  By phone: **402.471.2862**

- Fee: **$35 per person**

  Electronic payment available with online registration

  OR Mail payment option available AFTER phone registration to:
  OPG Education, P.O. Box 98910, Lincoln NE 68509-8910

****Registration AND Payment required ONE Week prior to class date**

Contact the Office of Public Guardian at **402.471.2862** for limited English-proficient attendees

For more information on NE guardianship and conservatorship:

- Court forms, general information: **https://supremecourt.nebraska.gov/guardians-and-conservatorship**
- Office of Public Guardian: **http://ne.gov/go/publicguardian** or **402.471.2862**
- Guardianship Education: **http://ne.gov/go/guardianeducation**

RECRUITMENT AND SUPPORT FOR SUCCESSOR GUARDIANS

Once the Public Guardian is appointed as guardian or conservator, the office shall make a reasonable effort to locate a successor guardian or successor conservator. § 30-4114 (1)

Successor Guardian recruitment materials developed:

- Successor Guardian fact sheet and leave behind flyer
- PowerPoint curriculum addressing Office of Public Guardian Partnering Opportunities/Successor Guardians and Court Visitors
- Successor Guardian recruit screening tool
- Successor Guardian interview tool
- Successor Guardian recruitment video project under development. Five private guardians have provided video interviews addressing why they serve as private guardians, its rewards and challenges. A number of individuals who have been under guardianship have been approached about interviewing for the project. One individual has agreed to participate.

Successor Guardian Recruitment processes:

- Presentation in each Guardian/Conservator Education Class, highlighting need for private Guardians/Conservators, and request for feedback if new Guardian/Conservator expresses interest in the Successor Guardian/Conservator effort.
- Presentations to service groups and organizations addressing the need for successor guardians and conservators, and offering opportunities to volunteer as successor guardians and conservators. Groups addressed in 2017 include:
    - Association of Community Professionals/Statewide organization/Kearney
    - Region V Services/Developmental Disabilities Provider/Lincoln and Southeast NE
    - UNL Elder Law Programs/Services/Lincoln
    - Radio Talking Book Service/Omaha
    - Leading Age/NE Assisted Living Workshop/Omaha
    - Midwest Special Needs Ministry Conference/Multi state conference in Lincoln
    - UNO grace Abbott School of Social Work faculty group/Omaha
    - Arc of Lincoln and Autism Family Network Conference/Lincoln
    - Developmental Disabilities Network Partners Annual Tri Board Meeting/Statewide membership/Lincoln
    - Iowa/NE Homelessness Symposium/Omaha
    - Lutheran Family Services/Lincoln
    - UNL Government and Public Interest Fair/Lincoln
    - People First/Self Advocate Convention/Statewide membership/Kearney
    - VolunteerLinc Volunteer Coordinator Event/Lincoln
    - Lincoln Homeless Coalition/Lincoln
    - New Americans Task Force/Lincoln
    - UNL Gerontology Classes/Lincoln
    - Uni-Net Healthcare Network Clinic/Omaha
    - UNL Government and Public Interest Information Fair/Lincoln
    - Lincoln Community Health Endowment Grant Workshop

Successor Guardian Data:

- **9** Successor Guardians were located after the OPG was appointed as Temporary/Emergency guardians or conservators but prior to OPG being appointed permanently. These individuals were usually identified within the ward's personal network.
- **18** Alternate Guardians located after the OPG was nominated to serve but prior to a permanent OPG appointment. The Court Visitor/GAL interview process has been a key factor in locating alternate guardians after the OPG has been nominated to serve.
- **68** individuals have expressed interest in learning more about successor guardianship through recruitment efforts, and have been provided with information about the need for and responsibilities of permanent guardianship and conservatorship.
- **0** Individuals from the public, who have initially expressed interest, have been appointed as successor guardians for wards after the OPG was appointed permanently to serve as guardian and/or conservator. Individuals who initially express interest in successor guardianship express concerns about the long term legal nature of such a commitment ("till death do us part"). They also are concerned about their own ability to meet the guardianship needs of individuals with high complex needs. The fear of "biting off more than they can chew" in a situation where they would make a personal and a legal commitment is daunting.

OFFICE OF PUBLIC GUARDIAN STUDENT INTERNSHIP PROGRAM

The Office of Public Guardian offers unpaid internships to college undergraduates and graduate students in law, criminal justice, nursing, social work, psychology, counseling, gerontology, business, accounting, public administration and other similar academic programs.
The Office of Public Guardian partners with Colleges and Universities in the OPG service area to:

- Provide students with opportunities to learn about Guardianship/Conservatorships, Court Processes involved in G/C, Court Visitor program, Private Guardian/Conservator Education.
- Develop and support student intern through a variety of activities and processes which foster expanded knowledge of the guardianship process, and which provide support to the OPG in various statutory responsibilities.

Internship/Externship include experiences in the following areas:

Private Guardian/Conservator Education:

- Attend and support Associate Public Guardian/instructor during Guardian/Conservator Education classes. Interns who complete the class receive Certificates of Completion which meet Court g/c education requirements. The intern could pursue becoming a private guardian or conservator for an individual needing guardianship in their personal networks.
- Enter Private Guardian/Conservator Education class surveys into OPG's on-line survey data base.
- Create reports from data collected

Court Visitor Orientation:

- Complete Court Visitor Education on-line modules and classroom sessions. Once the orientation is complete, the intern is eligible to serve as a Court Visitor, both during and after their internship concludes.
- Create reports from data entered on-line by Court Visitors

Associate Public Guardian/Ward Support:

- Interns provide support to Associate Public Guardians as they:
    - Coordinate and act on behalf of incapacitated individuals in day-to-day management of personal and estate matters when the Office of Public Guardian is appointed by the court.
    - Provide case management by: investigating the financial, psychological, family and social histories of referred individuals; plan and arrange for services and housing in the least restrictive alternative; make home and facility visits and inspections; recommend action based on informed consent for medical, surgical and hospitalization; assist in obtaining benefits for which the individuals are eligible; prepare comprehensive personal and financial court reports; maintain case records;

insure clients' bills are paid; prepares activity reports; and attends court hearings as appropriate.

- Attend ward case update meetings
- Research supports and services for ward specific issues
- Provide reports to APGs on results of research and recommendations for follow-up by APG
- Shadow APG to ward visits, community resource coordination, and court appearances.
- Document support provided
- Review and enter medical records and other ward specific data into the EMS Case Management software.

Intern/Practicum Students and College/University Partners:

- Kimmie Fox:
  University of Nebraska/Lincoln, Gerontology and Legal Studies, Summer Semester 2015

- Stephanie Mason
  Nebraska Wesleyan University/Lincoln, Social Work, Fall Semester 2016

- Natalie Burton
  University of Nebraska/Lincoln, Criminal Justice, Spring Semester 2017

- Riley Applegate
  University of Nebraska/Lincoln, Criminal Justice, Spring Semester 2017

- Alexiss Turner
  University of Nebraska/Lincoln, Criminal Justice, Summer Semester 2017

- Kristin Probst
  Creighton University/Omaha: Heider College of Business, Economics and Spanish, Summer Semester 2017

- Abigail Garden
  University of Nebraska/Lincoln, Global Studies, Summer Semester 2017 served in Kearney

- Michelle Brown
  University of Nebraska/Omaha, Grace Abbott School of Social Work, Masters in Social Work, Summer and Fall Semester 2017

- Kenney Nguyen
  University of Nebraska/Lincoln, Criminal Justice, Fall Semester 2017

1 Neb. Rev. Stat. §30-4105(3)
2 Neb. Rev. Stat. §30-4105(4)
[3]Neb. Rev. Stat. §30-4105(5)
4Neb. Rev. Stat. §30-4105(6)
[5]Neb. Rev. Stat. §30-4105(7)
[6]Neb. Rev. Stat. §30-4105(8)
7Neb. Rev. Stat. §30-4109(2)
[8]Neb. Rev. Stat. §30-2624.
9Neb. Rev. Stat. §30-4105(7)
10Neb. Rev. Stat. §30-4105(3)
11Neb. Rev. Stat. §30-4105(8)
[12] Id.
13Neb. Rev. Stat. § 30-4104.
[14]Id.
[15]Id.
[16]Neb. Rev. Stat. § 30-4104.
[17]Neb. Rev. Stat. § 30-4108) (1).
[18]Neb. Rev. Stat. § 30-4110.
[19]Neb. Rev. Stat. § 30-4104.
[20]Neb. Rev. Stat. § 30-4111.
[21]Neb. Rev. Stat. § 30-4106.
[22]Neb. Rev. Stat. § 30-4108.
[23]Neb. Rev. Stat. § 30-4106.
24 Neb. Rev. Stat. § 30-4104.
[24] Neb. Rev. Stat. §§ 30-4105 (5), 30-4109 (7).
[25] Neb. Rev. Stat. § 30-4102.
[26] Neb. Rev. Stat. § 30-4116 (2) (a).
[27] Richard Van Duizend, *National Probate Court Standards* § 3.3.4, 49 – 50 (National Center for State Courts 2013).

A. Probate courts should require a court appointee to visit with the respondent upon the filing of a petition to initiate a guardianship/conservatorship proceeding to:
   (1) Explain the rights of the respondent and the procedures and potential consequences of a guardianship/conservatorship proceeding.
   (2) Investigate the facts of the petition.
   (3) Determine whether there may be a need for appointment of counsel for the respondent and additional court appointments.
B. The visitor should file a written report with the court promptly after the visit.

[28] Neb. Rev. Stat. § 30-4102.
[29] Neb. Rev. Stat. § 30-4105 (8).
[30]Neb. Sup. Ct. R. §§ 6-1433.03 and 6-1433.04.
[31] Neb. Ct. R. §§6-1433.01(D), 6-1433.02(F)(2)
[32] Neb. Rev. Stat §30-2626(a); (e)
[33] Neb. Ct. R. §§6-1433.01(D), 6-1433.02(F)(2)
[34] Neb. Ct. R. §6-1433.01(E)
[35] Neb. Ct. R. §6-1433.02(H)
[36] Neb. Ct. R. §6-1433.01(G), Neb. Ct. R. §6-1433.02 (F)
[37] Neb. Ct. R. §§ 6-1433.01 (B) and (J)(4)
[38] Neb. Ct. R. § 6-1433.01(J)(4)
[39] Neb. Ct. R. § 6-1433.01(J)(4)
[40] Neb. Ct. R. § 6-1433.02(F)
[41] Neb. Rev. Stat. §30-4115(1)(c)
[42] Neb. Ct. R. §6-1433.01(J)
[43] Neb. Ct. R. §6-1433.01(F)
[44] Neb. Rev. Stat §30-4115(2)
[45] Neb. Rev. Stat. §30-4115(1)(c)
[46] Neb. Rev. Stat. §30-4102(d),(e) and §30-4105 (1),(2),(3)
[47] Neb. Rev. Stat. §§ 30-2619.01, 30-2619.02, 30-2619.03, 30-2619.04, 30-2620.01, and 30-2624.
[48] Neb. Rev. Stat. § 30-4102.

[49] *Id.*
[50] Mary Joy Quinn, *Guardianships of Adults: Achieving Justice, Autonomy, and Safety*, app. A, 256 (2005).
[51] Neb. Rev. Stat. § 30-2628.
[52] Neb. Rev. Stat. § 30-4111.
[53] Neb. Rev. Stat. § 30-4109 (4).
[54] Neb. Rev. Stat. § 30-4105 (5) Provide adequate training and support to enhance [guardian/conservator] success.
[55] Neb. Rev. Stat. § 30-4109 (1): Develop a uniform system of reporting and collecting statistical data- regarding guardianship/conservatorship.