

THE GUARDIAN REPORTER

Newsletter of **The Guardianship Project**, a demonstration project of the **Vera Institute of Justice** • March 2017

What is Guardianship?

By Sara Fulton

Guardianship, as practiced by our agency, means providing support in decision-making for adults who are unable to make decisions alone. The Guardianship Project serves as guardian under Article 81 of New York State's Mental Hygiene Law. That article permits appointment of a guardian for the purposes of handling personal needs, managing property and finances, or both.

In order for a guardian to be appointed, a court must determine that the appointment is necessary - meaning that the person will be at risk of going without food, clothing, or shelter, will be unsafe, or will risk financial loss without a guardian. Additionally, if people who qualify for guardianship do not agree to have guardians, the court must decide that they are incapacitated, meaning that they are likely to be harmed, because they are unable to provide for themselves and they cannot understand their inability. A court looks at whether a person is able to – among other things – cook, eat, walk, dress, shop, travel, and manage money without assistance. A court will also consider wheth-

er a person understands the consequences of any limitations he or she may have and the person's own wishes and values.

Once a court determines that appointment of a guardian is necessary, it issues a court order, referred to as an "Order and Judgment." Where available, the courts prefer to appoint a family member or friend of the person needing a guardian. However, when that is not possible, the court looks to individual attorneys and agencies such as The Guardianship Project to serve.

When appointing a guardian, the courts take careful stock of the abilities of each person needing a guardian and tailor the powers granted to a guardian to that person's needs. Some people might need a guardian to manage money but are able to make medical decisions, travel independently, and create a safe living environment on their own. Others might be capable of controlling their own funds but need assistance managing their home care providers. Each order is different because each person is different.

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Volunteer Program to Launch in 2017

By Rebecca Dealy

The Guardianship Project hopes to launch our Volunteer Friendly Visitor Program this year. This is the first time that The Guardianship Project will welcome volunteers in visiting our clients. Volunteers will join the case managers, financial associates, and lawyers at The Guardianship Project to provide additional visits to our clients. The program will be beneficial by making our clients feel even more supported, and the volunteers who offer their time can feel they are supporting their community.

Volunteers will aid our case managers in offering another set of "eyes and ears" on our clients, but our focus is on helping our clients; social interaction with the elderly and disabled greatly improves not only their quality of life, but their physical and mental health. Our hope is that

volunteers will provide an essential community link for each appropriate client, providing companionship and enhancing their care. Through this program clients will associate yet another friendly face with The Guardianship Project.

After an initial orientation and training with our volunteer coordinator, volunteers will be visiting our clients weekly. As our program grows, we hope that each volunteer can build a relationship with a specific client based on things like shared interests and geographic location. Many of our clients are living in the community, so some volunteers will visit clients in the comfort of their homes, while other volunteers will visit clients in nursing homes, assisted living residences, or group homes.

Volunteering has endless benefits; it strengthens the community around you and promotes personal growth and self-esteem. Similar to those for whom we volunteer, studies

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LETTER FROM THE DIRECTOR



What an amazing ride it has been since taking over as the Director of The Guardianship Project (TGP) in September of 2014! We have moved offices, updated computer equipment, and researched and implemented a new data collection system. Since September 2014, we have completed 74 final accountings and have been finally discharged from 107 cases. All this in addition to completing an orientation manual, fine tuning our best practices manuals, investigating fraud in a number of our cases, and servicing the needs of well over 200 living clients during this time period. Phew, what a whirlwind.

Perhaps the best news that we have to share is that we have been able to secure grants and contracts that have allowed us to expand our Project to accept additional cases in our current counties (Brooklyn, Manhattan, and Queens), as well as expanded our services into the Bronx. We have added additional staff in the case management, finance, legal, and operations divisions and have just hired our first ever “volunteer coordinator”. The volunteer coordinator will develop and implement TGP’s first ever “Friendly Visitor Program,” where we will match existing clients with volunteer visitors to further enhance our clients’ socialization. Even for our nonverbal clients, a visitor who can play some music, read a poem, or even just hold their hand greatly increases their quality of life.

While most of our clients are elderly and poor, all have one thing in common: They have no one else to reliably take care of them at a time of deep vulnerability in their lives. TGP has stepped into the breach to provide the highest quality services to each and every client. We have been able to keep approximately 60 percent of our clients in the community rather than costly institutional settings and in the process saved over \$2.6 million in Medicaid dollars last year alone.

In addition to our day-to-day client-based work, in 2016, TGP received a generous grant from the New York Community Trust to conduct a statewide research project on guardianship in New York. Statewide surveys are being sent to relevant stakeholders. Our hope is to have the data analyzed and reported by the end of 2017. We also continue to drive guardianship reform by lending technical assistance to other programs in the state.

With the generous support of stalwart funders like the Office of Court Administration, the NYS Legislature, NY City Council, the David Berg Foundation, the Charina Endowment Funds, the Marty and Dorothy Silverman Foundation, and several private family and individual funders, The Guardianship Project will continue to provide quality service to ensure that every person serviced by our project has all their legal, emotional, financial, and physical needs met to the highest level possible under the powers we are given.

Thank you for your continued support and interest in this wonderful organization.

Sincerely,

Jacqueline Baillargeon, Esquire

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NEWS AND ANNOUNCEMENTS

STATEWIDE RESEARCH PROJECT UNDERWAY

With the assistance of a generous grant from the New York Community Trust, The Guardianship Project is working with Dr. Pamela B. Teaster, Ph. D, Professor, and her team from Virginia Tech to assess the current state of guardianship services available in New York State to those who have no family or friends available to serve as guardians, or sufficient resources to pay a professional guardian. By interviewing judges, court evaluators, guardianship service providers, and others, the project seeks to shine a light on both the features of the current guardianship system that are working well to meet the needs of incapacitated New Yorkers, as well as the areas that need improvement. The Guardianship Project hopes that, once complete, the project will highlight key systemic barriers and point the way to a system that gives access to high-quality guardianship services to all in need of them, regardless of the availability of family or friends to serve as guardian, or their financial resources.

GUARDIANSHIP STAFF CONTINUED LEARNING

Teepa Snow is one of the nation's leading educators on dementia. Snow is an advocate for those living with dementia and has made it her personal mission to help families and professionals better understand how it feels to be living with the challenges and changes that accompany various forms of the condition. TGP staff recently watched a seminar by Snow, which discussed different ways to communicate with dementia patients. Staff plans to continue our learning through her webinars and other educational material. It is always a priority to ensure each staff member at TGP understands how to best communicate with our clients. While not all our clients have dementia, we have found that her communication methods are universally applicable, creating a stronger ability to interact meaningfully with all our clients going forward.

TGP EXPANDING INTO THE BRONX

The Guardianship Project has historically only accepted clients within Manhattan, Brooklyn, and Queens – due to both funding and our staff's bandwidth. We happily announce that as of 2016, we are now able to extend our services to the Bronx. As of February 2017, 10 of our clients currently reside in that borough. Our hope is that, with continued expansion and funding, TGP will be able to provide service throughout all of NYC's boroughs.

MANAGED LONG-TERM CARE PRESENTATION

On February 23, TGP staff enjoyed a presentation from New York Legal Assistance Group's staff attorney Peter Travisky, who helped us understand how to better navigate what can be a difficult system. Managed long-term care (MLTC) is a system that streamlines the delivery of long-term services to people who are chronically ill or disabled and who wish to stay in their homes and communities. TGP relies on various MLTC companies to ensure our clients have sufficient care while in the community.

THE GUARDIANSHIP PROJECT INTERNSHIPS

The Guardianship Project is proud to host interns from the Kenneth Cole Community Action Program at Columbia University for the fourth consecutive year. Students involved in the program have demonstrated a strong commitment to helping underserved communities and an interest in learning about nonprofit work. TGP strives to provide our interns with diverse experiences and opportunities in the fields of social work, finance, and law to show them the full range of services required in guardianship or any other form of nonprofit advocacy. One of our interns, Kyra Sampson, is a senior studying political science and Hispanic studies. Kyra hopes to use her internship to better understand guardianship and other types of law within New York City's public sector all while learning more about how justice is achieved within the New York State Court System. Our second intern, Margaret Cunliffe, is a sophomore studying history. Margaret wants to gain a better understanding of the legal processes involved in guardianship as preparation to attend law school after graduation.

YOGI SAM CHASE VISITS TGP

In January, TGP had world-renowned meditation expert/yogi Sam Chase visit our offices to provide 2 sessions on self-care to our staff. Sam is the author of "Yoga and the Pursuit of Happiness" and travels the nation teaching yoga and mindfulness. Staff spent two hours learning tips and techniques for taking a moment out of our often stressful lives – and the importance mindfulness and being grateful. Our jobs at TGP are often stressful and time sensitive, making the importance of calming our minds and recharging our batteries even more important. After his visits, staff implemented an optional 10 minutes of daily meditation in the office. TGP believes that in taking care of yourself, your ability to care for others is optimized.

TGP SUCCESS FOR CLIENT AT FAIR HEARING

Last December, TGP's legal team won a crucial decision in a fair hearing—a hearing before an administrative law judge to contest a decision made by a government agency—for one of our clients. Our client, Geoffrey, had lived in a nursing home for several months at the time of our appointment as his guardian. The nursing home wanted to shift his fee status to "Chronic Care Budgeting" (allowing him only to retain \$50 a month of his income for personal allowances, with the rest paid to the facility). This change would have made it impossible to return Geoffrey to his apartment in the community. The judge found that the discussion during Geoffrey's guardianship hearing about the prospect of returning home justified "Non-Chronic Care Budgeting." As such, he retained nearly all the income that would have been paid to the nursing home, allowing him to return comfortably home.

Once a guardian is appointed, the court case does not end. Rather, part of an Article 81 guardianship is continued oversight by the court and its appointed representatives. A guardian is required to file a report to the court 90 days after appointment, and is also required to file a report in May of every year covering the previous calendar year.

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because each
individual is
different.

These reports detail the financial transactions made on the individuals' behalf for the previous year. The reports also detail a person's social and personal situation, including a medical update. If these reports are not filed or indicate that the guardian is not acting appropriately, the guardian can be removed.

Guardians who feel they need additional powers must ask the court for permission. Even after a person dies, the guardianship does not end until the guardian accounts for all of the person's funds to the court.

Through these laws, New York State endeavors to limit the extent to which a person's autonomy can be restricted to the least invasive measures and also to be sure that the vulnerable population of people needing guardians is protected from abuse and mismanagement. The Guardianship Project works to provide the highest quality decision-making and other services for our clients within the structures set up for their protection, while at the same time prioritizing, as much as possible, their autonomy.

Congress to Vote on Elder Abuse and Prevention Act

By Anne Meyer

In July 2016, a bill entitled the Elder Abuse Prevention and Prosecution Act (S. 3270) was introduced in the Senate, with amendments submitted in September 2016. The bill calls for a number of increased protections for the elderly, including increased penalties for telemarketers and e-mail marketing fraud targeting seniors, better data collection on elder abuse statistics, and increased training for state and local governments about elder abuse topics and issues.

As it currently stands, it is impossible to know just how prevalent elder abuse is in our society. So many instances go unreported and, as the Elder Abuse and Prevention Act seeks to rectify, the information gathered about this topic is not always collected properly. However, we know that elder abuse is an insidious issue, with reports prevalent in news media and widespread among our communities and families. More and more people know of someone who has experienced elder abuse.

In the world of guardianship, the subject of elder abuse is always at the forefront of our minds. Many people in need of a guardian have been victims of elder abuse in some fashion. Some people who have guardians, or other appointed representatives, have even suffered elder abuse at the hands of the people meant to provide them additional support and security.

While increased training and awareness for our government and legal personnel as well as increased penalties for abusers are important steps to take on a legislative level, there is work to be done on the personal level. We have a duty to our community to educate ourselves and become more accountable to one another. After all, we cannot help prevent elder abuse if we don't know what the different signs and forms of elder abuse look like.

The New York State Social Services Law Section 473 defines six different types of elder abuse: physical abuse, sexual abuse, emotional abuse, financial exploitation, active and passive neglect, and self-neglect. To learn more about the different types of elder abuse and the warning signs you should look for, please visit the New York State Office of Children and Family Services' Adult Protective Services sites: <http://ocfs.ny.gov/main/psa/adultabuse.asp> and <http://ocfs.ny.gov/main/psa/risks.asp>.

If you have concerns about a loved one or community member, consider reaching out to an agency, like Adult Protective Services, or to local law enforcement. Working together, we can help give our aging population the safety and peace of mind they deserve.

Falk's Law Passes in New York

By Rebecca Dealy

Peter Falk was best known for playing an LAPD detective on the hit television series “Columbo” that ran from 1968 to 1978. However, his name now calls to mind a different association: his improperly handled death.

Mr. Falk spent the last days of his life hospitalized with debilitating Alzheimer's disease, while allegedly isolated from his friends and family by his second wife. As Mr. Falk's court-appointed conservator, his wife allegedly prevented Mr. Falk's children and other family members from visiting him, failed to notify them of changes in his condition, and neglected to notify them of his death in 2011 or of his funeral arrangements.

“Peter Falk's Law” aims to help other families avoid this kind of situation. In 2016, the state Senate passed the bill, sponsored by Sen. John DeFrancisco, requiring judges who are appointing guardians to identify all people entitled to notice of an incapacitated person's death, funeral, and burial arrangements. The law also allows the judge appointing a guardian to identify those entitled to visit the incapacitated person. Falk's Law will protect the rights of listed persons to be notified when the incapacitated person is admitted to the hospital.

On July 21, 2016, Peter Falk's Law was signed by Governor Andrew Cuomo, and New York became one of many states to adopt the law. The law is codified as subdivision (c) of Mental Hygiene Law section 81.16 and is an amendment to the state's mental hygiene law. The goal of the law is to prevent a guardian from improperly isolating an incapacitated person or limiting his or her visitation.

The Guardianship Project has always worked directly with the families and friends of our clients, both during their lives and after their passing. We have encouraged involvement of others during our clients lives, and we make every effort to notify all appropriate people after our clients' deaths.

Client Spotlight: Mr. S

Many of our clients are elderly people who would be forced to move into nursing homes or other institutions if we were not there for them. With our intensive case management model, The Guardianship Project designs and implements an individualized care plan for each of our clients.

To illustrate how our holistic model allows us to provide the highest level of services to our clients, consider the case of Mr. S. When TGP first met Mr. S, he was a 94-year-old Holocaust survivor stuck in a nursing home, because he had no family or friends able to advocate for his one wish: to return to the apartment where he had lived for 65 years.

TGP, as guardian to Mr. S, provided collaborative, comprehensive case management, financial management, and legal services to address the collection of complications keeping him from returning home. Mr. S needed a safe plan to be sent home, such as an aide to help care for him in his residence; additionally, his Holocaust reparations payments had lapsed, and he also owed the nursing facility a significant amount of money. Due to his failing health, Mr. S. was unable to address these issues on his own.

TGP developed a safe discharge plan with home care in place, restored the lapsed Holocaust reparations, and put in place a sustainable financial plan to ensure Mr. S. would remain in his home for as long as medically possible. Returning home has had an incredible impact on Mr. S's well-being. His physical health has improved drastically, and he is far more engaged with everyday life.

His physical health has improved drastically, and he is far more engaged with everyday life.

Mr. S is once again part of the community he loves; TGP staff has coordinated delivery of his favorite morning newspaper – a staple of Mr. S's daily routine – and has personally delivered his Passover meal. TGP continues to make sure he is comfortable in his own home.

show that people who offer their time see a reduction in their stress levels and healthier positive emotions. Volunteers will get to meet someone who likely leads a life vastly different from their own, and volunteering gives both clients and volunteers a chance to form a lasting, meaningful relationship.

When the program is up and running, TGP will ask volunteers for a six-month commitment and seeks those with a vested interest in providing companionship to those in need. Volunteers must be over the age of 18, and must be willing to submit to a background check and sign a confidentiality agreement.

For questions, or if you are interested in volunteering, call Rebecca Dealy at 347-296-1874.

ABOUT THIS PUBLICATION The Vera Institute of Justice is a justice reform change agent. Vera produces ideas, analysis, and research that inspire change in the systems people rely upon for safety and justice, and works in close partnership with government and civic leaders to implement it. Vera is currently pursuing core priorities of ending the misuse of jails, transforming conditions of confinement, and ensuring that justice systems more effectively serve America’s increasingly diverse communities. For more information, visit www.vera.org.

The Guardianship Project delivers legal, financial, and intensive case and property management services to individuals who have either been adjudicated by a court as legally incapacitated and have no family or friend willing or able to care for them, or have consented to the guardianship.

The Guardian Reporter is published by the The Guardianship Project in collaboration with Vera’s Communications Department. The client names used throughout this document are pseudonyms.

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