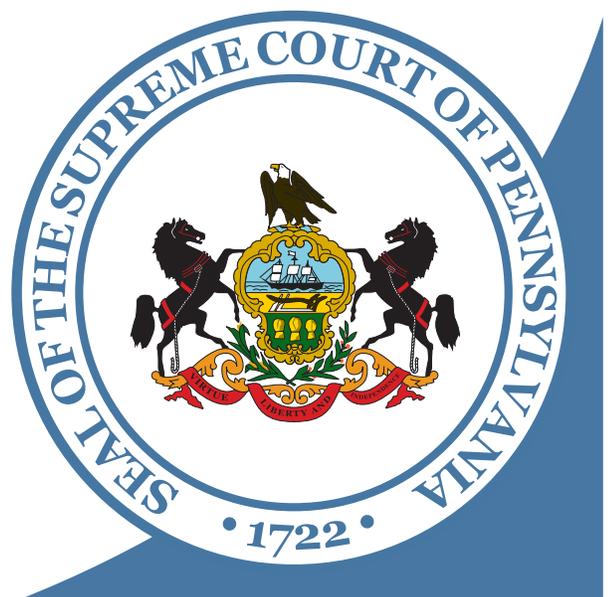


Second Progress Report on the Work of the Advisory Council on Elder Justice in the Courts

for the years 2019 - 2021



THE ADVISORY COUNCIL ON ELDER JUSTICE IN THE COURTS

MISSION STATEMENT

The mission of the Advisory Council on Elder Justice in the Courts is to identify and address elder justice issues (including elder abuse and neglect, guardianships, and access to justice) affecting the Commonwealth's elders.

EXPLANATORY STATEMENT

While we recognize that many adults live long, healthy, and productive lives well beyond the age of 60, for the purposes of its Report, the Elder Law Task Force defined an elder as a person 60 and over, based on the use of that age by the Pennsylvania Department of Aging, the Area Agencies on Aging, the United States Administration on Aging and most aging services providers. This age originally comes from the Federal Older Americans Act (which created the "aging network" of services for older Americans). In addition, Pennsylvania Act 70 of 2010, which created Adult Protective Services (a reporting and investigative system for the under 60 population), defines an "adult" as an individual between the ages of 18-59. Thus, the Task Force determined an "older adult," or "elder," would be defined as 60 and over. While some of these recommendations are equally applicable to younger adults with diminished capacity, the focus of the Elder Law Task Force was on elders.

DISCLAIMER STATEMENT

The materials contained herein, and the opinions expressed in this Report on the work of the Advisory Council, do not necessarily represent the official views of the Supreme Court of Pennsylvania. The Report is for informational purposes only as a service to the public and other interested entities. This Report does not constitute legal advice and is not a substitute for the advice of legal counsel.

The Advisory Council considers its work to be "accomplished" if it reviewed, analyzed and acted on the recommendation of the Task Force and moved the recommendation forward to the appropriate body (e.g., the legislature, the executive branch or the Orphans' Court Procedural Rules Committee of the Supreme Court) in accordance with the direction of the Task Force, even if, in certain cases, the ultimate objective of the recommendation has not yet been attained.



If you suspect an elder is being abused, please call:

**Statewide Elder Abuse Hotline:
1-800-490-8505**

TABLE OF CONTENTS

Foreword by Justice Todd	
Executive Summary	1
Members and Staff of the Advisory Council on Elder Justice in the Courts	9
Status of Implementation of the Elder Law Task Force’s Recommendations	13
Recommendations to the Supreme Court of Pennsylvania	13
Recommendations to the Office of Elder Justice in the Courts and to the Advisory Council on Elder Justice in the Courts	41
Recommendations to the Legislative Branch	49
Recommendations to the Executive Branch	57
Recommendations to the Federal Government	59
Recommendations to Prosecutors	61
Recommendations to Victim Services Providers	62
Recommendations to Bar Associations	62
Recommendations to the Public	63
New Projects/Initiatives of the Advisory Council	65
New Legislative Initiatives Supported by the Advisory Council	70
Appendices	
Appendix A: Abbreviations and Acronyms	73
Appendix B: Training Programs, Educational Presentations and Additional Activities of Members of the Advisory Council in Support of Improving the Lives of Pennsylvania’s Elders	75
Appendix C: Presentations and Educational Forums made to the Advisory Council	81
Appendix D: Pennsylvania Orphans’ Court Rules: Chapter XIV. Guardianships of Incapacitated Persons	82

One Oxford Centre, Suite 3130
Pittsburgh, Pennsylvania 15219

Supreme Court of Pennsylvania



Telephone: 412-565-2680
Facsimile: 412-565-2690

Justice Debra Todd

July 2022

Greetings,

It is my honor to introduce this Second Progress Report on the Work of the Advisory Council on Elder Justice in the Courts, and to recognize the significant accomplishments of the Advisory Council's leaders, members and contributing staff, who have devoted themselves to addressing the challenges facing our Commonwealth's elders.

It was nearly ten years ago that Chief Justice Ronald Castille asked me to convene and chair the Elder Law Task Force. Court Administrator Zygmunt Pines and I had the privilege of working with a dedicated group of 36 volunteers to study and address critical issues involving guardianships, abuse, and access to justice for the Commonwealth's aging population.

In November 2014, the Task Force published its Report and Recommendations, offering 130 recommendations. Yet, this was only the first step in our efforts to address the critical issues confronting our Commonwealth's elders. The ambitious undertaking of ensuring that the Task Force's recommendations were accomplished was tackled head on by the newly established Advisory Council and the Office of Elder Justice in the Courts (OEJC). As noted in the Advisory Council's First Progress Report in December 2018, many of the Task Force's recommendations had been completed, but due to the complexity and everchanging nature of the challenges facing our aging population, there remained much to be achieved.

This Second Progress Report recounts the advances that have been made over the past three years. Indeed, these most recent gains are perhaps even more impressive when one considers that these accomplishments occurred during the unprecedented Covid-19 pandemic. The pandemic not only temporarily paused many of the scheduled initiatives to ensure justice for our elders, but created extraordinary obstacles for these citizens who were, and continue to be, the most vulnerable to the Coronavirus. Undeterred, and against all odds, as set forth in the following pages, many of the Task Force's remaining recommendations were accomplished during these trying times. The OEJC's Director Cherstin Hamel and Analyst Keith Hinkel Jr., Advisory Council Chair Senior Judge Paula Francisco Ott and Vice-Chair Zygmunt Pines, Esquire, along with Long Range Planning Committee Members Judge Sheila Woods-Skipper, Karen Buck, Esquire, Diane Menio, Judge Lois Murphy, and Judge George Zanic, as well as all of the Advisory Council volunteer members, have worked diligently in their quest to implement the recommendations of the Task Force. These individuals have demonstrated an unparalleled commitment, dedication, and esprit de corps in confronting and solving problems. Partnerships have remained steadfast with the Pennsylvania Department of Aging, through Secretary Robert Torres; the Attorney General of Pennsylvania, Josh Shapiro; and the Pennsylvania Legislature, through the involvement of Senators Arthur Haywood and Maria Collett and Representatives Tim Hennessey and Gary Day. These alliances have demonstrated the value of working together toward our common goal of achieving elder justice.



Among the many, many extraordinary accomplishments, arguably the most significant was the creation and implementation of the Guardianship Tracking System (GTS). Guardianship issues center on those who protect the interests of incapacitated persons and who have the duty and power to make decisions for them. Nationally, the judiciary has grappled with challenges in guardianship appointment, screening, monitoring, and reporting of physical and financial abuse, all of which are significant areas of concern. The primary impediment to real reform has been the lack of timely, accurate, and complete guardianship data, which is essential to resolution of these issues.

In order to address these concerns and bring genuine change to guardianship administration in Pennsylvania, the Administrative Office of Pennsylvania Courts (AOPC) Information Technology Department, in consultation with the Advisory Council and OEJC, spearheaded the creation and development of GTS. The result of this effort is a comprehensive web-based system now being used by guardians, court staff, orphans' court clerks, and judges to file, manage, track and report on guardianships. Specifically, through GTS, courts have gained greater control over active guardianships through the establishment of a statewide uniform annual reporting process. Statewide implementation of GTS was completed in December 2018, and by 2020, AOPC was able for the first time to accurately identify the total number of active guardianships in the Commonwealth as well as other critical information. Through our investment in computer technology, innovation, and personnel, we now know that as of December 31, 2021, there were 18,380 active guardianship cases in GTS, with 382 professional guardians and 19,261 family or lay guardians. The total amount of guardianship assets under court supervision was over 1.7 billion dollars. The advent and implementation of GTS is a true game changer, and I commend all of those involved in its inception and development, and particularly Amy Ceraso, former Director of Information Technology (IT) and IT Analyst Manager Amy Whitworth who has been, and continues to be, an integral part of the success of GTS.

I extend my personal gratitude to former Chief Justices Ronald D. Castille and Thomas G. Saylor, and to Chief Justice Max Baer, and to former State Court Administrators Tom Darr and Zygmunt Pines, Esquire, and current State Court Administrator Geoffrey Moulton, Esquire, for their leadership and support.

I am also grateful to Senior Judge Paula Ott, Cherstin Hamel, Keith Hinkel, AOPC Acting Legislative Affairs Director Damian Wachter, and my Chief Administrative Judicial Assistant Rhonda Campbell and Deputy Chief Law Clerk Jeffrey Bauman, Esquire for their time and effort in the preparation of this Report.

Vice President Hubert H. Humphrey once said, "The moral test of a government is how it treats those who are at the dawn of life, the children; those who are in the twilight of life, the aged; and those who are in the shadow of life, the sick, the needy, and the handicapped." The progress recounted in this Report represents our ongoing effort to meet this moral test.

Sincerely,

Justice Debra Todd



EXECUTIVE SUMMARY

Pennsylvania is the nation's eighth oldest state in terms of the percentage of elders, and our Supreme Court's dedication to elder justice in our Commonwealth is unwavering. Older Pennsylvanians continue to represent a growing demographic, as now 25.2% of our Commonwealth's population is age 60 and over. However, our aging population also faces unique needs and challenges. Indeed, 8.4% of these older adults live below the poverty line. Our Commonwealth's older adults deserve a government that is dedicated to recognizing the challenges they face and to providing real and practical solutions.

The Supreme Court of Pennsylvania's (Supreme Court) creation of the Elder Law Task Force (Task Force), the Advisory Council on Elder Justice in the Courts (Advisory Council), and the Office of Elder Justice in the Courts (OEJC) makes manifest the Court's commitment to achieving real results that will benefit our aging population in practical ways. Indeed, the quality, breadth, and depth of services that our Commonwealth's judiciary provides to abused, neglected, and exploited older persons is a matter of public trust and confidence. The accomplishments and ongoing work of the Advisory Council and the OEJC described in this Second Progress Report reflect our Supreme Court's ongoing and steadfast commitment to Pennsylvania's elders.

The progress made by the Advisory Council and the OEJC in the ongoing effort to advance access to justice to Pennsylvania's aging population is nothing short of incredible, particularly when one factors in the unique challenges brought by the Covid-19 pandemic. While certain goals are still in progress, over the last three years significant strides have been made in improving the lives of our Commonwealth's elders. Of the 130 recommendations made in the Task Force's 2014 Report, 73 recommendations have been accomplished (29 of which, while accomplished, involve ongoing work); 2 recommendations have been deferred; 41 recommendations are in progress; and 14 recommendations are to be considered. While there



remains much more to do, the following is a summary of our considerable achievements thus far.

Whether by increased protections and advances through enhanced Guardianship Tracking System (GTS) data collection, the creation of practical and user-friendly resources such as the Elder Abuse and Guardianship Bench Books, addressing the significant hurdles brought on by the pandemic, critical legislative victories criminalizing the exploitation of elders, or the appointment of counsel for guardianship proceedings, the Advisory Council and the OEJC have worked tirelessly to advance the cause of access to justice for Pennsylvania's elders.

The Advisory Council, and the OEJC have once again made concrete their devotion, diligence, and passion for championing the rights of our Commonwealth's elders in practical and meaningful ways, resulting in real change to the approaches and procedures by which our courts assist our aging population.

GUARDIANSHIP TRACKING SYSTEM

It is indisputable that one of the greatest achievements of the Advisory Council and the OEJC has been the creation, implementation, and expansion of the GTS. GTS is a statewide, web-based application that was created entirely in-house by the Administrative Office of Pennsylvania Courts' (AOPC) Information Technology Department (IT) staff under the direction of Amy Ceraso, former Director of AOPC's IT, and Amy Whitworth, IT Analyst Manager, who has been an integral part of the success of GTS. GTS is used by guardians, court staff, orphans' court clerks, and judges and is now the exclusive method for the electronic filing of mandated guardianship reports, and provides guardians with a uniform and efficient e-filing experience.



The statewide data collected and contained in GTS allows the Advisory Council to track guardians' compliance with filing mandated reports, assist courts with their guardianship monitoring responsibilities and take a data-driven approach to guardianship reform. This, in turn, allows the OEJC, IT, and the Guardianship Counsel and Monitoring Committee (GCMC) to regularly review GTS data and raise potential concerns about information and developments to the Advisory Council's attention. All pending and active cases in which an adjudication of incapacity was made and the protected person is alive and under guardianship have been migrated into GTS.

In 2020, IT was able - for the first time - to accurately identify the total number of active guardianships in the Commonwealth as well as other critical information. In Pennsylvania, as of December 31, 2021, there were 18,380 active guardianship cases in GTS, with 382 professional guardians and 19,261 non-professional (family/lay) guardians. The total amount of guardianship assets under court supervision was over 1.7 billion dollars (\$1,765,624,771.61).

The ability to generate accurate and comprehensive statistics from the data collected by GTS is a significant accomplishment, as nationally there is a dearth of statistics on guardianship cases. Timely, accurate, and complete GTS data on guardianship cases has become a vital tool for the Commonwealth's courts to better monitor these cases, and to be proactive in preventing elder abuse and exploitation.

Specifically, GTS allows courts to scrutinize red flags prompted on guardianship cases and respond to potential problems immediately, thereby better protecting persons under guardianship. The capacity of GTS to automatically flag potential concerns of loss and neglect is an important feature that assists courts with their monitoring responsibilities at a time when funds for staff resources to thoroughly review each guardianship report are scarce. The ability to flag areas of concern also allows for a uniform protocol for the

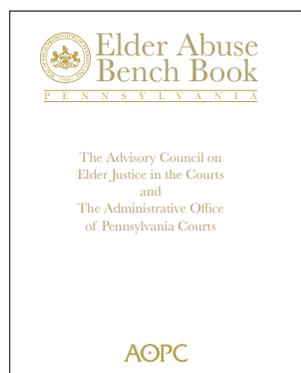
reviewing of guardianship reports. Moreover, GTS may alert orphans' courts statewide of any instances of abuse, neglect, or financial exploitation by an active guardian by allowing an orphans' court judge to place an alert on that guardian. This, in turn, eliminates the potential for that guardian to serve in another county that has no record of the previous misconduct.

Not surprisingly, since its implementation, GTS has received national recognition, winning the National Association of Court Management's Court Process Innovations Award in 2019. Similarly, the American Bar Association's (ABA) Commission on Law and Aging featured GTS in the March/April 2019 edition of its journal, *Bifocal*, and in 2020, the ABA's *Judicial Division Record* published an article on GTS. Related thereto, other states' court systems and court management organizations nationwide have sought to emulate GTS. In November 2019, Senior Judge Paula Francisco Ott, Administrative Judge Lois E. Murphy, OEJC Director Cherstin Hamel and IT Analyst Manager Amy Whitworth gave a presentation regarding GTS to the National College of Probate Judges, and Senior Judge Ott presented to the ABA's National Law and Aging Conference. Finally, in December 2020, Senior Judge Paula Francisco Ott and Amy Whitworth showcased GTS as an innovative model during the December 2020 Massachusetts Colloquium on Guardianship Oversight.

GTS GOVERNANCE COMMITTEE

Obviously, such a complex and valuable application as GTS requires constant updating and supervision. In 2019, at the recommendation of the Advisory Council, the Supreme Court approved the creation of a GTS Governance Committee (GTS GC) to establish a process for determining whether requests for system enhancements to GTS should be made and the priority of such requests. A committee was established that includes orphans' court judges, clerks of the orphans' courts, guardians, OEJC, IT, and AOPC Legal Department and IT staff. The GTS GC meets twice a year and is chaired by Senior Judge Paula Francisco Ott.

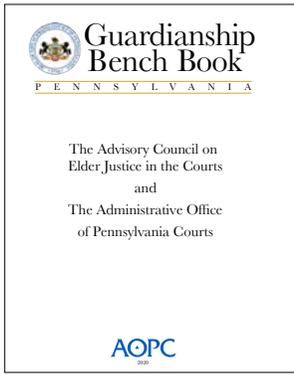
The GTS GC provides IT with a uniform process for evaluating user enhancement requests in conjunction with necessary system upgrades and mandated software changes, such as those dictated by legislation and procedural rules changes, as well as provides input on how changes should be implemented in GTS, and commentary on procedures and rules related to guardianships. Among the GTS GC's recent accomplishments was the creation of a simplified final reporting process for guardians of an estate where an incapacitated person (IP) dies within the first 90 days of adjudication and an Inventory has not been filed.



ELDER ABUSE BENCH BOOK

One of the most valuable contributions to the quest for elder justice has been the creation of bench books for the Pennsylvania judiciary. In July 2019, the Advisory Council published the first edition of the [*Pennsylvania Elder Abuse Bench Book*](#), the go-to resource for common pleas judges facing issues involving elder abuse, regardless of the court division in which they sit. This *Bench Book* reflects the accumulated wisdom of both judges and practitioners who focus on elder justice, and combines an outline of the laws pertaining to elder abuse with medical information and subject-specific lists of practical questions. This *Bench Book* was provided to all common pleas judges and an

online version was posted on the Unified Judicial System's website.



GUARDIANSHIP BENCH BOOK

Similarly, in September 2020, the Advisory Council published the first edition of the [Pennsylvania Guardianship Bench Book](#). This *Bench Book* is a comprehensive reference guide that provides best practices and includes information regarding less restrictive alternatives to guardianship, guardianship rules and forms, checklists, the management of guardianship cases and recent legislation involving guardianship. This *Bench Book* was provided to all orphans' court judges and an online version was posted on the Unified Judicial System's website.

ADVISORY COUNCIL'S RESPONSE TO THE COVID-19 PANDEMIC

Access to Justice for Elders During the Covid-19 (Coronavirus) Pandemic

The Covid-19 pandemic has had a significant impact on both the health of our elders and the ways in which the judiciary conducts its business. As Governor Tom Wolf was preparing to order the closure of all non-life sustaining business due to the public health emergency, the Supreme Court issued an order on March 16, 2020, authorizing the president judge in each county to declare a local judicial emergency to protect the health and safety of court personnel and the public. Subsequent orders directed that all courts should generally be open to conduct business with limited in-person access and proceedings. Most judicial districts operated under an emergency declaration from March 2020 through July 6, 2021, at which time they returned to pre-pandemic operating status by order of the Supreme Court.

Shortly after courthouses throughout the Commonwealth either ceased or limited their in-person operations, the Advisory Council recognized the need to promptly address the extraordinary challenges created by the Covid-19 pandemic that were severely impacting vulnerable older Pennsylvanians and their access to justice. Specifically, the OEJC and the Pennsylvania Department of Aging issued a joint press release to ensure that the Commonwealth's elders knew that the courts remained open for immediate legal protection, including temporary protection from abuse actions, guardianship representation and any pleadings or motions relating to public health concerns and involving immediate and irreparable harm. Information was also provided about organizations available to help with legal assistance and the statewide Elder Abuse Reporting Hotline.

Critically, the Advisory Council also focused on addressing concerns regarding residents in Pennsylvania's long-term care facilities affected by the Covid-19 pandemic. The number of Coronavirus cases skyrocketed in these facilities, and visitation by families, guardians, attorneys, and long-term care ombudsmen had been largely eliminated. This, in turn, raised concerns about abuse, neglect, isolation, and the potential loss of civil rights through lockdowns. As a result, the Advisory Council issued a public statement in support of the report, *Immediate Actions Pennsylvania Must Take to Address the COVID-19 Crisis in Long-Term Care Facilities*. The report was issued by the PA Advocates for Improved COVID-19 Response in Long-Term Care Facilities, a coalition of advocates for older persons and persons with disabilities.

Advanced Communication Technology

The pandemic drove other changes to the judicial process. For example, in April 2020, the Advisory Council determined the increased use of advanced communication technology (ACT) would allow homebound elders and long-term care residents who required access to essential court services and had internet access to fully participate in court proceedings from a safe environment. Judges, attorneys,

guardians, elders, and their family members uniformly reported that their experience with ACT was favorable. This led, *inter alia*, to the continued use, where appropriate, of ACT following the termination of judicial emergencies and to proposals to the Orphans' Court Procedural Rules Committee (OCPRC) to adopt a rule providing that judges have the discretion to conduct remote proceedings or allow some parties to participate virtually.

Ultimately, in December 2021, the OCPRC published proposed new Orphans' Court Rule 1.20 governing the use of ACT. The new rule incorporates a definition of ACT, and delegates rule-making authority relative to the use of ACT to the judicial districts in the form of local rules. Public comments on the new rule proposal were received and the OCPRC (along with other committees) submitted a recommendation to the Supreme Court on April 14, 2022.

Resources for Courts, Guardians and the Public During the COVID-19 Pandemic

Immediately after the Supreme Court issued its March 16, 2020 order, updates were provided on the Unified Judicial System's website about the judiciary's response to the Covid-19 pandemic's effect on court operations and proceedings. Similarly, the Advisory Council and OEJC posted resource information for the public regarding elders on the "Frequently Asked Questions" page. In May 2020, the OEJC provided all president judges, district court administrators, clerks of the orphans' courts, and guardians with information and resources for guardians to help them carry out their duties during the pandemic. The OEJC stressed that guardianship reports remained due and that guardians still had a duty to maintain contact with the IP during the pandemic. In a similar vein, in March 2021, the OEJC sent information about frequently asked questions regarding the Covid-19 vaccine to guardians of IPs in nursing homes.

REPORT REVIEWER TRAINING FOR JUDGES, COURT STAFF, AND ORPHANS' COURT CLERKS

The reviewing of guardianship reports is considered one of the best ways for courts to monitor and protect the safety, well-being, and financial assets of persons under guardianship. In 2021, the OEJC created an educational program comprised of three courses for reviewing reports, each of which covers a different guardianship report.

LESS RESTRICTIVE ALTERNATIVES TO GUARDIANSHIP

Responding to the latest trend in guardianships, over the last two years, the GCMC has been examining less restrictive alternatives to guardianship. Such alternatives include supported decision-making, advance directives, powers of attorney, and formal and informal services, all of which further an IP's greater self-determination. As part of this inquiry, Administrative Judge Lois E. Murphy and Karen C. Buck, Esquire were invited to serve as delegates to the Fourth National Guardianship Summit: *Maximizing Autonomy and Ensuring Accountability*, organized by the National Guardianship Network and hosted by Syracuse University's College of Law. At the conclusion of the Summit, the delegates adopted 22 recommendations, including the elimination of plenary guardianships (and, if a guardianship is imposed, require tailored guardianship orders in all cases) (Recommendation 3.2), and that statutes, court rules, policies, and processes in every state should require courts to consider supported decision-making as one of the alternatives to guardianship at appointment and periodically thereafter (Recommendation 2.3).

Since the Summit, the GCMC has been working on the creation of optional forms for final decrees to increase the efficacy of limited guardianship, as well as an article on supported decision-making, an educational presentation for the legislature about alternatives to guardianship, and encouraging

modifications to a guardianship training provided to *pro bono* attorneys to include alternatives to guardianship.

RESOURCE GUIDES FOR HEALTH CARE PROVIDERS AND FINANCIAL INSTITUTIONS REGARDING POWERS OF ATTORNEY AND GUARDIANSHIP ORDERS

The Advisory Council recognized the difficulty and confusion created when frontline, non-legal staff in the health care and financial sectors are presented with legal documents such as powers of attorney and guardianship orders, resulting in delayed access to IP’s health care and/or financial information if legal documents are interpreted incorrectly or if requests are denied by frontline staff.

In November 2019, in an effort to eliminate confusion on the part of frontline staff and help reduce occurrences of elder abuse and financial exploitation, the Advisory Council and OEJC partnered with representatives from the health care and financial sectors to create three resource guides: (1) a *Resource Guide for Health Care Providers*; (2) a *Resource Guide for Financial Institutions Regarding Powers of Attorney (POA) and Guardianship Orders*; and (3) *Definitions for Resource Guides for Financial Institutions and Health Care Providers*.

Work on these resource guides continued throughout 2020 and 2021, and, in December 2021, the *Resource Guide for Health Care Providers* and *Definitions for Resource Guides for Financial Institutions and Health Care Providers* were published. Work on the *Resource Guide for Financial Institutions Regarding Powers of Attorney (POA) and Guardianship Orders* is near completion, and publication is expected in 2022.



Preventing and Responding to Elder Abuse

V I R T U A L T O W N H A L L D I S C U S S I O N S

TOWN HALLS ON ELDER ABUSE AND FINANCIAL EXPLOITATION

As a result of the Covid-19 pandemic, the Elder Abuse and Neglect Committee considered ways to increase public awareness about elder abuse and financial exploitation in a virtual setting. In the spring of 2021, under the leadership of Administrative Judge Sheila A. Woods-Skipper, and with interagency collaboration, two one-hour, virtual “town hall” sessions focused on the prevention of and response to elder abuse and financial exploitation were developed. The first town hall session, *Understanding and Identifying Elder Abuse*, was presented on June 16, 2021, and the second town hall session, *Preventing*

and Responding to Financial Exploitation, was presented on June 23. Attendees heard from victims and panelists about their experiences with elder abuse and financial exploitation, what Pennsylvania's courts and justice partners have been doing to address these issues, how to recognize elder abuse and financial exploitation, and what to do if abuse is suspected; and received information regarding the investigation of, and remedies for, financial exploitation.

NEW LEGISLATIVE INITIATIVES

Criminalizing the Posting of Audio, Video, or Still Images of Care-Dependent Persons on Social Media with the Intent to Ridicule or Demean

Of tremendous concern to the OEJC was the improper posting of photographs, audio, or video of care-dependent persons. This is considered to be a form of elder abuse and called for the enactment of legislation criminalizing such conduct. Through AOPC's Legislative Affairs Department, the Advisory Council sought to call attention to such social media abuse of care-dependent persons to the legislature.

Subsequently, the Advisory Council was involved in developing and providing feedback and policy guidance on the drafting of the legislation that would criminalize such actions against elders. The bill amended the current criminal offense of abuse of a care-dependent person to include the use of "any audio, video or still image of [a] care-dependent person in any format or medium, on or through any electronic service, wireless communication or any form of electronic service or wireless communication as pertaining to communication" with the intent to ridicule or demean. The bill was passed by the General Assembly and signed into law by Governor Tom Wolf on June 30, 2021.

Creating and Defining a New Criminal Offense: Financial Exploitation of Elderly or Care-Dependent Persons

Similarly, legislative action was called for regarding the financial exploitation of elderly or care-dependent persons. Financial exploitation, as defined in the legislation, ranges from third degree misdemeanor to first degree felony depending upon the amount of money, assets or property involved. The legislation was passed by the General Assembly and signed into law by Governor Tom Wolf in June of 2021.

Appointment of Counsel in Guardianship Proceedings

Under Pennsylvania law and the United States Constitution, a court must appoint counsel to represent persons in certain court proceedings where individuals' constitutional rights are in jeopardy, such as the imposition of criminal penalties, termination of parental rights, and involuntary mental health commitment, among others. In adult guardianship proceedings, persons are at risk of losing all their fundamental constitutional rights to decision-making and autonomy concerning their finances and their residential and medical decisions. Thus, the lack of adequate representation in this area is a matter of significant concern.

Pennsylvania's guardianship statute envisions a right to counsel but places the burden on the alleged incapacitated person (AIP) to request counsel. Unfortunately, this results in many instances of an AIP not being represented at trial. The concept for the appointment of counsel in adult guardianship cases was laid out in a 2012 report of the Advisory Committee on Decedents' Estates Laws of the Joint State Government Commission. Following from the report, Senator Stewart Greenleaf introduced legislation incorporating the numerous legislative recommendations made in the report, which include the appointment of counsel for AIPs.

While Senator Greenleaf introduced the bill in every session through the 2017-2018 legislative session as part of a comprehensive package, and in the 2019-2020 legislative session, Senator Art Haywood took up the cause, difficulties remained in passage. At the urging of the Advisory Council, discussions were

held on the idea of decoupling some of the provisions from the larger bill into their own stand-alone bills, e.g., appointment of counsel. As a result, in September 2021, Representative Gary Day introduced appointment of counsel legislation. A public hearing was held on the bill on October 26. Administrative Judge Lois E. Murphy and Pamela Walz, Esquire testified as a part of a panel, in hopes of ultimate action by the legislature. Senate Judiciary Chair Lisa Baker and Senator Art Haywood have circulated a co-sponsorship memo for legislation that would, among other things, require the appointment of counsel for AIPs.

ADVISORY COUNCIL MEMBERS



Advisory Council on Elder Justice in the Courts 2020

LEADERSHIP

Chair

Honorable Paula Francisco Ott*
Senior Judge

Vice-Chair

Zygmunt A. Pines, Esquire*
Former Court Administrator of Pennsylvania

Supreme Court Liaison

Madame Justice Debra Todd*
Supreme Court of Pennsylvania

Director, Office of Elder Justice in the Courts

Cherstin Hamel*
Administrative Office of Pennsylvania Courts

STANDING MEMBERS

Secretary, Pennsylvania Department of Aging

Honorable Robert Torres
Staff Designees, Neeka Jones, Esquire and
Deborah Hargett-Robinson, Esquire

Pennsylvania Senate

Senator Maria Collett
Staff Designee, Tom Holroyd

Pennsylvania House of Representatives

Representative Gary Day
Staff Designee, Shannon Walker

Pennsylvania Attorney General

Attorney General Josh Shapiro
Staff Designees, Robert Reed, Esquire
and David Shallcross

Chair, Supreme Court Orphans' Court Procedural Rules Committee

Kenneth G. Potter, Esquire
RHP Law Group LLC

Pennsylvania Bar Association Designee

Anne N. John, Esquire
Past President, Pennsylvania Bar Association
John and John, Attorneys at Law

Register of Wills and Clerks of Orphans' Court Association Designee

Lisa Grayson, Esquire
Cumberland County Orphans' Court Clerk
Association Representative,
Pennsylvania Registers of Wills and
Clerks of Orphans' Court Association

Allegheny County Orphans' Court Division

Honorable Lawrence J. O'Toole

Administrative Judge

Philadelphia County Orphans' Court Division

Honorable Sheila A. Woods-Skipper*

Administrative Judge

MEMBERS

Keelin S. Barry, Esquire

Law Offices of Keelin S. Barry, LLC

Karen C. Buck, Esquire*

Executive Director

SeniorLAW Center

Philadelphia

Dr. Bruce M. Bushwick

Chairman, Department of Family Medicine

WellSpan Health

York

Rev. Ronald W. Costen, Ph.D., Esquire

Legal Consultant, Institute on Protective Services

Temple University

Harrisburg

Arthur N. DiLoreto

Deputy Director

Pennsylvania Association of Area Agencies
on Aging, Inc.

Harrisburg

John N. Kennedy, Esquire

Kennedy, PC Law Offices

Harrisburg

Diane Menio*

Executive Director

Center for Advocacy for the Rights
and Interests of the Elderly

Philadelphia

Honorable Lois E. Murphy*

Administrative Judge, Orphans' Court Division

Court of Common Pleas

Montgomery County

Joseph M. Olimpi, Esquire

The Elder Law Office of Olimpi and Kramer, LLC

Beaver

Mary Catherine Scott, Esquire

Director and Assistant Clinical Professor,

Central Pennsylvania Law Clinics

Widener University School of Law

Harrisburg

Eugene A. Vittone, II, Esquire (Deceased)

District Attorney

Washington County

Pamela Walz, Esquire

Co-Director, Aging and Disabilities Unit

Community Legal Services

Philadelphia

Honorable George N. Zanic*

President Judge

Court of Common Pleas

Huntingdon County

Stephen A. Zappala Jr., Esquire

District Attorney

Allegheny County

**Long Range Planning Committee Members*

CONTRIBUTING STAFF

Jeffrey Bauman, Esquire

Deputy Chief Staff Attorney
Madame Justice Debra Todd
Supreme Court of Pennsylvania

Rhonda Campbell

Chief Judicial Assistant
Madame Justice Debra Todd
Supreme Court of Pennsylvania

Suzan Chau, Esquire

Supervising Attorney
Elder Justice Resource Center
First Judicial District

Cherstin Hamel

Director, Office of Elder Justice in the Courts
Administrative Office of Pennsylvania Courts

Keith Hinkel Jr.

Analyst, Office of Elder Justice in the Courts
Administrative Office of Pennsylvania Courts

Damian Wachter, Esquire

Acting Director, Legislative Affairs
Administrative Office of Pennsylvania Courts

Sonja P. Waters

Senior Systems Analyst, Information Technology
Administrative Office of Pennsylvania Courts

Amy Whitworth

IT Analyst Manager, Information Technology
Administrative Office of Pennsylvania Courts

FORMER ADVISORY COUNCIL MEMBERS

Deborah Curry

President
Pennsylvania Registers of Wills and
Clerks of Orphans' Court Association

Lawrence A. Frolik, Esquire

Professor
University of Pittsburgh School of Law

Wilmarie Gonzalez

State Long-Term Care Ombudsman/Director
Pennsylvania Department of Aging

Honorable Arthur L. Haywood, III

Senator
Pennsylvania Senate

Honorable Tim Hennessey

Representative
Pennsylvania House of Representatives

Susan Kauwell

President
Pennsylvania Registers of Wills and
Clerks of Orphans' Court Association

Joan Krechmer

Executive Director
Jewish Family Services of York

John F. ("Jack") Meck, Esquire

Eckert Seamans
Chair, Supreme Court Orphans' Court
Procedural Rules Committee

Honorable Thomas P. Murt

Representative
Pennsylvania House of Representatives

Honorable Teresa Osborne

Secretary
Pennsylvania Department of Aging

Wayne M. Pecht, Esquire

Pecht & Associates, PC
Chair
Supreme Court Orphans' Court
Procedural Rules Committee

Wendy M. Welfley

President
Pennsylvania Registers of Wills and
Clerks of Orphans' Court Association

Honorable John T. Yudichak

Senator
Pennsylvania Senate

THE SECOND PROGRESS REPORT ON THE STATUS OF THE IMPLEMENTATION OF THE ELDER LAW TASK FORCE'S RECOMMENDATIONS

This Second Progress Report lists the recommendations as stated in the Task Force's Report and Recommendations, followed by the status of their implementation from 2019 through 2021. Information on the implementation of the recommendations prior to 2019 can be found in the First Progress Report on the Work of the Advisory Council on Elder Justice in the Courts (January 2015 through December 2018) (First Progress Report). The page numbers referenced within each recommendation refer to the pages in the Task Force's Report and Recommendations (available at www.pacourts.us), which provide background information regarding each recommendation.

The Advisory Council considers its work to be "accomplished" if it reviewed, analyzed and acted on the recommendation of the Task Force and moved the recommendation forward to the appropriate body (e.g., the legislature, the executive branch or the Orphans' Court Procedural Rules Committee of the Supreme Court) in accordance with the direction of the Task Force, even if, in certain cases, the ultimate objective of the recommendation has not yet been attained.

RECOMMENDATIONS TO THE SUPREME COURT OF PENNSYLVANIA

RECOMMENDATION 1: The Task Force recommends that an Office of Elder Justice in the Courts (OEJC) be established to assist the Supreme Court in implementing the recommendations in this Report, and that the Director of the OEJC, research, grant writing, legal analysis, information technology and secretarial services be provided by AOPC staff. This Recommendation has been approved by the Supreme Court, and the OEJC will be established in January 2015. See *Overarching Findings and Recommendations, §§I.C.1 and 2 (Page 221)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

One of the most important foundational objectives of the Elder Law Task Force (Task Force) was the establishment of the OEJC. The OEJC opened on January 2, 2015, with one full-time staff member (Director Cherstin Hamel), and is housed within the Administrative Office of Pennsylvania Court's (AOPC) offices in the Pennsylvania Judicial Center in Harrisburg. The OEJC receives an appropriation within the Unified Judicial System's budget to fund the operation of the OEJC as it endeavors to implement the Task Force's recommendations and related initiatives of the Advisory Council on Elder Justice in the Courts (Advisory Council). A full-time analyst was hired in February 2017. Keith Hinkel Jr. has been the OEJC analyst since April 2019.

In January 2020, upon her retirement from the Superior Court of Pennsylvania, Judge Paula Francisco Ott, the Advisory Council's chair, was designated Senior Judge to the OEJC. Senior Judge Ott's office is located in the Pennsylvania Judicial Center.

Public awareness about the OEJC is increasing, likely due to information provided on the Unified Judicial System's website and through trainings offered to guardians. From 2019 through 2021, the OEJC responded to 111 inquiries and requests for assistance with guardianship and other elder justice issues.

RECOMMENDATION 2: The Task Force recommends that an Advisory Council on Elder Justice in the Courts (Advisory Council) be established to serve as a liaison to the executive and legislative branches, and to communicate with the AOPC and the Supreme Court regarding the implementation of the Task Force’s recommendations and other matters involving elder justice. This Recommendation has been approved by the Supreme Court, and the Advisory Council will be formed in January 2015. See *Overarching Findings and Recommendations, §§II.C. (Page 222)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

The first meeting of the Advisory Council was held on January 7, 2015. Members of the Advisory Council continue to meet quarterly to implement the Task Force’s recommendations, discuss matters involving elder justice and promote initiatives to support elders. Meetings during the Covid-19 pandemic were held virtually.

Advisory Council members are volunteers who give generously of their time and expertise. Senior Judge Paula Francisco Ott serves as the chair. Zygmunt A. Pines, Esquire, the former Court Administrator of Pennsylvania, is the vice-chair. Justice Debra Todd is the Supreme Court of Pennsylvania’s (Supreme Court) Liaison. The Advisory Council is divided into two working committees. The Elder Abuse and Neglect Committee (EANC) is chaired by Administrative Judge Sheila A. Woods-Skipper and co-chaired by President Judge George N. Zanic. The Guardianship Counsel and Monitoring Committee (GCMC) is chaired by Administrative Judge Lois E. Murphy and co-chaired by Diane Menio.

Additionally, a Long-Range Planning Committee was created in September 2016 to guide the goals, priorities, and policies of the Advisory Council, establish a mission statement, and create Internal Operating Procedures. Internal Operating Procedures were approved in August 2017, and a Conflict of Interest Policy and Disclosure Form were adopted in March 2018. The Long-Range Planning Committee guides the Advisory Council on the implementation of the Task Force’s recommendations and other matters promoting initiatives to support elders. Members of the Long-Range Planning Committee meet quarterly.

In August 2021, the Advisory Council lost a beloved member with the untimely death of Eugene “Gene” Vittone II, the district attorney of Washington County. Gene was a respected member of the Advisory Council since 2015, and a member of the Task Force from 2013 to 2014. His tireless efforts to combat elder abuse and neglect and his contributions to the Advisory Council furthered access to justice for Pennsylvania’s elders. To honor Gene’s memory and contributions to elder justice, the Advisory Council issued a public statement and a resolution.

RECOMMENDATION 3: The Task Force recommends that the AOPC Judicial Education Department and the OEJC develop training for judges and attorneys handling guardianship matters. See *Guardians and Counsel Committee Report, §X.C.1.a. (Page 55)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

While the implementation of this recommendation has been accomplished, work is ongoing.

From 2019 through 2021, the OEJC and AOPC’s Judicial Education Department continued to develop and present educational sessions to judges and attorneys handling guardianship matters. In addition, Advisory Council members continue to make educational presentations and provide training programs.

A list of those training programs and educational presentations, as well as additional activities of the members of the Advisory Council, can be found in [Appendix B](#).

RECOMMENDATION 4: The Task Force recommends that training for Judges and attorneys developed by the AOPC Judicial Education Department and the OEJC include information on ascertaining when a limited guardianship would be appropriate, and how to make a limited guardianship effective when it is appropriate. See *Guardians and Counsel Committee Report, §X.C.1.i. (Page 56)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

See also [Recommendation 5](#).

RECOMMENDATION 5: The Task Force recommends that the AOPC Judicial Education Department and the OEJC, in consultation with interdisciplinary groups or practicing professional and non-professional guardians, develop a guardianship bench book to assist judges. See *Guardians and Counsel Committee Report, §X.C.1.j (Page 56)*. See also *Overarching Administrative Findings and Recommendations, §IV.C. (Page 224)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

While the implementation of this recommendation has been accomplished, work continued in 2018 and 2019; and, in September 2020, the Advisory Council published the first edition of the [Pennsylvania Guardianship Bench Book](#), which was developed by AOPC’s Judicial Education Department with oversight from Administrative Judge Lois E. Murphy, who served as Editor-in-Chief. Contributors included Senior Judge Paula Francisco Ott, Judge Cheryl L. Austin, Judge Matthew D. Carrafiello, Retired Judge Emil A. Giordano, Judge Richard M. Hughes III, President Judge Shawn D. Meyers, Senior Judge Katherine B. L. Platt, Judge Edward D. Reibman, Linda Hee, Esquire, Michele Mathes, Esquire, Gloriana Noreika, Esquire, Pamela Walz, Esquire, Keelin Barry, Esquire, and Diane Menio.

This *Bench Book* is a comprehensive reference guide that provides best practices regarding Task Force Recommendations 4, 6, 7, 8, 9, 11, 13, 15, 16, 18, 20, 26, 40, 41, 45, 46, 47, 48, 51, 52, 53, 54, 55, 56, 60, 62, 78, 82, and 83. This *Bench Book* also includes information regarding less restrictive alternatives to guardianship, guardianship rules and forms, checklists, the management of guardianship cases, and recent legislation involving guardianship. New Orphans’ Court Rules and forms pertaining to guardianships were adopted by the Supreme Court and became effective on June 1, 2019.

This *Bench Book* was provided to all orphans’ court judges. An online version is posted on the Unified Judicial System’s website.

RECOMMENDATION 6: The Task Force recommends that the AOPC Judicial Education Department and the OEJC develop training for judges and financial institutions on the use of emergency guardianships. See *Guardians and Counsel Committee Report, §X.C.1.k. (Page 56)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

See also [Recommendation 5](#).

See also page 6 regarding the *Resource Guide for Financial Institutions Regarding Powers of Attorney and Guardianship Orders*. The *Resource Guide* is intended to help frontline staff in financial institutions identify when to advance a document holder’s request involving a guardianship order (including an emergency guardianship) or power of attorney to their legal department.

RECOMMENDATION 7: The Task Force recommends that a standardized deposition form be implemented to ensure consistent quality and quantity of pertinent information that should be considered by judges when determining capacity. See *Guardianship Monitoring Committee Report, §I.C.1. (Page 113)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

See also [Recommendation 5](#).

RECOMMENDATION 8: The Task Force recommends that, in cases where the qualified individual recommends a limited guardianship and the judge and counsel may need additional information to determine the areas a partially incapacitated person (IP) can handle without a guardian, a best practice be adopted for judges to request that a deposition take place by telephone, videoconference, or in-person to allow for follow-up questioning and cross-examination. See *Guardianship Monitoring Committee Report, §I.C.2. (Page 114)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

See also [Recommendation 5](#).

While the implementation of this recommendation has been accomplished, work is ongoing.

The GCMC is examining less restrictive alternatives to guardianship. Such alternatives include supported decision-making, advance directives, powers of attorney, and formal and informal services, all of which further an IP’s greater self-determination. Administrative Judge Lois E. Murphy, Karen C. Buck, Esquire, and Pamela Walz, Esquire met with advocacy groups to discuss what supported decision-making might look like in Pennsylvania. “Supported decision-making describes the process by which most individuals make decisions - by consulting with friends, family, social services, community organizations, and/or other sources of support to weigh the pros and cons of a decision, review potential outcomes, and finally make a choice. The practice of supported decision-making takes many forms - from recognition of organic decision-making networks to formal, written supported decision-making agreements.” (American Bar Association website).

In May 2021, Administrative Judge Lois E. Murphy and Karen C. Buck, Esquire were invited to serve as delegates to the Fourth National Guardianship Summit: *Maximizing Autonomy and Ensuring Accountability*, organized by the National Guardianship Network and hosted by Syracuse University’s College of Law. One hundred twenty-five guardianship stakeholders, among them judges, family guardians, attorneys, and

advocates, gathered virtually to discuss the current state of the adult guardianship system in the U.S. and make recommendations for its reform and improvement.

At the conclusion of the Summit, the delegates adopted [22 recommendations](#), including the elimination of plenary guardianships (and, if a guardianship is imposed, require tailored guardianship orders in all cases) (Recommendation 3.2), and that statutes, court rules, policies and processes in every state should require courts to consider supported decision-making as one of the alternatives to guardianship at appointment and periodically thereafter (Recommendation 2.3).

The GCMC has been working on a supported decision-making article for publication, creating optional forms for final decrees to increase the efficacy of limited guardianship, planning an educational presentation to the Advisory Council and legislature about alternatives to guardianship and encouraging modifications to guardianship training provided to *pro bono* attorneys to include alternatives to guardianship.

RECOMMENDATION 9: The Task Force recommends that the AOPC Judicial Education Department train judges who hear guardianship cases on the components of the assessment process to determine capacity, and that the information from training materials be summarized into a bench card and provided to every Orphans' Court Judge. See *Guardianship Monitoring Committee Report, §I.C.3 and 4. (Page 114).*

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

See also [Recommendation 5](#).

RECOMMENDATION 10: The Task Force recommends that judges be informed when the AIP was previously involved in a case under the OAPSA [Older Adults Protective Services Act], and that the guardianship petition be assigned to the same judge who heard the protective services case. See *Guardianship Monitoring Committee Report, §II.C.1. (Page 115).*

THE IMPLEMENTATION OF THIS RECOMMENDATION IS TO BE CONSIDERED

Some judicial districts are already following this recommendation. Further discussions are needed to determine how to implement this recommendation across all judicial districts.

RECOMMENDATION 11: The Task Force recommends that the training requirement for judges on the assessment of capacity include recommended practices for determining if conflicts of interest are present or if there is evidence of elder abuse underlying the AIP's weakened capacity. See *Guardianship Monitoring Committee Report, §II.C.2. (Page 115).*

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

See also [Recommendation 5](#).

RECOMMENDATION 12: The Task Force recommends that judges receive education on representative-payment and fiduciary programs such as those administered by SSA and the VA. See *Guardianship Monitoring Committee Report, §II.C.2. (Page 115).*

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

The Advisory Council and the OEJC are currently studying this recommendation. In December 2016, Assistant U.S. Attorneys Charlene Keller Fullmer and Gerald Sullivan from the Eastern District of Pennsylvania made a presentation to the Advisory Council regarding the Federal Elder Justice Initiative and how the United States Attorney’s Office (U.S. Attorney’s Office) can collaborate with and provide training to the Advisory Council. These discussions are ongoing. In March and October 2017, the OEJC and members of the Advisory Council attended the U.S. Attorney’s Office’s regional Elder Justice Task Force meetings, and in August 2018, they attended the U.S. Attorney’s Office’s Task Force session on SSA/VA fiduciary programs dealing with privacy and exploitation issues.

In 2019, the OEJC continued to attend Federal Elder Justice Task Force meetings. Discussions about educational programs have been on hold since the end of 2019 due to the ongoing Covid-19 pandemic.

RECOMMENDATION 13: The Task Force recommends that judges determine if there is involvement from agents under a power of attorney, SSA representative payee, or VA fiduciary in order to uncover potential conflicts of interest. See *Guardianship Monitoring Committee Report, §II.C.3. (Page 115).*

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

See also [Recommendation 5](#).

RECOMMENDATION 14: The Task Force recommends that guardianship files be sealed to protect personal information included in the revised forms. Interested parties who are named in the case should have the ability to access the file by presenting a copy of the Certificate of Filing. In order to assist investigative agencies in their task of researching allegations of abuse, it is recommended that the proposed request form be used. See *Guardianship Monitoring Committee Report, §III.C.5 (Page 117) and Appendixes G (Page 180) and H (page 182) thereto.*

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

The release of Guardianship Tracking System (GTS) data to the public is governed by the *Electronic Case Record Public Access Policy of the Unified Judicial System of Pennsylvania (ECR Policy)*. Upon AOPC’s recommendation, the Supreme Court amended Sections 1.00, 3.00, 6.00, and 7.00 of the ECR Policy to incorporate electronic case record information residing in GTS. Section 3.00 was amended to provide that information maintained in GTS is not accessible by the public, except for aggregate, statistical, and/or other data that does not identify an IP, as determined by AOPC. The amendments became effective on January 1, 2022.

RECOMMENDATION 15: The Task Force recommends that guardians be provided with oral instructions and a packet of written instructions from the judge or administrative staff at the time of appointment. See *Guardianship Monitoring Committee Report, §IV.C.2. (Page 119)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

See also [Recommendation 5](#).

RECOMMENDATION 16: The Task Force recommends that if a guardian does not respond to the delinquency notice in Recommendation 64, it is a recommended best practice for the judge to conduct a review hearing with the guardian present. See *Guardianship Monitoring Committee Report, §IV.C.4. (Page 119)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

See also [Recommendation 5](#).

RECOMMENDATION 17: The Task Force recommends that Clerks of the Orphans' Court or the court administration office be responsible for determining the reasons for failure to file required reports and addressing those reasons with appropriate instruction to the guardian. See *Guardianship Monitoring Committee Report, §IV.C.5. (Page 119)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

While the implementation of this recommendation has been accomplished, work is ongoing.

GTS automatically sends electronic notifications to guardians to remind them regarding upcoming reports to be filed with the court. Notifications are also sent to guardians and court users concerning reports that are overdue one day past the due date and at 20 days past if the report has still not been received. GTS also provides the means for a court user to generate and print a paper overdue notice at any time after a report becomes overdue. The system displays lists of upcoming and overdue guardianship reports and provides functionality that allows the user to sort and filter the lists and to generate reports listing overdue cases.

Reports may be overdue for various reasons. Courts follow their local process for addressing overdue reports, which may include contacting a guardian to request that a report(s) be filed or holding a hearing to determine why a report(s) has not been submitted. In 2021, the OEJC and AOPC's Information Technology Department (IT), together with the GTS Governance Committee (GTS GC), developed and implemented a process to assist courts with addressing cases with overdue reports. The OEJC also created the *Report Reviewer Best Practices Training - Overdue Reports Reference Guide* for courts to help them address overdue reports. The *Guide* includes common reasons reports become overdue, tools to help manage overdue reports, and best practices for finding missing or unresponsive guardians.

RECOMMENDATION 18: The Task Force recommends that judges hold periodic review hearings, either on a regular basis or at random, to monitor the status of the guardianship. See *Guardianship Monitoring Committee Report, §IV.C.7. (Page 119).*

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

See also [Recommendation 5](#).

RECOMMENDATION 19: The Task Force recommends that judicial staff or court administration staff be available to answer a guardian’s question(s) or assist a guardian with completing forms, and that resources for guardians be centrally located on a statewide website which includes training materials, forms, and instructions on completion of those forms. See *Guardianship Monitoring Committee Report, §IV.C.8. (Page 120).*

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

While the implementation of this recommendation has been accomplished, work is ongoing.

In 2020, the GCMC began to develop content for a model handbook for newly appointed Pennsylvania guardians. The content of the online educational modules and the model handbook are being coordinated with the content of the *Fundamentals of Guardianship: What Family and Non-Professional Guardians Need to Know* training.

The Unified Judicial System of Pennsylvania’s website’s “Guardianship in Pennsylvania” page contains general information about GTS and the schedule of GTS workshops for guardians offered by IT. In 2019, to reach guardians statewide, IT began presenting the workshops for guardians virtually. The workshops are offered twice monthly. They provide a demonstration of how to register to use GTS, and how to complete and file guardianship reports electronically. Since March 2019, 734 guardians have attended workshops.

GTS is accessed through the Unified Judicial System of Pennsylvania’s web portal, which provides resources, court information, and specialized electronic services to guardians and the public. Guardians registered to use GTS can submit guardianship reports online and pay any associated fees charged by the counties. Forms available online include the Inventory, Annual Report of Guardian of the Person, Annual Report of Guardian of the Estate, orphans’ court forms, and other court-related forms. Instructions are provided for select forms. The web portal also includes an online library of GTS video tutorials and training guides.

Since the courts first began using GTS during the pilot phase of implementation in June 2018, the GTS Help Desk has responded to over 12,790 phone calls and emails from guardians.

In response to the Covid-19 pandemic, in May 2020, the OEJC provided all president judges, district court administrators, clerks of the orphans’ courts and guardians with information and resources for guardians to help them carry out their duties during the pandemic. The OEJC also reminded guardians that their guardianship reports were still due and that they still had a duty to maintain contact with the IP during the pandemic. In March 2021, the OEJC provided information on frequently asked questions regarding the Covid-19 vaccine to guardians of IPs in nursing homes.

RECOMMENDATION 20: The Task Force recommends that counties adopt a volunteer monitoring program leveraging local/regional resources to assist the courts in their monitoring responsibilities, using the Orphans’ Court Guardian Program in Chester County and the *Pro Bono* Guardianship Monitoring Program in Dauphin County as models. See *Guardianship Monitoring Committee Report, §IV.C.9. (Page 120)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

See also [Recommendation 5](#).

RECOMMENDATION 21: The Task Force recommends that adequate funding be provided to support the Judges and Clerks of the Orphans’ Court in fulfilling their guardianship monitoring responsibilities. See *Guardianship Monitoring Committee Report, §IV.C.10. (Page 120)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

While the implementation of this recommendation has been accomplished, work is ongoing.

The courts’ guardianship monitoring responsibilities have been supported not only by the funding and implementation of the GTS, but also by the provision of services and resources from the Advisory Council, OEJC, and IT. Since 2019, the OEJC, working with IT, has created and implemented processes that assist the courts with the monitoring of guardianships, provided technical assistance and resources, and helped courts resolve issues identified by GTS.

The OEJC has also presented trainings to assist courts with fulfilling their guardianship monitoring responsibilities. In September 2020, the Advisory Council developed and published the [Pennsylvania Guardianship Bench Book](#) for judges. In 2021, the OEJC created an educational program comprised of three courses for reviewing different guardianship reports. The course *Monitoring Guardianships Cases: What the GTS Can Do for You* is designed solely for judges. The courses *Reviewing the Inventory and Report of Guardian of the Estate* and *Reviewing the Report of Guardian of the Person* are intended for court staff and orphans’ court clerks who have been designated to review annual reports and address flags raised by GTS. Content includes the role of offices involved in the report review process, fundamental principles of monitoring and reviewing reports, and best practices using GTS. The faculty includes Senior Judge Paula Francisco Ott and OEJC Analyst Keith Hinkel Jr., Administrative Judge Lois E. Murphy (Montgomery County), Judge Richard M. Hughes III (Luzerne County), Orphans’ Court Clerk Virginia Cooper (Huntingdon County), Orphans’ Court Clerk Christine Millinder (Centre County), Daniel Buzard, Esquire, Allegheny County Guardianship Department Supervisor and Nicole Marek-Klapat, Luzerne County GTS administrator.

RECOMMENDATION 22: The Task Force recommends that courts, particularly those in counties with limited access to bonding sources, consider online bonding as an alternative, providing that the online bonding companies are on the list of approved sureties. See *Guardians and Counsel Committee Report, §V.C.1.e. (Page 46)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

A 2021 priority of the GCMC has been improving the security posted by guardians with responsibility for the financial assets of an IP. The GCMC has been researching whether to recommend or require that an adequate bond be posted in cases when the IP 's assets are over \$10,000.

The GCMC is considering the appropriateness of the establishment of a statewide Guardian Security Fund similar to Pennsylvania's Client Security Fund for adult guardianship cases in which the IP's financial assets are at, near or below \$100,000, and to examine the issues related to the establishment of such a Fund. If established, the Fund would reimburse persons under guardianship who suffer financial losses due to the misappropriation of funds by their guardians.

RECOMMENDATION 23: The Task Force recommends that, to establish an accurate inventory of active guardianships, each county purge inactive guardianships from its case management system, and complete the Orphans' Court e-form, noting the number of guardianship terminations which occurred during the purge. See *Guardianship Monitoring Committee Report, §V.C.5 (Page 122) and Appendix K thereto. (Page 185).*

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

While the implementation of this recommendation has been accomplished, work is ongoing.

In December 2018, all pending cases (cases not yet adjudicated) and active cases (cases in which an adjudication of incapacity has been made and the protected person is alive and under guardianship) statewide were migrated into GTS, and courts began using GTS to monitor their guardianship cases.

Throughout 2019, IT analyzed the migrated case data to ensure that an accurate inventory of guardianship cases could be established. In 2020, IT was able - for the first time - to identify important information, including the number of active guardianships in the Commonwealth. The ability to generate accurate and comprehensive statistics from the data collected by GTS is a significant accomplishment. Nationally, there is a dearth of statistics on guardianship cases. Many courts across the country are unable to produce reliable data on the number of guardianship cases filed or the number of current guardianships, and they do not have accurate caseload data. Timely, accurate, and complete GTS data on guardianship cases has become a vital tool for the Commonwealth's courts to better monitor these cases.

In Pennsylvania, as of December 31, 2021, there were 18,380 active guardianship cases in GTS, with 382 professional guardians, and 19,261 non-professional (family/lay) guardians serving. The total amount of guardianship assets under court supervision was \$1,765,624,771.61. Over 85% of all guardianship reports received by the courts were electronically filed (e-filed) using GTS.

The detailed, statewide guardianship data captured by GTS allows the Advisory Council to track guardians' compliance with filing mandated reports, assist courts with their guardianship monitoring responsibilities, and take a data-driven approach to guardianship reform. The OEJC, IT, and the GCMC regularly review GTS data and bring potential concerns and information about trends to the Advisory Council's attention.

The release of GTS data to the public is governed by the ECR Policy. Upon AOPC's recommendation, the Supreme Court amended Sections 1.00, 3.00, 6.00, and 7.00 of the ECR Policy to incorporate electronic case record information residing in GTS. Section 3.00 was amended to provide that information maintained in GTS is not accessible by the public, except for aggregate, statistical, and/or other data that does not identify an IP, as determined by AOPC. The amendments became effective on January 1, 2022.

Information that would be accessible under the ECR Policy includes, for example: the name of guardians, whether a guardian has been paid, and when a guardian is terminated. The release of aggregate statistical data that does not identify IPs reflects the general philosophy that detailed information in these sensitive cases should be safeguarded, while reinforcing the judiciary's commitment to open and accessible case records. Given the extensive financial, medical, and related sensitive information provided to a court in guardianship matters, these records are generally inaccessible pursuant to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* and other relevant legal authority.

RECOMMENDATION 24: The Task Force recommends that the AOPC's judicial automation plan for an Orphan's Court module include a monitoring tool capable of web-based applications, monitoring and auditing tools for court staff, financial accounting, automated reminders to both guardians and court staff, and interface with the [Common Pleas Court Management System] ("CPCMS") application to provide guardianship monitoring data to court staff. See *Guardianship Monitoring Committee Report, §V.C.6. (Page 123)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

While the implementation of this recommendation has been accomplished, work is ongoing.

GTS is a statewide, web-based application used by guardians, court staff, orphans' court clerks, and judges that was implemented in December 2018. GTS is the exclusive method for the electronic filing of mandated guardianship reports, and it provides guardians with a uniform and efficient e-filing experience.

The purpose of GTS is to provide court offices with a tool that facilitates greater control over the management of guardianship cases. GTS functionality centers on the automation of court functions: electronic notifications to guardians about upcoming and overdue reports, compliance tracking for mandatory reporting, the automatic insertion of flags for potential concerns of loss and neglect, statewide propagation of alerts placed on guardians, and the delivery of detailed statistics.

GTS allows courts to scrutinize red flags prompted on guardianship cases and respond to potential problems immediately, thereby better protecting persons under guardianship. The capacity of GTS to automatically flag potential concerns of loss and neglect is an important feature that assists courts with their monitoring responsibilities at a time when funds for staff resources to thoroughly review each guardianship report are scarce. The flag logic also promotes a uniform protocol for the reviewing of guardianship reports.

When a guardian files a guardianship report on paper or electronically in GTS, the court is required by statute to review the report to ensure that the safety, well-being, and financial assets of the IP are being protected. One example of the impact GTS has had on the lives of IPs involves a guardian in Luzerne County who did not file an inventory or annual guardianship report on time. Overdue guardianship reports are one of the potential concerns tracked by GTS. After the guardian refused to respond to the court's order to file reports, Judge Richard M. Hughes III asked the police to conduct a wellness check on the IP. The IP was found to be homeless because his guardian - his sister - had abandoned him in Wilkes-Barre's public square. The court removed the sister as guardian and appointed a successor guardian who located services for the IP.

GTS includes a mechanism to immediately communicate to orphans' courts statewide any instances of abuse, neglect, or financial exploitation by an active guardian by allowing an orphans' court judge to place

an alert on that guardian. The placing of alerts on a guardian who has been removed for cause eliminates the potential for that guardian to serve in another county that has no record of the previous misconduct.

When a guardian is removed for cause, GTS can generate a list of the guardian’s cases in all counties in which the guardian was appointed. In another example of how GTS has impacted the lives of IPs, a professional guardian in York County who owned a guardianship agency that provided services in numerous counties was arrested and charged with theft and financial crimes. As part of the guardian’s bail conditions, she and her agency were prohibited from serving as a guardian. In a matter of minutes, GTS was able to generate a list of all cases in the counties in which the guardian or her agency were appointed. The OEJC quickly notified all judges in the affected counties about the bail conditions so they could appoint new guardians. Should the guardian or her agency ever attempt to be appointed in the future, GTS will automatically alert the courts about the crimes with which she was charged. When the alert was placed on the guardian in GTS, the system instantly sent a high priority alert to every court user (subscribed to GTS notifications) in every county that had an active guardianship case in which the guardian was appointed. The notification included a list of active cases customized to the recipient’s county. Through data provided on request to GTS, the OEJC was able to monitor the activity on these cases until it was confirmed that a successor guardian had been appointed in all the cases.

RECOMMENDATION 25: The Task Force recommends that adequate funding be provided to support the Clerks of the Orphans’ Court in their ability to implement a local case management system. See *Guardianship Monitoring Committee Report, §V.C.9. (Page 123).*

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

RECOMMENDATION 26: The Task Force recommends that the Bill of Rights of an Alleged Incapacitated Person (AIP) be provided to the AIP, as well as to any family members or concerned parties, at the time he or she is served with the petition, and that the Bill of Rights of an Incapacitated Person [(“IP”)] be provided to the IP and interested family members or concerned parties, at the time the IP is adjudicated incapacitated. The guardian should receive copies of both the Bill of Rights of an Alleged Incapacitated Person and the Bill of Rights of an Incapacitated Person in the packet of instructions which the guardian receives upon appointment. It is also recommended that the OEJC create a separate document based on the specifics of the statute to be provided to guardians. See *Guardianship Monitoring Committee Report, §VI.C.1. (Page 124).*

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#). The Bills of Rights of an Alleged Incapacitated person can be found on page 126, the Bill of Rights of an Incapacitated Person can be found on page 127 in the [Report and Recommendations of the Elder Law Task Force](#).

See also [Recommendation 5](#).

RECOMMENDATION 27: The Task Force recommends that in order to provide the IP with access to justice, the court-appointed attorney be required to make contact with the IP on an annual basis to determine if a guardianship continues to be necessary and if the guardian is adequately performing his or her duties. See *Guardianship Monitoring Committee Report, §VI.C.4. (Page 125).*

THE IMPLEMENTATION OF THIS RECOMMENDATION IS UNDER CONSIDERATION

New [guardianship Form G-03](#), Report of the Guardian of the Person, includes a question asking how often the guardian (who might be a court-appointed attorney) visited the IP annually, and that information is provided to the court through GTS.

RECOMMENDATION 28: The Task Force recommends that educational initiatives be undertaken to ensure judges are aware of 42 Pa.C.S. § 9728(e) and (f) to help ensure funds and assets are available to satisfy anticipated restitution orders in appropriate cases. See *Elder Abuse and Neglect Committee Report, §I.C.2.d. (Page 196).*

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

An education program for judges regarding financial exploitation and 42 Pa.C.S.A. § 9728 (collection of restitution, reparation, fees, costs, fines, and penalties) will be presented at the Annual Conference of the Pennsylvania Conference of State Trial Judges in July 2022.

RECOMMENDATION 29: The Task Force recommends that the Supreme Court consider authorizing a limited practice for *pro bono* service by retired and voluntarily inactive lawyers to work with elders. See *Elder Abuse and Neglect Committee Report, §I.C.2.e. (Page 196).*

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

While the implementation of this recommendation has been accomplished, work is ongoing.

In 2018, the Supreme Court adopted Pennsylvania Rule of Disciplinary Enforcement 403, which established an emeritus status for retired attorneys to provide *pro bono* legal representation, and Pennsylvania Rule of Continuing Legal Education 105(d), which established an annual continuing legal education (CLE) requirement of eight hours for attorneys in emeritus status.

Since the emeritus *pro bono* program began in 2019, the number of participating attorneys has grown despite the ongoing Covid-19 pandemic. As of September 2021, 25 retired attorneys have been participating. The Advisory Council is working with the Pennsylvania Bar Association to increase awareness about the program (through local bar associations) and generate *pro bono* support. The Disciplinary Board of the Supreme Court, the Pennsylvania Continuing Legal Education Board, and other boards are also working to encourage service by retired attorneys.

RECOMMENDATION 30: The Task Force recommends that the Supreme Court consider providing continuing legal education (CLE) credits to encourage active attorneys to provide

pro bono* services to elder Pennsylvanians. See *Elder Abuse and Neglect Committee Report, §I.C.2.e. (Page 196).

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

While the implementation of this recommendation has been accomplished, work is ongoing.

In January 2019, the *CLE Credit for Pro Bono Service Pilot Project* began. This three-year pilot project was created to allow attorneys to receive one CLE credit for every five hours of *pro bono* legal work up to a maximum of three CLE credits per year. The *pro bono* work must be completed through an accredited provider of *pro bono* CLE.

From the program's inception in 2019 through November 2021, 20 organizations (accredited providers of *pro bono* CLE) have participated, 1,063 attorneys have received CLE credit for *pro bono* work, 2,343.5 CLE credit hours have been earned through *pro bono* service and attorneys have provided 11,717.5 volunteer service hours representative of CLE credits reported.

RECOMMENDATION 31: The Task Force recommends that the AOPC Judicial Education Department, with the assistance of the OEJC, develop and distribute bench cards for judges on identifying and reporting elder abuse, provide information about the bench cards to judges at educational conferences, and make the information available on court websites. See *Elder Abuse and Neglect Committee Report, §II.C.1. (Page 200).*

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

While the implementation of this recommendation has been accomplished, work is ongoing.

An Elder Abuse Bench Card was created in 2015 and distributed to all common pleas judges and magisterial district judges. In 2021, the Bench Card was enhanced by the EANC to include additional information about physical and financial signs of elder abuse, primary risk factors for elder abuse, and remediation and case management tools the court can use when elder abuse issues arise. STOP grant funding was provided to the OEJC to print and distribute the redesigned Bench Card, which was provided to every common pleas judge in 2021. The Bench Card will be distributed to magisterial district judges during the "school" for new magisterial district judges and the 13-week continuing education session.

In 2019, the Pennsylvania Office of Attorney General (OAG) and the Pennsylvania Department of Aging (Department of Aging) began the development of ElderGuard•PA - Elder and Care Dependent Adult Abuse, a resource guide on the OAG's website for those charged with protecting older Pennsylvanians (including persons with disabilities and care-dependent adults) who may be at higher risk for elder abuse. The resource guide was originally planned as an app, but was reconfigured as a website in 2020 to allow for access across all electronic devices.

The online resource guide has been created to help law enforcement, emergency medical services, fire and rescue services, caregivers, and medical professionals with identifying, investigating, and responding to elder abuse. It includes information on how to identify elder abuse, Pennsylvania law regarding abuse, where to report abuse, contact information for agencies that assist elders and many other resources.

Development of the resource guide, which has been led by David Shallcross, continued in 2021. ElderGuard PA is anticipated to “go live” in the spring of 2022. Over the past three years, the Advisory Council has reviewed content of the resource guide and continues to provide suggestions.

RECOMMENDATION 32: The Task Force recommends that the AOPC Judicial Education Department, with the assistance of the OEJC, develop an Elder Abuse Bench Book and conduct educational sessions for the judiciary on its contents. See *Elder Abuse and Neglect Committee Report, §II.C.2. (Page 200)* See also *Overarching Administrative Findings and Recommendations, §IV.C. (Page 224)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

In 2019, the Advisory Council published the first edition of the [Pennsylvania Elder Abuse Bench Book](#), the primary resource for common pleas judges facing issues involving elder abuse, regardless of the court division in which they sit. The *Bench Book* was developed with oversight by Administrative Judge Sheila A. Woods-Skipper, President Judge George N. Zanic and the EANC. Contributors included Karen C. Buck, Esquire, Bruce M. Bushwick, M.D., Judge Ida K. Chen, Rev. Ronald W. Costen, Ph.D., Esquire, Arthur DiLoreto, Dana N. Goldberg, Esquire, Judge Christopher P. Mallios, Jr., Diane A. Menio, Teresa Osborne, Erin P. Raub, Suzanne Estrella, Esquire, and Darren M. Breslin, Esquire.

The *Bench Book* reflects the accumulated wisdom of both judges and practitioners who focus on elder justice and combines an outline of the laws pertaining to elder abuse, with medical information and subject-specific lists of practical questions. The *Bench Book* was provided to all common pleas judges. An online version is posted on the Unified Judicial System’s website.

RECOMMENDATION 33: The Task Force recommends that the Supreme Court consider the creation of a Statewide Elder Justice Roundtable similar to the one created by Justice Max Baer and the AOPC’s Office of Children and Families in the Courts (OCFC), with administrative support provided through the OEJC. See *Elder Abuse and Neglect Committee Report, §II.C.4. (Page 200)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN DEFERRED

In October 2015, the Advisory Council decided to defer this recommendation until, if, or when funding becomes available, or if it receives requests from county roundtables to take action. The Advisory Council’s emphasis going forward will be on the development of interdisciplinary teams as outlined in the status of [Recommendation 69](#).

RECOMMENDATION 34: The Task Force recommends that the Supreme Court suggest that a victim’s age be documented by police departments in all criminal complaints and that information be included in the CPCMS. See *Elder Abuse and Neglect Committee Report, §III.C.1. (Page 212)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

While the implementation of this recommendation has been accomplished, work is ongoing.

To determine how courts can use victim age data in the criminal court process, educate judges and suggest best practices regarding elders involved with the criminal justice system, the Advisory Council requested that the Supreme Court approve the tracking of the age of victims 60 or over in the Magisterial District Judge Case Management System and the CPCMS, if such information is known. The Supreme Court approved modifications to these systems, and data collection began in December 2018. In December 2019, a year's worth of victim age data was examined (protection from abuse (PFA) case data was not included, as it is not captured in the statewide case management systems).

IT concluded additional measures were necessary to refine the collection of victim age data. Over the past two years, IT has looked for ways to improve the data collection in the statewide case management systems. The primary focus has been on encouraging and helping court staff enter accurate and complete data into these systems, which has been achieved through a combination of outreach, the creation of reports, and minor system changes. Bulletins and presentations have been sent to court staff reminding them of the importance of recording the data on documents submitted by law enforcement and to periodically run and check reports for errors. A statewide report to assist court staff has been made available. Messages have been added that warn users about potentially adding data in the wrong fields, and labels of some data fields were revised to help court staff better understand the data to be entered. Through these efforts, the data being collected is more accurate and complete.

RECOMMENDATION 35: The Task Force recommends that the Supreme Court suggest that the plaintiff's age in Protection from Abuse matters be documented and reported to the AOPC Research and Statistics Department. See *Elder Abuse and Neglect Committee Report, §III.C.1. (Page 212).*

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

In the fall of 2019, the Advisory Council began discussing how to obtain data that captures the age of plaintiffs in PFA matters to determine how many plaintiffs are age 60 and over. Data provided to the AOPC Research and Statistics Department (Research) on PFA orders does not include the age of plaintiffs.

The Pennsylvania State Police (PSP) operates the statewide PSP Protection Order Registry. The Pennsylvania Coalition Against Domestic Violence operates the Protection from Abuse Database (PFAD), which is a computer archival system designed to complement the operation of the Protection Order Registry. PFAD includes data on all PFA proceedings in the Commonwealth. To assist the Advisory Council, Research made outreach to several courts regarding the data they provide to PFAD. Preliminary information was received, but due to the Covid-19 pandemic, further outreach is on hold.

RECOMMENDATION 36: The Task Force recommends that the Supreme Court consider if the Comment to Pa.R.Crim.P. 500 should be amended to help ensure the testimony of elder victims and witnesses in criminal cases can be preserved. It further recommends that educational efforts be undertaken to ensure judges and attorneys are aware of this Rule and its implications for cases involving elders. See *Elder Abuse and Neglect Committee Report, §III.C.2.b. (Page 212).*

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

RECOMMENDATION 37: The Task Force recommends that the Supreme Court consider authorizing a pilot “Elder Court”. See *Elder Abuse and Neglect Committee Report, §III.C.4.b. (Page 213)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

Information on the implementation of this recommendation can be found in the [First Progress Report](#). While the Task Force recommended that the Supreme Court consider authorizing a pilot “Elder Court”, the Advisory Council has determined that establishing “Elder Resource Centers” within the existing court systems is a more appropriate way for courts to provide access to justice for elders.

In 2020, the onset of the COVID-19 pandemic caused significant challenges to Philadelphia’s Elder Justice Resource Center’s (EJRC) operations and procedures. In an effort to support the health and safety of the public and the EJRC’s staff and volunteers, the EJRC closed temporarily from March through August and reopened in September to offer limited assistance by telephone and through email. During the EJRC’s closure, the staff under the direction of Administrative Judge Sheila A. Woods-Skipper worked to bring people in by appointment.

While the volunteer attorney program remained suspended, the EJRC continued to provide case information to callers, direct callers to resources, and make referrals to legal service organizations and community-based organizations. The EJRC also focused on improving its data collection procedures to enhance its ability to track statistical data more efficiently.

In 2021, the EJRC continued to expand its services while adapting to COVID-19 pandemic restrictions and safety practices. The Orphans’ Court Courtroom was adapted to allow for proceedings to be held virtually and for hybrid proceedings (participants participated both in-person and remotely). During the spring, work to help litigants obtain information on legal forms, procedures, and options for guardianship cases was conducted remotely with law students from the Elderly Law Project at Temple University’s Beasley School of Law. In July, the EJRC reopened to the public and relaunched the volunteer attorney program to include video and telephone conference appointments for the volunteers and self-represented litigants. The EJRC also hosted an Access to Justice Technology Fellow for the summer who developed an online motion and petition tool featuring guided instructions for self-represented litigants to help them prepare court filings for ejectments, landlord-tenant appeals and sheriff’s sale postponements. The tool is also used by court staff and volunteers to assist litigants who are unable to use a computer.

Other key highlights and service expansion milestones for the EJRC included creating partnerships that allowed the EJRC to make direct referrals for qualified cases to SeniorLAW Center, Philadelphia VIP, Community Legal Services, Christian Legal Clinics, and Center for Advocacy for the Rights & Interests of the Elderly; securing a part-time staff attorney from the SeniorLAW Center who assisted (virtually and in-person) with reports of guardianship fraud or abuse and landlord-tenant cases; enabling EJRC computers to be used for remote court hearings by litigants and families who did not have internet or access to a computer; providing EJRC assistance to lay guardians with GTS report filing; creating volunteer attorney CLE training sessions hosted through the Philadelphia Bar Association; and pursuing new resources and funding for the EJRC’s future development plans. Many of the EJRC’s achievements would not have been possible without its legal services and community partners who contribute and support the EJRC’s mission to have a vital role as a major resource for elders.

The pilot Project for Excellence in Adult Guardianship Proceedings began in the Montgomery County Orphans’ Court in 2019, under the leadership of Administrative Judge Lois E. Murphy, and seeks to improve court practices in the screening of petitions, the appointment of counsel and guardians (when needed), and the monitoring of guardians after their appointment by the court. The goal of the Project is to reduce or vacate guardianships when they are no longer necessary.

The Project focuses on best practices during the hearing, review and monitoring stages of a guardianship and the appointment of counsel. Since August 2019, counsel has been appointed in all adult guardianship cases. Additional review hearings have been held to enhance the court's monitoring of guardian activities. In January 2020, pursuant to a local rule of court, professional guardians are required to be certified.

Montgomery County Orphans' Court has also been scrutinizing the need for guardianship and insisting that attorneys present evidence that less restrictive alternatives have been considered. In a number of cases in 2020 and 2021, a guardianship was denied, or only a limited guardianship was granted as a result of the consideration of less restrictive alternatives. The Court also crafted an innovative form order to confirm that a guardianship is not needed, that a less restrictive alternative has been identified, and that family members - where appropriate - are serving as health care representatives with the authority to make health care decisions under Pennsylvania law.

In 2019, Allegheny County District Attorney Stephen A. Zappala Jr. began working with the Allegheny County Court of Common Pleas to plan a pilot elder resource center. Models in other states were examined. Work began to retrofit two courtrooms to provide mobile audio and visual enhancement equipment, but due to the Covid-19 pandemic, further work is on hold.

RECOMMENDATION 38: The Task Force recommends the implementation of a statewide Orphans' Court case management system. In the interim, Clerks of the Orphans' Court should make the necessary upgrades to their case management systems in order to comply with the Guardianship Monitoring Committee's recommendations and as a precursor to migrating data into the statewide system. See *Overarching Administrative Findings and Recommendations, §III.C.2. (Page 223).*

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

Since 2019, numerous counties have integrated aspects of GTS into their local case management systems: 53 counties integrated petition e-filing, 39 counties integrated case action publication, and 21 counties integrated GTS e-commerce (payments).

Guardians can e-file guardianship reports 365 days a year at any time that is convenient for them, receive guidance on how to complete sections of the reports, view reports from previous years, populate data from a previous report into the current year's report and receive reminders when their reports are due. GTS also automatically eliminates arithmetic errors on submitted reports.

In 2019, the first year GTS was operational in all counties, 82% of guardian reports were e-filed. In 2020, the e-filing rate grew to 86%, and that percentage has been maintained through December 31, 2021.

Since its implementation, GTS has received national recognition. GTS won the National Association of Court Management's Court Process Innovations Award in 2019. The American Bar Association's (ABA) Commission on Law and Aging featured GTS in the March/April 2019 edition of its journal, *Bifocal*. In 2020, the ABA's Judicial Division Record published an article on GTS.

Other states' court systems and court management organizations nationwide have expressed interest in learning about and/or replicating GTS. In November 2019, Senior Judge Paula Francisco Ott, Administrative Judge Lois E. Murphy, OEJC Director Cherstin Hamel and IT Analyst Manager Amy Whitworth presented on GTS to the National College of Probate Judges, and Senior Judge Ott presented to the ABA's National Law and Aging Conference. In December 2020, Senior Judge Ott and Amy Whitworth showcased GTS as an innovative model during the December 2020 Massachusetts Colloquium on Guardianship Oversight.

RECOMMENDATION 39: The Task Force recommends that Orphans’ Courts and the AOPC collaborate and coordinate with federal agencies that administer representative-payment programs on the exchange and collection of data, training, and education on adult guardianships. See *Overarching Administrative Findings and Recommendations, §VIII.C. (Page 227)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

In 2019, discussions continued between the OEJC and the U.S. Attorney’s Office for the Eastern District regarding the collection and exchange of data regarding abusive Social Security representative payees and United States Department of Veterans Affairs (VA) fiduciaries. In August 2019, the OEJC met with the Social Security Administration (SSA) and the National Academy of Public Administration (NAPA). NAPA was a participant in the study to examine better coordination and information sharing between SSA and state courts with guardianship jurisdiction that was mandated under 2018 representative payee legislation. The study resulted in a report, [Social Security Administration’s Representative Payee Program: Information Sharing with the States](#), which was published in June 2020.

In February 2021, the OEJC participated in a meeting with SSA’s Office of Strategic & Digital Communications, the ABA’s Commission on Law and Aging and the Working Interdisciplinary Networks of Guardianship Stakeholders (the OEJC is considered a part of this network). SSA wanted to initiate further communication with state guardianship stakeholders and find opportunities for improvement in light of the report.

A month later, the OEJC, and IT staff were interviewed by members of the User Experience Group for SSA’s Data Exchange Product. The purpose of the interview was to help define Pennsylvania’s current and future needs regarding a data exchange with SSA.

In September 2021, several orphans’ court clerks contacted the Advisory Council to express concerns about SSA’s processing of professional guardians’ applications to become representative payees. The OEJC reached out to a regional SSA office to explain the concerns and request assistance. SSA resolved most of the concerns, and communications between the OEJC and SSA continue.

RECOMMENDATIONS 40 - 65 ADDRESSING AMENDMENTS TO THE ORPHANS’ COURT PROCEDURAL RULES

The following 26 recommendations of the Task Force (Recommendations 40 - 65) involve amendments to the Pennsylvania Orphans’ Court Procedural Rules. All recommendations were submitted to the Supreme Court Orphans’ Court Procedural Rules Committee (OCPRC) for consideration.

In December 2017, the OCPRC submitted a proposal to the Supreme Court to rescind and replace the guardianship rules and forms in response to the Task Force’s recommendations, and to provide new statewide rules establishing uniformity and consistency for guardianship proceedings. Not all recommendations were included in the proposal sent to the Supreme Court. If a recommendation was incorporated into the new guardianship rules, a specific reference to that rule is noted. In addition, for reference, those rules are attached as [Appendix D](#). New Orphans’ Court Rules 14.1 through 14.14 pertaining to guardianships were adopted by the Supreme Court and became effective on June 1, 2019. Throughout the process of the adoption of these new Orphans’ Court Procedural Rules, the GCMC assisted the OCPRC by reviewing the proposed rules and forms and providing feedback.

In August 2021, the OEJC, IT, and the GTS GC proposed modifications to several [guardianship forms](#) - the Inventory, the Annual Report of Guardian of the Person, and the Annual Report of Guardian of the Estate - to the OCPRC. The modifications clarify report text for guardians, increase data integrity and accuracy, and respond to requests from end users and the OCPRC. The OCPRC submitted the Recommendation to the Court without publication pursuant to Pa.R.J.A. 103(a)(3).

RECOMMENDATION 40: The Task Force recommends that, whenever possible, courts should favor the appointment of a family member as guardian of the person. Through amendment to the Orphans' Court Procedural Rules, the definition of "family member" should be expanded so as not to be limited to immediate family, but rather attempts to contact other relatives and friends should be encouraged. In addition, the Rules should be amended to encourage courts to look to the hierarchy in 20 Pa.C.S. § 5461(d)(1) for guidance. See *Guardians and Counsel Committee Report, §I.C.1.a.i. (Page 33)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

See Pa.R.O.C.P. 14.6(b). See also [Recommendation 5](#).

RECOMMENDATION 41: The Task Force recommends that, through amendment to the Orphans' Court Procedural Rules, courts may favor the appointment of a family member to serve as a guardian of the estate when the estate of the incapacitated person consists of minimal assets or where the proposed guardian of the estate has the skills and experience necessary to manage the estate and is able to obtain a bond or provide other assurance of financial responsibility. See *Guardians and Counsel Committee Report, §I.C.1.b.i. (Page 34)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

See Pa.R.O.C.P. 14.6(b). See also [Recommendation 5](#).

RECOMMENDATION 42: The Task Force recommends that, through amendment to the Orphans' Court Procedural Rules, a list of individuals and agencies qualified to act as guardian of the person or estate to serve if family and friends are not viable options be mandated. See *Guardians and Counsel Committee Report, §§I.C.1.a.ii and I.C.1.b.ii. (Page 34)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

Although this recommendation did not result in a specific rule, since 2019, GTS has enabled courts to generate a list - by county or statewide - of individuals who are serving as guardians. GTS can also indicate whether the guardian is a professional and/or agency guardian. When professional guardians create an online account to use GTS, they are asked to indicate the counties in which they are willing to serve as a guardian of the estate, a guardian of the person or both. Guardians are asked to provide their contact

information and completed trainings or certifications. Guardians can update their profiles at any time. This information is saved on a guardian's record that can be viewed by court users, who can then search for guardians willing to work in their counties. GTS provides court users with a list of guardians who match their search criteria, the total number of active cases statewide on which the guardian is currently serving and a history of any alerts that may have been placed on the guardian.

GTS includes a mechanism to immediately communicate to orphans' courts statewide any instances of abuse, neglect, or financial exploitation by an active guardian by allowing an orphans' court judge to place an alert on that guardian. The placing of an alert on a guardian who has been removed for cause eliminates the potential for that guardian to serve in another county that has no record of the previous misconduct.

RECOMMENDATION 43: The Task Force recommends that, through amendment to the Orphans' Court Procedural Rules, training be mandated for all guardians. See *Guardians and Counsel Committee Report, §II.C.1.c. (Page 39)* This training should include, but not be limited to matters of liability and ethics. See *Guardians and Counsel Committee Report, §III.C.1.a. (Page 43)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

Although this recommendation did not result in a specific rule, whether a proposed guardian has completed any training is to be considered by a judge when deciding who should be appointed guardian.

A training program for family and lay guardians has been developed by the York County Court of Common Pleas and the OEJC that includes instruction for individual guardians. While training is not required for family and lay guardians before they assume their duties, the Advisory Council allocated funds to present training. The free training program, "*Fundamentals of Guardianship: What Family Guardians Need to Know*," was piloted in several counties in late 2018.

Training of newly-appointed family and lay guardians of IPs age 60 and over has continued to be a priority for the Advisory Council and OEJC. Since 2019, funding has been allocated for the OEJC's presentations of a revised and expanded *Fundamentals of Guardianship: What Family and Non-Professional Guardians Need to Know* training around the Commonwealth. The training is now presented by a nationally certified guardian and OEJC staff, and focuses on the fundamentals of guardianship, the powers, duties and responsibilities of a guardian, guardian ethics and liabilities, decision-making processes, best practices for guardians, and resources/tools for guardians. To assist the courts in addressing a guardian's failure to file mandated guardianship reports, the training also includes instruction regarding report filing requirements and the GTS.

With the advent of the Covid-19 pandemic in 2020, the OEJC had to cancel in-person presentations of the training to protect the health and safety of the presenters and guardians. The OEJC pivoted to rework the training into a virtual format and enhance the content. Virtual presentations have been offered in 2021, and guardian participation exceeded in-person attendance from previous years. From 2019 to 2021, 281 guardians have attended the training.

The guardians who have attended include a significant number of parents who serve as guardians of intellectually disabled persons ages 18 to 59. Because of its ongoing focus on the monitoring of all guardianships and guardianship reform, the Advisory Council determined that training for the guardians of younger adults would be incorporated into the training, but that it would seek to transition the training needs of the 18 to 59 population to other organizations or partner with those organizations. The curriculum has been supplemented with additional information and resources for these guardians.

The GCMC is creating a model handbook for newly-appointed Pennsylvania guardians and online training modules for guardians that will coordinate with and expand upon the content of the *Fundamentals of Guardianship: What Family and Non-Professional Guardians Need to Know* training.

RECOMMENDATION 44: The Task Force recommends that, through amendment to the Orphans' Court Procedural Rules, all individual guardians, family and professional, be required to undergo criminal background checks. See *Guardians and Counsel Committee Report, §IV.C.1.a. (Page 44)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

See Pa.R.O.C.P. 14.2(c).

While the implementation of this recommendation has been accomplished, work is ongoing.

During the 2019-20 legislative session, Representative Mark Gillen introduced House Bill 2209, which required court-appointed guardians or prospective guardians to submit to the court a report of federal criminal history record information, a report of criminal history record information from PSP or a statement from PSP that the central repository contains no information relating to the individual, and validation of the guardian's or prospective guardian's eligibility to legally work in the United States

Pursuant to Pennsylvania Orphans' Court Rule 14.2(c)(2), a PSP criminal background check (issued within six months of the filing of the petition) is required for every proposed guardian.

RECOMMENDATION 45: The Task Force recommends that the Orphans' Court Procedural Rules be amended to require that in all guardianship matters where the court does not require a bond, the proposed guardian be required to submit a current credit report. This requirement should be ongoing and, after appointment, the guardian should be required to supply a current credit report each year together with the annual report. The guardian's credit reports should be kept confidential and not be made publicly available. For good cause shown, the court may waive the requirement of a credit report. If the court waives the requirement of a credit report, however, it should still require an assurance of financial responsibility as recommended in Section V.C.1.d. See *Guardians and Counsel Committee Report, §IV.C.1.b. (Page 44)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

See also [Recommendation 5](#).

RECOMMENDATION 46: The Task Force recommends that the Orphans' Court Procedural Rules be amended to require that in addition to not having any interest adverse to the AIP, the proposed guardian should have the willingness and ability to visit with the AIP on a regular basis and be available at all times to confer with the AIP's physicians, nurses, and other care providers. If the proposed guardian is not a family member, he or she should have some

education and/or experience in guardianship or in providing services to elders and/or the disabled. In lieu of adopting specific requirements concerning minimum education and/or experience for all guardians, the Task Force believes that the goal of assuring that qualified guardians are appointed would similarly be met by mandating that all guardians undergo training before assuming their duties. See *Guardians and Counsel Committee Report, §IV.C.1.c. (Pages 44-45)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

See Pa.R.O.C.P. 14.6(b)(1)(ix) and 14.6(b)(2)(ix).

While the implementation of this recommendation has been accomplished, work is ongoing. See also [Recommendation 5](#) and [Recommendation 43](#).

RECOMMENDATION 47: The Task Force recommends that the Orphans' Court Procedural Rules be amended to limit a potential guardian's appointment to a guardianship of the person in appropriate circumstances to avoid potential intra-familial disagreements as well as any financial responsibility of a potential guardian. See *Guardians and Counsel Committee Report, §VI.C.1.h. (Page 47)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

See Pa.R.O.C.P. 14.6(b). See also [Recommendation 5](#).

RECOMMENDATION 48: The Task Force recommends that the Orphans' Court Procedural Rules be amended to require that in all cases where the AIP does not have private counsel, counsel should be appointed. Private counsel for an AIP should be required to enter his or her appearance as soon as possible to allow the court to quickly identify when counsel needs to be appointed. Counsel fees should be paid by the AIP whenever possible and, if resources are insufficient, then by the Commonwealth, as under the existing approach. See *Guardians and Counsel Committee Report, §VII.C.1.a b and c. (Page 49)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

See Pa.R.O.C.P. 14.4, which addresses counsel but does not require counsel in all cases.

Please see the section New Legislative Initiatives Supported by the Advisory Council on page 70 for more information about the Advisory Council's efforts regarding the appointment of counsel.

See also [Recommendation 5](#).

RECOMMENDATION 49: The Task Force recommends that Clerks of the Orphans' Court have the capability to produce a standardized list of data items for each active guardianship

(including Case Management and Caseload Reports). To ensure uniformity across all counties, this practice should be implemented through a statewide Orphans' Court Procedural Rule. See *Guardianship Monitoring Committee Report, §V.C.1, 2, 3, and 4 (Page 122) and Appendix J thereto. (Page 184).*

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

While the implementation of this recommendation has been accomplished, work is ongoing.

Since 2019, clerks of the orphans' courts and their staffs have had the ability to generate standardized reports from GTS to assist them with monitoring of guardianship cases. Reports are available on cases that have been filed, cases that are pending adjudication and guardian caseloads.

RECOMMENDATION 50: The Task Force recommends that the Orphans' Court Procedural Rules and/or Disciplinary Rules be amended to require attorneys serving as guardians to complete the same training and other requirements as professional guardians unless the court specifically waives that obligation, and that CLE [Continuing Legal Education] credit, including ethics credit, be made available to attorneys for this training. See *Guardians and Counsel Committee Report, §VIII.C.1.b. (Page 51) and §X.C.1.h. (Page 56).*

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

While the training requirements for professional guardians and attorneys serving as guardians should not differ, because the OCPRC decided that a training requirement for non-attorney guardians is a substantive matter, it determined that rule-based training requirements for attorneys serving as guardians is premature.

Members of the Advisory Council have participated in and provided programs for attorneys (presented through the Pennsylvania Bar Institute and local bar associations) concerning the various roles attorneys serve in guardianship matters. A list of all training programs and educational presentations made by Advisory Council members may be found in [Appendix B](#).

RECOMMENDATION 51: The Task Force recommends that the Orphans' Court Procedural Rules and/or Disciplinary Rules be amended to require attorneys to clarify to the client, the court, and all other involved parties which role or roles counsel is assuming, and to clarify those role(s) through a letter of engagement stating who is being represented and describing counsel's role. It should also be required that these role(s) be restated to the court when entering an appearance with the court. See *Guardians and Counsel Committee Report, §VIII.C.1.d. (Page 51).*

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

See Pa.R.O.C.P. 14.4. See also [Recommendation 5](#).

RECOMMENDATION 52: The Task Force recommends that the Orphans’ Court Procedural Rules be amended to require that where the court appoints counsel to represent an AIP, the court indicate whether, except for pursuing rights of appeal, counsel for the AIP is discharged or is to continue representing the person now under guardianship in the event the petition is granted and a guardian is appointed. See *Guardians and Counsel Committee Report, §VIII.C.1.e. (Page 51)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

See Pa.R.O.C.P. 14.4. See also [Recommendation 5](#).

RECOMMENDATION 53: The Task Force recommends that, through amendment to the Orphans’ Court Procedural Rules, model language be developed pertaining to retention or discharge of counsel which can be inserted into a final decree of incapacity and appointment of a guardian. See *Guardians and Counsel Committee Report, §VIII.C.1.f. (Page 51)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

See also [Recommendation 5](#).

RECOMMENDATION 54: The Task Force recommends that, through amendment to the Orphans’ Court Procedural Rules, guardians and IPs have access to legal counsel for consultation following adjudication. See *Guardians and Counsel Committee Report, §VIII.C.1.g. (Page 51)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

See Pa.R.O.C.P. 14.4(b) and 14.7(a)(2). See also [Recommendation 5](#).

RECOMMENDATION 55: The Task Force recommends that the Orphans’ Court Procedural Rules be amended to require that the assets of the IP be used for the purpose of maintaining the best possible quality of life for the IP. See *Guardians and Counsel Committee Report, §IX.C.1.e. (Page 53)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

See Pa.R.O.C.P. 14.8 and 14.10.

While the implementation of this recommendation has been accomplished, work is ongoing.

The reviewing of guardianship reports is one of the best ways for courts to monitor and protect the safety, well-being, and financial assets of persons under guardianship. In 2021, the OEJC created an educational

program comprised of three courses for reviewing different guardianship reports. The course *Monitoring Guardianships Cases: What the GTS Can Do for You* is designed solely for judges. The courses *Reviewing the Inventory and Report of Guardian of the Estate* and *Reviewing the Report of Guardian of the Person* are intended for court staff and orphans' court clerks who have been designated to review annual reports and address flags raised by GTS. Content includes the role of offices involved in the report review process, fundamental principles of monitoring and reviewing reports, and best practices using GTS. Judges who attend receive one and a half hours of continuing judicial education credits. The faculty includes Senior Judge Paula Francisco Ott and OEJC Analyst Keith Hinkel Jr., Administrative Judge Lois E. Murphy (Montgomery County), Judge Richard M. Hughes III (Luzerne County), Orphans' Court Clerk Virginia Cooper (Huntingdon County), Orphans' Court Clerk Christine Millinder (Centre County), Daniel Buzard, Esquire, Allegheny County Guardianship Department supervisor and Nicole Marek-Klapat, Luzerne County GTS administrator.

See also [Recommendation 5](#).

RECOMMENDATION 56: The Task Force recommends that the Orphans' Court Procedural Rules be amended to require that fee disputes be resolved in a timely, efficient manner. See *Guardians and Counsel Committee Report, §IX.C.1.h. (Page 54)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

See explanatory comment for Pa.R.O.C.P. 14.4. See also [Recommendation 5](#).

RECOMMENDATION 57: The Task Force recommends that the Orphans' Court Procedural Rules be amended to require that professional guardians, i.e., those guardians with more than two guardianships at the same time, should be certified by the professional guardian certification program referred to in §II.C.1.f. See *Guardians and Counsel Committee Report, §X.C.1.b. (Pages 55-56)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

See Pa.R.O.C.P. 14.2(b).

Since January 1, 2020, pursuant to Montgomery County Orphans' Court Rule 14.2(b-1), *Required Certification and Criminal Background Check of Guardians*, professional guardians (an individual or entity appointed as guardian for three or more incapacitated or partially incapacitated adults) have been required to be certified by the Center for Guardianship Certification and recertified every two years.

In the 2019-20 legislative session, language regarding the certification of professional guardians was added to Senate Bill 23 by Senator Art Haywood. The language would have required professional guardians to be certified as directed by the Pennsylvania Department of Human Services (DHS) and submit proof of certification to the court prior to appointment as guardian of the person or guardian of the estate of an IP. Certification included a disclosure of potential adverse interests regarding the relationship between the professional guardian and the IP. The bill was not considered during the legislative session.

During the 2021-22 legislative session, Senate Judiciary Chair Lisa Baker and Senator Art Haywood circulated a co-sponsorship memo for legislation that would require that the certification provision direct

that individuals seeking guardianship of three or more IPs shall provide certification to the court by DHS or a qualified entity as determined by DHS prior to a third guardianship appointment. Certification to include, but is not limited to, work history and training, a review of state and federal criminal history record information, a core competency examination and disclosure of potential adverse interests regarding the relationship between the individual and the AIP. These provisions are modeled after Montgomery County Orphans' Court Rule 14.2(b-1), *Required Certification and Criminal Background Check of Guardians*.

RECOMMENDATION 58: The Task Force recommends that guardians be required, through amendment to the Orphans' Court Procedural Rules, to complete the inventory (as revised per Appendix C to the Guardianship Monitoring Committee Report) 90 days after appointment. *Guardianship Monitoring Committee Report, §III.C.1. (Page 117).*

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

See Pa.R.O.C.P. 14.8(a).

RECOMMENDATION 59: The Task Force recommends that guardians be required, through amendment to the Orphans' Court Procedural Rules, to complete the Annual Report of the Person (as revised per Appendix F to the Guardianship Monitoring Committee Report, and/or Annual Report of the Estate as revised per Appendix E to the Guardianship Monitoring Committee Report) one year after appointment. See *Guardianship Monitoring Committee Report, §III.C.2. (Page 117).*

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

See Pa.R.O.C.P. 14.8(a).

RECOMMENDATION 60: The Task Force recommends that guardians be required, through amendment to the Orphans' Court Procedural Rules, to complete a Firearms Search [Form, pursuant to §§ 18 Pa.C.S.A. 6105(a) and (c) of the Uniform Firearms Act] (Appendix D to the Guardianship Monitoring Committee Report) within 90 days of appointment. See *Guardianship Monitoring Committee Report, §III.C.3. (Page 117).*

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

In 2021, the *Fundamentals of Guardianship: What Family and Non-Professional Guardians Need to Know* training was enhanced with additional topics, including a guardian's responsibilities under the Uniform Federal Firearms Act. The Act is a federal statute that prohibits a person who is adjudicated incapacitated from possessing, using, controlling, selling, transferring, manufacturing, or obtaining a firearm. The Act also states that within 60 days of a person being adjudicated incapacitated, the guardian is to arrange for the sale or transfer of the IP's firearms to another eligible person who is not a member of the IP's household.

See also [Recommendation 5](#).

RECOMMENDATION 61: the Task Force recommends that guardians be required, through amendment to the Orphans’ Court Procedural Rules, to send a Certificate of Filing (Appendix G to the Guardianship Monitoring Committee Report), to the persons identified at the time of adjudication, within 10 days of filing each form with the Clerk of the Orphans’ Court. See *Guardianship Monitoring Committee Report, §III.C.4. (Page 117)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

See Pa.R.O.C.P. 14.8.

RECOMMENDATION 62: The Task Force recommends that the imposition of filing fees for required annual reports by local court or administrative order should be prohibited through amendment to the Orphans’ Court Procedural Rules. See *Guardianship Monitoring Committee Report, §IV.C.1. (Page 119)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

See also [Recommendation 5](#).

RECOMMENDATION 63: The Task Force recommends that the Supreme Court, through amendment to the Orphans’ Court Procedural Rules, require that Clerks of the Orphans’ Court be responsible for docketing and monitoring guardians’ compliance with submitting the inventory and annual reports by the required due dates. See *Guardianship Monitoring Committee Report, §IV.C.3. (Page 119)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

See Pa.R.O.C.P. 14.8(d).

While the implementation of this recommendation has been accomplished, work is ongoing.

Courts follow their local process for addressing overdue reports, which may include contacting a guardian to request that a report(s) be filed or holding a hearing to determine why a report(s) has not been submitted. To assist with the requirements of Orphans’ Court Rule 14.8, in 2021 the OEJC and IT, together with the GTS GC, developed and implemented a process to assist courts with addressing cases with overdue reports. The OEJC also created the *Report Reviewer Best Practices Training – Overdue Reports Reference Guide* for courts to help them address overdue reports. The *Guide* includes common reasons reports become overdue, tools to help manage overdue reports, and best practices for finding missing or unresponsive guardians.

RECOMMENDATION 64: The Task Force recommends that the Clerks of the Orphans’ Court, through amendment to the Orphans’ Court Procedural Rules, be responsible for providing

delinquency notices to guardians when required reports become past due. See *Guardianship Monitoring Committee Report, §IV.C.4. (Page 119)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

See Pa.R.O.C.P. 14.8(f).

While the implementation of this recommendation has been accomplished, work is ongoing. See [Recommendation 17](#).

RECOMMENDATION 65: The Task Force recommends that the judge or judge’s staff be required, through amendment to the Orphans’ Court Procedural Rules, to review the content of all inventories and annual reports received by the court to identify areas requiring further scrutiny, additional documentation, or a review hearing. See *Guardianship Monitoring Committee Report, §IV.C.6. (Page 119)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

See Pa.R.O.C.P. 14.8.

While the implementation of this recommendation has been accomplished, work is ongoing.

GTS allows courts to scrutinize red flags prompted on guardianship cases and respond to potential problems immediately, thereby better protecting the IP. The capacity of GTS to automatically flag potential concerns of loss and neglect is an important feature that assists courts with their monitoring responsibilities at a time when funds for staff resources to thoroughly review each guardianship report are scarce. The flag logic also promotes a uniform protocol for the reviewing of guardianship reports.

GTS includes a mechanism to immediately communicate to orphans’ courts statewide any instances of abuse, neglect, or financial exploitation by an active guardian by allowing an orphans’ court judge to place an alert on that guardian. The placing of alerts on a guardian who has been removed for cause eliminates the potential for that guardian to serve in another county that has no record of the previous misconduct.

See also [Recommendation 17](#) and [Recommendation 55](#).

RECOMMENDATIONS TO THE OFFICE OF ELDER JUSTICE IN THE COURTS AND TO THE ADVISORY COUNCIL ON ELDER JUSTICE IN THE COURTS

RECOMMENDATION 66: The Task Force recommends that the OEJC, in conjunction with the local GSA [guardianship support agency], if one exists, coordinate the creation of a list of individuals and agencies qualified to act as guardian of the person to be referred to when family and friends are not viable options to serve as guardian. See *Guardians and Counsel Committee Report, §I.C.1.a.ii. (Page 34.)*

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

RECOMMENDATION 67: The Task Force recommends that the OEJC develop training for guardians, judges, court administrative staff, attorneys and others involved in guardianship matters. See *Guardians and Counsel Committee Report, §II.C.1.c. (Page 39) and §X.C.1.a. (Page 55)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

While the implementation of this recommendation has been accomplished, work is ongoing. See [Recommendation 43](#).

In 2019, to reach guardians statewide, IT began presenting its GTS workshops for guardians virtually. The workshops are offered twice monthly. They provide a demonstration of how to register to use GTS, and how to complete and file guardianship reports electronically. Since March 2019, 734 guardians have attended a workshop.

RECOMMENDATION 68: The Task Force recommends that the training developed by the OEJC for guardians be divided into pre-service training and some form of continuing education that would include training on the powers, duties and responsibilities of the guardian, including reporting requirements, ethics and liability. See *Guardians and Counsel Committee Report, §X.C.1.c. (Page 56)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

While the implementation of this recommendation has been accomplished, work is ongoing.

See also [Recommendation 67](#).

ORIGINAL RECOMMENDATION 69: The Task Force recommends that the Supreme Court, through the OEJC, encourage local courts to develop interdisciplinary teams modeled after the existing Children’s Roundtable Initiative to advise and support guardians and the court. See *Guardians and Counsel Committee Report, §II.C.1.d*.

The Advisory Council decided to move forward with developing interdisciplinary teams at the county level, and thus revised this Recommendation, removing “modeled after the existing Children’s Roundtable Initiative” from the Task Force’s original recommendation due to the lack of a funding stream similar to that which is available to the Children’s Roundtable.

REVISED RECOMMENDATION 69: The Task Force recommends that the Supreme Court, through the OEJC, encourage local courts to develop interdisciplinary teams to advise and support guardians and the court. See *Guardians and Counsel Committee Report, §II.C.1.d. (Rev. 10/14/15) (Page 39)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

Further work on the development of a template for interdisciplinary teams has been on hold due to the ongoing Covid-19 pandemic.

RECOMMENDATION 70: The Task Force recommends that the Supreme Court, through the OEJC, encourage the creation of local GSAs to be relied upon to take an active role in the implementation of education and training, and to support local guardianship improvement. See *Guardians and Counsel Committee Report, §II.C.1.e. (Page 40) and §X.C.1.d. (Page 56)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS TO BE CONSIDERED

RECOMMENDATION 71: The Task Force recommends that the Supreme Court, through the OEJC, develop a program for the certification of professional guardians. See *Guardians and Counsel Committee Report, §II.C.1.f (Page 40) and §X.C.1.b. (Page 55-56)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

See [Recommendation 57](#).

RECOMMENDATION 72: The Task Force recommends that the Supreme Court, through the OEJC, develop a program for the mandatory education and training of individual guardians on matters of liability and ethics. See *Guardians and Counsel Committee Report, §III.C.1.a. (Page 43.)*

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

While the implementation of this recommendation has been accomplished, work is ongoing.

See also [Recommendation 67](#).

RECOMMENDATION 73: The Task Force recommends that the Supreme Court, through the OEJC, develop a program for the mandatory education and training of individual guardians that will be required before assuming their duties. See *Guardians and Counsel Committee Report, §IV.C.1.c. (Pages 44-45)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

See [Recommendation 67](#).

RECOMMENDATION 74: The Task Force recommends that the Advisory Council and the OEJC study funding sources, such as the state lottery, to develop guardianship support services and provide small tax deductions to guardians for certain guardianship expenses to determine how best to implement them. See *Guardians and Counsel Committee Report, §VI.C.1.a & c. (Page 47)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

In 2019, the GCMC began discussing whether the creation of an office of public guardian should be considered by the Advisory Council in order to develop guardianship support services. The OEJC was asked to research the role of state courts' administrative offices of the courts regarding guardianship support and monitoring, and states that have an office of public guardian to ascertain how such offices are funded. The OEJC contacted all 50 administrative offices of state courts and any offices of public guardian. In the fall of 2021, a profile was created for each state that summarized the guardianship monitoring practices of the administrative office of the courts and the responsibilities of an office of public guardian or other similar guardianship services agency. The GCMC is reviewing the OEJC's research.

RECOMMENDATION 75: The Task Force recommends that the OEJC work with SSA, VA, RRB [Railroad Retirement Board] and other federal representative-payment and fiduciary programs to develop a system for greater information sharing on adult guardianships. See *Elder Abuse and Neglect Committee Report, §II.C.5. (Page 201)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

See [Recommendation 39](#).

RECOMMENDATION 76: The Task Force recommends that the OEJC equip and assist local agencies in developing methods to retain guardians, focusing on helping agencies handle more guardianships as an alternative to relying on ill-equipped family members, and encouraging and expanding the use of GSAs. See *Guardians and Counsel Committee Report, §VI.C.1.d, e, and f. (Page 47)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS TO BE CONSIDERED

RECOMMENDATION 77: The Task Force recommends that the OEJC: develop free training for non-attorney guardians on filing required documents; put helpful "how to" videos online to answer questions and provide more detailed instructions for the completion of guardianship tasks such as filing reports and inventories; and encourage a dialogue with federal agencies such as the SSA, VA and RRB [Railroad Retirement Board], which administer representative-payment and fiduciary programs, to develop training for guardians who manage an IP's benefits. See *Guardians and Counsel Committee Report, §VI.C.1. g, i and j (Page 47), and §X.C.1.e., f. and g. (Page 56)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

See also [Recommendation 67](#).

RECOMMENDATION 78: The Task Force recommends that the Advisory Council and the OEJC study the Third National Guardianship Summit Recommendations for Action §§ 3.1-3.8, pertaining to fees, to determine to what extent these recommendations should be adopted in Pennsylvania. See *Guardians and Counsel Committee Report, §IX.C.1.f. (Page 54)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

The GCMC continues to study and discuss the issue of fees for guardians for the services they provide to IPs. See also [Recommendation 5](#).

RECOMMENDATION 79: The Task Force recommends that the Advisory Council and the OEJC explore the feasibility of asking the General Assembly to establish a fund to pay for guardianship services for those with limited available resources. See *Guardians and Counsel Committee Report, §IX.C.1.g. (Page 54)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

In 2019, the GCMC began discussing whether the creation of an office of public guardian should be considered by the Advisory Council. The OEJC was asked to research the role of state courts' administrative offices of the courts regarding guardianship support and monitoring, and states that have an office of public guardian. The OEJC contacted all 50 administrative offices of state courts and any offices of public guardian to ascertain how such offices are funded. In the fall of 2021, a profile was created for each state that summarized the guardianship monitoring practices of the administrative office of the courts and the responsibilities of an office of public guardian or other similar guardianship services agency. The GCMC is reviewing the OEJC's research.

RECOMMENDATION 80: The Task Force recommends that the OEJC work with the SSA, VA and the Department of Aging to establish a collaboration process among the agencies to establish a notification system to share information when it is found that a representative payee is abusing an incapacitated person. See *Guardianship Monitoring Committee Report, §V.C.8. (Page 123)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

See [Recommendation 39](#).

RECOMMENDATION 81: The Task Force recommends that the Advisory Council and the OEJC study NGA [National Guardianship Association] Standards 12 and 17 to ascertain whether these standards can be adopted by court rule or if legislation is required. See *Guardians and Counsel Committee Report, §II.C.1.a. (Page 36)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

[National Guardianship Association](#) Standard 12 concerns the duties of the guardian of the person. Standard 17 concerns duties of the guardian of the estate. These standards continue to be studied by the GCMC as training programs and resource materials for guardians are being developed.

See also [Recommendation 67](#).

RECOMMENDATION 82: The Task Force recommends that the OEJC, in conjunction with the help of a working group composed of guardianship stakeholders, develop and offer a fee schedule as a model uniform court rule for compensation of guardians. See *Guardians and Counsel Committee Report, §IX.C.1.a, b, c, and d. (Page 53)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

The GCMC is studying the matter of a proposed fee schedule for services provided to IPs by guardians.

RECOMMENDATION 83: The Task Force recommends that the OEJC provide training for judges and guardians on the recommended Bills of Rights provided in the Guardianship Monitoring Committee Report, §VI.C.1. See *Guardianship Monitoring Committee Report, §VI.C.2. (Page 124.)*

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

See also [Recommendation 5](#).

RECOMMENDATION 84: The Task Force recommends that the OEJC develop a guide for guardians that includes information about the minimum standards of care for an incapacitated person, and the expectations for and responsibilities of the guardian, including requiring the guardian to maintain in-person contact with the IP at a minimum of once per quarter or more often as appropriate. See *Guardianship Monitoring Committee Report, §VI.C.3. (Page 124)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

In 2020, the GCMC began to develop content for a model handbook for newly-appointed Pennsylvania guardians. Training materials from the *Fundamentals of Guardianship: What Family and Non-Professional Guardians Need to Know*, the GTS and court handbooks across the Commonwealth were reviewed. The GCMC continues to refine the model handbook's content, and online training modules for guardians that are being developed will coordinate with the content of the model handbook.

RECOMMENDATION 85: The Task Force recommends that, in order to provide the IP with access to justice, the OEJC and Advisory Council research the impact of requiring the court-appointed attorney to make contact with the IP on an annual basis on the current funding stream. See *Guardianship Monitoring Committee Report, §VI.C.4. (Page 125)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS TO BE CONSIDERED

RECOMMENDATION 86: The Task Force recommends that the possibility of piloting a program similar to the Court Appointed Special Advocates (CASA) be researched by the OEJC and the Advisory Council to provide a volunteer advocate for the AIP throughout the guardianship process who could alert the court of any observed wrongdoing. See *Guardianship Monitoring Committee Report, §VI.C.6. (Page 125)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS TO BE CONSIDERED

RECOMMENDATION 87: The Task Force recommends that the Advisory Council examine how an effective complaint form and process, specific to guardianships, can be implemented among the appropriate stakeholders. See *Guardianship Monitoring Committee Report, §VI.C.5. (Page 125)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

Public awareness about the OEJC is increasing due to information provided on the Unified Judicial System's website, and training offered to guardians. Inquiries and requests for assistance on guardianships and other elder justice issues have increased each year. From 2019 through 2021, the OEJC responded to 111 inquiries and requests for assistance.

RECOMMENDATION 88: The Task Force recommends that the Advisory Council study the feasibility and benefits of collaborating with and encouraging colleges, universities, and law schools to develop elder clinics and other programs to assist elder Pennsylvanians in accessing social services and, with appropriate supervision, drafting or reviewing simple documents, such as a power of attorney or living will. The development of such elder clinics could provide tremendous benefits to elder Pennsylvanians. See *Elder Abuse and Neglect Committee Report, §III.C.4.c. (Page 213)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

While the implementation of this recommendation has been accomplished, work is ongoing.

In March 2019, Mary Catherine Scott, Esquire and Secretary Robert Torres participated in the 12th Annual Dean's Diversity Forum at Widener University's Commonwealth Law School, *What Happens After You've Built the Present: Race, Policy and the Future of America's Elderly*.

Throughout 2019, the Advisory Council continued its outreach to Pennsylvania's law schools - Villanova, Penn, Temple, Widener, Duquesne, Pitt, Penn State Law and Dickinson Law. President Judge George N. Zanic, Karen C. Buck, Esquire, District Attorney Eugene Vittone II, John N. Kennedy, Esquire, Anne N. John, Esquire, Mary Catherine Scott, Esquire, Zygmunt A. Pines, Esquire, Darren Breslin, Esquire and Administrative Judge Sheila A. Woods-Skipper met with law schools to encourage them to focus their clinics on elder justice issues and to discuss the possible creation of clinical programs concentrated on

elder abuse/financial exploitation.

In October 2019, the Supreme Court met with the deans of Pennsylvania’s law schools to encourage the schools to focus on elder abuse and/or financial exploitation in their clinical programs. Justice Debra Todd expressed to the deans the Supreme Court’s commitment to elder justice in Pennsylvania and reiterated that the Advisory Council members remain available to further discuss specific ways the law schools can focus on issues of elder justice.

In 2020, Karen C. Buck, Esquire and John N. Kennedy, Esquire met with the dean of Penn State Law and Dickinson Law.

In 2021, Mary Catherine Scott, Esquire and the Advisory Council began work on the development of a syllabus for a law school curriculum designed to broaden law students’ exposure to elder justice issues, and to demonstrate to the law schools that education regarding elder justice issues can be provided at low cost. The Advisory Council hopes to partner with Widener University’s Commonwealth Law School in 2022 to pilot the curriculum before it is expanded to other law schools. The EANC will continue to make outreach and communicate with law schools to assist them in appropriately developing an elder justice curriculum.

In July 2021, Justice Todd wrote to the law school deans applauding some of the schools for their accomplishments in focusing on the critical issues of elder justice and encouraging other schools to increase their focus on elder issues through funding provided to all of the law schools with grants from the Interest on Lawyers Trust Account (IOLTA). Justice Todd conveyed to the Interest on Lawyers Trust Account Board (IOLTA Board) the Court’s emphasis on law schools using some of their IOLTA funds to focus on serving the elder population. Discussions are continuing among the Supreme Court, the IOLTA Board and the law school deans on ways the law schools can focus their efforts on developing elder clinics and other programs to assist older Pennsylvanians.

RECOMMENDATION 89: The Task Force recommends that the Advisory Council, with the assistance of the OEJC, study the advisability and feasibility of creating and supporting guardianship mediation programs in Pennsylvania. If the Advisory Council determines that such programs are advisable and feasible, it should also study the questions of program structure and implementation. See *Overarching Administrative Findings and Recommendations, §V.C. (Page 224).*

THE IMPLEMENTATION OF THIS RECOMMENDATION IS TO BE CONSIDERED

RECOMMENDATION 90: The Task Force recommends that the Advisory Council study the feasibility and implications of allocating a portion of filing fees in guardianship cases that involve significant assets to funding initiatives in this Report. See *Overarching Administrative Findings and Recommendations, §IX.C.2. (Page 229).*

THE IMPLEMENTATION OF THIS RECOMMENDATION IS TO BE CONSIDERED

RECOMMENDATION 91: The Task Force recommends that the Advisory Council consider, and, if appropriate, the Supreme Court adopt the ABA’s 29 recommended guidelines for state courts to increase access to justice for Pennsylvania elders. See *Elder Abuse and Neglect Committee Report, §III.C.4.a. (Page 213).*

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

RECOMMENDATIONS TO THE LEGISLATIVE BRANCH

All recommendations, and any supplemental information provided to the legislature relative to the work of the Task Force or the Advisory Council represent the views of the members of the Task Force or the Advisory Council and are not intended to convey an official position of the Supreme Court or the AOPC.

RECOMMENDATION 92: The Task Force recommends that the proposed change to 20 Pa.C.S.A. § 5521(g) be removed from Senate Bill 117 of 2013, Pr. No. 73. See *Guardians and Counsel Committee Report, §III.C.1.b. (Page 43)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

Senate Bill 117 has been reintroduced in subsequent legislative sessions since 2013. Although the bill number has changed each session, the content of the bill has not. Information on the initial implementation of this recommendation can be found in the [First Progress Report](#) on the Work of the Advisory Council on Elder Justice in the Courts.

During the 2019-20 legislative session, Senator Art Haywood introduced the legislation as Senate Bill 23. The bill was again not considered during the legislative session.

The legislature is currently in the 2021-22 legislative session. To date, the comprehensive legislation of past sessions has not been introduced. Representative Gary Day has introduced a component of Senator Art Haywood's bill providing for the appointment of counsel in guardianship proceedings. See also the section New 2019-2020 Legislative Initiatives Supported by the Advisory Council on page 100. Senate Judiciary Chari Lisa Baker and Senator Art Haywood are working on a scaled-down version of the comprehensive guardianship bill that will include language providing for the appointment of counsel, establishing parameters on who may be appointed as a guardian, requiring guardian certification, amending provisions on the determination of incapacity and appointment of guardians, and adding language to govern the appointment of supportive teams.

RECOMMENDATION 93: The Task Force recommends that the General Assembly provide guidance as to what the courts should consider “cause shown” in proposed new 20 Pa.C.S. § 5515.3 in Senate Bill 117 of 2013, Pr. No. 73 and clarify whether determinations of “cause shown” would be appealable. See *Guardians and Counsel Committee Report, §V.C.1.a. (Page 46)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

Senate Bill 117 has been reintroduced in subsequent legislative sessions since 2013. Although the bill number has changed each session, the content of the bill has not. Information on the initial implementation of this recommendation can be found in the [First Progress Report](#) on the Work of the Advisory Council on Elder Justice in the Courts.

See Also [Recommendation 92](#).

RECOMMENDATION 94: The Task Force recommends that the General Assembly set a minimum total value for an estate before making a bond mandatory in every situation. See *Guardians and Counsel Committee Report, §V.C.1.b. (Page 46)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS TO BE CONSIDERED

RECOMMENDATION 95: The Task Force recommends that the General Assembly enact legislation allowing the acceptance of forms of financial security for guardians other than bonds. See *Guardians and Counsel Committee Report, §V.C.1.d. (Page 46)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS TO BE CONSIDERED

RECOMMENDATION 96: The Task Force recommends that the General Assembly establish a fund to pay for guardianship services for those with limited resources. See *Guardians and Counsel Committee Report, §IX.C.1.g. (Page 54)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS TO BE CONSIDERED

RECOMMENDATION 97: The Task Force recommends that adequate funding be provided to support the Clerks of the Orphans' Court and Judges in their ability to fulfill their guardianship monitoring responsibilities. See *Guardianship Monitoring Committee Report, §IV.C.10. (Page 120)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

RECOMMENDATION 98: The Task Force recommends that adequate funding be provided to support the Clerks of the Orphans' Court in their ability to implement a local case management system. See *Guardianship Monitoring Committee Report, §V.C.9. (Page 123)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

RECOMMENDATION 99: The Task Force recommends that § 5515.1 of Senate Bill 117 of 2013, Pr. No. 73, addressing the grounds and procedures for removing and replacing guardians, be adopted into the Probate Code. See *Guardianship Monitoring Committee Report, §VI.C.7. (Page 125)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

Senate Bill 117 has been reintroduced in subsequent legislative sessions since 2013. Although the bill number has changed each session, the content of the bill has not. Information on the initial implementation

of this recommendation can be found in the [First Progress Report](#) on the Work of the Advisory Council on Elder Justice in the Courts.

See Also [Recommendation 92](#).

RECOMMENDATION 100: The Task Force recommends that the General Assembly enact a statute consistent with §116 of the Uniform Power of Attorney Act (Standing). See *Elder Abuse and Neglect Committee Report, §I.C.1 (Page 195)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS
--

Section 116 of the *Uniform Power of Attorney Act* enumerates nine individuals or entities who may petition a court to construe a power of attorney or review the agent’s conduct. Recommendation 100 seeks the adoption of Section 116 of the Act.

The Advisory Council endorsed the recommendations set forth in a September 20, 2016, concept paper, “Addressing Financial Exploitation of Elders: The Power of Attorney Problem,” regarding the adoption of Section 116, and provided the concept paper to the chairmen of the House Aging and Older Adult Services Committee, the Senate Aging and Youth Committee, the House Judiciary Committee, and the Senate Judiciary Committee. The AOPC’s legislative staff and Advisory Council member John Kennedy, Esquire, fielded and answered questions from legislative members and staff in response to the circulation of the concept paper.

In 2018, two bills were introduced to codify Section 116 – Senate Bills 1115 and 1207. Senate Bill 1115, introduced by Senator Patrick M. Browne, is a comprehensive bill that includes not only the codification of Section 116, but also several recommendations made by the Joint State Government Commission’s Advisory Committee on Decedents’ Estates Laws in its February 2018 report. Senate Bill 1207, introduced by Senator Art Haywood, addresses only Section 116. Both bills would add the provisions of the *Uniform Act* as Section 5615 in Title 20. The 2017-18 legislative session expired before the bills could be adopted.

During the 2019-20 legislative session, Senator Patrick M. Browne circulated a co-sponsorship memo to reintroduce the comprehensive bill codifying Section 116 and enacting several recommendations of the February 2018 report of the Advisory Committee on Decedents’ Estates Laws. A bill was never formally introduced. Senator Art Haywood did not reintroduce his legislation.

The legislature is currently in the 2021-22 legislative session. No bills have been introduced that address Section 116.

ORIGINAL RECOMMENDATION 101: The Task Force recommends enhanced mandatory minimum sentences, in addition to those listed in 42 Pa.C.S. § 9717, for the conviction of crimes against elders. See *Elder Abuse and Neglect Committee Report, §III.C.2.a. (Original Recommendation)*.

In 2015, the Advisory Council revised this Recommendation by adding “and/or enhanced sentences” to the Recommendation of the Task Force.

REVISED RECOMMENDATION 101: The Task Force recommends consideration by the legislature of mandatory minimum and/or enhanced sentences, in addition to those listed in

42 Pa.C.S. § 9717, for the conviction of crimes against elders. See *Elder Abuse and Neglect Committee Report, §III.C.2.a. (Rev. 10/14/15) (Page 212).*

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

While legislation providing for mandatory minimum or enhanced sentences for the conviction of crimes against elders has not been introduced, Senior Judge Ott and Administrative Judge Woods-Skipper informed the Sentencing Commission of the Advisory Council's support for the concepts embodied in mandatory minimum and/or enhanced sentences. The Sentencing Commission plans to await legislative direction on the implementation of any mandatory minimum or enhanced sentences.

RECOMMENDATION 102: The Task Force recommends that the General Assembly consider enacting amendments to the existing Pennsylvania Slayer's Statute, 20 Pa. C.S. §§ 8801-15, to include not only homicide, but also elder abuse, neglect and exploitation resulting in convictions of specified crimes. Such statutory expansion would be a progressive and significant step in addressing both prevention and remediation of serious elder abuse. See *Elder Abuse and Neglect Committee Report, §III.C.3.b. (Page 213).*

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

In October 2017, a concept paper outlining the Advisory Council's position on the statutory expansion of the Slayer Statute, which included examples of statutes in other states that could be used as a template for legislation in Pennsylvania, was delivered to legislators interested in this policy expansion. Several states, including California and Michigan, have enacted such statutes. Discussions on the expansion of the statute continue.

During the 2019-20 legislative session, Representative Tedd C. Nesbit introduced House Bill 1845. The legislation sought to amend Chapter 88 of Title 20 to include elder abusers – a term defined by the bill – under the Slayer Statute provisions, thereby barring an abuser from benefiting from the estate of the abused individual. Upon Representative Tedd C. Nesbit's election to the court of common pleas in 2019, Representative Paul Schemel took the lead on sponsoring the bill. The session expired and the bill was not considered.

The legislature is currently in 2021-22 legislative session. Representative Paul Schemel has circulated a co-sponsorship memorandum expressing his intent to reintroduce the legislation.

RECOMMENDATION 103: The Task Force recommends that the General Assembly consider how to provide greater and more consistent funding and support of civil legal aid, including services specifically targeted to low-income Pennsylvania elders. See *Elder Abuse and Neglect Committee Report, §III.C.4.d. (Page 213).*

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

As a part of the 2017-18 budget, the legislature provided for the direction of additional surcharge/fee revenue to the Access to Justice Account. Pursuant to statute, Access to Justice funding is utilized exclusively to provide civil legal assistance to poor and disadvantaged Pennsylvanians. Supreme Court rules determine eligibility for legal assistance under the law. Under the provisions passed as a part of the 2017-18 budget, a new \$2 temporary surcharge on numerous court filings was added in Act 44 of 2017. While no specific requirements exist in the law targeting funding to elders, it is estimated the new

\$2 temporary surcharge will provide an additional \$7.2 million in annual revenue for the Access to Justice Account, which could benefit elder litigants.

During the 2019-20 session, the temporary surcharge for Access to Justice that was enacted in Act 44 was made permanent in Act 20 of 2019.

The legislature is currently in 2021-22 legislative session. Legislation impacting the Access to Justice provisions has not been introduced.

RECOMMENDATION 104: The Task Force recommends that the General Assembly enact a statute requiring financial institutions to be mandatory reporters of suspected financial abuse or exploitation of elders. See *Elder Abuse and Neglect Committee Report*, §I.C.2.a.i. (Page 196).

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

The role financial institutions play in the reporting of, and dealing with, financial abuse of elders has been a topic of discussion in the legislature for a number of years, including whether such reporting should be mandatory or voluntary, to what extent financial institutions should be required to train their employees in the recognition of financial abuse, and whether transactions should be blocked or delayed when financial institutions reasonably believe financial exploitation of elders may have occurred.

In December 2015, in recognition of financial institutions' pivotal role in detecting and preventing the suspected financial exploitation of elders, the Conference of State Court Administrators issued a resolution in support of financial institutions collaboratively addressing suspected financial exploitation of elders.

In 2016, Representative Tim Hennessey introduced House Bill 786, which proposed amendments to OAPSA. The 2015-16 legislative session expired before the bill was considered. Throughout 2017, Representative Tim Hennessey oversaw discussions between numerous stakeholders, including representatives of financial institutions and the Department of Aging on the legislation. One of the topics of the stakeholder discussions was the inclusion of language in the bill requiring financial institutions to train employees to recognize financial exploitation, report elder abuse, and identify suspicious financial activities.

In 2018, comprehensive amendments to OAPSA were introduced by Representative Tim Hennessey, House Bill 2549, and by Senator Robert Mensch, Senate Bill 899. The former bill received no action; the latter bill unanimously passed the Senate. Both bills contained provisions that would have – generally – defined new terms including financial exploitation and financial institution, provided for duties of financial institutions (including training of financial service industry personnel to assist employees in recognizing signs of potential financial abuse), allowed for the refusal of fund disbursements and provided for the ability to freeze transactions in situations where financial exploitation may have occurred. Finally, Senate Bill 899 sought to address the decision in *Peake v. Commonwealth*, 132 A.3d 506 (Pa.Cmwlth.2015), that held lifetime bans for individuals convicted of certain enumerated offenses from working in care of older adults facially violated due process and violated due process as applied to applicants. The 2017-18 legislative session expired before the bills were considered.

During the 2019-20 legislative session, the legislation was reintroduced by Representative Tim Hennessey and Senator Robert Mensch as House Bill 1930 and Senate Bill 819. The House bill was reported from the Aging and Older Adult Services Committee. The Senate bill was unanimously passed by the Senate. Neither bill advanced further before the legislative session ended.

The legislature is currently in the 2021-22 legislative session. House Bill 1681 has been reintroduced by Representative Tim Hennessey, while Senator Robert Mensch has circulated a prior co-sponsorship memo for his legislation. To date, no further movement has occurred.

While not a recommendation of the Task Force, on July 31, 2019, Governor Wolf issued Executive Order 2019-05, which established the Office of Advocacy and Reform and a Council on Reform. Secretary of Aging Robert Torres served as a member of the Council on Reform.

Among other things, the Order directed the Department of Aging to update and disseminate the OAPSA's mandatory reporting training to mandatory reporters. The Office of Advocacy and Reform was required to conduct a study on the types of financial exploitation that had been perpetrated and the fiscal impacts the losses had on the victims, the economy, and the state.

In September 2020, the Department of Aging released the [Financial Exploitation of Older Adults Study Report](#) that reviewed 455 financial exploitation cases involving elders in 14 Pennsylvania counties. In the 315 substantiated financial exploitation cases, the average loss was \$39,395. Based on that loss and the 1,488 substantiated financial exploitation cases statewide, the study extrapolated that elders in the Commonwealth had a collective estimated loss of \$58 million during fiscal year 2017-2018.

Among the Study's recommendations for the prevention of future financial exploitation in Pennsylvania was the formation of an interdisciplinary Financial Exploitation Task Force, which met from December 2020 through April 2021. In June 2021, the Financial Exploitation Task Force issued its [Financial Exploitation of Older Adults Task Force Report](#), which contained recommendations for specific actions that could be taken in four category areas – education, training, operations, and procedures - to help prevent elders from being financially exploited.

The Council on Reform was tasked with studying best practices regarding the health, safety, and welfare of vulnerable Pennsylvanians, and making recommendations to improve the support and protection of this population. The Advisory Council offered its assistance to the Council on Reform.

On November 1, 2019, the Council on Reform issued its [Recommendations to Protect Vulnerable Populations](#), which included recommendations for persons aged 60 and above. Recommendations focused predominantly on protecting elders from abuse, empowering victims of abuse to come forward and eliminating the risk of future abuse or neglect; preventing abuse, reducing social isolation and educating about how to identify elders who may be at risk for abuse or neglect; and intervention – providing support to vulnerable elders, eliminating systems that cause further trauma to victims and improving how abusers are held accountable.

RECOMMENDATION 105: The Task Force recommends that the General Assembly statutorily require financial institutions to administer training programs to help identify, prevent, and report elder financial abuse. See *Elder Abuse and Neglect Committee Report*, §I.C.2.a.ii. (Page 196).

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

See [Recommendation 104](#).

RECOMMENDATION 106: The Task Force recommends that the General Assembly statutorily authorize financial institutions to delay for five days suspicious financial transactions of elder customers. See *Elder Abuse and Neglect Committee Report*, §I.C.2.a.iii. (Page 196).

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

See [Recommendation 104](#).

RECOMMENDATION 107: The Task Force recommends that the General Assembly increase funding to the Department of Aging to facilitate thorough investigations of alleged financial abuse. See *Elder Abuse and Neglect Committee Report, §I.C.2.b. (Page 196).*

THE IMPLEMENTATION OF THIS RECOMMENDATION IS TO BE CONSIDERED

RECOMMENDATION 108: The Task Force recommends that the General Assembly consider if all personal care homes, assisted living residences and home health care agencies should carry a minimum of liability insurance. See *Elder Abuse and Neglect Committee Report, §I.C.2.f. (Page 196).*

THE IMPLEMENTATION OF THIS RECOMMENDATION IS TO BE CONSIDERED

ORIGINAL RECOMMENDATION 109: The Task Force recommends that the Legislature mandate the creation or continuation of Elder Abuse Task Forces in each county/judicial district to develop best practices, facilitate information sharing and enable and promote collaboration. See *Elder Abuse and Neglect Committee Report, §II.C.3.*

In October 2015, the Legislative Budget and Finance Committee (LBFC) staff made a presentation to the Advisory Council on its study of county Elder Abuse Task Forces (EATF). The study was conducted pursuant to House Resolution 929, which was passed unanimously by the House in 2014. The resolution required the LBFC to review the structure of each EATF and develop a profile of current task forces. The study was not available at the time the Task Force made its recommendation. Based on the study’s results, the Advisory Council determined it should facilitate, rather than mandate, the creation or continuation of EATFs. In October 2015, the Advisory Council revised this Recommendation changing “mandate” to “facilitate” in Recommendation 109.

REVISED RECOMMENDATION 109: The Task Force recommends that the legislature facilitate the creation or continuation of EATFs in each county/judicial district to develop best practices, facilitate information sharing and enable and promote collaboration. See *Elder Abuse and Neglect Committee Report, §II.C.3. (Rev. 10/14/15) (Page 200.)*

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

RECOMMENDATION 110: The Task Force recommends that the General Assembly create a civil private right of action for elder abuse or exploitation, such as the one recognized in House Bill 2057 of 2014, Pr. No. 3054. An award of attorneys’ fees or other sanctions may also be appropriate for the frivolous pursuit of causes of action alleging financial abuse or exploitation. See *Elder Abuse and Neglect Committee Report, §III.C.3.a. (Page 213).*

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

Information on the initial implementation of this recommendation can be found in the [First Progress](#)

Report.

During the 2019-20 legislative session, the bill was reintroduced as House Bill 398. The bill did not advance before the legislative session ended.

The legislature is currently in the 2021-22 legislative session. Representative Gary Day has introduced the bill as House Bill 1430. The bill was amended and reported unanimously from the House Aging and Older Adult Services Committee. Important changes were made by the Committee's amendment, including modification of the definition of financial exploitation and removal of the provisions providing for immunity for financial advisors who make reports to law enforcement or government agencies.

RECOMMENDATION 111: The Task Force recommends that Clerks of the Orphans' Court become employees of the Unified Judicial System of Pennsylvania. See *Overarching Administrative Findings and Recommendations, §III.C.1. (Page 223).*

THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN DEFERRED

RECOMMENDATION 112: The Task Force recommends that the General Assembly – in the interest of all Pennsylvanians – provide an annual appropriation to the Supreme Court for the implementation and ongoing support of the initiatives in this Report and explore other available sources of funding, such as the state lottery. See *Overarching Administrative Findings and Recommendations, §IX.C.1. (Page 229).*

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#). However, additional legislative funds and funding sources are always needed.

RECOMMENDATION 113: The Task Force recommends that decisions whether to require a bond when a guardian of the estate is appointed remain at the discretion of the court. See *Guardians and Counsel Committee Report, §V.C.1.c. (Page 46).*

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

Senate Bill 117 has been reintroduced in subsequent legislative sessions since 2013. Although the bill number has changed each session, the content of the bill has not. The GCMC examined provisions governing bonding which were contained in Senate Bill 117.

The bill sought to add a new provision, Section 5515.3 governing bonds, and establish a general rule that guardians must execute and file bonds with sufficient surety in amounts considered by the court as necessary. Exceptions to the bonding requirement were prescribed, and courts would have the discretion to not require bonds for cause shown.

The Advisory Council was unable to recommend the new section without clarification as to what factors the courts should consider regarding "cause shown" and whether such determinations are appealable. The legislature did not further amend the provision to clarify the term "cause shown." The 2017-18 legislative session expired before the bill was considered further.

During the 2019-20 legislative session and after the retirement of Senator Stewart Greenleaf, Senator Art Haywood introduced the legislation as Senate Bill 23. The bill was again not considered during the legislative session. The legislature is currently in the 2021-22 legislative session. To date, the comprehensive legislation of past sessions has not been introduced.

An ongoing priority of the GCMC has been improving the posting of adequate security by guardians with responsibility for the financial assets of an IP. The GCMC has been researching whether to recommend or require that an adequate bond be posted in cases when the IP's assets are over \$10,000.

RECOMMENDATIONS TO THE EXECUTIVE BRANCH

RECOMMENDATION 114: The Task Force recommends that, to the greatest extent possible, information on identifying elder abuse and neglect be disseminated to the public in public forums, through the distribution of literature, and online. Elder Abuse Task Forces should determine the most effective ways of relaying this information to their communities. See *Elder Abuse and Neglect Committee Report, §II.C.6. (Page 201)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

While the implementation of this recommendation has been accomplished, work is ongoing.

Since 2019, the OEJC has collaborated with the AOPC's Communications Department (Communications) to raise public awareness about elder abuse, neglect and exploitation. Each year on June 15, in recognition of World Elder Abuse Day, graphics with content about how to report elder abuse and the Pennsylvania courts' efforts to protect vulnerable adults have been posted online through the Unified Judicial System's Facebook and Twitter accounts.

Given the Covid-19 pandemic, the EANC has been considering ways to increase public awareness about elder abuse and financial exploitation in a virtual setting. In the spring of 2021, under the leadership of Administrative Judge Sheila A. Woods-Skipper, and with interagency collaboration, two one-hour, virtual "town hall" sessions that focused on the prevention of and response to elder abuse were developed. The partners (and panelists) in the collaborative effort were the Department of Aging, the OAG, the Pennsylvania Department of Banking and Securities and SeniorLAW Center. The OEJC and Communications handled the logistics and hosting of the sessions.

The first town hall session, *Understanding and Identifying Elder Abuse*, was presented on June 16. The second town hall session, *Preventing and Responding to Financial Exploitation*, was presented on June 23. Attendees participated virtually by WebEx, YouTube and Facebook. Telephone access was provided for those who did not have internet access.

Attendees heard from victims and the panelists about their experiences with elder abuse and financial exploitation, what Pennsylvania's courts and justice partners have been doing to address these issues, how to recognize elder abuse and financial exploitation, what to do/where to report if suspected, and investigation of and remedies for financial exploitation. Questions were taken at the end of each town hall, and attendees were provided with a list of resources. The town hall sessions were subsequently broadcast on the Pennsylvania Cable Network.

RECOMMENDATION 115: The Task Force recommends that the Pennsylvania Department of Aging determine if it should request copies of SARs [Suspicious Activity Reports] from the

Pennsylvania Attorney General's Office. See *Elder Abuse and Neglect Committee Report, §I.C.2.a.iv. (Page 196).*

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

On July 31, 2019, Governor Tom Wolf issued Executive Order 2019-05, which established the Office of Advocacy and Reform and a Council on Reform. Secretary of Aging Robert Torres served as a member of the Council on Reform.

Among other things, the Order directed the Department of Aging to update and disseminate the OAPSA's mandatory reporting training to mandatory reporters. The Office of Advocacy and Reform was required to conduct a study on the types of financial exploitation that had been perpetrated and the fiscal impacts the losses had on the victims, the economy, and the state.

In September 2020, the Department of Aging released the [*Financial Exploitation of Older Adults Study Report*](#) that reviewed 455 financial exploitation cases involving elders in 14 Pennsylvania counties. In the 315 substantiated financial exploitation cases, the average loss was \$39,395. Based on that loss and the 1,488 substantiated financial exploitation cases statewide, the study extrapolated that elders in the Commonwealth had a collective estimated loss of \$58 million during fiscal year 2017-18.

Among the Study's recommendations for the prevention of future financial exploitation in Pennsylvania was the formation of an interdisciplinary Financial Exploitation Task Force, which met from December 2020 through April 2021. Representatives from government agencies, the financial sector, law enforcement, elder law firms, and others were included. Due to the collaborative efforts of this group, communications and the sharing of information regarding financial exploitation concerns have increased between financial institutions and the Area Agencies on Aging.

In June 2021, the Financial Exploitation Task Force issued the [*Financial Exploitation of Older Adults Task Force Report*](#), which contained recommendations for specific actions that could be taken in four category areas – education, training, operations, and procedures - to help prevent elders from being financially exploited.

RECOMMENDATION 116: The Task Force recommends that the Department of Aging and financial institutions work together to determine the most effective and efficient way for AAAs to obtain financial records needed to conduct investigations of alleged financial abuse and exploitation. See *Elder Abuse and Neglect Committee Report, §I.C.2.c.ii. (Page 196).*

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

See [*Recommendation 115*](#). The development of formal relationships between the Area Agencies on Aging and financial institutions was recommended in the June 2021 [*Financial Exploitation of Older Adults Task Force Report*](#).

RECOMMENDATION 117: The Task Force recommends that the OAG and the PSP [Pennsylvania State Police] make financial investigators available to assist local prosecutors and AAAs when complex cases of elder financial abuse are alleged. See *Elder Abuse and Neglect Committee Report, §I.C.2.c.i. (Page 196).*

THE IMPLEMENTATION OF THIS RECOMMENDATION IS TO BE CONSIDERED

RECOMMENDATION 118: The Task Force recommends that the DHS [Department of Human Services] be encouraged to pay guardians who find alternatives to an IP's placement in a nursing home where the total cost to DHS for community-based services is 50% or less of the cost of a nursing home placement. This may be accomplished by amending the home and community-based waiver to allow guardianship support to be billable as a waiver service, either as part of an existing service category or as a new waiver service category. Such services would be reimbursed based on the guardian's direct time working with and on behalf of the IP. See *Overarching Administrative Findings and Recommendations, §VII.C. (Page 226)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

In 2018, the GCMC began to study fees for guardians for the services they provide to IPs and to discuss the implications of amending the home and community-based waiver to allow guardianship support to be billable as a waiver service.

In 2019, the Advisory Council sent a letter to the secretary of DHS that requested DHS consider increasing the allowable amount of the fees for guardian services provided for IPs who receive long-term care medical assistance grants. The letter also requested that the services of guardians who assist individuals maintained in their own homes in the community with support of Community Health Choices be an allowable expense under these grants. DHS subsequently requested data on guardianships from the GTS from the OEJC.

In the 2021-22 legislative session, Representative Gary Day introduced legislation to increase the reimbursement rate under the medical assistance program for a guardian of an older adult from \$100 to \$300. The legislation – House Bill 1356 – would require DHS to seek the necessary authorization to raise the rate from the Centers for Medicare and Medicaid Services of the U.S. Department of Health.

The bill was the subject of a public hearing on October 26, 2021, during which Administrative Judge Lois E. Murphy and Pamela Walz, Esquire, provided testimony in support of the concept of raising the reimbursement rate. Earlier in the session, Representative Melissa Shusterman introduced House Resolution 47, which urges DHS to increase the fee paid to guardians of IPs.

RECOMMENDATION 119: The Task Force recommends that DHS' policy be changed to allow the Orphans' Court to authorize payment of guardianship fees greater than \$100 per month where the court determines greater fees are necessary because of the amount of the guardian's time required to monitor and advocate for the incapacitated nursing home resident's needs. See *Overarching Administrative Findings and Recommendations, §VI.C. (Page 225)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

In 2018, the GCMC began to study fees for guardians for the services they provide to IPs, including the implications of increasing those fees higher than the current \$100 per month.

See [Recommendation 118](#).

RECOMMENDATIONS TO THE FEDERAL GOVERNMENT

RECOMMENDATION 120: The Task Force recommends that the U.S. Congress act on the March 31, 2014 and April 11, 2014 requests made by U.S. Senators and U.S. Representatives

to raise the 2015 VOCA [Victims of Crime] cap. See *Overarching Administrative Findings and Recommendations, §X.C.1. (Page 231).*

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

The federal Office for Victims of Crime administers the Crime Victims Fund, which was established under the 1984 Victims of Crime Act (VOCA) to help victims and victim service providers with program funding. The Crime Victims Fund helps an average of 3.7 million victims of all types of crime annually. From 2014 through 2018, Congress generally raised the VOCA cap (the appropriations level of the Crime Victims Fund) upwards. The cap was more than \$4.4 billion in fiscal year 2018.

The VOCA cap was \$3.353 billion in fiscal year 2019, \$2.641 billion in fiscal year 2020, and \$2.015 billion in fiscal year 2021.

RECOMMENDATION 121: The Task Force recommends that the federal government act on proposed legislation that would fund a state GCIP [Guardianship Court Improvement Program] similar to the CIP [Court Improvement Program]. See *Overarching Administrative Findings and Recommendations, §X.C.2. (Page 231).*

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

In December 2016, the Conference of Chief Justices, Conference of State Court Administrators, and the National Center for State Courts' Center for Elders and the Courts adopted an "Adult Guardianship Initiative-Strategic Action Plan 2016," in which the creation of a GCIP was proposed. This proposal is based on the CIP, which is a model for federal support of court-community collaboration in the child welfare arena. The GCIP would support the creation and assessment of pilot projects for the sole purpose of making improvements in state court handling of adult guardianship proceedings. Program funds could be used to conduct assessments and identify problems in the way adult guardianships work in the jurisdiction, develop strategies for addressing those identified problems, and implement system improvements. Funds could also be used to establish guardianship offices in the administrative offices of the state courts. The Center for Elders and the Courts provided the proposed Adult Guardianship Initiative-Strategic Action Plan 2016 to the staff of the United States Senate and other federal agencies for their consideration.

In June 2018, Maine Senator Susan M. Collins, Chairman, and Pennsylvania Senator Robert P. Casey, Jr., Ranking Member, of the U.S. Senate Special Committee on Aging, requested the input of the Advisory Council (among other stakeholders nationally) regarding four topics relating to guardianship: the collection of guardianship data, actions to ensure persons under guardianship are protected from abuse and exploitation by their guardians, the termination of guardianships, and best practices for guardianship reform. In July 2018, Judge Paula Francisco Ott sent a letter to the Special Committee, responding to its request on behalf of the Advisory Council. In addition to addressing the four topics, the letter included a list of ten policy options, recommendations, potential model programs to improve guardianship practices and outcomes, and a description of the Montgomery County Court of Common Pleas' proposed Pilot Project for Excellence in Adult Guardianship Proceedings.

Efforts are continuing to encourage the federal government to act on proposed legislation that would fund a GCIP. In 2020, the ABA adopted Resolution 105, which "Urges Congress to create and fund a Guardianship Court Improvement Program for adult guardianship (following the model of the State Court Improvement Program for child welfare agencies created in 1993) to support state court efforts to improve the legal process in the adult guardianship system, improve outcomes for adults subject to or potentially

subject to guardianship, increase the use of less restrictive options than guardianship, and enhance collaboration among courts, the legal system, and the aging and disability networks.” (Resolution 105).

In May 2021, the Fourth National Guardianship Summit was convened to “...discuss the current state of the nation’s adult guardianship system and develop recommendations for reform and improvement around the theme of maximizing autonomy and ensuring accountability.” ([Recommendations Adopted by Summit Delegates](#).) Administrative Judge Lois E. Murphy and Karen Buck, Esquire, were delegates to the Summit.

The Summit’s delegates adopted six multi-part recommendations, among them a call to Congress to establish a GCIP that should include, among other things, funding to be provided to the states’ highest courts, inter-agency and multi-disciplinary collaboration among guardianship stakeholders, and the creation of a “national, non-profit capacity-building and/or resource center with appropriate expertise to provide training, technical assistance, and collaborative learning opportunities to participating courts and to coordinate national efforts.” (Recommendations Adopted by Summit Delegates.)

On October 1, 2021, as part of the record for the U.S. Senate Judiciary’s Subcommittee on the Constitution’s hearing on “Toxic Conservatorships: The Need for Reform,” the National Academy of Elder Law Attorneys submitted a statement urging Congress to authorize and fund a GCIP. (NAELA Article 10/1/2021).

RECOMMENDATIONS TO PROSECUTORS

RECOMMENDATION 122: The Task Force recommends that prosecutors utilize 42 Pa.C.S. § 9728(e) and (f) to the fullest extent to help ensure funds and assets are available to satisfy anticipated restitution orders in appropriate cases, and that educational initiatives be undertaken to ensure district attorneys and Common Pleas Judges are aware of this mechanism for freezing assets. See *Elder Abuse and Neglect Committee Report*, §I.C.2.d. (Page 196).

and

RECOMMENDATION 123: The Task Force recommends that educational efforts be undertaken to ensure prosecutors are aware of Pa.R.Crim.P. 500, and its implications for preserving testimony of elders in appropriate cases. See *Elder Abuse and Neglect Committee Report*, §III.C.2.b. (Page 212).

THE IMPLEMENTATION OF THESE RECOMMENDATIONS IS IN PROGRESS
--

In the fall of 2019, the Advisory Council was in the process of assisting with training topics to be presented at a future conference of the Pennsylvania Association of District Attorneys (PDAA). President Judge George N. Zanic and District Attorney Eugene A. Vittone II, communicated with PDAA regarding trainings. Due to the ongoing Covid-19 pandemic, further discussions have been on hold.

RECOMMENDATION 124: The Task Force recommends that district attorneys consider requiring municipal police departments to obtain their approval before filing criminal charges in certain cases involving victims over age 60. See *Elder Abuse and Neglect Committee Report*, §III.C.2.c. (Page 212).

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

RECOMMENDATIONS TO VICTIM SERVICES PROVIDERS

RECOMMENDATION 125: The Task Force recommends that advocates, attorneys, law enforcement, and courts work collaboratively with the Office of Victim Services, Office of Victim Advocates and other victim service providers to continue to evaluate and improve services to elder crime victims. See *Elder Abuse and Neglect Committee Report, §III.C.2.d. (Page 213.)*

THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

In November 2019, funding from the AOPC's STOP Violence Against Women grant afforded five Pennsylvania judges the opportunity to attend the National Judicial Institute on Domestic Violence's workshop, *Enhancing Judicial Skills in Elder Abuse Cases*. President Judge George N. Zanic and Administrative Judge Sheila A. Woods-Skipper participated from the Advisory Council.

In 2021, the OEJC was provided with STOP grant funding to print and distribute the enhanced Elder Abuse Bench Card and to cover the expenses for all presentations of the magisterial district judge educational program, *In Your Court: Identifying Elder Abuse and Financial Exploitation*. The Elder Abuse Bench Card was provided to all common pleas judges in December, and will be provided to magisterial district judges in 2022. The educational program will be presented during the Minor Judiciary Education Board's "school" for newly elected magisterial district judges and the 13-week continuing education session for magisterial district judges.

RECOMMENDATIONS TO BAR ASSOCIATIONS

RECOMMENDATION 126: The Task Force recommends that discussions among attorneys and judges to better define the roles of counsel in guardianship matters be encouraged, and involve the participation of the PBA and local bar associations. See *Guardians and Counsel Committee Report, §VIII.C.1.a. (Page 51).*

and

RECOMMENDATION 127: The Task Force recommends that the PBA and local bar associations be involved in providing support, advice and ethical counsel for attorneys willing to assume any of the roles of counsel in a guardianship matter. See *Guardians and Counsel Committee Report, §VIII.C.1.c. (Page 51).*

√ THE IMPLEMENTATION OF THESE RECOMMENDATIONS HAS BEEN ACCOMPLISHED

Information on the implementation of these recommendations can be found in the [First Progress Report](#).

While the implementation of these recommendations has been accomplished, work is ongoing.

In March 2019, Justice Debra Todd and Zygmunt Pines, Esquire met with the Pennsylvania Bar

Association’s Executive Director, Barry M. Simpson, Esquire, President Charles Eppolito III, Esquire and incoming President Anne N. John, Esquire, to formalize a relationship with the Association and discuss collaboration on the Task Force’s initiatives. A standing membership on the Advisory Council was created for the president of the Pennsylvania Bar Association (or the president’s designee). PBA President Anne N. John, Esquire, joined the Advisory Council as the Pennsylvania Bar Association’s representative.

RECOMMENDATION 128: The Task Force recommends that, where appropriate, the PBA, the Pennsylvania Bar Institute, and local bar associations, working with the OEJC, develop training sessions as recommended in this Report. See *Guardians and Counsel Committee Report*, §X.C.1.a. (Page 55) and §X.C.1.i. (Page 56).

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Information on the implementation of this recommendation can be found in the [First Progress Report](#).

While the implementation of this recommendation has been accomplished, work is ongoing.

From 2019 through 2021, members of the Advisory Council continued to participate in training programs with the Pennsylvania Bar Institute and local bar associations. A list of training programs and educational presentations made by Advisory Council members may be found in Appendix B.

RECOMMENDATIONS TO THE PUBLIC

RECOMMENDATION 129: The Task Force recommends that Pennsylvanians who believe an elder displays the warning signs of mistreatment should report such symptoms by calling either of the state’s two Elder Abuse Hotlines.

Statewide Elder Abuse Hotline: 1-800-490-8505

Office of Attorney General Elder Abuse Hotline: 1-866-623-2137
[renamed “*Elder Protection Helpline*” in 2017]

Abuse reports can be made on behalf of an older adult who lives in his or her home or in a care facility (e.g., nursing facility, personal care home, hospital, etc.). A caller may remain anonymous, and has legal protection from retaliation, discrimination and civil or criminal prosecution. See *Overarching Administrative Findings and Recommendations*, §XI.C.1. (Page 232).

and

RECOMMENDATION 130: The Task Force recommends that everyone learn the signs that indicate elder abuse, and take steps to prevent it. See *Overarching Administrative Findings and Recommendations*, §XI.C.2. (Page 232).

√ THE IMPLEMENTATION OF THESE RECOMMENDATIONS HAS BEEN ACCOMPLISHED

Information on the implementation of these recommendations can be found in the [First Progress Report](#).

While the implementation of these recommendations has been accomplished, work is ongoing.

In 2019, a new web page called “Elder Justice in the Courts” was posted on the Unified Judicial System’s website. The web page consolidated information and resources regarding Pennsylvania courts’ work on elder justice issues, elder abuse, guardianship, and GTS.

Since 2019, the OEJC has collaborated with Communications to raise public awareness about elder abuse, neglect, and exploitation. Each year on June 15, in recognition of World Elder Abuse Day, graphics with content about how to report elder abuse and the Pennsylvania courts’ efforts to protect vulnerable adults have been posted online through the Unified Judicial System’s Facebook and Twitter accounts.

In light of the Covid-19 pandemic, the EANC considered ways to increase public awareness about elder abuse and financial exploitation in a virtual setting. In the spring of 2021, under the leadership of Administrative Judge Sheila A. Woods-Skipper, and with interagency collaboration, two one-hour, virtual “town hall” sessions focused on the prevention of and response to elder abuse. The partners (and panelists) in the collaborative effort were the Department of Aging, the OAG, the Pennsylvania Department of Banking and Securities, and SeniorLAW Center. The OEJC and Communications handled the logistics and hosting of the sessions.

The first town hall session, *Understanding and Identifying Elder Abuse*, was presented on June 16, 2021. The second town hall session, *Preventing and Responding to Financial Exploitation*, was presented on June 23, 2021. Attendees participated virtually by WebEx, YouTube, and Facebook. Telephone access was provided for those who did not have internet access.

Attendees heard from victims and the panelists about their experiences with elder abuse and financial exploitation, what Pennsylvania’s courts and justice partners have been doing to address these issues, how to recognize elder abuse and financial exploitation, and what to do/where to report if they are suspected, and investigation of and remedies for financial exploitation. Questions were taken at the end of each town hall, and attendees were provided with a list of resources. The town hall sessions were subsequently broadcast on the Pennsylvania Cable Network.

NEW PROJECTS/INITIATIVES OF THE ADVISORY COUNCIL

ADVISORY COUNCIL'S RESPONSE TO THE COVID-19 PANDEMIC

Access to Justice for Elders During the Covid-19 (Coronavirus) Pandemic

Since the Advisory Council published its [First Progress Report](#), no event has had as significant an impact on the judiciary as the Covid-19 pandemic. As Governor Tom Wolf was preparing to order the closure of all non-life sustaining business due to the public health emergency, the Supreme Court issued an order on March 16, 2020, authorizing the president judge in each county to declare a local judicial emergency to protect the health and safety of court personnel and the public. Subsequent orders directed that all courts should generally be open to conduct business with limited in-person access and proceedings. Most judicial districts operated under an emergency declaration from March 2020 through July 6, 2021, at which time they returned to pre-pandemic operating status by order of the Supreme Court.

Shortly after courthouses throughout the Commonwealth either ceased or limited their in-person operations, the Advisory Council recognized the need to promptly address the extraordinary challenges created by the Covid-19 pandemic that were severely impacting vulnerable older Pennsylvanians and their access to justice. The medical community had declared that older adults were among those most at risk for serious illness or death from the Coronavirus, and there were reported shortages of personal protective equipment. Many elders had no idea how to access the courts during the closures and were concerned about their safety in public places such as courthouses.



In April 2020, the OEJC and the Department of Aging issued a joint press release to ensure that the Commonwealth's elders knew that the courts remained open for immediate legal protection, including temporary PFA actions, guardianship representation, and any pleadings or motions relating to public health concerns or involving immediate and irreparable harm. Information was also provided about organizations available to help with legal assistance and the statewide Elder Abuse Reporting Hotline. Later that month, Justice Debra Todd participated in a television interview on the combined efforts of the Supreme Court, the OEJC, and the Department of Aging to reassure elders that the Courts were available to them during the Covid-19 emergency.

In November 2020, the Advisory Council issued a public statement in support of the report, *Immediate Actions Pennsylvania Must Take to Address the COVID-19 Crisis in Long-Term Care Facilities*. The report was issued by the PA Advocates for Improved COVID-19 Response in Long-Term Care Facilities, a coalition of advocates for older persons and persons with disabilities.

Advanced Communication Technology

In April 2020, the Advisory Council determined the increased use of advanced communication technology (ACT) would allow homebound elders and long-term care residents who required access to essential court services and who had internet access to fully participate in court proceedings from a safe environment.

ACT is defined as “any communication equipment that is used as a link between parties in physically separate locations, and includes, but is not limited to: systems providing for two-way simultaneous communication of image and sound; closed-circuit television; telephone and facsimile equipment; and electronic mail” (Rule 103 of the Pennsylvania Rules of Criminal Procedure).

The Advisory Council had followed the progress of orphans' courts that had been using Zoom, WebEx and other video technologies to conduct virtual guardianship hearings and other matters. Judges, attorneys, guardians, elders and their family members reported that their experience with ACT was uniformly favorable. Some judges stated that virtual proceedings engendered more participation from family members and intellectually disabled people and affected the representation of IPs positively.

In consultation with Court Administrator of Pennsylvania, Geoff Moulton, the Advisory Council discussed how the use of ACT could be made more effective and permanent post-pandemic, and that some proceedings being relied on during the Covid-19 pandemic may not be able to be conducted remotely under the Orphans' Court Rules. Administrative Judge Lois E. Murphy contacted the OCPRC regarding the continued use of ACT following the termination of judicial emergencies and proposed that the committee adopt a rule providing that judges have the discretion to conduct remote proceedings or let some parties participate virtually.

As part of its efforts to encourage the continued use of ACT post-pandemic, in the fall of 2020, the Advisory Council made outreach to the PBA's Joint Task Force on the Continuity of Delivery of Legal Services. The Joint Task Force was addressing the disruption in legal services caused by the pandemic; examining the challenges faced by courts, government offices and law firms; and updating processes and technologies to enable the legal system to continue to operate under emergencies similar to the pandemic. ([PBA Joint Task Force Report](#), pages 1-3). Anne N. John, Esquire, and Karen Buck, Esquire, outlined the obstacles and challenges faced by older adults that were amplified by the Covid-19 pandemic, including how to assist elders who do not have internet access.

President Judge George N. Zanic and Administrative Judge Lois E. Murphy were asked to serve as members of the AOPC/Pennsylvania Conference of State Trial Court Judges' Remote Proceedings Task Force on Continued Use of ACT Following the Termination of Judicial Emergencies. The Remote Proceedings Task Force's mission was to gather information, share best practices and lessons learned

regarding the use of ACT, and identify and make recommendations to the Supreme Court concerning procedural rule changes that may be necessary or desirable to facilitate certain remote court proceedings once the local judicial emergencies ended. ([Remote Proceedings Task Force Report](#), pages 1-2).

In December 2021, the OCPRC published proposed new Orphans' Court Rule 1.20 governing the use of ACT. The new rule incorporates a definition of ACT, and delegates rule-making authority relative to the use of ACT to the judicial districts in the form of local rules. Public comments on the new rule proposal were received and the OCPRC (along with other committees) submitted a recommendation to the Supreme Court in April 2022.

Concurrent with the Advisory Council's efforts regarding ACT, Department of Aging Secretary Robert Torres was working with AARP and the Pennsylvania Association of Area Agencies on Aging on an initiative to provide electronic devices to nursing home residents for virtual visitation with families and others. Within two months, 107 cell phones and 6 tablets were provided to facilities in 12 counties.

Resources for Courts, Guardians and the Public During the Covid-19 Pandemic

Immediately after the Supreme Court issued its March 16, 2020 order authorizing president judges to declare a local judicial emergency and courts ceased or limited their in-person operations, the Unified Judicial System began providing updates on its website about the statewide court response to the Covid-19 pandemic's effect on court operations and proceedings. The Advisory Council and OEJC posted resource information for the public regarding elders on the "Frequently Asked Questions" page.

In May 2020, the OEJC provided all president judges, district court administrators, clerks of the orphans' courts, and guardians with information and resources for guardians to help them carry out their duties during the pandemic. The OEJC also reminded guardians that their guardianship reports were still due and that they still had a duty to maintain contact with the IP during the pandemic.

In March 2021, the OEJC sent information about frequently asked questions regarding the Covid-19 vaccine to guardians of IPs in nursing homes.

RESOURCE GUIDES FOR HEALTH CARE PROVIDERS AND FINANCIAL INSTITUTIONS REGARDING POWERS OF ATTORNEY AND GUARDIANSHIP ORDERS

The Advisory Council recognizes that frontline, non-legal staff in the health care and financial sectors are often presented with legal documents such as powers of attorney and guardianship orders. Such documents may create confusion at, for example, a nurses' station or bank teller's window, when frontline staff address requests made by guardians and persons designated as having power of attorney. These document holders may receive delayed access to an IP's health care and/or financial information if a legal document is interpreted incorrectly or if a request is denied by frontline staff.

In November 2019, in an effort to eliminate confusion on the part of frontline staff and help reduce occurrences of elder abuse and financial exploitation, the Advisory Council and OEJC partnered with representatives from the health care and financial sectors to create a *Resource Guide for Health Care Providers*, a *Resource Guide for Financial Institutions Regarding Powers of Attorney (POA) and Guardianship Orders*, and *Definitions for Resource Guides for Financial Institutions and Health Care Providers*. The resource guides are intended to help frontline staff identify when to escalate a document holder's request involving a guardianship order or power of attorney to their institution's legal department.

The collaborative effort was led by Anne John, Esquire, Dr. Bruce M. Bushwick and Administrative Judge Lois E. Murphy. Representatives from the PBA's Health Law Committee, Pennsylvania Guardianship Services, LLC, the Pennsylvania Medical Society and Guardian ElderCare created the health care resource guide. Representatives from the Pennsylvania Department of Banking and Securities' Financial Services for Consumers and Businesses Office and Investor Education and Consumer Outreach Office, the PA Bankers Association, PNC Bank, the PBA's Probate Division's Real Property Probate and Trust Section and Pennsylvania Guardianship Services, LLC created the financial institution guide. All representatives created the definitions list that is a supplement to both resource guides. The AOPC's Legal Department provided guidance on the production of the resource guides.

Work on the resource guides continued throughout 2020 and 2021. In December 2021, the *Resource Guide for Health Care Providers* and *Definitions for Resource Guides for Financial Institutions and Health Care Providers* were published and distributed. Work on the *Resource Guide for Financial Institutions Regarding Powers of Attorney (POA) and Guardianship Orders* is almost complete, and approval/publication are expected in early 2022.

LESS RESTRICTIVE ALTERNATIVES TO GUARDIANSHIP

Although the [Pennsylvania Guardianship Bench Book](#) includes best practices regarding the use and effectiveness of limited guardianships, over the last two years, the GCMC has been examining less restrictive alternatives to guardianship. Such alternatives include supported decision-making, advance directives, powers of attorney, and formal and informal services, all of which further an IP's greater self-determination.

In 2020, Administrative Judge Lois E. Murphy, Karen C. Buck, Esquire, and Pamela Walz, Esquire, met with advocacy groups to discuss what supported decision-making might look like in Pennsylvania. "Supported decision-making describes the process by which most individuals make decisions - by consulting with friends, family, social services, community organizations, and/or other sources of support to weigh the pros and cons of a decision, review potential outcomes, and finally make a choice. The practice of supported decision-making takes many forms - from recognition of organic decision-making networks to formal, written supported decision-making agreements." (American Bar Association's website).

Several presentations on alternatives to guardianship and supported decision-making have been made by Advisory Council members. On March 5, 2020, Administrative Judge Lois E. Murphy and Karen C. Buck, Esquire, were members of a panel on supported decision-making at the University of Pennsylvania's Institute on Aging. On July 17, 2020, Administrative Judge Lois E. Murphy and Pamela Walz, Esquire, presented on alternatives to guardianship as part of a Pennsylvania Bar Institute webinar.

In 2021, members of the GCMC continued to meet with advocacy groups regarding supported decision-making and to plan a presentation to the Advisory Council on the topic. In May 2021, Administrative Judge Lois E. Murphy and Karen C. Buck, Esquire, were invited to serve as delegates to the Fourth National Guardianship Summit: *Maximizing Autonomy and Ensuring Accountability*, organized by the National Guardianship Network and hosted by Syracuse University's College of Law. One hundred twenty-five guardianship stakeholders, among them judges, family guardians, attorneys and advocates, gathered virtually to discuss the current state of the adult guardianship system in the U.S. and make recommendations for its reform and improvement.

At the conclusion of the Summit, the delegates adopted [22 recommendations](#), including the elimination of plenary guardianships (and, if a guardianship is imposed, require tailored guardianship orders in all cases) (Recommendation 3.2), and that statutes, court rules, policies and processes in every state should require courts to consider supported decision-making as one of the alternatives to guardianship at appointment and periodically thereafter (Recommendation 2.3).

Since the Summit, the GCMC has been working on the creation of optional forms for final decrees to increase the efficacy of limited guardianship. Work is also underway to write and publish an article on supported decision-making, plan an educational presentation to the legislature about alternatives to guardianship and encourage modifications to guardianship training provided to *pro bono* attorneys to include alternatives to guardianship.



LEGAL SERVICES FOR GRANDPARENTS

In 2019, Secretary Robert Torres and Karen C. Buck, Esquire, worked with a group of statewide agencies to assess what services are available for grandparents who are raising grandchildren and how to enhance them. At the request of Secretary Torres, Senior Judge Paula Francisco Ott participated in the May 16 Grandfamilies Work Group Meeting.

In 2020, the Department of Aging worked on a proposal to increase funding and reimbursements for grandparents, and SeniorLAW Center was awarded a federal grant to enhance legal services for grandparents, including sharing information about available legal access. In 2021, SeniorLAW Center was awarded another federal grant to further enhance legal services for grandparents and education about their rights, access to justice and legal issues. An update on the work of that grant is scheduled for the March 2022 meeting of the Advisory Council.



ACCESS TO JUSTICE FOR VETERANS

According to the VA, almost half of veterans are age 65 and over (VA website). In 2019, the director of the *Pro Bono* Program of the Lawyers Serving Warriors Project presented to the Advisory Council on serving the legal needs of older veterans and the need to increase awareness among veterans regarding legal services that are available to them. To raise awareness about legal services for veterans, the Advisory Council determined it would be beneficial to provide information about the Lawyers Serving Warriors Project and similar organizations to the Commonwealth's 25 veterans treatment courts. These courts assist veterans charged with crimes who are struggling with addiction, mental illness or co-occurring disorders and who come in contact with the criminal justice system.

The OEJC, working with Advisory Council members, compiled an extensive list of legal services programs and organizations for veterans and provided it to the AOPC's problem-solving courts administrator for distribution to the coordinators of veterans treatment courts.

U.S./U.K. ELDER JUSTICE RESEARCH COLLABORATION

The OEJC and members of the Advisory Council on Elder Justice in the Courts hosted scholar and magistrate Dr. Hannah Bows on July 16 and 17, 2019, in Philadelphia and Harrisburg. Dr. Bows is an Assistant Professor in Criminal Law at Durham Law School in the United Kingdom, Deputy Director of the Centre for Research into Violence and Abuse, and Co-Director of the Centre for Criminal Law and Criminal Justice who researches violence and abuse against elders. She requested to visit Pennsylvania and other states to understand how the U.S. responds to abuse and crimes against elders. Dr. Bows met with Senior Judge Paula Francisco Ott, Administrative Judge Sheila A. Woods-Skipper, Zygmunt A. Pines, Esquire, Karen Buck, Esquire, and Diane Menio in Philadelphia, and with Cherstin Hamel, Damian Wachter, Esquire, Representative Thomas Murt, Rev. Ronald W. Costen, Ph.D., Esquire, and Erin Raub in Harrisburg.

NEW LEGISLATIVE INITIATIVES SUPPORTED BY THE ADVISORY COUNCIL

CRIMINALIZING THE POSTING OF AUDIO, VIDEO OR STILL IMAGES OF CARE-DEPENDENT PERSONS ON SOCIAL MEDIA WITH THE INTENT TO RIDICULE OR DEMEAN

The OEJC's director suggested to the Advisory Council that the posting of photographs, audio or video of care-dependent persons is abusive, and that the enactment of legislation should be considered. The Advisory Council agreed and called attention to the social media abuse of care-dependent persons to the legislature through AOPC's Legislative Affairs Department (Legislative Affairs).

During the 2019 - 20 legislative session, House Bill 400 was introduced by Representative Kate Klunk. The Advisory Council was involved in developing and providing feedback and policy guidance on the drafting of the legislation. The bill amends the current criminal offense of abuse of a care-dependent person to include the use of "any audio, video or still image of [a] care-dependent person in any format or medium, on or through any electronic service, wireless communication or any form of electronic service or wireless communication as pertaining to communication" with the intent to ridicule or demean. The bill grades the offense as a third-degree misdemeanor. The legislation passed the House unanimously, but no further action was taken in the Senate before the end of the session.

During the 2021-22 legislative session, House Bill 400 was reintroduced in identical form by Representative Kate Klunk as House Bill 1431. The bill passed the House 198-4, and the Senate 48-2, and was signed into law by Governor Tom Wolf on June 30, 2021, as [Act 49 of 2021](#).

CREATING AND DEFINING A NEW CRIMINAL OFFENSE: FINANCIAL EXPLOITATION OF ELDERLY OR CARE-DEPENDENT PERSONS

During the 2019-20 legislative session, House Bill 399 was introduced by Representative Lynda Culver. It was similar to language in House Bill 2581 of the 2017-18 session. The legislation sought to create and define the offense of financial exploitation of elderly or care-dependent persons. The bill defined financial exploitation as:

The wrongful or unauthorized taking or attempt to take by withholding, appropriating, concealing or using the money, assets or property of an older adult or care-dependent person, including any act or omission taken by a person, including through the use of a power of attorney, guardian, custodian, trustee, personal representative, or conservator of an older adult or care-dependent person or by an individual who stands in a position of trust and confidence with an older adult or care-dependent person, including business transactions to:

- (1) Obtain or attempt to obtain control, through deception, intimidation, or undue influence, over the older adult's or care-dependent person's money, assets, or property to deprive the older adult or care-dependent person of the ownership, use, benefit or possession of the older adult's or care-dependent person's money, assets or property; or
- (2) convert or attempt to convert money, assets or property of the older adult or care-dependent person to deprive the older adult or care-dependent person of the ownership, use, benefit or possession of the older adult's or care-dependent person's money, assets or property.

The grading of the offense – ranging from a third-degree misdemeanor to a first-degree felony – was based on the amount involved. Additionally, the bill granted concurrent jurisdiction to the attorney general to investigate and institute criminal proceedings for violations of the new crime or related offenses. The bill also included provisions on venue and hearsay evidence in preliminary hearings.

The legislation was referred to the Aging and Older Adult Services Committee, and Legislative Affairs met with Committee staff regarding venue and hearsay evidence in preliminary hearings and provisions that were included in the bill, discussing among other issues the court's role in setting procedures to govern those matters. Representative Lynda Culver and staff were amenable to the suggestion that the venue and hearsay language be removed from the legislation.

During the 2021-22 legislative session, House Bill 1429 was introduced incorporating the language defining the offense and concurrent jurisdiction, but not the venue and hearsay language. The bill passed the House unanimously and passed the Senate 48-1. The bill was signed into law by Governor Tom Wolf on June 30, 2021, as [Act 48 of 2021](#).

APPOINTMENT OF COUNSEL IN GUARDIANSHIP PROCEEDINGS

Under Pennsylvania law and the United States Constitution, a court must appoint counsel to represent persons in certain court proceedings where individuals' constitutional rights are in jeopardy, such as the imposition of criminal penalties, termination of parental rights, and involuntary mental health commitment, among others. In adult guardianship proceedings, persons are at risk of losing all their fundamental constitutional rights to decision-making and autonomy concerning their finances and their residential and medical decisions. Thus, the lack of adequate representation in this area is a matter of significant concern.

Pennsylvania's guardianship statute contemplates a right to counsel but places the burden on the AIP to request counsel. As a practical matter, this means that in many cases the hearing date is at hand and the AIP is not represented. In some cases, such as when the person under guardianship resides in a state mental hospital, this right to counsel has been more clearly recognized and enforced. Pennsylvania's Orphans' Court Rules require that the court advise persons adjudicated to be incapacitated that they have a right to have counsel appointed for them, free of charge, for the filing of an appeal or motion for reconsideration, or for seeking to terminate or modify a guardianship.

The concept for the appointment of counsel in adult guardianship cases was laid out in a 2012 report of the Advisory Committee on Decedents' Estates Laws of the Joint State Government Commission.

Following from the report, Senator Stewart Greenleaf introduced legislation incorporating the numerous legislative recommendations made in the report. They included the appointment of counsel for the AIP in Senate Bill 1614 (2011-12 legislative session). The language amended 20 Pa.C.S. § 5511 regarding the appointment of counsel as follows:

(a.2) Appointment of counsel.

(1) If counsel has not been retained by or on behalf of the alleged incapacitated person, the petitioner under subsection (a) shall notify the court at least seven days prior to the hearing.

(2) The court shall appoint counsel to represent the alleged incapacitated person in any matter for which counsel has not been retained by or on behalf of the alleged incapacitated person:

(i) in appropriate cases as the court determines; and

(ii) in all cases in which the court knows in advance that the alleged incapacitated person is not expected to be present at the hearing, either in person or by videoconference.

The following year, Senator Greenleaf reintroduced the legislation as SB 117 (2013-14 legislative session). The Elder Law Task Force, in its 2014 Report and Recommendations, recommended that “the Orphans’ Court Procedural Rules be amended to require that in all cases where the AIP does not have private counsel, counsel should be appointed.” Rather than a rule mandating counsel’s appointment, the OCPRC favored a rule mirroring the statutory provision that counsel may be appointed if the court deems it appropriate. The revised rule went into effect on June 1, 2019.

Senator Greenleaf continued to introduce the bill every session through the 2017-2018 legislative session. In the 2019-20 legislative session, Senator Art Haywood took up the cause of the comprehensive bill, including the appointment of counsel provisions, in Senate Bill 23. It is expected Senator Art Haywood will again introduce the bill during the 2021-22 legislative session.

In November 2020, Legislative Affairs met with Representative Gary Day and Aging and Older Adult Services Committee staff to review the comprehensive Title 20 bill that had been introduced in multiple sessions. At the urging of the Advisory Council, discussions were held on the idea of decoupling some of the provisions from the larger bill into their own stand-alone bills, e.g., appointment of counsel. Legislative Affairs also communicated with the Joint State Government Commission, which was agreeable to the idea of a stand-alone bill requiring the appointment of counsel for AIPs in guardianship proceedings. Administrative Judge Lois E. Murphy offered that the GCMC could provide supporting materials regarding the rationale for right to counsel, and the difference it makes to appoint counsel in all cases.

The GCMC crafted a concept paper laying out the recommendation to make the appointment of counsel mandatory in guardianship cases, assuring that the due process rights of AIPs are protected as constitutionally required. The concept paper was shared with Representative Gary Day and the Advisory Council.

During the 2021-22 legislative session, Representative Gary Day introduced appointment of counsel legislation as House Bill 1928. A public hearing was held on the bill on October 26. Administrative Judge Lois E. Murphy and Pamela Walz, Esquire, testified as a part of a panel that included Community Legal Services, LeadingAge PA and retired judge and chair of the OCPRC, Emil A. Giordano, who testified as a private practitioner at the request of Representative Day. The Pennsylvania Association of Elder Law Attorneys submitted testimony for the record. The concept paper developed by the GCMC was provided to committee members. Senate Judiciary Chair Lisa Baker and Senator Art Haywood have circulated a co-sponsorship memo for legislation that would, among other things, require the appointment of counsel in these cases.

APPENDIX A

ABBREVIATIONS AND ACRONYMS

AAA	Area Agency on Aging
ABA	American Bar Association
ACT	Advanced Communication Technology
Advisory Council	Advisory Council on Elder Justice in the Courts
AIP	Alleged Incapacitated Person
AOPC	Administrative Office of Pennsylvania Courts
CARIE	Center for Advocacy for the Rights & Interests of the Elderly
CIP	Court Improvement Program
CLE	Continuing Legal Education
Communications	AOPC's Communications Department
CPCMS	Common Pleas Case Management System
Department of Aging	Pennsylvania Department of Aging
DHS	Pennsylvania Department of Human Services
EANC	Elder Abuse and Neglect Committee
EATF	Elder Abuse Task Force
ECR	Electronic Case Record Public Access Policy of the Unified Judicial System of Pennsylvania
E-File	Electronic Filing
EJRC	Elder Justice Resource Center
First Progress Report	First Progress Report on the Work of the Advisory Council on Elder Justice in the Courts
GCIP	Guardianship Court Improvement Program
GCMC	Guardianship Counsel and Monitoring Committee
GSA	Guardianship Support Agency
GTS	Guardianship Tracking System
GTS GC	Guardianship Tracking System Governance Committee
IOLTA	Interest on Lawyers Trust Accounts
IOLTA Board	Interest on Lawyers Trust Accounts Board

IP	Incapacitated Person
IT	AOPC's Information Technology Department
Legislative Affairs	AOPC's Legislative Affairs Department
LBFC	Legislative Budget and Finance Committee
NAPA	National Academy of Public Administration
OAG	Office of Attorney General
OAPSA	Older Adults Protective Services Act
OCPRC	Supreme Court Orphans' Court Procedural Rules Committee
OEJC	Office of Elder Justice in the Courts
Pa.C.S.	Pennsylvania Consolidated Statutes
Pa.R.O.C.P.	Pennsylvania Orphans' Court Rules
PDAA	Pennsylvania District Attorneys Association
PFA	Protection from Abuse Order
PFAD	Protection from Abuse Database
PSP	Pennsylvania State Police
Research	AOPC's Research and Statistics Department
SSA	United States Social Security Administration
Supreme Court	Supreme Court of Pennsylvania
Task Force	Elder Law Task Force
U.S. Attorney's Office	United States Attorney's Office
VA	United States Department of Veterans Affairs
VOCA	Victims of Crime Act

APPENDIX B

TRAINING PROGRAMS, EDUCATIONAL PRESENTATIONS AND ADDITIONAL ACTIVITIES OF MEMBERS OF THE ADVISORY COUNCIL IN SUPPORT OF IMPROVING THE LIVES OF PENNSYLVANIA'S ELDERS

Information on training programs and educational presentations from 2015 through 2018 can be found in the January 2015 through December 2018 Progress Report on the Work of the Advisory Council on Elder Justice in the Courts.

2019

February 22, 2019

**Widener Law Commonwealth
Harrisburg, PA
12th Annual Dean's Diversity Forum on Elder
Justice Work at the Civil Law Clinic**
Mary Catherine Scott, Esquire

March 5, 2019

**Drexel Law School
Philadelphia, PA
Drexel Law School Presentation**
Karen C. Buck, Esquire

March 19, 2019

**Philadelphia Bar Association
Philadelphia, PA
Delivery of Legal Services - Committee
Presentation**
Karen C. Buck, Esquire

April 11, 2019

**Dauphin County Area Agency on Aging's Elder
Task Force Meeting
Harrisburg, PA
Widener University Clinic's Representation
in the Area of Protective Services**
Mary Catherine Scott, Esquire

April 11, 2019

**Dispute Resolution Institute
Philadelphia, PA
Continuing Legal Education Course**
Karen C. Buck, Esquire

April 25, 2019

**Register of Wills and Clerk of Orphans' Court
Association Spring Conference
State College, PA
Update on the Work of the Advisory Council
on Elder Justice in the Courts**
Lisa Grayson, Esquire

May 9, 2019

**Allegheny County District Attorney's Office
and Other Local Agencies' Senior Justice
and Wellness Expo
Pittsburgh, PA
Panel Discussion on the Current State
of Senior Justice in Allegheny County**
Stephen A. Zappala Jr., Esquire

May 16, 2019

**Pennsylvania Department of Aging
Virtual Meeting
Grandfamilies Work Group Meeting**
*Senior Judge Paula Francisco Ott and Secretary of
Aging Robert Torres*

June 6, 2019

**Pennsylvania Department of Aging
Harrisburg, PA
Legal Assistance for Older Pennsylvanians
Conference
Panel Discussion – Guardianship and Alternatives**
*Justice Debra Todd, Senior Judge Paula Francisco Ott
and Secretary of Aging Robert Torres*

June 7, 2019

**26th Senate District Meeting
Morton, PA
Briefing on Senior Legal Issues in Delaware
County**
Karen C. Buck, Esquire

June 16, 2019

**Register of Wills and Clerk of Orphans' Court
Association's Summer Conference
Erie, PA
Update on the Work of the Advisory Council
on Elder Justice in the Courts**
Lisa Grayson, Esquire

July 16, 2019
Legal Scholar Dr. Hannah Bows, Durham University Law School, United Kingdom Harrisburg, PA
Research Visit – How the U.S. Responds to Elder Abuse/Crimes Against Elders
Damian Wachter, Esquire, Cherstin Hamel, Representative Thomas Murt, Erin Raub, and Ronald W. Costen, Ph.D., Esquire

July 17, 2019
Legal Scholar Dr. Hannah Bows, Durham University Law School, United Kingdom Philadelphia, PA
Research Visit – How the U.S. Responds to Elder Abuse/Crimes Against Elders
Senior Judge Paula Francisco Ott, Administrative Judge Sheila Woods-Skipper, Zygmunt A. Pines, Esquire, Karen C. Buck, Esquire and Diane Menio

July 18, 2019
Pennsylvania Bar Institute Estate Law Institute Philadelphia, PA
GTS and New Guardianship Rules Panel and Emergency Guardianship Panel
Administrative Judge Lois E. Murphy

July 23, 2019
Montgomery County Bar Association Norristown, PA
The Role of Counsel in Representing the Alleged Incapacitated Person
Administrative Judge Lois E. Murphy

July 25, 2019
Pennsylvania Conference of State Trial Judges Hershey, PA
Guardianship Tracking System – Experience and Best Practices
Administrative Judge Lois E. Murphy

August 7, 2019
Dauphin County Bar Association Meeting Harrisburg, PA
Orphans' Court/Estate Planning Issues
Wayne M. Pecht, Esquire

September 4, 2019
Chester County Elder Abuse Task Force Meeting West Chester, PA
Presentation with Honorable Katherine Platt Senior Judge Paula Francisco Ott

September 12, 2019
12th District Town Hall Meeting Horsham, PA
Update on the Work of the Advisory Council on Elder Justice in the Courts
Pennsylvania State Senator Maria Collett

September 30, 2019
Pennsylvania State University State College, PA
Update on the Work of the Advisory Council on Elder Justice in the Courts
President Judge George N. Zanic and Karen C. Buck, Esquire

October 15, 2019
Lower Susquehanna Synod Northern Lancaster Conference Harrisburg, PA
Elder Victimization and an Update on the Work of the Advisory Council on Elder Justice in the Courts
Ronald W. Costen, Ph.D., Esquire

October 18, 2019
Register of Wills and Clerk of Orphans' Court Association Fall Conference Skytop, PA
Update on the Work of the Advisory Council on Elder Justice in the Courts
Lisa Grayson, Esquire

November 1, 2019
American Bar Association's National Aging and Law Conference Arlington, VA
Guardianship Tracking System Rapid Fire Presentation
Senior Judge Paula Francisco Ott

November 8, 2019
Pennsylvania Bar Institute Estate Law Institute Philadelphia, PA
Guardianship and New Guardianship Rules Panel Discussion
Administrative Judge Lois E. Murphy

November 15, 2019
National College of Probate Judges Fall Conference Philadelphia, PA
Pennsylvania Guardianship Tracking System Educational Session
Senior Judge Paula Francisco Ott, Administrative Judge Lois E. Murphy and Cherstin Hamel

November 20, 2019
Pennsylvania Association of Area Agencies on Aging (P4A) Conference of Protective Service Workers Gettysburg, PA
Guardianship and Alternatives to Guardianship
Administrative Judge Lois E. Murphy and Diane Menio

November 20, 2019
Lower Susquehanna Synod Northern Lancaster Conference
Lancaster, PA
Elder victimization and the Work of the Advisory Council on Elder Justice in the Court
Ronald W. Costen, Ph.D., Esquire

2020

January 10, 2020
Kutztown University
Kutztown, PA
Work of the Advisory Council on Elder Justice in the Court
Ronald W. Costen, Ph.D., Esquire

February 22, 2020
Pennsylvania Association of Elder Law Attorneys Conference
Bedford, PA
Orphans' Court Procedural Rules Committee's Guardianship Forms, Elder Law Task Force's Involvement in the Creation of New Forms, Rules, and the GTS.
Senior Judge Paula Francisco Ott

March 5, 2020
University of Pennsylvania's Institute on Aging Philadelphia, PA
Supported Decision-Making for Older Adults: What it is and Why it Matters to Pennsylvanians
Administrative Judge Lois E. Murphy and Karen C. Buck, Esquire

March 10, 2020
Department of Justice's Elder Justice Task Force Meeting
Harrisburg, PA
Guardianship Tracking System Overview
Cherstin Hamel and Amy Whitworth

March 10, 2020
Public Event by Representative Jack Rader Kunkletown, PA
Grandparents Raising Grandchildren
Secretary of Aging Robert Torres

April 29, 2020
Fox 43 Television Interview
Discussion on the Combined Efforts of the Supreme Court, the Office of Elder Justice in the Courts and the Department of Aging to Protect Seniors During the Covid-19 Emergency
Justice Debra Todd

May 7, 2020
Joint Hearing of the Pennsylvania Senate's Aging and Youth and Health and Human Services Committees
Harrisburg, PA
Testimony About the Oversight of the Facilities, Access of Guardians and the Ongoing Covid-19 Crisis
Pennsylvania State Senator Maria Collett

July 25, 2020
Pennsylvania Conference of State Trial Judges Hershey, PA
Guardianship Tracking System – Experience and Best Practices
Administrative Judge Lois E. Murphy

July 17, 2020
Pennsylvania Bar Institute Webinar
Alternatives to Guardianship
Administrative Judge Lois E. Murphy and Pamela Walz, Esquire

September 23, 2020
National Center for State Courts Webinar
Court Management of Guardianship Hearings During the COVID-19 Pandemic
Administrative Judge Lois E. Murphy

September 28, 2020
SeniorLAW Center Webinar
Grandparents Raising Grandchildren
Secretary of Aging Robert Torres and Eugene A. Vittone II, Esquire

October 29, 2020
Pennsylvania Medical Society and the Pennsylvania Bar Association's Webinar
Health Care Decision-Making for Cognitively Impaired Patients
Administrative Judge Lois E. Murphy

December 3, 2020
Massachusetts Guardianship Policy Institute's Colloquium on Guardianship Monitoring and Oversight
Virtual Conference
Guardianship Tracking System Overview
Senior Judge Paula Francisco Ott, Amy Whitworth, and Keith Hinkel Jr.

2021

January 13, 2021
Public Event by Senator Maria Collett
Virtual Town Hall
Covid-19 Vaccines
Pennsylvania State Senator Maria Collett

January 24, 2021
Office of Elder Justice in the Courts
Webinar
Report Reviewer Training for Judges – Monitoring
Guardianship Cases: What GTS Can do for You
Senior Judge Paula Francisco Ott and Keith Hinkel Jr.

February 22, 2021
Pennsylvania Senate Meeting
Harrisburg, PA
Meeting with the Center for Advocacy for the
Rights & Interests of the Elderly and Community
Legal Services
Pennsylvania State Senator Maria Collett

February 25, 2021
Pennsylvania Conference of State Trial Judges
Hershey, PA
Orphans' Court Judges Meeting Presentation
Senior Judge Paula Francisco Ott

February 26, 2021
Pennsylvania Association of Elder Law
Attorneys Virtual Meeting
Current Issues before Pennsylvania's
Department of Aging
Secretary of Aging Robert Torres

March 10, 2021
Office of Elder Justice in the Courts
Virtual Training
Fundamentals of Guardianship: What Family and
Non-Professional Guardians Need to Know
Joan Kretchmer and Keith Hinkel Jr.

March 16, 2021
Pennsylvania Senate's Aging and Youth
Committee Hearing
Harrisburg, PA
Covid-19 Vaccine Distribution
Pennsylvania State Senator Maria Collett

March 23, 2021
Pennsylvania Senate's Aging and Youth Committee
Harrisburg, PA
Voting Meeting on SB 190 (Role of Essential
Family Caregivers During a Pandemic with Limited
Access to Loved Ones in Long-Term
Care Facilities)
Pennsylvania State Senator Maria Collett

March 30, 2021
Pennsylvania Bar Institute
Webinar
Challenges of Representing a Client with
Diminished Capacity
Administrative Judge Sheila Woods-Skipper

March 30, 2021
Montgomery County Senior Adult Activities Center
Norristown, PA
Access to Senior Programs
Pennsylvania State Senator Maria Collett

April 28, 2021
Pennsylvania Senate's Aging and Youth Committee
Harrisburg, PA
Voting Meeting on HB 464
(Amendments to the Family Caregiver Support Act)
Pennsylvania State Senator Maria Collett

May 7, 2021
Temple University – Lewis Katz School
of Medicine Virtual Meeting
3rd Mini-Symposium on Aging:
Aging During COVID
Secretary of Aging Robert Torres

May 18, 2021
Administrative Office of Pennsylvania Courts
Judicial Education
Webinar
Emerging Issues in Elder Law
Administrative Judge Sheila Woods-Skipper and
Secretary of Aging Robert Torres

May 19, 2021
Temple American Inn of Court
Webinar
Guardianship/Conservatorships: "Oops, I Did It
Again (That's Why They Are Dragging Me to Court
on a Guardianship Hearing)"
Administrative Judge Sheila Woods-Skipper

May 20, 2021
Pennsylvania Senate's Aging and Youth Committee
Harrisburg, PA
Public Hearing on the Needs of Long-Term Care
Facilities One Year After the Beginning of the
COVID-19 Emergency Declaration
Pennsylvania State Senator Maria Collett

May 25, 2021
Pennsylvania Senate's Judiciary Committee
Harrisburg, PA
Voting Meeting on SB 704 (Establishment
of an Offense of Institutional Sexual Assault
by a Caretaker)
Pennsylvania State Senator Maria Collett

June 2, 2021
Pennsylvania Senate's Policy Committee Hearing
Virtual Hearing
Pennsylvania's Nursing Homes
Pennsylvania State Senator Maria Collett

June 8, 2021
Pennsylvania Senate's Aging and Youth Committee
Harrisburg, PA
Voting Meeting on Additional Legislation Related
to Essential Caregivers in Long-Term Care
Facilities
Pennsylvania State Senator Maria Collett

June 15, 2021
Pennsylvania Department of Aging
Media Briefing
Task Force Recommendations to Address
Financial Exploitation of Older Adults
Secretary of Aging Robert Torres, David Shallcross
and Kenneth G. Potter, Esquire

June 16, 2021
Advisory Council on Elder Justice in the Courts
Virtual Town Hall
Preventing and Responding to Elder Abuse
Administrative Judge Sheila Woods-Skipper and David
Shallcross

June 17, 2021
Office of Elder Justice in the Courts
Webinar
Report Reviewer Training for Court Staff –
Reviewing the Inventory and Report of the
Guardian of the Estate
Senior Judge Paula Francisco Ott and Keith Hinkel Jr.

June 23, 2021
Advisory Council on Elder Justice in the Courts
Virtual Town Hall
Preventing and Responding to Financial
Exploitation
Administrative Judge Sheila Woods-Skipper

June 23, 2021
Pennsylvania Senate's Judiciary Committee
Harrisburg, PA
HB 1431 Discussion (Abuse of a Care-Dependent
Person by a Caretaker)
Pennsylvania State Senator Maria Collett

June 24, 2021
Office of Elder Justice in the Courts
Webinar
Report Reviewer Training for Court Staff –
Reviewing the Inventory and Report of the
Guardian of the Estate
Senior Judge Paula Francisco Ott and Keith Hinkel Jr.

July 12 and 14, 2021
Register of Wills and Clerk of Orphans' Court
Association's Summer Conference
Pittsburgh, PA
Executive Committee Update on the Work of the
Advisory Council on Elder Justice in the Courts
Lisa Grayson, Esquire

July 20, 2021
Office of Elder Justice in the Courts
Virtual Training
Fundamentals of Guardianship: What Family and
Non-Professional Guardians Need to Know
Joan Kretchmer and Keith Hinkel Jr.

July 21, 2021
Office of Elder Justice in the Courts
Virtual Training
Fundamentals of Guardianship: What Family and
Non-Professional Guardians Need to Know
Joan Kretchmer and Keith Hinkel Jr.

July 28, 2021
Pennsylvania Conference of State Trial Judges
Hershey, PA
Presentation to Orphans' Court Judges
Senior Judge Paula Francisco Ott

August 23, 2021
Pennsylvania Senate's and House of
Representative's Aging & Youth and Health and
Human Services Joint Committee Meeting
Harrisburg, PA
Department of Human Services Medicaid Contract
Pennsylvania State Senator Maria Collett

August 24, 2021
Dauphin County Bar Association
Webinar
Serving as the Eyes and Ears of the Court –
Review of Guardianship to Protect both the
Incapacitated and Guardian
Mary Catherine Scott, Esquire

September 7, 2021
Pennsylvania Senate's Oversight Committee
Chairs Meeting
Harrisburg, PA
Briefing on Covid-19 Vaccine Booster Shot
Rollout with the Departments of Health,
Human Services, and Aging
Pennsylvania State Senator Maria Collett

September 15, 2021
Pennsylvania Senate's Aging & Youth and Health
and Human Services Joint Committee Meeting
Harrisburg, PA
Long-Term Care Industry Regulations
Pennsylvania State Senator Maria Collett

September 15, 2021
Department of Aging, Area Agencies on Aging and the Pennsylvania Council on Aging Quarterly Meeting
Hershey, PA
Power of Attorney Resource Guides for Financial Institutions and Health Care Providers
Secretary of Aging Robert Torres and Anne N. John, Esquire

October 5, 2021
Office of Elder Justice in the Courts
Virtual Training
Fundamentals of Guardianship: What Family and Non-Professional Guardians Need to Know
Joan Kretchmer and Keith Hinkel Jr.

October 6, 2021
Office of Elder Justice in the Courts
Virtual Training
Fundamentals of Guardianship: What Family and Non-Professional Guardians Need to Know
Joan Kretchmer and Keith Hinkel Jr.

October 19, 2021
Office of Elder Justice in the Courts
Virtual Training
Fundamentals of Guardianship: What Family and Non-Professional Guardians Need to Know
Joan Kretchmer and Keith Hinkel Jr.

October 20, 2021
Office of Elder Justice in the Courts
Virtual Training
Fundamentals of Guardianship: What Family and Non-Professional Guardians Need to Know
Joan Kretchmer and Keith Hinkel Jr.

October 26, 2021
Pennsylvania's House of Representative's Aging and Older Adult Committee
Harrisburg, PA
Testimony Regarding Proposed Guardianship Legislation
Administrative Judge Lois E. Murphy and Pamela Walz, Esquire

November 3, 2021
Office of Elder Justice in the Courts
Virtual Training
Fundamentals of Guardianship: What Family and Non-Professional Guardians Need to Know
Joan Kretchmer and Keith Hinkel Jr.

November 4, 2021
Office of Elder Justice in the Courts
Virtual Training
Fundamentals of Guardianship: What Family and Non-Professional Guardians Need to Know
Joan Kretchmer and Keith Hinkel Jr.

November 4, 2021
Office of Elder Justice in the Courts
Webinar
Report Reviewer Training for Court Staff – Reviewing the Inventory and Report of the Guardian of the Estate
Senior Judge Paula Francisco Ott and Keith Hinkel Jr.

December 2, 2021
Office of Elder Justice in the Courts
Webinar
Report Reviewer Training for Court Staff – Reviewing the Report of the Guardian of the Person
Senior Judge Paula Francisco Ott and Keith Hinkel Jr.

December 8, 2021
Office of Elder Justice in the Courts
Virtual Training
Fundamentals of Guardianship: What Family and Non-Professional Guardians Need to Know
Joan Kretchmer and Keith Hinkel Jr.

December 9, 2021
Office of Elder Justice in the Courts
Virtual Training
Fundamentals of Guardianship: What Family and Non-Professional Guardians Need to Know
Joan Kretchmer and Keith Hinkel Jr.

December 9, 2021
Office of Elder Justice in the Courts
Webinar
Report Reviewer Training for Court Staff – Reviewing the Inventory and Report of the Guardian of the Estate OR Guardian of the Person
Senior Judge Paula Francisco Ott and Keith Hinkel Jr.

APPENDIX C

PRESENTATIONS AND EDUCATION FORUMS MADE TO THE ADVISORY COUNCIL ON ELDER JUSTICE IN THE COURTS 2015-2018

Information on Presentations and Education forums made to the Advisory Council from 2015 through 2019 can be found in the January 2015 through December 2018 Progress Report on the Work of the Advisory Council on Elder Justice in the Courts.

2019

June 5, 2019

Office of the Attorney General

368+ App for Review by the Advisory Council

David Shallcross, Director, Elder Protection Unit, Office of Attorney General

June 5, 2019

**Office of Chief Counsel/Governor's Office of General Counsel Pennsylvania Department of Aging
Coordination of Efforts between Pennsylvania's Department of Aging and Department of Corrections**

Neeka Jones, Esquire, Chief Counsel, Governor's Office of Chief Counsel

June 5, 2019

Pennsylvania Department of Corrections

Presentation on Issues Affecting Incarcerated Elders

John E. Wetzal, Secretary of Corrections

September 19, 2019

**Pro Bono Program Lawyers Serving Warriors® (Project of the National Veterans Legal Services Program)
Access to Justice for Elder Veterans**

Rochelle Bobroff, Esquire, Director of Pro Bono Program Lawyers Serving Warriors® (Project of the National Veterans Legal Services Program)

November 21, 2019

The Harry and Jeanette Weinberg Foundation

Foundation Overview

Robert T. Kelly Jr., Esquire, Chair & Trustee Weinberg Foundation

Earl Millett, Program Officer

2021

September 9, 2021

SeniorLAW Center

Presentation on the Eviction Crisis

Jacob S. Speidel, Esquire, Director, Tenant Rights

APPENDIX D

PENNSYLVANIA ORPHANS' COURT RULES

*The following material has been drawn directly from
the official Pennsylvania Code full text database.*

CHAPTER XIV. GUARDIANSHIPS OF INCAPACITATED PERSONS

Rule

- 14.1. [\[Rescinded\]](#).
- 14.2—14.5 [\[Rescinded\]](#).
- 14.1. [Guardianship Petition Practice and Pleading.](#)
- 14.2. [Petition for Adjudication of Incapacity and Appointment of a Guardian of the Person or Estate of an Incapacitated Person.](#)
- 14.3. [Alternative Proof of Incapacity: Expert Report in Lieu of In-Person or Deposition Testimony of Expert.](#)
- 14.4. [Counsel.](#)
- 14.5. [Waiver or Modification of Bond.](#)
- 14.6. [Determination of Incapacity and Selection of Guardian.](#)
- 14.7. [Order and Certificate.](#)
- 14.8. [Guardianship Reporting, Monitoring, Review, and Compliance.](#)
- 14.9. [Review Hearing.](#)
- 14.10. [Proceedings Relating to Real Property.](#)
- 14.11. [Transfer of Guardianship of the Person to Another State.](#)
- 14.12. [Transfer of Guardianship of the Estate to Another State.](#)
- 14.13. [Acceptance of a Guardianship Transferred from Another State.](#)
- 14.14. [Forms.](#)

Source

This Rule 14 renamed Chapter XIV December 1, 2015, effective September 1, 2016, 45 Pa.B. 7098.

Rule 14.1. [Rescinded].

Note

See Rule 1.5.

Source

The provisions of this Rule 14.1 amended December 23, 1999, effective January 1, 1999, 29 Pa.B. 7098; reserved June 1, 2018, effective June 1, 2019, 48 Pa.B. 3524. Immediately preceding text appears at serial page (392703).

Rule 14.2. [Rescinded].

Source

The provisions of this Rule 14.2 amended December 23, 1998, effective January 1, 1999, 29 Pa.B. 329; amended October 16, 2006, effective 30 days from the date of entry of this order, 36 Pa.B. 6760; amended December 1, 2015, effective September 1, 2016, 45 Pa.B. 7098; reserved June 1, 2018, effective June 1, 2019, 48 Pa.B. 3524. Immediately preceding text appears at serial page (392703).

Rule 14.3. [Rescinded].

Source

The provisions of this Rule 14.3 amended December 23, 1998, effective January 1, 1999, 29 Pa.B. 329; amended December 1, 2015, effective September 1, 2016, 45 Pa.B. 7098; reserved June 1, 2018, effective June 1, 2019, 48 Pa.B. 3524. Immediately preceding text appears at serial pages (392703) to (392704).

Rule 14.4. [Rescinded].

Source

The provisions of this Rule 14.4 amended December 23, 1998, effective January 1, 1999, 29 Pa.B. 329; amended December 1, 2015, effective September 1, 2016, 45 Pa.B. 7098; reserved June 1, 2018, effective June 1, 2019, 48 Pa.B. 3524. Immediately preceding text appears at serial page (392704).

Rule 14.5. [Rescinded].

Source

The provisions of this Rule 14.5 adopted June 12, 1995, effective August 5, 1995, 25 Pa.B. 2594; amended June 29, 2001, effective July 1, 2001, 31 Pa.B. 3872; amended October 16, 2006, effective 30 days from the date of entry of this order, 36 Pa.B. 6760; reserved December 1, 2015, effective September 1, 2016, 45 Pa.B. 7098; reserved June 1, 2018, effective June 1, 2019, 48 Pa.B. 3524. Immediately preceding text appears at serial page (392704).

Rule 14.1. Guardianship Petition Practice and Pleading.

(a) *Proceedings for Adjudication of Incapacity and Appointment of a Guardian.* The following petition practice and pleading requirements set forth in Chapter III (Petition Practice and Pleading) shall be applicable to proceedings for the adjudication of incapacity and appointment of a guardian:

- (1) Rule 3.2 (Headings; Captions);
- (2) Rule 3.3 (Contents of All Petitions; General and Specific Averments);

- (3) Rule 3.12 (Signing);
- (4) Rule 3.13 (Verification); and
- (5) Rule 3.14 (Amendment).

(b) *Responsive Pleadings to a Petition for Adjudication of Incapacity and Appointment of a Guardian Filed Pursuant to Rule 14.2.*

(1) Permitted responsive pleadings to a petition seeking the adjudication of incapacity and appointment of a guardian are limited to those identified in Rule 3.6 (Pleadings Allowed After Petition) and shall be subject to Rules 3.10 (Denials; Effect of Failure to Deny) and 3.11 (Answer with New Matter).

(2) The alleged incapacitated person and any person or institution served pursuant to Rule 14.2(f) may file a responsive pleading.

(3) Any responsive pleading shall be filed with the clerk and served pursuant to Rule 4.3 (Service of Legal Paper Other than Citations or Notices) on all others entitled to file a responsive pleading pursuant to subparagraph (b)(2).

(4) All responsive pleadings shall be filed and served no later than five days prior to the hearing. The failure to file or timely file and serve a responsive pleading does not waive the right to raise an objection at the hearing.

(5) The court shall determine any objections at the adjudicatory hearing.

(c) *All Other Petitions for Relief.* Unless otherwise provided by Rule in this Chapter, the petition practice and pleading requirements set forth in Chapter III shall be applicable to any proceeding under these Rules other than a petition seeking the adjudication of incapacity and appointment of a guardian. “Interested party” as used in Chapter III shall include all those entitled to service pursuant to Rule 14.2(f).

(d) *Intervention.* A petition to intervene shall set forth the ground on which intervention is sought and a statement of the issue of law or question of fact the petitioner seeks to raise. The petitioner shall attach to the petition a copy of any pleading that the petitioner will file if permitted to intervene. A copy of the petition shall be served pursuant on all those entitled to service pursuant to Rule 14.2(f).

Explanatory Comment

This Rule is intended to specify the provisions and procedures of Chapter III that are applicable to proceedings under Chapter XIV. In proceedings for the adjudication of incapacity and appointment of a guardian, responsive pleadings are permitted as a means of identifying contested legal issues and questions of fact prior to the adjudicatory hearing. However, given the abbreviated time for filing a responsive pleading relative to other proceedings (*Compare* Pa. O.C. Rule 3.7(a)), the failure to file a responsive pleading should not operate to preclude an issue or objection from being raised and considered at the hearing. Such pleadings should not be filed as a means of delaying the hearing on the merits of the petition.

The practice for other petitions is to follow the requirements of Chapter III. Nothing in this Rule is intended to prevent relief being sought on an expedited basis, provided the petitioner or respondent is able to establish circumstances to the satisfaction of the court warranting disregard of procedural requirements. *See* Pa. O.C. Rule 1.2(a).

Source

The provisions of this Rule 14.1 adopted June 1, 2018, effective June 1, 2019, 48 Pa.B. 3524.

Rule 14.2. Petition for Adjudication of Incapacity and Appointment of a Guardian of the Person or Estate of an Incapacitated Person.

(a) *Petition Contents.* A petition to adjudicate an individual as an incapacitated person and appoint a guardian shall state in plain language:

(1) Name, age, address, and mailing address, if different, of the petitioner and the petitioner's relationship to the alleged incapacitated person;

(2) Name, date of birth, residence, and mailing address, if different, of the alleged incapacitated person;

(3) Names and addresses of the spouse, parents, and presumptive intestate heirs of the alleged incapacitated person and whether they are *sui juris* or non *sui juris*;

(4) Name and address of the person or institution providing residential services to the alleged incapacitated person;

(5) Names and addresses of other service providers and nature of services being provided;

(6) Whether there is an executed health care power of attorney or advance health care directive pursuant to Title 20, Chapter 54, and if so, the name and address of the person designated in the writing to act as the agent;

Note

See 20 Pa.C.S. § § 5421 *et seq.* for health care power of attorney and advance health care directive (combination of a living will and health care power of attorney).

(7) Whether there is an executed power of attorney pursuant to Title 20, Chapter 56, and if so, the name and address of the person designated in the writing to act as the agent;

Note

See 20 Pa.C.S. § § 5601 *et seq.* for power of attorney.

(8) Whether there is any other writing by the alleged incapacitated person pursuant to Title 20, Chapters 54 or 58 authorizing another to act on behalf of the alleged incapacitated person, and if so, the name and address of the person designated;

Note

See 20 Pa.C.S. § § 5441—5447 for Living Will Act; 20 Pa.C.S. § § 5451—5465 for Health Care Agents and Representatives Act; 20 Pa.C.S. § § 5821—5826 for Advance Directive for Mental Health Act; 20 Pa.C.S. § § 5831—5845 for Mental Health Care Agents Act.

(9) Reason(s) why guardianship is sought, including a description of functional limitations and the physical and mental condition of the alleged incapacitated person;

(10) If not plenary, then specific areas of incapacity over which it is requested that the guardian be assigned powers;

(11) The probability of whether the physical condition and mental condition of the alleged incapacitated person will improve;

(12) Whether there has been a prior incapacity hearing concerning the alleged incapacitated person, and if so, the name of the court, the date of the hearing, and the determination of capacity;

(13) Steps taken to find a less restrictive alternative than a guardianship;

(14) If a guardian of the estate is sought:

(i) the gross value of the estate and net income from all sources, to the extent known; and

(ii) whether there is a prepaid burial account, to the extent known;

(15) Whether the alleged incapacitated person is a veteran of the United States Armed Services, and whether the alleged incapacitated person is receiving benefits from the United States Veterans' Administration on behalf of himself or herself or through a spouse; and

(16) Name and address, if available, of any person that the petitioner proposes should receive notice of the filing of guardianship reports pursuant to Rule 14.8(b), which may include any person identified in paragraphs (a)(3)—(a)(8).

(b) *Nomination of Guardian.* The petition shall also include:

(1) The name, address, and mailing address, if different, of the proposed guardian whom the petitioner nominates to be appointed guardian and the nominee's relationship, if any, to the alleged incapacitated person. If the proposed guardian is an entity, then the name of the person or persons to have direct responsibility for the alleged incapacitated person and the name of the principal of the entity;

(2) Whether the proposed guardian has any adverse interest to the alleged incapacitated person;

(3) Whether the proposed guardian is available and able to visit or confer with the alleged incapacitated person;

(4) Whether the proposed guardian has completed any guardianship training, including the name of the training program, length of the training, and date of completion;

(5) Whether the proposed guardian has any guardianship certification, the current status of the certification, and any disciplinary action related to the certification;

(6) Whether the proposed guardian is or was a guardian in any other matters and, if so, the number of active matters; and

(7) If the petition nominates a different proposed guardian of the estate from the proposed guardian of the person, then the information required in subparagraphs (b)(1)—(b)(6) as to each nominee.

(c) *Exhibits.* The following exhibits shall be appended to the petition:

(1) All writings referenced in paragraphs (a)(6)—(a)(8), if available;

(2) The certified response to a Pennsylvania State Police criminal record check, with Social Security Number redacted, for each proposed guardian issued within six months of the filing of the petition;

(i) If any proposed guardian has resided outside the Commonwealth within the previous five-year period and was 18 years of age or older at any time during that period, then the petition shall include a criminal record check obtained from the statewide database, or its equivalent, in each state in which such proposed guardian has resided within the previous five-year period.

(ii) When any proposed guardian is an entity, the person or persons to have direct responsibility for the alleged incapacitated person and the principal of the entity shall comply with the requirements of subparagraph (c)(2).

Note

For information on requesting a criminal record check from the Pennsylvania State Police, see <http://www.psp.pa.gov/Pages/Request-a-Criminal-History-Record.aspx>.

(3) Any proposed orders as required by Rule 3.4(b); and

(4) Any consent or acknowledgement of a proposed guardian to serve.

(d) *Emergency Guardian.* A petition seeking the appointment of an emergency guardian shall aver with specificity the facts giving rise to the emergent circumstances and why the failure to make such an appointment will result in irreparable harm to the person or estate of the alleged incapacitated person.

Note

Limitations on emergency guardianships are prescribed by statute. *See* 20 Pa.C.S. § 5513.

(e) *Separate Petitions.* Separate petitions shall be filed for each alleged incapacitated person.

(f) *Citation with Notice.* A citation with notice using the form provided in the Appendix to these Rules shall be attached to and served with the petition and any preliminary order as follows:

(1) By personal service upon the alleged incapacitated person no less than 20 days prior to the hearing. Additionally, the content and terms of the petition shall be explained to the maximum extent possible in language and terms the alleged incapacitated person is most likely to understand.

(2) In a manner permitted by Rule 4.3 no less than 20 days prior to the hearing upon:

(i) All persons *sui juris* who would be entitled to an intestate share in the estate of the alleged incapacitated person;

(ii) The person or institution providing residential services to the alleged incapacitated person;

(iii) Any person named in paragraphs (a)(6)—(a)(8); and

(iv) Such other entities and persons as the court may direct, including service providers.

Note

For notice to the United States Veterans' Bureau, see 20 Pa.C.S. § 8411.

(3) For a petition seeking the appointment of an emergency guardian, the court may direct the manner of service as emergent circumstances warrant. Thereafter, notice shall be served in accordance with Rule 14.2(f)(2).

Explanatory Comment

Concerning the requirement of a criminal record check set forth in paragraph (c)(2), the Pennsylvania State Police has created the Pennsylvania Access to Criminal History (“PATCH”) System to enable the public to obtain criminal history record checks via Internet request. The certified response from the Pennsylvania State Police criminal history record check need not be notarized to comply with the requirements of this rule. Any response other than “no record” may require supplementation at the discretion of the court.

Source

The provisions of this Rule 14.2 adopted June 1, 2018, effective June 1, 2019, 48 Pa.B. 3524.

Rule 14.3. Alternative Proof of Incapacity: Expert Report in Lieu of In-Person or Deposition Testimony of Expert.

(a) A petitioner may seek to offer into evidence an expert report for the determination of incapacity in lieu of testimony, in-person or by deposition, of an expert using the form provided in the Appendix to these rules. In an emergency guardianship proceeding, an expert report may be offered into evidence if specifically authorized by the court.

(b) *Notice.*

(1) If a petitioner seeks to offer an expert report permitted under paragraph (a), the petitioner shall serve a copy of the completed report upon the alleged incapacitated person’s counsel and all other counsel of record pursuant to Rule 4.3 or, if unrepresented, upon the alleged incapacitated person, pursuant to Pa.R.C.P. No. 402(a) by a competent adult no later than ten days prior to the hearing on the petition.

(2) If a petitioner seeks to offer an expert report, as permitted under paragraph (a), the petitioner shall serve pursuant to Rule 4.3 a notice of that fact upon those entitled to notice of the petition and hearing no later than ten days prior to the hearing on the petition.

(3) The petitioner shall file a certificate of service with the court as to paragraphs (b)(1) and (b)(2).

(c) *Demand.*

(1) Within five days of service of the completed report provided in paragraph (b)(1), the alleged incapacitated person’s counsel or, if unrepresented, the alleged incapacitated person, may file with the court and serve upon the petitioner pursuant to Rule 4.3 a demand for the testimony of the expert.

(2) If a demand for testimony is filed and served as provided herein, then the expert report may not be admitted and an expert must provide testimony at the hearing, whether in-person or by deposition.

(d) Unless otherwise demanded pursuant to paragraph (c)(2), in the sole discretion of the court, incapacity may be established through the admission of an expert report prepared in compliance with the form provided in the Appendix to these rules. The expert must be qualified by training and experience in evaluating individuals with incapacities of the type alleged in the petition. The expert must sign, date, and verify the completed expert report.

(e) In the interest of justice, the court may excuse the notice and demand requirements set forth in paragraphs (b) and (c).

Explanatory Comment

This Rule is intended to permit the alleged incapacitated person to exercise the right to cross-examine testimony as to the capacity of the alleged incapacitated person. *See* 20 Pa.C.S. § 5518.1. Permitting the use of an expert report in compliance with this Rule replaces the requirement of testimony, in-person or by deposition, of an expert. *See* 20 Pa.C.S. § 5518. “Deposition,” as used in this Rule is intended to be a deposition conducted in accordance with the Pennsylvania Rules of Civil Procedure. The Rule is permissive; whether an expert report is admitted in lieu of testimony is in the sole discretion of the court. Nothing in this Rule is intended to preclude the court from requiring testimony from the expert or otherwise requiring supplementation.

Source

The provisions of this Rule 14.3 adopted June 1, 2018, effective June 1, 2019, 48 Pa.B. 3524.

Rule 14.4. Counsel.

(a) *Retention of Counsel.* If counsel for the alleged incapacitated person has not been retained, the petitioner shall notify the court in writing at least seven days prior to the adjudicatory hearing that the alleged incapacitated person is unrepresented and also indicate whether the alleged incapacitated person has requested counsel.

(b) *Private Counsel.* If the alleged incapacitated person has retained private counsel, counsel shall prepare a comprehensive engagement letter for the alleged incapacitated person to sign, setting forth when and how counsel was retained, the scope of counsel’s services, whether those services include pursuing any appeal, if necessary, how counsel will bill for legal services and costs and the hourly rate, if applicable, who will be the party considered responsible for payment, whether any retainer is required, and if so, the amount of the retainer. Counsel shall provide a copy of the signed engagement letter to the court upon request.

(c) *Appointed Counsel.* The court may appoint counsel if deemed appropriate in the particular case. Any such order appointing counsel shall delineate the scope of counsel’s services and whether those services include pursuing any appeal, if necessary.

(d) *Other Counsel.* Counsel for any other party shall enter an appearance in accordance with Rule 1.7(a).

Explanatory Comment

Reasonable counsel fees, when appropriate, should be paid from the estate of the alleged incapacitated person whenever possible. If the alleged incapacitated person is unable to pay for counsel, then the court may order counsel fees and costs to be paid by the county. *See* 20 Pa.C.S. § 5511(c). Any fee dispute should be resolved in a timely and efficient manner to preserve resources in order to maintain the best possible quality of life for the incapacitated person.

Source

The provisions of this Rule 14.4 adopted June 1, 2018, effective June 1, 2019, 48 Pa.B. 3524.

Rule 14.5. Waiver or Modification of Bond.

(a) *Request.* A request for the court to waive or modify a bond requirement for a guardian of the estate may be raised within the petition for adjudication of incapacity or at any other time by petition.

(b) *Waiver or Modification.* The court may order the waiver or modification of a bond requirement for good cause.

(c) *Assurance.* If the court waives or modifies a bond requirement, then the court shall consider the necessity and means of periodic demonstration of continued good cause.

Explanatory Comment

Pursuant to 20 Pa.C.S. § 5515, the provisions of Sections 5121—5123 of Title 20 relating to bonding requirements are incorporated by reference into Chapter 55 proceedings. When property is held by the incapacitated person as fiduciary, see 20 Pa.C.S. § 5516. “Good cause” may include, but is not limited to, an estate of nominal value, fluctuation in the size of the estate, adequate insurance maintained by the guardian against risk of loss to the estate, the creditworthiness of the guardian, and assets of the guardian relative to the value of the estate.

Source

The provisions of this Rule 14.5 adopted June 1, 2018, effective June 1, 2019, 48 Pa.B. 3524.

Rule 14.6. Determination of Incapacity and Selection of Guardian.

(a) *Determination of Incapacity.* The procedure for determining incapacity and for appointment of a guardian shall meet all requirements set forth at 20 Pa.C.S. § § 5511, 5512, and 5512.1. In addition, the petitioner shall present the citation and proof of service at the hearing.

Note

See In re Peery, 727 A.2d 539 (Pa. 1999) (holding a person does not require a guardian if there is no need for guardianship services).

(b) *Selection of Guardian.* If guardianship services are needed, then the court shall appoint the person nominated as such in a power of attorney, a health care power of attorney, an advance health care directive, a mental health care declaration, or mental health power of attorney, except for good cause shown or disqualification. Otherwise, the court shall consider the eligibility of one or more persons to serve as guardian in the following order:

(1) *Guardian of the Person:*

- (i) The guardian of the estate;
- (ii) The spouse, unless estranged or an action for divorce is pending;
- (iii) An adult child;
- (iv) A parent;
- (v) The nominee of a deceased or living parent of an unmarried alleged incapacitated person;
- (vi) An adult sibling;
- (vii) An adult grandchild;
- (viii) Other adult family member;

(ix) An adult who has knowledge of the alleged incapacitated person’s preferences and values, including, but not limited to religious and moral beliefs, and would be able to assess how the alleged incapacitated person would make decisions; or

(x) Other qualified proposed guardian, including a professional guardian.

(2) *Guardian of the Estate.* When the estate of the incapacitated person consists of minimal assets or where the proposed guardian possesses the skills and experience necessary to manage the finances of the estate:

(i) The guardian of the person;

(ii) The spouse unless estranged or an action for divorce is pending;

(iii) An adult child;

(iv) A parent;

(v) The nominee of a deceased or living parent of an unmarried alleged incapacitated person;

(vi) An adult sibling;

(vii) An adult grandchild;

(viii) Other adult family member; or

(ix) An adult who has knowledge of the alleged incapacitated person’s preferences and values, including, but not limited to religious and moral beliefs, and would be able to assess how the alleged incapacitated person would make decisions.

Where no individual listed in subparagraphs (i)—(ix) of paragraph (b)(2) possesses the skills and experience necessary to manage the finances of the estate, the guardian of the estate may be any qualified proposed guardian, including a professional guardian or corporate fiduciary.

Explanatory Comment

If a principal nominates a guardian pursuant to a power of attorney, a health care power of attorney, an advance health care directive, which is a combination of a living will and a health care power of attorney, a mental health care declaration, or mental health power of attorney, then court must appoint that person as guardian except for good cause or disqualification. *See* 20 Pa.C.S. § 5604(c)(2) (power of attorney); 20 Pa.C.S. § 5460(b) (health care power of attorney); 20 Pa.C.S. § 5422 (defining “advance health care directive”); 20 Pa.C.S. § 5823 (mental health declaration); 20 Pa.C.S. § 5841(c) (mental health power of attorney); *see also* 20 Pa.C.S. § 5511(f) (who may be appointed guardian).

Source

The provisions of this Rule 14.6 adopted June 1, 2018, effective June 1, 2019, 48 Pa.B. 3524.

Rule 14.7. Order and Certificate.

(a) *Order Adjudicating Incapacity and Appointing Guardian.*

(1) An order adjudicating incapacity and appointing a guardian shall address:

- (i) the type of guardianship being ordered and any limits, if applicable;
- (ii) the continued effectiveness of any previously executed powers of attorney or health care powers of attorney and the authority of such agent to act under the document;
- (iii) the necessity of filing reports pursuant to Rule 14.8(a); and
- (iv) the person or persons entitled to receive notice of the filing of such reports, pursuant to Rule 14.8(b).

(2) An order adjudicating incapacity and appointing a guardian shall contain a provision substantially in the following form:

[Incapacitated person] is hereby notified of the right to seek reconsideration of this Order pursuant to Rule 8.2 and the right to appeal this Order within 30 days from the date of this Order by filing a Notice of Appeal with the Clerk of the Orphans' Court. [Incapacitated person] may also petition the court at any time to review, modify, or terminate the guardianship due to a change in circumstances. [Incapacitated person] has a right to be represented by an attorney to file a motion for reconsideration, an appeal, or to seek modification or termination of this guardianship. If the assistance of counsel is needed and [incapacitated person] cannot afford an attorney, an attorney will be appointed to represent [incapacitated person] free of charge.

(b) *Order Adjudicating Incapacity and Appointing Guardian of Estate.*

(1) In addition to the requirements set forth in paragraph (a)(1), an order adjudicating incapacity and appointing a guardian of the estate shall address:

- (i) whether a bond is required and when the bond is to be filed; and
- (ii) whether the guardian can spend principal without prior court approval.

(2) In addition to the requirement set forth in paragraph (a)(2), an order adjudicating incapacity and appointing a guardian of the estate shall contain a provision substantially in the following form:

All financial institutions, including without limitation, banks, savings and loans, credit unions, and brokerages, shall grant to the guardian of [incapacitated person]'s estate access to any and all assets, records, and accounts maintained for the benefit of [incapacitated person], and the guardian of [incapacitated person]'s estate shall be entitled to transfer, retitle, withdraw, or otherwise exercise dominion and control over any and all said assets, records, and accounts. The failure of any financial institution to honor this order may lead to contempt proceedings and the imposition of sanctions.

(c) *Certificate of Guardianship of Estate.* Upon the request of the guardian of the estate, the clerk shall issue a certificate substantially in the following form:

(Caption)

I CERTIFY that on

, after giving full consideration to the factors set forth in Chapter 55 of the Probate, Estates, and Fiduciaries Code, 20 Pa.C.S. § § 5501 *et seq.*, in the above-captioned matter, the Court adjudged

_____ an incapacitated person and appointed

_____ as plenary guardian of the estate.

FURTHER, I CERTIFY the Court, *inter alia*, ordered that:

All financial institutions, including without limitation, banks, savings and loans, credit unions, and brokerages shall grant to the guardian of [incapacitated person]'s estate access to any and all assets, records, and accounts maintained for the benefit of [incapacitated person], and the guardian of [incapacitated person]'s estate shall be entitled to transfer, retitle, withdraw, or otherwise exercise dominion and control over any and all said assets, records, and accounts. The failure of any financial institution to honor this order may lead to contempt proceedings and the imposition of sanctions.

Witness my hand and seal of said Court
this

—
day of

—
,
—
.

[seal]

CLERK OF ORPHANS' COURT

Explanatory Comment

The requirements of paragraph (a) are intended to apply to all guardianship orders. The items addressed and contained in the order, as set forth in paragraphs (a) and (b), are not exhaustive. The court may fashion a guardianship of a person order to inform health care providers of the guardian's authority, including the authority to give informed consent to proposed treatment, to share information, and to make decisions for the incapacitated person. *See also In re DLH*, 2 A.3d 505 (Pa. 2010) (discussing whether guardian has authority concerning life-preserving care); 20 Pa.C.S. § 5460(a) (requiring the court to determine the extent of agent's authority under a health care power of attorney); 20 Pa.C.S. § 5604(c)(3) (requiring the court to determine the extent of agent's authority under a durable power of attorney).

Source

The provisions of this Rule 14.7 adopted June 1, 2018, effective June 1, 2019, 48 Pa.B. 3524.

Rule 14.8. Guardianship Reporting, Monitoring, Review, and Compliance.

(a) *Reporting.* A guardian shall file the following reports with the clerk:

- (1) An inventory by the guardian of the estate within 90 days of such guardian's appointment;
- (2) An annual report by the guardian of the estate of an incapacitated person one year after appointment and annually thereafter;
- (3) An annual report by the guardian of the person one year after appointment and annually thereafter;
- (4) A final report by the guardian of the person and the guardian of the estate within 60 days of the death of the incapacitated person, an adjudication of capacity, a change of guardian, or the expiration of an order of limited duration; and
- (5) A final report from the guardian of the person and the guardian of the estate upon receipt of the provisional order from another state's court accepting transfer of a guardianship.

Note

See Pa.R.J.A. No. 510 governing the filing of inventories and annual reports online using the Guardianship Tracking System.

(b) *Notice of Filing.* If, pursuant to Rule 14.7(a)(1)(iv), the order appointing the guardian identifies the person or persons entitled to receive notice of the filing of any report set forth in paragraph (a), the guardian shall serve a notice of filing within ten days after filing a report using the form provided in the Appendix to these Rules. Service shall be in accordance with Rule 4.3.

(c) *Design of Forms.* The Court Administrator of Pennsylvania, in consultation with the Orphans' Court Procedural Rules Committee and the Advisory Council on Elder Justice in the Courts, shall design and publish forms necessary for the reporting requirements set forth in paragraph (a).

(d) *Monitoring.* The clerk or the court's designee shall monitor the guardianship docket to confirm the guardian's compliance with the reporting requirements set forth in paragraph (a).

(e) *Review.* The court or its designee shall review the filed reports.

(f) *Compliance.* To ensure compliance with these reporting requirements:

(1) If any report is deemed incomplete or is more than 20 days delinquent, then the clerk or the court's designee shall serve notice on the guardian directing compliance within 20 days, with a copy of the notice sent to the court and the guardian's counsel, if represented.

(2) If the guardian fails to comply with the reporting requirements within 20 days of service of the notice, then the clerk or the court's designee shall file and transmit a notice of deficiency to the adjudicating judge and serve a notice of deficiency on those persons named in the court's order pursuant to Rule 14.7(a)(1)(iv) as being entitled to receive a notice of filing.

(3) The court may thereafter take such enforcement procedures as are necessary to ensure compliance.

Explanatory Comment

The reporting forms are available at <http://www.pacourts.us/forms/for-the-public/orphans-court-forms>. This Rule is silent as to the manner of proceeding when reports are deficient or warrant further investigation, or when the guardian is recalcitrant after being given notice by the clerk or the court's designee. In its discretion, the court may order further documentation, conduct a review hearing, or take further action as may be deemed necessary, including, but not limited to, removal of the guardian or contempt proceedings.

Source

The provisions of this Rule 14.8 adopted June 1, 2018, effective June 1, 2019, 48 Pa.B. 3524; amended January 2, 2020, effective April 1, 2020, 50 Pa.B. 306. Immediately preceding text appears at serial pages (396094) to (396095).

Rule 14.9. Review Hearing.

- (a) *Initiation.* A review hearing may be requested by petition or ordered by the court.
- (b) *Petition.* A petition for a review hearing shall set forth:
- (1) the name, age, address, and mailing address, if different, of the petitioner and the petitioner's relationship to the incapacitated person;
 - (2) the date of the adjudication of incapacity;
 - (3) the names and addresses of all guardians;
 - (4) if the incapacitated person has been a patient in a mental health facility, the name of such facility, the date of admission, and the date of discharge;
 - (5) the present address of the incapacitated person, and the name of the person with whom the incapacitated person is living;
 - (6) the names and addresses of the presumptive intestate heirs of the incapacitated person and whether they are *sui juris* or non *sui juris*; and
 - (7) an averment that:
 - (i) there has been significant change in the incapacitated person's capacity and the nature of that change;
 - (ii) there has been a change in the need for guardianship services and the nature of that change; or
 - (iii) the guardian has failed to perform duties in accordance with the law or act in the best interest of the incapacitated person, and details as to the duties that the guardian has failed to perform or has performed but are allegedly not in the best interests of the incapacitated person.
- (c) *Service.* The petition shall be served in accordance with Rule 4.3 upon the incapacitated person and those entitled to notice pursuant to Rule 14.2(f)(2).
- (d) *Hearing.* The review hearing shall be conducted promptly after the filing of the petition with notice of the hearing served upon those served with the petition pursuant to paragraph (c).

Explanatory Comment

Nothing in this Rule is intended to preclude the court from scheduling a review hearing upon its own initiative or in the order adjudicating incapacity and appointing a guardian. For the court's disposition of a petition for a review hearing and evidentiary burden of proof, see 20 Pa.C.S. § 5512.2.

Source

The provisions of this Rule 14.9 adopted June 1, 2018, effective June 1, 2019, 48 Pa.B. 3524.

Rule 14.10. Proceedings Relating to Real Property.

(a) *Applicable Rules.* A petition for the public or private sale, exchange, lease, or mortgage of real property of an incapacitated person or the grant of an option for the sale, exchange, or lease of the same shall conform as far as practicable to the requirements of these Rules for personal representatives, trustees, and guardians of minors in a transaction of similar type.

(b) *Objection.* The guardian shall include in the petition an averment as to whether the guardian knows or has reason to know of any objection of the incapacitated person to the proposed transaction, the nature and circumstances of any such objection, and whether expressed before or after the adjudication of incapacity.

Note

See Pa. O.C. Rules 5.10, 5.11, and 5.12.

Source

The provisions of this Rule 14.10 adopted June 1, 2018, effective June 1, 2019, 48 Pa.B. 3524.

Rule 14.11. Transfer of Guardianship of the Person to Another State.

(a) *Petition.* A petition filed by a guardian appointed in Pennsylvania to transfer the guardianship of the person to another state must plead sufficient facts to demonstrate:

- (1) the incapacitated person is physically present in or is reasonably expected to move permanently to the other state;
- (2) plans for care and services for the incapacitated person in the other state are reasonable and sufficient;
- (3) the court to which the guardianship will be transferred; and
- (4) the guardianship will likely be accepted by the other state's court.

(b) *Service.* The guardian shall serve a copy of the petition in accordance with Rule 4.3 upon the incapacitated person and those entitled to service pursuant to Rule 14.2(f)(2).

(c) *Objections.* Any person entitled to service of the petition may file an answer with the clerk raising objections alleging that the transfer would be contrary to the interests of the incapacitated person.

(d) *Hearing.* If needed, the court shall conduct an evidentiary hearing on the petition.

(e) *Orders.* Upon finding that the allegations contained in the petition have been substantiated and the objections, if any, have not been substantiated, the court shall:

- (1) issue an order provisionally granting the petition to transfer the guardianship and directing the guardian to petition for acceptance of the guardianship in the other state; and

(2) issue a final order confirming the transfer and relinquishing jurisdiction upon receipt of the provisional order from the other state's court accepting the transfer and the filing of the final report of the guardian.

Explanatory Comment

See Subchapter C of the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act, 20 Pa.C.S. § § 5921—5922. This petition may also include a request to transfer the guardianship of the estate to another state as provided in Rule 14.12. The likelihood that the guardianship may be accepted by the other state's court may be established by evidence of the state having procedures similar to Rule 14.13.

Source

The provisions of this Rule 14.11 adopted June 1, 2018, effective June 1, 2019, 48 Pa.B. 3524.

Rule 14.12. Transfer of Guardianship of the Estate to Another State.

(a) *Petition.* A petition filed by a guardian appointed in Pennsylvania to transfer the guardianship of the estate must plead sufficient facts to demonstrate:

(1) the incapacitated person is:

(i) physically present in the other state;

(ii) reasonably expected to move permanently to the other state; or

(iii) significantly connected to the other state.

(2) adequate arrangements will be made for the management of the incapacitated person's estate;

(3) the court to which the guardianship will be transferred; and

(4) the guardianship will likely be accepted by the other state's court.

(b) *Service.* The guardian shall serve a copy of the petition in accordance with Rule 4.3 upon the incapacitated person and those entitled to service pursuant to Rule 14.2(f)(2).

(c) *Objections.* Any person entitled to service of the petition may file an answer with the clerk raising objections alleging that the transfer would be contrary to the interests of the incapacitated person.

(d) *Hearing.* If needed, the court shall conduct an evidentiary hearing on the petition.

(e) *Orders.* Upon finding that the allegations contained in the petition have been substantiated and the objections, if any, have not been substantiated, the court shall:

(1) issue an order provisionally granting the petition to transfer the guardianship and directing the guardian to petition for acceptance of the guardianship in the other state; and

(2) issue a final order confirming the transfer and relinquishing jurisdiction upon receipt of the provisional order from the other state's court accepting the transfer and the filing of the final report of the guardian.

Explanatory Comment

See Subchapter C of the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act, 20 Pa.C.S. § § 5921—5922. For factors used to determine the significance of the incapacitated person's connection with the other state, see 20 Pa.C.S. § 5911(b). This petition may also include a request to transfer the guardianship of the person to another state as provided in Rule 14.11. The likelihood that the guardianship may be accepted by the other state's court may be established by evidence of the state having procedures similar to Rule 14.13.

Source

The provisions of this Rule 14.12 adopted June 1, 2018, effective June 1, 2019, 48 Pa.B. 3524.

Rule 14.13. Acceptance of a Guardianship Transferred from Another State.

- (a) A petition to confirm the transfer of a guardianship from another state to Pennsylvania shall:
- (1) plead sufficient facts to demonstrate:
 - (i) the eligibility of the guardian for appointment in Pennsylvania;
 - (ii) the proceeding in the other state approving the transfer was conducted in a manner similar to Rules 14.11 or 14.12 (concerning transfer of guardianship);
 - (2) include a certified copy of the other state's provisional order approving the transfer; and
 - (3) include a certified copy of the petition and order determining initial incapacity in the other state.
- (b) *Service.* The guardian shall serve a copy of the petition in the manner and upon the incapacitated person and those entitled to service pursuant to Rule 14.2(f).
- (c) *Objections.* Any person entitled to notice of the petition may file an answer with the clerk raising objections alleging that the transfer would be contrary to the interests of the incapacitated person.
- (d) *Hearing.* If needed, the court shall conduct an evidentiary hearing on the petition.
- (e) *Orders.* Upon finding that the allegations contained in the petition have been substantiated and the objections, if any, have not been substantiated, the court shall:
- (1) issue an order provisionally granting the petition to confirm transfer of the guardianship; and
 - (2) upon receiving a final order from the court transferring the guardianship, the court shall issue a final order accepting the guardianship, appointing the guardian appointed previously by the court of the other state as the guardian in Pennsylvania, and directing the guardian to comply with the reporting requirements of Rule 14.8.

Explanatory Comment

See Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act, 20 Pa.C.S. § 5922(f) (court's consideration of a modification of guardianship).

Source

The provisions of this Rule 14.13 adopted June 1, 2018, effective June 1, 2019, 48 Pa.B. 3524.

Rule 14.14. Forms.

The following forms located in the Appendix shall be used exclusively:

- (a) Important Notice—Citation with Notice (G-01);
- (b) Report of Guardian of the Estate (G-02);
- (c) Report of Guardian of the Person (G-03);
- (d) Guardian’s Inventory for a Minor (G-04);
- (e) Guardian’s Inventory for an Incapacitated Person (G-05);
- (f) Guardianship of Incapacitated Person: Petition for Adjudication/Statement of Proposed Distribution Pursuant to Pa. O.C. Rule 2.4 (OC-03);
- (g) Guardianship of Minor: Petition for Adjudication/Statement of Proposed Distribution Pursuant to Pa. O.C. Rule 2.4 (OC-04);
- (h) Expert Report (G-06); and
- (i) Notice of Filing (G-07).

Explanatory Comment

In accordance with Rule 1.8, these forms must be used exclusively and cannot be replaced or supplanted by a local form.

Source

The provisions of this Rule 14.14 adopted June 1, 2018, effective June 1, 2019, 48 Pa.B. 3524.

No part of the information on this site may be reproduced for profit or sold for profit.

This material has been drawn directly from the official Pennsylvania Code full text database. Due to the limitations of HTML or differences in display capabilities of different browsers, this version may differ slightly from the official printed version.