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October 31, 2019

W. Charles Smithson
Secretary of the Senate
State Capitol Building
Des Moines, Iowa 50319

Carmine Boal
Chief Clerk of the House of Representatives
State Capitol Building
Des Moines, Iowa 50319

Re: Office of Public Guardian annual report

Dear Mr. Smithson and Ms. Boal:

The Office of Public Guardian (formerly the Office of Substitute Decision Maker) submits this report for state fiscal year 2019 pursuant to Iowa Code §231E.4(3)(i).

Local Offices of Public Guardian

Iowa Code §231E.4(3)(a) requires the Office of Public Guardian to establish local offices of public guardian.¹ In November 2017, the Office of Public Guardian contracted with Corridor Care Management, LLC to serve as Local Office of Public Guardian for the southeastern portion of the state. In May 2018, the contract was amended to cover all 99 Iowa counties. The Office of Public Guardian will continue efforts to expand the capacity of professional guardianship providers, especially in the western part of the state.

In FY2019, the Local Office of Public Guardian served 77 consumers. Of these, 48 cases were opened prior to the start of the fiscal year. The Office of Public Guardian accepted appointments in an additional 29 cases during FY2019. Nine cases were closed during FY2019: seven consumers being served by the office passed away, one consumer regained decision-making capacity, and one consumer's family was able to assist, making guardianship unnecessary.

Office of Public Guardian Waiting List

The OPG has reached its capacity for the number of consumers that can be served at the current funding level. However, the need for public guardianship services continues to grow. Without additional funding, the OPG is not able to provide services to additional consumers. As a result, the Office of Public Guardian has not accepted any new appointments since the beginning of FY2020. There are currently 37 applications on a waiting list and 2 additional pending (incomplete) applications. At least 5 of the applications on the waiting list appear to meet priority criteria under Iowa Admin. Code 17-22. 7(2).

¹ Iowa's Office of Public Guardian is modeled on the Florida Office of Public and Professional Guardians (OPPG). According to the Florida OPPG's 2018 annual report, they had 17 public guardian programs throughout the state serving 3,846 wards. In addition to providing public guardianship services, the Florida OPPG also maintains a registry of professional guardians, developed standards of practice for professional guardians, and investigates complaints against professional guardians. For SFY2017-2018, the Florida OPPG had a budget of \$7,327,575. http://elderaffairs.state.fl.us/doea/SPGO/pubs/OPPG_AR_2018.pdf

Challenges and New Developments

The Office of Public Guardian has been faced with new challenges as the number of consumers served has grown. These challenges have included:

- Out-of-State Placement: Two consumers served by the Office of Public Guardian have required out-of-state placement due to a lack of service providers within Iowa that are willing and able to meet their high level of need for services. Both of these consumers have brain injuries, and both have significant behavioral challenges as a result. One consumer is currently at a rehabilitation hospital in Oklahoma while awaiting approval for a Medicaid Brain Injury Waiver slot. The other consumer is at a residential facility in Illinois after placements at multiple Iowa facilities proved unsuccessful.

The Office of Public Guardian anticipates this will continue to be a challenge as the office grows. Iowa lacks service providers with experience and specialization in complex behavioral needs related to brain injury, especially when there are co-occurring substance use, mental health, and/or physical health issues.

Current law, and the contract between the State Office of Public Guardian and the Local Office of Public Guardian, contemplates consumers residing within the state of Iowa. Changes will likely be needed if the Office of Public Guardian will be serving multiple individuals in out-of-state placements.

- Complex Elder Abuse Cases: Currently, the Office of Public Guardian's costs per consumer are capitated, with some variation in costs depending on where the consumer lives and whether the consumer receives guardianship services, conservatorship services, or both. Extraordinary legal fees are paid separately. These are fees for legal work outside the scope of a routine guardianship or conservatorship matter.

For example, one Office of Public Guardian consumer had previously lived with her brother, who was physically and verbally abusive. DHS adult protective services was called to investigate the situation and removed her from the home. The Office of Public Guardian was appointed as her guardian and conservator. The brother continued to contact her at the nursing facility where she resides. She was extremely distressed by his calls and visits. The Office of Public Guardian filed a motion with the court to deny contact between the brother and our consumer, which the court granted. This is not a routine part of the guardianship case, and the Office of Public Guardian paid additional legal fees for this proceeding.

In another case, an Office of Public Guardian consumer's son fraudulently transferred the consumer's mobile home and failed to transfer proceeds from the sale to the consumer. The Office of Public Guardian filed a petition for relief from elder abuse against the consumer's son and daughter-in-law and the purchaser of the mobile home.

Education and Training for Guardians and Conservators

The Office of Public Guardian had contracted with modjul, LLC to develop a series of web-based training videos to help educate guardians and conservators about their fiduciary responsibilities. It was anticipated that these training videos would be complete by the end of FY2019. This plan changed with the passage of

HF610 and the significant changes to Iowa's adult guardianship and conservatorship laws. The Office of Public Guardian recognized that the training videos would require significant revision in order to address these changes and that the format of the videos would make future revisions difficult. It was also unclear whether the web-based training would be the most effective method of educating Iowa guardians and conservators about their fiduciary responsibilities. The Office of Public Guardian opted to put development of these training videos on hold and work with various stakeholders to determine the best method of educating Iowa guardians and conservators.

Education of the Public about Substitute Decision Making

The Office of Public Guardian has continued outreach efforts throughout the state to educate the public about guardianship, conservatorship, and less restrictive alternatives for supporting individuals who need assistance with decision making. In FY2019 the Office of Public Guardian presented to fourteen groups with a combined total of 417 attendees. In the first four months of FY2020 the Office of Public Guardian has presented to three groups with a combined total of 78 attendees.

The Office of Public Guardian is also working on a series of information sheets with basic information about guardianship, conservatorship, powers of attorney, capacity versus competence, healthcare and financial advance planning, supported decision making, and related topics. These will be made posted on the Iowa Department on Aging website, made available to other agencies to distribute to their customers, and provided to the general public on request.

If you have questions, please contact the Office of Public Guardian at (515) 975-5084 or via email at jennifer.donovan@iowa.gov.



Jennifer Donovan, Public Guardian
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