

**Strategy Brief:**

**Ombudsman Program  
Advocacy in Guardianship**

Report on National Dialogue Forum #4

Prepared by the National Association of State Units on Aging

National Long-Term Care  
Ombudsman Resource Center

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**May 2006**

Supported by the U. S. Administration on Aging

### **Acknowledgements**

We wish to acknowledge and thank the State Unit on Aging (SUA) directors and State Long-Term Care Ombudsmen (SLTCO) who provided their time and expertise as members of the **National Dialogue Forums' Advisory Committee** (listed in Appendix A); the **Issue Identification Panel** (listed in Appendix B) for their assistance with clarifying the focus of the this Dialogue Forum; and to those persons who participated in the two teleconferences, held June 14 and 16, 2005 (listed in Appendix C).

### **About the Author**

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The National Association of State Units on Aging (NASUA) is a private, nonprofit organization whose membership is comprised of the 56 state and territorial offices on aging.

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This paper was supported, in part, by a grant, No. 90AM2690, from the Administration on Aging, Department of Health and Human Services. Grantees undertaking projects under government sponsorship are encouraged to express freely their findings and conclusions. Points of view or opinions do not, therefore, necessarily represent official Administration on Aging policy.

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## Foreword

The National Association of State Units on Aging (NASUA), as part of its work in support of the National Long-Term Care Ombudsman Resource Center (NORC), is convening a series of national dialogue forums on issues of importance to long-term care ombudsman programs and state units on aging (SUAs). The National Dialogue Forums provide a venue for state aging directors and state long-term care ombudsmen (SLTCOs) to discuss challenging issues and identify promising practices to more effectively serve long-term care consumers.

NASUA has developed a process for convening the National Dialogue Forums consisting of the steps described below.

**Step 1.** Convene the Advisory Committee to identify topic areas on which the forums will focus in the coming year. The Advisory Committee consists of equal representation of SUAs and SLTCOs (the membership of the Advisory Committee is listed in Appendix A). At the Advisory Committee's first teleconference in September 2003, three topic areas were identified:

- Ombudsman program connections to home and community based services.
- Ombudsman program involvement in nursing home transition efforts.
- Reaching and serving diverse populations.

**Step 2.** Convene an Issue Identification Panel (IIP) focused on each topic. The IIP will help identify the primary questions for discussion during the National Dialogue Forums. Each IIP consists of approximately 10 representatives of SUAs, state ombudsman programs and other areas germane to the topic (e.g., Adult Protective Services, Centers for Medicare and Medicaid Services, American Bar Association, Independent Living Centers, home and community based services, etc.).

**Step 3.** Identify promising practices. Promising practices and information on strategies ombudsman programs use to address the dialogue topic will be solicited from SLTCOs via email prior to each dialogue forum. Additional promising practices will be identified during the dialogue forum.

**Step 4.** Invite all SUAs and SLTCOs to participate in the National Dialogue Forums.

**Step 5.** Convene the National Dialogue Forum, consisting of a series of teleconferences on each dialogue topic.

**Step 6.** Develop a strategy brief. Strategy briefs provide highlights of the ideas, challenges and promising practices presented during the dialogue forums and obtained via email from state ombudsman programs. A strategy brief for each dialogue topic will be prepared and disseminated to all SUAs and SLTCOs.

## Strategy Brief:

# Ombudsman Program Advocacy in Guardianship

Report on National Dialogue Forum #4

## Introduction

This strategy brief presents promising practices and strategies identified by ombudsman programs concerning guardianship and alternatives to guardianship for nursing home residents with limited decision-making capacity and no surrogate decision-maker.

In May of 2003 NASUA convened a teleconference for state ombudsmen to talk about guardianship. That discussion identified the systemic issues that ombudsman programs were encountering --- a chronic lack of guardians, inadequate training, and weak monitoring of guardians by the courts. The summary of this call, entitled *Ombudsmen Talk About Guardianship* is available on the National Ombudsman Resource Center website at <http://www.ltombudsman.org/uploads/OmbonGuardianship0204.pdf>. In the two years since many states have addressed some of these issues through legislation and regulatory reform. However, progress has been slow and uneven, with the result that guardianship continues to be an issue of national concern. Thus, NASUA decided to revisit this topic with a focus on states' efforts to address guardianship and the ombudsman program's involvement in these initiatives.

The information presented here is based on promising practices identified by state ombudsmen in response to an email solicitation sent to all programs in May 2005 and information provided during the National Dialogue Forum. The National Dialogue Forum consisted of two teleconferences held on June 14 and 16, 2005.

An Issue Identification Panel (IIP) comprised of state ombudsmen, state aging directors, and representatives from the Administration on Aging (AoA), the National Association of Adult Protective Services Administrators (NAAPSA), The Center for Social Gerontology (TCSG), the National Guardianship Foundation (NGF) and the American Bar Association (ABA) helped develop a set of questions for this National Dialogue Forum on *ombudsman program advocacy in guardianship*. The IIP met via teleconference on December 14, 2004. See Appendix B for the list of IIP members.

Three questions (listed below) were emailed to all state aging directors and state ombudsmen prior to the calls, and were used to guide the discussion during the teleconferences.

The National Dialogue Forum addressed the following questions:

What is being done in your state to address the issues of availability, training and monitoring of guardians? How are the state unit on aging and the ombudsman program involved?

What alternatives to guardianship for nursing home residents with limited decision-making capacity and no surrogate decision-maker are being explored? What is the ombudsman program's role in these efforts?

What are the significant challenges to effective systems advocacy on guardianship related issues?

A total of 44 individuals from 20 states and the District of Columbia participated in the two teleconferences, including:

- 18 representatives from state units on aging.
- 26 state ombudsman program representatives.

Both the state unit on aging and the ombudsman program from seven states participated in the calls. National Dialogue Forum participants are listed in Appendix C.

## **Promising Practices and Discussion Highlights**

This strategy brief is divided into three sections that correspond to the questions asked during the National Dialogue Forum conference calls. Section I reports **current state activities** designed to improve the availability and quality of guardianship; Section II describes **alternatives to guardianship** for nursing home residents that are being explored or promoted in several states; and Section III reports **challenges to effective systems advocacy on guardianship issues**.

### ***I. Current state activities***

What is being done in your state to address the issues of availability, training and monitoring of guardians?

How are the state unit on aging and the ombudsman program involved?

States' efforts to improve access to, and enhance the quality of, guardianship services

In **Arizona** each county operates a public guardianship program. The State Supreme Court oversees a certification program for all guardians (both public and private) and ensures they are trained and bonded. When the ombudsman program receives complaints about fiduciaries whose wards are residents of nursing homes, the program checks with the Supreme Court to determine if the fiduciary is certified. The ombudsman program forwards complaints involving certified fiduciaries to the Supreme Court for further investigation.

During **Delaware's** 2005 legislative session the ombudsman program advocated for funding an additional position for the state's public guardianship program. According to the former state ombudsman, "the ombudsman program has a legitimate role in advocating to ensure that caseloads for guardians of long-term care residents are not overloaded."

In **Georgia**, the 2005 legislature earmarked \$250,000 for the creation of a statewide public guardianship program. The ombudsman program was supportive of this legislation because of the gap in guardianship services for persons in nursing homes who need a guardian. Previously, adult protective services (APS) acted as the guardian of last resort. This presented a problem if a resident needing guardianship services was not already an APS client prior to entering a nursing home because the APS program in Georgia does not have jurisdiction to serve persons in long-term care facilities.

As ombudsmen, our hope is that guardianship is always the last resort. We try to find alternatives whenever possible. However, in certain situations it is the only option.

Becky Kurtz  
State Ombudsman, Georgia

In **Kentucky**, approximately half the population being served through the public guardianship program, which is under the auspices of adult protective services (APS), is under 60 years old. In May 2005, the guardianship program began a statewide pilot training program to educate APS and guardianship program staff about the roles of guardians. The purpose of this educational effort is to support the public guardianship program's work on behalf of families that serve as guardians.

The Issues Identification Panel convened for this dialogue forum gave Kentucky the impetus to establish a focus group to look at guardianship issues and identify changes that could be made administratively or legislatively to improve the quality of guardianship in the state. Thus far, agencies within the Health Services Cabinet, including Adult Protective Services, the State Unit on Aging, Licensure and Survey and Public Health, have participated in the meetings and plans are underway to convene focus groups with a broader array of agencies and organizations that have concerns related to guardianship.

The Issue Identification Panel for this dialogue provided the impetus for Kentucky to begin examining the quality of guardianship in the state.

In **Missouri**, 115 counties have publicly elected guardians, called public administrators. Local Probate Courts oversee the guardians and conservators that serve their jurisdictions. In 2004, the legislature passed a law giving counties the option of making their programs salaried (public administrators draw a salary, regardless of the number of wards they serve) or fee-based (under which public administrators are paid a fee for each ward served). Because these public administrators can function differently from county to county, the ombudsman program is working to develop a liaison with them so that any complaints involving guardians can be investigated and resolved as effectively as possible. Recently, an ombudsman program representative spoke at the statewide conference of the Public Administrators' Association.

**Colorado** and **Wyoming** do not have public guardianship programs. However, in both states, private non-profit organizations work to address the need for guardians. In Colorado, The Guardianship Alliance recruits and trains volunteers to serve as guardians for people who have no family and do not have funds to pay for a private guardian. The Wyoming Guardianship Corporation recruits volunteer guardians and conducts public forums, speaking to interested groups in the community about guardianship and the need for individuals to become guardians. The corporation is funded primarily through a small contract with the state, but also offers guardianship services for a fee for wards that can afford to pay.

**Washington State** and **West Virginia** have developed handbooks for guardians. Washington's *Family & Volunteer Guardian's Handbook – How to be an Effective Guardian*, developed by the King County Bar Association, offers practical information on a wide array of topics such as: the hearings process; developing a care plan (includes checklist); handling the protected person's expenses and assets; record keeping; and decision making standards.<sup>1</sup>

#### Guardianship programs operated by state units on aging

In April 2005, the National College of Probate Judges endorsed the training, testing and certification process standards established by the National Guardianship Foundation (NGF). The **Florida** Statewide Public Guardianship Office (SPGO), operated by the Department of Elder Affairs requires certification for all professional guardians. Under Florida statute, a professional guardian is defined as a person who receives compensation for services provided to three or more wards.<sup>2</sup> The state certification process requires the guardian to complete an initial 40 hours of SPGO-approved training, pass the state's competency exam (administered by the NGF under a contract with the state), and complete 16 hours of continuing education every two calendar years. Approved curriculums include topics such as advance directives and

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<sup>1</sup> The *Family & Volunteer Guardian's Handbook* is available by contacting the King County Bar Association, CLE Department, 1200 Fifth Ave., Suite 600, Seattle, WA 98101, telephone: (206) 267-7100. The cost is \$7.19 for postage and handling.

<sup>2</sup> The 2006 Florida General Assembly has passed legislation eliminating "compensation" from the definition of a professional guardian. The Governor is expected to sign this legislation into law.

alternatives to guardianship, court procedures and types of guardianship. A professional guardian must register annually with the SPGO, post a \$50,000 blanket bond, and submit a credit and criminal report every two years.

In **Maryland**, the Department of Aging operates a statewide guardianship program for persons 65 and older. The program served 741 persons in 2004 and anticipates serving at least as many in 2005. Most of the guardianship cases are assigned to the local AAA directors. While there is no data on the location of the wards it is believed that most are likely in nursing homes.

The **Tennessee** Commission on Aging and Disability operates the Public Guardianship for the Elderly Program through the state's nine area agencies on aging. Statewide, the program serves about 400 persons each year. While detailed demographic information is not available, in general, clients range in age from 60 - 96 years old, have limited income and resources and no family or surrogate decision maker. The majority of clients have a guardian that handles decisions for both their person and property. The SUA is currently working to enhance the data collection system for persons served under this program.

*An emerging issue*

In recent years, the Tennessee public guardianship program has been providing services to an increasing number of older, "severely, persistently mentally ill" persons. Many of these clients, "age" into the program, not previously having received services through the aging network. Often they are identified by adult protective services as being at risk of abuse or neglect and are referred to the guardianship program by the courts. These individuals have presented new challenges for the guardianship program, including housing and medication compliance issues.

In June 2005, **Texas** started a new public guardianship program. The program, previously housed in adult protective services, is now under the Department of Aging and Disability Services. The program now has additional staff to support its operations and serves aged and disabled persons 19 years of age and older. A certification process will be established for all public guardians.

## **II. Alternatives to guardianship**

What alternatives to guardianship for nursing home residents with limited decision-making capacity and no surrogate decision-maker are being explored?

What is the ombudsman program's role in these efforts?

*"Finding alternatives to guardianship is important because we cannot provide a guardian for every incapacitated person in a nursing home who does not have someone*

*to make informed decisions for them. While the public guardianship program works well, it is expensive and very labor intensive.”*

Sue Lord, local ombudsman, Maryland.

### Advance Directives, surrogate decision-makers and ethics committees

Many ombudsman programs, including Arizona, Delaware, the District of Columbia, Georgia and Maryland, do **outreach and education** with long-term care residents **concerning the importance of advance directives**.

- ❑ In Delaware, the ombudsman program is required to witness all **advance directives** that are completed in nursing homes and other long-term care facilities. The Advance Directive form includes an optional section for selection of a healthcare power of attorney.

In the absence of an advance directive or a durable power of attorney for health care, decisions on behalf of residents who lack the capacity to make their own decisions may fall to a surrogate decision-maker. Many states have surrogate decision-making laws (often part of a Healthcare Decisions Act), which provide a hierarchical list of persons permitted to make decisions on behalf of an individual who cannot make decisions for herself. The lists of surrogate decision-makers typically include the spouse, adult children, siblings, and other relatives; some states also include close friends that have had significant contact with the individual.

- ❑ Arizona’s surrogate decision-making law allows a resident’s physician to make a healthcare decision for an incapacitated individual, in conjunction with an ethics committee or another physician, when a surrogate is not available or is unwilling to make a decision. This process is conducted on a decision-by-decision basis. The ombudsman program has developed a **Surrogate Worksheet** that can follow a person from setting to setting (see Appendix D for a copy of the worksheet). For instance, it could go with an individual being discharged from the hospital to a nursing home. The worksheet is not a legal document but provides contact information for persons with knowledge of the individual’s wishes regarding medical treatment. It can be particularly helpful to hospital and nursing home ethics committees trying to determine a person’s wishes when a surrogate decision-maker is not available.
- ❑ In Kentucky, the state’s living will statute includes a process for the **appointment of a surrogate decision-maker**. Sue Crone, director of the state’s public guardianship program, thinks this provision has helped avoid the need for guardianships in some cases. The law requires an application completed by an individual who is willing to serve as guardian to be included with the petition for appointment of a guardian. In addition, the courts often refer cases to adult protective services so less intrusive supports can be examined in order to avoid an unnecessary guardianship.

- ❑ New Hampshire has recently created a program under which a private agency, called Metroship Incorporated, offers an alternative to guardianship when the issues a person is experiencing can be successfully addressed through **“targeted guidance”**. Trained volunteers provide guidance and support to clients with issues such as paying bills and managing personal and household tasks to enable the individual to make his or her own decisions. The agency serves Medicaid clients; currently, most are persons with developmental disabilities or mental health issues. The agency is beginning to reach out to older persons and the ombudsman program is assisting in this effort by exploring available funding options so more seniors can be served.
- ❑ North Dakota’s informed consent (or surrogacy) law requires physicians of nursing home residents to make a **determination regarding a nursing home resident’s capacity to make healthcare decisions** when such capacity is at issue. This determination must be noted in the resident’s chart. The law includes a menu of persons eligible to make decisions on behalf of the incapacitated person, starting with a spouse, followed in descending order by adult children, siblings and personal friends who have had significant contact with the person.
- ❑ To educate persons about Tennessee’s Healthcare Decisions Act, the Guardianship for the Elderly Program is coordinating a series of **training sessions on ethical issues involved in medical decision-making**. Elder law attorneys and a medical ethicist provide information and answer questions as part of the training. In addition, the ombudsman program provides residents, families and facilities with information and education about possible alternatives to guardianship when situations that require a surrogate decision-maker arise.
- ❑ In Texas, certified guardians are required to consider **less restrictive arrangements for potential wards**. For example, money management programs may be appropriate and sufficient for some persons who need help paying bills or managing their money; avoiding the need for a court appointed guardian or conservator.
- ❑ Maryland and Tennessee have attempted to address the issue of unnecessary guardianship petitions filed by health care facilities through the use of **patient care advisory committees**, also known as ethics committees. These committees can review an individual’s situation and make a recommendation concerning a care decision or placement when there is no surrogate decision-maker available. These committees have been used in nursing homes and hospitals.
- ❑ In West Virginia, a **“healthcare surrogate”** can be appointed by a person’s physician from a list of people named in statute, starting with the spouse, then adult children and other blood relatives. The healthcare surrogate is

responsible for making only healthcare decisions. Generally, the physician talks with the resident about his/her wishes and makes a determination about whether or not he/she has the capacity to make healthcare decisions. The physician must document a determination of incapacity and then contact persons on the surrogate list beginning with the spouse if one is available. This appointment remains in effect until the physician determines that the individual has regained the capacity to make decisions for him or her self. If no one is available, the Department of Health and Human Services may act as a surrogate of last resort.

### “Single transactions” and limited guardianships

- ❑ In Maricopa County, Arizona the ombudsman program has helped nursing home residents who were incapacitated and had no surrogate decision-maker qualify for Medicaid benefits by finding an attorney or public fiduciary to handle a **“single transaction”**. A single transaction is not a full conservatorship, but a limited authority to allow access to a bank account, life insurance policy, or other financial account, in order to spend down the resident’s assets so he/she can qualify for Medicaid. The courts allow individuals who administer these single transactions to be paid out of the funds available to the resident.

“We want limited guardianships, we want no guardianships, we want alternatives, we want mediation ... we want all these other things.”

Dawn Savatone  
local ombudsman, Arizona
  
- ❑ In Georgia, the Probate Court may be petitioned to make single decisions on behalf of incapacitated individuals who do not have a surrogate decision-maker. For example, when an individual needs to be discharged from the hospital and there is no one to give consent, the Probate Court can approve a placement in a long-term care facility or the provision of other services as needed. The ombudsman program is notified of placements to long-term care facilities when this process is used so a program representative can follow-up with the resident to determine if additional assistance is needed. According to the state ombudsman, while this action avoids the immediate necessity for a guardianship, it does not resolve the guardianship question if there remains a need for a surrogate decision-maker. However, if the person’s incapacity is only temporary, an unnecessary guardianship is avoided and his/her personal autonomy is protected.
  
- ❑ The Michigan Office of Services to the Aging collaborates with the ombudsman program to provide training to nursing home administrators and directors of nursing on guardianship, including when it is and is not appropriate, in

The first thing we need to do is keep people from the courthouse door so we do not have guardians.

Cherie Mollison  
Office of Services to the Aging, Michigan

order to prevent unnecessary guardianships initiated by facilities. Michigan law permits **limited guardianships** so judges can tailor a guardianship to the individual's identified needs.

### ***III. Challenges to effective systems advocacy on guardianship issues***

What are the significant challenges to effective systems advocacy on guardianship related issues?

National Dialogue Forum participants identified a number of challenges to ensuring quality guardianships and developing less restrictive alternatives, including:

- Lack of national standards for guardianship caseloads
- Limited funding for guardianship services
- Guardianships are relatively easy to get
- Misconceptions about guardianships
- Limited availability of community supports
- Finding culturally competent guardians
- A caution: ombudsmen should not serve as guardians
- Need for continued education of the public, providers and judges.

Lack of national standards for guardianship caseloads. A shared concern among dialogue participants is that some guardians, both private and public, are responsible either by choice or appointment for an unreasonably high number of wards. While each guardianship is unique in its complexity and the subsequent amount of time required, the lack of national guidelines combined with increasing caseloads in many states has led to significant numbers of guardians being unable to adequately serve wards. Example: a guardian of 40 nursing home residents does not have time to visit each resident on a routine basis, understand his/her needs, and attend care plan meetings.

Limited funding for guardianship services. A common issue raised by participants was the lack of adequate funding to meet the increasing need for public guardianship services. This has forced some programs to limit the number of older persons they are able to serve or, as in Tennessee, charge fees based on a sliding scale. In 2004, the Tennessee state legislature established a multi-agency task force to look at expanding the program to include persons over the age of 18 who are adjudicated as incapacitated due to mental illness and other conditions. The final report of the task force noted the need for additional resources to adequately serve a broader population without diverting resources from the elderly population, which the program was originally established to serve. To date, the program has not received any additional funding.

Guardianships are relatively easy to get. In many states, the process for appointing guardians affords minimal protection to the potential ward. Court-

appointed advocates for the person (known as guardians ad-litem in some states) typically have limited time to spend investigating the actual need for a guardian and may not even interview the potential ward. As a result, many guardianships are uncontested. This in turn can result in an unnecessary loss of an individual's rights and may actually put some individuals at greater risk of neglect or exploitation by unscrupulous family members. The process may also allow the establishment of premature guardianships in situations where the individual's decision-making capacity is fluid, whereby at a single point in time and at any single moment (such as the stressful context of a court proceeding), the person may be unable to articulate his or her wishes or object to the appointment of a guardian.

Misconceptions about guardianships. There is a general misconception that guardians can control a person's behavior. A number of scenarios were described by dialogue participants in which guardianships were established in response to a resident's behavior rather than identifying measures to address the underlying symptoms of the behavior. For example, appointment of a guardian does not prevent a resident with an alcohol or substance abuse problem from continuing to find ways to drink or use drugs.

<p>A guardianship will not stop grandma from wandering, skipping meals or forgetting to take her medication.</p> <p>Cherie Mollison Office of Services to the Aging Michigan</p>
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Limited availability of community supports. Unfortunately, services that can help an individual to continue to live independently in the community are not always available or may not be accessible, due to a lack of transportation or because there is a waiting list for a particular service. Thus, an individual at risk of abuse or neglect may be placed in a nursing home or other residential care facility by a guardian when community services are not available.

Finding culturally competent guardians. A special challenge is finding guardians who understand the culture of the person they are serving. Many cultures have specific rituals, beliefs and norms that play an important role in the lives of individuals. The Alaska State Ombudsman noted that while not many Native Alaskans have guardians, most would probably want a Native Alaskan as a guardian, or at a minimum someone who is familiar with their culture.

A caution: ombudsmen should not serve as guardians. One state, Maryland, is working to address the issue of local ombudsmen serving as guardians for nursing home residents. Local ombudsman programs are operated by area agencies on aging (AAAs) that may also operate guardianship programs. Local ombudsmen who wear multiple program "hats" in some AAAs may sometimes serve as guardians for older adults living in or needing a long-term care facility. *Dialogue participants agreed that it is a significant conflict of interest for an ombudsman to serve as a resident's guardian.*

Need for continued education of the public, providers and judges. More education should be directed to the community, providers, and especially probate judges, regarding what guardianship can and cannot do, when it is appropriate and when other appropriate resources can be used as an alternative to guardianship. Dialogue participants agreed that identifying and promoting alternatives to guardianship is an important step in helping older persons retain their independence and autonomy and reduce the number of unnecessary guardianships.

## Summary

Forty-four (44) persons representing 20 states and the District of Columbia participated in the National Dialogue Forum on ombudsman program advocacy in guardianship, which consisted of two teleconferences held on June 14 and 16, 2005. The dialogue focused on ombudsman program involvement in states' activities related to guardianship, including the exploration of alternatives to guardianship for nursing home residents with limited decision-making capacity and no surrogate decision-maker. Participants also identified challenges to ensuring quality guardianships and alternatives to guardianship.

Dialogue participants discussed numerous examples of how states are working to improve access to, and enhance the quality of, guardianship services through training and monitoring of persons who serve as guardians. Many of the ombudsman programs and state units on aging that participated in the dialogue are actively involved in conducting community education and outreach about the importance of advance directives as a tool for preserving autonomy. Alternatives to guardianship that states are exploring include the use of: healthcare surrogates; patient care advisory committees; and court sanctioned single transactions to help persons qualify for public benefits. One state, New Hampshire, described how a newly created program is training volunteers to help people pay their bills and manage household tasks through targeted guidance and support as one approach to avoiding guardianship.

Participants identified challenges to improving the accessibility to, and quality of, guardianships and the development of less restrictive alternatives to guardianship, including:

- Lack of national standards for guardianship caseloads
- Limited funding for guardianship services
- Guardianships are relatively easy to get
- Misconceptions about guardianships
- Limited availability of community supports
- Finding culturally competent guardians
- A caution: ombudsmen should not serve as guardians
- Need for continued education of the public, providers and judges.

## **APPENDIX A**

### **Advisory Committee Members**

## National Dialogue Forum Advisory Committee

### Advisory Committee Members

#### SUA Representatives:

##### **Kentucky**

Jerry Whitley  
Executive Director  
Office of Aging Services

##### **Maine**

Chris Gianopoulos  
Director  
Bureau of Elder & Adult Services

##### **New Mexico**

Michelle Lujan-Grisham  
Secretary Designate  
State Agency on Aging

##### **Utah**

Helen Goddard  
Director  
Division of Aging & Adult Services

#### Ombudsman Program Representatives:

##### **Missouri**

Carol Scott  
State Ombudsman

##### **Ohio**

Beverly Laubert  
State Ombudsman

##### **Texas**

John Willis  
State Ombudsman

##### **Wisconsin**

George Potaracke  
State Ombudsman

## **APPENDIX B**

### **Issue Identification Panel Members**

## **Ombudsman Program Advocacy in Guardianship**

### Issue Identification Panel Members

**Panel Task:** Identify primary questions of interest to address during the National Dialogue Forum on Ombudsman Program Advocacy in Guardianship.

#### SUA Representatives:

##### **Iowa**

Mark Haverland  
Director, Department of Elder Affairs

Deanna Clingan-Fischer  
Legal Assistance Developer

##### **Maryland**

Sue Vaeth  
Department of Aging

##### **Michigan**

Cherie Mollison  
Chair, National Guardianship  
Foundation

##### **New York**

Bill Graham  
Legal Assistance Developer

#### Ombudsman Program Representatives:

##### **Maryland**

Pat Bayliss  
State Ombudsman

##### **Missouri**

Carol Scott  
State Ombudsman

##### **New Mexico**

Walter Lombardi  
State Ombudsman

##### **Oklahoma**

Esther Houser  
State Ombudsman

#### Others:

##### **Administration on Aging**

Brandt Chvirko  
Aging Services Program Specialist

##### **American Bar Association**

Erica Wood  
Commission on Law and Aging

##### **National Association of Adult Protective Services Administrators**

Sue Crone  
Kentucky

##### **The Center for Social Gerontology**

Penny Hommel  
Co-Director

## **APPENDIX C**

### **National Dialogue Forum Participants**

## **Ombudsman Program Advocacy in Guardianship**

### National Dialogue Forum Participants

#### **Alaska**

Bob Dreyer  
State Ombudsman

Julie Bailey  
Janice Olsen  
Ombudsman Program

#### **Arizona**

Dawn Savatone  
Ombudsman Program

#### **Colorado**

Pat Tunnell  
State Ombudsman

Steve Evans  
Division of Aging & Adult Services

#### **District of Columbia**

Jerry Kasunic  
State Ombudsman

#### **Delaware**

Tim Hoyle  
State Ombudsman

#### **Georgia**

Becky Kurtz  
State Ombudsman

Doris Clanton  
Legal Counsel  
Division of Aging Services

Mary Martha Rugg  
Adult Protective Services  
Division for Aging Services

Natalie Thomas  
Legal Assistance Developer  
Division for Aging Services

#### **Hawaii**

John McDermott  
State Ombudsman

Ann Holton  
Ombudsman Program

Camille Chunhoon  
Office on Aging  
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## **APPENDIX D**

### **Identification of Surrogate Worksheet**

For more information about this form contact:

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**IDENTIFICATION OF SURROGATE WORKSHEET**

PATIENT'S NAME: \_\_\_\_\_

DOB: \_\_\_\_\_

Directions: This form is used to specify the type of surrogate who will make health care decisions for the above patient when s/he is unable to do so. The person responsible for locating a surrogate decision-maker shall contact the following individual(s) in the indicated order of priority below who are available and willing to serve as a surrogate per ARS 36-3231. Documentation of contacts/results may be noted on this form and/or in the patient's chart.

SELECT ONE:

APPOINTED SURROGATE(S): A person authorized to make health care decisions on behalf of the patient.

\_\_\_ Guardian appointed for the express purpose of making health care treatment decisions (place copy in medical record)

\_\_\_ Agent under health care power of attorney (place copy in medical record)

IF NEITHER IS AVAILABLE, make reasonable efforts to contact and verify that the person(s) is unwilling or unable to serve as surrogate decision maker before moving to the next in priority:

\_\_\_ 1. The patient's spouse (unless the patient and spouse are legally separated) \_\_\_\_\_

\_\_\_ 2. An adult child of the patient (if the patient has more than one adult child, the health provider shall seek the consent of a majority of adult children who are reasonably available for consultation) – list all children serving as surrogates below \_\_\_\_\_

\_\_\_ 3. A parent of the patient \_\_\_\_\_

\_\_\_ 4. If the patient is unmarried, the patient's domestic partner (if no other person has assumed any financial responsibility for the patient) \_\_\_\_\_

\_\_\_ 5. A brother or sister of patient \_\_\_\_\_

\_\_\_ 6. A close friend of patient (an adult who has exhibited special care and concern for the patient, who is familiar with the patient's health care views and desires and who is willing and able to become involved in the patient's health care and to act in the patient's best interest) \_\_\_\_\_

IF NONE OF THE ABOVE CAN BE LOCATED;

\_\_\_ Attending physician

a. after the physician consults with and obtains the recommendations of an institutional ethics committee  
OR IF THIS IS NOT POSSIBLE

b. after consulting with a second physician who concurs with the physician's decision

NOTES: \_\_\_\_\_

**IDENTIFIED SURROGATE(S)** – please include name, relationship to patient, address, and phone number(s), and relationship to patient for each identified surrogate: \_\_\_\_\_

PERSON COMPLETING FORM: \_\_\_\_\_ DATE: \_\_\_\_\_

TITLE: \_\_\_\_\_ HEALTH PROVIDER/FACILITY: \_\_\_\_\_