

**VIRGINIA PUBLIC GUARDIAN AND CONSERVATOR ADVISORY BOARD  
MEETING**

Department for Aging and Rehabilitative Services, Virginia Division for the Aging  
1610 Forest Avenue, Suite 100, Richmond, VA 23229

**December 6, 2012, 10 a.m.-2 p.m.**

**MEETING MINUTES**

**Members Present**

Kate C. Mason, Chair, Paul Aravich, Karen Fortier (phone), Debra Holloway, Lisa Linthicum, DeMaris Miller, Gail Nardi, John Powell, Kathryn Pryor, Eileen M. Reinaman, Cynthia Smith, Dana Traynham, Thelma Bland Watson.

**Members Absent**

Debbie Burcham

**Guests**

Tom Butcher, City of Richmond DSS  
Beth Skufca, Senior Connections  
Carter Harrison, Alzheimer's Association  
Susan Massart, House Appropriations Committee  
Tim Catherman, DARS/VDA  
Kathy Miller, DARS/VDA  
Leonard Eshmont, DARS/VDA

**Virginia Division for the Aging Staff**

Amy Marschean, JD, Senior Policy Analyst  
Janet James, Public Guardian Program Coordinator  
Cecily Slasor, Administrative Assistant

**Welcome and Introductions**

Chair Kate Mason called the meeting to order at 10:10 a.m., welcomed members and guests, and asked that they introduce themselves. Chair Mason presented a plaque with appreciation to Mr. John Powell, past board Chair.

**Review/Approval September Meeting Minutes**

Mrs. Mason asked that members review the September 6, 2012 meeting minutes. There were no corrections to the minutes. Mr. Powell moved that the minutes be approved.

Kathy Pryor seconded the motion and the September meeting minutes were accepted and approved unanimously.

### **Presentation by Dr. Paul Aravich**

#### **The Brain and Incapacity**

(Handout)

Dr. Aravich presented on the science of the brain and the many causes of incapacity. He asked board members to remember who they are advocating for and to “look for greatness” in the persons for whom they advocate. Board members are in a privileged position to bring about change to the policies that could enhance the well being of individuals that are incapacitated.

### **Legislative Committee Update**

Ms. Marschean reported that the Legislative Committee met for first time just prior to today’s meeting. The meeting was organizational and the following co-chairs were elected, Karen Fortier and Debra Holloway.

### **Presentation: General Assembly Budget Process**

#### **Susan Massart, House Appropriations Committee**

(Handout)

Ms. Massart discussed Virginia’s budget process and offered tips to board members on how to effectively advocate for the public guardianship program. The Governor’s budget will be presented on December 17. Likely issues for the 2013 General Assembly session include: Medicaid funding, DOJ Settlement and ID Waiver waiting lists, behavioral health issues, higher education enrollment growth, debt service/ maintenance reserve, elimination of the remaining accelerated sales tax amount, second-year “holes” in the budget, decisions related to health care reform, federal budget reductions, pressure to backfill prior year budget reductions, public education, transportation, and economic development.

### **Virginia Guardianship Association (VGA) and Senate Bill 9 (2012)**

#### **Amy Marschean, Senior Policy Analyst**

At an earlier meeting, the VGA had requested that the Commissioner and board convene a taskforce to study Senate Bill 9 (2012). Ms. Marschean reported that a workgroup of approximately twenty interested parties was convened on September 21 and the following consensus views were achieved:

1. The circuit court judges and attorneys are not interpreting Code of Virginia §54.1-2986.1 to prohibit a guardian from restricting visitation for the health, welfare and safety of the ward.
2. Guardians have the authority to limit visitation for the health, welfare and safety of the ward under existing law.
3. If the original order does not address the visitation issue, the guardian may seek to modify the court order to bar harmful visitors or provide for monitored visitation. The courts value the objective view of the guardian *ad litem* and it may be worthwhile to train guardians *ad litem* on this visitation issue so that in the future the visitation restrictions are readily incorporated in the orders.
4. No bill is needed for the 2013 General Assembly session.

### **Local Mandates Task Force and Annual Report of Guardians**

#### **Gail Nardi**

The Local Mandates Task Force is an initiative of Governor McDonnell's to look at mandates that the Commonwealth places on localities. Two localities complained about the burden the annual report to guardians places on local Adult Protective Services workers within local departments of social services (LDSS) who review the reports and then must file them with the clerk of the local circuit court.

The Task Force requested the Department of Social Services (DSS) to come back "with plans for how to make this process more efficient and less burdensome on localities."

DSS suggested a legislative change that would remove the additional step required currently of a LDSS having to forward the annual report and requiring instead that the guardian file the report where the incapacitated person resides.

The statute currently requires that the LDSS follow up to confirm that a guardian's reports are submitted. There was a good deal of discussion among members about this issue. Several members feel that the circuit courts should be reviewing the guardian reports.

### **Public Guardianship Program Update**

#### **Janet James, Esq.**

Mrs. James thanked Chair Mason and others who attended the November 13 training for new public guardians. Mrs. James distributed copies of the Values History form that was changed in response to comments made by board members at the September meeting. The revised form will be effective January 1, 2013.

Mrs. James reported that the board's concerns about waiting lists has spurred a revision in the process with the local programs and they are now keeping waiting lists. In addition, Mrs. James shared a client success story and a gift that the client made.

Kathy Pryor commented that today's agenda was very interesting, however, she would like to see more focus on the actual public guardian programs. She would like to see Mrs. James' report in the first half of the agenda and more focus on the local programs and the clients. Members discussed the possibility of hearing from local program representatives at future meetings. Director of Programs for DARS/VDA Kathy Miller suggested that programs in southwest Virginia could appear at meetings via videoconference.

### **Public Comment Period**

Carter Harrison stated the Public Guardian program may benefit from looking at 'gaps' in the program. Ms. Pryor feels this is a good idea; look at one piece of the program each meeting, for example. Mr. Harrison encouraged members to look into accomplishments of Alzheimer's Association chapters who have many similar interests with the Public Guardian board and programs.

Mr. Powell suggested contacting a few Public Guardian program managers and inviting them to present at board meetings and also to ask the programs how the board can assist them.

### **New Business**

Mrs. Nardi and Mr. Powell discussed the recent *Washington Post* article included in the board packet concerning law firms that are handling guardianships and the ensuing controversy about fees that were charged to clients. Karen Fortier noted that the article said the judges had allowed 'reasonable and customary' fees. Further, prior Commissioners of Accounts had approved prior accountings and now, years later, the law firm is being told the accountings are not approved. The board will monitor the outcome of the lawsuit.

### **New Business**

None.

**Chair Mason adjourned the meeting at 2:15 p.m.**