



MASSACHUSETTS
Guardianship Policy Institute



MASSACHUSETTS GUARDIANSHIP POLICY INSTITUTE

Annual Report | 2019-2020

OUR MISSION:

To inspire policy change and social justice for isolated adults with unmet decisional support needs in Massachusetts.

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Introduction



THE MASSACHUSETTS GUARDIANSHIP POLICY INSTITUTE (the “Institute”) is a collaborative of Massachusetts non-profit organizations and committed stakeholders, who together are working to address the chronic shortage of decisional support services for the poorest and most socially isolated adults in need of such help.

The Institute's mission is multi-faceted. In addition to bringing public attention to longstanding gaps in public services, the Institute is focused on the quality of services provided by surrogates, and on improving oversight of all providers of decisional support. These concerns involve our courts, social service agencies, community groups, professional organizations and other civic institutions that have a stake in protecting both the well-being and the dignity of the most vulnerable of our adult population.

Legislation has been filed that has engaged lawmakers with the evidence that public action is needed. The Courts have

welcomed these developments with extraordinary openness and creativity of their own. Relevant departments in the state’s social service agencies so far have been slow to respond, but some have offered support and cooperation that may prove pivotal to the ultimate success of the public guardianship mission.

Since 2015, educational, colloquial and networking events sponsored by the Institute have reached more than 1,500 professionals and concerned individuals throughout Massachusetts, who have responded with a new message of hope for public guardianship



THE CHANGING FACE OF GUARDIANSHIP

Public policy toward guardianship is complex, today more than ever. Laws in Massachusetts and elsewhere have changed dramatically over the past 30 years, adopting greater protections and increasingly “person-centered” approaches. The Institute has recognized this trend from the outset and strongly supports it. But other considerations work against these developments.

Since 2017, there have been a number of nationally-publicized scandals, showing abuses by guardians and conservators. These stories are a profound cautionary lesson for those impacted by decisional incapacity, including the individuals, their

loved ones and both public and private agencies who are concerned about their welfare. Such scandals have deservedly caught the attention not only of the public, but of policy-makers around the country.

The right response to misconduct is to do more, not less, to protect the vulnerable. Better oversight is needed, along with better-funded agencies, better understanding of how the systems fail, and greater transparency for both public and private guardianship services. The Institute is engaging with these extraordinarily complex issues through three primary avenues:

■ ADVOCACY

■ EDUCATION

■ RESEARCH

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Advocacy

LESS THAN ONE IN FOUR OF THE MOST ISOLATED AND INDIGENT PERSONS with decisional impairment in Massachusetts today receives publicly-financed guardianship or conservatorship services. The financial costs of this public policy failure are staggering. Research commissioned by the Institute in 2017 indicates that costs associated with guardianship, including chronic shortages of suitable guardians for the indigent, are costing public and private hospitals alone more than \$20M annually. That cost is many times more than Massachusetts spends on all of its departmental public guardianship programs combined.

SETTING STANDARDS

The right response to the crisis in guardianship services is more than simply to ramp up the numbers and availability of court-appointed fiduciaries. Our actions need to be deliberate, and guided by sound principles.

The late Judith Lennett, Esq., a pioneer in safeguarding vulnerable populations in Massachusetts, developed during the last year of her life a set of ethical principles to guide public guardianship services. The Institute's view is that both public and private guardianship services in Massachusetts should adhere to these guidelines.

Eight Domains for Best Practice in Guardianship:

1. Maximum autonomy for everyone in need of decisional help;
2. Intervention (whether voluntary or involuntary) only as a last resort;
3. Respect for cultural norms of those served;
4. Outreach, education and training for all of those affected by decisional incapacity, including the individual and his or her family or friends, if any;
5. Support through community resources as much as possible (i.e. avoidance of presumptive institutionalized care);
6. Clear guidelines for the quality of services provided;
7. Fiscal accountability and stable long-term funding of guardianship services; and
8. Continuous quality improvement through self-evaluation and public oversight.

LEGISLATIVE AND JUDICIAL ADVOCACY

The Institute is pursuing a number of approaches to improving both access to guardianship and quality of services that are provided. Among the most significant of these projects are:

1. Public Guardianship & Oversight

Round I: In January, 2016, the Institute reached out to sponsors in the Massachusetts House and Senate, including Sen. Cynthia Creem and (now former) Rep. Paul Brodeur (now Melrose Mayor), who generously agreed to file a bill that proposed a new agency to oversee public guardianship for the Commonwealth. The bill proposed a public-private partnership to implement a pilot program in two counties, in which the government agency provided

recognition and oversight, while the private entity provided its own funds to serve as guardian for 80 or more indigent individuals.

The proposal generated considerable interest, but was rewritten in Committee as a commission to study the proposal, which was included in the 2017 Budget proposals from both the House and the Senate. The proposal did not, however, survive the reconciliation process, and ultimately failed to pass.

Round II: In January, 2018, the Institute took a different approach, focusing proposed legislation exclusively on enhancing the Court's oversight role, by establishing the Office of Adult Decisional Support Services within the Massachusetts Trial Court.

Sen. Creem again sponsored the legislation, and Rep. Paul Tucker sponsored it in the House. The Court has viewed this proposal positively, and has added its own request for funding of such an Office in the 2021 budget. The Court's preference is to act without specific statutory

authorization for now, and as a result, the proposed legislation has been tabled for the current Session.

The institute's work with the Legislature has built a solid foundation for continued improvement in public policy governing decisional support. A great deal of new information has been made available to lawmakers, and strong Legislative support is evident. We are still not over the threshold for full, adequate public funding of decisional support for the neediest, nor is the educational task complete. But the work is well begun, and continues.

2. A Working Relationship With the Courts

Concurrent with its advocacy for state support of public guardianship, the Institute has forged ahead with creating the non-profit Public Guardian, a pilot or demonstration project to serve as guardian for a projected estimate of 80 or more indigent individuals in Plymouth and Suffolk County. (See *infra*, pp.[12-14.] At the request of the Chief Justice of the Probate & Family Court, the Institute entered into a Memorandum of Understanding

with the Court to guide and implement this pilot project. It is anticipated that the work of this new private agency will provide experience and data to support the continuing public debate over the state's role in providing decisional support for the most indigent and isolated individuals. The Public Guardian also will serve as a laboratory to demonstrate best practices in Massachusetts and elsewhere.

3. Rudow Reform

One of the most significant steps ever taken in Massachusetts to protect the indigent persons in need of decisional help was the ruling, more than twenty years ago, in *Rudow v. DMA*, 429 Mass. 218 (1999). *Rudow* held that guardianship is a medical expense that may be paid from the income of a Medicaid (MassHealth) recipient, without reducing benefits. MassHealth must make up the difference when paying otherwise-compensable medical benefits.

Rudow remains a critical foundation for providing guardianship services to the poorest and most vulnerable of our citizens, but it needs updating and reform in order to achieve the aims that were litigated and vindicated by the Supreme Judicial Court in that case.

The Institute's **Report on Nursing Home Policy Reforms Signaled by the COVID-19 Crisis** recommends three regulatory reforms consistent with the original Rudow decision:

(Rudow Reform, continued)

- Increase Allowable Compensation:**

The rate and number of hours compensable annually that MassHealth allowed in response to Rudow were inadequate from the outset, even under 1998 standards. See 130 CMR 520.026(E)(3). Ongoing fees for guardianship services, for example, may not exceed \$1,200 for the year, and may not be paid at a rate of more than \$50/hour, regardless of the experience of the guardian or the complexity of the task.

The cost of living since 1999 has nearly doubled, and the due-process requirements in all guardianships were substantially increased by state reforms enacted in 2009. Yet MassHealth has not increased payment even slightly under 130 CMR 520.026(E). The state immediately should double the rate and the amount of compensable hours, in order to comply even minimally with the Rudow decision 21 years ago.

- Remove the exclusion of immediate family members from *Rudow* coverage:**

Ironically, while MassHealth will pay a family member to be a personal care attendant, (see 130 C.M.R. 422.000) it disqualifies all family members from receiving payment under *Rudow* to serve as guardian. See 130 CMR 520.026(E)(3)(g)(viii). This policy is an unreasonable barrier to providing guardianship to the poorest

individuals, as many of the unbefriended may have family members who might be able, or might be convinced, to serve as guardian if their time were minimally compensable.

- Protect individuals under Rudow who lose their SSI income as a result of entering the nursing home:**

MassHealth's implementation of Rudow allows a deduction of the cost of a guardian from the individual's Patient Paid Amount (PPA); but if the person has no income from which to deduct fees for a guardian, the policy does not pay the guardian. (This is so, even though Rudow explicitly recognized the cost of a guardian as a medical expense.) Federal rules for Supplemental Security Income (SSI), which helps the poorest of the poor, terminates all SSI income upon admission to a nursing home. Thus, residents whose only income consists of SSI have no PPA from which to deduct guardianship costs, and there is no other mechanism for paying them. The state needs to devise a method for putting all guardians for such residents on equal footing. At least one potential way for doing so is to treat a medical guardian as a medical provider, and to pay a reasonable fee directly to that individual.



4. A Network of Advocacy

The Institute has received strong encouragement and active support from the American Bar Association Commission on Law and Aging since 2015. The Commission initiated a program in 2013 entitled “WINGS” (Working Interdisciplinary Network of Guardianship Stakeholders) to encourage guardianship reform, offering a process template for better communication, coordinated advocacy and collective impact on local law and practice, through a partnership of courts and guardianship stakeholders.

The Institute’s work has followed a path very similar to the one that the Commission recommends, as a result of which the Commission recognizes a “quasi-WINGS” network in Massachusetts, and includes the Commonwealth on its list of “WINGS” jurisdictions.¹

The Institute’s advocacy work over the past six years has engaged more than two dozen public and private organizations as participants at various events, and more generally in the conversation about public guardianship. While not all of these entities support the specific goals of the Institute, they have become part of the policy dialogue on guardianship issues:

Public Agencies:

- Massachusetts Department of Developmental Services
- Massachusetts Department of Mental Health
- Massachusetts Developmental Disability Council
- Massachusetts Office of the Attorney General
- Massachusetts Probate Court Office of Administration
- Massachusetts Protective Services (Executive Office of Elder Affairs)
- Veterans Administration—Boston Healthcare System
- Veterans Administration—Providence Healthcare System

Private Law Firms & Other Organizations:

- Casner & Edwards, LLC
- Bioethics Graduate Program, Harvard Medical School
- Law Office of James Downes
- Legal Planning for Special Needs (Law Office of Barbara Jackins, Esq.)
- Spano & Dawicki, LLC

Non-Profit Agencies:

- American Association of Retired Persons, Massachusetts Chapter
- Beth Israel Deaconess Medical Center
- Boston Center for Independent Living
- Boston Medical Center
- Boston VA Research Institute (BVARI) EXC Legal Services
- FriendshipWorks
- Greater Boston Legal Services
- Institute for Community Inclusion (UMass. Boston)
- Massachusetts Advocates for Nursing Home Reform
- Massachusetts General Hospital
- Massachusetts Guardianship Association
- Mental Health Legal Advisors Committee
- Mount Pleasant Home
- North Shore Elder Services
- Northeast Justice Center
- Vera Institute Guardianship Project, New York
- Suffolk University Law School, Health Law Clinic

¹ See www.americanbar.org/groups/law_aging/resources/wings-court-stakeholder-partnerships0/state-wings/

Education

THE EDUCATIONAL MISSION of the Institute is to support professionals, agencies, families, the courts and others who provide guardianship services with the tools for best practices. This includes providing ideas, data and news about guardianship practice, as well as building networks of ongoing educational support for those interested. Many of our programs offer CEUs for Social Workers, Nurses, Geriatric Case Managers, Lawyers and other professions active in guardianship locally and nationally.

1. *Colloquia, Seminars and Listening Tour*

Guided by the above principles, the Institute has networked with scores of agencies and individuals with a stake in guardianship policy in Massachusetts, through a series of colloquia and seminars that were sponsored in 2015 through 2018:

- **First Colloquium.** November 10, 2015. More than 60 stakeholders affiliated with over 30 public and private social service agencies met for the first time in nearly 20 years to address public guardianship needs.
- **Second Colloquium.** June 13, 2016. The volunteer-based Kansas Guardianship Program engaged with 45 Massachusetts stakeholders to discuss the Kansas experience with volunteers serving as public guardians.
- **Third Colloquium.** November 16, 2016. Contents of a proposed public guardianship bill were discussed with 35 stakeholders specifically interested in legislative efforts and approaches.
- **Fourth Colloquium.** June 21, 2017. 50 participants, many self-advocates and others from the developmental disabilities community, discussed the effect of guardianship on their families, and considered non-judicial alternatives.
- **Group Interview of Florida Office of Public and Professional Guardians (OPPG).** On September 15, 2016, Officials of the Florida OPPG met with Institute members and colleagues to learn how public guardianship works in Florida. OPPG is a public-private partnership, where the state agency appoints non-profit entities around the state to provide direct services under the supervision of OPPG. While criticized recently for a perceived oversight failure, OPPG remains an important model of success in bringing both public and private stakeholders together to meet the needs of the most vulnerable individuals.
- **Washington State Office of Public Guardian (WSOPG) November 16, 2017** Institute members met with Leesa Arthur, Executive Director of Capital Guardianship Services in Olympia, Washington, to discuss the substantial education-al requirements for Washington's professional guardians, which Leesa developed.
- **Massachusetts Listening Tour Spring, 2016.** Institute members Heather Connors, Ph.D., and Traci Cucinotta, MBE, LICSW, engaged with service professionals, family guardians, lawyers and social workers at 18 locations (Aging Services Access Points, Senior Centers, Councils on Aging and other community locations) around the state to learn what kinds of training and support would be most valuable for family and volunteer guardians. More than 600 participants attended one or more of these gatherings.

The educational mission of the Institute is to support professionals, agencies, families, the courts and others who provide guardianship services with the tools for best practices.

2. *Guardianship Conference Series*

Since 2017 the Institute had brought together leading experts on decisional support topics for a one-day fall Conference aimed at professionals and other already working in surrogate roles. These programs focus on understanding decisional support services from many perspectives, ranging from clinical to legal to sociological. To date, more than 600 attendees have participated, many of them earning CEUs for the day.



2017: A National Perspective on Guardianship & Decisional Support This program was presented at the Federal Reserve Conference Center in Boston, and featured the following speakers and topics:

- Hon. Scott Harshbarger, *Former Massachusetts Attorney General and leading advocate against elder abuse since 1990.*
- Erica Wood, J.D., *Assistant Director American Bar Association Commission on Law and Aging*
- Jennifer Moye, Ph.D., ABPP, *Director of Education and Evaluation, New England Geriatric Research Education and Clinical Center at the VA Medical Centers in Boston and Bedford, Professor of Psychology, Department of Psychiatry, Harvard Medical School*
- Hon. Paula Carey, *Chief Justice of the Massachusetts Trial Court.*
- Vicki Kind, M.A., *Seattle-based Clinical Bioethicist and Medical Educator, author of the award winning book published in 2010, Caregiver's Path to Compassionate Decision Making: Making Choices for Those Who Can't.*
- Robert Fleischner, J.D., *Center for Public Representation, Northampton, Massachusetts, sponsor of the first pilot program in Supported Decision Making in New England.*

2018: Decision-Making: Balancing Autonomy & Risk In 2018 we took on what may be the defining challenge of best-practice guardianship, where the right to self-determination of an incapacitated individual clashes with the guardians' awareness of risk in the environment. This program featured:

- Susan Nathan, MD, *Geriatrics and Hospice/Palliative Medicine, VA Boston Healthcare System, West Roxbury, MA*
- Olga Quinlan, LICSW, CSW-G, CADOTS, *Dementia Care Coordinator, VA Boston Healthcare System, Brockton, Massachusetts*
- Lisa M. Shea, LICSW, *Geriatric Social Work Coordinator, VA Boston Healthcare System, Brockton, Massachusetts*
- David Godfrey, JD, *American Bar Assoc. Commission on Law & Aging*
- Susan Thompson, JD, *Director of Guardianship Services, Family Service Association of Fall River*
- Penny Brierly-Bowers, Ed.D. PMP, *Director of Applied Research and Program Evaluation, U. Mass. Amherst Donahue Institute, Amherst, Massachusetts*
- Noah Whitton, LICSW, *Social Work Executive, VA Boston Healthcare System, Brockton, Massachusetts.*

2019: How Guardians Deal With Abuse & Self-Neglect Continuing to explore some of the most challenging topics in decisional-support, our 2019 Conference took a deep dive into how guardians can cope with abuse of an incapacitate

- **Pamela Steadman-Wood, Ph.D., Geropsychologist, VA Medical Center, Providence, Rhode Island; Clinical Associate Professor of Alpert Medical School of Brown University's Department of Psychiatry and Human Behavior, Providence, Rhode Island**
- **Maryrose Coiner, Ph.D., Clinical Psychologist and Member of the ClearPath Metrowest Hoarding Task Force**
- **Caitlin Coyle, Ph.D., Gerontologist, VA Healthcare System, Providence, Rhode Island**
- **Mark Hinderlie, MPA, President, Hearth, Inc., a Boston-based non-profit fighting homelessness in Massachusetts.**
- **Michael Andrick, M.Ed, LCPC, Director of Outreach and Department of Mental Health Match Services for Pine Street Inn, a homeless shelter in Boston, Massachusetts.**
- **Lynn Faust, MS, Executive director of the Marlborough Community Development Corporation and Director of ClearPath Metrowest Hoarding Task Force, combatting hoarding in the Metrowest Region of Greater Boston, MA.**
- **Meg Barhite, Director of Counseling and Support Services, and SHINE Program (Serving the Health Insurance Needs of Everyone) at ETHOS, an Aging Services Access Point in Jamaica Plain, MA.**
- **Janice Fahey, Esq., Lead Legal Analyst for the Vulnerable Populations Team in the Consumer Advocacy and Response Division (CARD) of the Massachusetts Office of the Attorney General.**
- **Lisa Gurgone, MS, Executive Director of Mass Home Care, a trade association for Massachusetts Area Agencies on Aging and Aging Services of Access Points; Member, Mass. Health Care Workforce Transformation Fund Advisory Board.**

3. National Conference Presentations and Webinars by Institute Members

A commitment to sharing ideas and learning from others allows Institute members to be frequent presenters at national conferences sponsored by the American Society on Aging, the National Guardianship Association and the Gerontological Society of America, as well as local conferences, and to offer webinars on topics of special expertise.

- *Connors, H., Cucinotta, T. & Gerhard, W. (2018, April). "Educating Professional and Lay Guardians for Surrogate Decision Making." American Society on Aging, San Francisco, CA.*
- *Connors, H., & Cucinotta, T. (2018, October). "I Felt Like I Couldn't Do What She Wanted: End of Life Experiences of Guardians." National Guardianship Association, Palm Springs, CA.*
- *Gerhard, W., Connors, H. & Cucinotta, T. (2018, October), "Making Decisions for Others." Conference of the Massachusetts Councils on Aging, Falmouth, MA*
- *Connors, H. (2018, November). "Advocacy for Public Guardianship in Massachusetts." Gerontological Society of America Conference, Boston, MA.*
- *Brierly-Bowers, P., Connors, H. & Whidden, N. (2018, November.) "Living Life to its Fullest. Decision Making: Balancing Autonomy & Risk," Worcester, Massachusetts.*
- *Connors, H., & Gerhard, W. (2019, October). "Guardianship and Surrogate Decision Making." Massachusetts Councils on Aging Annual Conference, Danvers, MA.*
- *Connors, H., & Cucinotta, T. (2019, April). "Making Decisions for Others." American Society on Aging, New Orleans, LA.*
- *Cucinotta, T. & Malley, P. (2019). "Guardianship & End of Life Decision Making." Webinar for the National Guardianship Association.*

4. Training

Through its affiliate, the Massachusetts Guardianship Academy, the Institute provides training for guardians and conservators in four presentational formats: (1) Classroom and traditional training programs; (2) a video demonstration program; (3) Internet-based programs; and (4) Guardianship Rounds.

(1) Classroom/Traditional Training. In addition to training fiduciaries directly, the Academy has, at the request of the First Justices of the Probate Court in Suffolk, Norfolk and Essex Counties, given its two-hour program to Probate Court personnel in two counties, in order to raise awareness of the specific issues and responses that are typical of adult guardianship and conservatorship.

The Academy's training agenda is just getting started. As a result of its national conference presentations and participation in other national-based guardianship networks, the Academy has begun receiving requests from states and guardianship organizations outside of Massachusetts for training materials and opportunities.

(2) Video Demonstration. The Institute continues to make available an interactive family guardian training video, *Stepping In When Help is Needed*, that was created by Northnode, Inc., in 2010, to show what the guardianship process looks like and what to expect when filing a case. This video enjoyed active support – and participation – by Chief Justice Paula Carey and others with deep experience in the guardianship process.

(3) Internet-Based Programs. All of the Academy's training materials are now being reformatted as Webcasts for guardians and conservators at all levels of experience, from introductory to advanced. In addition, segments from the Institute's Conference Series are available online as Webcasts.

(4) Guardianship Rounds. Decisional support is well-suited to teaching and discovery through rounds, following the medical model that Jennifer Moye, Ph.D., of the Boston VH Healthcare System has applied to issues of capacity. The Academy began offering Guardianship Rounds in 2019, with a focus on fiduciary issues rather than capacity *per se*.

Rounds offers a focused review of a case, led by seasoned experts, and joined by students and less-experienced clinicians interested in learning the practice through direct case encounters. The experts offer perspectives, insights, relevant experience and other support to the case-presenter, while at the same time teaching clinical skills that prepare participants to practice in the real world.

The Academy's program is offered monthly. It has been well-attended, averaging 30 participants (by invitation only), and covering a series of important clinical issues. It has received very favorable reviews from participants and presenters alike.

In order to reach a wider audience, Guardianship Rounds is slated to go online in 2020, allowing qualified individuals who cannot travel to the Academy location to participate remotely. This expansion of the program is consistent with the goals of the Academy to elevate decisional support practices everywhere, through training, discovery and networking with other professionals who share this vision of excellence.

Research

RESEARCH LIES AT THE HEART OF THE INSTITUTE'S MISSION. Research is the key to attracting essential public resources to programs for decisional support. In an era of "data-driven" social policy and evidence-based programs and funding, decisional support programs need to meet the new standards for showing that unmet guardianship needs exist, how they impact society, and what we can do about them, especially for the most indigent and isolated individuals.

The need is both institutional and ethical. Public guardianship programs in all states struggle for financing, and some have been eliminated altogether during various budget crises. Understanding decisional impairment, including the cost of failing to offer public services, is vital to reversing this trend. Better information also empowers courts and agencies to strengthen oversight of guardians and conservators, an issue that has received attention in recent years as a result of incidents in several states. It is difficult to find funding for public guardianship if the public does not trust it.

Through funding provided by its member organization, Guardian Community Trust, the Institute both conducts its own research and provides grants to local and national leaders in guardianship research to meet these needs.

(1) Needs Assessment for Massachusetts. This multi-phase project, under the direction of Jennifer Moye, Ph.D., of the Boston VA Research Institute, represents a "state of the state" analysis of how well Massachusetts meets the guardianship needs of its citizens. This research is progressing in four phases:

- **Phase I** (*completed in March, 2016*): demonstrated that approximately 3,700-4,700 adults in Massachusetts have unmet decisional support needs that would be addressed by a public guardian.
- **Phase II** (*completed in April 2018*): examined the experience of guardians and clinicians who treat individuals with incapacity, describing outcomes, concerns and recommendations for improving services to such individuals.
- **Phase III** (*completed in March, 2019*): Surveyed physician members of the American Geriatrics Society about practices with this population.

- **Phase IV** (*ongoing*) is a large scale analysis of guardianship data collected by the Boston VA with the goal of better understanding outcomes for people under guardianship.



(2) Public Cost Savings Analysis. The purpose of cost studies is to learn what it costs *not to provide* guardianship, when thousands of persons do not get the decisional help they need. One study is concluded, and another is ongoing:

- Based on research at Beth Israel Deaconess Hospital in Boston in 2016, see Ricotta, DN, et al., *The Burden of Guardianship: A Matched Cohort Study*, *J. Hosp. Med.* 2018 Sep 1;13(9):595-601, the Institute partnered with UMass Amherst Donahue Institute, and discovered that hospitals incur unreimbursed costs of \$23M for delayed discharges and related care for persons who require guardianship.

The second study analyzes data collected by an intensive care management program called GAL Services in Connecticut. The program provides additional case management services for high-risk persons under guardianship and has been successful in decreasing service utilization for people in the program. The study provides cost estimate for the services used by program participants before and after entry into the program and suggests that guardianship programs which offer such case management may improve not only the quality of life for participants, but also offer cost savings to the state.

The Institute's Acuity Scale assesses the level of services needed by an incapacitated individual, to help guardians allocate resources and project caseload capacities.

(3) End of Life Experience. This project is an analysis of the experience of Massachusetts guardians making end of life decisions for their clients, in particular "Do Not Resuscitate" and similar decisions, taking into account the applicable statutes, case law and the ethical constraints both for and against giving such consent. An analysis of this work is being completed for publication at this time.

(4) Supported Decision Making. This study considers whether replacing guardianship with the supported decision making model may help to preserve individuals' self esteem, social network and life satisfaction.

(5) Acuity Scale. This tool assesses the level of services needed by an incapacitated individual, to help guardians allocate resources and project caseload capacities.

Institute Research That Has Been Published To Date Includes:

- Levine, E., Jett, C., Johnson, J., & Connors, H. (2019). *Outcomes of a Care Coordination Guardianship Intervention for Adults with Severe Mental Illness: An Interrupted Time Series Analysis*. *Administration and Policy in Mental Health*, 2020 May; 47(3):468-474.
- Moye, J., Catlin, C., Kwak, J., Wood, E., & Teaster, P. B. (2016). *Ethical Concerns and Procedural Pathways for Patients who are Incapacitated and Alone: Implications from a Qualitative Study for Advancing Ethical Practice*. *Healthcare Ethics Forum*, 29(2), 171 - 189.
- Sager Z., Catlin C., Connors H., Farrell T., Teaster P., Moye J. (2019). *Making end-of-life care decisions for older adults subject to guardianship*. *Elder Law Journal*:27(1);1-33.

Public Guardian Services, LLC

IN JULY, 2019, the vision of a public guardian for Massachusetts – some 40 years in the making – took a giant step toward becoming a reality, with the formation of Public Guardian Services, LLC (PGS), to operate a public guardianship pilot program in Suffolk and Plymouth Counties. Private funded by the Guardianship Endowment at Guardian Community Trust, this pilot aims eventually to offer services statewide that are overseen by the Commonwealth but funded by a permanent Endowment established for that purpose.

Mission. PGS begins as a pilot program, accepting at least 40 appointments as guardian or conservator in each of Suffolk and Plymouth Counties. It will explore the use of volunteers to extend its caseload capacity.

Working closely with its parent organization, Guardian Community Trust, PGS also will train and support services for family guardians, including assistance with communications, an information line and on-call services, as another way to extend capacity by bringing additional fiduciaries into the guardianship system.

PGS has been able to attract an exceptionally strong Board of Directors and Advisory Panel, who together bring decades of experience and judgment as clinicians, attorneys, administrators and development professionals to the task of directing PGS.

At the request of the Probate & Family Court, PGS joined in a Memorandum of Understanding with the Court to guide the proposed pilot program. These guidelines address caseloads, fiduciary duties, fees, reporting requirements and other terms that will ensure best practices by PGS. Through good communication with the Court, PGS aims to set a standard for best practices in guardianship and conservatorship that is second to none in the nation.

Operations. PGS is directed by Institute Member Sandy Hovey, CCP, former Director of Protective Services for Ethos in Boston. Sandy will be supported by a Clinical Director, four Case Managers and a number of administrative and consulting staff, all of whom are seasoned professionals with a strong commitment to caring guardianship.

PGS will be headquartered in a newly-renovated, converted two-family home in Braintree Square, one-half block off the Washington Street bus line that connects with the MBTA Commuter Rail and Red Line at Braintree Station, about a mile away. The site has 12 parking spaces and is part of a small commercial area with convenience stores, sandwich shops and small businesses.

PGS will use the Acuity Scale developed by the Institute to regulate the case mix and determine caseload capacity. This tool will be integrated into the case management software used by PGS, and will allow real-time updates of total acuity on a regular basis.

In addition to serving as headquarters to PGS, the Braintree facility will be available for training guardians, hosting provider meetings, community events to attract volunteers and other uses that will enhance not only the PGS mission, but also its recognition as a new member of the Braintree Square community.

Looking Ahead

WHILE ITS FIRST SIX YEARS HAVE WITNESSED IMPORTANT PROGRESS toward the Institute's goals for the guardianship mission, the work continues. Our strategic aims for the next phase in our mission include the following:

1. Strengthen oversight and transparent monitoring of guardians, conservators and voluntary surrogates for the most vulnerable of those who need decisional help.
2. Support the growth of Public Guardian Services, which presently operates in two counties in Eastern Massachusetts, as guardian-of-last-resort for the entire Commonwealth.
3. Expand training and support for family guardians through formal training, educational media, support groups, conferences and other resources for all levels of need.
4. Advance research into issues of capacity and methods of decisional help, including clinical issues, fiduciary standards, outcomes of decisional support and related topics.
5. Continue to build a network of public and private stakeholders who will work together to improve the process and outcomes of all forms of decisional help.

BIOS



Former Massachusetts Attorney General **Scott Harshbarger** is now Senior Counsel at Casner & Edwards, a boutique law firm in Boston. Scott's work as Attorney General from 1991-1999 focused on protection of seniors, a mission that he continues through his leadership role with the Institute today.



Christopher A. Chirco is Communications Manager for Guardian Community Trust, one of the Institute's founding organizations. Prior to joining Community Trust, Chris served for fifteen years as Program Director for the Doug Flutie, Jr. Foundation for Autism in Framingham, Massachusetts.



Heather L. Connors, Ph.D., is Director of Research for Guardian Community Trust, one of the Institute's founding organizations. Heather's Gerontology dissertation focused on how professional guardians weigh concerns about an individual's safety against his or her right to autonomy.



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