

The Guardian Bulletin



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The IGA is upgrading its website. It should be available by mid-September. It will be more user friendly and have additional service features. For example, we have taken our most recent conference materials and placed them into categories which make them easier to find and review. If you want to contact us and ask for assistance or notify us of an upcoming conference just go to Contact Us and use the email format provided. There will be no fall conference this year. Please see our message that appears on page 5 of the Guardian Bulletin.

In this month's bulletin we have included an article covering the Human Rights Authority, a program of the Illinois Guardianship and Advocacy Commission. Some recent legislation will be included which have been passed and signed into law which affects human services to the aged and disabled. If you would like to contribute an article or let us know how we are doing just let us know by going to our website at www.illinoisguardianship.com and use the email message format provided.

Investigations of Disability Rights Complaints

By Teresa Parks, Human Rights Authority (HRA) Director, August, 2016.

In addition to serving as the state guardian, the Illinois Guardianship and Advocacy Commission (IGAC) provides a mechanism for disability rights investigations through its Human Rights Authority (HRA) program. The HRA is mandated to investigate allegations of rights violations committed against persons with disabilities by disability service providers. The Authority's investigations seek improved disability rights protections through systemic changes in provider

policies, procedures and practices. To meet its mandate, the Authority has 9 regional panels of appointed HRA Members along with an assigned staff person who conduct the investigations. Each regional panel is comprised of 9 HRA Members with related expertise as a service consumer, a family member or guardian of a service consumer, a private citizen with experience with disability services or a disability service representative.

Complaints come to the HRA from various sources, including directly from the person with a disability, a family member or a private guardian; complaints also come from social service agencies, public guardians and state guardians. Guardians are excellent, informed sources of HRA referrals as they typically have knowledge of disability service provision and expectations; and, while they may be able to resolve issues pertaining to their individual wards, there may be others experiencing similar issues who may not have the same expertise as guardians. The identity of the complainant remains confidential. Anonymous complaints can be filed and the HRA can initiate an investigation upon learning of a possible rights violation.

Investigation findings are culminated into a report issued to the provider with recommendations to address any identified rights violations. Providers are mandated to respond to substantiated findings within 30 days. HRA Reports of Findings are posted on the IGAC and serve as a potential resource for service consumers, family members of consumers and guardians.

In the past fiscal year, the HRA handled 235 cases and closed cases impacted an estimated 12,163 individuals with disabilities. Most cases (77%) involved persons with mental illness or intellectual/developmental disabilities; the remaining 23% involved persons with physical impairments, older persons and others.

Providers represented in HRA cases: state-operated mental health facilities (30%), hospital psychiatric units (23%), community mental health agencies (6%), group homes (8%), vocational programs (3%), state-operated developmental facilities (3%), special education programs (3%); and other providers including nursing homes (8%), hospitals (10%), and other entities (6%), such as veterans programs and even jails.

Examples of rights issues investigated included complaints regarding: treatment/programs (19%), admission/transfer discharge practices (15%),

medication administration (15%), communication/visitation rights (9%), rights restrictions (8%), the use of restraint (6%), personal property (5%), accessibility (2%), confidentiality (2%), discrimination (2%), rights notification (2%) and other types of complaints (15%).

Persons interested in filing a disability rights complaint can do so, on-line, through the IGAC website (<http://www.illinois.gov/sites/gac>) or by contacting the Commission's toll-free intake line at **1-866-274-8023**. Regional HRA contact information is also available through the website as well as an application for individuals interested in serving on a regional HRA. For more information about the HRA, contact HRA Director, Teresa Parks, at 309-671-3061.

Public Act 99-0821: Visitation and Notice to Adult Child of Ward

Because a number of guardians have prevented visits, denied information about hospitalizations, and have not notified family of a ward's condition and sometimes death, HB5924 was introduced. The bill had 47 House sponsors and one Senate sponsor. This bill was passed and became Public Act 99-0821. The act will be effective on 1.2.2017.

The act states that "the guardian, if the court has given authority, must decide if a visit and/or information by any adult child of the ward should be allowed. If a guardian unreasonably prevents an adult child from visiting the ward, the court, upon verified petition by an adult child, may order the guardian to permit visitation if it is determined that a visit is in the ward's best interest." National Guardianship standards that include substituted judgment and best interests of the ward will be required for the guardian to present to the court for direction.

This act does not apply to a public guardian or state guardian. But it requires all other guardians to comply including family guardians. The family guardians and others must bear the cost of hiring an attorney to take the case back to court. The IGA will try to follow compliance with this act and report our findings. If you have knowledge of a case being taken to court to comply with this act, we would appreciate letting us know by sending a message at Contact Us on our website at www.illinoisguardianship.com. To possibly avoid the visitation issue, it would be important that all family members be given notice of the initial guardianship hearing. Visitation rights addressed at the initial hearing could eliminate the need for a second hearing.

Guardianship Filing Fees: To Pay or Not to Pay?

By Scott Summers, Public Guardian and Administrator for McHenry County

It's a question that, for some, doesn't seem to have a ready answer. Are there any entities or individuals exempt from paying filing fees to circuit court clerks when opening new guardianship cases in Illinois? The answer is straightforward in some instances. For example, no filing fees are assessed against the Office of State Guardian... but what about others?

As a public guardian myself, the issue is particularly salient. Having recently been asked if I knew of statutory authority, I decided (finally) to locate it. The answer, it turns out, is not in the probate code. It's under the Clerks of Court Act. Here's the pertinent language:

705 ILCS 105/27.3f (a) ..." to defray the expense of maintaining and operating the divisions and programs of the Guardianship and Advocacy Commission and to support viable guardianship and advocacy programs throughout Illinois, each circuit court clerk shall charge and collect a fee on all matters filed in probate cases in accordance with this Section, but **no fees shall be assessed against the State Guardian, any State agency under the jurisdiction of the Governor, any public guardian, or any State's Attorney.**"

Filing fees for guardianship vary by jurisdiction. Here in McHenry County, it's \$158. In Cook County, the fee is over \$200. So, if you can, save your office from an unnecessary expense. To borrow (and mangle) the words of the late Senator Everett Dirksen: "A couple of hundred here, and a couple of hundred there, and pretty soon, we're talking real money!"

Law Extends Statute of Limitations on Elder Abuse

Article by Molly Parker, *The Southern*, August, 2016.

House Bill 5805 to extend the statute of limitations from 3 to 7 years on Elder Abuse passed unanimously in the House and Senate and was signed immediately into law by the Governor. Reported cases of elder abuse are quite high especially in

Southern Illinois according to David Mitchell the adult protective services unit director at Shawnee Alliance "...in Shawnee Alliance's 13 county-catchment area the rate is 15 per 1000 people while the statewide and nationwide is about 3.5 per 1000." The reporting system in the Shawnee Alliance area is enhanced by the agency's extensive outreach which creates higher numbers.

In a June interview on the eve of the World Elder Abuse Awareness Day, Mitchell said "that by far the most common forms of abuse cases reported to Shawnee Alliance involve financial exploitation. The most likely abuser is a family member or other trusted caregiver."

In addition to *The Southern's* coverage, the following website contains the statute regarding the changes:

<http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=099-0820>

Change in IGA Conferences

The IGA Board has voted to make some changes in our offerings of free conferences. We will continue to partner with the Illinois Guardianship & Advocacy Commission (IGAC) to offer programs that meet criteria for continuing education credits for guardianship certification. The location of training will alternate between Chicago and Springfield on an annual basis. However, our goal is to partner with other groups to produce additional education and training conferences.

We are aware that other professionals serving persons with disabilities seek education credits for their professions. We will strive to continue meeting those needs as well as guardian certification requirements. To reduce bearing the full cost of delivering training, there may be a slight charge for future conferences.

As we have in the past, our upgraded website will include upcoming Events so one can plan their individual training program. We have enjoyed providing training for a number of disciplines in the past and we want to continue that relationship.

Have a Safe Labor Day!