

The Guardian Bulletin



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Tel#312-458-9867

www.illinoisguardianship.org

This issue of the *Guardian Bulletin* will outline the September 13th training conference to be held at the Illinois Education Association training center in Springfield. The training will again be free and offer interesting programs that will provide continuing education credit hours for many disciplines.

Also, in this issue will be comments and observations regarding HB2665 State Guardian-Training Program which has now passed the House and Senate and is on the Governor's desk for action. The bill states "the order of appointment of a guardian of the person in any county with a population of less than 3 million shall include the requirement that the guardian complete the training program...and the person file a certificate of completion one year from the date of issuance..." Further, "the training program shall be offered to the courts at no cost." The bill will be discussed later in the bulletin.

Springfield training is set for September 13th...

- The day will include a two part presentation by Raul Almazar, Substance Abuse and Mental Health Administration, regarding the effects of trauma on the lives of those we serve.
- Included in the morning session will be a presentation by Perry H. Patterson, M.A. Rehabilitation Administration, on individual care and rehabilitation plans and how to proceed to get the services needed. This session is meant for family, private, and public guardians who have clients with medical and behavioral issues.

- Mental Health recovery issues and what helps and hinders will be presented by Nanette Larson with the Department of Human Services.
- Another afternoon session will explore sexual rights and policy implications for people with intellectual disabilities presented by Linda Sandman, Associate Director for Blue Tower Solutions.
- An important act aptly named the ABLE Act-Achieving a Better Life Experience- will be presented by Treasurer Michael Frerich's office. ABLE refers to Section 529A of the Internal Revenue Code, passed by Congress in 2014. It allows for states to establish tax-advantaged savings vehicles to assist persons with blindness or disability save for the future without putting their federal means-tested benefits at risk.
- In addition, at least one Public Guardian Roundtable will be held by Sharon Rudy, Winnebago & Boone County Public Guardian. These sessions are always meant to zero in on timely PG's issues.

The Illinois Education Association (IEA training center) is a very comfortable venue for a conference and is located very close to numerous dining facilities. A more thorough program agenda will be posted on the IGA website under Up Coming Events about a month before the conference. When it is posted one can register online. Hope to see you on September 13th!

More discussion of HB2665 State Guardian -Training Program

A few additional comments are needed to expand the discussion of HB2665. Illinois has state guardians, public guardians, professional guardians, fiduciary guardians, family guardians, and others appointed such as friends or those who are guardian for one or more unrelated persons. To make the system even more confusing there are limited, emergency, standby, temporary, testamentary and estate guardians. The types of guardians and their duties make any training a challenge. The following are a few comments and observations:

- The current court appointed guardians in place range from those who seek national certification requiring ongoing education to maintain their certified status to those family and friends being appointed with no guardian training. HB2665 recognizes the need for guardian training going forward. The legislation does not require any retroactive training for the thousands of guardians appointed whose clients could benefit from guardian services that adhere to best practices as established by the National Guardianship

Association (NGA). Regardless, this bill is a step in the right direction looking forward and only time will tell.

- The essence of HB2665 is to establish appropriate guardian training. The bill acknowledges there is already in place a requirement for state and public guardians to be nationally certified. The bill further exempts all attorneys practicing law in Illinois, corporate fiduciaries, and all others certified by the Center for Guardianship Certification. Apparently, this bill is intended for family and friends and possibly those who are guardian for one or more unrelated persons.
- For good cause shown (whatever that might include) the court can exempt an individual from the training requirement. An additional clause in the bill states that "the chief judge of any circuit may order implementation of another training program by a suitable provider containing substantially similar content." There are concerns that with exemptions and the possibility of other training programs being recognized by the chief judges that guardian training will not be consistent and not include essential guardianship principles.
- There is also the concern that family and friends, who might want to be a guardian, will refuse a guardian appointment because the requirements of training may be too great and expensive to achieve.
- The guardian training program will need to carefully assess what a court appointed guardian should do at a minimum and then logically build a training program that is not so technical and legally worded that it scares off potential guardians. *After all, the basic requirement of a guardian is to be honest and to advocate for a client's needs using best interests and substituted judgment as primary to decision making.*
- The training program is to be available to the courts at no cost. This may not be possible given the state's financial crisis. The "no cost to courts" is interesting as there have been "costs" to persons under guardianship services because guardians may have not known or overlooked important fiduciary matters due to their lack of training. And it is also likely that important program and medical decisions were not part of a person's care plan due to the guardian's lack of knowledge.

- The Illinois 1975 Probate Act has been amended many times for various reasons...all well intentioned. However, changes and additions to it have produced a complex list of types of guardians who have specific duties and responsibilities. As result, a need for appropriate training is long overdue. It is very difficult to track how well guardians are doing their job. There are estate and financial guardians that do excellent work regarding stewardship of assets but how well do they participate in and make informed decisions for placement, visitation, medical, and behavioral issues? Program issues involve state, public, private, and family guardians. Guardian training will need to incorporate all types of guardians including family. Court monitoring of the guardian's duties should be increased when training and certification is required. HB2665 and its implementation should increase the quality of guardians' role and responsibilities.
- HB2665 and its implementation will require tying together training that will establish a comprehensive series of training courses that comply with national standards as much as possible. But the training should not be so complicated as to prevent family and friends from wanting to be a guardian. The state and/or public guardian should be guardian of last resort in all cases. The training program established should be done well as to avoid the chief judges of any circuit from having to find a "suitable" one to replace it.
- The bill also makes changes in the law on the appointment process for public guardians. Most elected officials, your representative and senators, probably do not know what the public guardian does and as result no one is appointed in about 25% of the counties in Illinois. Instead, HB2665 involves getting the Office of State Guardian appointed on an interim basis for up to a year so a public guardian appointment can be made by the governor. This is really an unnecessary step and a cost to the state of Illinois. This could be remedied by the elected officials in a county making solid referrals to the governor's office for public guardian appointments.

The IGA supports guardian training. The conferences we have are not only offered for guardians but also for provider agencies who serve persons with disabilities. The IGA stands ready to work with the Guardianship and Advocacy Commission to develop an excellent guardian training program that complies with HB2665 assuming the governor signs it into law.