

# The Guardian Bulletin



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HB2665 State Guardian Training Program was signed into law by the Governor on September 8<sup>th</sup>. Public Act 100-0483 takes effect one year after becoming law on September 8, 2018. The State Guardian has a year to implement the law which calls for guardian training except for those who are employees of the Office of State Guardian, public guardians, attorneys currently authorized to practice law, corporate fiduciaries, and persons certified by the Center for Guardianship Certification (CGC). Apparently, this law will be directed toward family guardians and those acting as guardian for one or more unrelated persons.

The courts will be allowed to waive the training or order the guardian to be enrolled in another "training program" found suitable by the courts. The likelihood that guardian training programs will be well coordinated and meet the essential Standards of Practice for guardians will be an area of concern. In the future, the way a guardian performs their duties may vary whether they have received training under Public Act 100-0483, are certified by CGC, are exempt as a practicing attorney, or have been excused by the court for "good cause" shown which might include attending another suitable guardian training class. It is not perfectly clear who determines the "suitability" of another training program but the State Guardian seems a likely source.

There is nothing in Public Act 100-0483 that requires formerly appointed guardians for family/friends to be included in guardian training. There have been an unknown number of guardians appointed previous to Public Act 100-0483. One can logically guess we are talking about tens of hundreds and possibly thousands of appointments that are not covered by this law. It might have been helpful to have the courts require training for those who have not complied with filing annual

reports. Even if a report was filed, did it meet requirements pursuant to 755 ILCS 5/11a-17 (b) which directs the guardian to file a report on their activities as a guardian? We will continue to follow the progress of guardian training and provide updates in the *Guardian Bulletin*.

## **Evaluation Results of September 13<sup>th</sup> Training**

Seventy-five registrants received free training at the Illinois Education Association's Center earning them up to 5.25 education credits. A presentation on "Understanding the Effects of Trauma on the Lives of Those We Serve" was well received as was a Public Guardian roundtable on the "appointment process and beyond." Suggested topics for future conferences and comments were:

1. Staff team building within an agency.
2. Guardian's guide for working with providers.
3. Supportive decision making.
4. Office management for Public Guardian offices.
5. How to handle estate guardianship cases.
6. Sexuality.
7. Very beneficial program today.
8. The best conference you have had.

The work of the Community Education and Training Committee is to be commended. If you are interested in serving on it or any other committee of the IGA, please let us know by contacting us through the website. Other committees are offered on the site for which you may have interest.

## **Membership Update**

We have reviewed our current paid membership list and are concerned that many of you, approximately 65, are no longer on our 2017 list! We think the main cause for the decline may be that you did not receive a ballot to vote for board & officers and a notice regarding continuing as a member. The aforementioned vote for board and billing went out in April, 2017. We want very much for you to rejoin...and here are a few reasons to do so:

- We continue to provide quality training conferences.

- Public Guardians require guardianship certification and the IGA is the place where PG's can meet and discuss issues.
- The new Guardian Training Law will be a focus of the IGA.
- The IGA is an appropriate venue for sharing positive outcomes to guardianship cases. (i.e. we advocate for Standards of Practice of guardianship services.)
- Our new, upgraded website indicates we are receiving a lot of "hits" especially on the Guardian Bulletin and Manual.
- Our website has a number of links to very useful resources.

If this article pertains to you regarding membership, please consider rejoining for 2018. If you have never been a member please feel free to join by going to our website at [www.illinoisguardianship.org](http://www.illinoisguardianship.org) and clicking on Membership to fill out the form and submitting dues of \$50.

### **To Drive, or Not to Drive? That is the (Guardianship) Question**

Article provided by Scott Summers, Public Guardian, McHenry County, IGA Vice-President

Subsequent to adjudication, the matter of a ward's ability to drive can be one of the most difficult issues a guardian faces. To those wards who maintain some physical ability and some cognition, driving is one of the most compelling ways to push back on a guardianship and demonstrate capacity. Reaction to diminutions of driving privileges in any form can range from stoic resignation to bewilderment to hostility to outright anger. What's a guardian to do? The short answer? It doesn't matter what a ward (or guardian) may think or say or do. **Upon adjudication, a ward's Illinois driver's license is to be cancelled.**

The Probate Act of 1975 (in particular, 755 ILCS 5/11a-1 et. Seq.) provides statutory guidance about guardianship. However, no provisions regarding a ward's operation of motor vehicles is to be found there. So from whence is authority derived? It comes from regulations promulgated by the Secretary of State under the Illinois Administrative Code. The salient portion reads:

*b) The Department shall cancel or medically deny driving privileges upon receipt of an Adjudication of Disability order in which the court appointed a guardian to make responsible decisions concerning the care of the person or of both the person and his/her financial affairs or estate, or the Department receives an order finding the driver unfit to stand trial.*

- 1) *The notice of cancellation shall be mailed to the court-appointed guardian and the driver.*
- 2) *The cancellation order shall remain in effect until the court issues an order terminating the adjudication of disability or the driver is found fit to stand trial.*
- 3) *After receipt of an order of restoration, the Department shall request a favorable medical report. Upon receipt of a favorable medical report, the cancellation order shall be terminated and the person may reapply for driving privileges as outlined in IVC Section 6-106.*

For the complete text of this regulation, see:

<http://www.ilga.gov/commission/jcar/admincode/092/092010300000160R.html>

The Secretary of State's regulatory authority with respect to guardianships is derived from the Driver's License Medical Review Law of 1992 (625 ILCS 5/6-900 et. Seq.).

The medical report form described in subsection (3) above may be found at:

[http://www.cyberdriveillinois.com/publications/pdf\\_publications/dsd\\_dc163.pdf](http://www.cyberdriveillinois.com/publications/pdf_publications/dsd_dc163.pdf)

The author believes that it is incumbent upon a newly appointed guardian to notify the Secretary of State by way of tendering a certified copy of the order of adjudication. (An argument also can be made that clerks of court should do the same.) Provide the order, your letters of office and contact information, and identifying information about the ward (driver's license number, date of birth, residential address) by way of certified mail to: Illinois Secretary of State, Driver Analysis Division, 2701 South Dirksen Parkway, Springfield, IL 62723. Telephone: 217-782-7246. So there you have it: adjudication results in the categorical cancellation of an Illinois driver's license. However, it is possible to restore driving privileges - either by way of restoration, or by a modification.

In a future article, we'll examine the practical issues regarding motor vehicles and guardianship - including (a) sale of a vehicle, (b) storage of a vehicle, and (c) modification of a guardianship in order to enable a ward to drive.



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## Can You Help Public and Family Guardians?

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### Last Days to Save!

If you have not yet registered for the conference, this is your last week to save. Conference fees increase after Friday, September 29, so finalize your plans and submit that registration! Conference runs October 14-17 at Cheyenne Mountain Resort in Colorado Springs, Colorado.

We look forward to seeing you at NGA's [National Conference on Guardianship](#).