



**Office of Public Guardian Summary
DAIL Advisory Board
October 9, 2014**

Purpose

The Office of Public Guardian (OPG) operates within the Vermont Developmental Disabilities Services Division in the Department of Disabilities, Aging and Independent Living (DAIL). Individuals receiving guardianship from OPG are considered to be in the custody of the Commissioner of DAIL and the assigned guardians act as designees of the Commissioner.

Under Vermont law, OPG is authorized to provide guardianship:

- Adults age 18 and older with **developmental disabilities**, OR
- Individuals **60 years of age or older** with disabling cognitive impairment,
AND:
- Who require assistance with **basic life decisions**, AND
- For whom a suitable and willing **private guardian cannot be found**.

Until 2005, there were two separate guardianship programs in different departments of state government. At that time, the Division of Developmental Services was integrated into the Department of Disabilities, Aging and Disabilities and the two guardianship programs were combined.

In general, public guardianship is provided to people with developmental disabilities under the authority of Title 18, Chapter 215 and to elders under the authority of Title 14, Chapter 111. Both statutes also require that guardianship services must encourage **self-determination and independence** and be provided in a manner which is **least restrictive of personal freedom**. Both statutes also mandate that private guardians be sought whenever possible and appropriate. It should also be noted that guardians can only make decisions on behalf of people; they **cannot force people under guardianship to comply with those decisions**.

One **major difference between the two statutes** is the requirement regarding a request for a **DNR/DNI** order. Under a Title 18 (people with developmental disabilities) order, any decision to withhold or abate medical treatment for an irreversible or terminal

condition shall is reviewed by the department's ethics committee, whereas under Title 14 (elders), permission is sought from the court.

Another major difference between the statutes is in the area of financial guardianship. Under a Title 14 order, it is possible to assign financial guardianship, and the guardian must make annual accountings to the court.

Other Functions

In addition to serving as guardian, the Office of Public Guardian:

- serves as **representative payee** for (presently) **331** individuals, many of whom are under public guardianship but others receive representative payee services as an alternative to guardianship;
- provides **targeted case management** supports where this service can provide a less restrictive alternative to guardianship;
- provides **public education** on guardianship and alternatives;
- **recruits and assists private guardians** and assist in developing individualized alternatives to guardianship; and
- **arranges court-ordered evaluations** for both public and private guardianship proceedings (**215** in SFY '14)

Staff

The office of Public Guardian is staffed by **28 full time employees** (in SFY'14), including:

- 26 Public Guardians, including the Program Director
- 1 Representative Payee
- 1 Program Clerk

Many of the guardians have been on the job for decades with a combined total of over 400 years of experience! Staff are very dedicated to the individuals they serve and to the ideals of OPG and DAIL. Many people under guardianship have had the same guardian for more than 20 years and the guardian has been the most constant relationship in that person's life. Public Guardians essentially have the same responsibility as private guardians, which means that Public Guardians need to be available and accessible to respond to a wide range of issues that may arise. The strength of the program is a result of the depth of experience of the guardians, the strong relationships that are formed with people under guardianship, and an unparalleled commitment to advocacy for vulnerable adults.

Number of Individuals Served SFY'14 (estimate)

During the course of State Fiscal Year 2014, the Office of Public Guardian served the following (approximate) number of people (current and terminated)

Guardianship (DD/Family& Probate Court)	655
Guardianship (60+/Probate Court)	88
Case management	7
Unduplicated Total	750

People Terminated from OPG Services in SFY 14:

People with DD	25 (Deceased 16, Independent 6, Moved 1, Other 2)
Elders	13 (Deceased 12, Private 1)
Case Management	3 (Independent 2, Private 1)
Total	41

Reasons for Public Guardianship

The over-arching reason why people who need guardianship come into public guardianship is the **lack of suitable and willing family or friends** to assume this responsibility. Within that context, there are numerous variables associated with each referral that may be instructive to consider.

In general people with developmental disabilities were placed on Public Guardianship in SFY '14 when they:

- **Aged out of custody from the Department for Children and Families (DCF).** This happens when a young adult turns age 18 and is no longer eligible for DCF custody. Often, people who are placed on public guardianship from DCF custody come with backgrounds of severe abuse, neglect, exploitation, trauma and serious emotional/behavioral issues;
- Were transferred to public guardians when their **private guardians resigned, died or were removed by the court;**
- Were referred for **other reasons** such as risk of harm, poor/dangerous decisions; self-neglect, need for support services, urgent need for medical care, legal/criminal problems, and issues associated with aging.

For elders, the reasons for public guardianship in SFY '14 included:

- **Medical emergencies** requiring consent;
- **Placement emergencies** (hospital or jail unable to find placement);
- **Other issues with living arrangements and/or financial difficulties;**
- **Vulnerable adults** who experienced or were at risk of some form of **abuse; neglect, exploitation** by family members, caregivers or others; and/or
- **Private guardian resigned, died or was removed by the court.**

Programmatic Successes

- OPG has converted to the use of SAMS (Social Assistance Management System), which is an electronic case management program used by other Divisions and providers.
- OPG has reinstated regular meetings with provider agencies and has planned a series of meetings with other stake holders, including Probate Court judges. The feedback from stakeholders about the services that OPG provides has been largely positive and any suggestions for improvement are taken into consideration and implemented where possible.

Programmatic Challenges

The main challenge faced by OPG is the **increase in caseload** over the years. We have experienced a **24% growth in caseload per OPG staff** since 2001. Many guardians have over 30 individuals assigned to them, which is well beyond the limit of 20 recommended by the National Guardianship Association.

A growing area of concern is an apparent increase in guardianship orders for individuals who **actively resist supports** from a guardian and have the capacity to make other choices which may not be in their best interest.

Goals for SFY 2015

1. Update OPG Guidelines for Making Critical Health Care Decisions and increase use of Advance Health Care Planning tools.
2. Address caseload pressures to insure we continue to provide high quality guardianship services. Strategies to be explored will include:
 - Increase diversion and termination from public guardianship, as appropriate;
 - Expand “circles of support” for individuals within their own communities.
3. Investigate curricula for teaching individuals new skills so that they can assume some areas of guardianship or become independent of guardianship.

