Agenda

Working Interdisciplinary Network of Guardianship Stakeholders

August 12, 2015
12:00 to 2:00 p.m.

Administrative Office of the Courts
Scott M. Matheson Courthouse
450 South State Street
Judicial Council Room, Suite N31

Welcome and approval of minutes. Announcements.	Tab 1	Kate Toomey
WINGS bylaws: final action	Tab 2	Kate Toomey
Feedback from WINGS participants: • What has and has not worked for your organization		WINGS members
National APS and WINGS conference call update		Nan Mendenhall Karolina Abuzyarova
Review of WINGS membership list: • Resigned members: Ute Tribe Advocate, ADRC, police • Outreach to new members: minority groups, etc.		Karolina Abuzyarova
Public education classes schedule: • **Sept.16, 5pm**, **Taylorsville Senior Center**, "How to avoid guardianship: alternatives to guardianship", MJ • **October 16, 10am**, **Draper Senior Center**, "How to obtain guardianship: process and procedures", Kent • **November 17, 10:30am**, **Liberty Senior Center**, "Where to get help: community resources for guardians and caregivers", Ellen Silver		Kent Alderman Ellen Silver Mary Jane Ciccarello
Case assignments update for Signature Program		Nancy Sylvester

Committee webpage: www.utcourts.gov/howto/family/GC/wings

Meeting Schedule:

- October 14, 2015
- December 9, 2015

Tab 1

Working Interdisciplinary Network of Guardianship Stakeholders (WINGS)

May 13, 2015 summary minutes: DRAFT

Attending:
Judge Kate Toomey, Chair
Kent Alderman
Ellen Silver
Lisa Thornton (via phone)
Shannon Alvey
Rob Denton
Norman Foster
Judge David Connors
Rep. Becky Edwards
Wendy Fayles

Guest
Judge Jim Brady

Staff
Nancy Sylvester

Excused
Karolina Abuzyarova (on sabbatical)
Daniel Musto

Welcome and minutes
The meeting commenced at 12:06 p.m. Judge Toomey welcomed everyone present to the WINGS meeting and extended a special welcome to Judge Brady. Judge Brady introduced himself and discussed his background in guardianship. The March 11, 2015 meeting minutes were then unanimously approved.

WINGS Bylaws
Judge Toomey discussed the feedback on the draft WINGS bylaws. Ms. Sylvester noted that the edits in the meeting packet were from Ms. Ciccarello but that Dr. Foster's edits had come in an email just before the meeting. Judge Toomey then noted that the initial draft was borrowed from Oregon WINGS. She said in reviewing the comments to the draft, Dr. Foster's comments were well received by the group and additional feedback from Mary Jane would need to be taken into account. Judge Toomey also noted Ms. Abuzyarova's feedback by email about preserving the right to advocate for the rights of persons with diminished capacity to the extent that WINGS can.

Judge Toomey asked for overall thoughts. She noted that the organizational bylaws were important as new people come through and will know what the goals and expectations are. She also said it was good to have quorum requirements.

Dr. Foster said all geriatricians are patient advocates but some of his experience with WINGS has been that he cannot advocate within the group. He said he tried to balance that in his edits. He also said one of the early discussions he remembered was how difficult it was to advocate to the legislature because it doesn't want to spend money. He noted further that this is an educational process and we should be focusing on providing education to the public. There is a gap, he observed, between what is said around this table and what goes to the public. He doesn't know how much guardianship issues are known in the social work arena. One of the other questions for discussion is whether we include financial abuse as an objective. He mentioned what the AARP is doing.

Judge Toomey then asked for other general thoughts. Mr. Denton said we'd all like to do as much as possible while maintaining neutrality. He noted that the document is broad, which can be good, but he said it could be better more narrowly defined.

Ms. Silver noted that one objective of the document is to generate new interest in this effort. Judge Connors then noted that regarding advocacy, while the group can't advocate as a whole, the individual members could do so based upon things that were raised at the meetings. Ms. Sylvester noted that in the version circulated in the packet, the bylaws addressed this very idea.

Regarding the "strongly encourages" language (with respect to advocating outside of the group), Dr. Foster thought it was better to take that out because of neutrality issues. Judge Toomey agreed.

There was some confusion about the different versions that had circulated, but Judge Toomey noted that there was generally consensus on Dr. Foster's edits.

Mr. Alderman observed that once a guardianship or conservatorship is granted, that case stays with the judge until they retire or die or the ward dies or gets better. He said the courts should have a duty to appropriately manage these cases and there is a need for a change in the statutory structure of guardianship law. He said the courts should be pushing the legislature to make those changes. Judge Toomey said WINGS can't do anything about that, but could be available to the Judicial Council's Liaison Committee. The courts speak with one voice and everything is run through that body before anything goes up to the legislature. Judge Connors said the question is if we become aware of a deficiency, could we let the legislative body know. Ms. Sylvester noted that she staffs the Liaison Committee with others so she may be able to facilitate that. Judge Toomey and Judge Brady echoed the same sentiment. Mr. Denton asked if this could be included in the document. Judge Toomey said it could.

Mr. Alderman asked about inviting someone to the committee from the legislature. Ms. Thornton mentioned that Rep. Edwards had attended before. Judge Toomey said it would be helpful to have a senator on the committee, too. Ms. Thornton mentioned Sen. Adams as the other sponsor on the most recent guardianship bill. Judge Toomey then asked Ms. Sylvester to speak with Rick Schwermer about what was possible with respect to WINGS identifying potential legislative issues.

Dr. Foster then asked to speak about the policy under the bylaws' Objective 1. Judge Toomey said it would probably be a good time to look at the document as a whole. Dr. Foster asked conceptually how WINGS would work. He said it's common for government units to have advisory committees that advise on policy. He wondered if that was WINGS's role. Ms. Sylvester said if there is a recommendation to change a court rule, then it would go to the Policy and Planning Committee and something like that could come from this group. So that is a possibility as long as the group is not lobbying the legislature. Judge Toomey said it might be a good thing to make sure the Policy and Planning Committee knows that WINGS is in existence and is available as a resource. That is why this document is key because it gives WINGS credibility. She commented further that Policy and Planning sometimes undertakes the study of certain items and we could be assigned the task of taking a look at guardianship issues and vetting it. She said it probably ought to be done on an ad hoc basis.

Dr. Foster then asked if there are other community groups that advise the judiciary. Ms. Sylvester said that advice comes from Judicial Council Standing Committees. The members are

selected from the community. Judge Toomey noted that often times the members selected are lawyers who specialize in that area. Ms. Sylvester also discussed Judicial Council ad hoc committees, like the Pretrial Practices Committee that she and Judge Brady are now on. It was created by the Judicial Council to look at bail practices and then will sunset after the task is done.

Ms. Sylvester said a long-term goal of this committee could be to become a standing committee of the Judicial Council. She said she could go to the Council and discuss that WINGS has amassed a group of experts on guardianship issues, guardianship is a big issue in Utah, and ask if the Council would consider making this a standing committee. This, she said, is where a lot of policy could happen because being a standing committee makes a group able to have a big hand in policy decisions. Judge Toomey said she thought it was premature, but could be a good long-term goal of WINGS.

Dr. Foster observed that this is a national program and he wondered if becoming an advisory committee was part of that vision. Ms. Sylvester said she wasn't sure but thought the national group's perspective was evolving. Dr. Foster said we could help define what was happening on the national stage. Ms. Sylvester noted that the other states were not necessarily creating their WINGS groups within the judiciary, and gave the example of Oregon, which had WINGS housed within the Department of Human Services. Utah, on the other hand, is trailblazing a different path. Judge Toomey again noted the constraints of being housed in the judiciary and also that it may not always be housed here, in which case the constraints go away. She said we could develop avenues of influence. Ms. Sylvester again noted what could happen with becoming a standing committee, including court rules being established setting composition and term limits. But, she said, this effort is in its infancy and the bylaws are a good place to start.

Mr. Alderman then discussed the Guardianship Signature Program, which was initiated by the courts and is a partnership of the courts and the Bar's Estate Planning and Elder Law sections as well as the Bar's pro bono program. He said, once that is off the ground and running, it will demonstrate how the courts can initiate its own policy to address the needs of the community.

Ms. Silver made a comment in relation to the bylaws that in the infancy of an organization, the fewer constraints you have, the better the process will go along.

Judge Toomey then had the group look at the edits by Mr. Denton and Ms. Ciccarello. Dr. Foster suggested adding a bullet point about identifying and developing resources available. Judge Toomey said she thought identifying resources was more appropriate since we probably won't be developing resources. Ms. Sylvester pointed out that the education subcommittee will be distributing information through its presentations, which is one way of identifying resources. Ms. Sylvester then suggested that the group work on the document in real time on the screen the way she works on jury instructions in the Civil Jury Instructions Committee.

Rep. Edwards joined the meeting.

Judge Connors commented that the order of the objectives may matter and worked on moving a few things around with other committee members in a way that made sense. For example, collaboration may need to be higher on the list. Judge Connors noted in response to a comment by Mr. Denton about policy matters that the committee can work on things like improving the court's website for people seeking guardianship. Ms. Silver commented again that it was important to not get too specific in the document.

Judge Connors then brought up the succession plan, which he said was directed at Judge Toomey. He asked if it really needed to be a district court judge. Judge Toomey said she thought it was important to have someone who was close to guardianship matters as the chair. Judge Connors proposed eliminating the word "district" so that it would just say "a judge versed in probate matters." He said she may not be the only one in that position down the road.

Judge Connors excused himself from the meeting due to a 1:30 p.m. calendar in Farmington.

Mr. Denton then discussed the outreach and training bullet points. Judge Brady said to make it clearer, you could add the word, "individuals" with respect to training to differentiate the two. Mr. Denton discussed further the word "engaging" with respect to being involved in the guardianship system. He asked for clarification about it and the group discussed why "engaging" was used.

Rep. Edwards said the "promote and provide" bullet point would make sense to say "provide training" because promote seemed to relate more to the first bullet point. Making that change would better differentiate between the two. Judge Toomey and others agreed.

Judge Toomey then brought up the bullet point that had been proposed in WINGS's constraints about dealing with restricting people's rights. She said the court will never take a position that way and Ms. Ciccarello had echoed the same in her comments. Although a person's rights may be restricted, it's hard to imagine someone advocating that way.

The group then discussed identifying resources for those engaging the guardianship system. Dr. Foster noted that the people around the table had many different perspectives on the resources available, and Judge Toomey observed that as a strength of the group.

Judge Toomey said she was comfortable with the "identifying resources" language. Dr. Foster and Mr. Denton then discussed "identifying barriers" and Judge Toomey asked what we would do if we identified barriers. Judge Brady said this would probably come up and be addressed in the training and education part of WINGS.

Ms. Sylvester noted her network connection was lost and the document was not updating properly.

Members continued to discuss the barriers to guardianships, including what was brought up at the symposium. Judge Toomey redirected the committee to consider the other agenda items so that Ms. Sylvester could work on recovering the document.

Public Education Subcommittee Report:
Judge Toomey transitioned the discussion to the education subcommittee's work. Mr. Alderman said he is working with Mary Jane Ciccarello and Ellen Silver on a three-part education program. The first training will be by Ms. Ciccarello at the Taylorsville Senior Center in September and will be discussing how to avoid guardianship, or alternatives to guardianship. Mr. Alderman will be giving his presentation on October 16th on how to obtain guardianship and guardianship procedures. Finally, Ms. Silver will be presenting at the Liberty Center on November 17th on where to get help—resources for guardians and their families. Judge Toomey asked if they would be filmed and Mr. Alderman confirmed that they would. Judge Toomey asked if they were working on scripts and they confirmed they were.

Mr. Alderman noted that because he is not a marketer, he was figuring out how to make the presentation without being a talking head. Judge Toomey made a humble suggestion that he contact her husband, Sean, at the Bar since Sean is in marketing. She said he would be willing to help them in that goal of making an effective presentation.

Interview with Dick Van Duizend on WINGS
Ms. Sylvester then discussed her interview with Mr. Van Duizend, who is from the National WINGS organization. She said he asked about how things were going and the direction the group is headed in. She noted that he is encouraged by what Utah WINGS is doing and was especially interested in the bylaws because of the potential for other states to use it. She noted that Oregon had abandoned its efforts to finalize its document. Ms. Sylvester also said that Erica Wood had asked that she post the Bylaws to the WINGS listserv when it was completed.

Geriatric Conference
Judge Toomey then discussed the Rocky Mountain Geriatric Conference, which will be August 31-September 1st at Snow Bird Resort. She said it was looking like it would be a good conference. Ms. Silver said she had been invited to a similar conference at IHC, and that as the group moves forward, it would be good to have marketing materials for these kinds of conferences. Mr. Denton asked what the purpose of the materials would be and Ms. Silver said she would bet that 50% of the people coming didn't have a clue about the group and its status as a resource for the community. Ms. Sylvester said this would be a good project for Ms. Abuzyarova upon her return. Judge Toomey agreed that this was a good project. A one-page flyer would be helpful.

Guardianship Signature Program Update
Judge Toomey then asked Ms. Sylvester to give an update on the Guardianship Signature Program. Ms. Sylvester said the effort is kind of slow, but there have been a few placements. She said she is waiting on names from the Bar. Mr. Denton asked how many people had signed up for the program and Ms. Sylvester said she wasn't sure, but had had a few attorneys informally sign up as cases have arisen. She said the clerks have been asking a lot of questions on how to do these cases. She then discussed how the clerks prepare the orders and that when an attorney enters their appearance in the e-filing system, they have access to all of the filings, which may include contact information for the client. Mr. Alderman then further explained how to get in touch with the client and what was needed to understand the needs of that person. Ms. Alvey then directed the conversation toward Rep. Edwards, explaining that she wanted to make sure Rep. Edwards knew what the program was. Rep. Edwards said she did know what it was because it came up in the last legislative session. Judge Brady further discussed the benefits of the e-filing system and what information was available. Mr. Alderman then discussed the importance of the court's order when it came to talking to the doctor's office about the respondent's care. Ms. Sylvester elaborated on the efforts she and the Bar were making to get attorneys to sign up, including an electronic postcard that would go out Bar-wide. Mr. Alderman noted that he promoted the program at the Spring Bar Conference, but the Bar didn't have the program available for sign-ups on its website. So people signed up for guardianship and probate but not the program. Ms. Sylvester noted that one of the bigger challenges with the program was the coordination between the two agencies since the Bar's pro bono department was very busy. Mr. Alderman said he had talked with both chairs of the two sections about promoting this to their members, so hopefully that would generate some interest.

Fellowship Application Update

Mr. Denton then reported that the Disability Law Center had applied for a disability law fellowship but they had not heard anything yet. He said the timeline they put on the grant application requested hiring the fellow starting June 1. Presumably, the grant approval time is before then.

Court Visitor Program
Ms. Sylvester then reported on the Court Visitor Program. She said she, Judge Brady, and Judge Connors would be presenting at the Spring District Court Judges Conference on guardianship issues, the Court Visitor Program, and the Guardianship Signature Program. She also said she and Holly Kees had met with Tom Quam, a court visitor with an accounting background, about creating a script for an online training program on the annual guardianship reports. The OTP will be designed to instruct the guardians on how to fill out the reports and common errors that can occur. The script will also be used to train the court visitors on how to work one-on-one with the guardians whose reports are not compliant. Ms. Sylvester then updated the group on the letter that had gone out to the districts requesting more audit case assignments. She said in one month about 50 case assignments came into the Court Visitor Program as a result of this effort. Judge Brady discussed further the assignments that the court visitors engage in. Ms. Sylvester also discussed the amount of hours visitors had donated since the beginning of the program (about 4500) and the number of volunteers the program currently has (around 30 active with new recruitments being done).

Rep. Edwards then discussed the last legislative session. She said the bill that removed fees for guardianship parents of transitioning adults also originally had a provision about not requiring counsel for the protected person. She said there was confusion about the Court Visitor Program versus the Guardianship Signature Program. Mr. Alderman and Ms. Sylvester clarified the difference between the two and discussed how fees are determined in the Signature Program. Ms. Sylvester showed her power point presentation which compared the two programs. She and Judge Brady pointed out that the Signature Program is designed to safeguard those protected persons who are in the 5% of cases where there is abuse present from parent to child and the protected person needs more of a voice.

Judge Brady excused himself from the meeting.

Mr. Denton further explained that having counsel present for the protected person is designed to also explore the different options within guardianship and potential alternatives. Mr. Alderman discussed further that a plenary guardianship may not be appropriate in every case so an advocate is a good thing, recognizing, of course, that the parents are going to be the ultimate advocates for the rest of that child's life.

Bylaws, con't.
Judge Toomey turned back to the bylaws, but because the document hadn't saved properly further edits were not possible during the meeting. Judge Toomey said she and Ms. Sylvester would recreate what had been discussed in the meeting and then send it out to the group. She said because comments had already been received, the document would not be revisited fully at the August meeting. The group would come prepared to discuss it and only make edits as appropriate.

Further business
Dr. Foster then requested discussion on people to add to the committee. Judge Toomey said she loved all of his suggestions, but it was a lot of people. Ms. Sylvester noted that when she

ran the list by Brent Johnson, they both agreed that too many people on the committee would make it a bit unruly. Ms. Silver said in the membership section, we could say “may include” so we don’t have to include all of them. She suggested a minimum and maximum number of people on the committee. She asked how many people were on the committee currently and Ms. Sylvester said it was a bit of a moving target depending on who showed up. For example, she said, she considered Rep. Edwards to be a member of the committee because she has been attending. Ms. Silver said 10 was a good minimum number and 15 to 17 was a potential upper number. Ms. Sylvester said one good way to deal with the large number of people on the list was to add them to the WINGS listserv so that they get all of the WINGS updates, like the agenda and bylaws, and can stay informed. And then when it comes to the annual meeting, a phone call to each one of them inviting them to the meeting would be appropriate.

Dr. Foster said one issue to consider was the education component. For example, graduating social work students may not know about guardianships as a resource. Judge Toomey said she thought this was a matter of identifying resources and agency partnerships. Ms. Silver said the list also identifies where we need to do our outreach. Judge Toomey suggested a membership category and a stakeholder category. Ms. Sylvester suggested that instead of two categories, the bylaws could just say the committee shall consist of 15 members drawn from among the following groups.

Ms. Silver brought up the educational videos as a great outreach tool to the students in the programs Dr. Foster listed. Mr. Denton then mentioned the provision in the bylaws about people being released from the committee if they do not show up for a certain number of meetings. Judge Toomey addressed his concerns, saying, this is not a criticism for those that attend the meetings regularly, but we don’t want people to sign up and then never come. Ms. Sylvester said the hope with the bylaws is to create some buy in from people who are interested in the committee.

Judge Toomey suggested that the committee adopt Dr. Foster’s suggestions on the member list. She then formally asked Rep. Edwards if she would be willing to take on the legislator role on the committee. Rep. Edwards said she would be happy to. She then commented that regarding Dr. Foster’s suggestions for membership from Utah’s higher education programs, it would be helpful to just say a member of a Utah higher education institution. That way, it would cover BYU, Westminster, the University of Utah, etc.

Judge Toomey then addressed Dr. Foster’s suggestion about removing some language related to “while WINGS is housed in the judiciary.” He said he thought the judiciary was the best place for WINGS and if it were moved, it would require a new set of bylaws anyway. Judge Toomey referenced what Ms. Sylvester had said earlier about other states having WINGS housed with different agencies, and that the group may at some point grow weary of the judiciary’s constraints. Of course, she said, it was possible to leverage the judiciary’s resources in a way that removed these concerns.

Judge Toomey then addressed the annual open invitation meeting and the idea that non-members would be invited. The members present agreed that it would be a good idea. Judge Toomey suggested that a bigger room would be needed and Ms. Sylvester said one of the downstairs education rooms would probably suffice.

Dr. Foster then read from the bylaws about the number of meetings a person could be absent from (unexcused) before they are excused from the committee by the chair. Judge Toomey said

it would be helpful to put in the minutes if someone is excused from the meeting because it will exert some subtle pressure on those who are unexcused from the meetings. Judge Toomey reiterated that she and Ms. Sylvester would take a stab at making a clean draft. She thanked everyone for their participation and wished them a good summer.

The meeting concluded at 1:47 p.m.

Tab 2

Utah WINGS

Working Interdisciplinary Network of Guardian Stakeholders

ORGANIZATIONAL BYLAWS

MISSION

The mission of **Utah WINGS** is to bring together stakeholders from various disciplines to improve the state's guardianship and conservatorship services and processes.

OBJECTIVES

To carry out its mission, **Utah WINGS** shall:

- Support policy initiatives for the enhancement of guardianship and related infrastructure;
- Identify and develop education and outreach opportunities regarding guardianships, conservatorships, and their alternatives;
- Provide training and support to those engaging the guardianship/conservatorship system;
- Identify resources that may be available in emergency cases where persons of limited decision making capacity have no guardian;
- Promote high standards for guardians and conservators;
- Promote collaboration between **Utah WINGS** members and other stakeholders; and
- Regularly assess the needs and priorities of **Utah WINGS**'s efforts.

MEMBERSHIP

Utah WINGS will strive to maintain interdisciplinary representation of 15 members drawn from the following organizations, entities, and individuals, acknowledging that other members may be added from time to time.

- AARP
- Adult Protective Services
- Center for Alzheimer's Care, Imaging, and Research
- Centro de la Familia
- Disability Law Center
- Division of Aging and Adult Services
- Faculty member from one of Utah's institutions of higher education, such as the colleges of social work and law
- Jewish Family Services
- A law enforcement agency
- Long-term Care Ombudsman
- National Alliance on Mental Illness

- Office of Public Guardian
- A private probate attorney
- A private guardian/care manager
- A probate judge
- A resident of a rural community
- Utah Commission on Aging
- University of Utah Center on Aging
- Utah Aging and Disability Resource Center
- Utah Healthcare Association
- Utah Parent Center
- Utah State Legislature
- Ute Tribe or the Ute Family Center
- Veteran's Affairs Administration
- Volunteer Court Visitor Program

Succession Plan

While **Utah WINGS** is housed under the judiciary, the **Utah WINGS** chair shall be a judge who is well versed in probate matters. The chair shall serve a term of three years—with an option to renew for a subsequent term—and at the conclusion of his or her service, appoint a successor with the same, or similar, qualifications.

Individual members shall serve a term of three years, and may serve up to two terms at the Executive Committee's election. When a vacancy arises, a new member who can provide the same or similar representation shall be sought within sixty days. Members are expected to attend the meetings and may be released from the committee by the chair for failing to attend three meetings in a calendar year.

MEETINGS

Full Utah WINGS meetings

Utah WINGS shall meet approximately every two months. The meeting agenda shall be determined by the executive committee and circulated in advance of the full meeting.

Executive Committee

While **Utah WINGS** is housed under the judiciary, the Executive Committee shall consist of the **Utah WINGS** chair, the Court Visitor Coordinator, a staff attorney from the Administrative Office of the Courts, and up to three members of **Utah WINGS**, as determined by the chair.

Annual Open Invitation Meeting

Every November, or on some other annual basis, **Utah WINGS** shall invite to its full meeting community members and agency partners who are not **Utah WINGS** members but who engage with guardianship or conservatorship issues on a regular basis. The purpose of this annual meeting shall be to raise awareness of **Utah WINGS**'s efforts, to listen to the challenges facing those dealing with guardianship and conservatorship issues, and to identify potential projects that fall within the bounds of **Utah WINGS**'s objectives. This section is not intended to limit the

ability of guests to attend and participate in **Utah WINGS**'s other regular meetings throughout the year.

Annual Assessment Meeting

Every January, or on some other annual basis, **Utah WINGS** shall hold an assessment meeting to determine how well the committee is meeting its objectives and whether **Utah WINGS**'s needs and priorities have—or should be—changed.

Sub-Committee Assignments

Standing and ad hoc sub-committees shall be created for the purpose of carrying out the objectives of **Utah WINGS** and will meet as necessary, either in person or by electronic means. The Executive Committee shall review sub-committee projects for consistency with **Utah WINGS**'s objectives, particularly within the judiciary's constraints. A ***standing education sub-committee*** is hereby created.

Quorum

A simple majority of members present shall constitute a quorum for purposes of voting on and approving **Utah WINGS** minutes and all **Utah WINGS** projects.

CONSTRAINTS ON THE JUDICIARY

Utah WINGS recognizes that the following activities may be important to its members, but as long as **Utah WINGS** is housed under the judiciary, which must maintain its neutrality, the group may not engage in them as official **Utah WINGS** projects:

- Advocate for the rights of individuals with decisional impairments;
- Promote independence to the greatest extent possible for those experiencing incapacities, unless it takes the form of public education about alternatives to guardianships and conservatorships or established standards for a guardian's conduct;
- Lobby the legislature for changes to guardianship policy; and
- Any other activity that may call into question the judiciary's neutrality.

Individual members may engage in these activities on behalf of their own organizations.