



KGA: The 2nd Edition

Conference 2017 & More!

IMPROVING ADULT GUARDIANSHIP IN KENTUCKY

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Letter from the New President

by Adanne Bagby, NCG

I want to thank all of you as members of the Kentucky Guardianship Association for giving me the opportunity to serve as your president. It is an honor and I know I have hard acts to follow.

Dr. Pam Teaster was an incorporator, founding member and first president of KGA. She is a nationally known authority on guardianship and has published many articles, papers and books on her subject. She served on Governor Fletcher's Task Force on Elder Issues and Chair of the Subcommittee on Guardianship. To continue the progress made on guardianship issues by this subcommittee, Pam initiated the Kentucky Guardianship Association modeled after the Virginia Guardianship Association, which she was also a founding member. KGA is 10 years old this year.

In 2014, when she left the University of Kentucky for Virginia Tech, and thus us, we thought we would be adrift at sea. But before that happened, Robert McClelland took the helm and steered us forward. He had founded McClelland & Associates Law Firm to focus on elder client issues. Robert's law office holds regular seminars on elder law, which includes trusts, guardianship, and personal financial management. He has

chaired the Kentucky Bar Association Elder Law Section, serves on boards with elder focus, and publishes and trains regularly on elder law and guardianship. Over the years Robert has served and continues to serve as a guardian for people, including veterans. He graciously took on the presidency of KGA while earning his Master of Laws in Elder Law and maintaining a busy law practice. He also was adamant that our annual conference streak would not lapse and donated his whole office to pull off a wonderful conference with only two months' planning.

This is a good place to jump off of past presidents and talk of guardianship. You see guardianship isn't just for "old" people. Adult Guardianship is for people over 18 years of age who need other people to make informed decisions for them. KGA has been going from East to West Kentucky over the last year talking about guardianship whether this has been to parents with children close to the majority age of 18 who will continue to need guidance, to what you normally think of guardianship as adult children with parents needing assistance.

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"Guardianship cannot stop mental illness..."



Rebekah Cotton tells her perspective of her family's life altering journey.

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One KGA board member sits down with Mona Wilkerson of the Council on Developmental Disabilities.

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Petition to Dissolve

A True Story

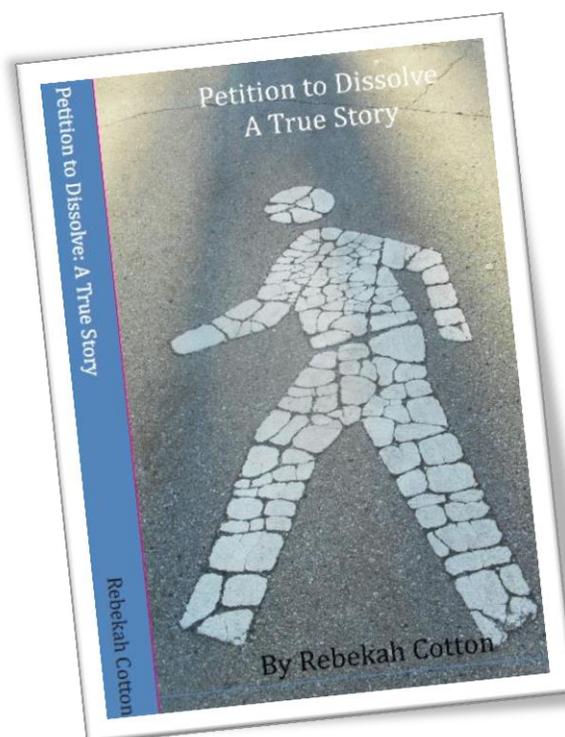
By Rebekah Cotton

Be wary parents. Be wary friends of the mentally ill. Guardianship cannot stop mental illness. All it does is remove what little dignity the person with the illness has left. All it does is strip them of the right to make decisions that the guardians cannot make anyways, all it does is change the power of the purse. If you have lived your life on the street and in and out of hospitals the purse will have little influence on you. Technically if you have a mental illness and you are not stable in treatment, you are already stripped of the ability to make decisions, so what is the point.

Chapter 17

De Novo Order

The day that we came to the courtroom post guardianship, post appointment and post hospitalization and failure upon failure in the battle of recovery I sat on the same bench where we had lost, I stared at the witness box where I had witnessed my uncle sworn in. I thought about all that had taken place in this room and how mental illness continued to mop the floor with us. It had whooped us all. My brother was still sick. My family was worn and weary. The courtroom even felt defeated and all of the players inside of it. There is no enemy like



the walking death of mental illness. It will win because it can last longer and torment harder and bleed you out. Love never fails, I thought to myself. Love never fails. Over and over in my head, I thought Love never fails.

In *Petition to Dissolve* Rebekah Cotton tells her perspective of her family's life altering journey through a contested guardianship trial concerning her brother's independence and civil rights in the face of disability. Rebekah is currently an attorney at Kentucky Protection and Advocacy. The cover of the book is a picture of the walking man who is painted on the Cherokee Park walking path in Louisville, KY. The story starts and ends on the walking path and the picture represents the broken and long journey that persons with mental illness face.



You can get a copy of the book on Amazon Kindle for only \$3 or you can send an email to rebjoy2000@gmail.com requesting a paperback copy for \$22. There are only a limited number of paper copies available.

MURRY STATE UNIVERSITY ARC OF KY IN LOUISVILLE

Kentucky Guardianship Association took its presentation on the road this Spring with new offers to present on Guardianship!

KGA SPRING 2017 TRAVELS

by Adanne Bagby, NCG & Becky Smith, NCG

KY Autism Training Center Parent Summit and Professional Development

By Adanne Bagby, NCG

On March 16, 2017 Jennifer Durham and I leisurely traveled to Murray Kentucky at the invitation of Heidi Cooley-Cooke with University of Louisville, Kentucky Autism Training Center. On March 17, 2017, there was a day of training through collaboration of Kentucky's Office of Autism, University of Louisville's Kentucky Autism Training Center (KATC), Calloway County Early Childhood Regional Training Center, and West Kentucky Educational Cooperative. As many of these trainings before, we were asked to speak about guardianship to parents of autistic children who would soon be eighteen. Many of these parents are unaware that their protection ends when their child turns 18 and to continue this protection they must prepare for and file for guardianship of their adult child. The Keynote speaker at this summit was Ray Chumbler IV. Mr. Chumbler, who is autistic, is a graduate of Murray State University and an advocate for success of other autistic students at the university. He eloquently spoke of family, educators, friends and other autistic persons among a few, who lead him to achieve his level of success.

In our session on guardianship, the KGA Video on "Adult Guardianship in Kentucky"

was presented and each person attending the session was given a copy. A wonderful discussion on guardianship, when to seek guardianship, and the particular issues attached to autism ensued.

One particular discussion was about incarcerated autistic persons over the age of 18 and if guardianship should be pursued. An incarcerated person is presumed in a safe environment and therefore guardianship should not be necessary. But as soon as a release date is determined, it would be a good idea to discuss guardianship with the local county attorney. However, if a person has financial responsibilities (SSA, VA income, etc), then an attorney should be consulted who may advise a Power of Attorney, conservatorship or other legal instruments to handle these matters while the person is incarcerated.



KGA Board Member Becky Smith at the 2017 Arc of Kentucky Annual Conference in Louisville, KY.

Arc of Kentucky Annual Conference in Louisville

By Becky Smith, MSSW, CSW, NCG

The ARC of Kentucky held their Annual Conference at the Ramada Plaza and Conference Center, Louisville, Ky on March 16-17, 2017. Over 350 participants were expected. The conference was entitled "**Building a Brighter Future.**"

This best practice conference was hosted by the local community ARC Chapters, the Jefferson and Simpson County Parent/Professional Regional Conference and the Kentucky Department of Education. Dynamic keynote speakers included Tim Wambach, Handicap This Productions, Nicole Jorwick from The Arc of the United States and Clancey Hopper, a self-advocate.

The Kentucky Guardianship Association hosted a booth during the conference and fielded a number of questions related to guardianship. One topic mentioned several times by visitors to the booth was the issue of guardianship for immigrants who may have intellectual or development disabilities. We have since learned that The Council on Development Disabilities (Louisville, Ky) is applying for financial assistance to support those who may need the guardianship process in the Louisville area.

“The Council” is becoming a focal point for guardianship training and support in Jefferson County

by Becky Smith, MSSW, CSW, NCG

Mona Wilkerson is one of “the lucky ones”. She has a job that fulfills her lifelong commitment to serving people with developmental disabilities. Mona’s daughter’s indelible spirit has provided her inspiration to enhance the lives of others every day. So, what does this have to do with guardianship? Mona Wilkerson has served as the Director of Family Outreach for The Council on Developmental Disabilities in Louisville, Ky. for the past six years. During this time, she has become a “go to” person for those needing information and assistance with guardianship.

Mona has coordinated with Claudia Smith, Jefferson County Attorney’s Office, to conduct workshops in the community. “Guardianship & Planning for the Future” provides assistance and support for families in preventing a crisis and planning for the smooth transition of those family members with disabilities moving through the various stages of life.

She has also worked with the Jefferson County Public Schools to provide information, referrals and assistance in the area of adult guardianship to assure smooth transitions for students that may need such help.

Of course, there are others who may not have family members with

This photo was taken when Jefferson District Court Judge, David Bowles, visited with Mona to discuss their work. “Cudos” to Mona and Judge Bowles for their positive efforts to assure quality guardians.

developmental disabilities but are in need of assistance. They are also able to seek support and assistance from The Council. Jefferson Disability Court has developed a “Checklist for Guardians and Conservators” that is given to each individual appointed as a guardian. The applicant must review, sign, submit to the clerk and assure that they have knowledge of guardianship responsibilities. Mona is very involved with that process by helping to educate families BEFORE an appointment.

Louisville is seeing a large growth in the refugee population. Individuals with cognitive disabilities face a very bleak future in many cultures and are brought to the United States, along with their family, so that they may have a better future. She has been working with Catholic Charities and Kentucky Refugee Ministries to assist with evaluations

about the need for guardianship.

Mona Wilkerson has been able to “connect the dots” between several large systems: the courts, the schools, social service agencies, families and most of all, the disabled individuals that need assistance to make their voices heard. Thank you, Mona, for all you do...

Funding to support these various programs has support in part from Metro United Way and Louisville Metro Department of Community Services and Revitalization.

For more information contact Mona at: mwilkerson@councilondd.org or call 502/584-1239

The Council on Developmental Disabilities, 1151 S. Fourth St. Louisville, Ky. 40203 www.councilondd.org.



New Kentucky Guardianship Association. Inc. Public Pooled Special Needs Trust

The Kentucky Guardianship Association, Inc. has opened a new public pooled trust fund which can hold funds for the general public to exempt resources for SSI and Medicaid beneficiaries according to 42 U.S.C. 1396p (d)(4)(C). The fund does not have a minimum on the size of account that can be set up. Set up and closing fees are charged and Twenty Percent (20%) of a closed account remains in the fund for use by other participants who may run out of money but still have supplemental needs that can be served by participating in the fund. For more information contact:

Kristen Pearson at 859-543-0061.



Continued from cover story

KGA is a good place to start if you have any questions on guardianship in Kentucky. We offer trainings and conferences. You can visit our website at KyGuardianship.org and send us questions or ask us to come to meetings to discuss guardianship.

About our conferences: KGA has held 7 annual conferences. This year will be no exception. On October 5, 2017 we will converge on the Thomas D. Clark Center for Kentucky History in Frankfort for our 8th annual conference. We are going "Back to Basics" at this one and revisiting best practice for private and public guardians using the National Guardianship Association's best practice standards. You will be guided through these standards of practice by Wanda Bevington, National Guardianship Association (NGA) President. (KGA is an affiliate member of NGA)

NGA compiled these standards of practice as a national guideline for guardianship. Kentucky's state laws have to be applied. We will have a panel discussion with Kentucky guardianship experts to discuss when we, as guardians under Kentucky statutes, must differ from the national best practice standards and why we must diverge. But also how we can incorporate the national best practice standards in our own guardianship endeavors.

Back to past presidents..... Many, many thanks are due to Pam Teaster and Robert McClelland for plotting our course and steering KGA to this point in time which allows us to advocate for guardians and bring experts to the table to ponder guardianship questions and answers.

Come join us to learn about and advocate for guardianship and don't miss this year's annual conference on October 5, 2017 in Frankfort.



SAVE THE DATE!

8th Annual Conference

“Back to Basics”

THURSDAY, OCTOBER 5TH, 2017

Thomas D. Clark Center for Kentucky History

8th ANNUAL KGA CONFERENCE

by Adanne Bagby, NCG

The Conference Committee has been roughing it for lunch at Serafini's in Frankfort on a monthly basis to bring you this year's annual conference. We are jumping up and down!!! Why you ask? Because Wanda Bevington, President of the National Guardianship Association (of which we are an affiliate member) has agreed to a keynote address on NGA along with Greg Mulvany, Past President of NGA, to present the NGA standards of practice and ethics for public and private guardians. We are going back to basics. This training will be an interactive, fun exercise on best practice standards and how to apply them. KGA understands that because of state laws and regulations not all best practice can be observed. A panel of Kentucky experts from the public and private sectors of guardianship will be part of the program to discuss where we, as guardians in Kentucky, must deviate from NGA national standards. KGA will be 10 years old this November and this will be our 8th successive annual conference. We are expecting you at the History Center in Frankfort on October 5 along with your questions and stories of your guardianship interests and experiences. See you there.



8th Annual Kentucky Guardianship Association 2017 Conference

BACK TO GUARDIANSHIP BASICS

7:30 – 8:15	Check – in & Registration	12:00 - 1:00	Lunch
8:15 – 8:30	Welcome & Opening Remarks: Adanne H. Bagby, NGC, KGA President		Presentation of 2017 Reg White Scholarship Award Winners
8:30 – 9:30	National Guardianship Association (NGA) Standards of Excellence in Guardianship	1:00 – 2:00	KGA Annual business Meeting with Election of Officers
	Presenter: NGA President Wanda Bevington NGC, LSE, MS	2:00 – 2:15	NGA Standards from Aspirations to Implementation Continued
	This session will introduce you to NGA and resources available to assist you in guardianship role.	2:15 – 3:15	Break
9:30 – 9:45	Break		Panel Discussion
9:45 – 10:45	NGA Standards from Aspirations to Implementations		Panel: Linda Keeton, JD, Robert McClelland JD, LLM, CELA, Jessica Wayne, State Guardianship, Wanda Bevington & Greg Mulvaney
	Presenters: NGA President Wanda Bevington & Greg Mulvaney JD, NMG		This session will apply NGA Standards to Kentucky Laws and Regulations. The panel will also look at NGA standards vs. Kentucky Laws and discuss deviation of these standards with Kentucky Laws. Ways to ensure the essence of the standards are preserved within Kentucky law to ensure the safety, care and quality of life of the ward are met will be discussed.
	This session will discuss guardianship standards of practice and checklist, agency standards, and ethical principles; use of said standards ensures best practice for care and quality of life for wards.		
10:45 – 11:00	Break	3:15 – 4:15	Case Studies of Guardianship:
11:00 – 12:00	STABLE Kentucky Accounts		Presenters: NGA President Wanda Bevington & Greg Mulvaney
	Presenter: Samara Heavrin, Director, STABLE Kentucky		This session will look at real guardianship situations and how standards are applied.
	This session discusses a new financial tool that lets vulnerable Kentuckians maintain Medicaid, SSI eligibility.	4:15 – 4:30	Closing Remarks

Kentucky “Stable” Accounts

By Robert McClelland, JD; LLM; CELA

One of the difficult conditions placed on our SSI and Medicaid beneficiaries has been the requirement that if a recipient has resources in excess of \$2,000, eligibility is lost and the SSI and/or Medicaid will suspend until the resource value is below \$2,000. Congress and the State of Kentucky in 2014 and 2015 approved an alternative account option for recipients who are eligible to create a “savings” account that can be available to SSI and Medicaid recipients with much higher limits than \$2,000. These accounts complement but do not supersede special needs trust planning.

The legislation, titled “Achieving a Better Life Experience,” (ABLE) has opened the door for states to sponsor these accounts for eligible recipients who were disabled prior to age 26. The maximum deposit each year is equal to the annual exclusion for Federal Gift Tax, currently \$14,000. As the accounts are created under the Federal tax code and not the Social Security Act, they are considered Section 529A accounts and limited to the state maximum on the same basis as Section 529 education savings accounts. Currently in Kentucky, this amount is \$350,000. Key to this plan is that the amount in the fund is excluded as “available” for eligibility purposes to SSI and Medicaid. The deposits into the account can come from the beneficiary or from others such as parents or grandparents, or just concerned neighbors. Even distributions from Special Needs Trusts have not been improper. But the account is directly available to the beneficiary like a bank account. The parameters are that expenditures must be for “qualified disability expenses.” Qualified disability expenses are essentially the same as would be allowed from a sole benefit special needs trust and examples are listed in the statute and in the Social Security POMS.

Once the account reaches a \$100,000 balance, SSI suspends the monthly benefit but Medicaid does not. SSI eligibility remains, only the monthly benefit payment suspends until the account reduces below \$100,000. Should the account end, such as at the death of the beneficiary, Medicaid is entitled to recovery from the account but only the amount due from the time the account was created, unlike a First Party Special Needs Trust which allows repayment of all Medicaid payments ever paid on behalf of the beneficiary.

Although authorized by the Kentucky General Assembly in 2016, Kentucky has not created a Kentucky ABLE account to be administered in Kentucky. However, because most state programs allow residents from other states to participate, the Kentucky program uses the Ohio “STABLE” account for administration of Kentucky residents.

If an eligible SSI or Medicaid recipient might be concerned about having resources above \$2,000 a STABLE account may be the solution. Go to <https://www.stablekentucky.com/stable-account/> or contact the Kentucky State Treasurer for more information.



Call for articles and topics!

Would you like an article of yours related to guardianship
published in our newsletter?

Do you have a topic that you want the KGA to dive into?

Let us know at info@kyguardianship.org

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