



## Virginia Public Guardian & Conservator Board

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Joint Commission on Health Care  
Virginia General Assembly 10/23/08



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## Purpose

- Thank the General Assembly for establishing a model system of best practices
  - You provided helping hands for the most vulnerable people in Virginia
  - In a bi-partisan, data-driven, humanistic way
- Update you on the program



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## Outline: Virginia Public Guardian and Conservator Program

- Definitions
- History & Organization
- Strengths
- Needs
- Conclusions



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## Definition: incapacitated person

- Lacks functional capacity to make decisions
  - without the assistance of a guardian (or conservator)
- Not a unitary state
  - Some cognitive domains can be preserved; others lost
- Not a static state
  - Change can occur over time for better or for worse
- Highly vulnerable people
- Can easily be abandoned/lose individual rights
- Courts determine incapacity



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## Cognitive impairment can be caused by

- Congenital brain injury:
  - Genetic syndromes (e.g., trisomy 21/Down; fragile X)
  - Fetal alcohol syndrome
  - Cerebral palsy
  - Autism
  - Prenatal nutritional/metabolic problems
  - Rubella
  - Hydrocephalus, etc.
- Degenerative brain injury:
  - Alzheimer's
  - Parkinson's, Huntington's, etc.



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## Cognitive impairment causes cont.

- Acquired brain injury (ABI):
  - Stroke
  - Traumatic brain injury (TBI)
  - Lack of oxygen (anoxia)
  - Metabolic (liver/kidney) problems
  - Tumors
  - Infections
  - Toxic chemicals
  - Electrical, etc
- Mental illness/chemical dependency



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## Uniqueness of each incapacitated person

- If you've seen one incapacitated person....
- You've seen one incapacitated person.



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## Definition: Guardian

- Circuit Courts appoint after a trial
  - based on “clear/convincing evidence” w/
  - respondent's rights carefully protected by statute
- Make decisions/give consent
  - Substitute or Surrogate decision makers
- Serve the best interest of the person, e.g.
  - Where to live, services needed, medical care
- Advocate for the incapacitated person



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# Definition: Public guardian

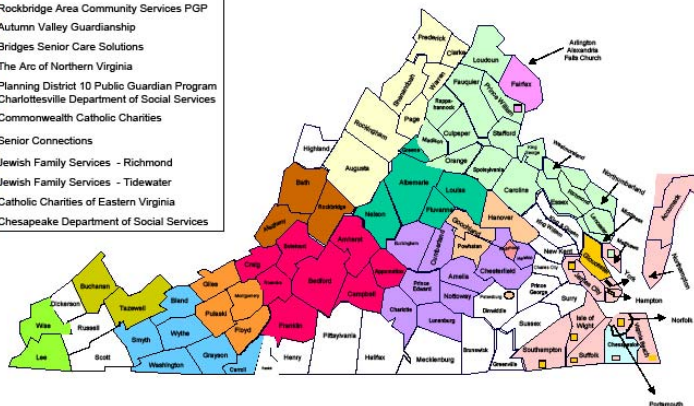
- Guardian of last resort
- For people adjudicated to be:
  - Incapacitated
  - Indigent and
  - Have no one else to take care of them
- Court appoints local guardian programs
  - rather than individuals



# Who are VA public guardians

- Mountain Empire Older Citizens
- GOLD
- District III Governmental Cooperative
- Southwest Virginia Legal Aid Society
- Family Services of Roanoke Valley
- Rockbridge Area Community Services PGP
- Autumn Valley Guardianship
- Bridges Senior Care Solutions
- The Arc of Northern Virginia
- Planning District 10 Public Guardian Program
- Charlottesville Department of Social Services
- Commonwealth Catholic Charities
- Senior Connections
- Jewish Family Services - Richmond
- Jewish Family Services - Tidewater
- Catholic Charities of Eastern Virginia
- Chesapeake Department of Social Services

Virginia Public Guardian & Conservator Programs  
April 1, 2008



16 Local Guardian Programs: contracted w/ local/regional agencies throughout VA

## What do public guardians do?

- Promote human rights/dignity
- Connect/monitor services
- Improve self-sufficiency
- Provide a voice for the person
- Seek alternatives to public guardianship
- Focus on the whole person
- Reduce suffering & loneliness



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## Public guardians save VA money

- By seeking least restrictive environments
  - e.g., release from state psychiatric facilities into community-based programs
- By using community/volunteer services
  - to defray costs otherwise paid by Medicaid



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## Saving VA money cont.

- By working closely w/ health professionals to
  - assist with compliance & better preventative care
- By seeking funds lost due to incapacity
  - e.g., \$36,000 in Veterans Affairs Benefits otherwise covered by Medicaid discovered by the District Three Senior Services program



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## Who are Public Guardians cont?

- Selfless organizations & people
- Who serve others at significant personal cost
- And understand Switzer
  - “the only ones among you who will be really happy are those who sought and found how to serve.”



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## Conservator

- Appointed by the court
- Responsible for managing the estate and financial affairs of an incapacitated person



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## The Virginia Public Guardian and Conservator Program (VPGCP)

- 1993: VA Guardianship Assoc. approached GA
- 1995: Appropriation for model start-up funds
  - to replace sheriffs as guardians of last resort
- 1997: established by law *in §§ 2.2-711 et seq., VA Code*



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## Code of Virginia §2.2-711

- Ensure incapacitated persons meet essential requirements for
  - physical and emotional health
  - management of financial resources and have
  - assistance of a guardian or conservator, as appropriate.



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## Advisory Board

- 15-member, Governor-appointed
- Representing various constituencies
  - Aging
  - Intellectual disability (mental retardation)
  - Mental illness
  - Social Services
  - Virginia Bar
  - Circuit Courts
  - Virginia Office of Protection Advocacy, etc.



§ 2.2-2411 Public Guardian and Conservator  
Advisory board; purpose; membership; terms.

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## Support Services

- Provided by the Department for the Aging
- Excellent working relationship between the
  - Program
  - Advisory board and
  - VDA



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## Funding

- Administered by Dept. for the Aging (VDA).
  - VDA receives ~½ of the funds directly and the other ½ via
  - Contract with Dept. of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS).
- Nine the 16 programs receive DMHMRSAS funding
  - to provide guardianship for those w/ congenital intellectual disabilities (mental retardation)
- Total current funding: \$2,266,000
  - VDA: \$1,125,000
  - DMHMRSAS: \$1,141,000



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## Number of people served & cost

- Since 2006 with DMHMRSAS partnership
  - program grown from 212 to 634 people
- Overall average annual cost per client: \$3574
  - Includes all General Fund allocation & DMHMRSAS funding
- Age distribution
  - 66% under 60 years old
  - 34% ≥60 years old
- 53%: Combined cognitive/physical/emotional disability



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## Strengths of Program

- Centered on the whole person
- Focused on least restrictive environments
- Regular “values history” to insure as best as possible participation w/ decision making
- Mandated regular contact
- Locate previously unidentified family members
  - Values and resources
  - Alternatives for public guardianship



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## Program strengths cont.

- Model system for inter-agency collaboration
- Community-based panels
  - help w/ decision-making processes &
  - review care plans
- Low staff/person ratio; best practices based (1:20)
- On-call 24/7
- Stringent program reporting & training requirements
- Model system of best practices nationally



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## What would happen to incapacitated people if there were no program?

- Die from neglect & abuse
- Languish in state hospitals/jails
  - @ increased cost
- Lose a voice
- Won't seek/receive necessary medical care
- Become homeless



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## What would happen if.... Cont.

- Loss of preventative & less costly strategies
- Emergencies handled by overburdened courts
- Sheriff's departments overwhelmed
- Lose most effective "last resort safety net"



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## Unmet Needs: conservative estimate

- Immediate current need as well as imminent future need for additional public guardians and conservators<sup>1</sup>
- Current additional need: 1,441 incapacitated people<sup>1</sup>
  - 62% are older people
  - @ annual avg. cost of \$3574 = \$5,150,134
- 2010 additional need: 1,707<sup>1</sup>
- 2020 additional need: 1,939<sup>1</sup>
- 2030 additional need: 2,170<sup>1</sup>

<sup>1</sup>Karen A. Roberto, Joy O. Duke, Nancy Brossoie, Pamela Teaster, *The Need for Public Guardians in the Commonwealth of Virginia*, Center of Gerontology, Virginia Polytechnic Institute and State University, May 2007



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## Needs cont.

- Southside Virginia currently not served
  - Request for proposals solicited
- Other programs are near maximum capacity



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## Conclusions

- Public Guardian/Conservator Program
  - A model system for the nation
  - One of the great accomplishments of the GA
- But a program with
  - Significant and growing unmet needs
  - Program cut backs will cause a loss of life



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## Functional incapacity

- Steals “Life, Liberty & the Pursuit of Happiness” *Declaration of Independence*
- Which is why we need a “government of, by & For the people” *Gettysburg Address*
- To help “support and defend” the constitutional rights of others *DoD Oath of Office*



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## Virginia Constitution

- "government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community”  
*Constitution of Virginia, Article I, Section 3*



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The General Assembly: helping hands;  
helping brains; helping people

“the only ones among you who will be really happy  
are those who sought and found how to serve.”

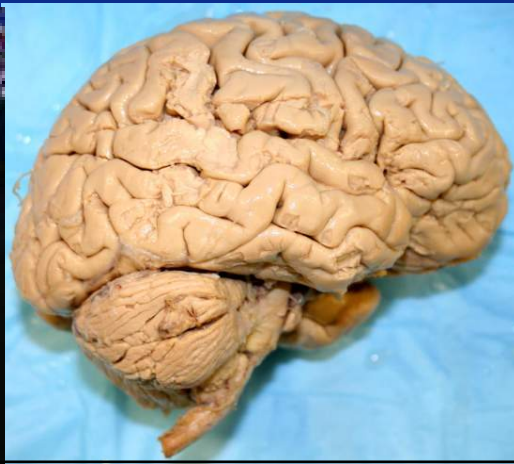


Photo by Paul Aravich Eastern Virginia Medical School