



# COMMONWEALTH of VIRGINIA

## Department for the Aging

Jay W. DeBoer, J.D., Commissioner

December 20, 2005

Honorable Mark R. Warner and Members of the General Assembly  
General Assembly Building  
910 Capitol Square  
Richmond, Virginia 23219

Honorable Governor and Members of the General Assembly:

Pursuant to § 2.2-712 of the Code of Virginia, this report on the status of the Virginia Public Guardian and Conservator Program is presented. The document includes a brief background of the program, a summary update to the 2003 program evaluation recommendations arising out of the Virginia Public Guardian and Conservator Programs: Evaluation of Program Status and Outcomes, Final Report (Teaster and Roberto, December 2003), and plans for a Statewide Needs Assessment in conjunction with an evaluation of the programs pursuant to Item # 301(B)(4) of the 2005 Appropriations Act.

### Background

The Virginia Public Guardian and Conservator Program (VPGCP) was established by law in 1997 in §§ 2.2-711 *et seq.*, Code of Virginia. The Virginia Department for the Aging administers the program with twelve local programs, through a competitively negotiated contract process.

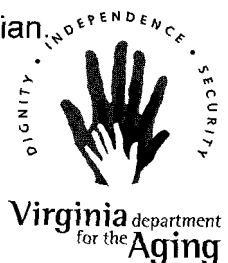
Public guardianship is the discharge of the commonly held precept that "government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community" (Constitution of Virginia, Article I, Section 3). Public guardianship is the appointment and responsibility of a public official or publicly funded entity that serves as a legal guardian for a person:

- who is incapacitated;
- who is indigent; and
- for whom there is no person willing and suitable to serve as guardian.

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Once appointed by the circuit court, the guardian of last resort, or public guardian, usually serves for the life of the incapacitated adult.

The Virginia Public Guardian and Conservator Program responds to the documented need for guardians of last resort and has evolved over the years. The VPGCP now serves to protect more than 300 of the most vulnerable citizens of the Commonwealth. The primary quality of the VPGCP is social/human services rather than legal services. By definition, the complexity of the cases referred to the public guardian programs requires a great deal of time as well as a thorough knowledge of the social services and health care systems. In spite of the intensive, specialized services required by this vulnerable population, the amount paid to public guardian providers has not been increased since the inception of the program in 1997.

#### Summary Update of 2003 Program Evaluation Recommendations

While the 2003 evaluation found that "public guardian programs in Virginia are performing reasonably well serving the incapacitated citizens needing their services," it is also noted that, five of the fourteen recommendations highlight funding needs, with the two most critical being the need for program rate increases and the need for funding of statewide coverage in order to adequately serve the citizens of the Commonwealth.

The remaining recommendations focus on program support and program operations including the need for standardized administrative processes and documents and the need for on-going in-service training for programs; the need for on-going independent evaluation of the programs; and the need to develop the programs capacity to meet the new challenge of Virginia's aging population and the related increase in need for public guardians.

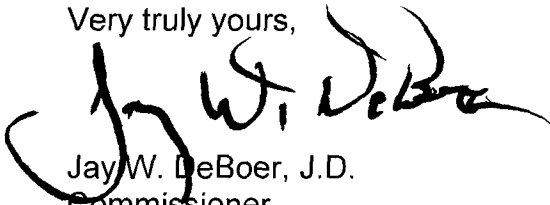
Progress has been made to address the 2003 recommendations. Most notable, 2005 appropriations include \$132,000 in general funds to expand services through the Virginia Public Guardian and Conservator Program to individuals with mental illness and/or mental retardation who are 18 years of age and older. Comporting with the Commonwealth's *Olmstead Initiative*, these funds have been obligated resulting in two new programs able to serve an additional 40 individuals in previously un-served areas. Additional progress includes a statewide in-service training for public guardians and conservators and plans for a Statewide Needs Assessment in conjunction with an evaluation of the programs pursuant to Item # 301(B)(4) of the 2005 Appropriations Act. In accordance with Code qualification requirements, Virginia Polytechnic Institute and State University, Center for Gerontology will conduct the assessment.

The Honorable Mark R. Warner and Members of the General Assembly  
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I have enclosed a document outlining the Statewide Needs Assessment Plan for your reference. If you need any additional information, please contact Janet Dingle Brown at 804-662-7049 or [janet.brown@vda.virginia.gov](mailto:janet.brown@vda.virginia.gov).

With best personal wishes, I am

Very truly yours,



Jay W. DeBoer, J.D.  
Commissioner

Enclosure

## 2006 Annual Report – Virginia Public Guardian and Conservator Program

### Executive Summary

The 2003 evaluation of the Virginia Public Guardian & Conservator Program found that programs in Virginia continue to perform reasonably well even though programs face critical funding shortages<sup>1</sup>. In particular, two critical funding needs were identified. The first is the need for *program rate increases* and the second is the need for *funding to support statewide coverage* to ensure service for citizens of the Commonwealth who need a guardian and/or conservator.

Progress has been made to address some of the 2003 recommendations. Most notable is the 2005 appropriation of \$132,000 in general funds to expand services to individuals with mental illness and/or mental retardation who are 18 years of age and older. Comporting with the Commonwealth's *Olmstead Initiative*, these funds have been obligated resulting in two new programs able to serve an additional 40 individuals in previously un-served areas<sup>2</sup>. Additional progress on other recommendations include a statewide in-service training for public guardians and conservators. Last, pursuant to Item # 301(B)(4) of the 2005 Appropriations Act, a Statewide Needs Assessment in conjunction with an evaluation of the programs will be completed by Virginia Polytechnic Institute and State University, Center for Gerontology.

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<sup>1</sup> Virginia Public Guardian and Conservator Programs: Evaluation of Program Status and Outcomes, Final Report (Teaster and Roberto, December 2003).

<sup>2</sup> Including this additional capacity for 40 individuals, the current Virginia Public Guardian Program now has total capacity to serve 310 citizens.

## ***PUBLIC GUARDIAN/CONSERVATORS IN VIRGINIA***

### PLAN FOR A STATEWIDE NEEDS ASSESSMENT

Prepared by the Center for Gerontology at Virginia Tech

December 8, 2005

Public guardianship refers to the appointment and responsibility of a public official or publicly funded entity who serves as a legal guardian in the absence of willing and responsible family members and friends to serve, or without resources to employ, a private guardian. In response to a request by the Virginia Department for the Aging (VDA), the Center for Gerontology (Center) at Virginia Polytechnic Institute and State University proposes to conduct a statewide needs assessment to estimate the:

- A. Current unmet need for Public Guardian/Conservators in Virginia
- B. Projected unmet need for Public Guardian/Conservators in Virginia for fiscal years 2010, 2015, and 2025

### METHODOLOGY

In 1997, VDA contracted with the Center to gather information regarding the need for guardians in the Commonwealth. Building upon work by Schmidt and Peters (1995), the process used for the 1997 assessments, and lessons learned, we proposed using multiple survey methods to gather data necessary to document the current need for public guardians and estimate the future needs for such services throughout the Commonwealth.

Stakeholders Input: Prior to commencing the assessment of need, key individuals associated with the organizations to be surveyed (see sample description) and members Virginia's Public Guardian and Conservator Advisory Board will be contacted for their input and support of the project. At each stage of the project (e.g., survey development, sample selection, data collection, report preparation), feedback and input also will be sought from the VDA liaisons for the project, E. Janet Riddick, Director of the Center for Elder Rights, and Janet Dingle Brown, Esq. Guardianship Coordinator and Legal Services Developer for the Commonwealth of Virginia.

Sample. The data for the needs assessment will be drawn from multiple sources. First, the Center will consult with Kevin Byrnes, demographer at VDA to obtain access to existing state demographic data to assess the need for guardianship based on population estimates. Census data, agency data, and other published reports (e.g., JLACR, 2004, *Impact of an Aging Population on State Agencies*) will also be reviewed as part of the analysis. Using these multiple data sources, projection of need will be made for 2010, 2015, and 2025.

Second, all of the existing Public Guardianship and Conservator Programs, Community Services Board (CSB) directors, Adult Protective Services supervisors, and directors of social services for state hospitals and training centers will be surveyed to establish estimates of current and future

(i.e., 2010) need for guardianship. Nursing homes and assisted living facilities also will be asked to participate in the assessment. Given the large number of such facilities, a stratified random sampling procedure will be used to select a sample that includes facilities in each of Virginia's planning districts, representing both large and small facilities and for-profit and not-for-profit organizations. A stratified random sample of Circuit Court Judges (e.g., one per planning district) will be asked to participate in the assessment. In addition, the Executive Director of the Virginia Sheriffs' Association, and if need be local sheriff offices, will be contacted, as prior to 1997 sheriffs were authorized to serve as guardian of last resort. It is unknown how many, if any, are still serving in this capacity.

Survey Instrument. A brief survey instrument will be designed specifically for this project. Although the same basic information will be collected from all entities participating in the assessment, the survey will be tailored to the specific organization. We found this to be an effective data collection strategy for our 1997 assessment as well as for other similar types of projects conducted by the Center. The survey instrument will be pilot-tested with each organizational type prior to the start of data collection.

The survey will be comprised of open-ended and structured-choice responses that will require respondents to provide information such as:

1. Total number of clients currently being served
2. Number of clients served by the agency known to have a public or private guardian.  
Number of guardianship cases initiated by the agency in 2003, 2004, 2005.  
Number of clients agency is currently serving who do not have, but need a guardian.
3. Age, sex, and physical/mental health status of clients with guardianship
4. Nature of the guardianship (e.g., full or partial; is there also a conservator)
5. Projected number of guardians needed for clients the agency anticipates serving in 2010.

We recognize that there will be duplication of cases from one source to another (e.g., cases counted by APS may also be counted by the CSB). Survey items will be designed to estimate duplication and allow statistical consideration of such cases.

Procedure. Each of the entities selected for participation will be sent an introductory letter describing the project and the importance of their participation. Key contacts will also be sought for each organization in order to assure as high a response rate as possible. Organizations will then be contacted by telephone to ask whether they prefer receiving the survey by e-mail, U.S. mail, or if they would prefer to gather the data required and provide their response to the Center by telephone. This process, although time consuming, will help ensure that the appropriate person within each organization to complete the survey is identified; the personal contact also will enhance the response rate. For those choosing email or U.S. mail, follow-up telephone reminder calls will be made approximately two weeks after the surveys are sent.

It is anticipated that of the 125 local sheriff offices located throughout the Commonwealth, only a limited number will still be serving as guardians. Thus, if information cannot be ascertained through the Sheriffs' Association, local offices will be surveyed by telephone only. As we

learned in our 1997 study, the Sheriff's administrative staff typically is the most accessible and can provide the type of information we would be requesting from this group of providers (e.g., is sheriff currently serving as a guardian; if yes, provide age, gender, and health of the person(s) and nature of the guardianship).

Products. The Center will provide VDA with quarterly progress reports documenting the status of the project. VDA will receive a draft report of the preliminary findings no later than December 15, 2006. The project's final report will be submitted by June 30, 2007.

Schedule. It is anticipated that this project will take 18 months (January 1, 2006 – June 30, 2007) to complete. The following highlights the timeline, including the major tasks to be accomplished.

Month	Task
1-3	Gathering contact information for organizations; conducting a literature review of needs assessments conducted since 1997; meeting with key stakeholders and VDA liaisons, Riddick and Brown; developing survey instruments; IRB submission
4-5	Pilot-testing survey instrument; finalizing sampling strategy
6-10	Data collection; data entry and preparation
11-12	Preliminary data analyses; preparation of preliminary report
13-18	Data analyses; report writing

### COST

The total amount the Center would charge for completing this project is \$18,000 (\$16,560 DC + \$1,440 IDC). This fixed-cost contract will cover the costs of a project manager, national guardianship consultant, statistical consultant, travel, long-distance telephone, postage, copying charges, and project-related supplies. The principal investigator will oversee all aspects of the project, but will not charge any of her time to the project.