

The Professional Guardian

eNewsletter

JUNE 2018

A publication by the Guardian Association of Pinellas County for the purpose of promoting advocacy & education.

GENERAL MEETING INFO



Michael Swonger

HOW CAN THE VA ASSIST YOUR WARDS?

Join us in welcoming Michael Songer from Pinellas County Veteran Services as our speaker for this month's general meeting. Michael has served as a County Veteran Service Officer since 2015. His topic asks the question "How Can the VA Assist Your Wards?"

Michael is a Florida native, who graduated from Palm Harbor University High School, and holds a Bachelor in Public Policy and Administration from St. Petersburg College. In 2003, he enlisted in the U.S. Marine Corp. as an infantryman serving with 1st Bn 8th Marines, making deployments to Iraq, Beirut and Katrina.

He now lives in Dunedin with his wife and four children.

Location and General Meeting information are noted below. Please be sure to RSVP at the Association's website link below. Be sure to join us for lunch as well. 1 CEU is provided for members in good standing.






IMPORTANT INFORMATION
on page 2 regarding the Board of Directors election.

ASSOCIATION COMMUNICATIONS CONTACT INFO.

P.O. Box 1826
Pinellas Park, FL 33780
(517) 256-0403
Info@GuardianAssociation.org
www.GuardianAssociation.org

Monthly Calendar

-  **JUNE 13, 11:30 A.M. ASSOCIATION MEETING**
Palms of Largo - CYPRESS PALMS Bldg., 400 Lake Avenue NE, Largo
1 CEU available
-  **JUNE 29, 9:00 A.M. GAPC NETWORKING BREAKFAST**
THE BARRINGTON, 901 Seminole, Blvd., Largo, 33770
-  **BOARD MEETING - DATES & TIMES ROTATE**
Contact BOD Secretary for specific date/times.
Palms of Largo - REGAL PALMS Bldg., Verandah Room

PLEASE RSVP TO ASSOCIATION WEBSITE

2018 Board of Directors Officers

President Traci Samuel
517-256-0403 Traci.Flguardianship@gmail.com

Vice President Amber Watkins
727-492-6391 prosperguardianservices@gmail.com

Treasurer Vacant

Secretary Michelle Lowack
727-641-5483 mlowack@homecareassistance.com

Board Members

Lori Clark
727-4479968 lguardian@yahoo.com

Tina Costa
813-334-3472 Tina.Costa@rescare.com

Ha Dao
727-381-9800 ha@deebelderlaw.com

David Menneke
727-902-1761 david@floridafamilycremations.com

Quyen Trujillo
813-409-7446 Qsellshomes@yahoo.com

Maria Winer
727-906-6161 winermaria@yahoo.com

Committees

By-Laws Committee Ha Dao, Esq., Chair Steve Hitchcock, Esq., Co-Chair	Finance & Budget Committee Traci Samuel, Chair
Conference Committee Traci Samuel, Chair Tina Costa, Co-Chair	Legislative Committee Ha Dao, Esq., Chair Steve Hitchcock, Esq., Co-Chair
Education Committee Michelle Lowack, Chair Maria Winer, Co-Chair	Membership Committee Quyen Trujillo, Chair David Menneke, Co-Chair
Public Relations Committee Amber Watkins, Chair Sheri Gruden, Co-Chair	



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<https://facebook.com/GuardianAssociationPinellas>

Committee Meetings

2

BYLAWS & LEGISLATIVE COMMITTEE

Upcoming meeting is Wednesday, June 6th, 4:00 p.m. at Deeb Elder Law, P.A., 6675 13th Avenue N., Suite 2C, St. Petersburg.

CONFERENCE COMMITTEE

Meets 3rd Thursday of each month at 10:00 - 11:30 a.m. Meeting location is at Perkins Restaurant, 2626 Gulf to Bay Boulevard, Clearwater. Upcoming meeting is June 21st.

EDUCATION COMMITTEE

Meets 2nd Tuesday of each month at 4:00 p.m. Meeting location is rotated between Maria's Adult Day Care, Seminole located at 7821 Seminole Blvd, Seminole and Home Care Assistance of Tampa Bay, located at 1530 N McMullen Booth, #D12, Clearwater. Upcoming meeting is June 12th at Maria's Adult Care Day, Seminole.

MEMBERSHIP COMMITTEE

Meets 2nd Tuesday of each month at 11:00 a.m., Florida Family Cremations, 5840 Ulmerton Road, Clearwater. Upcoming meeting is June 12th.

PUBLIC RELATIONS COMMITTEE

Meets immediately following GAPC Monthly Membership Meeting (2nd Wednesday of each month) at 1:15 - 1:45 p.m., Cypress Palms Assisted Living, 400 Lake Avenue, NE, Largo. Upcoming meeting is June 12th.

Board of Directors Update

As you are aware, the GAPC holds annual elections for our BOD seats. This year we have 4 seats that will be up for election.

We would encourage you to ask yourself if this Association is something you would like to get more involved with. If so, please reach out to Traci Samuel or another Board Member. There will be more information provided as we get closer to the election.

In addition, we want to thank Irene Rausch for her experience, dedication and hard work on behalf of the Association and Board. Irene has recently stepped down as a board member to focus more of her time on her exciting new online education project. We wish her luck and look forward to her continued participation as a member of the GAPC. Irene's seat will be included in those seats filled in the fall.



FROM THE DESK OF THE PRESIDENT

Traci Samuel

THOUGHTS FROM THE PRESIDENT...

Spring showers bring May flowers. Well if the saying is true, we will have beautiful flower gardens to last a lifetime. Summer is definitely here and that means, kids are out of school, those well deserved vacations are happening but it also means, the GAPC Annual Conference planning is underway. Please let me or any of the board members know if you are interested in participating.

The GAPC is in the early stages of remodeling or revamping the website. We will use the website as our communication hub. Our goal is to make it an easy one stop shopping. Once completed, you will be able to update your membership, register for events, obtain current meeting times and locations, ask and answers questions, receive information regarding the conference and use it as an overall resource. This is just a snap shot of what it will hold but I am extremely excited to see it unfold. Stay tuned.....

TRACI

Traci.Flguardianship@gmail.com

FOUR WAYS YOU MAY GET HELP WITH YOUR MEDICARE COSTS

SUBMITTED BY LINDA CHAMBERLAIN, ESQ.



It may not seem like much of a savings, however having your Part B Medicare premium paid provides a savings of approximately \$1,600 a year. If you qualify to have your deductibles and copayments covered, the savings can be significant.

It's worth your time to review your situation and see if you are eligible for one of the savings programs below. You may also want to meet with your Elder Law Attorney to review legal options to protect your assets greater than the limits listed below – and qualify for the program.

QUALIFIED MEDICARE BENEFICIARY PROGRAM (QMB)

- If you are eligible for this program, it helps pay for your Part A premium, Part B premiums, your deductibles, coinsurance, and copayments. Unfortunately outpatient medications are not covered, you may be charged a limited amount, up to \$3.70 for prescription drugs covered by Part D.
- To be eligible for this program your income and countable assets must be within the following limits:
 - * Single Income Limit: \$1,032
 - * Married Income Limit: \$1,392
 - * Single Asset Limit: \$7,560
 - * Married Asset Limit: \$11,340

continued on page 4

FOUR WAYS YOU MAY GET HELP WITH YOUR MEDICARE COSTS...CONTINUED

SPECIFIED LOW-INCOME MEDICARE BENEFICIARY (SLMB) PROGRAM

- This program helps pay for your Part B premium.
- To be eligible for this program your income and countable assets must be within the following limits:
 - * Single Income Limit: \$1,234
 - * Married Income Limit: \$1,666
 - * Single Asset Limit: \$7,560
 - * Married Asset Limit: \$11,340

QUALIFYING INDIVIDUAL (QI) PROGRAM

- This program helps pay for your Part B premium. You cannot get QI benefits if you qualify for Medicaid.
- To be eligible for this program your income and countable assets must be within the following limits:
 - * Single Income Limit: \$1,386
 - * Married Income Limit: \$1,872
 - * Single Asset Limit: \$7,560
 - * Married Asset Limit: \$11,340

QUALIFIED DISABLED AND WORKING INDIVIDUALS (QDW) PROGRAM

- This program helps pay the Part A premium if you are:
 - * A working disabled person under 65
 - * You lost your premium-free Part A when you returned to work
 - * You aren't getting any medical assistance from your state
 - * You meet the income and asset limits.
- To be eligible for the program your income and countable assets must be within the following limits:
 - * Single Income Limit: \$4,132
 - * Married Income Limit: \$5,572
 - * Single Asset Limit: \$4,000
 - * Married Asset Limit: \$6,000

If you qualify for a QMB, SLMB or QI program, you automatically qualify to get Extra Help paying for your Medicare Prescription Drug Coverage.

***Countable Assets do not include:

- * Your Home
- * One Car
- * Burial Plot
- * \$1,500 set aside for burial
- * Furniture, or other household and personal items.

Your money, bank accounts, stocks, bonds, and real estate other than your home may count as an asset. Please review your income and assets with an Elder Law Attorney, there are many legal options available to protect your assets and qualify for these programs.

FACILITY ADMINISTRATORS ARE YOUR PARTNERS

In the course of conducting an audit/investigation, the Clerk’s Division of Inspector General (IG) has noted concerns and/or issues involving Professional Guardians (Guardian). The following article focuses on the IG visits to the wards’ facilities. In discussions with the administrators of the facilities, we noted:

- Guardians do not return telephone calls or respond to emails from the wards’ facilities and/or family members.
- Guardians visit the ward after hours when the administrative staff is gone for the day, which makes it difficult for the facilities’ administrative staff to communicate with the Guardians.
- Guardians leave clothing and/or personal items for the ward after hours when the administrative staff is gone for the day.
- When the ward’s costs for services at the facilities are not paid in full or are past due for months, administrators have informed us they would not remove the ward from the home for non-payment; however, they would like their costs for services at the facilities paid in a timely manner.
- When the ward dies and the Guardians cannot be located (not responding, unreachable, on vacation, etc.), the family of the ward is notified, and the family has to make funeral/burial arrangements using their own monies.
- When the ward is relocated to another facility without the Guardians notifying the family, the family visits the prior facility, finds out the ward has been moved to another facility, and they become agitated regarding the whereabouts of the ward. It then becomes the administrative staff’s responsibility to assist the family; however, the Guardians do not notify the facility where the ward has been moved.
- When the Guardians relocate the ward to a new facility, the prior facility is not paid in full in a timely manner.
- The ward’s family is unreasonable and disruptive, and the family posts negative comments about the facility on social media; therefore, the facility requests supervision of those family members.



If you have any problems with a facility or a family member, please notify the Court, IG, and/or your attorney.

Please remember, if you relocate the ward, file a Notice of Relocation with the court. Too often, the guardian does not file the notice, and then a telephone call is made to the Inspector General’s Fraud Hotline or to the court.

Please note: If there is a topic you would like discussed in any of our upcoming monthly newsletter articles, please email it to:

aDiNatale@pinellascounty.org.

HOW TO CONTACT US:

If we can be of assistance, please call:

Division of Inspector General, PIU 727-464-8371
Division of Inspector General, Fax 727-464-8386
Probate Court Records 727-464-3321
Guardianship Hotline 727-45FRAUD (453-7283)



THE GUARDIAN ATTORNEY RELATIONSHIP: SHOTGUN WEDDING OR MATCH MADE IN HEAVEN?

BY KEVIN HERNANDEZ, ESQ.

Kevin Hernandez, Esq.

It is well settled law that every guardian must be represented by a Florida licensed attorney. But beyond such pronouncement, there isn't much guidance on the nature and substance of the guardian-attorney relationship. Hopefully, the guardian and attorney invest time and effort in developing a relationship beyond just the technical requirements, so their relationship becomes like a match made in heaven. But if either one or both of them focus solely on the technical aspects of the guardianship, their relationship can turn out to be a shotgun wedding.

A guardian faces inherent risks just for being the guardian of a ward. Likewise, the guardian's attorney also faces inherent risks in guiding and advising the guardian. It is common to reduce these risks by obtaining court orders approving the guardian's actions. But a recent case, *Bivins v. Rogers*, 2017 WL 5526874 (S.D. Fla., June 01, 2017), suggest otherwise. In this case the guardianship judge issued orders approving all the guardian's transaction. That would seem to reduce their risk of liability. Yet the attorney was sued by the ward's child after the ward died. The outcome? Jury verdict against the lawyer for \$16.4 million dollars. Wow! Without getting into the specifics of the case, the outcome underscores that the technical aspects of being a guardian (getting court orders approving guardian actions) is not enough.

The guardian-attorney relationship is like a plant that must be nurtured with sunlight and water. Without such attention, the plant, like the guardian-attorney relationship, is doomed for difficult times. It is important for the guardian to understand the constraints and boundaries the attorney faces in representing the guardian. A long-standing Attorney General opinion, Advisory Legal Opinion AGO 96-94, makes it clear that "since the ward is the intended beneficiary of the guardianship, an attorney who represents a guardian of a person adjudicated incapacitated and who is compensated from the ward's estate for such services owes a duty of care to the ward as well as to the guardian."

So, what can the guardian and attorney do? What steps can they each take to increase the probability that their relationship becomes a match made in heaven? Being technically proficient or even being a guardianship expert is not enough. With all the duties, responsibilities and liabilities imbedded within the guardian-ward relationship, the guardian and attorney must work as a cohesive team. But saying as much does not make it happen. I suggest that the guardian and the attorney need to reflect on how each of them treats the guardian-attorney relationship and what steps they need to take to become a team.

Such reflection consists of ascertaining how much time to invest in developing a relationship? Is it merely a relationship of communicating when reports, accountings or pleadings must be filed with the court? Or do the guardian and the attorney invest time and effort in nurturing the relationship. Sure, time is money, but nurturing the guardian-attorney relationship is beneficial for all concerned, including the ward and the ward's

continued on page 7

THE GUARDIAN ATTORNEY RELATIONSHIP: SHOTGUN WEDDING OR MATCH MADE IN HEAVEN?...CONTINUED

surviving family. The prudent thing to do is communicate and embrace technology to enhance their relationship. For example, does the attorney have a system to communicate with the guardian beyond email or text? Does the attorney provide the guardian with a secure communication portal for them to share information? Have the guardian and attorney developed protocols for documenting the guardian's activities for the ward? Do the guardian and attorney have an agreed upon communication policy to document transactions that take place on behalf of the ward. As Bivens illustrates, it isn't enough to get court orders to cover your actions. The guardian and attorney need to have a structured system that facilitates their actions and communications. The attorney should present the guardian with a digital policy that describes the means of securely exchanging information and what exactly is the information to be collected and exchanged.

For example, in my firm we have highly secure portals to communicate with each other and clients, and to securely exchange data, documents, and information. We provide the guardian with structure on what information we exchange and why we want to exchange such information. The focus should not only be on the immediate or required but on the prophylactic and protective data as well. While the guardian must keep an eye on what is demanded of the guardian while acting on behalf of the ward, the guardian must also keep a watchful eye on those circulating around the guardian and ward waiting for the appropriate time to strike. The best way to protect the guardian and the attorney is to have a team of advisor philosophy and communication protocols and systems to protect everyone. Remember that the guardian and the attorney both owe a duty of care to the ward. While the guardian is a direct fiduciary of the ward, the attorney likewise owes the ward a duty of care because the ward is the intended beneficiary of the actions resulting from the guardian-attorney relationship. The guardian and attorney must take the necessary steps to create a match made in heaven by going beyond what the law requires and doing what is prudent to have peace of mind while helping those people who need guardians.

Kevin Hernandez, Esquire, is the founder and principal attorney of The Hernandez Law Firm, P.A., and an attorney and counselor at law since 1992. Mr. Hernandez is a frequent speaker on elder law and estate planning topics. Mr. Hernandez dedicates time to advocating for children with special needs, non-profit organizations, and the arts. Mr. Hernandez is married, has three children and lives in Pinellas County, Florida.



The Guardian Association of Pinellas County
encourages all members and/or vendors
to utilize PayPal for all transactions
with the GAPC.

You do not need to have an account to pay with PayPal.