

President's Message



Welcome to the fourth issue of *The Guardian*, the quarterly newsletter of the Massachusetts Guardianship Association (MGA). While this will be my first year as an officer of the MGA, I have been involved with the MGA for many years as a member and as a Director. Over

this time, I have witnessed firsthand tremendous growth within the organization – exponential growth during the past two years. These efforts are the result of untold hours of volunteer work and dedicated services of our members. We now have:

- A easily navigated website which offers multiple resources for viewers
- A newsletter with information and insights about a variety of issues that impact the lives of those involved with guardianships
- Educational seminars with in-person training featuring guest speakers from agency and service programs, courts and advocates whom deliver valuable information to the caretakers and fiduciaries of incapacitated persons
- A public policy page with news and legislative updates for members

Our Annual Meeting on December 6th was an exciting networking event for all. We were at maximum capacity and it was our largest meeting to date. We are most grateful to Kate Granigan for her efforts in bringing us to New Bridge on the Charles. Special thanks go to Dana Kern, Hebrew Senior Life and New Bridge and all the staff who so graciously accommodated us throughout the evening. We had a Red Carpet Premier of **“Stepping in When Help Is Needed.”** While the technological issues presented a challenge, we anticipate the final production to be a valuable resource for a targeted audience. More importantly, we have received wonderful feedback from attendees which indicates that people would welcome more opportunities to connect with others in the field. We plan to arrange for

more informal gatherings where individuals can meet and get to know more about each others' roles and services.

As president of the MGA, I hope to help strengthen the breadth and depth of our membership with outreach and partnerships. Our 2012 goals are:

(1) To increase **outreach** to the numerous private and professional parties and agencies across the state. Our goal is to invite them to join us as members and hope that they will bring their experiences and expertise to the MGA by working with us to build a network of active advocates and service providers. The strength of a non-profit, such as the MGA, is built upon a membership that is committed and is diverse. As such, we want to enrich our membership to reflect this fact.

(2) To bring the message of the MGA's resources to individuals and organizations involved with guardianships and conservatorships. The MGA will increase **awareness** of its purpose and services within the populations that need these services.

(3) To improve **access** to the MGA through virtual and non-virtual tools. As a complement to the first two goals, we believe that access to our resources is critical. If a standard of excellence in practice is to be had, resources to guide individuals to reach that goal must be made available.



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The message for 2012 is to connect – through outreach, increased awareness and improved access. We are all seeing the shrinking resources and supports in the courts, state and federal agencies and in community resources. These resources and supports are vital to those in need of guardianship and/or conservatorship. The goal of the MGA is to fill some of this void and continue to bring our resources to the caretakers and fiduciaries who advocate, protect and provide for those in need. We understand that these individuals work tirelessly and depend upon supports and resources in order to achieve and maintain an excellent standard of practice. I am in awe of their passion and dedication in their daily work. I look forward to working with the Board and members of the MGA to realize our goals to grow our membership and to share our resources with individuals, agencies and organizations throughout the state. —**Joanne L. Erickson, Esq.**



We are seeking volunteers to join MGA committees. Tasks can be tailored to your time allotment and expertise.

Please contact Ellen DiPaola at edipaola@comcast.net

MGA Board of Directors

On December 6, 2011, the following were elected to the MGA Board of Directors:

| | |
|---------------------------------|--|
| President | Joanne L. Erickson, Esq. |
| Vice President | Ellen M. DiPaola, Esq. |
| Treasurer | Charles J. Lynch |
| Clerk | Vacant |
| Immediate Past President | Judith M. Flynn, Esq. |
| Directors: | Karol Bisbee, Esq., R.N. Sarah Boonin, Esq. Eric Bradlee Barbara Ellis, R.N. John J. Ford, Esq. Jane M. Gildersleeve E. Alexandra Golden, Esq. Kate Granigan, LICSW Elise S. Kopley, Esq. Emily B. Saltz, MSW, LICSW Veronica Serrato, Esq. Michelle Sheerin, LICSW Gary Zalkin, Esq., LICSW |

Welcome to the following incoming Directors:

Emily B. Saltz, LICSW is the founder and Director of Elder Resources, a private practice providing a full range of geriatric care management services for elderly clients and their families since 1992. She received her Masters degree in Social Work from Boston University and is a past president of the New England Chapter of the National Association of Professional Geriatric Care Managers.

Sarah Boonin, Esq. is an Assistant Clinical Professor at Suffolk Law School, where she has designed and now teaches Suffolk's first Health Law Clinic. The Clinic provides students with an opportunity to hone their legal skills through live client practice under her close supervision in the areas of guardianship practice, Social Security disability practice, and some health benefits issues. Ms. Boonin spent five years teaching a family and domestic violence clinic at Harvard Law School, at the WilmerHale Legal Services Center in Jamaica Plain. Sarah began her time at Harvard when she received the prestigious Skadden Fellowship to launch a medical-legal collaborative between the Legal Services Center and the Brigham and Women's and Faulkner Hospitals aimed at providing comprehensive legal services to low-income survivors of domestic violence. Sarah holds her B.A. from Duke University and her J.D. from Harvard Law School. Immediately after graduating from Harvard Law School, Sarah served as Law Clerk to the Honorable Justice Judith A. Cowin of the Supreme Judicial Court of Massachusetts. Sarah was named one of Massachusetts Lawyers Weekly's Up and Coming Lawyers in 2010. Sarah is a member of the Massachusetts LGBTQ Bar Association and the Women's Bar Association.

Veronica Serrato, Esq. joined Volunteer Lawyers Project in September 2005 as a staff attorney specializing in SSI/SSDI law. Veronica currently focuses on family law cases and guardianship matters. VLP facilitates the Courtroom Lawyer for the Day at the Suffolk Probate and Family Court as well as Guardianship Clinics at Suffolk, Norfolk and Middlesex Probate Court. VLP provides limited assistance representation on a large array of family and probate legal matters. Veronica has extensive experience working for legal aid agencies in Massachusetts in family law cases. She has worked for Casa Myrna Vazquez, New England's largest battered women's and legal advocacy program, as well as at the Legal Services Center in Jamaica Plain. Veronica also has worked as an Assistant District Attorney at Middlesex Child Abuse Prosecution Unit. She graduated from Harvard University in 1984 and Boston University School of Law in 1988. Veronica serves as secretary on the Board of the Massachusetts Alliance on Teen Pregnancy.

Gary Zalkin, Esq., LICSW is a mental health attorney and psychotherapist practicing in Wellesley, MA. He focuses his practice on representing health care providers and families with mental health issues, including issues regarding guardianship, conservatorship and psychiatric commitment. Attorney Zalkin is a former board member of the Massachusetts chapter of the National Academy of Elder Law Attorneys; a former president of the board of the National Alliance of Mental Illness of Massachusetts, MetroWest Affiliate; and former chair of the Riverside Community Care Human Rights Committee. He frequently writes and lectures about mental health law.



We thank the following outgoing Board members who offered their time and commitment to the MGA:

Judith M. Flynn, Esq. (Immediate Past President)
Eileen Sullivan-Boss, Esq.
Regina M. Bragdon
Audrey Baron Boulanger
Kristen M. Lambert, Esq., MSW, LICSW, CPHRM



MGA 2011 Board of Directors

(L to R) Kristen Lambert, Eileen Sullivan-Boss, Ellen DiPaola, E. Alexandra Golden, Eric Bradlee, Judith Flynn, Kate Granigan, Charles Lynch, Regina Bragdon, Audrey Baron Boulanger, Elise Kopley, Michelle Sheerin, John Ford

MGA Annual Meeting—December 6, 2011



**Joanne Erickson, Kate Granigan,
and Judith Flynn**



Judith Flynn



Kate Granigan



**Kate Granigan, Elise Kopley and
Ellen DiPaola**



By Judith M. Flynn, Esq.

Long-term care planning is a significant part of most elder law practices. While the ideal clients seek counsel long before there is a crisis, many clients do not. It is in these crisis situations that clients benefit most from an elder law attorney's knowledge of the resources available in their communities and from an understanding of the medical and financial criteria for eligibility.

One such resource that may be available is the PACE program. PACE, the Program for All-Inclusive Care for the Elderly, is a national comprehensive health program created to help elders remain at home for as long as possible. While PACE is a valuable resource for many elders, it remains a fuzzy concept for many attorneys and is, thereby, under utilized. This brief overview of the criteria and coverage for PACE has been compiled with the assistance of Lisa Yorra, Community Outreach Manager of the Elder Service Plan of Harbor Health, who is available to assist with questions about PACE.

WHERE IS PACE?

Unfortunately, PACE is not available in all cities and towns. There are presently six PACE programs in Massachusetts, each covering a different geographic area as follows:

Elder Service Plan of Harbor Health

Contact: Lisa Yorra at 617-533-2400

| | | | |
|-----------|------------|----------|--------------|
| Avon | Canton | Mattapan | Roslindale |
| S. Boston | Dedham | Milton | Sharon |
| Braintree | Dorchester | Norwood | Stoughton |
| Brighton | Hyde Park | Quincy | West Roxbury |
| Brookline | Kenmore | Randolph | Weymouth |

Uphams Elder Service Plan

Telephone: 617-288-0970

Boston (area codes 02108, 02109, 02110, 02111, 02114, 02115, 02116, 02210)
S. Boston
Brookline
Dorchester (area codes 02121, 02122, 02124, 02125)
Hyde Park
Jamaica Plain
Mattapan
Roslindale
Roxbury

Elder Service Plan at Fallon (recently changed to Summit Elder Care)

Contact: 508-852-2026 www.summiteldercare.org

All towns in Worcester County Hudson Marlboro

Elder Service Plan of the Cambridge Health Alliance

Contact: 617-868-6323

| | | | |
|-----------|-------------|---------|------------|
| Allston | Cambridge | Everett | Somerville |
| Arlington | Charlestown | Malden | |
| Brighton | Chelsea | Medford | |

Elder Service Plan of the East Boston Neighborhood Health Center

Contact: 617-568-4602

East Boston Revere Winthrop

Elder Service Plan of the North Shore, Inc.

| | | | |
|------------|------------|----------------|------------|
| Beverly | Lynn | Nahant | Swampscott |
| Danvers | Lynnfield | Peabody | Topsfield |
| Essex | Magnolia | Rockport | Wakefield |
| Gloucester | Manchester | Salem | Wenham |
| Hamilton | Marblehead | Saugus | |
| Ipswich | Middleton | South Hamilton | |

You will note that some areas are listed in more than one PACE program. The contact person for any of the programs will appropriately direct you based on the specific address of your client. Additional information can be found on the PACE website at www.npaonline.org. Be advised, however, that while there is substantive information on this site, the contact names and numbers do not seem to be frequently updated.

WHO IS ELIGIBLE FOR PACE?

In order to be eligible for PACE, applicants must be 55 years of age or older, live in a PACE service area (as outlined above), and must be certified by the state as eligible for nursing home care but able to safely remain in the community with the additional support offered by PACE. Members must also agree to receive all health services exclusively through the Elder Service Plan. While many elders are initially hesitant to give up their primary care physicians or other medical professionals, it is the PACE interdisciplinary team model which allows each member to maximize his/her potential to remain in the community and ensures that no one falls through the cracks.

HOW IS PACE FUNDED AND WHAT SERVICES DOES PACE COVER?

PACE is jointly funded by Medicaid and Medicare in a capitated system. In other words, Medicaid and Medicare each pay a set rate per member per month. Medicaid presently pays \$3,200 per member per month, with the Medicare rate dependent on the diagnosis codes of each member. Each PACE program must offer a number of core services, and may offer elective services based on the various needs of their members. This flexibility allows each

program to customize individualized care plans designed to help each member maximize his/her potential.

Interdisciplinary teams of doctors, nurses, social workers, therapists, nutritionists, and other medical staff work together to provide services including: primary medical care, home health, adult day health (recreation), rehabilitation services, transportation, medications, podiatry, optometry, dental, social services, and more. While the majority of PACE services are provided at an adult day center which encourages socialization and activity, services are provided in the home, when appropriate. Some PACE programs, such as Harbor Health, offer residence in certain Assisted Living Facilities. In these cases, the member pays rent (typically \$1,000) and PACE pays the service fee. PACE members do not pay more than their income to live in assisted living if they reside in a PACE apartment. If a PACE apartment is not available at the facility a member wishes to move to, there is an option known as “PACE Plus” that allows members to pay the fair market rent not covered by the subsidy while they wait for a PACE apartment to become available. If it is determined that nursing home care is necessary, the member would not pay more than his/her income so long as they move to a facility that contracts with PACE. PACE continues to coordinate the member’s care, so long as the member resides in a PACE facility.

WHAT IS THE FINANCIAL CRITERIA FOR MEMBERSHIP?

PACE accepts Medicare, Medicaid, and private payment. For married couples, only the income and assets of the applicant are countable. For members with monthly income of \$2,094 or less per month, there is no monthly spend down and they can keep the entire \$2,094. For members who have income over \$2,094, there is a monthly spend down to \$542. Members with monthly income over \$3,742 (which represents the MassHealth amount of \$3,200 plus the deductible of \$542) would pay privately, while members with income below \$3,742 would apply for MassHealth in order to keep the \$542 monthly. Private pay members pay only the portion that Medicaid would pay, or \$3,200 per month.

WHY SHOULD INDIVIDUALS CONSIDER JOINING PACE?

The most significant reason that PACE is appealing is that its primary goal is to provide each member with the individualized support needed to remain in the community as long as possible. Another benefit is that PACE is covered by Community MassHealth, under which transfers of assets are not presently penalized. Therefore, individuals who have not engaged in prior estate planning and who are suddenly faced with the need for long-term care services, the option of joining PACE should be explored for: 1) quality of life issues and 2) additional planning options. Additionally, the application process for Community MassHealth/PACE is

far less burdensome than the long-term care MassHealth application, requiring only the previous two months of financial statements to verify assets. Members are free to dis-enroll from PACE at any time. Although a transition from Community MassHealth to long-term care benefits may be required in some cases, the Massachusetts Division of Medical Assistance (DMA) typically does not request additional verifications at that time.

Admittedly PACE is not for everyone and there are many reasons why it may not be the perfect option. If you, your family member or a client is fortunate enough to live in a PACE service area, however, this is an option that warrants consideration.



About the Author:
Judith M. Flynn, Esq.
practices solely in the areas of Elder Law, Estate Planning and Special Needs planning. She received her B.A. in Sociology and Health Care Studies from the University of Massachusetts at Boston, summa cum laude, and her J.D. from Suffolk University Law School, cum laude, where she was awarded the American Jurisprudence Award in Administrative Law. She is the Immediate Past President of the MGA and is the Vice President of the Massachusetts Chapter of the National Academy of Elder Law Attorneys. Attorney Flynn was recently named among the “Top Women of Law” by Massachusetts Lawyers Weekly.



Legislative Update

By John J. Ford, Esq.

Public Policy News

The Massachusetts Guardianship Association is a non-profit corporation currently consisting of a volunteer Board of Directors and its members—there is no staff. Our public policy function is to make a good faith effort to follow important legislative or administrative initiatives effecting incapacitated persons, their families and their guardians or conservators—good or bad—and educate and inform our members and the public of developments. Members are encouraged to share information on any topic important to our constituents to magnify our educational efforts.

1. [The Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act \(H 2181\)](#)

This very important bill remains lodged in the Joint

Committee on the Judiciary, and members are encouraged to contact their own elected officials to determine whether they support the bill, and how they can help. The inaugural MGA Newsletter, *The Guardian*, has an article describing the significant values of this important proposed law, which is a priority of all national advocacy groups, such as the National Guardianship Association, the AARP, the national Academy of elder law Attorneys, and the National Senior Citizens Law Center.

2. Technical Corrections to the Mass. Uniform Probate Code –MUPC (Senate 704)

This bill amends the guardianship/conservatorship provisions of Article V of the MUPC, Massachusetts General Laws c. 190B sections 501 and following. It is the product of a work group of interested stakeholders who wanted to make technical corrections and other substantive improvements to the statute. For example, in light of the difficulty in obtaining medical certificates, and the delays and expenses resulting, the bill expands the authority to execute certificates to qualified nurse practitioners. The bill can be found in its entirety on the Legislative website www.state.ma.us Click on Legislature, click on bills, and select. Click on bill history for a status report.

3. Public Guardianship Commission (PGC)- (S 755)

This bill is also stuck in the Judiciary Committee, and, while it will entail some expense, we should continue to advocate for it- Massachusetts is one of only a handful of states having no public guardianship function, with often disastrous consequences to incapacitated persons who are indigent and have no family or friends. The Courts need an effective PGC in order to bring resources to bear to protect such persons.



About the Contributor:
John Ford, Esq. is the Director of the Elder Law Project, Neighborhood Legal Services, Inc., is a member of the MGA Board of Directors, is Chair of the Legislative Committee, and is one of the MGA founders.



MGA NEW DEVELOPMENTS

MGA Board Meetings

The 2012 MGA Calendar of Board Meetings and Events is posted on the MGA website on the “About the MGA” page. We will be finalizing the meetings and educational events shortly, so please check the website for details. The first Board Meeting of the New Year was on Wednesday January 18th, and was held at the Golden Law Center, 200 Highland Street, Suite 302, Needham, MA.

Our Sincere Thanks to...

E. Alexandra Golden, Esq., of the Golden Law Center, who is generously hosting the MGA Board meetings at her office. The Golden Law Center provides a broad range of legal services to elders, persons with disabilities and their families. Telephone: 781-433-8665 or 508-429-3035.

Email: info@goldenlawcenter.com

On November 4, 2011 we held the 7th Annual Guardianship Law Seminar: Co-Sponsored with the MGA and Suffolk University Law School: Successful Strategies for Avoiding and Litigating Guardianship Issues. We had a large number of attendees and look forward to planning next year’s seminar. If you have any suggestions on panel discussions/topics you would like to see, please contact the MGA.

INFORMATION AND RESOURCES

New Question and Answer article ... Be sure to read “What is a Roger’s Guardianship?” by Joanne Moses, Esq., former Assistant General Counsel for the Department of Mental Health. Attorney Moses answers questions regarding how the Court decides whether to authorize treatment for antipsychotic medications for an incapacitated person and offers information on how to obtain a guardianship with Roger’s authority.

Q/A Coming in February ... “What is Elder and Adult Family Mediation?” by Crystal Thorpe a founding partner of Elder Decisions, is a mediator, trainer and principal of Agreement Resources, LLC. Ms. Thorpe will offer information on the mediation process and address how an elder, or a family members of an elder, might benefit from mediation.

Question and Answer articles are located on the Guardianship Information page of the MGA web site. Please send your topic ideas and comments to Ellen M. DiPaola, Information and Resources Chairperson at edipaola@comcast.net

NEW AND NOTEWORTHY

On January 24, 2012, WBUR Radio Boston presented a program on the *Mary Moe* case and guardianship generally. Our own MGA Board member, E. Alexandra Golden, Esq. of the Golden Law Center, called into the program to talk about the MGA.

It's that time of year!

Be sure to send in your membership application and dues so you will be added to the distribution list for the quarterly newsletter and alerts on upcoming programs, Legislative news, and more. Check the MGA website for more information at www.massguardianshipassociation.org or call the MGA at 617-350-6500.



FROM THE EDITOR

Kristen Lambert, Esq., MSW, LICSW, CPHRM

We welcome your feedback and input. Additionally, we are seeking contributions to future newsletters and developments of educational resources. Please contact editor, Kristen Lambert at kristen.lambert@awacservices.com.

The Guardian is an educational newsletter provided to the public by the Massachusetts Guardianship Association. The Massachusetts Guardianship Association is a non-profit organization which promotes education, training, and information on guardianship and conservatorship issues within Massachusetts. Each author is solely responsible for the statements of fact and opinions expressed in their respective articles. Information contained in the articles should not be construed as legal advice. The newsletter and articles contained therein may not be reproduced either in whole or in part without express, written permission from the Massachusetts Guardianship Association.

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