

Virginia Guardianship Association

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A Message from the President

Cathy Thompson

Happy New Year! With the new year comes wonderful news! I am pleased to announce the 2012 Virginia Guardianship Association/Virginia Elder Rights Coalition Joint Conference on Adult Guardianship and Elder Rights will be held July 26, 2012, at the Wyndham Richmond Airport. This will be a full-day conference for professionals from all areas of guardianship, alternative protective services, and care management.

As you may recall, we were not able to have our traditional conference last year due to budget constraints. While we have "downsized" to a one day event, it will be a day packed with stimulating workshops on topics such as: Ethical Challenges & Controversies for the Guardian Ad Litem in Contested Cases, Guardianship Issues with Regards to Young Adults, Guardian & Conservator Basics, Applying Guardianship Law to Incapacitated, Mentally Ill is Not Easy, Life Sustaining Issues – How a Decision is Made, and so much more. Educational credits will be available for applicable

disciplines. Commissioner James Rothrock will be delivering the keynote address. Be on the lookout for more information, registration, and an opportunity to apply for a scholarship to attend the conference. Information will be forthcoming in the March newsletter and/or you can go to our website at

www.vgavirginia.org

Save the date....July 26, 2012!
Look forward to seeing you there!



Cathy Thompson
President

Ask John and John . . .

Dear John and John:

Question: I represent Eastview Nursing Home and have petitioned for the appointment of a guardian for Henry, one of their residents. Henry's son, Willis, has steadfastly refused to cooperate in any way with Eastview regarding care planning or treatment, even as to routine matters, so he cannot be considered for appointment as his father's guardian. Our local guardian agency has a waiting list, and we have been unable to find anyone else willing to serve.



The guardian *ad litem* is willing to serve as the guardian. However, the question has been raised as to whether an attorney can serve as the guardian after having served as the guardian *ad litem* in the same proceeding?

Answer: While it is not the preferred thing to do, there is no prohibition under Virginia law for a guardian *ad litem* subsequently to serve as guardian, after consideration of the following points:

- The guardian cannot serve simultaneously as a guardian *ad litem*. If there will be subsequent substantive court proceedings, another attorney will have to be appointed as guardian *ad litem* for Henry.
- All of the parties should be in agreement that the guardian *ad litem* should assume the role of guardian. This should even include Willis. If he continues to object and the court is still willing to appoint the guardian *ad litem* as guardian, the court's order should reflect Willis' opposition on the record, and he should be allowed to endorse the court order as "Seen and Disagreed" or some other appropriate language.
- The order should also clearly reflect the sequence of responsibilities and note the termination of the guardian *ad litem* duties upon qualification of the guardian. The order should probably have two signature lines: one for the guardian *ad litem* and the other for the guardian. (This may seem silly, but it makes it abundantly clear to all just what is transpiring.)
- If the appointment is for a temporary (or limited) guardian, the order should contain unambiguous language as to how the temporary guardian may resign and a permanent one be substituted.

VGA Membership . . .

If you have not done so, now is the time to renew your VGA membership! Your membership is vital to the work of VGA - membership helps defray costs associated with our educational programs including conferences, legislative and public policy advocacy, and other costs incurred in administrative and organizational operations.

VGA members will receive a discount on conference registration. Organizational members registering three or more attendees will receive an additional discount. (Please watch for the March newsletter for more information).

Thank you for your support!

2012 VGA Membership

(Membership runs from January to December)

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Organizational Members Only: Second designee for mailing purposes (optional)

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Cost of Membership:

Individual Membership: \$35

Organizational Membership: \$50

Enclosed is a check for \$ _____

Note: VGA cannot accept credit cards

Questions? Please call (804) 261-4046

Please mail the completed form and check made payable to **“Virginia Guardianship Association”** to:
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