
Colorado Office of Public Guardianship

Director, Sophia M. Alvarez

Commissioners

Deb Bennett-Woods, Chair
Stephanie Garcia, Vice-Chair
Kelsey Lesco
Spencer Crona
Patrick Thiessen



3900 East Mexico Avenue
Suite 300
Denver, CO 80210
(720) 552-5215
Info@Colorado-opg.org

February 24, 2022

Marianne Goodland
Marianne.goodland@coloradopolitics.com

Ms. Goodland,

I am acting as the Custodian of Records for the Colorado Office of Public Guardianship, pursuant to Colorado Open Records Act ("CORA"), §§24-702-201, *et. seq.* for the purpose of this letter. This letter is in response to your CORA request dated 02.22.2022, a copy of which is enclosed with this response.

There is one record pertaining to your request. Please see attached letter.

Regards,

Sophia M. Alvarez

Sophia M. Alvarez
Director,
Colorado Office of Public Guardianship
Sophia.Alvarez@Colorado-OPG.org

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January 27, 2022

Jacqueline Zheleznyak, Director of Government Relations, Denver Health

Denver Health
Government Relations
601 Broadway
Denver, CO 80203

I am responding with regard to public comment that was recently provided to the Joint Judiciary Committee during the SMART Government Act hearing. Although I would have appreciated an opportunity to respond directly to your concerns prior to the hearing, I would now like to provide a follow-up response and request for further discussion and resolution to the issues raised in your comment.

I appreciate your past and current support of the Office of Public Guardianship (OPG) Pilot Project, which is intended to provide the information necessary for the Colorado General Assembly to consider establishment of a permanent office. At the same time, I am deeply concerned with elements of your public comment and would like to address several specific elements.

Ms. Zheleznyak stated that the OPG is currently not accepting referrals for guardians from Denver Health, implying that Denver Health has been targeted in some way. The reality is that the OPG is currently not accepting any new clients from any source because we are at capacity. As you know, the OPG Pilot Project was provided limited funding to provide services for the limited purpose of collecting pilot study data and assessing feasibility. At the time of funding, the projected need for services in the targeted judicial district was unknown. While the OPG has been able to somewhat expand services beyond this limit with respect to a contractual agreement that provided additional funding for specified clients, our current authorized and staffed capacity is 80 clients with a caseload based on national guidelines for quality and safety. Referrals meeting eligibility criteria are placed on a waiting list and contacted when a position opens regardless of referral source. Ms. Traci Polhenz of Denver Health was advised accordingly in December and we have received two other Denver Health referrals since that time. We are currently serving 78 active guardianships with two additional guardianships pending in court proceedings.

Later in her comments, Ms. Zheleznyak suggested that the OPG is relying on Denver Health to file legal paperwork once there is a guardian appointed. I am not aware of any situation in which Denver Health has been asked to file court paperwork once guardianship is established. Post-guardianship motions, such

as those needed to establish financial authority with a bank, are filed via a contract with Medical Legal Partnership, as the original petitioners, and are paid by the OPG. As such, please provide any examples in which you believe the OPG has requested that you complete legal paperwork you believe to be the responsibility of OPG so I can better assess whether there is a problem I need to address.

In a similar comment, Ms. Zheleznyak cited two examples of OPG staff “dropping” responsibility upon the death of the individual, leaving Denver Health to provide for funeral arrangements. The national standards to which Ms. Zheleznyak referred allow a guardian to “when appropriate, open a burial trust account and make funeral arrangements for the person”. This standard explicitly refers to arrangements made during a client’s lifetime. If the client has funds available, we routinely set up funeral/burial plans for them. If they don’t have the funds, we are unable to do so.

Legally, the authority of a guardianship terminates upon death and the guardian no longer has authority to make decisions for the ward. If there is family, the guardian can contact the family and provide them with information to contact a hospital or funeral home. However, the guardian cannot compel any action from the family. Alternatively, the guardian can contact the Public Administrator for assistance, but cannot independently take actions related to moving the body, funeral arrangements, etc. When there is no family, our specific protocol is to connect the hospital social worker or another friend with the Public Administrator. In some cases, we may call the Public Administrator, the County General Assistance Program, Catholic Charities, Medicaid Burial Assistance, the VA or another agency that may be appropriate, depending on the client’s associations/needs.

I have confirmed with staff that, to the best of our knowledge, we have not had any client deaths at Denver Health, so I am unable to provide further follow-up without specific information. Please provide the names of the clients to which you are referring in your testimony.

Finally, I completely agree with Ms. Zheleznyak’s statement that an acute care hospital is an overly restrictive environment once acute hospitalization is no longer medically indicated and alternative placement should be sought as soon as possible. We also agree that the lack of enough suitable placements is a systemic problem that requires a broader systemic solution. Denver Health has long been faced with finding such placements and having patients stay in the facility for prolonged periods as guardianship and placement issues are addressed. A critical function of the OPG is to act on behalf of clients to expedite such placements for the benefit of both clients and providers. However, the OPG staff cannot manufacture placements that don’t exist, particularly in light of the various COVID challenges with which we are all faced; yet, the guardians are still legally and ethically required to make placement decisions that are safe and address the best interests of our clients. To do so requires direct, timely and complete information regarding discharges so that our staff can make fully informed decisions prior to an actual discharge. Due to the pressures placed on both your staff and ours, such communication has indeed been difficult lately and we should absolutely work together toward an improved process that takes into consideration the staffing and resource challenges.

I’m sure you share my concerns regarding the potential harm to clients and resulting liabilities we may both face institutionally if a discharge occurs without guardian consent or support. I have been informed

that Denver Health is operating under an order from the Governor implementing the Crisis Standards of Care Plan. However, according to the Colorado Department of Health and Environment website, the full plan is not currently activated, including the section entitled Hospitals. I have twice requested a copy of the order from Ms. Amanda Thompson so that I can better understand the likely implications for our clients and the need for altered processes on our part. For example, I would like to understand where in the standards of care the hospital is released from responsibility for obtaining consent or notifying the OPG of a client discharge, something that was communicated to me by Ms. Thompson. Unfortunately, I have not received a response. I believe it is critical to our ability to collaborate effectively with Denver Health for OPG staff to fully understand what it means for our clients and for the Office when you are operating under altered standards of care. It is, in part, this concern for additional information that led to my request to meet with your legal department.

Please understand that I am fully cognizant of the tremendous challenges you are facing with staff shortages and turnover as well as the pressure to discharge patients as quickly as is medically possible in response to patient volume. Likewise, please understand that our guardians are also under great pressure to find suitable placements at a time when so many normal processes are askew due to COVID. I am concerned with public assertions that you are experiencing difficulties in scheduling meetings with or otherwise working with specific guardians. I accept full responsibility for addressing any instances of unprofessional behavior once I have been provided with appropriate details. I welcome the opportunity to discuss these issues with the parties involved. I am also aware that guardians are experiencing similar difficulties in contacting your staff and arranging meetings, particularly given that different medical units may vary in their processes. I would request that we work together to investigate and resolve these issues promptly.

With respect to communications between guardians and their wards, whenever you believe a guardian is not adequately available to a ward or is otherwise not acting in a ward's interests, please utilize the formal complaint process so that I can consistently and appropriately document, investigate and resolve those issues. Given that you have experienced significant turnover in your staff, I would be happy to provide a brief inservice on this process with time for them to ask questions.

It is not surprising that the unprecedented pressures and complexities of the past several months could lead to something akin to a battleground mentality, particularly for our mutual front line staff who are all doing their best to serve the needs of their patients/clients. However, we are basically all on the same side here, doing our best to provide our respective services to one of the most vulnerable populations in Colorado. We also both have a vested interest in ensuring the future of public guardianship services for current and future clients.

Since the recent discharge issues began in December, I have attempted to arrange various meetings with interested parties at Denver Health. I regret that such a meeting could not have occurred prior to your public comment. However, it did not, and we are still left with the need to establish a more effective working relationship on behalf of our patients/clients in light of the ongoing pressures of the pandemic. Please advise as to the best way to arrange a meeting with those individuals most appropriate to our

mutual concerns. Denver Health is an important and valued stakeholder for the pilot project and I look forward to working directly with you in the near future on these issues.

Respectfully,

A handwritten signature in black ink, appearing to read 'S. Alvarez', with a long horizontal flourish extending to the right.

Sophia M. Alvarez, Director
Colorado Office of Public Guardianship
3900 East Mexico Avenue, Suite 300
Denver, Colorado 80210

Cc:

Kris Gaw, Chief Operating Officer, Denver Health
Connie Savor Price, Chief Medical Officer, Denver Health
Enid Wade, JD, General Counsel, Denver Health
Amanda Thompson, Director, Hospital Care Management, Denver Health
Megan Leppke, LCSW CACIII, Manager, Hospital Care Management, Denver Health
Deb Bennett-Woods, Chair, Commission for the Office of Public Guardianship Pilot Project

FW: Status of open records requests

info@colorado-opg.org <info@colorado-opg.org>

Tue 2/22/2022 10:13 AM

To: Sophia Alvarez <sophia.alvarez@colorado-opg.org>

From: Marianne Goodland <marianne.goodland@coloradopolitics.com>

Sent: Tuesday, February 22, 2022 9:55 AM

To: info@colorado-opg.org; info@colorado-opg.org

Cc: Luige Del Puerto <luige.delpuerto@coloradopolitics.com>

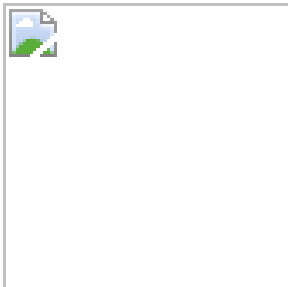
Subject: Status of open records requests

I submitted two open records requests last week but have not received an acknowledgement of those requests.

I have another: pursuant to CRS 24-72-201 et seq I am requesting a copy of an OPG letter that was in response to comments made by Denver Health during a January 24 SMART Act hearing with the joint Judiciary committees.

Thanks

Marianne Goodland



Marianne Goodland

Chief legislative reporter

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