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MISSOURI PUBLIC GUARDIANSHIP REPORT

A comprehensive report on the current status of Missouri's public guardianship system and opportunities for improvements from the perspective of Missouri public guardians (Public Administrators) and key stakeholders.

Funded by the Missouri Association of Public Administrators



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Insights Articulated



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INTRODUCTION

In recent decades there has been a significant burden placed on Missouri’s public guardianship system, with little in the form of systematic or funding supports developed to meet the growing dependence. A system that was designed to manage decedent estates, and eventually evolving to support widows and orphans, now serves over 11,000 wards.¹ As with the rest of the nation, Missouri’s public guardianship system is serving individuals who are younger and with more complex needs than twenty-five years ago.² These younger wards³ include a range of individuals with mental illness, developmental disability, and substance use. Overall, Public Administrators (PAs) are significantly under resourced while navigating complex systems to provide care for their wards – while also facing increased pressure from the state and stakeholders to ensure all wards are placed in their least-restrictive alternatives.

Recognizing that the state has reached a critical point in its capacity to serve individuals within Missouri’s public guardianship system, the Missouri Association of Public Administrators (MAPA) employed this report to help encourage a statewide response. In April 2019, MAPA members took a unanimous vote to convene PAs, researchers, and allied guardian professionals to evaluate and report on the status of Public Guardianship in Missouri and then to provide recommended actions for MAPA to improve it.

Approach: MAPA engaged a third-party research firm to conduct a comprehensive, multi-mode analysis, and the findings inform the content of this report. The learnings and recommendations are informed by literary and statutory reviews of guardianship across the country and from insight from those on the front lines of Missouri’s Guardianship System (experts and professionals in mental/behavioral health, developmental disability services, county government, legal/judicial entities in Missouri, and public administrators).

- **Qualitative in-depth interviews of public guardians and key stakeholders:** 60-minute in-depth telephone interviews were conducted with public guardians and allied guardian professionals.
 - **Five guardian interviews** included Public Administrators who were both elected and appointed; part-time and full-time; representing a first, second, and third-class counties; and varying significantly in their backgrounds, caseload sizes, and their length of time in office.
 - **Ten stakeholder interviews** included respondents who interface and/or collaborate with the public guardianship system. Those interviewed included leaders and representatives in mental and behavioral health services, leaders in

¹ 90 Public Administrators who responded to the quantitative survey of this reported a total ward-count of 10,570. It is assumed that the ward-count of the 15 Public Administrators who did not respond to this question would put the number over 11,000.

² Teaster, et. al., 2007.

³ “Ward” is the legal definition a minor or an incapacitated person for whom a guardian, limited guardian, or standby guardian has been appointed, RSMO 475.010.

developmental disability support, county commissioners, attorneys in elder law and private guardianship, judicial personnel, health placement specialists, academic leaders in guardianship, and advocacy organizations that work within the guardianship system.

- **Quantitative survey of Public Administrators:** An online quantitative survey, developed with assistance from Missouri guardianship experts, was administered to all 115 Public Administrators across Missouri. **Of the 115 Public Administrators surveyed; 107 responded (93% response rate); and 92 completed the entire survey (86% completion rate).**
- **Secondary Research:** Researchers reviewed available publications on guardianship trends on the state and national level. This included review of literature related to history of Missouri’s guardianship system, other state guardianship studies, and peer-reviewed journals from experts in public guardianship.

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EXECUTIVE SUMMARY

This report encompasses a comprehensive overview of guardianship in Missouri and how it has evolved over time (especially past 5-10 years). Additionally, it highlights opportunities to improve the efficacy and efficiency of the public guardianship system and is intended to provide the Missouri Association of Public Administrators (MAPA) with actionable steps that could be taken to do so. Information in this report should be used to inform communication and interaction between MAPA and other entities and be used to advocate to policy makers and motivate them to take legislative and budgetary action to improve policies and practices for Public Administrators (PAs) and the wards they serve. This report covers broad categories related to guardianship and offers many areas where additional exploration is needed. In order to effectively implement all recommendations in this report, further study will be required.

Key Takeaways:

- **There has been an increased number and severity of cases in Missouri’s Public Guardianship System, and it is expected to grow in the coming years.** PAs, stakeholders, and experts agree that the public guardianship system has seen an influx in cases over the last twenty years. **These caseloads consist of younger individuals with more complex needs than ever before.**
- **Public Administrators are highly dedicated and committed to their positions.** Despite long work weeks, large caseloads, and limited compensation, nearly all PAs (90%) said they would run again for their office. Because there is no required experience or education for a PA when running for office, PAs vary significantly in their experience and expertise.
- **Missouri is unique in its fragmented approach to guardianship,** specifically, the role of public guardians (Public Administrators) as county-elected positions, with the exception of Jackson County, St. Charles County, and the City of St. Louis where the PA is appointed. The system is pieced together by 115 independently operating counties and the City of St. Louis, each operating under a different county governance, different judges, and with varying available resources. While this approach does ensure coverage for the entire state, **lack of state funding and coordination leaves Missouri with a fragmented public guardianship system.** Certain guardianship research cites Missouri as having uneven and insufficient resources – and sometimes dangerously high caseloads.⁴
- **Many Public Administrator offices are understaffed.** When compared to the national standard guardianship ratio of one professional guardian to 20 wards, Missouri is generally understaffed. The average caseload for PAs is 91 wards, and more than one-third of their offices have no staff.

⁴ Teaster, et. al., 2007.

- **Lack of appropriate placements is the leading frustration among ALL those who interact with Missouri’s public guardianship system, not just PAs.** Experts and professionals in mental/behavioral health, developmental disability services, county government, legal/judicial entities in Missouri, and PAs were nearly unanimous in saying that lack of appropriate placement and treatment facilities is the leading problem in serving those within Missouri’s public guardianship system. **This is especially true for wards with behavioral health issues, who are cited by interview respondents as utilizing a disproportionate amount of human and financial resources.**
- **The Public Guardianship system is heavily relied upon by the state, who is facing increased pressure to release individuals into the community.** There is a perception that over time, the State has begun to depend more heavily on this county-based system. Guardians and experts report two significant changes in policy that have resulted in influxes of state wards into the county system, both of which created movements to community-based treatment settings.

The research suggests there are significant opportunities to improve the efficacy of Missouri guardianship. This report offers a variety of recommendations including:

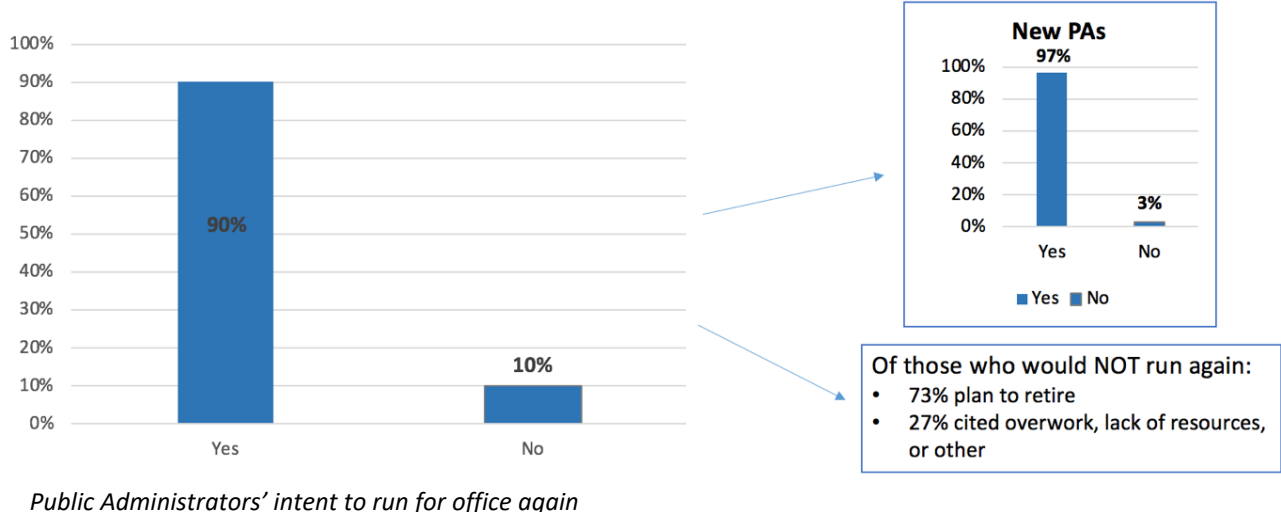
- **Encourage collaborative and innovative systemic changes** through convening and coordinating statewide partnerships, improving data collection, and exploring the possibility for statewide service coordination.
- **Provide more robust training, including continuing education, professional development, and basic education around state networks and structure** – including expanded and more frequent trainings, enhanced professional development, and prioritization of training on ward placements, community supports, and eligibility requirements.
- **Streamline the work of PAs** by ensuring greater and more timely access to wards, standardization of digital forms and reporting instruments, and guidance to help ensure consistent implementation of state statute related to guardianship.
- **Seek opportunities for additional county, state, and private funding.** In order to be effective in advocating for funds, MAPA should **develop a method of tracking and communicating cost savings to the state**, gauging and quantifying their caseloads by ward acuity, and developing and codifying a recommended staffing ratio in statute.
- **Alleviate the burden on the public guardianship system by promoting alternatives and restoring the rights of individuals.** This will require education and advocacy for and among families, judges, physicians, service providers, and PAs.

KEY TAKEAWAYS: PUBLIC ADMINISTRATORS

Perspectives on those who serve as Public Administrators

Public Administrators (PAs) are highly dedicated and committed to their positions: Despite long work weeks, large caseloads, and limited compensation, nearly all PAs (90%) said they would run again for their office. Newly elected PAs were nearly unanimous in saying they would run for office again (97%). Of those who would not run again, nearly three-quarters (73%) are not running because they plan to retire.

- *“They're struggling with things that we don't have these tools for, that in many cases, their own empathy is really the only thing keeping them continuing to work on these things because from at least what it looks like, those aren't the things they're necessarily being judged on when it comes time to look at the statutory checklist.” - Leader in Mental Health*



Individuals who serve as Public Administrators are generally service-driven by nature: PAs' commitment to their role is often centered on their service-driven nature. Stakeholders agree that most PAs are inspired to take on the role out of a will to help those who they serve.

- *“You're a public servant. And for some people, that's just their thing. And in this case it's mixed with the healthcare, the healthcare piece, social services. So people are just by nature caregivers, and that's just something that they're attracted to.” – County Commissioner*
- *“Well, I like helping people. And most of the administrators that I know, that's why they get into this line of work because they like to help people.” – Public Administrator*

Public Administrators vary significantly in their experience and expertise: Because there is no required experience or education for a PA when running for office, the expertise and approach of PAs vary. Nearly half of PAs have a four-year degree, and top areas of background and expertise include accounting/finance (39%), government (26%), social work (24%), legal (20%),

and business owner (20%). This can offer potential benefits when coordinated and leveraged by the Association but can also manifest as gaps in skills and experience as well as inconsistency in the understanding of statewide systems as PAs assume the role.

Views on Public Administrator partisanship, elections/appointments

Most Public Administrators believe that the position should be non-partisan (78%): A large majority of PAs believe that the position should be non-partisan, noting that a response to a ward's needs should not be based on political affiliation. Of those who thought PAs should be partisan, comments included belief that the political party affiliation provides insight into the PAs values.

- *"I don't believe that a political party should influence the way you interact or care for an individual you are serving. You are their voice and advocate." – Public Administrator*

There are mixed perceptions on the Office of Public Administrator being an elected position:

There are perceptions of both benefits and drawbacks associated with PAs being an elected county office. A majority of PAs (65%) believe the office should be elected rather than appointed, stating that it adds transparency to the office, accountability to the tax payers, and avoids possible favoritism or partisanship appointments. Of those who thought PAs should be appointed, respondents believed that the general public lacks a good understanding the position. While stakeholders agree that elections provide a mechanism from removing a PA from office if needed, a few expresses concern over PAs prioritizing reelections.

- *"I don't see how that makes sense as an elected office. When you look at all the other elected offices and what those particular public officials run on and what they're trying to accomplish in order to be successful in the eyes of the public and win another election." – Leader in Mental Health*
- *"I believe it is important for the local people to have input into who the public guardian is for their county. I also believe it keeps us accountable to the people of our county." – Public Administrator*

Perceptions of Public Administrator's roles and responsibilities

Empathy, legal/financial literacy, and knowledge of mental and behavioral health are perceived as the top qualities to be successful as a Public Administrator. The day-to-day responsibilities of a PA vary greatly, so it is difficult to find someone who would be fully-equipped to assume the office without hard-skills training. While skills such as legal and financial literacy, knowledge of mental and behavioral health, knowledge of community resources, and social service skills emerged as important, the most commonly cited and important characteristic of a successful PA was **empathy**.

- *"I think that being a guardian is very, very difficult because you have to—you have a lot of—you're really in charge of someone's life, making their decisions for them, and each person is unique. So,*

really, the biggest, I think, attribute is having empathy for people and listening and then accessing professionals that can provide the appropriate treatment or care.” – Former Probate Judge

- *“And they need to, like I said, have empathy. But they also need to have some competency because there she's also juggling 150 different checking accounts, right? So you have to have some fiscal acumen and abilities. So it's not all about heart. You've got to have the balance with the brain so to speak of being able to run somebody's finances and take care of them and manage their money, as well as manage the situation that arise, whether it's healthcare, with their family or whatever it is.” – County Commissioner*

Other important skills for a successful Public Administrator include advocacy and communication. Respondents stressed the importance of advocacy and communication in being a successful PA, especially as they work to secure funding for their office or to minimize their caseloads. For example, PAs depend on their county commissioners and county legislatures to appropriate funding for their offices but rely on direction from the court to carry out their responsibilities. Especially as new commissioners and judges are elected, it is important that PAs are able to effectively communicate the roles and responsibilities of their office and to advocate to commissioners for funding and advocate to judges on when and how PAs should be serving. Two-thirds (67%) of PAs say they have advocated for larger budgets during their time in office, but of those, under half (46%) were successful in obtaining a funding increase.

- *“I have all new commissioners. Actually, we have pretty well all new office holders, I've been the person that's been in this county the longest. Not just as an elected official, but as an employee... So, with that comes new understanding of what we do, and actually I'm going to meet with my commissioners later this week. Because I think we've kind of had a breakdown in communication, and maybe them understanding what I do, and just how important it is to the county. And that how important it is for me to have the help that I need...” – Public Administrator*
- *“So overall, in terms of collaboration, judges need to be further educated about alternatives to guardianship and educated and encouraged not to appoint a public administrator. We need more public administrators who will go to court and advocate for not being appointed.” – Disability Advocate/Attorney*

There exists a lack of awareness about the role of a Public Administrator. Overall, there exists a lack of awareness about the role of the PA, including the scope of their responsibilities, their resources, and their role as a guardian of last resort. This lack of awareness is present among county officials, legislators, general public, and even among PAs who, when running for office, reported they were unaware of the scope of the role.

- *“I know a lot of times there's a new guardian who are limited on resources, kind of learning the role, and a lot of times they don't realize what they're getting into.” – Care Placement Provider*

Public perception is influenced by the media, and first interactions with Public Administrators which can be disproportionately negative. The general public can be unaware of the offices' role and function outside of what they may hear in the media, which can be disproportionately negative, or until they come into contact with a PA through personal experience. Usually, an individual or family's first interaction with the public guardianship system is during a time of crisis or heightened stress or emotion.

- *"I think it's why we see so many difficult cases. It's because we're seeing cases after the family is exhausted, for example. It's hard, you know, taking care of somebody with a serious mental illness for a lot of years. We see the families getting exhausted. We see them stepping back. We're there to pick up the pieces."* – Public Administrator
- *"We do see, obviously, instances of when we're talking about this in the realm of public administrators that act inappropriately and that always makes news, and that skews people opinion of what the public administrator does and how important that role is. It is not a flashy new story to say a public administrator is acting appropriately and doing their due diligence."* – Expert in Mental Health

The logistical solutions utilized by Public Administrators to accomplish their charge – sometimes rooted in proximity and efficiency – may not always align with a broader stakeholder or community desire. A PA's role is to ensure that the basic needs (safety, food, shelter, medical care) are met – they do not necessarily have the resources nor the obligation to do more than that. While many PAs do take a more hands-on approach when possible, they hear frustration from some family members and stakeholders who would like to see more individual time and attention paid wards.

- *"Sometimes you make hard choices and you can't just always do what the client (ward) wants and it's not always easy. And you can't always do what the families want. So it's a ... yeah, you get attacked a lot, it's very hard. And you're usually always, always, always trying to do what's best for the client(ward), but it can be very difficult."* – Public Administrator
- *"We don't take the place of client's (ward's) families. We don't take the place of their friends. We have a job to do and we try to do that job with a high level of professionalism and quality. There is going to be a lot less of that hand holding, if you will."* – Public Administrator

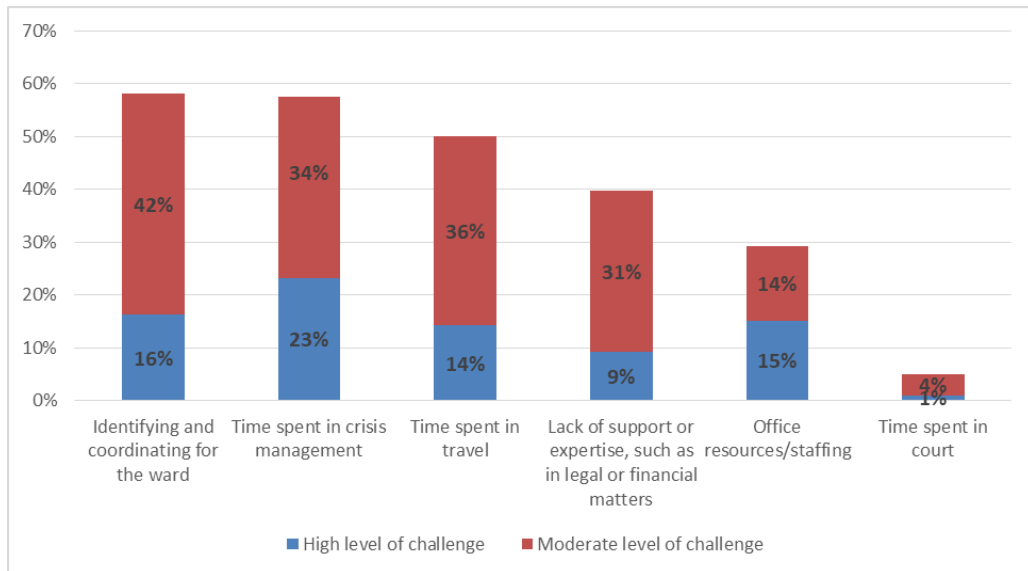
Top three barriers and challenges identified by Public Administrators include placement coordination, crisis management, and travel. PAs find these three issues to all be highly or moderately challenging tasks. The average PA spends 40% of their time performing these tasks, and all of these challenges are associated with the increase of cases involving mental and behavioral health. Overall, these three challenges, as well as time spent on administrative tasks, are also those that most interfere with a PAs ability to interact with their wards.

1. **Identifying and coordinating placements:** Identifying and coordinating placements for their wards was a particular challenge for new PAs, with over two-thirds (68.8%) rating it a moderately or highly challenging aspect of their positions. Over 90% of PAs identified that lack of appropriate placement as a major challenge in ensuring their wards are in

their least restrictive environment. (The topic of placements in greater depth later in this report.)

2. **Crisis management:** Crisis management is particularly challenging for the 44% of PAs who function without a staff. While larger and better funded offices may have staff to support after-hours phone calls, nearly half of PAs do not have another staff person dedicated to their office.

3. **Distance/Travel:** Time spent in travel is another challenge for PAs. PAs reported spending 13% of their time travelling, with the average just over half of wards live within 30 miles of a PAs office. PAs indicate that distance may be a barrier in ensuring wards are having their needs met. Without the ability to meet with wards more frequently, mild or moderate issues that wards are experiencing may escalate to crises that consume more time and resources.



Public Administrator barriers & challenges

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KEY TAKEAWAYS: MISSOURI PUBLIC GUARDIANSHIP SYSTEM - INFRASTRUCTURE & RESOURCES

Missouri's public guardianship infrastructure is fragmented and under resourced. Lack of state funding and coordination leaves Missouri with a fragmented public guardianship system. The system is pieced together by 115 independently operating counties and the City of St. Louis, each operating under a different county governance, different judges, and with different available resources. While this approach does ensure coverage for the entire state, Missouri remains nationally recognized by guardianship experts as having funding that is uneven, insufficient, and resulting in sometimes dangerously high caseloads.⁵

Missouri's county-by-county approach to public guardianship results in inadequate distribution of resources. In all but three counties in Missouri, PAs are elected rather than appointed, and the appointed offices represent more populated, urban counties with larger budgets. Funding, caseloads, types of cases, and access to resources vary greatly based on geography (e.g. urban vs. rural, located near hospital or inpatient mental health facility), and this variation leads to frustration that the system does not provide equitable resources for all PAs or for all wards.

- *"The other disadvantage is funding. That some counties fund their public administrators' office sufficiently, some do not. So, if the office in a particular county is not funded adequately, they can't provide the appropriate services." – Former Judge*

Public Administrator offices are generally understaffed when compared to national recommended standards. The average caseload for a PA in Missouri is 91 wards, and more than one-third of PAs have no staff. County budgets are tied to their assessed valuation which impacts funding for the PA office, and this affects staffing of the office. Less than two-thirds (58%) of PAs have at least one additional staff member dedicated to their office, while others have a robust team with the PA acting as an executive. While national guardianship experts recommend a *professional staff* to ward ratio of 1:20, Missouri's average *total staff* to ward ratio—not professional staff to ward—is over 1:40. It is important that the staff counted in these ratios are considered professional staff, or ones who can make binding decisions on behalf of a ward. This is not the case in Missouri's current comparison, where a majority of staff are considered clerical or administrative.

- *"I love my job but 95% of the time I feel that I don't have the time or the resources to handle the crisis that is my job. No help most of the time. Everyone is overwhelmed and understaffed." – Public Administrator*

⁵ Teaster, et. al., 2007.

Lack of appropriate placements is the leading frustration among ALL those who interact with Missouri’s public guardianship system, not just PAs. Experts and professionals in mental/behavioral health, developmental disability services, county government, legal/judicial entities in Missouri, and PAs were nearly unanimous in saying that lack of appropriate placement and treatment facilities is the leading problem in serving those within Missouri’s public guardianship system. Long-term acute psychiatric placements, which are non-existent, leave the guardianship system to rely on jails and emergency rooms to serve wards who are in crisis, at a higher cost to the state. PAs are frustrated with the care of wards they feel ill-equipped or under-resourced to manage.

- *“There are not enough quality facilities and hospitals to provide the necessary medical and psychiatric treatment for the wards and the Public Administrators are spending more time trying to find residential placement and medical/psychiatric treatment facilities resulting in less time and fewer contacts with the wards.” – Public Administrator*
- *“I had a hard time finding her a place to live because she had four active mental illnesses and she got kicked out of about 10 places. So I probably spent about \$25,000 worth of time on that case”. – Private Guardian/Elder Law Attorney*

Specific placement challenges arise for wards with a propensity to violence. Missourians can only be admitted into the state hospital through contact with the criminal court, leaving a gap in placement options for wards who may be violent but have not been charged with any crimes. In certain instances, these individuals may be too violent for placement in a nursing home or other residential facility. There are also challenges that arise with wards who have been discharged from a state hospital that lack the community supports needed to ensure the safety of themselves and the public. When placements do exist, the system is cumbersome and difficult to navigate.

- *“But it’s oftentimes really difficult to get them into the hospital, until they have something like hurt themselves or hurt somebody else”. – Public Administrator*
- *“So there are people who need services but they don’t get services from Department of Mental Health because it’s so siloed as a structure and one division says we can’t serve you, go to the other division, and the other division says no, we can’t serve you, go back to the one you came from.” – DD Professional*

Wards with behavioral health issues are cited by interview respondents as utilizing a disproportionate amount of human and financial resources. The vast majority of respondents pointed to the challenges that arise when working with wards with behavioral health issues, including more time spent in crisis management with these wards than with their non-behavioral health counterparts. Respondents described a lack of community-based supports and crisis prevention options which can lead to hospitalizations, homelessness, institutionalizations, or incarcerations that might be avoided with more robust resources.

- *“We have a very poorly funded, poorly structured community mental health system in the state, and that is a big part of the problem. Individuals don't have a way to get help at the outset in the community and they usually end up in crisis before they get the help they need.” – Disability Advocate/Attorney*

The public guardianship system is heavily relied upon by the state, who is facing increased pressure to release individuals into the community. There is a perception that over time, the State has begun to depend more heavily on this county-based system. Public Administrators and stakeholders both express frustration about the state’s lack of support (financial, personnel, etc.) for the public guardianship system. Guardians and experts report two significant changes in policy that have resulted in influxes of state wards into the county system.

1. The first was the 1999 United States Supreme Court case *Olmstead v. L.C.* requiring states to fully integrate people with disabilities into community settings.
2. Second, was the national movement to divert mental health patients out of state institutions and into community-based settings leading to a reduction in hospital beds operated by the Department of Mental Health.⁶

- *“And a lot of the pressure on the Department of Mental Health is from the Olmsted decision which was in 80, but Olmsted's been interpreted to say everyone's got the right to live in the community, and I'm learning that DMH has pressure on them from the feds to accept people quickly, treat them quickly and move them out. So it's not just the state pressure, but federal pressure pushing down. And it just also goes down to the county.” – Public Administrator*
- *“The federal government trend has been, nobody should be institutionalized. Everybody should be in the community. But there's just some people that don't do well in the community. And it's not even fair to them to place them in a community.” – Public Administrator*
- *“Mental illness is another issue, and I would say traditionally, individuals with serious mental illnesses would be committed to mental hospitals, which is a whole separate legal procedure, but Missouri is among the lowest funding of mental healthcare in the United States. I think that perception is that individuals who would have been hospitalized in mental hospitals are being sent to the guardianship system instead.” – Public Guardianship Expert*

Public Administrators and stakeholders believe that the State should be providing funding for the office. In nearly all qualitative interviews, there was discussion about the role the state should be playing when it comes to guardianship. First and foremost, PAs and stakeholders agree that the state should be funding the office of PA, either directly or through better appropriations for preliminary supports for the PA – especially in areas of mental health supports and community-based supports.

⁶ Missouri Hospital Association, 2012, <https://web.mhanet.com/MHA%20Behavioral%20Health%20Report%20April%202012.pdf>

- *“So, I think probably some type of state funding coming into the office. Because our clients (wards) that we get, they come from the state court, they are state wards. And so, I mean I do believe the state has a responsibility to at least offset some of those expenses of the county.” – Public Administrator*
- *“We've just not funded the system adequately to serve the needs of our communities. Just as simple as that. So whether the guardians frustrated, their family's frustrated, an individual's frustrated. That our system has never been adequately funded since the Community Mental Health Act of '63. We signed that in '63 to start the deinstitutionalization of things and we've never really funded the alternatives in the community to handle the folks that aren't going to be in there anymore”. – Community Behavioral Health Expert*

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KEY TAKEAWAYS: APPLICATION OF GUARDIANSHIP LAW

Most Public Administrators feel their judges are a supportive resource: Judges were regarded as being the most supportive resource for PAs by a large margin, with 90% of respondents saying that they were either supportive or very supportive. The examples shared by PAs lend insight into the importance of building rapport with their judges.

- *“We hit our high of 200 (wards) about 9 years ago. And we're down to 130, partially because the judges have worked with me...” – Public Administrator*

Guardianship law is not always interpreted or implemented consistently across jurisdictions: Respondents report a lack of consistency among judges and how they interpret and implement guardianship law. A former judge described the public guardianship system as operating 115 different supervisors with a court system of 115 probate divisions monitoring them. The most commonly cited inconsistency dealt with PAs being appointed as guardians of last resort.

- *“And so they were just appointing public administrators willy-nilly, which was greatly increasing the caseload that the public administrators had. If the attorneys and the judge spent a little more time, they could've found a better solution to the problem.” – Elder Law Attorney/Private Guardian*
- *“I tell you at a minimum the perception is that in certain counties judges are very quick to appoint the public administrator rather than family members.” – Former Judge*

Alternatives to full guardianship, including limited guardianships and substitute decision-making, may be underutilized. There is a concern from certain stakeholders, especially those who advocate for individuals with developmental disabilities, that limited guardianships are underutilized. However, PAs often do not have the bandwidth for limited guardianship or supported decision-making, even when it is preferable. Guardianship is perceived by some system stakeholders as a loss or reduction of the ward's independence and rights. However, without appropriate resources to spend additional time in decision-making with wards, PAs cannot easily afford partial rights to wards.

- *“There is a concern that limited guardianship is not used enough, we don't have good stabilized statistics on this, but we do know that in [some areas] limited guardianship is used quite a bit, whereas in some other counties, the perception is, and again it's hard to get data, but the perception is that limited guardians have never been appointed.” – Guardianship Law Expert*
- *“So many people were put under guardianship in the past for the sake of convenience that now that the statute has changed there's probably a lot of people on the public administrator's roles that could either get restored or probably find an alternative guardian for.” – Disability Rights Advocate*

Restoration of rights: Some stakeholders and PAs agree that there are missed opportunities for restoring someone's rights once they have reached capacity. Similar to other alternatives to

guardianship, restoring rights requires a certain amount of bandwidth and resources to PAs, as well as doctors and judges who are willing to work with guardians to evaluate whether capacity has been restored.

- *“If there are clients (wards) that we can restore their rights and living on their own without guardianship or those clients (wards) where guardianship isn’t benefitting them, we seek to terminate the guardianship. We’ve been, I would say, fairly aggressive over the last year in filing the petitions necessary to have the court adjudicate whether someone is capable of being restored to their rights or whether the guardianship should be terminated.” – Public Administrator*
- *“We need more guardians to be willing to look at the people already on their roles and making inquiries and doing evaluations to find out who can be restored. That’s just not really happening on a widespread basis.” – Disability Rights Advocate*

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KEY TAKEAWAYS – GUARDIANSHIP CASELOADS & INDIVIDUALS BEING SERVED BY THE PUBLIC GUARDIANSHIP SYSTEM

There has been an increased number of cases in Missouri’s public guardianship system, and it is expected to grow in the coming years: PAs, stakeholders, and experts agree that the public guardianship system has seen an influx in cases over the last twenty years. Among the reasons for the increase include: an aging or “graying” population with dementia; increase in mental health diagnoses; effects of the opioid crisis and other drug epidemics; and medical advances which are allowing individuals, such as those with traumatic brain injuries, to live longer.

- *“I think what I've noticed is an increase in workload, the number of people with public guardians.”
- Former Judge/Private Attorney with nearly 30 years of experience*
- *“I think there was an upsurge across the board in just putting people into guardianship because it was an easy solution. I think that's the primary reason.” – Disability Advocate/Attorney*

Missouri’s public guardianship system is serving younger individuals with more complex needs than ever before: Caseloads are evolving to include a greater number of cases with younger individuals, including an increase in those with mental and behavioral health needs, substance use disorder and dual diagnoses, and cases with less accumulated assets to help cover their costs of care. This evolution is consistent with public guardianship programs across the nation where surveys report public guardianship systems serving younger individuals with more complex needs than twenty-five years ago.^{7 8} While the Department of Mental Health provides behavioral health services, including services for substance use and mental illness, there is a lack services and placements for people with both types of diagnoses. A growing number of these cases are also forensic wards, or those who came into the system through a criminal court.

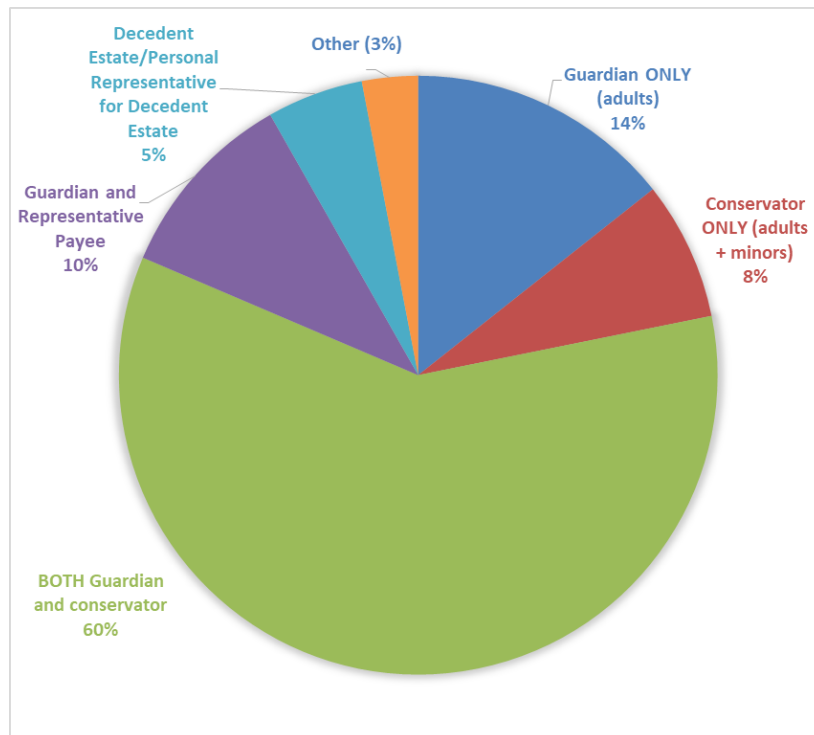
- *“So, in 2003 when I came in, I had 26 cases. And of those 26, 19 were elderly and in the nursing home. Today, I have 40 cases and of those 40 cases, my elderly in the nursing home is like six. So, the majority of my caseload is younger people living in either residential care facilities or out in the community. They tend to have more complex issues, which can cause them pretty significant behaviors.” – Public Administrator*
- *“I think most administrators are getting younger people due to drug and alcohol abuse. And mental illness is been recognized more than it used to be, so we're getting a lot of younger people. I like helping people with mental illness, although they're probably the most challenging because they think they don't need help. And it's hard to help somebody that doesn't want help.” – Public Administrator*

⁷ Teaster, et. al. (2007).

⁸ While 1981 study finds that the primary diagnosis of wards was dementia,⁸ a 2005 study found that primary diagnoses were mental illness, mental retardation, and developmental disability.

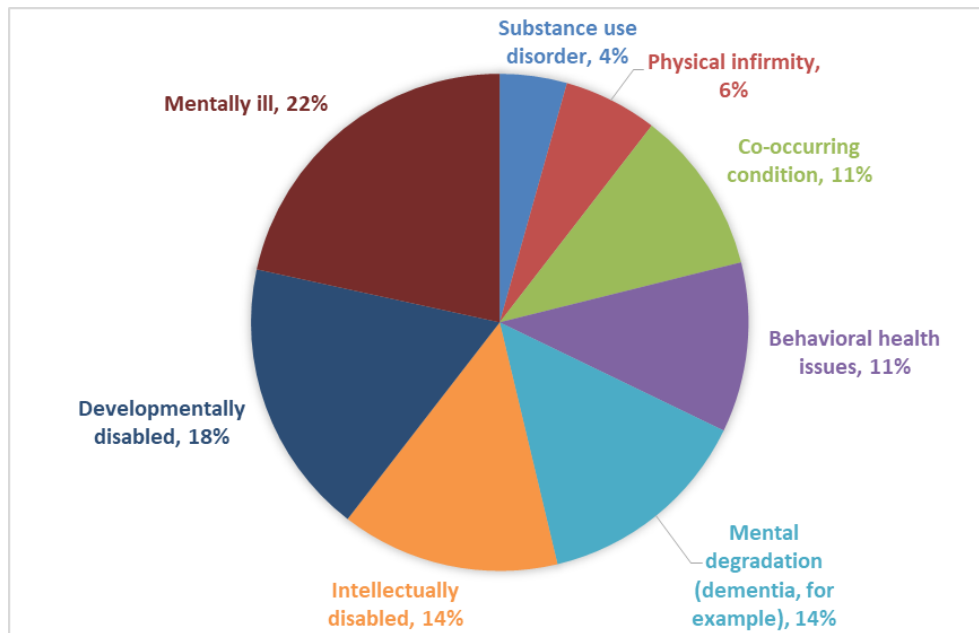
There is no consistent method for counting and weighing caseloads: Currently, Missouri lacks a consistent method for counting wards or cases (guardian vs. conservator), as well as a method of weighing cases by the amount of time and resources they require.

- **Counting cases as “letters”:** Over half of cases (60%) are comprised of cases where PAs are serving as both guardian and conservator. Although these are two distinct roles, each occupying their own space in law and statute, the dual roles fall under a single “letter of guardianship/conservatorship” assigned by the court. The failure to separate the two roles into separate has implications for the resources available to PAs, especially in smaller counties, where their status as a full-time or part-time PA is tied directly to the number of letters assigned to them by the court. This also makes it difficult for PAs to effectively advocate for more resources.
 - *“Well, I would say the only thing part-time about it is the salary. When you break it down, there are 29 cases. I guess I weigh it a little differently in that there are 29 separate bodies but there are multiple hats that I wear for some individuals that require extra time and energy that where you... but then, within it you may have a guardianship that isn't as time consuming as another guardianship. Then there are some that I'm quoted as just conservator for and even though it sounds like just conservator, there are a lot of... requirements that come in under having a conservatorship separate from a guardianship. I guess, part-time, full-time. I feel I'm full-time. I'm in everyday. I take my calls 24-7. I have no staff. I have no clerical. Nothing, so and I have no attorney.” – Public Administrator*



Public Administrator caseload composition

- **Weighing cases by ward acuity:** In addition to issues in measuring quantity of cases, there is also little consideration for weighing of cases based on the time and resources they require. PAs cite their elderly wards in nursing homes as cases requiring the least amount of their time, while cases involving behavioral health issues utilize a disproportionate amount of human and financial resources. PAs were asked to provide a percentage breakdown of the individuals they serve based on their primary or leading diagnosis.⁹ The primary diagnosis of wards was divided, although nearly a quarter (22%) of wards were primarily diagnosed as mentally ill. Another 32% were diagnosed as either developmentally or intellectually disabled, and 14% as having mental degradation such as dementia as their primary diagnosis. 11% of cases identified behavioral health issues as their primary diagnosis.
 - *“I might just have 27 wards but 4 of them are sometimes just as demanding as 50.” – Public Administrator*



Wards by primary diagnosis

⁹ Non-identifiable data

RECOMMENDATIONS

Consistent opportunities surfaced across both the quantitative and qualitative research, and these are coupled with high satisfaction with the Missouri Association of Public Administrators (MAPA) among PAs. This indicates that there would be strong support for statewide initiatives or programs spearheaded by MAPA and presents a key opportunity for the organization to take actionable steps to convene and motivate their members and stakeholders in an effort to improve Missouri's public guardianship system.

Opportunities exist to address systemic changes collaboratively and innovatively, but they will require cooperation among state agencies and community-based organizations.

Developmental disability and mental health initiatives may look different given the resource structure of the Department of Mental Health. *This is the most significant opportunity for change.*

- **Increase advocacy efforts with key stakeholders.** In order to be successful in addressing systemic changes among state agencies and community-based organizations, it is critical that the MAPA continue to **prioritize advocacy efforts with key stakeholders - providing them with education surrounding the roles and responsibilities of PA, as well as those they serve.** Advocacy efforts should also include ongoing education with stakeholders in any changes to MAPA policies (best practices, etc.) and any changes to guardianship statute.
- **Serve as a convener and coordinator of statewide partnerships.** Many organizations interact with the guardianship system because wards may need services and support from a range of providers. PAs do not provide direct services but work as a connector between the wards and the support services. In order to synchronize services and effectively leverage the full network of available resources, **MAPA has the opportunity to serve as convener and coordinator of statewide partnerships and collaborations to holistically meet the needs of the ward population.** Collaborative partnerships might include the following: behavioral health providers, residential care, acute care facilities, mental health liaisons and local first responders, local councils, nonprofit agencies, judges, regional attorneys for a legal support network, and other advocacy/support organizations such as National Guardianship Association, Federation of Behavioral Health Advocates, Missouri Guardianship Alliance (MOGA), Missouri's Working Interdisciplinary Network of Guardianship Stakeholders (MO-WINGS), and Missouri Protection and Advocacy (MO P&A).
- **Improved data collection and management.** In order to better understand opportunities to improve efficiencies and streamline the work of PAs, it is important that the state has a better macro-level understanding of the system. Currently, there **is no centralized tracking system for public guardianship cases in Missouri, when reliable data would help policymakers make informed decisions on guardianship policy.** On a basic level, MAPA has the opportunity to work towards a system that would track the number of wards in the

public guardianship system. MAPA should also develop a means to succinctly communicate data to leverage greater resources.

- **Oversight and community-based support and monitoring for wards with a history of violent behavior.** Currently, there is a lack of community-based oversight for wards who have a history of violent behavior, especially when wards are not considered forensic. Studies show that violent or dangerous behavior does not stop once a guardianship is put in place,¹⁰ resulting in risk to PAs and the community when one of these wards is added to their already too high caseloads. While these individuals could benefit from a guardian, this is not an effective solution without additional supports in place. **MAPA should explore whether existing state programs, such as the forensic services, could be modified or expanded to include additional populations of wards with violent behavior.** MAPA should also work to better understand these populations from a macro-level through the development of a system that measures ward acuity, which is further detailed in a later recommendation.
- **Increased collaboration and communication between Public Administrators and providers.** Wards would be better served with increased collaboration and communication between PAs and contracted care providers (state hospitals, residential care, behavioral units, etc). PAs report that they often do not know that an issue with their ward exists until it becomes a crisis. MAPA should **develop a system for facilitating more frequent communication between PAs and providers** and streamlining that communication.
- **Explore possibilities for State oversight and coordination.** Respondents generally agree that the state of Missouri should be doing more to support and oversee the public guardianship system. Possible roles that emerged included: **state assistance in very high-needs cases, state assistance for helping PAs and family guardians identify and access placements for wards, and modeling changes after other state best practices for Public Guardianship.**

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¹⁰ Teaster, P. Abner, E., Schmidt, W., Zhao, Y., Zarghami, F., Wayve, J., Handy, M. (2019). Wards with a history of violent or dangerous behavior and the effects on Kentucky's public guardian program.

Opportunities exist to implement more robust training, including continuing education, professional development, and basic education around state networks and structure. These are the most immediate solutions that MAPA can implement which will benefit PAs.

- **New Public Administrator training and onboarding process should be more comprehensive and guaranteed for all Public Administrators.** Improved onboarding and training opportunities and expectations of PAs was identified by PAs as a top opportunity for improving the system overall. While there is new PA training for those elected on the regular election cycle, this training only occurs every four years. **There is a lack of training available for PAs who are elected and assume their roles in the off years, which has accounted for nearly 40 PAs since 2016 alone.** These PAs assumed the office without any formal training and were not provided training until MAPA's annual convention in April. MAPA's development of a standards of practice manual, which was being finalized at the time this report was released, will be helpful for new PAs as well.
- **Public Administrator workshops/training modules.** MAPA should **consider developing multiple online modules for prospective, newly elected, and current PAs.** A video for expectant PAs should describe the day-to-day functions of a PA, skills and expertise that will help individuals succeed as a PA, and an overview of those who a PA serves. Another module could be developed for newly elected PAs and include more detailed instruction on the job, as well as best practices.
- **Continuing education on ward placement, community support, and eligibility requirements.** PAs named assistance in finding placements as the most helpful resource they could have in their office and were **nearly unanimously in favor of professional development opportunities to learn about resources for ward placement, community support, and eligibility requirements to access them.** MAPA should emphasize this as a topic for both new PAs and as a topic for continuing professional development, and this could also be implemented via online modules.
- **Access to legal, financial, social/community support services, and medical consultation.** In order to provide comprehensive guardianship and conservatorship services and to make informed decisions on behalf of their wards, it is important that PAs have access to legal, financial, social/community support services, and medical consultation. Some PAs feel ill-equipped and under-resourced in these key areas of need. MAPA should explore how PAs can access consultation in these areas. **With the diverse skillset offered by the Association's membership as a whole, this could be leveraged through utilizing the expertise within the Association's membership or through partnership with key stakeholders.** MAPA could also consider building informational guides for PAs in these areas, outlining best practices, frequently asked questions, and resources to contact for assistance.

Opportunities exist to address process changes to simplify or streamline the work of the Public Administrators.

- **Greater and more timely access to information on wards.** Forty percent (40%) of PAs do not feel that they receive adequate information on their wards in order to provide them with quality care. Of those who do not feel the information is adequate, reasons include lack of medical information or family history and lack of needed documents (e.g. birth certificates, SSN, etc.). They describe a need to go searching for the information, encountering providers who are resistant to sharing information or who lack the resources to do so effectively. **PAs should identify barriers to obtaining the information outlined below and advocate for systemic solutions to ensure all PAs can gain access to this information to make decisions on behalf of their ward.**
 - **Basic information on a ward, including social security number, date of birth, Medicaid number, etc.** In order to provide access basic housing and medical treatment for a ward, a PA must have access to basic information and supporting documents including a ward’s social security number, date of birth, and Medicaid number. There are instances where PAs are not receiving this information or are not receiving it in a timely enough fashion to make immediate decisions on a ward’s behalf.
 - **Access to past arrest records and criminal charges brought forth against wards.** PAs would be able to make safer and more appropriate decisions on behalf of their wards if they were able to access past arrest records and criminal charges brought forth against their wards. Many wards come into public guardianship through the criminal court system; and in many of these instances, charges against a ward have been dropped before a guardian is sought. This is especially true for wards with a history of violent or sexual offenses. This information would help PAs make more informed decisions about that individual’s placement are conducive to both the ward’s and community’s safety.
 - **Medical, psychological, and psychiatric records of wards who are under full guardianship.** State statute requires that a guardian of an incapacitated person provide for the ward’s care, treatment, habilitation – including assuring that the ward receives medical care and other services that are needed and promoting and protecting their care, comfort, safety, health, and welfare. This also requires that they consent to medical treatments on behalf of a ward. In order to ensure that they are making the best decision possible on behalf of a ward under full guardianship, a PA needs access to relevant medical and psychological records. State statute requires that PA receive medical opinion and other exhibitors as it relates to the guardianship petition, or as it relates to their deeming of someone as incapacitated, but it does not require that PAs can gain access to a ward’s full medical, psychological, and psychiatric records. MAPA should consider developing a formalized letter for guardians to offer to providers who may have concerns with

sharing medical records, when this information would be important to making relevant and necessary decisions.

- **Creation of standardized digital forms and reporting instruments.** PAs report time spent on administrative tasks interferes with their ability to interact with wards. PAs could benefit from the **creation of standardized forms and reporting instruments that are used consistently under guardianship and conservatorship, including templates for: forms for petitioning guardianship, settlement forms, reports to the court, financial reports for conservatorship, reports on guardianship actions,** and other various forms that guardians regularly prepare. There would be an added streamline benefit to the creation of electronic forms and encouraging PAs to take advantage of that approach when possible.
- **Guidance on implementation of state statute related to guardianship.** Understanding that guardianship statute is often implemented inconsistently across jurisdictions, opportunities exist to help **provide guidance to those implementing statute, including education for judges, state agencies, and PAs themselves.** PAs can work with and advocate to those stakeholders to help them understand the intent of the legislation and the impact it has on PAs and those they serve.

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Opportunities exist to seek additional county and state public funding through policy initiatives, yet they are complex, so a realistic and strategic approach is required.

- **Track cost savings to the state.** The Commonwealth of Virginia has successfully used cost-savings figures not only to justify the establishment of its public guardianship program, but also to increase its funding and total number of programs. Through its tracking system, Virginia has found that its public guardianship system saves the state over 2.6 million dollars each year for the 236 wards it serves.¹¹ MAPA should consider the Virginia model and determine whether it would be suitable for the state Missouri or **consider developing another cost-savings tracking system in order to more effectively advocate for funding.**
- **Advocate for state funding.** Missouri’s funding for public guardianship has been identified by national experts as uneven and patently insufficient, resulting in sometimes dangerously high caseloads. Currently, Missouri is in the minority of states that do not receive any kind of state funding for its public guardianship system. Being situated as a county-based office makes advocacy for state funding particularly challenging – whereby any state requirements for the county to provide staffing or office funding is considered an unfunded mandate to counties. MAPA **should identify strategies for working with stakeholders and making the case for the state to provide to directly support the public guardianship system,** without placing any further burden on the counties.
- **Explore opportunities for Federal funding.**
 - **Medicaid:** At least seven states use Medicaid dollars to fund the establishment of guardianship or for guardian services - varying in their approaches. MAPA should work with the Department of Social Services to identify any innovative solutions to using Medicaid to fund guardianship in Missouri.
 - **Social Service Block Grant:** Some states, including North Carolina and Maryland, support their guardianship programs through a federal Social Service Block Grant (SSBG). Uses for the grant include: reducing dependency and promote self-sufficiency; protecting children and adults from neglect, abuse and exploitation; and help individuals who are unable to take care of themselves in their homes or to find the best institutional arrangements – all of which are consistent with the goals of public guardianship. MAPA should look into how Missouri is currently using its SSBG funds and determine whether there are opportunities to use these funds for the purposes of public guardianship.
- **Pursue Opportunities for Private Funding.** MAPA should explore funding opportunities from private organizations and foundations who focus on issues such as health policy, social justice, disability rights, mental health, and more. These **funds could be directed towards special projects that are also recommended in this report, such as a coalition-building**

¹¹ Teaster, P., Roberto, K. (2003) Virginia Public Guardian and Conservator Programs: Evaluation of Program Status and Outcomes, Executive Summary.

grants for convening guardian stakeholders, or to hire an entity to assist in developing a ward measurement and acuity system.

- **Create a uniform process of gauging, quantifying, and communicating acuity of wards – tie funding and staffing to caseload composition.**
 - **Develop a recommended staffing ratio and codify it in state statute.** A statutorily established staffing ratio is one of the hallmarks of an efficient, effective, and economic program of public guardianship.¹² In creating an official ratio, Missouri would be following at least six other states – including Nebraska, Washington, Virginia – who have a statutorily restricted ratio of 1:20 which is consistent with national best practices. It is important that the staff counted in these ratios are considered professional staff, or ones who can make binding decisions on behalf of a ward.
 - **Develop a system for quantifying the acuity of wards and method for communicating these findings to decision-makers.** States such as Oregon have a sophisticated system for evaluating the acuity of individuals in its public guardianship system, and Tennessee goes one step further by using a weighted scale to determine funding, with full guardianship receiving the highest number dollars. MAPA should further **explore what this system could look like in Missouri – including measurements for acuity of care; variation in assets; other supports available; substance use or abuse; co-occurring diagnosis; functional ability; tendencies for violent behavior, etc.** Not only would this help to better evaluate the needs to the public guardianship system overall, but it could also be used as leverage for funding.
 - **Remove “letters” in statute as it relates to salaries for Public Administrators.** Current statute allows PAs to be treated and compensated as part-time employees if they’re serving under forty wards, or “letters.” This is an antiquated method for evaluating the workload for a PA, especially as caseloads are becoming more challenging and complex. Additionally, there is no clear definition of letters as it relates to the salary of a PA. PAs should advocate for removal of letters as it relates to workload measurement and compensation.
- **Alleviate the burden on the public guardianship system by promoting alternatives and restoring the rights of individuals.** While working to promote funding opportunities, MAPA should also work towards alleviating the current financial burden on the public guardianship system by **promoting alternatives to PAs as guardians and the restoration of rights of individuals.** Not only is this a consideration of funding, it could also provide more positive outcomes for wards. Missouri Protection and Advocacy Series is one existing resource that can help PAs who are in these situations, but PAs must be willing to work with MO P&A and

¹² Teaster, et. al., 2007.

share information so that MOP&A can determine if a ward is suitable for restoration or a less restrictive alternative.

- **Education on alternatives to public guardianship.** PAs, by definition, are guardians of last resort. Although Missouri outlines least restrictive alternatives that the court should consider before appointing a guardian, both PAs and stakeholders feel that **PAs are too often assigned before alternatives have been exhausted.** MAPA should work with stakeholders to promote alternatives to guardianship, such as the use of families and kin as guardians or conservators or as limited guardians or conservators, and the use of supported-decision agreements. It is important that this education is provided to families, judges, physicians, service providers and PAs.
- **Education for families on the implications of public guardianship.** There are times that families may not fully understand the implications of a full guardianship. Since PAs often have large caseloads, it also means that an incapacitated individual does not receive as much direct time or care as they would if they were being taken care of by their families, which can lead to frustration among family members. MAPA should work on strategies to ensure families are aware of the implications of guardianship while also promoting alternatives.
- **Provide resources to families to ensure that they can be successful as guardians.** Provide them resources and assistance in navigating the state mental health and judicial systems, as well as access to the same documentation needs as mentioned above. Consistent access to documents, forms, and basic education on State systems that is recommended herein for PAs should be provided to families in their role as guardians.
- **Provide families with resources to work through dispute.** Stakeholders agree that some judges are too quick to appoint a PA – especially when there is more than one family members who both want to be guardian or there is dispute within about the family about who will be the guardian. PAs should advocate for the use of temporary guardianships amid disputes. Additionally, **MAPA should work with the court system to see if opportunities are available to provide families with intervention or mediation services.** These dual approaches would still ensure that the need for a guardian is being met but also allow families to ultimately assume that role.
- **Supported-Decision Making:** A more recent trend that has emerged as a best practice for providing alternatives to guardianships is **supported-decision making.**¹³ In 2018, it was officially codified in Missouri law as an alternative to guardianship. Before appointing a PA, the court is directed to consider whether the respondent’s

¹³ “Supported decision making (SDM) is a tool that allows people with disabilities to retain their decision-making capacity by choosing supporters to help them make choices. A person using SDM selects trusted advisors, such as friends, family members, or professionals, to serve as supporters. The supporters agree to help the person with a disability understand, consider, and communicate decisions, giving the person with a disability the tools to make her own, informed, decisions,” American Civil Liberties Union, https://www.aclu.org/sites/default/files/field_document/faq_about_supported_decision_making.pdf

needs may be met without the appointment of a guardian or conservator through a less restrictive alternative.¹⁴ There are steps that MAPA could take to enhance education and promotion of supported-decision making. For example, supported-decision-making may require agreements of protection and supportive services or arrangements provided by and between individuals and public/private services or agencies. MAPA should strive to **better promote the use of support-decision making by providing education, standardized agreements, and guidance on best practices** to various individuals and entities.

- **Use of emergency guardianships.** In instances where incapacity may be temporary, or before family can be found, emergency guardianships could be used in place of full guardianship – allowing someone to regain capacity or for families to come forward. PAs should be able to advocate for this approach.

¹⁴ Revised Statutes of Missouri 475.075.13(4)

ACKNOWLEDGEMENTS

About the Researcher



Since 2008, Simply Strategy has been utilizing the consistent model of research first, combined with efficient project management, to lead and manage multi-faceted teams. Our methodology -- inquiry, insight, ideation and implementation -- has produced successful results for clients in the public health, managed care, business, and healthcare service sectors. Passionate about the necessity of inquiry as a foundation to any program, plan, or campaign, Simply Strategy serves a range of mid-sized organizations to Fortune 500s who value an articulated strategy formed from true insight. Simply Strategy's multi-disciplinary team conducted the inquiry and learning process, developed materials, coordinated communication, led the planning process and completed the analysis and strategic outline.

About the Funder



The Missouri Association of Public Administrators (MAPA) is an organization devoted to the education of county public administrators and the improvement of care standards for their wards. MAPA also serves as an advocacy group for the mentally ill, intellectually disabled, those with brain injuries and elderly individuals with dementia. Founded in 1981, MAPA is comprised of the public administrators from across Missouri.