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Commissioners: Gina Cerilli, Chairman •
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Good morning Senator Collins, Senator Casey and the members of the United States Special Committee on Aging. Thank you for this opportunity to provide testimony about the very important topic of guardianships of older adults. I am Denise Flannigan and I am the Guardianship Supervisor for the Westmoreland County Area Agency on Aging which is located in Western Pennsylvania. There are 52 AAA service areas within the 67 counties in the state. Currently, 19 of the 52 AAAs have a designated guardianship program while the remainder of the AAAs refer older adults in need of guardianship services to outside guardianship agencies.

A guardianship often originates through a substantiated AAA protective services investigation where the alleged incapacitated older adult is found to be either a victim of abuse, neglect, financial exploitation or self-neglect and does not have a responsible caregiver. Through our county solicitor, our Protective Services Investigator petitions to have our AAA serve as Guardian of the Person, Guardian of the Estate, or both when it is necessary to reduce the risk to the older adult. This happens when there are no lesser restrictive measures and when there are no other appropriate family or friends available and willing to serve.

Our Guardianship Unit has the capacity to serve eighty Consumers (our term for the older adults in our care.) We serve as either Power of Attorney or Guardian, based on the Consumer's capacity at the time of the need for intervention. Our team has four Aging Care Managers with a maximum caseload of twenty Consumers each, we have two Case Aides, a Fiscal Officer and a Nurse who is shared with our Protective Services Unit. We also have an Off Hours Coordinator at our AAA who is able to provide decisions outside of the normal business hours of our agency. This small caseload is required due to the intensive case services that a guardian provides.

Our main duties while permitting as much autonomy as possible when serving as the Guardian of the Person, are to be responsible for making decisions regarding the health and well-being of the Consumer. The range of personal/health care responsibilities include making decisions about personal care, living arrangements, medical treatment and other day-to-day matters related to health, safety and quality of life. We make decisions ranging from where they will get their groceries to end of life decisions including burial arrangements.

As the Guardian of the Estate, we are responsible for all financial matters. The range of responsibilities include managing their income while serving as fiduciary, budgeting, paying all of their bills, as well as, responsibly managing their principal assets including real estate, investments, and savings while making pre-paid arrangements for burial.

Our team functions as a close knit group which includes attendance in our mandatory weekly team meeting. We also interact closely on a daily basis sharing relevant information, changes and updates regarding the finances, health and well-being of all of the Consumers in our care. This Guardianship Unit Team Philosophy is necessary, as we are required to be informed decision makers available 24 hours a day to make decisions on behalf of our Consumers served within the Guardianship Unit. All team members must be up to date on the status of each Consumer in order to respond appropriately during their workday to any need that should arise in the care of the Consumer and his or her estate. The Off-Hours Coordinator is prepared to make appropriate decisions on behalf of Consumers requiring emergency medical treatment outside of regular business hours.

The majority of Consumers we serve are over the age of 60, however, we do occasionally serve as Guardian for Consumers under the age of 60. Our Consumers reside in a variety of settings throughout the county including skilled nursing facilities, personal care homes, community group homes, Torrance State Hospital, apartments and single dwelling homes. They live in the least restrictive environment based on the Consumer's level of care, their financial situation and their wishes.

In addition to being the Guardianship Supervisor, I often provide guidance and support to individuals, family members and agencies regarding guardianship issues within the county. Often, a newly appointed family guardian may have a question regarding reporting requirements or a basic question related to securing benefits on behalf of the Consumer. As the point person for guardianship, I have the unique position to learn of actions or lack of actions by others serving as the guardian. At times, this information comes to light through a Protective Services investigation where the allegations involve abuse, neglect or financial exploitation of the Consumer by the guardian.

Several years ago, a guardianship agency serving older adults in our county and several surrounding counties came to my attention due to allegations of neglect and financial exploitation. Although the investigations could not be substantiated, this agency and their methods of operation remained of concern to me. Over the course of the next year, additional concerns continued to come to my attention. The themes of the allegations centered on the lack of responsiveness to making medical decisions and mismanagement or neglect of assets. It was not clear in the beginning, if this was a situation of a new guardianship agency growing too big too fast or if there were designing persons serving in the guardianship agency. I had multiple interactions with this particular agency in an attempt to educate them in their responsibilities. At the time, I had no formal oversight of them and was not privy to their records or anything other than what they discussed with me.

In 2015, I was approached by a local attorney representing a family member of an older adult who was under the guardianship of this particular guardianship agency. I will refer to the guardianship agency as "D." The attorney explained that the family had had numerous issues with "D." He had petitioned the court to remove "D" and he was requesting that our AAA agree to serve as the successor guardian. With my previous issues and concerns relating to "D", along with the information that was presented by this attorney, our agency agreed to accept the appointment.

As the successor guardian, we had access to a detailed review of the previous years of activity of the prior guardian and it became very clear that there had been significant mismanagement of assets. "D" failed to properly inventory, secure, insure, maintain or liquidate the Consumer's home. This home depreciation resulted in a loss of nearly \$21,000. "D" also neglected to

properly complete the application for veteran's benefits due the older adult. The loss of income over the 22 month period was over \$25,000. The Consumer was evicted from one personal care home due to non-payment in the amount of \$16,000 and there was a negative balance of \$15,000 at the personal care home where the Consumer resided upon our appointment. "D" stopped paying the life insurance premiums resulting in principal being used to cover them. During this time, they continued to take their guardianship fees and attorney fees. As I continued to uncover their mismanagement and the negligence became clear, we worked closely with our county solicitor to have them compensate our Consumer. Their lack of cooperation and lack of acceptance in responsibility, led us to petition the court for an Exceptions to Accounting and Request for Surcharge. Eventually, we did come to an agreement and "D" signed a judgement note to make payments to our Consumer.

Though our local court will no longer appoint to this particular agency, this guardianship agency continues to be in operation. I am aware of other successful petitions to remove this agency on other guardianship appointments. I have offered support and guidance to the family members who have become successor guardians who continue to have a lack of cooperation from "D".

Situations like these are able to happen because of a combination of factors. First and foremost, guardianship is a system serving our most vulnerable older adults, those found to be incapacitated by the court, often with a lack of family or friends, who are essentially at the mercy of the guardians appointed to protect and care for them and their assets.

Our system also has a lack of checks and balances to monitor the activity of the guardian. We have guardianship agencies being appointed with no mandatory background checks, or minimum training requirements to qualify someone to be a guardian. There are a lack of regulatory guidelines and supervising entities, and with exception of court required inventories and annual reports, very little oversight.

There is significant risk potential to an older adult when a family or friend is appointed to serve as a guardian; however, this risk grows exponentially with a professional guardianship agency who serves multiple older adults under guardianship. There are no restrictions on the number of incapacitated persons for whom an agency can serve.

There is also the issue that it is often difficult to find individuals or agencies willing to serve as the guardian. The guardianship responsibilities are significant and require time, resources and expertise to be done properly. Often, there is minimal compensation for the services provided by the guardian.

The guardian is appointed to be the number one advocate, the responsible fiduciary and the substitute medical decision maker working in the best interest of the person for whom they are guardian. With our current lack of background requirements, training, oversight, and funding it is possible for the older adult to be neglected or exploited by the very entity appointed to protect them.

Thank you for this opportunity to provide testimony on this very important topic of older adults and guardianship. The Westmoreland County Area Agency on Aging is committed to serving the older adults in our community and believes that providing excellent guardianship services should be an expectation not an exception. We are hopeful that this attention into guardianship issues helps in establishing the additional safeguards needed to protect all older adults under guardianship.