



Written Testimony for the 2023 JOINT LEGISLATIVE BUDGET HEARING

**Senate Finance Committee, Chair Liz Krueger
Assembly Ways and Means Committee, Chair Helene E. Weinstein**

MENTAL HYGIENE

February 16, 2023

Submitted by Kimberly George, President and CEO, Project Guardianship

Thank you for the opportunity to submit testimony today. My name is Kimberly George, and I am President and CEO of Project Guardianship, a recent spinoff of the Vera Institute of Justice and an independent non-profit organization providing comprehensive, court appointed guardianship services to hundreds of limited capacity New Yorkers citywide. We serve clients regardless of their ability to pay and provide services for some of the most compelling and complex cases in the city. Our clients include older New Yorkers living with serious mental illness, disability, dementia, substance use disorder (SUD), Traumatic Brain Injury, and other conditions that negatively impact their ability to make decisions. We also share research and recommendations for building a better guardianship system and advocate for a more equitable service response for people in need of surrogate decision-making supports or protective arrangements.

New York is currently in the grips of a mental health crisis impacting a greater share of older adults than ever before, in part due to the coronavirus pandemic. Over the past three years, we have witnessed our older neighbors struggling with increased isolation, depression, and anxiety, compounded by their limited access to technology and telehealth¹ services. We therefore anticipate an imminent growing need for guardianship services due to several factors including: the dramatic rise in our older adult population statewide; a recent NYC directive pursuant to New York State Mental Hygiene Law Section 9.41 that allows for the involuntary hospitalization of individuals that appear too mentally ill to care for themselves; and the inability of accessible, geriatric mental health services to meet the forthcoming need.

One in five adult New Yorkers is likely to experience a mental health disorder in any given year². Access to care, however, varies greatly, with low-income and/or rural New Yorkers facing significant barriers to receiving adequate, integrated mental health and substance use disorder treatment. In fact, residents of New York City's lowest income neighborhoods are twice as likely to be hospitalized for mental illness compared to residents from the highest income neighborhoods³. Low-income adults in

¹ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8775148/>

² https://www.health.ny.gov/prevention/prevention_agenda/mental_health_and_substance_abuse/mental_health.htm#:~:text=The%20Burden%20of%20Mental%20Illness&text=Every%20year%2C%20more%20than%201,work%2C%20family%20and%20school%20life

³ <https://thrivenyc.cityofnewyork.us/wp-content/uploads/2021/02/ThriveNYC-ProgressReport-2021.pdf>



rural areas of the state face additional challenges including workforce shortages, a dearth of public transportation, and isolationism that can all exacerbate symptoms as well as delay treatment

At the same time, community-based mental health providers in New York are facing myriad challenges: staff is difficult to attract or retain; Medicaid reimbursement rates are low; individuals experiencing a mental health crisis, especially those in poorer neighborhoods, are more likely to encounter police or the hospital system. In many cases, when individuals are hospitalized due to severe mental illness, guardianship steps in for those patients who cannot consent to medical services or arrange the financial components of a safe discharge. According to a recent report by the American Bar Association, mental illness is the reason for guardianship appointments in approximately 20% of cases nationwide. Anecdotally, over half (54%) of our clients have a diagnosed mental health condition. Further, because of a recent NYC directive ordering first responders to remove homeless mentally ill people from the streets, hospitals and other providers can anticipate an influx of psychiatric patients.

We have seen firsthand that guardianship is a critical link to supportive services and mental health treatment for New Yorkers whose limitations have prevented them from accessing those services. A good guardian can not only reduce the criminalization of mental health issues but provide person-centered care that aligns with a person's wishes and preferences in the community, saving Medicaid dollars through the prevention of unnecessary costly hospital admissions.

And while New York is fortunate to have strong legal protections that entitle individuals access to guardianship services, this mandate is underfunded and there is currently no direct, sustainable funding stream to ensure statutory compliance. If a family member cannot serve as guardian, non-profit organizations, county social services districts and private attorneys must step in to provide these critical legal and social services in a patchwork manner, but the demand for assistance greatly outpaces capacity. In some regions, there is limited to no access to these resources, especially for low-income individuals without family and unable to hire a private attorney.

Further, private attorneys are stepping away from guardianship practice due in part to the intense and time-consuming nature of the work alongside strict limitations on legal fees. Courts are increasingly reliant on nonprofit providers to deliver vital services to the most vulnerable among us. Nonprofits' interdisciplinary team-based models of employing case managers, finance associates, and attorneys offer guardianship clients the individualized, wrap-around support that solo private practitioners cannot. In order to best serve this population and provide them with the long-term care and support they need to thrive, nonprofit guardianship agencies will need a robust infusion of funding by New York State.

We are therefore requesting a \$15 million appropriation to non-profit community guardianship organizations so that services may be expanded to 1,500 people annually across the state. This funding would also help to provide technical assistance, quality assurance, data collection, and to pilot a statewide Guardianship Prevention and Support Helpline, which is presently being developed by Project Guardianship. Due to the court process for ordering and commissioning guardianship appointments, an



immediate investment would allow existing nonprofit programs to staff up and expand or build new programs in counties without a current provider.

We ask that you include funding for guardianship services in your budget bills so that providers can offer interdisciplinary services for more New Yorkers who will undoubtedly enter guardianship arrangements as New York reckons with and responds to a mental health crisis, involuntary hospitalization is executed, and our communities continue to recover from the pandemic.

Thank you for your consideration.

Please contact Kimberly George at kgeorge@nycourts.gov with any questions or requests for additional information.