



Disability and Guardianship Project
Disability and Abuse Project

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Hon. John Sugiyama
Chair, Probate and Mental
Health Advisory Committee
Judicial Council of California

April 13, 2018

Re: Comments on SPR18-33 / Guardianship and Conservatorship Court Appointed Counsel

Dear Judge Sugiyama:

Please extend our appreciation to members of the committee for the work they have done in response to our oral presentation in November 2014 and our written proposal submitted to the committee in May 2015. We offer the following comments to the proposed change in Rule 7.1101.

The topics required to be included in mandatory training are generally good. However, we suggest that two additional matters be added:

- (a) alternatives to guardianship, including supported decision-making, and supports and services available to make such alternatives feasible; and
- (b) disability and sexuality, especially as those issues pertain to the topics of rights, abuse, and capacity.

There is a growing interest, indeed a movement, in California and throughout the nation to require serious exploration of alternatives to guardianship and conservatorship in the pre-planning and judicial review process. Well educated court-appointed attorneys are an integral part of that process. They should receive training on that subject matter.

The issue of sexuality of seniors and people with developmental disabilities is delicate and is often avoided altogether or handled in the most superficial manner in conservatorship proceedings. Therefore, it is important to have this topic specifically mentioned in training requirements. Assuming that the matter will be covered in other general categories runs contrary to human nature. The natural reaction of most people is to avoid the topic of disability and sexuality.

Finally, we apologize that op-ed in the Daily Journal contains an error. A closer reading of the proposal has clarified that local courts *may* impose greater training requirements. A communication will be sent to the publication today asking the editor to publish a follow-up notice of correction.

Thomas F. Coleman
Disability and Guardianship Project

Very truly yours,

Nora J. Baladerian, Ph.D.
Disability and Abuse Project