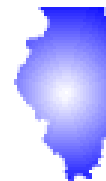


**ILLINOIS GUARDIANSHIP ASSOCIATION**

160 North LaSalle, Suite S-500, Chicago, IL 60601  
312-793-5900 phone  
312-793-4311 fax

**IGA**



**IGA ANNUAL BUSINESS MEETING & CONFERENCE**

April 25, 2005

8:45 a.m. – 3:30 p.m.

Michael Bilandic Building, Room C-500  
160 North LaSalle, Chicago

To reserve a space or to make inquiries, please contact Gina Rossi at  
[grossi@gac.state.il.us](mailto:grossi@gac.state.il.us) or 312-793-5900

**AGENDA**

- 8:45 – 9:00 Registration**
- 9:00 – 9:50 IGA Annual Business Meeting**      **President's Report – Catherine Goebel**  
Election results  
Committee reports  
Incoming President's Address – Ben Brown
- 9:50 – 10:15 Wingspan and Recommendations for Guardian Certification**  
An overview of recent Wingspan recommendations regarding guardian certification, continuing education, and the role of professional organizations such as the National and Illinois Guardianship Associations
- 10:15 – 10:30 Break**
- 10:30 – 12:30 Panel Presentation – Religious Diversity and Medical & End-of-Life Decisionmaking**  
Representatives of different faiths will discuss their respective teachings as they pertain to medical and end-of-life decisions and burial customs.  
Question and answer session will follow.
- 12:30 – 1:30 Lunch On Your Own**
- 1:30 – 3:30 disabilities Panel Presentation – Cultural Diversity and Working with Persons with disabilities**  
Professionals and educators will discuss and demonstrate the value of awareness of cultural differences in working with persons with disabilities.  
Question and answer session will follow.
- 3:30 Adjournment**

The IGA Newsletter is a quarterly publication  
The next issue will be published in **June 2005**  
Send articles, questions and suggestions to Bill Scheidemantel via e-mail [bscheidemantel@gac.state.il.us](mailto:bscheidemantel@gac.state.il.us)  
or fax 217-892-4598

**IGA NEWSLETTER – VOLUME 3, Issue 2**  
(April 2005)

**Current**  
**IGA Board of Directors**

**President** Catherine Goebel MA, MS Ed, RG-NGF

**Vice-President** John Erbes JD

**Treasurer** Sandra Hayes RG-NGF

**President-Elect** Benjamin Brown JD

**Secretary** Gina Rossi RG-NGF

**Board Members:**

Terrance Godbolt JD

Sharon Rudy JD, RG-NGF (4/2006)

Perry)Patterson RG-NGF (4/2006)

William Scheidemantel JD, RG-NGF

Helen Godlewski Brownfield MBA, RG-NGF (4/2007)

Susan Hagrelius MSW, LCSW, RG-NGF (4/2007)

Anthony Rothert JD, MSW, RG-NGF (4/2007)

Sue Sherock, Cook Co. OPG

**ILLINOIS GUARDIANSHIP ASSOCIATION**

**2005-2006 SLATE of OFFICERS and BOARD MEMBERS**

**President:** Benjamin Brown, JD, MBA, RG-NGF **President-Elect** Bill Scheidemantel, JD, RG-NGF

**Vice- President**

Terrance Godbolt, J.D., M.B.A., RG-NGF

**Treasurer**

Sandra Hayes, RG-NGF

**Secretary**

Gina Rossi, RG-NGF

**BOARD MEMBERS – TWO POSITIONS – TERMS EXPIRE 4/2008**

Steve Perlis, JD

Linda Begnel

**BOARD MEMBER – ONE POSITION – TERM EXPIRES 4/2006**

John Erbes, JD

**IGA members received ballots in the mail, which must be postmarked by April 19, 2005.**

**Immediate Past President** Catherine Goebel, RG-NGF, M.A., M.S. Ed

**Continuing Board Member (terms expire 4/2006)**

Sharon Rudy, JD, RG-NGF

Perry Patterson, RG-NGF

**Continuing Board Member (terms expire 4/2007)**

Susan Hagrelius, MSW, LCSW, RG-NGF

Anthony Rothert, RG-NGF, JD, MSW.

Helen Godlewski Brownfield, RG-NGF, MBA

**ADVERTISING OPPORTUNITIES:**

**Newsletter:** The newsletter is printed quarterly and offers your business direct exposure to over 200 guardians and other professionals and service providers interested in guardianship of disabled adults.

**Cost:** \$25.00 for business card inclusion, \$75 for 1/4 page, \$150 for 1/2 Page

Affiliate of National Guardianship Association



**GUARDIANSHIP FUNDAMENTALS -  
ADVANCE DIRECTIVES AND ALTERNATIVES IN END-OF-LIFE DECISION MAKING**

The tragedy of the Terry Schiavo case resonates strongly with all of us who have struggled with end-of-life decisions in our professional and personal lives. One positive we can take from the glare of media, legal and political attention is that light has been shed upon the need for families, friends, and guardians to discuss, plan, communicate, and, after due deliberation, commit to paper one's wishes in the event of such dire circumstances.

Living wills and other instruments have received a lot of press, and in general state law establishes as public policy a preference for advance directives over guardianship proceedings. What advance directives are available under Illinois law?

**The Illinois Living Will Act.** This Act became law in 1984, and was the first statute in Illinois explicitly acknowledging the right of persons to decide whether or not to have death-delaying procedures withheld or withdrawn.

As a first effort, the law does not encompass all conditions and all procedures. The patient must have a terminal condition where death is imminent before the provisions of a pre-existing living will can be invoked. Furthermore, a living will cannot be used to withhold or withdraw nutrition and hydration where the result would be death by starvation or dehydration.

The Living Will Act is still in effect. A living will is a written declaration intended to communicate to attending physicians and family the patient's wishes regarding the use of death-delaying procedures, subject to the limitations outlined above, should the patient's condition becomes terminal and his or her ability to communicate becomes hindered at that time. The living will should be made part of the person's medical records, for future reference. A living will does not appoint a surrogate or agent to carry out the patient's wishes.

**The Illinois Power of Attorney Act.** This statute became law in 1987, and reflects the legislature's recognition of the need for power-of-attorney instruments to be "durable," that is, to survive the person's incapacity or inability to communicate. With this statute, the General Assembly also recognized as public policy the right of individuals to decline, or to direct the withdrawal of, medical treatment, even if death would ensue.

A durable power of attorney for health care is a written instrument created by a person, called the "principal," in which an "agent" is appointed to carry out the wishes of the principal regarding any or all medical decisions, including the circumstances, if any, under which the agent would be authorized to instruct health care providers to withhold or withdraw life-sustaining treatment.

With a durable power of attorney, the principal controls and directs his or her health care through the express written authority given to the agent in the document,

even in the event the principal becomes incapacitated. Through the written document, the principal controls the circumstances under which the power of attorney may be invoked, and dictates the powers, duties, and limitations of the agent. Unlike the Living Will Act, there are no blanket restrictions in the statute limiting the applicability of these instruments to terminal conditions only. Decisions to forgo nutrition and hydration are not restricted by the law either.

**Acceptance by health care providers.** By regulation, health care providers must inquire upon admission whether a patient has an advance directive for health care such as a living will or power of attorney. Health care providers are understandably nervous about taking the word of a purported agent or other person as to the existence of an advance directive, and can insist upon seeing an original of the document. The use and acceptance of valid advance directives are encouraged by law, and medical professionals are granted limited immunity from liability when they follow what appears to be a bona fide written instrument.

**Health Care Surrogate Act (HCSA).** In passing this statute in 1991, the General Assembly acknowledged that many persons still have no advance directives for health care and also may lack decisional capacity when the time comes for end-of-life treatment decisions. Taking into account the burdensome nature of judicial intervention, through guardianship proceedings for example, the legislature created a mechanism allowing medical providers to turn to a family member or other involved party for surrogate decision-making on behalf of a patient with no applicable advance directive and no decisional capacity, without resort to the courts.

In its original form, the Act applied only to patients with a qualifying condition facing a decision on whether to forgo life-sustaining treatment. The definition of "qualifying condition" under this Act is more expansive than that under the Living Will Act. Under the HCSA, there are three qualifying conditions: terminal condition, permanent unconsciousness, and incurable or irreversible condition that causes pain or otherwise places an inhumane burden upon the patient. If with any of these three conditions, as certified by two physicians, the initiation or continuation of life-sustaining treatment would provide only minimal medical benefit, the attending physician may seek out a surrogate decision maker.

The HCSA sets up a priority list of surrogates to whom the physician may turn. First is any guardian of person, followed by a spouse, adult child, parent, adult sibling, adult grandchild, close friend, and finally, guardian of estate. The surrogate must consider what the patient's wishes would have been had he or she been capable of expressing them. If the patient's wishes are,

## IGA NEWSLETTER – VOLUME 3, Issue 2

(April 2005)

undeterminable, the surrogate must act in the patient's best interest. If there is disagreement among the potential surrogates as to the proper course of treatment, the remedy is to pursue guardianship with the probate court.

In 1998, the HCSA was expanded to cover all medical consents where the patient lacks an advance directive and currently lacks decisional capacity, not just end-of-life treatment. The requirement of a qualifying condition remained in effect, however, for decisions to forgo life-sustaining treatment.

**Legal preferences – Powers of Attorney vs. Living Wills vs. Guardianships.** By statute, for any matters covered by the express provisions of a durable power of attorney (POA), absent a specific court order to the contrary, a POA trumps a guardianship. The petitioner in a guardianship case must therefore be aware of the existence of any valid power of attorney executed by the respondent. If a person has both a POA and a living will, the POA controls over the living will. Again, the HCSA can be utilized only if there is no applicable advance directive, and a guardian can be a surrogate under the HCSA

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### Upcoming Events

#### Medicaid Training – Free Seminar

Mark your calendars. We are having a training on Medicaid for Long Term Care. This is perfect for the elder law practitioner or advocate who works with nursing home residents. The emphasis of this training will be what you need to know to advise and represent nursing home residents, their spouses and caregivers. Please RSVP to Ben Brown at [benbrown@lollaf.org](mailto:benbrown@lollaf.org) or 217-753-3300.

**When:** Friday May 6, 2005, 10am-3pm, lunch will be provided

**Where:** 730 E. Vine St., Room 102, Springfield, IL (directions upon request)

**Speaker:** Susan Dawson-Tibbits, Attorney at Law, Peoria, IL

ILLINOIS GUARDIANSHIP ASSOCIATION  
160 North LaSalle, Suite S-500,  
Chicago, IL 60601

**TIME TO RENEW YOUR IGA MEMBERSHIP**

Renewal notices for 2005 have been sent to all IGA members. If you have misplaced your notice, clip out the form below, update your contact information, and mail it with your dues:

**Illinois Guardianship Association**  
160 North LaSalle, Suite S 500  
Chicago, IL 60601

**Total Amount Due (check one):**

- \$75 Illinois Guardianship Association member only  
 \$25 Member of the National Guardianship Association & Illinois Guardianship Association  
 \$25 Family, Consumer, Student, Non Professional  
 \$2,000 Corporate, Non Voting Member

**Name:** \_\_\_\_\_

**Company/Agency Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**City** \_\_\_\_\_ **State** \_\_\_\_\_ **Zip** \_\_\_\_\_

**Phone** \_\_\_\_\_

**Fax** \_\_\_\_\_

**Email** \_\_\_\_\_

I would like to work on the following committee, Please contact me:

Community Education and

Training\_\_\_

Conference Planning\_\_\_

By Laws and Standards\_\_\_

Legislation\_\_\_

Website Development\_\_\_

Newsletter\_\_\_

Finance and Membership\_\_\_

Nominations\_\_\_

JOIN THE IGA!

If you are not yet an IGA Member, complete this application or contact Sandra Hayes at 708-338-7500 or [shayes@gac.state.il.us](mailto:shayes@gac.state.il.us)