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**Testimony to the New York State Legislature
Joint Hearings of the Senate Finance and
Assembly Ways & Means Committees**

2026-2027 Executive Budget

Topic: Mental Hygiene

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Written Submission by:
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Thank you, Chair Krueger and Chair Pretlow, for the opportunity to submit this testimony to the Joint Legislative Budget Hearing on Mental Hygiene. We present this written testimony on behalf of Karen Nicolson, CEO of the Center for Elder Law & Justice (“CELJ”). CELJ has been serving the Western New York region for over 40 years, providing free civil legal services to older adults, persons with disabilities, and low-income families. CELJ’s primary goal is to use the legal system to assure that individuals may live independently and with dignity. CELJ also advocates for policy and systems change, particularly in the areas of housing, elder abuse prevention, nursing home reform, and consumer protection. Currently CELJ provides full legal representation in ten counties of Western New York.¹ CELJ’s Free Senior Legal Advice Helpline is open to all of New York State. CELJ operates a main office in downtown Buffalo, with three additional offices in Cattaraugus, Chautauqua, and Niagara counties.

For reasons detailed below, **we urge the Legislature to support a Statewide Initiative of Nonprofit Guardians with a \$15 million annual investment, codify the New York State Good Guardianship Act (A.9295/S.8654), and reject efforts in the development and creation of a public guardian.** New York has strong legal protections that entitle individuals access to adult guardianship services when a court finds the appointment of a guardian is necessary. However, this mandate is underfunded. Without a direct and sustainable funding stream to ensure the availability of high-quality guardianship services, persons who have been determined by a court to need a guardian are at risk. **Investing in a Statewide Initiative of Nonprofit Guardians will ensure all New Yorkers who need a surrogate decision-maker have access to qualified, person-centered care, regardless of their financial or social circumstance.**

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¹ Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Livingston, Niagara, Orleans, Steuben, and Wyoming Counties

Background: New York State is Failing its Most Vulnerable Population

Article 81 of New York’s Mental Hygiene Law (“Article 81”) provides that the court, having ruled out all lesser restrictive alternatives, shall appoint a guardian to protect and promote the interests of persons with limitations that affect their ability to make decisions for themselves. Article 81 prefers that the appointed guardian is a family member or other community support, such as a friend or neighbor. However, in many cases there are no such available or appropriate family members or community support to act as guardian.

As such, courts must look to nonprofit organizations, county social services districts and private attorneys to provide this invaluable service. There is no public funding to compensate guardians. The system relies on family caregivers and the personal wealth of those in need of a guardian to pay for their own services, neither of which reflects the experience of today’s older adults who are increasingly aging alone and with limited financial resources.

New York’s need for guardians is growing rapidly and the importance of an effective guardian to ensure the individual can live with dignity and in safety cannot be understated. Guardianship services are multidisciplinary, often encompassing civil legal services, financial management and healthcare coordination, and other tasks to promote the health, well-being, and stability of the individual. An appointed guardian of person and property is responsible for the management of all the financial affairs of the person over whom they are appointed, including, paying bills, marshalling assets, applying for all government benefits, preparing tax returns, and reporting to agencies such as the Veteran’s Administration, the Social Security Administration, the NYS Court system, and many others. Guardians are also responsible for health care coordination and decision-making, securing and maintaining appropriate and safe housing, and ensuring access to food, transportation and other necessities for the person under guardianship, many of whom are victims of financial or other abuse, or otherwise vulnerable due to age and cognitive condition.

An effective guardian, including a guardianship team, works to prevent institutionalization and support these populations rights in their own communities. Not only do these efforts support the local economy by redirecting income and resources back into the community, but guardianship also saves public dollars by decreasing unnecessary Medicaid spending on avoidable hospitalizations or higher levels of care provided in nursing home or similar skilled settings.

For example, Project Guardianship evaluated the financial and societal impact of its court appointed guardianship services. They found over a 9.5-year period, combining Medicaid and homelessness savings, Project Guardianship contributed between \$155M and \$166M in public cost reductions.²

In some areas of the State, nonprofits, including CELJ, have stepped in to fill the gap, raising funds from private and public sources to serve as guardians for those with no other option. CELJ and other nonprofits have demonstrated our keen ability to deliver the highest quality guardianship services for those in our care. Unfortunately, the absence of a permanent adequate funding source to fulfill the mandate of Article 81 has prevented CELJ (and other nonprofits) from meeting the demand for services at scale. For example, CELJ only agrees to serve as guardian when we have

² https://projectguardianship.org/sites/default/files/inline-files/2025%20Cost%20Benefit%20Analysis_Final.pdf

the capacity to properly serve and support the client’s needs. The perennial threat of funding cuts puts nonprofit services—and, critically, those in receipt of guardianship services—at risk.

The lack of investment in our guardianship system has also caused challenges for the courts, which are responsible for appointing and monitoring guardians. Judges across the state report a lack of available guardians for individuals without family support or assets has resulted in courtroom crisis. Appointments are stalled, which means New Yorkers in need of time-sensitive decision-making to ensure their health and safety are left in limbo. In some instances, unqualified and even exploitative guardians have been appointed.³

Pro Publica’s series highlights what happens when courts are unable to find good nonprofit guardians to serve in these cases. Judges are often desperate to find someone, anyone, to serve in the role of guardian. Unscrupulous individuals have used the crisis to set up fake nonprofits who accept guardianship appointments and leave the person under an incapacity in horrific conditions. For example, one woman endured bedbugs, rats and no heat for years while her guardian was paid \$450 from her account.⁴ In addition, some individuals offer themselves as guardian as a means to refer those same individuals to their own for-profit companies, such as homecare. For example, a 63-year-old man with assets worth over \$800,000 had a guardian who transferred between \$80,000 to \$100,000 annually from his account to a company owned by the guardian.⁵

New York is in the midst of a Guardianship crisis: there is a shortage of guardians, there are ill-equipped guardians, and there is unequal access to decision-making surrogates for New Yorkers in need. In 2022, Guardianship Access New York (GANY) was established as a coalition of interested stakeholders to reform and improve New York's adult guardianship system, ensuring equitable access to services for every resident. CELJ is a member of GANY and joins in a collective belief that every individual who needs a guardian should receive a high-quality guardian for as long as necessary, regardless of their ability to pay.

Solution: Statewide Initiative of Nonprofit Guardians

Creating a Statewide Initiative of Nonprofit Guardians (“SING”) by codifying the New York State Good Guardianship Act (A.9295/S.8654) with a \$15 million annual investment is the solution. SING establishes a network of high-quality nonprofit guardians to not only meet the demand for services in their respective regions, but to build the capacity of community-based organizations to deliver guardianship services in areas where they do not currently exist. Unlike other responses to the guardianship crisis, ours is rooted in decades of practical experience and a deep understanding of what it takes to be guardian of another person.

³ See ProPublica’s series on Guardianship <https://www.propublica.org/series/the-unbefriended> and specific articles, <https://www.propublica.org/article/new-york-guardian-yvonne-murphy-beacon-eldercare-judges>; and <https://www.propublica.org/article/new-york-guardianship-services-care-sick-elderly-confused-alone>

⁴ <https://www.propublica.org/article/how-one-woman-endured-decade-neglect-new-york-guardianship>

⁵ https://www.propublica.org/article/new-york-guardian-yvonne-murphy-beacon-eldercare-judges?fbclid=IwY2xjawIQKJdleHRuA2FibQIxMQABHTailGFX7YIZIzSJAPW8a-mkLYCZNVkKifnQGeQPX0HJC_aRSFaDSUBTtA_aem_BzmHFswNoq_4xuR3t2WpVQ

As detailed in the SING proposal,⁶ nonprofits are key to addressing the guardianship crisis:

- Nonprofits have specialized expertise with multidisciplinary teams to address the myriad issues affecting individuals under guardianship. Their teams of attorneys, social workers, finance managers, benefits specialists, etc., accomplish significant positive outcomes such as effectuating difficult discharges from hospitals and nursing homes, obtaining public benefits including 24-hour home health services, securing PRUCOL status for undocumented immigrants, procuring supportive and affordable housing placements, fighting fraud and reestablishing deed ownership, and reuniting individuals with loved ones.
- Nonprofits are mission driven. Nonprofit programs aim to provide services in the least restrictive, most person-centered way possible. They keep people at home and out of institutions for as long as possible, engage in shared decision-making with clients and family members, serve as co-guardian, accept low- to no-fee cases, learn the values and wishes of their clients, and participate in end-of-life decision-making.
- Nonprofits work to prevent and end guardianships by engaging in efforts to ensure guardianship is utilized only as a last resort and to prevent guardianship when possible. They have programs to offer individuals and families less restrictive alternatives. They are incentivized to stabilize clients to the point where they can seek to terminate the guardianship, freeing up capacity to serve as guardian for others who need it.
- Nonprofits provide data and oversight. Nonprofits have been collecting data on their guardianship clients for decades. Together as a network, they would offer collective data on agency guardianships across the state. They will leverage data collection and shared technology to communicate and collaborate with partners statewide, always striving to improve outcomes for guardianship clients.
- Nonprofits are nimble. Nonprofits are generally more agile in responding to the needs of community and have more flexibility in terms of approach. They can also be more innovative in their service delivery and explore alternative approaches, such as the use of technology, community-based support networks, etc.
- Nonprofits are diverse and more racially equitable. Nonprofits have localized knowledge and strong community ties, including with communities of color, LGBTQ communities, people living with mental illness and disabilities, people living with housing instability, and immigrant communities.
- Nonprofits can leverage pro bono and volunteer support to increase the scope and impact of services available.
- Nonprofits are more cost-effective, transparent, and accountable. Nonprofits often have lower administrative costs compared to government agencies. They are required to post public

⁶ <https://projectguardianship.org/sites/default/files/2025-01/Proposal-15M%20Statewide%20Initiative%20of%20Nonprofit%20Guardians-2025.pdf>

disclosures, including their audited financials and annual IRS 990 filings and must also comply with funder grant and outcomes reporting.

A nonprofit serving as guardian can make major difference for the life of a person who has been determined by the court to need a guardian. We provide two client examples: “Linda” and “Edna.”

Linda’s Story:

When CELJ was appointed Guardian of Linda in mid-2024, her life had just been turned upside down. A serious car accident left her hospitalized, facing complex medical and mental health challenges—including an acute pulmonary embolism—and suddenly unable to make critical decisions for herself. Without a guardian, Linda could not even be discharged from the hospital.

With no family to turn to—all of her relatives had passed away—Linda was completely alone. Erie County was initially appointed as her guardian, but once her limited assets were identified, the responsibility was transferred to CELJ. At that point, Linda had already been placed in an assisted living facility and feared she might never return to the life she once knew. Linda struggled to manage her finances, her home had been neglected for over a year, and her health issues made independent living seem impossible. She did not object to having a guardian—she knew she needed help—but she worried that her independence was gone forever.

That is where CELJ stepped in. As Linda’s Guardian, CELJ did far more than manage paperwork. CELJ staff became her advocates, her support system, and in many ways, her family. They visited her home multiple times to ensure it was safe and secure, arranged for lawn care and snow removal, and made sure her taxes and lot rent were paid so she would not lose her home. They attended medical appointments with her, secured health insurance, and coordinated transportation so she could vote; preserving her voice and her dignity.

CELJ even accompanied Linda back to her home for the first time in over a year, helping her emotionally prepare for the possibility of returning. Before she moved back, CELJ arranged for the home to be professionally cleaned, restored utilities, set up medication delivery, and put in place in-home aide support so she would not be alone. After more than a year in assisted living, **Linda was finally able to return home.**

Today, CELJ continues to serve as Linda’s Guardian, and **she is thriving—safe, supported, and living in the place she loves most. What once felt like the end of her independence became a new beginning, made possible through guardianship services that protected not just her legal rights, but her humanity.**

Linda’s story is a powerful reminder: **guardianship is not about control—it is about restoring dignity, stability, and hope when someone has nowhere else to turn.**

Edna's Story:

CELJ was appointed Guardian of Edna in late 2024 after she was found lying on the floor of her home—alone, confused, and unable to care for herself. Adult Protective Services discovered her in unsafe and deplorable conditions after her partner left her alone for several days without food or support. Edna was suffering from dementia and had no capacity to protect herself. She was brought to the hospital and remained there for months, medically fragile and emotionally isolated. Her partner did not understand or accept her dementia, and his actions repeatedly placed her in danger. At one point, he even removed her from the hospital without authorization, forcing emergency intervention to bring her back to safety.

Edna had no reliable family support. Her brother wanted to help but was physically unable and lived out of state. Edna herself said she felt “alone in this world.” Without guardianship, she had no voice, no advocate, and no way to make decisions in her own best interest.

That changed when CELJ stepped in. As Edna’s Guardian, CELJ ensured she was placed in a skilled nursing facility and later transitioned to an assisted living residence where she could feel safe and supported. CELJ staff became her consistent presence—visiting her regularly, accompanying her to medical appointments, managing her finances, and protecting her from exploitation.

CELJ also cared for Edna as a person, not just a case. They brought her books and magazines, gave her a tablet, and even provided a “Joy for All” robotic cat to bring her comfort and companionship as her dementia progressed. They arranged for manicures, helped rehome her beloved cats when she could no longer care for them, and supported her emotionally when her partner passed away.

In late 2025, Edna was diagnosed with cancer. **Her assisted living residence initially threatened to deny her return due to increased care needs. CELJ refused to let her be displaced or spend her final days alone in an institution. Instead, CELJ fought for Edna’s dignity.**

CELJ social workers arranged for around-the-clock private nursing care so Edna could remain in the same place she had called home for nearly a year. Surrounded by familiar faces and comforts, Edna was able to live her final days in peace, safety, and compassion. **Edna’s story is a powerful reminder that guardianship is not just legal protection—it is human protection. It is often the difference between neglect and safety, fear and comfort, abandonment and dignity.**

The need for guardianship services far outpaces the capacity of the existing systems. CELJ can accept only a very limited number of guardianship appointments each year and typically focuses on the cases of elder abuse, or financial mismanagement. We regularly turn away additional requests because of limited funding. As our population continues to age, this problem will only be exacerbated.

Supporting SING with a \$15 million annual investment is more cost effective and better serves persons in need of a guardian than the creation of the Office of Public Guardianship.

A Public Guardian Will Not Solve the Crisis

While some states have opted to establish statewide public guardianship programs to meet the needs of incapacitated persons in their state, such programs are not the answer. For example, Colorado's Office of Public Guardianship office is a permanent state-funded public guardian program.⁷ Despite the robust statutory basis for the program, and the presence of state appropriated funds, the program is still under scrutiny for staffing issues. It was reported 7 guardians have resigned from the Colorado Office of Public Guardianship leaving only two guardians and five staff members to handle the office's 82 clients.⁸ A recent article reported high turnover and additional challenges that lead to a major hospital system decided to refer to a nonprofit.⁹ Alaska's public guardianship program, the Office of Public Advocacy, has faced similar staffing challenges. The Office of Public Advocacy is charged with 1,700 guardianship cases all over Alaska, with just 17 certified guardians on staff to serve these individuals.¹⁰ The Office of Public Advocacy director, James Stinson, in a recent interview noted that the office would require an additional 40 guardians to ensure appropriate staffing levels.¹¹

While well intentioned, public guardianship programs often have difficulty meeting the needs of their constituents largely due to staffing and funding constraints.

Thank you for the opportunity to submit this testimony. CELJ is available to answer any questions and provide additional information.

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⁷ See Sophia M. Alvarez, *Colorado Office of Public Guardianship FY 2025 Budget Request* (2024), available at <https://colorado-opg.org/wp-content/uploads/2023/11/FINAL-Office-of-Public-Guardianship-FY2024-25-Budget-Request.pdf>.

⁸ Marianne Goodland, *Ex-Staffers Say Colorado's Office of Public Guardianship is in Crisis, Ask Polis to Replace Leaders*, COLORADO POLITICS (February 20, 2024), available at https://www.coloradopolitics.com/news/ex-staffers-say-colorados-office-of-public-guardianship-is-in-crisis-ask-polis-to-replace/article_02d30512-cd05-11ee-85b9-d7f62376538e.html#google_vignette.

⁹ Marianne Goodland, *Head of Colorado's guardianship office resigns amid reports of 'toxic' workplace, high turnover*, COLORADO POLITICS (August 18, 2025), available at <https://www.coloradopolitics.com/2025/08/18/head-of-colorados-guardianship-office-resigns-amid-reports-of-toxic-workplace-high-turnover/>

¹⁰ Iris Samuels, *Spending Proposal Offers New Positions, but Won't Be Enough to Resolve Alaska's Public Guardian Shortage*, ANCHORAGE DAILY NEWS (December 19, 2023), available at <https://www.adn.com/alaska-news/2023/12/19/spending-proposal-offers-new-positions-but-wont-be-enough-to-resolve-alaskas-public-guardian-shortage/>.

¹¹ *Id.*