

SOUND OFF!



BULLETIN

THE NEWSLETTER OF VETERANS UNITED FOR TRUTH, INC.

#50

"VETERANS STANDING UP FOR EACH OTHER"

21 OCTOBER 2011

A CALL TO ACTION

LET'S HELP STOP ANOTHER FORM OF THEFT FROM ELDERLY VETERANS ~ BANK AND GUARDIAN THEFT OF VETERANS' BENEFIT PAYMENTS

The following e-letter and several associated articles were inadvertently left out of our last newsletter. They are being provided to you in this bulletin. For ease of reference, the articles are being provided in their entirety.

For those who can get there, your support will be crucial.

Banks and court-appointed guardians are, in many cases, stripping the funds of veterans when the courts or a bureaucracy claim that a guardianship is required. Not all guardianships are because of inability to manage one's own affairs, yet all guardianships are being treated the same. The declaration of a need for guardianship by one agency or court is being used as a basis for all agencies to deny veterans in guardianships control of funds.

The laws that are being proposed in their current form will aggravate this problem for our fellow veterans for whom guardianships have been established.

If you can, make the rally on 2 November in DC. Make a difference!

Wed, 10/12/11, JANET PHELAN <janetcpheLAN@yahoo.com> wrote:

With the disclosures of a recent article revealing that Veterans are now too at increasing risk at the hands of a problematic and unmonitored guardianship system, the time is now right for us to join together to address what is undeniably a system gone bad.

We are calling upon diverse groups of elders, disabled and veterans to come together in DC on November 2, at a rally on the Capitol lawn to let our legislators know that we are counting on them to fix the problem of abusive guardianships.

Several grassroots groups have sprung up over the last several years in an effort to come to terms with what is happening to our loved ones in these guardianship proceedings. With the revelation that there is a push now to expand the federal to state disclosure laws cited in the above article, we are asking that you take this message to your group of veterans and come to Washington on the second of November.

The rally is scheduled to take place from 11 am to 3 pm. For further information, please contact Mary Ellen Taylor at evergreenthinking@yahoo.com.

Please announce our rally

It is time for Washington to step in and stop the Probate Courts and the Attorneys, Banks and Trustees from using the Disabled and Elderly's money to fund their personal piggy banks.

An interview aired on October 4 on Republic Broadcasting's "The Unsolicited Opinion," hosted by Maggie Roddin, discussing the depths of depravity to which our guardianship system has sunk and some of the problems created by legislation which is being proposed to ostensibly address the issue of corrupt guardianships. The proposed legislation, now pending in DC, may actually make the current crisis much, much worse. You can hear the interview by going to this link and clicking on the arrow: <http://theunsolicitedopinion.com/2011/10/04/tuesday-october-4th/>

RALLY WITH ONE VOICE FOR REFORMING GUARDIANSHIP

<http://www.activistpost.com/2011/10/rally-with-one-voice-for-reforming.html>

Mary Ellen Taylor Activist Post

Dear Fellow Victim or Advocate for reforming guardianship proceedings:

On 9/22/2011, Senator Amy Klobuchar chaired a Senate Judiciary committee hearing on reforming Guardianship proceedings. We need to act now to show the Judiciary committee that we support this effort, and are not afraid to speak with one clear voice on the issue of legislative reform of abusive practices in guardianship proceedings. Even though we are a diverse group of victims - the net result of the abuse shows a similar pattern - denial of civil rights and devastating financial exploitation

The diversity of the members of the various groups demonstrates that abusive practices in guardianship proceedings is a National Problem which impacts both the disabled and non-disabled, and occurs to people over and under 62 years old. Additionally, this abuse occurs throughout the socio-economic spectrum.

We need to work to align our efforts with those lawmakers who want to end this abuse permanently. Senator Richard Blumenthal's office said that they would be willing to accept a "True Victims Report" a National Guardianship Victims report compiled and written by victims of the abuse. This report will allow the U.S. Government to get a better understanding of the patterns of abuse which in turn will lead to a more systematic approach to producing solutions to end guardianship abuse.

On November 2, 2011 we are going to hold a rally-"One Voice for Reforming Guardianship." on the U.S. Capitol lawn across from the Supreme Court at 11:00 am - 3:00 pm to accomplish the following:
--

Voice support for the U.S. Senators who are working to resolve these abuses via legislative reforms- Senators Richard Blumenthal (D-CT), Al Franken (D-MN.) & Amy Klobuchar (D-MN.)

Raise awareness of the problem- by visiting your State's lawmakers, and dropping off some flyers.

Share ideas to build a unified approach towards legislative reform. (i.e., discuss the ongoing development of a National Victims report.)

The time is right for this rally as the combined effect of the "graying of America ", (e.g., "the Silver Tsunami" and the 54 million existing disabled impacted by the abuse raise both the political stakes involved, as well as the sad cost in human suffering.

Also, if there is less institutional bias demonstrated against wards (i.e., Probate Judges "rubber-stamping" orders to force victims into nursing homes) and wards were allowed to choose where they wish to live-there would be significant savings to the U.S. taxpayer.

Please email us at onevoiceforreformingguardianship@yahoo.com to receive a questionnaire to contribute your story and data for the compilation of the "The True Victims Report" a National Guardianship Victims report compiled and written by victims of the abuse.

Many hands make light work - anyone who would like to help at the Rally we would love to have your assistance and support.

Let's make it a day of Fun and laughter among those with One Voice for Reforming Guardianship.

Sincerely seeking justice & we are counting on all of you,

Mary Ellen Taylor
Matthew Taylor
Bonnie Reiter
Laura Francois - Eugene
Maritza Torrent

GAO PUSHES TO SHARE INCAPACITY DECLARATIONS OF VETERANS AND DISABLED

<http://www.activistpost.com/2011/10/gao-pushes-to-share-incapacity.html>

Janet C. Phelan - Activist Post - October 7, 2011

A recent Government Accountability Office (GAO) report on the heated topic of adult guardianships advocates for removing certain long-established privacy protections and has caused a temblor in the guardianship reform movement.

The GAO report in question, entitled "Incapacitated Adults: Oversight of Federal Fiduciaries and Court Appointed Guardians Needs Improvement" (GAO 11-678), made two recommendations which would in essence violate existing privacy laws. The first recommendation was welcome, according to guardianship reform activists Bonnie Reiter and Mary Ellen Taylor, as the GAO suggested that Social Security and the Veterans Administration share information with state courts concerning guardians and representative payees who have misused their powers and taken advantage of their wards.

It is the second recommendation which has aroused alarm. The GAO report is also recommending that these two federal agencies share "certain beneficiary information" with the courts.

A phone call to Kay Brown, primary author of the GAO report, provided clarification as to what "certain beneficiary information" the report referred to. According to Brown, The GAO is recommending that SSA and VA do an end run around HIPAA protections and share with state courts the names of those who have incapacity declarations on file.

In plain language, what this means is that anyone who has an incapacity declaration on file with Veteran's Administration or Social Security could have this information released to a local court.

What may eventuate due to a change of this nature would be a greasing of the wheels for more guardianships.

The response in the guardianship reform movement has been that of grave concern. Reform activist Bonnie Reiter stated that this potentially constitutes a Trojan Horse, which could well turn into a federal to state conveyor belt for more guardianships, at a time when the voices of victims of guardianship abuse and calls for systemic overhaul of the probate courts have become impossible to ignore. Reiter's mother, Corinne Bramson, had been placed under a guardianship in Florida after the discovery was made that family members were stealing her assets. Bramson was quickly placed into hospice under what later came to light as a bogus terminal diagnosis—the elderly woman had colitis, not cancer—and within ten days she expired from an overdose of morphine. An outraged Reiter alleges that this was done by the culpable parties to keep the matter of the embezzlement of funds out of criminal court.

The reasons the GAO is advocating for such disclosure of beneficiary information remain murky. When GAO report author Kay Brown was confronted with the question as to why it was thought to be necessary to disclose information -- incapacity declarations -- which are, in fact, the critical information necessary to start a guardianship, Brown's responses became vague. In an email to this reporter, Brown waxed eloquent on the necessity to protect individuals from unscrupulous guardians, stating:

From GAO-11-949T p. 6 - With regard to state courts' access to SSA information about its incapacitated beneficiaries and their fiduciaries, this information could provide courts with potential candidates for guardians when there are no others available. Further, when SSA's automated system that will track fiduciaries who have misused benefits is complete, this information could help state courts avoid appointing individuals who, while serving as SSA fiduciaries, misused beneficiaries' SSA payments.

Furthermore, she wrote:

We know from previous work (see GAO-10-1046, pages 8 & 9 for examples of cases) that vulnerable older adults can be exploited when guardians are not monitored. Also, state courts do not necessarily have the resources to adequately screen or monitor their court-appointed guardians. So any measures to help avoid appointing a guardian who is already known by another agency as someone who has financially exploited their ward would seem to prudent. (sic)

The short and sweet of it is that Brown did not respond to the question at hand. The only point in Brown's response that even touched on the need to share beneficiary information was here, where she attempted to reassure this reporter:

I would like to reiterate my previous point that we are not advocating for a wholesale data exchange where SSA or VA would provide to courts the names en masse of all beneficiaries who have fiduciaries. Rather, we believe that procedures to allow sharing information on a case-by-case basis could help courts with the points I make above--1)

identifying a potential candidate to be a guardian when there are no others readily available and 2) helping courts avoid appointing individuals who have not faithfully carried out their duties as VA or SSA fiduciaries.

Brown did not address the obvious issue that providing a list of fiduciaries who had been previously determined to have abused their position does in no way necessitate the disclosure of who at the VA or SSA has an incapacity declaration on file.

Activist Mary Ellen Taylor emailed Brown to clarify that agency's stance on release of beneficiary information, asking "I just want to clarify that the courts will only be notified surrounding a representative if a person is adjudicated to be incapacitated. Social Security will not notify the courts automatically if a person has a Declaration of Incapacity, because that would be an invasion of privacy, a person can have capacity issues intermittent or permanent that do not fall into the category of being unable to communicate their wishes."

But Brown, who has been in regular contact with Taylor, did not respond.

An Office on Aging staffer, speaking on conditions of anonymity, admitted to this reporter that once the door is opened to share beneficiary information the likelihood that this could be used to create more guardianships was a bonafide concern.

On September 22, the Senate Judiciary Subcommittee on Administrative Oversight and the Courts held a hearing on Adult Guardianships. While several speakers, including Kay Brown and AARP's Naomi Karp, strongly advocated the necessity of federal agencies sharing "bad guardian" information with the courts, the issues of sharing beneficiary information in general and the incapacity declarations in specific were not brought up.

One has to ask, why not? Why slide into the GAO report a covert reference to sharing "beneficiaries information" -- when it has such explosive consequences -- and then fail to bring it up at the designated Judiciary Committee hearing? One wants to ask if this whole sturm and drang about "bad guardians" is just a dog and pony show to ensure that the legislation gets met with acclaim and approval, while this seemingly innocent clause about sharing "beneficiary information"-- which may have the result of ensnaring untold millions in the nets of an out- of- control and abusive guardianship system -- lurks just below the surface and seemingly just beyond purview.

Calls to the Press offices of Senators Klobuchar, Blumenthal and Franken, all of whom attended the September 22 hearing, were not returned. Asked whether this sharing could result in allowing SSA to provide names of all incapacitated adults to the courts, the Press office of SSA provided a terse statement:

To answer this question will require us to speculate on a myriad of changes that could be made to the Privacy Act and other federal laws protecting the public's information in our possession. While that is not possible, it would also be inappropriate in light of privacy implications.

In other words, "No comment."

This reporter contacted Klobuchar's press office asking to see the proposed legislation, which Klobuchar announced during the September 22 hearing. At the time of going to press, the staffer has not fulfilled his promise to give an update on the status of that legislation.

Approximately 1.5 million Americans are now under an adult guardianship. A 2010 GAO report admitted that there had been an upsurge of complaints of guardians abusing their wards, both financially and medically. A number of grassroots organizations have sprung up, country-wide, as victims of guardianship abuse have banded together to address what Bonnie Reiter has called "a holocaust on the elderly."

On November 2, a demonstration is planned in DC on the Capitol lawn, across from the Supreme Court, to take place between 11 a.m. and 3 p.m. According to organizer Mary Ellen Taylor, the purpose of the demonstration is to build awareness of the national problem of guardian abuse and to support our legislators in their efforts to resolve this problem. Writes Taylor, "The time is right for this rally as the combined effect of the 'graying of America', (e.g., 'the Silver Tsunami') and the 54 million existing disabled impacted by the abuse raise both the political stakes involved, as well as the sad cost in human suffering." For more information, please contact Taylor at onevoiceforreformingguardianship@yahoo.com

Janet Phelan is an investigative journalist whose articles have appeared in the Los Angeles Times, The San Bernardino County Sentinel, The Santa Monica Daily Press, The Long Beach Press Telegram, Oui Magazine and other regional and national publications. Janet specializes in issues pertaining to legal corruption and addresses the heated subject of adult conservatorship, revealing shocking information about the relationships between courts and shady financial consultants. She also covers issues relating to international bioweapons treaties. Her poetry has been published in Gambit, Libera, Applezaba Review, Nausea One and other magazines. Her first book, The Hitler Poems, was published in 2005. She currently resides abroad. You may browse through her articles (and poetry) at janetphelan.com