

Brown, Jennifer ([Jennifer Brown](#)), Colorado plans to expand experimental adult guardianship program despite complaints, scrutiny, Colorado Sun (March 3, 2022), <https://coloradosun.com/2022/03/04/colorado-expand-adult-guardianship/>

Fourteen at-risk adults have died while under the care of a public guardian in the past year and a half

The 73 adults assigned a guardian through a new state agency have dementia, intellectual disabilities, brain injuries and mental illnesses severe enough that a court has deemed them unable to make their own decisions.

None have family or friends to care for them, so they have become wards of the Colorado Office of Public Guardianship, an agency created as a pilot program by lawmakers in 2017.

Despite a rocky start, including complaints about the fledgling office from Denver Health and a two-year delay in taking on wards, state officials are planning to double the office's budget and employees, and expand the program beyond Denver. A plan approved by the legislature's Joint Budget Committee calls for increasing the office's funding to \$1.6 million, growing its staff to 14 and expanding service to include the three counties in the judicial district based in La Junta and the six counties in the district based in Montrose.

The push by the office's executive director to expand the reach of the public guardianship program has been contentious. Lawmakers, hospitals and advocates for at-risk adults agree public guardians are needed, but some have questioned whether the new program is functioning well enough to warrant more cash.

Colorado's debate comes as guardianship has come under scrutiny nationwide thanks to pop star [Britney Spears' successful efforts to end her conservatorship](#), which is a form of guardianship.

### **Fourteen deaths**

Maureen Welch, mother of a 14-year-old boy with intellectual disabilities who could someday need a guardian, said the office does not have the training or expertise to take on such a monumental job. In its current state, she said, the office is set up to do more harm than good.

"This is the most vulnerable of the most vulnerable," she said. "They have no one. You don't expand a program just because there is need."

Instead, she has advocated that lawmakers cut off funding, slow down the process and take time to consider the details of how the office should function, particularly when it comes to protecting wards from their guardians. She's fought against the office since the 2017 legislation.

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*Maureen Welch, mother and advocate*

Welch said she's disturbed that 14 at-risk adults have died while they were under the care of a public guardian in the past two years, calling the deaths "repugnant." The guardianship office

told The Sun the deaths were due to medical conditions and the median age of wards who died was 67.

“There is zero oversight of this office,” Welch said. “The state should halt funding and operations immediately to an office whose clients continue to die without explanation and conduct an independent investigation.”

She and other relatives of people with disabilities aren’t the only ones with concerns. Denver Health, where patients often need a guardian because they have no family connections, called the Office of Public Guardianship ineffective during a Capitol hearing this year.

Public guardians have at times not responded to their wards who were asking for their help while hospitalized at Denver Health, said Jackie Zheleznyak, the hospital’s director of governmental relations. In one case, Denver Health security escorted a public guardian out of the hospital. And in two instances, Zheleznyak said, guardians abandoned wards who died in the hospital and left Denver Health to deal with funeral arrangements.

She said she was particularly troubled that guardians did not respond when their wards asked to meet with them.

“We believe that just because a ward needs a guardian does not preclude that individual from being able to make their needs known to their advocate,” Zheleznyak said. “There is an expectation that Colorado will not leave anyone behind.”

She also complained that Denver Health employees were filing legal documents in court for wards because guardians did not.

“Colorado is in desperate need of guardianship services and an office that is given adequate support and the necessary training of those that work there to succeed for our vulnerable populations,” Zheleznyak said. “Unfortunately, we currently don’t see this as the state of OPG.”

In a written response to Denver Health, the guardianship office’s executive director Sophia Alvarez said she was unaware of any deaths among wards in the hospital nor any cases in which the responsibility of handling court records was left to hospital workers. A guardianship terminates when a ward dies, she said, although a guardian can set up funeral plans if the ward has the funds. “If they don’t have the funds, we are unable to do so,” she said.

We are basically all on the same side here, doing our best to provide our respective services to one of the most vulnerable populations in Colorado.

*Sophia Alvarez, Office of Public Guardianship*

Alvarez said guardians have had trouble getting Denver Health staff to meet with them, and that hospitals are at times releasing patients without a guardian. She suggested that the stress of the pandemic on health care workers and others has led to “something akin to a battleground mentality.”

“However, we are basically all on the same side here, doing our best to provide our respective services to one of the most vulnerable populations in Colorado,” Alvarez wrote.

## **Hospitals support expanding the program**

A state survey taken before the guardianship office was created found that 1,000 to 1,300 adult guardianship cases were filed in courts across Colorado each year. Denver saw an average of about 200 guardianship court cases per year.

Colorado law says a person who is concerned about another person's welfare can petition for guardianship. If a judge is convinced a person needs a guardian, the judge can appoint one who is then responsible for financial, medical and other decisions for their ward. In cases where there is no relative or friend, and when the ward doesn't have money to pay for a guardian, Colorado has struggled to find one. Counties often do not have adequate funds to appoint guardians, so they don't, according to a 2017 report to lawmakers.

Without a public guardianship office, hospitals, long-term care facilities and others have to seek guardianship for their patients through probate court, a process that's costly and time-consuming. On one day in 2018, 113 at-risk adults were in 19 Denver-area hospitals long past medical necessity as hospital staff sought guardianship and places for them to live, according to an [investigation by 9News](#).

Hospitals are legally required to find a safe place for incapacitated adults and cannot release them to the streets alone. The process, often involving older patients with dementia who have been abandoned by their families or have no relatives, can take months.

As the guardianship office has ramped up, it has started to establish partnerships with specific hospitals. One of the guardians, for example, is assigned only to patients at the state's mental hospitals in Pueblo and Fort Logan. The patients have complex mental health and cognitive issues and often require a guardian before they can leave.

The office's budget request includes funding for a second guardian assigned to the Colorado Mental Health Institute. Each guardian would take a maximum of 20 wards. Another part of the request is a plan to assign a guardian to the UHealth system, and in turn, the hospital system would make a donation to the guardianship office to cover that guardian's salary.

UHealth has a robust "care management" program that helps patients with housing, family connections, follow-up appointments, and if needed, guardianship. By the time the hospital contacts the public guardianship office, it's already determined that a patient has no family to help and can no longer make their own decisions about medical care and other life issues, said Danielle Andrade, director of the UHealth care management program.

The hospital system wants to see the state guardianship office expand, she said, and has a liaison to work with the office.

Despite the previous issues, Denver Health also wants the guardianship office to expand, said Amanda Thompson, director of Denver Health's hospital care management.

"These individuals are vulnerable and generally require support with virtually every aspect of their lives," she said via email. "The issues and concerns that guardians must address on behalf

of the ward are large in number, variety and complexity. Therefore, guardians must be resourceful, supportive, engaged, knowledgeable and creative.”

### **No funding led to slow start**

Public guardians must have at least a bachelor’s degree and a background in social work, mental health or gerontology. They also must receive training on ethics, end-of-life matters, probate laws and case management, office director Alvarez said.

Guardians are on call 24/7 to respond to emergencies and have a caseload of no more than 20 people.

The program, Alvarez said, has many success stories. One of the wards of the office was homeless and would call 911 daily, or even multiple times per day, and did not listen to service workers or medical professionals regarding eating and medical care. Within two months of being assigned a guardian, the ward was approved for permanent housing. The client is now receiving regular medical care and is on better terms with family, Alvarez said.

From the start, the program struggled. The law creating the pilot, passed in 2017, came with no funding and instead directed a committee to seek donations with a goal of raising \$1.7 million. It raised less than \$2,000.

A year later, lawmakers approved funding for the pilot in Denver, and an executive director was hired in November 2019. The program didn’t begin taking on wards until April 2020, and so far has had 84 clients.

Under the original bill, the office has until January to give lawmakers a thorough report about its work so the legislature can decide whether to fully fund the program, taking it beyond a pilot to a full-fledged state agency.

During a recent Joint Budget Committee hearing, lawmakers voted 4-2 in support of doubling the program’s funding for next year.

Two Republicans, Rep. Kim Ransom of Douglas County and Sen. Bob Rankin of Carbondale, voted against the expansion, with Ransom saying she wanted to wait until next year so she could see the office’s “thorough review and deep dive into failures and successes” before handing over more money.