

**Written Testimony of Joy Lawrence-Slater
Before the Medicaid Committee
Ohio Senate
May 14, 2015**

Chairman Burke, Vice Chairwoman Manning, Ranking Member Cafaro and honorable members of this Committee, my name is Joy Lawrence-Slater and I'm here to speak to you about GRF line item 320-412, in the Department of Developmental Disabilities (DODD) budget. All of the funds appropriated under that item 320-412 are used to fund the contract with Advocacy & Protective Services, Inc. (APSI).

Since 1983, APSI has been the sole source contractor providing guardianship services to the Department of Developmental Disabilities. Prior to 2012, DODD did very little to ensure that APSI provided high quality services.

Some of you may remember when I was here four years ago, opposing APSI's funding. I told you then about my precious daughter who went deaf in both ears and lost the use of one of her fingers because APSI refused to get her timely medical care. APSI ignored all of our pleas for help. When my mother, sister and I went to the county board and later, directly to DODD to complain, APSI retaliated by trying (and very nearly succeeding) in pushing us, and other advocates, completely out of her life.

At one point, APSI permitted me to see my daughter only two hours each month and then, only under supervision. We weren't allowed to bring healthy food, clothing, toiletries or gifts. We weren't allowed to take pictures with her. APSI even prevented my daughter from attending religious services after a member of our congregation, who is an emergency room physician, recognized that she had a high fever and insisted that she be taken to the emergency room for untreated pneumonia. She spent five days in the hospital that time. No family members or friends were permitted to visit her in the hospital.

Nearly four years ago, we managed to get APSI out of my daughter's life. My daughter will never regain her hearing and her finger will always be frozen stiff but at least we can see her and talk with her and we can ensure that she has enough food, a safe place to live and good medical care. My daughter is finally safe from neglect and we aren't afraid anymore.

In August, 2011, I passed the exam and became a National Certified Guardian so I would have the resources and knowledge needed to watch APSI and advocate for

change. I am here today to speak for nearly 250 Ohio families who are members of our statewide family support group. Their stories are often horrifying. Several families have fled Ohio, moving out of state to avoid having their loved one fall into APSI's hands. One family learned that their young adult son had died of a treatable infection when APSI demanded that the parents pay for his funeral. A woman died in a fire because APSI allowed her to live in a house that was an illegally renovated firetrap. Today, a young woman with mild autism is restrained in a nursing home, completely cut off from the loving family who continue to protest her treatment.

DODD has known for some time that APSI was not providing quality services. In October, 2010, at DODD's behest, Dr. Georgia Anetzberger evaluated APSI, comparing it against national guardianship best practices.¹ APSI was found lacking in many domains.

In the summer of 2011, again at DODD's insistence, APSI was engaged in a visioning and strategic improvement planning process leading to a three year Strategic Plan in which APSI promised to adhere to National Guardianship Association standards, serve only as guardian of last resort, aggressively search out family members and friends to serve as successor guardians; promote and protect wards' best interests; return phone calls; stay in touch with wards' families and help wards to stay in touch, and if appropriate, assist its wards to regain their rights.²

In 2012, the DODD's Office of Provider Standards and Review (OPSR) finally began to hold APSI accountable for keeping those promises. Unfortunately, three years later, OPSR's own records show that APSI continues to fall far short.

For example, on November 20, 2014, OPSR reviewed APSI's Northeast regional office. APSI was cited for all of the following deficiencies: failing to monitor services to ensure that APSI wards receive adequate, appropriate services; failing to encourage and facilitate wards' contact with their families; failing to develop and implement advocacy plans; failing to maintain professional relationships with county DD board staff; failing to follow ethical requirements by imposing the guardian's own values on the

¹ *Study of Select Best Practices In Guardianship Services: Report To Advocacy & Protective Services, Incorporated*, Georgia Anetzberger, Ph.D., ACSW, October, 2010

² *Advocacy and Protective Services, Inc. (APSI) Strategic Plan, October 1, 2011 to June 30, 2014*, <http://www.apsohio.org/documents/29603/2068734e-022a-47fc-b70b-1ef05d256be1;jsessionid=E26C01D40F94BED26A838F2CA636CC6C> (retrieved May 9, 2015)

wards and by imposing behavior plans that violate wards' civil and human rights; failing to supervise Protective Services Representatives (PSRs) and failing to ensure that PSRs had the proper training needed to carry out their duties.³

I've hired a lot of secretaries, paralegals and support staff over the last thirty years. I certainly would never reward an employee with a huge pay increase if she failed to do her job even after five years of help and encouragement.

Yet, that's exactly what GRF 320-412 will do. Governor Kasich has recommended a whopping 26.1% increase in APSI's line item in the first year of this budget. I think that's just shameful and there are many DD board members and staff, probate judges, professional guardians, families and advocates all across Ohio who agree with me.

It gets worse. In mid-summer, 2011, the Office of Fiscal and Monitoring Services of what was then called the Ohio Department of Job and Family Services, released an audit report finding that for FY 2009, APSI improperly used \$1.3 million of federal Medicaid funds, improperly billing Medicaid for guardianship services, which are not a covered Medicaid service.

Even after becoming aware of the audit report, DODD insisted that it would continue to use Medicaid monies to fund APSI.⁴ A few weeks later, after ODJFS informed DODD that it would no longer transfer Medicaid funds to pay APSI after July 1, 2011, DODD announced that it would no longer use Medicaid funds to pay APSI.⁵ Since then, APSI has been funded through GRF 320-412 and Title XX funds.

As I sit here today, in spite of the efforts of both the Department of Medicaid and the Ohio Attorney General's Medicaid Fraud Control Unit, neither APSI nor DODD has repaid the \$1.3 million that Ohio owes to the federal department of Health and Human Services. Allowing this situation to continue seems dangerously naïve.

As a mother, professional guardian, mediator, former family law attorney and passionate advocate, I am here today to ask this committee to help DODD find another solution that will serve and protect vulnerable Ohioans, and their families, not hurt them.

³ *Office of Provider Standards & Review Plan of Correction, APSI, Northeast Region, November 20, 2015* (obtained on March 6, 2015, via public records request)

⁴ *Audit Faults Agency In Spending of \$1.3 Million*, Columbus Dispatch, July 25, 2011

⁵ *Medicaid Won't Be Used To Pay Guardians*, Columbus Dispatch, August 30, 2011

As an Ohio taxpayer, I am here asking you to hold APSI accountable for the \$1.3 million that must be repaid to CMS.

Thank you for your patience and kind attention on what will surely be a very long day for all of you. I will answer any questions that the committee might have and afterward, will provide any documents that the Committee might need.

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