Byron Mallott Lieutenant Governor State Capitol Juneau, Alaska 99811 907.465.3520 465.5400 Fax WWW.LTGOV.ALASKA.GOV



530 West 7th Ave, Suite 1700 Anchorage, Alaska 99501 907.269.7460 269.0263 LT.GOVERNOR@ALASKA.GOV

OFFICE OF THE LIEUTENANT GOVERNOR ALASKA

MEMORANDUM

TO: Megan Collie, Department of Administration

FROM: Scott Meriwether, Office of the Lieutenant Governor, 465-4081

45

DATE: May 25, 2016

RE: Filed Permanent Regulations: Department of Administration

Regulations re: the Office of Public Advocacy and fees charged to wards of the public

guardian (2 AAC 60.080(a),(b); 2 AAC 60.110)

Attorney General File: JU2016200173

Regulation Filed: May 25, 2016

Effective Date: July 1, 2016

Print: 218, July 2016

cc with enclosures: Linda Miller, Department of Law

Dianne Blumer, Administrative Regulation Review Committee

Judy Herndon, LexisNexis

AMENDED ORDER ADOPTING CHANGES TO REGULATIONS OF THE OFFICE OF PUBLIC ADVOCACY

The attached 4 pages of regulations, dealing with increases in fees charged to wards of the Public Guardian are adopted and certified to be a correct copy of the regulation changes that the Office of Public Advocacy adopts under the authority of AS 44.21.410(b)(1) and 13.26.410 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

Although no public comments were received, the Office of Public Advocacy paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes adopted under this order take effect on July 1, 2016 as provided in AS 44.62.180.

Richard K. Allen, Director

Claire Richardson FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on

Moy 25, 2016, at 9:52.m., I filed the attached regulations according to the

provisions of AS 44.62.040 - 44.62.120.

Lieutenant Governor

Effective:

July 1, 2016

Register:

218, July 2016



Department of Administration

SHELDON FISHER, COMMISSIONER

10th Fl. State Office Building PO Box 110200 Juneau, AK 99811-0200 Main: 907.465.2200 Fax: 907.465.2135 www.doa.alaska.gov

DELEGATION OF AUTHORITY

Under as 44.17.010, the authority and responsibility for adopting regulations of the Department of Administration, Office of Public Advocacy under the Alaska Administrative Procedure Act are delegated to Office of Public Advocacy Director Richard K. Allen. This delegation is for the specific purpose of implementing new fee regulations for the Public Guardian.

Sheldon Fisher, Commissioner

Date

Subscribed and sworn to before me at Alebory

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Notary Public in and for the State of Alaska

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

I, BYRON MALLOTT, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA, designate the following state employee to perform the Administrative Procedures Act filing functions of the Office of the Lieutenant Governor:

Claire Richardson, Special Assistant

IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Juneau, on January 7th 2015.

OF THE STATE OF ALL ASS

BYRON MALLOTT LIEUTENANT GOVERNOR Register 218, July 2016 ADMINISTRATION

2 AAC 60.080(a) is amended to read:

(a) The OPA shall charge a case opening fee for establishment of a guardianship or conservatorship case, including a fee for any reappointments for the same client if the reappointment is made more than three months after the termination of a prior appointment. The case opening fee shall be

- (1) **\$200** [\$100] if OPA serves as guardian;
- (2) \$300 [\$200] if OPA serves as conservator; and
- (3) \$500 [\$300] if OPA serves as combined guardian and conservator.

2 AAC 60.080(b) is amended to read:

(b) Except as provided in 2 AAC 60.100(f), OPA shall charge a monthly fee for guardianship and conservatorship services provided to a client during the previous month. The OPA shall charge \$85 [\$40] per month for guardian services. The OPA shall determine a fee for conservator services, or combined guardian and conservator services, based upon the highest value of a client's liquid assets during each month that services are provided, by using the sliding scale fee schedule set out in 2 AAC 60.110(a).

(Eff. 3/25/95, Register 133; am 7/1/2016, Register 218)

Authority: AS 13.26.410 AS 44.21.410

2 AAC 60.110 is amended to read:

2 AAC 60.110. Fee schedules. (a) The following sliding scale fee schedule shall be used by OPA to calculate a monthly fee for conservatorship services, and for combined guardianship and conservatorship services:

1

Register 218, July 2016 ADMINISTRATION Monthly Fee } ← (" bold))) (11 Bold)) > { Total Value of Client's Liquid Assets **\$85** [\$ 40] \$0-9,999 10,000 - 14,999 <u>90</u> [45] 15,000 - 19,999 **95** [50] 20,000 - 24,999 <u>100</u> [55] **105** [60] 25,000 - 29,999 30,000 - 34,999 <u>110</u> [65] **<u>\$115</u>** [\$ 70] \$ 35,000 - 39,999 40,000 - 44,999 **120** [75] **125** [80] 45,000 - 49,999 50,000 - 54,999 <u>130</u> [85] 55,000 - 59,999 **135** [90] 60,000 - 64,999 **140** [95] 65,000 - 69,999 **145** [100] **150** [105] 70,000 - 74,999 75,000 - 79,999 <u>155</u> [110] 80,000 - 84,999 <u>160</u> [115] 85,000 - 89,999 <u>165</u> [120] 90,000 - 94,999 **170** [125] 95,000 - 99,999 <u>175</u> [130] 100,000 and above <u>180</u> [145]

(b) The following fee schedule shall be used by OPA to calculate a fee for the sale of property and for an annual fee for property management:

Register 218, July 2016 ADMINISTRATION

	,	
(Net Sale Value or Estimated Value of Property at the Time of the Annual	Fee Amount } ((Looks)))
(((sold)))	of Property at the Time of the Annual	
(Court Report	
	\$ 1,000 - 4,999	<u>\$100</u> [\$ 50]
	5,000 - 9,999	<u>150</u> [75]
	10,000 - 14,999	200 [100]
	15,000 - 19,999	250 [125]
	20,000 - 24,999	<u>300</u> [150]
	25,000 - 29,999	<u>350</u> [175]
	30,000 - 34,999	<u>400</u> [200]
	35,000 - 39,999	<u>450</u> [225]
	40,000 - 44,999	<u>500</u> [250]
	45,000 - 49,999	<u>550</u> [275]
	50,000 - 54,999	<u>600</u> [300]
	55,000 - 59,999	<u>650</u> [325]
	60,000 - 64,999	<u>700</u> [350]
	65,000 - 69,999	<u>750</u> [375]
	70,000 - 74,999	<u>800</u> [400]
	75,000 - 79,999	<u>850</u> [425]
	80,000 - 84,999	<u>900</u> [450]
	85,000 - 89,999	<u>950</u> [475]

Register 218, July 2016 ADMINISTRATION

90,000 and above

1.1 percent [0.55 PERCENT] of

property's value (Eff. 3/25/95,

Register 133; am 7/1 /2016, Register 218)

Authority: AS 13.26.410 AS 44.21.410

MEMORANDUM

State of Alaska

Department of Law

To: Hon. Byron Mallott Lieutenant Governor

Date: May 25, 2016

File No.: JU2016200173

Tel. No.: 465-3600

From: Steven C. Weaver

Sr. Assistant Attorney General and Assistant Regulations Attorney Legislation and Regulations Section

Re: Regulations re: the Office of Public Advocacy and fees charged to wards

of the public guardian (2 AAC 60.080(a), (b): 2 AAC 60.110)

We have reviewed the attached regulations from the Department of Administration against the statutory standards of the Administrative Procedure Act. I have reviewed this project under a specific delegation dated May 24, 2016 from the Regulations Attorney. The regulations adjust fees that the Office of Public Advocacy charges to wards of the public guardian for guardianship services, conservatorship services, or both guardianship and conservatorship services.

We find no legal problems. Though the supporting paperwork for these regulations describes them as "Office of Public Advocacy" regulations rather than department regulations under AS 13.26.410(a) and AS 44.21.410(b)(1), the commissioner of administration has issued a limited delegation of authority to the director of the Office of Public Advocacy to adopt these regulations. We also note that though the May 19, 2016 adoption order has the word "amended" in the title, the order refers to regulations that have been technically reformatted according to the Department of Law *Drafting Manual for Administrative Regulations* (Aug. 2015). The May 19, 2016 reformatted regulations do not vary substantively from regulations adopted under a superseded adoption order of May 17, 2016. Under these circumstances, we do not find a substantive violation of the Administrative Procedure Act.

This memorandum constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations. We note that the adoption order identifies a special effective date of July 1, 2016 for these regulations.

The April 16, 2016 public notice and the May 19, 2016 adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

Hon. Byron Mallott, Lieutenant Governor
Our file: JU2016200173
May 25, 2016
Page 2

We have made some technical corrections to conform the regulations in accordance with AS 44.62.125. The corrections are shown on the attached copy of the regulations.

SCW

cc w/enc: (via email)

Hon. Sheldon Fisher, Commissioner Department of Administration

MEMORANDUM

State of Alaska

Department of Law

To: Hon. Sheldon Fisher

Commissioner

Department of Administration

Date: May 25, 2016

File No.: JU2016200173

Tel. No.: 465-3600

From: Steven C. Weaver

Sr. Assistant Attorney General and Assistant Regulations Attorney Legislation and Regulations Section Re: Regulations re: the Office of Public

Advocacy and fees charged to wards of the public guardian (2 AAC

60.080(a), (b); 2 AAC 60.110)

Under AS 44.62.060, we have reviewed the attached changes by the Department of Administration and approve the changes for filing by the lieutenant governor. I have reviewed this project under a specific delegation dated May 24, 2016 from the Regulations Attorney.

Though the supporting paperwork for these regulations describes them as "Office of Public Advocacy" regulations rather than department regulations under AS 13.26.410(a) and AS 44.21.410(b)(1), you have issued a limited delegation of authority to the director of the Office of Public Advocacy to adopt these regulations. We also note that though the May 19, 2016 adoption order has the word "amended" in the title, the order refers to regulations that have been technically reformatted according to the Department of Law *Drafting Manual for Administrative Regulations* (Aug. 2015). The May 19, 2016 reformatted regulations do not vary substantively from regulations adopted under a superseded adoption order of May 17, 2016. Under these circumstances, we do not find a substantive violation of the Administrative Procedure Act.

You might wish to contact the lieutenant governor's office to confirm the filing date and effective date of the attached regulations changes.

The April 16, 2016 public notice and the May 19, 2016 adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

Hon. Sheldon Fisher, Commissioner Department of Administration Our file: JU2016200173 May 25, 2016 Page 2

We have made some technical corrections to the regulations in accordance with AS 44.62.125, as shown on the attached copy.

SCW

cc w/enc: (via email)

Megan Collie, Special Assistant and Regulations Contact Department of Administration

Richard K. Allen, Director Office of Public Advocacy Department of Administration

Chad W. Holt, Deputy Director Office of Public Advocacy Department of Administration

Rebecca Cain, Senior Assistant Attorney General Labor and State Affairs Section

MEMORANDUM

State of Alaska

Department of Law

то: Hon. Byron Mallott Lieutenant Governor DATE: May 24, 2016

FILE NO.: JU2016200173

TELEPHONE NO.: 465-3600

FROM: Susan R. Pollard

Chief Assistant Attorney General

& Regulations Attorney

Legislation/Regulations Section—Juneau

SUBJECT: Specific delegation of authority

regarding regulations review on Department of Administration regulations re: the Office of Public Advocacy and fees charged to wards of the public guardian (2 AAC 60.080(a), (b);

2 AAC 60.110)

By this memorandum, I am delegating my authority as Regulations Attorney under AS 44.62 to Assistant Attorney General Steven C. Weaver for the above-referenced regulations project. Under this delegation of authority, Steven Weaver has my full authority under AS 44.62 to conduct the legal review under AS 44.62 and take necessary actions on this regulations project.

If you have questions, please let me know.

SRP:SCW

cc w/enc:

Scott C. Meriwether, AAC Coordinator Office of the Lieutenant Governor

Steven C. Weaver

Sr. Assistant Attorney General & Assistant Regulations Attorney

Legislation/Regulations Section

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION AND FURNISHING OF ADDITIONAL INFORMATION

I, Chad W. Holt, Deputy Director, of The Office of Public Advocacy, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to 2AAC60.080-110, Public Guardian fee schedule changes has been given by being

- (1) published in a newspaper or trade publication;
- (2) furnished to interested persons;
- (3) furnished to appropriate state officials;
- (4) furnished to the Department of Law, along with a copy of the proposed regulation;
- (5) furnished electronically to incumbent State of Alaska legislators;
- (6) furnished to the Legislative Affairs Agency, Division of Legal and Research Services;
- (7) posted on the Alaska Online Public Notice System as required by AS 44.62.175(a)(1) and (b) and 44.62.190(a)(1);
- (8) furnished electronically, along with a copy of the proposed regulation, to the Legislative Affairs Agency, the chair of the Finance Committee of the Alaska Senate and House of Representatives, the Administrative Regulation Review Committee, and the legislative council.

As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (5) and (6) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.

Date: 5/19/2016

Chad W. Holt, Deputy Director

Subscribed and sworn to before me at

HICHORAGE, ALASKA

on

Date



Notary Public in and for the State of Alaska



Department of Administration

OFFICE OF PUBLIC ADVOCACY

900 West 5th Avenue, Suite 525 Anchorage, Alaska 99501 Main: 907.269.3500 Fax: 907.269.3535 www.doa.alaska.gov/opa/

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Chad W. Holt, Deputy Director for the Office of Public Advocacy, being duly sworn, state the following:

The Office of Public Advocacy did not receive any factual or other substantive information that was submitted in writing as public comment and that was relevant to the accuracy, coverage, or other aspect of the Office of Public Advocacy regulation on Public Guardian fee changes.

Date: 5/17/2016

Chad W. Holt, Deputy Director

HNCHORAGE, ALASKA

on

MAY 11, 2

Date



Notary Public in and for the State of Alaska

Public Guardian Fee Schedule Changes

NOTICE OF PROPOSED CHANGES TO PUBLIC GUARDIAN FEE SCHEDULE

IN THE REGULATIONS OF THE OFFICE OF PUBLIC ADVOCACY

BRIEF DESCRIPTION

The Office of Public Advocacy proposes to change regulations regarding Public Guardian fees charged to wards for Guardian and Conservatorship services.

The Office of Public Advocacy proposes to adopt regulation changes in Establishment of Fees and Fee Schedule of the Alaska Administrative Code, dealing with an increase in fees charged to wards for services provided including the following:

- (1) 2 AAC 60.080 is proposed to be changed as follows: Case opening fees for guardianship services increased from \$100 to \$200; Case opening fees for conservator services increased from \$200 to \$300; Case opening fees for combined guardianship and conservatorship services increased from \$300 to \$500 and monthly fees for guardianship and conservatorship services increased from \$40 per month to \$85 per month.
- (2) 2 AAC 60.110, is proposed to be changed as follows: Increase the monthly fee for each category of value of client's liquid Assets by \$45 and increase the annual property management fees and property sale fees by 100%.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Chad W. Holt, Deputy Director, Office of Public Advocacy, 900 West 5th Avenue, suite 525, Anchorage, Alaska 99501. Additionally, the Office of Public Advocacy will accept comments by electronic mail at chad.holt@alaska.gov. The comments must be received not later than <u>5:00pm</u> on <u>May</u> 16, 2016.

You may submit written questions relevant to the proposed action to Chad W. Holt, Deputy Director, Office of Public Advocacy, 900 West 5th Avenue, Suite 525, Anchorage, Alaska 99501. The questions must be received at least 10 days before the end of the public comment period. The Office of Public Advocacy will aggregate its response to substantially similar

in this process, please contact Chad W. Holt, D	a special accommodation in order to participate eputy Director, at (907) 269-3500 or <u>16</u> to ensure that any necessary accommodations
A copy of the proposed regulation changes is a System and by contacting Chad W. Holt, Deput 5 th Avenue, Suite 525, Anchorage, Alaska 9950	y Director, Office of Public Advocacy, 900 West
notice, or decide to take no action. The language	ce of Public Advocacy will either adopt the ns dealing with the same subject, without further ge of the final regulation may be different from mment during the time allowed if your interests
Statutory authority: AS 44.21.410(b)(1)	
Statutes being implemented, interpreted, or	made specific: AS 44.21.410(a)(1)
Fiscal information: The proposed regulation clappropriation.	nanges are not expected to require an increased
Date: 4/13/2016	
	Chad W. Holt, Deputy Director

questions and make the questions and responses available on the Alaska Online Public Notice System and agency website.

Office of Public Advocacy

ADDITIONAL REGULATION NOTICE INFORMATION

(AS 44.62.190(d))[1]

1. Adopting agency: The Office of Public Advocacy
2. General subject of regulation: Public Guardian fee change
3. Citation of regulation (may be grouped): 2AAC 60.080; 2AAC 60.110
4. Department of Law file number, if any: JU2016200173
5. Reason for the proposed action:
() Compliance with federal law or action (identify):
() Compliance with new or changed state statute
() Compliance with federal or state court decision (identify):
() Development of program standards
(X) Other (identify): Update fee structure. Existing fees were set over 30 years ago.
6. Appropriation/Allocation: 0
7. Estimated annual cost to comply with the proposed action to:
A private person: Agency wards will pay at least \$540 more per year in monthly fees as well as additional property management/sale fees. However, wards will only pay these additional fees if, pursuant to 2AAC 60.100, it does not cause financial hardship. Another state agency: 0

A municipality: 0			
8. Cost of implementati dollars):	on to the state a	agency and available funding (in thousands of	
Initial Year Subsequent			
FYYears			
Operating Cost	\$_0	\$_0	
Capital Cost	\$0	\$_0	
1002 Federal receipts	\$_0	\$_0	
1003 General fund match	\$0	\$_0	
1004 General fund	\$_0	\$_0	
1005 General fund/			
program	\$_0	\$ <u>0</u>	
Other (identify)	\$_0	\$ <u>0</u>	
9. The name of the cont	act person for tl	he regulation:	
Name: Chad W. Holt			
Title: Deputy Director			
Address: 900 West 5th Avenu	e, Suite 525		
Telephone: (907) 269-3500			
E-mail address: <u>chad.holt@al</u>	aska.gov		

10. The origin of the proposed action:

_X	Staff of state agency
	Federal government
	General public
	Petition for regulation change
	Other (identify):
11.	Date:4/13/2016 Prepared by:Chad W. Holt
Name (orinted): Chad W. Holt
Title (pr	rinted): Deputy Director
Telepho	one: (907) 269-3500

ADDITIONAL REGULATION NOTICE INFORMATION (AS 44.62.190(d))¹

1.	Adopting agency: The Office of Public Advocacy				
2.	General subject of regulation: Public Guardian fee change				
3.	Citation of regulation (may be grouped): 2AAC 60.080; 2AAC 60.110				
4.	Department of Law file nur	mber, if any:	U2016200173		
5.	Reason for the proposed ac	tion:			
	() Compliance with federal law or action (identify):				
	() Compliance with new or changed state statute				
	() Compliance with federal or state court decision (identify):				
	-	() Development of program standards			
	(X) Other (identify): Up	date fee structu	re. Existing fees were set over 30 years ago.		
6.	Appropriation/Allocation:_	0			
7.	Estimated annual cost to co	mply with the p	proposed action to:		
	A private person: Agency wards will pay at least \$540 more per year in monthly fees as well as additional property management/sale fees. However, wards will only pay these				
	additional fees if, pursuant to 2AAC 60.100, it does not cause financial hardship.				
	Another state agency: 0				
	A municipality: 0		11-03		
8.	Cost of implementation to t dollars):	he state agency	and available funding (in thousands of		
		Initial Year	Subsequent		
		FY	Years		
	Operating Cost	\$_0	\$ <u>0</u>		
	Capital Cost	\$_0	\$_0		
	1002 Federal receipts	\$_0	\$_0		
	1003 General fund match	\$_0	\$ <u>0</u>		
	1004 General fund	\$_0	\$ <u>0</u>		
	1005 General fund/				
	program	\$_0	\$ <u>0</u>		
	Other (identify)	\$ <u>0</u>	\$ <u>0</u>		

9.	The name of the contact person for the regulation:	
	Name: Chad W. Holt Title: Deputy Director Address: 900 West 5 th Avenue, Suite 525 Telephone: (907) 269-3500 E-mail address: chad.holt@alaska.gov	
10.	The origin of the proposed action: X Staff of state agency Federal government General public Petition for regulation change Other (identify):	
11.	Date: Prepared by: Name (printed): Chad W. Holt Title (printed): Deputy Director Telephone: (907) 269-3500	

RECEIVED

APR 20 2016

Office of Public Advocacy

AFFIDAVIT OF PUBLICATION

STATE OF ALASKA THIRD JUDICIAL DISTRICT

Emma Dunlap

being first duly sworn on oath deposes and says that he/she is a representative of the Alaska Dispatch News, a daily newspaper. That said newspaper has been approved by the Third Judicial Court, Anchorage, Alaska, and it now and has been published in the English language continually as a daily newspaper in Anchorage, Alaska, and it is now and during all said time was printed in an office maintained at the aforesaid place of publication of said newspaper. That the annexed is a copy of an advertisement as it was published in regular issues (and not in supplemental form) of said newspaper on

April 16, 2016

and that such newspaper was regularly distributed to its subscribers during all of said period. That the full amount of the fee charged for the foregoing publication is not in excess of the rate charged private individuals.

Signed

Subscribed and sworn to before me

this 18th day of April, 2016

Notary Public in and for The State of Alaska.

Third Division

Anchorage, Alaska

MY COMMISSION EXPIRES

Notary Public BRITNEY L. THOMPSON State of Alaska My Commission Expires Feb 23, 2019

