

She went to prison for fraud and bad checks. Then courts around Philly let her manage the finances for elderly residents

Updated: March 30, 2018 — 12:50 PM EDT



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Relatives of Edmund and Margareta Berg were shocked to learn, a little more than a year ago, that the court-appointed guardian handling the Fox Chase couple's finances had a record of fraud, bad checks, and forgery.

Around that time, Marie Frisby began questioning the guardian appointed to help her husband, Hank. They contend that his bills weren't being paid and, as a result, they had to sell their home in Wyncote, Montgomery County.

Meanwhile, Nu Vuong, a naturalized U.S. citizen who doesn't speak English, had been moved by her guardian from her Kensington home to a Delaware County nursing facility where no one spoke her language.

In each case, the guardian was the same woman, Gloria Byars of Aldan, Delaware County.

Questions about Byars' financial management led judges to remove Byars last year as guardian of the Bergs and Hank Frisby. She has since been removed from about 100 cases in Philadelphia, Montgomery, and Delaware Counties.



Suffolk (Va.) Police Department Gloria Byars in a police mug shot when she was arrested in Virginia in 2003 on credit card theft charges.

The experiences of the Bergs, Frisby, and Vuong demonstrate how well-meaning relatives can be swept away by a guardian who may not be acting in a person's best interests. And Byars' criminal record underscores what some advocates say is a broader issue: a lack of oversight in a beleaguered system responsible for caring for thousands of often elderly Pennsylvanians.

"We do have a crisis with professional guardians," Philadelphia Orphans' Court Administrative Judge Matthew Carrafiello said at a February hearing at which he ordered Byars removed from all her remaining guardianships. "We just don't have enough."

Nationwide, guardians oversee an estimated 1.3 million adults and \$50 billion of their assets, said Brenda Uekert, principal court research consultant at the National Center for State Courts. And as the population ages, the demand for them is likely to grow.

In Philadelphia, about 6,800 adults are under guardianship care, many of whom are overseen by family members. Five lawyers also regularly serve as guardians, and others on an occasional basis, as well as about 17 non-attorney professional guardians, like Byars.

Any interested person or agency [may petition a court](#) to appoint a guardian. A judge then holds a hearing to determine if the person is "incapacitated" — unable to manage his or her own personal or financial affairs. Once appointed, a guardian is paid through that person's assets or income. Their fees vary: Some could charge \$100 an hour, observers say, but they also could make much less overseeing a poor client's finances.

Guardians must file with the court regular reports of the assets, income, and expenditures they manage. But otherwise, they are generally left alone.

The only legal requirement to become a guardian in Pennsylvania is the ability to read and write in English. And that in turn opened the door to applicants like Byars.

Philadelphia judges appointed her to 93 cases from 2015 until last summer, in most cases based on a recommendation by the Philadelphia Corporation for Aging. The nonprofit, which provides home care to more than 21,000 and helps thousands more through its tip line, is supposed to act as a watchdog for the city's most vulnerable citizens.

But an attorney for the agency told a judge at a hearing last year that PCA did not know about Byars' convictions for fraud and bad checks — a past that a [simple Google search](#) would have uncovered.

Abbey Porter, an agency spokeswoman, declined to discuss why PCA had recommended Byars and whether the agency had conducted a background check. She wrote by email that PCA is "aware of the complexities and challenges of the guardianship system, including the 'vetting' of guardians."

Byars, 57, has not been charged for her role in any guardianship cases. She repeatedly has declined to speak to the Inquirer and Daily News, when approached in person or through phone calls and letters left at her office and home. Lawyers representing her also have declined to comment.

Diane Menio, executive director of the Center for Advocacy for the Rights and Interests of the Elderly (CARIE), in Philadelphia, said Byars' record shows agencies and courts need more due diligence in choosing guardians.

"Someone convicted of financial crimes is certainly not someone who you want managing an incapacitated person's finances," said Menio. "This whole thing is based on trust."

'Unbelievable'

Court records show that in 2005, Byars was charged in Virginia with defrauding several people by using their discarded credit-card convenience checks, fished out from post-office trash cans. She pleaded guilty that October and was later sentenced to 37 months in federal prison and ordered to pay \$29,503 in restitution.

After completing her term in December 2007, which included stints in a halfway house and on home confinement, Byars, who had once lived in Camden, moved to Delaware County. Her supervised release, which ended in December 2010, barred her from working in a job that required her to handle money or have access to financial accounts.

At some point, she began working for Robert Stump, a guardian and owner of RES Consulting in Havertown. [According to one LinkedIn account](#), she worked there from 2008 to 2016. Stump did not return calls seeking comment.

The same LinkedIn account says Byars received an associate of arts degree in business administration from Kaplan University in 1981. A spokeswoman for Kaplan, headquartered in Chicago, said the university, which offers online courses, has no record of Byars' taking classes.

In 2016, Byars branched out on her own, opening Global Guardian Services in Lansdowne, Delaware County.

That Dec. 6, Byars was appointed guardian for the Bergs, upon PCA's recommendation. The couple, both in their 80s, didn't want to leave their house on Borbeck Avenue, which they bought in 1961, relatives said.

But in late December, Margareta Berg was discharged from a hospital and — without the knowledge of her brother, Josef Wituschek — moved to a Montgomery County rehab facility. A panicked Wituschek and his daughter, Heidi Austin, then tried to call Byars, only to learn that she was in Spain, they said.

Austin grew suspicious. A Google search led her to a [2005 Virginia newspaper article about Byars' most recent arrest](#). Soon afterward, Austin discovered Byars' criminal history through an online background check.

That January, Byars moved the Bergs into a Montgomery County nursing home, then in February 2017 had their Fox Chase house cleaned out to sell it.

An accounting filed by Byars last year said she collected \$4,487.50 in guardianship fees from the Bergs from January to July, a sum that consisted of monthly fees of \$100 or \$200, plus \$2,000 for her to oversee the two-day cleanout of their house. (It's unclear how much she made from all of her guardian cases, but court records show that she finally paid off her restitution in the federal fraud case by February 2017.)

After Byars sought court approval to sell the house, Wituschek hired a lawyer. Attorney Daniel McElhatton learned that the company Byars had hired to clean the house, DEPCO LLC, was owned by Byars' husband, Leon DeShields.



Mark C. Psoras / For The Inquirer

Heidi Austin displays a photo on her phone of her aunt and uncle, Margareta and Edmund Berg, as her father, Josef Wituschek (center), stands with her. At right is Wituschek's attorney, Daniel McElhatton.

The lawyer says he found it "unbelievable" that Byars didn't disclose the conflict of interest. He opposed the sale of the house and an \$11,000 payment to DEPCO, alerted Orphans' Court Judge John Herron to Byars' criminal convictions, and asked the judge to remove her as guardian.

At a hearing in July 2017, Herron scolded Byars for failing to disclose the conflict and for not getting his approval to pay DEPCO. "It was self-dealing and should not have happened, and it should be refunded immediately," the judge said.

McElhatton also questioned thousands of dollars in other withdrawals Byars had made from the Bergs' accounts. Byars said she paid \$5,000 in cash to the Bergs' nursing home, but didn't get a receipt – a step Herron called "negligent" and "reckless."

Herron ordered Byars removed as the Bergs' guardian and as guardian of 31 other active cases. He appointed Wituschek as successor guardian for the Bergs. Wituschek had previously not been able to serve because he was mourning the death of his wife.

Byars has since reimbursed the Bergs the \$11,000 paid to her husband's cleaning company, \$5,200 for an unexplained cashier's check she wrote from their account, and an additional \$900 she collected from an auction of valuables from the cleanout of the Bergs' house. The family is still questioning other expenses and items they suspect are missing.

At the July hearing, Byars' then-attorney Robert Feliciani III, said she had 113 active guardianships, mostly in Philadelphia and Montgomery County.

Sam Brooks, an elder law attorney at Community Legal Services of Philadelphia, said other professional guardians at times carry caseloads as large or larger. A manageable caseload is closer to 40, he said, but to make a profit, guardians deal in volume, he said.

"There's no money in it, for the most part, unless you have a person who's incapacitated who has a substantial estate," said Menio, the advocacy center director.

Guardians can still make money from low-income clients. They are assured \$100 a month if the person is in a nursing home and receives medical assistance. They also can petition the court to sell a person's house, then request compensation from the sale.

Billed for a birthday party

Hank Frisby was a Philadelphia police officer from 1960 to 1980, rising to the rank of sergeant. He then served full time in the Pennsylvania Air National Guard, and later in Montgomery County's human resources department.

In early 2016, though, he was separated from his wife, Marie. After a nurse who was taking care of him at his Wyncote home suspected he was being abused by a relative, the nurse contacted the Montgomery County Office of Aging and Adult Services.

That March, Montgomery County Senior Judge Stanley Ott deemed Hank Frisby incapacitated after finding that he suffered from dementia and had problems paying his bills. The Office of Aging had recommended Stump's company, RES Consulting, and Byars, who at the time was still working for Stump, was appointed his guardian, court records show.

While the Frisbys agree that his finances weren't in the best of shape, they say that in the ensuing months, Byars didn't pay his mortgage, real-estate taxes, or income taxes.

But she threw him a birthday party. In June 2016, he was invited to a party that Byars threw for him and other clients at her home. The party included an ice cream truck, a live band, food, alcohol, and boxes of sheet cake, including one for him, Hank Frisby said.

“I didn’t know anybody there,” Hank Frisby, now 79, said in an interview. “I stayed a couple of hours and left.”

He thought it was nice, he said, until he later saw a \$750 charge on his account for being at the party for six hours.

Later that year, the Frisbys reunited, and Marie Frisby realized the state of his finances. In December 2016, their house was targeted for foreclosure.



Julie Shaw/Staff

Hank and Marie Frisby in March 2018 in their Philadelphia apartment, where they moved after having to sell their Montgomery County house. They sold the house in May, then moved to the River Park section of Philadelphia.

Marie Frisby, 70, said she has seen no indication of how Byars spent her husband’s pension checks, totaling \$80,000 a year, to his benefit — except once, when she bought a stair lift for him at the Wyncote house.

She also said Byars wouldn’t let her see her husband’s bank statements.

“We had no charges about how much she paid anybody, just her fees on what she charged us to do for us,” she said.

Concerned, she had filed a petition in court to have Byars removed as guardian, contending Byars was failing to pay her husband’s bills. With the help of a lawyer, Diane Zabowski, the Frisbys got Byars replaced as guardian in June.

State Sen. Art Haywood, the Democratic minority chair of the Aging and Youth committee, said Thursday that Marie Frisby will be meeting April 5 with a staffer in his office to see if there is any recourse for her husband. Haywood, a former Wyncote neighbor of the Frisbys, said he found it “outrageous” that they had to sell their home.

Haywood, who represents parts of Montgomery County and Philadelphia, said his staff is looking into the process of how guardians are appointed and removed.

‘My mom is not a prisoner’

Vuong’s son, Hue Quach, experienced similar outrage. On May 26, 2016, Byars was appointed Vuong’s guardian. A week later, she transferred Vuong, then 73, to a Delaware County nursing home without telling her son.



Courtesy of family - Nu Vuong

“Not only did she put my mom in this [nursing home] without telling me, she prohibited me from going in and seeing my mom” without Byars’ permission, he said in an interview.

Quach said his mother cried when he was allowed to visit her because no one in the nursing home could understand her — she speaks Vietnamese and Chinese.

He said he told Byars: “My mom is not a prisoner. She did nothing wrong.”

Quach then petitioned the court to be his mother’s guardian. At a July 2016 hearing, Judge George Overton appointed Quach co-guardian. Quach then moved his mother to a South Jersey nursing home that has staff and residents who speak Chinese.

Byars has since been removed from that case — and the others in surrounding counties.

The final two removals came March 20 in Delaware County. The Orphans’ Court clerk there, Mary Walk, said the office began reviewing Byars’ cases after learning about her removals in other counties, but found no evidence of malfeasance in the two cases.

At the February hearing, Carrafiello, the Philadelphia Orphans’ Court administrative judge, had said he was unaware of any malfeasance in Byars’ caseload in his court. But he stripped her from the cases because he concluded she was no longer up to the task of being a guardian.

Montgomery County officials declined to discuss why she was removed from cases there.

Calls for improvement

Unlike 18 other states, Pennsylvania does not require professional guardians to undergo criminal background checks.

A state Supreme Court [Elder Law Task Force](#) had in November 2014 recommended that all guardians be required to undergo criminal background checks in a wide-ranging report that examined problems in the guardianship system, issues of elder abuse and neglect, and access to the justice system for elders.

That decision would fall to the state's Supreme Court justices. The court's [Orphans' Court Procedural Rules Committee](#) at an April 20 meeting will be considering the issue of instituting background checks, said Northampton County Orphans' Court Judge Emil Giordano, a committee member. His county already bars felons from serving as professional guardians.

State Rep. Mark Gillen (R., Berks) said in a March 23 interview that he soon would introduce a bill requiring criminal background checks for prospective guardians and prohibiting felons from serving.

Other legislators also have been trying to improve the system. State Sen. Stewart Greenleaf (R., Montgomery), chairman of the Judiciary Committee, last year reintroduced a bill that would, among other things, require court approval for any guardian fees.

Keelin S. Barry, a Philadelphia lawyer who served on the task force and whose office provides guardianship and elder law services, said "there is a huge shortage" of people willing to serve as guardians, but a great need.

"The elderly population has exploded," said Barry, who was appointed to replace Byars as guardian for Hank Frisby. "And people who in the past would have taken care of their older family member, now have moved across the city or across the country and are not able to take care of that person anymore."