



STANDARDS FOR AGENCIES AND PROGRAMS PROVIDING GUARDIANSHIP SERVICES

*Adopted 2007
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National Guardianship Association*

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Standards of Practice for Agencies and Programs Providing Guardianship Services

Acknowledgements

The National Guardianship Association [NGA] wishes to express its gratitude to the many individuals who committed time and talent to the development of these standards and helped to improve this process. NGA individual members, state affiliates, Board members and interested parties contributed their time to refine and make these standards better. NGA is grateful to each of those individuals and groups.

Preamble

Guardianship is a delegated judicial function that entails a high responsibility to achieve stability or improve the life of a vulnerable adult. In that sense, all guardians owe persons with a guardian the highest allegiance and must operate in an open and ethical manner. Providing guardianship services for a fee heightens the need to assure quality service delivery.

The National Guardianship Association's purpose in this document is to provide guidance for programs striving to provide quality guardianship services. Many different types of entities deliver these services across the country. These agencies may be private (for profit or not for profit), public, or governmental. Some of these are very small and locally focused. Others are statewide. There is great diversity among agency models.

This document is not intended to be all encompassing or prescriptive. The standards are written broadly, so that the principles may be applied to any agency or program, regardless of its size or structure. While aspirational, the standards convey good business practice that agencies and states should consider adopting into policy or law.

The National Guardianship Association (NGA) has previously adopted Ethical Principles and has defined Standards of Practice for the day-to-day provision of guardianship services that expand on this ethical base. These ethics and standards apply to all guardians whether professional guardians, volunteer guardians, or family members. This document defines additional NGA standards for acceptable business practice and program design for non-family guardians who are developing or operating agencies or programs providing professional guardianship services.

NGA defines a guardianship “agency” or “program” as any business or public entity performing as court appointed guardian, whether salaried public employee or for a fee, for individuals who are not related to those providing the services. The agency or program has a fiduciary relationship with and is under a legal duty to act in the best interest of the client, who is the principal in the agency relationship. It may be a free-standing agency or a program within a larger service entity. The services may be supported financially through grants, contracts with state or local government entities, by fee for service to the estates of the individuals served, or any combination of those mechanisms. The agency standards are also intended to include those programs providing guardianship through the recruitment and training of citizen volunteers who receive court appointment, and function with supervision from professional guardians or agencies. In some cases, if the program more closely resembles a “sole practitioner” design rather than an organization, the program may wish to use individual certification (National Certified Guardian (NCG) or National Master Guardian (NMG)) rather than the agency certification process defined in this document.

Like the NGA Standards of Practice, these Agency Standards constitute what is considered best practice in guardianship at this time. As a living document, these standards may evolve over time as agencies and programs implement them. NGA will continue to monitor and refine the Agency Standards as necessary.

I. NGA Ethical Principles and Standards of Practice Standard:
Agency/Program managers shall demonstrate a working knowledge of NGA's Ethical Principles for Guardians and Standards of Practice, and shall develop and utilize policies and procedures that reflect commitment to these standards.

[Intent Statement]: Historically, guardianship has focused on personal protection and asset preservation more than on person-centered decision making and preservation of the rights of the person who has a guardian. NGA's Ethical Principles represent the philosophy of guardianship. NGA's Standards of Practice outline NGA's ideals for best practices in service delivery. These principles and best practices are necessary because guardianship services involve the loss of a person's fundamental rights. NGA recognizes guardianship as a service that owes full allegiance to the persons served. The persons served have a right to a positive influence that recognizes their goals, needs, and preferences, as well as their contributions to their communities. They need to be assisted in the least restrictive, least intrusive way that meets their needs.

To fulfill these responsibilities, the guardian's duty is to learn as much as possible about:

1. the person's history, culture, and family background,
2. person-centered planning and decision making,
3. responsibilities and duties of guardians,
4. legal processes of guardianship,
5. alternatives to guardianships,
6. supported decision making prior to guardianship, where appropriate.

There may be instances where agencies/programs cannot provide the service exactly as outlined in the standards of practice. State law may mandate variance from best practices. Variations in a state's resources or social service delivery systems may affect the design and operation of a particular agency or program. In cases where outside resources, state law, or other factors dictate variance from a standard, the agency/program should explain in their policies the reason for the variance.

II. Operating Standards:

A. Standards on the Governing Authority

1. Standard on Legal Status: The agency/program policy statement shall identify its status as a legal entity (i.e., for-profit, not for profit, public agency, subsidiary of a larger entity, sole proprietorship, or other organization).
2. If there is a policy-making board, the agency/program shall ensure diversity in its membership and describe in writing the desired composition of that board.
3. If there is no policy-making board, or the board is advisory only, the agency/program must identify the ultimate authority for decision making in the organization.
4. Applicable state law should be identified in the policy.

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[Intent Statement]: The leadership of the agency/program must establish its mission and policy. It is important to articulate the mission and goals of the organization and to identify the person within the agency/program who has ultimate responsibility for overseeing sound business and program practices. The individual responsible for the organization must be identified, indicating how they relate to the governing board, if there is one. An organizational chart with job descriptions must be defined in agency/program policies for the entity to function effectively.

B. Standards for a Governing Board: If a board structure is chosen, its functions and policy shall be identified in writing. The board shall:

1. Provide board members with a copy of the National Guardianship Association (NGA) Standards for Agencies and Programs Providing Guardianship Services, Ethical Principles for Guardians, Standards of Practice, and NGA Bill of Rights for Adults with a Guardian, as well as any applicable state or local standards and ethics policies.
2. Provide new board member orientation on the organization's mission and policies.
3. Have criteria regarding avoiding conflicts of interest.
4. Oversee program outcomes.
5. Have the authority to approve the agency budget.
6. Receive the independent financial review results when completed.
7. Define the amount and justification for any board compensation.
8. Set guidelines concerning board member participation and attendance.

[Intent Statement]: To be an effective decision-making body, an operating board must have access to information about how the agency or program goes about achieving its mission. The board must be aware of situations that might place board members in a conflict of interest and must ensure that members agree to avoid such situations. The board must have the authority and the expertise, both financial and programmatic, to review and approve or question aspects of the operation. The board must obtain an independent financial audit at least every three years, with annual fiscal reviews in interim years. Board compensation, if any, should be reasonable and not affect the agency's ability to provide high quality services to its clients.

C. Standard on Programs within Larger Organization or Governmental Entity: A guardianship program or division within a larger entity:

1. Must have an arm's length relationship with the larger organization or governmental entity.
2. Have independent decision-making ability from the larger organization or governmental entity and other service divisions.

3. Must be independent from other divisions providing other services to the same clientele.
4. Have clearly delineated strategies for avoiding conflicts of interest.
5. Examine scrupulously any direct service costs.
6. Ensure that the person with a guardian receives the most appropriate, least costly provider for direct services.
7. Disclose to the court any additional entity fees for direct service provided to a person with a guardian.
8. Obtain court approval of those additional entity fees, when appropriate and feasible.

[Intent Statement]: Housing guardianship services within a larger entity that also provides direct services to the same individuals is not recommended because the important advocacy function of the guardian is impacted by that design. Standard 16 of the NGA Standards of Practice requires that "The guardian shall be independent from all service providers, thus ensuring that the guardian remains free to challenge inappropriate or poorly delivered services and to advocate on behalf of the person." It further prohibits the provision of housing, medical, legal, or other direct services to the person with a guardian, except as a last resort. There are very real dilemmas and ethical pressures inherent in guardianship work. It is imperative that the guardian not be intimidated or in a subordinate position to others providing direct service to the persons with a guardian. It is also important that the guardian avoids any appearance of impropriety or self-dealing in obtaining services from the entity which houses the guardianship service. The guardian's ability to advocate, including the ability to sue on the person's behalf, may be negatively affected when the entity is also the direct service provider. Where a guardianship agency is under the management of another entity which may pose a conflict of interest or perceived conflict of interest, there should be an appeal process within the entity to resolve any conflict. The guardian should provide evidence of costs and justification for any additional entity fees to the court and seek its approval if appropriate.

III. Personnel Standards: The agency/program managers shall:

- A.** Employ competent staff with the training and experience to provide quality service to the person.
- B.** Agency management shall recruit, train, and retain personnel who meet the identified needs of the persons receiving service and who contribute to the organization's mission.
 1. Program Staff: The agency/program managers shall have a written policy that ensures there is sufficient qualified staff to provide services to each person.

[Intent Statement]: The agency/program managers shall ensure that adequate program staffing levels are identified and maintained. These staffing levels will be dependent upon the type of guardianship and other services provided. Adequate staff to client ratios must be established to ensure that access to and implementation of person-centered decision making is not impaired or delayed. The design of caseload assignments should include not only the guardian, but also the number of support staff required to fully support the cases.

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Creative use of support staff including bookkeepers, property managers, guardian assistants and volunteers can lessen the guardians' workload and enable them to spend more time with the persons with a guardian. The addition of an Information Specialist to help upgrade technology may be justified. The agency may also need to develop and document a process for case load weighting to ensure that complex cases do not overwhelm individual guardians and that less active cases are not neglected.

2. Hiring Practices: The agency/program managers shall follow federal regulations on non-discrimination in hiring practices:

- a. The agency/program must have a policy that ensures that prospective staff references are checked and that those hired have at least the minimum education, training, and experience to serve the program's clientele.
- b. All applicants for employment must undergo a criminal background and abuse registry check and any other screenings such as a credit check and drug testing that comply with state law.
- c. If an agency recruits and trains volunteers to be guardians, they, too, must provide references and submit to the same background checks as paid staff.

[Intent Statement]: All staff should have the qualifications to perform the functions identified in their job descriptions and any applicable licensure, certification, or educational requirements for their positions. There must be an identified process for verification of education, work experience and reference checks. The agency or program shall maintain documentation of current licenses and educational qualifications. Criminal background reports must be obtained to prevent the employment of inappropriate individuals. The agency/program managers are encouraged to require recurring background checks on a periodic basis to be sure employees remain qualified to serve.

3. Orientation Training: The agency/program managers shall identify the structure or protocols for training new staff and ensure that all new staff are orientated to the program's services and philosophy.

[Intent Statement]: Effective guardianship services cover complicated issues crossing many disciplines, based on the specific characteristics of the persons served. The agency/program staff will be tasked to make decisions that affect the daily lives of the persons, their financial and personal well-being. Therefore, the management team must ensure that new staff is well prepared *prior to* providing such services. The training curriculum for new staff should include at a minimum:

NGA Standards of Practice for Guardians
NGA Ethical Principles
NGA Agency Standards
Fundamentals of Guardianship
Applicable federal and state laws
Agency/Program policies and procedures
Characteristics of the population served
Appropriate terminology (i.e., "Person First" language, etc.)

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- Active listening skills
- Overview of state and local social services and resources
- Protective services laws and requirements
- Confidentiality and decision-making ethics
- Fiduciary responsibilities
- Medical decision-making

4. Continuing Education: The agency/program managers shall ensure that all staff members and volunteers who are guardians annually obtain a minimum number of hours of continuing education training applicable to their work.

[Intent Statement]: Developments in medical, legal, and social services occur rapidly. The staff delivering program services must have access to the latest information and training in areas affecting guardianship. The agency may provide some training hours in-house, but should look to outside sources as well. A minimum number of annual training hours should be required for each staff person or volunteer directly delivering services persons. (For example, the Center for Guardianship Certification requires twenty hours over two years to maintain a professional certification as a National Certified Guardian, or thirty hours over three years for a National Master Guardian.)

5. Administrative and Support Staff Training: The agency/program managers shall ensure that administrative and support staff members receive training on the program's mission and the characteristics of the persons served.

[Intent Statement]: It is likely that support staff will interact at times with the persons served by the program. Even if they do not, it is important for the program's success for these staff to identify with the mission and to learn the characteristics of those served, to enhance their ability to be effective in their support roles. Specifically, reception and fiscal staff interacting with persons should also undergo training in the use of "Person First" language and person-centered guardianship. This is the terminology preferred by the disability community, and refers to the person by name and then identifies a disability only if necessary (i.e., "person with schizophrenia, person who uses a wheelchair, etc.) These staff members should also receive training in active listening skills, techniques for calming an angry individual and application of person-centered decision making and in supported decision-making. Information on these topics should be available from program staff. This does not have to be external training.

6. Job Descriptions: The agency/program managers or governing board shall develop written job descriptions for all positions that identify the minimum qualifications for the position as well as its responsibilities. Job descriptions should be reviewed regularly and updated as needed.

7. Annual Performance Review: The agency/program managers shall utilize a specific process for reviewing each employee's performance.

- a. Each person employed by the agency, including the agency

- director if there is an operating board, shall have a performance review annually.
- b. Regular, periodic supervision should be provided during the initial employment period for employees providing guardianship services to persons with a guardian.
- c. Staff with state certification and/or certified as National Certified Guardians or National Master Guardians through the Center for Guardianship Certification should provide such supervision.

[Intent Statement]: To continually improve the quality of services provided to clients, the individuals providing those services must receive regular feedback and establish goals for improving their skills. New program staff should have a series of sessions over the first six months of employment to confer with a supervisor regarding plans for the persons served. The supervisor must review and mentor the employee to ensure that the employee understands and is applying the NGA Standards of Practice. Once the employee has successfully completed the initial employment period, the supervisor should review performance no less than annually in writing.

8. Use of Volunteers in Guardianship Programs: The agency/program managers shall have written policy that:

- a. Defines the role and job description of all volunteers used to support the person with a guardian.
- b. Documents that the agency/program provides appropriate training, support, and technical assistance to them.

[Intent Statement]: There are many ways that dedicated volunteers can enhance the lives of the persons served by the agency/program. While the problem of limited resources can be partially addressed by using volunteers, "volunteer" never equals "free." It is true

that volunteers can fulfill many, if not all the roles of paid staff. However, volunteers also need support, supervision, job descriptions and a defined role with parameters of responsibility. With proper training and supervision, volunteers may be appointed as guardians, with full powers. Volunteers may also fill the role of guardian assistant, visitor, or other supportive services functions. In any of those roles, the volunteer is functioning as unpaid staff and must follow the same agency/program policy and procedures as paid staff, as the procedures apply to their roles. Policies governing screening, background checks, and training apply equally to a volunteer filling a defined role, and the volunteer must also be subject to termination for poor performance. Volunteers must understand the fiduciary relationship, the NGA Ethical Principles, the NGA Standards of Practice, and have received training in person-centered decision making.

C. Certification Requirements for Program Staff:

- 1. At least one member of the management team shall hold certification from the Center for Guardianship Certification either as a National Master Guardian or be a National Certified Guardian with a minimum of five years' experience.

2. All professional guardianship staff having direct responsibility for persons with a guardian shall hold current state licensing or certification and/or national certification as a National Certified Guardian or be required to attain it within two years of their employment.

[Intent Statement]: Because curricula in social services, medical and legal fields do not generally include guardianship, certification from the Center for Guardianship Certification is necessary. The CGC is a testing and certification entity separate from the NGA that understands the philosophy of NGA and supports the effort to increase that understanding among practitioners. The program director should have certification at a minimum as a National Certified Guardian and must have at least five years' experience working in guardianship. It is preferred that the top program manager be certified as a National Master Guardian.

IV. Fiscal Standards: The agency/program managers shall maintain fiscal stability. Agency/program management staff will ensure that the tenets of the NGA Ethical Principles and the NGA Standards of Practice guide the fiscal standards.

- A.** The agency/program shall have written policies that demonstrate that the organization is operating in accordance with Generally Accepted Accounting Principles.
- B.** These policies shall ensure the organization operates in accordance with accepted business practices for a fiduciary and the requirements of applicable state law.

C. Fee Structure:

1. The agency/program shall have a policy regarding the sources of its funding.
2. The agency/program shall have a fee structure for services to individuals.

[Intent Statement]: Guardianship is a fiduciary relationship and fees for service are open to scrutiny by the court or other government entities with oversight of the agency or program, as well as to the public. Whether the agency is a public entity or a private one, the fiduciary nature of guardianship requires that fees be reasonable for services rendered. To avoid the appearance of impropriety and any conflict of interest, the agency/program's policies concerning fees and funding must be consistent with the NGA Standards of Practice and be clear and open to public scrutiny.

D. Fiscal Controls: The agency/program managers shall demonstrate that:

1. Organization uses sound fiscal controls and Generally Accepted Accounting Principles.

2. Organization arranges for an outside review/audit of the financial records of the agency/program by an independent entity periodically.
3. Results of the review/audit are provided to the board or managing officers upon completion.

[Intent Statement]: Outside review or audit of the agency/program's fiscal situation provides the checks and balances necessary to ensure good fiscal management. Whether it is conducted by a CPA or by a governmental entity, it should be done by an entity separate from the entity with direct oversight responsibility for the agency/program to ensure objectivity. The agency/program will demonstrate by board minutes or policy that action has been taken on exceptions noted by that fiscal review or audit. If the agency/program is already audited by a governmental or funding entity, that audit may be considered to meet this requirement, as long as the entity is independent of the agency managers or board of directors.

E. Agency/Program Financial Records: The agency/program managers shall demonstrate by written policy and practice that they operate within a system of internal controls that:

1. Governs receipts and disbursements.
2. Ensures that funds for business/client operations are handled prudently.
3. Demonstrates that checks and balances are in place.
4. Retains fiscal records to reflect those practices.
5. Has adequate insurance coverage for its business design.
6. Provides sufficient bonding as required by state law.

[Intent Statement]: Operating on a sound fiscal basis helps to ensure the stability needed to meet the agency/program's fiduciary responsibilities to its clients. Using Generally Accepted Accounting Principles, and keeping records of those practices including payroll records, budgets, monthly financial reports, bank statements, accounts receivable and accounts payable, gives the management team the tools needed to track operations and

identify problems in a timely manner. Insurance policies must be comprehensive and include liability coverage for owners, staff, volunteers as well as members of the board of directors. Insurance coverage should be adequate to protect the organization. The organization must also be bonded at the amount required by state law and/or local court rule.

F. Client Financial Records: If the agency/program provides services as representative payee or as guardian of the estate, the agency/program managers shall maintain a system of internal controls to protect the funds of the persons for whom it provides money management or estate management services. Policies will reflect that:

1. Separate accounts and identifiable client files are provided, or separate ledgers are kept if the accounts are pooled, for the persons served.
2. Applicable local, county, state and federal statutes and regulations are followed.
3. The principles of the Prudent Investor Rule for managing estates are followed.
4. Managers have a goal to manage, but not necessarily eliminate risk.
5. Client accounts are accessible only to authorized individuals.
6. An external audit of client financial records is conducted at least every three years.
7. A system of checks and balances is maintained between check requests and check production.

[Intent Statement]: In addition to the programmatic responsibility for prudent management, the organization must have policy and demonstrate in practice it protects the assets of the persons it serves. There should be continuing dialogue between the program staff and any bookkeeping staff to ensure continuity of money management services. There should be a policy as to who is authorized to approve expenditures. Ideally guardians will not write checks or handle client funds directly. There should be designated staff with check signing privileges and systems in place to verify if goods and services were purchased or provided. An external auditor should audit client accounts no less than every three years. If the agency/program is audited by a governmental or funding entity, that audit may be considered to meet this requirement, provided the entity is independent of the agency/program managers or board of directors.

G. Required Reports: The agency/program shall demonstrate that it timely submits all required financial reports, including accountings, to the appointing court and to the persons served.

[Intent Statement]: The agency/program should be able to demonstrate to the appointing court the effective, prudent management of all assets of all persons served. The timeliness of reports indicates effective service delivery.

V. Program Services Standards: Agency/program management staff will ensure that the tenets of the NGA Ethical Principles and the NGA Standards of Practice guide program design and day-to-day services.

A. Clientele: The agency/program managers shall identify the persons served and the type of services offered.

1. The program's plan should include the criteria for acceptance, the process used for any waiting list, and the rationale for denying appointment or service, if permitted by state law.
2. The agency/program must develop a triaging system that identifies which referrals will be accepted as urgent.

3. If the agency/program is appointed guardian of someone whose needs differ from its primary clientele, it shall consult with appropriate professionals to provide appropriate care for that person.

[Intent Statement]: When the social services, legal or medical community finds a willing resource for guardianship services, the agency/program may be overwhelmed with referrals. Service systems vary in their structure and services among the various populations who may need a guardian. It is critically important to be able to provide quality service delivery that the agency/program accepts only those cases it has the expertise to serve. If the person is an older adult with dementia, the service system may differ from that serving a young person with a developmental disability or a mental illness. An agency that has expertise in serving a particular population will need to consult with appropriate experts if appointed guardian for a person whose needs are different in type and scope from their other clientele.

Agency/Programs may be appointed to cases which are outside its normal scope of care. There must be procedures to guide staff in those situations where the appointment or referral is inappropriate, or where the person has disabilities with which staff are unfamiliar.

B. Intake Process: The agency/program shall ensure that the intake process includes a thorough assessment of the person's goals, needs, and preferences. Intake should follow the steps in NGA's Standards of Practice, Standard 13.

If a court appoints the agency/program prior to such an assessment:

- a. The agency/program must conduct its own investigation to determine if the appointment is appropriate, or if there is a less restrictive alternative.
- b. The agency/program shall petition the court to restore the person's rights or limit the guardian's authority if the assessment so indicates.

[Intent Statement]: Guardianship by its nature means removing rights from a client. Limited guardianships, protective arrangements, powers of attorney, informal support systems and representative payeeships are means of supporting a person without removing legal rights. To identify a less restrictive alternative, it is necessary to gather as much information as possible about the person's functional capacities and supports. In some states the law requires the use of pre-hearing multidisciplinary teams to assess a person who is subject to a guardianship hearing. Many states continue to require only a medical evaluation. Upon appointment, may need to augment any functional assessment that includes the person's participation to determine the most appropriate level of service.

When state law mandates it, or the design of the guardianship service allows the guardian to be appointed without its knowledge or participation in the hearing, the agency/program following the NGA Ethical Principles has an affirmative obligation to advocate for less restrictive alternatives where they exist. The agency/program staff should conduct an intake assessment, to identify the least restrictive, most appropriate intervention that meets the person's personal and financial goals, needs, and preferences. If a less restrictive

alternative is identified, the guardian should petition the appointing court to seek a limited guardianship or other alternatives that meet the person's, needs.

C. Case Assignment Document and Weighting Procedure: The agency/program managers shall identify in writing the process used for assigning caseloads to staff.

They should ensure that employees are able to effectively manage the cases and provide appropriate support for the persons on that caseload by:

1. Establishing a caseload ratio and/or weighting system and commit to maintain it.
2. Having a plan that addresses what is done if the ratio is exceeded.

[Intent Statement]: The amount of work and involvement in the life of a person with a guardian differs depending on the type of service provided and the person's personal and financial goals, needs, and preferences. Whether the person lives in a group setting or in the community independently, affects the caseload difficulty. Multiple complex medical conditions may require more time than for someone whose health is stable. The time required in money management services can be extensive, if bookkeeping and clerical functions are also included.

One key to the dilemma of case overload is to identify duties that can be delegated to well-trained support staff. It may be possible to assign functions to a bookkeeper or hire a property manager to free the guardian's time and provide more individualized service to the person. A pool of volunteers may be used to provide support services or to serve as guardian for stable, uncomplicated cases. Guardian assistants may be used for some functions. However, the case assignment system is designed, it is critically important that the organization identify the best use of its employees' time, and provide enough support to ensure that the guardian regularly visits all persons served and they receive the most appropriate support and advocacy.

D. Guardianship Plan Procedure: The agency/program managers shall document the plan for the delivery of services for each person served. The plan shall:

1. Be developed at the beginning of service initiation and updated at least annually.
2. Include an analysis of the person's strengths and abilities, needs, and preferences.
3. Set goals for enhancing the person's quality of life.
4. Address at least annually the continuing need for a guardian.
5. Specify the steps needed to restore the person's rights.

[Intent Statement]: Setting goals assist guardians in targeting their efforts toward those activities that will enhance the person's quality of life. The needed actions and who will perform them should be identified at the beginning, to effectively manage the case. Goals written in a case plan also provide necessary continuity for the person when there is staffing

turnover, or the person's guardian is unavailable due to illness or other extended absences. If the person has become stable and regained capacity, the plan should include a process for ending the guardianship and restoring the person's rights. This case plan for the guardian's service to the person, is different from a mental health services, habilitation or other provider plan.

E. Guardian Supervision: The agency/program managers shall provide experienced supervision for all cases.

1. Guardians should have a scheduled of case review at least every quarter to ensure that the person's goals are being addressed.
2. The agency/program managers should establish an internal ethical review process for decisions that are complex or controversial an external ethical review or court direction may be sought as well.

[Intent Statement]: Regular, periodic case supervision provides assurance that the person gains stability or improvement in their lives as a result of that intervention. As the issues guardians face are often ethically complex, the agency should provide a way to share responsibility with guardians for the most difficult decisions. The agency/program should have a mechanism to call an internal ethical review to provide guardians with guidance when decisions are difficult, affect the person's fundamental well-being, or are ethically complex. On rare occasions, some decisions may be so controversial or difficult that an external ethical review should be conducted or a request for instruction should be filed with the appointing court.

F. Documentation, Confidentiality and Record Retention:

1. The agency/program managers shall have a policy and procedure for documenting the case actions and decisions taken for the person with a guardian.
2. The person's file shall contain:
 - a. Complete assessment information (including a values history wherever possible)
 - b. Current case plan
 - c. Documentation of visits and interactions with and on behalf of the person
 - d. Legal petitions and letters of guardianship
 - e. Historical and current accountings
 - f. Correspondence
 - g. Other legal or medical records that are necessary for the care and efficient administration of the estate.

3. The agency/program managers shall have written policies and procedures for ensuring:
 - a. Confidentiality of the records
 - b. Disposal of records
 - c. Record retention policy
 - d. Compliance with relevant state and federal laws (i.e., HIPAA, IRS, etc.).

[Intent Statement]: The fiduciary relationship between the agency/program and the person requires clear documentation of the actions taken on the person's behalf. Appropriate statutes governing record retention and any court orders must be followed. The agency/program should have a process for data security and confidentiality of records. There should be policies addressing the security of records and a system for documenting access to the file. There should also be a procedure governing the release of confidential information to others that conforms to applicable state law.

G. Emergency Coverage Procedure: The agency/program managers shall ensure that services are accessible after regular business hours, and on weekends.

Someone with the authority to make important decisions that protect and support the persons served must always be available when the need arises.

[Intent Statement]: Persons with a guardian may require emergency assistance. Emergencies will range from serious medical crises to eviction, to utility shut offs. A person with a guardian may not be able to give informed consent for treatment. A person whose estate is controlled by a guardian may need financial assistance on a weekend. There must be a way for medical and other service providers to reach a decision maker in these situations. The organization may choose several strategies to establish coverage. Rotating staff "on-call" coverage, hiring a staff person to provide after-hours coverage, or contracting with an answering service with the capacity to reach a program representative are some examples of methods that can be used to provide this coverage.

H. Client Funds Management: The agency/program managers shall ensure that all fiduciary duties as set out in the NGA Standards of Practice are adhered to. The agency/program will:

1. Administer guardianship funds diligently in good faith in accordance with court orders and state law.
2. Include the person's participation in financial decisions whenever possible.
3. Manage funds prudently to benefit the person, giving priority to the person's goals, needs, and preferences.
4. Establish a budget to meet the person's basic safety and needs.
5. Keep accurate records and be able to fully account for all assets, income, and expenditures.

6. Determine if a will exists and obtain a copy to determine how to manage estate assets and property. Ascertain if the person has any pooled trust funds.
7. Provide for special purchases or amenities as funds permit.
8. Ascertain the person's estate plan if allowed by the court or under applicable law.

[Intent Statement]: There is a natural tension between the controller of funds and the person, especially when the person has not entered into the arrangement voluntarily. The agency/program must have a system that guarantees the greatest degree of safety for any assets held in this fiduciary relationship. The agency/program must also assure that the person has access to funds in emergency situations and that the person does not lack food, shelter, or daily living necessities as a result of the agency's funds management policies or practices. There should also be enough flexibility to encourage and assist the person to act on their own behalf and to participate in decisions, and to have wishes met, as well as basic needs, as funds permit. While saving and investing are positive goals, these activities should not override the person's ability to use some funds for recreation, leisure, and other purchases for personal enjoyment if funds are available.

I. Required Reports: The agency/program managers shall timely submit all reports and accountings to the appointing court, as required by state law and local court rule.

[Intent Statement]: The appointing authority is charged with monitoring the work of the guardian it appoints. The guardian has an affirmative duty to report on a timely basis and document to the court progress in achieving goals to stabilize or improve the person's quality of life and the prudent management of all funds under the agency/program's authority.

VI. Quality Improvement: The agency/program managers shall have a plan and document actions taken to improve the quality of service delivery.

- A.** The organization shall undertake an internal program evaluation annually.
- B.** The organization will arrange to have an external program audit by an objective third party on a biennial basis.
- C.** If the agency/program is already required to undergo a program evaluation by a third party, the results of that evaluation may be considered to meet this requirement. The agency/program shall utilize the results of such program evaluations to improve the quality of its service delivery.

[Intent Statement]: Many persons may be able to articulate their feelings about the service. The agency/program should seek their input through an internal evaluation, as well as seek input from other stakeholders such as funding and referring agencies, courts, an advisory board, and/or family members. Additionally, the organization should seek out an

independent third party who is knowledgeable about the provision of guardianship services to perform an external program evaluation. Ideally this would be conducted on a biennial basis. Where the program has outside programmatic assessments conducted periodically by a funding entity or other governmental unit, that program audit may be used to meet this requirement.

VII. Grievance/Complaint Procedure: The agency/program managers shall have a policy that describes the process for receiving and reviewing grievances from the person served and concerns from interested parties. The process should include the following:

- A.** Contact names and addresses;
- B.** Time frames for filing and responding to complaint or concern;
- C.** Provision for the person with a guardian to obtain an advocate, if needed;
- D.** Reasonable accommodations for those with communication impairments or who speak a language other than English;
- E.** Requirement of a written response to the grievance; and
- F.** Contact information for the appointing court.

[Intent Statement]: Persons with a guardian must be able to voice grievances and recommend changes in policies and services, free from restraint, interference, coercion and discrimination or reprisal. The loss of rights involved in the guardianship appointment makes this grievance process even more crucial in ethical service delivery. There may also be circumstances where the complainant is a family member, friend, or service provider. Policy on how these will be addressed is a protection for the agency, as well. Where the grievance process fails to satisfy the grievant, information should be provided on how to contact the appointing court.

VIII. Crisis Situations: The agency/program managers shall have a policy defining and determining how staff will respond to situations that bring harm to clients or staff or that cause a disruption of services.

- A.** The policy should include specific instructions about reporting suspected abuse, neglect, or exploitation of a client to authorities in compliance with state law.
- B.** The policy should identify procedures to respond to natural disasters and to track the safety, location, and well-being of those served.

[Intent Statement]: Knowing what to do in a crisis situation can alleviate the effects of such an event. To be proactive, the agency/program must monitor the work/service environment for the safety of clients and staff. A plan for response steps when a critical incident occurs

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can lessen the impact of the incident (i.e., fire, assault, serious injury or untimely death of staff or client.) Under the NGA Standards of Practice, guardians are mandatory reporters who must formally report suspected abuse or neglect. Staff should understand how the state's Adult Protective Service system works and how to report suspected client abuse to those authorities as well as to the agency/program managers.