



NGA

National Guardianship Association
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**Our mission is to advance the nationally recognized
standard of excellence in guardianship.**

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http://www.guardianship.org/guardianship_standards.aspx

Standards of Practice

Agency Standards

Code of Ethics

Policy for Use

Standards of Practice Checklist



Center for Guardianship Certification

www.guardianshipcert.org

Our Vision

Every professional guardian will obtain and maintain CGC certification.

Our Mission

The mission of the Center for Guardianship Certification is to provide a comprehensive guardianship certification program.

Our Purpose

The purpose of the Center for Guardianship Certification is:

- A. To develop and administer a credentialing process for guardians.
- B. To address issues related to renewal, suspension and revocation of credentials for guardians.
- C. To encourage, support and foster best practices in the provision of quality guardianship services.

Standards of Practice

http://www.guardianship.org/documents/Standards_of_Practice.pdf

- NGA Standard 1. Applicable Law and General Standards
- NGA Standard 2. The Guardian's Relationship to the Court
- NGA Standard 3. The Guardian's Professional Relationship with the Person
- NGA Standard 4. The Guardian's Relationship with Family Members and Friends of the Person
- NGA Standard 5. The Guardian's Relationship with Other Professionals and Providers of Service to the Person
- NGA Standard 6. Informed Consent

Standards of Practice

- NGA Standard 7. Standards for Decision-Making
- NGA Standard 8. Least Restrictive Alternative
- NGA Standard 9. Self-Determination of the Person
- NGA Standard 10. The Guardian's Duties Regarding Diversity and Personal Preference of the Person
- NGA Standard 11. Confidentiality
- NGA Standard 12. Duties of the Guardian of the Person

Standards of Practice

- NGA Standard 13. Guardian of the Person: Initial and Ongoing Responsibilities
- NGA Standard 14. Decision-Making About Medical Treatment
- NGA Standard 15. Decision-Making About Withholding and Withdrawal of Medical Treatment
- NGA Standard 16. Conflict of Interest: Ancillary and Support Services
- NGA Standard 17. Duties of the Guardian of the Estate
- NGA Standard 18. Guardian of the Estate: Initial and Ongoing Responsibilities

Standards of Practice

- NGA Standard 19. Property Management
- NGA Standard 20. Conflict of Interest: Estate, Financial, and Business Services
- NGA Standard 21. Termination and Limitation of the Guardianship
- NGA Standard 22. Guardianship Service Fees
- NGA Standard 23. Management of Multiple Guardianship Cases
- NGA Standard 24. Quality Assurance
- NGA Standard 25. Sale of Purchase of a Guardianship Practice

Ethical Dilemma

Informed Consent

Anna has been appointed as guardian of the person of her friend, Joseph, who has been diagnosed with dementia. Only about six weeks into the guardianship the doctor tells Anna that the Joseph has a diagnosis of leukemia, and that she will live only three months without transfusions and chemotherapy, and will likely live a year with the treatment. Anna wants to consent to the treatment, but Joseph refuses it. Anna is not certain that the Joseph understands the consequences of the decision to consent to treatment. What does Anna do?

Ethical Dilemma

Informed Consent

- NGA Standard 6 – outlines 12 factors for Anna to consider in facilitating making the decision with and/or for Joseph.
- Nga Standard 7 - A. First, the guardian shall ask the person what he or she wants
- B. Second, if the person has difficulty expressing what he or she wants, the guardian shall do everything possible to help the person express his or her goals, needs, and preferences
- C. Third, only when the person, even with assistance, cannot express his or her goals and preferences, shall the guardian seek input from others familiar with the person to determine what the individual would have wanted.
- D. Finally, only when the person's goals and preferences cannot be ascertained, may the guardian make a decision in the person's best interest.

Ethical Dilemma

Conflicts of Interest

Gwen has been appointed as guardian of the person and estate of her mother, Alice. Alice owns a home, has about a million dollars in her bank account, and has hoarded items in her home since the Great Depression.

Gwen decides it's best to "keep things in the family." Gwen hires her sons to move Alice's furniture into storage, hires her daughter (who is a financial advisor) to manage the finances, and uses her nephew (who is a doctor) to provide medical treatment.

A granddaughter gets upset, and files a complaint with the Court. Has Gwen done something wrong?

Ethical Dilemma

Conflicts of Interest

NGA Standard 16 (III) (G)

The guardian may not employ his or her friends or family to provide services for a profit or fee unless no alternative is available and the guardian discloses this arrangement to the court.

NGA Standards of Practice

Adopted in Entirety by Statute, Rule or Judicial Order

Applicable to All Guardians

Alaska Stat. § 13.26.001

It is the policy of the state that **all guardians and conservators**, when making decisions for their wards or protected persons, shall abide by the highest ethical standards of decision making and shall consider the standards of practice adopted by the department by regulation. The department shall adopt standards of practice for guardians and conservators and, before doing so, shall review the standards of practice adopted by a national organization with expertise in the area of standards of practice for guardians and conservators, such as the National Guardianship Association. - See more at:

<http://codes.lp.findlaw.com/akstatutes/13/13.26./01./13.26.001.#sthash.MnM2GAM8.dpuf>

Alaska Stat. § 08.26.001

- (a) The department shall issue a private professional full guardian license to an individual(1) who is at least 21 years of age;(2) who has two or more years of professional client casework experience or at least an associate degree in human services, social work, psychology, sociology, gerontology, special education, or a closely related field;(3) who is certified as a guardian by a nationally recognized organization in the field of guardianships.

<http://codes.lp.findlaw.com/akstatutes/8/08.26./01./08.26.020.#sthash.YBVb8MVI.dpuf>

North Dakota Department of Human Services

North Dakota Guardianship

STANDARDS OF PRACTICE for ADULTS

- All NDG standards apply to professional guardians, corporate guardians or family guardians unless otherwise indicated.
- Adapted with permission from the National Guardianship Association (9/21/2005)
- www.ndcourts.gov/court/guardiansp.pdf

NGA Standards of Practice
Adopted in Entirety by Statute, Rule or Judicial Order
Applicable to Professional Guardians Only

Nevada Stat. § 159.0595

NRS 159.0595 Private professional guardians.

1. A private professional guardian, if a person, must be qualified to serve as a guardian pursuant to NRS 159.059 and must be a certified guardian.
2. A private professional guardian, if an entity, must be qualified to serve as a guardian pursuant to NRS 159.059 and must have a certified guardian involved in the day-to-day operation or management of the entity.
4. As used in this section:
 - (a) “Certified guardian” means a person who is certified by the Center for Guardianship Certification or any successor organization.

STATE OF NEW HAMPSHIRE
PROBATE COURT
ADMINISTRATIVE ORDER 16

Pursuant to RSA 464-A, the Probate Court Administrative Judge shall certify professional guardians who shall then be eligible for appointment as a guardian of the person, guardian of the estate or guardian of the person and estate of an incapacitated adult or a minor if requested by a petitioner.

A person seeking appointment as a professional guardian of an incapacitated adult shall submit an application to the Administrative Judge. Application forms are available from the Probate Court Administrative Office.

www.courts.state.nh.us/probate/pcadminorders/ao0016.pdf

STATE OF NEW HAMPSHIRE
PROBATE COURT
ADMINISTRATIVE ORDER 16

The requirements for certification as a professional guardian are:

1. Be a national certified guardian or national master guardian with the Center for Guardianship Certification (CGC) and maintain this registration as required by CGC or its successor organization.
2. Be a resident of the state of New Hampshire or have a resident agent.
3. Adhere to the Standards of Practice published by the National Guardianship Association (NGA) or its successor organization.
4. Adhere to the Model Code of Ethics published by the NGA.

www.courts.state.nh.us/probate/pcadminorders/ao0016.pdf

Oregon Rev. Stat. § 125.240(1)(a)

125.240 Professional fiduciaries. (1) If a petition seeks the appointment of a professional fiduciary, the petition must contain the following information in addition to that information required under ORS 125.055:

(a) Proof that the professional fiduciary, or an individual responsible for making decisions for clients or for managing client assets for the professional fiduciary, is certified by the Center for Guardianship Certification or its successor organization as a National Certified Guardian or a National Master Guardian.

125.242 Exemptions for financial institutions and trust companies. ORS 125.221 and 125.240 do not apply to a financial institution, as defined in ORS 706.008, or trust company, as defined in ORS 706.008. [1999 c.774 §5]

Title 75: Utah Uniform Probate Code

Chapter 1: General Provisions, Definitions, and Probate Jurisdiction of the Court

Chapter 5: Protection of Persons Under Disability and Their Property

Part 3: Guardians of Incapacitated Persons

75-5-311 Who may be guardian -- Priorities.

(1) As used in this section:

(a) "Specialized care professional" means a person who is certified as a National Certified Guardian or National Master Guardian by the Center for Guardianship Certification or similar organization.

(g) a specialized care professional, so long as the specialized care professional does not:

(i) profit financially or otherwise from or receive compensation for acting in that capacity, except for the direct costs of providing guardianship or conservatorship services; or

(ii) otherwise have a conflict of interest in providing those services

http://le.utah.gov/xcode/Title75/C75_1800010118000101.pdf

Standards of Practice

Derived from NGA by Statute, Rule or Judicial Order

Applicable to All Guardians

Supreme Court of Ohio
AMENDMENTS TO THE SUPREME COURT
RULES OF SUPERINTENDENCE FOR THE COURTS OF OHIO

In addition to rules of conduct by adjudicating courts, standards include:

RULE 66.06. Requirement of 6 hour fundamentals course – all guardians

RULE 66.07. Guardian Continuing Education (3 hours/year – all guardians)

RULE 66.08. General Responsibilities of Guardian.

RULE 66.09. Responsibilities of Guardian to Ward.

RULE 73. Guardian's Compensation.

[http://www.supremecourtofohio.gov/ruleamendments/documents/Adult%20Guardianships%20\(FINAL\).pdf](http://www.supremecourtofohio.gov/ruleamendments/documents/Adult%20Guardianships%20(FINAL).pdf)

Standards of Practice

Derived (or presumptively derived) from NGA by Statute, Rule or Judicial Order

Applicable to Professional Guardians Only

Arizona Rev. Stat. Ann. § 14-5651(A)(1)

14-5651. Fiduciaries; licensure; qualifications; conduct; removal; exemption; definitions

A. Except as provided by subsection G of this section, the superior court shall not appoint a fiduciary unless that person is licensed by the supreme court. The supreme court shall administer the licensure program and shall adopt rules and establish and collect fees necessary for its implementation. The supreme court shall deposit, pursuant to sections 35-146 and 35-147, the monies collected pursuant to this subsection in the confidential intermediary and fiduciary fund established by section 8-135. At a minimum the rules adopted pursuant to this subsection shall include the following:

1. A code of conduct....

ARIZONA CODE OF JUDICIAL ADMINISTRATION

Part 7: Administrative Office of the Courts

Chapter 2: Certification and Licensing Programs

Section 7- 202: Fiduciaries

J. Code of Conduct. This code of conduct is adopted by the supreme court to apply to all certified fiduciaries pursuant to A.R.S. § 14-5651(A)(1) in the state of Arizona. The purpose of this section is to establish minimum standards of performance for certified fiduciaries....

California Code Regs. Tit. 16, Div. 41
§ 4470. General Principles

(b) The licensee shall comply with all local, state, and federal laws, regulations, and requirements developed by the courts and the Judicial Council as a minimum guide for the fulfillment of the fiduciary duties recognized under this Article.

2016 California Rules of Court

Rule 7.1009. Standards of conduct for the guardian of the estate

- (a) Avoidance of actual and apparent conflicts of interest with the ward
- (b) Guardianship estate management

The Probate and Mental Health Advisory Committee consulted with several organizations in the development of rule 7.1009, including the National Guardianship Association, a nationwide voluntary association of professional and family fiduciaries, guardians, and allied professionals. In developing this rule, the Probate and Mental Health Advisory Committee considered the National Guardianship Association's Standards of Practice. Some of these standards have been incorporated into the rule.

2016 California Rules of Court

http://www.courts.ca.gov/cms/rules/index.cfm?title=seven&linkid=rule7_1059

Rule 7.1059. Standards of conduct for the conservator of the estate

Advisory Committee Comment

The Probate and Mental Health Advisory Committee consulted with several organizations in the development of rule 7.1059, including the National Guardianship Association, a nationwide voluntary association of professional and family fiduciaries, guardians, and allied professionals. In developing this rule, the Probate and Mental Health Advisory Committee considered the National Guardianship Association's Standards of Practice. Some of these standards have been incorporated into the rules.

CALIFORNIA PROFESSIONAL FIDUCIARIES BUREAU
PROFESSIONAL FIDUCIARIES CODE OF ETHICS
Title 16, Division 41, Article 4, California Code of Regulations

Section 4470. General Principles.

Section 4472. Decision Standards.

Section 4474. Confidentiality.

Section 4476. Conflict of Interest.

Section 4478. Residential Placement.

Section 4480. Care, Treatment and Services.

Section 4482. Management of the Estate.

Section 4484. Limitation or Elimination of Fiduciary Powers; Restoration of Capacity;
Termination of Fiduciary Relationship.

Texas Judicial Branch Certification Commission

- Certain individuals who provide guardianship services in Texas must be certified as of September 1, 2007. Forms, instructions and information on certification, provisional certification and re-certification are available on this website.
- <http://www.txcourts.gov/jbcc/guardianship-certification.aspx>

Texas Judicial Branch Certification Commission

The purpose of these Minimum Standards for the Provision of Guardianship Services (Minimum Standards) is to protect the interests of incapacitated persons in Texas by ensuring that certified guardians and guardianship programs provide guardianship services in a professional and competent manner. These standards are promulgated by the Texas Guardianship Certification Board (Board) and the Texas Supreme Court pursuant to Section 111.041 of the Texas Government Code.

<http://www.txcourts.gov/media/178662/MinimumStandards.pdf>

Texas Judicial Branch Certification Commission

<http://www.txcourts.gov/media/178662/MinimumStandards.pdf>

The National Guardianship Association (NGA) Standards of Practice were of great assistance in the development of these Minimum Standards, and the organization and form of the Minimum Standards generally follows that of the NGA Standards of Practice. For some standards and definitions, the Board adopted different language in the Minimum Standards to be consistent with Texas law and Texas experience. For example, NGA Standard 6 on Informed Consent and Standard 14 on Decision Making About Medical Treatment have been substantially modified, and NGA Standard 15 on Decision Making About Withholding and Withdrawal of Medical Treatment has been abbreviated and incorporated within Minimum Standard 14. The NGA Standards of Practice are available at <http://www.guardianship.org>. Pursuant to Section 531.124(b) of the Texas Government Code, the Guardianship Advisory Board reviewed and commented on the Minimum Standards

Washington Sup. Court Rule 23

- (a) Purpose and Scope. This rule establishes the standards and criteria for the certification of professional guardians as defined by RCW 11.88.008 and prescribes the conditions of and limitations upon their activities. This rule does not duplicate the statutory process by which the courts supervise guardians nor is it a mechanism to appeal a court decision regarding the appointment or conduct of a guardian.
- (b) Jurisdiction. All professional guardians who practice in the state of Washington are subject to these rules and regulations. Jurisdiction shall continue whether or not the professional guardian retains certification under this rule, and regardless of the professional guardian's residence.
- (c) Certified Professional Guardian Board.

https://www.courts.wa.gov/court_rules/?fa=court_rules.display&group=ga&set=GR&ruleid=gagr23

Washington Courts Certified Professional Program

To achieve the greatest protection for the estates and affairs of incapacitated persons in Washington State, the Certified Professional Guardian Board adopts and implements regulations governing certification, minimum standards of practice, training, and discipline of professional guardians....

https://www.courts.wa.gov/programs_orgs/guardian/

NGA Standards of Practice
Adopted in Entirety by Statute, Rule or Judicial Order
Applicable to Public Guardians

Illinois Stat. 755 ILCS 5/13-1.2)

Sec. 13-1.2. Certification requirement. Each person appointed as a **public guardian** by the Governor shall be certified as a National Certified Guardian by the Center for Guardianship Certification within 6 months after his or her appointment. The Guardianship and Advocacy Commission shall provide public guardians with professional training opportunities and facilitate testing and certification opportunities at locations in Springfield and Chicago with the Center for Guardianship Certification. The cost of certification shall be considered an expense connected with the operation of the public guardian's office within the meaning of subsection (b) of Section 13-3.1 of this Article.

(Source: P.A. 96-752, eff. 1-1-10.)

NGA Standards of Practice
Adopted by State Guardianship Associations

Minnesota Association for Guardianship and Conservatorship

The 2013 revisions comply with or exceed the National Guardianship Network's 2011 Third National Guardianship Summit Standards and Recommendations and the National Guardianship Association's Standards of Practice.

<http://www.minnesotaguardianship.org/about-us/standards/>

Guardian/Conservator Association of Oregon,
Inc. (open membership)
(derived from NGA Standards)

GCA

OREGON STANDARDS OF PRACTICE

<http://www.gcaoregon.org/wp-content/uploads/2013/01/GCA-Standards-of-Practice.pdf>

GCA

Oregon Standards of Professionalism

<http://www.gcaoregon.org/wp-content/uploads/2013/01/GCAStandardsProfessionalism.pdf>

2011 Third National Guardianship Summit

THIRD NATIONAL GUARDIANSHIP SUMMIT STANDARDS AND RECOMMENDATIONS

Summit delegates adopted a far-reaching set of recommendations for guardian standards, as well as additional recommendations for action by courts, legislatures, and other entities. These documents from the Summit offer the groundwork for nationally recognized standards for guardians of adults. Below are:

- (1) basic definitions used in the Standards and Recommendations;
- (2) the Summit's "Guardian Standards"; and
- (3) the Summit's "Recommendations

for Action." The Standards and Recommendations were adopted by vote of the plenary session based on recommendations of the Summit's seven interdisciplinary working groups.

<http://epubs.utah.edu/index.php/ulr/issue/view/72>