

**BEHAVIORAL HEALTH DIVISION**

# **GUARDIANSHIP ROLES AND RESPONSIBILITIES**



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## Introduction

Thank you for your interest in becoming a guardian for a person with an intellectual or developmental disability. Being a guardian is a big job. It is also a distinctive and very worthwhile opportunity to make a significant difference in another person's life. Helping to protect a person from possible abuse, neglect, or exploitation, ensuring that the person receives needed care, medical treatment, and services that will help them maintain dignity and independence in the least restrictive environment possible are some of the rewards of being a guardian. This guidebook has been prepared by the Wyoming Department of Health, Behavioral Health Division to help guardians and people considering becoming guardians to understand the role and responsibilities of guardianship and how to be an effective guardian. The content of this guidebook is not intended as legal advice, but guidance on best practices when being a guardian for someone who is on a Home and Community Based Services waiver. It does not include all of the responsibilities of a guardian as specified in [Title 3 of the Wyoming Statutes](#).

*For a copy of this guidebook in an alternative format, please call 1-800-510-0280 and ask for Jamie Kennedy*

## Table of Contents

Introduction .....	2
Mission and Vision .....	5
Definitions .....	6
What is a Guardian?.....	8
How is a Guardian Appointed? .....	10
Who Can Serve as a Guardian? .....	11
General Responsibilities of a Guardian .....	12
What are the Powers of a Guardian? .....	13
If a Guardian is Responsible for Medical Decisions .....	14
If a Guardian is Responsible for General Supervision .....	14
What Rights does Guardianship Limit?.....	16
Abiding by the Guardianship Statute .....	17
Guardianship and Waiver Responsibilities.....	18
Fulfilling Waiver Responsibilities with Good Judgment .....	18
Honoring the Participant’s Preferences .....	19
Assisting the Participant with Making Choices .....	19
Providing Written Verification.....	19
A Guardian Must Participate in Waiver Related Activities.....	20
Staying Informed .....	21
Less Restrictive Alternatives to Guardianship.....	22
Consideration of a Participant’s Wishes .....	23
Excerpts from Title 3: Guardians and Wards –Wyoming Statutes.....	24
ARTICLE 1 - GUARDIANS OR CONSERVATORS .....	24
<b>3-1-111. Complaint against guardian or conservator.....</b>	<b>24</b>
ARTICLE 2 - RIGHTS AND TITLE OF WARD .....	25
<b>3-1-201. Effect of appointment of guardian or conservator.....</b>	<b>25</b>
<b>3-1-202. Powers of the ward. ....</b>	<b>25</b>
<b>3-1-206. Rights of ward.....</b>	<b>25</b>

ARTICLE 1 - APPOINTMENT OF GUARDIAN .....	26
<b>3-2-104. Appointment of guardian.</b> .....	26
<b>3-2-105. Appointment of guardian on voluntary petition.</b> .....	26
<b>3-2-107. Who may be appointed as guardian; preference for appointment of guardians.</b> .....	26
<b>3-2-109. Guardian's report.</b> .....	28
ARTICLE 2 - POWERS OF GUARDIANS.....	29
<b>3-2-201. Powers and duties of guardian.</b> .....	29
<b>3-2-202. Powers of the guardian subject to approval of the court.</b> .....	30
Information and Documents to Collect.....	32
Checklist of Initial Guardianship Actions.....	35
My Notes .....	36
Available Resources.....	37

# Mission and Vision

## ***Mission and Vision of the Behavioral Health Division***

To improve the quality of life of Wyoming residents with developmental disabilities, acquired brain injury, mental illness, and/or substance abuse issues. We are dedicated to be a division of state government that is responsive to the behavioral health needs of Wyoming residents by developing and overseeing a quality continuum of care that is customer-focused, collaborative, evidence-based, and outcomes driven.

The Developmental Disabilities Community Program seeks to provide funding and guidance that is responsive to the needs of people with disabilities to live, work, enjoy, and learn in Wyoming communities with their families, friends, and chosen support services, and support providers.

### **1. Participant Choice**

Participants and families have choices about services they receive through the waiver:

- Full participation in the development of their service plan;
- Choice of service providers, location of services, and elements related to implementation of their service plan;
- Opportunity for and development of the capacity to make choices in their everyday life.

### **2. Inclusion**

Participants are supported and encouraged to participate in the life of their community, with their family, friends, and any other natural or community supports.

### **3. Appropriate Environment**

Participants have the right to receive services in the least restrictive environment possible that meets the needs of the person being served.

### **4. Quality Service**

Participants receive the highest quality of service provided by competent staff, utilizing flexibility and positive reinforcements and support that reinforce quality and efficiency.

### **5. Individualized Services**

Participants are provided services at the appropriate level of intensity based on their individual strengths, needs, goals, and choices.

## Definitions

- A. "Advance Directive" is a written statement of a person's wishes regarding medical treatment to ensure that those wishes are carried out should the person be unable to communicate them to a doctor;
- B. "Best interest" is a course of action that maximizes what is best for the ward and that includes consideration of the least intrusive, most normalizing, and least restrictive course of action possible given the needs of the ward;
- C. "Civil rights" are those rights that are guaranteed and protected by the U.S. Constitution, such as freedom of speech, freedom of press, right to equality, etc.;
- D. "Conservator" means a person appointed by the court to have the custody and control of the property of a ward;
- E. "Guardian" means a person who has qualified as a guardian of a minor or incompetent person pursuant to an appointment by the court to exercise the powers granted by the court. The term includes a plenary, limited, emergency, and standby guardian, but does not include a guardian ad litem;
- F. "Incompetent person" means an individual who has been determined by a court, for reasons other than being a minor, is unable unassisted to properly manage and take care of himself or his property as a result of the medical conditions of advanced age, physical disability, disease, the use of alcohol or controlled substances, mental illness, mental deficiency or intellectual disability;
- G. "Mentally incompetent person" means an individual who has been determined by a court is unable unassisted to properly manage and take care of himself or his property as the result of mental illness, mental deficiency or intellectual disability;
- H. "Participant" An individual who has been determined eligible for covered services under a Home and Community Based Services Waiver (HCBS);
- I. "Plenary Guardianship" means a guardianship in which the appointment by the court carries the full range of duties allowable by law;

- J. "Substituted judgment" is the principle of decision making that requires implementation of the course of action, which corresponds with the ward's known wishes expressed prior to the appointment of the guardian; provided the individual was once capable of developing views relevant to the matter at issue and reliable evidence of these views remains;
- K. "Ward" means an individual for whom a guardian or conservator has been appointed by the court or designated under W.S. 3-3-501.

## What is a Guardian?

A legal guardian is a person who is appointed by the court and has the legal authority and the corresponding duty to care for the personal and property interests of another person, called a ward. Usually, a person has the status of guardian because the ward is unable to make certain decisions independently. A guardian has the legal authority and responsibility of making decisions and taking actions necessary to care for and protect their ward. A court appointed guardian or legally authorized representative of a waiver applicant or participant must be aware of the roles and responsibilities to his or her ward while accessing waiver services. This guide book provides a detailed list of guardianship responsibilities regarding Wyoming's Home and Community Based Services (HCBS) waivers and does not include all of the guardian's responsibilities to the ward as specified in [Title 3 of the Wyoming Statutes](#).

Guardians are only appointed after a court hearing where:

- The proposed ward has the opportunity to get a lawyer.
- The proposed ward has notice of all of the hearings and proceedings.
- The proposed ward has the opportunity to attend the hearing and present evidence and testimony.

Without special court approval, a guardian **CANNOT**:

- Commit a ward to a mental health hospital or other mental health facility.
- Consent for the ward to have psychosurgery, sterilization, electroshock therapy, or other long-term or permanent contraception without approval of the court.
- Relinquish the ward's minor child for adoption.
- Execute advance medical directives such as power of attorney for health care (Wyo. Stat. 35-22-403(b), or an individual instruction (Wyo. Stat. 35-22-403(a)).

### Who May Have a Guardian?

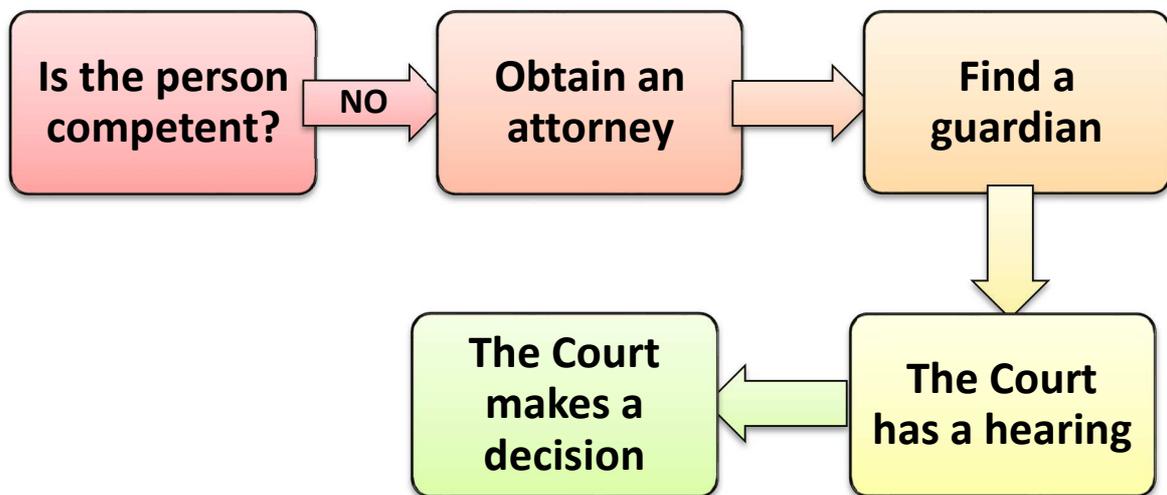
1. **Voluntary** - Any person who has reached the age of fourteen (14) years may petition the court in the county where he or she lives to request an appointment of a guardian.
2. **Involuntary** – Anyone can ask the court to appoint a guardian for someone else. An involuntary guardianship is initiated through the filing of a petition with the court in the county where the proposed ward resides. These requests must tell the court why guardianship is in the proposed ward’s best interests, and also disclose the interests of the person filing the request. A guardian will be appointed if the court agrees that the appointment is necessary.

Wyoming law says that the proposed ward’s chosen guardian, the proposed ward’s spouse, a parent, relatives or family friend are preferred choices as guardians.

Guardianship is NOT designed for people who sometimes make a bad decision or use poor judgment, but rather for persons whose difficulty in receiving information or making and carrying out decisions creates risks to their health, safety, or financial well-being.

# How is a Guardian Appointed?

- The court may appoint a guardian ad litem, and will set a hearing.
- The court will make a decision about who the guardian should be, and write an order.



# Who Can Serve as a Guardian?

## **A guardian must be a competent person who is:**

- Not a paid provider of any substantial services or the operator of the residential facility, such as a group home, where the ward resides or is receiving care; nor should the guardian be a creditor of the ward.

## **In deciding whom to appoint, the court may consider:**

- The person's advance directive, if any;
- The past and current preference of the ward;
- The geographic location of the proposed guardian;
- The relationship between the ward and guardian;
- The proposed guardian's ability to carry out the guardianship;
- The willingness and ability of the proposed guardian to communicate with the ward and to respect the ward's choices and preferences;
- Any potential financial conflicts of interest.
- Criminal record

**The guardian should have no financial or personal interest directly or indirectly that will prevent the guardian from acting with exclusive loyalty to the person in guardianship.**

## General Responsibilities of a Guardian

### A Guardian Helps the Participant:

- Receive mail, use the phone, and see family and friends as desired.
- Be listened to and respected.
- Have choices.
- Vote (unless the court order states that the ward is incompetent)
- Have privacy.
- Get needed services and benefits.
- Be more independent.
- Find people who believe in the participant's gifts and talents.
- Learn to make choices and decisions independently.
- Learn how to appeal if dissatisfied with the guardian and understand the consequences.

### A Guardian SHOULD:

- Call and visit the participant often.
- Return calls from the participant and providers/caregivers.
- Listen to the participant's thoughts and desires.
- Help make decisions.
- Treat the participant as an adult.
- Respect the participant's privacy.
- Include the participant in conversations.

### **A Guardian SHOULD NOT:**

- Have a conflict of interest
- Make decisions without consulting the participant
- Make decisions where the court has not given authority

## What are the Powers of a Guardian?

There are several distinct guardianship powers. The court determines which of the powers are given to the guardian and which are retained by the ward. The guardians' powers are detailed in the court order. The guardian or the ward may ask the court at a later point to modify the order to include additional powers, fewer powers, or to terminate the guardianship if circumstances change.

In making decisions on behalf of the ward, the guardian's role is to support the wishes, values, beliefs, and preferences of the ward and to decide, as much as possible, as the ward would decide if able. The ward should be consulted and included in all decisions. The personal preference of the ward should be followed, unless the preferences would result in harm, or the ward does not understand the consequences.

**The extent of the guardian's powers will be granted by the court order and detailed in the order. Not all orders allow the guardian full responsibility over medical, financial, or general supervision of a ward.**

## If a Guardian is Responsible for Medical Decisions

Guardians are responsible for making decisions about their ward's regular medical, mental health, and dental care. This includes giving or withholding consent to services, and ensuring that the individual is getting the best care appropriate to his or her condition in the least restrictive most appropriate setting.

## If a Guardian is Responsible for General Supervision

Guardians are generally given the authority to make decisions about the ward's residence, care, therapy, skills training, supervision, education, and employment.

***As with all other components of guardianship, this power should be exercised in a manner that assists the person to live the life he or she chooses to lead.***

### ***A Guardian SHOULD:***

- ✓ *Ensure that the ward receives benefits to which he or she is entitled to under public programs.*
- ✓ *Allow the ward the opportunity to manage his or her own personal funds to the extent that he or she is able.*
- ✓ *Allow the ward to be a part of all decision making to the extent that he or she is able.*

## Guardians of Waiver Participants SHOULD:

- ✓ Assess the needs and wishes of the participant regarding the type and location of his or her residence.
- ✓ Make every attempt to see that the participant has a chance to visit proposed homes.
- ✓ Visit the proposed homes and consider how the homes will meet the participant's needs.
- ✓ Ensure that the participant is in a safe living environment with people who treat them with dignity and respect.
- ✓ Assure that the participant has appropriate clothing, good nutrition, privacy, and needed equipment and accommodations (such as glasses and hearing aids, lifts, adaptive technology).
- ✓ Make sure that the participant has access to a phone, can receive and send mail, and see family and friends as desired.
- ✓ Participate in planning meetings.

## A Guardian SHOULD:

- ✓ Safeguard the participant's civil rights as much as possible.
- ✓ Only restrict a participant's personal freedom to the extent necessary.
- ✓ Make all decisions about the participant for the benefit of the participant.
- ✓ Tell the court if he or she has a conflict of interest.
- ✓ Ensure that the participant has adequate care, comfort, and provide maintenance of the wards housing, food, clothing, and other necessities.
- ✓ Arrange for adequate services, medical care, training, education, and/or rehabilitation.
- ✓ Provide informed consent for medical care, counseling, and treatment.
- ✓ Maintain thorough records regarding each participant.
- ✓ Make decisions on behalf of the participant using "Substituted Judgment" or "Best Interest."

## What Rights does Guardianship Limit?

The rights that are limited by guardianship depend on the court order. The court order details the specific areas that guardianship pertains to.

Guardianship can limit a person's right to:

- Travel or decide where to live.
- Arrange for medical care and/or other services.
- Manage personal money or property.
- Marry or divorce.
- Have or get a driver's license.
- Make or change a will.
- Testify in court.
- Make contracts.
- Give or refuse permission for other people to look at or get copies of records.
- File a lawsuit
- Vote if limited by the court order

**Guardianship should only limit those rights that a person is unable to exercise, and only if there are no available alternative resources to help the person exercise those rights.**

If a guardian thinks the ward is capable of making certain decisions (such as going to the dentist or getting an eye exam, etc.) the guardian may and should allow the person to make the decision and sign the necessary paperwork.

## Abiding by the Guardianship Statute

- A guardian observed by the state shall have court-ordered guardianship papers that are current and up to date.
- The guardian may not make decisions on behalf of the ward that are not authorized by the court or statute.
- A guardian of a ward must provide information in the form of a report to the courts at least twice a year or as required by the courts.

The guardian must comply with [Title 3 of the Wyoming Statutes](#).

### Important to Remember

The ward under any guardianship or conservatorship shall have the right to:

The least restrictive and most appropriate guardianship or conservatorship suitable to the ward's circumstances, subject to the order of preference provided by W.S. 3-2-107 and 3-3-105;

(ii) The least restrictive and most appropriate residential, educational and employment environments;

## Guardianship and Waiver Responsibilities

### Fulfilling Waiver Responsibilities with Good Judgment

A guardian should make all decisions in the participant's best interest.

In providing informed consent for treatment, a guardian must show good judgment in reviewing any relevant "risk and benefit" information related to treatment, medications, services, and medical interventions. Informed consent decisions need to be made on a timely basis.

The guardian should play a key and active role on the support team and participate in finding solutions and compromises when differences occur. A guardian should be supportive of the participant's role on the team and help the team understand the desires and choices of the participant.

**The guardian should model the behavior that he or she expects service providers to follow in relating to the participant.**

## Honoring the Participant's Preferences

- Providers and provider staff.
- Scheduled and unscheduled activities.
- Clothing/Appearance.
- Relationships.
- Skills training.
- Employment options.
- Benefits/Income.
- Cultural/Religious activities.



## Assisting the Participant with Making Choices

- Type of services provided.
- Providers of the services.
- How the services are delivered.
- The community in which he or she lives.
- Positive behavior supports.
- Restrictive interventions (if applicable).
- Use of restraints (if applicable).



## Providing Written Verification

- Sign plan of care documents AFTER a review.
- Sign modifications to the plan of care as needed.
- Sign releases, eligibility forms, waiver or provider documentation, and any other Medicaid documents to ensure the participant may receive Medicaid services.



# A Guardian Must Participate in Waiver Related Activities

## ***Duties include, but are not limited to:***

- Assist in developing the individualized plan of care using person-centered methods.
- Choose providers, doctors, etc.
- Attend plan of care development and revision meetings.
- Coordinate meeting times with the case manager and provider.
- Incident follow up.
- Determining treatment options.
- Participate in assessments as needed for continued waiver eligibility determination.
- If self-directing waiver services, follow the requirements and responsibilities for the self-directed option.
- Be available (with the participant at home) for the monthly and/or quarterly home visits required by the case manager, if residing with the participant, and cancel when necessary in an appropriate amount of time so the home visit can still be completed during the month.
- Inform the case manager and/or provider of any concerns or questions, and allow the case manager an opportunity to address any concerns or questions.
- Inform the case manager of any requested changes in services and follow the Division's transition procedures when changing service providers or moving to another location in the state. This includes scheduling the transition meeting two (2) weeks in advance and allowing one (1) week for the modification to be approved before the services are changed or the move takes place.
- Review services provided, participant progress, schedules, activities, incidents, and other information relating to the participant's health, well-being, and involvement with others and the community.
- Approve appropriate behavior support plans.
- Approve participant restrictions being implemented and the plan to restore the rights that have been restricted.
- Address issues such as neglect or abuse by providers by ***immediately*** reporting incidents to the Department of Family Services.



## Staying Informed



- Keep informed of waiver changes through the website or educational opportunities provided by the Division.
- Learn about rights and restrictions and actively participate in any discussion about possible rights restrictions.
- Know the rules, laws, and expectations of the state and local community where the participant resides.
- Ask questions about direct responsibilities, if information or directions are not understood.
- A guardian needs to be available in case of emergency.
- If a guardian is going to be away, the guardian should arrange to be contacted if needed.
- Any program or facility serving the participant is expected to inform the guardian promptly of any changes in the participant's condition and obtain the guardian's permission before starting or changing a treatment.
- A guardian should keep all documents and paperwork regarding the guardianship in a convenient place, such as a file drawer, where it can be located quickly. A checklist of basic documents is at the end of this guide.

## Less Restrictive Alternatives to Guardianship

Guardianship may not be appropriate if there are alternative resources available to make sure a participant is safe, well, and has access to the services needed, and property and money is handled prudently. Often guardianship is not necessary to meet the needs of a person who is having difficulty handling his or her personal and financial affairs. There are alternatives that provide supports for the person or for substitute decision making authority in specific areas, and these should be used instead of guardianship whenever possible.

### ***Other options to consider:***

- A revocable Power of Attorney.
- Circle of supports (utilizing the participant's network of family and friends).
- A mentor or someone to provide advice and support, and assist the participant in making good decisions.
- A representative payee.

## Consideration of a Participant's Wishes

As a guardian, you should always ask the participant what he or she wants.

- ✓ Where do they want to live?
- ✓ What types of services would he or she like to have that fit with their goals, needs, and interests?
- ✓ Do they want to go to a day program?
- ✓ Do they want to work?



These are just some examples of the conversations that should take place between the guardian and a participant. A guardian should keep the participant involved in making decisions that are simple and provide choice. A guardian should use substituted judgment or the best interest of the participant. Before making a decision, determine what the participant would decide if he or she were provided the choice. The guardian will then be better equipped to make a decision in line with how he or she chooses to live.

**Encourage participation in all decision making to the maximum extent of the participant's abilities.**

## Excerpts from Title 3: Guardians and Wards –Wyoming Statutes

### Chapter 1 – General Provisions

### ARTICLE 1 - GUARDIANS OR CONSERVATORS

#### 3-1-111. Complaint against guardian or conservator.

(a) Any person having reason to believe that a guardian or conservator is not properly discharging his duties shall report the allegations and relevant supporting facts in a verified writing to the clerk of the district court that established the guardianship or conservatorship.

(b) The clerk shall immediately send a copy of the complaint report to the guardian or conservator in the manner provided for service of process under Rule 4(l)(2) of the Wyoming Rules of Civil Procedure.

(c) The guardian or conservator shall have twenty (20) days in which to respond to the complaint report.

(d) Upon receipt of the guardian's or conservator's response, or at the expiration of the twenty (20) day response time, whichever occurs earlier, the court shall either dismiss the complaint or set the matter for hearing. The court may dismiss the complaint if the complaint report and response show there is no basis for the allegations that the guardian or conservator is not properly discharging his duties.

(e) Notice of the hearing shall be sent to the complainant, the guardian or conservator and, when ordered by the court, the ward.

(f) At the conclusion of the hearing, or after determining there is no basis for the allegations and no need for a hearing, the court shall issue findings and enter an appropriate order.

(g) The court may, within its discretion, assess court costs and impose attorney's fees against any party in an action instituted under this section.

## ARTICLE 2 - RIGHTS AND TITLE OF WARD

### **3-1-201. Effect of appointment of guardian or conservator.**

The appointment of a guardian or conservator does not constitute an adjudication that the ward lacks testamentary capacity.

### **3-1-202. Powers of the ward.**

(a) A ward who is a minor or a mentally incompetent person for whom a conservator has been appointed does not have the power to convey, encumber or dispose of property in any manner, except:

- (i) By will if he possesses the requisite testamentary capacity; or
- (ii) As provided by W.S. 2-1-203(a), 13-7-302 and 34.1-4-405.

### **3-1-206. Rights of ward.**

(a) The ward under any guardianship or conservatorship shall have the right to:

- (i) The least restrictive and most appropriate guardianship or conservatorship suitable to the ward's circumstances, subject to the order of preference provided by W.S. 3-2-107 and 3-3-105;
- (ii) The least restrictive and most appropriate residential, educational and employment environments;
- (iii) Freedom from inappropriate physical or chemical restraints; and
- (iv) All other rights available to residents of any private or public facility to which the ward is admitted or program in which the ward participates subject to any order of the court.

## **Chapter 2 - Guardianships**

### **ARTICLE 1 - APPOINTMENT OF GUARDIAN**

#### **3-2-104. Appointment of guardian.**

(a) The court may appoint a guardian if the allegations of the petition as to the status of the proposed ward and the necessity for the appointment of a guardian are proved by a preponderance of the evidence.

(b) The order appointing a guardian shall state the findings of the court, including:

(i) The reasons why the ward is in need of a guardian;

(ii) The appointment of the guardian;

(iii) The duration of the appointment for a specified term or permanent, subject to W.S. 3-3-1101;

(iv) The limited or plenary duties of the guardian.

#### **3-2-105. Appointment of guardian on voluntary petition.**

(a) A guardian may be appointed by the court upon the petition of the proposed ward, including a minor who has reached the age of fourteen (14) years, if the court determines that the appointment is in the best interest of the petitioner.

(b) The petition shall state whether a notice of a petition for involuntary guardianship under W.S. 3-2-101 has been served on the proposed ward.

#### **3-2-107. Who may be appointed as guardian; preference for appointment of guardians.**

(a) The court may appoint any qualified person as guardian of an incompetent person or a minor. The court may not appoint a person to be a guardian of an incompetent person or a minor if the person proposed to act as guardian:

(i) Provides, or is likely to provide during the guardianship period, substantial services to the ward in a professional or business capacity unrelated to the person's authority as a guardian;

(ii) Is, or is likely to become during the guardianship period, a creditor of the ward, other than in the capacity as guardian;

(iii) Has, or is likely to have during the guardianship period, interests that may conflict with those of the ward; or

(iv) Is employed by a person who would be disqualified under paragraphs (i) through (iii) of this subsection.

(b) A person may be appointed as guardian of a respondent, notwithstanding the provisions of subsection (a) of this section that would otherwise disqualify the person, if the person is the spouse, adult child, parent or sibling of the respondent and the court determines that the potential conflict of interest is insubstantial and that the appointment would clearly be in the best interests of the respondent.

(c) Subject to subsection (e) of this section, qualified persons have priority for appointment as guardian of an incompetent person in the following order:

(i) A person nominated by the respondent if at the time of the nomination the respondent has the capacity to make a reasonably intelligent choice;

(ii) The spouse of the respondent;

(iii) A nomination in the will of the respondent's deceased spouse;

(iv) The parent of the respondent;

(v) An adult child of the respondent;

(vi) A person named in the will of the respondent's deceased parent;

(vii) A relative of the respondent with whom the respondent has resided for more than six (6) months during the year preceding the filing of the petition;

(viii) A relative or friend who has demonstrated a sincere, longstanding interest in the welfare of the respondent;

(ix) Any other person whose appointment would be in the best interests of the respondent;

(x) A person with a guardianship program for incompetent persons.

(d) Subject to subsection (e) of this section, qualified persons have priority for appointment as guardian of a minor in the following order:

- (i) The parent or parents of the minor;
- (ii) The person nominated as guardian in the will of the custodial parent;
- (iii) The person requested by a minor who has reached the age of fourteen (14) years;
- (iv) Any other person whose appointment would be in the best interests of the minor.

(e) The court shall consider the priorities established in subsections (c) and (d) of this section, but shall not be bound by those priorities. The court shall appoint the person who is best qualified and willing to serve as guardian.

### **3-2-109. Guardian's report.**

(a) The guardian shall present to the court and file in the guardianship proceedings a signed, written, report on the physical condition, including level of disability or functional incapacity, principal residence, treatment, care and activities of the ward, as well as providing a description of those actions the guardian has taken on behalf of the ward:

- (i) Within six (6) months of the guardian's appointment;
- (ii) Every six (6) months following the initial report;
- (iii) Within thirty (30) days of his removal or resignation from, or the termination of, the guardianship;
- (iv) At other times as the court may order.

(b) The court shall maintain a calendar for the filing of guardianship reports.

(c) If a guardian's report is not timely filed, the court shall enter an order for the guardian to show cause why the guardian should not be held in contempt.



## ARTICLE 2 - POWERS OF GUARDIANS

### 3-2-201. Powers and duties of guardian.

(a) The guardian shall:

(i) Determine and facilitate the least restrictive and most appropriate and available residence for the ward;

(ii) Facilitate the ward's education, social and other activities;

(iii) Subject to the restrictions of W.S. 3-2-202, authorize or expressly withhold authorization of medical or other professional care, treatment, or advice;

(iv) Take reasonable care of the ward's personal property;

(v) Commence protective proceedings if necessary to protect the property of the ward;

(vi) Apply to the ward's current needs for support, care and education as much of the money or property paid or delivered to the guardian pursuant to W.S. 3-3-108 as may be appropriate;

(vii) Exercise due care to conserve excess funds for the ward's future needs;

(viii) Pay to the conservator excess funds at least annually;

(ix) Request the court to modify the guardian's range of duties if the changed circumstances of the ward require such modification; and

(x) Following the death of a ward, arrange for the final disposition of the ward's remains according to the ward's expressed wishes if known, if the immediate family is unavailable or unwilling to assume responsibility. For purposes of this paragraph, "immediate family" is defined as parents, spouse, grandparents, siblings, and adult children.

(b) The guardian may:

(i) Receive money payable from any conservatorship for the support of the ward;

(ii) Receive money or property of the ward paid or delivered to the guardian pursuant to W.S. 3-3-108;

(iii) Institute proceedings to compel the performance by any person of the duty to support or contribute to the support of the ward;

(iv) Repealed By Laws 1998, ch. 114, 3.

(v) Repealed By Laws 1998, ch. 114, 3.

(vi) Consent to the marriage or adoption of the ward.

(c) The guardian is not liable for injury to the ward resulting from the negligence or acts of third persons performed by authority given by the guardian for medical or other professional care, treatment or advice, unless it would have been negligent for a parent to have given that authority.

(d) Funds received by the guardian pursuant to W.S. 3-3-108 shall not be used for compensation for the services of the guardian unless approved as required under W.S. 3-2-111.

(e) The guardian of a minor has the powers and responsibilities of a parent who has not been deprived of custody of his unemancipated minor child. A guardian who is not a parent of the minor is not obligated to expend his own funds for the support of the ward. A guardian who is not the parent of a minor is not liable to third persons for acts of the ward by reason of the relationship of guardian and ward.

### **3-2-202. Powers of the guardian subject to approval of the court.**

(a) Upon order of the court, after notice and hearing and appointment of a guardian ad litem, the guardian may:

(i) Commit the ward to a mental health hospital or other mental health facility;

(ii) Consent to the following treatments for the ward:

(A) Electroshock therapy;

(B) Psychosurgery;

(C) Sterilization;

(D) Other long-term or permanent contraception.

(iii) Relinquish the ward's minor child for adoption, provided:

(A) Notice of any hearing was given to the ward and the legal or putative father; and

(B) The ward attended the hearing if the court so ordered.

(iv) Execute any appropriate advance medical directives, including durable power of attorney for health care under W.S. 35-22-403(b) and an individual instruction under W.S. 35-22-403(a).

## Guardianship Checklist

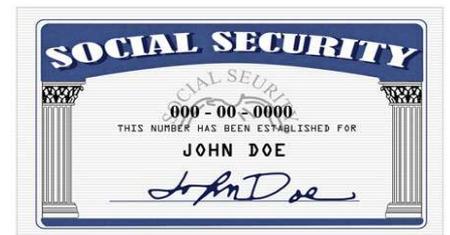


### Information and Documents to Collect

*Items in this checklist may not be applicable to every participant.*

#### **General**

- Date of Birth/Birth Certificate
- Social Security Number
- Medicaid Number (if different)
- Medicare Number and date it began
- Current photo
- Power of Attorney, if any
- Name, address, and phone of next of kin
- Name, address, and phone of caregivers
- Funeral and burial arrangements, if any
- Current benefits (Social Security, VA, SSI, etc.) and claim number
- Name and address of employer



## Medical

- Health insurance card and premium information
- Advance Directives or Living Will
- List of allergies and chemical sensitivities
- Name and phone number of all health care and waiver providers, physical, speech, and occupational therapists
- List of current medical problems and treatments
- Current code status (DNR or not)
- Current medications: name, purpose, and dosage
- Medical history



MEDICARE		HEALTH INSURANCE	
1-800-MEDICARE (1-800-633-4227)			
NAME OF BENEFICIARY <b>JANE DOE</b>			
MEDICARE CLAIM NUMBER <b>000-00-0000-A</b>	SEX <b>FEMALE</b>	EFFECTIVE DATE	
IS ENTITLED TO <b>HOSPITAL (PART A) MEDICAL (PART B)</b>	<b>(PART A) (PART B)</b>	<b>07-01-1986 07-01-1986</b>	
SIGN HERE → <i>Jane Doe</i>			



## ***Financial***

- Bank accounts and checks
- Uncashed checks and cash
- Wages
- Safety deposit boxes
- Stocks, bonds, CDs, money market accounts, trusts
- Credit cards, including account number
- Life insurance policies
- Retirement accounts, pensions, benefits, and food stamps
- Vehicles, including title and insurance
- Promissory notes or money owed to the individual
- Keys to vehicles, house, apartment, safety deposit box
- Inventory of personal property (clothing, TV, radio, furniture, etc.)
- Property information, taxes, and insurance, if applicable
- Name and address of representative payee, if any
- Previous year tax return
- List of debts, including back taxes, rent, credit cards, etc.
- Regular bills, including phone, cable, heat, power, water, etc.



## ***Legal***

- Pending legal actions, name of attorney, etc.
- Any claims that require filing of lawsuit and date of incident

## Checklist of Initial Guardianship Actions

- Meet with the participant and explain your new role.
- Identify the goals, needs, preferences, desires, and wishes of the participant.
- Leave contact information (phone number and address) with the participant.
- Notify all health care and social service agencies of your role.
- Ask for a team meeting to review services and needs.
- Notify caregivers, providers, and physicians of your emergency contact information.



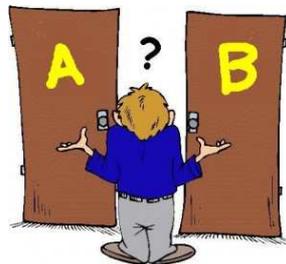
**Person-Centered  
Planning**



**Identify Goals,  
Needs, Preferences,  
and Wishes**



**Choice**



**Be Involved**





## Available Resources

### **National Guardianship Association (NGA)**

[www.guardianship.org](http://www.guardianship.org)

- NGA offers webinars, written material, self-study courses, standards of practice and ethical guidelines
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### **Wyoming Guardianship Corporation (WGC)**

[www.wyomingguardianship.org](http://www.wyomingguardianship.org)

- WGC will offer non-legal advice to guardians or persons under guardianship

P.O. Box 2778 Cheyenne, WY 82003

Phone: (307) 635-8422