

Guardianship/Conservatorship Responsibilities To The Ward

Development Team of

Eileen M. Krumbach, Extension Educator, University of Nebraska; Richard J. Bischoff, Professor, UNL Department of Child, Youth and Family Studies; Sue Fredricks, Executive Director, Volunteers Assisting Seniors (VAS), Omaha; Thomas K. Harmon, Attorney at Law, Omaha; Bruce A. Cudly, Nebraska Region V Services; Dianne D. Delair, Staff Attorney, Nebraska Advocacy Services, Inc.; Julie J. Hippen, Program Specialist, Nebraska Department of Health and Human Services, Adult Protective Services; Marla J. Fischer-Lempke, Executive Director, The Arc of Nebraska; Mary Evans, Guardian; Sheryl L. Connolly, Trial Court Services Director, Administrative Office of the Courts

A Guardian must ensure that a Ward’s personal and financial interests are protected while trying to include the Ward in decision making as much as possible. This NebGuide, third in a series of seven, discusses legal Guardianship.

Guardianship is a court-appointed relationship granting the Guardian certain powers and duties. Guardians will have many and on-going responsibilities to the Ward.

Responsibilities to the Ward

A Guardian must know her/his Ward’s desires and preferences to effectively advocate for the Ward. A Guardian must have regular contact with the Ward and others concerned (i.e., family, caregivers, etc.) to assist the Guardian in better decision making.

The Ward is the Guardian’s primary responsibility.

A Guardian must advocate for the Ward by working to ensure the Ward’s personal and financial interests are protected. Guardians must maintain a file of legal documents that include guardianship documents, estate information, wills, health insurance, medical information, etc. The Guardian may need to conduct research to determine if the Ward’s preferences have been previously documented.

The Guardian may obtain advice from a lawyer, accountant, or other professionals to assist in the protection of the Ward.

The Guardian must be respectful of the Ward.

A Guardian should always seek to include the Ward in decision making to the fullest extent possible. Ultimately, the decision on what information will be shared with the Ward is up to the Guardian. Ascertaining the Ward’s feelings and then involving the Ward as much as possible in the decision shows respect.

Information regarding the Ward is confidential.

The Guardian is expected to ensure that personal information about the Ward is treated as confidential and shared on a “need to know” basis. The Guardian is responsible for authorizing any release of information that could be considered as protected, such as health and financial information.

The Guardian supports the Ward in exercising personal preference.

The Guardian needs to understand the preferences of the Ward and should support the Ward in making choices that can foster greater self-reliance and self-esteem. The Guardian must strive to find ways to ensure the Ward’s dignity by helping the Ward lead a full and satisfying life, seeking to protect the Ward from harm, and preserving the Ward’s

individual rights by not trying to take unnecessary control over her/his life.

The role of a Guardian is not to limit choice, but rather to ask how choice can be an effective part of a person's life. It is not expected that Guardians will control all aspects of a Ward's life. Most Wards may still maintain decision making in routines such as who their friends are, what they do socially, what type of diet they follow, etc. The Guardian must be a protector of the Ward and those rights that the Ward may not be able to exercise on his/her own.

Guardians maintain relationships with professionals and service providers.

Often, the Ward will receive services from other professionals, such as medical, financial, or human-services providers. The Guardian is expected to have regular contact with these providers and ensure that the Ward is receiving the best possible service consistent with the individual's preferences. Such preferences may include maintaining contact with family and friends, supporting new friendships, respecting the Ward's choices in personal relationships, and, in general, maintaining a level of personal satisfaction and comfort in life.

Guardians must consider the balance between a desire to protect Wards from any and all perceived threats to their well-being and the recognition that in life there is risk. To have a full and satisfying life, all of us take some risks balanced with desires and wants. Guardians must bear this in mind, never losing sight of their responsibilities to the Ward's own personal quest to live life to the fullest.

The Guardian works to ensure the Ward is supported with the least restriction possible.

Nebraska law states: "A Guardian shall make every reasonable effort to ensure (the Ward's) placement is the least restrictive alternative. A Guardian shall authorize a placement to a more restrictive alternative only after careful evaluation of such need."

As an example, a Ward who can handle most activities of daily living, such as cooking, bathing, and dressing, but lacks skills in budgeting and money management, would not require placement in a fully staffed group home, which would be more restrictive than necessary. A less restrictive alternative may be to arrange for someone on a regular basis to assist

the Ward in money matters, while the Ward remains in her/his own home.

For an elderly Ward, an assisted-living facility where people have their own living areas with facility assistance for meals and medications is much less restrictive than placement in a nursing facility.

The Guardian cannot change the Ward's place of abode to a location outside of the State of Nebraska without court permission.

The need for a Guardian should be reassessed regularly.

Many people have been able to overcome the conditions that led them to need a Guardian in the first place. A Guardian should reevaluate the Ward's need from time to time. There is no greater reward to people who have worked very hard to overcome obstacles than having control of their life returned to them. It is the duty of a Guardian to return to Court to legally reduce or remove guardianship if the Ward's condition improves.

Resources

A Model Code of Ethics for Guardians. National Guardianship Association. 1998. Tucson, Ariz.

Developmental Disability Law: A Manual for Nebraska Advocates. Nebraska Advocates Services. 1996. Lincoln, Nebr.

Nebraska Revised Statutes, Article 26, Section 30, the Nebraska law addressing guardianship.

Standards of Practice. National Guardianship Association. 2003. Tucson, Ariz.

UNL Guardianship website at <http://www.extension.unl.edu/guardianship/> includes information, helpful links, and a calendar of educational workshops and programs.



This publication has been peer reviewed.

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