

# PENNSYLVANIA GUARDIAN HANDBOOK



ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS



OFFICE OF  
ELDER JUSTICE  
IN THE COURTS



# Pennsylvania Guardian Handbook

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# INTRODUCTION

The role of guardian can be complex and challenging, and every Pennsylvanian with a guardian deserves the highest level of care. Thank you for taking on the essential role of being a guardian for a vulnerable person. As you provide needed support for the person with a guardianship, while helping them retain the highest possible level of freedom to make decisions, this handbook will be one of many resources available to you.

Many guardians in Pennsylvania are caring for their family members and loved ones. For these guardians, there can be added challenges and complications when navigating their responsibilities as guardian. Guardians may feel conflicted in their dual roles as a loved one and a guardian. There are resources and support available to guardians in these and other challenging situations. [More information can be found in \*Where Can I Go for Help?\*](#)

This handbook is organized into several sections, starting with a general overview of guardianship with cross-references to later sections containing more detailed information for your role as guardian of the person and/or guardian of the estate. Additional topics include other guardianship situations, elder abuse and exploitation, and the online Guardianship Tracking System (GTS). There are links to forms and other resources, and a glossary is included to assist you with guardianship terminology.

This handbook is a resource only and is not intended to provide legal advice. If you have questions or concerns about the information in this handbook, please contact your local clerk of the orphans' court, an attorney, or the GTS Help Desk, depending on the nature of your concern. While policies and procedures described in this handbook are meant to serve as general guidelines, the court overseeing the guardianship may have different policies and procedures that must be followed.

Throughout this handbook there are references to Alleged Incapacitated Person (AIP) and Incapacitated Person (IP). While this language is used to be consistent with the language used in court forms and guardianship law, different terms have become more common in other settings including "person with a guardian" and "person with diminished capacity." Regardless of the term used, the person remains a unique individual who has interests, hopes, and dreams, that do not lose value or meaning because a guardian is appointed.

## Chapter 1

# GUARDIANSHIP BASICS

### What is a Guardianship?

A guardianship court order allows a designated individual, individuals, or entity to act on another person's behalf when they are determined by a court to be incapacitated. An adult who is partially or totally unable to receive or understand information or communicate decisions effectively, to the extent that they are unable to manage their finances or meet their own safety and health needs, is considered incapacitated under Pennsylvania law. Guardianships can be of the person, estate, or both; emergency or long-term; and limited or plenary.

### Types of Guardianship

#### Person, Estate, or Both

Courts may appoint a guardian of the person, guardian of the estate, or both, depending on the needs of the person. The court may appoint one or more individual(s) to be guardian of both the person and the estate, or it may appoint separate people for the estate and person.

A guardian of the person is granted the right and responsibility to make decisions regarding the IP's living situation, medical needs, daily care, and other aspects of their safety and well-being.

More information can be found in [Guardian of the Person](#).

A guardian of the estate is granted rights and responsibility to manage the IP's money, assets, income, and property; pay their bills and taxes; apply for, maintain, and renew government benefits; and protect their financial security. More information can be found in [Guardian of the Estate](#). Ultimately, the court is responsible for the oversight of the individual under guardianship and the guardian. When appointing guardians, the court must consider many factors and make appointments in the best interest of the AIP.<sup>i</sup>

**Guardian of the Person** - Appointed by the court to make decisions on behalf of an incapacitated person regarding that person's health, safety, and wellbeing.

**Guardian of the Estate** - Appointed by the court to make decisions on behalf of an incapacitated person regarding that person's finances and property.

## Emergency or Long-Term

In situations where there is an immediate threat to the person's well-being or financial security, the court may appoint an emergency guardian. Emergency guardians of the person are appointed for no more than seventy-two (72) hours, which can be extended up to an additional twenty (20) days by the court if needed. Emergency guardians of the estate are appointed for no more than thirty (30) days.<sup>ii</sup> Long-term guardianships, sometimes called final or permanent guardianships, are appointed indefinitely.

## Limited or Plenary

The court may find that an individual can make their own decisions in some areas of their life, but not in others. In these situations, a limited guardianship may be appropriate. When a limited guardianship is ordered, the Final Decree from the court will state exactly what decision-making rights and responsibilities have been assigned to the guardian, as well as any limitations. Limited guardianships can be ordered for guardians of the person, estate, or both, and allow the person under guardianship to keep as many rights and freedoms as possible.

Plenary guardianships, sometimes called full guardianships, delegate all decision-making rights allowed under the law to the guardian. Because these guardianships take away so many fundamental rights from the IP, plenary guardianships should only be considered if there are no suitable less restrictive alternatives. Guardians have a duty to maximize the IP's independence and are required to petition the court to have the guardianship altered or ended should the needs and abilities of the IP change.<sup>iii</sup>

## Is a Guardianship Necessary?

Guardianship takes away many rights and freedoms from an individual and must only be considered after all less restrictive alternatives are considered and fail to meet their needs. There are many ways to address the needs of individuals who may not be capable of making certain decisions on their own while helping them remain independent.<sup>iv</sup> After a guardianship is established, it is the guardian's responsibility to petition the court to limit or vacate the guardianship if a less restrictive alternative like those listed below would be appropriate should the IP's decision-making ability or medical condition improve.

## Supported Decision-Making

Supported decision-making is a process that allows the IP to make their own decisions after consulting with trusted supporters. These supporters can help the IP understand the decision they need to make and provide guidance about their options, but ultimately the IP is the one who makes the decision. Supported decision-making can be used instead of guardianship or as part of a guardianship, when appropriate, to ensure the person under guardianship is as involved as possible in decision-making.<sup>v</sup>

## Advance Directives

- Financial Power of Attorney – This document, completed before the person loses capacity, allows them to appoint someone to act on their behalf in financial matters should they lose capacity.
- Health Care Advance Directive – This may be a living will, health care power of attorney, or a single document containing both. These documents need to be completed when the person has capacity to understand them and make the necessary decisions about their own future care.
  - Living wills give instructions for making medical decisions regarding end-of-life care.
  - A health care power of attorney appoints someone to make medical and end-of-life decisions on the person’s behalf.<sup>vi</sup>
- Physician Order for Life Sustaining Treatment (POLST) – This document can be created by a doctor to communicate a patient’s condition, preferences, and end-of-life medical care decisions when that patient has a terminal illness. If a patient decides to create a POLST with their doctor’s help, the form then stays with the patient in case they need emergency care or become incapacitated.<sup>vii</sup>
- Mental health power of attorney – This document, authorized under Pennsylvania law, permits a person with a mental illness to provide instructions in advance regarding the treatments and medications to which the person would consent if able, and may name an agent to act when the person is not able to make decisions himself or herself.<sup>viii</sup>

## Health Care Representative

When a doctor determines that someone does not have capacity to make their own medical decisions and that person does not have a guardian or agent identified in a health care power of attorney, a health care representative can make certain medical decisions on the person’s behalf like a guardian of the person. When determining who may act as health care representative, priority is given to spouses, adult children, and other close family members. While the doctor may have the representative sign a declaration, the court, generally, is not involved with this process.<sup>ix</sup>

## Supportive Relationships, Community Services, and Residential Settings

An individual may be able to avoid guardianship if they have supportive family, friends, and others who can help them with certain tasks that they are not capable of doing on their own.

There may be services available in the community that can help the individual maintain independence to the extent possible. These services could include meal preparation or delivery, house cleaning, personal care assistance, adult day programs, and more.

Certain residential settings may provide a supportive environment and certain assistance that will allow the person to live independently while getting necessary support.

## Representative Payee

Representative payees receive certain government benefits like Social Security on behalf of the IP. The representative payee is allowed to manage this money on the IP's behalf and for the IP's benefit. The representative payee must be appointed by the Social Security Administration.

## Veterans Affairs Fiduciary

Veterans Affairs fiduciaries receive Veterans Compensation Benefits on behalf of the IP. The Veterans Affairs fiduciary must be appointed by the U.S. Department of Veterans Affairs.

## Trusts

A trustee is appointed to manage the money and any other assets of the person (beneficiary) on their behalf. Trusts can specify directions the trustee must follow to manage the money. Trusts are appropriate for individuals with larger estates and should be created with an attorney.<sup>x</sup> Different types of trusts have different requirements.

## ABLE Accounts

These accounts are for people with qualifying disabilities (written diagnosis and onset before age 26) to allow a tax-free way to save for disability-related expenses, while maintaining government benefits. These accounts allow fiduciaries to manage the funds. This is an accessible option that allows those with less savings to avoid the expenses associated with a trust. For more information, visit <https://www.paable.gov/>.<sup>xi</sup>

## Limited Guardianship

If it is determined that a guardianship is necessary, a limited guardianship must be considered. Limited guardianships assign only specific powers and responsibilities to the guardian, allowing the IP to retain more of their rights and autonomy. The exact powers assigned to the guardian are determined by the court.

## How is a Guardianship Created?

### Petitioning for a New Guardianship

An Alleged Incapacitated Person (AIP) is someone who is claimed to be incapacitated in a Petition for Adjudication of Incapacity. If the petition is granted, the person is referred to as the Incapacitated Person (IP). Anyone who is concerned with the AIP's well-being may petition the court for guardianship. The petitioner does not need to be willing to serve as guardian but should include contact information and relationship to the AIP of the proposed guardian. A petition is filed with the clerk of the orphans' court in the county where the AIP resides. The petitioner must include what type of guardianship is sought, personal information about the AIP, proposed guardians (if identified), and any interested parties. The petition must also contain the reason the petitioner is seeking guardianship for the AIP, information about any existing advance planning documents like power of attorney, and what interventions and alternatives have been tried prior to filing the petition.<sup>xii</sup>

For a person to be adjudicated incapacitated, they must meet certain criteria, including being 18+ years old and unable to understand and evaluate information or make and communicate decisions. The court can declare a person totally incapacitated or incapacitated in limited areas such as making decisions about their property and money or personal care. The court's decision needs to be based on a medical, psychological, or other expert evaluation, as well as other evidence of the individual's inability to make decisions.<sup>xiii</sup>

### Due Process Protections

When a guardianship petition is filed, the AIP has certain rights and protections under the law. These include the right to receive notice of the proceeding, be represented by an attorney (separate from the petitioner or any other interested party's attorney), have a hearing on the need for guardianship, present evidence and witnesses, cross-examine witnesses, have guardianship ordered only based on clear and convincing evidence, receive notice of guardianship orders, and appeal the court's decision.<sup>xiv</sup>

### Attorneys and Their Roles

All AIPs have the right to legal representation. As of June 2024, if they do not have an attorney, one must be appointed by the court. The attorney is expected to represent the wishes and desires of the AIP and to identify the least restrictive alternatives available to meet the needs of the AIP.

It may be advisable for the petitioner and any other interested parties to retain their own attorney, as the process can be complex, and the outcome can be life-changing.

A judge may appoint a guardian ad litem (sometimes referred to by the initials GAL), who is an attorney or other qualified individual whose job it is to act as an investigator and report what they find to be in the best interests of the AIP. The role of guardian ad litem is different from that of an attorney representing the AIP because the guardian ad litem makes a neutral assessment of the AIP's situation and shares their recommendations with the court, while the AIP's attorney must represent their wishes.

### Pre-hearing Process

Before the guardianship hearing can occur, several steps must be completed. These steps include, but are not limited to, scheduling the hearing, notification of the AIP and all interested parties at least twenty (20) days before the scheduled hearing, and notice to the court by the petitioner at least seven (7) days prior to the hearing if, to their knowledge, the AIP has not retained a lawyer.<sup>xv</sup>

### Hearing

Hearings may be an hour or longer depending on the case's complexity. Whenever possible, the AIP should attend the hearing. At the hearing, the judge will consider the evidence and testimony presented and determine the AIP's level of capacity.

## Final Decree

At the conclusion of the hearing, the court determines the AIP's level of capacity and whether a guardianship appointment is necessary and appropriate. These decisions are set forth in a Final Decree. If the judge finds that the AIP is capable, or that a less restrictive alternative is appropriate, guardianship will not be granted. If guardianship is needed, the judge will enter an order appointing a guardian(s) who will best serve the needs of the AIP. The judge will also determine what type of guardianship is appropriate (of the person, estate, or both; limited or plenary).

## Surety Bond

Since a guardian of the estate handles the IP's finances, the court may require them to purchase a surety bond. A surety bond is a contract, like insurance, that protects the IP's estate in the event of mistakes or wrongdoing by the guardian. The bond's premium may be paid out of the assets of the IP. If a surety bond is required, the amount of the bond will be stated in the Final Decree. The court may make their decision determining the need for a surety bond at any time. The court may waive the surety bond requirement at its discretion.<sup>xvi</sup>

## Notification of Appointment

Once a guardian has been appointed, the guardian is required to notify the IP and all interested parties. The IP or any interested party has a right to appeal the court's decision. Others who may need to be notified of the appointment of a guardian include, but are not limited to, family members, the IP's employer, anyone named in the IP's existing written powers of attorney, their doctors and other health care providers, other service providers, government agencies, the post office if the IP will be moving, and anyone involved in a lawsuit, contract, or financial agreement with the IP. It may be necessary to provide the court orders or guardianship decree to these parties in order to act on behalf of the IP.

The guardian of the estate will also need to contact the IP's bank and other financial institutions, insurance companies, retirement plans, and Social Security or any other government agency from which the IP receives benefits.<sup>xvii</sup>

## Interested Parties

Any interested parties named in the court's Final Decree must receive a Notice of Filing form from the guardian each time they file reports related to the guardianship. This includes both annual and final reports, as well as the initial Inventory, which is filed by the guardian of the estate.<sup>xviii</sup> **More information can be found in [Guardian of the Estate](#).**

## Emergency Guardianship Process

Emergency guardianships are ordered only when the court determines that the AIP needs a guardian immediately and that without one, the person or their estate is at risk of irreparable harm. The process for becoming an emergency guardian differs from the procedures discussed previously as it does not include a full hearing and the same notice requirements. An appointment of an emergency guardian of the person shall be in effect no more than seventy-

two (72) hours but can be extended for no more than twenty (20) days by the court. Emergency guardian of the estate appointments can be in effect no longer than thirty (30) days. If the AIP will need a guardian over a longer period, a hearing will be held to determine if a plenary or limited guardianship should be granted.<sup>xix</sup>

## What are a Guardian’s Responsibilities to the IP?

### Protect the IP

As a guardian, you must protect the incapacitated person (IP)’s dignity and keep them safe from harm. You must maintain the IP’s confidentiality by only sharing their private information when it is necessary and relevant. By staying in frequent contact with the IP, you can ensure their needs are being met and investigate any concerns or changes to their situation. You should also be aware of any signs of abuse and neglect in case you need to act.

Depending on whether you are a guardian of the person, guardian of the estate, or both, you will have specific additional responsibilities for the IP’s protection. These may include protecting their money and property, paying their bills and expenses, or managing their daily personal needs.<sup>xx</sup> See [Guardian of Person](#) and [Guardian of Estate](#) for more information.

#### **Important Note: Pennsylvania Uniform Firearms Act**

The Pennsylvania Uniform Firearms Act makes it illegal for a person who has been adjudicated incapacitated to “possess, use, control, sell, transfer, or manufacture a firearm” including prohibiting the ownership of a license to possess firearms.<sup>1</sup> If the person for whom you are guardian owns firearms, it is important to ensure compliance with this statute for their safety and the safety of others. While it is legal for the IP to live in a setting where firearms are present, it is important to ensure precautions are taken to maintain a safe environment. Firearms owned by the IP must be sold or transferred to another person who is not a member of the prohibited person’s home within 60 days after appointment of a guardian.

### Maintain the IP’s Quality of Life

As a guardian, you are responsible for decision-making that will affect the IP’s quality of life. There are many factors that help determine a person’s quality of life including their residence; health care and medical treatment; access to supportive services; engagement with their community, hobbies, and loved ones; and financial decisions including bill paying, management of assets and property, and investments. The goal must always be to maintain the least restrictive environment for the IP.

## Decision-Making

You must always act in the best interest of the IP. The goal is always to maximize their independence and autonomy. The decision-making approaches listed below will help you ensure your choices are person-centered.

**Ben is his aunt Shannon's guardian of the person. Shannon is no longer able to prepare meals on her own and has recently struggled to keep up with household chores, bathing, and other personal care. Shannon needs more support. Ben must decide between moving Shannon into a residential facility or hiring service providers to assist with these tasks in her home.**

To the extent possible, Ben should include Shannon in the decision-making process. If Shannon participates in **supported decision-making**, Ben and other supporters Shannon has identified will discuss with her the challenges she is facing and the positives and negatives of each option available to ensure she fully understands her choices. At the end of this process, Shannon and Ben will proceed with her choice regarding her living arrangements going forward. Ben, as guardian, will arrange the necessary accommodations for Shannon to continue living at home or will contact a residential facility based on Shannon's decision.

If Shannon is unable to make her own decision about whether to move to a residential facility, Ben must make this decision on her behalf as her guardian. Ben should make this decision using **substituted judgment** if possible. Ben knows that prior to her incapacity, Shannon valued her independence and hoped to continue living on her own as she aged. Since Ben has this knowledge of Shannon's preferences, values, and beliefs, he should make the decision that aligns with her preferences, likely leading him to arrange in-home services for Shannon, rather than moving her to a residential facility.

If Shannon is unable to make her own decision and Ben does not know Shannon's values, preferences, or beliefs prior to his appointment as her guardian, he should make the decision based on her **best interest** including a review of her finances. He needs to consider Shannon's circumstances and determine what option has the greatest potential benefits with least risk to Shannon. Ben may evaluate Shannon's declining health, the upkeep required for her house, and the comparative cost of the two options when determining the best living arrangement for Shannon.

### *Supported Decision-Making*

To maintain the IP's autonomy and rights to the greatest extent possible, supported decision-making should be used whenever appropriate. Supported decision-making allows the IP to make their own decisions after receiving input from trusted individuals. While this is not always possible, the IP should be encouraged to be involved in the decision-making process whenever they can.

### *Substituted Judgment*

If you must make the decision on the IP's behalf, you should first consider the beliefs, wishes, and preferences of the IP prior to their incapacity, and try to make the decision you believe they would make

if they could.<sup>xxi</sup> It is important to remember that your decisions must align with the decisions you believe they would make to the extent possible, even if you personally disagree with the decision.

### Advocate for the IP

To advocate for the IP, you must understand their needs, wishes, wants, and beliefs. It is important to stay in contact with them, so you are aware as their needs and desires change. You also have a responsibility to stay informed about their condition and situation. Furthermore, it is your role to speak up for them and ensure their voice is heard in all aspects of decision-making when they are unable to speak for themselves.

Whenever possible, it is important to try to work with the IP's family. There are times when the requests or desires of one or more family member may not align with what you believe to be in the best interest of the IP. These situations can be particularly challenging if you are also the IP's family member. While it is ideal to include the IP's loved ones and family members in their care and have their support for your decisions, this is not always possible. Ultimately as guardian, you are the advocate and decision maker appointed by the court for the IP, and you must do what you believe aligns with the IP's wants, needs, and best interests, even if others disagree.

Another aspect of being an advocate for the IP is ensuring they have access to appropriate services, benefits, and care in the least restrictive environment that will meet their needs. You also must protect their rights and freedoms while making sure their needs are being met.

**Be visible, be informed, be involved, and be heard.**

### Ethical Considerations

As a guardian, you must be diligent in your care for the IP. This means you need to make plans to ensure their care continues when you are absent. This may involve making arrangements prior to going out of town, ensuring their caregivers have a way to reach you at all times, and planning for their care in the event that you become sick, hospitalized, incapacitated, or die. See [\*Other Guardianship Situations\*](#) for more information about Successor Guardians.

You must also demonstrate loyalty and trustworthiness by putting the needs of the IP before your own and honoring their wishes. This means you may need to make choices that are less convenient for you or that differ from your personal preferences.

It is important that you keep in mind your ethical obligations as a guardian when you weigh decisions about the IP's care or finances. They should be able to live in the least restrictive environment that meets their needs; engage with their community and loved ones; participate in decision-making as much as possible; and trust that you will consider their needs, desires, beliefs, and safety when you make any decisions on their behalf.

## Guardian Best Practices

Once you are appointed guardian, it is important that you understand your specific duties, responsibilities, and powers, as well as any limitations to those powers. You need to obtain a copy of the court order appointing you guardian, sometimes referred to as the final decree, and a guardianship certificate if your county provides one, both for your records and to share with others as needed to exercise your rights as guardian. If you have any questions or concerns about your role as guardian, it may be helpful to consult with an attorney. The court has entrusted you with the care of another individual and is a source of information and support as well.

Keeping the following in mind will help you to be a successful guardian and provide the highest level of care to the IP:

- Organization is key. Keeping track of paperwork; developing a filing system; and keeping a log of your visits, meetings, and appointments related to the guardianship will help you manage the IP's care and make it easier to complete your annual report.
- You have a fiduciary responsibility for the IP, meaning you must always act in their best interest and make person-centered decisions in support of their safety and well-being.
- When you accepted appointment by the court as guardian, you agreed to meet certain deadlines for reports regarding the guardianship. It is important that you make note of all due dates for reports and other requirements and ensure you meet these deadlines.<sup>xxii</sup>
- The National Guardianship Association (NGA) has developed Standards of Practice for guardians. You may find it helpful to review these standards, which cover a combination of practical considerations and “big ideas” about the role of the guardian. You can find these standards and more resources on their website, [www.guardianship.org](http://www.guardianship.org).

## What are the IP's Rights?

When a court declares an individual incapacitated and appoints a guardian the court considers what rights the IP will keep, what rights will be delegated to the guardian, and what actions will require pre-approval from the court.<sup>xxiii</sup>

- Rights that the IP will keep include, but are not limited to, the right to be treated with respect and dignity, the rights to privacy and protection from abuse, the right to speak privately with and be represented by an attorney, and the right to petition the court for removal and replacement of the guardian or the restoration of the IP's rights.
- Rights that may be delegated to the guardian include but are not limited to the right to determine where the IP lives, the right to consent to medical treatment, the right to manage the IP's property and money, the right to file or defend against lawsuits, the right to apply for government benefits, and the right to make other decisions about the IP's day-to-day care and finances.
- Certain actions require court approval before they can be taken. *See [Guardian of Person and Guardian of Estate](#) for more information.*

- The Bill of Rights of an Incapacitated Person ([included in \*Resources\*](#)) lists the protections in place for an IP in Pennsylvania. This document can also be found in the Pennsylvania Guardianship Bench Book.

## Chapter 2

# GUARDIAN OF THE PERSON

### Overview

The guardian of the person is someone chosen by the court to make health and life decisions for the IP, and to ensure their safety and well-being. It is essential that all decisions be made by you as the guardian and not be delegated to someone else. Your choices must reflect the wishes and beliefs of the IP, rather than your own preferences or beliefs. Some of the areas for which a guardian of the person is responsible include:

- Residence
- Personal Care
- Medical Care (including consenting to medications and surgical procedures)
- Transportation
- Socialization
- Engagement in Education, Hobbies, and/or Work<sup>xxiv</sup>

Unless you are also the guardian of the estate, you do not have any rights or responsibilities pertaining to the IP's money and property. If someone else has been appointed guardian of the estate, you will need to work with them in the best interest of the IP.

### Specific Duties

#### Meet with the IP

When you are appointed guardian, you must meet with the IP, discuss your role and responsibilities as their guardian, and what rights they have retained. You should also confirm whether they have any advance planning documents like an Advance Directive, POA, or POLST. If they do have advance planning documents, the documents should be kept in a secure location.<sup>xxv</sup>

#### Keep a Copy of the Court Order

It is important to keep a copy of the court order, also known as the Final Decree, and Guardianship Certificate (if one was provided by the court). You will need to show a copy of the order or certificate to doctors and other service providers to get information and use your powers as guardian. You may want to get a few certified copies from the clerk of the orphans' court's office, as some organizations and service providers ask for a copy for their records. For your convenience, you may want to keep a picture of the court order in your phone and keep a paper copy in your car, purse, or another convenient location.

You should become familiar with the limitations and scope of responsibility assigned to you in the court order. If you have any questions or are unsure of your duties, you should consult with a lawyer.<sup>xxvi</sup>

### Plan of Supportive Service

You need to assess what the IP's needs are and what supports are available to them through government agencies, the community, their family and friends, and service providers.

Consider all areas of the IP's health, well-being, and daily life to determine what types of supportive services are appropriate for the IP. Supportive services may include but are not limited to:

- Nursing
- Physical Therapy
- Rehabilitation
- Mental Health Care
- Case Management
- Transportation
- Cleaning
- Meal Preparation<sup>xxvii</sup>

Though it is your responsibility to ensure the IP's needs are met, this does not mean that you personally need to provide all their needed services. If the IP lives with you, it may be possible for you to meet many of their daily needs, but there are also many community and government programs, as well as private service providers and medical professionals, you can work with to meet the IP's needs even when you are not present.

Once you have a plan in place and services coordinated to meet the needs of the IP, you must monitor their well-being. You need to ensure that their needs are being met as those needs will likely change over time. It is also important to monitor the IP's service providers to ensure they are doing what is expected. The IP may be vulnerable to neglect or exploitation by service providers or other residents, and the best way to prevent mistreatment is to be diligent in your care and supervision of the IP and those who work with them.<sup>xxviii</sup> [For more information on elder abuse, see \*Elder Abuse Identification and Responses\*.](#)

### Considerations in Decision-Making

As you make decisions on behalf of the IP, it is important to keep these ideas in mind:

- Whenever possible, allow the IP to make their own decisions and develop independence to the extent possible. Consider using supported decision-making, when appropriate, to give the IP greater control over their life.
- You must always act in the best interests of the IP and base your decisions on their needs, wants, and beliefs to the extent possible. This applies even if doing so conflicts with your own beliefs, is not what you would have personally chosen, or is less convenient for you.

- If your strongly held personal beliefs will cause you to not act in the best interests of the IP, you should contact the court for guidance and, if necessary, to be removed as guardian. Nothing should keep you from acting in the best interests of the IP as their guardian.<sup>xxx</sup>

## IP's Residence

### IP's Preferences and Other Considerations

The IP should share their preferences and participate in the decision-making process about where they will live to the extent possible. When making a decision about where the IP will live, it is your duty to find the least restrictive environment that will meet their needs. For example, this means the IP should not be placed in a nursing home if it is possible for them to continue living independently with assistance from services like house cleaning, meal preparation, and personal care support in their home.<sup>xxx</sup> Issues to consider when making a decision about housing include:

- IP's assets and income (work with guardian of estate to assess)
- IP's basic needs and safety
- Care and services needed
- Availability of needed services
- Availability of transportation for appointments, etc.
- Level of socialization and access to friends, family, and community
- What is needed to maintain their residence<sup>xxxi</sup>

### Visiting the IP

While there is no specific requirement for number or frequency of visits with the IP, you are encouraged to visit at least once a month. There are certain events that may require additional visits, including when you need to make medical decisions or observe new behaviors or concerns identified by service providers.

By visiting the IP frequently, you will get to know what their health, mood, and behavior is usually like. This will allow you to identify any changes in these areas that may be cause for concern. Spending time with the IP will also allow you to better understand their needs and desires so you can make the best decision possible on their behalf. Additionally, you will need to communicate with service providers frequently and make note of any signs of possible neglect or abuse during your visits with the IP and in your communication with service providers.<sup>xxxii</sup> **More information on elder abuse can be found in [Elder Abuse Identification and Responses](#).**

## Working with a Nursing Home or Long-Term Care Facility

### Care Plans

Federal regulations require nursing homes and other long-term care facilities to establish a Baseline Care Plan within 48 hours of a new resident's arrival. A Comprehensive Care Plan must be created within 21 days of arrival. Comprehensive Care Plans must be reviewed and revised after every comprehensive assessment and quarterly review assessment. While the content of these plans is similar, the Comprehensive Care Plan is created after a full evaluation of the resident. Facilities are required to involve the resident and/or their representative in the creation and revision of these plans. It is important that you understand and convey the wishes and needs of the IP and involve them in the creation of the plan to the extent possible.

The Comprehensive Care Plan must:

- Be individualized
- Align with the resident's goals and desired outcomes
- Meet all needs identified in the comprehensive assessment including:
  - Medical
  - Nursing
  - Mental Health
  - Psychosocial
- Contain measurable goals that include timeframes and service staff efforts necessary to reach those goals
- Allow for the highest degree of autonomy and independence possible
- Contain a discharge plan and referrals, as appropriate
- Document any refusals of care on the part of the resident or their representative and the discussion of consequences of and alternatives to the refused care
- Include culturally competent trauma-informed care and services

### Communication

You may need to advocate for the IP's needs and desires in residential care settings, so it is important to ask who within the facility is your point of contact, as well as who you should contact if the first person is unavailable, or you have further concerns.

While it is important to visit the IP in person frequently in order to observe their care and condition, between these visits you may consider calling the staff for an update or contacting the IP directly to see how they are doing. Your presence and consistent communication will allow you to be the best possible advocate and support for the IP. Be sure to document all conversations and visits including the date, time, and purpose of the visit or call, as well as who you spoke with and what you spoke about.

## Moving the IP

You must notify the court if you plan to move the IP to a new address. If the new residence is in a different county, the guardianship may need to be transferred to a new court. You must also notify the court in advance if you plan to move the IP out of Pennsylvania. You will need to apply for guardianship in the state to which they move as well. Each state has its own laws and rules regarding guardianship, and it is your duty to ensure you complete all necessary steps to transfer guardianship, which include obtaining approval of the transfer from the Pennsylvania court as well as obtaining acceptance of the guardianship from the court in the new state.<sup>xxxiii</sup>

## Medical, Psychological, and Other Services

### IP Self-Reliance and Your Role

Check the court order to determine what your responsibilities are in these areas. You must help the IP develop their own skills and self-reliance where possible, consider their beliefs and wishes prior to incapacity and any input they can provide currently, and make decisions in their best interest. It is important to recognize that the IP's needs will likely change over time and their care and services will need to be adjusted accordingly.

### Behavior Concerns

If mental or behavioral health concerns are shared with you by residential staff or service providers, ask them to clearly describe the behavior and interventions they have already tried. When considering possible interventions, you need to preserve the rights and freedoms of the IP to the extent possible while also protecting them from harm. Ensure that staff or service providers are informed of any new interventions and implement them consistently. Monitor outcomes to determine if the intervention is effective.

### Physical Restraints

Occasionally, the use of physical restraints may be necessary. If this intervention is suggested, be aware that a doctor's order is required prior to use, they should only be used as a last resort for certain medical or behavior problems, an individualized care plan should be in place prior to the use of restraints, the IP should be monitored frequently while restrained, and restraints should be removed as soon as it is safe to do so.<sup>xxxiv</sup>

### Risk of Harm to Self or Others

People with mental illness, brain injury, and other conditions may behave unpredictably. Occasionally, an IP's behavior may put themselves or others at risk. If this is a concern with the IP, it is important that their treatment plan include responses to risky or dangerous behavior. While medical professionals may determine appropriate treatment, it is important that you understand the treatment plan and communicate it to service providers and others who see the IP regularly.

In potentially life-threatening behavior or mental health situations, call the National Suicide and Crisis Lifeline at 988. This will connect you with a counselor who can provide phone-based

support. These counselors can also engage a mental health crisis team to come to the IP's location, offer therapeutic interventions, provide transportation if further evaluation is needed, and make referrals for outpatient services. This service is available 24 hours a day, seven days a week and is free.

### Tips to Remain Calm

When unpredictable or dangerous behavior occurs it is easy to panic, but that may make the situation worse. Here are some strategies to help you remain calm in these situations:

- Use a quiet voice with a commanding tone
- Keep a safe distance between you and the escalated person without turning away from them
- Look at their face or shoulder area, rather than directly in their eyes
- Show support and empathy, don't argue with them
- Be firm and set limits; then follow through<sup>xxxv</sup>

## Consents and Approvals

### Your Powers and Limitations<sup>xxxvi</sup>

The court order may give you the power to consent to or approve medical, surgical, psychological, or other treatments. Check your court's Final Decree for your specific rights and limitations. Even with the full powers of a guardian of the person, you must petition the court and gain approval before consenting to the following:

- Abortion, sterilization, psychosurgery, electroconvulsive therapy, or the removal of a healthy body organ
- Stopping a marriage or consenting to a divorce decree
- The performance of or participation in any experimental biomedical or behavioral medical procedure
- End-of-life decisions

Note that if you determine that the IP needs a certain treatment (such as electroconvulsive therapy) or that end-of-life planning is medically appropriate and in their best interest, you should prepare to file a petition with the court requesting approval and you should be prepared to present evidence from a doctor to support that the decision you seek to make is in the best interest of the IP. Counsel for the IP should be notified of any such petition, and if there is no counsel serving, it may be appropriate to request that the court appoint independent counsel for the IP.

As guardian, you may not:

- Admit the IP to an inpatient psychiatric facility, though if the IP is at immediate risk, they may still be committed to a facility by a doctor (pursuant to the Pennsylvania Mental Health Procedures Act, authorizing involuntary mental health commitment)
- Relinquish the IP's parental rights

## Considerations Before Giving Consent

When determining whether to give consent or approval for a treatment of any kind, you should consider the wishes of the IP and their loved ones. However, if the wishes of the loved ones are not in the best interests of the IP, or conflict with the express wishes of the IP, you will need to act according to the IP's wishes and best interest, instead of those of the IP's loved ones.

Before consenting to treatment, you must ensure you have all the information needed from medical or other professionals and understand:

- The suggested treatment
- Alternate treatment options
- Intended outcomes
- Possible complications or side-effects of the treatment
- Potential effects of not starting treatment
- How long the treatment will take
- How the treatment will be monitored

## End-of-Life Decision-Making

It can be difficult to make decisions regarding end-of-life care on behalf of an IP. First, you must look to any advance planning documents the IP completed prior to their incapacitation such as a power of attorney, advance health care directive, Do Not Resuscitate order (DNR), or Pennsylvania Orders for Life Sustaining Treatment (POLST).

If the IP is diagnosed with a terminal condition, they may need additional or different services. It is important for you to share any advance planning documents with their doctors. Also consider any preferences the IP communicates after the diagnosis, and what you know of their prior values or religious beliefs. Remember, you must honor their wishes to the extent possible, even if they conflict with your own beliefs or preferences.

When it becomes necessary to make decisions about withdrawing or withholding life-sustaining treatments, you must first abide by the IP's written or spoken preferences stated prior to their incapacity, including those documented in advance planning documents. If that is not an option and you do not know what they would be likely to choose based on their beliefs and the situation, then you must base your decision on what a "reasonable person" would do given the IP's specific circumstances and seek court approval prior to acting.<sup>xxxvii</sup>

The opinions of the IP's loved ones should be considered as well, but it is important to weigh any financial or other motives individuals may have in their suggestions. In these situations, you may also want to get a second opinion from another doctor, discuss the situation with the IP's nursing and direct care staff, and consider opinions of an ethics committee or review board, if possible.<sup>xxxviii</sup>

## Reporting Requirements

### Requirements and Consequences of Not Filing

You are required to file an annual report with the court on the anniversary of the date on which you were appointed guardian. The annual Report of Guardian of the Person updates the court on the physical address, health, and well-being of the IP. The court should be updated, if possible, prior to the filing of the annual report when there is a change of address for the IP or the guardian.

Co-guardians may file one report together or each guardian can file their own Guardian of the Person Report annually. Co-guardians are encouraged to communicate and work together to complete the annual report(s).

If the guardian(s) fail to file the annual report, the court can act, including requiring the guardian(s) to appear in court and removing the guardian(s) from the case. If you have issues completing the report or need more time, contact the clerk of the orphans' court office in the county in which the guardianship is filed. The filing of reports is a critical tool for the courts to monitor the health, well-being, and financial stability of the IP. Failure to file a report can have significant impact on the court's ability to monitor the guardianship case.

### How to File

#### *Guardianship Tracking System (GTS)*

The Pennsylvania Guardianship Tracking System (GTS) provides an online alternative to paper forms used by guardians to submit inventory and annual reports. **For more information on GTS, see [Guardianship Tracking System \(GTS\)](#).**

GTS can be accessed by visiting <https://ujportal.pacourts.us/>, creating a secure user account, and entering an access code provided by the clerk of the orphans' court office on your secure user profile or during your account creation. For step-by-step instructions on how to file, click the Help icon on the GTS Dashboard once you log into the UJS Portal and access GTS.

#### *Paper*

Paper versions of the annual report are available at <https://www.pacourts.us/forms/for-the-public/orphans-court-forms>. Paper reports are filed with the county's clerk of the orphans' court office. Contact the office to determine if reports are required to be filed in person or if they can be filed by mail. Certain counties may require electronic filing of reports. If you are required to file electronically and do not have access to a computer, contact the clerk of the orphans' court office for further direction.

## What to File

### *Annual Report*

The annual Report of Guardian of the Person updates the court on the physical address, health, and wellbeing of the IP, while the annual Report of Guardian of the Estate updates the court on the location of the IP's assets, annual expenses, and income. You may be required to file one or both annual reports based on whether you were named the guardian of the person and/or estate.

The requirement to file an annual report cannot be waived by the court.

### *Notice of Filing*

Upon submission of the annual report, the guardian is required to provide a Notice of Filing to co-guardians, attorneys, and all interested parties named in the court order. You shall serve the Notice of Filing within ten (10) days of filing a report using the form available at <https://www.pacourts.us/forms/for-the-public/orphans-court-forms>.

### *Final Report*

You are responsible for filing a Final Report of Guardian of the Person when certain situations arise, including when the IP dies, you are removed as guardian (voluntarily or involuntarily), or if the guardianship was terminated for any reason (restoration of rights, transfer out of state, etc.). The annual report form is used to file the final report and contains specific instructions on which sections to complete for a final report.

The final report can replace the requirement of filing an annual report if the final report is requested prior to the due date of the annual report. For example, if the guardianship was ended in June, and an annual report is due in December of the same year, the final report would replace the annual report due in December. If the annual report from the previous year has not yet been filed, it is still due in conjunction with a final report.

The requirement to file a final report of the person cannot be waived by the court.

### *Amended Reports*

If the annual report is filed with the court and an error is found during the court's review process, you may be required to file an amended report. An amended report allows a guardian to provide additional information or fix a mistake on a filed report. Once a report is filed with the court, the court cannot make corrections on the guardian's behalf, as the filed report is a legal document.

If the original report was filed via GTS, you can file the amended report in GTS, which will save you time. GTS will prefill the amended report with the information supplied on the original report, allowing you to simply update or correct the information. If the original report was filed on paper, you will need to create a new annual report on paper or in GTS to file.

## Chapter 3

# G UARDIAN OF THE ESTATE

### Overview

The guardian of the estate is someone appointed by the court to manage the IP's finances. As guardian of the estate, it is your responsibility to make decisions on behalf of the IP about their income, investments, real estate, and other property they own. In addition, you must apply for, maintain, and renew government benefits on behalf of the IP.

You may spend the IP's income for the care and benefit of the IP. Income includes money they earn, Social Security and Veteran's benefits, and regular pension or retirement income. However, you must get the court's approval before you take certain actions including:

- Selling the IP's real estate or other property
- Giving gifts or charitable donations
- Transferring the IP's money or property to others
- Spending the IP's principal. The IP's principal refers to any money or investments they had at the time you became their guardian as identified in the Inventory, money received when an asset of the IP is sold, and any money or assets received after your appointment that are not part of their income<sup>xxxix</sup>

Unless you are also the guardian of the person, you do not have any decision-making power or responsibility related to personal care and medical decisions for the IP. If someone else is the guardian of the person, it is important to work with them in areas where the IP's personal care and finances overlap, such as what housing or activities they can afford that meet their needs.

## Fiduciary Duty

As guardian of the estate, you have a fiduciary duty to the IP, meaning you are responsible to manage their finances and make decisions solely in their best interests. As you make decisions in your role of guardian of the estate, keep in mind:

- You are legally obligated to manage the IP's assets and income using good judgment and only for their benefit.
- You cannot hire service providers who have a relationship to you that may cause a conflict of interest or benefit you financially. For example, if you are hiring someone to provide lawn care, you cannot pay your relative or hire their business to provide the services for a fee.
- You may not invest the IP's money in a business owned or controlled by you.
- You may not loan or gift the IP's money to yourself or others without advance permission from the court.
- You must make investment and asset management decisions that are low-risk and beneficial to the IP.
- You may not delegate your decision-making authority to anyone else, but you may hire professionals including accountants, attorneys, and investment advisors to offer advice and services needed to manage the IP's estate. Fees for these professionals may be paid from the IP's income.
- You have a duty to make and defend claims on the IP's behalf.

## Specific Duties

### Meet with the IP

When you are appointed guardian, you must meet with the IP, discuss your role and responsibilities as their guardian, and what rights they have retained. You should also confirm whether they have any advance planning documents, such as a Health Care Directive, Do Not Resuscitate Order, POA, a Will, and anything else listed in the Inventory. If the IP has advance planning documents, you should keep a copy of the documents and provide copies of any documents relevant to medical or end-of-life decision-making to the guardian of the person, if applicable.

### Keep a Copy of the Court Order

It is important to keep a copy of the court order, also known as the Final Decree, or Guardianship Certificate. You will need to show a copy of the order or certificate to banks and other service providers to get information and use your powers as guardian. You may want to get a few certified copies from the clerk of the orphans' court office, as some organizations and service providers ask for a copy for their records. For your convenience, you may want to keep a picture of the court order in your phone and keep a paper copy in your car, purse, or another convenient location.

You should become familiar with the limitations and scope of responsibility assigned to you in the court order. If you have any questions or are unsure of your duties, you should consult with a qualified lawyer.

### Complete Asset Inventory

Within the first 90 days in your role of guardian of the estate, you must complete, and submit to the court, an Inventory. To complete the Inventory accurately, you must determine the value of all of the IP's assets as of the time you were appointed guardian. To determine the value of select assets, you will need financial statements for accounts and investments, copies of legal documents, and a determination of the fair market value of real estate, vehicles, and valuable items. This includes:

- Cash
- Bank accounts including checking, savings, IRAs, promissory notes, etc.
- Uncashed checks and refunds
- Promissory notes, partnerships, other business interests
- Insurance policies
- Artwork, antiques, jewelry, furniture, valuable collections
- Legal documents
- Real estate
- Vehicles, boats, trailers
- Contents of safe deposit box
- Brokerage accounts, stocks, bonds, mutual funds<sup>x1</sup>

You will also need to report any income the IP receives. The IP's income may include:

- Wages from employment
- Social Security (SS) benefits
- Supplemental Security Income (SSI)
- Social Security Disability (SSDI)
- Veterans Administration (VA) disability benefits
- Pension income
- Other benefits paid to the IP on a regular basis

### Obtain Surety Bond if Required

If the court determines that you need to obtain a surety bond, the dollar amount of the required bond will be in the court order. A surety bond acts as insurance to protect the IP's money and assets against loss incurred through guardian error or misuse of funds. Surety bonds are most frequently required when the IP has a large estate. The annual cost of the surety bond can be paid out of the IP's assets or estate.

## Management of Assets

### Separation of Assets

It is very important that you do not mix your assets with those of the IP. You should always maintain a separate bank account for the IP with their name on the account and your name listed as their guardian to manage the account and write checks. Do not move or deposit the IP's money into your accounts. The IP's money is to be used only for their care and benefit.

John is guardian of the estate for his neighbor Sheila. Sheila has been struggling to manage her finances and has forgotten to pay utility bills, resulting in late fees and even temporary loss of service. As guardian of the estate, John is responsible for making sure Sheila's bills are paid on time. He and Sheila go to the ATM and withdraw \$1,500 out of Sheila's checking account to cover her monthly utility bills and other expenses. John deposits this money in his checking account and writes personal checks from his account to pay Sheila's bills. Though this method may seem easier than working with the bank to have him added as a guardian to Sheila's account, he is mixing her money in his bank account, which not only makes tracking her income and expenses more complex, but also gives the appearance that he may be trying to exploit Sheila and misuse her money. John should talk to the bank about being added as guardian to her existing account or to set up a new guardian account to manage Sheila's expenses.

### Joint Assets with Spouse

If the IP is married and has one or more joint assets with their spouse, it is important to disclose these joint assets to the court and seek specific court approval to maintain them as joint assets. Joint assets may include joint interest in a home, a bank account, or other financial holdings. It is also important to identify to the court any retirement savings of one spouse or the other in which the other spouse has an interest. All these items should be identified to the court either at the initial hearing or on the Inventory filed within three months of the date of the order or decree appointing a guardian.

In some cases, it is in the best interest of the spouse to decide to divide the previously joint assets. Whether the appropriate decision in each case is to keep the assets as joint assets or to divide the assets, court approval should be sought. It is important to get a court order acknowledging the joint assets and approving the proposed plan.

### Joint Assets with Others

If the IP has joint assets with someone other than their spouse, such as an adult child or other family member, these joint assets must also be disclosed to the court at the initial hearing or on the Inventory. The guardian should propose to the court whether it would be best to divide the asset or maintain the asset as a joint asset.

## Protecting and Using the IP's Money

Once you have determined what assets the IP has, you must take steps to keep those assets safe. This may include securing valuables, ensuring investments are low risk, maintaining any property or real estate so it does not fall into disrepair, and ensuring that expenses are paid from the IP's income, rather than by selling their assets or using their savings. You are responsible for ensuring all of the IP's bills are paid on time, including insurance premiums. Additionally, you must file an annual tax return on the IP's behalf.

### *Invasion of Principal (Spending the IP's Principal)*

Principal refers to any money or investments the IP had at the time you became their guardian, and any money or assets they received after your appointment that are not part of their income. If the IP's income is not enough to cover their expenses, you must get permission from the court before you spend their savings or sell their real estate. The court refers to this as invasion of principal.

### *Gifts and Charitable Contributions*

You must also get approval from the court before gifting or donating money or assets of any value. This includes gifting and donations to family members, churches, charitable organizations, and others. For example, if the IP no longer drives and says they want to gift their car to your daughter, you will need permission from the court before transferring ownership.

## Medicaid, Medicare, and Medical Benefits

You need to ensure the IP is receiving all federal and state benefits to which they are entitled. This is particularly important if they will receive medical or long-term nursing care, since these can be a large expense. Depending on their situation, this may include:

- Medicare
- Medicaid
- Social Security (SS)
- Supplemental Security Income (SSI)
- Social Security Disability Insurance (SSDI)
- Veterans Administration (VA) disability compensation
- Property tax and rent benefits
- Other government benefits

If the IP receives Social Security benefits (SS, SSDI, or SSI), a representative payee needs to be appointed by the Social Security Administration. This is a helpful way to manage the IP's income on their behalf. This role is referred to as federal fiduciary for VA benefits. Sometimes nursing facilities request to be the representative payee for Social Security benefits so they receive guaranteed payment. It is the guardian's decision whether to allow the nursing home to be the representative payee.

## Estate Planning

If the IP's estate has a lot of money, property, and other assets, you may file a petition with the court to allow you to conduct estate planning on their behalf. An attorney, investment advisor, accountant, or other financial professional may assist you in estate planning. In this situation, the court may authorize you to establish a trust, make certain gifts, disclaim interest in property, and take other actions as the situation requires.<sup>xli</sup>

## Burial Reserve

If the IP has adequate resources and has not made any arrangements for their burial, you may want to establish a burial reserve account. These accounts may be beneficial particularly for those who have larger estates. If the funds are placed in an irrevocable account solely for funeral and burial expenses, they will not be considered as part of their resources for medical assistance purposes. It is advisable to consult with an attorney, funeral director, or other professional regarding any questions about setting up this type of account for the IP as there are certain limitations and rules affecting these types of accounts.

## Pennsylvania ABLE Accounts

Pennsylvania's Achieving a Better Life Experience (ABLE) accounts are available to qualifying individuals to allow them to save up to \$17,000 per year without affecting their eligibility for state or federal benefits like Social Security. Others can contribute on behalf of the qualifying individual as well. Withdrawals, including interest earned, are tax exempt if used for qualifying expenses related to the individual's disability, such as housing or health expenses.

To qualify for a PA ABLE account, the individual's qualifying disability must have been diagnosed prior to their 26<sup>th</sup> birthday. If a PA ABLE account seems like it may be a good option for the IP, you can find more information at [paable.gov](http://paable.gov) or by calling (885)529-ABLE (2253).

## Pennsylvania Property Tax and Rent Rebate Program

The Pennsylvania Property Tax or Rent Rebate program offers qualified individuals a rebate on property tax or rent paid in the prior year. To qualify, an individual must be one of the following:

- Individual age 65+
- Widow or widower age 50+
- Individual with a disability

Also, the individual must be income qualified. Half of one's Social Security benefits are not counted as income for purposes of this program. The income eligibility is as follows:

- Homeowner or renter with maximum income of \$45,000 as of January 2024. This amount is subject to cost-of-living increases. For up-to-date information, please visit <https://www.revenue.pa.gov/IncentivesCreditsPrograms/PropertyTaxRentRebateProgram/Pages/default.aspx>.

Finally, the individual must have occupied the property for which they paid rent or property tax.

If the IP qualifies for this rebate, you will be able to apply on their behalf. The amount of the rebate will depend on their income and location. Applications can be filed electronically or with a paper form, and assistance with the application process is available at no cost from Department of Revenue district offices, local Area Agencies on Aging, senior centers, and state legislators' offices.

### Special Needs Trust

A Special Needs Trust or a Supplemental Needs Trust provides a way to give someone with a disability or functional needs financial support without affecting whether they qualify for federal and state benefits. The money in a Special Needs Trust can be used for things government benefits do not cover, such as service animals and certain assistive communication devices. Special Needs Trusts must be established before the beneficiary reaches 65 years of age. A Supplemental Needs Trust can be created by others on behalf of the qualifying individual and a Special Needs Trust may be funded by the individual's own assets. There are several types of trusts that may be appropriate based on the IP's situation. An attorney should be engaged to set up a trust, as they are complex and may not be the right choice for the IP's situation.

## Fraud Prevention and Response

Part of your responsibility as guardian of the estate is to prevent and respond to any fraud aimed at the IP's estate. In addition to storing their personal and account information in a secure location and maintaining confidentiality, you may want to consider the following options.

- Use software that will allow you to monitor financial activity across multiple accounts and alert you to any unusual activity.
- Request free credit checks and freeze the IP's credit if you are concerned about any possible fraudulent activity.
- Set a credit limit on credit cards. If the IP has their own credit or debit card to make purchases independently, limiting the dollar amount that can be spent may reduce risk of them overspending or losing large sums of money should they be targeted by scammers.
- Set up direct deposit of any income or benefits and set up direct payment of reoccurring bills.<sup>xliii</sup>

If you suspect financial fraud has occurred, contact local law enforcement, and notify the court.

## Reporting Requirements

### Requirements and Consequences of Not Filing

As guardian of the estate, you are required to file an Inventory within 90 days of being appointed guardian. You are also required to file an annual report with the court on the anniversary of the

date in which you were appointed guardian. The annual Report of Guardian of the Estate updates the court on the location of the IP's assets, annual expenses, and income.

For co-guardians of the estate, the court requires that only one Inventory be filed within 90 days, and one Report of Guardian of the Estate annually. Each co-guardian should not file their own report unless directed by the court. Co-guardians are encouraged to communicate and work together to complete the Inventory and/or annual report(s).

If the guardian(s) fail to file the Inventory or annual report(s) the court can act, including requiring the guardian(s) to appear in court and removing the guardian(s) from the case. If you have issues completing the report or need more time, contact the clerk of the orphans' court office in the county in which the guardianship is filed. The filing of reports is a critical tool for the courts to monitor the health, well-being, and financial stability of the IP. Failure to file a report can have significant impact on the court's ability to monitor the guardianship case.

## What to File

### *Inventory*

The Inventory is required to be filed by the guardian of the estate within 90 days of appointment. It captures the IP's current financial details, including a list of valuable assets, and where they will be maintained. Estimated annual income and annual expenses should be calculated by the guardian when completing the report. Additional information, including the IP's financial plan, government benefits, and basic medical information is also required. The Inventory creates a "baseline" for the court to use when reviewing future annual reports.

The requirement to file the Inventory cannot be waived by the court.

### *Annual Report*

The Annual Report of Guardian of the Estate updates the court on the location of the IP's assets, annual expenses, and income.

The requirement to file an annual report cannot be waived by the court.

### *Notice of Filing*

Upon submission of the annual report, the guardian is required to provide a Notice of Filing to co-guardians, attorneys, and all interested parties named in the original court order. You shall serve the Notice of Filing within ten days of filing a report using the form available at <https://www.pacourts.us/forms/for-the-public/orphans-court-forms>.

### *Final Report*

You are responsible for filing a final Report of Guardian of the Estate within 60 days when certain situations arise, including when the IP dies, you are removed as guardian (voluntarily or involuntarily), or if the guardianship was terminated for any reason (restoration of rights, transfer

out of state, etc.). The annual report form is used to file the final report and contains specific instructions on which sections to complete for a final report.

The final report can replace the requirement of filing an annual report if the final report is requested prior to the due date of the annual report. For example, if the guardianship ends in June and an annual report is due in December of the same year, the final report replaces the annual report due in December. If the annual report from the previous year has not been filed, it is still due in conjunction with a final report.

The requirement to file a final report of the guardian of the estate cannot be waived by the court.

### *Amended Reports*

If the Inventory or an annual report is filed with the court and an error is found during the court's review process, you may be required to file an amended report. An amended report allows a guardian to provide additional information or fix a mistake on a filed report. Once a report is filed with the court, the court cannot make corrections as the filed report is a legal document.

If the original report was filed via GTS, you can file the amended report in GTS, which will save you time. GTS will prefill the amended report with the information supplied on the original report, allowing you to simply update or correct the information. If the original report was filed on paper, you will need to create a new annual report on paper or in GTS to file.

## Chapter 4

# OTHER GUARDIANSHIP SITUATIONS

### Successor Guardian

A successor guardian will be appointed if a guardian dies or is no longer able to serve. If you have been appointed as a successor guardian, you assume all responsibilities discussed in the Guardian of the Estate and/or Guardian of the Person sections, depending on your appointment. You are required to submit annual reports each year on the anniversary of your appointment. Additionally, if you have been appointed guardian of the estate, you are required to submit an inventory report within the first 90 days of your appointment.

### Co-Guardians

If you are appointed co-guardian of the person, estate, or both, you and the other guardian must work together to make all decisions relating to your responsibilities for the IP and/or their estate. Co-guardians of the estate must work together to file one inventory and one annual report. Co-guardians of the person may choose to file the annual report together or separately. It is important that co-guardians work through any differences and agree on any decisions on behalf of the IP. If a serious challenge arises that the co-guardians cannot resolve on their own, the court may be contacted to request guidance or to schedule a review hearing to determine who shall continue to serve as guardian. This process should be initiated by contacting the clerk of the orphans' court office.

### Guardianship Modification

There are several reasons a guardianship may be modified or terminated, but a court order is required for any change to the guardianship to go into effect. Some reasons for a modification or termination of a guardianship include:

- The IP regaining capacity to manage some or all of their affairs. This could occur if they recover from an injury or health condition that caused them to lose capacity. When this does occur, it is important to limit or end the guardianship in order to restore the rights of the individual under guardianship.
- Appropriate alternatives to guardianship become available that meet the needs of the IP while allowing them greater autonomy and access to their rights.
- The death of the IP.
- Moving the IP to a different county or out of state.

- Removal or resignation of the guardian.<sup>xliii</sup>

Should a situation arise that leads to the termination of the guardianship or your role as guardian, you must file a final report within 60 days of the termination. A final report is similar to an annual report. At the time the guardianship ends, if your next annual report is not yet due, the final report will take the place of the annual report. However, if at the time the guardianship ends the most recent annual report is overdue, you must submit both the annual and final reports.

## Seeking Court Approval and Required Forms

### Petitioning the Court

In many judicial districts, a petition is required when a guardian wishes to request a change to the guardianship order, end the guardianship, or take actions requiring a court order. A petition, or a request for a review hearing, should be filed with the clerk of the orphans' court.

A petition is a formal request of the court that is required to be filed with the clerk of the orphans' court's office in the county in which the guardianship was originally filed. In some judicial districts a more informal request, such as a letter, will be accepted as a request for review or for a review hearing. In some judicial districts a one-page form for a request for review hearing may be used.

Upon receiving the petition or request, the clerk of the orphans' court's office will notify the judge. The judge will determine if a hearing is needed. The judge has the authority to grant or deny the petition or request without a hearing. If a hearing is needed, all parties on the case will be notified of the hearing. At the conclusion of the hearing, the judge will issue an order granting or denying the petition.

The clerk of the orphans' court's office may require that you prepare a proposed order to be filed with the petition. In most instances, it is recommended to consult an attorney to create and file a petition. You may wish to contact the clerk of the orphans' court office in your county to discuss the local procedures to file a petition and if any forms are available. Petitions cannot be filed in GTS, but rather must be filed with your local clerk of the orphans' court office, and a filing fee may apply when filing the petition.

### How to File

#### *Guardianship Tracking System (GTS)*

The Pennsylvania Guardianship Tracking System (GTS) provides an online alternative to paper forms used by guardians to submit inventory and annual reports. **For more information on GTS, see [Guardianship Tracking System \(GTS\)](#).**

GTS can be accessed by visiting <https://ujsportal.pacourts.us/>, creating a secure user account, and entering an access code provided by the Clerk of Orphans' Court on your secure user profile

or during your account creation. For step-by-step instructions on how to file, click the Help icon on the GTS Dashboard once you log into the UJS Portal and access GTS.

### *Paper*

Paper versions of the annual report are available at <https://www.pacourts.us/forms/for-the-public/orphans-court-forms>. Paper reports are filed with the county's Clerk of Orphans' Court office. Contact the office to determine if reports must be filed in person or if they can be filed by mail. Certain counties may require electronic filing of reports. If you are required to file electronically, and do not have access to a computer, contact the Clerk of Orphans' Court office for further direction.

### Forms

Certain forms related to guardianship can be found at [Orphans' Court Forms | For the Public | Forms | Unified Judicial System of Pennsylvania \(pacourts.us\)](#). These forms can be downloaded, completed electronically, and printed to submit to the clerk of the orphans' court office. The relevant fillable forms available include:

- G-01 – Citation with Notice (Given to AIP with copy of petition for adjudication of incapacity)
- G-02 – Report of Guardian of the Estate (Can be filed annually through GTS)
- G-03 – Report of Guardian of the Person (Can be filed annually through GTS)
- G-05 – Guardian's Inventory for an Incapacitated Person (Can be filed annually through GTS)
- G-06 – Expert Report (May be completed in lieu of in-person expert testimony evaluating the AIP's capacity)
- G-07 – Notice of Filing (Must be completed when Inventory, Annual Report, Amended Report, or Final Report is submitted)

## Chapter 5

# ELDER ABUSE IDENTIFICATION AND RESPONSES

### How to Prevent and Respond to Abuse and Neglect

It is important to be aware of the types of abuse most often experienced by older adults and IPs so you can help keep them safe and respond to any signs of abuse you notice. Additionally, frequent communication and contact with the IP will allow you to understand their typical behavior and moods, so if there is a shift, you can explore what led to the change. If the IP is in a residential facility, it is important to visit frequently and check in on the IP through phone calls to them and their caregivers between visits. Your frequent contact may help prevent potential abuse or allow you to notice and respond to any abuse quickly.

The signs of abuse in the next section are not all-encompassing. There may be other signs of abuse, or some of the signs listed below may be present without abuse occurring. It is important to follow up on any concerns and alert those who can investigate further if abuse is suspected. As a guardian, you are responsible for the IP's safety and well-being. If you have concerns, do not hesitate to contact one of the following:

- **9-1-1**
  - Serious and immediate danger or emergencies
  - 24 hours a day
  
- **Pennsylvania Elder Abuse Hotline and Adult Protective Services**
  - 1-800-490-8505
  - Non-emergency situations
  - 24 hours a day
  - Reports can be made anonymously, and reporters have legal protections from retaliation, discrimination, and prosecution
  - For adults age 60+ and adults ages 18-59 with disabilities, the Hotline takes reports of potential abuse regardless of whether the person lives at home, in a nursing or residential facility, or other setting. Adult Protective Services will investigate all reports
  
- **Pennsylvania Long-Term Care Ombudsman Program**
  - 717-783-8975

- Support and advocacy for older adults receiving long-term care, whether in a facility or receiving community-based services
- State certified staff and volunteers from the Department of Aging respond to concerns of older adults and their loved ones
- **Local Area Agency on Aging (AAA)**
  - [Area Agencies on Aging \(pa.gov\)](#) will allow you to search for the appropriate AAA based on the county where the IP lives and provide you with their website, phone number, and address
  - AAA websites with information and resources for suspected elder abuse, in addition to a variety of other services
  - Call the AAA for the county where the IP resides, 24 hours a day including holidays, to report suspected abuse, and they will coordinate with Adult Protective Services to investigate
- **Pennsylvania Department of Banking and Securities**
  - Consumer Services Office 1-800-PA-BANKS or [www.dobs.pa.gov](http://www.dobs.pa.gov)
  - Financial exploitation questions and concerns
- **Pennsylvania Office of the Attorney General (OAG)**
  - OAG's Senior Assistance Helpline 1-866-623-2137 8:30 a.m. - 5:00 p.m. Monday through Friday or <https://www.attorneygeneral.gov/protect-yourself/seniors/>
  - The office focuses on abuse and fraud perpetrated by businesses and other consumer protection issues
  - Make a complaint by phone or electronically on the website, and it will be reviewed by staff and referred to the appropriate agency or handled directly by the OAG
  - The OAG also offers education for older adults on topics including fraud prevention, bullying, and identity theft. More information is available on the website

## Types and Signs of Abuse

### Physical Abuse

- Examples: hitting, striking, shaking, pinching, physical restraints, inappropriate use of drugs, force feeding, all physical punishment
- Signs: report of abuse by victim, bruises, broken bones, burns, internal injuries, bedsores, poor hygiene, pain

### Sexual Abuse

- Examples: unwanted touching, forced nudity, unwanted participation in the creation or receipt of sexually explicit material, sodomy, sexual assault, rape

- Signs: report of abuse by victim; unexplained bruising, bleeding, infection, or scarring of the genitals or anus; torn or stained underwear; extreme or unusual fear, aggression, or sexual behavior

### Emotional, Verbal, or Psychological Abuse

- Examples: insults, threats, harassment, intimidation, isolation from community and loved ones, treating an adult like an infant or object
- Signs: report of abuse by victim, withdrawn, depressed, or suicidal behavior, attention-seeking behavior, unexplained weight loss, weight gain, loss of sleep

### Exploitation

- Examples: forging checks or signatures on legal documents, stealing checks or money, coercing or tricking someone into giving money or access to accounts, taking the victim's medication or food for their own use
- Signs: report of exploitation by victim, social isolation, unexpected withdrawals or checks written from bank accounts, unauthorized use of credit or debit card, sudden transfers or gifts of money or valuable assets, unpaid bills despite having enough money to pay them

### Neglect

- Examples: intentional failure or refusal to provide adequate food, water, clothing, shelter, medication, medical care, personal hygiene support, or other needs for daily living
- Signs: report of neglect by victim, dehydration, malnutrition, poor hygiene, soiled clothing or linens, signs of bug or rodent activity in the residence including insect bites, bed sores, improper or no use of prescribed medication, lack of necessary medical care or therapeutic services

### Self-Neglect

- Examples: failure to take care of one's own needs of daily living, often due to declining physical or mental health
- Signs: dehydration, malnutrition, poor living conditions, lack of or inappropriate treatment of medical conditions, poor hygiene, hoarding

### Signs of Abuse or Neglect Specific to Residential or Long-Term Care Facilities

- The facility:
  - Unanswered call bells or signal lights from the residents
  - Infrequent or irregular toileting assistance including use of diapers when not necessary
  - Inappropriate or excessive use of physical or chemical restraints
  - Strong urine or body odor smells
  - Residents with bed sores, poor hygiene, missing eyeglasses or dentures
  - Cases of malnutrition or dehydration

- Lack of private telephone or visiting options for residents
- Poor training, lack of supervision, and low accountability for staff
- The IP's behavior:
  - Fear, either generalized or related to a specific caregiver(s)
  - Depressed, withdrawn, sad, or helpless behavior or affect
  - Fear, anxiety, or nervousness about speaking openly
  - Confusion, unlikely or contradictory stories, or disorientation without any known mental dysfunction
- The care provider's behavior:
  - Not allowing the IP to speak to others or answer questions for themselves without the care provider present
  - Treating the IP with anger or indifference, name-calling, threatening, or aggressive behavior
  - Sharing conflicting accounts of incidents, blaming the IP for being forgetful
  - Signs of alcohol or drug use while on duty
  - Flirtatious or sexual behavior toward IP
  - Unwillingness to follow care plan or cooperate with other care providers

## Chapter 6

# GUARDIANSHIP TRACKING SYSTEM (GTS)

### Overview

The Pennsylvania Guardianship Tracking System (GTS) provides an online alternative to paper forms used by guardians to submit inventory and annual reports. The GTS simplifies this yearly task by providing a user-friendly interface that calculates financial totals automatically, provides onscreen assistance in completing the reports, and ensures that all required information is recorded on the reports. All judicial districts are required to use GTS to manage guardianships and monitor a guardian's report filing requirements.

In addition to being able to file reports electronically, a guardian using GTS can review information relevant to their case(s), view previously filed reports (dating back to 2019), and file amended reports if requested by the court.

While the GTS is required to be used by all judicial districts, it is an optional tool for guardians. Your county may have a local rule requiring the filing of the inventory and annual reports via GTS. You will be notified by the court if there is a local order in place regarding electronic filing requirements.

### Benefits of Using GTS

- **24/7 access** – You can view your guardianship and file the Inventory or annual report(s) 24/7, 365 days a year. When you file the report electronically, it is time stamped with the date and time of the submission. This allows the court to see when you filed the report during their report review process.
- **Due date reminders** – GTS will automatically send courtesy reminders thirty (30) days prior to a report's due date. Additional reminders are sent at one (1) day and twenty (20) days past the due date of a report. The reminders are sent via email to guardians registered to use GTS only.
- **Ability to pay filing fees** – Each county can elect to charge a filing fee to file a report electronically or on paper. The amount charged varies by county. Some counties allow users

to file via GTS at no cost but have a filing fee associated with paper filings. Counties may charge a higher fee for paper filings due to the requirement that all paper filed guardianship reports must be manually entered into GTS by the clerk of the orphans' court office.

Any filing fees charged by the county can be paid using a credit or debit card during the report filing process. If the county charges a filing fee when using GTS, there is a \$2.75 service fee added to handle the payment processing by US Bank. The total amount of the filing fee and service fee will be collected by GTS prior to filing the report. For example, if the county charges a \$10.00 GTS filing fee, then upon checkout, the final charge will be \$12.75 (\$10.00 filing fee + \$2.75 service fee). There is no service fee if the county does not charge a GTS filing fee.

If the cost of the filing fee would create a burden on the estate, as guardian you may request to have the filing fee waived by the court. Contact the clerk of the orphans' court office in the county in which the guardianship is filed to discuss how to request a filing fee waiver.

- **Help and guidance** – When completing a report online through GTS, help icons or additional text appear next to select questions on the electronic versions of the reports to provide clarity or give examples of what should be included. If you attempt to submit an incomplete report, GTS will not let you file and will provide guidance on what is missing.

Online quick reference guides, training manuals, and training videos on how to use GTS are available online through the GTS Help System. You can reach the GTS Help System by clicking the Help icon found on the GTS Dashboard.

You may also call the GTS Help Desk at 1-877-227-2672, Option 1, anytime between 8:00 a.m. and 4:30 p.m. Monday through Friday to speak to a Help Desk representative who will address your questions about using GTS. You may also reach the Help Desk via email at [GTSOAPC@PACourts.us](mailto:GTSOAPC@PACourts.us). The GTS Help Desk is unable provide legal assistance or take payments over the phone.

- **Automatic financial calculations** – For guardians of the estate, the annual report captures various financial details, including a list of assets owned by the IP, annual income, and annual expenses. GTS will automatically calculate the totals for you by section and copy the information to the appropriate sections of the report.

If you file your Annual Report of Guardian of the Estate using GTS, select financial information, such as the list of assets owned by the IP and unspent income, will automatically pre-fill on future reports. The information pre-filled should be reviewed by you and updated if anything has changed.

- **Access to previously filed reports** – GTS will allow you to view any Inventory or annual reports filed on your case (since 2019) by any current or past guardian. You will have the ability to review, download, or print the previously filed reports.

- **Attach supporting documents** – You can attach supporting documents in PDF format (bank statements, visitation logs, etc.) when filing your annual report via GTS. The requirement to include supporting documents is at the discretion of the court. If you are unsure if you are required to include supporting documents, review the court order appointing you guardian or contact the clerk of the orphans’ court office in the county in which the guardianship was filed.

If you are unable to upload your supporting documentation, you can still file the report electronically and deliver the supporting documents to the clerk of the orphans’ court office in-person or by mail.

## What Reports can be Filed Through GTS?


GTS can be used to file the Inventory and Annual Report of the Guardian of the Estate and/or Person. The Inventory is only required to be filed if you are the guardian of the estate. All other petitions or documentation must be filed in accordance with the county’s clerk of the orphans’ court office procedures.


## Creating an Account on the Unified Judicial System Portal

The Pennsylvania Unified Judicial System Portal provides the public with access to various aspects of court information. Specialized eServices, such as GTS, are available to users with a secure login. Other information is also available to the public on the Portal, including appellate courts, common pleas courts, and magisterial district court docket sheets; common pleas courts and magisterial district court calendars; and PAePay.

## GTS Dashboard

The GTS Dashboard is your personalized homepage in GTS. This Dashboard is the starting point for submitting, managing, and viewing information related to your guardianship case(s). You will need a user access code provided by the court where your guardianship case is filed the first time you sign into the GTS Dashboard.

The GTS Dashboard consists of two grids to  help you manage your reporting requirements and general case information. The top grid, titled *Upcoming and Overdue Reports*, displays the case information, report type, and due date for your report(s). When you are ready to begin completing your online report click the button next to the report. GTS will open the report and guide you through completing the process online.

The lower grid, titled *Active Cases*, displays information about your guardianship(s). By clicking the *View Case Details*  icon, you can access details about the guardianship, including

participants on the case (co-guardians, attorneys, etc.), actions taken on the case, and more. You can also view previously filed reports and file amended reports.

The right side of the GTS Dashboard contains additional tools to help you manage your GTS profile and case(s). GTS sends automatic email notifications when reports are due and other court-related messages. A record of these email notifications can be found using the *Notifications* link. The *GTS Profile* link allows you to update your contact information, certifications record, and trainings attended. It is important to keep your profile updated so the court can contact you as needed. Information on how to access the GTS Help System and how to contact the GTS Help Desk can also be found on the GTS Dashboard.

## GTS Help

Online quick reference guides, training manuals, and training videos on how to use GTS are available through the GTS Help System. You can reach the GTS Help System by clicking the Help icon found on the GTS Dashboard.

You may also call the GTS Help Desk at 1-877-227-2672 anytime between 8:00 a.m. and 4:30 p.m. Monday through Friday to speak with a Help Desk representative who will address your questions about using GTS. You may also reach the Help Desk via email at [GTSAOPC@PACourts.us](mailto:GTSAOPC@PACourts.us). The GTS Help Desk is unable provide legal assistance or take payments over the phone.

## Chapter 7

# WHERE CAN I GO FOR HELP?

### Clerk of the Orphans' Court Office

The clerk of the orphans' court office in the county where the guardianship is located may be able to help with general questions regarding filing procedures and forms you must complete, as well as due dates for reports and court requirements. You can visit their office, call during their business hours, or visit their website any time to view online resources and helpful information.

The Clerk of Orphans' Court office cannot provide you with legal advice.

### GTS Help Desk

Online quick reference guides, training manuals, and training videos on how to use GTS are available through the GTS Help System. You can reach the GTS Help System by clicking the Help icon found on the GTS Dashboard.

You may also call the GTS Help Desk at 1-877-227-2672 anytime between 8:00 a.m. and 4:30 p.m. Monday through Friday to speak with a Help Desk representative who will address your questions about using GTS. You may also reach the Help Desk via email at [GTSAOPC@PACourts.us](mailto:GTSAOPC@PACourts.us). The GTS Help Desk is unable provide legal assistance or take payments over the phone.

### Elder Law Attorney

At times, the paperwork and legal procedures and requirements surrounding guardianship may be overwhelming. An attorney will be able to assist you, answer your questions, file petitions, and represent you throughout any hearings or other court proceedings.

If you need help finding a lawyer, the Pennsylvania Bar Association offers a Lawyer Referral Service to connect you with an attorney in your area. You can find more information on this program on their website <https://www.pabar.org/site/For-the-Public/Find-a-Lawyer>.

If you are concerned about your ability to afford an attorney, Pennsylvania Legal Aid Network will be able to connect you with local legal aid program to see if you qualify for their services. For more information, visit their website at <https://palegalaid.net/>.

## Community Supports

Though you are responsible for the IP's well-being, you are not alone in providing for them. Contact your local Area Agency on Aging (AAA) to be connected with a variety of community resources. If you are unsure of how to find your local AAA, visit <https://www.aging.pa.gov/local-resources/Pages/AAA.aspx> to search by county.

Some services that may be available in your community to help with the IP's care include:

- Meals-on-Wheels
- Transportation
- Senior centers and/or senior day programs
- Legal assistance
- Health insurance counseling and enrollment assistance
- House cleaning and yard maintenance services
- In-home nursing care
- Living Independence for the Elderly (LIFE)
- Pennsylvania Community HealthChoices Program (CHC)

## Information for Guardians

The role of guardian can be challenging, especially when the IP is a loved one or someone with whom you already have a personal relationship. As a guardian to a loved one, at times you must switch between the role of guardian and family member or friend to make hard decisions and protect the IP's well-being. There is potential for a significant emotional burden to be placed on the guardian and their family. If you need support, there are many resources available to you, including organizations providing support specific to the IP's condition, faith-based supports, mental and behavioral health practitioners, and community support groups. Additionally, the following resources may be helpful as you navigate life as a guardian:

- Family/Lay Guardianship Training (FLGT) hosted by the Office of Elder Justice in the Courts – These live, virtual trainings are offered regularly and include topics such as guardianship basics, best practices, guardian roles and responsibilities, and informed decision-making. Registration for this free training is required and can be completed at <https://pacourts.webex.com/mw3300/mywebex/default.do?siteurl=pacourts&service=7>.
- GTS Essentials Video Trainings are available to watch at your convenience. These short videos can help you navigate GTS and complete specific tasks including completing and submitting reports, payments, and amended reports. All of these videos can be found on the UJS Web Portal at [https://help.pacourts.us/UJSWebPortal/#t=GTS for Guardians%20Media%20Video Tutorials - Guardian.htm](https://help.pacourts.us/UJSWebPortal/#t=GTS%20for%20Guardians%20Media%20Video%20Tutorials%20-%20Guardian.htm)

- The National Guardianship Association (NGA) offers education and resources for guardians. Although this organization has information and training for professional guardians, some trainings and resources may be beneficial for lay, or non-professional, guardians as well. More information can be found at <https://www.guardianship.org/>.
- Center for Advocacy for the Rights and Interests of Elders (CARIE) can help you advocate for the needs of an older IP. They help elders and their caregivers resolve problems to ensure access to necessary care and resources. For more information, visit their website at <https://www.carie.org/>.
- SeniorLAW Center provides a wide range of services to support the legal rights and interests of older Pennsylvanians, including trauma-informed lawyering, education, and advocacy at the local, state, and national levels. Service areas include homeownership rights, pension rights, tenant rights, victim services, and more. Information about SeniorLAW Center can be found at <https://seniorlawcenter.org/>.
- Disability Rights Pennsylvania (DRP) helps people with disabilities in many areas, such as abuse and neglect, access to community services, discrimination, ADA compliance issues, education, assistive technology, voting access, and access to Medical Assistance services. To find out more, visit <https://www.disabilityrightspa.org/>.
- Administration for Community Living (ACL) maximizes the independence, well-being, and health of older adults, people with disabilities, and their families and caregivers. They offer resources for housing, mental health services, and other supports. More information can be found at <https://acl.gov/>.
- The Access to Respite Care and Help (ARCH) website provides information on what respite care is, types of care available, and related topics. The website also offers a search tool and other resources to find respite care providers locally. To find out more, visit <https://archrespite.org/caregiver-resources/>.

# RESOURCES

## Incapacitated Person's Bill of Rights



### **Bill of Rights for Adults Who Have a Guardian (Nov. 2022)**

**You have the following rights at all times when you have a guardian:**

#### **Access to Justice Rights**

1. You keep all rights that the court has not granted to your guardian.
2. You have the right to a lawyer who advocates for the outcome you want.
3. You have the right to be present and participate in all court hearings.
4. You have the right to let the court know your concerns or complaints about your guardianship.
5. You have the right to ask the court to review the need for your guardianship to change, continue or end and whether your guardian is right for you.
6. If there is a question about your capacity to exercise a specific right, you have the right to have a qualified person evaluate what you can do and whether to have some or all your rights restored.
7. You have the right to the support and accommodations you need to be able to effectively communicate with the court and to understand the court proceedings.
8. You have the right to have your rights explained to you in your preferred method of communication and in the language you choose.

#### **Core Human Rights**

9. You have the right to be treated with dignity and respect.
10. You have the right to be free from abuse, neglect, exploitation, and discrimination.
11. You have the right to remain as independent as you can.
12. You have the right to express and practice your own religious preferences.
13. You have the right to personal privacy.
14. You have the right to humane, safe, and sanitary living, learning, and working environments.
15. You have the right to sexual expression and to have your gender identity respected.

#### **Decision-Making Rights**

16. You have the right to a competent guardian who advocates for your goals, needs, and preferences and respects your desires, including medical treatment preferences, cultural practices, and religious beliefs.
17. You have the right to fully participate in all decisions, especially those affecting your care, where you live, your activities, and your social interactions, to the extent you wish to be involved and are able to be.
18. You have the right to receive necessary services and rehabilitation, within available resources, which protect your personal liberty and are provided within the least restrictive conditions.
19. You have a right to have your guardian prudently manage your resources.
20. You have the right to fully participate in decisions about how your property is managed, to the extent you wish to be involved and are able to be.
21. You have the right to keep confidential those matters which you wish to keep confidential unless that information is necessary to obtain services, to prevent abuse, neglect or exploitation, or to modify the guardianship order.

**The court may restrict the following personal rights without delegating them to the guardian, but only with due process protections that ensure the decision is consistent with your preferences and values.**

1. Apply for or maintain a driver's license
2. Be educated
3. Be employed
4. Communicate and interact with others
5. Change your marital status
6. Maintain your reproductive health and procreation
7. Travel
8. Vote

**The court may authorize your guardian to make decisions for the following rights on your behalf but only with due process protections that ensure the decision is consistent with your preferences and values.**

1. Acquire the benefits, services and supports you need
2. Consent to or refuse your medical and mental health treatment
3. Determine where you live
4. Determine your social environment and social aspects of your personal life
5. File and defend lawsuits
6. Make contracts
7. Make gifts of your money
8. Manage your money and property

## Ethical Principles



### **National Guardianship Association Ethical Principles**

1. A guardian treats the person with dignity. (Standard 3)
2. A guardian involves the person to the greatest extent possible in all decision making. (Standard 9)
3. A guardian selects the option that places the least restrictions on the person's freedom and rights. (Standard 8)
4. A guardian identifies and advocates for the person's goals, needs, and preferences. (Standard 7)
5. A guardian maximizes the self-reliance and independence of the person. (Standard 9)
6. A guardian keeps confidential the affairs of the person. (Standard 11)
7. A guardian avoids conflicts of interest and self-dealing. (Standard 16)
8. A guardian complies with all laws and court orders. (Standard 2)
9. A guardian manages all financial matters carefully. (Standard 18)
10. A guardian respects that the money and property being managed belong to the person. (Standard 17)

The term "guardian" includes all court-appointed fiduciaries. These Ethical Standards are reflected throughout the National Guardianship Association's [\*Standards of Practice\*](#). Guardians should look to the Standards for guidance on ways to carry out these ethical principles, with specific reference to the highlighted standards.

## Initial New Guardian Checklist

*Adapted from Administrative Office of Pennsylvania Courts' Family/Lay Guardian Training.*

- Obtain at least one certified copy of the guardianship order. You must keep the original in a secure location. Certified copies can be used to provide proof of your appointment as the guardian to financial institutions, doctors, etc.
- Have a copy of the guardianship order readily available. It is recommended to keep a copy of the order in your wallet, vehicle's glove compartment, and/or as a picture on your phone.
- Update the court if the person with a guardian's or the guardian's address and phone number is incorrect on the guardianship order.

### **GUARDIAN OF THE ESTATE**

- Open a new guardianship account with the bank. Title account as "Name of the person with a guardian', by 'guardian's name', guardian." Ensure that only the Social Security number of the person with a guardian is on any guardianship account. If the only income received by the person with a guardian is Social Security benefits and the guardian is the representative payee, a representative payee bank account can be opened instead of a guardianship account.
- Obtain Social Security Number and card – obtain a replacement card if needed.
- Close any old bank accounts after all direct deposits are changed to the new guardian account.
- Change all auto payments for bills to the new guardian account.
- Change the person with a guardian's mailing address to the guardian's address.
- Determine if the person with a guardian receives or is eligible to receive Social Security, Supplemental Security Income, and/or Social Security Disability Insurance.
- Apply for disability benefits if appropriate.
- Complete an online application at [www.benefitscheckup.org](http://www.benefitscheckup.org) to check on eligible benefits. Once eligible benefits are determined, file applications to receive them.
- Complete Social Security Administration form SSA-11-BK to apply to be the representative payee for the person with a guardian.
- Once the guardian is appointed as representative payee, contact the Social Security Administration to arrange for direct deposit to a guardianship or representative payee account.
  - A representative payee must file an annual report, which is in addition to the annual report(s) required by the court. You will receive the report form in the mail from the Social Security Administration each year. Make sure to keep a copy for your records. The requirement to file an annual report with the Social Security Administration is waived if the representative payee is the spouse or natural/adoptive parent of the person and resides in the same household.

- Contact pension plans and any other sources of income to become authorized to act on behalf of the person with a guardian. Update the mailing address and direct deposit information associated with the plans.
- Sort through all mail received by the person with a guardian.
- Identify and set up a bill payment schedule and budget.
- Determine if a credit report or credit freeze is necessary.
- Locate prior income tax returns or file a request to receive previous tax returns from the Internal Revenue Service.
- Arrange for annual preparation and filing of any required local, state, and federal income tax returns.
- Determine status of credit card accounts and, if appropriate, close the accounts. If the past due balance is in collection and funds are available to pay, negotiate a lump sum payment to close the account.
- Safeguard all property and assets owned by the person with a guardian.
- If the person with a guardian has a car or any other vehicle, obtain all keys and the title. Check to make sure the vehicle is inspected, insured, and registered.
- If there is a safe deposit box, complete an inventory of the contents and determine whether to keep the box open or to close it.
- Search the person with a guardian's residence and create an inventory of important papers such as wills, deeds, cash, jewelry, photos, and other valuables, and remove them to a safe place.
- If needed, have jewelry and valuables appraised to determine the appropriate value to include on the inventory report that is required to be filed with the court and for insurance purposes.
- Determine who has a key to the residence and if locks need to be changed at the residence of the person with a guardian.
- If the person with a guardian is no longer in his or her home and the home is vacant, make sure proper insurance coverage is maintained.
- If the person with a guardian's home is to be sold:
  - Obtain an appraisal; and
  - Notify the court as prior approval is needed for the sale of the home; and
  - Arrange for the sale or removal of furnishings or other items.
- Place money from any sale (home, vehicle, other personal items, etc.) in a guardianship or representative payee account.
- Obtain court approval before using funds to pay attorney fees or a guardian's expenses.
- Determine and pay property taxes as needed.
- File a petition with court if there is a need to invade (use funds) from principal (savings, etc.).
- Determine if funeral plans have been pre-arranged. If not, initiate prepaid funeral and burial plans by establishing an irrevocable burial fund or trust agreement.
- Maintain a log of transactions and interactions with financial institutions.

Maintain records and/or receipts of any financial transactions.

- Go to <https://ujportal.pacourts.us/> and create an account to gain access to the Guardianship Tracking System (GTS). GTS allows the guardian to view their case(s) and file the reports required by the court.
- You are required to file the *Guardian's Inventory for an Incapacitated Person* within 90 days of being appointed guardian.
- You are required to file an *Annual Report of Guardian of the Estate* every year. The report is due on the anniversary of the date you were appointed guardian.
  - To prepare for the filing of the report, maintain detailed records of income and expenses that include receipts and statements from banks/investments. Keep a copy for your records.
- A final report must be filed within 60 days of the person with a guardian's death, when you can no longer serve as guardian, when you are removed as guardian by the court, or when the person with a guardian regains capacity. Only the court can remove you as guardian or end a guardianship through a court order.
  - Guardian duties cease at time of the person with a guardian's death. The court, Social Security Administration, Department of Human Services, Veterans Administration and other sources of income, benefits and pensions must be informed of the person with a guardian's death.

#### **GUARDIAN OF THE PERSON**

- Provide your name and contact information to all health care providers, clergy, family, friends, neighbors, social workers, caregivers, and others who are regularly in contact with the person with a guardian.
- Provide the court order appointing you guardian to all health care providers including hospitals, rehabilitation facilities, nursing homes, residential facilities, etc.
- Visit the person with a guardian on a regular basis to make sure they are being cared for properly. Keep a log of dates and time spent during your visits.
- Obtain all medical insurance information, including Medicare, supplemental insurance, Medicare Part D, Medicare Advantage plans, etc. Review these health care plans annually (be aware of open enrollment time frames) and/or as needed.
- For those receiving medical assistance benefits (Medicaid) or long-term care benefits, annual renewal is required. Renewal forms indicating due dates for completion, as well as documentation needed, will be sent to you in the mail.
- Locate the person with a guardian's completed advance directives, if any (for example, a health care directive, living will, Do Not Resuscitate document (DNR), or POLST). Such directives will guide health care decision-making.
- Request copies of medical records and pertinent information from service providers as needed.
- Initiate and maintain communication with health care and mental health

providers.

- Visit the person with a guardian at least once a month and as needed.
- You are required to file an *Annual Report of Guardian of the Person* every year. The report is due on the anniversary of the date you were appointed guardian.
- A final report must be filed within 60 days of the person with a guardian's death, when you can no longer serve as guardian, when you are removed as guardian by the court, or when the person with a guardian regains capacity. Only the court can remove you as guardian or end a guardianship through a court order.
  - Guardian duties cease at time of the person with a guardian's death. The court, Social Security Administration, Department of Human Services, Veterans Administration and other sources of income, benefits and pensions must be informed of the person with a guardian's death.

#### RESIDENTIAL FACILITIES

- If the person with a guardian resides in a facility, attend plan of care meetings on a regular basis. Keep track of ongoing physician visits and health care appointments.
- Make requests for, and monitor, vision, dental, auditory, and podiatry care as needed.
- Inquire about the availability and cost of hair stylists and barbers in the facility. Work with the facility to make standing appointments for the person with a guardian.
- Visit the person with a guardian at least monthly and as needed to make sure they are being cared for properly. Keep a log of dates and time spent during your visits.
- Make sure the facility informs you of significant health status changes, medication changes, room and/or roommate changes, emergency treatments offsite, recreational/leisure outings, family visits, and holiday celebrations.
- Determine if there is a need to set up a resident account (spending money for the person with a guardian).
- Arrange for purchasing needed supplies, clothing, personal hygiene items, etc.
- Make sure personal items are labeled and recorded on the personal inventory filed with the residential facility. As additional items are brought in, request that the inventory is updated and maintain a copy for your records. Report lost/missing items to the administration. If items are not found, request reimbursement. Be sure to include items of value such as hearing aids, glasses, orthopedic shoes, canes, walkers, and wheelchairs.
- If you are also the guardian of the estate, request an accounting for expenses paid using the person with a guardian's income. This information will be needed to complete the Annual Report of Guardian of the Estate.

## Family/Lay Guardian Training Resource List

*Adapted from Administrative Office of Pennsylvania Courts' Family/Lay Guardian Training.*

### **General Information**

**Office of Elder Justice in the Courts (OEJC):** Educates judges, court staff, attorneys, guardians, the public, and others about the warning signs of elder abuse, and how to respond to suspected elder abuse. The OEJC also promotes best practices that address elder abuse and neglect, as well as guardianship and access to justice in the Commonwealth's courts. In addition to education and best practices, the OEJC actively fosters collaboration with other elder justice entities and branches of government to enhance elder Pennsylvanians' ability to fully participate in legal proceedings. The OEJC can be reached by calling 717-231-3300. <http://www.pacourts.us/judicial-administration/courtprograms/office-of-elder-justice-in-the-courts>

**Guardianship Tracking System (GTS):** The Pennsylvania Guardianship Tracking System (<https://ujportal.pacourts.us/>) is an online application that allows guardians of adult incapacitated persons to submit inventory and annual person and estate reports online. Payment of any associated fees is accepted at the time a filing is submitted and may be made with a Visa, MasterCard, Discover, American Express, or ATM card. Upon the completion of a filing, it will be transmitted to the applicable court for processing. Contact the 1-877-227-2672 or email [GTSAOPC@pacourts.us](mailto:GTSAOPC@pacourts.us) if you have questions about using GTS.

**PA ABLE Account:** A PA ABLE account gives individuals with qualified disabilities (eligible individuals), and their families and friends, a tax-free way to save for disability-related expenses, while maintaining government benefits. Federal and state law authorized the creation of PA ABLE accounts. 1-855-529-2253 or [www.PAABLE.gov](http://www.PAABLE.gov)

**PA Department of Revenue Rent Rebate Application Forms:** Homeowners or renters aged 65 or older, widows and widowers aged 60 or older, and permanently disabled individuals may be eligible for a rebate. Eligibility for this benefit is based upon annual income. Household income must not exceed \$45,000 for homeowners and \$15,000 for renters to qualify. Visit <https://www.revenue.pa.gov/> to learn more about the program and complete an application if eligible.

**Fact Sheet for Special Needs Trusts:** A special needs trust is designed to protect financial assets for the benefit of a disabled person. A fact sheet on special needs trusts can be viewed at <https://www.dhs.pa.gov/Services/Other-Services/Documents/Casualty%20Recovery/Special%20Needs%20Trust%20Fact%20Sheet.pdf>

## **Support Services**

**Center for Advocacy for the Rights and Interests of Elders (CARIE):** CARIE LINE is a free telephone and online one-on-one service that assists older adults and their caregivers with identifying and accessing needed services and supports, including those involved with guardianships. CARIE LINE advocates offer options for counseling, information, advocacy and education to help elders and caregivers identify and access resources on any issue an elder may be facing. The CARIE LINE is operational Monday through Friday, 9:00 am to 5:00 pm and can be reached by calling 1-800-356-3606. <https://www.carie.org/>

**SeniorLAW Center:** A free and confidential telephone service staffed by attorneys who provide legal information, advice, and referrals to senior citizens (60 years and older) throughout the state, including on guardianship matters. The statewide number is 1-877-PA SR LAW (1-877-727-7529) or 215-988-1242. <https://seniorlawcenter.org>

**Pennsylvania Elder Abuse Hotline:** A 24-hour hotline where abuse reports can be made on behalf of an older adult whether the person lives in their home or in a care facility such as a nursing facility, personal care home, hospital, etc. Reporters may remain anonymous and have legal protection from retaliation, discrimination, and civil or criminal prosecution. Hotline number – 1-800-490-8505.

## Actions Requiring Court Approval

*Adapted from Administrative Office of Pennsylvania Courts' Family/Lay Guardian Training.*

Guardian of the Person	Guardian of the Estate
<p style="text-align: center;"><b><u>Requires Court Approval</u></b></p> <ul style="list-style-type: none"> <li>• <b>Electroconvulsive therapy (ECT)</b></li> <li>• <b>Prevent a marriage or consent to divorce</b></li> <li>• <b>Sterilization or abortion</b></li> <li>• <b>Participation in medical experiment</b></li> <li>• <b>Removal of healthy organ</b></li> <li>• <b>Psychosurgery</b></li> <li>• <b>Commitment to a mental health facility</b></li> </ul> <p>**A guardian cannot commit a person under guardianship to a mental health facility. However, if the person under guardianship is in crisis and exhibiting behaviors that may require hospitalization, a person under guardianship must be evaluated by a psychiatrist to determine if there is a need for an involuntary commitment under section 302 of the Mental Health Procedures Act.</p>	<p style="text-align: center;"><b><u>Requires Court Approval</u></b></p> <ul style="list-style-type: none"> <li>• <b>Sale of real estate</b> The sale price of the real estate must be supported by affidavits, attached to the petition to the Court, from two real estate professionals who have inspected the property and are familiar with values in the area, and each provide an opinion of the fair market value of the property. Court approval is also required for the public sale of a home.</li> <li>• <b>Expending of principal</b> If the income of a person under guardianship does not meet their needs, a court order approving necessary expenditures of principal (savings/investments) is required.</li> <li>• <b>Gifting</b> All gifts and donations, regardless of value, must be approved by the court. An annual gift limit may be established by the court in an order.</li> <li>• <b>Estate planning</b> If estate planning is needed due to significant assets of the person under guardianship, the court requires a presentation of the plan for approval.</li> </ul>

## Petitioning the Court for Approval

A request for court approval for the above items is initiated by a petition. A petition is a document filed with the court detailing the request being made by the filer. A petition is commonly filed by an attorney, but an attorney may not be required in all situations. The court may approve or deny the petition with or without a hearing.

- Contact the clerk of the orphans' court in the county where the guardianship was filed to discuss local filing requirements. Contact information for each county can be found at: <https://www.pacourts.us/courts/courts-of-common-pleas/orphans-court-clerks>
- Gather information needed for the petition. The information needed will vary based on the above list of actions requiring court approval.
- Contact an attorney for assistance with filing the petition (if required).

## Visitation in a Supportive Environment Checklist

*Adapted from National Guardianship Association checklist.*

Date of Visit: \_\_\_\_\_

### 1. Hygiene/Appearance

- Fit, condition, cleanliness, appropriateness, and style of clothing

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- Hair—style and cleanliness

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- Nails trimmed/clean

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- Utilizing adaptive devices—eyeglasses, hearing aids, dentures

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- Access to personal hygiene supplies of choosing

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### 2. Environment

- Clean/odor-free

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- Home-like

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- 
- Personalized

- 
- 
- Accessible

- 
- 
- Adequate furnishings

**3. Life/Safety**

- Accessible emergency exits

- 
- 
- Evacuation plan

- 
- 
- Smoke detectors or sprinklers

- 
- 
- Hazardous chemicals stored/used safely

**4. Interpersonal Interactions with Staff**

- Respectful/nurturing

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- Age appropriate

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- Person-centered language

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**5. Appropriate Activities**

- Functional

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- Based on individual preference

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- Evidence of choice

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**6. General Health Status**

- Best possible health

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- Change in health status

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- 
- Preventative health care
- 
- 

**7. Miscellaneous**

- Menu of meals provided
- 
- 

- Towels/linens
- 
- 

- Locked areas—who has access?
- 
- 

- Weekend routine—how is religious preference addressed?
- 
- 

- If roommate—do they get along?
- 
- 

- Access to privacy, phone, mail
- 
- 

**8. Program Record/Documentation**

- Weekly activity schedule

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- Community integration opportunities

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- Restriction

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- Progress notes

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- Program data

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## Budget Worksheet

*Adapted from National Guardianship Association worksheet.*

### MONTHLY BUDGET

#### Regular Income:

Social Security (SS) Benefits	\$ _____
Social Security Disability (SSDI)	\$ _____
Supplemental Security Income (SSI)	\$ _____
Veterans Administration (VA) Disability Benefits	\$ _____
Pension Income	\$ _____
Wages	\$ _____
Other Sources of Income (specify) _____	\$ _____
<b>TOTAL MONTHLY INCOME EXPECTED</b>	<b>\$ _____</b>

#### Expenses:

Rent	\$ _____
Phone	\$ _____
Gas	\$ _____
Electric	\$ _____
Food	\$ _____
Spending	\$ _____
Water/Sewer	\$ _____
Cable/Streaming Services	\$ _____
Transportation	\$ _____
Credit Card Payments	\$ _____
Installment Payments	\$ _____
Other (specify) _____	\$ _____
<b>TOTAL MONTHLY EXPENSES EXPECTED</b>	<b>\$ _____</b>

**PERSONAL AND FINANCIAL INFORMATION**

**Bank Accounts:**

Checking Bank: \_\_\_\_\_ Account #: \_\_\_\_\_

Address: \_\_\_\_\_ Earns Interest/Amount: \_\_\_\_\_

Savings Bank: \_\_\_\_\_ Account #: \_\_\_\_\_

Address: \_\_\_\_\_ Earns Interest/Amount: \_\_\_\_\_

**Benefits:**

SS#: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ SSI Claim #: \_\_\_\_\_

SSDI Claim #: \_\_\_\_\_ Other Claim #'s: \_\_\_\_\_

Medicare #: \_\_\_\_\_ Is Premium Deducted from SSDI:  Yes  No

Medicaid #: \_\_\_\_\_ Spend down:  Yes  No Amount: \_\_\_\_\_

Redetermination Date: \_\_\_\_\_ Medicaid Recipient #: \_\_\_\_\_

Other Benefit/Assistance: \_\_\_\_\_

**Insurance:**

Burial Reserve:  Yes  No Amount: \_\_\_\_\_ Contract #: \_\_\_\_\_

Name of Funeral Home/Address: \_\_\_\_\_

Life Insurance Policy:  Yes  No Company: \_\_\_\_\_ Policy #: \_\_\_\_\_

Policy Amount: \_\_\_\_\_ Face Value: \_\_\_\_\_ Cash In Value: \_\_\_\_\_

Policy Owner: \_\_\_\_\_ Name of Insured: \_\_\_\_\_

Beneficiary: \_\_\_\_\_ Location of Policy: \_\_\_\_\_

Other Insurance Company: \_\_\_\_\_ Policy #: \_\_\_\_\_

Type of Coverage: \_\_\_\_\_ Amount: \_\_\_\_\_

**Real Estate/Property Assets:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**RESIDENTIAL INFORMATION**

**Address:**

Mailing Address:

Home Address (if different):


**Rent:**

Landlord: \_\_\_\_\_ Date Due: \_\_\_\_/\_\_\_\_/\_\_\_\_ Amount Due: \_\_\_\_\_

Payee: \_\_\_\_\_ Check Memo: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Rent or Room & Board: \_\_\_\_\_ Deposit Paid/Amount: \_\_\_\_\_

Late Charge: \_\_\_\_\_ Late After: \_\_\_\_\_ Subsidized Housing:  Yes  No

Terms of Lease:  Month to Month  6 Months  1 Year  Other \_\_\_\_\_

**Household:**

Name of Household Member	Adult or Minor	Relationship to IP	Source of Income

**All Utilities:**

Company	Account #	Budget Amount
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

**EARNED INCOME INFORMATION SHEET**  
(Complete only if applicable)

Monthly Gross Amount: \_\_\_\_\_

Place of Employment: \_\_\_\_\_

Address/Phone/Contact Person: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Wages Received:  Yes  No      Frequency: \_\_\_\_\_

Earnings reported monthly to Social Security by: \_\_\_\_\_

Does employer also report earnings to Social Security?       Yes  No

Does IP have tax exempt status (W4)?       Yes  No

Monthly breakdown of previous 12 months gross earned income:

Month/Year	Amount

Month/Year	Amount

**For SSDI Recipients:**

1. Has IP completed the nine-month "Trial Work Period"?       Yes  No

2. If the answer to #1 is "yes", has Social Security reviewed IP's Substantial Gainful Activity Status?  Yes  No

3. Is IP at the SGA lever, according to Social Security?       Yes  No

## Banking Institution Asset Inquiry Form

*Adapted from National Guardianship Association form.*

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Incapacitated Person's Name:

\_\_\_\_\_

We are in the process of determining the assets for the above mentioned. We are requesting the following information be completed for all accounts that may be held with your institution. A self-addressed envelope is enclosed for your reply.

Banking Institution:	Bank Address:

### Checking and Savings Account(s)

Type of Account				
Account Number				
Titling of Account				
Date Opened				
Date Closed				
Closed by Whom				
Interest Rate				
Balance as of / /				

Are there any Direct Deposits being made to the above account(s)? If so, which one(s) and from where?

### Safe Deposit Box

Box Number & Titling of Box		
Date Opened		
Date Closed		
Closed by Whom		

### Certificates of Deposits

Certificate Number & Titling of Certificate		
Date Opened		
Maturity Date		
Closed by Whom		
Balance as of / /		
Term of CD & Rate		

**Miscellaneous Accounts**

Type of Account		
Account Number & Titling		
Date Opened and Closed		
Closed by Whom		
Balance as of     /     /		

Any additional information or comments concerning investments or transactions which you may have had with the above person will be appreciated. Please list or attach a separate sheet.

\_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
Completed by                      Title                      Phone Number                      Date

## Inventory of Safe Deposit Box Form

*Adapted from National Guardianship Association form.*

### **BANK/FINANCIAL INSTITUTION INFORMATION**

Name & Address of Institution: \_\_\_\_\_

\_\_\_\_\_

Safe Deposit Box #: \_\_\_\_\_ Date of Inventory: \_\_\_\_/\_\_\_\_/\_\_\_\_

Institution Employee Present for Inventory: \_\_\_\_\_

### **CONTENTS OF SAFE DEPOSIT BOX**

**Cash (U.S. Currency)** \$ \_\_\_\_\_

#### **Coins, etc. other than Standard U.S. Currency**

Description: \_\_\_\_\_

\_\_\_\_\_

#### **Stocks, Bonds, Securities**

Name	Description	Quantity
------	-------------	----------

\_\_\_\_\_

\_\_\_\_\_

#### **Collectibles**

Description: \_\_\_\_\_

\_\_\_\_\_

#### **Other Personal Property**

Description: \_\_\_\_\_

\_\_\_\_\_

#### **Other Documents or Items**

Will: \_\_\_\_\_ Dated: \_\_\_\_/\_\_\_\_/\_\_\_\_

Social Security Card: \_\_\_\_\_

Birth Certificate: \_\_\_\_\_

**Deeds**

Description of Address or Property: \_\_\_\_\_

\_\_\_\_\_

**Trust Documents**

Description: \_\_\_\_\_

\_\_\_\_\_

**Other**

Description: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

# GLOSSARY

<b>Abuse</b>	The infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish. The willful deprivation by a caretaker of goods or services which are necessary to maintain physical or mental health.
<b>Adjudication of Incapacity</b>	The legal proceeding by which a court determines that an individual is incapacitated.
<b>Administrative Office of the Pennsylvania Courts (AOPC)</b>	The AOPC assists the Supreme Court in administering Pennsylvania’s judicial system.
<b>Advance Directive</b>	An individual’s written instructions which provide guidance for care when an individual is terminally ill or incapacitated and unable to communicate their desires.
<b>Advocate</b>	An individual who speaks in favor of, recommends, argues for a cause, supports or defends, or pleads on behalf of others.
<b>Alleged Incapacitated Person (AIP)</b>	A person who is claimed to be incapacitated in a Petition for Adjudication of Incapacity. If the petition is granted, the person is referred to as an Incapacitated Person (IP).
<b>Annual Expenses</b>	Annual expenses should include any payments made for the care and maintenance of the incapacitated person. The amount you enter for each type of expense should reflect the total spent during the entire report period, and not an average or monthly amount. Expenses may include living expenses, home and car expenses, food, clothing, utility bills, etc.
<b>Assets</b>	The physical property (house, car, etc.), bank accounts, and other investments owned by the person under guardianship.
<b>Assisted Living Residence or Assisted Living Facility</b>	A housing facility for a person with a disability and/or in need of assistance with daily tasks and provides some skilled health care services.
<b>Attorneys’ Fees</b>	The payment for legal services.

<b>Best Interest</b>	The course of action that is least intrusive and least restrictive that maximizes what is best for an individual under guardianship
<b>Bond</b>	As used in Pennsylvania’s Orphans’ Court, a type of fiduciary bond, sometimes referred to as a surety bond, required by a court to be filed by a guardian to ensure proper performance of his or her duties. Black’s Law Dictionary, 201 (9th ed. 2009).
<b>Case File Number</b>	Describes the number assigned to the case by the county court. The format of a case file number varies by county.
<b>Clerk of Orphans’ Court Office</b>	In most counties, the clerk of the orphans’ court office accepts guardianship reports filed by guardians and is responsible for monitoring guardian compliance in the timely filing of reports.
<b>Do Not Resuscitate (DNR)</b>	A physician’s medical order that the patient or their authorized surrogate decision maker signs indicating that cardiopulmonary resuscitation (CPR) is not to be performed if the patient stops breathing or if their heart stops beating. Court authorization may be required.
<b>Emergency Guardian</b>	An emergency order temporarily appointing a guardian due to the immediate risk to the alleged incapacitated person. An emergency guardianship may be in effect for up to 72 hours. If the emergency continues, then the emergency order may be extended for no more than 20 days for guardian of the person, and up to 30 days for the guardian of the estate. After expiration of the emergency order or any extension, a full guardianship proceeding must be held by the court.
<b>Expense</b>	Any cost incurred by the person under guardianship during the reporting period. Includes mortgage payments, rent, food, clothing, monthly bills, insurance, gifts, donations, etc.
<b>Fiduciary</b>	A person or organization that acts on behalf of another person or persons, putting their clients' interests ahead of their own, with a duty to preserve good faith and trust.  <a href="https://www.investopedia.com/terms/f/fiduciary.asp">https://www.investopedia.com/terms/f/fiduciary.asp</a>

<b>Fiduciary Duty</b>	“A duty to act for someone else’s benefit, while subordinating one’s personal interests to that of the other person.” Black’s Law Dictionary, 581 (9th ed. 2009).
<b>Final Decree</b>	An order of the court that represents the final decision on the question of incapacity. A Final Decree may indicate that a person is incapacitated and in need of guardianship, or that the petition for guardianship is denied.
<b>Final Report</b>	The last "Report of Guardian of the Estate" or "Report of Guardian of the Person" that a guardian files due to the incapacitated person's death, a court order ending the guardianship and/or the guardian’s appointment, transfer of guardianship, expiration of a limited duration order, or adjudication of capacity.
<b>Financial Exploitation</b>	The illegal or improper use of funds, property, or assets of a person under guardianship.
<b>Flag</b>	A visual indicator, inserted by GTS, on an Inventory or annual report that alerts the court that a specific condition associated with a concern of loss or neglect scenario is present based on the data provided on the report.
<b>Gift</b>	Any gift or donation given using the funds of a person under guardianship. All gifts and donations, regardless of monetary value, must be approved by the court.
<b>Group Home</b>	A home where a small number of unrelated people in need of care, support, or supervision can live together.
<b>Guardian</b>	A fiduciary responsible for the care and management of the estate (i.e., a guardian of the estate) or the person (i.e., a guardian of the person) of an incapacitated person. See 20 Pa.C.S. § 102.
<b>Guardian Agency</b>	An organization that employs professional guardians.
<b>Guardian Alert</b>	An electronic notification generated by the system when the guardian has been removed from a case for abuse, neglect or financial exploitation. When an alert is placed on a guardian, court staff in every county that has an active case for the guardian is notified and the guardian may be notified.

<b>Guardianship</b>	The legal arrangement under which a guardian has the legal right and duty to care for an incapacitated person and/or his or her property. See Black’s Law Dictionary, 776 (9th ed. 2009). Guardianship is a tool that allows a designated individual to act on your behalf if you are incapacitated. If you are incapacitated and do not have a power of attorney already in place, there is a need for a guardianship proceeding. The court chooses who will act as a guardian. The guardian has specified duties and responsibilities that are monitored by the court.
<b>Guardianship Tracking System (GTS)</b>	Statewide application to track annual report compliance on all guardianships for incapacitated adults in Pennsylvania.
<b>Incapacitated Person (IP)</b>	“An adult whose ability to receive and evaluate information effectively and communicate decisions in any way is impaired to such a significant extent that he is partially or totally unable to manage his financial resources or to meet essential requirements for his physical health and safety.” 20 Pa.C.S. § 5501.
<b>Income</b>	<p>All income amounts are entered as annual amounts on the Inventory and Annual Report of Guardian of the Estate.</p> <p>Any income received during the report period should include all earned income (derived from paid employment) and unearned income (unrelated to employment like interest income, alimony, and dividends). The ‘Other’ income source should be used to enter all gifts received by the incapacitated person, or other contributions made the guardian to the incapacitated person, lottery winnings, restitution, and any other sources.</p>
<b>Informed Consent</b>	Giving permission to allow something to happen based on having knowledge of the need, the risks involved and the alternatives.
<b>Interested Party</b>	An entity who has a recognizable stake in the outcome of a matter before a court but may not be directly involved in the litigation process. Interested Parties in GTS are frequently entities who are legally entitled to receive notification of the filing of guardian reports.
<b>Initial Estate Value</b>	The total estate asset amount reported on the Inventory.
<b>Inventory</b>	Only a Guardian of the Estate needs to file an Inventory. The Inventory should contain, so far as the guardian has been able to discover using

	<p>reasonable efforts, a list of all real estate, personal property, bank accounts, securities, and any other assets belonging to the Incapacitated Person with values stated as of the date of the guardian’s appointment. The Guardian’s Inventory should also include all debts, liabilities, and expenses of the Incapacitated Person. The assets which appear on the Inventory constitute the principal of the Incapacitated Person’s Estate. (Philadelphia Orphans’ Court Guardianship Handbook)</p>
<b>Invasion of Principal</b>	<p>Any expenditure of principal of the person under guardianship above what is covered with the person under guardianship’s monthly income. All Invasion of Principal must be approved by the court.</p>
<b>Judicial Authority</b>	<p>The judicial authority is any judge who signs a guardianship order and/or presides over guardianship hearings and other matters.</p>
<b>Jurisdiction</b>	<p>The court exercising authority over the original petition for guardianship is filed or any subsequent petition, including a petition to transfer the guardianship.</p>
<b>Limited Guardianship</b>	<p>A guardianship for a person whom the court finds to be partially incapacitated, wherein the guardian has only those powers consistent with the court’s findings of the person’s limitations. See 20 Pa.C.S. § 5512.1(b), (d).</p>
<b>Neglect</b>	<p>“The failure to provide for oneself or the failure of a caretaker to provide goods or services essential to avoid a clear and serious threat to physical or mental health. An older adult who does not consent to the provision of protective services will not be found to be neglected solely on the grounds of environmental factors which are beyond the control of the older adult or the caretaker, such as inadequate housing, furnishings, income, clothing or medical care.” 35 P.S. § 10225.103.</p>
<b>Non-Professional or Family/Lay Guardian</b>	<p>A guardian appointed to two or fewer guardianships at the same time. The guardian is related to, or a friend of, the person under guardianship.</p>
<b>Notice of Filing</b>	<p>The order appointing the guardian identifies the person or persons entitled to receive notice of the filing of the Inventory and/or annual reports. The guardian shall serve a Notice of Filing within ten (10) days after filing the Inventory and/or annual reports(s).</p>

<b>Office of Elder Justice in the Courts (OEJC)</b>	The OEJC educates judges, court staff, attorneys, guardians, the public, and others about the warning signs of elder abuse, and how to respond to suspected elder abuse. The OEJC also promotes best practices addressing elder abuse and neglect, as well as in the area of guardianship and access to justice in the Commonwealth’s courts.
<b>.PDF Document</b>	A Portable Document Format (PDF) is an electronic file type that is supported by most computer applications. Supplemental documents (visitation log, bank statements, etc.) submitted with the Inventory and/or annual reports in GTS must be in .PDF format.
<b>Personal Allowance</b>	Funds provided to incapacitated persons for their personal needs.
<b>Personal Care Homes</b>	“Any premises in which food, shelter and personal care assistance or supervision . . . are provided for a period exceeding twenty-four hours for four or more adults who are not relatives of the operator,” who do not require the services in or of a licensed long-term care facility, but “who require assistance or supervision in such matters as dressing, bathing, diet, financial management, evacuation of a residence in the event of an emergency or medication prescribed for self-administration.” 62 P.S. § 1001.
<b>Petition for Adjudication of Incapacity</b>	A petition filed pursuant to 20 Pa.C.S. § 5501 et seq. to have an alleged incapacitated person declared incapacitated.
<b>Petitioner</b>	The person or agency filing a petition requesting a guardian be appointed for an individual.
<b>Physician Order for Life Sustaining Treatment (POLST)</b>	A physician signed medical order that specifies the end-of –life treatments that the patient or their authorized decision maker has chosen. Court authorization may be required.
<b>Plenary Guardianship</b>	A guardianship for a person the court finds to be totally incapacitated and in need of complete guardianship services. See 20 Pa.C.S. § 5512.1(c) & (e).
<b>Power of Attorney</b>	A power of attorney is a tool that allows the designated individual to act on your behalf if you become incapacitated. Designation of a power of attorney of your choice is an option when you are capable of making this decision.

<b>Principal (Finances) (From GBB)</b>	The balance of funds or assets of the IP as of the date on which the guardian was appointed, or that are later acquired, that are not monthly income.
<b>Principal (Guardianship Organization)</b>	The CEO/CFO/owner/boss of the organization.
<b>Professional Guardian</b>	A person serving as guardian for three or more non-family members at the same time.
<b>Protection from Abuse Order (PFA)</b>	A court order directing an abuser to cease abusing an individual and to take additional precautions to ensure the safety of that individual.
<b>Prudent Investor Rule</b>	An investment standard to follow when making investments on behalf of others. The intent is to proceed with caution to reduce risk and maintain a diversified portfolio to enhance performance.
<b>Registered GTS User</b>	A user of the Guardianship Tracking System that has created an account in GTS using their User Access Code provided by the court.
<b>Report of Guardian of the Estate</b>	A report filed annually by the Guardian of the Estate that identifies all financial transactions that occurred for the incapacitated person during the previous year. A list of assets and current values are also included.
<b>Report of Guardian of the Person</b>	A report filed annually by the Guardian of the Person which describes the incapacitated person's physical condition, living situation and any changes that have occurred since the last report.
<b>Representative Payee</b>	The person, agency, or organization selected by a federal or state agency to receive government benefits on behalf of and for the benefit of the beneficiary entitled to such benefits.
<b>Responsible Agent</b>	The person identified as the representative of a guardianship agency on a case. The Responsible Agent is the person responsible for filing the guardianship reports on behalf of the guardianship agency.
<b>Substituted Judgment</b>	Decision-making guided by the expressed wishes of an individual prior to becoming incapacitated.

<b>Successor Guardian</b>	A successor guardian is appointed by the court to replace a current guardian that is no longer willing or able to serve as guardian.
<b>Surety Bond</b>	A contractual agreement that promises to be liable for the debt, default or failure of another.
<b>Transfer of Asset</b>	When the ownership of an asset (car, real estate, or other personal belongings) of a person under guardianship is transferred or given to another person. Transferring certain assets, such as the person under guardianship's real estate, must have prior court approval.
<b>Transfer of Case</b>	If the person under guardianship moves to a new jurisdiction (county) or state, the court where the guardianship was originally filed must be notified in a timely fashion. The originating court will determine if the case needs to be transferred to the new jurisdiction.
<b>Trustee</b>	An individual or entity with control or powers of administration of property in trust with a legal obligation to administer it solely for the purposes specified.
<b>Unspent Income</b>	Any income of the person under guardianship that remains after all expenses during a reporting period are paid. Unspent income from a previous year is captured as income on the Annual Report of Guardian of the Estate in Part IV, question 2.
<b>User Access Code</b>	A User Access Code is a unique identifier provided by the court that allows a guardian to access GTS. The User Access Code is unique to each guardian and allows access to case information and the ability to file reports on the cases in which the guardian is active.

# END NOTES

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- <sup>i</sup> [Pennsylvania’s Guardianship Statute, 20 Pa. C.S. Section 5501, et seq. \(1992\).](#)
- <sup>ii</sup> [The Advisory Council on Elder Justice in the Courts. \(2020\). \*Guardianship Bench Book\*. The Administrative Office of Pennsylvania Courts.](#)
- <sup>iii</sup> [Pennsylvania’s Guardianship Statute, 20 Pa. C.S. Section 5521, et seq. \(1992\).](#)
- <sup>iv</sup> National Guardianship Association. (2023). *The Fundamentals of Guardianship: What Every Guardian Should Know* (2nd ed.) (S. B. Hurme, Ed.). American Bar Association Book Publishing.
- <sup>v</sup> [Campanella, T. & Martinis, J. \(2023, January\). \*Supported Decision-Making \(SDM\): Protecting Rights, Ensuring Choices, Securing Safety\* \[PowerPoint slides\]. American Society on Aging \(ASA\) Conference.](#)
- <sup>vi</sup> [Pennsylvania’s Health Care Statute, 20 Pa. C.S. Section 5421, et seq. \(2006\).](#)
- <sup>vii</sup> [Pennsylvania Orders for Life Sustaining Treatment \(PA POLST\). \(2021, September\). \*Information for Patients and Families\*.](#)
- <sup>viii</sup> [Pennsylvania’s Mental Health Care Statute, 20 Pa. C.S. Section 5801, et seq. \(2004\).](#)
- <sup>ix</sup> [Pennsylvania’s Health Care Statute 20 Pa. C.S. Section 5461, et seq. \(2016\).](#)
- <sup>x</sup> [Pennsylvania Association of Elder Law Attorneys. \(n.d.\). \*Public Resources: Special Needs Planning\*.](#)
- <sup>xi</sup> [PA ABLE Savings Program. \(n.d.\). \*Program Overview\*.](#)
- <sup>xii</sup> The Advisory Council on Elder Justice in the Courts. (2020). *Guardianship Bench Book*.
- <sup>xiii</sup> National Guardianship Association. (2023). *The Fundamentals of Guardianship: What Every Guardian Should Know* (2nd ed.) (S. B. Hurme, Ed.). American Bar Association Book Publishing.
- <sup>xiv</sup> Ibid.
- <sup>xv</sup> The Advisory Council on Elder Justice in the Courts. (2020). *Guardianship Bench Book*.
- <sup>xvi</sup> [Pennsylvania’s Surety Bond Statute 20 Pa. C.S. Section 5122, et seq. \(1972\).](#)
- <sup>xvii</sup> National Guardianship Association. (2023). *The Fundamentals of Guardianship: What Every Guardian Should Know* (2nd ed.) (S. B. Hurme, Ed.). American Bar Association Book Publishing.
- <sup>xviii</sup> [Pennsylvania’s Notice to Parties of Interest Statute 20 Pa. C.S. Section 3503, et seq. \(1992\).](#)
- <sup>xix</sup> [Pennsylvania’s Guardianship Statute 20 Pa. C.S. Section 5513, et seq. \(1992\).](#)
- <sup>xx</sup> [Pennsylvania’s Guardianship Statute 20 Pa. C.S. Section 5512, et seq. \(1992\).](#)
- <sup>xxi</sup> National Guardianship Association. (2023). *The Fundamentals of Guardianship: What Every Guardian Should Know* (2nd ed.) (S. B. Hurme, Ed.). American Bar Association Book Publishing.
- <sup>xxii</sup> [Pennsylvania’s Guardianship Statute, 20 Pa. C.S. Section 5521, et seq. \(1992\).](#)

<sup>xxiii</sup> National Guardianship Association. (2023). *The Fundamentals of Guardianship: What Every Guardian Should Know* (2nd ed.) (S. B. Hurme, Ed.). American Bar Association Book Publishing.

<sup>xxiv</sup> The Advisory Council on Elder Justice in the Courts. (2020). *Guardianship Bench Book*.

<sup>xxv</sup> National Guardianship Association. (2023). *The Fundamentals of Guardianship: What Every Guardian Should Know* (2nd ed.) (S. B. Hurme, Ed.). American Bar Association Book Publishing.

<sup>xxvi</sup> Ibid.

<sup>xxvii</sup> The Advisory Council on Elder Justice in the Courts. (2020). *Guardianship Bench Book*.

<sup>xxviii</sup> National Guardianship Association. (2023). *The Fundamentals of Guardianship: What Every Guardian Should Know* (2nd ed.) (S. B. Hurme, Ed.). American Bar Association Book Publishing.

<sup>xxix</sup> Ibid.

<sup>xxx</sup> Ibid.

<sup>xxxi</sup> Ibid.

<sup>xxxii</sup> The Advisory Council on Elder Justice in the Courts. (2020). *Guardianship Bench Book*.

<sup>xxxiii</sup> Ibid

<sup>xxxiv</sup> National Guardianship Association. (2023). *The Fundamentals of Guardianship: What Every Guardian Should Know* (2nd ed.) (S. B. Hurme, Ed.). American Bar Association Book Publishing.

<sup>xxxv</sup> Ibid.

<sup>xxxvi</sup> [Pennsylvania's Guardianship Statute, 20 Pa. C.S. Section 5521, et seq. \(1992\)](#).

<sup>xxxvii</sup> The Advisory Council on Elder Justice in the Courts. (2020). *Guardianship Bench Book*.

<sup>xxxviii</sup> National Guardianship Association. (2023). *The Fundamentals of Guardianship: What Every Guardian Should Know* (2nd ed.) (S. B. Hurme, Ed.). American Bar Association Book Publishing.

<sup>xxxix</sup> Ibid.

<sup>xl</sup> Ibid.

<sup>xli</sup> National Guardianship Association. (2023). *The Fundamentals of Guardianship: What Every Guardian Should Know* (2nd ed.) (S. B. Hurme, Ed.). American Bar Association Book Publishing.

<sup>xlii</sup> [National Center for State Courts. \(2022\). Preventing and Detecting Fraud \[Video\]. Vimeo.](#)

<sup>xliii</sup> National Guardianship Association. (2023). *The Fundamentals of Guardianship: What Every Guardian Should Know* (2nd ed.) (S. B. Hurme, Ed.). American Bar Association Book Publishing.



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