

Guardianship course – Pt. 3 – Audio Transcript

The audio component of the course begins with Slide 5.

Slide Number

5.

As a guardian or conservator, you will have legal duties to both the protected person and the court.

You will be filing annual reports with the court about the protected person.

In this section, we will talk about the duties and responsibilities of guardians and conservators.

6.

If the court has already appointed you as a guardian or conservator, you must complete this segment of the course. If you have not already registered, please do so before continuing. Click on the box marked “Register” and follow the steps for registration. You must register in order to satisfy the court’s education requirement.

7.

If the court hasn’t yet appointed you as a guardian, you can continue with Part 3 without registering. You will find helpful ideas for planning your course of action. However, if the court appoints you at a later date, you will have to register and redo this section to prove you have met the education requirement. You can also register before your appointment as guardian, complete this section, and print out the certificate. File it with the court after you are appointed.

8.

In Part 3 we’ll look at some of the most important areas of responsibility. We’re going to discuss:

How to handle living arrangements for the protected person;

How to manage the protected person’s money and property;

How to handle health care, insurance, and different kinds of benefits;

And --how to keep records and prepare reports for the court.

9.

We will discuss the nature of the annual report and the three-year review.

We will discuss what is involved in ending a guardianship or conservatorship.

We will also make suggestions for helping the protected person live comfortably and safely. We will talk about how to handle common problems.

In the Case Studies section of this course, we provide examples of common guardian and conservator experiences. Studying these cases can help you think about your own situation.

As with Parts One and Two, we've included some brief quizzes for you to check your knowledge.

10.

As a guardian or conservator, you have to act in the protected person's best interests. Read the court order setting up the guardianship or conservatorship. It covers the nature of your responsibilities and the limits on your authority.

11.

A protected person always retains certain rights. Among these are the right to marry and divorce and the right to vote. There's a list on this page of other areas where a guardian's authority is limited. You will want to keep the protected person involved in all decision-making to the greatest extent possible.

12.

As guardian, you want to achieve a balance. You want to keep the protected person safe and healthy while permitting as much independence as possible. A conservator also needs to find a balance for protecting and managing the person's assets and money, while also allowing the protected person to make spending decisions when appropriate.

You will make the final decision on many important matters, but when it is possible and appropriate you will want to discuss things with the protected person to understand what he wants regarding specific issues.

13.

If the protected person can't participate or contribute effectively, you will need to make the decision on your own. Remember your responsibility is to act in the person's best interests. You won't necessarily make the same decisions as you would for yourself.

Always consider the protected person's preferences. Consider the person's personality and habits and desires as you understand them. This is called *substituted judgment*. For insight, think about previous situations and choices and decisions in the protected person's life.

14.

As guardian, one of your most important responsibilities is providing for the protected person's physical well-being.

You will need to make sure that diet, hygiene, and clothing are taken care of

15.

The protected person's living place needs to be as safe and secure and as comfortable as possible. The place should have adequate heating and electricity.

Often small changes in a house, such as rearranging furniture, or installing a safety rail in the bathroom, or adding better lighting, improve a situation a lot.

16.

Sometimes caring for the protected person will mean a complete change, such as a move to a smaller place or to assisted living or to a nursing home.

In general, if you plan to move the protected person from where he was living at the time the court appointed you as guardian, you must provide the court with notice of the change.

It is very important that you discuss this kind of change with the protected person. If possible, consider her preferences.

17.

Finding a suitable assisted-living facility or nursing home can be complicated. There are many things to consider. The Resources section of this course lists sources for assistance.

If the protected person moves into a group home of some kind, you are still responsible for making certain that his needs are being met.

18.

Within thirty days after appointment, the guardian will need to submit a preliminary plan for care of the protected person. This is referred to as the Guardianship Plan. The form is available on the court's website.

The court will review the plan. You must send copies to the protected person, the court visitor, and the attorney handling the case, as well as all other people involved – such as family members.

19.

You will describe your plans for the protected person's

- Housing
- Medical care
- Mental health treatment
- Personal care, educational, and vocational services
- Insurance and government benefits
- Control of finances and property
- Other aspects of the protected person's situation

20.

The plan should provide for the protected person to have as much freedom and decision-making as possible. It should limit the person only to the degree needed for protection and safety. Encourage the protected person's participation in decision-making. The court will refer to the plan when it reviews your annual reports.

21.

Within ninety days after your appointment you need to submit an implementation report on the protected person. The form is available on the court's website.

This is a longer and more detailed report about the protected person. You will now be able to describe the protected person's health and living situation more completely.

22.

The report asks for information about housing, medical care, school and job training, work, social activities, dependents, contacts, and decision-making. It also asks for a list of community organizations that the protected person has contact with.

23.

If you are the conservator, you will have to provide information on the protected person's income, property, and expenses.

The inventory requires you to list bank accounts; brokerage accounts and stock and bonds; real estate; Alaska Native Corporation dividend accounts; the PFD, commercial fishing interests such as entry permits; vehicles; and personal property.

24.

You will need to state the exact value of all these assets. You will also need to provide information on retirement accounts and insurance policies, and any trusts involving the protected person.

You will also list all liabilities – that is, all debts. This includes loans; mortgages; credit card debt; amounts owed for services; and any judgments or liens.

Do not round numbers. Provide exact values.

It is very important to provide the exact values of all assets and debts because this information will form the basis for how you do your future accounting in the annual reports to the court.

25.

This video provides some guidance in doing an inventory.

26.

These reports require a lot of details. You will need much of the information again later as you care for the protected person. Include account numbers and contact information. Keep good records right from the beginning of the guardianship or conservatorship.

Remember to make a copy for yourself of the completed report. You will also need to give copies to the protected person, the attorney, and others listed on the form.

The court will also refer to this Implementation Report when it reviews your annual reports.

27.

You will need to manage the protected person's money and property carefully. Again, you will be acting in the person's best interests.

There are some basic points to keep in mind in as you decide how to manage the protected person's financial affairs:

28.

* Always keep the protected person's money separate from your own. Establish a separate bank account in the person's name and social security number, with you as guardian or conservator. Don't mix your funds together. Avoid joint accounts. Learn how to sign checks and other documents as guardian.

* Keep detailed records of all transactions made for the protected person. Keep receipts and other documentation. Establish a record-keeping system where it's easy to store receipts. Note each payment or transaction from the protected person's funds.

29.

* Pay bills and taxes and other obligations on time. Pay any back taxes that may be owed.

* Collect any outstanding money owed to the protected person.

* To the extent possible, keep the protected person informed about your financial decisions.

30.

* Also, if the protected person can handle money, set up a safe arrangement that gives him some financial independence. This may be an allowance or a debit card with a limited amount of money that he can use.

* If you plan to sell or purchase something of significant value using the protected person's funds – such as a house – notify the court beforehand.

* Never borrow from the protected person's assets for yourself or others. It is not allowed, even if you plan to repay the funds.

* Make a budget for the protected person's regular expenses. You might find that by saving in one area, you can increase possibilities in another.

31.

Remember: You cannot pay yourself as guardian from the protected person's assets unless the court has approved this in the guardianship order.

32.

Also remember, you are managing the protected person's finances in his best interests. Paying for the person's care and needs may be expensive. You should spend responsibly. You should not make spending decisions in order to save money in for the person's heirs.

33.

The court will ask for an annual accounting. The accounting needs to be precise – not guesses or estimates. You should always be able to account for each expense, including cash withdrawals from bank accounts and use of ATM cards.

The video clip linked on this page presents practical suggestions for some of these points

34.

The court order will indicate who has responsibility for the health care of a protected person.

You should establish communication with the protected person's doctors and other caregivers and learn about his health needs. You will need to let the doctors know that the court appointed you as the guardian. Try to keep health care arrangements as stable as possible.

35.

Again, set up a system of record keeping where you can file information about the protected person's medical care. This will include records of appointments, prescriptions, hospitalizations, and therapy of any kind. It will also include records related to dental, ear, and eye care.

Determine if the protected person has put in place any advance directives concerning health care, such as a "Do Not Resuscitate" order.

To the extent possible, discuss medical care and decisions with the protected person. You may also want to discuss end-of-life directives.

36.

As guardian, you should find out what benefits the protected person is eligible for. Apply for them. These can include Social Security, Medicare, Medicaid, public assistance, supplemental nutrition assistance, veteran's benefits, retirement benefits, housing assistance, assistance or benefits from Native corporations, and the PFD.

37.

The protected person may be eligible for assistance with meals or fuel costs or other kinds of help. If you are caring for an adult child, there may be other useful services available.

38.

Applying for government benefits can be complicated and time-consuming. Ask for help if necessary. With Social Security and Veterans Administration benefits, you will need to establish yourself with the agency as the representative payee for the protected person. You'll need to apply to each agency to be appointed as representative.

Medicaid in particular is complicated. Be careful to maintain the person's eligibility.

The Resources section of this course can be a starting point for looking for other help and services.

39.

You will need to handle tax reporting for the protected person. If the person's tax history is unclear or confused, consider hiring a CPA to research the back history and figure out how to clear things up.

If the protected person is receiving Social Security benefits, you need to be sure that the Permanent Fund Dividend and any Native corporation benefits or dividends are reported correctly. Special accounting rules apply in some situations.

40.

In planning for the protected person, you should consider how you will arrange for care when you are gone for any length of time. Military personnel and others who may need to leave on short notice should have back-up plans in place.

41.

Ask yourself:

Who will handle my responsibilities while I'm gone?

Will my protected person's housing, food, and personal care be stable?

Will he continue to receive the proper health care?

Will my protected person's finances be properly managed?

What about transportation? Education and social activities?

42.

Who can I check in with while I'm gone?

Have I provided sufficient contact information to those caring for her so that they can reach me or another person with authority to make decisions?

Have I arranged for access to important documents and records?

Depending on the length of time you will be gone, there may be other points to consider.

43.

If you have just been appointed guardian or conservator, you will find it helpful to make several copies of the court order and the letters of guardianship. You will need the order and letters to change accounts, gather medical files, and gain access to important information.

It is important to keep good records. This video provides some tips.

44.

We're now going to discuss how to prepare the annual report for the court. Each year, you, as guardian, will file a report that gives the court an update on the living situation, health, and money and property of the protected person.

If you are a conservator, the report will only cover the handling of the protected person's money and property.

The court has a form that you will use for the report. It can be found on the court system's website.

45.

If you are a guardian, you will give information on:

The protected person's current housing situation;

Health issues, medical care, and insurance;

Social and recreational activities;

Schooling, job training, and work; and

Income, expenses, property, and other assets.

46..

The form will also ask for information on the protected person's ability to make decisions.

You will provide some information about yourself, including how often you see and communicate with the protected person.

If you are a conservator, you will provide information primarily on the handling of the protected person's finances and property.

47.

The report may seem difficult, especially at first, but it will become easier. You will need to file an annual report every year during your appointment.

One key to making the annual report easy is to keep good records right from the beginning. If you get into the habit of keeping records, doing the report will go smoothly.

Set up an arrangement for keeping the protected person's paperwork all together. You will want to make a record of all payments and expenditures. Keep receipts and other documentation. Keep copies of bills paid on behalf of the protected person. Write things down; don't trust your memory. Use the memo line on checks to note what the check was written for. You may want to organize everything into an accordion folder that has separate compartments. Or you can scan documents and have electronic records on your computer.

48.

Keep the protected person's money separate from your own. Avoid making credit card purchases that can't be clearly tracked. Be able to show where money for a purchase came from and what the purchase was for.

If the protected person receives a check, deposit it into his or her own account. This will also help to keep things clear.

49.

When you file your first annual report, use the Guardianship Plan and the Guardianship Implementation Report and Inventory as the starting place. For each year's annual report, review the previous year's.

Remember: the report is a legal document that you will sign as guardian. You need to be able to verify what is in it.

If you do not submit the annual report, the judge will set a compliance hearing for you to appear in court to explain why you didn't file it.

50.

Every three years after the court appoints a guardian or conservator, the court conducts a more extensive review. A court visitor interviews the protected person, the guardian or conservator, and others involved with the protected person. The visitor then submits a written report to the court.

51.

Changes in a protected person's situation can sometimes make it necessary to change the terms of the guardianship or conservatorship. If you want changes, you can file a motion requesting with the

court handling the guardianship. This can be done relatively simply, by filing a petition-for-review form. The form is available on the court's website.

52.

Be alert to any signs that the protected person is being abused. If you suspect there has been physical abuse, contact Adult Protective Services in the Alaska Department of Health and Social Services.

53.

If you contract with others to help the protected person, check qualifications and references. Interview possible caregivers. Review contracts carefully.

54.

If you see signs that the protected person may be the victim of financial fraud or exploitation in some way, contact Elder Fraud Assistance within the Office of Public Advocacy.

55.

Protect important information such as social security numbers – and even addresses and phone numbers.

You should also be aware that email and social media are sometimes used to victimize the elderly and other vulnerable people.

56.

The protected person retains many rights. The authority of a guardian or conservator to make decisions is limited in certain areas. Study the attached list to understand these limits.

57.

To the greatest extent possible, you will want to consult the protected person in making decisions. Although he may be incapacitated in some ways, he needs to be able to make as many decisions about his life as possible. Preserving and encouraging independence as much as possible is important. Let her have a voice in how she lives.

58.

As guardian, you are responsible for the protected person's safety and welfare, but this doesn't mean that the person can't choose for herself in areas where she is competent to make decisions. Recognize this and accept that you may sometimes disagree with her choices. Avoid letting an adversarial relationship develop.

The guardianship or conservatorship will function best if you encourage the protected person's personal independence as much as possible and support the decisions the protected person is able to make.

59.

The Implementation Plan for the guardianship may contain educational and work goals for the protected person. You will need to help the person in pursuing these goals.

60..

Help the protected person continue existing friendships and other social contacts. If she has belonged to a church or community organization, try to continue the participation. Ask him what he'd like to do for fun and recreation.

Be sensitive to cultural values and practices with such things as food and religious beliefs.

61.

Make certain the protected person doesn't become too isolated, spending too much time alone or separated from family and friends. As guardian, you should try to see the person at least once a month.

62.

You can research community resources that might enrich the quality of the protected person's life. These include service providers, government organizations, churches, social groups, and charitable organizations.

In particular, ASAGA (the Alaska State Association for Guardianship and Advocacy) can help. In the Resources section of this course there is a short video on the work of ASAGA.

In the Case Studies section of this course you will find examples of how people have handled guardianships and conservatorships.

63.

There are many reasons why a guardianship or conservatorship may come to an end. A protected person may die. Or a protected person may recover enough to function without assistance. Or, the guardian or conservator may want to end the appointment.

64.

If a guardianship or conservatorship is ending, you must prepare a final report. You will tell the court why you are ending your service, and you will update the court on what has happened with the protected person since the last annual report.

The form for this final report is available on the court's website.

65..

If the protected person has died, you must notify family members. You must also notify the court that appointed you.

You must submit a copy of the death certificate along with the final report, within 90 days.

66.

If you have a copy of the protected person's will or know where it can be found, you must deliver it to the court for safekeeping. This is very important.

You must also notify the personal representative or beneficiary named in the will that you have given it to the court.

67.

You may help to arrange for the funeral and burial. This will depend on the family's involvement or the protected person's directives. You can use the person's money to pay reasonable funeral expenses. If necessary, you can apply for help with expenses from the state or municipality.

Beyond this, as guardian or conservator, you have no further authority over the protected person's estate or affairs.

68.

In becoming a guardian, you have assumed a major responsibility.

It's almost inevitable that some problems will arise. Often these concern the authority of the guardian. Other family members and the protected person himself may resist your authority, at least at first.

69.

Don't expect that other people will automatically understand what a guardian's role is. You may have to teach them. The court guardianship appointment order and letters of guardianship specify your duties and responsibilities. They set the legal basis for your authority.

70.

In villages and other small communities where ties are close, it can sometimes be difficult for others to accept your authority. This is especially true if it involves a big change in roles – for example, if an adult child becomes the guardian of an elderly parent. A guardian can be perceived as “bossing people around.” You can ask a leader respected by the whole community to help. This person can explain your role to other members of the community.

71.

The protected person may also resist your authority. It is important that you always try to discuss decisions and encourage independence whenever possible. If you can, approach major changes slowly, giving the protected person time to adjust to new arrangements.

72.

If there is a serious disagreement, particularly with other family members, you may want to consider mediation to resolve the problem.

73.

Serving as a guardian for an adult takes time and commitment. Caring for another's needs can be rewarding, but it can also be stressful. Emotional, physical, and financial problems can arise. To protect your own well-being, you will need to recognize points of stress and conflict and address them.

74.

Particularly if the protected person lives with you, it is important that you yourself not become too isolated. You may find a support group of people with similar situations.

You will be most effective if you take care of yourself as well as the protected person.

75.

This course has only presented an introduction to the work of a guardian or conservator.

As a guardian or conservator, you will continue to have fresh questions. New situations will present themselves; new problems will arise.

Think of your education as on-going. Continue to look for resources that will provide guidance for your care-giving.