

Fundamentals of Adult Guardianship *Participant Manual*



THE SUPREME COURT *of* OHIO
JUDICIAL COLLEGE

THE SUPREME COURT *of* OHIO
FUNDAMENTALS OF ADULT GUARDIANSHIP
PARTICIPANT MANUAL



SHARON L. KENNEDY
CHIEF JUSTICE

PATRICK F. FISCHER
R. PATRICK DEWINE
MICHAEL P. DONNELLY
MELODY J. STEWART
JENNIFER BRUNNER
JOSEPH T. DETERS
JUSTICES

ROBERT W. HORNER III
ADMINISTRATIVE DIRECTOR



THE SUPREME COURT *of* OHIO JUDICIAL COLLEGE

FUNDAMENTALS OF ADULT GUARDIANSHIP

Course Developers and Faculty

DEREK L. GRAHAM, Esq.

Partner, Resch, Root, Phillipps & Graham, LLC
Dublin, OH

PAULA M. TALIAFERRO, MGS, LSW

Aging Education & Outreach Specialist
Central Ohio Area Agency on Aging
Columbus, OH

The Supreme Court of Ohio Judicial College Staff

M. Christy Tull, Director

Kim Eggerton, Education Program Manager

Alexandria Reasoner, Program Coordinator

65 South Front Street, 6th Floor

Columbus, Ohio 43215

614.387.9445

adultguardianedu@sc.ohio.gov

Course Developed January 2022

TABLE OF CONTENTS

	<u>Page</u>
Agenda.....	1
Course Developers.....	2
Learning Objectives.....	3
Keys to Success and Course Road Map.....	4
The Important Role of Guardians	5
MODULE 1: ESTABLISHING ADULT GUARDIANSHIP IN OHIO	7
1.1 Framework of Guardianship	7
1.2 Less Restrictive Alternatives to Guardianship.....	11
1.3 Types of Adult Guardianship	13
1.4 Guardian Qualifications	16
1.5 Role of Probate Court.....	18
1.6 Process for Establishing Guardianship	20
1.7 Termination/Restoration	26
MODULE 2: RIGHTS, NEEDS, AND RESOURCES.....&	&
2.1 Rights of Persons Under Guardianship	30
2.2 Examining Needs of Adults Under Guardianship	36
2.3 Identifying and Accessing Resources for Persons Under Guardianship	46
MODULE 3: RESPONSIBILITIES AND DUTIES OF GUARDIANS.....) %) %
3.1 Responsibilities of Guardian.....	51
3.2 Responsibilities to Ward	53
3.3 Duties of Guardian of Person	57
3.4 Duties of Guardian of Estate.....	61
3.5 How to Seek Help from Court.....	65

MODULE 4: HANDLING SPECIFIC SITUATIONS * †

4.1 Abuse, Neglect or Exploitation of Persons Under Guardianship 67

4.2 Addressing Problems with Care 72

4.3 Marriage and Family Relationships..... 75

4.4 Visitation 76

4.5 Criminal Matters 76

4.6 Guardian Liability..... 77

4.7 Guardian Succession Planning..... 79

4.8 Moving 79

4.9 Removal of Guardian & Complaints..... 80

4.10 Hearing Requirements..... 81

Next Steps (**Where to file your Certificate of Completion of Education**) 81

APPENDICES , ' ,

Appendix A:

- Ohio Revised Code 2111.02 - Appointment of guardian 83
- Ohio Revised Code 2111.04 - Notice of appointment 86
- Ohio Revised Code 2111.13 - Duties of guardian of person 87
- Ohio Revised Code 2111.14 - Duties of guardian of estate 88
- Ohio Revised Code 2111.15 - Duties of guardian of person and estate 89
- Ohio Revised Code 2111.49 - Report of guarding of incompetent 89
- Ohio Revised Code 2111.50 - Probate court is superior guardian of wards 91

Appendix B:

- Rules of Superintendence for the Courts of Ohio (Sup.R. 66.01-73.00)..... 95

Appendix C:

- Table of Contents. 105
- Guardianship Forms 107

Appendix D:

- Filing Checklist 139
- Guardianship of Person Application Filing Checklist 141
- Guardianship of Estate Checklist..... 143

Appendix E:

- 9-Step Needs Assessment145

Appendix F:

- Guide to Important Resources & Programs155
- 1 Government Programs for Income & Health Care.....155
- 2 Other Government Funded Service Programs (Federal, State, Local).....161
- 3 Additional Local Services.....163
- 4 Types of Housing.....165
- 5 Other Housing Related Issues.....167
- 6 End of Life Issues170
- 7 Adult Guardianship Helpful Links.....175

GLOSSARY%+

THE SUPREME COURT OF OHIO JUDICIAL COLLEGE
Fundamentals of Adult Guardianship

AGENDA

Welcome, Orientation to Broadcast Session and Faculty Introductions

Module 1: Establishing Adult Guardianship in Ohio (1.5 hours)

Break

Module 2: Rights, Needs and Resources (1.5 hours)

Lunch

Module 3: Authority and Responsibilities of Guardian (1.25 hours)

Break

Module 4: Handling Specific Situations (1. hour)

Closing

Course Concludes

COURSE DEVELOPERS

Derek Graham, Attorney

Resch, Root, Philipps & Graham, LLC
5100 Bradenton Ave., Suite C
Dublin, OH 43017
dlg@olrblaw.com
614.760.1801

Derek Graham is a partner with the law firm Resch, Root, Philipps & Graham LLC. Derek's practice focuses extensively in the area of disability law, guardianship and estate planning. Derek serves as legal counsel to Advocacy & Protective Services, Inc., commonly known as APSI, and in that capacity he practices in guardianship cases statewide. Derek attended law school at the Moritz College of Law at The Ohio State University and has a Bachelors in Business Administration from the University of Kentucky. Derek is active in many non-profit organizations and is on the Board of Directors of the Down Syndrome Association of Central Ohio.

Paula M. Taliaferro, MGS, LSW

ptaliafer@gmail.com

Paula M. Taliaferro is an Educational Consultant in the field of aging and has developed and presented over 870 workshops since 1986 to professionals in the field of aging, paraprofessionals, older adults, and families. She holds a Master's Degree in Gerontology from Miami University and is a Licensed Social Worker in the State of Ohio. She has worked in the field of aging since 1977 in both institutional and community based settings. Paula has written numerous workshops which are used widely in Ohio to train staff, volunteers, and clients. She is a PAC approved trainer under Teepa Snow's Positive Approach Certification. Paula has also been a key planner and faculty member for the Judicial College's Adult Guardianship Education Program.

Fundamentals of Adult Guardianship

Course Learning Objectives

Upon completion of the Fundamentals of Adult Guardianship course, you should be able to:

- Describe the process of establishing adult guardianship
- Differentiate between the types of adult guardianship
- Determine the rights of wards
- Identify the needs of wards
- Explain responsibilities and reporting requirements of guardians of adults
- Locate appropriate resources for wards
- Discuss best practices in specific situations

The following are the learning objectives for each module of the pre-service Fundamentals of Adult Guardianship program.

As a result of each module, you will be able to:

Module 1: Establishing Adult Guardianship in Ohio

- Explain conditions that can result in guardianship
- Identify less restrictive alternatives
- Differentiate types of adult guardianship
- List adult guardian qualifications
- Identify the filing requirements for establishing adult guardianship
- Describe the appointment process

Module 2: Rights, Needs, and Resources

- Review the procedural rights of the ward
- Recognize the fundamental rights of the ward
- Implement 9-step approach to determining needs of the ward
- Identify resources available to wards








Module 3: Responsibilities and Duties of Guardians

- Describe responsibilities of guardians of adults
- Recognize duties owed to wards
- Review reporting requirements of Guardians of the Person
- Review accounting and reporting requirements of Guardians of the Estate

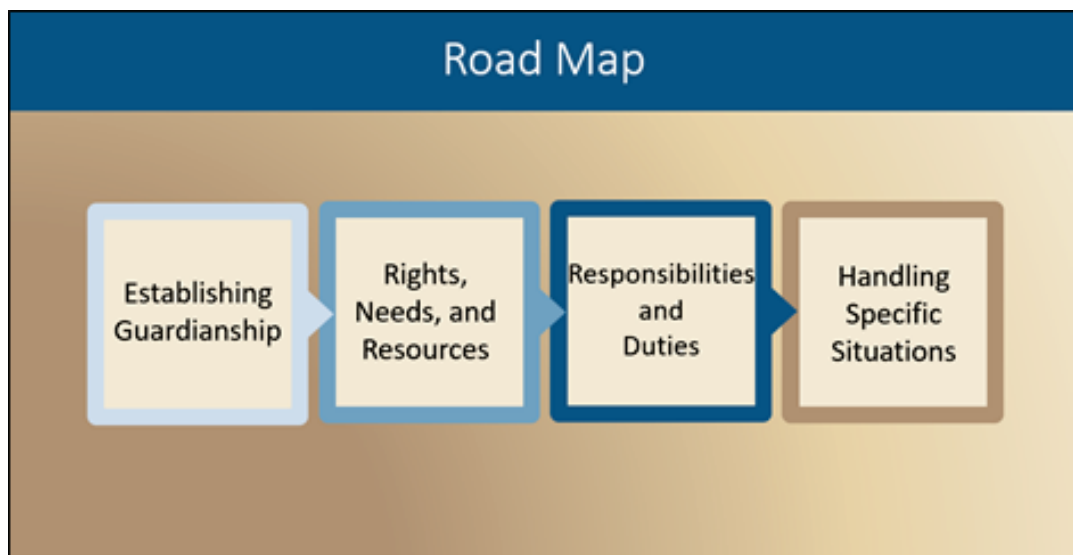
Module 4: Handling Specific Situations

- Describe specific guardianship situations
- Identify tools and resources for dealing with specific situations

Keys to Success

	Participant Manual
	Activities
	Guardian of the Person
	Guardian of the Estate
	Full Guardian
	Rule 66
	Appendix

Course Road Map



The Important Role of Guardians

- A. Guardians of adults are legal decision makers responsible for making health or economic decisions on behalf of someone else.

- B. The reasons for a guardianship vary considerably from person to person but they always involve physical or mental conditions that impair a person's ability to make decisions on behalf of him/herself.

- C. Guardianship is considered by many to be a ***part-social, part-legal relationship***. While a guardianship can only be established through a legal proceeding, the duties of the Guardian are usually carried out in a social service context.

- D. Implications of this type of relationship:
 - a. Guardian is responsible and accountable to the probate court.
 - b. Some knowledge of court terms and processes is necessary.
 - c. Some knowledge of services and systems to access when meeting needs of the person under guardianship is helpful.
 - d. Guardian should have the ability to communicate with the person under guardianship and this can be challenging.
 - e. Guardian should have some knowledge of person's past, preferences, values, and traditions to make decisions in the best interest of the person.
 - f. Guardian should have the ability to have face to face contact with person under guardianship on a regular basis to determine changes as well as quality of life issues.

1.1 Framework of Guardianship



A. Ohio Revised Code (**R.C. 2111.01-2111.51**)

1. <http://codes.ohio.gov/orc/2111>
2. Effective Date 1990, but some sections have been revised since then.

Framework of Guardianship

- R.C. 2111
- Sup.R. 66.00-66.09
- Local Rules of County Probate Courts
- Different in other states



B. Superintendence Rule (**Sup.R. 66-66.09**)

1. <https://www.supremecourt.ohio.gov/LegalResources/Rules/superintendence/Superintendence.pdf#Rule66>
2. Effective Date June 1, 2015

C. Local Rules of County Probate Courts

1. Each of Ohio's 88 counties has a probate division within the common pleas court. Each probate division has an elected judge who appoints and oversees guardians in the county. Some counties have more than one probate judge.
2. Each County Probate Court may have specific forms and procedures required of individuals in that county.

D. **Guardianship statutes will vary from state to state.** Terms and requirements imposed by Ohio law may be different from the terms and standards required in other states.

Key Definitions



1. Ward_____	A. What is best for a ward, including consideration of the least intrusive, most normalizing, and least restrictive course of action.
2. Incompetent_____	B. Any adult person found by the probate division of a court of common pleas to be incompetent and for whom a guardianship is established.
3. Capacity_____	C. Making a decision that would reflect as closely as possible what the ward would have decided if he/she were making the decision.
4. Best Interest_____	D. A person who is mentally impaired as a result of a mental or physical illness, disability or as a result of chronic substance abuse, that he/she is not capable of taking proper care of his/her self or property.
5. Substituted Judgment_____	E. A person's agreement to allow something to happen, made with knowledge and understanding of the risks involved as well as the alternatives. This decision must be voluntary without coercion or undue influence from others.
6. Informed Consent_____	F. The ability to understand the effects of one's acts and decisions.

Fill in the blank – Conditions Affecting Capacity



Dementia

Substance Abuse

Delirium

Stroke

Mental Illness

Developmental Disabilities

Traumatic Brain Injury (TBI)

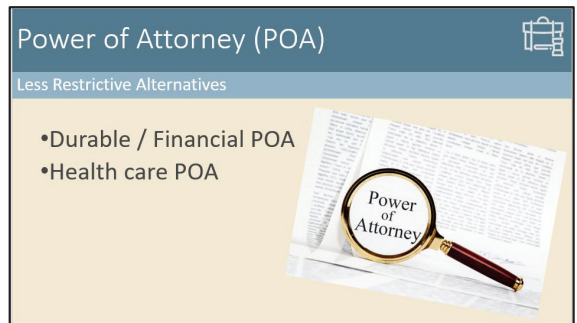
1. _____ is a temporary but serious disturbance in a person's mental abilities that results in confused thinking. The onset is usually *sudden*.
2. _____ occurs when blood is cut off on its way to the brain or while in the brain.
3. _____ are conditions that occur before age 22 and continue throughout life. They cause substantial limits in 3 or more life areas.
4. _____ is a broad term that refers to brain disorders, including memory loss. There are many causes & they generally do *not occur* suddenly.
5. _____ is a mental or bodily condition marked by disorganization of personality, mind and emotions to seriously impair the normal psychological functioning of the individual.
6. _____ is an alteration in brain function caused by an external force.
7. _____ occurs when the repeated use of alcohol and/or drugs causes clinically significant impairment.

1.2. Less Restrictive Alternatives to Guardianship

- A. A **Power of Attorney (POA)** is a directive authorized by statute. (Revised Code Chapter 1337 et seq.) A POA will often be specific to finances or health care. A POA allows an individual, called the principal, to delegate to a third party the authority to become his/her agent and make decisions regarding matters that the principal is unable to make. For a POA to be effective as an alternative to guardianship, the POA must be “durable.” That means the principal (who created the power of attorney) specifically intends for the agent to have authority to act on his/her behalf after the principal becomes incapacitated or incompetent.



The scope of power delegated to an agent may be broad or narrow depending on how the POA was drafted. It is imperative that all POA documents be carefully read and reviewed to gain a clear understanding of how they apply in a guardianship setting. All POAs should be presented to the Court for proper consideration as a less restrictive alternative. Pursuant to **R.C. 2111.04(D)**, all authority granted to an Agent in a POA is immediately suspended upon the Agent being served with Notice of a Guardianship Hearing. You must also consider that many individuals nominate someone whom they would like to have serve as the guardian within their POA. Individuals have the right to nominate (not appoint) whom they would like to have serve as the guardian and Probate Courts will certainly consider any such nomination. Regardless, it is ultimately the Probate Court’s decision as to whom they appoint guardian of any individual and a Probate Court is not bound to follow a nomination in a POA.



- B. **Advanced Directives**, such as a living will, differ from a POA in that they allow terminally ill patients to make their wishes known regarding the use of treatment in end of life situations. Specifically, a living will provides direction regarding the use of treatment that is not focused on restoring health but rather is intended to prolong, or delay, the dying process. Common examples are ventilators and similar life support machines.



APPENDIX
PAGE

C. **A conservatorship** is another statutorily created less restrictive alternative to guardianship. A conservatorship is applicable when an individual is mentally competent but physically infirm. The individual desires to have someone appointed by the Probate Court to render assistance to the individual and to carry out the day to day tasks without surrendering all decision making authority of the individual. A conservatorship is a voluntary trust relationship using certain guardianship laws and procedures subject to Court supervision.

Conservatorship

Less Restrictive Alternatives

- Mentally competent but physically infirm individual desires to have someone appointed.



D. **A payee or authorized representative** is an individual who is authorized to receive and expend Social Security Benefits, Supplemental Social Security Income, or veterans benefits, on behalf of a recipient, based upon a Court finding of mental incompetence or on the submission of evidence to the Social Security or Veterans Administrations (VA) demonstrating the mental or physical incapacity of the recipient that impairs management of the funds.

Payee / Authorized Representative

Less Restrictive Alternatives

- Individual who is authorized to receive and expend Social Security Benefits.




Note: A Guardian of the Estate should never be needed for the sole purpose of managing Social Security, SSI or VA benefits.

E. **Trust Agreement** is a legal relationship where an individual can transfer ownership of assets into a trust. Once assets are in a trust they are controlled by a **trustee**. Upon becoming incapacitated, most written trust agreements have a provision designating an alternate trustee. This makes trust agreements a viable alternative to guardianship of the estate in situations where the incapacitated person created a trust prior to losing capacity.

Trust Agreement

Less Restrictive Alternatives

- Document or arrangement that allows one person (Settlor/Grantor) to convey control and responsibility for assets to another (Trustee) for the benefit of a designated person (Beneficiary).



F. **Prior to the establishment of any less restrictive alternatives must be explored, discussed and addressed by the applicant and the Court 66.04(A).** One of the new requirements created by **Sup.R.66.08(L)** is that a list of all legal papers such as POAs be filed with the Court **within 3 months** after the guardian's appointment.

! Less Restrictive Alternatives

Application/
Appointment
hearing

Must be disclosed

Within 3
months of
appointment

Filing of legal papers

APPENDIX
9/6
PAGE


APPENDIX
9/6
PAGE

1.3 Types of Adult Guardianship




A. Guardian of the Person

1. Daily living decisions (food, hygiene, personal needs)
2. Medical decisions (informed consent)
3. Responsible for residential decisions/placement
4. Choose providers of day to day services
5. All decisions not involving assets/finances
6. Must work in conjunction with Guardian of the Estate

Guardian of the Person 

- Daily living decisions
- Medical decisions
- Residential placement
- Choose service providers
- All decisions not involving assets/finances


⚠ R.C. 2111.13 & Sup.R. 66




7. Read **Sup.R. 66.01 through 66.09** and **R.C. 2111.13** if appointed as someone's Guardian of the Person


B. Guardian of the Estate

1. Responsible for preserving income/assets of ward
2. Expend funds on behalf of ward
3. Responsible for managing lawsuits/litigation
4. Must work in conjunction with Guardian of the Person



Guardian of the Estate 


- Preserve income/assets of ward
- Expend funds on behalf of ward
- Manage lawsuits/litigation

⚠ R.C. 2111.14, 2109 et seq. & Sup.R. 66





5. Read **Sup.R. 66.01 through 66.09**, **R.C. 2111.14** and 2109 et seq. if appointed Guardian of the Estate

C. Full Guardian, Guardian of the Estate and Person  

Full or Plenary Guardian 

Guardian of the Estate *and* Person



D. Interim Guardian

1. Replaces a former guardian temporarily
2. 15 day duration initially
3. 30 day extension possible
4. May be initially appointed Ex Parte (meaning established outside the presence of the ward)


Interim Guardian 

- Replaces a former Guardian temporarily
- 15 day duration initially
- 30 day extension possible
- May be initially appointed Ex Parte





E. Emergency Guardian

1. Requires true emergency
2. Prevent imminent harm to person or estate
3. Can be appointed Ex Parte (established outside the presence of the ward)
4. Initially an emergency guardianship lasts for 72 hours
5. An emergency guardianship can be extended for a period of 30 days
6. Check local rules of Court for specific procedures (**66.03(A)**)


Emergency Guardian 

- Requires true emergency
- Necessary to prevent imminent harm to person or estate
- Can be appointed Ex Parte
- 72 hour duration initially
- 30 day extension possible
- Check local Rules of Court






F. Limited Guardian

1. Limited guardianship is typically created/created to address a specific time, problem or need of the ward
2. A Guardianship of Estate or Person with limitations imposed by Court
3. Court has broad discretion when implementing limitations on a guardianship

Limited Guardian 

- Guardianship is designed to address a specific time, problem or need
- Limitations imposed by Court
- Court has broad discretion



Whose Job Is It? – Types of Adult Guardianship



- A. Whose job is it to provide consent for medical services?
 - 1. Guardian of Person
 - 2. Guardian of Estate

- B. Whose job is it to manage a ward's real estate?
 - 1. Guardian of Person
 - 2. Guardian of Estate

- C. Whose job is it to sign a lease agreement on a ward's behalf?
 - 1. Guardian of Person
 - 2. Guardian of Estate

- D. Whose job is it to pay a ward's rent due under the lease agreement?
 - 1. Guardian of Person
 - 2. Guardian of Estate
 - 3. Other

G. Duration of Authority

1. A guardian’s authority to act for a ward continues until:

- a. **Death of Ward.** A guardian’s general authority to act on behalf of a ward terminates immediately upon the ward’s death. Notwithstanding, there are exceptions where a guardian’s duties and responsibilities continue after a ward’s death. For example, a guardian can be responsible for consenting to an autopsy and making decisions regarding the disposition of remains under certain circumstances. In every case, a guardian should timely report the ward’s death to the Probate Court. **Sup.R. 66.08(D)**



- b. Termination of guardianship by Court.

2. Unless limited guardianship specifies time period.

Duration of authority can also be limited in time when a court establishes a limited guardianship.

1.4 Guardian’s Qualifications and Requirements

A. Must be an adult (18 years and older)

B. Residency requirements

1. Guardian of Person – may be out-of-state resident
2. Guardian of Estate – must be resident of Ohio
3. Courts prefer Ohio residents

C. **Criminal Background check** The Rule is silent as to what past convictions would prohibit a guardian from being appointed. Accordingly, Courts have discretion to determine whether or not to appoint someone who has a criminal record.

Sup.R. 66.05(A)(1)



D. Education Requirements

1. Pre-Appointment Fundamentals Education **Sup.R. 66.06**

- a. 6 hour fundamentals course including:
 - i. Establishing the guardianship
 - ii. Ongoing duties and responsibilities of guardian
 - iii. Record keeping and reporting
 - iv. Any other topic that concerns improving the life of a ward
- b. Provide certificate of completion at time of appointment



2. Continuing Education **Sup.R. 66.07**

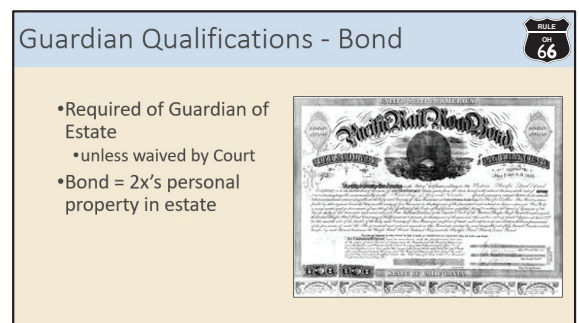
- a. Annual Requirement of at least one 3 hour course;
- b. Specifically designed for continuing education needs of a guardian and consists of advanced education relating to the topics listed in **Sup.R. 66.06**
- c. <http://www.supremecourt.ohio.gov/Boards/judCollege/adultGuardianship/default.asp>

3. Compliance

- a. Completion of education must be reported to local court (where your guardianship is filed) by January 1st of each year.
- b. Guardians who do not complete the education – as required by **Sup.R. 66.07** – will not be eligible to serve as guardian for any new wards.
- c. <https://www.supremecourt.ohio.gov/Boards/judCollege/adultGuardianship/>

E. Bond

1. Required in guardianships of the estate unless otherwise waived by Court.
2. Typically, the bond amount will be twice the value of personal property in the estate.



F. Suitability of Guardian

Ultimately the Court has discretion as to whom it appoints as a guardian.

1.5 Role of Probate Court

A. Gate-Keeper

B. Establish a Guardianship

Probate Courts serve as the gate-keeper charged with the task of ensuring that guardianship is only used as a last resort and that wards subject to guardianship meet the statutory definition of incompetent. Probate Courts have the difficult task of ensuring that the need for a guardianship is proven by clear and convincing evidence. Further, upon a finding of incompetence, probate courts then evaluate whether the applicant for guardianship is suitable for the task at hand.

C. Be the Superior Guardian

The Probate Court is the superior guardian in all guardianship cases. This authority comes from **R.C. 2111.50**, which gives probate courts the exclusive authority to control all facets of any guardianship case in its Court. This means that guardians must obey all orders from the Court. The Supreme Court of Ohio has further clarified that because the probate court is the superior guardian, the appointed guardian is simply an officer of the Court subject to the Court's control, direction, and supervision and has, therefore, no personal interest in his or her appointment or removal.

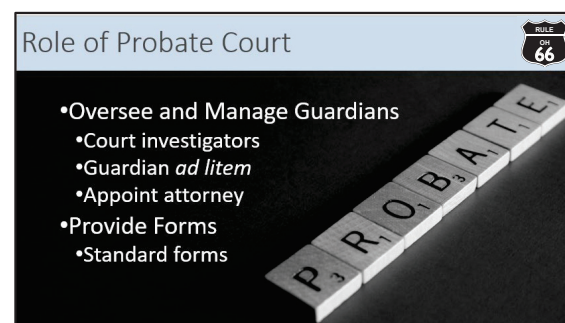
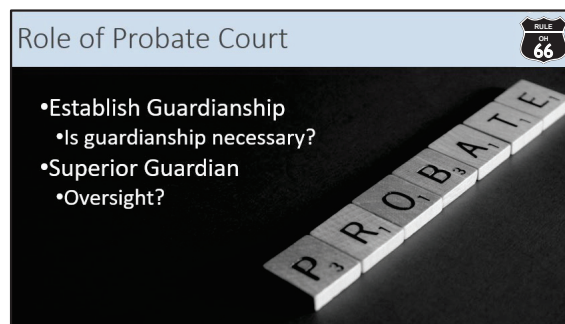
D. Oversee and Manage Guardians

Once a guardianship is established and a guardian is appointed, probate courts continue to be the superior guardian with the authority to intervene and overrule an appointed guardian's decisions or direct a guardian as to how to act on behalf of a ward.

Ohio Revised Code and **Sup.R. 66.01 through 66.09** equip probate courts with the necessary tools and procedures to perform their supervisory role.

1. Court Investigators. These are typically employees of the court who will investigate circumstances at the time of appointment and otherwise as needed or determined necessary by the court.

2. Guardian Ad Litem. A Guardian Ad Litem can be appointed for an individual for any specific situation where the court wants to hear the opinion and thoughts of a third party speaking on behalf of the individual.



3. Appoint Attorney. Probate Courts can appoint an attorney to represent the interest of an individual (1) at the time of appointment, (2) during a review hearing, (3) in the event of a dispute, (4) when a difficult decision has to be made or (5) as otherwise determined necessary by the court.

E. Provide Forms

The Supreme Court of Ohio has approved standard forms that are used in probate courts throughout Ohio. These forms must be used as they create continuity and uniformity throughout the state. The necessary forms should always be available to you at the Probate Court Clerk's office. Each county is allowed to make revisions to the forms so it is important to obtain the forms from the local county probate court with jurisdiction over the guardianship.



Sample forms are found in Appendix C.

1.6 Process for Establishing Guardianship



A. Application



1. Application (**Form 17.0**): The application states that an adult is incompetent and explains the specific reasons why the person should be considered incompetent by the court. The application is also where you will specify which type of guardianship you are applying for and will provide the court with background on why the guardianship is necessary.



2. Next of Kin (**Form 15.0**): Lists the person(s) who are most closely related to the alleged incompetent. Regardless of whether these family members have been involved in the life of the ward, they must be listed on the Next of Kin form. An applicant is required to list any person(s) that would inherit from the ward under Ohio's statute of Descent and Distribution.



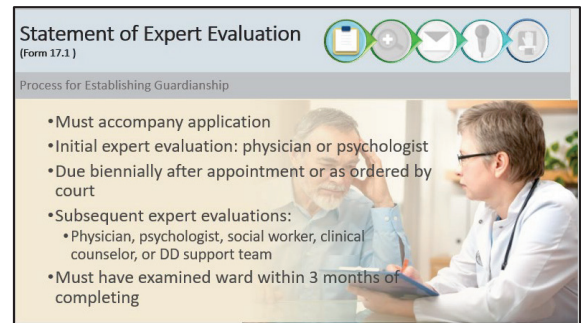
3. Bond (**Form 15.3**): For applicants seeking to be appointed Guardian of the Estate, the applicant will typically be required to secure a bond. A bond is an insurance policy that protects the ward from any misuse of the assets. The bond amount will be set at the time of the hearing. The law requires that the bond amount be at least double the amount of the ward's personal property and income. **Because the bond is required for a guardian to serve, the premiums paid to obtain the bond may be charged to the guardianship.** The bond must be renewed annually. The bond can be waived at the discretion of the court or upon order of the court if the appointed guardian was nominated by the ward in a POA or other written instrument that expressly waived the bond requirement.

4. Statement of Expert Evaluation



(Form 17.1)

The Statement of Expert Evaluation is a form completed by an expert that serves as evidence to be considered by the court in determining whether an individual is incompetent or remains incompetent.



The initial Statement of Expert Evaluation that is completed in support of an application for guardianship must be completed by either a Licensed Physician or a Licensed Clinical Psychologist.

Once the guardianship is established, then periodic Statements of Expert Evaluation must be submitted to the court unless the requirement for ongoing Statements of Expert Evaluation is suspended by the probate court in writing. Some courts require Statements of Expert Evaluations to be filed annually and some require them to be filed every other year. They should be attached to the guardian's report. The guardian must consult the probate court local rules to determine the frequency with which a guardian's report and Statement of Expert Evaluation should be filed. Statements of Expert Evaluations that are attached to a guardian's report can be completed by a licensed physician, licensed clinical psychologist, licensed independent social worker, licensed professional clinical counselor, or mental retardation team.

The Statement of Expert Evaluation has to be filed with the court within 90 days of being completed by the expert. The Statement of Expert Evaluation should be completed by a specialist knowledgeable in the area of the incompetency: a psychiatrist for mental incompetency; a neurologist or internist for physical infirmities; sometimes (especially in emergency situations) it is best to have multiple statements of expert evaluation. The statement must not only address the diagnosis causing the problem, but a good Statement of Expert Evaluation will also assess the functioning level of the prospective ward. Ultimately, the Statement of Expert Evaluation must support the allegations in the application that the proposed ward is in fact incompetent. The Statement of Expert Evaluation should provide medical insight and a description of the nature and type of disability or condition(s) that impact the proposed ward's decision making. The Statement of Expert Evaluation will also indicate whether the condition is likely to improve. As a general guideline, probate courts want as much detail and background as possible to be included in the Statement of Expert Evaluation. It is always preferable to have a Statement of Expert Evaluation completed by someone who has a long history of treating or interacting with the proposed ward.

5. If you have knowledge of advance directives or other less restrictive alternatives to guardianship, copies of these should be filed at the time of the Application so the court and its investigator have the opportunity to review them as viable alternatives to guardianship.
6. Each county may have additional forms that they require at the time of application. For example, many courts require applicants to submit informational forms that provide more contact information pertaining to the applicant. You should always review the local rules of the probate court where you intend to file.

B. Court Investigation

Court investigators will:

1. Interview the prospective ward at the time of application
2. Advise the prospective ward of his/her rights
3. Investigate less restrictive alternatives
4. Serve as eyes and ears of the court
5. File a report and recommendations with the court
6. Each probate court has at least one investigator assigned for adult guardianships who will perform an investigation into the circumstances and needs of the prospective ward and report the results of the investigation to the court. This investigative report will address the present need for guardianship and, when possible, will include information gathered by the investigator during an interview of the prospective ward. Court investigators assess what resources (financial and otherwise) the prospective ward has available and the prospective ward's ability to function. Investigators will look for signs of abuse, neglect, and exploitation and will examine less restrictive alternatives to guardianship.
7. It is critical to cooperate with the court investigator and provide him/her open access to all information you have on the matters being investigated.



C. Written Notice of Hearing

1. Notice of the appointment hearing must be served at least 7 days before the hearing pursuant to **R.C. 2111.04**.



2. The ward and all next of kin listed on **Form 15.0** are entitled to written notice.



3. Exception: Applications for Emergency and Interim Guardianships can be heard without notice (ex parte) if deemed appropriate by the Probate Court.

4. Notices must inform the prospective ward of his/her procedural rights pursuant to **R.C. 2111.04**. These procedural rights include the right to be present at the hearing, the right to contest the application for guardianship, the right to have friend(s) & family member(s) present at the hearing, the right to be represented by counsel, and the right to an independent expert evaluation.



5. Proper Notice and Service is a jurisdictional prerequisite to the appointment of a guardian. After the Application for Guardianship (**Form 17.0**) has been filed, the court will notify parties including the ward and his/her next of kin who are known to reside in the state. These are known as “interested parties” who, according to **R.C. 2111.02(A)**, include any person named by the ward as guardian in a Power of Attorney. Always clarify with the Probate court Clerk’s office whether the clerk is sending out the notice and service of process or the probate court expects the applicant to serve the paperwork. If the probate court expects the applicant to take responsibility for service, then the applicant must subsequently either file with the Clerk proof of service (via certified mail, return receipt requested) or file executed Waivers of Notice and Consent (**Form 15.1**) Only those next of kin, who are Ohio residents, must be served with notice of hearings and other relevant documents.



D. Appointment Hearing

1. The appointment hearing consists of two-parts

a. Is guardianship necessary?

b. Who is a suitable guardian?

2. Prehearing discovery is allowed.

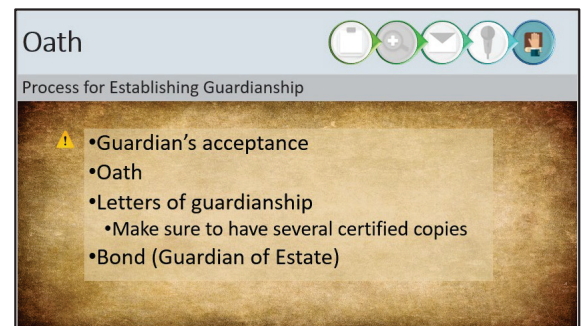
3. Burden of proof is on the applicant to convince the court by clear and convincing evidence that the prospective ward is incompetent and that the applicant is a suitable guardian.



4. Consider less restrictive alternatives
5. Come Prepared: Bring copies of all documents filed with the probate court and all documents you have on the prospective ward. If there are other individuals who have known the prospective ward for a lengthy period of time and they have observed changes in the prospective ward causing them to believe guardianship is necessary then bring that individual to the hearing so he or she may testify in support of the guardianship.
6. Clear and Convincing Evidence: Clear and convincing evidence is the evidentiary standard that must be met. Clear and convincing evidence is the amount of evidence necessary to instill in the judge a firm belief or conviction. (Legal citation: *Cross v. Ledford*, 161 Ohio St.469, 120 N.E.2d 118 (1954); see also *In re Poliksa*, 2006 WL 1449533 (1st Dist., 2006) 5.

E. Oath

1. If the court decides a guardian is necessary and the applicant is suitable, the guardian may not be appointed until he/she accepts the appointment and acknowledges his/her duties.



Fiduciary's Acceptance (**Form 15.2**): This form should be signed and submitted to the Court. Some courts require the Fiduciary's Acceptance to be filed with the application and other courts will require that it be signed at the time of the appointment hearing. When signing the Fiduciary's Acceptance, the applicant is accepting the following duties:

AS GUARDIAN OF THE ESTATE, I WILL:

- Make and file an inventory of the real and personal estate of the ward within 3 months after my appointment.
- Deposit funds that come into my hands in a lawful depository located within this state.
- Invest surplus funds in a lawful manner.
- Make and file an account every two years, or as directed by the court.
- File a final account within 30 days after the guardianship is terminated.
- Inventory any safe deposit box of the ward.
- Preserve any and all wills of the ward as directed by the court.
- Expend funds only upon written approval of the court.
- Make and file a guardian's report every two years, or as directed by the court.

AS GUARDIAN OF THE PERSON, I WILL:

- Protect and control the person of my ward, and make all decisions for the ward based upon the best interest of the ward.
 - Provide suitable maintenance for my ward when necessary.
 - Provide such maintenance and education for my ward as the amount of his/her estate justifies if the ward is a minor and has no father or mother, or has a father or mother who fails to maintain or educate him/her.
 - Make and file a guardian's report every two years, or as directed by the court.
 - Obey all orders and judgments of the court pertaining to the guardianship.
 - Obtain the written approval of the court before executing a caretaker power of attorney authorized by R.C. 3109.52
- Form 15.2** should be signed and submitted with the application.

APPENDIX
9/8
PAGE

APPENDIX
9/8
PAGE

2. Oath (**Form 15.9**):

The oath will be signed at the time of the appointment hearing and in the presence of a judge or magistrate. When signing the oath, the guardian swears to faithfully and completely fulfill all duties including:

- To file, and continue to make diligent efforts to file, a true inventory in accordance with the Ohio Revised Code, and report all assets belonging to the estate of my ward.
- To file timely and accurate reports.
- To file timely and accurate accounts.
- To, at all times, protect my ward's interests and to make all decisions based on the best interest of my ward.
- To apply to the court for authority to expend funds prior to so doing.
- To obey all orders and rules of this court pertaining to guardianships.

One or more of the requirements for Guardian of the Estate or Guardian of the Person will be checked on the Oath form depending on the type of guardianship for which you are appointed.

APPENDIX
9/8
PAGE

3. Letters of Guardianship (**Form 15.4**). Following the appointment hearing, the probate court will issue Letters of Guardianship to the guardian.

- a. Keep letters of guardianship on hand at all times.
- b. Distribute to health care providers, residential staff, family members and others involved in the day to day life of the ward.

- c. Be advised that a letter of guardianship will **not** cause a financial institution to release funds to the Guardian of an Estate. A specific court order (Application to Release Funds) must be filed and approved by the court for that authority.
- d. Adhere to any limitations set forth in letters of guardianship.
- e. Additional copies are always available from the probate court.

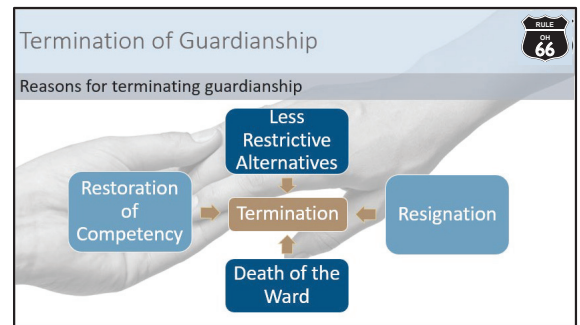


4. **Bond (Form 15.3):**

- a. Only required in Guardianships of Estate.
- b. May be waived in limited circumstances.

1.7. Termination / Restoration

Guardianship is always a last resort and accordingly it should be terminated at the earliest opportunity. Only a probate court can terminate a guardianship and so the guardian must report facts or events supporting termination to the probate court. Reasons for the termination of a guardianship include:




A. Less Restrictive Alternatives become known

B. Restoration of Competency


- 1. If there is a change in circumstances, probate courts can make a finding that competency has been restored to the ward. If at any time the guardian believes that the guardianship is no longer necessary, then the guardian should report that fact and the basis for the guardian’s belief to the probate court.
- 2. A ward has the right to request the termination of a guardianship and have a review hearing on an annual basis. **(R.C. 2111.49)**
- 3. Pursuant to Ohio Rules of Superintendence **66.08(D)**, the guardian must “promptly notify” the probate court if the ward’s ability to make decisions and function independently has improved during the guardianship.
- 4. Guardianship of the Estate may sometimes be terminated upon order of the court where the ward’s assets are less than \$10,000.00. In such cases, the court will typically order the remaining assets to be paid to a suitable person for the ward’s benefit and then terminate the Guardianship of the Estate. See **Sup.R. 66.04(C)**



C. Death of the Ward

- 
1. The death of the ward terminates any guardianship. Guardian is required to promptly notify probate court, per **66.08(D)**.
 2. If a ward you are serving dies, you must file a written notice of death with the court within 30 days of the ward's death.
 3. If a ward has an estate, then upon his/her death the duty of the guardian is to preserve the estate and deliver the same to whomever the probate court appoints to administer the ward's estate. Thereafter, the Guardian must file a final account with the court.
 4. After death, you should not pay for funerals or any other expenses (whether the expense occurred before or after death). Prepayment of funeral expenses during the life of the ward is acceptable by Guardians of the Estate.
 5. Guardians should note that although a guardian's general duties end upon the ward's death, **R.C. 2111.13** and R.C. 2108.81(B)(8) provide an exception for instances in which a guardian can be responsible for making decisions post-death (i.e., approving an autopsy or making decisions pertaining to the disposition of the ward's body).

D. Resignation

- 
1. A guardian who wishes to resign should promptly notify the probate court in writing. The guardian must continue providing services until such time as the court can appoint either an interim guardian or a successor guardian.
 2. If the resignation is the result of a particular challenge or problem that has occurred during the guardianship, then the resigning guardian should make full disclosure to the court of the facts or circumstances causing the resignation.
 3. In the event a guardian is serving as Guardian of the Estate, the guardian continues to have a fiduciary responsibility and is required to file a final account with the court prior to being released from his/her responsibilities as guardian.

Module 2: Rights, Needs and Resources



Rights, Needs, and Resources

Module 2

Rights and Privileges of a Ward



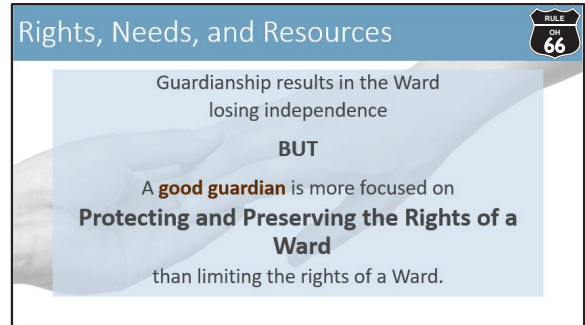
Directions: James has a Full Guardian. James has experienced a horrible industrial accident and makes poor decisions on a regular basis. He is in a safe, stable living environment.

Select **Yes**, **No** or **Maybe** to indicate if James has the following rights.

	Yes	No	Maybe
1. James can attend worship sessions.			
2. James can fire a doctor he doesn't like.			
3. James can smoke cigarettes.			
4. James can vote.			
5. James can date and engage in sexual activity.			
6. James can buy birthday gifts for family.			
7. James can drive a car.			

2.1 Rights of Adults Under Guardianship

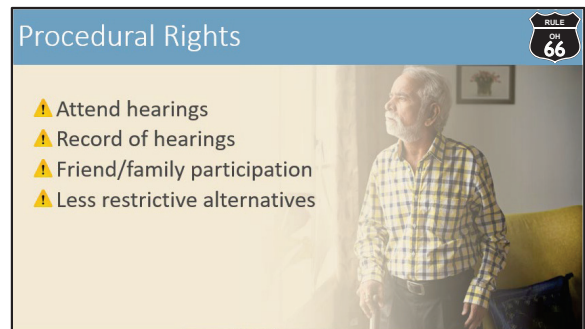
While having a guardianship established results in the ward losing certain rights, a successful guardianship is centered on **protecting and preserving an individual's rights.**



A. Procedural Rights



1. Procedural rights are enumerated in **R.C. 2111** et seq. and **Rule 66**. Procedural rights refer to those rights specifically identified in Ohio law. The majority of these rights are intended to provide due process protection for the ward.



2. **Right to Attend Hearings (R.C. 2111.04)**

- a. It is not sufficient to conclude that because an individual has profound disabilities that he/she should not be afforded the opportunity to attend a hearing.
- b. Wards have the right to attend all hearings pertaining to the guardianship. However, wards also have the right to choose not to attend a hearing.



3. **Record of Hearing (R.C. 2111.02)**

- a. The Court will make a record of all hearings.
- b. Most probate courts across Ohio have electronic recording of hearings as opposed to court reporters. Regardless of the format of the recording, a record must be made at all guardianship appointment hearings and should be made during all subsequent hearings.



4. **Friends and Family (R.C. 2111.02)**

A ward may be more comfortable with friends and family at the hearing and the ward may want the friends or family to testify. A ward's friends and family should never be discouraged from attending.



5. **Less Restrictive Alternatives (R.C. 2111.02 and Sup.R. 66.04(A))**

a. Wards have the right to have evidence of all less restrictive alternatives presented to the court.



b. **Sup.R. 66.08 (A)** requires guardians to file a list of important legal papers that includes powers of attorney and similar less restrictive alternatives within three months of a guardian’s appointment.



6. **Right to Counsel (R.C. 2111.04 and 2111.02)**

a. At the time of the establishment of guardianship and at any subsequent attempt of the ward to terminate the guardianship, the ward has the right to counsel.



b. The Court will appoint counsel for the ward if requested.



7. **Contest / Oppose Guardianship (R.C. 2111.04 and 2111.02)**

A ward is entitled to object to the establishment or continuance of guardianship. A ward has the right to contest the guardianship and present evidence that pertains to the ward’s ability to manage his/her own affairs.



8. **Independent Expert Evaluation (R.C. 2111.02)**

A ward has the right to request an independent expert evaluation at the time the guardianship is created and on an annual basis if/when the ward believes the evaluation would assist him/her in seeking the termination of guardianship.



9. **Right to Complain (Sup.R. 66.03(B))**

Sup.R. 66.03 (B) now provides a clear mandate requiring courts to establish procedures to address any and all complaints of wards and/or third parties as they pertain to the performance of a guardian. Further, **Sup.R. 66.09 (F)(2)(c)** requires guardians to document all complaints made by a Ward and assess the need to report the complaints to the probate division of the court of common pleas.



B. Fundamental Rights and Privileges

Fundamental rights and privileges refer to those rights and privileges that are not listed in the Ohio Revised Code pertaining to guardianship, but which remain in place even after the establishment of the guardianship.

In general, the ward keeps all legal and civil rights guaranteed to residents under the Ohio and U.S. Constitutions except those rights that are specifically taken away by the appointment of a guardian. A few examples of fundamental rights and privileges not lost through the guardianship include:

RULE
OH
66

Fundamental Rights & Privileges

- Treated with dignity and respect
- Least restrictive residential setting
- Right to vote
- Right to privacy
- Religious/spiritual freedom
- Driver's license



1. Right to be Treated with Dignity and Respect

All wards have the right to be treated with dignity and respect.

2. Right to be Safe and in the Least Restrictive Residential Setting

- a. Wards have the right to be safe and to reside in the least restrictive residential setting.
- b. This requires investigation and knowledge in terms of the options available to the individual you are serving.
- c. If someone does not need a nursing home level of care, then he/she should not be in a nursing home. The individual has a right to be safe and to have his/her basic needs met in the manner that imposes the least restrictions on the person's independence.

3. Right to Vote

Guardianship does not terminate a ward's right to vote unless the probate court specifically makes a finding and rules otherwise. Absent a probate court finding that an individual has lost the right to vote, then the ward retains the right to vote.

4. Right to Privacy

- a. Wards do not lose the right to privacy merely by virtue of having a guardian appointed. Often times guardians forget that individuals have a right to privacy with regard to their health care and finances. Guardians fall into the habit of thinking that because they have to freely discuss these issues with the court and providers, the information is public knowledge and allowed to be discussed with anyone. A guardian has no right to disclose private medical information to third parties or even other family members against the will of the individual being served. See **Sup.R. 66.09(L)**

b. Individuals being served through a guardianship still have a right to privacy. **Sup.R. 66.09(F)(2)(b)**

5. Right to Religious and Spiritual Freedom

A guardian may not limit an individual’s right to religious expression even if the guardian disagrees with the individual’s belief. Moreover, it is equally wrong for a guardian to impose his/her beliefs on the individual being served.

6. Right to Drive

If there is a dispute between the guardian and ward about the ward’s capacity to drive, the guardian should consult with the ward’s physician first. A physician may make an anonymous referral to the Ohio Bureau of Motor Vehicles requesting that an individual’s license be re-evaluated or suspended due to their infirmities. A guardian may also contact the BMV and request that a person be retested, but this will not be anonymous and the guardian must give specific reasons for the retest.

C. What About Everything Else?

While certain fundamental rights retained by wards seem obvious (i.e., the right to be treated with dignity and respect), the topic of what rights a ward retains can very quickly become confusing and leave a guardian feeling uncertain about what a guardian can or cannot do. Multiple provisions of **Sup.R. 66.01 through 66.09** now emphasize that wards be allowed to make as many decisions for themselves as possible.

Rights — Everything Else?

- Personal Decisions
 - Friendships
 - Daily Activities
 - Unhealthy Diet
 - Smoking
 - Alcohol
 - Sexual Relationship
- Restraints
- Health & safety issues or bad habits

No “One Size Fits All” Approach

D. Best Interest Decision-Making Process

1. Best Interest {**Sup. R. 66.01 (A)**}

Sup.R. 66.01(A) provides that all decisions a guardian makes should be focused on the best interest of the ward. The definition of best interest is the first cornerstone to understanding what rights a ward retains.

Best Interest Decision-Making Process

- Starts with **Best Interest** of Ward

The course of action that maximizes what is best for a person, including consideration of the **least intrusive, most normalizing,** and **least restrictive** course of action possible given the needs of the person.

Best Interest means the course of action that maximizes what is best for a ward, including consideration of the **least intrusive, most normalizing,** and **least restrictive** course of action given the needs of the Ward.

In addition to the directives set forth directly in the definition of best interest, other provisions of **Rule 66.09** also address a guardian’s decision-making process.



2. Exercise Due Diligence [Sup.R. 66.09(B)]

A guardian shall exercise due diligence in **making decisions that are in the best interest of a ward**, including but not limited to communicating with the ward and being fully informed about the implications of the decisions.



3. Least Restrictive Alternatives [Sup.R. 66.09(C)]

Unless otherwise approved by the Probate Division of a Court of Common Pleas, a guardian shall make a choice or decision for a ward that best meets the needs of the ward while **imposing the least limitations on the ward's rights, freedom, or ability to control his or her environment**. To determine the least restrictive alternative, a guardian may seek and consider an independent assessment of the ward's functional abilities, health status, and care needs.



4. Person-Centered Planning [Sup.R. 66.09(D)]

A guardian shall advocate for services focused on a ward's wishes and needs to reach the ward's full potential. **A guardian shall strive to balance a ward's maximum personal independence and self-reliance with the ward's best interest.**

Sup.R. 66.09(D) provides an emphasis on giving the ward as much independence and involvement in the decision-making process as possible. Every situation that arises must be viewed on a case-by-case, individualized basis. Guardians must avoid arbitrarily imposing restrictions on a ward's rights to make decisions even if the ward is making decisions different from those the guardian would make. If a ward's actions pose a risk of harm or legal sanction, then the guardian should intervene.

E. Restrictions on Ward Rights vs. Legal Obligations of Care Providers

Guardians need to understand that imposing restrictions on the ward's rights may lead to problems and disputes with residential and health care providers. While guardians are accountable to the probate courts,

most health care providers are licensed and regulated by various federal and state agencies. Nursing homes are regulated by the Ohio Department of Health. Nursing homes face sanctions up to and including closure if they impose restrictions or restraints upon an individual against his/her will. This includes individuals who have been deemed incompetent. Likewise, the Ohio Department of Developmental Disabilities regulates providers in the DD system. Providers are subject to the Behavior Support Rule, which provides that a provider faces sanctions up to and including revocation of licensure if providers impose a restriction on someone's rights that is not supported by a threat of harm to the individual's health or safety or, alternatively, there is a threat of legal sanctions. Guardians must recognize that these rules can foster disputes between guardians and providers.

Rights Restrictions & Providers



- Developmental Disabilities
 - Bill of Rights
 - Behavior support rule
 - Threat of harm or legal sanction
- Center for Medicare and Medicaid Regulations
 - Let Ward lead "to the extent possible"
- Ohio Department of Health
 - Nursing homes



Rights and Privileges of a Ward



Directions: James has a Full Guardian. James has experienced a horrible industrial accident and makes poor decisions on a regular basis. He is in a safe, stable living environment.

Select **Yes**, **No** or **Maybe** to indicate if James have the following rights.

	Yes	No	Maybe
1. James can attend worship sessions.			
2. James can fire a doctor he doesn't like.			
3. James can smoke cigarettes.			
4. James can vote.			
5. James can date and engage in sexual activity.			
6. James can buy birthday gifts for family.			
7. James can drive a car.			

2.2 Examining Needs of Adults Under Guardianship

A. Needs Are Not Always Readily Apparent

People can have difficulty communicating their needs especially if they have difficulty speaking and understanding. The guardian may feel like an investigator: talking to others, reading reports and generally trying to determine what needs the person under guardianship would identify if he/she could.

Examining Needs & Resources


- Not always readily apparent
- Pay attention to:
 - Familiarity
 - Details of the day
 - Level and type of assistance
- Reassessment from time to time is important

B. Pay Attention To:

1. Familiarity

People with impaired capacity crave the feeling of familiarity just as much if not more than others. So the question becomes not just how to keep someone safe and healthy but what situations can allow a person to be in an environment that he/she finds familiar as well.

2. The details of the day count in overall quality of life.

Sometimes in the interest of our medical model of care, or of maximum efficiency or productivity, we have forgotten that most people crave familiar, predictable experiences in the day.

3. Pay close attention to the level and type of assistance

Too much assistance fosters dependency and helplessness, too little assistance can risk health and safety.

We have had a tendency in the past to go to one extreme or the other depending on the resources of the person, the resources of the community in which he/she lives, and the current understanding of the person's disability. We now recognize that we have to carefully look at the level and type of assistance provided. We often need to be more creative to find assistance that best meets someone's individual needs.

See **Sup.R.66.09(D)**

C. Regular Reassessment is important; needs may change over time.

Note: Again, it used to be quite common to look at a person's needs once and then not again for quite a long time. We now recommend reassessing needs quarterly if not more often depending on the person's level of impairment. Do not wait for a crisis to request a reassessment.

See **Sup.R66.09 (F)(2)(a) and(c)-(e)**.

Exercise Scenario 1: 

You have just been appointed guardian of the person for your 87 year old Aunt Rita who has no other relatives. She is living at home but has been diagnosed with Alzheimer's disease.

You have not been close over the years. Where might you go and who might you talk to in order to gather information about her current needs and situation?

List several.

D. 9-Step Approach to Examining Needs

This approach was adapted with permission from Georgia Anetzberger, Community Based Services in 4th Ed. Functional Performance of Older Adults 2015

Refer to Appendix E, p. 14) for a copy of the blank form.

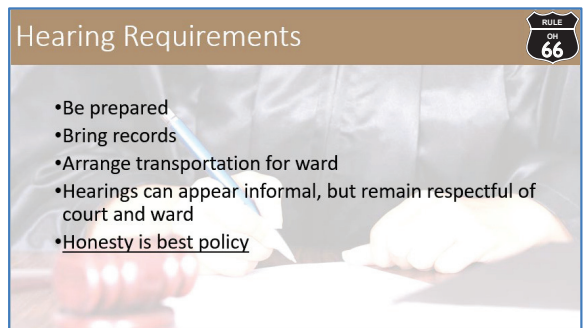


1. Step 1: Investigate!! Sources of Information include the following:

The person him or herself (what he/she wants or thinks he/she needs): Try to get past any communication barriers that may exist to get as much input from the person as possible. See **Sup.R. 66.09(B)**.



- a. The person's family, friends, neighbors and care providers (paid and unpaid). This may also include people from a faith or ethnic community.
- b. Current court investigation documents as well as past court records.



- c. Physical and mental assessments as well as past medical records (for guardians of the person). Also talk to doctors and other care providers to understand the person's current medical diagnoses as well as ongoing treatments and challenges.
- d. Legal and financial records (for Guardians of the Estate especially).
- e. Care planning documents from past or current housing and other services. Nursing facilities and other residential facilities will have care planning documents if someone has lived there for more than a month. These take many different forms depending on the facility but most will have an outline of needs, goals and plans for achieving those goals. The person may also have a **case or care manager** if they are receiving services in the community. You should make yourself known to this person and talk to him or her as well.

Exercise Scenario 2:



You have just been appointed guardian of the person and estate for your 27 year old nephew Stephen who has Cerebral Palsy with intellectual impairment.

He has been living at home with his mother who is now deceased. He is also non-verbal.

List 3 areas of need that you would explore in order to meet his needs and what 3 questions would you have in each area?

2. Step 2: What Activities Give Meaning to the Day?

a. Working

i. Paid and Unpaid Employment

Not everyone will want, need or be able to work. However, many people with developmental disabilities or other brain injuries will want to work and be capable of working to some extent. Guardians should be willing to support this effort and be creative to enable the person under guardianship to find and maintain employment if possible.

ii. Part-time employment is sometimes more doable. A person under guardianship also may be open or willing to volunteer for an entity in a capacity that resembles work and provides the same degree of challenge and interaction as a paid position.



b. **Learning**

i. **Formal Opportunities**

There are many kinds of formal learning environments and not all of them are colleges and universities. Some of them are senior centers, community recreation centers, metro parks, zoos, libraries, art centers and other places that have classes, discussions and hands on learning opportunities for people of all skill levels.

ii. **Informal Opportunities**

Certain types of relationships, friendships and activities involve an element of learning. These should be sought out and encouraged as long as they are in an area that interests and challenges the person under guardianship.

iii. **Web or Technology Based Learning Opportunities**

Many types of web-based learning exist for people of all skills levels. This includes video sites like YouTube or learning sites like museum sites. These sites are opening new ways of communicating and learning for those who are not able to be as mobile as others.

c. **Giving**

Contributing to an Activity or a Cause - Opportunities for giving abound in our culture. Running a race or a marathon, volunteering in a school or another venue can provide meaning and purpose to a person's activities. They should be sought out and facilitated, if possible and safe for the person.

d. **Doing---Experiencing Life!!**

i. **Leisure** - Everyone needs relaxing experiences. These experiences are different for each person. Too often, those with disabilities are sitting in a chair all day watching television because there is no other activity for them. This may provide leisure for some but not for most. For some, it may be a car ride in the country, a walk, listening to music, or sampling ethnic food. It is important to try to discover what provides true relaxation to a person under guardianship.

ii. **Sensory Exposure** - Appropriate sensory exposure is vital to all of us. It takes different forms depending on a person's situation. But engaging all of the senses at a variety of levels can be helpful in balancing a day for a person. Too often, persons with disabilities are not provided with appropriate or engaging daily sensory exposure. Animals can be very useful in providing sensory exposure to some. Music and art are also very useful.

iii. **Physical Movement**

Movement is vital for a number of reasons including bone and muscle health, digestion, and emotional health. Almost any movement is important depending on the person's level of disability. Appropriate movement should be encouraged and facilitated throughout the day.

iv. **Spiritual/Religious**

Does the person have a community of faith that he/she regularly participates in or has participated in? What is the person's spiritual/religious background? Does the person express (verbally or not) the desire to participate in spiritual or religious activities? Does the person enjoy spiritual hymns, art, movies, and outings?

3. **Step 3: What is Your Person's Current Health Status?**

a. **Physical Health** - Most people have a doctor or other health care provider who can help the guardian understand what challenges the person is facing.



Guardians of the person especially need to identify health concerns and discuss with their wards as the guardians will be responsible for making treatment decisions on behalf of the ward.

b. **Mental Health** - Mental health concerns are as important as physical challenges. The assessment for the guardianship often includes an evaluation of the person's mental health by a professional. This can be a starting point to understand as much as possible what kinds of mental health needs a person has now or can be anticipated.

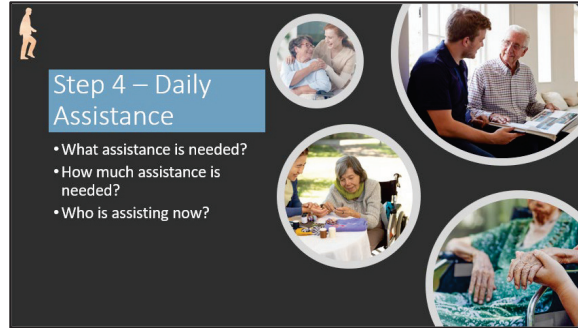
c. **Medications** - It is very important to verify what medications a person under guardianship is taking and whether they are causing any unintended side effects.

d. **Current Treatments** - The pre-guardianship evaluation may also capture treatment information. It also may be important to see what may be needed in the future as the Guardian of the Person will be asked to approve most if not all health care interventions.

e. **Nutritional Needs** - We often overlook the nutritional needs of the person under guardianship. However, it may be important to look at unmet needs to improve the person under guardianship's health by meeting the person's nutritional needs. This includes knowing about the person under guardianship's food likes and dislikes as well as ethnic and religious preferences.

4. Step 4: What Daily Assistance Is Needed?

- a. Does the person require assistance with any of the following?
- b. How much?
- c. Who is assisting now?



<input type="checkbox"/> Bathing <input type="checkbox"/> Dressing <input type="checkbox"/> Grooming <input type="checkbox"/> Toileting <input type="checkbox"/> Eating a Nutritious Diet <input type="checkbox"/> Walking <input type="checkbox"/> Getting out of Bed/Chair <input type="checkbox"/> Using the Telephone	<input type="checkbox"/> Shopping for Daily Items <input type="checkbox"/> Transportation <input type="checkbox"/> Managing Money <input type="checkbox"/> Doing Laundry <input type="checkbox"/> Doing Light Housework <input type="checkbox"/> Preparing Meals <input type="checkbox"/> Other Daily Tasks in your person’s life (anything not included above)
--	---

5. Step 5: Financial Planning Needs

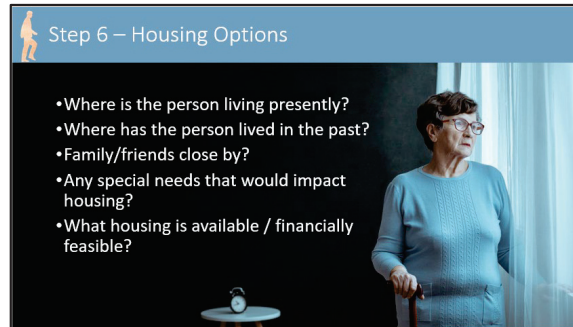
- a. **Financial Resources** – a Guardian of the Estate will obviously take a look at income and other financial resources, but even a Guardian of the Person might need to know this information if he/she is to set up services/caregivers to assist a ward. Is there Social Security, Supplemental Security Income (SSI), or Veterans Income available that is not being accessed yet?
- b. **Assets and Personal Property** – a Guardian of the Estate will provide the inventory for the court but the ward’s assets and property will determine what options are available in terms of setting up services/caregivers to assist the ward in day to day needs. Are there very important items in the ward’s personal property that should stay with him/her in the event of a move?



- c. **Long Term Care Planning** – Does the ward have long term care insurance? Does he/she have resources that can be used to finance long term care needs? Should a trust or other planning vehicle be set up to meet the long term needs of the ward?
- d. **Veteran’s Services** – Is the person a veteran? If so, has he/she applied for income/services with the Department of Veterans Affairs? Veterans have a variety of programs to assist them. See Appendix F for more detailed information.

6. Step 6: Where to Live? Realistic Housing Options

- a. Where is the person living now?
- b. Where has the person lived in the past? What is familiar?
- c. Are there family/friends close by who are part of your person’s life?



If so, who are they, and what is their level of interaction with the ward?

- d. What kinds of special needs does a person have that would impact housing?
 - e. What housing is available in his/her community/financial range?
- Note: In general, there are differences in urban and rural environments. Rural environments tend to have fewer options but more availability; urban environments have more options but longer waiting lists.

7. Step 7: Emergency Planning Needs

- a. Does the person wander? If so, is there a plan to prevent him/her getting lost? Is there a plan in place to locate him/her?
- b. Does the person have ID, if needed? Is the ID accessible to the person and/or to the guardian?
- c. Are there evacuation plans should there be a natural disaster such as a tornado or flood?
- d. Are the people around the person trustworthy and would they be available to assist in case of an emergency?
- e. Is the ward easily available by phone?



8. Step 8: End of Life Planning



See **Sup.R. 66.09(J)**

- a. What are the person’s thoughts about death? Has the person signed a Living Will or asked the doctor to draft a “Do Not Resuscitate Order”? How does the person feel about life-sustaining treatments? Would the person consider hospice if he/she had a terminal condition?
- b. What are the person’s wishes after death? Does he/she wish to have cremation or burial of remains? Does he/she want a funeral or memorial service?
- c. What are the person’s religious/cultural traditions or background?
- d. Are there plans in place for funeral/burial? List them.
- e. Are there resources to pay for burial if the plans have not been made? List them.



9. Step 9: Additional Concerns and Goals

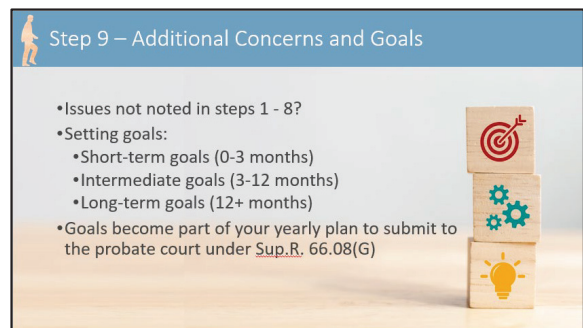
- a. Issues not noted in Steps 1-8
- b. Setting Goals. Note on the bottom of each page of the assessment



**i. Short-Term Goals
(0 - 3 months)**



**ii. Intermediate Goals
(3 - 12 months)**
**iii. Long-Term Goals
(12 + months)**



- c. Goals become part of **your yearly plan** to be submitted to the probate court under **Sup.R. 66.08(G)**. This is your (the guardian’s) plan, not the plans that care providers are making on behalf of the person under guardianship.



(Plan Document included in Appendix C 27.7 and 27.8)

Examining Needs & Resources Activity



Take a few minutes to reflect on the 9-step process and the person under your care.

- What do you need to investigate?
- What do you already know that you may need to take action on?

9-Step Process	Action Items
1. Investigate	
2. Activities	
3. Health Status	
4. Daily Assistance	
5. Financial Needs	
6. Housing	
7. Emergencies	
8. End of Life	
9. Other Issues	

2.3 Identifying & Accessing Resources

APPENDIX
PAGE

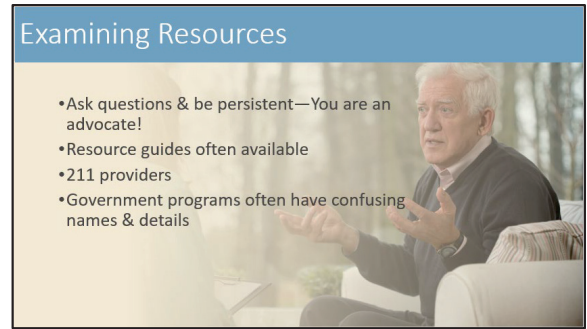
A more descriptive and complete list of resources along with some Helpful links can be found in Appendix F, page 155.

A. Examining Resources

1. Ask questions & be persistent—you are an advocate for the person.
2. Resource guides are often available

Many counties, cities and townships have resource guides that detail the availability of services, housing and other programs in the community for people with various disabilities and impairments. Some are hard copy and some are online.

3. 211 providers. This is an information and assistance system that exists throughout the US and in most communities. Simply dial 211 from your phone to be connected to an information & assistance provider.
4. Government Programs often have similar names such as Medicare, Medicaid, SSI, SSDI, VA, Waivers, and other acronyms. Check Appendix F for a more detailed guide to these programs and helpful links.



B. Medicaid in Ohio

1. Medicaid vs. Medicare
 - a. Medicare is a federally run health care system for people over 65 years old who either paid into Social Security, or are on Social Security Disability. More info can be found at www.medicare.gov.
 - b. Medicaid is a federal - state health care system for those with limited income and assets. More info can be found at www.medicare.gov. State by State Differences
2. Medicaid eligibility and services differ by state. If you move out of Ohio, you will have to reapply for Medicaid in your new state.
3. Basic Medicaid Services by Group Medicaid has a core number of health care service available to people with limited income and assets who fall into certain groups: women and children, those who are aged, blind and disabled, and disabled people who are working.
4. Medicaid Expansion Ohio participates in the Medicaid Expansion under the Affordable Care Act for ages 18-64 who have income under 138% of poverty.
5. Medicaid for long term services and supports. Medicaid funds both institutional and community based options (called waivers) for those needing long term care outside the core Medicaid health services.



C. Navigating Resources

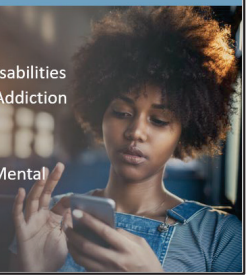
A few programs can provide you with help as you set up services for a ward. Access to these can vary by the person's diagnosis/condition/age and county of residence.

A more complete list is found in Appendix F.

1. Area Agencies on Aging – in Ohio by county, nationally as well
2. County Boards of Developmental Disabilities
3. County Boards of Mental Health & Addiction
4. Centers for Independent Living (14 in Ohio)
5. Disease Associations
6. County levy programs (Senior, DD, Mental Health & Addiction services)

Navigating Resources

- Area Agencies on Aging
- County Boards of Developmental Disabilities
- County Boards of Mental Health & Addiction
- Centers for Independent Living
- Disease Associations
- County levy programs (Senior, DD, Mental Health & Addiction Services)



D. Accessing Resources

1. Ohio Benefits website:

www.benefits.ohio.gov

Administered by the Ohio Department of Medicaid. Offers a one stop location to apply for many types of state and county administered benefits like Medicaid, Food Assistance, Cash Assistance, and others.

2. Veterans Affairs: www.va.gov

National website with many local links to services, health care and other assistance to honorably discharged veterans. Also local veterans organizations can assist in applying for benefits.

3. Federal Government Disability: www.disability.gov

National, state, and local links for people of all ages with disabilities.

4. Free Long Term Care Assessments: www.aging.ohio.gov

All Area Agencies on Aging in Ohio will come to a person's residence and do a free long term care assessment for Ohioans of any age. Assessments are face to face and take about an hour. A long term care assessment will provide a person with information on both in home and residential options.

Accessing Resources

- NEW Ohio Benefits website: www.benefits.ohio.gov
- The Ohio Benefit Bank: www.ohiobenefits.org
- Veterans Affairs: www.va.gov
- Federal Government Disability: www.disability.gov
- Free Long Term Care Assessments: www.aging.ohio.gov



E. Housing Options

1. Different types of housing options exist in most communities. There has been a huge growth in **community-based options** for people wanting to stay in their own neighborhoods and communities. Many of these options offer some services such as transportation, meals, and housework assistance to people with disabilities.
2. There might be waiting lists for some of these options because of demand, especially in urban areas. Rural areas where these options are available may also experience a wait due to limited availability.
3. In general, people with more resources have more housing choices.
4. People with progressive illnesses might need to move into a type of housing that offers more support as they require more daily assistance.
5. There is no one-size-fits-all type of housing.
6. Search for housing at www.ltc.ohio.gov



General Types of Housing Options

(Described in more detail in Appendix Fzd'%)

- **Independent Options**
 - The person's own residence, e.g., house, condo
 - Live with family/friends
 - Own apartment
 - Subsidized or supported apartment
- **Group Homes/Adult Care Facility** – For 1-16 individuals who require daily living assistance, licensed by the Ohio Department of Mental Health & Addiction Services.
- **Assisted Living Facilities** – For more than 16+ individuals who require daily living assistance, licensed in Ohio by the Department of Health as Residential Care Facilities.
- **Nursing Care Facilities** – For individuals who require nursing and other health care assistance as well as daily living assistance (sometimes called Skilled Nursing Facilities, Intermediate Care Facilities, or Intermediate Care Facilities for Developmental Disabilities)

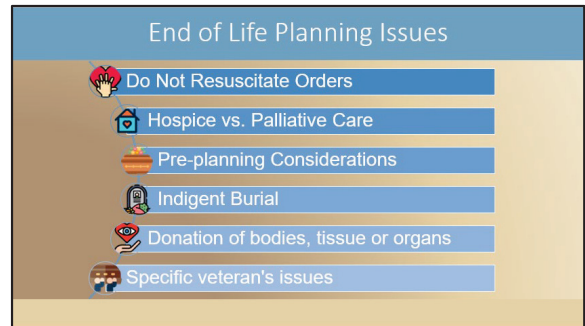


F. End of Life Planning Issues

Detailed descriptions of all of these are found in Appendix F, p. 170.
Also keep in mind Sup.R. 66.09(J)



1. Do Not Resuscitate Orders (and other advance directives such as Living Wills)
2. Hospice vs. Palliative Care (similarities and differences)
3. Pre-planning considerations (ask questions before signing contracts)
4. Indigent burial (municipal responsibility in Ohio)
5. Donation of bodies, tissue, or organs (medical schools in Ohio)
6. Specific veterans issues (including burial, markers, flags)



Module 3: Responsibilities and Duties of Guardians

3.1 Responsibilities of Guardians

Guardians have the responsibility to make decisions on behalf of the ward with deference to all orders and instructions from the probate court. **Sup.R. 66.08** provides a list of overarching responsibilities required of all guardians:

APPENDIX
PAGE

Responsibilities of Guardians



- Obey court orders
- Pre-appointment meeting
- Report abuse, neglect or exploitation
- Limitation or termination of guardianship
- Change of residence
- Court approval of legal proceedings

A. Obey Laws, Court Orders and Court Rules

A guardian shall obey all orders of the probate division of a court of common pleas establishing the guardianship and shall perform duties in accordance with local rules and state and federal law governing guardianships.

B. Pre-Appointment Meeting

Unless otherwise determined by the probate division of a court of common pleas, an applicant guardian shall meet with a proposed ward at least once prior to appearing before the court for a guardianship appointment.

C. Report Abuse, Neglect, or Exploitation

A guardian shall immediately report to the probate division of a court of common pleas and, when applicable, to adult protective services any appropriate allegations of abuse, neglect, or exploitation of a ward.

D. Limitation or Termination of Guardianship

A guardian shall seek to limit or terminate the guardianship authority and promptly notify the probate division of a court of common pleas if any of the following occurs:

1. A ward's ability to make decisions and function independently has improved;
2. Less restrictive alternatives are available;
3. A plenary guardianship is no longer in the best interest of a ward;
4. A ward has died.

E. Change of Residence

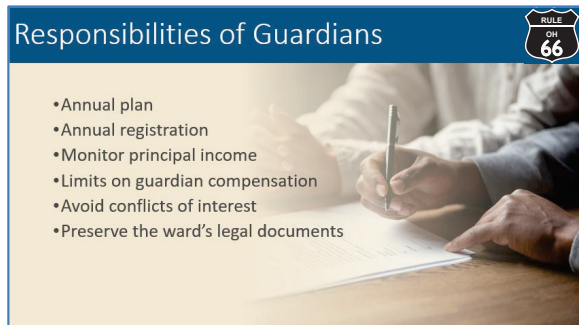
1. A guardian shall notify the probate division of a court of common pleas of a ward's change of residence and the reason for the change. Except if impracticable, the guardian shall notify the court no later than ten days prior to the proposed change.
2. A ward's change of residence to a **more restrictive setting** in or outside of the county of the guardian's appointment shall be subject to the court's approval, unless a delay in authorizing the change of residence would affect the health and safety of the ward.

F. Court Approval of Legal Proceedings

A guardian shall seek approval from the probate division of a court of common Pleas before filing a suit for the ward.

G. Annual Plan

A Guardian of the Person shall file annually with the probate division of a court of common pleas a guardianship plan as an addition to the Guardian's report. A Guardian of the Estate may be required to file an annual guardianship plan with the probate division of a court of common pleas. The guardianship plan shall state the guardian's goals for meeting the ward's personal and financial needs.



H. Annual Registration

All guardians appointed by the court who have ten or more wards under their care shall annually register with the probate division of a court of common pleas and provide such information as the court may require, including but not limited to a fee schedule that differentiates guardianship services from legal and other direct services.

I. Monitor Ward's Principal Income

A guardian shall inform the probate division of a court of common pleas and apply to close the guardianship of the estate if the principal income of the ward is from governmental entities, a payee for that income is identified, and no other significant assets or income exist.

J. Limits on Guardian’s Compensation

1. A guardian’s compensation is subject to **Sup.R. 73**.
2. A guardian who is in receipt of fees other than through the guardianship of the estate shall report to the probate division of a court of common pleas the source and entity that reviewed and authorized payment.
3. A guardian shall not receive incentives or compensation from any direct service provider providing services to a ward.

K. Avoid Conflict of Interest

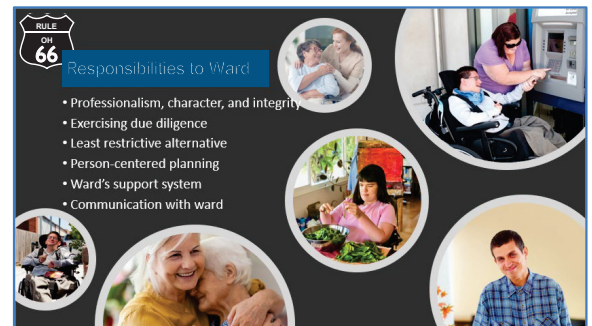
A guardian shall avoid actual or apparent conflicts of interest regarding a ward’s personal or business affairs. A guardian shall report to the probate division of a court of common pleas all actual or apparent conflicts of interest for review and determination as to whether a waiver of the conflict of interest is in the best interest of the ward.

L. Preserve the Ward’s Legal Documents

In addition to filing an inventory, if applicable, pursuant to **R.C. 2111.14(A)(1)** and within three months after the guardian’s appointment, a guardian shall file with the probate division of a court of common pleas a list of all of the ward’s important legal papers, including but not limited to estate planning documents, advance directives, and powers of attorney.

3.2 Responsibilities to Ward

Sup.R. 66.09 goes further in providing additional responsibilities that a guardian must fulfill to a ward. These are important to know and understand.



A. Professionalism, Character, and Integrity

A guardian shall act in a manner above reproach, including but not limited to avoiding financial exploitation, sexual exploitation, and any other activity that is not in the best interest of the ward.

B. Exercising Due Diligence

A guardian shall exercise due diligence in making decisions that are in the best interest of a ward, including but not limited to communicating with the ward and being fully informed about the implications of the decisions.

C. Least Restrictive Alternative

Unless otherwise approved by the probate division of a court of common pleas, a guardian shall make a choice or decision for a ward that best meets the needs of the ward while imposing the least limitations on the ward's rights, freedom, or ability to control the ward's environment. To determine the least restrictive alternative, a guardian may seek and consider an independent assessment of the ward's functional ability, health status, and care needs.

D. Person-Centered Planning

A guardian shall advocate for services focused on a ward's wishes and needs to reach the ward's full potential. A guardian shall strive to balance a ward's maximum independence and self-reliance with the ward's best interest.

E. Ward's Support System

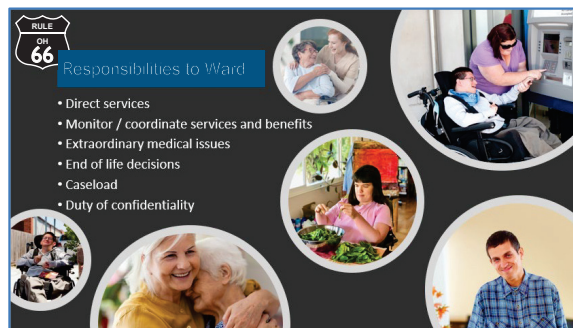
A guardian shall strive to foster and preserve positive relationships in the ward's life unless such relationships are substantially harmful to the ward. A guardian shall be prepared to explain the reasons a particular relationship is severed and not in the ward's best interest.

F. Communication with Ward

1. A guardian shall strive to know a ward's preferences and belief system by seeking information from the ward and the ward's family and friends.
2. A guardian shall do all of the following:
 - a. Meet with the ward as needed, but not less than once quarterly or as determined by the probate division of a court of common pleas;
 - b. Communicate privately with the ward;
 - c. Assess the ward's physical and mental conditions and limitations;
 - d. Assess the appropriateness of the ward's current living arrangements;
 - e. Assess the needs for additional services;
 - f. Notify the court if the ward's level of care is not being met;
 - g. Document all complaints made by a ward and assess the need to report the complaints to the probate division of the court of common pleas.

G. Direct Services

Except as provided in **Sup.R. 66.04(D)**, a guardian shall not provide any direct services to a ward, unless otherwise approved by the court.



H. Monitor and Coordinate Services and Benefits

A guardian shall monitor and coordinate all services and benefits provided to a ward, including doing all of the following as necessary to perform those duties:

1. Having regular contact with all service providers;
2. Assessing services to determine that they are appropriate and continue to be in the ward's best interest;
3. Maintaining eligibility for all benefits;
4. Where the Guardian of the Person and Guardian of the Estate are different individuals, consult regularly with each other.

I. Extraordinary Medical Issues

1. A guardian shall seek ethical, legal, and medical advice, as appropriate, to facilitate decisions involving extraordinary medical issues.
2. A guardian shall strive to honor the ward's preferences and belief system concerning extraordinary medical issues.


J. End of Life Decisions

A guardian shall make every effort to be informed about the ward's preferences and belief system in making end of life decisions on behalf of the ward.

K. Caseload

A guardian shall appropriately manage the guardian's caseload to ensure the guardian is adequately supporting and providing for the best interest of the wards in the guardian's care.


L. Duty of Confidentiality

 **Sup.R. 66** provides: “A guardian shall keep the ward’s personal and financial information confidential, except when disclosure is in the best interest of the ward or upon order of the probate division of a court of common pleas.”

Additional Considerations

One of the most overlooked duties of a guardian is to protect the confidentiality of the personal affairs of a ward. Guardians often fall into the trap of believing that because the guardianship is established through the court system, a ward no longer has a right to privacy with his/her affairs; this is not true, and guardians should always remain vigilant about protecting the confidentiality of wards. A guardian shall keep the ward’s personal and financial information confidential, except when disclosure is in the best interest of the ward or upon order of the Probate Division of a Court of Common Pleas.

Some relevant facets of Ohio law that guardians should be mindful of include:

-  A. **Sup.R. 66** provides: “A guardian shall keep the ward’s personal and financial information confidential, except when disclosure is in the best interest of the ward or upon order of the probate division of a court of common pleas.
- B. Notwithstanding the rule above, guardians always have the duty and obligation to be completely transparent and candid with the Court. Sup.R. 45 governs and provides the assumption that all Court filings are presumed to be open to the public. Sup.R. 45 also provides that parties who file documents that might have personal identifiers (i.e., social security numbers, etc.) have an obligation to omit the personal identifiers.

3.3 Duties of Guardian of the Person



A. **R.C. 2111.13 and Sup.R. 66**

1. Protect and control the person of the ward;
2. Provide suitable maintenance of the ward when necessary (to be paid for out of the estate of the ward);
3. Obey all orders and judgments of the probate court touching the guardianship;

Duties of Guardian of Person



- R.C. 2111.13 & Sup.R. 66
- Arrange services to meet needs
 - Best interest
 - Daily services
 - Maximize quality of life
- Make involvement known



B. **Description of Statutory Duties**

1. **Arranging services to meet needs**

a. **Best interest:** All decisions made by guardian must be made to maximize what is best for the ward, including consideration of the least intrusive, most normalizing and least restrictive action in response to the needs of the ward. This is an objective standard. Never base the decision on reasons that are advantageous to the guardian at the expense of the ward. Such a decision would inherently create a conflict of interest, which is prohibited in **Sup.R. 66.08 (K)**. Allow the individual to make as many decisions as possible for him or herself, always weighing the ward's best interest. Although making decisions about the ward's safety and well-being are squarely in the purview of the guardian as appropriate, involve the ward and ward's family.



b. **Daily living:** Responsible for coordinating the provision of daily activities, which may include the following:

- i. Groceries, shopping, laundry, mail;
- ii. Attending worship, clubs, social events;
- iii. Attending care plan meetings or service plan meetings with providers;
- iv. Attending/arranging doctor appointments;
- v. Hiring/firing home health providers

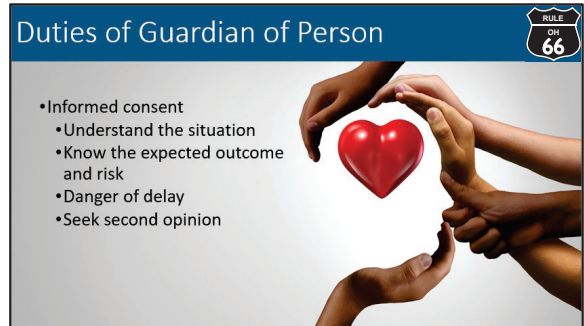
2. **Make Involvement Known**

- a. Keep certified copies of Letters of Guardianship on hand.
- b. Contact the following about guardianship appointment and provide copies of Letter of Guardianship:
 - i. Case workers;
 - ii. Nursing home: social worker, nursing staff, accounting department;

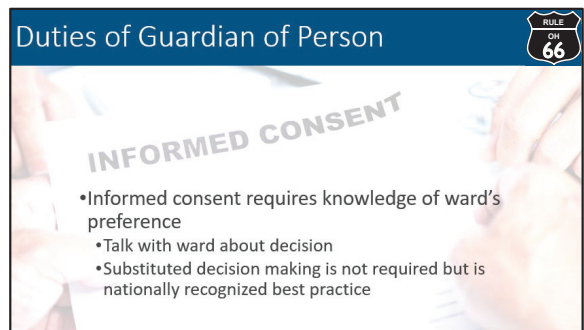
- iii. Home health aides and other agencies involved with the individual;
- iv. Hospitals, physicians, health care providers;
- v. Local senior center and other social clubs/organizations, if necessary.

C. Informed Consent

1. **To provide informed consent for health care**, the guardian must understand the situation fully and exercise the appropriate amount of due diligence. At a minimum, the guardian should ensure that he/she understands:



- a. The condition(s) necessitating the treatment or action;
- b. The expected outcome of the decision;
- c. The expected benefits and potential consequences;
- d. The cost or harm of delaying or postponing the treatment or action;
- e. All viable alternatives and why they are not a better option;
- f. The opinion and desire of the ward.



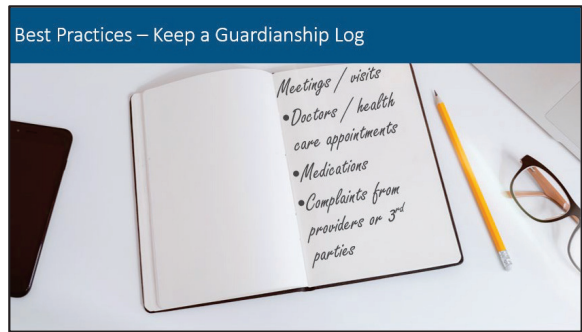
2. **Second Medical Opinion.** The guardian should not hesitate to seek a second opinion if it is a major decision or where the guardian is unsure of what action to take. **Sup.R. 66.09(I)**

3. **Signature.** Whether consenting to a heart transplant or requesting that a landlord change a furnace filter, the Guardian should have a uniform signature that clearly delineates who the guardian is and in what capacity the guardian is signing the document. A model signature should look like:

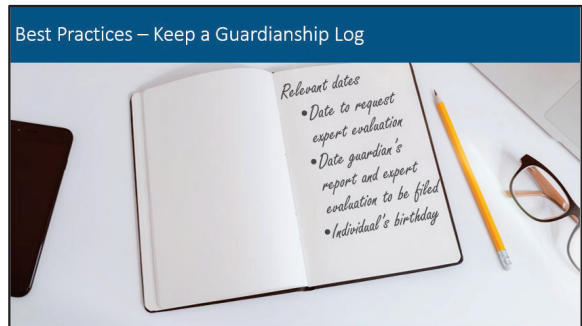
“Fred Flintstone, Guardian of the Person of Barney Rubble.”

D. Best Practices

Although not specifically required by statute or rule, a best practice that assists guardians with providing the best possible services while remaining accountable to the court is to **maintain a Guardianship Log**. This log can be kept in hardcopy form or electronic form. Regardless of the form, it should be kept safe and confidential from third parties. The intent of the guardianship log is to document relevant events happening in the guardianship. This information is tracked for the benefit of the ward, the guardian, and the court so that all can have an accurate record, calendar, and summation of key events/activities occurring within the guardianship. A good guardianship log will include the following:



1. **Meetings/Visits:** For each meeting about the ward or visit with the ward, there should be an entry with the date, list of person(s) present, and a short summary of the meeting/visit.
2. **Doctor/Health Care Appointments:** The guardianship log should include a calendar of upcoming doctor appointments as well as reminders for when doctor appointments need to be scheduled.
3. **Medications:** It is not uncommon for persons subject to a guardianship to have complicated medical histories that require multiple prescription medications. It is recommended to have a centrally maintained log of all prescription and over-the-counter medications.



4. **Complaints from Providers / 3rd Parties Sup.R. 66.09(F)(2)(g):** To the extent that providers or 3rd parties are complaining, whether the complaints are about you or the ward, it is important to track these complaints and insert notes about any follow-up action you took as a result of the complaint.
5. **Relevant Dates:** Guardians have a duty to report to the court on certain dates/times.
 - a. It is important to log when the Guardian's Report and Expert Evaluation are due to the court. Because Expert Evaluations can sometimes take several weeks or months to obtain, the guardian should note on his or her calendar reminders as to when the guardian should request the necessary information well in advance of when it needs to be available to submit to the court.
 - b. Date Guardian's Report and Expert Evaluation to be filed
 - c. Individual's birthday

E. Guardian of Person/Reporting to Court

1. Guardian's Report

- a. Due either annually or every two years per court's instruction or local rule
- b. Read at time of appointment.
- c. Does it sync with Expert Evaluation?
- d. Annual Plan attached as addendum – **Sup.R. 66.08(G)**



Guardian of Person / Reporting

- Guardian's report
- Read at time of appointment
- Understand what is required
- Does it sync with expert evaluation?
- Motions for Instruction
- Review Hearings
- Compliance with continuing education

F. Miscellaneous Ways Guardians Report/Interact with Court

1. Statement of Expert Evaluation
2. Notice of move;
see **Sup.R. 66.08(E)(1)**
3. Approval for move;
see **Sup.R. 66.08(E)(2)**
4. Motions for instruction
5. Review hearings
6. Compliance with continuing education;
see **Sup.R. 66.05(A)(2), and 66.07(B)**



Guardian of Person / Reporting

- Statement of expert evaluation
- Notice of move/Approval for move
- Annual plan (this is different than report)

3.4 Duties of Guardian of the Estate

Guardians of the Estate also derive their authority and duties from statutes and court orders. **R.C. 2111.14 & 2109** et seq. specifically provide certain duties for Guardians of the Estate:

APPENDIX
PAGE

A. **File inventory** discussed in section 3.5(B), on page 65.
Due within 3 months of appointment

B. **Manage the estate** for “best interest” of ward.
Defend/pursue lawsuits. It is the duty of a Guardian of the Estate to defend and pursue all lawsuits on behalf of the ward. See **Sup.R. 66.08(F)**

APPENDIX
PAGE

Note: Court approval is required before:

- a. Filing lawsuits on behalf of a ward and
- b. Settling any lawsuits on behalf of a ward.

APPENDIX
PAGE

C. **Obey all orders and judgments** of the probate court. **Sup.R. 66.08(A)**

Procure Government benefits.

The Guardian of the Estate should assist the ward with procuring all available government benefits (i.e., Social Security, VA benefits, Medicaid/Medicare). See **Sup.R.66.04(C) and 66.08(I)**

APPENDIX
PAGE

Note: Probate Courts do not have jurisdiction over federal agencies but will expect guardians to pursue available resources. These resources (VA benefits, SSI, etc.) should be reported to the Probate Court. Probate Courts need to know what resources are available to a ward to properly approve/disapprove applications to expend funds on behalf of the ward.

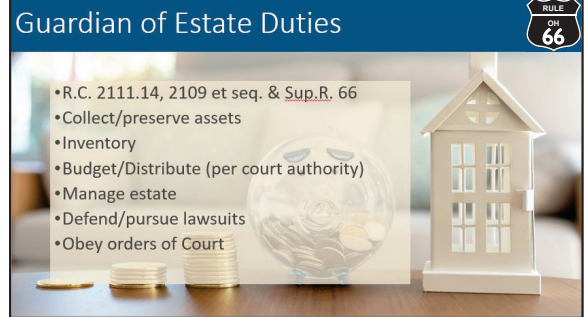
APPENDIX
PAGE

D. **File wills/legal papers of the ward:** Required in some counties to be filed with probate court. **See Sup.R. 66.08(L)**

E. **File accounts and final account** within 30 days of termination.

F. **Secure assets** until executor/administrator of estate appointed.

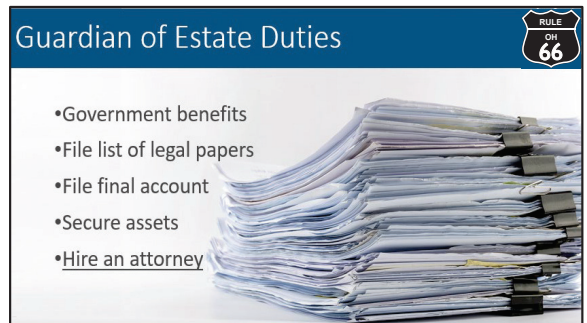
G. **Hire an attorney.**



Guardian of Estate Duties

- R.C. 2111.14, 2109 et seq. & Sup.R. 66
- Collect/preserve assets
- Inventory
- Budget/Distribute (per court authority)
- Manage estate
- Defend/pursue lawsuits
- Obey orders of Court

The graphic features a blue header with the title 'Guardian of Estate Duties' and a 'RULE ON 66' shield icon. Below the header is a list of duties. The background image shows a stack of coins, a glass jar filled with coins, and a small white house model.

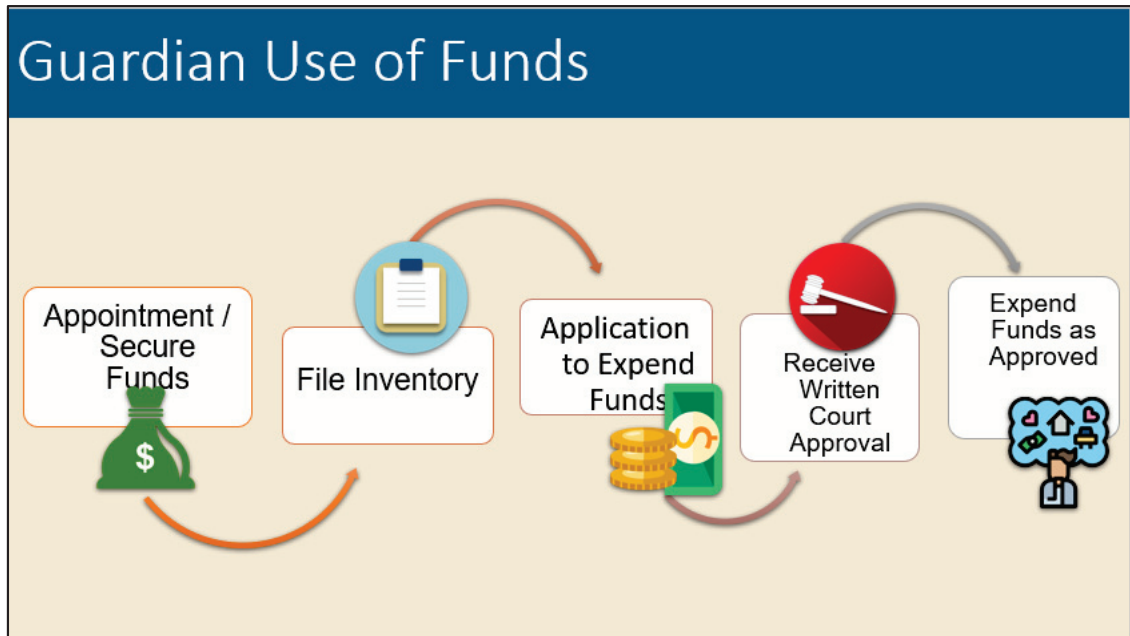


Guardian of Estate Duties

- Government benefits
- File list of legal papers
- File final account
- Secure assets
- Hire an attorney

The graphic features a blue header with the title 'Guardian of Estate Duties' and a 'RULE ON 66' shield icon. Below the header is a list of duties. The background image shows a large stack of papers and documents.

H. Guardian Use of Funds



1. Securing Funds

APPENDIX
986
PAGE

a. **Application to Release Funds (Form 15.6).**

- a. Used to take possession of assets;
- b. Notifies court of what assets are being released to guardian.

b. **Investments.** Guardians must preserve principal and invest assets with the intention of preserving principal.

Guardian Use of Funds

- Form 15.6
- Take possession of assets;
 - Preserve, secure, and protect assets;
 - Invest only with intent of preserving principal (avoid risk)
- Open guardianship bank account
 - NEVER co-mingle funds
- Special procedures for safe deposit box

c. **Guardianship Checking Account.** Open a guardianship checking account at a Federal Deposit Insurance Corporation insured bank. Follow court-approved procedures for opening a checking account.

- a. Request copies of cancelled and returned checks;
- b. Never co-mingle funds;
- c. Do not use cash, instead pay by check to document transaction.

d. **Safe Deposit Box.** A guardian cannot access a safe deposit box until:

- a. The contents have been audited by a representative from the County Auditor's office;
- b. An inventory of the contents has been filed with the court;
- c. The court authorizes the guardian to access the safe deposit box.

2. File Inventory (**Form 15.5 Guardian's Inventory**)

- a. Must be filed within 3 months of appointment;
- b. List all assets belonging to individual;
- c. List the asset value as of the date of appointment;
- d. Describe assets in as much detail as possible, including:
 - i. Account types and balances;
 - ii. Face value and cash surrender value of all life insurance policies;
 - iii. Location and box number of safety deposit box;
 - iv. Identify location and existence of any Wills/Trusts and arrange for filing same with court;
 - v. Include address and legal description for all real estate;
 - For rental property, list whether property is vacant/occupied and indicate anticipated rents;
 - For motor vehicles list year, model, make and estimate of value;
 - List uncashed checks on hand at date of appointment (any checks/income received post-appointment would be reflected on accounting and not inventory).



Golden Rule for Distributions / Expenditures:

Always seek court approval **BEFORE** making distributions and expenditures.

3. Distribution / Expenditures

- a. **Form 15.7 Application for Authority to Expend Funds**
- b. Must be filed by Guardian of the Estate and approved (in writing) before the guardian can proceed with distributing any asset(s).
- c. The Application for Authority to Expend Funds must provide the court with sufficient detail. Providing specific details to the court is beneficial to the court and allows the court to make decisions more expeditiously. Providing detail in writing on the form can also avoid unnecessary hearings.



d. **Recurring Expenses.**

For someone who has considerable ongoing monthly expenses, the expenses can be aggregated and approved in the form of a budget. The court can approve budgeted amounts for repetitive expenditures. If the actual amount necessary to pay any of the budgeted expenditures exceeds the approved amount in the budget, then further court approval (in writing) must be received before the excess expenditure is paid out.



e. **All Disbursements/Expenditures.** These provisions apply to all disbursements. Accordingly, whether you are transferring assets into a Trust or buying birthday presents for a niece, all such expenditures must be approved by the Court.

f. Attach all supporting documentation.



4. Accounting (Form 15.8)

Accountings are required on the anniversary of the guardian's appointment. Each accounting should specify the beginning and ending dates of the accounting period.



a. Account for everything.

- i. Accounting should include detail on all income/receipts and disbursements during the accounting period.
- ii. Expenditures. All distributions must be listed and explained. There should be a correlating voucher or receipt for each distribution.

b. Guardianship Bank Account. All guardianship income, receipts, expenses and distributions should be processed through one central guardianship bank account.

5. Reporting Requirements

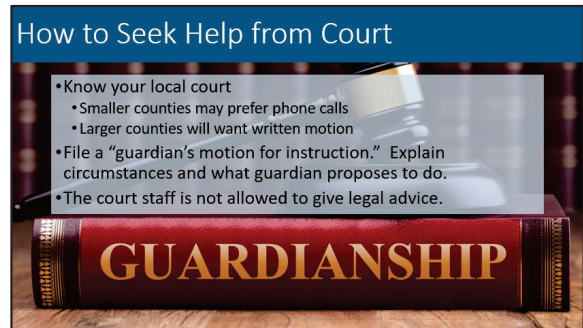
- a. Accountings
- b. Expenditures
- c. Guardian's Reports (some courts do not require reports from guardians of estate only)



d. Annual Plan, per **Sup.R. 66.08**, if required

3.5 How to Seek Help from Court

- A. **Know your local court.** Different courts have different preferences for how they want guardians to seek court guidance. Some courts prefer that the guardian call the court, while other courts require all communication in writing.
- B. **File a written motion for instruction.** The majority of courts will prefer that the guardian put any concerns they have in writing and file the same with the court in the form of a motion. The motion should explain in detail the decision the guardian is making as well as an explanation of what decision the guardian believes is in the ward's best interest. The manner in which these motions are addressed by the probate court will vary from court to court, and it is imperative that the guardian understand the local rules of the probate court.
- C. **Ohio law prevents probate court staff from giving legal advice** to the person(s) appearing in those courts. In the event a guardian has questions or needs assistance, it is always a best practice for the guardian to consult with an attorney having experience in guardianship law.



Can a Guardian...?

Answer the following questions:

	Yes	No
1. Can a guardian execute a last will and testament on behalf of a ward?		
2. Can a guardian open a credit card account on behalf of a ward?		
3. Can a guardian rely upon Probate Court staff to tell him or her how to handle a difficult decision?		
4. Can a guardian gift away some of a ward's assets in order to qualify for Medicaid?		
5. Can a guardian give \$500.00 of the ward's money to the guardian's friend in order for the friend to pay rent on behalf of the ward while the guardian is out of town on vacation?		

Exercise Scenario 3:



You are a guardian of the person and estate for your Uncle Mike who is 62. He had a Traumatic Brain Injury from an accident in his 20's and now has challenges with handling day to day decisions. He lives in an apartment building for people with disabilities that has a service coordinator to assist residents with their needs. One day you notice that he has bruises on his arms. He tells you he fell but he keeps looking around when you are talking to you and the pattern of bruises looks odd. What next 3 steps should you take to investigate this situation?

4.1. Abuse, Neglect or Exploitation of Adults Under Guardianship



A. **Sup.R. 66.08(C)** Reporting Abuse, Neglect, or Exploitation

A guardian shall immediately report to the Probate Court and, when applicable, to adult protective services any appropriate allegations of abuse, neglect, or exploitation of a ward.

- B. **Two sets of state rules** cover reporting of abuse, neglect, or exploitation in Ohio—depending on the ward's characteristics
1. **Over age 60**-Adult Protective Services Statute-R.C. 5101.2-20
 2. **Adults with Developmental Disabilities**-R.C. 5123.61 Major Unusual Incidents (MUIs), Unusual Incidents (UIs)
 3. Age 18-59 & without a developmental disability--no statewide system exists except law enforcement.
 4. Probate court must always be notified regardless of age or disability of ward under **Sup.R. 66.08(C)**

Abuse, Neglect and Exploitation



RULE 66.08. General Responsibilities of Guardian.

(A) Orders, rules, and laws

A guardian shall obey all orders of the probate division of a court of common pleas establishing the guardianship and shall perform duties in accordance with local rules and state and federal law governing guardianships.

(B) Pre-appointment meeting

Unless otherwise determined by the probate division of a court of common pleas, an applicant guardian shall meet with a proposed ward at least once prior to appearing before the court for a guardianship appointment.

(C) Reporting abuse, neglect, or exploitation

A guardian shall immediately report to the probate division of a court of common pleas and, when applicable, to adult protective services any appropriate allegations of abuse, neglect, or exploitation of a ward.



Short Summary of Adult Protective Services for those over age 60

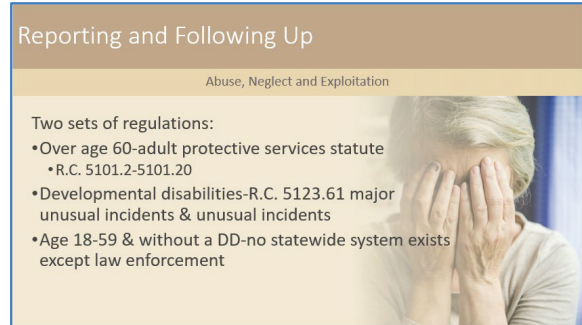
1. **Adult Protective Services (APS)** is responsible for investigating reports of suspected abuse, neglect, or exploitation of **Ohioans aged 60 and older**. APS is part of each County Department of Job & Family Services (CDJFS).

The Ohio Revised Code defines:

- a. **“Abuse”**: infliction upon an adult by self or others of injury, unreasonable confinement, intimidation or cruel punishment with resulting physical harm, pain, or mental anguish. (5101.60(A))
- b. **“Neglect”**: failure of an adult to provide for self the goods or services necessary to avoid physical harm, mental anguish, or mental illness or the failure of a caretaker to provide such goods or services. (5101.60(k))
- c. **“Exploitation”**: the unlawful or improper act of a caretaker using an adult or an adult’s resources for their monetary or personal benefit, profit or gain. (5101.60(G))

2. If you have reasonable cause to suspect that an older person is being abused, call or write the County APS office. A list of County Offices are available at www.jfs.ohio.gov.
3. Additionally, the following categories of professionals are required to report suspected abuse to the County DJFS immediately when they have reasonable belief that an adult is being abused, neglected, or exploited, or is in a condition that is the result of abuse, neglect, or exploitation:

- Attorney
- Physician
- Osteopath
- Podiatrist
- Chiropractor
- Dentist
- Psychologist
- Nurse
- Law enforcement officer
- Coroner
- Clergyman
- Social Work
- Counseling
- Employees of
 - Hospitals
 - Ambulatory health facilities
 - Home health agencies
 - Adult care facilities
 - Community alternative homes
 - Nursing homes
 - Residential care facilities
 - Homes for the aging
 - Senior service providers
 - Community mental health facilities



If suspected abuse is reported in good faith, the reporter is immune from civil or criminal liability. Also, if the reporter is an employee of a care facility, your employer cannot retaliate against the employee.

4. APS must investigate “emergency” reports within 24 hours and all other reports within three working days. An emergency report is one in which there is an allegation of substantial risk of immediate physical harm to a ward. The investigator must meet face to face with the allegedly abused adult, who is given written notice of the investigation. When possible, the investigator should also consult with the person reporting the abuse. The investigation will result in a written report, which either confirms or denies the need for protective services.
5. If available, APS services may include, but are not limited to, the provision of casework services, medical care, mental health services, legal services, fiscal management, home health care, homemaker services, housing-related services, guardianship services and placement services. They also may include the provision of food, clothing, and shelter.
6. APS can petition Probate Court for a temporary restraining order (TRO) to prevent interference or obstruction of its investigation by any person, including the alleged abused adult. To issue the TRO, the court must find (a) that there is reasonable cause to believe the adult is being or has been abused, neglected, or exploited, and (b) that access to the adult's residence has been obstructed.

APS can also petition the court to approve a service plan providing involuntary services. The adult must receive a notice describing his or her rights and the consequences of a court order at least five working days before a hearing for TRO or involuntary services. An indigent adult has the right to a court-appointed attorney. Notice of the hearing must also be sent to the adult's guardian, attorney, caretaker, and spouse.

7. In order to issue an order requiring protective services, the court must find by clear and convincing evidence that (a) the adult has been abused, neglected, or exploited; (b) the adult is in need of protective services; (c) the adult is incapacitated; and (d) no other person authorized by law is available to give consent. If the court so finds, it must issue an order requiring protective services for up to six months; this order can be re-authorized for up to a year.

Short Summary of Adults with Developmental Disabilities-Reporting Major I bi gi U Incidents & Unusual Incidents

All DD employees (defined as an employee of the Ohio Department of Developmental Disabilities [DODD], employees of a county board of developmental disabilities or employees in a position that includes providing specialized services to individuals) are mandated reporters and must report Major Unusual Incidents (MUIs) and Unusual Incidents (UIs) and take the required actions in accordance with Ohio Administrative Code 5123:2-17-02.

1. **Protocol MUIs** - Protocol MUIs are those MUIs that may constitute a crime. The categories are: Death (Suspicious and Accidental), Physical abuse, Sexual abuse, Verbal abuse, Prohibited sexual relations, Peer-to-peer acts, Neglect, Misappropriation, Exploitation, Rights code violations, Failure to report a crime, or MUI. See **Sup.R. 66.09(A)**, which prohibits sexual exploitation.
2. **Non-protocol MUIs** - Non-protocol MUIs are those MUIs that do not constitute a crime but have an adverse effect on the individual. The categories are: Death (naturally occurring), Attempted suicide, Law enforcement actions, Missing individual, Medical emergency, Known injury, Unknown injury, Unscheduled hospital admission, Unapproved behavior support.
3. **Unusual incidents** include, but are not limited to: Medication errors, Falls, Peer-to-peer incidents that are not MUIs, Overnight relocation of an individual due to fire, natural disaster, or mechanical failure, and any injury to an individual that is not an MUI.
4. An **investigator**, pursuant to R.C. 5126.221, will complete an investigation of the MUI. County board of DD staff may assist the assigned investigator by gathering documents, entering information into databases or other administrative or clerical duties that are not specific to the investigator's role.



C. Incidents & Prevention

1. Estimated to occur **far more often than reported**, especially in the area of sexual or financial exploitation.
2. Prevention may include a whole host of activities including:
 - a. Respite for family and professional caregivers
 - b. More training for those who are mandatory reporters and investigators
 - c. More adequate funding and follow up
 - d. More consistency & communication between counties and other entities.
3. For more information, go to:

www.ocapsohio.org

www.proseniors.org

www.disabilityrightsohio.org



Exercise Scenario 1:



You decide to move your Uncle Mike into a nursing facility because his physical needs have increased and he needs more supervision than can be provided in the community. You have received permission from the probate court for a move to a more restrictive setting.

In the first few weeks, you are pleased with his care and he seems to be adjusting fine but you notice that some of his clothes and other personal items have disappeared from his room. When his glasses disappear, you decide you need to take action.

What actions might you pursue next?

4.2 Addressing Problems With Care

A. An Individual's Rights

Individuals in **ANY** care setting have rights that are listed in the Ohio Revised Code depending on the type of facility or care he/she is receiving.

TYPICAL types of rights for those receiving care:

1. Be free from physical, verbal, mental, and emotional abuse;
2. Be free from physical and chemical restraints;
3. Be treated with dignity and respect;
4. Receive adequate & appropriate care to meet medical, social, & emotional needs;
5. Receive itemized bills for services rendered;
6. Be informed in advance of the charges for services;
7. Participate in planning of care;
8. Voice grievances and problems;
9. Control who has access to medical records;
10. Be free from financial exploitation and to manage own personal affairs;
11. Receive reasonable notice before a room or roommate change;
12. Receive notice of any transfer, discharge or discontinuation of services and be given information about any available appeal process;
13. Receive these rights in writing upon admission or start of care.



Where to Find Common Bill of Rights Documents:

To find the most updated Ohio Revised Code (ORC) Sections, please go to:

<http://codes.ohio.gov/orc>

- Those with Developmental Disabilities in Ohio
 - ORC 5123.62 (www.dodd.ohio.gov)
- Those living in Nursing Facilities & Residential Care Facilities (these facilities are often called Assisted Living Facilities in Ohio)
 - ORC 3721.13 (www.odh.ohio.gov)
- Those living in Adult Care Facilities (3-16 unrelated adults-sometimes called Group Homes)
 - ORC 5122.33.23 (www.mha.ohio.gov)
- Those living in Adult Foster Facilities (1-2 unrelated adults)
 - ORC 5122.35.10 (www.mha.ohio.gov)
- Medicare Patients (www.medicare.gov)
- Veterans Health Care through the VA
 - www.va.gov/health/rights/patientrights.asp
- Affordable Care Act 2010 Patient Rights (www.cms.gov)
- Hospital Patients – All hospitals have Patient’s Rights Advocates on staff

B. Guardian’s Rights to Information

Guardians have the duty to stand in the place of a person and thus may read care charts, attend care conferences and request changes. Guardians in Ohio have information rights under HIPAA (45 CFR 164.502(g)) and FERPA (Family Educational Rights & Privacy Act).

C. Complaints/Problems

The role of any care situation is to help each individual maintain everything he/she is able to do at admission and reach a better level, if possible. Sometimes individuals show decline but this could be due to one of three reasons: progression of a disease, onset of a new disease or condition, or the ward’s decision to refuse treatment. The physical or emotional decline of the ward should never be the result of inaction by the care facility.

In addition Sup.R. 66 also contains provisions that apply to guardians regarding provision of care to a ward.



- **66.09(D)** – guardian has duty to advocate for services/care that maximize the ward’s potential



- **66.09(F)(2)(F)** – guardian has duty to report to the court if the level of care for a ward is not being met



- **66.09(H)** – guardian has duty to monitor services & assess whether services are appropriate & in the best interest of the ward



- **66.08(C)** - concerns for abuse must be reported to the probate court

1. Care Plans & Conferences

- a. Most care providers (whether residential or home based providers) will be putting a care plan together for the ward. The ward and the guardian should be consulted in this process. The plan contains goals, activities, and procedures. Many times the ward will be assigned a care/case manager who will act as an intermediary between the provider and the ward.
- b. Care planning meetings are often set up with representative staff from all departments who are interacting with the ward to determine the goals for the ward's care. Guardians of the Person must be informed of the time of the meeting and allowed to attend. In addition, the ward must be allowed to attend if he/she requests.
- c. Care planning meetings are required at the time of admission to a care facility and in many other types of programs when care starts. Usually, care planning meetings are also required every 3-6 months thereafter. However, if the ward's physical condition changes, there should be a meeting to discuss pertinent changes in care to meet the ward's changes in physical condition. Additionally, a guardian can request a meeting at any time. Any problems should be brought up at a care planning meeting.

2. Staff Discussions and Documentation of Problems

Always try to bring concerns up first to staff who are working directly with the ward or those who are directly responsible for the ward's care. Remember that it is also helpful to share with them what is going well with the ward. It is a best practice to keep notes of persons, dates, times and topics discussed with staff members. These notes may be helpful in follow up meetings. If concerns are more serious or not adequately addressed, they should be put in writing to the director of the facility/agency.

3. Ombudsman (1-800-282-1206 or www.aging.ohio.org)

If concerns continue, guardians, wards, and ward's families can contact the Long Term Care Ombudsman Program to assist in resolving problems, questions, and complaints about the ward's care. Other types of programs often have an ombudsman who can mediate disputes as well.

4. Written Complaints to Licensing Entity

To make a formal complaint, contact the department that licenses the entity. **Licensing entities are required to respond to written complaints.**

- a. For complaints about Nursing and Assisted Living Facilities, contact the Ohio Department of Health at 1-800-342-0553 or www.odh.ohio.gov.

Hint: Put all complaints in writing to the Director of the Facility/ Company/Agency.

- b. For complaints about Group Homes and Adult Care Facilities, contact the

Ohio Department of Mental Health at www.mha.ohio.gov. Download an incident reporting form and fax it to 614-485-9737.

- c. For Developmental Centers and Intermediate Care Facilities for Individuals with Developmental Disabilities ICF-IDD, contact the Ohio Department of Developmental Disabilities at www.dodd.gov.
- d. For all Medicaid Home Care Waiver Services such as PASSPORT, Ohio Home Care, contact the Ohio Department of Medicaid at www.medicaid.ohio.gov.

4.3 Marriage and Family Relationships

A. Marriage

1. In Ohio, a marriage is a contractual relationship. Ohio's marriage requirements are set forth in chapter 3101 of the Ohio Revised Code, which provides that probate courts have the exclusive responsibility of issuing marriage licenses.



Dating back to 1923, Courts have consistently held that the appointment of a guardian operates as a presumption of contractual incapacity in any action to enforce contracts made by the ward during the period of legal guardianship. Essentially, wards have traditionally been divested of any the power to enter into a contract.

Legal Citations:

Goss v. Fiorini (1923), 108 Ohio St.115, 140 N.E. 324;

Huntington Natl. Bank v. Toland 71 Ohio App.3d 576, 594 N.E.2d 1103 Ohio App.10 Dist. (1991);

Witt v. Ward (1989), 60 Ohio App.3d 21, 573 N.E.2d 201;

Commonwealth Loan Co. v. Peltz (July 28, 1983), Cuyahoga App. No. 45778, unreported, 1983 WL 5584;

Krumm v. Helmick (Jan. 27, 1982), Licking App. No. CA-2828, unreported, 1982 WL 2892;

Motor Discount Corp. v. Kulig (Dec. 24, 1981), Cuyahoga App. No. 43551, unreported, 1981 WL 4714.

2. This presumption of contractual incapacity and the tenet that marriage is a contract often leads to confusion. The presumption that a ward doesn't have contractual capacity to enter into a marriage contract can be overcome. The decision for whether a ward has the capacity to enter into a marriage contract will be made on a case-by-case basis by the Probate Court. In the event a person subject to guardianship wants to marry, the Probate Court should be notified and a hearing will be scheduled to determine whether the ward has the capacity to enter into a marriage contract.

3. **Effect of Marriage:** If a Probate Court approves the issuance of a marriage license to a ward and the ward marries, then pursuant to R.C. 2111.45, the guardianship of the person is automatically terminated due to the marriage. The guardianship of the estate will remain in place, unless the court determines otherwise.
4. **Divorce:** Individuals with a guardian also sometimes find themselves involved in divorce actions. Whether the ward you serve is pursuing the divorce or defending the divorce, this is a matter that the probate court should always be made aware of at the outset. Remember that divorce actions are legal proceedings and court approval is required prior to pursuing any legal proceeding. Court approval is also required to settle pending divorce action.

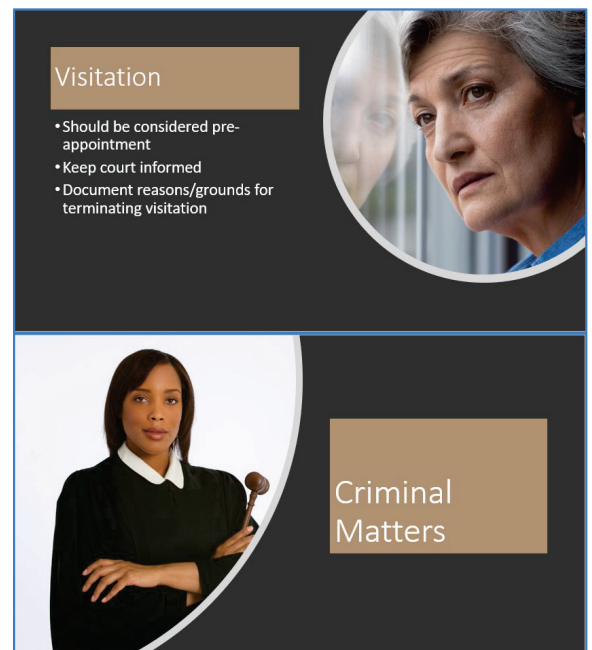
B. Children

1. **Children:** In the event a ward has a minor child, the Guardian of the Person will automatically become the Guardian of the Person of the minor child as well. If this obligation exceeds the ability of the guardian, the guardian should report it to the Probate Court prior to the birth of the child.
2. **Ward's Dependents:** The Probate Court has the jurisdiction, with or without application by the Guardian of the Person or the Estate, to order payment for just expenditures incurred or to be incurred on behalf of the ward or the dependents of the ward from the estate of the ward.

4.4. Visitation:

It is inappropriate and improper for a guardian to unilaterally restrict family members or friends from visiting the ward.

Sup.R. 66.09(E) requires that guardians be prepared to document and explain any visitation restriction imposed upon a ward.



4.5 Criminal Matters

A. A guardian's responsibility is to protect the ward from criminal liability.

Nevertheless, guardians may face situations where wards commit a crime or could potentially commit a crime.

B. Ward Commits a Crime

1. Seek Legal Counsel for Ward
 - a. Request Public Defender if needed.
 - b. Obtain Court's approval to use estate funds to retain counsel.
2. Competency in Criminal Matters

The standard for being incompetent to stand trial in a criminal matter is the same standard as for guardianship purposes.

3. If the ward is Incarcerated
 - a. Make sure he/she has prescription medication. Take copies of prescriptions to jail.
 - b. Report change of address to Probate Court
 - c. Guardianship of the Person duties will likely be suspended while the ward is in prison. Do not assume this—confirm it with Probate Court.
 - d. Guardianship of the Estate duties will continue subject to further order of the the Court.
4. If Ward is on Probation/Post-Release Supervision or Classified as a Sex Offender:
 - a. Be sure to follow any reporting and registration requirements.
 - b. Disclose the supervision to Court and providers.
 - c. Make sure providers are able to meet needs of the ward.
 - d. Ensure that residential placement does not put the ward in jeopardy of violating statutory requirements (i.e., do not approve placement right next to a school, etc.).
 - e. Seek professional counseling/help for the ward as needed.
 - f. Collaborate with community control officer.
5. If a ward is adjudicated incompetent to stand trial, guardians need to be aware that the statute of limitations may be tolled (suspended) under the appropriate circumstances. This means that if the ward’s circumstances or capacity changes then prosecution could be restarted.

4.6 Guardian Liability

A. Contracts

Guardians must be aware of what acts/mistakes could give rise to personal liability on the part of the guardian. Guardians will inevitably be required to enter into a contract on behalf of the ward being served. In such instances, it is important to know how guardians avoid personal liability for those contracts entered or debts managed on behalf of the ward. Guardian liability for contracts and guardian liability for debts are both addressed in R.C. 2111.151.

Pursuant to R.C. 2111.151(A), guardians do not have personal liability for contracts they enter into on behalf of a ward they are serving if:

1. The guardian is entering into the contract in his/her capacity as guardian.
2. The contract is within the guardian’s scope of authority. Be mindful of limitations that apply if the guardianship is limited to person only, estate only or otherwise limited by the Court.



3. The guardian's status is disclosed. Again, the signature is often the guardian's greatest shield to protect the guardian from personal liability. All documents and contracts should be uniformly signed in a clear representative capacity.

For example, "*Fred Flintstone, Guardian of the Estate for Barney Rubble.*"

B. Guardian Liability

1. Guardians are not personally liable for debts or acts of a ward unless one of the following applies:

- a. The guardian agrees to be personally liable; but be mindful, **Sup.R. 66.08(K)** directs the guardian to avoid situations that create a conflict of interest.

Example: Guardian agrees to guarantee payment of mom/dad's lease agreement/nursing home cost.

- b. A legal relationship exists that gives rise to a duty of support on the part of the guardian separate and apart from the existence of the guardianship;

Example: Certain family relationships give rise to a legal duty of support.

- c. The negligence of the guardian gives rise to the debt/expense; Negligence can include:

- i. Failure to file for appropriate benefits (i.e., Medicaid);
- ii. Failure to ensure ward's providers are able to fulfill ward's needs;
- iii. Failure to disclose pertinent information to 3rd parties;
- iv. Acts of the guardian go beyond the scope of the guardian's authority and gave rise to the debt.

2. Always disclose guardianship capacity in everything you sign:

"John Doe, by Gary Guardian, Guardian of the Person Only for John Doe"

"John Doe, by Gary Guardian, Guardian of the Estate Only for John Doe"

"John Doe, by Gary Guardian, Plenary Guardian for John Doe"

"John Doe, by Gary Guardian, Limited Guardian for Medical Only;"

3. Guardian of Person undertakes actions that are incumbent to the Guardian of Estate;
4. Guardian of Estate authorizes medical procedure, which typically is within the authority of Guardian of the Person.
5. Guardian of Estate expends funds without prior written Court approval.

Guardian Liability

Guardians *can be* liable if they:

1. Breach a fiduciary duty to ward
2. Improperly invest assets of ward
3. Agree to be liable
4. Have a legal duty to provide support



4.7. Guardian Succession Planning

A. All courts appreciate guardians planning ahead and providing input as to who should succeed them.

B. **Parent Guardians:** **ORC 2111.121(A)** provides that a parent of an incompetent adult child can nominate a guardian of the incompetent adult's person, estate or both. This same written nomination can also include one or more successor guardians.

1. The nomination must be in writing and signed by the person making the nomination 1) in the presence of two witnesses with an attestation of the witnesses that the person making the nomination signed the writing in their presence; or 2) in the presence of a notary public.
2. Keep in mind that while parents can nominate, only a court can appoint and if a court finds the nomination is not in the best interest of the ward, the court is not bound to follow the nomination.

C. **Co-Guardianship** is also used in some counties as a means of succession planning. Some counties encourage guardians to find successor guardians to serve as co-guardian. When the original guardian is no longer able to serve, he/she resigns and the co-guardian continues in place. While this is effective in certain situations, co-guardianship can also lead to disputes and problems when the co-guardians disagree. For this reason, some counties will not approve co-guardianships.



4.8 Moving

Moving within Ohio

A. **County to County Moves.** In the event that a Ward intends to move outside of the county where the guardianship was established, the Guardian should first contact the court. Some courts require court approval to move a Ward outside of the county and

other courts only require 10 day notice (unless the move is to a more restrictive setting in which case court approval is required from all courts).

B. **Guardianship Transfers.** A guardianship can be transferred from one county to the next upon request from the Guardian or by the court on its own initiative. It is always up to the court whether or not they will transfer the guardianship. Until such time as a formal transfer occurs, a Guardian should continue to make all filings with the original county probate court.



- C. **Benefits.** Medicaid Waivers and other state benefits will transfer from one county to the next. However, be advised that service availability does vary from one county to the next so to the extent the Ward is receiving any support services, the Guardian must investigate how the move will impact the services available in the new county prior to any move.

Removal of Guardian

- Removal:
 - Habitual drunkenness, neglect of duty, incompetence & fraudulent conduct
- Failure to report or account
- Unable to fulfill duties
- Court determines guardian no longer suitable



Moving outside of Ohio

- A. **Moving out of State.** Probate Court approval is always required to move a Ward out of the state.
- B. **Guardianship Transfers.** In the event a Ward moves out of state, the guardianship can be transferred to the new state pursuant to the Adult Guardianship and Protective Proceedings Jurisdiction Act (ORC 2112).
- C. **Benefits.** Medicaid Waivers and other state level benefits do not transfer from state to state. Accordingly, there is a significant amount of research and investigation that is required of the Guardian prior to moving a Ward out of state. The Guardian must fully investigate what services will be available and use that information during the decision-making process.

4.9 Removal of Guardian and Complaints

A. Removal of Guardian

1. Guardians may be removed after having been given ten (10) days notice for habitual drunkenness, neglect of duty, incompetency, and fraudulent conduct. R.C. 2109.24
2. Guardians may be removed for failure to timely file the inventory, an account or a Guardian's Report. R.C. 2109.25
3. If a guardian is unable to fulfill his/her duties, then the guardian may be removed (e.g., If a guardian is called away for military duty). R.C. 2109.25
4. The guardian may be removed at any time if the Probate Court determines that he/she is no longer suitable to serve as guardian.

B. Complaints about Guardians

1. **Sup.R. 66.03(B)** requires Probate Courts to establish local rules that provide a process for submitting comments and complaints regarding the performance of guardians.
2. The process consists of the following elements:

- a. **Notice.** Notice of the complaint must be given to the guardian.

Complaints About Guardian

- Sup.R. 66.03
- Probate Courts accept complaints
- Court is required to act on complaints
 - Notice
 - Action
 - Disposition
 - Record

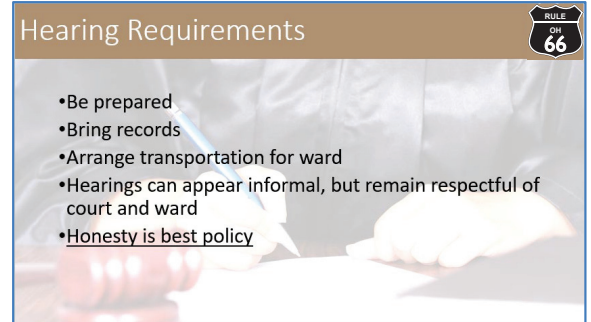


- b. **Action.** Courts are required to take prompt action. This will typically consist of dispatching a court investigator and scheduling a hearing.
- c. **Disposition.** Following the action referenced above, Courts must notify the complaining party of the disposition of the complaint.
- d. **Record.** Courts must maintain a record of the complaint and how the complaint was resolved.

4.10 Hearing Requirements

Basic rules apply to all guardianship hearings, including but not limited to hearings on appointment, review hearings, account hearings, termination hearings and hearings on complaints.

1. Always be prepared to discuss all facets of the guardianship. Bring guardianship log and other supporting documentation and details concerning actions taken and actions contemplated by guardian. Bring written evidence whenever necessary.
2. Arrange transportation for the ward to get to and from court. Wards have the right to attend all guardianship hearings.
3. Remain respectful of the court. Dress professionally and address the court respectfully. Some probate courts may appear informal but it is imperative that guardians remain respectful of the Court at all times. Although the hearing may appear informal all hearings are formal court business. Remember that probate court staff cannot give legal advice.
4. Admit mistakes and be forthright with the court. Guardians have numerous duties and responsibilities and mistakes may occur. If a mistake has occurred, admit the same to the probate court so that it is disclosed and can be appropriately addressed by the probate court.
5. Retain legal counsel. It is always best for guardians to be represented by an attorney in all legal proceedings.



Next Steps

After you finish the 6-hour *Fundamentals of Adult Guardianship* online course, you must do the following.

1. Complete and submit the **course evaluation** in **OhioCourtEDU**.
2. Submit your **certificate** to the **probate court** in the county where the guardianship is filed.
3. Remember you will be required to complete a 3 hour continuing education course every year to comply with your education requirements.

Appendix A

Selected Ohio Revised Code Statutes Related to Guardianship

2111.02 Appointment of guardian - limited, interim, emergency, cf guardian - nomination.

(A) If found necessary, a probate court on its own motion or on application by any interested party shall appoint, subject to divisions (C) and (D) of this section and to section 2109.21 and division (B) of section 2111.121 of the Revised Code, a guardian of the person, the estate, or both, of a minor or incompetent, provided the person for whom the guardian is to be appointed is a resident of the county or has a legal settlement in the county . If the person for whom the guardian is to be appointed is an adult, the person must be a qualified respondent as described in section 2112.21 of the Revised Code and have the opportunity to have the assistance of counsel in the proceeding for the appointment of that guardian. An interested party includes, but is not limited to, a person nominated in a durable power of attorney under section 1337.24 of the Revised Code or in a writing as described in division (A) of section 2111.121 of the Revised Code.

Except when the guardian of an incompetent is an agency under contract with the department of developmental disabilities for the provision of protective services under sections 5123.55 to 5123.59 of the Revised Code, the guardian of an incompetent, by virtue of the appointment as guardian, shall be the guardian of the minor children of the guardian's ward, unless the court appoints some other person as their guardian.

When the primary purpose of the appointment of a guardian is, or was, the collection, disbursement, or administration of moneys awarded by the veterans administration to the ward, or assets derived from those moneys, no court costs shall be charged in the proceeding for the appointment or in any subsequent proceedings made in pursuance of the appointment, unless the value of the estate, including the moneys then due under the veterans administration award, exceeds one thousand five hundred dollars.

(B)

(1) If the probate court finds it to be in the best interest of an incompetent or minor, it may appoint pursuant to divisions (A) and (C) of this section, on its own motion or on application by an interested party, a limited guardian with specific limited powers. The sections of the Revised Code, rules, and procedures governing guardianships apply to a limited guardian, except that the order of appointment and letters of authority of a limited guardian shall state the reasons for, and specify the limited powers of, the guardian. The court may appoint a limited guardian for a definite or indefinite period. An incompetent or minor for whom a limited guardian has been appointed retains all of the incompetent's or minor's rights in all areas not affected by the court order appointing the limited guardian.

(2) If a guardian appointed pursuant to division (A) of this section is temporarily or permanently removed or resigns, and if the welfare of the ward requires immediate action, at any time after the removal or resignation, the probate court may appoint, ex parte and with or without notice to the ward or interested parties, an interim guardian for a maximum period of fifteen days. If the court appoints the interim guardian ex parte or without notice to the ward, the court, at its first opportunity, shall enter upon its journal with specificity the reason for acting ex parte or without notice, and, as soon as possible, shall serve upon the ward a copy of the order appointing the interim guardian. For good cause shown, after notice to the ward and interested parties and after hearing, the court may extend an interim guardianship for a specified period, but not to exceed an additional thirty days.

(3) If a minor or incompetent has not been placed under a guardianship pursuant to division (A) of this section and if an emergency exists and it is reasonably certain that immediate action is required to prevent significant injury to the person or estate of the minor or incompetent, at any time after it receives notice of the emergency, the court, ex parte, may issue any order that it considers necessary to prevent injury to the person or estate of the minor or incompetent, or may appoint an emergency guardian for a maximum period of seventy-two hours. A written copy of any order issued by a court under this division shall be served upon the incompetent or minor as soon as possible after its issuance. Failure to serve that order after its issuance or prior to the taking of any action under its authority does not invalidate the order or the actions taken. The powers of an emergency guardian shall be specified in the letters of appointment, and shall be limited to those powers that are necessary to prevent injury to the person or estate of the minor or incompetent. If the court acts ex parte or without notice to the minor or incompetent, the court, at its first opportunity, shall enter upon its journal a record of the case and, with specificity, the reason for acting ex parte or without notice. For good cause shown, after notice to the minor or incompetent and interested parties, and after hearing, the court may extend an emergency guardianship for a specified period, but not to exceed an additional thirty days.

(C) Prior to the appointment of a guardian or limited guardian under division (A) or (B)(1) of this section, the court shall conduct a hearing on the matter of the appointment. The hearing shall be conducted in accordance with all of the following:

(1) The proposed guardian or limited guardian shall appear at the hearing and, if appointed, shall swear under oath that the proposed guardian or limited guardian has made and will continue to make diligent efforts to file a true inventory in accordance with section 2111.14 of the Revised Code and find and report all assets belonging to the estate of the ward and that the proposed guardian or limited guardian faithfully and completely will fulfill the other duties of guardian, including the filing of timely and accurate reports and accountings.

(2) If the hearing is conducted by a magistrate, the procedures set forth in Civil Rule 53 shall be followed.

(3) If the hearing concerns the appointment of a guardian or limited guardian for an alleged incompetent, the burden of proving incompetency shall be by clear and convincing evidence.

(4) Upon request of the applicant, the alleged incompetent for whom the appointment is sought or the alleged incompetent's counsel, or any interested party, a recording or record of the hearing shall be made.

(5) Evidence of a less restrictive alternative to guardianship may be introduced, and when introduced, shall be considered by the court.

(6) The court may deny a guardianship based upon a finding that a less restrictive alternative to guardianship exists.

(7) If the hearing concerns the appointment of a guardian or limited guardian for an alleged incompetent, the alleged incompetent has all of the following rights:

(a) The right to be represented by independent counsel of the alleged incompetent's choice;

(b) The right to have a friend or family member of the alleged incompetent's choice present;

(c) The right to have evidence of an independent expert evaluation introduced;

(d) If the alleged incompetent is indigent, upon the alleged incompetent's request:

(i) The right to have counsel and an independent expert evaluator appointed at court expense;

(ii) If the guardianship, limited guardianship, or standby guardianship decision is appealed, the right to have counsel appointed and necessary transcripts for appeal prepared at court expense.

(D)

(1) If a person has been nominated to be a guardian of the estate of a minor in or pursuant to a durable power of attorney under section 1337.24 of the Revised Code or a writing as described in division (A) of section 2111.121 of the Revised Code, the person nominated has preference in appointment over a person selected by the minor. A person who has been nominated to be a guardian of the person of a minor in or pursuant to a durable power of attorney or writing of that nature does not have preference in appointment over a person selected by the minor, but the probate court may appoint the person named in the durable power of attorney or the writing, the person selected by the minor, or another person as guardian of the person of the minor.

(2) A person nominated as a guardian of an incompetent adult child pursuant to a durable power of attorney under section 1337.24 or pursuant to section 2111.121 of the Revised Code shall have preference in appointment over a person applying to be guardian if the person nominated is competent, suitable, and willing to accept the appointment, and if the incompetent adult child does not have a spouse or an adult child and has not designated a guardian prior to the court finding the adult child incompetent.

Amended by 129th General Assembly File No. 163, HB 27, §1, eff. 3/22/2013.

Amended by 129th General Assembly File No. 65, SB 117, §1, eff. 3/22/2012.

Amended by 129th General Assembly File No. 52, SB 124, §1, eff. 1/13/2012.

Amended by 128th General Assembly ch. 52, SB 79, §1, eff. 10/6/2009.

Effective Date: 01-14-1997; 2008 SB157 05-14-2008

2111.04 Notice of appointment.

(A) Except for an interim or emergency guardian appointed under division (B)(2) or (3) of section 2111.02 of the Revised Code, no guardian of the person, the estate, or both shall be appointed until at least seven days after the probate court has caused written notice, setting forth the time and place of the hearing, to be served as follows:

(1) In the appointment of the guardian of a minor, notice shall be served as follows:

(a) Upon the minor, if over the age of fourteen, by personal service;

(b) Upon each parent of the minor whose name and address is known or with reasonable diligence can be ascertained, provided the parent is free from disability other than minority;

(c) Upon the next of kin of the minor who are known to reside in this state, if there is no living parent, the name and address of the parent cannot be ascertained, or the parent is under disability other than minority;

(d) Upon the person having the custody of the minor.

(2) In the appointment of the guardian of an incompetent, notice shall be served as follows:

(a)

(i) Upon the person for whom appointment is sought by personal service, by a probate court investigator, or in the manner provided in division (A)(2)(a)(ii) of this section. The notice shall be in boldface type and shall inform the alleged incompetent, in boldface type, of the alleged incompetent's rights to be present at the hearing, to contest any application for the appointment of a guardian for the alleged incompetent's person, estate, or both, and to be represented by an attorney and of all of the rights set forth in division (C)(7) of section 2111.02 of the Revised Code.

(ii) If the person for whom appointment is sought is a resident of, or has a legal settlement in, the county in which the court has jurisdiction, but is absent from that county, the probate court may designate, by order, a temporary probate court investigator, in lieu of a regular probate court investigator appointed or designated under section 2101.11 of the Revised Code, to make the personal service of the notice described in division (A)(2)(a)(i) of this section upon the person for whom appointment is sought.

(b) Upon the next of kin of the person for whom appointment is sought who are known to reside in this state.

(B) After service of notice in accordance with division (A) of this section and for good cause shown, the court may appoint a guardian prior to the time limitation specified in that division.

(C) Notice may not be waived by the person for whom the appointment is sought.

(D) From the service of notice until the hearing, no sale, gift, conveyance, or encumbrance of the property of an alleged incompetent shall be valid as to persons having notice of the proceeding.

Amended by 129th General Assembly File No.52, SB 124, §1, eff. 1/13/2012.

Effective Date: 01-01-1990

2111.13 Duties of guardian of person.

(A) When a guardian is appointed to have the custody and maintenance of a ward, and to have charge of the education of the ward if the ward is a minor, the guardian's duties are as follows:

(1) To protect and control the person of the ward;

(2) To provide suitable maintenance for the ward when necessary, which shall be paid out of the estate of such ward upon the order of the guardian of the person;

(3) To provide such maintenance and education for such ward as the amount of the ward's estate justifies when the ward is a minor and has no father or mother, or has a father or mother who fails to maintain or educate the ward, which shall be paid out of such ward's estate upon the order of the guardian of the person;

(4) To obey all the orders and judgments of the probate court touching the guardianship.

(B) Except as provided in section 2111.131 of the Revised Code, no part of the ward's estate shall be used for the support, maintenance, or education of such ward unless ordered and approved by the court.

(C) A guardian of the person may authorize or approve the provision to the ward of medical, health, or other professional care, counsel, treatment, or services unless the ward or an interested party files objections with the probate court, or the court, by rule or order, provides otherwise.

(D) Unless a person with the right of disposition for a ward under section 2108.70 or 2108.81 of the Revised Code has made a decision regarding whether or not consent to an autopsy or post-mortem examination on the body of the deceased ward under section 2108.50 of the Revised Code shall be given, a guardian of the person of a ward who has died may consent to the autopsy or post-mortem examination .

(E) If a deceased ward did not have a guardian of the estate , the estate is not required to be administered by a probate court, and a person with the right of disposition for a ward, as described in section 2108.70 or 2108.81 of the Revised Code, has not made a decision regarding the disposition of the ward's body or remains, the guardian of the person of the ward may authorize the burial or cremation of the ward.

(F) A guardian who gives consent or authorization as described in divisions (D) and (E) of this section shall notify the probate court as soon as possible after giving the consent or authorization.

Effective Date: 09-22-2000; 10-12-2006

2111.14 Duties of guardian of estate.

(A) In addition to a guardian's other duties, every guardian appointed to take care of the estate of a ward shall have the following duties:

(1) To make and file within three months after the guardian's appointment a full inventory of the real and personal property of the ward, its value, and the value of the yearly rent of the real property, provided that, if the guardian fails to file the inventory for thirty days after having been notified of the expiration of the time by the probate judge, the judge shall remove the guardian and appoint a successor;

(2) To manage the estate for the best interest of the ward;

(3) To pay all just debts due from the ward out of the estate in the possession or under the control of the guardian, collect all debts due to the ward, compound doubtful debts, and appear for and defend, or cause to be defended, all suits against the ward;

(4) To obey all orders and judgments of the courts touching the guardianship;

(5) To bring suit for the ward when a suit is in the best interests of the ward;

(6) To settle and adjust, when necessary or desirable, the assets that the guardian may receive in kind from an executor or administrator to the greatest advantage of the ward.

Before a settlement and adjustment is valid and binding, it shall be approved by the probate court and the approval shall be entered on its journal. The guardian also shall have the approval of the probate court to hold the assets as received from the executor or administrator or to hold what may be received in the settlement and adjustment of those assets.

(B) No guardian appointed to take care of the estate of a ward may open a safety deposit box held in the name of the ward, until the contents of the box have been audited by an employee of the county auditor in the presence of the guardian and until a verified report of the audit has been filed by the auditor with the probate court . The court then shall issue a release to the guardian permitting the guardian to have access to the safety deposit box of the ward.

Amended by 129th General Assembly File No.52, SB 124, §1, eff. 1/13/2012.

Effective Date: 10-08-1992

2111.15 Duties of guardian of person and estate.

When a person is appointed to have custody of the person and to take charge of the estate of a ward, such person shall have all the duties required of a guardian of the estate and of a guardian of the person.

Effective Date: 10-01-1953

2111.49 Report of guardian of incompetent.

(A)

(1) Subject to division (A)(3) of this section, the guardian of an incompetent person shall file a guardian's report with the court two years after the date of the issuance of the guardian's letters of appointment and biennially after that time, or at any other time upon the motion or a rule of the probate court. The report shall be in a form prescribed by the court and shall include all of the following:

(a) The present address of the place of residence of the ward;

(b) The present address of the guardian;

(c) If the place of residence of the ward is not the ward's personal home, the name of the facility at which the ward resides and the name of the person responsible for the ward's care;

(d) The approximate number of times during the period covered by the report that the guardian has had contact with the ward, the nature of those contacts, and the date that the ward was last seen by the guardian;

- (e) Any major changes in the physical or mental condition of the ward observed by the guardian;
- (f) The opinion of the guardian as to the necessity for the continuation of the guardianship;
- (g) The opinion of the guardian as to the adequacy of the present care of the ward;
- (h) The date that the ward was last examined or otherwise seen by a physician and the purpose of that visit;
- (i) A statement by a licensed physician, licensed clinical psychologist, licensed independent social worker, licensed professional clinical counselor, or developmental disability team that has evaluated or examined the ward within three months prior to the date of the report as to the need for continuing the guardianship.
- (2) The court shall review a report filed pursuant to division (A)(1) of this section to determine if a continued necessity for the guardianship exists. The court may direct a probate court investigator to verify aspects of the report.
- (3) Division (A)(1) of this section applies to guardians appointed prior to, as well as on or after, the effective date of this section. A guardian appointed prior to that date shall file the first report in accordance with any applicable court rule or motion, or, in the absence of such a rule or motion, upon the next occurring date on which a report would have been due if division (A)(1) of this section had been in effect on the date of appointment as guardian, and shall file all subsequently due reports biennially after that time.
- (B) If, upon review of any report required by division (A)(1) of this section, the court finds that it is necessary to intervene in a guardianship, the court shall take any action that it determines is necessary, including, but not limited to, terminating or modifying the guardianship.
- (C) Except as provided in this division, for any guardianship, upon written request by the ward, the ward's attorney, or any other interested party made at any time after the expiration of one hundred twenty days from the date of the original appointment of the guardian, a hearing shall be held in accordance with section 2111.02 of the Revised Code to evaluate the continued necessity of the guardianship. Upon written request, the court shall conduct a minimum of one hearing under this division in the calendar year in which the guardian was appointed, and upon written request, shall conduct a minimum of one hearing in each of the following calendar years. Upon its own motion or upon written request, the court may, in its discretion, conduct a hearing within the first one hundred twenty days after appointment of the guardian or conduct more than one hearing in a calendar year. If the ward alleges competence, the burden of proving incompetence shall be upon the applicant for guardianship or the guardian, by clear and convincing evidence.

Amended by 131st General Assembly, HB 158, §1, eff. 10/12/2016.

Effective Date: 03-18-1997

2111.50 Probate court is superior guardian of wards.

(A)(1) At all times, the probate court is the superior guardian of wards who are subject to its jurisdiction, and all guardians who are subject to the jurisdiction of the court shall obey all orders of the court that concern their wards or guardianships.

(2)(a) Subject to divisions (A)(2)(b) and (c) of this section, the control of a guardian over the person, the estate, or both of the guardian's ward is limited to the authority that is granted to the guardian by the Revised Code, relevant decisions of the courts of this state, and orders or rules of the probate court.

(b) Except for the powers specified in division (E) of this section and unless otherwise provided in or inconsistent with another section of the Revised Code, the probate court may confer upon a guardian any power that this section grants to the probate court in connection with wards. Nothing in this section is intended to create or imply a duty upon a guardian to apply for authority to exercise any power authorized in this section. No inference of impropriety or liability of the guardian or others associated with the guardian shall arise as a result of a guardian not applying for authority to exercise a power authorized in this section.

(c) For good cause shown, the probate court may limit or deny, by order or rule, any power that is granted to a guardian by a section of the Revised Code or relevant decisions of the courts of this state.

(B) In connection with any person whom the probate court has found to be an incompetent or a minor subject to guardianship and for whom the court has appointed a guardian, the court has, subject to divisions (C) to (E) of this section, all the powers that relate to the person and estate of the ward and that the ward could exercise if present and not a minor or under a disability, except the power to make or revoke a will. These powers include, but are not limited to, the power to do any of the following:

(1) Convey, release, or disclaim the present, contingent, or expectant interests in real or personal property of the ward, including, but not limited to, dower and any right of survivorship incident to a transfer on death designation, payable on death designation, survivorship tenancy, joint tenancy, or tenancy by the entireties;

(2) Exercise, release, or disclaim powers as a trustee, personal representative, custodian for a minor, guardian, or donee of a power of appointment;

(3) Subject to division (B)(4) of this section, enter into contracts that may not extend beyond the minority, disability, or life of the ward;

(4) Create, amend, or revoke revocable trusts of property of the estate of the ward that may extend beyond the minority, disability, or life of the ward;

(5) Exercise options to purchase securities or other property;

(6) Exercise rights to elect options under annuities and insurance policies, including changing beneficiaries of insurance policies, retirement plans, individual retirement accounts, and annuities, and to surrender an annuity or insurance policy for its cash value;

(7) Exercise the right to an elective share in the estate of the deceased spouse of the ward pursuant to Chapter 2106. of the Revised Code;

(8) Make gifts, in trust or otherwise, to relatives of the ward and, consistent with any prior pattern of the ward of giving to charities or of providing support for friends, to charities and friends of the ward.

(C) Except for the powers specified in division (D) of this section, all powers of the probate court that are specified in this chapter and that relate either to any person whom it has found to be an incompetent or a minor subject to guardianship and for whom it has appointed a guardian and all powers of a guardian that relate to the guardian's ward or guardianship as described in division (A)(2) of this section, shall be exercised in the best interest, as determined in the court's or guardian's judgment, of the following:

(1) The ward whom the probate court has found to be an incompetent or a minor subject to guardianship;

(2) The dependents of the ward;

(3) The members of the household of the ward.

(D) If the court is to exercise or direct the exercise, pursuant to division (B) of this section, of the power to make gifts in trust or otherwise, the following conditions shall apply:

(1) The exercise of the particular power shall not impair the financial ability of the estate of the ward whom the probate court has found to be an incompetent or a minor subject to guardianship and for whom the court has appointed a guardian, to provide for the ward's foreseeable needs for maintenance and care;

(2) If applicable, the court shall consider any of the following:

(a) The estate, income, and other tax advantages of the exercise of a particular power to the estate of a ward whom the probate court has found to be an incompetent or a minor subject to guardianship and for whom the court has appointed a guardian;

(b) Any pattern of giving of, or any pattern of support provided by, the ward prior to the ward's incompetence;

(c) The disposition of property made by the ward's will or revocable trust;

(d) If there is no knowledge of a will or revocable trust of the ward, the ward's prospective heirs;

(e) Any relevant and trustworthy statements of the ward, whether established by hearsay or other evidence.

(E)(1) The probate court shall cause notice as described in division (E)(2) of this section to be given and a hearing to be conducted prior to its exercise or direction of the exercise of any of the following powers pursuant to division (B) of this section:

(a) The exercise, release, or disclaimer of powers as a donee of a power of appointment;

(b) Unless the amount of the gift is no more than one thousand dollars, the making of a gift, in trust or otherwise;

(c) The power to create, amend, or revoke a revocable trust as described in division (B)(4) of this section;

(d) The power to exercise rights to elect options under annuities and insurance policies, including changing beneficiaries of insurance policies, retirement plans, individual retirement accounts, and annuities, and to surrender an annuity or insurance policy for its cash value, as described in division (B)(6) of this section.

(2) The notice required by division (E)(1) of this section shall be given to the following persons:

(a) Unless a guardian of a ward has applied for the exercise of a power specified in division (E)(1) of this section, to the guardian;

(b) To the ward whom the probate court has found to be an incompetent or a minor subject to guardianship;

(c) If known, to a guardian who applied for the exercise of a power specified in division (E)(1) of this section, to the prospective heirs of the ward whom the probate court has found to be an incompetent or a minor subject to guardianship under section [2105.06](#) of the Revised Code, to the beneficiaries under the last known will of the ward or under an existing revocable trust of the ward, and to any person who has a legal interest in property that may be divested or limited as the result of the exercise of a power specified in division (E)(1) of this section;

(d) To all of the following as applicable:

(i) The heirs at law and next of kin of the ward;

(ii) The beneficiaries under an existing will or revocable trust of the ward;

(iii) The beneficiaries of any insurance policies, retirement plans, individual retirement accounts, and annuities owned by the ward;

(iv) The beneficiaries under any proposed revocable trust and the proposed beneficiaries under any changes in the designation of beneficiaries of any insurance policies, retirement plans, individual retirement accounts, or annuities as described in division (E)(2)(d)(iii) of this section.

(e) To any other persons the court orders.

(F) When considering any question related to, and issuing orders for, medical or surgical care or treatment of incompetents or minors subject to guardianship, the probate court has full *parens patriae* powers unless otherwise provided by a section of the Revised Code.

Amended by 134th General Assembly House Bill 7, §1, eff. 8/17/2021

Amended by 129th General Assembly File No. 52, SB 124, §1, eff. 1/13/2012.

Effective Date: 01-01-1990

Appendix B

RULES OF SUPERINTENDENCE FOR THE COURTS OF OHIO

RULE 66.01. Definitions.

As used in Sup.R. 66.01 through 66.09:

(A) Best interest

“Best interest” means the course of action that maximizes what is best for a ward, including consideration of the least intrusive, most normalizing, and least restrictive course of action possible given the needs of the ward.

(B) Direct services

“Direct services” means services typically provided by home and community-based care and institutionally-based care providers, including medical and nursing care, care or case management services, care coordination, speech therapy, occupational therapy, physical therapy, psychological services, counseling, residential, legal representation, job training, and any other similar services. The term “direct services” does not include services of a guardian.

(C) Guardian

“Guardian” has the same meaning as in R.C. 2111.01(A).

(D) Ward

“Ward” means any adult person found by the probate division of a court of common pleas to be incompetent and for whom a guardianship is established.

(E) Guardianship services

“Guardianship services” means the duties assigned to a guardian in an adult guardianship case pursuant to R.C. Chapters 2109 and 2111.

RULE 66.02. Application of Rules.

(A) General

Sup.R. 66.01 through 66.09 shall apply in an adult guardianship case where the probate division of a court of common pleas appoints a guardian to protect and control a ward pursuant to R.C. 2111.02, provided the appointing court for good cause may, by order of the court, exempt a guardian who is related to the ward by consanguinity or affinity.

(B) Corporation as guardian

Sup.R. 66.01 through 66.09 shall apply to the employees of a corporation who provide guardianship services in an adult guardianship case where the probate division of a court of common pleas appoints the corporation as guardian.

RULE 66.03. Local Guardianship Rule.

The probate division of a court of common pleas that establishes guardianships shall adopt local rules governing the establishment of guardianships that do all of the following:

- (A) Establish a process for emergency guardianships;
- (B) Establish a process for submitting in electronic format or hard copy comments and complaints regarding the performance of guardians appointed by the court and for considering such comments and complaints. The process shall include each of the following:
 - (1) The designation of a person for accepting and considering comments and complaints;
 - (2) A requirement that a copy of the submitted comment or complaint be provided to the guardian who is the subject of the comment or complaint;
 - (3) A requirement that the court give prompt consideration to the comment or complaint and take appropriate action;
 - (4) A requirement that the court maintain a record regarding the nature and disposition of the comment or complaint;
 - (5) A requirement that the court notify the person making the comment or complaint and the guardian of the disposition of the comment or complaint.
- (C) Addresses other provisions as the court considers necessary and appropriate, including but not limited to indicating where filed comments and complaints will be kept.

RULE 66.04. Establishment of Guardianship.

(A) Scope of guardianship

When establishing a guardianship, the probate division of a court of common pleas shall consider a limited guardianship before establishing a plenary guardianship.

(B) County of residence

The last county of residence in Ohio in which a ward resided prior to losing the cognitive ability to choose shall be the ward's county of residence for purposes of establishing a guardianship, unless determined otherwise by the probate division of the court of common pleas establishing the guardianship.

(C) Guardianship of estate

The probate division of a court of common pleas may waive establishing or continuing the guardianship of the estate of a ward if the assets and principal income of the ward do not support a guardianship of the estate.

(D) Restrictions on direct service providers

The probate division of a court of common pleas shall not issue letters of guardianship to any direct service provider to serve as a guardian for a ward for whom the provider provides direct services, unless otherwise authorized by law.

RULE 66.05. Responsibilities of Court Establishing Guardianship

(A) General responsibilities

The probate division of a court of common pleas that establishes a guardianship shall do both of the following:

- (1) Conduct, or cause to be conducted, a criminal background check. If the applicant to serve as a guardian is an attorney, the court may accept a certificate of good standing with disciplinary information issued by the Supreme Court in place of a criminal background check.
- (2) Require each guardian appointed by the court to submit to the court information documenting compliance with the guardian qualifications pursuant to Sup.R. 66.06 or 66.07, as applicable.

(B) Responsibilities regarding guardians with ten or more wards

The probate division of a court of common pleas shall do all of the following with respect to guardians with ten or more wards under the guardian's care:

- (1) Maintain a roster, including the name, address, telephone number, and electronic mail address, of the guardians. The court shall require the guardians to notify the court of any changes to this information.
- (2) Require the guardians to include in the guardian's report a certification stating that the guardian is unaware of any circumstances that may disqualify the guardian from serving as a guardian;
- (3) Require the guardians to submit to the court an annual fee schedule that differentiates guardianship services fees, as established pursuant to local rule, from legal or other direct services;
- (4) On or before March 1st of each year, review the roster of guardians to determine if the guardians are in compliance with the education requirements of Sup.R. 66.06 or 66.07, as applicable, and that the guardians are otherwise qualified to serve.

RULE 66.06. Guardian Pre-Appointment Education.

(A) Requirement

Except as provided in division (B) of this rule, the probate division of a court of common pleas shall not appoint an individual as a guardian unless, at the time of appointment or within six months thereafter, the individual has successfully completed, at a minimum, a six-hour guardian fundamentals course provided by the Supreme Court or, with the prior approval of the appointing court, another entity. The fundamentals course shall include, at a minimum, education on the following topics:

- (1) Establishing the guardianship;
- (2) The ongoing duties and responsibilities of a guardian;
- (3) Record keeping and reporting duties of a guardian;
- (4) Any other topic that concerns improving the quality of the life of a ward.

(B) Exception

An individual serving as a guardian on June 1, 2015, or who served as a guardian during the five years immediately preceding that date shall have until June 1, 2016, to complete the training required under division (A) of this rule unless the appointing court waives or extends the requirement for good cause.

RULE 66.07. Guardian Continuing Education.

(A) Requirement

In each succeeding year following completion of the requirement of Sup.R. 66.06, a guardian appointed by the probate division of a court of common pleas shall successfully complete a continuing education course that meets all of the following requirements:

- (1) Is at least three hours in length;
- (2) Is provided by the Supreme Court or, with the prior approval of the appointing court, another entity;
- (3) Is specifically designed for continuing education needs of guardians and consists of advanced education relating to the topics listed in Sup.R. 66.06(A)(1) through (4).

(B) Annual compliance

On or before January 1st of each year, a guardian shall report to each probate division of a court of common pleas from which the guardian receives appointments information documenting compliance with the continuing education requirement pursuant to division

(A) of this rule, including the title, date, location, and provider of the education or a certificate of completion.

(C) Failure to comply

If a guardian fails to comply with the continuing education requirement of division (A) of this rule, the guardian shall not be eligible for new appointments to serve as a guardian until the requirement is satisfied. If the deficiency in continuing education is more than three calendar years, the guardian shall complete, at a minimum, a six-hour fundamentals course pursuant to Sup.R. 66.06(A) to qualify again to serve as a guardian.

RULE 66.08. General Responsibilities of Guardian.

(A) Orders, rules, and laws

A guardian shall obey all orders of the probate division of a court of common pleas establishing the guardianship and shall perform duties in accordance with local rules and state and federal law governing guardianships.

(B) Pre-appointment meeting

Unless otherwise determined by the probate division of a court of common pleas, an applicant guardian shall meet with a proposed ward at least once prior to appearing before the court for a guardianship appointment.

(C) Reporting abuse, neglect, or exploitation

A guardian shall immediately report to the probate division of a court of common pleas and, when applicable, to adult protective services any appropriate allegations of abuse, neglect, or exploitation of a ward.

(D) Limitation or termination of guardianship

A guardian shall seek to limit or terminate the guardianship authority and promptly notify the probate division of a court of common pleas if any of the following occurs:

- (1) A ward's ability to make decisions and function independently has improved;
- (2) Less restrictive alternatives are available;
- (3) A plenary guardianship is no longer in the best interest of a ward;
- (4) A ward has died.

(E) Change of residence

(1) A guardian shall notify the probate division of a court of common pleas of a ward's change of residence and the reason for the change. Except if impracticable, the guardian shall notify the court no later than ten days prior to the proposed change.

(2) A ward's change of residence to a more restrictive setting in or outside of the county of the guardian's appointment shall be subject to the court's approval, unless a delay in authorizing the change of residence would affect the health and safety of the ward.

(F) Court approval of legal proceedings

A guardian shall seek approval from the probate division of a court of common pleas before filing a suit for the ward.

(G) Annual plan

A guardian of a person shall file annually with the probate division of the court of common pleas a guardianship plan as an addendum to the guardian's report.

A guardian of an estate may be required to file an annual guardianship plan with the probate division of the court of common pleas. The guardianship plan shall state the guardian's goals for meeting the ward's personal and financial needs.

(H) Annual registration

All guardians appointed by the court who have ten or more wards under their care shall annually register with the probate division of the court of common pleas and provide such information as the court may require, including but not limited to a fee schedule that differentiates guardianship services from legal or other direct services.

(I) Ward's principal income

A guardian shall inform the probate division of the court of common pleas and apply to close the guardianship of the estate if the principal income of the ward is from governmental entities, a payee for that income is identified, and no other significant assets or income exist.

(J) Limits on guardian's compensation

(1) A guardian's compensation is subject to Sup.R. 73.

(2) A guardian who is in receipt of fees other than through the guardianship of the estate shall report to the probate division of the court of common pleas the source and entity which reviewed and authorized payment.

(3) A guardian shall not receive incentives or compensation from any direct service provider providing services to a ward.

(K) Conflict of interest

A guardian shall avoid actual or apparent conflicts of interest regarding a ward's personal or business affairs. A guardian shall report to the probate division of the court of common pleas all actual or apparent conflicts of interest for review and determination as to whether a waiver of the conflict of interest is in the best interest of the ward.

(L) Filing of ward's legal papers

In addition to filing an inventory, if applicable, pursuant to R.C. 2111.14(A) (1) and within three months after the guardian's appointment, a guardian shall file with the probate division of the court of common pleas a list of all of the ward's important legal papers, including but not limited to estate planning documents, advance directives, and powers of attorney, and the location of such legal papers, if known at the time of the filing.

RULE 66.09. Responsibilities of Guardian to Ward.

(A) Professionalism, character, and integrity

A guardian shall act in a manner above reproach, including but not limited to avoiding financial exploitation, sexual exploitation, and any other activity that is not in the best interest of the ward.

(B) Exercising due diligence

A guardian shall exercise due diligence in making decisions that are in the best interest of a ward, including but not limited to communicating with the ward and being fully informed about the implications of the decisions.

(C) Least restrictive alternative

Unless otherwise approved by the probate division of a court of common pleas, a guardian shall make a choice or decision for a ward that best meets the needs of the ward while imposing the least limitations on the ward's rights, freedom, or ability to control the ward's environment. To determine the least restrictive alternative, a guardian may seek and consider an independent assessment of the ward's functional ability, health status, and care needs.

(D) Person-centered planning

A guardian shall advocate for services focused on a ward's wishes and needs to reach the ward's full potential. A guardian shall strive to balance a ward's maximum independence and self-reliance with the ward's best interest.

(E) Ward's support system

A guardian shall strive to foster and preserve positive relationships in the ward's life unless such relationships are substantially harmful to the ward. A guardian shall be prepared to explain the reasons a particular relationship is severed and not in the ward's best interest.

(F) Communication with ward

(1) A guardian shall strive to know a ward's preferences and belief system by seeking information from the ward and the ward's family and friends.

(2) A guardian shall do all of the following:

(a) Meet with the ward as needed, but not less than once quarterly or as determined by the probate division of the court of common pleas;

(b) Communicate privately with the ward;

(c) Assess the ward's physical and mental conditions and limitations;

- (d) Assess the appropriateness of the ward's current living arrangements;
- (e) Assess the needs for additional services;
- (f) Notify the court if the ward's level of care is not being met;
- (g) Document all complaints made by a ward and assess the need to report the complaints to the court of common pleas.

(G) Direct services

Except as provided in Sup.R. 66.04(D), a guardian shall not provide any direct services to a ward, unless otherwise approved by the court.

(H) Monitor and coordinate services and benefits

A guardian shall monitor and coordinate all services and benefits provided to a ward, including doing all of the following as necessary to perform those duties:

- (1) Having regular contact with all service providers;
- (2) Assessing services to determine they are appropriate and continue to be in the ward's best interest;
- (3) Maintaining eligibility for all benefits;
- (4) Where the guardian of the person and guardian of the estate are different individuals, consulting regularly with each other.

(I) Extraordinary medical issues

(1) A guardian shall seek ethical, legal, and medical advice, as appropriate, to facilitate decisions involving extraordinary medical issues.

(2) A guardian shall strive to honor the ward's preferences and belief system concerning extraordinary medical issues.

(J) End of life decisions

A guardian shall make every effort to be informed about the ward's preferences and belief system in making end of life decisions on behalf of the ward.

(K) Caseload

A guardian shall appropriately manage the guardian's caseload to ensure the guardian is adequately supporting and providing for the best interest of the wards in the guardian's care.

(L) Duty of confidentiality

A guardian shall keep the ward's personal and financial information confidential, except when disclosure is in the best interest of the ward or upon order of the probate division of a court of common pleas.

RULE 73. Guardian's Compensation.

(A) Setting of compensation

Guardian's compensation shall be set by local rule.

(B) Itemization of expenses

A guardian shall itemize all expenses relative to the guardianship of the ward and shall not charge fees or costs in excess of those approved by the probate division of a court of common pleas.

(C) Additional compensation

Additional compensation for extraordinary services, reimbursement for expenses incurred and compensation of a guardian of a person only may be allowed upon an application setting forth an itemized statement of the services rendered and expenses incurred and the amount for which compensation is applied. The probate division of a court of common pleas may require the application to be set for hearing with notice given to interested persons in accordance with Civ.R. 73(E).

(D) Co-guardians

The compensation of co-guardians in the aggregate shall not exceed the compensation that would have been allowed to one guardian acting alone.

(E) Denial or reduction of compensation

The probate division of a court of common pleas may deny or reduce compensation if there is a delinquency in the filing of an inventory or account, or after hearing, the court finds the guardian has not faithfully discharged the duties of the office.

Appendix C

Selected Guardianship Forms

Form No.	Form Name	Page No.
15.0	Next of Kin of Proposed Ward	106
15.1	Waiver of Notice and Consent	107
15.2	Fiduciary's Acceptance – Guardian	108
15.3	Guardian's Bond	109
15.4	Letters of Guardianship	110
15.5	Guardian's Inventory	111
15.6	Application to Release Funds to Guardian	112
15.7	Application for Authority to Expend Funds	113
15.8	Guardian's Account	114
15.9	Oath of Guardian	116
17.0	Application for Appointment of Guardian (an Alleged Incompetent)	117
17.1	Statement of Expert Evaluation	119
17.5	Judgment Entry Appointment of Guardian for Incompetent Person	123
17.7	Guardian's Report	124
27.2	Notification of Compliance with Guardian Education Requirements	126
27.3	Notice of/Application for Change of Address	127
27.7	Annual Guardianship Plan-Person	128
27.8	Annual Guardianship Plan-Estate	130
27.9	Application to Terminate Guardianship	131
27.11	Notification of Ward's Important Legal Papers	133

For a full list of up-to-date forms, please visit:

http://www.supremecourt.ohio.gov/LegalResources/Rules/superintendence/probate_for_ms/Default.asp

PROBATE COURT OF _____ COUNTY, OHIO

IN THE MATTER OF THE GUARDIANSHIP OF _____

CASE NO. _____

NEXT OF KIN OF PROPOSED WARD

[R.C. 2111.04]

(NOTE: Specify age and birthdate of each minor under 16 on the line containing the minor's name. List the name and address of the minor's parent, guardian or custodian on the name and address lines following the minor's address.)

Service Waived	Name	Relationship	Birthdate Of Minor
1. []	Name _____	_____	_____
	Address _____	_____	Zip _____
2. []	Name _____	_____	_____
	Address _____	_____	Zip _____
3. []	Name _____	_____	_____
	Address _____	_____	Zip _____
4. []	Name _____	_____	_____
	Address _____	_____	Zip _____
5. []	Name _____	_____	_____
	Address _____	_____	Zip _____
6. []	Name _____	_____	_____
	Address _____	_____	Zip _____
7. []	Name _____	_____	_____
	Address _____	_____	Zip _____
8. []	Name _____	_____	_____
	Address _____	_____	Zip _____
9. []	Name _____	_____	_____
	Address _____	_____	Zip _____
10. []	Name _____	_____	_____
	Address _____	_____	Zip _____

Date

Applicant

PROBATE COURT OF _____ COUNTY, OHIO

IN THE MATTER OF THE GUARDIANSHIP OF _____

CASE NO. _____

WAIVER OF NOTICE AND CONSENT

We, the undersigned, do each of us hereby waive the issuing and service of notice, and voluntarily enter our appearance herein.

We do hereby consent to the appointment of _____.

PROBATE COURT OF _____ COUNTY, OHIO

IN THE MATTER OF THE GUARDIANSHIP OF _____

CASE NO. _____

FIDUCIARY'S ACCEPTANCE

GUARDIAN

[R.C. 2111.14]

I, the undersigned, hereby accept the duties which are required of me by law, and such additional duties as are ordered by the Court having jurisdiction.

AS GUARDIAN OF THE ESTATE, I WILL:

1. Make and file an inventory of the real and personal estate of the ward within 3 months after my appointment.
2. Deposit funds which come into my hands in a lawful depository located within this state.
3. Invest surplus funds in a lawful manner.
4. Make and file an account biennially, or as directed by the Court.
5. File a final account within 30 days after the guardianship is terminated.
6. Inventory any safe deposit box of the ward.
7. Preserve any and all Wills of the ward as directed by the Court.
8. Expend funds only upon written approval of the Court.
9. Make and file a guardian's report biennially, or as directed by the Court.

AS GUARDIAN OF THE PERSON, I WILL:

1. Protect and control the person of my ward, and make all decisions for the ward based upon the best interest of the ward.
2. Provide suitable maintenance for my ward when necessary.
3. Provide such maintenance and education for my ward as the amount of the estate justifies if the ward is a minor and has no parents, or has a parent who fails to maintain and educate the ward.
4. Make and file a guardian's report biennially, or as directed by the Court.
5. Obey all orders and judgments of the Court pertaining to the guardianship.
6. Obtain the written approval of the Court before executing a caretaker power of attorney authorized by R.C. 3109.52.

If I change my address or the ward's address, I shall immediately notify Probate Court in writing. I acknowledge that I am subject to removal as such fiduciary if I fail to perform such duties. I also acknowledge that I am subject to possible penalties for improper conversion of the property which I hold as such fiduciary.

Date

Fiduciary

Print Form

PROBATE COURT OF _____ COUNTY, OHIO

IN THE MATTER OF THE GUARDIANSHIP OF _____

CASE NO. _____

GUARDIAN'S BOND

[R.C. 2109.04(A)(1)]

Amount of this bond \$ _____

The undersigned principal, and sureties if any, are obligated to the State of Ohio in the above amount, for payment of which we bind ourselves and our successors, heirs, executors, and administrators, jointly and severally.

The principal has accepted in writing the duties of fiduciary in ward's estate, including those imposed by law and such additional duties as may be required by the Court.

This obligation is void if the principal performs such duties as required.

This obligation remains in force if the principal fails to perform such duties, or performs them tardily, negligently, or improperly, or if the principal misuses or misappropriates estate assets or improperly converts them to the principal's own use or the use of another.

[Check if personal sureties are involved.] The sureties certify that each of them owns real estate in this county, with a reasonable net value as stated below.

Date

Principal

Surety

Surety

by _____
Attorney in Fact

by _____
Attorney in Fact

Typed or Printed Name

Typed or Printed Name

Address

Address

Net value of real estate owned in this county

Net value of real estate owned in this county

\$ _____

\$ _____

PROBATE COURT OF _____ COUNTY, OHIO

IN THE MATTER OF THE GUARDIANSHIP OF _____

CASE NO. _____

LETTERS OF GUARDIANSHIP

[R.C. 2111.02]

_____ is appointed Guardian of _____, an _____ Incompetent _____ Minor.

Guardian's powers are:

All powers conferred by the laws of Ohio and rules of this Court over the ward's:

_____ Person and Estate _____ Person Only _____ Estate Only

Limited to _____

Those guardianship powers, until revoked, are for an:

_____ Indefinite time period
_____ Definite time period to _____

The above named Guardian has the power conferred by law to do and perform all the duties of Guardian as described. **No expenditures shall be made without prior Court authorization.**

Date

PROBATE JUDGE

NOTICE TO FINANCIAL INSTITUTIONS
Funds being held in the name of the within-named Ward shall not be released to Guardian without a Court order directing release of a specific fund and amounts thereof.

CERTIFICATE OF APPOINTMENT AND INCUMBENCY

The above document is a true copy of the original kept by me as custodian of this Court. It constitutes the appointment and letters of authority of the named guardian, who is qualified and acting in such capacity.

(Seal)

Probate Judge
by _____
Deputy Clerk

Date

PROBATE COURT OF _____ COUNTY, OHIO

IN THE MATTER OF THE GUARDIANSHIP OF _____

CASE NO. _____

GUARDIAN'S INVENTORY

[R.C. 2111.14(A)]

**of the real and personal estate of the ward with its
value and the value of the yearly rent of the real estate**

List any safe deposit box and date and location of any will. \$ _____

RECAPITULATION

Total value of Personal Estate \$ _____
Total value of Real Estate \$ _____
Yearly rent of Real Estate \$ _____
Other Annual Income \$ _____
Total \$ _____

Guardian

PROBATE COURT OF _____ COUNTY, OHIO

IN THE MATTER OF THE GUARDIANSHIP OF _____

CASE NO. _____

APPLICATION TO RELEASE FUNDS TO GUARDIAN

Now comes the guardian of the above named ward and makes application for authority to secure the release of the following funds of the ward.

The applicant further states that it is for the best interest of the ward that this authority be granted.

Guardian

ORDER AUTHORIZING RELEASE OF FUNDS

This _____ day of _____, 20____, this cause came on to be heard upon the application of the guardian of the above named ward and the evidence, and the Court being fully advised in the premises, hereby authorized the release of the above named funds to the guardian.

Probate Judge

PROBATE COURT OF _____ COUNTY, OHIO

IN THE MATTER OF THE GUARDIANSHIP OF _____

CASE NO. _____

APPLICATION FOR AUTHORITY TO EXPEND FUNDS

Now comes the undersigned, guardian of the estate of the above named _____ minor _____ incompetent ward, and makes application for authority to expend funds for the best interest of the ward as follows: [State amount requested, nature of expenditure, and the frequency and duration of authority requested. Attach additional explanation, documentation, or estimates as needed.]

Guardian

ORDER AUTHORIZING EXPENDITURE OF FUNDS

This _____ day of _____, 20____, this cause came on to be heard upon the application of the guardian of the estate of the above named ward and the evidence, and the Court being fully advised in the premises, hereby authorizes the guardian to expend funds as set forth in the Application.

Probate Judge

PROBATE COURT OF _____ COUNTY, OHIO

IN THE MATTER OF THE GUARDIANSHIP OF _____

CASE NO. _____

GUARDIAN'S ACCOUNT

[R.C. 2109.30]

_____ ACCOUNT

FROM _____ TO _____

20__

(Balance from previous account) Voucher \$ \$
No.

RECAPITULATION

Total Receipts _____ \$ _____
 Total Disbursements _____ \$ _____
 Balance Remaining _____ \$ _____

ITEMIZED STATEMENT OF ALL FUNDS, ASSETS AND INVESTMENTS

ITEM _____

\$

Attorney

Guardian

Attorney Registration No. _____

Typed or Printed Name

Address of Guardian

ENTRY SETTING HEARING

The Court sets _____ at _____
o'clock _____.M., as the date and time for hearing the above account.

Date

Probate Judge

PROBATE COURT OF _____ COUNTY, OHIO
_____, Judge

GUARDIANSHIP OF _____

CASE NO. _____

OATH OF GUARDIAN
[R.C. 2111.02(C)]
[To be taken on Appointment of Guardian]

I, _____, Guardian of
_____, will faithfully and completely fulfill my duties as Guardian,
including the duty:

- To file, and continue to make diligent efforts to file, a true inventory in accordance with the Ohio Revised Code, and report all assets belonging to the estate of my ward.
- To file timely and accurate reports.
- To file timely and accurate accounts.
- To, at all times, protect my ward's interests and to make all decisions based on the best interest of my ward.
- To apply to the Court for authority to expend funds prior to so doing.
- To obey all orders and rules of this Court pertaining to guardianships.

Guardian

The above oath was taken and signed in my presence on this _____ day of
_____, _____.

Judge/Referee

PROBATE COURT OF _____ COUNTY, OHIO
_____, JUDGE

GUARDIANSHIP OF _____

CASE NO. _____

APPLICATION FOR APPOINTMENT OF GUARDIAN
OF ALLEGED INCOMPETENT
[R.C. 2111.03]

Applicant represents to the Court that _____ resides or has a legal settlement at _____ in _____ County, Ohio and that the prospective ward is incompetent by reason of (R.C. 2111.01(D)) _____.

The proposed ward's date of birth is _____.

A Statement of Expert Evaluation is attached. (Form 17.1)

A list of Next of Kin of Proposed Ward is also attached. (Form 15.0)

The whole estate of the prospective ward is estimated as follows:

Personal Property.....\$ _____
Real Estate.....\$ _____
Annual Rents.....\$ _____
Other annual income.....\$ _____

Applicant represents that the applicant is not an administrator, executor or other fiduciary of the estate wherein the alleged incompetent is interested.

Applicant offers the attached bond in the amount of \$ _____.

Applicant further represents that a guardian of the alleged incompetent is necessary in order that the ward ward's property may be taken proper care of and asks that a guardian be appointed.

TYPE OF GUARDIANSHIP APPLIED FOR IS [check the applicable boxes]

non-limited limited person and estate estate only person only

If limited guardianship is applied for, the limited powers requested are

The time period requested is indefinite definite to _____

Applicant's relationship to alleged incompetent is _____

The Applicant has (not) been charged with or convicted of a crime involving theft, physical violence, or sexual, alcohol or substance abuse except as follows (if applicable, state date and place of each charge or each conviction.)

The Applicant represents that a guardian has been nominated in a writing pursuant to R.C. 1337.09(D) or R.C. 2111.121. The nominated person is _____

The nominated person's contact information is listed on Form 15.0 (Next of Kin).

A copy of the document which nominates the guardian is attached.

The Applicant represents that the proposed ward had military service.

Military I.D.: _____

Branch of service: _____

Dates of service: _____

Applicant represents that the address provided is the applicant's permanent address and acknowledges the requirement that the court be notified of any change of address. Removal may result from a failure to comply with this requirement.

Attorney for Applicant

Applicant

Typed or Printed Name

Typed or Printed Name

Address

Age

City State Zip

Permanent Address

Telephone Number (include area code)

City State Zip

Attorney Registration No.

Telephone Number (include area code)

IN THE MATTER OF THE GUARDIANSHIP OF _____

CASE NO. _____

STATEMENT OF EXPERT EVALUATION

[Sup. R. 66 & R.C. 2111.49]

Definition of Incompetent (R.C. 2111.01(D)): "Incompetent" means any person who is so mentally impaired as a result of a mental or physical illness or disability, or mental retardation, or as a result of chronic substance abuse, that the person is incapable of taking proper care of the person's self or property or fails to provide for the person's family or other persons for whom the person is charged by law to provide, or any person confined to a correctional institution within this State."

The Statement of Evaluation does not declare the individual competent or incompetent, but is evidence to be considered by the Court. The fee for completing this evaluation **WILL NOT** be paid by the Probate Court. Each evaluator should secure payment from the Applicant/Guardian.

1. This Statement of Expert Evaluation is to be filed with or attached to:
- A. Guardianship Application: Completed by Licensed Physician or Licensed Clinical Psychologist prior to the filing and attached to the application.
 - B. Guardian's Report: Completed by Licensed Physician Licensed Clinical Psychologist Licensed Independent Social Worker Licensed Professional Clinical Counselor or Mental Retardation Team.
The evaluation or examination shall be completed within three months prior to the date of the Report. R.C. 2111.49
 - C. Application for Emergency Guardian: of the person: a Licensed Physician shall complete the Supplement for Emergency Guardian, form 17.1A with specificity indicating the emergency, and why immediate action is required to prevent significant injury to the person. The Supplement shall be signed, dated, and attached as part of this completed Statement.

2. Statement completed by:
Name & Title/Profession: _____
Business Address: _____
Business Telephone Number: _____

3. Date(s) of evaluation: _____
Place(s) of evaluation: _____
Amount of time spent on evaluation: _____
Length of time the individual has been your patient: _____

4. Is the individual presently under medication? Yes No If yes, what is the medication, dosage, and purpose? _____

Are there any signs of physical and/or mental impairments caused by the medications themselves? _____

5. Is the individual mentally impaired? Yes No If yes, indicate the diagnosis below:

Mental Retardation/Developmental Disabilities:

Profound

Severe

Moderate

Mild

Mental Illness: Type and Severity _____

Substance Abuse: Description _____

Dementia: Description _____

Other: Description _____

Please provide additional comments and test scores if available. (Continue comments on page 4): _____

6. During the examination did you notice an impairment of the individual's:

- a) Orientation Yes No Unknown
- b) Speech Yes No Unknown
- c) Motor Behavior Yes No Unknown
- d) Thought Process Yes No Unknown
- e) Affect Yes No Unknown
- f) Memory Yes No Unknown
- g) Concentration and comprehension Yes No Unknown
- h) Judgment Yes No Unknown

7. Please describe any impairments identified in question six. (Continue comments on page 4).

8. Is the individual physically impaired? Yes No If yes: Description

9. Are there any special characteristics of the individual which should be considered in evaluating the individual for guardianship: Yes No If yes: Explain

10. Are there any indication of abuse, neglect or exploitation of the individual? Yes No
If yes: Explain _____

11. Do you believe the individual is capable of caring for the individual's activities of daily living or making decisions concerning medical treatments, living arrangements and diet? Yes No
If no: Explain _____

12. Do you believe this individual is capable of managing the individual's finances and property?
 Yes No If no: Explain

13. Prognosis:
A. Is the condition stabilized? Yes No
B. Is the condition reversible: Yes No

14. In my opinion a guardianship should be:
 Established/Continued
 Denied/Terminated

I certify that I have evaluated the individual on _____, 20 _____.

Date: _____

Signature of Evaluator

GUARDIAN'S REPORT ADDENDUM
(Not to be used with initial Application)

It is my opinion, based upon a reasonable degree of medical or psychological certainty that the mental capacity of this ward will not improve.

Date _____

Signature – Licensed Physician/Clinical Psychologist

ADDITIONAL COMMENTS

Date _____

Signature – Licensed Physician/Clinical Psychologist

PROBATE COURT OF _____ COUNTY, OHIO

_____, JUDGE

GUARDIANSHIP OF _____

CASE NO. _____

JUDGMENT ENTRY

APPOINTMENT OF GUARDIAN FOR INCOMPETENT PERSON
[R.C 2111.02 and Sup.R. 66.04 and 66.06]

Upon hearing the application for appointment of guardian herein, the Court finds that _____, the above-named Ward, is incompetent by reason of _____ and therefore is incapable of taking proper care of _____ self and _____ property, and that a guardianship is necessary.

The Court further finds that all persons who were entitled to notice of the hearing thereon were given or waived notice thereof; that the incompetent is a resident of this county or has legal settlement herein; and that this Court has jurisdiction.

It is therefore ordered that a (limited) guardian of the (person and estate) be appointed.

The Court therefore appoints _____, a suitable and competent person, (limited) guardian of the (person and estate) of _____, the above-named Ward, incompetent, with the powers conferred as described, and limited to those powers contained in the Letters of Guardianship issued by this Court. This appointment is in compliance with R.C. 2111.09.

- The Court approves/dispenses with the bond.
- The Court finds a record of the hearing was waived.

The Guardian shall comply with the requirements of Sup.R. 66.06.

The Court orders Letters of Guardianship issue to _____ as provided by law.

The Court further ORDERS: _____

IT IS SO ORDERED

Date

PROBATE JUDGE

PROBATE COURT OF _____ COUNTY, OHIO
_____, JUDGE

GUARDIANSHIP OF _____

CASE NO. _____

GUARDIAN'S REPORT
[R.C. 2111.49 and Sup.R. 66.05(B)(2)]

NOTE: If allotted space is inadequate to respond, write "See Exhibit" in the space and add appropriate exhibit letter sequence, then attach exhibit containing information requested for that space.

1. This is the (**circle one**) 1st, 2nd, 3rd, 4th, 5th, 6th, or _____, Guardian's Report.
2. Ward's present address: _____
City _____ State _____
Zip Code _____ Telephone Number (____) _____

3. Ward's living arrangements at the above address are best described as:
- a. His or her own apartment or home (includes assisted living facilities.)
- b. Private home or apartment of:
- (1) the ward's guardian
- (2) a relative of the ward, whose name is _____
and relationship is _____
- (3) a non-relative whose name is _____
- c. A foster, group, or boarding home.
- d. A nursing home.
- e. A medical facility or state institution.
- f. Other (describe) _____

- g. If **c**, **d**, **e**, or **f** is checked, complete the following:
- (1) The name of the home, facility, or institution _____
- (2) The name of an individual at the home, facility, or institution who has knowledge and is authorized to give information to the court about the ward.
Name _____
Telephone Number (____) _____

4. The ward will be at the address given in Item 2:
- a. Indefinitely.
- b. Temporarily. The new address and telephone number is:
- (1) Unknown. I will provide this information when known.
- (2) _____
City _____ State _____
Zip Code _____ Telephone Number (____) _____

5. Guardian's contact with the ward.
 - a. Approximate number of times the guardian had contact with the ward during the period covered by this report: _____
 - b. The nature of those contacts (phone, personal, or other): _____

 - c. Date the ward was last seen by the guardian: _____

6. Have you observed any **major** change in the ward's physical or mental condition during the period covered by this report? Yes No
If "yes" is checked, briefly describe the changes. _____

7. The care given to the ward is Adequate Not Adequate
If "Not Adequate" is checked, explain. _____

8. The guardianship should be Continued Not Continued
If "Not Continued" is checked, explain. _____

9. During the period covered by this report, the ward has has not been seen by a physician. If the ward has been seen, the last date was _____ and for the purpose of _____

10. I currently serve as the guardian to ten or more wards and certify to the Court that I am unaware of any circumstances that may disqualify me from serving as guardian for this ward.

11. With regard to the continuing education requirement pursuant to Sup.R. 66.07:
 - I have completed the continuing education requirement. (Attach Certificate of Completion if applicable)
 - The continuing education requirement was waived.

Attached is a statement by a licensed physician, a licensed clinical psychologist, a licensed social worker, or a developmental disability team, that has evaluated or examined the ward within three months prior to the date of this report regarding the need for continuing the guardianship. [R.C. 2111.49(A)(1)(I)](Form 17.1)

If an attorney has been consulted on this report: _____ Attorney for Guardian _____ Street _____ City State Zip Code _____ Telephone Number (include area code) _____ Attorney Registration No.	Date _____ _____ Guardian's Printed Name _____ Guardian's Signature _____ Street _____ City State Zip Code _____ Telephone Number (include area code)
---	---

(Knowingly giving false information on a Probate document is a criminal offense)
[R.C. 2921.13(A)(11)]

PROBATE COURT OF _____ COUNTY, OHIO
_____, JUDGE

GUARDIANSHIP OF _____

CASE NO. _____

**NOTIFICATION OF COMPLIANCE WITH
GUARDIAN EDUCATION REQUIREMENTS**
[Sup.R. 66.06 and 66.07]

The undersigned, currently serves as the Guardian of the above-named Ward, and hereby reports to the Court that I have successfully completed:

- the guardian fundamentals course pursuant to Sup.R. 66.06; or
- the continuing education course pursuant to Sup.R. 66.07

Title of Course: _____

Date Attended: _____

Location of Course: _____

Education Provided by: _____

[Attach certificate of completion if applicable.]

Guardian's Printed Name

Guardian's Signature

Street

Telephone Number (include area code)

City

State

Zip Code

PROBATE COURT OF _____ COUNTY, OHIO
_____, JUDGE

GUARDIANSHIP OF _____

CASE NO. _____

NOTICE OF/APPLICATION FOR CHANGE OF ADDRESS
[Sup.R. 66.08(E)]

Guardian's New Address: _____

Guardian's Old Address: _____

Ward's New Address: _____

Ward's Old Address: _____

New Telephone Number: _____

Reason: _____

[Attach additional pages if necessary.]

Please choose one:

_____ This change in placement IS NOT to a more restrictive setting and therefore the Court's approval is not required.

_____ This change in placement IS to a more restrictive setting and therefore the Court's approval is needed. The change in placement has not yet occurred.

_____ This change in placement IS to a more restrictive setting and therefore the Court's approval is needed. The change in placement, however, has already occurred because any delay in authorizing the change in placement would have affected the health and safety of the ward.

Guardian's Printed Name

Guardian's Signature

Telephone Number (include area code)

PROBATE COURT OF _____ COUNTY, OHIO
_____, JUDGE

GUARDIANSHIP OF _____

CASE NO. _____

ANNUAL GUARDIANSHIP PLAN - PERSON

[Sup.R. 66.08 (G)]

[Attach as addendum to Form 17.7-Guardian's Report.]

I am the guardian of the for the above-named Ward. I have identified the following goal(s) for the next year and how I intend the goal(s) to be met.

For the Person

Goal - (for example: address medication issues; obtain assistance devices; secure medical and rehab services; meet mental health service needs; secure personal care services; enhance nutrition; improve social skills, etc.)

Means to Meet the Goal – (for example: educate on benefits of medications and compliance; obtain walker, wheelchair, hearing aid; schedule semi-annual checkups/exams; secure outpatient examinations and mental health counseling; arrange for shopping and/or meals on wheels; enroll in sheltered workshop/socialization programs, etc.)

[Attach additional pages if necessary]

Guardian's Printed Name

Guardian's Signature

Street

Telephone Number (include area code)

City State Zip Code

PROBATE COURT OF _____ COUNTY, OHIO

_____, JUDGE

GUARDIANSHIP OF _____

CASE NO. _____

ANNUAL GUARDIANSHIP PLAN - ESTATE

[Sup.R. 66.08 (G)]

[Attach as addendum to Form 17.7-Guardian's Report.]

I am the guardian of the estate for the above-named Ward. I have identified the following goal(s) for the next year and how I intend the goal(s) to be met.

For the Estate

Goal - (for example: obtain representative payee; enroll in Medicaid; establish Special Needs Trust; improve money handling skills)

Means to Meet the Goal – (for example: contact Social Security; contact Job and Family Services/Attorney re exempt assets/eligibility; secure supporting documentation; schedule skill training, etc.)

Attach additional pages if necessary]

Guardian's Printed Name

Guardian's Signature

Street

Telephone Number (include area code)

City State Zip Code

GUARDIANSHIP OF _____

CASE NO. _____

APPLICATION TO TERMINATE GUARDIANSHIP

PERSON ONLY ESTATE ONLY PERSON AND ESTATE

Now comes the guardian of the above-named Ward and represents to the Court that the guardianship should be terminated for the following reason: **[check appropriate box]**

The Ward is over 18 years of age. The Ward's date of birth is _____.

The Ward is now deceased. The Ward's date of death is _____.

Other _____

Therefore, the applicant requests the Court to terminate the guardianship of the person only, of the estate only, of the person and estate. The guardian request a reasonable period of time to file a final account.

Consent if applicable:

Guardian's Signature

ENTRY

Upon consideration of the guardian's application to terminate the guardianship, the Court finds that there is no further need for the guardianship to remain open. Therefore, it is ordered that the guardianship be terminated forthwith. The guardian shall file a final account by _____ Guardianship of the person only to continue with Letters of Authority issued forthwith.

The Court further ORDERS: _____

Probate Judge

PROBATE COURT OF _____ COUNTY, OHIO

_____, JUDGE

GUARDIANSHIP OF _____

CASE NO. _____

NOTIFICATION OF WARD'S IMPORTANT LEGAL PAPERS

[Sup.R. 66.08 (L)]

The undersigned currently serves as the Guardian of the above-named Ward. I hereby report to the Court the existence and location of the Ward's important legal documents.

The Ward is known to have:

- Will(s)
- Other Estate Planning Documents
- Advance Directives
- Powers of Attorney
- Contract for Prearranged Funeral
- Other _____

Location:

[Attach additional pages if necessary.]

Guardian's Printed Name

Guardian's Signature

Street

Telephone Number (include area code)

City State Zip Code

Appendix D

Filing Checklist

Initial Filing Fee

Court Costs: Consult with probate court

Initial Filings

- Application for Appointment of Guardian of incompetent (: cfa '⌘'\$)
 - Criminal background check (for attorneys, a certificate of good standing will suffice).
 - Copies of proposed ward's power of Attorney or Health Care Power of Attorney currently in force.
 - Bond commitment (if applicable)
- Next of Kin of Proposed Ward (: cfa '⌘'\$)
- Judgment Entry Setting Hearing on Application for Appointment of Guardian (: cfa '⌘'\$⌘)
- Notice to Prospective Ward of Application and Hearing (: cfa '⌘'")
- Waiver of Notice and Consent (: cfa '⌘'⌘)
 - All parties listed on the Next of Kin of Proposed Ward (: cfa '⌘'\$), who are Ohio residents, must either sign this Consent or be served notice (see : cfa '⌘'⌘)
- Notice of Hearing for Appointment of Guardian of Alleged Incompetent (: cfa '⌘'⌘) If applicable
 - All parties listed on the Next of Kin of Proposed Ward (Form 15.0), who are Ohio residents, must either Consent (see : cfa '⌘'⌘) or be served this notice.
- Statement of Expert Evaluation (: cfa '⌘'⌘⌘)
- Judgement Entry Appointment of Guardian of Alleged Incompetent Person (: cfa '⌘'⌘)
- Oath of Guardian (: cfa '⌘'⌘)
- Letters of Guardianship (: cfa '⌘'⌘)
- Fiduciary's Acceptance (: cfa '⌘'⌘&)

Post-Appointment Filings

- Guardian's Bond (: cfa '⌘'⌘) (Estate Only)
- Guardian's Inventory (: cfa '⌘'⌘) (Estate Only)
 - Due 3 months following the date of Appointment of Guardian
- Guardian's Account (: cfa '⌘'⌘), (Estate Only)
 - Due 1 year following Appointment of Guardian
- Guardian's Report (: cfa '⌘'⌘+)
 - Due no later than the anniversary date of Appointment of Guardian
- Application to Release Funds to Guardian (: cfa '⌘'⌘*)(Estate Only)
- Application for Authority to Expend Funds (: cfa '⌘'⌘+)(Estate Only)

Guardianship of Person Application Filing Checklist

I. Initial Filing Fee

Court Costs: Consult with Probate Court's Office

II. Initial Filings

- Application for Appointment of Guardian of incompetent (**Form 17.0**)
 - Criminal background check
 - Copies of proposed ward's power of Attorney or Health Care Power of Attorney currently in force.
 - Bond commitment (if applicable)
- Next of Kin of Proposed Ward (**Form 15.0**)
- Judgment Entry Setting Hearing on Application for Appointment of Guardian (**Form 15.01**)
- Notice to Prospective Ward of Application and Hearing (**Form 17.3**)
- Waiver of Notice and Consent (**Form 15.1**)
- All parties listed on the Next of Kin of Proposed Ward (**Form 15.0**), who are Ohio residents, must either sign this Consent or be served notice (see **Form 17.4**)
- Notice of Hearing for Appointment of Guardian of Alleged Incompetent (**Form 17.4**) *If applicable*
- All parties listed on the Next of Kin of Proposed Ward (**Form 15.0**), who are Ohio residents, must either Consent (see **Form 15.1**) or be served this notice.
- Statement of Expert Evaluation (**Form 17.1**)
- Judgement Entry Appointment of Guardian of Alleged Incompetent Person (**Form 17.5**)
- Oath of Guardian (**Form 15.9**)
- Letters of Guardianship (**Form 15.4**)
- Fiduciary's Acceptance (**Form 15.2**)

III. Post-Appointment Filings

- Guardian's Bond (**Form 15.3**) (Estate Only)
- Guardian's Inventory (**Form 15.5**) (Estate Only)
- Due 3 months following the date of Appointment of Guardian
- Guardian's Account (**Form 15.8**) (Estate Only)
- Due 1 year following Appointment of Guardian
- Guardian's Report (**Form 17.7**)
- Due no later than the anniversary date of Appointment of Guardian
- Application to Release Funds to Guardian (**Form 15.6**) (Estate Only)
- Application for Authority to Expend Funds (**Form 15.7**) (Estate Only)

Guardianship of Estate Checklist

DATE OF APPOINTMENT: _____

- WARD'S LEGAL PAPERS: Create a list of known legal papers (Estate Planning Documents, POAs, Advanced Directives) including location where they are kept
MUST BE FILED WITH COURT WITHIN 90 DAYS OF APPOINTMENT

- INVENTORY: Should Include All Assets of Ward (except SSI, VA benefits and other government subsidies for which a Payee is responsible)
MUST BE FILED WITH COURT WITHIN 90 DAYS OF APPOINTMENT

- GUARDIAN BANK ACCOUNT: Locate banking institutions and establish a Guardianship "fiduciary" bank account in your ward's name. The bank should be given a certified copy of your "**Letters of Guardianship.**" Be sure to confirm you will be given cancelled and/or imaged checks with your monthly statement. A Ward's assets should always be segregated and never co-mingled with Guardian funds or funds of another Ward.

- RECORD-KEEPING: Establish a practice and system of record-keeping for all transactions. It is imperative that all receipts and transactional documents are maintained and stored.

- INVESTMENTS: Ensure investments are safe and focused on preserving principal as opposed to pursuing gains or growth.

- MAIL: Request Ward's mail be forwarded to your address.

- PERSONAL PROPERTY: Secure personal property. Best practice is to videotape or photograph all personal property of value, including antiques, collections, etc. Firearms should be preserved and secured from Ward.

- REAL PROPERTY: Locate any deeds, leases or relevant documents.

- CREDIT REPORT: Review Ward's credit report. Notify credit bureaus if any fraud suspected.

- ❑ NOTICE: All insurance companies, investment companies, annuities or retirement pensions, tenants and accountants.

- ❑ SAFETY DEPOSIT BOX: Notify Court and after following appropriate statutory procedures the contents should be inventoried with appropriate witnesses present.

- ❑ VEHICLES: Secure titles (including boats, trailers, atvs, etc.).

- ❑ GOVERNMENT BENEFITS: Evaluate appropriateness of applying for additional benefits, including but not limited to Medicaid in light of Ward's assets/income.

- ❑ GUARDIAN'S ACCOUNT: First account should relate back to assets disclosed on Inventory. All future accounts should relate back to previously filed account.

*MUST BE FILED WITH COURT ON OR BEFORE
ANNIVERSARY OF APPOINTMENT*

TIPS:

- Deposit all income and liquid assets in guardianship bank account only.

- Sign all documents as guardian of estate.
 - Example: **Jane Smith, guardian of estate of Ted Smith**

- Distribute Letters of Guardianship along with contact information for Guardian.

- Never Expend funds without prior written court approval

- Never delegate your duties as guardian to another.

- Never alter, destroy or undermine Ward's estate planning documents or beneficiary designations.

- Never sale, transfer or gift away Ward's property or any interest therein.

- Never mortgage, pledge or encumber Ward's assets.

Appendix E

9-Step Approach to Examining Needs

What Does the Person under Guardianship (hereafter "Person") Need?

Date: _____ County _____

Name of Person _____

Name of Guardian _____

Type of Guardianship _____

Note: Please attach relevant documents you may need to this needs assessment.
Place extra comments on back. *Short-Term Goals* are from today to the next 3 months.

Step 1-Investigate!

Start by learning about the person. Think about what sources are available. The more you know, the easier it will be to provide a person centered approach to their care.

Leave a section blank if it does not apply.

Person under Guardianship

If the person is nonverbal, how will you communicate about his/her wishes?

Family/Friends/Neighbors: List Names

Care Providers: List Names

Medical/Care Planning Documents: List Them

Legal Documents: List them (i.e., Advance Directives, Will)

Step 2: What Activities Give Meaning to the Person's Life?

Ultimately we are striving for people to have a balance of activities which meet skill level but also are challenging. Ask about both CURRENT AND PAST interests. Knowing about the past can help shape a plan for the present. Leave a section blank if it does not apply.

Working: List Activities

Learning: List Activities

Giving/Volunteering: List Activities

Experiencing: See List Below

Leisure/Relaxation

Hobbies (Offer Sensory Stimulation and Creativity)

Physical Movement/Exercise

Spiritual/Religious

Short-Term Goals for this Step:

Step 3: Current Health Status

Leave an area blank if it does not apply.

Physical Health: List Current Status & Challenges

Mental Health: List Current Status & Challenges

Medications: List Names & Current Challenges

Current Health Related Treatments

Special Nutritional Needs

Short-Term Goals for this Step:

Step 4: What Daily Assistance is Needed?

- Does the person require assistance with any of the following?
- How much?
- Who is assisting now?

Leave an area blank if it does not apply.

Bathing _____

Dressing _____

Grooming _____

Toileting _____

Eating a Nutritious Diet _____

Walking _____

Getting out of Bed/Chair _____

Using the Telephone _____

Shopping for Daily Items _____

Transportation _____

Managing Money _____

Doing Laundry _____

Doing Light Housework _____

Preparing Meals _____

Other Daily Tasks (list them) _____

Short-Term Goals for this Step:

Step 5: Financial Planning Needs

Leave a section blank if it does not apply.

Income Sources: List Type and Amount

Assets & Personal Property-List (needed for Court inventory and/or to liquidate for care)

Long Term Care Plan: How to Finance Care?

Long Term Care Policy

Special Needs Trust

Medicaid Eligibility Established

Need to Liquidate Assets

Qualify for Veterans Services? If so, list them.

Short-Term Goals for this Step:

Step 6: Where to Live? Realistic Housing Options

Leave a section blank if it does not apply.

Where is the Person Living Presently? List concerns if any:

Special Needs that Would Impact Housing: List them

What Housing Is Available/Financially Feasible?

Also check which ones you might want to explore.

- Own House/ Condo (independent living) _____
- Rent Apartment (independent living) _____
- Live with Family/Friends _____
- Subsidized Apartment _____
- Supported Apartment/Housing _____
- Adult Care Facility/Group Home _____
- Assisted Living Facility _____
- Intermediate Living Facility for Developmental Disability _____
- Nursing Facility _____
- Continuing Care Retirement Community _____

Short-Term Goals for this Step:

Step 7: Emergency Planning Needs

Leave a section blank if it does not apply.

Is the person at risk of wandering? If so, is there a plan to prevent wandering or locate if lost?

Does the person have ID? Is it accessible to the person and you?

Are there evacuation plans should there be a natural disaster? List them.

Are the people around the person trustworthy and would they be available for assistance in an emergency? List them.

Is the person easily available by phone? If yes, provide cell phone number.

Short-Term Goals for this Step:

Step 8: End of Life Planning

Leave an area blank if it does not apply.

What are the person's wishes at the end of life? Do they have a Living Will? Do they have a Do Not Resuscitate Order?

What are the person's wishes after death?

What are the person's religious/cultural tradition or background?

Are there plans in place for funeral/burial? List them:

Are there resources if the plans have not been made? List them:

Short-Term Goals for this Step:

Step 9: Consider Other Issues

List Issues of Concern Not Noted Above:

List *Intermediate* Goals for Any Area (to be implemented in next 6-12 months):

List *Long Term* Goals for Any Area (to be implemented 12+ months):

This approach adapted with permission from Georgia Anetzberger, **Community Based Services in 4th Ed. Functional Performance of Older Adults 2015.**

Appendix F

Guide to Important Resources & Programs

Index of Contents

- 1 Government Programs for Income & Health Care
- 2 Other Government Funded Service Programs (Federal, State, Local)
3. Additional Local Services
4. Types of Housing
- 5 Other Housing Related Issues
6. End of Life Issues
7. Helpful Links for Guardians

1. Government Programs for Income & Health Care

A. Social Security System For more information go to: www.ssa.gov

1. Phone [1-800-772-1213](tel:1-800-772-1213)
2. An income transfer system which was started in 1935 and continues to this day. It covers just about every working person in this country who pays taxes on their earnings. The only persons who **are not covered** are those in states that have their own pension systems. Ohio is one of those states. So state and local employees in the state of Ohio are **not** in Social Security unless they work in a second job outside the system.
3. Elements of the Social Security System
 - a. Retirement
 - b. Survivors
 - c. Disability (SSDI)
 - d. Others not directly in the system but administered partially under Social Security ie. **Supplemental Security System (SSI)**—this is a program for low income disabled or older adults. It can stand on its own or supplement another income source. Some states add additional income to the Federal minimum for SSI but Ohio does not.
4. Medicare (Described Below)

B. State of Ohio Retirement Systems

1. Ohio has 5 State Funded Retirement Systems

- a. Ohio Public Employees Retirement System (OPERS)-covers state and municipal employees
- b. State Teachers Retirement System (STRS)-covers those working in teaching positions at public elementary, middle, high schools and universities
- c. School Employees Retirement System (SERS)-covers those working in supporting positions in public schools and universities
- d. Ohio Police and Firefighter Pension Fund (OP & F)-Covers police officers and firefighters at the municipal levels.
- e. Ohio Highway Patrol Retirement System (OHPRS)-covers those who are working as highway patrol officers

2. **Similarities to Social Security:** Components Of The Systems: Retirement, Survivors, Disability, and Medicare

3. **Differences to Social Security:**

- a. Percentage of income into the system-higher for state systems
- b. Years of work & how benefit is calculated - for the state systems, generally need 30-35 years of work depending on your age. The benefit is calculated using the last 5 years as a baseline.
- c. Retirement age: State systems generally younger than Social Security
- d. Beneficiaries: Some are automatic but can also stipulate beneficiaries in the state system and cannot in Social Security
- e. Medical Coverage: Beneficiaries starting after 1983 pay into Medicare and receive Medicare coverage. The state systems provide supplemental coverage in retirement.
- f. Coordination with Social Security system: Cannot collect the full amount from both. Generally if the state system is primary retirement vehicle, Social Security benefits will be cut by about half.
- g. Recent Changes to Ohio's Systems : Generally must work longer to receive benefits in Ohio's state systems with recent changes.

4. **Websites**

- | | | |
|---|---|---|
| a. www.opers.org | c. www.sers | e. www.op-f.org |
| b. www.strs.org | d. www.ohprs.org | |

C. Medicare

<https://www.medicare.gov>

Medicare is the federal health insurance program which covers:

- People age 65 or older who paid into Social Security.
- People with End Stage Renal Disease or Amyotrophic Lateral Sclerosis (ALS)
- Those who have been receiving Social Security Disability payments for 24 months or longer.
- Everyone who pays into the Social Security System (FICA taxes) earns coverage for Medicare.

1. **Medicare Part A** is also called **Hospital Insurance**: Coverage is automatic and free for those paying into at least 10 years of Social Security. It includes hospital, post-hospital skilled rehabilitative care & hospice benefits.
2. **Medicare Part B** is also called **Medical Insurance**: Coverage is voluntary. However, most beneficiaries buy coverage.
 - a. In 2017 the monthly premium is \$134.00 for most people.
 - b. It covers Doctors, Lab/Diagnostic Services, Therapies, Limited Ambulance and Home Health Care. It pays 80% after yearly deductible of \$183.00 (2017).
 - c. In Ohio, providers cannot bill Medicare recipients more than the 20% that Medicare requires that they pay. This is called the Balance Billing Ban.
3. **Medicare Advantage Plans** (Medicare Part C) are available to those with Medicare: These operate like HMO's (Health Maintenance Organizations or Preferred Provider Organizations). Those who choose this option agree to go only to those providers who participate in the plan. Usually they cover a city or a county. Most of these plans offer prescription drug coverage.
4. **Medicare Part D** is also called **Prescription Drug Coverage**: It is available to all Medicare Beneficiaries if they do not have coverage which is at least as comprehensive from another source. Some people qualify for the Limited Income Subsidy (LIS) which provides extra financial help in purchasing a plan. May also be called "Extra Help." Go to www.medicare.gov for cost comparisons.
5. **Medicare Summary Notice (MSN)**: Medicare sends a statement to all recipients after it pays each claim. If there are several claims, Medicare consolidates them and sends one quarterly. Medicare beneficiaries can also access their claims online. Medicare recipients should not pay any bills until they receive this notice and then should only pay the amount that the MSN says to pay.

6. **Medicare Rehabilitative Care Benefit:** Requires three consecutive midnights of ADMITTED hospital care prior to admission. Many hospitals are not admitting patients; instead they are keeping them in Observation Status. Check this when you have a person in the hospital as Observation Status does not allow Medicare to cover rehabilitation services in a nursing facility. Pays for nursing facility care only as long as the patient requires skilled nursing care or therapy and makes progress towards recovery as a result.
7. **Medicare Compare Websites-**Medicare has areas on its website which lists all of its providers by zip code. These areas also contain some basic information about the provider. Some examples are “Nursing Home Compare,” “Hospital Compare,” and “Home Health Compare.” These allow you to search providers by zip code and compare them with each other to find a provider in the area.
8. **Medicare Hospice Benefit** requires a terminal diagnosis of six months or less (can be renewed if death does not occur in a six month period). Some illnesses like Alzheimer’s disease have a list of symptoms that count as a terminal diagnosis if they are present.
 - a. Covers all care related to the terminal diagnosis.
 - b. Concentrates on pain management and keeping the person as comfortable as possible.
 - c. Does Not Cover active treatment of diseases and conditions. Can be provided in a variety of settings including a person’s home and extended care facilities. Can provide support to families for up to one year following the death of the individual.

D. **Medicaid in Ohio**

www.medicaid.ohio.gov

1. Medicaid is a joint State/Federal assistance program for people who cannot afford healthcare. There are limits on the amount of income and assets you can have to be eligible for Medicaid. Medicaid in Ohio covers:
 - a. Medical Services for Acute Conditions (Core Medicaid)
 - b. Institutional long-term care for aged/disabled persons (at both skilled & intermediate levels of care)
2. In Ohio, there are several types of Medicaid for adults:
 - a. **Basic Medicaid** - This type of Medicaid is available to someone with limited income and assets in a particular group. This includes women and children, as well as someone who is aged, blind or disabled on SSI. He/she must be living in the community. Ohio is participating in the **Medicaid Expansion Project** which offers Medicaid Health Coverage to adults (18-64) at or below 138% of the Federal Poverty level. Everyone in Core Medicaid or the Medicaid expansion receives coverage through one of 5 managed care companies.

- b. **Medicaid** for long term services and supports (LTSS) is used when a person needs additional services due to a chronic illness. Often they spend down their assets and apply for Medicaid to cover their stay in a facility, or for services in the community.
 - i. **LTSS Medicaid - Income Rules** - In determining eligibility, only the income of the applicant is counted and may be used towards the cost of care. • The community spouse and/or dependents may be allowed a portion of the institutionalized spouse's income.
 - ii. **LTSS Medicaid - Asset Rules** - Medicaid will pay for intermediate nursing home care when an individual person's countable assets have been reduced to \$2000. If there is a spouse up to approximately \$130,380 (in 2021), can be protected for the spouse living in the community. This amount changes yearly.
 - iii. **Countable assets** include cash, savings, checking accounts, certificates of deposit, IRAs, real estate property, mortgages, land contracts. The house is not counted as an asset for Medicaid eligibility as long as the person, his/her spouse or a dependent live in it. However, if the person is single and goes to live in a nursing facility, the house becomes countable and usually must be sold when the person has been in the institution for a period of time.
 - iv. **Personal belongings**, life insurance with a face value of no more than \$2000 (2021) and irrevocable pre-paid burial contracts are not counted as assets for Medicaid. Assets transferred for less than fair market value within 60 months of application (5 years in 2021) for Medicaid may result in a penalty. The penalty is denial of Medicaid benefits for the period of time the assets would have paid for nursing home care.

3. For more information, visit www.medicaid.ohio.gov.

E. **Medicaid Long Term Care Waivers** www.medicaid.ohio.gov

1. Medicaid Waivers in Ohio for Community Based Care - These are programs that fund the services for an individual to remain at home instead of living in an institutionalized setting, such as a nursing home. Waivers use the LTSS Medicaid income and asset rules.
2. Services covered include medical care that would normally be covered in Core Medicaid as well as personal care, homemaker/chore services, adult day services, meals, emergency response systems and medical supplies.
3. Ohio offers many different Medicaid waiver programs.

4. List of Current Medicaid Community Based Services and Supports Waivers in Ohio
 - a. **Ohio Home Care Waiver** for anyone under age 60: Administered through the Dept. of Medicaid with a variety of local vendors (Caresource, Carestar)
 - b. **PASSPORT** for anyone over age 60: Administered through the Ohio Dept. of Aging
 - c. **Developmental Disabilities Waivers:** Administered through County DD Boards
 - i. IO (individual Options)
 - ii. SELF
 - iii. Level One
 - d. **Assisted Living Waiver** (over age 21): Administered through the Ohio Dept. of Aging
 - e. **Home Choice Waiver** - Anyone currently residing in a nursing facility who is able to live in the community. Administered through a number of different departments.
 - f. **My Care Ohio**-Managed Care Demonstration (both Medicare and Medicaid recipients in 29 Counties and 7 regions) - Timeframe for Demonstration is 2014-2019.
 - g. **Specialized Recovery Services Waiver Program**-This is a newer Medicaid waiver, started in July 2016, which is aimed at those individuals aged 21 and over who have mental health and addiction diagnoses as well as certain chronic diseases. The program is administered by Caresource and Carestar, the subcontractors who administer the Ohio Home Care Waiver program.

F. **Services for Veterans**

Administers services for all veterans in the areas of:

1. Financial support
2. Physical and mental health care
3. Disability support
4. Long term care services
5. Funeral and burial services

Veterans qualify for services based on length of military service, type of military service, disability status, and possibly income.

National Website is www.va.gov and Ohio website is www.dvs.ohio.gov. All Ohio counties have Veterans Services Commissions which assist local veterans.

Many local organizations exist to assist veterans in navigating the system to access services.

2. Other Government Funded Service Programs (Federal, State, Local)

A. Network of Area Agencies of Aging (AAA)

www.aging.ohio.gov

1. The Older Americans Act created a network of agencies called Area Agencies on Aging.
2. Ohio has 12 AAA's which all serve multi-county regions.
3. In Ohio, AAA's administer federal funds for community based services, provide information and assistance in their communities, and administer both the PASSPORT, Assisted Living Waivers. They also administer the Ohio Home Care Waiver in some counties and participate in the Home Choice Waiver.
4. AAA's are the lead agency in the new Aging Disabilities Resource Networks (ADRN) networks which are being formed around the country

B. Ohio Department of Job and Family Services (ODJFS)

www.jfs.ohio.gov

1. Administer many different programs in both the Employment and Benefit Assistance areas.
2. There are 88 county departments of JFS. Administer both Children Protective Services and Adult Protective Services in most counties. Most counties have local opportunity centers where a person or family can apply for many different kinds of services including food assistance and Medicaid.

C. Ohio Department of Developmental Disabilities

www.dodd.ohio.gov

1. Administer many different programs in both the Employment and Benefit Assistance areas.
2. There are 88 County Boards of DD. These provide & fund a variety of services to both children and adults with a diagnosis of a developmental disability. Most are supported with local county tax levies. Most also administer the 4 Medicaid Waivers to assist someone with a developmental disability remain in the community.
3. The county boards are represented by the Ohio Assn. of County Boards of DD (www.oacbddd.org) and offers a variety of online training to families, professionals and interested persons.

D. Ohio Department of Mental Health & Addiction Services www.mha.ohio.gov

1. In 2013, two state departments were merged to form one. Ohio Dept. of Mental Health and Ohio Dept. of Alcohol and Drug Addiction Services were merged. Now the term “behavioral health” encompasses the services of both areas.
2. Administers six state psychiatric hospitals and licenses/funds many types of behavioral health services in Ohio.
3. There are 50 local ADAMH boards which administer a variety of services. Some are single county and some are multi county. Most are supported by a local levy to expand services.
4. The Association of local boards is at www.oacbha.org
5. The largest nonprofit education provider is www.nami.org

E. The Opportunities for Ohioans with Disabilities Agency (OOD) www.ood.ohio.gov

1. OOD is the state agency that partners with Ohioans with disabilities to achieve quality employment, independence and Social Security disability determination outcomes.
2. OOD begins working with individuals at age 14 to assist them as they transition into high school, college and the workplace
3. Houses:
 - a. Bureau of Services for the Visually Impaired (BSVI)
 - b. Division of Disability Determination (DDD)
 - c. Bureau of Vocational Rehabilitation (BVR)
4. BVR assists eligible people with physical, mental and emotional disabilities by providing direct, personalized services to assist them in finding and retaining meaningful work and personal independence.
5. Vocational Rehabilitation (VR) services are customized for each individual through assessments and one-on-one meetings with professional VR counselors. VR services are available in all 88 counties and include:
 - a. Evaluation and treatment of an individual's disability;
 - b. Information and referral services;
 - c. Vocational counseling and training;
 - d. Job search and job placement assistance;
 - e. Educational guidance (tuition resources and other support);
 - f. Transportation services;
 - g. Occupational tools and equipment

3. Additional Local Services

A. **Local County Levy Programs (Aging, DD, ADAMH, Veterans)**-Many communities have local tax levies that support assistance to older and disabled persons in a variety of ways. There is no central clearing house that lists and describes all of them but be sure to check in your county to see if your Ward qualifies for services under any of the local levy programs.

B. **Centers for Independent Living & Statewide Independent Living Council**
www.ilru.org

Ohio has 14 Centers for Independent Living which provides research, education and consultation in the areas of independent living, home and community-based services, and the Americans with Disabilities Act. Some CIL's provide services like transportation, disaster preparation and case management for those with disabilities. For a list of the CIL's in Ohio, go to the website listed above.

C. **Disease Associations**

Many if not most diseases and disorders have organizations which represent their concerns. Most of them provide education and advocacy. Many of them provide educational opportunities, online and in person support groups & helplines. Some provide direct services like specialized assessment, case management, therapies, respite, durable medical equipment sharing and housing assistance.

D. **Neighborhood Settlement Houses**

1. Sometimes also called a community or neighborhood center—is a neighborhood-based organization that provides services and activities designed to identify and reinforce the strengths of individuals, families and communities. Varying according to the needs of their neighborhoods, settlement programs may include: job training and employment programs, early childhood education, afterschool youth programs, arts education and performances, computer labs, English-as-a-Second-Language and literacy education, citizenship instruction and legal counseling, mental health and home care, housing, senior centers and Meals-on-Wheels. Settlement houses also offer opportunities for community service: holding forums on local concerns, registering voters, and providing information about citywide issues.

2. Look in your local community to determine if it is served by a Settlement House.

E. Community Action Agencies www.communityactionpartnership.com

Non-profit private and public organizations established under the Economic Opportunity Act of 1964 to fight America's War on Poverty. Community Action Agencies help people to help themselves in achieving self-sufficiency. Today there are approximately 1000 Community Action Agencies, serving the poor in every state and county. Community Action Organizations provide a wide variety of services including:

1. Community Coordination - Citizen participation, neighborhood & community organization, information & referrals
2. Emergency Services - Food Pantries, energy assistance homeless shelters, domestic violence
3. Education - Head Start, youth mentoring ,literacy, Adult Basic Education
4. Food and Nutrition - Meals on Wheels, congregate feeding, food banks
5. Family Development - Day care, case management, counseling, support
6. Employment Training - Job readiness, job training, and job creation
7. Transportation - Rural transportation systems, on-demand transportation
8. Housing - Self-help housing, homeownership, rental assistance, Weatherization
9. Economic Development - Business planning and loans, water and sewer
10. Health Care - Health Clinics, WIC, prescription assistance

F. Senior and Community Recreation Centers www.ohioasc.org

1. Many if not most Ohio communities have a variety of community recreation centers which serve residents of all ages and ability levels and many also have senior centers which target older and disabled adults for their services and programs. These centers vary greatly by community but in general, they tend to offer health & wellness, leisure, music, art and other recreation based programming.
2. Some also provide education, travel opportunities and direct services like meals and transportation. Check your local city or township for a listing of centers.

G. Ombudsman Programs

1. Many organizations and systems employ persons who act as ombudsman. This is a person (such as a government official or an employee) who investigates complaints and tries to deal with problems fairly. Ombudsman are generally not arbitrators; in other words, they do not have decision making authority. However, they do have authority to investigate and validate complaints as well as negotiate or mediate a resolution.
2. Ohio's Office of the State Long-term Care Ombudsman www.ohio.aging.org
Advocates for people of all ages who are receiving home care, assisted

living and nursing home care. Paid and volunteer staff work to resolve complaints about services, help people select a provider and offer information about benefits and consumer rights. LTC Ombudsmen do not regulate nursing homes and home health agencies, but do work with providers, residents, their families and other representatives to resolve problems and concerns.

H. Next of Kin Registry

1. Any person can add emergency contacts to his/her Driver's License or Ohio State ID at no cost. Emergency services personnel, safety and highway patrol officers can access this information in the event of an accident or incident. To access paper or web forms go to www.bmv.ohio.gov.

4. Types of Housing

A. Independent Living Options

1. Own House/Condo/Apartment
Many people will want to be in their own home/condo or apartment. Whether or not this is possible very much depends on their type of impairment, their financial situation and their overall care needs. In many areas of the state, there are supported living options particularly for people with developmental disabilities which feature an independent apartment but with some services or supervision available to the person. This is also a feature of some continuing care retirement communities.
2. Live with Family/Friends
Many adults who have guardians will reside in the community with either family members or friends. In fact, this is the most common living option for a Ward in Ohio. Again the appropriateness of this option very much depends on the person's type of impairment, financial situation, or overall care needs.

B. Government Subsidized or Tax Credit Apartments

1. Most of the apartments listed are subsidized, meaning they allow renter to pay approximately 30% of their income towards rent. These apartments have requirements about the amount of income and most of them discount medical expenses when calculating the rent. Often, there are waiting lists for these apartments.
2. Consumers looking for a subsidized apartment are advised to get on the waiting list for any apartment complex where they want to live. Contact the apartment manager to complete an application.
3. Inspection Scores for any type of subsidized property may be found at www.section8housing.findthebest.com
4. Tax Credit Apartments - These allow the tenant to pay somewhat less than the market rate for an apartment. These apartments have requirements about income. These apartments may have a waiting list. Contact the apartment manager to complete an application.

C. **Adult Care Facility (ACF):** A licensed housing facility which provides accommodations and supervision for 1-16 unrelated adults, who can be provided personal care services. The Ohio Department of Mental Health and Addiction Services licenses facilities in the State of Ohio.

1. For lists of facilities:

- a. www.mha.ohio.gov
- b. www.ohca.org

2. Types of Facilities:

- a. Adult Foster Home - A residence which will provide accommodations, supervision and personal care services to 1-2 unrelated adults.
- b. Adult Family Home - A residence which provides accommodations to 3-5 unrelated adults, supervision, and personal care services to at least three individuals.
- c. Adult Group Home - An adult care facility (ACF) which provides accommodations to 6-16 unrelated adults, supervision, and personal care services to at least three individuals.

Ci. **Assisted Living Options**

1. **Assisted Living Facilities (16 + persons, Licensed as Residential Care Facilities)** Assisted living in a facility provides the consumer with a greater range of services. The Ohio Long Term Care Consumer Guide lists Assisted Living (www.ltc.ohio.gov) facilities by county and zip code. It includes helpful information to compare facilities.

- a. The Ohio Assisted Living Association also has a directory of Assisted Living facilities with information on services and fees. It is available at www.ohioassistedliving.org or your public library.
- b. The Assisted Living Waiver program provides care for Medicaid eligible adults in approved assisted living facilities. For information on assisted living facilities which accept the Assisted Living Medicaid Waiver, go to www.ltc.ohio.gov. This program has very limited slots and most assisted living facilities which participate require the person to pay privately for a period of time.

2. **Intermediate Care Facilities for Individuals with Developmental Disabilities (ICF-IDD)**

- a. Regulated by the Ohio Dept. of Developmental Disabilities (Approximately 425 facilities in Ohio)
- b. Usually privately owned
- c. Providers control their own admissions
- d. Funding belongs to the bed-Medicaid Funded
- e. Must provide day habilitation services

E. Care Facilities

1. Skilled & Intermediate Level of Care Nursing Facilities - The Ohio Long Term Care Consumer Guide (www.ltc.ohio.gov) lists nursing facilities by county and by zip code. The Federal government keeps a database of over 17,000 nursing homes in the United States. Information is available on 10 quality indicators, examining such factors as use of physical restraints and the percentage of residents who have bed sores. This information may be found at www.medicare.gov. The information also can be accessed by calling **1-800-MEDICARE**.
2. Retirement Communities(Many Levels)
 - a. These offer a grouping of housing facilities for older adults with multiple levels of living options, including; independent, congregate, personal assistance, and in some cases skilled nursing care. Residents may or may not pay an endowment fee to obtain services to suit their changing needs.
 - b. These communities are called Continuing Care Retirement Communities (CCRCs). They typically contain a number of different living arrangements from independent to skilled nursing care. CCRC's often require the payment of an entrance fee or endowment in exchange for a promise of continuing care to the resident for a prescribed period usually the life of the resident. For more information on accreditation, visit www.carf.org

5. Other Housing Related Issues

A. Long-term Care Consumer Guide www.ltc.ohio.gov

This website contains information on specific facilities licensed in Ohio to provide shared living opportunities to adults of all ages and disabilities levels. The site may be searched by zip code, type of facility and a number of other criteria and quality indicators.

B. Home & Community Based Services

Many communities have numerous services for adults who wish to receive care while living in their own home, apartment or condominium. The funding for these programs varies by each community. Some services charge a fee, some charge a sliding fee depending on the person's income, some accept a donation, and some will bill insurance if the person has it and the service is covered. Many of these programs are partially supported by local tax levies or charitable organizations. Individuals should inquire about financial assistance that may be available for a particular service. Some of these services include:

1. Meal Programs - Group dining at a community center or meals delivered to the home.
2. Transportation Service - Provides rides to appointments, shopping, and other activities.
3. Adult Day Health - Supervision in a community center for all or part of a day. Individuals can receive their medications, personal care, meals, and therapies. Recreational activities and outings are planned according to the person's interests and abilities.
4. Respite Care - Provides a break for caregivers usually several hours but can also be for a longer time.
5. Home Health Aide (or Personal Care Aide) - Provides personal care like bathing, dressing, feeding, some minor medical care and light housekeeping.
6. In Home Therapy - Provides training in communication, movement or doing daily tasks.
7. Companions - Provides conversation, supervision and some help with meals or tasks.
8. Homemaker - Provides light housekeeping, laundry, cooking, errands.
Chore Service - Provides minor repairs and handyman chores.
9. Senior or Recreation Center - Provides social activities, information and a range of services.
10. Telephone Reassurance - Phone calls to check on the person's well being
11. Nursing Service - Provides medical care and medical monitoring
12. Emergency Response Systems - Provides a connection to emergency assistance if a person cannot get to a phone. Usually it is a button connected to a bracelet or necklace.
13. Care Management/Care Coordination www.aginglifecare.org
Provides coordination of services coming into the home. People involved in long distance caregiving find it especially helpful to hire someone to coordinate home care services.

C. Homestead Exemption for Homeowners www.tax.ohio.gov

1. The homestead exemption allows low-income senior citizens and permanently and totally disabled Ohioans, to reduce their property tax bills, by shielding some of the market value of their homes from taxation. The exemption, which takes the form of a credit on property tax bills, allows qualifying homeowners to exempt up to \$25,000 of the market value of their homes from all local property taxes. For example, through the homestead exemption, a home with a market value of \$100,000 is billed as if it is worth \$75,000.

CI. Housing Choice Vouchers (HUD Section 8)

Vouchers provide housing assistance for very low-income families, the elderly and people with disabilities, allowing them to live in safe, quality affordable housing in the private market. Participants are able to find their own housing, including single-family homes, townhouses or apartments in neighborhoods of their choice.

- a. Participants are free to choose any housing that meets the requirements of the program. They are not limited to units located in housing projects.
- b. Most counties have an extremely long waiting list for a voucher. To be added to the waiting list, contact the Metropolitan Housing Authority in your county.

CII. Energy Assistance Programs

Assistance is available for gas & electric bills as well as basic telephone service. The programs are described at two websites www.puco.ohio.gov and www.development.ohio.gov. Many of these programs have special assistance available to veterans.

CIII. Residential State Supplement Program

1. The Residential State Supplement (RSS) Program provides financial assistance to adults with low incomes who have disabilities, but do not require long-term care at a nursing home. Consumers use RSS, which supplements their income, to pay for accommodations, supervision and personal care services at eligible community residences. All information about RSS, including application forms and instructions, is available at www.mha.ohio.gov.
2. Oftentimes, legal guardians, discharge planners and case managers submit applications on behalf of interested consumers. For assistance, contact the RSS administrator at RSS@mha.ohio.gov or toll-free at 1-855-777-6364.

6. End of Life Issues

A. Do Not Resuscitate Orders in Ohio

1. Ohio Administrative Code (OAC) Chapter 3701-62 creates standard, statewide rules pertaining to Do Not Resuscitate (DNR) orders. The rules were first enacted in 1999 and are authorized by R.C. 2133.21 through 2133.26.
2. A person, in consultation with a physician, certified nurse practitioner or clinical nurse specialist, may seek a DNR order. There are currently two types of DNR orders:
 - a. DNR Comfort Care
 - b. DNR Comfort Care – Arrest
3. If a person has either type of DNR order, there is a standard protocol for treatment found in OAC Rule 3701-62-05. For a patient with a "DNR Comfort Care" order, the DNR protocol is activated when the DNR order is issued. For a patient with a "DNR Comfort Care - Arrest" order, the protocol is activated when the patient experiences cardiac or respiratory arrest.
4. What Is The DNR Protocol?

The DNR protocol lists the specific actions paramedics, emergency medical technicians, physicians or nurses will take when attending to a DNR patient. The protocol also specifies actions that will not be implemented. The standard DNR protocol is to be used for a patient whose physician or advanced-practice nurse has written a DNR order.
5. Once the protocol is activated, the health care provider WILL:
 - Suction the airway
 - Administer oxygen
 - Provide pain medications
 - Position for comfort
 - Splint or immobilize
 - Control bleeding
 - Provide emotional support; contact other health care providers
6. WILL NOT:
 - Start chest compressions
 - Insert an artificial airway
 - Administer resuscitation drugs
 - Defibrillate
 - Administer respiratory assistance
7. A patient with a DNR order may revoke it at any time.
8. The death of a patient resulting from the withholding or withdraw of CPR for the person pursuant to the DNR protocol does not constitute for any purpose a suicide, aggravated murder, murder, or any other homicide.

9. Ohio Department of Health distributes information only about the DNR protocol and identification. Medical questions should be addressed to your own physician or to the Ohio State Medical Board.
10. Websites to access information: www.odh.ohio.gov, www.proseniors.org

B. Hospice vs. Palliative Care Options

1. Hospice care and palliative care are very similar when it comes to the most important issue for very sick people: they both emphasize comfort FIRST. Most people have heard of hospice care and have a general idea of what services it can provide. What they don't know or what may become confusing is that palliative care can be both a method of administering "comfort" care and a system of services offered usually by hospitals or other medical systems.
2. Both hospice and palliative care call for persons to receive care through a single program that concentrates on the person's comfort. Where palliative care programs and hospice care programs differ is in the place of treatment, timing, and type of treatment.
3. Place of Treatment
 - a. Hospice - Generally, once enrolled through a referral from the primary care physician, hospice care, is administered in the person's home or place of residence. Hospice treatment often relies upon family caregivers, as well as a visiting hospice nurse and other professionals to keep a person as comfortable as possible. While a hospice program can provide care in a hospice facility, or a hospital, this is not the norm.
 - b. Palliative Care - Palliative care teams are made up of doctors, nurses, and other professional medical caregivers, often at the health care facility where a person is receiving treatment for an illness or condition. These individuals will administer or oversee most of the ongoing comfort-care that the person will receive.
4. Timing of Treatment
 - a. Hospice - A person must generally be considered to be terminal or within six months of death to be eligible for most hospice programs or to receive hospice benefits from insurance.
 - b. Palliative Care - There are no time restrictions. Palliative care can be received by persons at any time, at any stage of illness whether it be terminal or not.
5. Type of Treatment
 - a. Hospice - The concentration is on comfort rather than aggressive disease treatment. Persons on hospice elect to forego or stop extensive life-prolonging treatments and concentrate on staying comfortable in the time they have left.
 - b. Palliative Care - Since there are no time limits on when a person can receive palliative care, it acts to fill the gap for persons who want and

need comfort at any stage of any disease, whether terminal or not. In a palliative care program, there is no expectation that life prolonging therapies will be avoided or stopped.

For more information on Hospice and Palliative Care go to:

www.midwestcarealliance.org, www.nhpco.org, & www.medicare.gov

C. Planning for a Deceased Ward

1. Pre-Planning Considerations

- a. Shop around in advance. Compare prices from at least two funeral homes. Remember that you can supply the person's own casket or urn.
- b. Ask for a price list. The law requires funeral homes to give you written price lists for products and services.
- c. Resist pressure to buy goods and services you don't really want or need.
- d. Avoid emotional overspending. It's not necessary to have the fanciest casket or the most elaborate funeral to properly honor a person.
- e. Recognize your rights. Laws regarding funerals and burials vary from state to state. It's a smart move to know which goods or services the law requires you to purchase and which are optional.
- f. Funeral providers and cemeteries are usually separate providers. Usually you will make separate arrangements for funeral and burial.

2. Indigent Burial/Cremation

- a. Until July 1, 2001, the State of Ohio took primary responsibility for burial expenses when someone died without resources. Currently the burial or cremation is the responsibility of the township or municipal authority in which the person had legal residence at the time of his/her death (Section 9.15 of the Ohio Revised Code).
- b. The local authority is also responsible for providing a stone or concrete marker on which the person's name and age, if known and date of death shall be inscribed. The local authority is not relieved of its duty to bury or cremate an indigent person if he/she is claimed by family members.
- c. Unfortunately, there are no uniform statewide standards for local communities to follow in determining who is defined as indigent, how families may apply for assistance or what amount/type of assistance is given. Some local communities have very well defined application and assistance programs and others do not. Check with the township or city of a person's residence at the time of death to see what may be available and under what conditions.

3. Donation of Bodies, Tissue or Organs

- a. **How to Donate** - The Ohio Donor Registry was established in July 2002. It provides Ohioans the opportunity to give legal consent to be an organ, eye and tissue donor at the time of death. An individual may sign up anytime online at www.donatelifeoio.org or, by saying “yes” when receiving or renewing their driver license or state ID at the Bureau of Motor Vehicles. Forms can also be completed and mailed in to the registry. Download the forms at the website or request they be mailed to you by calling 1-800-525-5667.
- b. **Donation Process** - Federal law requires hospitals to contact an organ, eye, or tissue recovery organization in the event of a death or expected brain death.
 - i. The recovery organization determines the suitability of the potential donation based on the medical history of the donor. In most cases, an organ donor must have been declared brain dead and must be maintained on a ventilator. Special circumstances occasionally allow for organ donation following cardiac death. Eye and tissue donation can occur after brain death or cardiac death.
 - ii. After organ, eye, or tissue recovery, the donor’s body is released to the funeral home of the family’s choice, or to the coroner or medical examiner, depending on the circumstances. The recovery organization will advise the donor’s family of the outcome of the donation. Identities of the donor and recipient are not shared between families. However, the recovery organization can attempt to facilitate communication if mutually agreed upon.
- c. **Anatomical Gift Programs** - any of the schools of medicine in Ohio will accept a person’s body as a gift to be used in research and teaching. The particular aspects of these programs, i.e. application process, cost, time frame, return of persons cremains do vary by school. Please contact the individual school to receive details of their program

4. Specific Veterans Issues

- a. **Funeral and Burial Expenses**
 - i. **Service-Related Death:** VA will pay up to \$2,000 toward burial expenses for deaths on or after September 11, 2001.
 - ii. **Non-service-Related Death:** For deaths on or after October 1, 2011, VA will pay up to \$700 toward burial and funeral expenses (if hospitalized by VA at time of death), or \$300 toward burial and funeral expenses (if not hospitalized by VA at time of death), and a \$700.00 plot-interment allowance (if not buried in a national cemetery).

- iii. To Apply: You can apply by filling out VA Form 21-530, Application for Burial Benefits. You should attach a copy of the veteran's military discharge document (DD 214 or equivalent), death certificate, funeral and burial bills. They should show that you have paid them in full.
- b. Veterans Cemeteries
- i. All veterans are entitled to a free burial in a national cemetery and a grave marker. This eligibility also extends to some civilians who have provided military-related service and some Public Health Service personnel, spouses and dependent children. There are no charges for opening or closing the grave, for a vault or liner, or for setting the marker in a national cemetery. The family generally is responsible for other expenses, including transportation to the cemetery.
 - ii. For more information, visit the Department of Veterans Affairs' website at <http://www.cem.va.gov>. To reach the regional Veterans office in your area, call 1-800-827-1000. There are 5 national cemeteries in Ohio but only 2 are open for new burials. Ohio also has one state Veterans Cemetery that receives federal funding.
- c. Memorial Markers
- i. Memorials are available to all veterans, spouses, and dependent children buried in a national cemetery and will be set without charge. For veterans who died before September 11, 2001, markers are available to them, not to the spouse or dependents, for use in other cemeteries unless the grave has already been marked by a private memorial.
 - ii. For veterans who died on or after September 11, 2001, the government will provide a headstone even if the grave already has a private marker. The installation cost must be borne by the family when in a non-government cemetery. Several styles of markers are available and must be consistent with existing monuments. Markers for cremains are also available. Inscription must include name, branch of service, year of birth, year of death—in this order—and may include emblem of belief, rank, and decorations earned. At private expense, additional items—such as nick-names and terms of endearment—may be added but must be approved by the VA.
 - iii. A flag is provided on request for the burial of any veteran. Apply through the VA and pick up at a U.S. Post Office. Family members may wish to purchase a flag case for later display, available through private sources.

7. Adult Guardianship Helpful Links

www.proseniors.org

Legal rights organization in Cincinnati--great fact sheets on about various benefits (Medicare, Medicaid, Social Security, SSI, DNR, Advance Directives)

www.disabilityrightsohio.org

Has many links and helpful fact sheets for both children and adults living with disabilities

www.ohiolegalhelp.org

A non profit website that guides, informs & connects Ohioans with the right help for legal problems.

www.ohioabar.org

OSBA Law Facts Pamphlets for Laypersons:

Listed alphabetically; use search box for topics, including Power of Attorney; Guardian, others

Glossary

AAA

Area Agency on Aging—Network of local agencies created by the Older Americans Act to serve as a funding, information and advocacy source for those over age 60 and their families. Ohio has 12 AAA's which are all multicounty.

Abuse, Neglect, Exploitation (from R.C.5101.60)

Abuse means the infliction upon an adult by self or others of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish.

Neglect means the failure of an adult to provide for himself the goods or services necessary to avoid physical harm, mental anguish, or mental illness or the failure of a caretaker to provide such goods or services.

Exploitation means the unlawful or improper act of a caretaker using an adult or an adult's resources for monetary or personal benefit, profit, or gain.

Abuser Registry

The Abuser Registry lists individuals who have committed abuse, neglect, misappropriation of funds, a failure to report an incident, or who have engaged in improper sexual relations with an individual who has development disability.

ADAMH Boards

Alcohol, Drug and Mental Health Boards. Ohio has 50 such boards some of which are multi-county and some serve a single county. They are funders and resources for behavioral health services in Ohio which includes Mental Health and Addictions services.

ADL

Activities of Daily Living-these are the daily living activities that many funders consider when deciding which type of care people require. They include: eating, bathing, toileting, dressing, walking, grooming, transferring, and mobility.

ADRN

Aging Disability Resource Network- These are networks of providers who serve both older and disabled individuals in a community. In Ohio, the lead agencies in the ADRN's are Area Agencies on Aging but it also includes agencies from many other networks.

Advance Directive

A written instruction, such as a living will or durable power of attorney for health care, which guides care when an individual is terminally ill or incapacitated and unable to communicate his/her desires.

Adult Protective Services

Adult Protective Services for Abuse, Neglect or Exploitation of those over 60 years of age. (Ohio Revised Code 5101)

Advocate

A person who assists, defends, pleads, or prosecutes for another.

APSI

Advocacy and Protective Service Inc. is an agency that provides guardianship services to people with developmental disabilities, age 18 or older, who otherwise would not be able to advocate for themselves.

Arm's Length Relationship

A relationship between two agencies or organizations, or two divisions or departments within one agency, which ensures independent decision-making on the part of both.

Assessment

A formal or informal evaluation of an individual's needs for supports and specialized services. Evaluation findings form the basis for determining an individual's level of care (LOC), and for writing a person's Individual Service Plan (ISP).

Attorney at law

A person who practices law. (Black's)

Autism

A developmental disorder that may be characterized by impaired social interaction, difficulties in communicating, repetitive or habitual behavior, and other issues.

Best Interest

The course of action that maximizes what is best for a ward, including consideration of the least intrusive, most normalizing, and least restrictive course of action possible given the needs of the ward. (Sup.R. 66.01)

OBVR

Ohio Bureau of Vocational Rehabilitation. A state agency which may provide funding for services, equipment, and supports that prepare an individual with disabilities for employment.

Bond

Obligation of a guarantor to pay a second party upon default by a third party in the performance of a duty the third party owes to the second party. (Black's 5th Edition)

Capacity

Ability to understand the nature of the effects of one's acts and decisions.

CDJFS

County Department of Job and Family Services-This is the location Adult & Children's Protective Services, and many assistance and job programs in each county. Ohio has 88 County DJFS offices.

Cerebral Palsy

A functional disorder caused by damage to the brain during pregnancy, delivery, or shortly after birth. It is characterized by movement disorders, such as: spasticity (tight limb muscles), purposeless movements, rigidity (severe form of spasticity), a lack of balance, or a combination of these disorders. Individuals with cerebral palsy may or may not also experience seizures, abnormal, speech, hearing, and visual impairments, and/or developmental disability and reduced intellectual ability.

Cerebral Vascular Accident (CVA or Stroke)

Occurs when blood is cut off on its way to the brain or while in the brain. Thinking processes can be disrupted by memory problems, decreased concentration, depression, impaired social judgment, loss of emotional control, poor judgment, impulsiveness, and difficult learning new things. In addition, problems with speech, language and vision may interfere with an individual's expression of choices.

CMS

Centers for Medicare and Medicaid Services - the federal agency that administers Medicare and Medicaid, and regulates the certification of care providers for people with physical/mental impairments.

Clerk of Court

A court officer responsible for filing papers, issuing process, and keeping track of court proceedings as generally specified by rule or statute.

Competency

The mental ability to understand problems and make decisions.

Confidentiality

The responsibility to keep details of a person's personal & financial information from any unauthorized party.

Conflict of Interest

Situations in which an individual or entity may receive financial or material gain, or a business advantage from a decision made on behalf of another.

Conservator

A conservator appointed by the probate court in an order of conservatorship issued pursuant to section 2111.021 of the Revised Code. (2111.01)(F). A competent adult who is physically infirm may petition the probate court of the county in which the petitioner resides, to place, for a definite or indefinite period of time, the petitioner's person, any or all of the petitioner's real or personal property, or both under a conservatorship with the court.

Counsel

See Attorney at Law.

Court

A governmental body consisting of one or more judges who sit to adjudicate disputes and administer justice.

Court Order

A legal document issued by the court and signed by a judge. Examples include a letter of guardianship; spelling out directions for the care of the ward and the estate, and authorization or denial of a request for action.

Court Investigator

A person appointed by the court to provide the court with information concerning a ward or a guardian.

County Board of Developmental Disabilities (CBDD)

The powers and duties of CBDDs are set forth in ORC 5126.05. Ohio has 88 County Boards of DD – one in each county.

Decisional Capacity

The ability to understand and appreciate the nature and consequences of a decision and to reach and communicate an informed decision in the matter.

Delirium

A serious disturbance in a person's mental abilities that results in a decreased awareness of one's environment and confused thinking. The onset is usually sudden, often within hours or a few days. Can often be traced to one or more contributing factors, such as a severe or chronic medical illness, medication, infection, surgery, or drug or alcohol abuse. Often reverses itself once the contributing factor has been withdrawn.

Dementia

A broad term that refers to cognitive deficit, including memory impairment. There are many causes. The onset is usually slow.

Developmental Center (DC)

An Intermediate Care Facility (ICF) for the Mentally Retarded (Medicaid terminology) under the managing responsibility of the Department of Developmental Disabilities. Ohio has ten state-operated DC's.

Developmental Disability

Severe chronic conditions that occur before age 22 and continue throughout life. They cause substantial limits in 3 or more life areas and create a need for special services.

Direct Services

Services typically provided by home and community-based care and institutionally-based care providers. Does not include services of a guardian. (Sup.R. 66.01)

Disability

A mental or physical condition that is restricting or limiting, or interferes with various activities.

DNR Order

Do Not Resuscitate Order. This is an order written by a health care professional upon an individual's instruction regarding the emergency interventions the person wants. There are two types of DNR orders-one directed towards all situations and one directed just towards Cardiac Arrest.

DODD (formerly ODMRDD)

The Ohio Department of Developmental Disabilities – acronym used after October 5, 2009, following passage of Senate Bill 79, removing the words “Mental Retardation and” from the state agency's name.

DPOA

Durable Power of Attorney. This document directs an individual to make decisions and/or pay bills for someone goes into effect when signed. It is drafted while the person is still capable. It ends at the person's death.

DPOAH

Durable Power of Attorney for Health Care. This document directs an individual to make health care decisions for someone who is not capable of doing so any longer. It is drafted while the person is still capable. It ends at the person's death.

DRO

Disability Rights Ohio provides rights protection and advocacy services to adults and children with disabilities.

Estate

Both real and personal, tangible and intangible, and includes anything that may be the subject of ownership.

Et Seq.

An abbreviation for the Latin phrase et sequentes meaning “and the following.”

Extraordinary Medical Circumstance

Includes abortion, removal of life support, sterilization, experimental treatment and other controversial medical issues.

Fiduciary

Means any person, other than an assignee or trustee for an insolvent debtor or a guardian under sections 5905.01 to 5905.19 of the Revised Code, appointed by and accountable to the probate court and acting in a fiduciary capacity for any person, or charged with duties in relation to any property, interest, trust, or estate for the benefit of another; and includes an agency under contract with the department of developmental disabilities for the provision of protective service under sections 5123.55 to 5123.59 of the Revised Code, appointed by and accountable to the probate court as guardian or trustee with respect to mentally retarded or developmentally disabled persons. (2109.01). Fiduciary also means an agent under a Power of Attorney, a Trustee, a conservator, a payee, or anyone acting in an agency capacity.

Financial Harm

Means impairment of an individual's financial assets by unlawfully obtaining or exerting control over the individual's real or personal property in any of the following ways: (1) Without the consent of the individual or the person authorized to give consent on the individual's behalf; (2) Beyond the scope of the express or implied consent of the individual or the person authorized to give consent on the individual's behalf; (3) By deception; (4) By threat; (5) By intimidation; (6) By fraud; or (7) By undue influence. (2111.01)(H)

Foreign Guardian

A guardian appointed within another state or jurisdiction.

Full Code

Refers to the wish of an individual to have all measures taken to save his/her life.

Group Home

A residence with some supervision and services available for persons with disabilities that generally has 16 or fewer residents.

Guardian

Means any person, association, or corporation appointed by the probate court to have the care and management of the person, the estate, or both of an incompetent or minor. When applicable, "guardian" includes, but is not limited to, a limited guardian, an interim guardian, a standby guardian, and an emergency guardian appointed pursuant to division (B) of section 2111.02 of the Revised Code. "Guardian" also includes an agency under contract with the department of developmental disabilities for the provision of protective service under sections 5123.55 to 5123.59 of the Revised Code when appointed by the probate court to have the care and management of the person of an incompetent. (R.C. 2111.01(A))

Guardian Ad Litem

A person appointed by the Court to make an impartial inquiry into a situation and report to the Court.

Guardianship Services

Means the duties assigned to a guardian in an adult guardianship case pursuant to R.C. Chapters 2109 and 2111. (Sup.R. 66.01)

HCBS Medicaid Waiver

A Home and Community Based Services Waiver allows a person to get services that are not normally covered under the state's Medicaid plan, or that are normally only provided in an institutional setting. There are several different types of waivers and they are administered by different state agencies under the direction of the Ohio Department of Medicaid.

HIPAA

Health Insurance Portability and Accountability Act of 1996. The HIPAA Privacy Rule creates national standards to protect individuals' medical records and other Protected Health Information (PHI).

Hospice

Service which coordinates care to an individual judged to have 6 months or less to live. The hospice philosophy focuses attention on the comfort of a person rather than on pursuing a cure. It can be provided in any setting including an individual's home, group home, assisted living and a nursing care facility. If a person chooses to pursue hospice care, he/she will discontinue treatments aimed at curing the underlying illness.

IADL

Instrumental Activities of Daily Living. These are the day-to-day activities that allow a person to live independently in the community. They include: personal banking, medication administration, laundry, housekeeping, shopping, arranging transportation, coordination of medical care

ICFMR (ICF)

Intermediate Care Facility for the Mentally Retarded (federal language): A Medicaid-funded residential facility that teaches living skills to help people live in less restrictive environments. The acronym ICFMR, while still in statutory language, now may be represented as "ICF" or "ICFDD" with the remainder dropped.

Incompetent

Any person who is so mentally impaired as a result of a mental or physical illness or disability, or mental retardation, or as a result of chronic substance abuse, that the person is incapable of taking proper care of the person's self or property. (2111.01)(D)

Indigent

Impoverished, suffering from extreme poverty.

Indigency

The state or condition of a person who lacks the means of subsistence; extreme hardship or neediness; poverty.

Informed Consent

A person's agreement to allow something to happen, made with knowledge and understanding of risks involved and the alternatives. The decision must be voluntary without coercion or undue influence from others.

Interested Person

Individuals who, according to state statute, have a right to notice regarding a guardianship cause of action. This may include parents, siblings, spouse, and residential provider.

Least Intrusive

A mechanism, course of action, or situation, which allows the ward the greatest opportunity for autonomy with a minimum of intervention.

Least Restrictive Alternative

A mechanism, course of action, or environment which allows the ward to live, learn, and work in a setting which places as few limits as possible on the ward's rights and personal freedoms as is appropriate to meet the needs of the ward.

Limited Guardian

A guardian who is appointed by the court to exercise the legal rights and powers specifically designated by a court order entered after the court has found that the ward lacks capacity to do some, but not all, of the tasks necessary to care for his or her person or property, or after the person voluntarily petitions for appointment of a limited guardian, or when a guardian is needed to perform a specific task for a limited purpose. A limited guardian may possess fewer than all of the legal rights and powers of a plenary guardian.

LOC

Level of Care is the extent of assistance an individual needs. Ohio has 3 Level's of Care: Protective, Intermediate, and Skilled.

Long-Term Care Planning

Forecasting and preparing for diminished functional capacity of the ward through the identification and securement of resources to address his/her care needs, including home and community-based services and possible residential care as well as payment options for care not covered by Medicare and traditional health insurance. (Georgia Anetzberger)

Medicare

Federal health insurance program administered by the Centers for Medicare and Medicaid. In general, it serves anyone who is vested in the Social Security System and has reached the age of 65, has renal failure or ALS or has been on Social Security Disability for more than 24 months.

Medicaid

The Federal-State health assistance program which provides healthcare to those who have limited income and assets. It serves people of any age. It is partially administered by the states so it differs from state to state.

Mental Illness (also known as Behavioral Health)

A condition marked primarily by sufficient disorganization of personality, mind and emotions to seriously impair the normal psychological functioning of the individual. Includes: Anxiety Disorders, Depressive Disorders, Paranoia and Schizophrenia.

Mental Retardation

Mental Retardation is defined as, 'significantly below-average general intellectual functioning (IQ 70-75 or below), existing concurrently with deficits in adaptive behavior, and manifested during an individual's developmental period, which is before the age of 22. 'Mental retardation is a developmental disability. Use of the terminology is fading from usage except for medical diagnoses and federal statutory language. Preferred terms are 'intellectual disability', 'cognitive disability, or, the broader term, 'developmental disability.'

MUI

Major Unusual Incident: The reporting system mandated by Ohio law that sets procedures to review and report allegations of abuse, neglect and other potentially serious incidents that occur in the Developmental Disabilities System.

Next of kin

Any person who would be entitled to inherit from a ward under Chapter 2105. of the Revised Code if the ward dies intestate (without a will.) (2111.01)(E)

OAC

Ohio Administrative Code. The Administrative Code contains the full text of, or a reference to, every rule that has been adopted by the agencies of state government. A rule is a formal, written communication of the law that has been established by an agency under a statute that authorizes the agency to adopt rules.

Oath

A legal document signed by the guardian in which he/she pledges to carry out is/her legal obligations to the ward in a proper manner.

ODA

Ohio Department of Aging. Administers Older Americans Act funding and several HCBS Medicaid Waivers.

ODJFS

Ohio Department of Job and Family Services. Administers many assistance and job programs in Ohio.

ODM

Ohio Department of Medicaid. The single Medicaid agency for Ohio. Established in 2012.

OEDI

Ohio Eligibility Determination Instrument (diagnostic) for ages 16 and over. This refers to a test to determine the eligibility of persons for state and county Developmental Disabilities Services.

Ohio Revised Code

The Ohio Revised Code contains all current statutes of the Ohio General Assembly of a permanent and general nature, consolidated into provisions, titles, chapters and sections. However, the only official publication of the enactments of the General Assembly is the *Laws of Ohio*; the *Ohio Revised Code* is only a reference.

OEDI

Ohio Eligibility Determination Instrument (diagnostic) for ages 16 and over. This refers to a test to determine the eligibility of persons for state and county Developmental Disabilities Services.

Olmstead v. LC

A U.S. Supreme Court decision that found that people with disabilities have rights to services in the least restrictive environment.

Ombudsman Programs

Many different types of programs which field complaints from consumers about a service and mediate a solution between the person and the provider of services.

OPRA

Ohio Provider Resource Assn.: An organization of providers of Developmental Disabilities services.

OSHIIP

Ohio Senior Health Insurance Information Program directed toward people on Medicare. It is administered by the Ohio Department of Insurance and provides education, advocacy and other services by both paid and volunteer individuals all across Ohio.

Palliative Care

Refers to the care provided in a hospital or rehabilitation center which is concentrated on the comfort of the person primarily regarding pain control. Palliative care allows the provider to still provide treatments aimed at curing the underlying condition.

PASSPORT

Pre-Admission Screening System Providing Options and Resources Today. A Medicaid waiver available to people over the age of 60 who meet certain requirements. Administered by the Ohio Department of Aging.

Parens Patriae

A legal principle meaning that the state or government can act to determine what is in the best interests of an individual, even if the individual disagrees, on the basis of the evidence of incapacitation or charges of personal or serious property mismanagement. Literally, the “father of the country.”

Patient Liability

The amount that the consumer owes, per month, toward his/her care when living in a nursing facility or receiving home and community based services paid for by Medicaid. This amount is determined by the Ohio Department of Jobs and Family Services on an individual basis, and is related to a consumer’s income.

People First

An advocacy organization that directly involves people with disabilities in a variety of local, state, and national issues, projects, and programs.

Probate Court

The Probate Court is established in each county of Ohio to supervise the administration of the estate of a decedent who was a legal resident in the county at the time of his or her death. Each transaction involved in the administration of an estate is subject to the examination and approval of the Probate Court. Other matters within the Probate Court's jurisdiction are: issuance of marriage licenses, adoptions, guardianship proceedings, the involuntary commitment of the mentally ill, and land appropriation cases.

Provider

A person or agency that delivers services to people of all ages with disabilities.

Psychotropic Medications

Any medication prescribed for the management of behavior.

Reasonable Fee

Compensation or payment, the receipt of which would not constitute a breach of fiduciary duty under section 36 of the "Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C.A. 80a-35. 1111.13(E)(4)

Representative Payee

An individual, agency, or organization named by a governmental agency to receive government benefits on behalf of, and for the benefit of, the beneficiary entitled to such benefits.

Resident Guardian

A guardian appointed by a probate court to have the care and management of property in this state that belongs to a nonresident ward. (2111.01)(C)

Respite Care

A service designed to provide temporary residence for a person with a disability who ordinarily lives with family or friends, or to assume temporary responsibility for care of the person in his or her own home. This service provides back-up support, and in some cases relief, to people responsible for care of an ill or disabled person who ordinarily lives in their household.

Self-determination

A doctrine that states the actions of a person are determined by that person. It is free choice of one's acts without external force.

SSDI

Social Security Disability Insurance. The plan pays monthly benefits to disabled workers and their dependents. The plan is funded by Social Security. In general, participants must have accrued sufficient quarter-years of employment and payment into the system to qualify for benefits.

SSI

Supplemental Security Income. The federal government provides income support to people 65 and over, and to adults and children with blindness or other disabilities, who have few or no financial resources.

SSN

Social Security Number.

Registered Investment Company

Means any investment company that is defined in and registered under sections 3 and 8 of the "Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C.A. 80a-3 and 80a-8. 2109.372(A)(2)

Social Services

Services provided to meet social needs, including provisions for public benefits, case management, money management services, adult protective services, companion services, and other similar services.

Substance Abuse

Occurs when the recurrent use of alcohol and/or drugs causes clinically significant impairment.

Substituted Judgment

The guardian makes a (the) decision that reflects as closely as possible what the ward would have decided if he/she were making the decision.

Successor Guardian

A guardian who is appointed to act upon the death or resignation of a previous guardian.

Superintendence Rules

The Supreme Court of Ohio adopts the Rules of Superintendence for the Courts of Ohio to serve the public interest that mandates prompt resolution of all causes, at all times, in all courts of this state. The Rules of Superintendence for the Courts of Ohio are intended to apply to all trial and appellate courts, except the Court of Claims, unless a rule clearly is intended to apply only to a specific court or division of a court.

Third-Party Distribution

Means the distribution by a fiduciary of an estate or trust of the assets of that estate or trust when both of the following apply: (1) The fiduciary makes the distribution to either of the following persons: (a) The transferee of a beneficiary; (b) Any person pursuant to an agreement, request, or instruction of a beneficiary or pursuant to a legal claim against a beneficiary. 2109.361(A)

Traumatic Brain Injuries (TBI)

Defined as an alteration in function, or other evidence of brain pathology, caused by an external force. Typical causes are: falls, assault, motor vehicle accident, sports injury.

Trustee

One who, having legal title to property, holds it in trust for the benefit of another and owes a fiduciary duty to that beneficiary. Generally a trustee's duties are to convert to cash all debts and securities that are not qualified legal investments, to re-invest the cash in proper securities, to protect and preserve the trust property, and to ensure that it is employed solely for the beneficiary in accordance with the directions contained in the trust instrument.

VA

Veterans Affairs is the federal agency charged with providing services for all veterans in the areas of financial support, physical and mental health care, disability support, long term care services, and funeral and burial services. Veterans qualify for services based on length of military service, type of military service, disability status, and possibly income.

Waiver

Waiver is usually used in reference to the Home and Community-Based Waiver program where a state has applied for and received permission to use Medicaid funds to assist and keep people with disabilities in the community.

Ward

Any adult person found by the probate division of a court of common pleas to be incompetent and for whom a guardianship is established. (Sup.R. 66.01)

Glossary Sources

The definitions in the Fundamentals of Adult Guardianship Glossary came from several sources, including:

American Association of Retired Persons

Black's Law Dictionary, 5th edition and 8th Edition

Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition

National Guardianship Association Ethics and Standards for Guardians

Ohio Revised Code

Report from the Subcommittee on Housing and Consumer Interests of the United States

House Select Committee on Aging

Rules of Superintendence of the Courts of Ohio



THE SUPREME COURT *of* OHIO
JUDICIAL COLLEGE