



# Standards for Agencies and Programs Providing Guardianship Services

*Adopted 2007*

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National Guardianship Association

# **Acknowledgements**

The National Guardianship Association [NGA] wishes to express its gratitude to the many individuals who committed time and talent to the development of these standards and helped to improve this process. NGA individual members, state affiliates, Board members and interested parties contributed their time to refine and make these standards better. NGA is grateful to each of those individuals and groups.

# Preamble

Guardianship is a delegated judicial function that entails a high responsibility to achieve stability or improve the life of a vulnerable adult. In that sense, all guardians owe the person under guardianship the highest allegiance and must operate in an open and ethical manner. Providing guardianship services for a fee heightens the need to assure quality service delivery.

The National Guardianship Association's purpose in this document is to provide guidance for programs striving to provide quality guardianship services. There are many different types of entities delivering these services across the country. Some of these agencies are private (for profit or not for profit) and some are governmental. Some of these are very small and locally focused. Others are statewide. There is great diversity among agency models. This document is not intended to be all encompassing or prescriptive. The standards are written broadly, so that the principles may be applied to any agency or program, regardless of its size or structure. While aspirational, the standards convey good business practice that agencies and states should consider adopting into policy or law.

The National Guardianship Association (NGA) has previously adopted a "Ethical Principles" and has defined Standards of Practice for the day-to-day provision of guardianship services that expand on the code's ethical base. Those ethics and standards apply to all guardians whether professional guardians, volunteer guardians or family members. This document defines additional NGA standards for acceptable business practice and program design for non-family guardians who are developing or operating agencies or programs providing professional guardianship services.

NGA defines a guardianship "agency" or "program" as any business or public entity performing as court appointed guardian, whether salaried public employee or for a fee, for individuals who are not related to those providing the services. The agency or program has a fiduciary relationship with and is under a legal duty to act in the best interest of the client, who is the principal in the agency relationship. It may be a free standing agency or a program within a larger service entity. The services may be supported financially through grants, contracts with state or local government entities, by fee for service to the estates of the individuals served, or any combination of those mechanisms. The agency standards are also intended to include those programs providing guardianship through the recruitment and training of citizen volunteers who receive court appointment, and function with supervision from professional guardians or agencies. In some cases if the program more closely resembles a "sole practitioner" design rather than an organization, the program may wish to use individual certification (Registered or Master Guardian) rather than the agency certification process defined in this document.

Like the NGA Standards of Practice, these Agency standards constitute what is considered best practice in guardianship at this time. As a living document, these standards may evolve over time as agencies and programs implement them. The NGA Ethics and Standards committee will continue to monitor this document and will refine the standards as necessary.

# Standards of Practice for Agencies and Programs Providing Guardianship Services

## Standard on NGA Ethics and Standards of Practice<sup>1</sup>

**I. Standard: Agency/ program managers shall demonstrate a working knowledge of the “Ethical Principles for Guardians” and the National Guardianship Association [NGA] Standards of Practice, and shall develop and utilize policies and procedures that reflect the commitment to those standards as well as to the agency standards presented here.**

[Intent Statement]: The Ethical Principles presents the philosophy of guardianship followed by the National Guardianship Association. The Standards of Practice outline principles that are NGA ideals for service delivery, and are indicated as current, but evolving “best practice.” Statements of principle are necessary because guardianship services involve the loss of an individual’s fundamental rights. These NGA documents define guardianship as a service that owes full allegiance to the persons served and to their right to positive influence over the life the person desires and finds satisfying, that recognizes the values, contributions (current and potential) by the person served to that person’s communities, and to be supported in a web of relationships, both natural and paid, within the person’s communities, and assisted in the least restrictive, least intrusive way that will meet their needs.

Historically, guardianship has focused on asset preservation more than on person-centered planning, decision making and preservation of the rights of the individual who is the subject of the guardianship. The NGA “best practice” approach focuses on a person-centered philosophy and the guardian’s duty to recognize and respond to the person as an individual with needs, desires and the potential for growth. To fulfill these responsibilities, it is the duty of the guardian to learn as much as possible about:

- 1) the individual’s personal history, culture and family background,
- 2) person-centered planning,
- 3) responsibilities and duties of guardians,
- 4) legal processes of guardianship,
- 5) state certification of guardians,
- 6) alternatives to guardianships and promoting where appropriate supported decision making prior to guardianship

Individual programs may vary in their ability to adhere to these standards in detail. Not all agencies and programs will be able to fully meet all of the Standards of Practice. There may be instances where the service is not provided, or cannot be provided exactly as the standard outlines. Specific state law may mandate variance from a requirement. Other variations in a state’s resources or social service delivery system may affect the design and operation of a particular agency or program. In cases where outside resources, state law, or other factors dictate variance from a standard, the agency/program should indicate in writing the reason for varying from that standard.

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Ethical Principles

These principles have been updated to reflect the recommendations from the Third National Guardianship Summit.

## **II. Operating Standards:**

### **A. Standards on the Governing Authority**

1. Standard on Legal Status: The agency or program shall identify in writing its status as a legal entity (i.e. for-profit, not for profit, public agency, subsidiary of a larger entity, sole proprietorship, or other organization) and the decision-making process to determine agency policy.
2. Applicable state law should be identified. If there is a policy-making board, the entity shall assure diversity in its membership and describe in writing the desired composition of that board.
3. If there is no policy-making board, or the board is advisory only, the agency or program must identify the ultimate authority for decision making in the organization.

[Intent Statement]: The leadership of the agency or program must establish its mission and policy and must oversee implementation. It is important to articulate the mission and goals of the organization and to identify the position with ultimate responsibility for overseeing sound business and program practice. The chief executive in charge of and responsible for the organization must be identified as well as how that position relates to the governing board, if there is one. Relationships must be defined in agency policy for the entity to function effectively (such as an organizational chart or job description).

**B. Standards for a governing board:** If a board structure is chosen, its functions shall be identified in writing and by policy. The board shall set:

1. Guidelines concerning board member attendance
2. Criteria that would require the members to abstain from voting due to conflicts of interest.
3. The Board shall have the authority to approve the agency budget.
4. The Board shall oversee program outcomes.
5. The Board shall receive the independent financial review results when completed.
6. To carry out those duties, new board members must receive an orientation to the mission and policies of the organization.
7. If the board receives compensation for its services, the amount and justification for that compensation must be defined.
8. The board members should be given a copy of these standards and "Ethical Principles for Guardians" and the National Guardianship Association [NGA] Standards of Practice, as well as any applicable state or local standards and ethics policies, to familiarize them with the applicable standards and code of conduct for a guardian.

[Intent Statement]: To be an effective decision making body, an operating board must have access to information about how the agency or program goes about achieving its mission. The board must be aware of situations that might place board members in a conflict of

interest and must assure that members agree to avoid such situations. The board must have the authority and the expertise, both financial and programmatic, to review and approve or question aspects of the operation and must obtain an independent financial audit at least every three years, with annual fiscal reviews in interim years. The board should not receive unreasonable compensation that dilutes the agency's ability to provide high quality services to its clients.

**C. Standard on Programs within Larger Entities:** If the guardianship program is housed within a larger agency:

1. It must be at arms length and function independently.
2. The program must be independent from those providing other services to the same clientele.
3. The guardianship division shall have decision-making ability independent of the other service divisions.
4. The guardianship division must have clearly delineated strategies for avoiding conflicts of interest.
5. The guardianship division will scrupulously examine direct service costs and assure that it requests the most appropriate, least costly provider for direct services to its the person under guardianship.
6. If a direct service or group of services is provided to a person under guardianship for additional fees, the guardian must disclose that to the appointing court.
7. Where appropriate and feasible the guardian must obtain court approval of those fees.

[Intent Statement]: Housing guardianship services within an agency that also provides direct services to the same individuals is not recommended because the important advocacy function of the guardian is impacted by that design. Standard 16 of the NGA Standards of Practice requires that "the guardian shall not be in a position of representing both the person under guardianship and the service provider." It further prohibits the provision of housing, medical, legal, or other direct services to the person under guardianship, except as a last resort. There are very real dilemmas and ethical pressures inherent in guardianship work. It is imperative that the guardian not be intimidated or in a subordinate position to others providing direct service to the persons under guardianship. It is also important that the guardian avoid any appearance of impropriety or self-dealing in obtaining services from the agency which houses the guardianship service. The guardian's ability to advocate, including the ability to sue on the individuals behalf, may be negatively affected when the agency is also the direct service provider. Where this situation cannot be avoided, there must be some neutral oversight provided. Where a guardianship agency is under the jurisdiction of another agency which may pose a conflict of interest or perceived conflict of interest, there should be a memorandum of understanding with an appeal process to resolve any conflict. The guardian should provide evidence of costs and justification for those fees in the information provided to the court, and seek its approval if appropriate.

**III. Personnel Standards:** *The agency/program managers shall:*

**A.** *Employ competent staff with the training and experience to provide quality service to the individual.*

**B.** Agency management shall recruit, train, and retain personnel who meet the identified needs of the individuals receiving service and contribute to the organization's mission.

1. Program Staff: The agency/program managers shall have a written policy that assures there is sufficient qualified staff to provide services to each individual, taking into consideration that there may be periods of insufficient staff support.

[Intent Statement]: The agency/program managers shall assure that adequate program staffing levels are identified and maintained. These staffing levels will be dependent upon the type of guardianship and other services provided. Adequate staff to client ratios must be established to assure that access to and implementation of person-centered decision making is not impaired or delayed. The design of caseload assignments should include not only the guardian caseworker, but also the number of support staff required to fully support the case. Creative use of support staff such as bookkeepers, property managers, guardian assistants and volunteers can lessen the caseworkers' workload and enable them to spend more time with the persons under guardianship. The addition of an Information Specialist to help upgrade technology may be justified. The agency may also need to develop and document a process for caseload weighting to assure that complex cases do not overwhelm individual guardian caseworkers and that less active cases are not neglected.

2. Hiring Practices: The agency/program managers shall operate utilizing federal regulations on non-discrimination in hiring practices:
  - a. The agency/program will have written policy that assures that prospective staff references are checked and that those hired have at least the minimum education, training and experience to serve the program's clientele.
  - b. All applicants for employment must undergo a criminal background and abuse registry check and any other screenings such as a credit check and drug testing that comply with state law.
  - c. If an agency recruits and trains volunteers to be guardians, they, too, must provide references and submit to the same background checks as paid staff.

[Intent Statement]: All staff should have the qualifications to perform the functions identified in their job descriptions and any applicable licensure or educational requirements for their positions. There must be an identified process for verification of education, work experience and reference checks. The agency or program shall assure that current licenses and educational documents are on file. Finally, guardianship is a fiduciary relationship and persons who are served by guardians are often vulnerable. Criminal background reports must be obtained to prevent the employment of inappropriate individuals. The agency/program managers are encouraged to require recurring background checks on a periodic basis to be sure persons under employment remain qualified to serve in their positions.

3. Orientation Training: The agency/program managers shall identify the structure or protocols for training new staff by written policy

and assure that all new staff is provided with orientation to the program services and philosophy of that service.

[Intent Statement]: Effective guardianship services cover complicated issues crossing many disciplines, based on the specific characteristics of the individuals served. The agency/program staff will be asked to make decisions that affect the daily lives of the individuals, their financial and personal well-being. Therefore, the management team must assure that new staff is well prepared *prior to* providing such services. The training curriculum for new staff should include at a minimum:

- NGA Standards of Practice for Guardians/ Ethical Principles
- NGA Agency Standards
- Fundamentals of Guardianship, Applicable Federal and State Law
- Characteristics of the population served
- Appropriate Terminology (i.e. "Person First" language, etc.)
- Active Listening Skills
- Overview of State and Local Social Services and Resources
- Agency/Program Policies and Procedures
- Protective Services Laws and Requirements
- Confidentiality and Decision-Making Ethics
- Medical decision-making

4. Continuing Education: The agency/program managers shall have a written policy that assures that all staff members and volunteers who become guardians attend a minimum number of hours of continuing education training applicable to their work on no less than an annual basis.

[Intent Statement]: Developments in medical, legal and social services occur rapidly and the staff delivering program services must have access to the latest information and training in areas affecting guardianship. The agency may provide some training hours in-house, but should look to outside sources as well. Some of the training should cover research-based information as the field continues to develop. A minimum number of annual training hours should be required for each staff person or volunteer delivering services directly to individuals. (For example, the Center for Guardianship Certification requires twenty hours over two years to maintain a professional certification as a Registered Guardian, or thirty hours over three years for a Master Guardian.)

5. Administrative and Support Staff Training: The agency/program managers shall have a written policy that assures that administrative and support staff members attend training on the program mission and the characteristics of the individuals served.

[Intent Statement]: It is likely that support staff will interact at times with the individuals served by the program. Even if they do not, it is important for the success of the program for these staff to identify with the mission and to learn the characteristics of those served, in order to enhance their ability to be effective in their support roles. Specifically, Reception and Fiscal staff interacting with individuals should also undergo training in the use of



“Person First” language and person-centered guardianship. This is the terminology preferred by the disability community, and refers to the person by name and then identifies a disability only if necessary (i.e., “person with schizophrenia, person who uses a wheelchair, etc.) These staff members should also receive training in active listening skills, techniques for calming an angry individuals and techniques in supported decision-making. Information on these topics should be available from program staff. This does not have to be external training.

6. Job Descriptions: The agency/program managers or governing board shall develop written job descriptions for all positions that identify the minimum qualifications for the position as well as its responsibilities. Job descriptions should be reviewed regularly and updated as needed.
7. Annual Appraisal: The agency/program managers shall have a written policy and utilize a specific process for appraising each employee’s performance.
  - a. Each person employed by the agency, including the agency director if there is an operating board, shall have a performance appraisal annually.
  - b. Regular, periodic supervision should be provided during the initial employment period for employees providing guardianship services to persons under guardianship.
  - c. Staff with state certification and/or certified as Registered or Master Guardians through the Center for Guardianship Certification should provide such supervision.

[Intent Statement]: In order to continually improve the quality of services provided to clients, the individuals providing those services must receive regular feedback and set goals for improving their skills on a regular basis. New program staff should have a series of sessions over the first six months of employment to confer with a supervisor regarding plans for the individuals served. The supervisor must review and mentor the employee to assure that there is an understanding of the NGA Standards of Practice and that the employee is applying them for the individual. Once the employee has successfully completed the initial employment period, the supervisor should review performance no less than annually in writing.

8. Use of Volunteers in Guardianship Programs: The agency/program managers shall have a written policy that:
  - a. Defines the role and job description of any volunteers used to support the person under guardianship.
  - b. Documents that it provides appropriate training, support, and technical assistance to them.

[Intent Statement]: There are many ways that dedicated volunteers can enhance the lives of the individuals served by the agency/program. While the problem of limited resources can be partially addressed by using volunteers, “volunteer” never equals “free.” It is true

that volunteers can fulfill many, if not all the roles of paid staff. However, volunteers also need support, supervision, job descriptions and a defined role with parameters. Volunteers may be guardians, with full powers, personally appointed by the court, after the agency trains and certifies them. Volunteers may also fill the role of guardian assistant, visitor, or other supportive services functions. In any of those roles, the volunteer is functioning as unpaid staff, and must follow the same agency/program policy and procedure as paid staff, as the procedures apply to their roles. Policies governing screening, background checks, and training apply equally to a volunteer filling a defined role, and the volunteer must also be subject to termination for poor performance. Volunteers must understand the fiduciary relationship, the Ethical Principles and the NGA Standards of Practice, and have received some training in person-centered decision making.

### **C. Certification Requirements for Program Staff:**

1. At least one member of the management team shall hold certification from the Center for Guardianship Certification either as a Master Guardian, or be a Registered Guardian with a minimum of five years experience.
2. All professional guardianship staff having direct responsibility for persons under guardianship shall hold current state and/or national certification at the Registered Guardian level or be required to attain it within two years of their employment.

[Intent Statement]: Because curricula in social services, medical and legal fields do not generally include guardianship, certification from the Center for Guardianship Certification is necessary. The CGC is a testing and certification entity separate from the NGA that understands the philosophy and of NGA, and supports the effort to increase that understanding among practitioners. The program director should have certification at a minimum as a Registered Guardian, and must have at least five years' experience working in guardianship. It is preferred that the top program manager be certified at the Master Guardian level.

**IV. Fiscal Standards: The agency/ program managers shall maintain fiscal stability. Fiscal Standards shall follow the tenets of the NGA “Ethical Principles” and the NGA Standards of Practice. Agency/ program management staff will assure that these principles guide the Fiscal Standards.**

**A.** There shall be written policies that demonstrate that the organization is operating in accordance with Generally Accepted Accounting Principles.

**B.** These policies shall assure the organization operates in accordance with accepted business practices for a fiduciary and the requirements of applicable state law.

### **C. Fee Structure:**

1. The agency/program shall have written policy regarding the source of its funding.

2. The agency/program shall have a written fee structure for services to individuals.

[Intent Statement]: Guardianship is a fiduciary relationship and fees for service should be open to scrutiny by the court or other government entities in a position of oversight of the agency or program, as well as to the public. Whether the agency is a public entity or a private one, the fiduciary nature of guardianship also requires that fees be reasonable for services rendered. To avoid the appearance of impropriety and any conflict of interest, the agency/program's policies concerning fees/funding must be consistent with the NGA Standards of Practice and be clear and open to public scrutiny.

**D. Fiscal Controls:** The agency/program managers shall demonstrate:

1. That the operation uses sound fiscal controls and Generally Accepted Accounting Principles.
2. The organization will arrange for an outside review/audit of the financial records of the agency by an independent entity periodically.
3. The results of the review/audit will be provided to the board or managing officers upon completion.

[Intent Statement]: Outside review or audit of the agency/program's fiscal situation provides the checks and balances necessary to assure good fiscal management. Whether it is conducted by a CPA or by a governmental entity, it should be separate from any group or entity with direct oversight responsibility for the agency/program to assure objectivity. The agency/program will demonstrate by board minutes or policy that action has been taken on exceptions noted by that fiscal review or audit. If the agency/program is audited by a governmental or funding entity already, that audit may be considered to meet this requirement, as long as the entity is independent of the agency managers or board of directors.

**E. Financial Agency Records:** The agency/program managers shall demonstrate by written policy and practice that they operate within a system of internal controls that:

1. Govern receipts and disbursements.
2. Assure that funds for business/client operations are handled prudently.
3. Demonstrate that checks and balances are in place.
4. Retain fiscal records to reflect those practices.
5. The agency/program shall also demonstrate that it has obtained adequate insurance coverage for its business design.
6. The agency has sufficient bonding as required by state law.

[Intent Statement]: Operating on a sound fiscal basis helps to ensure the stability needed to meet the agency/program's fiduciary responsibilities to its clients. Using Generally Accepted Accounting Principles, and keeping records of those practices including payroll records, budgets, monthly financial reports, bank statements, accounts receivable and accounts payable, gives the management team the tools needed to track operations and

identify problems in a timely manner. Insurance policies must be comprehensive and include liability coverage for owners, staff, volunteers as well any of the board of directors. Insurance policies should be accessible and coverage should also be adequate to protect the organization. The organization must also be bonded at the amount required by state law and/or local court rule.

**F. Client Financial Records:** If the agency provides services as representative payee or as guardian of the estate, the agency/program managers shall demonstrate by written policy and practice that there is a system of internal controls to protect the funds of the persons for whom it provides daily money management or estate services. Policies will reflect that:

1. The entity provides separate accounts, or keeps separate ledgers if the accounts are pooled, for individuals served.
2. Applicable local, county, state and federal statutes and regulations are followed.
3. The agency/program adheres to the principles of the “Prudent Investor Rule” for managing estates. The agency/program managers have a goal to manage, but not necessarily eliminate risk.
4. The organization demonstrates a system of checks and balances so that client accounts are not accessible to unauthorized individuals.
5. At least every three years, an external audit of client financial records is conducted.
6. An identifiable client file is recommended.

[Intent Statement]: In addition to the programmatic responsibility for prudent management, the organization must demonstrate that it has taken steps and by policy protects the assets of the individuals it serves. There should be continuing dialogue between the program staff and any bookkeeping staff to assure continuity of money management services. There should be a policy and statement as to who is authorized to approve expenditures. Ideally guardian caseworkers will not write checks or handle client funds directly. There should be an approved group of staff with check signing privileges. There needs to be a system of verifying if goods and services were purchased or provided and they should be separate from those who generate the checks. An external auditor should audit client accounts no less than every three years. If the agency/program is audited by a governmental or funding entity already, that audit may be considered to meet this requirement, as long as the entity is independent of the agency managers or board of directors.

**G. Required Reports:** The agency/program managers shall have a written policy and demonstrate that it is timely in submission of all required financial reports, including accountings, to the appointing court and to persons served by the guardianship service.

[Intent Statement]: The appointing authority is charged with monitoring the work of the guardian it appoints. The guardian has an affirmative duty to be timely and the agency/program seeking certification should be able to demonstrate effective, prudent

management of individual assets. Timeliness also indicates effective service delivery to the appointing authority.

**V. Program Services Standards: Program design and operation shall follow the tenets of the NGA “Ethical Principles” and the NGA Standards of Practice. Agency/ program management staff will assure that these principles guide program design and day-to-day services.**

**A. Clientele:** The agency/program managers shall identify the individuals served and the type of service offered:

1. The program’s plan should include the criteria for acceptance.
2. The process used for a waiting list, if any, and the process for denying service if permitted by state law.
3. If the agency/program is appointed guardian of someone whose needs differ from the primary clientele, the organization shall consult with appropriate professionals to develop the capacity to provide informed consent for that individual.
4. The agency/program must develop a triaging system that identifies which referrals will be accepted as urgent.
5. The program plan should identify criteria that:
  - a. Would place an individual on a waiting list.
  - b. What referrals are inappropriate for the guardianship provided by the agency and
  - c. What referrals are inappropriate for guardianship but are appropriate for less restrictive alternatives.

[Intent Statement]: When the social services, legal or medical community finds a willing resource for guardianship, the agency/program may be overwhelmed with referrals. It is critically important to stability and the quality of service delivery, that the organization takes only those cases it has the expertise to handle. An agency that has expertise in serving a particular population will need to consult with appropriate experts if appointed guardian for an individual whose needs are different in type and scope from their other clientele. Service systems vary in their structure and services among the various populations who may need a guardian. If the person is an older adult with dementia, the service system may differ from that serving a young person with a developmental disability or a mental illness.

It is also likely that the organization will receive inappropriate referrals. Individuals who are described as making “poor” decisions, but who are competent, may be referred to another agency such as Adult Protective Services. An older adult in an acute hospital setting may be diagnosed with dementia, although the true condition is delirium. There must be procedure to guide staff in the situation where the referral is inappropriate, and in situations where the person has disabilities with which staff is unfamiliar. In a similar vein, if the organization provides estate management only, and staff credentials are primarily financial, the program should seek advice on meeting the personal needs of the individuals served, in order to develop the person’s financial plan.

**B. Intake Process:** The agency/program shall have written policy that assures that the intake process includes a thorough analysis of the individual referred while still respecting the person's right to confidentiality. Intake should include:

1. A functional assessment of the person's decisional capacity.
2. An investigation of the person's life circumstances including personal history and informal supports.
3. An investigation will be conducted to assure that the least restrictive\alternative is chosen to meet the person's personal and financial goals, needs, and preferences, and shall include to the extent possible consult with family members and friends.
4. If a court appoints the agency/program prior to such an assessment:
  - a. The guardian must then conduct its own investigation to determine if the appointment is appropriate, or if there is a less restrictive alternative.
  - b. If there is a way to meet the individual's needs that is less than full guardianship, the agency/program should bring that alternative to the attention of the appointing court.

[Intent Statement]: These NGA documents define guardianship; as a service that owes full allegiance to the persons served and to their right to positive influence – over the life the person desires and finds satisfying, that recognizes the values contributions (current and potential) by the person served to that person's communities, and to be supported in a web of relationships, both natural and paid, within the person's communities, and assisted in the least restrictive, least intrusive way that will meet their needs. Guardianship by its nature means removing rights from a client and, giving them to a third party. This legal step should not be taken without complete information. In many cases, competency can be retained in areas not covered by the authority given to a guardian. Limited guardianships, powers of attorney, informal support systems and representative payeeships are means of supporting an individual without removing all legal rights. To choose a less restrictive alternative, it is necessary to gather as much information as possible about the individual's functional capacities and supports. Utilizing this comprehensive approach to assessment enables the organization to serve the individual with the most appropriate mechanism and to include the individual in the decision-making process. In some states the law requires the use of multidisciplinary teams to assess an individual who is subject to a guardianship hearing. Usually one assessor must be a physician, but the team may also use geriatric nurses or social workers, psychologists and other specialists versed in the appropriate field. This gives a more comprehensive look at the person's ability to function. Many states continue to require only a medical evaluation. In those states, the agency/program must supplement the information with a more thorough background investigation that includes the individual's participation in a person-centered analysis in order to determine the most appropriate service.

In places where state law mandates it, or the design of the guardianship service allows the guardian to be appointed without its knowledge or review, the agency/program following the NGA Ethical Principles has an affirmative obligation to advocate for less restrictive

alternatives where they exist. The agency/program staff should still conduct an intake assessment, gathering the same information and working to identify the least restrictive, most appropriate intervention for the person chosen to meet the person's personal and financial goals, needs and preferences. If a less restrictive alternative is identified, the guardian should then approach the appointing court and seek a limited guardianship or identify other alternatives to meet the person's personal and financial goals, needs and preferences.

**C. Case Assignment and Weighting Procedure:** The agency/program managers shall identify in writing the process used for assigning caseloads to staff.

1. The assignment process shall be designed to assure that employees are able to effectively manage the cases and provide appropriate support for the individuals on that caseload.
2. The agency/program managers shall establish a caseload ratio and/or weighting system and make the commitment to maintain it.
3. The agency/program managers shall also have a plan to address what will be done if the ratio is exceeded.

[Intent Statement]: The amount of work and involvement in the life of a person under guardianship differs depending on the type of service provided and the personal and financial goals, needs and preferences of the individual. Factors such as geography, the type of case required, whether the person lives in a group setting, or in the community independently, all affect the difficulty of the caseload. Multiple, complex medical conditions may require more time from the guardian caseworker advocating for an individual than for someone whose health is stable. The time required in money management services can be extensive, if bookkeeping and clerical functions are also included. One key to the dilemma of case overload is to identify duties that can be delegated to well-trained support staff. It may be possible to assign functions to a bookkeeper or hire a property manager to free the time of the guardian caseworker and provide more individualized service to the person under guardianship. A pool of volunteers may be used to provide support services or to act as guardian for stable, uncomplicated cases. Guardian assistants may be used for some functions. However, the case assignment system is designed, it is critically important that the organization identify the best use of the time of its employees and provide enough support to assure that the individual under guardianship is regularly visited and has access to the most appropriate support and advocacy when it is needed.

**D. Guardianship Plan Procedure:** The agency/program managers shall have written policy and documentation of a process for planning services for the individual:

1. The guardian should develop a plan at the time of service initiation and update it at least annually thereafter.
2. The guardianship plan shall include an analysis of the person's strengths and abilities, needs and preferences.
3. It shall set goals for enhancing the quality of the person's life.
4. The guardianship plan should also address annually the continuing need for a guardian.

5. The guardianship plan will specify the steps needed to be taken to restore the individual's rights.
6. The guardianship plan may include a budget for the individual.

[Intent Statement]: Goals for service to the individual can assist caseworkers in targeting their efforts toward those activities that will enhance the quality of life of the person. What actions are needed and who will perform them will vary depending on the needs of the individual and should be identified at the beginning, in order to effectively manage the case. Goals written in a case plan also provide necessary continuity for the individual under guardianship when there is turnover, or the individual's guardian caseworker is unavailable due to illness or other extended absences. If the individual has become stable and regained capacity, the plan should include a process for ending the guardianship and restoring the person's rights. This is a case plan for the guardian's service to the person under guardianship, and is different from a mental health services, habilitation or other provider plan.

**E. Guardian Supervision:** The agency/program managers shall have written policy and document that they provide experienced supervision for all cases.

1. Guardianship caseworkers should have a schedule of case review on a quarterly basis to assure that the individual's goals are being addressed.
2. The primary program manager should be a Registered Guardian or functional equivalent under local law, with at least five years' experience in guardianship work. (Certification as a Master Guardian is preferred.)
3. Intermediate supervisors providing oversight shall be certified at the minimum with state and/or national certification such as a Registered Guardian from the Center for Guardianship Certification.
4. The agency/program managers should also establish an internal Ethics Committee process for decisions that are ethically complex or controversial.
  - a. The agency/program managers will review and be involved in the decision.
  - b. External Committees or Court direction may be sought as well.

[Intent Statement]: Regular, periodic case supervision provides assurance that the individuals under guardianship gain stability or improvement in their lives as a result of that intervention. The supervisor or program manager should hold certification at the state and/or national level, or be working on such certification. The lead program manager should hold certification as a Registered Guardian with at least five years experience in guardianship work or, preferably as a Master Guardian, from the Center for Guardianship Certification. Further, as the issues guardians face are often ethically complex, the agency should provide a way to share responsibility with guardian caseworkers for the most difficult decisions. The agency/program should have a mechanism to call an internal Ethics



committee meeting for caseworkers to obtain guidance when decisions are difficult, affect the fundamental well being of the person served, or are ethically complex. On rare occasions, some decisions may be so controversial or difficult that an external Ethics Committee should be consulted or a Request for Instruction should be filed with the appointing court.

## **F. Documentation, Confidentiality and Record Retention:**

1. The agency/program managers shall have a written policy and procedure for documenting the case plan.
2. The procedure shall include actions taken for an individual under guardianship.
3. The individual file shall contain:
  - a. Complete assessment information (including a values history wherever possible).
  - b. The current case plan.
  - c. Documentation of visits and interactions with and on behalf of the person.
  - d. Legal petitions and letters of guardianship
  - e. Historical and current accountings
  - f. Correspondence
  - g. Other legal or medical records that are necessary for the care and efficient administration of the estate.
4. The agency/program shall have written policies and procedures for assuring:
  - a. The confidentiality of these records.
  - b. The disposal of records and a policy regarding record retention.
  - c. The management of the information within the parameters of relevant state and federal laws (i.e., HIPAA, IRS, etc.)

[Intent Statement]: The fiduciary relationship between the agency/program and the individual requires that clear documentation be kept of the actions taken on behalf of the person under guardianship. Appropriate statutes governing record retention and any court orders must be followed. The agency/program should have a process for controlling access to records and of culling and destroying personal information that complies with confidentiality requirements and protects against identity theft. There should be policies addressing the security of records and a system for documenting access to the file. There should also be a procedure governing the release of confidential information to others that conforms to applicable law.

**G. Emergency Coverage Procedure:** The agency/program managers shall have a written policy and assure that services are accessible after regular business hours, at night and on weekends.

1. The mechanism for such coverage shall be identified and have the capacity to respond immediately to the emergency needs of the individuals served.
2. Someone with the authority to make important decisions that protect and support the persons served must be available at all times should the need arise.

[Intent Statement]: Individuals served under guardianship may require emergency assistance. Emergencies will range from serious medical crises to eviction, to utility shut offs, depending on the nature of the legal relationship between the agency/program and the person. There must be a way for medical and other service providers to reach a decision maker in these situations. An individual under guardianship cannot give informed consent for treatment. A person whose estate is controlled by a guardian may need financial assistance on a weekend. The organization may choose a number of different strategies to establish coverage. Rotating staff “on-call” coverage, hiring a staff person to provide after-hours coverage or contracting with an answering service with the capacity to reach a program representative are some examples of methods that can be used to provide this coverage.

**H. Client Funds Management:** The agency/program managers shall have written policies and procedures that follow the tenets of the NGA “Ethical Principles” and the NGA Standards of Practice and:

1. Guarantee the safety of the funds managed for individuals served, if money management is one of the agency services.
2. The plan for use of the money shall include participation from the individual wherever possible.
3. The Plan will assure that the funds are used prudently to benefit the individual to the greatest degree possible.
4. The funds belong to the individual, however, and should not be hoarded, commingled or distributed to other persons under guardianship.
5. Staff will establish a budget to meet the basic safety and needs of the person.
6. The staff will make an effort to provide for special purchases or amenities if funds permit.
7. Reasonable efforts need be made to ascertain the individual’s estate plan if allowed by the court or under applicable law.

[Intent Statement]: There is a natural tension between the controller of funds and the individual, especially when the individual has not entered into the arrangement voluntarily. The agency/program must have a system that guarantees the greatest degree of safety for any assets held in this trust relationship. The agency/program must also assure that the individual has access to funds in emergency situations and that the individual does not lack food, shelter or daily living necessities as a result of the agency’s funds management

policies or practices. There should also be enough flexibility to encourage and assist the person to act on his or her own behalf and to participate in decisions, and to have wishes met, as well as basic needs, as funds permit. While saving and investing are positive goals, these activities should not override the person's ability to use some funds for recreation, leisure and other purchases for personal enjoyment if funds are available.

**I. Required Reports:** The agency/program managers shall demonstrate by policy and practice the timely submission of programmatic reports to the appointing court about the well-being of the person under guardianship, as required by state law and local court rule.

[Intent Statement]: The appointing authority is charged with monitoring the work of the guardian it appoints. The guardian has an affirmative duty to report on a timely basis, and the agency/program seeking certification should be able to document to the court its progress in achieving its goals to stabilize or improve the person's quality of life.

**VI. Quality Improvement:** The agency/program managers shall identify a plan in writing and document actions taken to improve the quality of its service delivery.

**A.** The organization shall undertake an internal program evaluation annually.

**B.** The organization will arrange to have an external program audit by an objective third party on a biennial basis.

**C.** If the agency/program is already required to undergo a program evaluation by a third party, the results of that evaluation may be considered to meet this requirement. The agency/program shall utilize the results of such program evaluations to improve the quality of its service delivery.

[Intent Statement]: Although the service is not voluntary, many individuals under guardianship may be able to articulate their feelings about the service. The agency/program should seek their input through an internal evaluation, as well as seek input from other stakeholders such as funding and referring agencies, courts, an advisory board, and/or family members. Additionally, the organization should seek out an independent third party who is clinically knowledgeable in the area of guardianship services to perform an external program evaluation. Ideally this would be conducted on a biennial basis. Where the program has outside programmatic assessments conducted periodically by a funding entity or other governmental unit, that program audit may be used to meet this requirement.

**VII. Grievance Procedure:** The agency/program managers shall have a written grievance procedure that includes:

**A.** The process to be followed including contact names and addresses;

**B.** Time Limits for filing and responding to grievances;

**C.** Provision for the grievant to obtain an advocate;

- D.** Reasonable accommodations for those with communication impairments or who speak a language other than English;
- E.** Requirement of a written response to the grievance.
- F.** Contact information for the appointing court.

[Intent Statement]: Individuals under guardianship must be able to voice grievances and recommend changes in policies and services, free from restraint, interference, coercion and discrimination or reprisal. The loss of rights involved in the guardianship appointment makes this grievance process even more crucial in ethical service delivery. There may also be circumstances where the grievant is a family member, friend or service provider. Policy on how these will be addressed is a protection for the agency, as well. Where the grievance process fails to satisfy the grievant, information should be provided on how to contact the appointing court.

**VIII. Critical Incidents:** The agency/program managers shall have a written policy defining and determining how staff will respond to critical incidents.

- A.** This policy shall entail responding to situations that bring harm to clients or staff or that cause a disruption of services.
- B.** The policy should also include specific instructions about reporting suspected abuse, neglect or exploitation of a client to authorities in compliance with state law.
- C.** The policy shall track critical incident reports to determine any trends that might need to be addressed.

[Intent Statement]: Knowing what to do in a crisis situation can alleviate the effects of such an event. To be proactive, the agency/program must monitor the work/service environment for the safety of clients and staff. A plan for response steps when a critical incident occurs can lessen the impact of the incident (i.e., fire, assault, serious injury or untimely death of staff or client.) Further, in many states guardianship caseworkers are “mandatory reporters” who must formally report suspected abuse or neglect. Staff should understand how the state’s Adult Protective Service system works and when they are to report suspected client abuse to those authorities as well as to the agency/program managers.