

Utah Working Interdisciplinary Network of Guardianship Stakeholders (WINGS)

Thursday, October 16, 2025, 12:00 pm | 2 hours |

AGENDA

Topic		Presenter	Materials
12:00	Meeting begins		
	<ul style="list-style-type: none">Housekeeping, minutes	Judge Sanchez	<ul style="list-style-type: none"><i>August 2025 – Minutes (draft)</i>
12:10	Group Discussion		
	<ul style="list-style-type: none">Brown Bag training – November 2025	Keri Sargent Shonna Thomas	<ul style="list-style-type: none"><i>Training Topic Suggestions</i>
	<ul style="list-style-type: none">Education workgroup - draft manual feedback	Shonna Thomas	<ul style="list-style-type: none"><i>Basic Guidelines to Serve as Guardians and Conservators (9.16.25 draft)</i>
	<ul style="list-style-type: none">Background Disclosures workgroup – procedural questions	Shonna Thomas	
1:15	Project Updates		
	<ul style="list-style-type: none">Attorney Shortages and Funding updates	Keri Sargent Shonna Thomas Andrew Riggle	
	<ul style="list-style-type: none">Forms workgroup	Shonna Thomas	
1:30	Other Business		
	<ul style="list-style-type: none">		
	<ul style="list-style-type: none">		
2:00	Meeting adjourned		

Next meeting:

December 18, 2025

Information/Discussion Topics for Judges re: Guardianship

- One approach is talking about things practitioners have seen and discussing from there (hot takes!)
- Another approach is going through the statute/forms and touching on things via how the statute addresses (or doesn't) different issues

1. Limited guardianships: 75-5-304(2)(a-b)

a. When is limited vs. plenary necessary?

b. Limited guardianship can look like plenary guardianship

Guidance bench book provides around limited guardianship, refer to the list on the petition re: areas that may to be covered.

c. What the finding must include (and why) if a plenary guardianship is deemed necessary.

2. Considering the language around the standard of incapacity re: with technological assistance, does the individual have the ability to meet their basic needs. 75-1-201(24), 75-5-304(1)(a-b)

a. Documentation required to review when considering a petition for guardianship 75-5-303(4), Petition qs.14-15

How much?

What kind or from whom?

Permissibility of requesting more information and/or taking an issue under advisement

b. Viewing the relationship between the two parts of the definition of capacity (i.e. make/communicate decisions/meet basic needs) (have a copy available to review) 75-1-201(24)

c. Discussing alternatives to guardianship that have been tried/discussed, and why those alternatives did not work (and what other alternatives could be attempted) 75-5-304(1)(b), Petition q.16

3. Guardianship Bill of Rights and how it connects with the rest of the statute 75-5-301.5 (have a copy available to review)

a. Connection to the bill of rights

Re: the rights individuals retain even when under guardianship

Re: the involvement individuals can/should have in decision-making and expressing their preferences

Re: the protected person (particularly adult children for whom a parent is the guardian) seeking documents, requesting a modification to the guardianship, or requesting a hearing (and how the protected person might go about communicating such a request to the court)

4. Discussion about potential conflicts of interest when there is a personal or professional connection between counsel for the petitioner and the respondent. 75-5-303(2)(b)

a. Is the attorney for respondent an attorney of respondent's choosing?

5. Ensuring that the respondent is in attendance and can participate fully 75-5-303(5)(a,c), URCP 87

a. If possible, find out ahead of time if a person is more comfortable appearing in-person or virtually. Make sure the preference is the person's, not the petitioner's.

b. Ask what a person needs to fully participate and express themselves in a hearing (include a checklist of possible accommodations with an "other" section). Can these and other accommodations be handled by a clerk? Either way, the person, judge, and court staff will be better prepared.

c. Asking basic and specific questions. Using questions that can be answered with a yes or no, however it is communicated by a person or their supporter.

d. Communicating in plain language as much as possible. Utilizing supporters, if needed, to understand what a person is communicating. Paying attention to gestures and one-word responses.

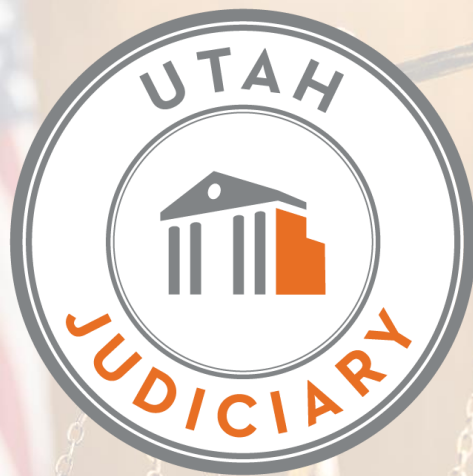
e. allowing time for the individual to communicate their thoughts/position fully, and

f. if appearing virtually, ensuring that the individual can speak freely and is not being influenced by someone off screen.

g. If appearing in person, ensuring that the individual can speak freely with their parents/proposed guardians in the same room

- h. The court should clearly explain the purpose of a hearing and what a guardianship is. A judge should ask the question a few different ways and give the proposed protected person enough time to respond (e.g. Do you understand what this means? Is this what you want? Is this what you think you need?).
 - i. To evaluate the freedom the proposed protected person has to answer, a judge could ask, “Has anyone told you what to say today, or suggested how you should answer?”
- 6. References to sections of the bench card/book that may be useful re: guardianship issues

Basic Guidelines: Serving as Guardian or Conservator for an Adult



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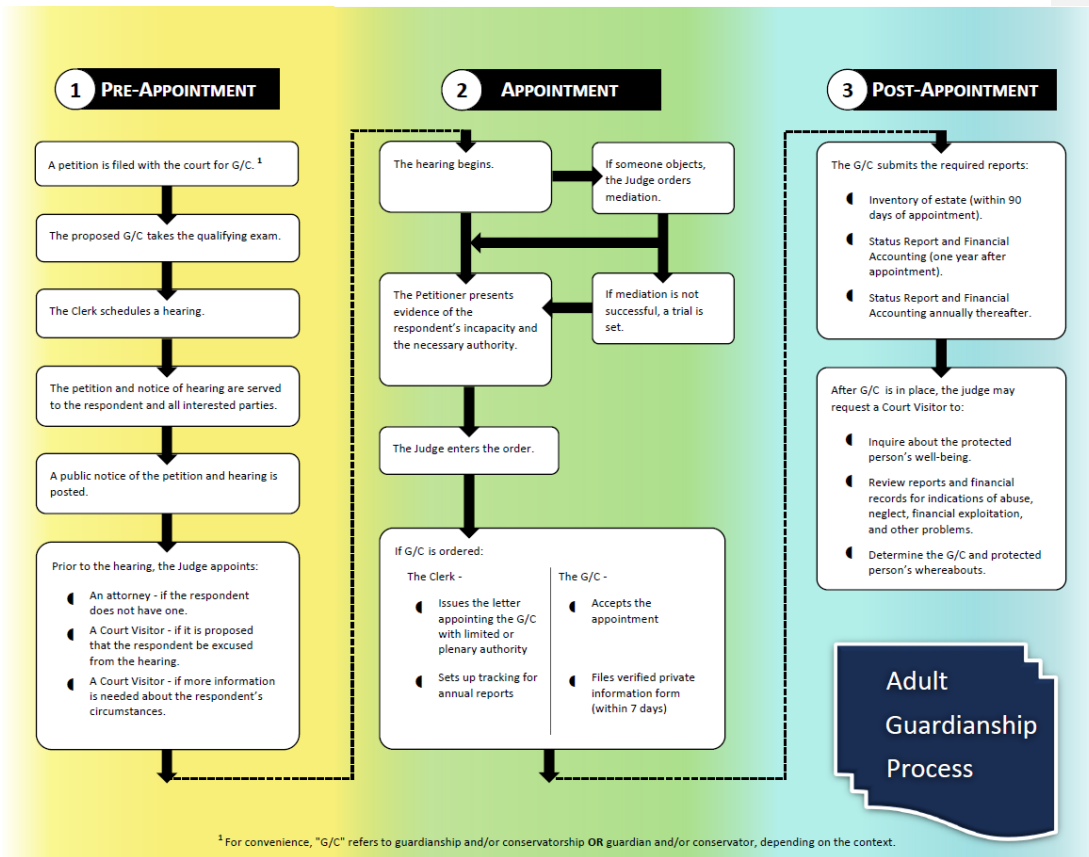
Committee on Law and Aging, Utah State Bar
Administrative Office of the Courts

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A. Summary of the Adult Guardianship Process

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B. Introduction

Anyone 18 or older has the right to make decisions based on his or her values and beliefs, even if others disagree with those decisions. Making decisions is an essential part of adult life. Every day we make decisions for ourselves and for those who depend on us. Decision-making can be burdensome, even stressful at times, but few of us would willingly give up the right to make our own decisions. However, the appointment of a guardian or conservator does just that — it removes the right of a person to make his or her own decisions. That is why the court is careful about granting a guardianship and carefully monitors the guardians and conservators it appoints.

The court might appoint a guardian, or a conservator, or both. The guardian and the conservator might be two different people, or they might be the same person. If there is no conservator, the guardian has some of the conservator's responsibilities.

This manual does not explain the process for becoming a guardian or conservator, but it will help you understand your responsibilities if you are thinking of requesting to become a guardian or conservator and to assist after you have been appointed by a court. Current standards and ethics for a practicing guardian and conservator are available to assist you. These can be found on the National Guardianship Association website: <https://www.guardianship.org/standards/>

Because it provides only general information, this manual is not a substitute for legal advice; consult your lawyer to answer any specific questions.

What is a Guardian and a Conservator?

A guardian is a person or entity appointed by a court to make decisions about the care of a protected person. A conservator is a person or entity appointed by the court to manage the property and financial affairs of a protected person.

As a guardian or conservator, you play an important role in helping the incapacitated person (sometimes called a “protected person” or “ward”). This position of trust puts you in the role of a fiduciary,¹ meaning you have legal duties and responsibilities to the incapacitated person.

A guardian has the responsibility to use current standards to assist the protected person in making decisions in areas outlined in the court order, except that the guardian does not have to use his or her own money for the protected person's care and support.² Guardians can use methods such as supported decision-making,³ substituted judgment, and best interest to help make decisions on behalf of the protected person.

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¹ Utah Code Section 75-1-201(17)

² Utah Code Section 75-5-312

³ Utah Code Section 75-5-704

Guardian

A guardian of an adult is a person or entity appointed by a court to make decisions about the person — residence, health care, nutrition, education, personal care, etc. — of a protected person.

Incapacity is decided by a judge. “Incapacitated”⁴ means that an adult’s ability to do any of the following is impaired to the extent that the person lacks the ability, even with appropriate technological assistance, to meet the essential requirements for financial protection or physical health, safety, or self-care. It is measured by the person’s functional limitations to:

- Receive and evaluate information.
- Make and communicate decisions.
- Provide for necessities such as food, shelter, clothing, health care, or safety.

A court may only appoint a guardian for an adult where it finds that the adult is incapacitated and that such an appointment is necessary or desirable as a means of providing continuing care and supervision for the protected person.

A protected person may need help in some but not all areas of decision-making, and the court can order a limited guardianship. Under Utah law, a limited guardianship is preferred, and the court may grant a full guardianship only if no alternative will protect the person. A limited guardian has only those powers and duties listed in the court order. The court may also limit the conservator’s authority.

A full (sometimes called plenary) guardianship gives the guardian the authority and responsibility for the protected person similar to that of a parent for a minor child.

Conservator

A conservator of an adult is a person or entity appointed by the court to make decisions about a protected person’s estate. A person does not have to be incapacitated to have a conservator appointed. A conservator may be appointed if the respondent is unable to manage his or her property effectively (for reasons such as mental illness or deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, confinement, detention by a foreign power, or disappearance). A conservator may be needed to:

- prevent the protected person’s property from being harmed; or
- obtain or provide funds for the protected person’s support or the support of

⁴ Utah Code Section 75-1-201(25)

those entitled to be supported by the protected person

The protected person's estate includes all of his or her property, personal and business, including income (such as wages, an annuity, a pension, and Social Security or other government benefits), real property (buildings and land), and personal property (such as furniture, cash, bank accounts, certificates of deposit, stocks, bonds, motor vehicles, jewelry, tools, and art). A conservator must use reasonable care, skill and caution to manage and invest the estate to meet the protected person's needs over his or her expected life.

In this role, you must avoid all conflicts of interest with the welfare, goals, and preferences of the protected person.

A conflict of interest arises when the guardian or conservator has some personal or agency connection that could be perceived as self-serving or adverse to the best interest of the protected person.

Self-dealing arises when the guardian or conservator seeks to take advantage of their position as a guardian and acts in their own interests rather than what is best for the protected person.

Your appointment order and letters of guardianship or conservatorship issued by the court will specify the nature of your appointment and any limitations imposed by the court.

Alternatives to a Guardian or Conservator

Guardianship takes away many rights from an individual, and it is of the utmost importance to seek alternatives when possible. ALL alternatives should be seriously considered before petitioning for guardianship.

Examples of alternatives include:

- Advanced Directives
- Living Wills
- Power of Attorney
- Trusts
- Supported Decision Making plans
- Beneficiary Designations and Forms
- Healthcare provisions such as a POLST order
- Health care Instructions such as a DNR order
- HIPAA-permission forms to share medical information with a representative
- Digital Asset documents to share digital files with a representative

For a more detailed list, see Appendix A.

How Long Will I Be a Guardian or Conservator?

In an emergency, the court may appoint an emergency guardian, who serves for no more than 30 days, until a hearing to decide whether the protected person needs a permanent guardian. The court may also appoint a temporary guardian to serve longer than 30 days, until the court is able to hold a full hearing and make a determination about permanent guardianship.

As a permanent guardian or conservator, you are expected to serve in that role until the court terminates your appointment. You may resign with the court's permission. A new petition can be filed with a successor guardian or conservator who the court can appoint to take your place if the protected person still needs a guardian or conservator. If you have been appointed both guardian and conservator, you can resign as one and not the other.

The circumstances that justified the initial appointment of a guardian or conservator may change in such a way that the protected person no longer needs a guardian or conservator, such as if the protected person regains capacity or the protected person has passed away. Regardless of the reason, you retain your obligations until the court removes you as guardian or conservator and you have transferred any remaining estate assets to the appropriate successor.⁵

Consult your lawyer or the Court's Self Help Center ⁶ about the proper procedures to end the appointment and turn over the estate. You must prepare a final Financial Accounting Report and transfer the estate to your successor (if one is appointed), or to the protected person. You may need to record a copy of the order ending the appointment with the county recorder where the protected person owns land to clear title to that property.

C. Responsibilities and Restrictions

As guardian, you are responsible for care, support, and decision-making related to the protected person's personal wellbeing. As conservator, you are responsible for the care, support, and decision-making of the protected person's estate and finances.

The following sections describe in more detail the responsibilities and restrictions you assume when you become a guardian or conservator.

General Responsibilities as Guardian

Utah Code governs your responsibilities as guardian. If the court does not appoint a separate conservator, you also have the conservator's responsibilities too.

⁵ Utah Code Sections 75-5-306, 75-5-307, and 75-5-415

⁶ <https://www.utcourts.gov/en/self-help/services/contact.html>

A guardian's authority may be limited or may include all the items listed below. The court order will describe any limitations to these responsibilities. Based on that court order, you:

- May have custody of the protected person.
- May establish the protected person's place of abode.
- Must provide for the protected person's care, comfort and maintenance and arrange for the protected person's education and social activities.
- Must take reasonable care of the protected person's personal effects.
- May consent to enable the protected person to receive medical or professional care, counsel or treatment.
- May consent to the protected person's marriage, if authorized by a court to give consent.
- May consent to the protected person's adoption, if authorized by a court to give consent, and if the rights of the protected person's parents have been terminated.
- Must start proceedings to protect the protected person's property or to compel someone to pay money due the protected person.
- Must exercise fiduciary duty to conserve any excess money or property for the protected person's future needs.

As guardian, you may NOT:

- Commit the protected person to a psychiatric hospital without a commitment hearing, unless the protected person consents or the authority is expressly granted in the order.
- Sell the protected person's property, such as stocks or real estate, unless you are also appointed as conservator.
- Cast the protected person's ballot in an election.
- Decide the protected person's religious preference.
- Write a will for the protected person or change a previously executed will.
- Physically punish the protected person.
- Neglect appropriate healthcare for the protected person.
- Leave the protected person unattended if he or she needs care.

As noted earlier, a separately appointed conservator has most of the responsibility for money and property. Discuss with the conservator your respective responsibilities so that both of you clearly understand them.

If the court has appointed a separate conservator, you have the right to receive from the conservator reasonable sums for the protected person's daily living expenses. This

might be in the form of an allowance to you as guardian to pay third persons, or the conservator might pay third persons directly.⁷ Discuss this with the conservator to agree upon the amount, method and timing of regular payments, and of any extraordinary expenses.

Decision-making guidelines

Encourage the protected person's maximum self-reliance and independence. Involve the protected person in making decisions, and allow the protected person to make as many decisions as possible.⁸

A guide to help you is known as "the least restrictive alternative." This means to preserve the protected person's independence to the fullest extent possible, you and the protected person choose the alternative that will least restrict the protected person's freedom, rights, and ability to control his or her environment. "Least restrictive alternative" could arise where the person lives, with whom they associate, the medical or mental health care they receive, where they work, or where and the type of training they receive.

As guardian, you help the protected person make personal decisions or, if necessary, you make the decisions for the protected person. If the protected person is unable to communicate, try to reach the decision that the protected person would have made if able to choose. To the extent known, you should act in accordance with the protected person's expressed desires and personal values.⁹ It is what the protected person would do, not you, that serves as your guide, as long as the decision is in the protected person's best interest.

The guardian shall weigh the risks and benefits and develop a balance between maximizing the independence and self-determination of the person and maintaining the person's dignity, protection and safety. The goal should be to manage, but not necessarily eliminate, risks. The person's goals, needs and preferences should be consistent with the alternative chosen.

For more information about a guardian's specific decision-making authority, visit: <https://www.utcourts.gov/howto/family/gc/authority-guardian.html>

Health care

If the protected person has appointed a health care agent in an advance health care directive, that person makes health care decisions for the protected person, including decisions about end-of-life. Otherwise, these decisions are yours.

- Work closely with the protected person's doctor or other healthcare providers. You may be asked to give consent to medical treatment.

⁷ Utah Code Section 75-5-312

⁸ Utah Code Section 75-5-312(7)

⁹ Utah Code Section 75-5-312(7)

- Obtain as much information as you can about the protected person's preferences. You can do this by asking the protected person directly.
- If the protected person is unable to communicate and has advance medical directives, such as a living will or advance health care directive, then you should use those directives to guide your decision.
- If such documents are not available, speak with the protected person's family and friends about his or her medical treatment preferences.
- If no information about medical treatment preference is available, consider the beliefs of the protected person's religion.

Ask questions regarding medical alternatives and the benefits and risks of a proposed treatment. If a proposed surgical procedure or drug therapy is controversial, ask for the court's permission before you authorize treatment.

Living arrangements

If possible, keep the protected person living at his or her own home. Services may be available to provide meals, transportation, or in-home assistance. If the protected person is no longer safe at home, it may be necessary to move him or her to a more protected setting. Consult the protected person's family, doctor and other professionals for recommendations concerning placement in a setting that will best meet the protected person's needs. Following placement, regularly visit the protected person and consult with staff to ensure that the protected person's needs are met.

The protected person may live with you, your spouse, your parents or your children, but you are not permitted to charge the protected person's estate for the cost of room and board unless you get the court's permission.¹⁰ Regardless of the living situation, you are responsible to ensure that the protected person is safe, comfortable, and receiving healthcare, nutrition, grooming, and recreation.

General Responsibilities as Conservator

Utah Code governs your responsibility as conservator.¹¹ You must exercise reasonable care, skill and caution to invest and manage estate assets as a prudent investor would, considering the estate's circumstances. You must make a reasonable effort to verify relevant facts. Your investment and management decisions about individual assets must be evaluated in the context of the estate as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the estate.

¹⁰ Utah Code Section 75-5-312(2)(d)(ii)

¹¹ Utah Code Sections 75-5-424, 75-5-425, 75-5-428 and 75-7-902

Circumstances that you should consider in investing and managing estate assets include the following:

- General economic conditions and the possible effect of inflation or deflation.
- The expected tax consequences of investment decisions or strategies.
- The role that an investment or course of action plays within the overall portfolio.
- The expected total return from income and the appreciation of capital.
- The size of the estate, the need for liquidity, regularity of income, and preservation or appreciation of capital.
- An asset's special value to the purposes of the estate or to the protected person.

In managing the protected person's estate, you are required to take into account any estate plan. You may examine the protected person's will, including a will filed with the court for safekeeping.¹²

Unless your authority is limited by the order of appointment, you may:

- Collect, hold, and retain estate assets.
- Invest in any kind of property or type of investment that is consistent with the standards imposed by the Utah Code.
- Allocate items of income or expense to estate income or principal.
- Acquire estate assets or take an option to acquire estate assets.
- Dispose of estate assets or grant an option to dispose of an estate asset.
- Invest and reinvest estate assets.
- Deposit estate funds in a bank.
- Continue or participate in operating any business or enterprise.
- Acquire an undivided interest in an estate asset in which the conservator holds an undivided interest.
- Manage, develop, improve, exchange, partition, abandon or change the character of, an estate asset.
- Repair, modify or demolish buildings, structures or improvements.
- Subdivide, develop, or dedicate land to public use; make or obtain the vacation of plats and adjust boundaries.
- Adjust differences in valuation on exchange or partition by giving or receiving considerations and dedicate easements to public use without consideration.

¹² Utah Code Sections 75-5-427 and 75-2-901

- Enter into a lease for a term within or extending beyond the term of the conservatorship.
- Vote a security.
- Pay calls, assessments, and other sums accruing on account of securities.
- Sell or exercise stock subscription or conversion rights.
- Consent to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise.
- Hold a security in the name of a nominee or in other form without disclosure of the conservatorship.
- Insure estate assets against damage or loss and the conservator against liability with respect to third persons.
- Borrow money and advance money for protecting the estate or the protected person, and for all expenses, losses, and liabilities sustained in administering the estate.
- Prosecute or defend actions, claims, or proceedings for protecting estate assets and you, as conservator, in the performance of your duties.
- Pay, settle or contest a claim by or against the estate or the protected person.
- Release any claim of the estate to the extent that the claim is uncollectible.
- Pay taxes, assessments, your compensation, and other expenses incurred in the collection, care, administration, and protection of the estate.
- Pay any sum distributable to the protected person or his dependent by paying the sum to the protected person, to his guardian if there is one, or to the person with custody of the protected person.
- Employ persons to advise or assist you in the performance of your duties and act upon their recommendation personally or by an agent.
- Execute and deliver instruments to facilitate the exercise of your powers.
- Spend or distribute income or principal for the support, education, care or benefit of the protected person and his or her dependents.
- Make gifts to charity as the protected person might have been expected to make, provided:
 - the estate is sufficient to provide for the support, education, care or benefit of the protected person and his or her dependents;
 - if the estate is that of an incapacitated adult; and
 - the total does not exceed for any year 20% of the income from the estate.
- Pay all just claims against the estate and against the protected person.

As conservator, you may NOT:

- Commingling your personal funds with those of the protected person.
- Pay your personal expenses from the estate (for example, do not use the protected person's money to pay your personal bills).
- Deposit estate funds into your account or your funds into the estate account.
- Borrow money or property from the protected person's estate.
- Sell estate property for less than fair market value (for example, do not sell the property to family members at reduced prices).
- Record your name on the protected person's property as though you are the owner (for example, do not record your name on the protected person's bank account as if you own the account; it is proper to record your name on an account as the protected person's conservator).

If the court has appointed a separate guardian, they have the right to receive from the conservator reasonable sums for the protected person's daily living expenses. This might be in the form of an allowance paid to the guardian to pay third persons, or you might choose to pay third persons directly.¹³ Discuss this with the guardian to agree upon the amount, method and timing of regular payments, and of any extraordinary expenses.

Financial decisions

If the court appoints a conservator, the conservator will decide most issues involving the protected person's money and property and will file the accountings described in the Reports section above. If the court does not appoint a separate conservator, the guardian also assumes the conservator's responsibilities. This is very common. As such, you should expect to assume the role of conservator in addition to serving as a guardian. If you, as guardian, do not want those added responsibilities, ask the court to appoint a separate conservator.

As guardian, you must manage the protected person's money and property to pay for their support, care, and education. If the protected person has money and property beyond what is needed for support, care, and education, the conservator should invest the excess.¹⁴

It is important that you involve the protected person in the estate management as much as possible, and keep the protected person informed. If the protected person is able to maintain a small checking account and to pay routine bills, encourage them to do so, to provide a higher level of self-determination and independence.

¹³ Utah Code Section 75-5-312

¹⁴ Utah Code Sections 75-5-312 and 75-5-424

Things to keep in mind include:

- Open a checking account in the name of the guardianship or conservatorship to deposit income and pay bills.
- Completely describe each transaction.
- If the balance in the checking account accumulates beyond the protected person's needs, transfer the excess to an interest bearing account or other investment in the name of the guardianship or conservatorship.
- If you need to withdraw money from the investment account to pay for an extraordinary expense, first transfer the money into the checking account.

Keep the protected person's property – including money – separate from yours, and use the protected person's property only for his or her benefit. Manage the protected person's property in the same manner you would want someone else to handle your property. Consult your lawyer or financial counselor to answer specific questions.

For more information on preparing a budget for the protected person, and to access the Budget Worksheet template, visit the court's website.¹⁵

Protected Person's Rights¹⁶

Regardless of whether the appointment is limited or full, a protected person in Utah retains the right to:

- Have an attorney represent them at any time before and after the guardian is appointed.
- Have a relative, a physician, or any interested person speak about or raise any issue of concern on their behalf in any court hearing about the guardianship.
- Receive a copy of all documents filed in court regarding the guardianship.
- Receive information about guardianships from the court.
- Ask questions and express concerns or complaints about a guardian and the actions of a guardian to the court.
- Participate in developing an individualized plan for their care, including managing their assets and property, determining their residence, and determining the services they will receive.

¹⁵ <https://www.utcourts.gov/en/self-help/case-categories/gc/budgeting.html>

¹⁶ Utah Code 75-5-301.5

- Be given consideration regarding their current and previously stated desires, preferences for health care and medical treatment, and religious and moral beliefs.
- Remain as independent as possible, including having the guardian consider their wishes as to where they live and their standard of living.
- Be granted the greatest degree of freedom possible that is consistent with the reasons for the guardianship.
- Be able to exercise control over all aspects of their life that are not granted to the guardian.
- Engage in any activity that the court has not expressly reserved for the guardian, including marriage or domestic partnership, traveling, working, or having a driver license.
- Be treated with respect and dignity.
- Be treated fairly by the guardian.
- Maintain privacy and confidentiality in personal matters.
- Receive telephone calls and personal mail and associate with relatives and acquaintances unless the guardian and the court determine that the association should be restricted or prohibited under Utah Code 75-5-312.5.
- Receive timely, effective, and appropriate health care and medical treatment that does not violate their rights.
- Have all services provided by a guardian at a reasonable rate of compensation.
- Have a court review any request for payment by a guardian to avoid excessive or unnecessary fees or duplicative billing.
- Receive prudent financial management of their property.
- Receive a copy of every accounting report regarding their property that the guardian or conservator, if they have one, files with the court.
- Receive and control their salary.
- Maintain a bank account and manage their personal money.
- Ask the court to:
 - Review the management activity of a guardian if a dispute cannot be resolved regarding the guardian's management.
 - Continue to review the need for a guardianship or to modify or end the guardianship.

- Enter an order ending the guardianship at the earliest possible time if they are no longer incapacitated.

The protected person retains decision-making authority not given to the guardian or conservator, including decisions about their religion, friends, whether to consume legal substances, whether to marry or divorce, and other decisions. Depending on what areas of authority are granted to the guardian and conservator, the protected person might continue to run a business, hire advisers and caregivers, make healthcare decisions, or choose where to live.

Even while under a full guardianship or conservatorship, the protected person still has decision-making authority regarding the matters listed above, and also to:

- Make or change a will or trust.
- Divorce.
- Vote.
- Practice religion.
- Send and receive personal email.
- Keep personal relationships with family and friends.
- Control personal spending money.
- Consume legal substances.

The extent to which the protected person can make these decisions depends on their capacity. For example, the protected person may be able to make a will or revise an earlier will if the protected person is aware of their property and close relatives and friends and that the document being prepared is a will. As with any will, the protected person's will must reflect his or her wishes for distribution of the property, must be signed voluntarily, and must follow the procedural formalities required for making a will.

A protected person's will, signed while under guardianship, might be challenged upon the death of the person, based on lack of capacity or undue influence. It will be up to the judge in the probate proceeding to determine whether the will is valid.

D. Reporting to the Court

One important responsibility of guardians and conservators is filing regular reports on the protected person's living situation and financial circumstances.

Keeping good records is essential for guardians and conservators because you must account for all transactions at least annually. Recommendations for good recordkeeping include:

- Keep records prepared at the same time as an event, such as receipts, vouchers or other evidence of income and expenses. This will help later when you prepare your reports. The court can also request copies of these items at any time.

- Create files and folders to keep legal documents, tax records, paid bills, unpaid bills, correspondence and other papers related to the protected person.
- Keep records about the protected person separate from your personal records.
- Obtain a copy of the protected person's will, living will, trust, and other estate planning documents so you can follow the estate plan.
- Keep a copy of all documents filed with or issued by the court.
- As guardian, you should keep a journal or diary throughout the year to record some of the protected person's activities and important events, especially if there is no other record of the event.
- If the protected person does not live with you, record the dates of your visits.
- Keep negotiable instruments, deeds, and wills in a safe deposit box in the name of the guardianship or conservatorship.

You may be personally liable if you do not keep proper records. The court may order you to reimburse the estate if you cannot show what you did with the protected person's property, even if you know that you used it in the protected person's best interests. Good records help to protect you if your management of the estate is ever questioned.

Report Types

The table below shows a summary of the required reports and the individual responsible for completing them:

Report	Filed By	Due Date / Timeframe
Inventory	Conservator*	Within 90 days after the appointment
Status of the Protected Person	Guardian	Within 60 days after the anniversary of the appointment
Financial Accounting	Conservator*	Within 60 days after the anniversary of the appointment
Final Financial Accounting	Conservator*	Upon resignation or removal of the conservator (or guardian), or upon termination of appointment.
* Filed by the guardian if no conservator has been appointed.		

Not every guardian or conservator is required to report annually, but most are, including spouses who are guardians. In most cases, the Inventory, Status Report, and Financial Accounting are not required if the guardian, co-guardian, or conservator is the parent of

the adult protected person. Otherwise, it is required that the guardian and conservator of an adult file the reports.¹⁷

The judge can impose a \$5,000 penalty if the guardian or conservator:

- Willfully fails to file a report.
- Makes a substantial misstatement in a report.
- Is guilty of gross impropriety in handling the protected person's property.

Utah CJA Rule 6-501 provides additional details about each required report, what must be included, who must be given a copy, how to object to a filed report, and the exceptions to the reporting requirements.¹⁸

Inventory Report

This is a one-time report that must be filed within 90 days after being appointed, the conservator — or the guardian if there is no conservator.¹⁹ To complete the Inventory, you must locate and identify all the protected person's property. Begin as soon as possible after your appointment or even before the appointment is final to ensure you meet the deadline.

Once you have a complete list of the property, prepare the Inventory Report and file it with the court. If you discover more property, file an amended inventory.

Report on the Status of the Protected Person (“Status Report”)

As guardian, you must report **annually** to the court about the protected person's care and status²⁰. The Status Report shows how the protected person is living, what they are doing, and alerts the court to changes and possible problems. These reports are considered private and only made available to the parties in the case.

The annual Status Report covers a full 365 days, starting on the day you are appointed. This means that report due dates are not the same for each guardianship that is ordered. For example, if you were appointed as guardian on June 1, 2024, your annual report would need to cover every day between June 1, 2024 and May 31, 2025. And each year thereafter follows the same pattern - your next report would start on June 1, 2025 and cover until May 31, 2026, and so on.

To ensure the full year is covered, the court gives guardians 60 days to complete the Status Report. Using the example above, this means that the report that covers June 1, 2024 to May 31, 2025 is due to the court no later than July 30,

¹⁷ Utah Code Sections 75-5-312, 75-5-417, and CJA Rule 6-501

¹⁸ <https://legacy.utcourts.gov/rules/view.php?type=ucja&rule=6-501>

¹⁹ Utah Code Sections 75-5-418

²⁰ Utah Code Section 75-5-312

2025. (Status Reports cannot be turned in early, before the full 365 days have passed.) These due dates are very important and will remain the same through the life of the appointment, unless you ask the court to change them. So, if you are unsure about your due dates, you can ask the clerk at the courthouse to provide you with the correct dates.

Between annual reports, you should inform the family and other interested persons of any significant changes in the protected person's circumstances. If the protected person dies, notify the court and the interested persons at once.

Financial Accounting Report (“Accounting Report”)

A conservator — or the guardian, if there is no conservator — must report **annually** to the court the condition of the protected person's finances.²¹

Accounting reports follow the protected person's personal accounts, investments, and other assets across time. This means that there must be continuity from year to year. The ending balance last year is the starting balance this year, and so on, to ensure that all assets are tracked, monitored, and accounted for in the report.

Accounting Reports must be accompanied by bank statements, receipts, and other financial records to provide confirmation for how the protected person's money and assets have been handled over the past year.

The annual Accounting Report is based on the information you provide in the Inventory Report, but it covers a full 365 days, starting on the day you are appointed. This means that report due dates are not the same for each guardianship that is ordered. For example, if you were appointed as guardian on June 1, 2024, your annual report would need to cover every day between June 1, 2024 and May 31, 2025. And each year thereafter follows the same pattern - your next report would start on June 1, 2025 and cover until May 31, 2026, and so on.

To ensure the full year is covered, the court gives guardians 60 days to complete the Accounting Report. Using the example above, this means that the report that covers June 1, 2024 to May 31, 2025 is due to the court no later than July 30, 2025. (Status Reports cannot be turned early, before the full 365 days have passed.) These due dates are very important and will remain the same through the life of the appointment, unless you ask the court to change them. So, if you are unsure about your due dates, you can ask the clerk at the courthouse to provide you with the correct dates.

If you are the guardian only, AND the court has appointed a separate conservator, you must instead report to the conservator the financial transactions

²¹ Utah Code Sections 75-5-312 and 75-5-417

that you have taken on behalf of the protected person.²² Because the conservator has to report annually to the court, you should report at least annually to the conservator. Discuss this with the conservator to ensure that you provide your report at a mutually convenient time.

Final Financial Accounting Report

The conservator - or the guardian if there is no conservator - must file a final accounting if any of the following situation occurs:

- The guardian or conservator resigns or is removed.
- The protected person dies.
- The guardianship or conservatorship ends.
- The court transfers the guardianship or conservatorship to another state.

The reporting period will be from the date of the most recently filed Accounting Report to the date the guardianship or conservatorship ends.²³ As with the other annual reports, the court gives you 60 days to file the Final Financial Accounting Report. The Final Financial Accounting Report is completed using the same form as the annual Accounting Report. There is a place on that form to indicate this is your final accounting.

Annual Report Due Dates

As indicated above, all annual Reports should cover a full year, starting from the date you were appointed guardian or conservator. Reports are due within 60 days from that date of appointment.

For example:

- You are appointed as guardian or conservator on May 1, 2021.
 - You must file the one-time Inventory by July 30, 2021.
 - The Status and Accounting Reports are due by June 30, 2022.
 - Every year thereafter, the Status and Accounting Reports are due by June 30th and late on July 1st - until the guardianship or conservatorship is terminated.

You may ask the court to change the reporting period, such as to a calendar year or any other 12-month period that is more convenient.²⁴ This means that for the year in which the change is made you will report for a shorter period of time. For example, if you are appointed on August 17, and receive the court's permission to report on a calendar year

²² Utah Code Section 75-5-312

²³ Utah Code Section 75-5-419

²⁴ CJA Rule 6-501

basis, your first report would cover the period from August 17 to the end of the calendar year. Subsequent reports would cover the calendar year from January 1 – December 31. Only the court can change the reporting dates.

Filing Required Reports

Reports can be completed by hand or online, through the court's MyPaperwork platform.

- To complete the report by hand - find the correct report form on the court's website.²⁵ Print out the documents you need, complete the required information, and file the forms with the court.
- To complete the report online, visit the MyPaperwork website.²⁶ Register to create an account if you do not already have one. Choose "Guardianship Reports" and follow the prompts. Once you have completed all items on the list, you can print the document and file it with the court.

²⁵ <https://www.utcourts.gov/en/self-help/case-categories/gc/reports.html>

²⁶ <https://apps.utcourts.gov/InterviewWEB/#/qi/ua/GI0385>

You must file the documents with the court that made the appointment, unless there has been a change of venue. If the protected person moves to another county, you may ask the court to move your reports to that county.²⁷

You must serve a copy of the documents, along with a notice of right to object on:

- The protected person (if they have mental capacity to understand the proceedings).²⁸
- The protected person's guardian or conservator (if the judge has appointed separate people).
- The protected person's spouse, adult children, parents and siblings.
- Anyone requesting notice under [Section 75-5-406](#).²⁹

You may serve the documents by mail, email or hand delivery. If anyone objects to the filing or if the judge has further questions, the court clerk will schedule a hearing of which you and the others will be notified.

Once you have filed your reports and any supporting documentation, they will go to the judge for review. The judge may approve the report as filed, ask for additional information, set a hearing, or order a Court Visitor.³⁰

E. Other Considerations

Compensation

Often a family member serves as guardian or conservator without compensation, but with the court's approval, a guardian or conservator is entitled to reasonable compensation from the estate. What is reasonable depends on the types of services provided, the skill of the guardian or conservator, and whether the time and expenses are justifiable.³¹ Accurate records are essential.

You do not have to pay the protected person's expenses with your own money.³² Whenever possible, use the protected person's money to pay their expenses. Although in general you must not commingle your money and property with that of the protected person, you can pay for the protected person's living expenses from your own account and subsequently recover your out-of-pocket costs from the estate.³³

²⁷ Utah Code Sections 75-5-205, 75-5-302, and 75-5-403

²⁸ Utah Code Section 75-5418 and CJA Rule 6-501

²⁹ CJA Rule 6-501

³⁰ <https://www.utcourts.gov/en/about/courts/dist/gramp/cvp.html>

³¹ Utah Code Section 75-5-414

³² Utah Code Section 75-5-209

³³ Utah Code Section 75-5-102

If you need to pay some of the protected person's living expenses with your money, pay by check, credit card or debit card rather than with cash; cash does not create a record that the money was yours. To claim reimbursement from the estate, keep a receipt for the goods or services and proof that you paid with your own money.

Note - Because reimbursement for living expenses includes *elements* of commingling, do it only if it is necessary.

Liability

You are not personally liable for the protected person's acts.³⁴ You are not liable for reasonable actions taken in the best interests of the protected person. You are not liable for managing the protected person's estate if you act like a prudent person dealing with the property of another. However, you are liable if you are personally at fault and the protected person is damaged by your carelessness.³⁵

Understand your responsibilities, use common sense and exercise sound judgment to prevent problems. You are not required to have any special skills to act as guardian or conservator. However, if you have special skills, you must use those skills to manage the protected person's estate. Consult your lawyer to answer specific questions.

The court will require a bond to protect the protected person financially, unless it is waived for good cause.³⁶ The bond is an insurance policy paid for by the estate that protects the protected person in the event that your mistake causes the estate to lose money. The amount of the bond will be the total value of the estate property over which you have unsupervised control, plus one year's estimated income.

Conflict of Interest

The guardian (and/or conservator) must avoid any conflicts of interest or self-dealing when managing the protected person's estate.

- The guardian may not loan or give money or objects of worth from the person's estate unless specific prior approval is obtained.
- The guardian may not use the person's income and assets to support or benefit other individuals directly or indirectly, unless all of the following are met:
 - Specific prior approval is obtained.
 - A reasonable showing is made that such support is consistent with the person's goals, needs and preferences.
 - It will not substantially harm the estate.

Conflict of interest arises where the guardian has some personal interest in the protected person's finances or estate that can be perceived as self-serving or adverse

³⁴ Utah Code Section 75-5-312

³⁵ Utah Code Section 75-5-429

³⁶ Utah Code Sections 75-5-411 and 75-5-412

to the position or best interest of the person. Self-dealing arises when the guardian seeks to take advantage of their position as a guardian and acts for their own interests rather than for the interests of the person.

Self-dealing can sometimes take place in seemingly innocent ways. For instance, if a guardian lived in the protected person's home or used the protected person's car for personal matters, this may be inconsistent with the guardian's fiduciary duty to the protected person. Using any of the protected person's property for personal use would be inappropriate. Likewise, paying the costs for a family vacation that the guardian attends would be self-dealing, if costs of family members who did not need to be there to take care of the protected person's physical needs were paid.

You may use the protected person's funds only for their benefit. You may take into account the protected person's accustomed standard of living.³⁷ If family members or others express concern about the cost of the protected person's care, your responsibility is to the protected person; guardians shall value the well-being of the person over the preservation of the estate.

Representative Payee

If an agency, such as the Veteran's Administration or the Social Security Administration, pays benefits to the protected person and the protected person is found by a court to be incapacitated, the agency must appoint a representative payee to receive the payments. This appointment is separate from the court-appointed guardianship and conservatorship.

If you wish to serve as the representative payee, you must apply to the agency that provides the benefits. In most cases, the agency will appoint the court-appointed guardian or conservator as representative payee. The agency providing the benefits has the authority, however, to appoint any person it chooses to be the protected person's representative payee.

Once appointed by the agency, the representative payee has the authority to receive and handle the benefits for the protected person.

F. Criminal penalties

You may be found criminally liable for financially exploiting, neglecting, or physically or emotionally abusing the protected person. While there are many laws that govern the conduct of a person in a fiduciary relationship, you should especially be aware of the following criminal penalties under Utah law. Consult your lawyer to answer your specific questions.

³⁷ Utah Code Section 75-5-425

Abuse or Neglect of a Vulnerable Adult

Utah Code Section 76-5-111.

A person who causes a vulnerable adult to suffer harm, abuse or neglect; or, having the care or custody of a vulnerable adult, causes or permits that adult's person or health to be injured, abused, or neglected, or causes or permits a vulnerable adult to be placed in a situation where the adult's person or health is endangered, is guilty of abuse of a vulnerable adult.

Exploitation of a Vulnerable Adult

Utah Code Section 76-5-111.

A person commits the offense of exploitation of a vulnerable adult when the person:

(i) is in a position of trust and confidence, or has a business relationship, with the vulnerable adult or has undue influence over the vulnerable adult and knowingly, by deception or intimidation, obtains or uses, or endeavors to obtain or use, the vulnerable adult's funds, credit, assets, or other property with the intent to temporarily or permanently deprive the vulnerable adult of the use, benefit, or possession of the adult's property, for the benefit of someone other than the vulnerable adult;

(ii) knows or should know that the vulnerable adult lacks the capacity to consent, and obtains or uses, or endeavors to obtain or use, or assists another in obtaining or using or endeavoring to obtain or use, the vulnerable adult's funds, assets, or property with the intent to temporarily or permanently deprive the vulnerable adult of the use, benefit, or possession of his property for the benefit of someone other than the vulnerable adult;

(iii) unjustly or improperly uses or manages the resources of a vulnerable adult for the profit or advantage of someone other than the vulnerable adult;

(iv) unjustly or improperly uses a vulnerable adult's power of attorney or guardianship for the profit or advantage of someone other than the vulnerable adult;

(v) involves a vulnerable adult who lacks the capacity to consent in the facilitation or furtherance of any criminal activity;

(vi) commits sexual exploitation of a vulnerable adult;

(vii) intentionally, knowingly, or recklessly creates, transmits, or displays a photographic or electronic image or recording of the vulnerable adult to which creation, transmission, or display a reasonable person would not consent; and that shows the vulnerable adult's unclothed breasts, buttocks, anus, genitals, or pubic area, displays the clothed area of only the vulnerable adult's breasts, buttocks, anus, genitals, or pubic area; or that shows the vulnerable adult

engaged in conduct that is harmful to the mental or physical health or safety of the vulnerable adult; or

(viii) intentionally, knowingly or recklessly causes the vulnerable adult to participate in an act that is highly offensive or demeaning to the vulnerable adult in which a reasonable person would not participate or that is harmful to the mental or physical health or safety of the vulnerable adult.

Theft

Utah Code Section 76-6-404.

A person commits theft if he obtains or exercises unauthorized control over the property of another with a purpose to deprive him of it.

Unlawful Dealing of Property by a Fiduciary

Utah Code Section 76-6-513.

A person is guilty of unlawfully dealing with property by a fiduciary if he deals with property that has been entrusted to him as a fiduciary ... in a manner which he knows is a violation of his duty and which involves substantial risk of loss or detriment to the owner or to a person for whose benefit the property was entrusted.

A person acting as a fiduciary is guilty of unlawfully dealing with property by a fiduciary if, without permission, he pledges as collateral for a personal loan, or as collateral for the benefit of some party, other than the owner or the person for whose benefit the property was entrusted, the property that has been entrusted to the fiduciary.

Reporting Abuse, Neglect, or Exploitation of a Vulnerable Adult

Utah Code Section 76-5-111.1.

Any person who has reason to believe that a vulnerable adult has been abused, neglected or exploited shall immediately notify the nearest peace officer, law enforcement agency, or Adult Protective Services within the Department of Human Services, Division of Aging and Adult Services.

Anyone who makes that report in good faith is immune from civil and criminal liability. A person who is required to report suspected abuse, neglect, or exploitation of a vulnerable adult and who willfully fails to do so is guilty of a class B misdemeanor.

Any person who has reason to believe that a protected person is being physically or emotionally abused, or financially exploited, should report the abuse to Adult Protective Services (see Resources below).

G. Resources (need to double check info)

Commented [ST3]: Ask WINGS

Protective Services	Adult Protective Services: <u>Phone</u> Salt Lake County: 801-264-7669 Statewide: 1-800-371-7897 <u>Website</u> https://daas.utah.gov/adult-protective-services/ Long-Term Care Ombudsman: <u>Website</u> https://daas.utah.gov/long-term-care-ombudsman/
Aging Services	Division of Aging and Adult Services: <u>Phone</u> 801-538-3910 <u>Website</u> https://daas.utah.gov/ Utah Commission on Aging: <u>Phone</u> 1-888-985-6866 <u>Website</u> https://ucoa.utah.edu/
Disability Services	Division of Services for People with Disabilities: <u>Phone</u> 1-844-275-3773 <u>Website</u> https://dspd.utah.gov/
Legal Resources	Free Legal Clinics: <u>Website</u> https://www.utcourts.gov/howto/legalclinics/ Utah Legal Services: <u>Phone</u> 801-328-8891 1-800-662-4245 <u>Website</u> http://www.utahlegalservices.org/ Utah State Bar: <u>Phone</u> 801-531-9077 <u>Website</u> http://www.utahbar.org/

Commented [ST4]: Add DLC somewhere

Commented [ST5]: Add more resources here, if any

Court Resources	Court Self Help Center: <u>Phone</u> Call: 888-683-0009 Text: 801-742-1898 <u>Website</u> https://www.utcourts.gov/selfhelp/contact/ <u>Email</u> selfhelp@utcourts.gov
State Guardianship Services	Office of Public Guardian: <u>Phone</u> 801-538-8255 <u>Website</u> https://opg.utah.gov/
Informational Resources	National Guardianship Association <u>Website</u> https://www.guardianship.org/find-a-guardian/ <u>Standards of Practice (PDF)</u> https://www.guardianship.org/standards/
** In case of an emergency, call local law enforcement or 911.	

Glossary of Terms

Acceptance of appointment	A written document signed by the guardian/conservator confirming acceptance of the order to serve as guardian/conservator of the protected person. This document must be filed with the court.
Advance health care directive	A written document or oral statement by an adult that expresses the adult's wishes for health care treatment in case the adult is, in the future, not able to express current wishes. Utah law recognizes a standard advance health care directive form. Utah's form provides for the possibility of an expression of wishes as well as for the appointment of a health care agent. Utah law also recognizes a hierarchy of surrogate decision makers in case the adult has never issued an advance health care directive and is now unable to express current wishes.
Affidavit	A written and sworn statement witnessed by a notary public or other official with the authority to administer oaths. Affidavits may be admitted into evidence.
Agent	An adult appointed by another adult ("the principal") in a power of attorney, executed according to law. The agent's legal authority is limited to the authority granted by the principal.
Annual accounting	The yearly financial report of the protected person's estate that the guardian—or conservator if one has been appointed—must file with the court.
Annual report	Report required to be completed and filed with the court every year, within 60 days from the anniversary of the date the guardian or conservator was appointed. Annual reports include the Status Report and the Financial Accounting report.
Appointment	The designation of a person by the court to be a guardian or conservator and to discharge the duties of that office.
Bond	Insurance that the court may require that covers the protected person's estate. Paid for by the protected person's estate.
Certified copy	A certified copy of a court order is dated, signed, and stamped by the Clerk of Court certifying that the copy is a true copy of the original court order. A certified copy is a photocopy of the original, but it will have an original stamped or embossed seal of the court and clerk's signature.
Chambers	A judge's private office in the courthouse.

Closed hearing	A hearing that can be attended only by those with a direct interest in the proceeding. The public cannot attend. Any party in a guardianship / conservatorship proceeding may request closed hearings. Most hearings are open or public hearings and anyone may attend.
Code of Judicial Administration (CJA)	The rules established by the Utah Judicial Council governing administrative practices and procedures of the state judiciary.
Conservator	A person or institution appointed by the court to manage the property and financial affairs ("estate") of a protected person. A guardian is a person or institution appointed by a court to make decisions about the care of another person who is in need of continuing care and protection, such as a minor child or an incapacitated adult. Sometimes the same person is appointed to both roles. If no conservator is appointed, the guardian has some of the responsibility of a conservator.
Conservatorship	The court proceeding to appoint a conservator and any subsequent proceedings. A conservatorship exists when the court has appointed a conservator for a person in need of protection.
Court visitor	A person who is trained in law, nursing, or social work and is an officer, employee, or special appointee of the court with no personal interest in the proceedings. The judge may appoint a visitor to inquire about and observe a protected person's circumstances to provide a more complete and nuanced picture of that person's life.
Emergency guardianship	An extraordinary court proceeding that may result in the appointment of an emergency guardian to provide for the immediate care and custody of a person for a specified period not longer than 30 days. If an emergency guardian is appointed, the court must hold a hearing within 14 days and begin the process to determine the respondent's incapacity.
Estate	All of the protected person's assets and liabilities, including all real property (land) and personal property (things).
Evidence	Testimony, records, documents, material objects, or other things presented at a hearing to prove the existence or nonexistence of a fact.
Fiduciary	A person who has assumed a special relationship to another person or another person's property, such as a trustee, administrator, executor, lawyer, or guardian/conservator. The fiduciary must exercise the highest degree of care to maintain and preserve the person's rights and/or property which are within his/her charge.
Financial accounting report	The yearly financial report of the protected person's estate that the guardian—or conservator if one has been appointed—must file with the court.

Final accounting report	The last financial accounting that must be filed with the court by the guardian or conservator upon the death of the protected person, resignation of the guardian or conservator, or termination of the guardianship/conservatorship.
Guardian	A person or institution appointed by a court to make decisions about the care of another person who is in need of continuing care and protection, such as a minor child or an incapacitated adult. A conservator is person or institution appointed by the court to manage the property and financial affairs ("estate") of a protected person. Sometimes the same person is appointed to both roles. If no conservator is appointed, the guardian has some of the responsibility of a conservator.
Guardian ad litem	A lawyer appointed by a court to look after the interests of a minor child during court proceedings, or to look after the interests of an adult in conservatorship proceedings.
Guardianship	The court proceedings to appoint a guardian and any subsequent proceedings. A guardianship exists when the court has appointed a guardian for an incapacitated person.
Hearing	A formal proceeding (generally less formal than a trial) with issues of law or of fact to be heard and decided.
Incapacitated person	A person (other than a minor) who cannot receive or evaluate information or communicate decisions, with or without assistance, concerning their health, safety, basic needs, or finances.
Incapacity	<p>"Incapacity" means that an adult's ability to:</p> <ul style="list-style-type: none"> • receive and evaluate information; or • make and communicate decisions; or • provide for necessities (food, shelter, clothing, health care, or safety) <p>is impaired to the extent that s/he lacks the ability, even with appropriate technological assistance, to meet the essential requirements for financial protection or physical health, safety, or self-care. Incapacity is a judicial determination, and is measured by the person's functional limitations.</p>
Interested person	As defined in the Utah Uniform Probate Code, an "interested person" includes heirs, devisees, children, spouses, creditors, beneficiaries, and any others having a property right in or claim against a trust or the estate of a decedent, or protected person. It also includes persons having priority for appointment as personal representative, other fiduciaries representing interested persons, a settlor of a trust, if living, or the settlor's legal representative, if any, if the settlor is living but incapacitated. The court can determine who is an interested person in a particular case, so the meaning may vary from one case to the next.

Inventory	A detailed list of property and other assets with their estimated or actual values. A guardian or conservator must file an inventory with the court within 90 days after appointment.
Jurisdiction	The legal authority of a court to hear and determine a case. Jurisdiction also means the power of the court over the persons involved in a case and over the subject matter of the case.
Least Restrictive Alternative	A mechanism, course of action, or environment that allows the person to live, learn, and work in a setting that places as few limits as possible on the person's rights and personal freedoms as appropriate to meet the needs of the person.
Letters of guardianship or conservatorship	The document issued by the court authorizing the appointment of the guardian/conservator and the extent of the powers of the guardian/conservator to act on behalf of the protected person.
Limited guardianship	A guardianship that orders the guardian to have decision-making powers limited to the specific needs of the protected person. A limited guardianship order describes the guardian's decision-making authority over the protected person. Utah law presumes that the court will order a limited guardianship.
Living will	A legal document by which a person expresses his/her end-of-life medical treatment wishes.
Minor	A child under the age of 18 who, by law, does not have the capacity to manage his or her affairs.
Notice	Written notification that a petition for appointment of a guardian has been filed and the date, time and location of the hearing. The notice will also include a description of the respondent's rights and possible effects if the petition is granted.
Objection	To oppose some statement, claim, or procedure in a trial or other proceeding. For example, in guardianship proceedings, an interested person may object to (oppose) the appointment of a particular guardian or the claim that the respondent is incapacitated or the request that guardian should have certain authority.
Parens patriae	A Latin phrase meaning literally "parent of the country" and used to refer traditionally to the role of the sovereign as guardian of persons under legal disability, such as minor children or incapacitated adults.
Petition	A document filed to initiate a case, setting forth the alleged grounds for the court to take jurisdiction and asking the court to grant the petitioner's request.

Petitioner	The person who files the petition, asking the court to do something. In guardianship proceedings, the petitioner is often, although not always, the person asking to be appointed as guardian.
Plenary guardianship	A guardianship that orders the guardian to have all decision-making powers for the protected person allowed by law. Also known as a “full” guardianship.
(Durable) Power of attorney	A written document in which one person, as principal, appoints another as agent, and gives that agent authority to do certain specified acts or kinds of acts, on behalf of the principal. Completing a power of attorney document does not require a court proceeding. The principal should sign the document before a notary public.
Private, public and protected records	Most records filed in the district courts and justice courts are “public” records, meaning that anyone who asks can view the record and make a copy of it. Many public records are available on the court’s website. Some records are “private,” meaning that only the parties, their lawyers, and a few others can view and copy the record. Less common are “protected” records, meaning also that only the parties, their lawyers and a few others can view and copy the record. Records in guardianship and conservatorship proceedings are private, except that the court’s orders and letters of appointment are public.
Protected person	The person in a guardianship proceeding who has been determined by the court to be legally incapacitated and in need of a guardian. Also, the person in a conservatorship proceeding who has been determined by the court to be in need of a conservator.
Representative payee	<p>If an agency, such as the Veteran’s Administration or the Social Security Administration, pays benefits to the protected person who has been found by the court to be incapacitated, the agency must appoint a representative payee to receive the payments. This appointment is separate from the court-appointed guardian and conservator.</p> <p>Any person wishing to serve as the representative payee must apply to the agency that provides the benefits. In most cases, the agency will appoint the court-appointed guardian or conservator as representative payee. However, the agency providing the benefits has the authority to appoint any person it chooses to be the protected person’s representative payee. Once appointed by the agency, the representative payee has the authority to receive and handle the benefits for the protected person.</p>
Respondent	The person who responds to a petition. In a guardianship/conservatorship proceeding, the person alleged to be incapacitated and in need of protection.
Serving papers	Serving papers—also called service of process—means delivering a copy of the papers filed with the court to the other parties and interested persons. Court rules require that all parties and interested persons be served with a copy of all papers filed and be given time to respond.

Standard of proof	<p>There are three standards of proof in most court proceedings:</p> <ul style="list-style-type: none"> (1) Beyond a reasonable doubt (the highest standard) means that the evidence must be firmly convincing about the truth of the fact to be proved. This standard applies in all criminal and juvenile delinquency cases. (2) Preponderance of the evidence (the lowest standard) means that the evidence must show that the fact to be proved is more likely true than not true. This standard applies in most civil cases. (3) Clear and convincing evidence (a middle standard) means that the evidence must leave no serious doubt about the truth of the fact to be proved. This standard applies in some civil cases, including deciding whether a person is incapacitated.
Status report	The guardian's yearly report to the court on the well-being of the protected person. The annual report shows the protected person's status and care and alerts the court to any changes.
Statute	A law passed by the Utah state legislature.
Temporary guardian	The court may appoint a temporary guardian, convert an emergency guardian to a temporary guardian, or appoint a different person as temporary guardian to replace the emergency guardian. Until the full hearing and order of the court, the temporary guardian is charged with the care and custody of the protected person and must not permit the protected person to be removed from the state. The authority of any permanent guardian previously appointed by the court is suspended so long as a temporary guardian has authority. A temporary guardian may be removed at any time, and must obey the court's orders.
Trust	A transaction in which the owner (called the trustor or settlor) of real property (land) or personal property (things) gives ownership to a trustee, to hold and to manage for the benefit of a third party (called the "beneficiary").
Trustee	A fiduciary in whom an estate, interest, or power is vested, under an express or implied agreement, to hold and to manage for the benefit of another.
Utah Code	The collection of all statutes enacted by the Utah legislature.
Utah Rules of Civil Procedure	The rules governing court procedures in all actions of a civil nature.
Venue	The county, city or geographical area in which a court with jurisdiction may hear and determine a case. A change of venue, that is, a change to a court in a different area, may be requested under some circumstances.

Appendix A - Planning for Incapacity & Alternatives to Guardianship

There are several options and legal tools under Utah law for protecting an adult with diminished capacity. You can find more details about these options on the court's website.³⁸

Plan Ahead

Anyone 18 or older has the right to make decisions based on his or her values and beliefs, even if others disagree with those decisions. Making decisions is an essential part of adult life. An adult who loses the capacity to make decisions may need special protection.

There is risk involved in allowing someone else to take control of the money, property, healthcare, and other decision-making if an adult ever experiences diminished capacity. Without any plan in place and no one to monitor the caregiver's actions, trust is placed on the individual caring for the adult to abide by clear ethical values and standards, with little to no supervision or oversight.

Planning ahead can help ensure that the person's preferences and values will be followed during a time of diminished capacity. The advice of a lawyer experienced in estate planning and elder law is most important. A lawyer can advise you about steps to protect against abuse, neglect and exploitation of a person with diminished capacity.

Arranging for Help and Services

The best course of action may be to help the person with diminished capacity make and implement their own decisions. The person with diminished capacity, as well as the people caring for that person may benefit from support available, not only from family, friends or spiritual communities, but also from government and community resources and organizations which provide information, services, education, and support. Some of these options include:

Representative Payee

A representative payee is a person appointed by a government agency, such as the Social Security Administration, Department of Veterans Affairs or Railroad Retirement Board, to receive and manage the money paid by that agency. To serve as the representative payee, apply to the agency that provides the benefits. In most cases in which the person with diminished capacity has an agent with power of attorney or a trustee, guardian or conservator, the agency will appoint that person as representative payee. But the agency may appoint any person as representative payee. If a protected person is under guardianship or

³⁸ <https://www.utcourts.gov/en/self-help/case-categories/gc/options.html>

conservatorship, the agency must appoint a representative payee to receive payments.

Power of Attorney

A power of attorney is a legal document in which one person (called the "principal") gives to another person (the "agent," or sometimes called the "attorney in fact") authority to act on behalf of the principal.

A power of attorney can be very broad, allowing the agent to perform a variety of tasks. For example:

- handling bank accounts
- selling real property
- running a business
- applying for public benefits

It can also be very limited and restrict the agent to one or more very specific tasks. For example, selling one specific piece of real property. The agent cannot use the principal's assets in a way that is against the principal's wishes.

A well-written power of attorney can be a helpful legal tool to allow someone else to handle a person's financial matters without the need of more complex arrangements like a trust or a court-appointed guardian or conservator, which removes many or all of the person's decision making authority. A well-written power of attorney can also help protect against possible financial exploitation and abuse.

Trust

A trust is an arrangement in which one person (called the "settlor") gives his or her money and property to a second person (called the "trustee") to manage, invest and pay out for the benefit of a third person (called the "beneficiary"). A trust can help provide for the care of the settlor's dependents in the event of the settlor's death.

One common type of trust is known as a "living trust" in which one person can play all three roles: settlor, trustee and beneficiary. The administration of a living trust does not differ much from every day saving, spending and managing one's money and property: Once the trust is created, the person's money and property is owned by the trust but managed by the person for his or her own benefit (and any other beneficiaries). Upon the death of the person, the trust assets can be paid to another beneficiary.

A special type of trust called a "**discretionary trust for a person with disabilities**" is a useful planning tool for persons with disabilities and their families. The government benefits that a person with disabilities is entitled to receive may not be reduced because of contributions to a discretionary trust for that person. State agencies disregard a discretionary trust as a resource when determining eligibility for services or support.

To qualify as a discretionary trust for a person with disabilities, Utah Code Section 26B-6-412, requires that the trust:

- be established by a parent, grandparent, legal guardian, or court for the benefit of a person who, at the time the trust is created, is under age 65 and has a disability;
- gives the trustee discretionary power to determine distributions;
- prohibits the beneficiary from controlling or demanding payments;
- contains the beneficiary's assets;
- be irrevocable, unless the beneficiary no longer has a disability; and
- provides that, upon the death of the beneficiary, the state will receive all amounts remaining in the trust, up to the amount of medical assistance paid on behalf of the beneficiary.
- If you have funds that are subject to a state lien, you cannot put those funds into the trust. If the funds become subject to a state lien after they have been deposited in the trust, that portion of the trust is invalid. Utah Code Section 62A-5-110 .

Health Care Agent and Advance Health Care Directive

You can appoint an agent to make health care decisions (including mental health care decisions) in the event that you no longer have the capacity to do so. Your agent should be someone you trust, who knows, understands and will honor your preferences, and who will be available if needed. An advance health care directive expresses your preferences about health care decisions and helps ensure that your decisions will be carried out, even when you are no longer able to make or communicate those decisions. A health care agent can be appointed in an advance health care directive.

The person appointing an agent must have sufficient mental capacity to understand that s/he is appointing an agent to handle health care decisions. A person might have capacity to appoint an agent even if the person does not have the capacity to make health care decisions for himself or herself or does not have the capacity to make an advance health care directive.

An advance health care directive may be oral, but a written document may be more reliable. The written or oral directive must be witnessed, but does not have to be notarized. If you choose to make a written advance health care directive, you should keep the original in a safe but accessible place, and you should give a copy to your health care agent and to your health care providers.

Appointing a health care agent and making an advance health care directive are not as technical as a trust or a durable power of attorney and many people do it without hiring a lawyer.

Even after making an advance health care directive, you retain the right to make health care decisions as long as you have capacity to do so, and your current health care decisions, however expressed, always supersede earlier decisions or directions in an advance health care directive.

An advance health care directive is effective only after it is determined that you lack capacity to make health care decisions. They remain in effect during any period of time in which you lack capacity to make health care decisions.

An advance health care directive ends when:

- you disqualify the agent or revoke the advance health care directive;
- a health care provider finds that you have health care decision making capacity;
- a court invalidates your health care directive; or
- you challenge the health care provider's finding of incapacity.

An advance health care directive can be revoked at any time by writing "void" across the document or by destroying the document. If you have appointed your spouse as your health care agent and you are later divorced, the divorce decree acts to revoke the appointment. If you revoke an advance health care directive, you should make your decision known to your health care agent, your health care providers and anyone who has a copy of the directive. If you have more than one directive, the latest one controls.

Supported Decision-Making Agreement ³⁹

You can appoint people to be your supporters to help you make important decisions in a supported decision-making agreement. A supporter can be with you when you are making decisions and help you communicate your decisions, access information for you to help you make decisions, and participate in discussions with others when you are making decisions. A supporter can give you their suggestions and explain information to you to help you make decisions, but they cannot make decisions for you. You receive only the support or help that you want.

You can make a supported decision-making agreement at any time, and you can revoke it at any time in writing to the people in the agreement. If you revoke a supported decision-making agreement, you should make your decision known to your supporters and anyone who has a copy of the directive.

³⁹ https://le.utah.gov/xcode/Title75/Chapter5/75-5-S704.html?v=C75-5-S704_2025050720250507

Appendix B – Care Planning Considerations

Once you are appointed, your responsibilities begin immediately, and it is easy to be overwhelmed. Take care of the most urgent needs first; then arrange for general needs.

You will be taking responsibility for another person's life, and you will want to give some thought to what that means in day-to-day circumstances. Planning can make things easier when the time comes for difficult decisions. The **Care Planning Considerations** document may be helpful.⁴⁰ It is written as a conversation that you might have with yourself, with the protected person, and with advisors as you see fit. You may need to make some decisions more than once, as circumstances change.

Try to discuss the questions and answers with the protected person as much as possible. Some sections begin by asking about what the protected person wants to do. If the protected person can afford that course of action and it does not cause harm, what the protected person wants to do is the preferred course of action. Encourage the protected person to participate in the decision-making process, make suggestions, and express concerns, wishes, values and preferences. This approach recognizes the protected person's independence and dignity and encourages the protected person's maximum self-reliance.

⁴⁰ <https://www.utcourts.gov/en/self-help/case-categories/gc/planning.html>

Appendix C – Changes in the Guardianship

IF...	Provide to the Court:
If the Protected Person is deceased	<ul style="list-style-type: none"> Any proof of death (i.e., death certificate, obituary) Motion to terminate a guardianship or conservatorship A final accounting, along with the Certificate of Service, Right to Object, and Order on Review forms
If the Guardian or Conservator is deceased	<ul style="list-style-type: none"> Provide proof of death of the guardian or conservator Locate contact information for the protected person or for the person now responsible for protected person's care
If the Guardian or Conservator no longer has contact with the Protected Person	<ul style="list-style-type: none"> Motion to terminate a guardianship or conservatorship A final accounting, along with the Certificate of Service, Right to Object, and Order on Review forms
If the Protected Person's capacity has changed (improved or worsened) and the Guardian's responsibilities need to be adjusted	<ul style="list-style-type: none"> Motion to Review or Change a Guardianship or Conservatorship of an Adult, along with a Certificate of Service and Right to Object forms Proposed Order on Motion to Review or Change a Guardianship or Conservatorship of an Adult Optional – Request to Appoint an Attorney Optional – Request to Assign a Court Visitor Optional – Request for Order to Examine Respondent
If you need to add a Co-Guardian or Co-Conservator	<ul style="list-style-type: none"> Motion to Review or Change a Guardianship or Conservatorship of an Adult, along with a Certificate of Service and Right to Object forms The new guardian will need to complete the same forms as you completed in the initial petition – Certification of Completion of Testing, Acceptance of Appointment, Private Information Record
For more information, see "Changing or Ending a Guardianship or Conservatorship" https://www.utcourts.gov/en/self-help/case-categories/gc/change-or-end.html#accordion-b3e5734e15-item-b2c03d6961	

Reporting a Change of Residence

You do not need the court's permission to move the protected person to another residence within Utah, **BUT** you must notify the court that you are doing so and provide the court with the protected person's new address.

- There are no forms to report a change in residence; a letter or email will do.
- Address it to the clerk of the court from the appointment letter.
- Be sure to identify the case number and the protected person's name.
- Send a copy to the interested persons.

You **DO** need the court's permission to move the guardianship and conservatorship to another state or to another county within Utah.

You must also notify the court if you move.

- Contact the clerk of court from the appointment letter and provide your new contact information (i.e., address, phone number, email).

For more information, see "Moving the Protected Person to a Different Address or Moving the Guardianship or Conservatorship Case"

<https://www.utcourts.gov/en/self-help/case-categories/gc/move.html>

Appendix D – Utah Code 75-5-312

75-5-312. General powers and duties of guardian -- Penalties.

- (1) A guardian of an incapacitated person has only the powers, rights, and duties respecting the ward granted in the order of appointment under Section [75-5-304](#).
- (2) Except as provided in Subsection (4), a guardian has the same powers, rights, and duties respecting the ward that a parent has respecting the parent's unemancipated minor child
- (3) In particular, and without qualifying Subsections (1) and (2), a guardian has the following powers and duties, except as modified by order of the court:
 - (a) To the extent that it is consistent with the terms of any order by a court of competent jurisdiction relating to detention or commitment of the ward, the guardian is entitled to custody of the person of the ward and may establish the ward's place of abode within or without this state.
 - (b) If entitled to custody of the ward the guardian shall provide for the care, comfort, and maintenance of the ward and, whenever appropriate, arrange for the ward's training and education. Without regard to custodial rights of the ward's person, the guardian shall take reasonable care of the ward's clothing, furniture, vehicles, and other personal effects and commence protective proceedings if other property of the ward is in need of protection.
 - (c) A guardian may give any consents or approvals that may be necessary to enable the ward to receive medical or other professional care, counsel, treatment, or service.
 - (d) A guardian may not unreasonably restrict visitation with the ward by family, relatives, or friends.
 - (e) If no conservator for the estate of the ward has been appointed, the guardian may:
 - (i) institute proceedings to compel any person under a duty to support the ward or to pay sums for the welfare of the ward to perform that duty;
 - (ii) compel the production of the ward's estate documents, including the ward's will, trust, power of attorney, and any advance health care directive; and
 - (iii) receive money and tangible property deliverable to the ward and apply the money and property for support, care, and education of the ward:
 - (A) except that the guardian may not use funds from the ward's estate for room and board that the guardian, the guardian's spouse, parent, or child have furnished the ward unless a charge for the service is approved by order of the court made upon notice to at least one adult relative in the nearest degree of kinship to the ward in which there is an adult; and

- (B) the guardian shall exercise care to conserve any excess for the ward's needs.
- (f)
 - (i) A guardian is required to report the condition of the ward and of the estate that has been subject to the guardian's possession or control, as required by the court or court rule.
 - (ii) A guardian is required to immediately notify all interested persons if the guardian reasonably believes that the ward's death is likely to occur within the next 30 days, based on:
 - (A) the guardian's own observations; or
 - (B) information from the ward's physician or other medical care providers.
 - (iii) A guardian is required to immediately notify persons who request notification and are not restricted in associating with the ward pursuant to Section [75-5-312.5](#) of:
 - (A) the ward's admission to a hospital for three or more days or to a hospice program;
 - (B) the ward's death; and
 - (C) the arrangements for the disposition of the ward's remains.
 - (iv) Unless emergency conditions exist, a guardian is required to file with the court a notice of the guardian's intent to move the ward and to serve the notice on all interested persons at least 10 days before the move. The guardian shall take reasonable steps to notify all interested persons and to file the notice with the court as soon as practicable following the earlier of the move or the date when the guardian's intention to move the ward is made known to the ward, the ward's care giver, or any other third party.
 - (v)
 - (A) If no conservator for the estate of the ward has been appointed, the guardian shall, for all estates in excess of \$50,000, excluding the residence owned by the ward, send a report with a full accounting to the court on an annual basis.
 - (B) For estates less than \$50,000, excluding the residence owned by the ward, the guardian shall fill out an informal annual report and mail the report to the court.
 - (C) A report under Subsection [\(3\)\(f\)\(v\)\(A\)](#) or [\(B\)](#) shall include a statement of assets at the beginning and end of the reporting year, income received during the year, disbursements for the support of the ward, and other expenses incurred by the estate. The guardian shall also report the physical conditions of the

ward, the place of residence, and a list of others living in the same household. The court may require additional information.

- (D) The forms for both the informal report for estates under \$50,000, excluding the residence owned by the ward, and the full accounting report for larger estates shall be approved by the Judicial Council.
- (E) An annual report shall be examined and approved by the court.
- (F) If the ward's income is limited to a federal or state program requiring an annual accounting report, a copy of that report may be submitted to the court in lieu of the required annual report.
- (vi) Corporate fiduciaries are not required to petition the court, but shall submit their internal report annually to the court. The report shall be examined and approved by the court.
- (vii) The guardian shall also render an annual accounting of the status of the person to the court that shall be included in the petition or the informal annual report as required under this Subsection [\(3\)\(f\)](#). If a fee is paid for an accounting of an estate, a fee may not be charged for an accounting of the status of a person.
- (viii) If a guardian:
 - (A) makes a substantial misstatement on filings of annual reports;
 - (B) is guilty of gross impropriety in handling the property of the ward; or
 - (C) willfully fails to file the report required by this Subsection [\(3\)\(f\)](#), after receiving written notice from the court of the failure to file and after a grace period of two months has elapsed, the court may impose a penalty in an amount not to exceed \$5,000.
- (ix) The court may also order restitution of funds misappropriated from the estate of a ward. The penalty shall be paid by the guardian and may not be paid by the estate.
- (x) The provisions and penalties in this Subsection [\(3\)\(f\)](#) governing annual reports do not apply if the guardian or a coguardian is the parent of the ward.
- (xi) For the purposes of Subsections [\(3\)\(f\)\(i\)](#), [\(ii\)](#), [\(iii\)](#), and [\(iv\)](#), "interested persons" means those persons required to receive notice in guardianship proceedings as set forth in Section [75-5-309](#).
- (g) If a conservator has been appointed:
 - (i) all of the ward's estate received by the guardian in excess of those funds expended to meet current expenses for support, care, and education of the ward shall be paid to the conservator for management as provided in this code; and

(ii) the guardian shall account to the conservator for funds expended.

(4)

(a) A court may, in the order of appointment, place specific limitations on the guardian's power.

(b) A guardian may not prohibit or place restrictions on association with a relative or qualified acquaintance of an adult ward, unless permitted by court order under Section [75-5-312.5](#).

(c) A guardian is not liable to a third person for acts of the guardian's ward solely by reason of the relationship described in Subsection [\(2\)](#).

(5) Any guardian of one for whom a conservator also has been appointed shall control the custody and care of the ward and is entitled to receive reasonable sums for services and for room and board furnished to the ward as agreed upon between the guardian and the conservator, if the amounts agreed upon are reasonable under the circumstances. The guardian may request the conservator to expend the ward's estate by payment to third persons or entities for the ward's care and maintenance.

(6) A person who refuses to accept the authority of a guardian with authority over financial decisions to transact business with the assets of the protected person after receiving a certified copy of letters of guardianship is liable for costs, expenses, attorney fees, and damages if the court determines that the person did not act in good faith in refusing to accept the authority of the guardian.

(7) A guardian shall, to the extent practicable, encourage the ward to participate in decisions, exercise self-determination, act on the ward's own behalf, and develop or regain the capacity to manage the ward's personal affairs. To the extent known, a guardian, in making decisions, shall consider the expressed desires and personal values of the ward.

Appendix E - CJA Rule 6-501

Reporting requirements for guardians and conservators

Intent:

To set forth the testing requirements for guardians and conservators and to establish standards and procedures for inventories, reports, and accountings that guardians and conservators are required to file under the Utah Uniform Probate Code.

Applicability:

This rule applies to individuals seeking appointment as guardians and conservators and individuals who are appointed by the court as guardians and conservators.

Statement of the Rule:

(1) Definitions.

(1)(A) “Accounting” means the annual accounting required by Utah Code section 75-5-312 and section 75-5-417 and the final accounting required by Utah Code section 75-5-419.

(1)(B) “Interested person” means the respondent, if he or she is not a minor, the respondent’s guardian and conservator, the respondent’s spouse, adult children, parents and siblings, and any other person interested in the welfare, estate, or affairs of the respondent who requests notice under Utah Code section 75-5-406. If no person is an interested person as previously defined, then interested person includes at least one of the respondent’s closest adult relatives, if any can be found. For purposes of minor guardianship, interested persons include the persons listed in Utah Code section 75-5-207.

(1)(C) “Inventory” means the inventory required by Utah Code section 75-5-418.

(1)(D) “Serve” means any manner of service permitted by the Utah Rules of Civil Procedure.

(1)(E) “Protected person” means a minor or an incapacitated person for whom the court appoints a guardian or an individual for whom the court appoints a conservator.

(1)(F) “Report” means the inventory, accounting, or annual report on the status of the protected person under Utah Code sections 75-5-209 and 75-5-312, and the final accounting under sections 75-5-210 and 75-5-419

(1)(G) “Respondent” means a person who is alleged to be incapacitated and for whom the appointment of a guardian or conservator is sought.

(2) Exceptions.

(2)(A) Paragraph (3) does not apply to the following:

(2)(A)(i) a guardian certified under Utah Code section 75-5-311;

(2)(A)(ii) the Office of Public Guardian; or

(2)(A)(iii) a conservator issued a permit under Utah Code section 7-5-2.

(2)(B) Paragraphs (6), (7), (8), (9), and (10) do not apply if the guardian or conservator is a parent of the protected person.

(2)(C) Paragraphs (6)(C) and (8)(C) do not apply to the guardian of a minor if the minor's estate consists of funds that are deposited in a restricted account, which requires judicial approval for withdrawal, or if there is no estate.

(2)(D) Paragraph (9) does not apply to a conservator who is appointed for the purpose of receiving a personal injury settlement for a minor if 1) no funds are to be distributed until the minor reaches the age of majority, or 2) no structured settlement payments are to be made until the minor reaches the age of majority.

(3) Examination and private information record.

(3)(A) Before the court enters an order appointing a guardian or conservator, the proposed guardian or conservator must file:

(3)(A)(i) a verified statement showing satisfactory completion of a court-approved examination on the responsibilities of a guardian or conservator; and

(3)(A)(ii) a completed and verified Private Information Record form provided by the Administrative Office.

(3)(B) The guardian or conservator must continue to keep the court apprised of any changes to the guardian or conservator's contact information.

(4) Recordkeeping.

The guardian must keep contemporaneous records of significant events in the life of the protected person and produce them if requested by the court. The conservator must keep contemporaneous receipts, vouchers or other evidence of income and expenses and produce them if requested by the court. The guardian and conservator must maintain the records until the appointment is terminated and then deliver them to the successor guardian or conservator, to the protected person if there is no successor guardian or conservator, or to the personal representative of the protected person's estate.

(5) Filing and service of required reports and proposed Order on Review

(5)(A) The guardian or conservator will file with the court the reports required by paragraphs 6, 7, 8, 9, and/or 10 using the appropriate Council-approved form or a form that substantially conforms to the format and content of the Council form.

(5)(A)(i) A corporate fiduciary will attach its internal report or accounting, if any, as an exhibit to the Council form.

(5)(A)(ii) If the protected person's estate is limited to a federal or state program requiring an annual accounting, the guardian may file a copy of that accounting instead of the Council form.

(5)(B) The annual status report and annual accounting must contain sufficient information to put interested persons on notice of all significant events and transactions during the reporting period.

(5)(C) Along with the required report, the guardian or conservator will also file the Council-approved Order on Review of Guardian or Conservator Report ("Order on Review") as a proposed document.

(5)(D) The guardian or conservator must serve a copy of the required report on all interested persons in accordance with the Utah Rules of Civil Procedure. The required report must include the following language at the top right corner of the first page, in bold type: You have the right to object to this report within 28 days of service. If you do not object within that time, your objection may be waived.

(6) Inventory.

(6)(A) Within 90 days after the appointment, the conservator must file with the appointing court the inventory required by Utah Code section 75-5-418 in accordance with paragraph 5. The inventory must be in substantially the same form as the inventory form approved by the Council, including the required attachments. The court may extend the time for filing the inventory for good cause.

(6)(B) The judge may conduct a hearing even though no objection is filed. If the judge finds that the inventory is in order, the judge must approve it by signing the Order on Review.

(6)(C) If there is no conservator, the guardian must file the inventory required of a conservator under Utah Code section 75-5-312.

(7) Annual status reports.

(7)(A) The guardian must file with the appointing court a report on the status of the protected person no later than 60 days after the anniversary of the appointment in accordance with paragraph 5.

(7)(A)(i) The status report must be in substantially the same form as the status report form approved by the Council, including the required attachments.

(7)(A)(ii) The guardian must file the report with the court that appointed the guardian unless that court orders a change in venue under Utah Code section 75-5-313.

(7)(A)(iii) The reporting period is yearly from the appointment date unless the court changes the reporting period on motion of the guardian. The guardian may not file the report before the close of the reporting period. For good cause the court may extend the time for filing the report, but a late filing does not change the reporting period.

(7)(B) The judge may conduct a hearing even though no objection is filed. If the judge finds that the report is in order, the judge must approve it by signing the Order on Review

(8) Annual accounting.

(8)(A) The conservator must file with the appointing court an accounting of the estate of the protected person no later than 60 days after the anniversary of the appointment in accordance with paragraph 5.

(8)(A)(i) The accounting must be in substantially the same form as the accounting form approved by the Council, including the required attachments.

(8)(A)(ii) The conservator must file the accounting with the court that appointed the conservator unless that court orders a change in venue under Utah Code section 75-5-403.

(8)(A)(iii) The reporting period is yearly from the appointment date unless the court changes the reporting period on motion of the conservator. The conservator may not file the accounting before the close of the reporting period. For good cause the court may extend the time for filing the accounting, but a late filing does not change the reporting period.

(8)(B) The judge may conduct a hearing even though no objection is filed. If the judge finds that the accounting is in order, the judge must approve it by signing the Order on Review.

(8)(C) If there is no conservator, the guardian must file the accounting required of a conservator under Utah Code section 75-5-312.

(9) Final accounting.

(9)(A) The conservator must file with the court a final accounting of the estate of the protected person with the motion to terminate the appointment in accordance with paragraph 5.

(9)(B) The court may conduct a hearing even though no objection is filed. If the court finds that the accounting is in order, the court must approve it by signing the Order on Review.

(10) Objections.

(10)(A) If an interested person objects to a report, the person must file a written objection with the court and serve a copy on all interested persons within 28 days from the date of service of the report. A request to submit must be included with the objection. The court may for good cause, including in order to accommodate a person with a disability, waive the requirement of a writing and document the objection and request to submit in the court record.

(10)(B) The objection must specify in writing the entries to which the person objects and state the reasons for the objection.

(10)(C) An objection to a report may not contain a request to remove or substitute the guardian or conservator. Any request for removal or substitution of the guardian or conservator must be filed as a separate petition consistent with Utah Code section 75-5-307 or 75-5-415.

(10)(D) If an objection is filed, the court must conduct a hearing unless the court determines that a hearing is not necessary. If the court determines that a hearing is not necessary, the court must issue a minute entry or order stating why a hearing is not necessary.

(10)(E) At the hearing, the court may require the guardian or conservator to supplement or amend the report if the court determines there is good cause for the objection.

(10)(F) If the court determines that the objection is unfounded or is filed in bad faith, the court may deny the objection and approve the report.

(11) Waiver. If an interested person does not object to a report within 28 days of service, the interested person waives any objection unless:

(11)(A) the objection relates to matters not fairly disclosed by the report; or

(11)(B) the time for objection is extended by the court under the Utah Rules of Civil Procedure. If the request for an extension is made before the time has run, the court may extend the time for good cause. If the request is made after the time has run, the court may extend for excusable neglect.

(12) Report approval.

(12)(A) Approval. The court must examine and approve the report as required by Utah Code sections 75-5-312 and 75-5-417. Approving a report means the judge has reviewed it, to the court's knowledge notice has been given to every person

entitled to notice, no objection has been received, the report meets the requirements set forth by the report form, and the court has not requested additional information or scheduled a hearing. Such approval does not foreclose a valid claim permitted under paragraphs (11)(A) or (11)(B), nor does it start an appeal time.

(12)(B) Notice to interested persons. When a court approves a report, the court must sign and enter the Order on Review. When a court does not approve a report, the court must indicate on the Order on Review, or in another minute entry or order, the reasons for non-approval, any additional actions required, and serve it on all interested persons entitled to notice.

(13) Report on a minor.

Under Utah Code section 75-5-209, a person interested in the welfare of a minor may petition the court for a report from the guardian on the minor's welfare or the minor's estate. If the court orders a status report from the guardian, the status report must be in substantially the same form as the status report form for guardianships of adults approved by the Council, including the required attachments.

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