

WASHOE COUNTY

"Dedicated To Excellence in Public Service"

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COMMITTEE MEMBERS

Commissioner Jeanne Herman
Alt. Commissioner Alexis Hill
Barbara Kinnison
Denise Jacobsen
Randy Brown
Matthew Buehler
County Manager Eric Brown

INTERNAL AUDITOR

Samantha Turner

AGENDA

WASHOE COUNTY AUDIT COMMITTEE

**Caucus Conference Room
1001 E. 9th St.**

**Thursday, January 13, 2022
2:00 p.m.**

NOTE: Items on the agenda may be taken out of order; combined with other items; removed from the agenda; or moved to the agenda of another meeting.

Accessibility: In compliance with the Americans with Disabilities Act, the Washoe County meeting rooms are accessible and those requiring accommodation for this meeting should notify the Internal Auditor at (775) 328-2064, 24 hours prior to the meeting.

Public Transportation: Public transportation is available to this meeting site: RTC Routes 2, 2S, 5 and 15 serve this location. For eligible RTC ACCESS reservations call (775) 348-5438.

Time Limits: Public comments are welcomed during the Public Comment periods for all matters, whether listed on the agenda or not, and are limited to three minutes per person. Additionally, public comment of three minutes per person will be heard during individually numbered items designated as "for possible action" on the agenda. Persons are invited to submit comments in writing on the agenda items and/or attend and make comment on that item at the meeting. Persons may not allocate unused time to other speakers. Public comment can be submitted via email to washoe311@washoecounty.us. The County will make reasonable efforts to include all comments received for public comment by email in the record. Please try to provide comments by 4:00 p.m. on Wednesday, January 12, 2022.

Supporting documentation for the items on the agenda provided to Audit Committee members is available to members of the public at the County Manager's Office (1001 E. 9th Street, Bldg. A, 2nd Floor, Reno, Nevada), Samantha Pierce, Internal Auditor (775) 328-2064.

Pursuant to NRS 241.020, the Agenda for the Board of County Commissioners has been electronically posted at www.washoecounty.us/mgrsoff/internal_audit.html and <https://notice.nv.gov>.

2:00 p.m.

1. Roll Call

2. Public Comment (*comment heard under this item will be limited to three minutes per person and may pertain to matters both on and off the Audit Committee agenda*)

3. Approval of minutes for July 14, 2021 meeting (for possible action)

4. Presentation of the FY21 Comprehensive Annual Financial Report and audit results for the year ending June 30, 2021. *Representatives from BDO USA, LLP*

5. Audit Report Update –Samantha Pierce, Internal Auditor
 - a. Completed:
 - Public Guardian

 - b. In Progress:
 - Public Administrators Office

 - c. Follow-Up:

 - d. Other:
 - Budget Requests – Additional Staff
 - Re-Appointment Approval of Committee Members
 - Job Evaluation Committee – Review

6. Fraud Hotline (for possible action)
 - a. None

7. Calendaring of the next Audit Committee meetings – Tentative as dates are subject to change
 - a. March 31, 2022 @ 2:00 PM
 - b. June 23, 2022 @ 2:00 PM

8. Audit Committee Member Comments – limited to announcements or issues proposed for future agendas and/or workshops

9. Public Comment (*comment heard under this item will be limited to three minutes per person and may pertain to matters both on and off the Audit Committee agenda*)

Audit Committee Meeting
Washoe County, Nevada
July 14, 2021 at 3:00 PM

Voting Members: Denise Jacobsen, Randy Brown, Barbara Kinnison, Matthew Buehler

Non-Voting Member: County Manager Erik Brown

Absent: Commissioner Jeanne Herman, Commissioner Alexis Hill

Other Attendees: Samantha Pierce (Internal Audit), Christine Vuletich (Assistant County Manager), Cathy Hill (Comptroller)

Agenda Item 1 - Roll Call

The meeting was called to order at 3:00 PM and Ms. Pierce performed the roll call – those listed above were present.

Agenda Item 2 - Public Comment

No public comment. Ms. Pierce noted public comment was completed through the Washoe 311 systems to comply with the Governor’s directive for COVID. No emails or voicemails were received for this meeting.

Agenda Item 3 - Approval of minutes for February 11, 2021 meeting

Matthew Buehler moved to approve the minutes. Denise Jacobsen seconded the motion, which carried unanimously.

Agenda Item 4 – Three Year Schedule

Ms. Pierce provided the current three-year schedule and a proposed three-year schedule and reminded the committee that any changes could be made to the schedule as they saw fit. The current fiscal year audits were not completed due to COVID contact tracing and reassignment of the Internal Auditor therefore they were all pushed to fiscal year 22 and all other audits were adjusted to fiscal year 23 and 24. Ms. Pierce explained the Minimum Accounting Standards (MAS) audits listed for the courts were due in that fiscal year and could not be adjusted. Mr. Buehler inquired if any of the audits listed in fiscal year 23 or 24 were more pressing and should be moved. Ms. Pierce explained she felt those listed in fiscal year 23 were grouped nicely and those listed in fiscal year 24 could wait till then without much risk. Ms. Pierce also provided the description of the audits to be completed over fiscal year 22 and 23. Mr. Brown asked for clarification on the utility audit and disclosed his place of employment regarding the telephone expense audit. Ms. Jacobsen also asked for clarification on utility billings. Ms. Pierce explained the County bills for utilities and the audit would consist of the billing processes to verify proper procedure. The utility billing is for sewer in un-incorporated Washoe County. Mr. Buehler also disclosed a relative’s employment at the sheriff’s office for the audit schedule in fiscal

Audit Committee Meeting
Washoe County, Nevada
July 14, 2021 at 3:00 PM

year 23. Ms. Pierce explained there would be no conflict of interest since the audit is conducted by the internal auditor and presented to the audit committee. Mr. Buehler also inquired about the disaster recovery audit and Ms. Pierce explained she would work with the emergency management team for that audit. Mr. Brown inquired as to the risk report provided with many of the high-risk areas surrounding IT and the expertise needed to perform those audits. Ms. Hill explained that the County was contracting with a new external audit firm, and they were currently performing many of the tests on the system and internally the Tech Services department contracts with a company who tries to find ways into our system, so it is constantly improving. Ms. Vuletich added Tech Services was currently working with the Federal Government with regard to CESA. Lastly, Ms. Hill explained the County also has the necessary insurance coverage. As a side, Ms. Pierce asked if the committee would like her to schedule an overview presentation from Tech Services, and other departments, for the informational sharing to the committee and the committee said they would like to have those presentations. Two other audits had been discussed in prior meetings, Truckee Meadows Fire Response Times and Homelessness Funding Baseline. Ms. Pierce explained Truckee Meadows Fire was not under the County umbrella and therefore not associated with the internal audit function. The homelessness baseline was being built using the County’s fund accounting system and should be available after the first full year of budget. Manager Brown provided an overview of how the homelessness funds were built and background on the steps taken to date.

Randy Brown motioned to approve the three-year schedule as prepared by the internal auditor (listed below). Denise Jacobsen seconded the motion, which carried unanimously.

Fiscal Year Ending 06/30/2022	Fiscal Year Ending 06/30/2023	Fiscal Year Ending 06/30/2024
Cash Control Audit	Cash Control Audit	Cash Control Audit
Public Administrator’s Office	MAS District Court	Disaster Recovery
Public Guardian’s Office	MAS Incline Justice Court	Telephone Expense
Worker’s Comp	MAS Reno Justice Court	Debt Service Fund
Travel Expense	MAS Sparks Justice Court	Parks Revenue
	MAS Wadsworth Justice Court	Facilities Maintenance
	Sheriffs Fees & Bail Procedures	Utility Billing

Agenda Item 5 – Annual Report

Ms. Pierce provided the committee with the annual report prepared for the Board of County Commissioners. No audits were completed during the fiscal year due to the COVID-19 response. Ms. Pierce volunteered time with the Washoe 311 call center and answered over 1,000 calls and then was reassignment to assist with contact tracing for the Washoe County School District to prioritize the positive cases within the school setting. The team of 30 employees was managed by Ms. Pierce and she acted as the liaison between the school district and the health district. Over 500 cases were fully worked and over 500 hours a week were dedicated to this project. Another project that was completed was the Best Places to Work Survey results which were presented to the departments. A software for data analysis was also implemented during the fiscal year as

Audit Committee Meeting
Washoe County, Nevada
July 14, 2021 at 3:00 PM

well as the surprise cash count for the Treasurer's Office. Lastly, the fraud hotline was established during the fiscal year. Ms. Vuletich explained the health district had originally asked Ms. Pierce to come in and look at process improvements for contact tracing and other processes related to the COVID-19 response. With that knowledge she was able to stand up the contact tracing for the school district which was not a small task, and her auditing/organizational skills made the project a big success. Manager Brown added the schools would not have remained open without this program. Ms. Pierce added they would be recognizing the group's efforts at the next Board of County Commissioners meeting and added that not a single Washoe County School District school was closed during the time the group was performing the contact tracing efforts.

Randy Brown motioned to approve the annual report as prepared by the internal auditor. Denise Jacobsen seconded the motion, which carried unanimously.

Agenda Item 6 – Audit Update

Nothing further was added after the discussion under agenda item 5 for the annual report. With the exception of the proclamation that was taken to the Board of County Commissioners for International Internal Audit Awareness Month is May and that Ms. Pierce was working towards her Certified Internal Auditor (CIA) designation.

This was a non-action item therefore no motion was given.

Agenda Item 7 – Fraud Hotline

One complaint was received by Ms. Pierce since the last meeting. The material was provided to the members. The complaint was regarding the association dues paid by the Sheriffs Office for the IVCBA in Incline Village. Ms. Pierce explained she did reach out to the Sheriff's Office fiscal staff for clarification and backup documentation on the expense. It was paid with the forfeiture funds and was not a donation, rather a membership for \$5,000 on 4/2/2021.

No action taken.

Agenda Item 8 - Calendaring of meetings

The following dates were tentatively scheduled for the audit committee quarterly meetings for the rest of the fiscal year.

This was a non-action item therefore no motion was given.

October 7, 2021 @ 2:00 PM
January 13, 2022 @ 2:00 PM
March 31, 2022 @ 2:00 PM
June 23, 2022 @ 2:00 PM

Audit Committee Meeting
Washoe County, Nevada
July 14, 2021 at 3:00 PM

Agenda Item 9 - Audit Committee Member Comments

None

Agenda Item 10 - Public Comment

No public comment

Adjournment

At 3:39 PM the meeting was adjourned



Report to Board of County Commissioners

WASHOE COUNTY, NEVADA

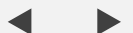
Audit Wrap Up:
Year Ended June 30, 2021

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The following communication was prepared as part of our audit, has consequential limitations, and is intended solely for the information and use of those charged with governance (e.g., Board of Directors and Audit Committee) and, if appropriate, management of the Client and is not intended and should not be used by anyone other than these specified parties.



Welcome

November 24, 2021

Board of County Commissioners
Washoe County, Nevada

Professional standards require us to communicate with you regarding matters related to the audit, that are, in our professional judgment, significant and relevant to your responsibilities in overseeing the financial reporting process. On September 2, 2021, we presented an overview of our plan for the audit of the financial statements of Washoe County, Nevada (the County) as of and for the year ended June 30, 2021, including a summary of our overall objectives for the audit, and the nature, scope, and timing of the planned audit work.

This communication is intended to elaborate on the significant findings from our audit, including our views on the qualitative aspects of the County's accounting practices and policies, management's judgments and estimates, financial statement disclosures, and other required matters.

We are pleased to be of service to the County and look forward to meeting with you on December 14, 2021, to discuss our audit findings, as well as other matters that may be of interest to you, and to answer any questions you might have.

Respectfully,

BDO USA, LLP

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Executive Summary

Status of Our Audit

We have completed our audit of the financial statements as of and for the year ended June 30, 2021. Our audit was conducted in accordance with auditing standards generally accepted in the United States of America and *Government Auditing Standards*. This audit of the financial statements does not relieve management or those charged with governance of their responsibilities.

- ▶ The objective of our audit was to obtain reasonable - not absolute - assurance about whether the financial statements are free from material misstatements.
- ▶ The scope of the work performed was substantially the same as that described to you in our earlier Audit Planning communications.
- ▶ We issued an unmodified opinion on the financial statements and released our report on November 24, 2021.
- ▶ We issued unmodified opinions on the County's Single Audit report, including the Schedule of Expenditures of Federal Awards (SEFA), and released our reports on November 24, 2021.
- ▶ In planning and performing our audit of the SEFA, we considered the County's internal control over compliance with requirements that could have a direct and material effect on its major federal program(s) to determine our auditing procedures for the purpose of expressing our opinion on compliance and to test and report on internal control over compliance in accordance with GAS and Title 2 U.S. *Code of Federal Regulations* Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance), but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance.
- ▶ Our responsibility for other information in documents containing the County's audited financial statements does not extend beyond the financial information identified in the audit report, and we are not required to perform procedures to corroborate such other information. However, in accordance with professional standards, we have read the information included by the County and considered whether such information, or the manner of its presentation, was materially inconsistent with its presentation in the financial statements. Our responsibility also includes calling to management's attention any information that we believe is a material misstatement of fact. We have not identified any material inconsistencies or concluded there are any material misstatements of facts in the other information that management has chosen not to correct.
- ▶ All records and information requested by BDO were freely available for our inspection.
- ▶ Management's cooperation was excellent. We received full access to all information that we requested while performing our audit, and we acknowledge the full cooperation extended to us by all levels of the County's personnel throughout the course of our work.

Results of the Audit

ACCOUNTING PRACTICES, POLICIES, AND ESTIMATES

The following summarizes the more significant required communications related to our audit concerning the County's accounting practices, policies, and estimates:

The County's significant accounting practices and policies are those included in Note 1 to the financial statements. These accounting practices and policies are appropriate, comply with generally accepted accounting principles and industry practice, were consistently applied, and are adequately described within Note 1 to the financial statements.

- ▶ A summary of recently issued accounting pronouncements is included in Note 1 to the County's financial statements.
- ▶ The County adopted GASB Statements No. 84, *Fiduciary Activities*, No. 90, *Majority Equity Interests*, and No. 98, *The Annual Comprehensive Financial Report*, which did not have a material impact on the County's net position or changes in net position during the current year.
- ▶ There were no other changes in significant accounting policies and practices during 2021.

Significant estimates are those that require management's most difficult, subjective, or complex judgments, often as a result of the need to make estimates about the effects of matters that are inherently uncertain. The County's significant accounting estimates, including a description of management's processes and significant assumptions used in development of the estimates, are disclosed in Note 1 of the financial statements.

Significant Accounting Estimates

Pension and Other Postemployment Benefits

Self-insured Liabilities

- ▶ Management did not make any significant changes to the processes or significant assumptions used to develop the significant accounting estimates in 2021.

The methods used to account for significant or unusual transactions, and related disclosures, are considered appropriate.

Results of the Audit

QUALITY OF THE COUNTY'S FINANCIAL REPORTING

A discussion will be held regarding the quality of the County's financial reporting, which will include:



Results of the Audit

CORRECTED AND UNCORRECTED MISSTATEMENTS

There were no corrected misstatements, other than those that were clearly trivial, related to accounts and/or disclosures that we brought to the attention of management, except as follows:

Item #	Account Name and Adjustment Description	Debit	Credit
1	General Fund: Other assets		\$ 78,666,923
	General Fund: Other liabilities	\$ 78,666,923	
	Nonmajor Funds: Other assets		\$ 7,355,797
	Nonmajor Funds: Other liabilities	\$ 7,355,797	
	<i>Adjustment to remove inappropriately recorded contingent financial assurance assets.</i>		
2	Other Restricted Fund: Deferred revenue		\$ 5,041,598
	Other Restricted Fund: Grant revenue	\$ 5,041,598	
	<i>Adjustment to defer revenue for grant money received that is repayable if not spent, and therefore was not earned at June 30, 2021.</i>		

There were no uncorrected misstatements, other than those that were clearly trivial, related to accounts and/or disclosures that we presented to management.





Internal Control Over Financial Reporting

Internal Control Over Financial Reporting

In planning and performing our audit of the financial statements, we considered the County's internal control over financial reporting (internal control) as a basis for designing our auditing procedures for the purpose of expressing our opinion(s) on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the County's internal control. Accordingly, we do not express an opinion on the effectiveness of the County's internal control.

Our consideration of internal control was for the limited purpose described above and was not designed to identify all deficiencies in internal control that might be significant deficiencies or material weaknesses.

We are required to communicate, in writing, to those charged with governance all material weaknesses and significant deficiencies that have been identified in the County's internal control over financial reporting. The definitions of control deficiency, significant deficiency and material weakness follow:

Category	Definition
Control Deficiency	A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis.
Significant Deficiency	A deficiency or combination of deficiencies in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.
Material Weakness	A deficiency or combination of deficiencies in internal control, such that there is a reasonable possibility that a material misstatement of the County's financial statements will not be prevented, or detected and corrected on a timely basis.

Internal Control Over Financial Reporting

In conjunction with our audit, the following material weaknesses were identified:

Material Weaknesses	Comments
Contingent Assets Related to Performance Bonds	<p>In connection with the adoption of GASB 84, Fiduciary Activities, the County recorded contingent assets associated with performance bonds totaling \$78,666,923 in the General fund and \$7,355,798 in the Roads Special Revenue fund.</p> <p>The County's internal controls over financial reporting did not function as intended. Specifically, the review of the journal entries made to adopt GASB 84 did not detect the improper recognition of assets related to performance bonds.</p>
Recognition of Unearned Grant Revenue	<p>Federal grant funding of \$5,041,598 for Emergency Rental Assistance was recognized as revenue prior to the incurrence of eligible expenditures. Pursuant to the award document, the County may be required to repay excess funding that is not spent on eligible expenditures.</p> <p>The County's internal controls over financial reporting did not function as intended. Specifically, the review process to ensure proper recognition of grant revenue did not detect the improper recognition of grant revenue related to the Emergency Rental Assistance federal grant program.</p>

Internal Control Over Financial Reporting

In conjunction with our audit, the following significant deficiencies were identified:

Significant Deficiencies	Comments
Internal Control over Compliance for Foster Care - Title IV-E, CFDA 93.658	The OMB Compliance Supplement requires that non-federal entities receiving federal awards establish and maintain internal controls designed to reasonably ensure compliance with federal laws, regulations, and program compliance requirements;
	The Human Services Agency did not have adequate internal controls to approve the appropriate amount of payments.
	The Human Services Agency did not have adequate internal controls to ensure payments to recipients are calculated appropriately.



Additional Required Communications

Other Required Communications

Following is a summary of other required items, along with specific discussion points as they pertain to the County:

Requirement	Discussion Point
Significant changes to planned audit strategy or significant risks initially identified	There were no significant changes to the planned audit strategy or significant risks initially identified and previously communicated to those charged with governance as part of our Audit Planning communications.
Obtain information from those charged with governance relevant to the audit	There were no matters noted relevant to the audit, including, but not limited to: violations or possible violations of laws or regulations; risks of material misstatement, including fraud risks; or tips or complaints regarding the County's financial reporting that we were made aware of as a result of our inquiry of those charged with governance.
If applicable, nature and extent of specialized skills or knowledge needed related to significant risks	<p>There were no specialized skills or knowledge needed, outside of the core engagement team, to perform the planned audit procedures or evaluate audit results related to significant risks.</p> <ol style="list-style-type: none">1) The engagement team utilized an auditor's expert to assist with testing the valuation of liabilities related to Pension and OPEB liabilities.2) The engagement team utilized an auditor's expert to assist with testing the valuation liabilities related to self insurance.3) The engagement team utilized an auditor's expert to assist with testing the valuation of investments.

Other Required Communications

Following is a summary of other required items, along with specific discussion points as they pertain to the County:

Requirement	Discussion Point
Consultations with other accountants	We are not aware of any consultations about accounting or auditing matters between management and other independent public accountants. Nor are we aware of opinions obtained by management from other independent public accountants on the application of generally accepted accounting principles.
If applicable, significant matters identified by component auditors	During the component auditor's procedures, there were no significant matters identified that were deemed necessary to bring to group management's attention.
Significant findings and issues arising during the audit in connection with the County's related parties	We have evaluated whether the identified related party relationships and transactions have been appropriately identified, accounted for, and disclosed and whether the effects of the related party relationships and transactions, based on the audit evidence obtained, prevent the financial statements from achieving fair presentation.
Significant findings or issues arising during the audit that were discussed, or were the subject of correspondence, with management	There were no significant findings or issues arising during the audit that were discussed, or were the subject of correspondence, with management

Other Required Communications

Following is a summary of other required items, along with specific discussion points as they pertain to the County:

Requirement	Discussion Point
Disagreements with management	There were no disagreements with management about matters, whether or not satisfactorily resolved, that individually or in aggregate could be significant to the County's financial statements or to our auditor's report.
Significant difficulties encountered during the audit	There were no significant difficulties encountered during the audit.
Matters that are difficult or contentious for which the auditor consulted outside the engagement team	There were no difficult or contentious matters that we consulted with others outside the engagement team that we reasonably determined to be relevant to those charged with governance regarding their oversight of the financial reporting process.
Representations requested from management	Please refer to the management representation letter.



Independence

Our engagement letter to you dated May 24, 2021, describes our responsibilities in accordance with professional standards and certain regulatory authorities and *Government Auditing Standards* with regard to independence and the performance of our services. This letter also stipulates the responsibilities of the County with respect to independence as agreed to by the County. Please refer to that letter for further information.



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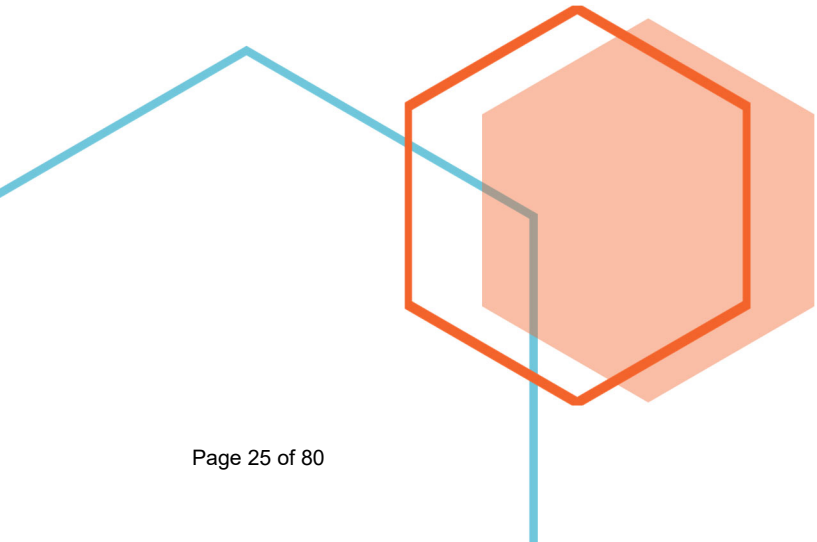




Public Guardian Office

Internal Audit Executive Summary

Overview of the Public Guardian Office as well as a review of procedures and case files on the protected people of Washoe County.





Public Guardian Office

Internal Audit Executive Summary

Overview

The Public Guardians Office was selected for an audit during Fiscal Year 2022 to be completed by the internal auditor by the Audit Committee and approved by the Board of County Commissioners. The audit focus would be to verify completeness of casefiles and proper documentation for expenses utilizing estate funds. While conducting audits the internal auditor also has the obligation to make any other recommendations based on observations during fieldwork.

Findings

It was determined the Public Guardian's Office has proper documentation for all case files reviewed and properly expended money to benefit the protected persons utilizing their estate funds. Also, a careful focus was on taking advantage of any other funds the protected person may be eligible for to help pay for their expenses. None of the funds used were paid by taxpayers as all expenses must be used from their protected person's estate.

Other observations were made during the audit shadowing and those findings included not visiting protected people who were not placed locally and staff applying for open caseworker positions within the county at another agency due to pay grade differences. It was also determined the caseload for the current staff was higher than best practice recommendations.

Recommendations

It was recommended the Public Guardian's Office request during the next budget cycle to increase budget for travel to visit protected people who are not placed locally and reviewing the pay grade for public guardian caseworkers to be more in alignment with Human Services Caseworkers. Lastly, a condensed time-study was put together by the auditor and it was recommended the office review and request the required positions to lower case levels to industry standards.

What is a Guardian



One must be courteous, diplomatic, caring, shrewd, persuasive, assertive, creative, supportive, understanding, responsible, slow to anger, adaptable, a Sherlock Holmes, motivated, up-to-date, looking good for court, have a good memory, acute business judgment, emotional stability, have the ability to function perfectly on a minimal amount of sleep, and be the embodiment of virtue, but with a good working knowledge of sin and evil in all its forms. Must understand physiology, psychology, physical therapy, pharmacology, bookkeeping, banking, insurance, merchandising, selling, shipping, contracting, law, medicine, real estate, horse trading and human nature. Be a mind reader, a hypnotist, and an athlete, must be acquainted with machinery of all types and materials of all kinds and must know the current price of everything from a shoestring to a skyscraper, an aspirin to an amputation. They must know all, see all, and tell nothing while being everywhere at the same time. They must satisfy the children, siblings, in-laws, cousins, lawyer, account, judge, auditor, claims examiner, the doctor, the neighbors and last but most important... the protected person's needs.



Model of Public Guardianship

The model in operation in the State of Nevada is the County Model where there is a public guardian established within each county. The benefit of this model is the local official may be more sensitive to the needs of the protected person. The public guardian was only assigned when no other option is in the best interest of the protected person. Many of the referrals for guardianship come from the area hospitals there is limited connection to the caseworkers at the hospital so if a petition is filed and other relatives are found to be more appropriate then the office will object to the appointment at the time of the hearing. If a caseworker at the hospital does reach out prior to filing the petition the office will work with them to determine if guardianship is the least restrictive mean of protecting the person. Since the public guardian serves at the pleasure of the court it receives the majority of the funding from Washoe County general fund with the exception of court approved fees paid from the estate of the protected person; this is only done when all other expenses that benefit the person have been paid and to keep the estate under the threshold to receive benefits. The general fund covers only the salary, benefits and expenses of the office; it does not pay for any of the protected person's expenses as those must be paid from their estate.

Structure of the Washoe County Public Guardian Office

At the time of shadowing the Public Guardian was approved to have seventeen (17) total full-time positions. The head of the department was the Public Guardian, there were two supervisors, who each had a team of public guardian case workers. One team had four caseworkers assigned to it while the other team had five, for a total of nine public guardian case workers. The supporting staff included three administrative staff, with a supervisor. The final position was a fiscal position who monitored the estate accounting.

Case Numbers

The average amount of cases assigned to the Public Guardian's office is two hundred and sixty (260) at any given point during the year. The cases are assigned to the office by the Second Judicial District Court. Approximately forty-five (45) cases are terminated annually with approximately fifty-five (55) cases added annually. The court can assign the Public Guardian as the guardian over the person or the estate of the person, or both depending on the circumstances of the protected person. Lastly, the court can appoint the office to investigate another guardianship appointment if there are issues within that case.



Audit Technique and Observations

Reviewed a prior audit completed by an outside agency in 2006 on the guardianship system and community satisfaction. While the previous audit focused more on the interactions of the public guardian within the community it was important to review the findings and determine if any additional work needed to be completed within the office. A list of the prior audit findings and the internal auditor's follow-up are listed in the section for findings further in the report.

Reviewed casefiles for protected persons while conducting shadowing and was granted access to all shared files on the "Q" drive as well as access to the PGS case management system.

Extensive shadowing was conducted by the internal auditor. The auditor observed several court hearings to understand the interaction and court process which must be followed by the guardian's office. The auditor met with the Public Guardian, Tracey Bowles, to determine office structure and answer any questions related to how the audit would be conducted. The guardian case workers were split into two teams, both with a supervisor so the auditor met with both supervisors to determine the tasks completed at a supervisory level and to verify the tasks were completed in the same manner for consistency. Shadowing was scheduled with two caseworkers from each team and was completed for three out of the four caseworkers; due to COVID procedures the fourth caseworker was not available for shadowing. The auditor then completed shadowing of the administrative work completed by the office by shadowing the following positions: administrative assistant II, account clerk II, and account clerk I.

During the court hearing observations, the judge repeatedly said they were impressed with the caseworker's knowledge and care on the cases assigned to them. The team seemed to work together with the private attorneys and other groups around the community who supported the protected individuals. The court documents were all available at the time of the hearing and the District Attorney's Office provided representation for the Public Guardians Office.

While shadowing the guardian caseworker supervisors, it was observed the teams were treated fairly and consistently with all expectations of their staff. While each supervisor had different tracking methods or meeting schedules with their staff all work was completed in the same manner and utilized the appropriate case management system and documentation on the shared drive.

The office staff who support the work completed by this office do many of the tasks that are behind the scenes to be able to continue to serve the protected people at the level of service that has been established as the standard in Washoe County by the Public Guardian's Office. A list of duties is bulleted below and certainly was not all



encompassing of the work observed but was intended to demonstrate the amount of work that is completed by the support staff.

- Mail - sorting, scanning, and noting in the case management system
- Financial filing
- Notarizing documents
- Medical records requests
- Bank inquiry letters
- Credit report requests
- Correspondence letters
- Medicaid applications
- Social Security applications
- Medicaid benefit verification
- Pension representative payee requests
- Bank deposits
- Medicaid re-determinations
- Create new case files
- Annual accounting reports for each protected person
- USPS mail forwarding applications
- Check distribution for approved expenses
- Bank reconciliation
 - For the summary bank account and completion of the tracking for each individual account to verify Medicaid eligibility and financial transactions to be reviewed by each caseworker for each of their protected persons.

While shadowing the caseworkers the entire day was spent with them to observe what a “typical day” would be. Fourteen (14) protected persons were visited during the shadowing of the caseworkers, three attempts to contact were made via phone, and one new case was assigned. General observations of how the office conducted business are as follows:

- Software system used for tracking case management was called PGS.



- All documentation was stored on a shared folder with all cases having their own individual folder.
- Time was accounted for in six (6) minute increments.
- Electronic calendars were used at varying degrees by individual case workers.
- All caseworkers had an average of three (3) meetings on their schedules a week for updates to supervisors and the office
- Case-count was varied for each caseworker, some had as many as thirty-five (35) while others had twenty-five (25).
- There was always one person "on-call" for any after hour emergencies. This rotated between all the caseworkers and supervisors. They were on call for one week at a time.
- All protected people were required to be visited once a month. Exceptions were for out of state placements or COVID protocol restrictions.

Included below is a narrative of observation from the perspective of the internal auditor.

Auditor rode along and participated in several monthly visits and varied locations. Each caseworker had a unique way of conducting their monthly visits. All were professional and cared deeply about their protected persons. Two group homes were visited where the caseworker had two (2) protected people, the caseworker met individually with both then determined if their needs were being met. The caseworker took notes and pictures of documents as well as the protected person were completed. Items that had been ordered for them were delivered. Staff was also interviewed to verify medicine had not changed and if there were any concerns. A day health facility was visited; however, the protected person had not arrived from being transported when we arrived. The facility did provide a tour and confirmed the protected person had been picked up and were on their way. Another home was visited where the protected person was non-verbal and needed more care, medical charts were reviewed, and staff were interviewed. Living conditions were also checked, such as the bedrooms and bathroom. After leaving from one visit of a protected person a phone call was received that another case was suicidal and could not be located. Phone calls were made to locate the person at the hospital and notification was given of the guardianship to the nurse. Another person was on their way home from work when a visit was being conducted. Prior to arrival, interview of the staff was completed as well as a check of the house and bedroom. One other home that was visited had a protected person who was non-verbal and had recently had trouble walking. Conversations with the staff and the protected person were conducted in the living room.

Some protected people have medical conditions that do not allow for interviews of facts; however, all are talked to and asked questions. The caseworkers listen for certain clues and know their protected people well to know what to ask and how to get answers from them. One home was visited where a caseworker had both the of the protected people living there. Both were non-verbal and the meeting took place in the living room while the staff answered questions and the protected people watched a movie. Although the protected people are non-verbal there are several things the caseworks look for while there, nails trimmed, any visible skin abrasions, hair, odor, clean clothing.



A new case was assigned to the office of one of the caseworkers, therefore we went to the house of the protected person, who was hospitalized, and "tossed" the house to look for anything of value and any records. Cash was secured, property of value was secured, credit/debit cards were secured, documentation such as birth certificates, marriage certificates and mail for bills and other records were secured. Every time there is a property search there are a least two (2) people for proper handling and to increase transparency, the auditor and another caseworker assisted. Items are inventoried and both sign off on the inventory. Cash is processed through a form and deposited by the account clerk II. Keys to the property are stored in the property room at the office in a key locker. Small property is also stored in the room and there is a fire safe to store original documentation, such as birth certificates. All other documentation is sorted and scanned to the file on the shared drive and then shredded. This helps piece together the protected person life as some are unable to give you the information. After this was completed, we went to the hospital to visit the person and provide the court documents of the assignment. The protected person was able to provide bits and pieces of information. The property stored at the hospital was also reviewed and anything valuable was removed and put into storage at the office property area. There was a vehicle parked in the parking garage and it would be determined at a later date to either tow or store the vehicle elsewhere, however the keys were taken and stored in the key locker with the house key. In order to get into the property area two people with two keys need to let you in and the inventory sheet is completed, and dual signature is completed. Work on this new case took all day.

Attempts to contact for cases who were out of state were also tried. Neither were able to be completed.

*Every person shadowed was covering for a least another caseworker or was the on-call person for the week. While understandable that this will happen, it does seem they are juggling many cases at once.

Audit Findings and Recommendations

The auditor has divided the audit findings and recommendations into three categories:

1. Prior Audit
2. Financial
3. Personnel

It was determined the prior audit findings were all grouped into two (2) sections; one for the Public Guardian's Office and one for the Guardian System as a whole. While it is the internal auditor's opinion the office cannot solely change the system, they can work with their partners to accomplish some of the recommendations. The internal auditor did not review the recommendations on the system as those were outside the scope of internal audit. Overall, there were ten (10) recommendations for the office listed below in the chart.

Public Guardian Office



<u>Recommendation</u>	<u>Action Taken</u>
<i>Public Guardian should have General Counsel representation rather than private attorneys.</i>	It was determined the office did have General Counsel at the time of the audit through the District Attorney's Office.
<i>Develop and outreach program to demonstrate the work of the office.</i>	Community partner relationship has improved at the office participates on the Washoe Multidisciplinary Team and Senior Issues Response Team. They also attend several meet and greets with the local community for skilled nursing.
<i>Purchase appropriate case management software.</i>	The office has a program for case management that was being utilized at the time of the audit. Some features were still being developed but the overall management was working.
<i>Minimum continuing education requirements should be encouraged, and every effort should be made to engage the caseworkers with the National Guardianship Association.</i>	The office currently attends the annual conferences and several of the caseworkers were certified through the Center for Guardianship Certification with requirements for continuing education.
<i>Continue to strive to keep guardianship cases per caseworker in the range of approximately twenty (20).</i>	This was not in place at the time of the audit and was also included in the findings for the current audit.
<i>Further develop the weighting tool to ensure equitable distribution of cases.</i>	This had not been completed at the time of the audit. It is the auditor's opinion so far as other nationwide research there is currently no reliable tool for this type of weighting.
<i>Public Guardian should not maintain a caseload.</i>	The Public Guardian did have at least one case assigned. This was not intended to be "caseload" but was used as a learning tool and a way for the newly appointed Public Guardian to lean the office and gain an understanding of the office.
<i>An expert should be retained to evaluate where any deficiencies may exist in inventory and asset management as well as the sale of property and real estate.</i>	An internal audit was completed in 2006 which resulted in many changes, all of which were implemented if applicable.
<i>Develop a better relationship between the Public Guardian and the SAFE program.</i>	It was determined that the Public Guardians Office had professional working relationships with all the partners observed during the audit.



<i>The Office should establish itself as the entity most dedicated to serving as the vanguard of the rights of the elderly and disabled.</i>	It was observed the Office holds itself to a high standard and puts the needs of those under their protection at the highest standard. High praise was given during court on the knowledge the caseworkers had on their protected individuals.
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Financial matters had two (2) determinations with one (1) recommendation

It was determined all cases reviewed had the appropriate documentation for approval of expenses out of a protected persons account and the court documentation allowing for those types of expenses.

The second determination was there was no allocated “out of state” travel budget. All protected persons who were not placed locally were not physically visited, this poses a high risk to the County not being able to see the facility or the protected person.

- Recommend requesting increase travel budget for non-local travel to accommodate enough funds to visit each protected person twice a year. Estimated expenses include airfare, hotel, vehicle rental, per diem meals and expenses. It is recommended that each protected person is visited by their assigned caseworker rather than doubling up on visits by other caseworkers.

Personnel matters had six (6) determinations with 11 recommendations

The department’s current case-counts for the caseworkers were higher than best practice recommendations. On average each caseworker had twenty-nine (29) cases assigned to them; plus, coverage for time off and on-call. Exhibit 1 has a time study put together by the internal auditor on observations made during shadowing which also shows the case count at the time of the audit. Included in the time study, it was determined the caseworkers did not have any protected days to complete reports or catch up on any outstanding items and prepare for the next month’s schedule. Case study recommended ratio is 1:20.

- Recommend adding three (3) additional full-time caseworkers to reduce the current case count to industry best practices and to align with the time study prepared by the internal auditor.
- Recommend allowing three (3) protected days a month to each caseworker.



- While the short-term plan to hire more staff will help alleviate some of the caseload burden it is also recommended a weighted caseload be implemented as cases vary in degree of difficulty depending on several circumstances.

Terminations are often put aside to work at later dates due to the pressing needs of the active protected cases. The office has approximately 50-60 a year and the majority of them must be closed by this office as the estate does not rise to the level of being passed to the Public Administrator. These take time and unfortunately cannot take a higher priority than an active case.

- Recommend adding an additional staff at the Account Clerk I level to primarily process and close termination cases.
- In addition to adding this position the current Account Clerk I should be reclassified to an Account Clerk II with both positions reporting to the current Accounting Clerk II; who it is recommended should be reviewed and reclassified to a new position titled Supervising Estate Accountant.

Public Guardian Caseworkers were not compensated at the same rate as Human Services Caseworkers and therefore the department was having turnover issues as the caseworkers were leaving the agency to work for another county agency. The Human Services Agency Caseworkers were combined into one classification when the agency was created out of the adult/senior services and child protective services to have consistency across the agency; however, the caseworkers for the Public Guardian's Office was not included in the review because it is a separate agency. Exhibit 2 has the class specifications of the Public Guardian Caseworker and the Human Services Caseworker positions for comparison. The Public Guardian Caseworker II has a salary pay grade of LL with a range of approximately \$61,000 to \$80,000 while the Human Services Agency Caseworker III has a pay grade of NN with a range of approximately \$68,000 to \$89,000. Additionally, the supervising level at the Human Services Agency is higher than the supervising level at the Public Guardian's Office (Paygrade OO compared with paygrade PP).

- Recommendation was originally made directly to the Human Resources Department to see if this is something that can be adjusted with their efforts. Internal auditor was advised the department must ask for this adjustment through the Job Evaluation Committee and go through those channels for any changes to the pay grade.
- Recommendation to fill out the appropriate paperwork to attend the Job Evaluation Committee to have the job classification for Public Guardian Caseworker and the Guardian Supervisor re-evaluated to determine the appropriate pay grade, with the ask that it be at least equivalent to the Human Services Casework and Supervisor classification as the work performed is comparable. This will also help with retention of skilled workers.



Many documents were prepared individually and differed by caseworker. Time can be saved if templates were implemented, and items would be less likely to be missed by newer staff.

- Recommendation to develop a template for items that are routine in nature. The auditor recommends starting with a template for monthly visits where caseworkers can checkmark any items of concern and attach a picture of the protected person.

The department required caseworkers to find their own coverage when they would be out for extended period for vacations or sick leave. This can lead to a dissatisfaction on the job if someone feels they cannot get coverage or if the other caseworkers feel they are constantly covering for another. Also, while the type of work performed does come near the end of life for many of the protected people the duress of losing one of the cases should not be taken lightly and caseworkers are naturally going to want to keep working during this time, however, to lighten the mental load on them some consideration should be provided.

- Recommendation to change the policy to require supervisors to find coverage for extended leave for their team members.
- Recommendation for caseworkers' mandatory leave after the death of a protected person with employee assistance program (EAP) information provided for support.
 - Within the bargaining agreement there does not appear to be discretion for the department head to assign administrative leave to their employees. Because the recommendation is to make the leave mandatory, it is the auditor's opinion that the leave type should be administrative so as not to penalize the employees with their personal leave bank. Recommendation was made to Human Resources to update this agreement at the next availability.
 - Also to allow for flexibility and coverage the leave should be utilized within fourteen (14) days of the death of the protected person.

The organizational structure of the department did not follow normal chain of command and reporting structure for efficiencies.

- Recommendation to update the organizational chart as follows if the new positions and reviews/reclasses are approved by the Job Evaluation Committee. Exhibit 3 details the organizations chart proposed.
 - Department Head (Public Guardian) with four direct reports
 - Two (2) Supervising Guardian Case Managers



- One (1) Administrative Assistant II
- One (1) Accounting Supervisor
- Both Supervising Guardian Case Managers would have six (6) guardian caseworkers assigned to their respective team
- Accounting Supervisor would have two (2) Account Clerk's (I and II) on their team
- Administrative Assistant would have an Office Assistant III and an Office Support Specialist on their team

Other Recommendations

During the inquiry of the inconsistent pay grade of the Public Guardian Caseworker and the Human Services Caseworker the Internal Auditor will work with Human Resources to review the current process the Job Evaluation Committee (JEC) for job classifications to verify they are consistent across agencies.

References

Exhibit 1 - Time Study

Exhibit 2 – Class Specifications

Exhibit 3 - Proposed Organization Chart

National Guardianship Association Standards of Practice

<i>New Cases Assigned Over 36 Months</i>	162
<i>Average Cases Assigned Annually</i>	54
<i>Percentage of cases with full accounting</i>	70%
<i>Total Cases Annually</i>	260
<i>Total number of current caseworkers</i>	9

<i>Average # of Cases per GCM</i>	29
<i>Holidays Annually</i>	12
<i>Vacation Days Annually</i>	15
<i>Sick Days Annually</i>	15
<i>Number of Days Available for Work</i>	218
<i>Number of Minutes Worked by Each Caseworker Annually</i>	104,640
<i>Number of Monthly Visits Annually</i>	3,120
<i>45 Minutes Spent at Visit Total Annual Minutes</i>	140,400
<i>30 Minutes Travel Time Total Annual Minutes</i>	93,600
<i>15 Minutes Documentation of Visits Total Annual Minutes</i>	46,800
<i>8 Hours Annual Report Total Minutes</i>	124,800
<i>120 Minutes 6 Month Report Total Annual Minutes</i>	31,200
<i>*Audit Recommendation of 3 protected days per month Total Annual Minutes</i>	155,520
<i>60 Minutes Per Month Expense Request, Documentation Total Annual Minutes</i>	187,200
<i>Three 60 Minute Meetings Per Week Total Annual Minutes</i>	9,360
<i>120 Minutes Attending Court Per Week Total Annual Minutes</i>	6,240
<i>60 Minutes a Month Full Accounting Total Annual Minutes</i>	131,040
<i>60 Minutes Team Meetings Staffing Quarterly Total Annual Time</i>	62,400
<i>20 Hours of Training (Guardian) Total Annual Minutes</i>	10,800
<i>20 Hours of Training (Development) Total Annual Minutes</i>	10,800
<i>Two 15 Minute Breaks a Day Total Annual Minutes</i>	58,860
<i>60 Hours to Set-Up New Cases Total Annual Minutes</i>	194,400

<i>Total Minutes Needed to Complete All Assigned Tasks Above for All Cases</i>	1,263,420
<i>Total Minutes Available from Current Staffing Levels</i>	941,760
<i>Difference in Minutes to Complete all Tasks</i>	321,660
<i>Number of Additional Staff to Make Up the Difference</i>	3

<i>Cases Terminated Over 36 Month</i>	135
<i>Average Cases Terminated Annually</i>	45
<i>4 Days to Close Out a Case Total Annual Minutes</i>	86,400

Caseworker	1
Max number of cases	21
Fixed Minutes	24,540
6 New Cases a Year	14,400
Leftover for Casework	65,700
Minutes Per Case	3,144
Case Count	1
Per Year - # of Monthly Visits	12
Time Spent at Visit Minutes (PER-CASE)	540
Travel Time Minutes ((PER-CASE)	360
Documentation of Visits (PER-CASE)	180
Annual Report Minutes (PER-CASE)	480
Two 6 Month Reports (PER-CASE)	120
Expense Request, Documentation (PER-CASE)	720
Full Accounting (PER-CASE)	504
Team Meetings Staffing Quarterly (PER-CASE)	240
Meetings (FIXED)	9,360
Court (FIXED)	6,240
Training - Guardian (FIXED)	1,200
Training - Development (FIXED)	1,200
Breaks (FIXED)	6,540



CLASS SPECIFICATION

Class Code: 0188
Date Est: 10/1989
Last Rev: 06/2017
Last Title Chg: 04/2015
FLSA: non-exempt
Probation: 12 months

GUARDIAN CASE MANAGER II

DEFINITION

Under direction, manages the personal and/or financial affairs of a “protected person” under a court ordered guardianship who is no longer able to manage his/her own affairs due to a medical, mental or physical disability within the guardianship laws of the state; and performs related work as required.

EXPERIENCE AND TRAINING REQUIREMENTS

A bachelor’s degree from an accredited college or university in human services, social work, nursing, business, or a closely related field AND two years of case management experience including interviewing people, assessing information, and making determinations regarding financial, psychological and/or physical needs; OR an equivalent combination of training and experience.

LICENSE OR CERTIFICATE

A valid driver’s license is required at time of appointment.

SUPERVISION EXERCISED

May provide technical and lead direction over Guardian Case Manager Trainees and support staff.

DISTINGUISHING CHARACTERISTICS

This is the full journey level in the Guardian Case Manager classification series. It is distinguished from the Guardian Case Manager I by its ability to manage cases independently and the expectation to provide training and coaching for Guardian Case Manager Trainees. Incumbents are expected to manage the most complex guardianship cases with little direction and supervision.

EXAMPLES OF DUTIES *(The following is used as a partial description and is not restrictive as to duties required.)*

Receive the more complex guardianship referrals from medical, legal, financial institutions, community service agencies and the general public; review information for accuracy to determine the appropriate action for each case, developing action plans for the care and treatment of protected persons.

Determine a proposed protected person’s eligibility for guardianship services through a review of current circumstances and/or financial status to establish the existence of other individuals (if any) qualified to serve as guardian or identify other alternatives to public guardianship; may develop and implement court-ordered recommendations for case disposition and the need for guardianship.

Present germane information to legal counsel for the purpose of petitioning the court to establish, maintain, modify or terminate a legal guardianship; testify in court proceedings or arrange for witnesses to testify relative to the situation of protected or proposed protected persons.

Assess the financial and physical needs of protected persons through interviews with protected persons, relatives or other concerned individuals, to make eligibility determinations and coordinate available community resources

and professional care to meet protected person needs within their economic means; provide ongoing assessment of protected person needs to maintain optimum quality of life and care within available resources.

Manage the finances of protected persons, monitoring and documenting all transactions to ensure sufficient resources to pay claims and expenses; provide financial status reports to the courts in compliance with accepted fiduciary standards and Nevada Revised Statutes.

Arrange for the sale of real and personal property through multiple listing services, public auction and related services, in compliance with Nevada Revised Statutes.

Consult with public officials, agency representatives and other professionals regarding the provision of services and problem resolution.

Act as a lead for Guardian Case Manager Trainees and support staff to include training, development, overview, assignment, and review of work; establishment of work procedures; input into performance evaluations; and may assist in the interview and hiring process.

May assist management in the review of legislative actions.

May participate on task forces and community and interagency entities at the local, state or national level.

JOB RELATED AND ESSENTIAL QUALIFICATIONS

Knowledge of:

Casework preparation, principles, objectives and practices.

Aspects of legal guardianship and estate administration.

State laws and County regulations applicable to guardianship and estate administration.

Legal responsibilities of the Public Guardian in Washoe County.

Methods and techniques involved in the management of personal finances.

Software applications specific to the Public Guardian's Office.

Ability to:

Independently manage the affairs of Washoe County protected persons, meeting all relevant standards for care.

Deal effectively with hostile, aggressive and abusive protected persons.

Interview and interact effectively with critically ill, mentally incapacitated or dying protected persons, maintaining confidentiality, sensitivity and tact in communications regarding guardian cases.

Read, interpret and apply pertinent laws, regulations and standards, including eligibility criteria, legal/financial documents and departmental policies and procedures.

Coordinate available community resources and services to meet the needs of protected persons.

Research information related to protected person referrals and document findings.

Gather, organize, analyze, and present a variety of data and information in a clear, accurate and concise manner, both in oral and written formats

Establish and maintain protected person rapport on an individual basis.

Maintain confidential data and information.

Establish, foster and maintain effective working relationships with those contacted in the course of work including medical professionals, community agencies and the public.

SPECIAL REQUIREMENTS *(Essential duties require the following physical skills and work environment.)*

Ability to work outside and independently travel to various locations where protected persons reside. Ability to tolerate exposure to unsanitary, hazardous or hostile environments. Ability to physically assist protected persons with ambulation, mobility, entry and exit to vehicles and buildings. Ability to work in a standard office environment. Ability to operate office equipment including, but not limited to, computers, telephones, calculators, copiers and fax machines.

This class specification is used for classification, recruitment and examination purposes. It is not to be considered a substitute for work performance standards.



CLASS SPECIFICATION

Class Code: 6143
Date Est: 10/1973
Last Rev: 02/2020
Last Title Chg: 05/2018
FLSA: non-exempt
Probation: 12 months

HUMAN SERVICES CASE WORKER III

DEFINITION

Under general supervision, performs a broad range of difficult and complex professional casework duties for the Washoe County Human Services Agency; and performs related work as required.

EXPERIENCE AND TRAINING REQUIREMENTS

A bachelor's degree from an accredited college or university in social work, criminal justice, psychology, sociology, or a closely related field AND two years of professional level experience providing casework/counseling or placement services, or working with individuals or families in a community-based, case management role; OR license to practice Social Work in the State of Nevada or eligibility for licensure in the State of Nevada AND two years of full-time experience performing professional social work. A master's degree in social work may substitute for one year of experience.

LICENSE OR CERTIFICATE

A valid driver's license required at time of appointment.

DISTINGUISHING CHARACTERISTICS

This is the journey level class in the Case Worker class series. Incumbents perform a wide range of complex professional case work assignments requiring in-depth experience and background. It is distinguished from Case Worker II by the fact that incumbents in the Case Worker II class are not performing full journey level assignments.

SUPERVISION EXERCISED

Exercises no supervision.

EXAMPLES OF DUTIES *(The following is used as a partial description and is not restrictive as to duties required.)*

Provide a variety of case services for adult protective services, medical and general assistance clients, child welfare and child care services, working with resources to ensure that assistance is available to clients.

May provide case management to clients who are experiencing homelessness in transitional housing or emergency shelter; provide outreach along the river and throughout Washoe County to those who are experiencing housing instability, food insecurity and financial challenges.

Interview a variety of people and investigate cases concerning adult services or childcare licensing, securing relevant social information, and determining the nature of needs.

Prepare case reports, carefully document information, and maintain accurate case records in agency information system.

Compile and compose reports for court testimony in criminal, guardianship, divorce, child abuse and child neglect cases; testify in court as necessary; draft petitions and activity summaries to assist court with child protection findings.

Work with community providers to improve service and compliance with regulations; perform periodic inspections of child care facilities, adult group homes and nursing home facilities, evaluating compliance; provide technical support and guidance to child care, adult group care and nursing home facilities; investigate complaints of violations, develop recommendations regarding limitation, suspension and revocation of child care licenses and appropriate civil or criminal actions.

Facilitate collaborative meetings involving family and child welfare teams to promote decision making in several areas to include safety response meetings, child and family team meetings and ongoing family team meetings to address objectives and tasks towards reunification and alternative permanency plans.

Screen clients to determine suitable placements based on health needs; develop service plans to meet the needs of clients.

Assess risk factors and safety of children throughout the life of the case.

View injuries, initiate police reports when appropriate and plan for the protection of children to include kinship care, family foster home, or residential care.

Serve protective custody orders when removal from home is made.

Obtain medical, psychological, educational and criminal records and evaluations to determine the level of risk to client.

Counsel clients and families regarding hospitalization, discharge plans, nursing home care, adult group care, child custody and mental health needs.

Review case files, assessing information for proper documentation and issuing licenses.

Perform case planning, case management services and monitoring of case progress.

Provide training based on agency needs and requirements.

Provide public information on social services programs to community and special groups.

May perform any of the Examples of Duties found on the Human Services Case Worker I and II job class specifications.

JOB RELATED AND ESSENTIAL QUALIFICATIONS

Full Performance *(These may be acquired on the job and are needed to perform the work assigned.)*

Knowledge of:

Departmental and divisional policies, practices and procedures.

Nevada State Welfare Programs, Social Security, Medicaid and Medicare; with a clear understanding of each.

Community organizations and utilization of public and private community resources and services.

Laws, rules and regulations related to the area of assignment.

Physical and emotional problems associated with the aged and infirmed.

Computer software specific to the area of assignment.

Ability to:

Perform a broad range of the most complex professional casework duties.

Develop comprehensive case plans, provide case services, monitor case progress and prepare case documentation.

Facilitate collaborative meetings involving agency staff, family to include children, and individuals from multiple disciplines towards case outcomes and objectives.

Train potential childcare providers and other agency staff in recognizing child abuse and neglect.

Testify in court proceedings.

Entry Level (*Applicants will be screened for possession of these through written, oral, performance, or other evaluation methods.*)

Knowledge of:

Socio-economic conditions, trends and factors, which promotes health, safety and stability.

Modern case work principles, procedures, and practices, including casework objectives and practices.

Adult services and/or child care licensing and residential care programs.

Challenges of individuals experiencing homelessness, and case management criteria for that population.

Principles of individual and group behavior.

Principles and techniques of interviewing and recording social casework data.

Crisis intervention strategies.

General principles of public assistance programs and policies.

Ability to:

Skillfully interview people and deal with hostile, aggressive and abusive clients and capture pertinent data or facts for the record or case file.

Review information, identify problems, and arrive at a logical conclusion.

Read, interpret and apply regulations, policies, and procedures.

Establish priorities, organize work and manage time effectively.

Appropriately manage any suspected abuse and/or neglect.

Perform crisis intervention and handle difficult situations with clients.

Formulate and modify case plans in conjunction with client's needs.

Gather, organize, analyze and present a variety of data and information.

Prepare clear, concise and accurate records and reports.

Write court reports and petitions and interpret legal documents.

Provide crisis intervention with families and handle difficult situations and problem clients.

Operate a computer and a variety of software packages.

Act with integrity; exercise appropriate discretion and maintain confidentiality of information.

Establish, maintain, and foster positive working relationships with all those contacted in the course of work.

Communicate and coordinate with community organizations to recruit and retain childcare providers.

Remain calm, think clearly, and act professionally and decisively while dealing with stressful situations and/or difficult clients.

Communicate effectively both orally and in writing.

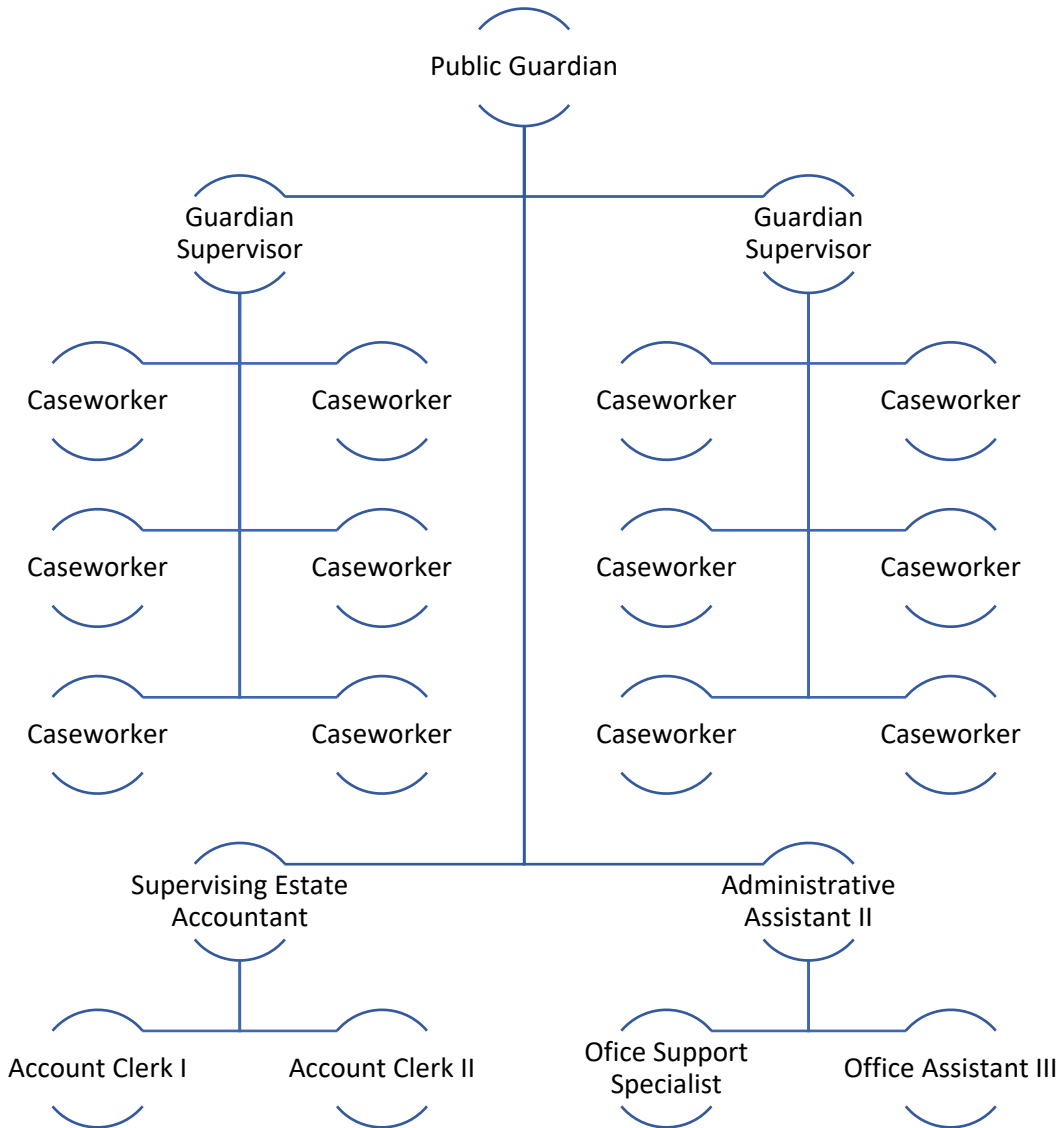
Ability to adapt communication style to effectively reach intended audience.

SPECIAL REQUIREMENTS (*Essential duties require the following physical skills and work environment.*)

Ability to sit for extended periods. Ability to lift and move objects weighing up to 40 lbs. range. Ability to operate standard office equipment including, but not limited to, computers, telephones, calculators, copiers and fax machines. Work is usually performed in an office environment; but may also require frequent travel to private homes, court, hospital, and clinics. Crisis intervention may require the incumbent to encounter potentially hostile or combative situations. May be required to work a non-standard workweek.

This class specification is used for classification, recruitment and examination purposes. It is not to be considered a substitute for work performance standards.

Exhibit 3 – Proposed Organizational Chart



Current Job Title	Current Pay Grade	Proposed Job Title	Proposed Pay Grade
Public Guardian	SS		
Guardian Supervisor	OO		PP
Guardian Caseworker II	LL	Guardian Caseworker III	NN
Account Clerk II	HH	Supervising Estate Accountant	NN
Account Clerk I	GG		
Administrative Assistant II	LL		
Office Support Specialist	HH		
Office Assistant III	GG	No Changes	
		Account Clerk II	HH



Standards of Practice

*Adopted 2000
Fourth Edition - 2013*

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National Guardianship Association

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Preamble

Developing standards for guardians has been an ongoing challenge for the National Guardianship Association (NGA). Not only has the profession undergone rapid change since the original seven standards were written in 1991, but the basic issues have been, and remain, imprecise and difficult to define for a national, membership-based organization. A basic philosophical element complicating the process has been the need to strike a consistent balance between standards that represent an ideal and those that recognize practical limitations, whether for a family guardian or for a professional guardian.

In July of 1991, the NGA adopted a previously published Code of Ethics to guide guardians in their decision-making process. The next task of the NGA was to formulate specific standards to be applied in the day-to-day practice of guardianship. The seven original standards of practice that were written and adopted by the NGA in 1991 have now been expanded to cover more of the duties and responsibilities that face court-appointed guardians today.

The same lengthy discussions that took place in 1991 occurred again during each updating of the standards. These discussions centered on the need to state what is "right" versus the need to recognize and accept the inevitability of the status quo-- too many clients, not enough funding or staff. While we all agree that such restrictions are all too commonplace, we also feel that little is gained by simply accepting a substandard or unacceptable state of affairs. NGA has, therefore, adopted standards that we feel reflect as realistically as possible the best or highest quality of practice. In many cases, best practice may go beyond what state law requires of a guardian.

In reading this document, it is important to recognize that some of the standards enunciate ideals or philosophical points, while others speak to day-to-day practical matters. Both approaches are critically important. It is not our ambition to prescribe a precise program description or management manual. Rather, we have sought to shape a mirror that practitioners and funders can use to evaluate their efforts. The standards also reflect the mandate that all guardians must perform in accordance with current state law governing guardianships and certification of guardians.

To ensure consistency in the way the standards are applied, the following constructions are used: "shall" imposes a duty, "may" creates discretionary authority or grants permission or a power, "must" creates or recognizes a condition precedent, "is entitled to" creates or recognizes a right, and "may not" imposes a prohibition and is synonymous with "shall not." The guidelines that appear in some standards are suggested ways of carrying out those standards.

This document embodies practices and standards from a number of professional sources. As such, it sometimes makes unavoidable use of legal and medical "terms of art" where they would commonly and most accurately be used by professionals who work in the particular area. In addition, the field of guardianship itself makes use of terms that vary widely from state to state. "Guardian" and "person under guardianship" or "person" are the terms used here to simplify the many references to these roles. Where points apply to professional, as opposed to family, guardians, they are indicated. "Guardian," as used in the standards, means guardian of the person, guardian of the estate or guardian of the person and estate, depending on the standard being addressed.

In this work we have drawn on a number of collective sources. First and foremost have been NGA members who have contributed extensive time and energy and valuable input into the development of these standards. The *Model Code of Ethics for Guardians*, developed by Michael D. Casasanto, Mitchell Simon, and

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Judith Roman and adopted by the NGA, has formed the foundation from which the standards were developed. Other very important sources that helped in the creation of our standards of practice are the U.S. Administration on Aging, the AARP, the Center for Social Gerontology, the Michigan Offices of Services for the Aging, and the state associations from Arizona, Washington, California, Illinois, Minnesota, and Michigan. We thank everyone listed above and others for their ongoing commitment to the profession of guardianship.

The *NGA Standards of Practice for Guardians* were first adopted by the NGA Board of Directors and ratified by the membership in 2000. The 2003 edition of the *Standards* incorporates language that came forth from *Wingspan 2001*, the National Conference on Guardianship Reform. The 2007 edition provides minor clarification of the language in the earlier editions without any substantive changes. These *Standards* were used as a starting point by the 2011 Third National Guardianship Summit in developing new standards. The 2012 edition incorporates the Summit Standards.

Please be advised that any entity adopting these standards should give attribution to NGA.

Check the NGA Website (www.guardianship.org) for the most current edition of the *NGA Standards of Practice*.

NGA Standards of Practice

○ **NGA Standard 1 – Applicable Law and General Standards**

- I. The guardian shall perform duties and discharge obligations in accordance with current state and federal law governing guardianships.
- II. The guardian who is certified, registered, or licensed by the Center for Guardianship Certification or by his or her state should be guided by professional codes of ethics and standards of practice for guardians.
- III. In all guardianships, the guardian shall comply with the requirements of the court that made the appointment.
- IV. Every guardian should be held to the same standards, regardless of familial relationship, except a guardian with a higher level of relevant skills shall be held to the use of those skills.

○ **NGA Standard 2 – The Guardian’s Relationship to the Court**

- I. The guardian shall know the extent of the powers and the limitations of authority granted by the court and all decisions and actions shall be consistent with that court order.
- II. The guardian shall obtain court authorization for actions that are subject to court approval.
- III. The guardian shall clarify with the court any questions about the meaning of the order or directions from the court before taking action based on the order or directions.
- IV. The guardian shall seek assistance as needed to fulfill responsibilities to the person under guardianship.
- V. All payments to the guardian from the assets of the person shall follow applicable federal or state statutes, rules, and requirements and are subject to review by the court.
- VI. The guardian shall submit reports regarding the status of the guardianship to the court as ordered by the court or required by state statute, but no less often than annually. Ways that guardians of the person and of the estate keep the court informed about the well-being of the person and the status of the estate include but not limited to:
 - A. Personal care plans and financial plans,
 - B. Inventories and appraisals, and
 - C. Reports and accountings.
- VII. The guardian shall use available technology to:
 - A. File the general plan, inventory and appraisal, and annual reports and accountings,
 - B. Access responsible education and information about guardianships, and

- C. Assist in the administration of the estate.
- VIII. The guardian shall promptly inform the court of any change in the capacity of the person that warrants an expansion or restriction of the guardian's authority.

- **NGA Standard 3 – The Guardian's Professional Relationship with the Person**

- I. The guardian shall treat the person under guardianship with dignity.
- II. The guardian shall avoid personal relationships with the person, the person's family, or the person's friends, unless the guardian is a family member, or unless such a relationship existed before the appointment of the guardian.
- III. The guardian may not engage in sexual relations with a person unless the guardian is the person's spouse or in a physical relationship that existed before the appointment of the guardian.
- V. The guardian shall seek ongoing education concerning the following:
 - A. Person-centered planning,
 - B. Surrogate decision-making,
 - C. Responsibilities and duties of guardians,
 - D. Legal processes of guardianship, and
 - E. State certification of guardians.

- **NGA Standard 4 – The Guardian's Relationship with Family Members and Friends of the Person**

- I. The guardian shall promote social interactions and meaningful relationships consistent with the preferences of the person under guardianship.
 - A. The guardian shall encourage and support the person in maintaining contact with family and friends, as defined by the person, unless it will substantially harm the person.
 - B. The guardian may not interfere with established relationships unless necessary to protect the person from substantial harm.
- II. The guardian shall make reasonable efforts to maintain the person's established social and support networks during the person's brief absences from the primary residence.
- III. When disposing of the person's assets, the guardian may notify family members and friends and give them the opportunity, with court approval, to obtain assets (particularly those with sentimental value).
- IV. The guardian shall make reasonable efforts to preserve property designated in the

- person's will and other estate planning devices executed by the person.
- V. The guardian may maintain communication with the person's family and friends regarding significant occurrences that affect the person when that communication would benefit the person.
 - VI. The guardian may keep immediate family members and friends advised of all pertinent medical issues when doing so would benefit the person. The guardian may request and consider family input when making medical decisions.

Note: Refer to Standard 11 as it relates to confidentiality issues.

○ **NGA Standard 5 – The Guardian’s Relationship with Other Professionals and Providers of Service to the Person**

- I. The guardian shall treat all professionals and service providers with courtesy and respect and shall strive to enhance cooperation on behalf of the person.
- II. The guardian shall develop and maintain a working knowledge of the services, providers and facilities available in the community.
- III. The guardian shall stay current with changes in community resources to ensure that the person under guardianship receives high-quality services from the most appropriate provider.
- IV. A guardian who is not a family member guardian may not provide direct service to the person. The guardian shall coordinate and monitor services needed by the person to ensure that the person is receiving the appropriate care and treatment.
- V. The guardian shall engage the services of professionals (attorneys, accountants, stock brokers, real estate agents, physicians) as necessary to appropriately meet the goals, needs, and preferences of the person.
- VI. The guardian shall make a good faith effort to cooperate with other surrogate decision-makers for the person. These include, where applicable, any other guardian, agent under a power of attorney, health care proxy, trustee, VA fiduciary and representative payee.
- VII. The guardian may consider mentoring new guardians.

○ **NGA Standard 6 – Informed Consent**

- I. Decisions the guardian makes on behalf of the person under guardianship shall be based on the principle of Informed Consent.
- II. Informed Consent is an individual’s agreement to a particular course of action based on a full disclosure of facts needed to make the decision intelligently.
- III. Informed Consent is based on adequate information on the issue, voluntary action, and lack of coercion.
- IV. The guardian stands in the place of the person and is entitled to the same information and freedom of choice as the person would have received if he or she were not under guardianship.

- V. In evaluating each requested decision, the guardian shall do the following:
- A. Have a clear understanding of the issue for which informed consent is being sought,
 - B. Have a clear understanding of the options, expected outcomes, risks and benefits of each alternative,
 - C. Determine the conditions that necessitate treatment or action,
 - D. Encourage and support the person in understanding the facts and directing a decision,
 - E. Maximize the participation of the person in making the decision,
 - F. Determine whether the person has previously stated preferences in regard to a decision of this nature,
 - G. Determine why this decision needs to be made now rather than later,
 - H. Determine what will happen if a decision is made to take no action,
 - I. Determine what the least restrictive alternative is for the situation,
 - J. Obtain a second medical or professional opinion, if necessary,
 - K. Obtain information or input from family and from other professionals, and
 - L. Obtain written documentation of all reports relevant to each decision.

○ **NGA Standard 7 – Standards for Decision-Making**

- I. Each decision made by the guardian shall be an informed decision based on the principle of Informed Consent as set forth in Standard 6.
- II. The guardian shall identify and advocate for the person's goals, needs, and preferences. Goals are what are important to the person under guardianship, whereas preferences are specific expressions of choice.
 - A. First, the guardian shall ask the person what he or she wants.
 - B. Second, if the person has difficulty expressing what he or she wants, the guardian shall do everything possible to help the person express his or her goals, needs, and preferences.
 - C. Third, only when the person, even with assistance, cannot express his or her goals and preferences, shall the guardian seek input from others familiar with the person to determine what the individual would have wanted.

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- D. Finally, only when the person's goals and preferences cannot be ascertained, may the guardian make a decision in the person's best interest.

III. Substituted Judgment

- A. Substituted Judgment is the principle of decision-making that substitutes the decision the person would have made when the person had capacity as the guiding force in any surrogate decision the guardian makes.
- B. Substituted Judgment promotes the underlying values of self-determination and well-being of the person.
- C. Substituted Judgment is not used when following the person's wishes would cause substantial harm to the person or when the guardian cannot establish the person's goals and preferences even with support.

IV. Best Interest

- A. Best Interest is the principle of decision-making that should be used only when the person has never had capacity, when the person's goals and preferences cannot be ascertained even with support, or when following the person's wishes would cause substantial harm to the person.
- B. The Best Interest principle requires the guardian to consider the least intrusive, most normalizing, and least restrictive course of action possible to provide for the needs of the person.
- C. The Best Interest principle requires the guardian to consider past practice and evaluate reliable evidence of likely choices.

○ **NGA Standard 8 – Least Restrictive Alternative**

- I. The guardian shall carefully evaluate the alternatives that are available and choose the one that best meets the personal and financial goals, needs, and preferences of the person under guardianship while placing the least restrictions on his or her freedom, rights, and ability to control his or her environment.
- II. 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.
- III. The guardian shall make individualized decisions. The least restrictive alternative for one person might not be the least restrictive alternative for another person.
- IV. The following guidelines apply in the determination of the least restrictive alternative:
 - A. The guardian shall become familiar with the available options for residence, care, medical treatment, vocational training, and education.

- B. The guardian shall strive to know the person's goals and preferences.
- C. The guardian shall consider assessments of the person's needs as determined by specialists. This may include an independent assessment of the person's functional ability, health status, and care needs.

○ **NGA Standard 9 – Self-Determination of the Person**

- I. The guardian shall provide the person under guardianship with every opportunity to exercise those individual rights that the person might be capable of exercising as they relate to the personal care and financial needs of the person.
- II. The guardian shall attempt to maximize the self-reliance and independence of the person.
- III. The guardian shall encourage the person to participate, to the maximum extent of the person's abilities, in all decisions that affect him or her, to act on his or her own behalf in all matters in which the person is able to do so, and to develop or regain his or her own capacity to the maximum extent possible.
- IV. The guardian shall make and implement a plan that seeks to fulfill the person's goals, needs, and preferences. The plan shall emphasize the person's strengths, skills, and abilities to the fullest extent in order to favor the least restrictive setting.
- V. The guardian shall wherever possible, seek to ensure that the person leads the planning process; and at a minimum to ensure that the person participates in the process.

○ **NGA Standard 10 – The Guardian's Duties Regarding Diversity and Personal Preferences of the Person**

- I. The guardian shall determine the extent to which the person under guardianship identifies with particular ethnic, religious, and cultural values. To determine these values, the guardian shall also consider the following:
 - A. The person's attitudes regarding illness, pain, and suffering,
 - B. The person's attitudes regarding death and dying,
 - C. The person's views regarding quality of life issues,
 - D. The person's views regarding societal roles and relationships, and
 - E. The person's attitudes regarding funeral and burial customs.
- II. The guardian shall acknowledge the person's right to interpersonal relationships and sexual expression. The guardian shall take steps to ensure that a person's sexual expression is consensual, that the person is not victimized, and that an environment conducive to this expression in privacy is provided.

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- A. The guardian shall ensure that the person has information about and access to accommodations necessary to permit sexual expression to the extent the person desires and to the extent the person possesses the capacity to consent to the specific activity.
- B. The guardian shall take reasonable measures to protect the health and well-being of the person.
- C. The guardian shall ensure that the person is informed of birth control methods. The guardian shall consider birth control options and choose the option that provides the person the level of protection appropriate to the person's lifestyle and ability, while considering the preferences of the person. The guardian shall encourage the person, where possible and appropriate, to participate in the choice of a birth control method.
- D. The guardian shall protect the rights of the person with regard to sexual expression and preference. A review of ethnic, religious, and cultural values may be necessary to uphold the person's values and customs.

○ **NGA Standard 11 - Confidentiality**

- I. The guardian shall keep the affairs of the person under guardianship confidential.
- II. The guardian shall respect the person's privacy and dignity, especially when the disclosure of information is necessary.
- III. Disclosure of information shall be limited to what is necessary and relevant to the issue being addressed.
- IV. The guardian may disclose or assist the person in communicating sensitive information to the person's family and friends, as defined by the person, unless it will substantially harm the person.
- V. The guardian may refuse to disclose sensitive information about the person where disclosure would be detrimental to the well-being of the person or would subject the person's estate to undue risk. Such a refusal to disclose information must be reported to the court.

○ **NGA Standard 12 – Duties of the Guardian of the Person**

- I. The guardian shall have the following duties and obligations to the person under guardianship unless the order of appointment provides otherwise:
 - A. To see that the person is living in the most appropriate environment that addresses the person's goals, needs, and preferences.
 - 1. The guardian shall have a strong priority for home or other community-based settings, when not inconsistent with the person's goals and preferences.
 - 2. The guardian shall authorize moving a person to a more restrictive environment only after evaluating other medical and health care options and making an independent determination that the move is the least restrictive alternative at the time, fulfills the current needs of the person and serves the overall best interest of the person.

3. The guardian shall consider the proximity of the setting to those people and activities that are important to the person when choosing a residential setting.
 4. At a minimum the guardian shall report to a court before a move to a more restrictive residential setting, and the justification for the move.
 5. When the guardian considers involuntary or long-term placement of the person in an institutional setting, the bases of the decision shall be to minimize the risk of substantial harm to the person, to obtain the most appropriate placement possible, and to secure the best treatment for the person.
- B. To ensure that provision is made for the support, care, comfort, health, and maintenance of the person.
 - C. To make reasonable efforts to secure for the person medical, psychological, therapeutic, and social services, training, education, and social and vocational opportunities that are appropriate and that will maximize the person's potential for self-reliance and independence.
 - D. To keep the affairs of the person confidential, except when it is necessary to disclose such affairs for the best interests of the person.
 - E. To seek specific judicial authority when a civil commitment, the dissolution of a marriage, or another extraordinary circumstance is being addressed.
 - F. To file with the court, on a timely basis but not less often than annually, all reports required by state statute, regulations, court rule, or the particular court pursuant to whose authority the guardian was appointed.
 - G. To adhere to the requirements of Standard 17 - Duties of the Guardian of the Estate and Standard 18 - Guardian of the Estate: Initial and Ongoing Responsibilities, to the extent that the guardian of the person has been authorized by the court to manage the person's property.
 - H. To petition the court for limitation or termination of the guardianship when the person no longer meets the standard pursuant to which the guardianship was imposed, or when there is an effective alternative available.
 - I. To promptly report to the appropriate authorities abuse, neglect and/or exploitation as defined by state statutes.

○ **NGA Standard 13 – Guardian of the Person: Initial and Ongoing Responsibilities**

- I. With the proper authority, initial steps after appointment as guardian are as follows:
 - A. The guardian shall address all issues of the person under guardianship that require immediate action.

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- B. The guardian shall meet with the person as soon after the appointment as is feasible. At the first meeting, the guardian shall:
 - 1. Communicate to the person the role of the guardian;
 - 2. Explain the rights retained by the person;
 - 3. Assess the person's physical and social situation, the person's educational, vocational, and recreational needs, the person's preferences, and the support systems available to the person; and
 - 4. Attempt to gather any missing necessary information regarding the person.
 - C. After the first meeting with the person, the guardian shall notify relevant agencies and individuals of the appointment of a guardian and shall complete the intake process by gathering information and ensuring that certain evaluations are completed, if appropriate. The guardian shall:
 - 1. Obtain an evaluation of the person's condition, treatment, and functional status from the person's treating physician or appropriate specialist, if a comprehensive medical evaluation was not completed as part of the petitioning process, or has not been done within the past year.
 - 2. Obtain a psychological evaluation, if appropriate.
 - 3. Obtain an inventory of advance directives. Such statements of intent would include, but are not limited to, powers of attorney, living wills, organ donation statements and statements by the person recorded in medical charts.
 - 4. Establish contact with and develop a regular pattern of communication with the guardian of the estate or any other fiduciary for the person.
- II. The guardian shall develop and implement a written guardianship plan setting forth short-term and long-term objectives for meeting the goals, needs and preferences of the person.
- A. The plan shall emphasize a "person-centered philosophy."
 - B. The plan must address medical, psychiatric, social, vocational, educational, training, residential, and recreational goals, needs and preferences of the person.
 - C. The plan must also address whether the person's finances and budget are in line with the services the person needs and are flexible enough to deal with the changing status of the person.
 - D. Short-term goals must reflect the first year of guardianship, and long-term goals must reflect the time after the first year.
 - E. The plan must be based on a multidisciplinary functional assessment.

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- F. The plan must be updated no less often than annually.
- III. The guardian shall maintain a separate file for each person. The file must include, at a minimum, the following information and documents:
- A. The person's name, date of birth, address, telephone number, Social Security number, medical coverage, physician, diagnoses, medications, and allergies to medications;
 - B. All legal documents involving the person;
 - C. Advance directives;
 - D. A list of key contacts;
 - E. A list of service providers, contact information, a description of services provided to the person, and progress/status reports;
 - F. A list of all over-the-counter and prescribed medication the person is taking, the dosage, the reason why it is taken, and the name of the doctor prescribing the medication;
 - G. Documentation of all client and collateral contacts, including the date, time, and activity;
 - H. Progress notes that are as detailed as necessary to reflect contacts made and work done regarding the person;
 - I. The guardianship plan;
 - J. An inventory, if required;
 - K. Assessments regarding the person's past and present medical, psychological, and social functioning;
 - L. Documentation of the person's known values, lifestyle preferences, and known wishes regarding medical and other care and service; and
 - M. A photograph of the person.
- IV. The guardian shall visit the person no less than monthly.
- A. The guardian shall assess the person's physical appearance and condition and assess the appropriateness of the person's current living situation and the continuation of existing services, taking into consideration all aspects of social, psychological, educational, direct services, and health and personal care needs as well as the need for any additional services.
 - B. The guardian shall maintain substantive communication with service providers, caregivers, and others attending to the person.
 - C. The guardian shall participate in all care or planning conferences concerning the

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residential, educational, vocational, or rehabilitation program of the person.

- D. The guardian shall require that each service provider develop an appropriate service plan for the person and shall take appropriate action to ensure that the service plans are being implemented.
 - E. The guardian shall regularly examine all services and all charts, notes, logs, evaluations, and other documents regarding the person at the place of residence and at any program site to ascertain that the care plan is being properly followed.
 - F. The guardian shall advocate on behalf of the person with staff in an institutional setting and other residential placements. The guardian shall assess the overall quality of services provided to the person, using accepted regulations and care standards as guidelines and seeking remedies when care is found to be deficient.
 - G. The guardian shall monitor the residential setting on an ongoing basis and take any necessary action when the setting does not meet the individual's current goals, needs and preferences, including but not limited to:
 - 1. Evaluating the plan;
 - 2. Enforcing residents' rights, legal and civil rights; and
 - 3. Ensuring quality of care and appropriateness of the setting in light of the feelings and attitudes of the person.
 - V. The guardian shall fully identify, examine, and continue to seek information regarding options that will fulfill the person's goals, needs, and preferences.
 - A. Guardians shall take full advantage of professional assistance in identifying all available options for long term services and supports.
 - B. Sources of professional assistance include but are not limited to area agencies on aging, centers for independent living, protection and advocacy agencies, long-term care ombudsmen, developmental disabilities councils, aging and disability resource centers, and community mental health agencies.
 - VI. The guardian shall obtain and maintain a current understanding of what is required and expected of the guardian, statutory and local court rule requirements, and necessary filings and reports.
 - VII. The guardian shall become educated about the nature of any incapacity, condition and functional capabilities of the person.
- **NGA Standard 14 – Decision-Making About Medical Treatment**
- I. The guardian shall promote, monitor, and maintain the health and well-being of the person under guardianship.

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- II. The guardian shall ensure that all medical care for the person is appropriately provided and that the person is treated with dignity.
- III. The guardian shall seek to ensure that the person receives appropriate health care consistent with person-centered health care decision-making.
- IV. The guardian, in making health care decisions or seeking court approval for a decision, shall:
 - A. Maximize the participation of the person,
 - B. Acquire a clear understanding of the medical facts,
 - C. Acquire a clear understanding of the health care options and the risks and benefits of each option, and
 - D. Encourage and support the individual in understanding the facts and directing a decision.
- V. Use the substituted judgment standard with respect to a health care decision unless the guardian cannot determine person's prior wishes.
- VI. The guardian shall determine whether the person, before the appointment of a guardian, executed any advance directives, such as powers of attorney, living wills, organ donation statements and statements by the person recorded in medical charts. On finding such documents, the guardian shall inform the court and other interested parties of the existing health care documents.
- VII. To the extent the person cannot currently direct the decision, the guardian shall act in accordance with the person's prior general statements, actions, values, and preferences to the extent actually known or ascertainable by the guardian.
- VIII. If the person's preferences are unknown and unascertainable, the guardian shall act in accordance with reasonable information received from professionals and persons who demonstrate sufficient interest in the person's welfare, to determine the person's best interests, which determination shall include consideration of consequences for others that an individual in the person's circumstances would consider.
- IX. Absent an emergency or the person's execution of a living will, durable power of attorney for health care, or other advance directive declaration of intent that clearly indicates the person's wishes with respect to a medical intervention, a guardian who has authority may not grant or deny authorization for a medical intervention until he or she has given careful consideration to the criteria listed in Standards 6 and 7.
- X. In the event of an emergency, a guardian who has authority to make health care decisions shall grant or deny authorization of emergency medical treatment based on a reasonable assessment of the criteria listed in Standards 6 and 7, within the time allotted by the emergency.
- XI. The guardian shall seek a second opinion for any medical treatment or intervention that would cause a reasonable person to do so or in circumstances where any medical intervention poses a significant risk to the person. The guardian shall obtain a second opinion from an independent physician.

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- XII. Under extraordinary medical circumstances, in addition to assessing the criteria and using the resources outlined in Standards 6 and 7, the guardian shall enlist ethical, legal, and medical advice, with particular attention to the advice of ethics committees in hospitals and elsewhere.
 - XIII. The guardian shall speak directly with the treating or attending physician before authorizing or denying any medical treatment.
 - XIV. The guardian may not authorize extraordinary procedures without prior authorization from the court unless the person has executed a living will or durable power of attorney that clearly indicates the person's desire with respect to that action. Extraordinary procedures may include, but are not limited to, the following medical interventions:
 - A. Psychosurgery,
 - B. Experimental treatment,
 - C. Sterilization,
 - D. Abortion, and
 - E. Electroshock therapy.
 - XV. The guardian shall seek to ensure that appropriate palliative care is incorporated into all health care, unless not in accordance with the person's preferences and values.
 - XVI. The guardian shall keep individuals that are important to the person reasonably informed of important health care decisions.
- **NGA Standard 15 – Decision-Making About Withholding and Withdrawal of Medical Treatment**
- I. The NGA recognizes that there are circumstances in which, with the approval of the court if necessary, it is legally and ethically justifiable to consent to the withholding or withdrawal of medical treatment, including artificially provided nutrition and hydration, on behalf of the person under guardianship. In making this determination there shall in all cases be a presumption in favor of the continued treatment of the person.
 - II. If the person had expressed or currently expresses a preference regarding the withholding or withdrawal of medical treatment, the guardian shall follow the wishes of the person. If the person's current wishes are in conflict with wishes previously expressed when the person had capacity, the guardian shall have this ethical dilemma reviewed by an ethics committee and if necessary, submit the issue to the court for direction.
 - III. When making this decision on behalf of the person, the guardian shall gather and document information as outlined in Standard 6 and shall follow Standard 7.

○ **NGA Standard 16 – Conflict of Interest: Ancillary and Support Services**

- I. The guardian shall avoid all conflicts of interest and self-dealing or the appearance of a conflict of interest and self-dealing when addressing the needs of the person under guardianship. Impropriety or conflict of interest arises where the guardian has some personal or agency interest that can be perceived as self-serving or adverse to the position or best interest of the person. Self-dealing arises when the guardian seeks to take advantage of his or her position as a guardian and acts for his or her own interests rather than for the interests of the person.
- II. The guardian shall become fully educated as to what constitutes a conflict of interest and self-dealing, and why they should be avoided.
- III. Rules relating to specific ancillary and support service situations that might create an impropriety or conflict of interest include the following:
 - A. The guardian may not directly provide housing, medical, legal, or other direct services to the person. Some direct services may be approved by the court for family guardians.
 1. The guardian shall coordinate and assure the provision of all necessary services to the person rather than providing those services directly.
 2. The guardian shall be independent from all service providers, thus ensuring that the guardian remains free to challenge inappropriate or poorly delivered services and to advocate on behalf of the person.
 3. When a guardian can demonstrate unique circumstances indicating that no other entity is available to act as guardian, or to provide needed direct services, an exception can be made, provided that the exception is in the best interest of the person. Reasons for the exception must be documented and the court notified.
 - B. A guardianship program must be a freestanding entity and must not be subject to undue influence.
 - C. When a guardianship program is a part of a larger organization or governmental entity, there must be an arm's-length relationship with the larger organization or governmental entity and it shall have independent decision-making ability.
 - D. The guardian may not be in a position of representing both the person and the service provider.
 - E. A guardian who is not a family guardian may act as petitioner only when no other entity is available to act, provided all alternatives have been exhausted.
 - F. The guardian shall consider all possible consequences of serving the dual roles of guardian and expert witness. Serving in both roles may present a conflict. The guardian's primary duty and responsibility is always to the person.

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- G. The guardian may not employ his or her friends or family to provide services for a profit or fee unless no alternative is available and the guardian discloses this arrangement to the court.
- H. The guardian shall neither solicit nor accept incentives from service providers.
- I. The guardian shall consider various ancillaries or support service providers and select the providers that best meet the needs of the person.
- J. A guardian who is an attorney or employs attorneys may provide legal services to a person only when doing so best meets the needs of the person and is approved by the court following full disclosure of the conflict of interest. The guardian who is an attorney shall ensure that the services and fees are differentiated and are reasonable. The services and fees are subject to court approval.
- K. The guardian may enter into a transaction that may be a conflict of interest only when necessary, or when there is a significant benefit to the person under the guardianship, and shall disclose such transactions to interested parties and obtain prior court approval.

○ **NGA Standard 17 – Duties of the Guardian of the Estate**

- I. The guardian, as a fiduciary, shall manage the financial affairs of the person under guardianship in a way that maximizes the dignity, autonomy, and self-determination of the person.
- II. When making decisions the guardian shall:
 - A. Give priority to the goals, needs and preferences of the person, and
 - B. Weigh the costs and benefits to the estate.
- III. The guardian shall consider the current wishes, past practices, and reliable evidence of likely choices. If substantial harm would result or there is no reliable evidence of likely choices, the guardian shall consider the best interests of the person.
- IV. The guardian shall assist and encourage the person to act on his or her own behalf and to participate in decisions.
- V. The guardian shall use reasonable efforts to provide oversight to any income and assets under the control of the person.
- VI. The guardian shall, consistent with court order and state statutes, exercise authority only as necessitated by the limitations of the person.
- VII. The guardian shall act in a manner above reproach, and his or her actions will be open to scrutiny at all times.
- VIII. The guardian shall provide competent management of the person's property and, shall supervise all income and disbursements of the estate.

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- IX. The guardian shall manage the estate only for the benefit of the person.
- X. The guardian shall keep estate assets safe by keeping accurate records of all transactions and be able to fully account for all the assets in the estate.
- XI. The guardian shall keep estate money separate from the guardian's personal money; the guardian shall keep the money of individual estates separate unless accurate separate accounting exists within the combined accounts.
- XII. The guardian shall make claims against others on behalf of the estate as deemed in the best interest of the person and shall defend against actions that would result in a loss of estate assets.
- XIII. The guardian shall apply state law regarding prudent investment practices, including seeking responsible consultation with and delegation to people with appropriate expertise when managing the estate.
- XIV. The guardian shall employ prudent accounting procedures when managing the estate.
- XV. The guardian shall determine if a will exists and obtain a copy to determine how to manage estate assets and property.
- XVI. The guardian shall obtain and maintain a current understanding of what is required and expected of the guardian, statutory and local court rule requirements, and necessary filings and reports.
- XVII. The guardian shall promptly report to the appropriate authorities abuse, neglect and/or exploitation as defined by state statute.

○ **NGA Standard 18 – Guardian of the Estate: Initial and Ongoing Responsibilities**

- I. With the proper authority, the initial steps after appointment as guardian are as follows:
 - A. The guardian shall address all issues of the estate that require immediate action, which include, but are not limited to, securing all real and personal property, insuring it at current market value, and taking the steps necessary to protect it from damage, destruction, or loss.
 - 1. The guardian shall ascertain the income, assets, and liabilities of the person.
 - 2. The guardian shall ascertain the goals, needs and preferences of the person.
 - 3. The guardian shall coordinate and consult with others close to the person.
 - B. The guardian shall meet with the person under guardianship as soon after the appointment as feasible. At the first meeting the guardian shall:
 - 1. Communicate to the person the role of the guardian;
 - 2. Outline the rights retained by the person and the grievance procedures available;

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3. Assess the previously and currently expressed wishes of the person and evaluate them based on current acuity; and
 4. Attempt to gather from the person any necessary information regarding the estate.
- II. The guardian shall become educated about the nature of any incapacity, condition and functional capabilities of the person.
- III. The guardian shall develop and implement a financial plan and budget for the management of income and assets that corresponds with the care plan for the person and aims to address the goals, needs and preferences of the person. The guardian of the estate and the guardian of the person (if one exists) or other health care decision-maker shall communicate regularly and coordinate efforts with regard to the care and financial plans, as well as other events that might affect the person.
 - A. Guardian shall value the well-being of the person over the preservation of the estate.
 - B. Guardian shall maintain the goal of managing, but not necessarily eliminating, risks.
 - C. The financial plan shall emphasize a “person-centered philosophy”.
- IV. The guardian shall take all steps necessary to obtain a bond to protect the estate, including obtaining a court order.
- V. The guardian shall obtain all public and insurance benefits for which the person is eligible.
- VI. The guardian shall thoroughly document the management of the estate and the carrying out of any and all duties required by statute or regulation.
- VII. The guardian shall prepare an inventory of all property for which he or she is responsible. The inventory must list all the assets owned by the person with their values on the date the guardian was appointed and must be independently verified.
- VIII. All accountings must contain sufficient information to clearly describe all significant transactions affecting administration during the accounting period. All accountings must be complete, accurate, and understandable.
- IX. The guardian shall oversee the disposition of the person's assets to qualify the person for any public benefits program.
- X. On the termination of the guardianship or the death of the person, the guardian shall facilitate the appropriate closing of the estate and submit a final accounting to the court.
- XI. The guardian may monitor, provide oversight or manage the personal allowance of the person.
- XII. The guardian shall, when appropriate, open a burial trust account and make funeral arrangements for the person.

○ **NGA Standard 19 – Property Management**

- I. The guardian may not dispose of real or personal property of the person under guardianship without judicial, administrative, or other independent review.
- II. In the absence of reliable evidence of the person's views before the appointment of a guardian, the guardian, having the proper authority, may not sell, encumber, convey, or otherwise transfer property of the person, or an interest in that property, unless doing so is in the best interest of the person.
- III. In considering whether to dispose of the person's property, the guardian shall consider the following:
 - A. Whether disposing of the property will benefit or improve the life of the person,
 - B. The likelihood that the person will need or benefit from the property in the future,
 - C. The previously expressed or current desires of the person with regard to the property,
 - D. The provisions of the person's estate plan as it relates to the property, if any,
 - E. The tax consequences of the transaction,
 - F. The impact of the transaction on the person's entitlement to public benefits,
 - G. The condition of the entire estate,
 - H. The ability of the person to maintain the property,
 - I. The availability and appropriateness of alternatives to the disposition of the property,
 - J. The likelihood that property may deteriorate or be subject to waste, and
 - K. The benefits versus the liability and costs of maintaining the property,
- IV. The guardian shall consider the necessity for an independent appraisal of real and personal property.
- V. The guardian shall provide for insurance coverage, as appropriate, for property in the estate.

○ **NGA Standard 20 – Conflict of Interest: Estate, Financial, and Business Services**

- I. The guardian shall avoid all conflicts of interest and self-dealing or the appearance of a conflict of interest and self-dealing when addressing the needs of the person under guardianship. Impropriety or conflict of interest arises where the guardian has some personal or agency interest that can be perceived as self-serving or adverse to the position or best interest of the person. Self-dealing arises when the guardian seeks to take advantage of his or her position as a guardian and acts for his or her own interests rather than for the interests of the person.

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- II. Rules relating to specific situations that might create an impropriety or conflict of interest include the following:
- A. The guardian may not commingle personal or program funds with the funds of the person, except as follows:
 - 1. This standard does not prohibit the guardian from consolidating and maintaining a person's funds in joint accounts with the funds of other persons.
 - 2. If the guardian maintains joint accounts, separate and complete accounting of each person's funds shall also be maintained by the guardian.
 - 3. When an individual or organization serves several persons, it may be more efficient and more cost-effective to pool the individual estate funds in a single account. In this manner, banking fees and costs are distributed, rather than being borne by each estate separately.
 - 4. If the court allows the use of combined accounts, they should be permitted only where the guardian has available resources to keep accurate records of the exact amount of funds in the account, including allocation of interest and charges attributable to each estate based on the asset level of the person.
 - B. The guardian may not sell, encumber, convey, or otherwise transfer the person's real or personal property or any interest in that property to himself or herself, a spouse, a coworker, an employee, a member of the board of the agency or corporate guardian, an agent, or an attorney, or any corporation or trust in which the guardian has a substantial beneficial interest.
 - C. The guardian may not sell or otherwise convey to the person property from any of the parties noted above.
 - D. The guardian may not loan or give money or objects of worth from the person's estate unless specific prior approval is obtained.
 - E. The guardian may not use the person's income and assets to support or benefit other individuals directly or indirectly unless specific prior approval is obtained and a reasonable showing is made that such support is consistent with the person's goals, needs and preferences and will not substantially harm the estate.
 - F. The guardian may not borrow funds from, or lend funds to, the person unless there is prior notice of the proposed transaction to interested persons and others as directed by the court or agency administering the person's benefits, and the transaction is approved by the court.
 - G. The guardian may not profit from any transactions made on behalf of the person's estate at the expense of the estate, nor may the guardian compete with the estate, unless prior approval is obtained from the court.

○ **NGA Standard 21 – Termination and Limitation of Guardianship**

- I. Limited guardianship of the person and estate is preferred over a plenary guardianship.
- II. The guardian shall assist the person under guardianship to develop or regain the capacity to manage his or her personal and financial affairs.
- III. The guardian shall seek termination or limitation of the guardianship in the following circumstances:
 - A. When the person has developed or regained capacity in areas in which he or she was found incapacitated by the court,
 - B. When less restrictive alternatives exist,
 - C. When the person expresses the desire to challenge the necessity of all or part of the guardianship,
 - D. When the person has died, or
 - E. When the guardianship no longer benefits the person.

○ **NGA Standard 22 – Guardianship Service Fees**

- I. Guardians are entitled to reasonable compensation for their services.
- II. The guardian shall bear in mind at all times the responsibility to conserve the person's estate when making decisions regarding providing guardianship services and charging a fee for those services.
- III. All fees related to the duties of the guardianship must be reviewed and approved by the court. Fees must be reasonable and be related only to guardianship duties.
- IV. The guardian shall:
 - A. Disclose in writing the basis for fee (e.g., rate schedule) at the time of the guardian's first appearance in the action,
 - B. Disclose a projection of annual fiduciary fees within 90 days of appointment,
 - C. Disclose fee changes,
 - D. Seek authorization for fee-generating actions not contained in the fiduciary's appointment, and
 - E. Disclose a detailed explanation for any claim for fiduciary fees.
- V. A guardian shall report to the court any likelihood that funds will be exhausted and advise the court whether the guardian intends to seek removal when there are no longer funds to pay fees. A guardian may not abandon the person when estate funds are exhausted and shall make appropriate succession plans.

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- VI. A guardian may seek payment of fiduciary fees from the income of a person receiving Medicaid services only after the deduction of the personal needs allowance, spousal allowance and health care insurance premiums.
- VII. Factors to be considered in determining reasonableness of the guardian's fees include:
- A. Powers and responsibilities under the court appointment;
 - B. Necessity of the services;
 - C. The request for compensation in comparison to a previously disclosed basis for fees, and the amount authorized in the approved budget, including any legal presumption of reasonableness or necessity;
 - D. The guardian's expertise, training, education, experience, professional standing, and skill, including whether an appointment in a particular matter precluded other employment;
 - E. The character of the work to be done, including difficulty, intricacy, importance, time, skill, or license required, or responsibility undertaken;
 - F. The conditions or circumstances of the work, including emergency matters requiring urgent attention, services provided outside of regular business hours, potential danger (e.g., hazardous materials, contaminated real property, or dangerous persons), or other extraordinary conditions;
 - G. The work actually performed, including the time actually expended, and the attention and skill-level required for each task, including whether a different person could have rendered the service better, cheaper, faster;
 - H. The result, specifically whether the guardian was successful, what benefits to the person were derived from the efforts, and whether probable benefits exceeded costs;
 - I. Whether the guardian timely disclosed that a projected cost was likely to exceed the probable benefit, affording the court the opportunity to modify its order in furtherance of the best interest of the estate;
 - J. The fees customarily paid, and time customarily expended, for performing like services in the community, including whether the court has previously approved similar fees in another comparable matter;
 - K. The degree of financial or professional risk and responsibility assumed;
 - L. The fidelity and loyalty displayed by the guardian, including whether the guardian put the best interests of the estate before the economic interest of the guardian to continue the engagement; and
 - M. The need for a local availability of specialized knowledge and the need for retaining outside fiduciaries to avoid conflict of interest.

- VIII. Fees or expenses charged by the guardian shall be documented through billings maintained by the guardian. If time records are maintained, they shall clearly and accurately state:
- A. Date and time spent on a task,
 - B. Duty performed,
 - C. Expenses incurred,
 - D. Collateral contacts involved, and
 - E. Identification of individual who performed the duty (e.g., guardian, staff, volunteer).
- IX. All parties should respect the privacy and dignity of the person when disclosing information regarding fees.

○ **NGA Standard 23 – Management of Multiple Guardianship Cases**

- I. The guardian shall limit each caseload to a size that allows the guardian to accurately and adequately support and protect the person, that allows a minimum of one visit per month with each person, and that allows regular contact with all service providers.
- II. The size of any caseload must be based on an objective evaluation of the activities expected, the time that may be involved in each case, other demands made on the guardian, and ancillary support available to the guardian.
 - A. The guardian may institute a system to evaluate the level of difficulty of each guardianship case to which the guardian is assigned or appointed.
 - B. The outcome of the evaluation must clearly indicate the complexity of the decisions to be made, the complexity of the estate to be managed, and the time spent. The guardian shall use the evaluation as a guide for determining how many cases the individual guardian may manage.

○ **NGA Standard 24 – Quality Assurance**

- I. Guardians shall actively pursue and facilitate periodic independent review of their provision of guardianship services.
- II. The independent review shall occur periodically, but no less often than every two years, and must include a review of a representative sample of cases.
- III. The independent review must include, but is not limited to, a review of agency policies and procedures, a review of records, and a visit with the person and with the individual providing direct service to the person.
- IV. An independent review may be obtained from:

A court monitoring system,

- A. An independent peer, or
 - B. An CGC national master guardian.
- V. The quality assurance review does not replace other monitoring requirements established by the court.

○ **NGA Standard 25 – Sale or Purchase of a Guardianship Practice**

- I. Guardianship is a fiduciary relationship and as such is bound by the fiduciary obligations recognized by the community and the law.
- II. A guardianship practice is defined as private, professional guardianship services provided to two or more individuals found by a court to be incapacitated and in need of a guardian.
- III. A professional guardian may choose to sell all or substantially all of a guardianship practice, including goodwill, subject to the following guidelines:
 - A. A professional guardian considering the sale of a guardianship practice shall ensure that the persons are considered in the sale process and that guardianship responsibilities continue to be met during the transition.
 - B. The professional guardian shall require documentation of the purchaser's references pertaining to qualifications to serve as guardian, as defined by state statutes.
 - C. Sale of a guardianship practice to a purchaser engaged in serving or representing any interest adverse to the interest of the persons is not appropriate.
 - D. The sale price for the guardianship practice must not be the sole consideration in selecting the purchaser.
 - E. The professional guardian shall provide formal written notice of the proposed sale to the court, to the persons, and to other interested parties, even if not required by state statutes.
 - F. Consideration should be given to requesting that the court appoint a guardian ad litem, or another third party reviewer, to protect the interests of the persons.
 - G. All parties to the sale of the guardianship practice shall take steps to ensure the continuity of care and protection for the persons during the period of the sale and transfer of ownership.
 - H. The professional guardian may not disclose confidential information regarding a person for the purpose of inducing a sale of a guardianship practice.
 - I. The fees charged to existing persons may not be increased by the purchaser of a guardianship practice solely for the purpose of financing the purchase.

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- IV. Admission to, employment by, or retirement from a guardianship practice, retirement plans or similar arrangements, or sale of tangible assets of a guardianship practice may not be considered a sale or purchase under this standard.

Definitions

ADVANCE DIRECTIVE - A written instruction, such as a living will or durable power of attorney for health care, which guides care when an individual is terminally ill or incapacitated and unable to communicate his or her desires.

ADVOCATE - To assist, defend, or plead in favor of another.

ARM'S-LENGTH RELATIONSHIP - A relationship between two agencies or organizations, or two divisions or departments within one agency, which ensures independent decision-making on the part of both.

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

CAPACITY - Legal qualification, competency, power, or fitness. Ability to understand the nature and effects of one's acts. (Black's)

CONFLICT OF INTEREST - Situations in which an individual may receive financial or material gain or business advantage from a decision made on behalf of another. Situations that create a public perception of a conflict should be handled in the same manner as situations in which an actual conflict of interest exists.

COURT - An arm of the government, belonging to the judicial department, whose function is the application of the laws to controversies brought before it and the public administration of justice. (Black's)

COURT ORDER - A legal document issued by the court and signed by a judge. Examples include a letter of guardianship spelling out directions for the care of the person and the estate and an authorization or denial of a request for action.

COURT-REQUIRED REPORT - A report that the guardian is required by statute or court order to submit to the court relative to the guardianship.

DESIGNATION OF GUARDIAN - A formal means of nominating a guardian before a guardian is needed.

DIRECT SERVICES - These include medical and nursing care, care/case management and case coordination, speech therapy, occupational therapy, physical therapy, psychological therapy, counseling, residential services, legal representation, job training, and other similar services.

ESTATE - Both real and personal property, tangible and intangible, and includes anything that may be the subject of ownership.

EXTRAORDINARY MEDICAL CIRCUMSTANCE - Includes abortion, removal of life support, sterilization, experimental treatment, and other controversial medical issues.

FIDUCIARY - An individual, agency, or organization that has agreed to undertake for another a special obligation of trust and confidence, having the duty to act primarily for another's benefit and subject to the standard of care imposed by law or contract.

FREESTANDING ENTITY - An agency or organization that is independent from all other agencies or organizations

FUNCTIONAL ASSESSMENT - A diagnostic tool that measures the overall well-being of an individual and provides a picture of how well the person is able to function in a variety of multidimensional situations. (Eric Pfeiffer, M.D., Director, University of South Florida Gerontology Department)

GUARDIAN – A person or entity appointed by a court with the authority to make some or all personal decisions on behalf of an individual the court determines lacks capacity to make such decisions. The term includes conservators and certified private or public fiduciaries. All guardians are accountable to the court.

Conservator is a person or entity appointed by a court with the authority to make some or all financial decisions on behalf of an individual the court determines needs assistance in making such decisions.

Emergency/Temporary Guardian is a guardian whose authority is temporary and who is usually appointed only in an emergency.

Foreign Guardian is a guardian appointed in another state or jurisdiction.

Guardian of the Estate is a guardian who possesses any or all powers and rights with regard to the property of the individual.

Guardian of the Person is a guardian who possesses any or all of the powers and rights granted by the court with regard to the personal affairs of the individual.

Limited Guardian is a guardian appointed by the court to exercise the rights and powers specifically designated by a court order entered after the court finds that the person lacks capacity to do some, but not all, of the tasks necessary to care for his or her person or property, or after the person voluntarily petitions for appointment of a limited guardian. A limited guardian may possess fewer than all of the legal rights and powers of a plenary guardian.

Plenary Guardian is a person appointed by the court to exercise all delegable rights and powers of the person after the court finds the person lacks the capacity to perform all of the tasks necessary to care for his or her person or property.

Pre-Need Guardian is a guardian who is formally nominated before a guardian is needed.

Standby Guardian is a person, agency, or organization whose appointment as guardian becomes effective without further proceedings immediately upon the death, incapacity, resignation, or temporary absence or unavailability of the initially appointed guardian.

Successor Guardian is a guardian who is appointed to act upon the death or resignation of a previous guardian.

INFORMED CONSENT - A person's agreement to allow something to happen that is based on a full disclosure of facts needed to make the decision intelligently, i.e., knowledge of risks involved, alternatives, etc.

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.

PERSON UNDER GUARDIANSHIP OR SIMPLY "PERSON" - A person the court has determined requires assistance in making some or all decisions, and for whom the court has appointed a guardian and/or conservator. Synonyms include Conservatee, Disabled Person, Protected Person, Incapacitated Person and Ward.

PERSON-CENTERED PLANNING¹ - A family of approaches designed to guide change in a person's life. This type of planning is carried out in alliance with the person, their family and friends and is grounded in demonstrating respect for the dignity of all involved. Recognized approaches seek to discover, understand and clearly describe the unique characteristics of the person, so that the person:

- Has positive control over the life he/she desires and finds satisfying;
- Is recognized and valued for their contributions (current and potential) to their communities; and
- Is supported in a web of relationships, both natural and paid, within their communities.

PRUDENT INVESTOR RULE - All investments must be considered as part of an overall portfolio rather than individually. No investment is inherently imprudent or prudent. The rule recognizes that certain nontraditional investment vehicles may actually be prudent and the guardian who does not use risk-reducing strategies may be penalized. Under most circumstances, the person's assets must be diversified. The guardian is obligated to spread portfolio investments across asset classes and potentially across global markets to both enhance performance and reduce risk. The possible effects of inflation must be considered as part of the investment strategy. The guardian shall either demonstrate investment skill in managing assets or shall delegate investment management to another qualified party.

SELF-DETERMINATION - A doctrine that states the actions of a person are determined by that person. It is free choice of one's acts without external force.

SOCIAL SERVICES - These services are provided to meet social needs, including provisions for public benefits, case management, money management services, adult protective services, companion services, and other similar services.

SUBSTITUTED JUDGMENT - The principle of decision-making that requires implementation of the course of action that comports with the individual person's known wishes expressed before incapacity, provided the individual was once capable of developing views relevant to the matter at issue and reliable evidence of those views remains.

¹ Personal communication with Michael Smull, Mary Lou Bourne & Leigh Ann Kingsbury, Support Development Associates, LLC (May 2, 2012). See Michael Smull, The Learning Community for Person Centered Practices, www.learningcommunity.us (April 2012). See also John O'Brien & Connie Lyle O'Brien, eds., *A Little Book About Person Centered Planning*, Inclusion Press (2000).

NGA and CGC Qualifications for Court-Appointed Guardians

Corporate Guardian - A corporate guardian is a corporation that is named as guardian for an individual and may receive compensation in its role as guardian with court approval. Corporate guardians may include banks, trust departments, for-profit entities, and nonprofit entities.

Guidelines:

A corporate guardian:

1. Shall follow the *NGA Ethical Principals*.
2. Shall follow the *NGA Standards of Practice*.
3. Should strive to have decision-making staff become national certified guardians and national master guardians.

Family Guardian - A family guardian is an individual who is appointed as guardian for a person to whom he or she is related by blood or marriage. In most cases when there is a willing and able family member who has no conflict with the prospective person, the court prefers to appoint the family member as guardian. On court approval, a family guardian may receive reasonable compensation for time and expenses relating to care of the person.

Guidelines:

A family guardian:

1. Is encouraged to recognize the resources available through the NGA.
2. Shall follow the *NGA Ethical Principals*.
3. Shall follow the *NGA Standards of Practice* when carrying out guardianship responsibilities.

Individual Professional Guardian - An individual professional guardian is an individual who is not related to the person by blood or marriage and with court approval may receive compensation in his or her role as guardian. He or she usually acts as guardian for two or more individuals.

Guidelines:

An individual professional guardian:

1. Shall follow the *NGA Ethical Principals*.
2. Shall follow the *NGA Standards of Practice*.
3. Should strive to become a national certified guardian and national master guardian, if applicable.

National Master Guardian - A national master guardian is an individual who has met the qualifications established by the Center for Guardianship Certification.

Guidelines:

A national master guardian:

1. Shall meet the Master guardian qualifications as established by the Center for Guardianship Certification.
2. Shall follow the *NGA Ethical Principals*.
3. Shall follow the *NGA Standards of Practice*.

Public Guardian - A public guardian is a governmental entity that is named as guardian of an individual and may receive compensation in its role as guardian with court approval. Public guardians may include branches of state, county, or local government.

Guidelines:

A public guardian:

1. Shall follow the *NGA Ethical Principals*.
2. Shall follow the *NGA Standards of Practice*.
3. Should strive to have decision-making staff become national registered guardians and national master guardians.

National Certified Guardian - A national certified guardian is an individual who has met the qualifications established by the Center for Guardianship Certification.

Guidelines:

A national certified guardian:

1. Shall meet the National certified guardian qualifications as established by the Center for Guardianship Certification.
2. Shall follow the *NGA Ethical Principals*.
3. Shall follow the *NGA Standards of Practice*.
4. Should strive to become a national master guardian.

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Volunteer Guardian - A volunteer guardian is a person who is not related to the person by blood or marriage and who does not receive any compensation in his or her role as guardian. The guardian may receive reimbursement of expenses or a minimum stipend with court approval.

Guidelines:

A volunteer guardian:

1. Shall follow the *NGA Ethical Principals*.
2. Shall follow the *NGA Standards of Practice*.
3. Is encouraged to become a national certified guardian and national master guardian, if applicable.