

Guardianship/Conservatorship Responsibilities to the Court

Development Team of

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The relationship between a Guardian and a Ward is a legal one and applicable laws and court rules must be followed. This NebGuide, the second in a series of seven, discusses Guardianship responsibilities.

Guardianship is a court-appointed relationship granting the Guardian certain powers and duties. Guardians have many and on-going responsibilities both to the Ward and to the Court. This is one of seven NebGuides in this series.

Responsibilities to the Court

First, this is a legal relationship. As such, the Guardian has to follow the law and the court rules that apply to Guardians.

The initial step in having a Guardian/Conservator appointed for an individual is to petition the court for the appointment. At the time of this request, a list of interested parties will be created by the person asking for the hearing and/or his attorney. An “interested party” is generally a person, such as a spouse, children, parents, or someone who could be an heir to the estate of the individual for whom the Guardian/Conservator is sought. It also

may be any person who wishes to step forward and has a concern in the interest and well-being of the individual.

These interested parties are sent a notice of the hearing and asked to indicate whether they want to receive future information and notices. Before the initial hearing, the person to be appointed as Guardian/Conservator needs to have obtained

- a criminal background check;
- a check of the Abuse and Neglect Registries for adults and children;
- a check with the sex offender registry; and
- a credit check through a process approved by the state court administrator for him/herself.

These reports need to be filed with the county court 10 days prior to the initial hearing.

Forms, Records, and Requirements of Appointed Guardians/Conservators

If, after the hearing, the judge agrees that the individual needs a Guardian/Conservator, an order appointing that person will be entered. It will list the Guardian/Conservator’s specific duties. The

Guardian/Conservator will sign the Acceptance of Appointment Guardian and Conservator form.

This form lists the requirements that need to be completed before the Guardian/Conservator receives his/her “Letters of Guardianship/Conservatorship,” and a list of forms that must be completed and filed with the court, including:

- Guardian/Conservator General Information Sheet and Address Information Sheet.
- Proof of Restricted Account from Depository or Financial Institution. (This is required within 10 days of appointment.)
- Acknowledgment of Financial Institution (This needs to be completed within 30 days of appointment.)
- Inventory and Affidavit of Due Diligence. (This is due within 30 days of appointment.)
- The law requires that when the net value of the estate of a Ward is more than \$10,000.00, a bond shall be required or as otherwise determined by the court.

After submitting these forms, the “Letters of Guardianship/Conservatorship” will be issued. The continuing responsibilities to the court will include:

- Taking “Letters of Guardianship/Conservatorship” to the appropriate financial institutions and filing with the Court an Acknowledgement of Financial Institution form.
- Completing the guardianship/conservatorship training class and filing the class certificate with county court within 90 days.
- If the Ward has real property or an interest in real property, filing “Letters of Guardianship/Conservatorship” with the Register of Deeds in the county where the property is located as soon as possible to identify the Guardian/Conservator as the only person who can act regarding the property.

- Meeting regular reporting requirements for Guardian/Conservators. These reports are filed with the court and mailed to all interested parties. Forms for these reports are available from the Court.

- Annually, no later than 30 days after the anniversary of the Guardian’s appointment, filing with the court a complete accounting of the administration of the Ward’s assets. This must be accompanied by proof that the Guardian is in possession of the Ward’s assets. **It is important that these assets never be commingled with those of the Guardian.** The Guardian must keep a record of income received and amounts paid on behalf of the Ward. This record should include the following forms:

- Annual Guardian on Condition of Ward Report
- Updated Inventory/Annual Accounting, including all bank statements and/or brokerage statements
- Certificate of Proof of Possession and Balance
- For restricted funds Proof of Restricted Account form

All of these forms need to be sent to all interested parties along with a Notice of Right to Object Form. The Affidavit of Mailing form must be sent to the court after annual information is sent to interested parties.

In addition to the above responsibilities, Guardians/Conservators should do the following as needed.

- Notify the court within three days of a change of address of the Ward/protected person.
- Receive approval of court to move Ward out of state.
- Notify the court within three days of Ward’s death.

- File Notice of Newly Discovered Asset form within 30 days after becoming aware of additional assets above \$500.
- If an interested party disagrees with any of the reports or does not believe that the Guardian/Conservator is acting in the best interest of the ward, he or she may file an objection with the court. The court will then set a date for a hearing to receive further information about the objection and take action regarding it.

The contents of the court file will be reviewed by the clerks of the court to determine if all of the information and forms have been completed as required. If the Guardian/Conservator has not completed the requirements as needed, he/she will receive a Notice of Need for Corrective Action(s).

Resources

A Model Code of Ethics for Guardians. National Guardianship Association. 1998. Tucson, Ariz.

Developmental Disability Law: A Manual for Nebraska Advocates. Nebraska Advocates Services. 1996. Lincoln, Nebr.

Nebraska Revised Statutes, Article 26, Section 30.

Standards of Practice. National Guardianship Association. 2003. Tucson, Ariz.

UNL Guardianship website at <http://www.extension.unl.edu/guardianship/> includes information, helpful links, and a calendar of educational workshops and programs.



This publication has been peer reviewed.

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Index: Family Life Relationships

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