



**Indiana State Guardianship Association  
Standards of Practice**

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# Indiana State Guardianship Association Standards of Practice

As adopted by the Indiana State Guardianship Association  
Board of Directors on March 10, 2016.

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## **INTRODUCTION:**

These Indiana State Guardianship Association (ISGA) Standards of Practice were adopted by the ISGA Board of Directors on March 10, 2016, following a year-long effort that included a public comments period. These were created by starting with the National Guardianship Association (NGA) Standards of Practice and modifying those NGA Standards of Practice in a way that better applies to Indiana guardianship practice.

All guardians should nevertheless strive to meet the NGA Standards of Practice, which can be found at:

[http://www.guardianship.org/documents/Standards\\_of\\_Practice.pdf](http://www.guardianship.org/documents/Standards_of_Practice.pdf).

Because of the desire to allow the reader to easily compare the NGA Standards of Practice with these ISGA Standards of Practice, some Standards herein will be numbered, but will be left intentionally blank.

These ISGA Standards of Practice, to the extent that they modify the provisions of the NGA Standards of Practice, do not substitute or replace any obligation on the part of National Certified Guardians to conform to the NGA Standards of Practice, or any other obligations that National Certified Guardians must meet in order to attain or retain their certified status through the Center for Guardianship Certification.

The ISGA Board of Directors is developing official protocols for the proposal and adoption of any amendments to these ISGA Standards of Practice. For more information, contact the ISGA at (317) 737-2743 or email at:

[indianaguardian@outlook.com](mailto:indianaguardian@outlook.com).

These ISGA Standards of Practice have been submitted to the NGA Board of Directors for approval, but as of the date of this printing, no approval has yet been obtained.

## **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. All guardians should be guided by professional codes of ethics and standards of practice for guardians set forth by the National Guardianship Association and/or the Indiana State Guardianship Association.
  - 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.
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## **STANDARD 2**

### **The Guardian's Relationship to the Court**

- I. The guardian's decisions and actions shall be consistent with the court order of appointment.
  - II. The guardian shall obtain court authorization or clarification for actions that may not be included in the order of appointment.
  - III. The guardian shall seek assistance as needed to fulfill responsibilities to the person under guardianship.
  - VI. 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 unless otherwise addressed in the order.
  - V. The guardian shall submit reports to the court as required by local rules or state statute.
  - VI. 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.
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### **STANDARD 3**

#### **The Guardian's Relationship with the Person**

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

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### **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, unless it will substantially harm the person as reasonably determined by the guardian after due consideration of all relevant factors.
  - B. The guardian shall not interfere with established relationships unless necessary to protect the person from substantial harm as reasonably determined by the guardian after due consideration of all relevant factors.
- II. When disposing of the person's assets, the guardian may notify family members and friends and give them the opportunity, to obtain assets (particularly those with sentimental value).

III. The guardian shall make reasonable efforts to preserve property designated in the person's will and other estate planning devices executed by the person.

IV. The guardian may maintain communication with the person's family and friends regarding significant occurrences that affect the person when that communication would not harm the person.

V. The guardian may keep immediate family members and friends advised of all pertinent medical issues when doing so would not harm 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.

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## **STANDARD 5**

### **The Guardian's Relationship with 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. 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.

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## **STANDARD 6**

### **Informed Consent**

- I. 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. Informed Consent is based on adequate information on the issue, voluntary action, and lack of coercion. 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. Decisions the guardian makes on behalf of the person under guardianship shall be based on the principle of Informed Consent.
  - II. The guardian has the authority to make decisions that are in the best interest of the ward, but with which the ward may not always agree.
  - III. Where needed, the guardian shall obtain an ethics opinion, such as from an ethics committee of a hospital or independent ethics consultant, of the appropriate course of action to take.
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## **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 seek to 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.
- III. A guardian shall exercise decision-making for any individual decision under one of the following three principles:
  - A. Shared decision-making (SDM).

Shared decision making or supported decision making is an approach in which the guardian and person communicate together using the best available evidence when faced with the task of making decisions. The guardian supports the person to deliberate about the possible attributes and consequences of options, to determine a best course of action which respects the persons' autonomy, as well as ethical and legal norms.
  - B. Substituted Judgment

1. 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.

2. Substituted Judgment promotes the underlying values of self-determination and well-being of the person.

3. Substituted Judgment is not used when following the person's wishes would cause substantial harm to the person, including prolonging of the dying process.

C. Best Interest

1. 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.

2. 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.

3. The Best Interest principle requires the guardian to consider past practice and evaluate reliable evidence of likely choices.

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**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. A guardian is aware that such choices may pose a risk of harm on the person but that such risk is minimal compared to the goal of increasing the self-determination and independence of the person.

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## **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 participate in making and implementing 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.
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## **STANDARD 10**

### **The Guardian's Duties Regarding Diversity and Personal Preferences of the Person**

- I. The guardian shall attempt to determine the extent to which the person under guardianship identifies with particular ethnic, religious, and cultural values. These may include the person's attitudes and views regarding:
  - A. Illness, pain, and suffering,
  - B. Death and dying,
  - C. Quality of life issues,
  - D. Societal roles and relationships, and
  - E. Funeral and burial customs.
- II. The guardian shall acknowledge the person's right to interpersonal relationships and sexual expression within the limits of state and federal laws. The guardian shall take steps to ensure that a person's sexual expression is consensual, that the person is not victimized, that the person is not acting

illegally, and that an environment conducive to this expression in privacy is provided.

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, legal and cultural values may be necessary to uphold the person's values and customs.

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## **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 to ensure the safety of the person.

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, 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 to undue financial risk.

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## **STANDARD 12**

### **Duties of the Guardian of the Person**

The guardian shall have the following duties and obligations to the person under guardianship unless the order of appointment provides otherwise:

- I. To see that the person is living in the most appropriate environment that addresses the person's goals, needs, and preferences.
  - A. The guardian shall have a strong priority for home or other community-based settings, when not inconsistent with the person's goals and preferences.
  - B. 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.
  - C. 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.
  - D. The guardian shall report to a court before a move to a more restrictive residential setting, and the justification for the move where required by local rule or statute.
  - E. 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.
- II. To ensure that provision is made for the support, care, comfort, health, and maintenance of the person.
- III. 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.

IV. To keep the affairs of the person confidential, except when it is necessary to disclose such affairs for the best interests of the person.

V. To seek specific judicial authority when a civil commitment, the dissolution of a marriage, or another extraordinary circumstance is being addressed.

VI. To file with the court, on a timely basis all reports required by state statute, regulations, and local court rule.

VII. 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.

VIII. 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.

IX. To promptly report to the appropriate authorities abuse, neglect and/or exploitation as defined by state statutes.

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## **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.
  - B. The guardian shall meet with the person as soon after the appointment as is feasible. At the first meeting, the guardian shall:
    1. In a manner appropriate to the person's cognitive abilities, communicate to the person the role of the guardian;
    2. In a manner appropriate to the person's cognitive abilities, 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 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. The identification of plan for responding to the death of the person under guardianship, such as plans for funeral services, etc.

III. 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 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 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.

F. 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.

IV. The guardian shall fully identify, examine, and continue to seek information regarding options that will fulfill the person's goals, needs, and preferences. Guardians shall take full advantage of professional assistance in identifying all available options for long term services and supports.

V. 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.

VI. The guardian shall become educated about the nature of any incapacity, condition and functional capabilities of the person.

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## **STANDARD 14**

### **Decision-Making About Medical Treatment**

I. The guardian shall promote and monitor the health and well-being of the person under guardianship; seek to ensure that all medical care for the person is appropriately provided and that the person is treated with dignity; and seek to ensure that the person receives appropriate health care consistent with decision-making standards set forth in Standard 7.

II. The guardian shall seek to ensure that appropriate palliative care is incorporated when indicated. The guardian may complete a Physician Order for Scope of Treatment (POST) form under I.C. 16-36-6-7 to direct the care and treatment in those situations where the guardian is not immediately available to make a decision.

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## **STANDARD 15**

### **Decision-Making About Withholding and Withdrawal of Medical Treatment**

*[Provisions of Standard 15 from the National Guardianship Association's (NGA) Standards of Practice have been incorporated into other Standards herein. Therefore, this ISGA Standard 15 is left blank intentionally so as to avoid confusion in comparing this ISGA Standard with the NGA Standard 15.]*

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## **STANDARD 16**

### **Conflict of Interest: Ancillary and Support Services**

I. 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. 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.

II. 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.

III. The guardian shall not represent both the person and the service provider.

IV. 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 court approval as required.

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**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, consistent with the person's cognitive abilities.
- V. The guardian shall use reasonable efforts to provide oversight to any income and assets under the control of the person, however with approval of the court (if required), the guardian may provide the person with a regular stipend for spending money for which no accounting is necessary, if such stipend promotes the person's independence and dignity
- 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.
- 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.

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 as necessary 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, trust created by the person, or pay-on-death instruments exist 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.

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## **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 to the extent possible 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 (to the extent possible to determine) 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. In a manner appropriate to the person's cognitive abilities, communicate to the person the role of the guardian;
2. In a manner appropriate to the person's cognitive abilities, outline the rights retained by the person and the grievance procedures available;
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. The guardian shall value the well-being of the person over the preservation of the estate.

B. The 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 post and maintain a bond as required by the court to protect the estate.

V. The guardian shall obtain all public and insurance benefits for which the person is eligible. In this regard, the guardian shall as appropriate seek assistance from qualified sources, and with court approval as required under state law, to engage in "Medicaid planning" to shelter assets of the person when doing so protects such assets for the person's own quality of life.

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 unless such independent verification is cost prohibitive, as determined by the court.

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 may monitor, provide oversight or manage the personal allowance of the person.

X. The guardian shall, when appropriate, and in consultation with the guardian of the person, open a burial trust account and make funeral arrangements for the person.

XI. 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.

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## **STANDARD 19**

### **Property Management**

I. The guardian may dispose of real or personal property of the person under guardianship, but only as permitted by statute or rule of the court. If there is a question as to whether such disposition is authorized under statute or rule, then specific court approval should be sought.

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 and to the extent economically feasible and available, for property in the estate.

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## **STANDARD 20**

### **Conflict of Interest: Estate, Financial, and Business Services**

I. 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. 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.

II. Rules relating to specific situations that might create an impropriety or conflict of interest include the following:

A. The guardian shall 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 shall 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, without full disclosure to and approval by the court.

C. The guardian shall not sell or otherwise convey to the person property from any of the parties noted above.

D. The guardian shall not borrow, loan or give money or objects of worth from the person's estate unless specific prior court approval is obtained.

E. The guardian shall not use the person's income and assets to support or benefit other individuals directly or indirectly unless such support is consistent with the person's goals, needs and preferences and will not substantially harm the estate.

F. The guardian shall not profit from any transactions made on behalf of the person's estate at the expense of the estate, nor shall the guardian compete with the estate, unless prior approval is obtained from the court.

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## **STANDARD 21**

### **Termination or 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, if appropriate.
  - III. The guardian shall seek termination or limitation of the guardianship in the following circumstances:
    - A. When the person regains decisional and/or functional capacity;
    - B. When less restrictive alternatives exist, such as when assets are managed in a trust or with appropriate advance directives for proper financial and/or health care management;
    - C. If the person expresses a rational or medically supported desire to limit or terminate the guardianship;
    - D. When the guardianship no longer benefits the person; or
    - E. When the person has died.
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## **STANDARD 22**

### **Guardianship Service Fees**

- I. Guardians are entitled to reasonable compensation for their services.
- II. All guardianship service fees must be reviewed and approved by the court.
- III. A guardian shall report to the court any likelihood that the person's assets will be exhausted and advise the court on material ramifications to the person. A guardian shall not abandon the person when estate funds are exhausted unless appropriate succession plans are in place.

IV. A guardian may seek payment of fiduciary fees from the income of a person receiving Medicaid services in accordance with state Medicaid regulations.

V. Factors to be considered in determining reasonableness of the guardian's fees include:

- A. Powers and responsibilities bestowed by the court appointment;
- B. Necessity of the services;
- C. The guardian's expertise, training, education, experience, professional standing, and skill, including whether an appointment in a particular matter precluded other employment;
- D. The character of the work to be done, including difficulty, intricacy, importance, time, skill, or license required, or responsibility undertaken;
- E. 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;
- F. 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;
- G. The benefits to the person were derived from the efforts;
- H. 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;
- I. The degree of financial or professional risk and responsibility assumed;
- J. The fidelity and loyalty displayed by the guardian.

VI. Fees and expenses charged by the guardian shall be documented through billings maintained by the guardian. They shall clearly and accurately state:

- A. Date and time spent on a task,
- B. Duty performed,



C. Expenses incurred, and

D. Identification of individual who performed the duty (e.g., guardian, staff, volunteer).

VIII. All parties should respect the privacy and dignity of the person when disclosing information pertaining to fees and expenses.

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### **STANDARD 23**

#### **Professional Management of Multiple Guardianship Cases**

I. The professional guardian's caseload shall be limited to a size that allows the professional guardian to accurately and adequately support and protect the person, and that allows them to meet these standards of practice, including but not limited to the responsibility to visit the person at least once a month.

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 professional guardian, and ancillary support available to that guardian.

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### **STANDARD 24**

#### **Quality Assurance**

I. Guardians shall actively pursue and facilitate periodic independent review of their provision of guardianship services to ensure that they are meeting these standards of practice.

II. The periodic independent reviews do not replace other monitoring requirements established by the court.

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### **STANDARD 25**

#### **Sale or Purchase of a Guardianship Practice**

*[The ISGA Board of Directors has not included Standard 25 of the NGA Standards of Practice.*

*Therefore, this ISGA Standard 25 is left blank intentionally so as to avoid confusion in comparing this ISGA Standard with the NGA Standard 25.]*

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