

GUARDIANSHIP & CONSERVATORSHIP IN IOWA

Issues in Substitute Decision Making

The court gives the guardian certain powers. Because of these powers, the guardian has duties to the ward.

Guardianship of the Person: Powers, Duties and Responsibilities

What are Guardians Supposed to Do?

Guardians must:

- carry out duties and responsibilities given to them by the court.
- follow limits placed on their power by the law or the court.
- know what the ward needs.
- prepare and file annual reports.

What are the Limits of a Guardian's Power?

The guardian only has the power given by the court, and no more. The court can limit the guardian's power. The court can allow the ward to keep the right to make some decisions.

Guardians' decisions can be reviewed by other interested parties and by the court. Guardians' decisions may be challenged.

Powers and Duties of a Guardian

The powers and duties of a guardian are set out in the order appointing the guardian. Usually these include the following:

Provide for Care, Comfort, and Maintenance of the Ward

The guardian makes sure that the ward's basic needs are met. This means that the ward has food, shelter, health care, people to talk to and things to do. The guardian needs to see that the ward gets training and education so that the ward can do as much as possible.

Guardians do not have to pay for these needs out of their own funds. These needs can be met through governmental benefits or services for which the ward is eligible.

Guardians should think about the following:

The guardian should:

- Visit the ward and talk with care professionals or interested parties on a regular basis. This should be done monthly or as often as needed to check on the ward's well being.
- Keep written notes about visits and other communication about the guardianship.

The guardian should keep records about the ward and be available for routine or emergency communications.

- Promote the care, comfort, and well-being of the ward. The guardian should know about the ward's psychological and emotional state, as well as the ward's attitude towards his or her current situation.
- Know about the ward's personal items.
- Know the ward's religious faith and church. The guardian should help the ward participate as he or she wants.

Establish the Place of Residence

The guardian will often be able to decide where the ward lives. The guardian cannot change the ward's permanent residence to a more restrictive place without prior court approval. For example, prior court approval is needed to put a ward in a nursing home.

Before making a decision to change a ward's residence, the guardian should consider:

- Are the living arrangements appropriate and the least restrictive?
- Do the living arrangements reflect the ward's prior lifestyle? Is the ward satisfied with the current living arrangements?
- Do the living arrangements meet the needs of the ward with the least amount of impact on the privacy and independence of the ward?
- Are needed support services available?
- Is it clean and safe?
- If the ward lives in a care facility, is there an individual plan in place to make sure the ward's personal, recreational, and medical needs will be met.

Take Reasonable Care of the Ward's Clothing, Furniture, Vehicle, and Other Personal Property

The guardian usually has to take care of a ward's personal property. The conservator can pay for and buy personal property. This is an area where the powers and duties of guardians and

conservators may overlap. A guardian usually cannot use a ward's funds. As a result, the guardian cannot buy new clothes or furniture. However, the guardian needs to take reasonable care of the ward's personal property. The guardian needs to think about whether more clothing is needed. For example a new winter coat may be needed. The guardian may need to ask the conservator for money to buy the coat or find community resources to help with getting one.

Consent to Medical or Other Professional Care

The guardian usually has to agree for the ward to get necessary medical or other professional care, counseling, treatment, or services. The guardian should get enough information to be able to make a good decision.

A guardian must get prior court approval in a number of situations. These situations include:

- arranging for major elective surgery or any other non-emergency major medical procedure; and
- consenting to the withdrawal of life sustaining procedures.

For more information about these issues, see "Guardianship Decisions Needing Court Approval."

Assist the Ward in Developing Maximum Self-reliance and Independence

The guardian should get the ward training, treatment, or other services that will help the ward to be as independent as possible. The guardian should think about whether special clothing or tools might let a ward get dressed with less help or get around as independently as possible.

What are the Annual Duties of the Guardian?

The guardian must file an annual report with the court. A guardian must file an annual report unless the court says the guardian does not have

to do so. Guardianship reports must include the following information:

- The current mental and physical condition of the ward
- Where the ward is living
- A summary of the medical, educational, vocational, and other professional services provided for the ward.
- The guardian's visits and activities on behalf of the ward
- Whether the guardianship is still needed.

The clerk of court may have a form for the guardian or conservator to use.

The report of the guardian is reviewed and approved by a district court judge or referee. If a report is not filed on time, the court may notify the guardian.

These materials are a general summary of the law. They are not meant to completely explain all that you should know about guardianship and conservatorship. You should see a lawyer to get complete, correct and up-to-date legal advice.

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