

SPOKANE COUNTY SUPERIOR COURT

COURT VISITOR TRAINING (GAL) - 2020

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LAY AND FAMILY GUARDIANS

- What is their training?
- Why do we care?
 - 310 CPG cases vs. 1700 Lay Guardian cases – 84.5% are lay (non-professional) guardians!
- How is our role as Court Visitor different than with CPG guardians?
 - Compassion / empathy for parent guardians
 - Ascertain competence
 - certify training completed - but ...
 - Include scenarios to "ascertain" adequate knowledge

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WASHINGTON COURTS – AOC REQUIRED TRAINING

- Online AOC Training

http://www.courts.wa.gov/programs_orgs/guardian/?fa=guardian.layGuardianship&type=trainmodules

- Completion required as pre-requisite to Spokane training
- Basics covered, definitions, responsibilities, resources

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SPOKANE COUNTY REQUIRED TRAINING

- For non-professional persons seeking appointment as guardians
- Proof of Completion of Administrative Office of the Courts (AOC) online lay guardian training must be filed with the petition to establish guardianship
- <https://www.spokanecounty.org/1488/Mandatory-Guardian-Training>
- Must complete training before appointment as lay guardian or ...
 - Court waiver or extension granted to complete training

COMPASSION

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- Perhaps not as significant a factor in conversations with CPGs
 - Show empathy – e.g. a parent seeking to be their child's guardian may be focused on keeping their child alive
 - Vital with parent/lay guardians
 - “I’ve been my son/daughter’s guardian their entire life. Why do I now need to prove my suitability?”
 - Anticipate how they might feel and address it up front
 - Emphasize standardization of forms and procedures

ASCERTAIN QUALIFICATIONS

Especially important with parents:

“You don’t have to prove your love and commitment to your son or daughter. That really is not the issue. But I need to ascertain, for the Court, that you know all that is required to be a Court appointed guardian, how to use proper forms, and how to document and timely report what you are doing. There is a lot of paperwork.”

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ASCERTAIN COMPETENCE

- The lay/family guardian is different from CPG
 - But ... recent cases in 2015 with a CPG and her agency ...
- It is within the authority and responsibility of the Court Visitor
 - Ask different questions
 - Use scenarios to “ascertain” knowledge
 - Review forms to determine knowledge, access, and readiness

ASCERTAIN COMPETENCE - 2

It's in the Order Appointing Court Visitor

- (d) To meet the person whose appointment is sought as Guardian or Limited Guardian and ascertain:
 - (i) The proposed Guardian's knowledge of the duties, requirements, and limitations of a Guardian
- Discuss expanding or limiting guardianship after establishment based on Adult Subject to Guardianship and/or Conservatorship's change of circumstances

9 FORMS – ASCERTAIN ADEQUATE KNOWLEDGE

“ ... they tend to give [lay] guardians the most trouble.”

1. Declaration of Proposed Guardian (Non-Professional) (DCLR)
2. Declaration of Guardian: Assets Held in Financial Institutions (DCLR)
3. Sample letter from Financial Institution verifying account(s) and funds balance
4. Guardianship Inventory (INV)
5. Petition For Approval Of Budget, Disbursements And Initial Personal Care Plan (PTAPR)
6. Accounting Summary Form #2 – Short Form (Assets less than \$80,000 and no real estate.
7. Accounting Summary Form #1 – General Purpose for Non-Professional Guardians (Estate in excess of \$80,000 and/or no real estate.
8. Sealed Confidential Guardianship Document Cover Sheet (CNRSE)

SCENARIOS

- Review tasks to be performed immediately upon appointment, those required within the first 90 days, and those required periodically.
 - Different for Person and Estate/Conservatorship guardianships
- Forms (See <https://www.spokanecounty.org/1167/Guardianship-Trust-Forms>)
- Timeline / Readiness for hearings
- Emphasize the difference between the role of a parent and that of a parent guardian – acknowledge how decisions may be influenced by emotion



PERSON/ESTATE/CONSERVATORSHIP - IMMEDIATE

AFTER COURT SIGNS ORDER APPOINTING GUARDIAN

- Review of Order Appointing Guardian by court clerk
- File Oath of Guardian
- Obtain a Fiduciary Bond, if required
- File Designation of Resident Agent, if required
- Obtain Letters of Guardianship



PERSON - WITHIN FIRST 90 DAYS

- Designate standby guardian
- Complete and file Initial Personal Care Plan
- Check with court to determine if Order Approving Initial Personal Care Plan is required.
- Send Notice of Right to File a Request for Special Notice form

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- Complete and file reports periodically
 - Report period begins when the guardian is appointed
 - File Guardian's Report and Personal Care Plan
 - Provide an Order for Court Hearing to approve Report and Personal Care Plan

ESTATE/CONSERVATORSHIP – AS SOON AS REASONABLY POSSIBLE

- Establish primary named guardianship checking account
- File Declaration of Guardian: Funds Held in Financial Institution
- Block accounts – as required by the court
- File “Receipt for Blocked Account” – Court Order
- Begin Inventory

ESTATE/CONSERVATORSHIP – WITHIN FIRST 90 DAYS

- Designate standby guardian
- File Inventory – Hearing if there is one
- File Petition to Approve Budget and Proposed Disbursements
- Submit Order to Approve Budget and Proposed Disbursements
- Send Notice of Right to File a Request for Special Notice form

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- Complete and timely file reports periodically
 - Report period begins when the guardian is appointed
 - File Guardian's Report, Accounting and Proposed Budget
 - Provide Order for Court Hearing to Approve the Report, Accounting and Proposed Budget
 - Include Proposed Budget for Next Reporting Period

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- File report with clerk's office and order approving
 - Set a hearing date if required by local court rules
 - Provide Notice of Hearing and copy of report to the Adult Subject to Guardianship and/or Conservatorship and interested parties

IMPORTANT FORMS AND NOTICES

- IRS Form 56 – Notice Concerning Fiduciary Relationship
- Notice of Change of Address (within 30 days)
- Notice of Death (within 30 days)
- Petition for Instructions

RECORDS GUARDIAN MUST MAINTAIN

- All income and expenditures
- All cancelled checks (or scanned images) must be available on request
- All periodic statements from bank and investment account
- All statements showing values of annuities, life insurance or other valuable property.
- Keep all records separate from your personal records

ACTIONS REQUIRING COURT AUTHORIZATION

- Sale, purchase or mortgage of real estate
- Sale, gifting or disposal of personal property
- Payment of guardian and/or professional/service fees



REMINDERS

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- See Instructions for Filing Reports and Guardianship Documents
<https://www.spokanecounty.org/1167/Guardianship-Trust-Forms>
 - Separate named guardianship checking account; do not commingle
 - Timely records and reports
 - Do not borrow or loan money without court order
 - Avoid cash/ATM withdrawals
 - Petition and Order for Instruction

WE CARE BECAUSE ...

- Recognize the inherent/intangible benefits of a lay/family guardian
- Understand there is a difference between the lay guardian and the CPG
 - unfamiliar with courts / legal requirements
 - not like riding a bike – often the only case and long gaps between reporting
 - CPGs have annual continuing education requirements – 22 hours
- Responsible for clarifying and confirming knowledge of the requirements for lay guardians – ascertain.

SETUP YOUR GUARDIAN TO SUCCEED

- Use bullets in your GAL Report for tasks that are important enough to have the Court review at hearings.
- Be sure the bullets get into the Order Appointing Guardian or they may get lost once order is entered
- Go over the bullets with the guardian to be sure they understand them and agree to them

QUESTIONS?

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