

New GAL Training

Day 1 – October 28, 2021

Legislative Purpose

... to protect the liberty and autonomy of all people of this state, and to enable them to exercise their rights under the law to the maximum extent, consistent with the capacity of each person. The legislature recognizes that people with incapacities cannot exercise their rights to provide for their basic needs without the help of a guardian. However, their liberty and autonomy should be restricted through the guardianship process *only to the minimum extent necessary* to adequately provide for their own health or safety, or to adequately manage their financial affairs. [*emphasis added*]

RCW 11.88.005

A Different Role

Whether you are an attorney or other practitioner.

Your role as Guardian ad Litem (GAL) [*Court Visitor*] is to provide for and protect the best interests of the Alleged Incapacitated Person (AIP) [*Respondent*].

What does best interests mean?

To act so as to benefit someone.

To be primarily concerned with what would benefit someone.

Unique and personal in every case.

RCW 11.88 & RCW 11.130

The Uniform Guardianship Act (UGA) is being implemented in phases.

You should become familiar with the Act as its implementation will begin to affect forms that are developed and required, some procedures, and terminology.

RCW 11.88

Guardian ad Litem (GAL) -
Guardianship of the Estate -
Alleged Incapacitated Person (AIP) -
Incapacitated Person (IP) -
Letters of Guardianship -

RCW 11.130

Court Visitor or Visitor
Conservatorship
Respondent
Person Subject to Guardianship/Conservatorship
Letters of Office

Before Your Appointment – Ask ...

Behavior Observed – Concerns

Petition – Full, Limited, Person, Estate (*Conservatorship*)

Phone Call – Are You Available?

Take your time on the phone call – ask a lot of questions:

- Assets?
- Family or other interested persons?
- Why petition filed? Was there a precipitating event?
- Proposed guardian?
- Doctor?
- Other emergent/special circumstances?
- It's OK to ask to see the proposed Order Appointing GAL 1st to review

Request additional language for needs in the case – avoids you having to file a Petition for Instructions or seek additional authority in a modified Order Appointing GAL.

Materials 1, 1a, 1b

1 – Additional language for GAL Order

1a – Petition for Instructions

1b – Order on Petition for Instructions

You're Appointed

You should always acknowledge/respond to the phone call to the Petitioner/Counsel

Ask for a cover sheet or other document that gives you **all** of the information you'll need to get up and running quickly – names, phone numbers, etc. if you are selected.

Order Appointing Guardian ad Litem

This is the law in the case for you – DO NO MORE

*Everyone wants you to do this or sign that as GAL
Quasi Judicial Immunity – stay within the lane*

Much is boilerplate – standard pattern forms

Watch for or insist on custom language that is unique to the case

Materials 2, 2a

2 - FORMS-AIP-and Guardian Questionnaire

2a – Title 11 GAL Statement of Policies and Procedures

Momentum

Alleged Incapacitated Person – AIP

Be sure you keep *Alleged* in mind throughout

Start by determining the AIP's capacities

Then determine what you believe the AIP needs for best interests

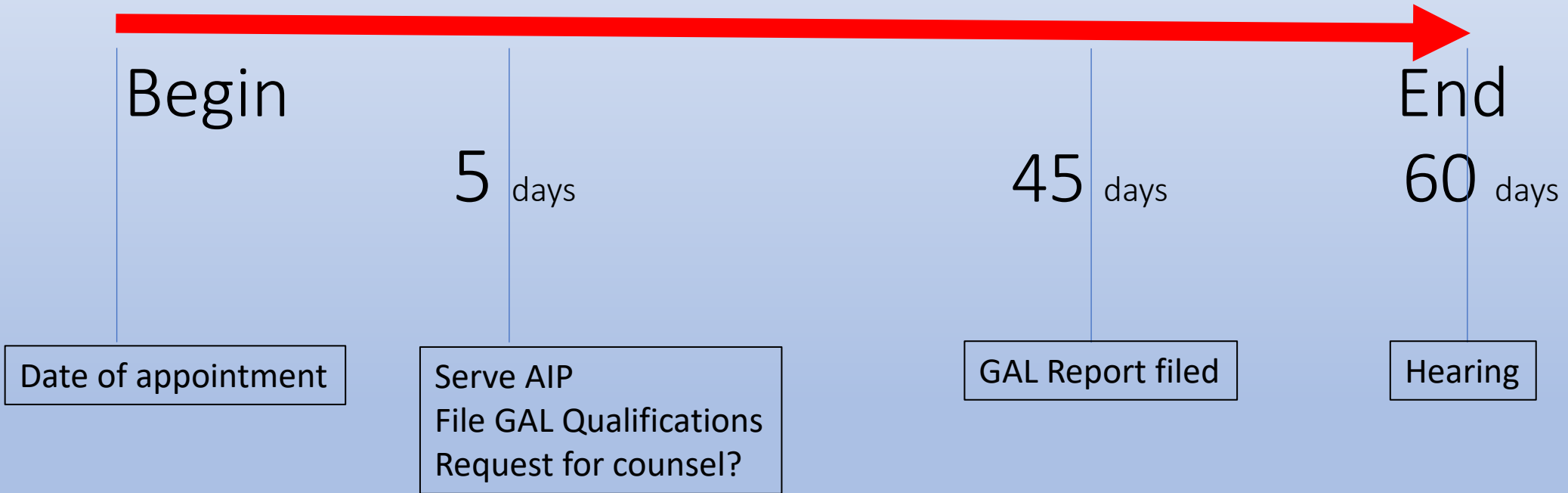
Then fill the gap

Draw on AIP's residual capacities

Materials 3

3 – Assessing Capabilities - Momentum

Your Timeline



First Steps

Phone calls

Letters

Filings

Phone Calls

Petitioner

AIP Residence – setup meeting; learn AIP schedule - convenient day/time

Primary Care Provider's office

Family

Agency

Bank

Letters

Medical Professional(s)

School – teachers/staff

Family – at AIP home and extended

Agency – Petitioner?

Other (records request e.g. APS)

Include copy of Order Appointing GAL with your letters

Materials 4a, 4b, 4c, 4d

4a – Family and Friends Letter

4b – Doctor Letter

4c – GALMED_RPT NEW

4d – Guardian Questionnaire Letter

Filings

Service (Acceptance/Proof)

Guardian ad Litem Statement of Qualifications

Guardian ad Litem Report – Fee Declaration / Medical Report

Public Document Summary

Sealed Confidential Document Cover Sheet

Materials 5a, 5b

5a – Statement of GAL Qualifications

5b – Exhibit A

Forms

<https://www.spokanecounty.org/1167/Guardianship-Trust-Forms>

“All forms are available in PDF version.

These forms are not to be modified from the version available.

However, please add additional sheets of paper to answer questions thoroughly.”

Meetings / Investigation / Visits

Petitioner

AIP – At least once alone – ideally 3 times total

AIP – At least once with proposed Guardian

Medical Professional(s) - Copy of Order Appointing
Friends/Family/Others (Significant & Continuing Interest)

The Bank

Proposed Guardian – Lay or CPG

Materials 6a, 6b, 6c

6a – GAL Skit Presentation – Interviewing AIP

6b – Ages and Stages GAL Handout

6c – Removing the Menacing Specter of Elder Abuse in Nursing Homes

Roles, Duties, & Scope

Eyes and ears of the Court – *Court Visitor*

Due diligence in your investigation

Limited by statute and Order Appointing GAL

You are not the guardian – people want you to be

Life saving emergency medical decisions

Meet your timeframes and deadlines

Assessment

Objective

Best Interests of AIP

Residual capacity

Decision Making Support

Proposed Guardian – Lay or CPG?

Can you justify your recommendations?

Assessment Tool

Name of Individual: _____

Name of person completing this form: _____

Relationship to individual (*circle one*): Self Family Friend Guardian Other: _____

How long have you known the individual? _____

This checklist is a tool designed to be used *only* for the purposes of the training program

MO Guardianship:
Understanding Your Options & Alternatives.

It is designed to assist with identifying a person's ability to make decisions and manage key areas of the individual's life. It is intended to assist with exploring alternatives and less restrictive options to plenary or full guardianship.

The questions listed below are not exhaustive and are not intended to provide a final determination of what a person should (or should not) do in their unique circumstances.

| | LEAST RESTRICTIVE: | → → → | MOST RESTRICTIVE: |
|--|--|--|--|
| | Individual Makes Own Decisions | Individual Needs Support With Making Decisions | Individual has NO RIGHTS to Make Decisions |
| | "YES" If the answer is "YES," place a ✓ in the box. | "NO" If there is an ALTERNATIVE that meets this need, list it below | "NO" Place a ✓ in the box and consider whether you need to address the need through one of the GUARDIANSHIP OPTIONS |
| | If the answer is "NO," go to next column. → | If NO Alternative meets this need, go to next column. → | |

EMPLOYMENT

Can the person make and communicate choices in regard to employment?

Can the person look for and find a job (*go to employment agency, respond to ads, use contacts*)?

MONEY MANAGEMENT

Is the person able to manage their money (i.e. meet financial commitments, such as regular bills)?

Is the person able to manage the monetary benefits he or she is supposed to receive?

Is the person able to identify and resist financial exploitation?

HEALTH & NUTRITION

Does the person make decisions about where, when, & what to eat?

Can the person follow a prescribed diet and/or take medicines as directed?

Does the person understand the need to maintain personal hygiene and dental care?

Can the person make and communicate decisions regarding medical treatment, including understanding the consequences of not accepting treatment?

Does the person understand health consequences associated with high risk behaviors (*substance abuse, overeating, high-risk sexual activities, etc.*)?

Can the person alert others and seek medical help for serious health problems?

| IDENTIFYING ALTERNATIVES TO GUARDIANSHIP | "YES" If "NO," go to next column → | "NO" If NO Alternative, go to next column. → | "NO" Place a ✓ in the box and consider GUARDIANSHIP OPTIONS |
|---|--|--|--|
| RELATIONSHIPS | | | |
| Can the person differentiate appropriate relationship behaviors as with family, friends, co-workers, intimate partners, etc. (<i>how we talk to and touch others</i>)? | | | |
| Is the person able to make appropriate decisions concerning marriage and intimate relationships? | | | |
| Does the person understand consent and permission in regards to sexual relationships? | | | |
| PERSONAL SAFETY | | | |
| Does the person avoid common environmental dangers (<i>traffic, sharp objects, hot stove, poisonous products, etc.</i>)? | | | |
| Is the person able to recognize when someone is taking advantage of them, hurting them, or abusing them (physical, sexual, emotional) and protect themselves? | | | |
| Does the person know who to contact if they are in danger, being exploited, or being treated unfairly (<i>police, DSS, Arc, Lawyer</i>)? | | | |
| COMMUNITY LIVING | | | |
| Is the person able to be on their own without risk of serious harm or injury to themselves? | | | |
| Does the person understand what is involved with managing a home that is safe (<i>home maintenance, sanitary conditions, secure, etc.</i>)? | | | |
| Is the person able to access community resources critical to functioning successfully and safely in community settings (<i>post office, transportation, bank, grocery store, emergency services, church, etc.</i>)? | | | |
| PERSONAL DECISION-MAKING | | | |
| Is the person able to understand and communicate consent and/or permissions regarding legal documents (i.e., contracts, powers of attorney) or services (i.e., legal counsel, advocacy services)? | | | |
| Is the person able to identify someone they want to represent their interests and support them with decision making? | | | |
| Does the person demonstrate the ability to vote? | | | |
| Does the person understand consequences of making decisions that will result in them committing a crime? | | | |
| DETERMINING & DIRECTING SERVICES and SUPPORTS | | | |
| Is the person able to decide and direct what kinds of support they need or want and select who provides those supports? | | | |
| Is the person able to communicate approval to share information with parents, family members, and friends who are not legal guardians? | | | |

Materials 7, 7a

7 – Functional Capacity & Alternatives

7a – A Tool for Identifying Alternatives to
Guardianship

Assessing the Proposed Guardian

Volunteer & Family Guardians Handbook

(also included as PDF in Materials)

CPG Board – Standards of Practice

Materials 8a, 8b, 8c

8a – Presentation for Lay Guardians

8b – Sample Script for Lay Guardian Interview

8c – Assessing the Guardian – Lay or CPG

GAL Report

Summary of Interviews

Recommendations

Plain Language – The Story

Exhaustive – due diligence? Enough is enough ...

Less Restrictive Alternative?

It's Your Call – Best Interests of the AIP

Justify your recommendations? Evidence to support.

Always include some bullets for guardian/order

Materials 9a, 9b

9a – GAL Report Redacted

9b – Guardian Bullets for Order

Fees

County Pay – Limited to 15 hours @ \$60 = \$900 + costs
LeAnn Wakefield – initial

Private Pay – your hourly rate
Justify based on AIP's assets
LeAnn does not initial private pay cases

Can exceed but only with Court approval – *in advance – anticipate!*

Court will always scrutinize your fees – can reduce

Conversion from county to private pay

Recommend calculating your fees at both County pay and private pay rate

Materials 10, 10a, 10b, 10c

10 – LeAnne new GAL Fee approval procedure

10a – Request to Exceed Authorized Hours for GAL

10b – Order Authorizing Additional Hours

10c – Declaration for Additional Hours

Proposed Order

Ask Petitioner for copy of proposed after filing GAL Report

Review for sufficiency

Include your recommendations (bullets)

Confirm who will call in ready! Call GMP **509 477-3886**

*If the case is not called in ready,
it will not be assigned a place on the docket!!*

Hearing

Review and sign proposed Order

AIP Present/waived

County Pay – LeAnn Initial

On the Record – Your Summary

Conformed Copy of signed Order to LeAnn (county pay)

GAL Report to Guardian

Set Over for Trial?

Materials 11

11 – SET UP YOUR GUARDIAN TO SUCCEED

Resources

Proposed Guardian – Lay or CPG

Petition for Instructions

2018 KCBA GAL Manual

Petitioner – Counsel

[Washington State Courts - Guardian Portal](#)

[Chapter 11.88 RCW: GUARDIANSHIP—APPOINTMENT, QUALIFICATION, REMOVAL OF GUARDIANS
\(wa.gov\)](#)

[Chapter 11.130 RCW: UNIFORM GUARDIANSHIP, CONSERVATORSHIP, AND OTHER PROTECTIVE
ARRANGEMENTS ACT \(wa.gov\)](#)

Materials 12, 12a, 12b

12 – KCBA 2018 Title 11.88 RCW GUARDIANSHIP GAL HANDBOOK

12a – 11.88 GAL REGISTRY

12b – Family & Volunteer Guardian's Handbook

Congratulations!

Questions?

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