

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.

Too often, once a guardianship is established everyone looks almost exclusively to the appointed guardian to make all decisions and may **neglect** asking:

- How are you continuing to assess the IP's capacity to participate in decision making?
- What is the IP's current residual capacity to participate in decision making?
- Has that capacity changed since the last report? If so, how. How have you changed your interaction with the IP due to the changes?
- What community resources are available or have you developed to support the IP in participating in and making decisions?
- With the community resources you have developed for the IP, what is the likelihood that the guardianship can be modified (limited) or terminated with those resources in place?

You see the problem is ...

- Once a guardianship is established, we tend to defer, perhaps too fully, to the appointed guardian's assessments , decisions, and recommendations without fully developing the basis for the changes
- In 2015 we experienced what happens when that deference is misplaced
- The Court discovered, after increased scrutiny, that some of the Periodic Care Plans/Reports were identical year after year except for date changes
- 100s of IPs suffered because of that misplaced deference

Fox in the Hen House to the Farmer
(guardian in periodic reports to the Court):

“We’re good here, no problems.”

Everything is
fine in here.
Run along and
mind your own
business.



BRANCO



RCW 11.92.043

Additional duties.

- (2) To file annually or, where a guardian of the estate has been appointed, at the time an account is required to be filed under RCW [11.92.040](#), a report on the status of the incapacitated person, which shall include:
 - (a) The address and name of the incapacitated person and all residential changes during the period;
 - (b) The services or programs which the incapacitated person receives;
 - (c) The medical status of the incapacitated person;
 - (d) The mental status of the incapacitated person;
 - (e) **Changes in the functional abilities of the incapacitated person;**
 - (f) Activities of the guardian for the period;
 - (g) Any **recommended changes** in the scope of the authority of the guardian;
 - (h) The identity of any professionals who have assisted the incapacitated person during the period;

CERTIFIED PROFESSIONAL GUARDIAN (CPG) BOARD

The Certified Professional Guardianship Board is the regulatory authority for the practice of professional guardianship in Washington State.

The Board is charged with establishing the standards and criteria for the certification of professional guardians, as defined by [RCW 11.88.008](#).

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Certified Professional Guardian Program

Lay/Family (Non-Professional) Guardian Training

Special Announcement for Applicants Seeking Professional Guardian Certification

To achieve the greatest protection for the estates and affairs of incapacitated persons in Washington State, the Certified Professional Guardian Board adopts and implements regulations governing certification, minimum standards of practice, training, and discipline of professional guardians.

- › [Duties and Responsibilities of a Certified Professional Guardian \(CPG\)](#)
- › [Certified Professional Guardian Board \(CPGB\)](#)
- › [Administrative Support for the Certified Professional Guardian Board](#)
- › [Qualifications Needed to Become a Certified Professional Guardians](#)
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- › [Ongoing Requirements of Certified Professional Guardians](#)
- › [Guardianship Program Rules and Standards of Practice](#)
- › [Ethics Advisory Opinions](#)
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If you have any other questions or suggestions, please contact
guardian.program@courts.wa.gov.

Standards of Practice (SOP) are coming for lay (non-professional) guardians - stand by ...

The Office of Guardianship and Elder Services, Washington State Administrative Office of the Courts (AOC) and Washington **WINGS** is developing similar Standards of Practice for non-professional guardians, including the substance of SOP 403.

WINGS: Working Interdisciplinary Network of Guardianship Stakeholders

Guardianship Program Rules and Standards of Practice

CPG SOP 403 — Self-Determination of Incapacitated Person

- 403.2

- Whenever appropriate a guardian shall consult with the incapacitated person, and shall treat with respect, the feelings, values and opinions of the incapacitated person. The guardian shall acknowledge the residual capacity and preferences of the incapacitated person.
- When making decisions on behalf of the incapacitated person, the guardian shall evaluate the alternatives that are available
- When appropriate, the guardian will defer to an incapacitated person's residual capacity to make decisions

[*emphasis added*]

So, finally, “assessing the proposed guardian”:

the sample questions on the next slide give us an opportunity to change the focus and provide a primer to both lay and professional guardians during our interviews.

we really cannot properly assess the proposed guardian without meeting with both the proposed guardian and the AIP, in person, during your investigation.

Interview Questions

Lay

- What activities or decisions is the AIP involved in?
- What are your plans to continue that involvement if you are appointed?
- How will you assess the AIP's capabilities in the future?
- Are you supportive of the AIP's continued/expanded involvement?
- How will you deal with a situation where the AIP wants to do something that you do not think is in his/her best interests?
- Are you aware that if appointed, you have the authority and responsibility to continually assess the IP's capabilities and recommend modification or even dismissal of the guardianship if the IP has improved?

CPG

- What does residual capacity mean to you?
- What is your experience in assessing the AIP's residual capacity as required by your SOP 403?
- What is an example of how you determine the AIP's values and opinions?
- What is your experience in deferring appropriate decisions to the AIP?
- How will you deal with a situation where the AIP wants to do something that you do not think is in his/her best interests?
- What are your plans to continually assess AIP for future capabilities?
- Have you ever recommended modification, limitation, dismissal of a guardianship due to IP's improvement?