

GUARDIANSHIP

What Changed?

Rule 66.01-66.09

- Rules of Superintendence 66.01 – 66.09
- First major overhaul since 1990
- Dispatch Articles
 - Actually part of an 8 year project
- Intended to create uniformity amongst Counties

Education

- 6-hour fundamental Course
 - Existing guardians have till June 1, 2016
 - New guardians have 6 months from appointment
- 3-hour continuing education
- Criminal background check

Direct Service Providers

- ...a guardian shall not provide any direct services to a ward, unless otherwise approved by the court.
- Obtain court approval

Annual Plan

- Annual plan shall be filed annually as an addendum to the guardian's report.
- State-wide form being created (currently a 2-page form)
- Plan sets forth goals for meeting needs
- Not an ISP!
- Check your local rules

Change of Residence

- Court will always be involved.
- Lateral move in terms of restrictiveness===10 days advance notice
- More restrictive residential setting===court approval required

Limited Guardianship

- Emphasized in rule
- Courts have broad discretion
- Possible limitations: time, authority, scope

Complaints about Guardians

- Courts are Required to Act:
 - Notice
 - Investigation
 - Action
 - Disposition

Report Abuse

- Must be reported to Probate Court
- Provide Detail / MUI report
- Provide Guardian's Action Plan

Termination of Guardianship

- Death
- Restoration of competency
- Less restrictive alternative
 - Guardianship of estate should be terminated if only income is gov't benefit
- Resignation

End of Life Decisions

- Communicate with the individual
 - Understand values, beliefs, family input
- Have a plan

Decision-Making

- New definition of “best interest”
- Due diligence requirement
- Required to pursue least restrictive alternative
- Person-centered planning
- **DECISION-MAKING IS A PROCESS**
 - No one size fits all approach

Best Interest

- “Best Interest” means the course of action that maximizes what is best for a ward, including consideration of the **least intrusive, most normalizing,** and **least restrictive course of action** possible given the needs of the ward.

Decision-Making Process

- **Due Diligence:** “...communicating with the ward and being fully informed...”
- **Least Restrictive Alternative:** “...imposing the least limitations on the ward’s rights, freedom or ability to control the ward’s environment.”
- **Person-Centered Planning:** “A guardian shall strive to balance a ward’s maximum independence and self-reliance with the ward’s best interest.”

Compensation

- Check probate court local rules
- Court approval always required