


Division of Aging Services
Public Guardianship for Adults

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5800 Guardian of Last Resort for Adults and Public Guardianship Operations

	Department of Human Services Policy and Manual Management System	Index: POL 5800
		Effective: 06/15/2023
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Policy

The Department of Human Services (DHS) serves as the guardian of last resort for adults as provided by law when duly appointed by a probate. DHS also administers specifically delineated operations of public guardianship.

Authority

O.C.G.A. § § 29-4-2; 29-4-3 (b.1)

References

- O.C.G.A. § 29-1-1, Definitions;
- O.C.G.A. § § 29-4-1, *et seq.*, Guardians of Adults;
- O.C.G.A. § 29-5-1, *et seq.*; Conservators of Adults
- O.C.G.A. § 29-10-1, *et seq.*, Public Guardians

Applicability

The policy is applicable to the provision of guardianship case management services provided by DHS or any representative of DHS who has been assigned by DHS or the Division of Aging Services (DAS) with guardianship case management services as guardian of last resort. DHS representatives include but are not limited to the Public Guardianship Office of DAS, volunteers or interns assigned guardianship tasks, providers under contract with DHS to provide guardianship services to adults, or any DAS staff as assigned specifically by the DAS Director. Although the Public Guardianship Office of DAS is the primary unit assigned guardianship case management duties, the Department or DAS may authorize any personnel of the Department to carry out DHS' guardianship duties.

This policy is also applicable to DHS governance of public guardianship operations, which includes setting standards for criminal and credit history checks on public guardians, maintaining a registry of public guardians, and administering any funds appropriated by the Georgia General Assembly for compensation of public guardians.

Definitions

Conservator

an individual appointed by the probate court to receive, collect, and make decisions regarding the property, assets, liabilities and income of a person under conservatorship. In Georgia law, “conservator” includes a “guardian of the property” appointed prior to July 1, 2005.

DHS Guardian of Last Resort

representatives of DHS who have been assigned guardianship case management duties and responsibilities for DHS when DHS has been appointed as guardian of an adult. DHS may be appointed when there is no eligible, willing or appropriate family, friend, person, county guardian, or public guardian to serve as guardian. The primary unit assigned case management duties is the Public Guardianship Office of DAS.

Guardian

an individual or entity appointed by the probate court to make decisions regarding the support, care, education, health, and welfare of an individual adult who lacks sufficient capacity to make or communicate significant responsible decisions concerning his or her health and safety. Within Georgia law, “guardian” includes a “guardian of person” appointed prior to July 1, 2005.

Public Guardianship

an individual or private entity appointed as legal guardian of an adult who lacks sufficient capacity to make or communicate significant responsible decisions concerning his or her health and safety. DHS is not a public guardian, nor are PGO staff “public guardians.” The Public Guardian is not the same as guardian of last resort; a public guardian may be selected even when there are family or friends involved.

Ward

an adult who the probate court has determined lacks sufficient capacity to make or communicate significant responsible decisions concerning his or her health, safety, or property, and as such, has been appointed a guardian or conservator. Although all court matters will continue to use the term ward, these policies will refer to “a person under guardianship” and/or “client”.

Responsibilities

Guardian of Last Resort: DHS serves as guardian of last resort when appointed by a probate court. DHS is not authorized by law to serve as conservator of adults. DHS is not authorized to serve as temporary medical consent guardian. The Public Guardianship Office of DAS is primarily assigned oversight and delivery of guardianship case management services on behalf of DHS. Responsibility for activities related to case management shall be assigned to a responsible employee, contractor, or volunteer of DHS.

Public Guardianship Operations: DHS does not act as public guardians; when appointed as guardian of an adult, DHS acts as guardian of last resort. DHS is mandated to manage certain aspects of public guardianship operations, which include setting standards for criminal and credit history checks on public guardians, maintaining a registry of public guardians, and administering any funds appropriated by the Georgia General Assembly for compensation of public guardians.


History

From 1974 and until July 1, 2005, various individuals, divisions, and offices of the Department of Human Resources (what is now the Department of Human Services) have performed guardian of last resort functions. Effective July 1, 2005, the Georgia General Assembly amended the law that named county Department of Family and Children Services directors as guardians of last resort and designated the Department of Human Services, as an entity, to serve in that capacity. The Division of Aging Services, Adult Protective Services Section was primarily responsible for case management. Effective January 1, 2011, the Public Guardianship Office was separated from Adult Protective Services and became primarily responsible for case management.

Evaluation


The Division of Aging Services annually evaluates the program by using methods such as the DAS database reporting, surveys, and case reviews.

MAN 5800 Public Guardianship for Adults

	Department of Human Services Policy and Manual Management System	Index: MAN 5800
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1000 Overview

1001 Introduction

	Georgia Division of Aging Services Public Guardianship for Adults Manual			
	Chapter:	1000 Overview	Effective Date:	03/01/2022
	Section Title:	Introduction	Reviewed or Updated in:	MT 2022-01
	Section Number:	1001	Previous Update:	MT 2019-02

Summary Statement

The Department of Human Services (DHS) serves as guardian of last resort for adults as provided by law when duly appointed by a probate court pursuant to *Guardians of Adults*, Chapter 4, Title 29 of the Official Code of Georgia, at O.C.G.A. §29-4-1, *et seq.*

Basic Considerations

The Georgia Department of Human Services Division of Aging Services (DAS) is the State Unit on Aging pursuant to the federal Older Americans Act. It has organizationally been assigned public guardianship case management duties for adults. DAS has specifically assigned guardianship case management duties to the Public Guardianship Office (PGO) within DAS.

This manual seeks to define the unique role assigned by Georgia law for those adults who have no one qualified, suitable or available to serve as a guardian.

History

From 1974 and until July 1, 2005, various individuals, divisions, and offices of the Department of Human Resources (what is now the Department of Human Services) performed guardian of last resort functions. In 1974, the Commissioner of the Department of Human Resources served in this capacity.

Subsequently, in 1979, the directors of the county Department of Family and Children Services (DFCS) offices of the Division of Family and Children Services served as guardian of last resort for incapacitated adults.

Adult Protective Services was created in 1981 and organizationally assigned to the county DFCS directors and under their supervision, performed guardianship duties and functions for county DFCS directors.

The transfer of Adult Protective Services from the Division of Family and Children Services to the Division of Aging Services and the restructuring of DFCS in 2004, led to the Department requesting legislative changes for guardian of last resort. Effective July 1, 2005, with the enactment of HB 394, Committee Substitute, the Georgia General Assembly removed county DFCS directors as guardians of last resort and designated the Department of Human Resources as the entity to serve in that capacity. The Division of Aging Services was primarily assigned public guardianship oversight and case management on behalf of the Department of Human Resources. The Division's Adult Protective Services Section was primarily assigned case management duties.

Effective July 1, 2009, with the enactment of HB 228, the Department of Human Resources was restructured and renamed the Department of Human Services (DHS). The Division of Aging Services remained within DHS.

Effective January 1, 2011, the Division of Aging Services separated the case management functions for guardianship clients from that of Adult Protective Services and created the Public Guardianship Office.

Public Guardianship

Guardianship and conservatorship are judicial procedures, primarily handled in probate court, to intervene in the life and affairs of persons who need help and protection in using and controlling their person and their property. The Guardianship Law and procedures are found in "Guardians of Adults", Chapter 4, Title 29 of the Official Code of Georgia, at O.C.G.A. g 29-4-1, *et seq.*

Published in April 2005, *Wards of the State: A National Study of Public Guardianship*, is the first major national study of public guardianship since the seminal publication, *Wards of the State: A National Study of Public Guardianship*, Teaster, P., S., Wood, E., Hurme, S., *et al.*, American Bar Association and the University of Kentucky (April 2005). [*Public Guardianship and the Elderly*, Winsor Schmidt (1981)].

In the 2005 study, public guardianship is defined as 'the appointment and responsibility of a public official or publicly funded organization to serve as legal guardian in the absence of willing and responsible family members or friends, or in the absence of resources to employ, a private guardian. Since the 1960s, states and localities have developed a variety of mechanisms to address this "unbefriended" population, often serving as "guardian of last resort."

Guardianship is a last resort. As mandated by guardianship law, lesser restrictive alternatives and interventions to guardianship are pursued prior to the probate court's decision to appoint a legal guardian. If a guardianship is necessary, a qualified individual or public guardian should be appointed only when no other person is available to serve as the guardian for the person under guardianship. A guardian of last resort is appointed only when no other person is suitable and available to serve as the guardian.

References

The American Bar Association Commission on Law & Aging at www.abanet.org/aging and Karp,

Naomi and Wood, Erica, *Incapacitated and Alone: Health Care Decision-Making for the Unbefriended Elderly*, ABA Commission on Law and Aging (July 2003).

1002 Appointment and Authority

Georgia Division of Aging Services Public Guardianship for Adults Manual				
	Chapter:	1000 Overview	Effective Date:	03/01/2022
	Section Title:	Appointment and Authority	Reviewed or Updated in:	MT 2022-01
	Section Number:	1002	Previous Update:	MT 2019-02

Summary Statement

The Department of Human Services (DHS) serves as guardian of last resort, when appointed by the Probate Court pursuant to O.C.G.A. § 29-4-3(b)(1).

Appointment

Pursuant to O.C.G.A. §29-4-1 *"The court appoints a guardian for an adult only if the court finds the adult lacks sufficient capacity to make or communicate significant responsible decisions concerning his or her health or safety."* The Department of Human Services serves as guardian of an adult when there is no one qualified, suitable and available to serve.

Guardianship experts refer to this as "guardian of last resort." Under Georgia law, "guardian" is what was formerly called "guardian of the person." The Department is appointed as an entity.

The Department is not statutorily authorized to serve as a conservator.

Alternatives to public guardianship should be pursued through the court to ensure the continued protection and preservation of the rights of the person under guardianship. Alternatives may include appointment of a successor guardian or restoration of the person's rights.

The probate court determines the guardian pursuant to O.C.G.A. § 29-4-3.

Georgia law provides an order of preference in the selection of guardians, as follows:

1. The individual last nominated by the adult
2. The spouse of the adult or an individual nominated by the adult's spouse
3. An adult child of the adult or an individual nominated by an adult child
4. A parent of the adult or an individual nominated by a parent of the adult
5. A guardian appointed during the minority of the adult
6. A guardian previously appointed in Georgia or another state
7. A friend, relative or any other individual
8. Any other person, including a volunteer to the court, found suitable and appropriate who is willing to accept the appointment

9. The county guardian

Types of Guardianship Appointments

The type of guardianship the court appoints depends on the immediacy of need and the expected duration. Types of appointment include:

- Temporary Guardianships
 - Pre-Hearing Emergency Guardianships
 - Emergency Guardianships
 - Special Jurisdiction Guardianships
 - Temporary Substitute Guardianships
- Permanent Guardianships
 - Successor Guardianships
 - New Guardianships

Alternatives to Guardianship

Alternatives to Guardianship may include the following:

Representative Payee

A representative payee helps Social Security Administration beneficiaries who need assistance in managing their benefits. A representative payee's responsibilities include:

- Using benefits to pay for the current and foreseeable needs of the beneficiaries
- Appropriately saving any remaining benefits
- Keeping good records of how the benefits are spent

Case/Care Management

Case/care management includes support programs and services for someone who may not be fully incapacitated. Their needs may be met without turning to formal legal means. Arranging extra help such as bill paying services, financial counseling and in-home support may keep a person independent.

Health Care Surrogacy

The designation of another individual to act on one's own behalf in the event that one is determined to be incapacitated; to provide informed consent for medical treatment and diagnostic procedures.

Trust

A "living trust" is a revocable trust set up during one's life to control and manage property and affairs. One may be his or her own trustee or co-trustee, but if incapacitated, the trust terms provide for a successor trustee or allows for the co-trustee to serve alone. No court action is needed;

there is a seamless transition and privacy is maintained.

Durable Powers of Attorney

There are two types of durable power of attorney:

For Property (DPA): A document that allows the principal to give authority to another person (agent or attorney-in-fact) to make financial/legal decisions and financial transactions on one's behalf. It is called "durable" when, by its terms, it remains in effect even if the principal becomes mentally incompetent.

For Health Care (DPAHC): An advance directive that allows the principal to appoint a health care agent, also known as an attorney-in-fact, a proxy or surrogate, to make health care decisions in the event that one can no longer speak for him- or herself. Laws governing directives vary from state to state. Some states consolidate the DPAHC with other advance directives.

Georgia Medical Consent Law

In an emergency, the law allows physicians to treat anyone who is incapable of giving informed consent. In all non-emergency situations, the next of kin may consent if the patient is unable to do so. The Georgia Medical Consent Law lists the persons who may consent to medical care for another. Guardianship may not be necessary to consent to medical treatment, unless there is a dispute among those persons who have equal voice under the law.

Authority

O.C.G.A. § 29-4-3(b.1) provides that the Department of Human Services may be appointed as guardian of last resort.

Additionally, O.C.G.A. §29-4-2(a) distinguishes the Department of Human Services and public guardians as exceptions to the requirement that an individual must be appointed as guardian. The Department, when appointed, serves as an entity. No individual case manager or employee is to be appointed or named as guardian.

The DHS assumes the role of "guardian" based on Georgia law.

The DHS representative shall take the "Oath of Guardianship" and obtain the "Letters of Guardianship" from the court.

When appointed by the court, the guardian shall be listed as the "Department of Human Services" or the "Georgia Department of Human Services".

The DHS representative, acting on behalf of the Department as guardian, is fully authorized to exercise all the powers and duties of the guardianship from the date of the Letters of Guardianship.

All guardianship authority ends when:

- The department is no longer the appointed guardian (e.g. guardianship expires, individual rights are restored, or a successor guardian is appointed relieving the Department as guardian of last resort)
- Upon the person under guardianship's demise

Case Management

DHS representatives who have been assigned with case management duties and responsibilities for public guardianship are the Public Guardianship Office (PGO) within the Division of Aging Services, and any Division of Aging Services staff as assigned specifically by the Director.

The Department or DAS may authorize any personnel of the Department to carry out the entity's authority as guardian. The Division of Aging Services is primarily assigned public guardianship oversight and case management on behalf of the Department of Human Services when appointed as guardian.


Responsibility for activities related to case management and meeting the guardianship client's basic needs shall be assigned to a responsible employee, contractor or volunteer of DHS.

References

O.C.G.A. § 29-4-2, *et seq.*

2000 Program Operations

2006 Field Safety

Georgia Division of Aging Services Public Guardianship for Adults Manual			
	Chapter:	2000 Program Operations	Effective Date: 03/01/2022
	Section Title:	Field Safety	Reviewed or Updated in: MT 2022-01
	Section Number:	2006	Previous Update: MT 2019-02

Summary Statement

The purpose of this policy is to provide Public Guardianship Office (PGO) staff with field safety guidelines.

Basic Considerations

Worker safety is of paramount importance. Staff who feel unsafe or threatened at any field location should leave immediately and then notify their supervisor.

Procedures

The following suggestions are recommended for PGO staff when making visits in the community. Above all, awareness of one's surroundings is a key component to remaining safe.

Any Visit

For any visit:

- **READ:** If unfamiliar with the client, look at the client's case record for information on any past threatening or violent incidents.

- **COMMUNICATE:** Let the supervisor know the schedule for the day or check in at predetermined times with the supervisor. Send a “check out” email or text to the supervisor after the last site or home visit.
- **DRESS APPROPRIATELY:** Be aware of clothing or accessories that may be grabbed, such as scarves or necklaces. Avoid shoes that might be difficult to move quickly in, like high heel shoes. Avoid wearing expensive jewelry or carrying other expensive items.
- **BE UNENCUMBERED:** Carry only those items necessary for the visit. Leave bags or purses locked out of sight in the car.

Home Visit

Home visit – client lives alone or with family or friends.

Approaching the home:

- At the first visit to the home, drive around the block to locate a safe place to park.
- If the only place to park is the driveway, back into the space.
- If possible, park with the driver’s side door facing the home for easy access.
- Be on the lookout for pets.
- After knocking on the door or ringing the bell, stand to the side of the door.

In the home:

- A cell phone should be accessible at all times. Never hesitate to call 911 for any emergency or danger.
- Try to stay within sight of the door, with a clear path to the door.
- Be aware of seating. A hard chair may allow for a quicker exit. Upholstery fabrics may be soiled or have insect infestations.
- Ask if there are any other people in the home.
- If the person answering the door is unknown, leave if that person appears to be a safety risk.
- Do not eat or drink anything offered by the client.
- Do not pet any animals in or around the home.
- If the client begins to get agitated, leave. Get in the car and drive away immediately with the doors locked; do not sit and make calls or program navigation devices until a more populated area is reached, such as a parking lot or main street.

Facility Visit

In a facility (nursing home, hospital, care home):

- Wash hands before and after the visit and/or keep hand sanitizer to use before and after visits.
- Do not provide physical assistance to the client or any other resident of the facility. To view a wound or other part of the client’s body to monitor care, ask facility staff to pull back bed linens or reposition the client.

- Before entering the client's room, check the door for special instructions, such as protective gear that must be worn in the room. If protective gear must be worn make sure to follow the instructions. Take as little as possible into the room; leave bags, coats, etc., locked out of sight in the car. If a client has a communicable disease or condition, discuss with the client's health care provider protections necessary to avoid transmission, such as wearing gloves, not touching surfaces, etc.
- If at a facility or program where there are other residents or participants, such as a day program, take notice of approaching residents. If necessary, ask the facility or program to allow the visit with the client in an area that has fewer residents or participants.
- If another resident becomes aggressive or violent, get to a safe area or leave.
- If contact with bodily fluids occurs, immediately report the incident to the person in charge and follow the facility protocol for the incident for cleaning and sanitizing.

Other Tips

- Do not make any client visits after dark.
- Discuss with the supervisor any visit that may pose a risk to your safety. Do not conduct the visit until measures are taken to make the visit safe. Examples of safety measures include having two staff on the visit or arranging for members of the client's mental health care team to be present for the visit.
- Always wear the State identification badge.
- Keep the State car insurance card in your car.
- Give the supervisor the make, model and license number of the car used for field visits.
- Do not transport clients in personal vehicles.
- Do not move items for clients, such as furniture or medical equipment in personal vehicles.

Reporting

PGO staff must report to supervisors and document in the case record certain risks and threatening experiences.

What Must Be Reported

The following experiences must be reported and documented within 24 hours of the incident:

- A client is violent or grabs at staff or staff's belongings.
- A client threatens to do harm or harms staff or another person.
- A client has an unrestrained pet in the home or yard.
- A person, including other residents or participants at the client's home or facility, was violent or threatening.
- A client restricted the exits from the site visit or attempted to block egress.
- A client has a lethal weapon in the home.
- A client has been diagnosed with a communicable disease or condition as listed by the Georgia

Department of Public Health (DPH) in the publication “Notifiable Disease/Condition Reporting.”

Procedure for Reporting

Staff must report to her or his supervisor the above-listed risks or experiences within 24 hours.

The staff member must document in the case record a description of the risk or experience. To do so, the staff member shall:

- Add a note in the DAS database called, “Note Type: Staffing/Internal Consult”, with the note sub-type, “Safety Issue”
- In the “Description” text box, the staff member will write “SAFETY ISSUE”
- The staff member will then write the information regarding the risk or experience in the “Note” field
- Set the note status to “Alert” and set the staff person’s supervisor as a recipient of the alert

The supervisor must discuss safety measures with the staff member for future visits, consulting with the State Office, if needed.

If the case is transferred to another worker, the staff member from whom the case is reassigned must alert the new worker that the case being transferred has noted “Safety Issues.” The new worker must review the issues and discuss and plan for safe visits with the supervisor.

Reassignment of Case

No supervisor may reassign a case in the DAS database until verifying that safety planning has occurred.

Threats Made Against Others

Threats directed at others may require telling the person at whom the threat was directed. Staff members and their supervisors must seek assistance from PGO management. Discuss how and when the threat was made, the person at whom the threat was directed, and what to report to the person who was threatened.


Injury or Exposure to Disease

If a PGO staff member is injured or harmed during a visit, the staff member must follow the DHS Office of Human Resources policies on injuries and worker’s compensation.

References

National Association of Social Workers Guidelines for Social Worker Safety in the Workplace, 2013;
National Guardianship Association Standards of Practice, Fourth Edition, 2013.

2007 Confidentiality

	Georgia Division of Aging Services Public Guardianship for Adults Manual			
	Chapter:	2000 Program Operations	Effective Date:	03/01/2022
	Section Title:	Confidentiality	Reviewed or Updated in:	MT 2022-01
	Section Number:	2007	Previous Update:	MT 2019-02

Summary Statement


The Department of Human Services (DHS) shall protect the sensitive and confidential information of persons under guardianship for whom DHS has been appointed guardian.

Basic Considerations

DHS will protect information in accordance with the Health Insurance Portability and Accountability Act and state and federal laws and regulations.

Additionally, state law protects the confidentiality of adult protective services and guardianship records, as defined in O.C.G.A § 30-5-7 of the Disabled Adult and Elder Persons Protection Act.

2008 Special Assistant Attorney General (SAAG)

	Georgia Division of Aging Services Public Guardianship for Adults Manual			
	Chapter:	2000 Program Operations	Effective Date:	03/01/2022
	Section Title:	Special Assistant Attorney General (SAAG)	Reviewed or Updated in:	MT 2022-01
	Section Number:	2008	Previous Update:	MT 2019-02

Summary Statement

The legal support and guidance of the Special Assistant Attorneys General are available to the Department of Human Services Division of Aging Services (DAS).

Basic Considerations

When there is litigation after the appointment of the Department of Human Services (DHS) as guardian, the DHS Associate General Counsel (AGC) assigned to DAS shall be contacted immediately.

Special Assistant Attorneys General (SAAGs) represent the agency in litigation. Since DHS as an entity serves as guardian, DHS representatives are responsible for coordinating decisions for persons under guardianship with their supervisors, DAS Public Guardianship Office management, DHS AGC for DAS and other Division leadership as each situation warrants. The DHS representative is not the sole decision-maker for the agency.

NOTE

Filing a guardianship petition when there is no other means to protect a person in need of protective services is solely authorized under Adult Protective Services (APS) investigation law, and such filings are not part of DHS Public Guardianship

Office operations. The process for filing a petition under APS authority of the Disabled Adults and Elder Persons Protection Act is found in the Adult Protective Services Manual. The Department of Human Services, as guardian, does not file guardianship petitions for protective services in its case management or guardianship role.


The Division of Aging Services will validate and process invoices from the Department of Law to assure accurate and timely payment. Refer to MAN 5600, Section 5010.

References

Disabled Adults and Elder Persons Protection Act, O.C.G.A. §30-5-1, *et. seq.*; MAN 5600, Section 5010

3000 Case Management

3001 Client Notification Letter

 Georgia Division of Aging Services Public Guardianship for Adults Manual			
Chapter:	3000 Case Management	Effective Date:	03/01/2022
Section Title:	Client Notification Letter	Reviewed or Updated in:	MT 2022-01
Section Number:	3001	Previous Update:	MT 2019-02

Summary Statement

Staff of the Public Guardianship Office (PGO) shall send each adult for whom the Georgia Department of Human Services (DHS) has newly been appointed guardian a letter of introduction.

Purpose

The purpose of the letter of introduction, called a “client notification letter”, is to ensure that the person under guardianship (herein “the person”) for whom DHS has newly been appointed has:

- Basic information about the guardianship
- Contact information for PGO staff assigned guardianship case management duties
- Notice that PGO will visit with the person each month

Procedures

Upon assignment of a new case, PGO staff shall follow these procedures for sending the client notification letter.

Timeliness Standard

No later than five business days after receiving a new case assignment, PGO staff shall mail the client notification letter and document the contact in the case record. See PGO Manual Section 3060

– Documentation Standards.

Letter Format

Obtain the template for the client notification letter from the Division of Aging Services' data management system using the Word merge function. The text is also available in PGO Manual Appendix B, Forms and Templates, to copy and paste into the current DHS letterhead. PGO staff shall use only the designated client notification letter template.

Modify the template by inserting the person's information into blank fields on the template.

Sign the letter.

Create a copy of the signed letter.

The image of the signed letter must be clear and the file type must be one that can be uploaded to DAS' data management system. Any device may be used that produces a copy of the letter that meets these requirements.

Mail the letter.

Document the Case Record

Document sending the letter in the case record.

- Create a new note in the client's record.
- Select "Guardianship Client Contact" as the note type.
- Select "Correspondence" as the note sub-type.
- In the description box, write "Client Notification Letter."
- Attach the copy of the signed letter to the note.
- Mark the status of the note as "Complete."
- Save and close the note.

Follow Up

Take a copy of the client notification letter to the first face-to-face visit with the person.

Discuss the letter with the person, if possible, to make sure he or she understands the letter. Answer any questions the person may have about the information in the letter.

References

PGO Manual Section 3063 – Documentation Timeliness; PGO Manual Appendix B, Forms and Templates, Client Notification Letter

3004 Important Provisions in Guardianship Law

	Georgia Division of Aging Services Public Guardianship for Adults Manual			
	Chapter:	3000 Case Management	Effective Date:	03/01/2022
	Section Title:	Important Provisions in Guardianship Law	Reviewed or Updated in:	MT 2022-01
	Section Number:	3004	Previous Update:	MT 2019-02

Purpose

The Department of Human Services Division of Aging Services adheres to Georgia law in executing Guardianship duties.

Georgia Code

In Georgia, all guardianships of adults are designed to encourage the development of maximum self-reliance and independence in the adult and are ordered only to the extent necessitated by the adult's actual and adaptive limitations after a determination that less restrictive alternatives to the guardianship are not available or appropriate. O.C.G.A. §29-4-1(f).

Duties of a Guardian

The duties of a guardian are listed in O.C.G.A §29-4-22, as follows:

- a. Except as otherwise provided by law or by the court, a guardian shall make decisions regarding the support, care, education, health, and welfare of the person under guardianship. A guardian shall, to the extent feasible, encourage the person under guardianship to participate in decisions, act on the his or her own behalf, and develop or regain the capacity to manage the his or her personal affairs. To the extent known, a guardian, in making decisions, shall consider the expressed desires and personal values of the person under guardianship. A guardian shall at all times act as a fiduciary in the best interest of the person under guardianship and exercise reasonable care, diligence, and prudence.
- b. A guardian shall:
 1. Respect the rights and dignity of the person under guardianship;
 2. Become or remain personally acquainted with the person under guardianship and maintain sufficient contact with the person to know his or her capacities, limitations, needs, opportunities, and physical and mental health;
 3. If necessary, petition to have a conservator appointed;
 4. Endeavor to cooperate with the conservator, if any;
 5. Take reasonable care of the personal effects of the person under guardianship;
 6. Arrange for the support, care, education, health, and welfare of the person under guardianship, considering the needs and available resources of the person;
 7. Expend money of the person under guardianship that has been received by the guardian for the current needs for support, care, education, health, and welfare of the person under guardianship;
 8. Conserve for the person's future needs any excess money of the person received by the

guardian; provided, however, that if a conservator has been appointed for the person under guardianship, the guardian shall pay to the conservator, at least quarterly, money to be conserved for the person's future needs;

9. Within 60 days after appointment and within 60 days after each anniversary date of appointment, file with the court and provide to the person under guardianship and to the conservator; if any, a personal status report concerning the person under guardianship, which shall include:
 - A. A description of the general condition, changes since the last report, and needs of the person under guardianship
 - B. All addresses of the person under guardianship during the reporting period and the living arrangements of the person under guardianship for all addresses
 - C. A description of the amount and expenditure of any funds that were received by the guardian pursuant to paragraph 7 of this subsection
 - D. Recommendations for any alteration in the guardianship order;
10. Promptly notify the court of any change in the condition of the person under guardianship that in the opinion of the guardian might require modification or termination of the guardianship;
11. Promptly notify the court of any conflict of interest between the person under guardianship and the guardian when the conflict arises or becomes known to the guardian and take any action as is required by O.G.C.A § 29-4-24;
12. Keep the court informed of the guardian's current address.

NOTE Refer to section 4056 of this manual for additional information on personal status reports.

Other Powers Granted to the Guardian

Additional powers that guardians may exercise, unless prohibited by the court's order, are found at O.C.G.A. § 29-4-23(a), which states:

- a. Unless inconsistent with the terms of any court order relating to the guardianship, a guardian may:
 1. Take custody of the person of the person under guardianship and establish the person's place of dwelling within this state;
 2. Subject to Chapters 9, 20, and 36 of Title 31 and any other pertinent law, give any consents or approvals that may be necessary for medical or other professional care, counsel, treatment or service for the person under guardianship;
 3. Bring, defend, or participate in legal, equitable, or administrative proceedings, including alternative dispute resolution, as are appropriate for the support, care, education, health, or welfare of the person under guardianship in the name of or on behalf of the person under guardianship;
 4. Exercise those other powers reasonably necessary to provide adequately for the support,

care, education, health and welfare of the person under guardianship.

Powers That Must Be Specifically Granted in the Court Order

O.C.G.A. §29-4-23(b) lists powers that are not automatically granted in all guardianships. The authority listed below must specifically requested of the Court and specifically in the court's order if or when granted.

(a) At the time of the appointment of the guardian or at any time thereafter, any of the following powers may be specifically granted by the court to the guardian upon such notice, if any, as the court shall determine, provided that no disposition of the property of the person under guardianship shall be made without the involvement of a conservator, if any:

1. To establish the person's place of dwelling outside this state;
2. To change the jurisdiction of the guardianship to another county in this state that is the county of the person's place of dwelling, pursuant to O.C.G.A § 29-4-80;
3. To change the domicile of the person under guardianship to the person's or the guardian's place of dwelling, in the determination of which the court shall consider the tax ramifications and succession and inheritance rights of the person under guardianship and other parties;
4. To bring an action for the divorce of the person under guardianship based on any of the grounds listed in O.C.G.A. § 19-5-3, except on the ground that the marriage is irretrievably broken;
5. To consent to the adoption of the person under guardianship;
6. To receive reasonable compensation from the estate of the person under guardianship for services rendered to the person under guardianship; and
7. If there is no conservator, to disclaim or renounce any property or interest in property of the person under guardianship in accordance with the provisions of O.C.G.A. § 53-1-20.

Considerations for Granting Specific Powers

The court must consider a list of factors before the optional powers above can be granted. The list is found at O.C.G.A. §29-4-23(c) through (e).

- c. Before granting any of the powers described in subsection (b) of this Code section, the court shall appoint a guardian *ad litem* for the person under guardianship.
- d. In granting any of the powers described in subsection (b) of this Code section, the court shall consider the property rights of the person under guardianship and the views of the conservator, if any, or, if there is no conservator, of others who have custody of the persons property.
- e. In performing any of the acts described in this Code section, the guardian shall act in coordination and cooperation with the conservator or, if there is no conservator, with others who have custody of the person's property.

Department of Human Services as Guardian

The final order of the probate court will specify powers of the guardian. If powers described in O.C.G.A. § 29-4-23(b)(4)–(7) are granted in the final order or any subsequent order, consult with the Public Guardianship Office management via supervisory channels.

References

O.C.G.A. § 29-4-1(f); O.C.G.A. § 29-4-22; O.C.G.A. § 29-4-23

3012 Universal Guardianship Roles

 Georgia Division of Aging Services Public Guardianship for Adults Manual			
Chapter:	3000 Case Management	Effective Date:	03/01/2022
Section Title:	Universal Guardianship Roles	Reviewed or Updated in:	MT 2022-01
Section Number:	3012	Previous Update:	MT 2019-02

Summary Statement

The Division of Aging Services recognizes Universal Guardianship Roles as described by the National Guardianship Association.

Basic Considerations

Universal Guardianship Roles include:

- Advocate
- Surrogate Decision-Maker
- Coordinator and Monitor of Services

NOTE

The guardianship must ensure that services, actions, and decisions are person centered.

Advocate

Advocacy through informed consent:

- Decision the guardian makes on behalf of the person under guardianship shall be based on the principle of informed consent
- Informed consent is a person's agreement to a particular course of action based on a full disclosure of facts needed to make the decision intelligently
- Informed consent is based on complete information regarding:
 - Adequate information on the issue;
 - Voluntary action
 - Lack of coercion

Surrogate Decision-Maker

Impairments in decisional capacity require decision-making supports or surrogate decision-making

ing. Decisional capacity is the ability to:

- Demonstrate understanding of the situation and facts
- Demonstrate appreciation of the consequences of his or her decision
- Provide the reasoning in his or her thought process, and
- Communicate his or her wishes

If the person has been determined to lack decisional making capacity in a specific area, the guardian must act as the surrogate decision maker. Guardian, as surrogate decision-maker, whenever possible, shall practice substituted judgment, making decisions based on what the person under guardianship would do had decisional capacity not been impaired.

Substituted Judgment:

- Preserves autonomy, values and beliefs
- Asks, “What would the person under guardianship have done if making the decision for him- or herself”
- May be based on advanced directives
- Looks at what prior decisions were made
- Includes the input of person under guardianship
- Is based on knowledge of the person under guardianship
- Is preferred if case manager can discover wishes

Guidelines for decision making:

- Determine the current wishes and desires of the person under guardianship, if ascertainable.
- Consider the expressed wishes and desires of the person under guardianship prior to incapacity, if ascertainable.
- Consider the evidence of how the person under guardianship would have decided the question.
- Diligently seek the opinions of the person’s spouse, partner, significant other, parents, children and next of kin.
- Evaluate the burdens and benefits of continued treatment.
- Obtain the opinion of a second physician, if needed.
- Obtain the opinions of the nursing personnel and other staff who are currently or who have recently provided direct service to the person under guardianship.
- Seek the opinions from medical or long-term care facility ethics committees or review boards if available.
- Consider if there is any financial consequence to those who express an opinion about what the person under guardianship would or would not have wanted.
- Develop a continuing plan of care for the person under guardianship with or without treatment.

In instances where the person under guardianship lacks decisional capacity and information regarding the person's wishes, preferences and desires is minimal, the guardian must make decision in the best interest of the person.

Coordinator and Monitor of Services

The guardianship case manager has the affirmative responsibility for the person's support, care, comfort, health, education, maintenance, and professional services. This means the guardian has an affirmative responsibility to investigate every service received and to determine:

- The purpose of the service
- The qualifications of the staff providing the service
- How the staff providing the service treat people receiving the service
- How the service or program is implemented
- How a participant who exhibits inappropriate behavior is treated
- What goals are set for the participants, related to the service provided
- What other, related services are needed to participate, such as transportation or special assistance
- What criteria will be used to evaluate the participant's performance and who will set the criteria
- How long the service will last
- Whether there is any other provider for this service
- How restrictive is the environment in which this service is provided
- What is the next step after successful completion of this service

Guidelines for Behavior Programs

The following should be considered:

- Is the target behavior clearly identified? Has a baseline been set?
- What has been done to address and change behavior? What is the behavior intervention process? Who does it? Have they been trained to do it consistently and properly?
- What is the expected outcome?
- What are possible alternative outcomes?
- How and who will collect necessary data on program implementation?
- How and who will track how well the behavioral program is implemented?
- How will the program be monitored?
- When will the program be re-evaluated (date)?
- What are successful outcome criteria?

References

2000, 2002, 2007, 2017 National Guardianship Association: Standards of Practice

3013 Universal Guardianship Roles in Case Management

 Georgia Division of Aging Services Public Guardianship for Adults Manual			
Chapter:	3000 Case Management	Effective Date:	06/30/2023
Section Title:	Universal Guardianship Roles in Case Management	Reviewed or Updated in:	MT 2023-03
Section Number:	3013	Previous Update:	MT 2022-01

Purpose

This section provides practical examples of how PGO staff fulfill universal guardianship roles in case management.

Legal Basis and Requirements

The National Guardianship Association's set of universal roles for guardians is congruent with Georgia law on the roles of a guardian. NGA's universal roles are discussed fully at MAN 5800, Section 3012.

This policy section illustrates how PGO staff fulfills these roles in guardianship case management.

Surrogate Decision Maker

Surrogate decision-making is a major component of a guardian's work.

A guardianship removes decision-making rights from an individual and gives those decision-making rights to the guardian.

For PGO purposes, the named guardian is the Georgia Department of Human Services, and as guardian's representative, PGO staff are authorized to make decisions on behalf of guardianship clients.

The types of decisions the guardian is allowed to make will be enumerated in the final order from the court. Decisions the guardian may be authorized to make could cover issues such as where the client will live, services he or she will receive, the school he or she will attend, and medical treatment decisions.

Coordinator and Monitor of Services

In this role, the guardian is responsible for arranging and monitoring services required by a guardianship client. Services may include health care, vocational services, social services, and transportation.

An example of a coordinator and monitor of services is when the guardian has made a decision to sign a guardianship client into inpatient hospice services. The guardian will sign the paperwork for

the client's admission to hospice, coordinate the client moving in by arranging for transportation if needed and remain in contact with the hospice facility to monitor the care.

Guardians are not direct service providers; guardians are decision makers and coordinators of service and as such, are not obligated to provide direct services to a client.

Advocate

Advocacy involves the guardian ensuring services received by the client are the most appropriate, least restrictive that help maximize the independence of a guardianship client. The guardian may also advocate for the termination of the guardianship.

Practical Examples of the Duties of the Guardian

The examples below are a representation of tasks that may fall within the duties of the guardian. Again, the scope of the guardian's duties is contained in the final order.

Each section also contains an example of a task that falls outside of the scope of the guardian's responsibilities.

Medical/Psychiatric:

- The guardian may meet the client at medical appointments, treatment facilities, or other medical related appointments. The guardian may talk with physicians, nursing staff, and other health care professionals regarding the medical needs of the client.
- The guardian makes an appointment for the client's annual physical and meets the client at the doctor's office. The doctor recommends a mammogram and colonoscopy for the client. The guardian will talk with the client about the procedures and ask the physician why these tests are indicated. If the client does not want the procedures, and the doctor indicates there are no emergent indications that require a diagnosis, the guardian may approve or decline the procedures.
- When visiting the client in the nursing home, the guardian notices the client is not able to follow conversation as well as usually able and is having trouble keeping his eyes open. The guardian will talk with facility staff and review records to assess changes to medication, diet, etc. The guardian may ask for the facility physician to be called.
- The guardian is reviewing the client's chart and reads nurses notes that say the client has been crying occasionally and staying in her room more often. The guardian may talk with the client and facility staff and ask for a referral to a psychiatrist or other mental health provider for the client.
- **Not within scope:** The client has a doctor's appointment across town and asks the guardian to pick him up and drive him to the appointment. The guardian is not responsible for transporting the client in his or her own vehicle; the guardian arranges for transportation but does not provide direct services.

Housing:

- The hospital discharge planner calls to indicate the client is ready to be moved to a nursing home the hospital has located. The guardian speaks with the client and the hospital staff and

reviews the chart. If the guardian agrees that nursing home level of care is indicated, the guardian may visit the nursing home before approving admission. The guardian signs the paperwork for admission to the facility. If the guardian decides a nursing home is not the proper placement for the client, the guardian may decline discharge from the hospital and search for a more appropriate placement.

- A personal care home provider calls to indicate the client is “behaving badly” and needs to be moved from the facility. The guardian investigates the incident(s), speaks with the client and care home staff, and advocates for the client to remain in the home. The guardian may work with the provider to determine events that may trigger the behaviors in question and discuss solutions. Referrals may be made to a Long-term Care Ombudsman, mental health provider, or physician if necessary, to address the issue.
- **Not within scope:** The client is moving from one personal care home to another and has furniture and personal belongings that need to be moved. The guardian is not responsible for moving belongings in his or her personal vehicle.

Educational:

- The client expresses an interest in fixing cars. The guardian may find a class at the local technical school and arrange for the client to attend.
- The guardian is assisting the client to create a plan for the termination of the guardianship, and the client would like to learn more about shopping for groceries. The guardian may arrange for the client to attend a class at the local grocery store.
- **Not within scope:** The client would like to attend a class at the local senior center but does not have enough money to attend. The guardian is not responsible for paying for the client’s needs out of his or her own money.

Vocational:

- A client wants to get a job at the local grocery store. Based on the abilities of the person, the guardian may assist the client in searching for desired employment, meeting the client at the job interview, and advocating for the client’s hiring. If the client does not have the capability to maintain employment in the community, the guardian may investigate vocational day programs for the client to attend and work in the supervised environment.
- **Not within scope:** The employer asks the guardian to bring the client to work every day to make sure the client is on time. The guardian does not transport clients.

Social:

- Upon reviewing a client file from the personal care home, a note was made regarding a visit from the nephew several years ago. The guardian may talk with the client to assess if the client wishes to reconnect with this, or other, family members.
- The guardian is concerned that the client is spending a great deal of time alone in her room and becoming withdrawn. The guardian may ask the activities coordinator to find a volunteer to visit with the client on a regular basis, and to accompany her to activities in the nursing home if so desired.
- **Not within scope:** The sister and brother of the client do not get along and ask the guardian to

monitor the visits of the other sibling. The guardian is not responsible for monitoring visits.

Recreational:

- During a visit to the client in the group home, the client shows off his room and small collection of books. The client enjoys reading but hasn't read any new books in quite some time. The guardian may talk with the client about going to the local library and getting a library card. The guardian can arrange to meet the client at the library to help select books.
- Many group homes attend Special Olympic events with their residents. The guardian may advocate for his client to attend an event and sign any permission paperwork necessary.
- **Not within scope:** The group home provider requires the guardian to accompany the client on a bus outing as the provider is concerned about managing the number of residents on the trip. The guardian is not required to accompany the client, nor should the provider place limitations on the client's participation.

Other Tasks:

- A new client in the nursing home has very little clothing for the coming winter months. The guardian may receive money from the client's facility account and buy the needed clothing.
- The client needs some furniture for her home. The guardian may meet with the client in the community to go shopping and arrange for furniture delivery.
- The guardian believes the client has regained capacity, and the client wishes the guardianship to be terminated. The guardian completes paperwork to initiate this process through his or her supervisor.

References

O.C.G.A. § 29-4-22; National Guardianship Association Standards of Practice, Fourth Edition, 2013

3021 Initial and Monthly Contacts

 Georgia Division of Aging Services Public Guardianship for Adults Manual			
Chapter:	3000 Case Management	Effective Date:	06/30/2023
Section Title:	Initial and Monthly Contacts	Reviewed or Updated in:	MT 2023-03
Section Number:	3021	Previous Update:	MT 2023-01

Summary Statement

A Department of Human Services (DHS) representative shall make face-to-face contact with guardianship clients for whom DHS has been appointed guardian on a monthly basis unless otherwise specified in policy and procedure.

Basic Considerations

The guardian shall treat the person under guardianship with dignity. In doing so the guardian has the responsibility to:

- Establish contact with and develop a regular pattern of communication. Each contact with the person under guardianship should be purposeful and strategic.
- Communicate to the person the role of the guardian and explain the rights retained by the person
- Ensure that provision is made for the support, care, comfort, health, and maintenance of the person
- Ensure that the person is living in the most appropriate environment that addresses the person's goals, needs, and preferences
- Continuously assess the person's physical and social situation, the person's educational, vocational, and recreational needs, the person's preferences, and the support systems available to the person
- Regularly examine and monitor all services
- Fully identify, examine, and continue to seek information regarding options that will fulfill the person's goals, needs, and preferences

Case Management

Face-to-Face Visits

An initial face-to-face visit with the person under guardianship must be made within 5 business days of case assignment. For emergency appointments, the initial face-to-face visit must be within 48 hours of case assignment.

A face-to-face monthly contact must be completed by the 20th calendar day of each month. As a rule, for persons under guardianship who participate in a day program, monthly face to face visits should alternate between the day program and the person's residence. However, up to two doctor's visits a year with the client may serve as a monthly contact in place of a home visit or day program visit. Additional doctor's visits can count as contacts but are not to be substituted for home or day program visits. More than one visit a month is allowable.

Monthly visits must be unannounced.

If the Client has left their placement and contact is limited to phone calls, emails, texts from the client, the case manager must document all efforts to encourage the client to return to their previous placement or to cooperate with attempts at a new placement. If the client is known to be in another state, the case manager must document efforts to locate the client for the purpose of establishing guardianship where the client is residing.

Telephone conversations or electronic communications with the person under guardianship are also considered contacts but do not take the place of required face-to-face visits. Collateral contacts include telephone conversations, electronic communications, or face-to-face meetings with the person's family member(s), significant other(s) or providers from which the person under guardianship receives or may receive services.

Purposeful and strategic contact includes:

- The assessment to determine service needs, including activities that focus on needs identifica-

tion and to determine the need of any medical, education, social or other services, to include:

- Taking client history
 - Identifying the needs of the individual and completing related documentation
 - Gathering information from other sources such as family members, medical providers, social workers, and educators, if necessary, to form a complete assessment of the eligible individual
 - (for initial visit) Completing the Client assessment
 - (for Clients living at home) Completing the medication checklist during the initial visit and updating as needed
 - (for Clients residing in a host home, group home, personal care home, assisted living facility or nursing home or attending day services) Reviewing the chart and other available and pertinent information
- Development of a specific care plan based on the information collected through assessment; specifies goals and actions to address the medical, social, educational, and other services needed
 - Referral and related activities to help an individual obtain needed services, including activities that help link eligible individuals with medical, social educational providers or other programs and services that are capable of providing needed services, such as making referrals to providers for needed services and scheduling appointments for the individual
 - Monitoring and follow-up activities, including activities and contacts that are necessary to ensure the care plan is effectively implemented and adequate. Contact may be with the individual, family members, providers, or other entities. At contact, review:
 - Whether services are being furnished in accordance with the person's care plan,
 - Whether the services in the care plan are adequate
 - Whether there are changes in the needs or status of the person under guardianship and, if so, make necessary adjustments in the care plan and/or service arrangements with providers

Documentation

The following must be maintained in the person's record:

- Current comprehensive service plan which identifies the medical, nutritional, social, educational, transportation, housing, and other service needs which have not been adequately accessed and a timeframe to reassess service needs.
- Documentation of all contact with the person under guardianship and collaterals
- Description of the services provided and outcome Case managers must follow documentation standards.

Meaningful Contacts


The following are steps to ensure that contacts are meaningful:

- Step 1** Review the current care plan before the visit.

- Step 2** Discuss with the person under guardianship and/or caregiver the care plan steps that have been achieved and areas where progress has been experienced.
- Step 3** Discuss with the person under guardianship and/or caregiver the steps or goals that will be the focus of the next contact or the area of greatest need that must be addressed.

Document the contact in the case record no later than the fifth business day after the contact is made.

3032 Case Planning

	Georgia Division of Aging Services Public Guardianship for Adults Manual			
	Chapter:	3000 Case Management	Effective Date:	06/30/2023
	Section Title:	Case Planning	Reviewed or Updated in:	MT 2023-03
	Section Number:	3032	Previous Update:	MT 2023-01

Summary Statement

All Department of Human Services (DHS) adult guardianship cases shall have a case plan developed and implemented based on the information obtained from documentation and assessments. The case plan must specify goals and actions to address the person under guardianship’s medical, social, vocational, educational, transportation and other service needs. Public Guardianship Office (PGO) staff shall monitor the case plan at least monthly and update it as needed.

Legal Basis and Purpose

A guardian shall give any consents or approvals that may be necessary for medical or other professional care, counsel, treatment, or service for the ward. The guardian shall exercise granted powers reasonably necessary to provide adequately for the support, care, education, health, and welfare of the ward/person under guardianship O.C.G.A. § 29-4-23.

Case Planning addresses the document collection and required assessments needed for the Case Plan as well as the development, completion, review and updating of the Case Plan by the Case manager (CM).

Basic Requirements

Documentation Collection

Information and documentation used in developing the case plan include but are not limited to:

- Client interview
- Client history
- Information from knowledgeable sources such as family members, medical providers, social workers, and educators

Assessments

Required

- Client Assessment:

The Client Assessment provides a summarized history introducing the client. A Client Assessment must be initiated in the Division of Aging Services (DAS) Data System (DDS) within 10 days after contact and completed no later than 30 calendar days after assignment. For temporary guardianships, the due date will be determined by the length of the guardianship itself. The assessment is a living document to which information must be added as it becomes available. The Client Assessment Includes:

- Client demographics and domicile
 - Legal information
 - Current services
 - Medical information
 - Education and vocational information
 - Social and recreational preferences and activities
 - Religious/spiritual preferences and beliefs
 - End of life arrangements
- Determination of Need – Revised (DON-R)

The DON-R is used to help determine a person's functional capacity and level of impairment and their unmet need for assistance in dealing with these impairments. It assesses both impairment in functioning on (Basic) Activities of Daily Living (ADL) and Instrumental Activities of Daily Living (IADL) which are essential to evaluating whether a person can live independently in the community. A DON-R must be initiated in the Division of Aging Services (DAS) Data System (DDS) within 10 days after contact and completed no later than 30 calendar days after assignment.

ADLs include:

- Eating
- Bathing
- Grooming
- Dressing
- Transferring in and out of bed/chair
- Bowel/bladder continence

IADLs include:

- Managing money
- Telephoning

- Preparing meals
- Laundry
- Housework
- Activities outside the home
- Routine health care activities and management
- Special health care activities and management
- Being alone

The DON-R measures only functional ability to perform essential components, not the client's willingness to do the function or his/her desire for assistance (or lack thereof). The Level of Impairment (LOI) must reflect the extent to which the client can/cannot perform the essential components and the reason the client cannot perform the essential components (do not list diagnoses). The level of Unmet Need (UN) must reflect the extent to which the need identified in LOI is not met and the degree of risk to health/safety if the need remains unmet.

Optional

Any other available assessment, such as the Saint Louis University Mental Status (SLUMS) examination, that addresses the person under guardianship's strengths, limitations, needs, preferences and wishes shall be used in developing the case plan.

Case Plan Development

For permanent guardianships, an initial Case Plan must be completed in DDS within 30 calendar days of case assignment for permanent and successor guardianships. Case plans are not required for temporary guardianships.

The guardianship case plan covers all areas of life of the person under guardianship for which a guardian may have duties. They are:

- Guardianship
- Income/Financial
- Medical/Health
- Mental/Emotional
- Housing/Shelter
- Rights/Legal
- Basic Necessities/Personal Possessions
- Social/Relational/Sexual
- Recreational
- Educational/Vocational
- Spiritual/Religious/Moral
- Dying/End of Life

When developing the case plan, it must be person-centered and focus on the client's needs, strengths, and desires as well as their weaknesses, risks, and challenges. It must not:

- Contain generic goals
- Recite standard PGO case management duties or requirements
- Focus on the provider or the provider services over the person and their service needs

The case plan shall include the following:

- Outcomes/Preferences

Outcomes/preferences are a combination of the things the person under guardianship would like for his or her life and things that are not important to the person but are critical for the guardianship. Outcomes must be generated with the person under guardianship, not just for the person under guardianship.

- Goals

The plan goal is a statement of desired targets to achieve the outcome identified. PGO case plan goals should be "SMART" goals (Specific, Measurable, Achievable/Actionable, Relevant, Time-bound). Goals must take into consideration:

- Strengths or resources
- Favorable factors that can help meet the goals of the care plan
- Risks or challenges that could prevent meeting the goals of the care plan

- Action Steps

Action Steps documents specific activities and responsibilities for the guardian, the person under guardianship, providers, facilities, family members, friends, etc., to reach the desired goal. Action Steps provides concrete proof of notice or responsibility.

Action steps define the who, what, and when of meeting the planned goals.

- Who? Each step shall be assigned to someone.
- What? Each step must state what will be done in clear detail, whereas each person knows what is required of them.
- When? Each step must specify a duration and/or a deadline for completion.

Monitoring and Follow-up

Monitoring and follow-up activities are necessary to ensure the case plan is effectively implemented and meets the client's need. As service monitor, the DHS guardian representative has an affirmative responsibility to investigate every service received and to determine, amongst other things:

- The purpose of the service
- The qualifications of the staff providing the service

- How the staff providing the service treat people receiving the service

The case plan is reviewed monthly and updated if needed. The Case Plan helps drive scheduling of monthly contacts and case documentation each month. Contact may be with the individual, family members, providers, or other entities.

During contacts, review whether:

- Services are being furnished in accordance with the case plan
- Services in the case plan are adequate
- Are changes needed to meet or address the person’s needs or changes in the person’s circumstances.

Case Plan Updates

Updated Case Plan: When a drastic change in the person’s life occurs (such as onset of a serious illness, having a massive stroke, or change in physical abilities), such that the person’s capacities, strengths, needs, opportunities, or physical or behavioral health have changed significantly, a new case plan is required. It is called an “additional” case plan.

Annual case plan: An annual update to the case plan is due no later than 30 calendar days after the anniversary of the guardianship appointment.

Case Plan Signatures and Copies

The client must sign the case plan (if able) and be given a copy. Each person who owns an action item shall be asked to sign the case plan and be given get a copy of their action steps with confidential information redacted. The CM must attach copies of signed case plans to the Case Plan note in DDS.

References

O.C.G.A. § 29-4-23 et seq.; MAN 5800, Section 3060

3037 Chart Review

Georgia Division of Aging Services Public Guardianship for Adults Manual			
	Chapter:	3000 Case Management	Effective Date: 06/30/2023
	Section Title:	Chart Review	Reviewed or Updated in: MT 2023-03
	Section Number:	3037	Previous Update: MT 2022-01

Policy Statement

Public Guardianship Office staff shall review charts and other related documentation for each of the clients on their caseload at least once a month or more often, as necessary.

Legal Basis and Requirements

O.C.G.A. §29-4-22

- a. Except as otherwise provided by law or by the court, a guardian shall make decisions regarding the support, care, education, health, and welfare of the person under guardianship. A guardian shall, to the extent feasible, encourage the person to participate in decisions, act on his or her own behalf, and develop or regain the capacity to manage his or her personal affairs.

To the extent known, a guardian, in making decisions, shall consider the expressed desires and personal values of the person under guardianship. A guardian shall at all times act as a fiduciary in the person's best interest and exercise reasonable care, diligence, and prudence.

To make informed and prudent decisions, PGO staff shall review first-hand the following types of charts, notes, documentation, logs, etc.:

- Charts and documentation located at the person's place of residence, including:
 - Nursing home (NH)
 - Assisted living, personal care home
 - Group home
 - Host home
- Other charts and documentation, including:
 - Day program
 - Physician office
 - Other health care professional
 - Hospital

Procedures

PGO Case Manager: When visiting a person who lives in a nursing home, assisted living facility, personal care home, group or host home, the case manager shall request and review the chart at least once a month.

If the visit is at the day program one month and the place of residence the next month, review charts and documentation at each visit regardless of location.

When looking through the chart for the first time, review the entire chart.

NH Chart

At a minimum, the case manager shall review the following items in the nursing home chart once per month. If the chart is a digital/electronic chart and the case manager is not allowed into the facility's electronic files system, hard copies of the items below shall be requested.

- Physician's orders
- Nurses notes

- Medication
- Incident reports
- Results of tests performed since last review
- Weight
- Vital signs

Other Charts

At a minimum, the case manager shall review the following items in other charts, such as charts from a client’s day program or group, host or personal care home once per month:

- Physician’s orders
- Medication
- Progress notes, including progress toward behavior support plan goals
- Incident reports
- Weight
- Vital signs

If the person does not live in a facility or host home, request to see his or her prescription medication bottles and inquire about over-the-counter medications he or she may be taking. Contact his or her physician to request documentation after each visit.

Documentation

Performance of the chart review will be documented in the Division of Aging Services (DAS) data system for the appropriate client.

Example: “Reviewed Ms. Smith’s chart at her day program.”

References

O.C.G.A. § 29-4-2, *et seq.*

3060 Documentation Standards

 Georgia Division of Aging Services Public Guardianship for Adults Manual			
Chapter:	3000 Case Management	Effective Date:	08/01/2022
Section Title:	Documentation Standards	Reviewed or Updated in:	MT 2023-01
Section Number:	3060	Previous Update:	MT 2022-01

Summary Statement

All Department of Human Services (DHS) adult guardianship cases shall have an open case record with ongoing documentation. Public Guardianship Office (PGO) staff shall document all actions,

conversation and correspondence taken with or on behalf of the person under guardianship in the case record in accordance with this and related policies.

Legal Basis and Purpose

A guardian shall at all times act as a fiduciary in the ward's best interest and, exercise reasonable care, diligence, and prudence. O.C.G.A. § 29-4-22.

An accurate, up-to-date case record is essential for diligent and prudent case management, as well as case continuity, case coverage in the absence of the case manager, supervision, data collection and program evaluation.

Basic Considerations

Originals or copies of all related letters, reports and court documents should be included in the case record.

The "Guardianship Checklist" is a tool to help ensure all areas of guardianship responsibility are addressed. If used, a copy of the checklist shall be placed in the client's case record.

The checklist is found in Appendix "B", Forms and Templates.

Basic Requirements

Case notes must be:

- Person-centered
- Professional
- Descriptive and explanatory
- Accurate
- Timely.

Documentation should reflect a person-centered approach to case management as required by Georgia law, which states that a guardian consider the expressed desires and personal values of the person under guardianship and to encourage the person under guardianship to participate in decision-making, to the extent feasible. O.C.G.A. § 29-4-22 (a).

Person-Centered Documentation

- Records the input, participation, or leadership of the person under guardianship in case plan development
- Uses language that emphasizes personhood; the words used to describe a person's disabilities or illnesses are secondary to the person
- Presents the person's choices, feelings, or behaviors factually and not judgmentally
- Includes the person's perspective, not just the perspectives, opinions, or concerns of service providers, professionals, or loved ones

Professional

Professionalism is reflected in the style in which the documentation is written. PGO documentation must be formal and well-written. For PGO documentation standards, “formal and well-written” means:

- Meeting all requirements in the DHS Office of Communications MAN1501 – Stylebook and Communication Policy Guide
- Avoiding colloquialisms, slang, and jargon other than those that represent a direct quote from person under guardianship or other participants
- Using correct spelling, punctuation, and grammar
- Supporting all opinions, conclusions, or judgments with evidence
- and reasoning
- Writing without biased, discriminatory, or pejorative words or tone.

Descriptive and Explanatory

Documentation that is a straightforward, concise recitation of circumstances or events is also permitted.

Descriptive information is the “who, what, when, and where” details. Explanatory information is the “how and why” details. Description gives the note reader a mental picture of what the author experienced, but the reader also needs explanations to understand the significance or relevance of what the author experienced.

Accurate

PGO documentation must be factually correct. PGO staff must ensure that all documented information is factually correct, but staff must use special care to guarantee the correctness of:

- Dates
- Names
- Medication, including the correct spelling of the medication and the dosage
- Diagnoses.

Other aspects of accuracy are:

- Completeness or thoroughness
- Clarity, or precision, so that the reader understands what the author has written
- Avoidance of the use of vague or subjective words
- Avoidance of the overuse of pronouns such that the reader cannot determine to whom the pronouns refer
- Provision of adequate information to identify people, such as titles, relationship to the guardianship client, etc.
- Write out the full words for any acronym or abbreviation with the acronym or abbreviation in

parenthesis the first time the acronym or abbreviation appears in the note.

Timely

Timely documentation is documentation that meets all standards of promptness as spelled out by is this chapter.

Procedures

DAS Database Case Notes

All case management activities shall be entered into the DAS database system (DDS) case notes and marked complete **no later than five business days** after the activity.

PGO staff shall:

- Categorize the note by selecting the correct note type and subtype
- Fill the “Description” box with summary details, for example: Call to (from) Townville Regional Medical Center Social Worker Regarding Discharge
- Write the narrative as detailed in basic requirements.

Documents – Electronically Attached to Client Record

When attaching documents, images, or other electronic files into the case record, PGO staff shall:

- Categorize the note by selecting the correct document note type and subtype
- Identify the document or file in the “Description” box, for example: Copy of Conservator’s 2019 Verified Return
- Write the narrative, which shall describe and explain when, how, and from whom the documents were received (or from where the documents were obtained)
- Write a summary of the information contained in the documents.

Separate Notes for All Case Management Activities

PGO staff must enter a separate note for each discrete case management action.

Separate Notes By Each PGO Employee

PGO staff must enter a case note on all case management activity they perform, even if not the primary worker assigned to the case. For example, if a supervisor receives an emergency call on the weekend about a case or a lead worker makes a client visit for a case manager who is on sick leave, the supervisor and lead worker must enter notes about the call or the visit.

Errors

After documentation has been entered and saved as complete in the case record, it shall not be deleted or altered. Documentation with errors, such as incorrect dates, misspelled words, grammar errors, etc., shall not be deleted; however, material errors must be corrected. A material error is one that is factually incorrect or changes the meaning of the documentation. Minor errors do not

require corrections. Examples of minor errors are misspelled words still recognizable as the intended word or grammar errors that do not change the meaning of the documentation.

Corrections

Corrections shall be made by entering a new note that states that it is a correction to a previous entry and that references the date and description of the incorrect note.

Examples:

- Material error – wrong date, for example:

Correction to Guardianship Client Contact Note from 02/01/2019; Incorrect Home Visit Date Entered; Correct date of home visit was 01/28/2019.

Correction to 01/23/2019 Stakeholder Note called “Interview of Client’s Sister Maria Morrison;” Client’s sister’s name is Martha Morrison, not Maria.

Exception: entering client information into the wrong record. PGO staff must notify the supervisor of this type of error, and the supervisor shall then notify PGO management. Only PGO management may request removal of the note from the case record.

Assessments

PGO staff are required to complete assessments contained in the DDS on all persons under DHS guardianship.

Initial Assessment

The Initial Client Assessment must be **started within 10 calendar days** after initial contact with the person under guardianship and **completed no later than 30 calendar days** after assignment. Update when needed.

Determination of Need-Revised (DON-R)

The Determination of Need-Revised (DON-R) must be **started within 10 calendar days** after initial contact with the person under guardianship and **completed no later than 30 calendar days** of assignment.

Case Plan

The Case Plan is due and should be documented DDS within **30 calendar days of case assignment** for permanent guardianships. For temporary guardianships, the due date will be determined by the length of the guardianship as stated in the court order. The annual case plan is due within **30 calendar days of the anniversary** of the guardianship appointment.

Critical Incident Report (CIR)

A Critical Incident Report (CIR) must be made in DDS no later than five business days of the date of the incident. The CM’s supervisor must be notified immediately of the death of a person under guardianship and within 24 hours of the occurrence of all other critical incidents. As appropriate, regulatory bodies must be notified in accordance with Section 4006.

Other Documentation

In addition to documents identified in other sections of MAN5800, PGO Staff are required to obtain and upload into DDS a client's:

- Snapshot/photo
- Resident Inventory Form (for clients in facilities)

As well as copies of the:

- Birth certificate
- Insurance card(s)
- Social security card
- End of Life and Pre-Needs documents as they are available. If an item exists but is not available, a case note must be entered documenting the attempt to obtain the item.

A Death Certificate or Pronouncement of Death shall be uploaded into DDS by the Section Manager at case closure for deceased clients.

PGO Staff are required to complete other documents not contained in the DDS system but related to legal and reporting requirements, as well as the care and, well-being of the person under guardianship.

Personal Status Report (PSR)

The initial PSR must be submitted to the probate court **within 60 calendar days after the appointment** of guardianship and then **annually within 60 days after each anniversary date**.

When a client has a successor guardian appointed, has his or her rights restored, or dies, a final PSR must be completed and submitted before the case is closed.

Client Notification

The Client Notification letter must be mailed to the client and copy uploaded in DDS no later than five business days after receiving a new case assignment.

NOTE

All documents completed outside of the DDS must scanned and attached to a DDS case note and saved as complete **within five business days of completion** of the document.

Resources

The resources listed below offer information that may help PGO staff meet documentation standards or improve business writing skills.

Writing

Purdue Online Writing Lab:

- Mechanics, available at owl.purdue.edu/owl/general_writing/mechanics/index.html.
- Grammar, available at owl.purdue.edu/owl/general_writing/grammar/index.html.
- Punctuation, available at owl.purdue.edu/owl/general_writing/punctuation/index.html

Joe Schall, Pennsylvania State University e-Education Institute, Effective Technical Writing in the Information Age, available at www.e-education.psu.edu/styleforstudents/node/1787

Medical/Health Information


U.S. Food & Drug Administration, Drug Information for Consumers, available at www.fda.gov/drugs/resources-you/drug-information-consumers

National Institutes of Health, National Library of Medicine, MedlinePlus, Trusted Health Information for You, available at medlineplus.gov/

Person-Centeredness/Self-Determination

Florida Developmental Disabilities Council, Inc., Lighting the Way to Guardianship and Other Decision-Making Alternatives, based on Florida law but sections on the concepts of person-centeredness and self-determination in guardianship are applicable, available at www.fddc.org/sites/default/files/LTW_FamilyManual2017%20-%201.pdf

3064 Signature Format

Georgia Division of Aging Services Public Guardianship for Adults Manual			
	Chapter:	3000 Case Management	Effective Date: 06/30/2023
	Section Title:	Signature Format	Reviewed or Updated in: MT 2023-03
	Section Number:	3064	Previous Update: MT 2023-01

Policy Statement

Public Guardianship Office staff will sign forms as a representative of the Department of Human Services as Guardian in a consistent manner.

Legal Basis and Requirements

The Department of Human Services (DHS) serves as guardian of last resort when appointed pursuant to O.C.G.A §29-4-3(b.1), and a representative of the Department carries out the duties of the guardian.

These duties include decision-making regarding the person’s support, care, education, health and welfare (O.C.G.A. §29-4-22).

The person under guardianship is no longer legally able to contract on his or her own behalf, therefore, paperwork associated with these decisions will require the signature of the guardian. Common examples of such paperwork that will need to be signed include paperwork at the doctor’s office as well as paperwork regarding Social Security benefits.

Procedures

The following signature format shall be used by PGO staff when signing paperwork as representative for DHS as guardian on behalf of persons under guardianship:

Signature Line: Georgia Department of Human Services as Guardian Staff must not place their name and signature on the signature line.

Above or below Signature Line: PGO Staff Name, Department of Human Services Representative

The above may be abbreviated as:

Signature Line: GA Dept. of Human Services as Guardian

Above or below Signature Line: PGO Staff Name, DHS Rep.

As any DHS staff is authorized to act on behalf of DHS in guardianship matters, staff signing the paperwork will insert their individual name in the “PGO Staff Name” area.

The above handwritten signature format may be replaced by a signature stamp provided by the PGO Office. In using the stamp, staff will only need to sign their name on the line provided by the stamp as all other information is included on the stamp.

References

O.C.G.A. § 29-4-3 (b.1); O.C.G.A. § 29-4-22

3066 Guardianship Changes

Georgia Division of Aging Services Public Guardianship for Adults Manual			
	Chapter:	3000 Case Management	Effective Date: 06/30/2023
	Section Title:	Guardianship Changes	Reviewed or Updated in: MT 2023-03
	Section Number:	3066	Previous Update: MT 2022-01

Summary Statement

Changes in the situation of the person under guardianship will be documented in the case record and reported to the Division of Aging Services’ State Office and/or Public Guardianship Office (PGO) management, as required.

Basic Considerations

All new guardianships, changes in the living arrangement of the person under guardianship, and terminations shall be reported to the DAS State Office within five calendar days of the action or pursuant to any subsequent revision of policy by the PGO Section Manager or Division Director.

Probate Court

Guardianship law requires that a guardian report significant changes to the probate court.

A person under guardianship cannot be placed out of state without the probate court’s advance

permission. Additionally, the PGO State Office, Division Director and DHS Associate General Counsel (AGC) for DAS must be notified if out of state placement is considered.

Critical Incidents

All deaths and/or serious injuries of a person under guardianship shall be reported to the State Office. Additionally, all deaths and/or serious injuries of a person under guardianship are to be reported by the State Office following the Department of Human Services critical incident reporting policy or as required by PGO Manual Section 4006, Critical Incident Reporting.

Notification of Guardianship

DHS representatives shall notify significant agencies, caregivers, and others of the appointment or termination of guardianship. Examples include the Social Security Administration, nursing facility, home health agencies, etc.


DHS representatives shall give after hours emergency contacts to caregivers, care providers, and facilities for all adult guardianship clients.

DHS representatives shall contact the conservator, when one is appointed, for the purpose of having a joint meeting to share information, coordinate plans/activities related to meeting the client’s monthly needs and making future plans, including burial plans.

References

PGO Manual 5800, Section 4006 – Critical Incident Reporting

3068 Case Transfer

 Georgia Division of Aging Services Public Guardianship for Adults Manual			
Chapter:	3000 Case Management	Effective Date:	03/01/2022
Section Title:	Case Transfer	Reviewed or Updated in:	MT 2022-01
Section Number:	3068	Previous Update:	N/A

Policy Statement

A client file may be transferred from one case manager to another to facilitate services, prevent service monitoring disruption, or to satisfy administrative needs.

Legal Basis and Requirements

The Department of Human Services (DHS), as guardian of last resort shall become or remain personally acquainted with the ward and maintain sufficient contact with the ward to know of the ward’s capacities, limitations, needs, opportunities, and physical and mental health; pursuant to O.C.G.A §29-4-22(b.2).

Basic Considerations

The Department of Human Services (DHS), as guardian is committed to ensuring that the transfer of case manager responsibilities is conducted in a timely, orderly and efficient manner that focuses on the best interest of the person and continued services to meet the person's needs and preferences.

There are circumstances that require the transfer of a case to meet administrative or programmatic needs (e.g., when a conflict of interest arises, or a case manager leaves the caseload).

Procedures

Transferring Case Manager

Prior to the transfer of a case, the current case manager must:

- Enter a summary note in Division of Aging Services Data System (DDS) that details the client's current health condition, services received along with provider names and additional services needed
- Ensure client contact information is current in DDS, as well as contact information for known family members, providers, and interested parties. If there are extenuating circumstances or complex relationships with any such collaterals, that information must be detailed in the notes.
- Discuss and document the case transfer with the client and advise them of who their new case manager will be and when they can expect to be contacted by the new case manager
- Document any case transfer consults with internal and/or external staff. At case transfer, a case conference must take place and be documented in the case file.

NOTE

Whenever possible the transferring case manager and receiving case manager will conduct a joint visit to the person's residence for the purpose of introduction; to reduce the feelings of abandonment and stress on the part of the person under guardianship; and ensure a smooth transition. When a joint visit is not feasible the transferring case manager will call the person informing them that the case is being transferred; provide the name and contact information of the receiving case manager and inform the person that they will receive a call from the new case manager.

If the transferring case manager is unavailable, the supervisor will make the call to the person under guardianship.

Receiving Case Manager

Upon receiving a transferred case, the receiving case manager must review the Case Relations tabs and the case note history in order to become familiar with the client and the case. This review must be documented in the case file.

The receiving case manager must contact the person within 48 hours of the case transfer and introduce themselves to the client. Providers, caregivers, and collaterals must be made aware of the change within 48 hours.

Supervisor

Prior to the transfer of a case, the case shall be reviewed by the supervisor of the transferring case manager to ensure it is up to date, in good order and prepared for transfer.

District and Section Manager

If the case involves a conflict of interest, the District Manager must be consulted. As appropriate, the District Manager shall consult the Section Manager.


A case in litigation should not be transferred without the Section Manager's approval and after consultation with the Associate General Counsel (AGC).

References

O.C.G.A. § 29-4-22

4000 Safety of the Person Under Guardianship

4001 Rights of Ward

	Georgia Division of Aging Services Public Guardianship for Adults Manual			
	Chapter:	4000 Safety of the Person Under Guardianship	Effective Date:	03/01/2022
	Section Title:	Rights of Ward	Reviewed or Updated in:	MT 2022-02
	Section Number:	4001	Previous Update:	MT 2019-02

Summary Statement

The Department of Human Services (DHS) Division of Aging Services (DAS) adheres to Georgia law in maintaining the rights of persons under guardianship.

Georgia Code Legal Basis and Requirements

Rights Of Person Under Guardianship

Rights of persons under guardianship, as defined in Georgia law include:

O.C.G.A. §29-4-20. Rights of the person under guardianship; impact on voting and testamentary capacity.

- a. In every guardianship, the person under guardianship has the right to:
 1. A qualified guardian who acts in the best interest of the person under guardianship
 2. A guardian who is reasonably accessible to the person under guardianship
 3. Have the person's property utilized to provide adequately for the person's support, care, education, health and welfare

4. Communicate freely and privately with persons other than the guardian, except as otherwise ordered by a court of competent jurisdiction
 5. Individually, or through the person's representative or legal counsel, bring an action relating to the guardianship, including the right to file a petition alleging that the person under guardianship is being unjustly denied a right or privilege granted by this chapter and Chapter 5 of this title and including the right to bring an action to modify or terminate the guardianship pursuant to the provisions of Code Sections 29-4-41 and 29-4-42
 6. The least restrictive form of guardianship assistance, taking into consideration the person's functional limitations, personal needs, and preferences
 7. Be restored to capacity at the earliest possible time.
- b. The appointment of a guardian is not a determination regarding the right of the person under guardianship to vote.
 - c. The appointment of a guardian is not a determination that the person under guardianship lacks testamentary capacity.

NOTE

Letters of Guardianship or other orders of the court may give the person under guardianship additional rights. An appointment of a guardian is not automatically a determination of the right of the person under guardianship to vote and is not a determination that the person under guardianship lacks the capacity to make a will (testamentary capacity).

The Department of Human Services (DHS), as guardian of last resort shall become or remain personally acquainted with the ward and maintain sufficient contact with the ward to know of the ward's capacities, limitations, needs, opportunities, and physical and mental health; pursuant to O.C.G.A. § 29-4-22 (b.2).

Rights Removed

- a. Unless the court's order specifies that one or more of the following powers are to be retained by the person under guardianship, the appointment of a guardian shall remove from the person under guardianship the power to:
 1. Contract marriage
 2. Make, modify or terminate other contracts
 3. Consent to medical treatment
 4. Establish a residence or dwelling place
 5. Change domicile
 6. Revoke a revocable trust established by the person under guardianship
 7. Bring or defend any action at law or equity, except an action relating to the guardianship.
- b. The mere appointment of a guardian does not revoke the powers of an agent who was previously appointed by the person under guardianship to act as an agent under a durable power of attorney for health care or health care agent under an advance directive for health care.

Least Restrictive Environment

A person under guardianship has a right to the least restrictive form of guardianship assistance considering the person’s functional limitations and disability, personal needs, preferences, and values.


The guardian must also balance the rights with health and safety issues facing the person under guardianship.

DHS representatives are encouraged to consult with the Division of Aging Services State Office for advice on utilizing resources for assessment available to the Department, as an entity. It is important to assess disability issues, language access, program resources, health and safety issues, and compliance with federal and state laws and regulations through consultation with supervisors, the Public Guardianship Office, and the Division State Office.

References

O.C.G.A. § 29-4-20

4002 Responsibilities of Guardian During a Natural Disaster or Crisis

Georgia Division of Aging Services Public Guardianship for Adults Manual			
	Chapter:	4000 Safety of the Person Under Guardianship	Effective Date: 08/01/2022
	Section Title:	Responsibilities of Guardian During a Natural Disaster or Crisis	Reviewed or Updated in: MT 2023-01
	Section Number:	4002	Previous Update: MT 2022-02

Summary Statement

In the event of a crisis, the Department of Human Services (DHS), as guardian, will take appropriate measures to ensure the safety and well-being of all persons under guardianship for whom DHS has been appointed guardian.

Basic Considerations

DHS representatives will document current addresses and other identifying information in case records.

A list of persons under guardianship for whom DHS has been appointed and current whereabouts are maintained at the State Office.


Prior to the occurrence of a natural disaster, ensure the safety of the person under guardianship by:

- Making sure there is a safety plan where the client lives and/or receive services
- Discussing safety precautions with the client and as appropriate the caretaker/caregiver

When a natural disaster strikes, the case manager must check on the welfare of the client. If needs arise as a result of the event, the case manager must:

- Coordinate a meeting to discuss and address the needs
- Monitor the progress in meeting the needs

4003 Client Safety

	Georgia Division of Aging Services Public Guardianship for Adults Manual			
	Chapter:	4000 Safety of the Person Under Guardianship	Effective Date:	08/01/2022
	Section Title:	Client Safety	Reviewed or Updated in:	MT 2023-01
Section Number:	4003	Previous Update:	MT 2022-02	

Policy Statement

Public Guardianship Office (PGO) staff shall take measures to ensure the safety and well-being of the person under guardianship.

Legal Basis and Purpose

Except as otherwise provided by law or by the court, a guardian shall make decisions regarding the ward’s support, care, education, health, and welfare.

...A guardian shall at all times act as a fiduciary in the ward’s best interest and exercise reasonable care, diligence, and prudence. O.C.G.A. § 29-4-22(a)

A guardian shall:

...(6) Arrange for the support, care, education, health, and welfare of the ward, considering the ward’s needs and available resources... O.C.G.A. § 29-4-22(b)

Any person who knowingly and willfully exploits a disabled adult, elder person, or resident, willfully inflicts physical pain, physical injury, sexual abuse, mental anguish, or unreasonable confinement upon a disabled adult, elder person, or resident, or willfully deprives of essential services a disabled adult, elder person, or resident shall be guilty of a felony O.C.G.A. § 16-5-102(a)

A guardian or other person supervising the welfare of or having immediate charge, control, or custody of a disabled adult, elder person, or resident commits the offense of neglect to a disabled adult, elder person, or resident when the person willfully deprives a disabled adult, elder person, or resident of health care, shelter, or necessary sustenance to the extent that the health or well-being of such person is jeopardized. O.C.G.A. § 16-5-101(a)

The following persons having reasonable cause to believe that a disabled adult or elder person has been the victim of abuse, other than by accidental means, or has been neglected or exploited shall report or cause reports to be made in accordance with the provisions of this Code section:

...(ix) Employees of a public or private agency engaged in professional health related services to elder persons or disabled adults;... O.C.G.A. § 30-5-4

Basic Considerations

General Safety

To promote client safety, PGO staff must monitor and review the person under guardianship's:

- Physical health
- Mental health
- Medical treatment
- Living environment (regular visits must be unannounced)

PGO staff must also monitor and review:

- Licenses/certification of providers, where applicable
- Safety protocols, if person resides in a facility

Checks for current Healthcare Facility Regulation licensure must be completed and documented monthly for clients residing in a facility.

PGO staff must provide current emergency contact information to the client and as appropriate their caregiver and family member(s).

For Clients residing in a host home, group home, personal care home, assisted living facility or nursing home, locate the facility's emergency plan and evacuation plan, copy both, and upload them as attachments in the Client's electronic record.

When safety issues in the Client's residence are identified, they must be addressed and documented in the case note.

Abuse, Neglect, and Exploitation (A/N/E)

Guardianship clients should be free from abuse, neglect, and exploitation. As mandated reporters, DHS representatives will report indications or allegations of abuse, neglect or exploitation as mandated by law. (Refer to APS MAN5500 Section 1005 – Definitions)

Any time A/N/E is witnessed or suspected, PGO staff must:

- Report it to their supervisor
- Complete a Critical Incident and Death Reporting Form. (Refer to PGO Policy Manual – Section 4006)
- Report it to the proper authority or authorities
 - Adult Protective Services (APS)

APS investigates allegations of A/N/E of adults with disabilities (age 18 over) and elder persons (age 65 or older), present in Georgia who are not residents of long-term care facilities (LTCF)

- Healthcare Facility Regulation (HFR)

The Department of Community Health (DCH), Healthcare Facility Regulation (HFR) investigates allegations of A/N/E in hospitals and long-term care facilities (LTCF). A LTCF is any skilled nursing home, intermediate care home, personal care home (PCH), or community living arrangement (CLA).

- Law Enforcement

Anytime there is abuse, neglect or exploitation of a client, law enforcement must be notified except in cases of self-neglect.

If there is an imminent threat of harm or danger to the person under guardianship, PGO staff must immediately remove the person from the situation.

If there is an imminent threat of harm or danger, contact law enforcement immediately.

To report allegations of A/N/E, PGO staff must collect as much information as possible regarding what occurred, who was involved, when the incident occurred and where the incident occurred. This information should be gathered in a manner that does not threaten the safety of the client or case manager.

NOTE

When an Adult Protective Services (APS) report of abuse, neglect, or exploitation is received which involves a current DHS employee (as either the victim or as the alleged perpetrator), including a member of his/her immediate family, the report will be handled administratively and not at the level of Central Intake (CI). Report all cases of employee misconduct and/or suspected criminal activities by DHS employees to OIG. (Refer to OIG POL1750 and section 2011).

References

O.C.G.A. § 29-4-22a; O.C.G.A. § 29-4-22(b); O.C.G.A. § 16-5-101(a); O.C.G.A. § 16-5-101(b); O.C.G.A. TITLE 30 Chapter 5 et seq; MAN5800 - Sections 3004 and 4006; MAN5500 – Section 1005

4006 Critical Incident Reporting

 Georgia Division of Aging Services Public Guardianship for Adults Manual			
Chapter:	4000 Safety of the Person Under Guardianship	Effective Date:	08/01/2022
Section Title:	Critical Incident Reporting	Reviewed or Updated in:	MT 2023-01
Section Number:	4006	Previous Update:	MT 2022-02

Summary Statement

The Department of Human Services (DHS) representatives will follow Department and Division of Aging Services’ (DAS) policy and procedures to report serious and critical incidents.

Basic Considerations

Reports to DAS State Office shall be made using the Public Guardianship Office (PGO) Critical Incident and Death Reporting Form or its subsequently approved form in accordance with Division policy.

Reports must be made in the DAS data system no later than five business days of the date of the incident. The supervisor must be notified of the incident within 24 hours of case manager notification. In instances of death, the case manager must notify the supervisor immediately after case manager is notified.

Additionally, the Division shall follow all Department policy on Reporting of Urgent Incidents, Employee Misconduct, and Suspected Criminal Activities concerning serious injury or death of consumers or its subsequently approved Department policy.

DAS follows DHS Office of Human Resources and Office of the Inspector General policies to report instances involving DHS employees.

As mandated reporters, DHS representatives will report indications or allegations of abuse, neglect or exploitation as mandated by law.

Definitions

Serious and critical incident definitions specific to public guardianship case management include the following:

Critical Incident

Critical incidents include the following:

Non-Violent Staff Criminal Acts

Alleged criminal acts (e.g. theft of property) by non-DHS staff or providers of service against a guardianship client. Alleged criminal acts which are reported to the police by a person (the guardianship client) who receives services.

Missing Guardianship Client

A guardianship client is missing (e.g. elopement) without authority or permission and without others knowledge of whereabouts.

Client Fund Misuse by Non-DHS Staff

Financial exploitation or mismanagement of client funds by non-DHS staff that provide service to DHS guardianship clients.

Guardianship Client in Auto Accident

Automobile accidents where a guardianship client is in the vehicle, including a vehicle operated by a DHS employee.

Property Damage by Guardianship Client

The intentional or willful damage to property by a guardianship client that would severely impact operational activities or the health and safety of the guardianship client or others.

Threats/assaults

Guardianship client threatens/assaults a staff person on duty, other resident, volunteer, visitor or any other persons; engages in behavior so bizarre or disruptive that it places others in a reasonable risk of harm, or in fact causes harm.

Threats/assaults against a guardianship client by a staff person, other resident or any other person; engages in behaviors so bizarre or disruptive that it places the guardianship client at reasonable risk for harm, or in fact causes harm. May include inappropriate sexual overture or attempted sexual contact by a non-DHS staff person whether on or off duty.

Medication Errors

Inappropriate medication is provided to the guardianship client. This can include wrong medications provided, over or under dosing of medication, etc.

Neglect

Failure to seek medical attention (e.g. fractures, sprains, pressure ulcers) on behalf of the guardianship client; failure to report the incident to the DHS representative.

Injury

Injuries are categorized as follows:

Serious Injury

Bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, sexual assault, violence, protracted and obvious disfigurement or impairment. Serious injuries include burns, closed head injuries, fractures, malnourishment/dehydration, pressure ulcers that result in in-patient hospitalization and other type injuries that pose serious risk to guardianship clients.

Minor Injury

Bruises, scrapes, dislocations, lacerations, sprains or other injuries that may be treated on site and/or require short term medical interventions.

No Injury

Incidents where the guardianship client was involved in a fall, assault, motor vehicle accident or any other incident where the guardianship client did not suffer an injury identified at the time of the incident.

Death

Natural death

Includes death due to known medical conditions or advanced age.

Accident

Includes choking/aspiration, falls, medication related (for example, under/over medicated, wrong medications, medication abuse, etc.), motor vehicle accidents and other types of accidents.

Unexpected Death

A death that occurs as a result of homicide, suicide, or suddenly when in apparent good health. This includes death as a result from natural disasters and medical conditions that usually do not lead to death.

References

MAN 5600, Chapter 9000

4050 Probate Court

4056 Personal Status Report

	Georgia Division of Aging Services Public Guardianship for Adults Manual			
	Chapter:	4050 Probate Court	Effective Date:	03/01/2022
	Section Title:	Personal Status Report	Reviewed or Updated in:	MT 2022-02
	Section Number:	4056	Previous Update:	MT 2019-02

Policy Statement

Public Guardianship Office staff shall complete personal status reports in a timely and accurate manner in accordance with Georgia Code and individual probate court mandates.

Legal Basis and Requirements

The Public Guardianship Office (PGO) shall comply with all applicable statutes, court orders, and local rules.

Personal status report (PSR) requirements as stated in Georgia Code are found in the Official Code of Georgia Annotated (O.C.G.A.) Section 29-4-22(b)(9).

PGO shall be responsible for:

- Submitting the initial PSR to the probate court within 60 calendar days after appointment, or as required by the court
- Submitting subsequent PSRs to the probate court within 60 calendar days after each anniversary date of appointment
- Submitting the PSR as required by local probate court rules or specific court orders
- Providing a copy to the person under guardianship
- Providing a copy to the conservator, if any.

The PSR is the primary monitoring tool submitted to the probate court for the purpose of updating the court on the physical, emotional, and mental condition of the person under guardianship as well as their living environment and the conduct of the guardian.

If a guardian fails to submit a timely PSR, the court may issue an order called a Rule Nisi which requires the guardian to address the failure to file.

If a Rule Nisi is issued when DHS fails to file a timely PSR, the DHS Representative will have to appear in court and provide an explanation as to why the PSR was not filed. There is a risk that the Georgia Department of Human Services (DHS) could be held in contempt of court or could be sanctioned.

Procedures

PGO staff shall obtain and complete the correct PSR form specific to the probate court in which it will be filed; forms may differ between probate courts at the court's discretion. Although any PGO staff may complete a PSR, it is preferable that the case manager assigned to the case be the one to complete the PSR.

At a minimum, the PSR shall contain:

- A description of the person's general condition, changes since the last report, and needs (including diagnoses and medications)
- All addresses of the person during the reporting period, and the living arrangements of the person for all addresses
- A description of the amount and expenditure of any funds that were received by PGO staff for the person's support, care, education, health, or welfare
- Recommendations for any alteration in the guardianship order
- Dates of monthly contacts with client during reporting period.

If these minimum requirements are not addressed on the form, an additional page answering these questions shall be attached to the PSR.

Reporting Money Received on Behalf of the Person

By law, guardians must account for the receipt of funds for the support, care, education, health, or welfare of the person under guardianship. Although the Georgia Department of Human Services does not serve as conservator, if a PGO staff member receives money for the benefit of the person from any source, such as the person's conservator, representative payee, or other financial manager, the amount must be reported on the PSR.

For example, PGO staff may receive money from the individual's account at the nursing home to purchase clothes on one occasion and funds to purchase a radio on another occasion. The amount received to purchase these items and the amount spent on these items must be reported in the PSR. (Refer to MAN 5800, Appendix B, Cash Tracking Form).

Initial PSR

For the initial PSR due within 60 calendar days of appointment:

- Step 1** PGO Case Manager: The initial PSR must be completed and submitted to the supervisor within 30 calendar days of appointment.

- Step 2** Supervisor: After review and approval by the supervisor, the PSR will be submitted to the PGO Program Assistant/Generalist within seven calendar days of receipt.
- Step 3** PGO Program Assistant/Generalist: After the PSR has been received, the document will be completed in accordance with the required form established by the court. The report will then be forwarded to the District Manager or Section Manager for final review, approval and signature. The final report will be notarized by the PGO Program Assistant/Generalist or other available notary. The PGO Program Assistant/Generalist will mail the original to the appropriate probate court and send a copy to the person under guardianship and conservator, if any.
- Step 4** PGO Program Assistant/Generalist: The PGO Program Assistant/Generalist will scan and upload the signed/notarized PSR to the person's case file within 10 business days of completion.

Ongoing PSR

For all subsequent PSRs:

- Step 1** PGO Case Manager: All PSRs due for the month in a PGO case manager's caseload must be completed by the PGO case manager, or PGO staff covering the caseload, and submitted to the supervisor by the 25th calendar day of the previous month to when the report is due.

Example: The personal status report is due on June 15th. The PSR shall be completed and submitted to the supervisor by May 25th.

- Step 2** Supervisor: After review and approval by the supervisor, the PSR will be submitted to the PGO Program Assistant/Generalist for receipt by the first of the month it is due.
- Step 3** PGO Program Assistant/Generalist: After the PSR has been received, the document will be completed in accordance with the required form established by the court. The report will then be forwarded to the District Manager or Section Manager for final review, approval and signature. The report will be notarized by the Program Assistant/Generalist or other available notary. The PGO Program Assistant/Generalist will mail the original to the appropriate probate court and send a copy to the person under guardianship and conservator, if any.
- Step 4** PGO Program Assistant/Generalist: The PGO Program Assistant/Generalist will scan and upload the signed/notarized PSR to the person's case file within 10 business days of completion.

Final PSR

When a client has a successor guardian appointed, has his or her rights restored, or dies, a final PSR must be completed and submitted before the case is closed. O.C.G.A. § 29-4-43(a)

- Step 1** PGO Case Manager: The PSR must be completed and submitted to the supervisor no later than 5 calendar days after notification is received of the Department's release of guardianship responsibility or death of the client. In situations involving the death of

a client the case manager shall verify the client’s death. Verification shall be in the form of a Hospice Pronouncement of Death or obituary announcement if obtainable. If verification is not obtained within 5 days of notification, Case Manager will proceed without verification.

NOTE The appointment of a temporary substitute guardian does not trigger the need for a final PSR nor the closing of a case until further ordered of the Court.

Step 2 Supervisor: After review and approval by the supervisor, the PSR will be submitted to the PGO Program Assistant/Generalist within seven calendar days for receipt.

Step 3 PGO Program Assistant/Generalist: After the PSR has been received, the document will be completed in accordance with the required form established by the court. The PSR will then be forwarded to the District Manager or Section Manager for final review, approval, and signature. The final PSR will be notarized by the PGO Program Assistant/Generalist or another available notary. The PGO Program Assistant/Generalist will scan and upload the signed/notarized PSR into the case file, and death verification in cases of death. The original PSR will be mailed to the appropriate probate court. For Successor or Restoration cases a copy shall be sent to the former person under guardianship and conservator, if applicable.

References

MAN 5800, Section 3004, Important Provisions in Guardianship Law; MAN 5800, Appendix B, Cash Tracking Form; O.C.G.A. § 29-4-22; O.C.G.A. § 29-4-43(a)

5000 Guardianship

5015 Temporary Guardianship

	Georgia Division of Aging Services			
	Public Guardianship for Adults Manual			
	Chapter:	5000 Guardianship	Effective Date:	03/01/2022
	Section Title:	Temporary Guardianship	Reviewed or Updated in:	MT 2022-02
Section Number:	5015	Previous Update:	MT 2019-02	

Summary Statement

The Public Guardianship Office (PGO) will follow the procedures below to determine, document, and plan for the expiration of temporary guardianships.

Basic Considerations

There are three types of temporary guardianships in Georgia law for which the Department of Human Services (DHS) could be appointed:

- Pre-hearing emergency
- Emergency
- Temporary substitute.

In this policy section, the three types are referred to collectively as “temporary guardianships.”

When the probate court appoints DHS as a temporary guardian, PGO will only provide guardianship services that are authorized by the court’s order and only for the duration of time that is specified in the order or is permitted by law.

Emergency Guardian

When the probate court determines that a person lacks sufficient capacity to make or communicate responsible decisions about a health issue that puts the person at immediate and substantial risk of death or serious physical injury, illness, or disease, the court may appoint an emergency guardian.

Pre-hearing Emergency Guardian

If the probate court judge finds that the health risk is so immediate that waiting for the emergency guardianship hearing to occur could do irreparable harm to the proposed ward, the court may appoint a pre-hearing emergency guardian.

Temporary Substitute Guardian

If the probate court determines that there is some reason to suspend the authority of someone already acting as guardian, the court may appoint a temporary substitute guardian.

All three of these temporary guardianships are limited in time and scope of the guardianship duties. The duties of a temporary guardian should be spelled out specifically in the order of the probate court.

No guardian has legal authority to act after the date the probate court order expires or the law specifies, and no guardian has legal authority to make decisions or take actions that are not permitted by the probate court order or the law.

Maximum Length of Temporary Guardianships

The probate court can terminate a temporary guardianship for many reasons and at any time. If the court does not specify how or when the temporary guardianship ends, the law sets the maximum time temporary guardianships can last:

- Emergency guardianships are valid for no more than 60 days.
- Pre-hearing emergency appointments are valid only until the court makes a decision on the emergency petition upon which the pre-hearing guardianship was based.
- Temporary substitute guardianships are valid for no longer than 120 days.

If the maximum amount of time has passed, or the expiration date that the court set in the order has passed, the court does not have to issue an order for the temporary guardianship to end. The method for determining the expiration date is found later in this section.

Other Reasons Temporary

First, an emergency guardianship can end if the probate court removes the emergency guardian. A removal means that the court discharges the guardian from duty. The court can remove an emergency guardian for any reason, even if there is no allegation of misconduct by the guardian.

Second, an emergency guardianship can end when the court has appointed a permanent guardian, and the permanent guardianship has begun.

Third, an emergency guardianship can end if the probate court dismisses the petition for guardianship. A dismissal can be requested by the petitioner and granted by the court, or the court itself can decide to dismiss the petition even if no one else requests a dismissal. A dismissal means that the probate court case closes out. When the judge issues an order saying that the case is dismissed, the emergency guardianship ends unless the order says otherwise.

A temporary substitute guardian can be removed by the court at any time, even if there are no allegations of misconduct by the guardian.

Case Open Past Expiration or Termination Date

PGO staff shall not take action or make decisions as guardian after the expiration or termination of any guardianship appointment. Any case found to be open erroneously after the expiration or termination of the temporary guardianship must be staffed immediately with the PGO Section Manager to determine what action is needed to close the case.

Determination of Expiration Date

PGO Staff must calculate the expiration date of temporary guardianships.

Careful Review of the Court's Order

After receiving the Letters of Guardianship and taking the oath of guardianship, PGO staff shall review carefully the duties listed in the final order and any expiration date set by the order.

Calculation

Find the date that the Letters of Guardianship were filed with the clerk of the court. This date can be found in the stamp that is placed on the Letters by the clerk. This date is not always the same as the date the judge signed the Letters.

Count out calendar days starting with the day after the date stamp. Do not count in units of weeks or months.

Examples

The following are examples of how to calculate the expiration date:

Example 1

The order says that the emergency guardianship will end “30 days from appointment”. The stamp on the Letters of Guardianship is March 16.

- The order will expire automatically on April 15.

- The staffing for this guardianship case must be held no later than March 31.

Example 2

The clerk's date stamp on the Letters of Guardianship for emergency guardian is October 13. There is no expiration date set in the order.

- The emergency guardianship will expire automatically in 60 days on December 12.
- The staffing must occur no later than November 12.

Example 3

DHS was appointed as temporary substitute guardian, and the clerk's date stamp on the Letters is June 3. There is no expiration date set in the order.

- The temporary substitute guardianship will expire automatically on October 1.
- The staffing must occur no later than September 1.

NOTE Do not skip holidays or weekends in the count.

Staffing Cases

A staffing between the PGO staff member handling the case and her or his supervisor must occur to plan for the expiration of the temporary guardianship.

Timing

The latest date a staffing can occur for an emergency guardianship or temporary substitute guardianship that does not have a specific expiration date in the order is 30 days before the temporary guardianship expires. When the court sets a date for expiration of the temporary guardianship, a staffing must occur no later than the half-way point to the expiration. If the temporary guardianship is scheduled to terminate in 30 days, the staffing must occur no later than 15 days into the appointment.

Pre-emergency guardianships are extremely short in duration. They should last only until the court makes a determination on the petition, which should be no later than five days after the petition was filed. PGO case managers must staff these cases with supervisors prior to seeing the guardianship client and as often as necessary throughout the appointment.

Purpose

The purpose of the staffing with a supervisor is to review whether all duties the court order have been fulfilled and to plan for closing the case or going to court if necessary.

Procedure

Prior to the staffing, PGO staff managing the temporary guardianship appointment must prepare for the staffing by:

- Explaining to the person under guardianship that the guardianship is temporary

- Determining whether the client’s capacity to make decisions has changed
- Assessing whether the serious risks on which the temporary guardianship was based have been alleviated
- Evaluating the client’s current needs and available resources

The purpose of the staffing with a supervisor is to review whether all duties the court order have been fulfilled and to plan for closing the case or going to court if necessary. If the staff member and supervisor determine that:

- All duties listed in the order have been fulfilled,
- There are no longer impairments to the client’s capacity to make or express decisions or there is no longer serious risk to the client, and
- The client has been notified that the case will close at the termination of the temporary guardianship

Then the PGO staff member must inform the client when contact with staff will end and provide information on any service or resource that the client may have requested or the staff member thinks may be beneficial to the client. Standard procedures for case closure should be followed.

If the staff member and supervisor determine that more time is needed to complete the duties ordered in a temporary guardianship that has not exceeded the expiration date, then the staff member shall draft a summary of:

- The duties that are left to complete
- The reason the duties have not been completed
- How much time is needed to complete them

The summary, along with copies of the orders, Letters of Guardianship, and any other court documents must be sent to PGO management.

If the staff member and supervisor determine that a petition may need to be filed, then the staff member shall send a summary and documents to the FOM and SM.

After consideration, the FOM and SM will approve or deny staff’s request to petition the probate court.

Legal Basis and Requirements

O.C.G.A. § 29-4-1 (a); O.C.G.A. § 29-4-14(b)(4); O.C.G.A. § 29-5-15(5); O.C.G.A. § 29-5-16(5); O.C.G.A. § 29-2-60

5050 Health and Medical Care

5053 Medical Consent

	Georgia Division of Aging Services Public Guardianship for Adults Manual			
	Chapter:	5050 Health and Medical Care	Effective Date:	03/01/2022
	Section Title:	Medical Consent	Reviewed or Updated in:	MT 2022-02
	Section Number:	5053	Previous Update:	MT 2019-02

Summary Statement

Representatives of the Department of Human Services (DHS), in making decisions on behalf of DHS as guardian of last resort, shall consider the expressed desires and personal values of the person under guardianship to the extent known.

Staff representatives shall attempt to find out what are or were the prior expressed wishes regarding the provision of healthcare services of the person now under guardianship. Staff shall inquire about and obtain a copy, if located, of any Healthcare Power of Attorney, Advance Directives or Living Will.

Legal Basis

Unless the court’s order specifies that one or more of the following powers are to be retained by the ward, the appointment of a guardian shall remove from the ward the power to: (3) Consent to medical treatment... O.C.G.A. § 29-4-21(a)

Unless inconsistent with the terms of any court order relating to the guardianship, a guardian may: (2) Subject to Chapters 9, 20, and 36 of Title 31 and any other pertinent law, give any consents or approvals that may be necessary for medical or other professional care, counsel, treatment, or service for the ward... O.C.G.A. § 29-4-23(a)

In regard to Mental Health Treatment (Title 37): (b) It shall be the policy of this state to protect, within reason, the right of every individual to refuse medication except in cases where a physician determines that refusal would be unsafe to the patient or others. If the patient continues to refuse medication after such initial emergency treatment, a concurring opinion from a second physician must be obtained before medication can be continued without the patient’s consent... O.C.G.A. § 37-3-163

Basic Considerations

If there are any questions or concerns about a particular medical treatment, the Division of Aging Services’ (DAS) policy is that staff consult with Public Guardianship Office (PGO) management and as needed, the DHS Medical Director and the DHS Associate General Counsel (AGC) for DAS. Appropriate documentation must be completed.

In the event of an emergency or disaster, PGO case managers making decisions on behalf of DHS, as guardian of last resort, may not have sufficient time to consult with PGO management and/or DAS leadership and obtain all documentation. If PGO staff has unsuccessfully made attempts to consult with PGO management or DAS leadership, staff shall make a reasonable assessment of the factors required for a decision on medical treatment in order to achieve informed consent and consult with PGO management and DAS leadership as soon as possible.

Levels of Approval

The three levels of consent for medical treatment are as follows:

Routine

Approval is at the DHS representative's discretion. Medical treatment such as medical, vision, dental care that does not administer general anesthesia, and general admittance into hospice (except when client is entering hospice with life expectancy of 30 days or less).

Although routine medical consent does not require a supervisor's approval, the supervisor should be fully briefed in advance, when possible, and in a timely manner.

Examples include:

- Vaccines
- Dental work
- Diagnostic x-rays
- Sutures/removal of sutures
- Administration of local anesthesia
- Mental health/mental retardation behavior support plans
- Psychotropic medications (if person under guardianship does not refuse)
- Hospice (where life expectancy is more than 30 days)

Intermediate

Approval by a supervisor or PGO District Manager is required. A second physician's written opinion must also be obtained.

Supervisors must make this decision based upon what a reasonable supervisor making a medical consent decision in the particular situation would do in accordance with DHS/DAS training and policy.

Examples include:

- Administration of general anesthesia
- Minor surgery with little risk to person under guardianship
- Advanced diagnostic testing
- Emergency Surgery (if Division Director approval not required)
- Hospice (if life expectancy is 30 days or less)

Division Director

Approval by or notification of the Division Director, Deputy Director, or his or her designee is required when there is substantial risk to the person under guardianship or end of life care is involved.

Examples include:

- Neurosurgery
- Amputation or other similar surgeries
- Sterilization, in accordance with state law
- Treatment by Court order
- Organ transplant
- Bypass surgery
- Electro-Convulsive Treatment (ECT)
- End of life care (e.g. Order not to resuscitate, DNR order, removal of ventilator, etc.) notification only

NOTE The DHS, as guardian of an incapacitated adult, shall not authorize a “No Code,” “DNR,” or “Do Not Resuscitate” order.

Procedures

Medical Recommendation

The Physician Medical Treatment or Procedure Form located in PGO MAN5800 Appendix B must be completed by the treating physician prior to treatment. It must include:

- Diagnosis
- Why treatment is needed
- Recommended treatment and details of treatment
- Use and type of anesthesia, if applicable
- Risks/Benefits
- Prognosis
- Alternatives to treatment
- Anticipated outcome
- Expected recovery

PGO staff must obtain and upload the completed Physician Recommended Medical Treatment or Procedure Form in DAS Data System (DDS).

Informed Consent

Based on the person under guardianships decisional capacity, PGO staff must provide adequate information to the person so they may fully participate in making an informed decision. If the person does not have the decisional capacity to give informed consent, PGO staff must make the decision based on the preference of the person if known and the person’s best interest. PGO staff must also complete the Medical Consent Authorization form under the Assessment tab in DDS.

Summary Note

When seeking Director Level Approval, a summary note along with relevant medical records must accompany the treatment recommendation form(s). The note shall include but is not limited to:

- Client identifiers: name, date of birth, case number.
- Client’s diagnoses
- History of illness
- Treatment alternatives
- Client’s preference
- Why option was selected
- Why other alternatives were not selected


Follow-up Note

PGO staff must enter a collateral note, Note Type: “Stakeholders/Community Partners/Service Contact or Referral Made”, Note Sub-Type: “Medical Provider/Staff”, after treatment which states the treatment outcome and planned follow-up.

References

O.C.G.A. § 29-4-22

5055 Medical Consent – Special Situations and Guidelines

Georgia Division of Aging Services Public Guardianship for Adults Manual			
	Chapter:	5050 Health and Medical Care	Effective Date: 03/01/2022
	Section Title:	Medical Consent – Special Situations and Guidelines	Reviewed or Updated in: MT 2022-02
	Section Number:	5055	Previous Update: MT 2019-02

Summary Statement

Specific legal and programmatic consultation may be needed in order to address individual cases.

Basic Considerations

The following guidelines provide clarification and direction in special situations. There are many factors that may need to be weighed in individual situations. Specific legal and programmatic consultation may be needed in order to address the uniqueness of individual cases.

Example of when consultation is required:

- The religious beliefs of the person under guardianship prohibit the treatment or the family’s wishes and the guardian’s plans conflict or the guardian is requested to consider “forcing” medical treatment to prevent death against the person’s wishes.

- A person under guardianship wants an abortion or the physician is recommending an abortion.
- Request for organ transplant from person under guardianship to another or experimental treatment/research.

Special Situations

Refusal of Medication and/or Treatment

While a guardianship removes the right of a person under guardianship to consent to medical treatment, it does not necessarily mean that a guardian can consent to any and all types of treatment over the objection of a person under guardianship. A person under guardianship, generally speaking, cannot make an informed consent to medical treatment. A person under guardianship does, however, retain a liberty interest to object to certain unwanted medical treatments and procedures, such as ECT, physical detention or involuntary commitment, and medications.

A guardian will receive consultation and notification rights of a person under guardianship who has a mental illness as in O.C.G.A. § 37-3-164, regardless of the objection of a person under guardianship. However, if a person under guardianship objects, the Department of Human Services (DHS), as guardian, cannot force the person under guardianship to take medication before the person under guardianship is considered an imminent risk to self or others (unsafe or emergency), or to stay in the hospital until completely well. See Public Guardianship Office Manual Sections 6007, Inpatient Hospitalization, and 6010, Refusal of Psychotropic Medications.

HIV Status

In reviewing screening and treatment options for DHS guardianship clients with mental illness or developmental disabilities who reside in Medicaid certified beds in a nursing facility, determine if any behavioral support plans and/or preadmission Screening and Resident Review (PASRR) progress documents are relevant.

The following are examples of when consultation is required:

- A person under guardianship is HIV positive and is sexually active. A person under guardianship who knows he or she is HIV positive and is sexually active must disclose to the sex partner that he or she is HIV positive. Section 16-5-60 of the Official Code of Georgia Annotated relates to reckless conduct causing harm to or endangering the bodily safety of another and the conduct by HIV infected persons. Such a person, failing to disclose, is guilty of a felony.
- Under O.C.G.A. § 24-12-21, when an HIV positive person's physician reasonably believes that the spouse/sexual partner or any child is at risk of being infected by the HIV positive person...the physician may disclose to that spouse, sexual partner or child. This is done after they physician attempts to tell the HIV positive person that disclosure must be done.
- DHS may disclose to the board of health of the county in which the HIV positive person resides or is located if reasonably necessary to protect the health and safety of that person or others who may have come in contact with the body fluids of the HIV infected person, consistent with Department policy. DHS or the county board of health may contact any person at risk of being infected with HIV by the HIV positive person.

Do Not Resuscitate

“No Code” or “Do Not Resuscitate” (DNR) addresses the restarting of the heart and/or lungs should they fail. When a person’s heart and/or lungs cease working, procedures will be taken to restart the heart/lungs – unless there is a DNR/No Code on file for that person. People with advanced directives for healthcare should have their state wishes honored.

DHS, as guardian of an adult shall not authorize a “No Code” or “DNR” order.


- DHS shall not initiate legal action for the purpose of disconnecting life support.
- DHS shall make the person’s treating physician aware when the person under guardianship has a Georgia Advance Directive for Healthcare or a prior Durable Power of Attorney for Health Care. The guardian indicates to the physician that guardianship does not alter those arrangements.
- DHS shall be informed when a patient is determined to be a candidate for no resuscitation; however, DHS will leave the medical decision in the hands of the family and/or physician.
- Physicians or hospital personnel can be directed to O.C.G.A. § 31-39-4, the Cardiopulmonary Resuscitation Statute for persons authorized to issue an order not to resuscitate. DHS takes the position that the physician should follow the requirements of 31-39-4(e) in issuing an order not to resuscitate.
- The DHS representative shall contact the Long-Term Care Ombudsman on behalf of the client if a nursing home or hospital states that a person’s admission is contingent on the guardian signing an advance directive or “no code”. Do not sign such a form.
- When consenting for hospice care for a guardianship client, it is important for hospice to understand that DHS, as guardian, is not able to authorize a DNR. This should not prevent the person under guardianship from benefiting from hospice care. Any problems in this area should be discussed with the person’s treating physician.

References

O.C.G.A. § 37-3-164; Heichelbech v. Evans, 798 F. Supp. 708 (M.D. Ga. 1992); O.C.G.A. § 16-5-60; O.C.G.A. § 24-12-21; O.C.G.A. § 31-39-4; PGO Manual Section 6007 – Inpatient Hospitalization; PGO Manual Section 6010 – Refusal of Psychotropic Medications

6000 Mental and Behavioral Health

6007 Inpatient Hospitalization

Georgia Division of Aging Services Public Guardianship for Adults Manual			
	Chapter:	6000 Mental and Behavioral Health	Effective Date: 03/01/2022
	Section Title:	Inpatient Hospitalization	Reviewed or Updated in: MT 2022-02
	Section Number:	6007	Previous Update: MT 2019-02

Purpose

This policy defines the responsibilities of Public Guardianship Office (PGO) staff when a person under guardianship is examined or evaluated for or committed to inpatient mental health care, including the actions staff must take and the information and documents that must be obtained and placed in the case record.

Legal Basis and Requirements

A guardian must make decisions about and arrange services and providers for the health and welfare of the person under guardianship. Also, a guardian must know the capacities, limitations, needs, opportunities, and the status of the physical and mental health of the person under guardianship. O.C.G.A. § 29-4-22 (a)-(b)

Guardians must give consents or approvals that may be necessary for the professional care, counsel, treatment, or service for the person under guardianship. O.C.G.A. § 29-4-23

Basic Information

Facility Information

There are different types of psychiatric hospitals in Georgia, such as state-owned hospitals, federally operated facilities, and private hospitals. Regardless of the type of facility, if mental health care is provided in a hospital setting, it is called “inpatient.”

Psychiatric facilities can apply to be licensed as emergency receiving facilities, evaluation facilities, and/or hospital units. Each facility type plays a different role in mental health care. The terminology, rules, and deadlines associated with each type of facility are different.

Emergency Examination

An emergency receiving facility (ERF) is often the first facility in contact with a person who may need inpatient treatment. A person can go to an ERF voluntarily. A person may be sent to the ERF involuntarily.

Authority for Involuntary Examination

There are three sources of authority for involuntary examination. The first source of authority is by certificate of a mental health care provider. Many people refer to the certificate by its form number, “1013.” The Georgia Department of Behavioral Health and Developmental Disabilities (DBHDD) creates and maintains this and other forms. To see what the form looks like, visit DBHDD’s policy website, currently located at gadbhdd.policystat.com/policy/1136700/latest/

A “1013” is a certificate completed by a physician, psychologist, clinical social worker, licensed professional counselor, or clinical nurse specialist in psychiatric/mental health. In the certificate, the mental health care provider certifies that she or he has personally examined the person in need of services and that the person meets the criteria for inpatient psychiatric care. O.C.G.A. § 37-3-41(a). A form 2013 is used when the basis of the need for services is based on a substance use disorder.

The second source of authority for involuntary examination is by court order. The probate court may issue an order for law enforcement to take custody and transport a person to be examined,

even if the person does not consent. O.C.G.A. § 37-3-41 (b).

The third source for involuntary examination is by law enforcement, but only when the person is committing or is suspected to be committing a crime. If the officer believes that the person is committing a crime and that the person is mentally ill and in need of involuntary treatment, the officer may transport the person for examination. O.C.G.A. § 37-3-42. If the person is not breaking the law, law enforcement, without a certificate from a physician or an order from a court, does not have authority to take custody or transport a person for the sole purpose of having that person involuntarily examined for mental health care. *Boatright v. State*, 327 Ga. App. 785, 788 (2014).

Timeframes for Emergency Examination

Within 48 hours of a person entering an ERF, the facility must determine if the person needs further evaluation, needs hospitalization, or should not be admitted for inpatient care.

If the facility determines that a person needs hospitalization and the person consents, the person can be admitted voluntarily to a psychiatric hospital for treatment.

Evaluation

If the person is not willing to undergo treatment, but the facility has determined that inpatient treatment is needed, the facility has 24 hours to complete another certificate, DBHDD form 1014. In the 1014, the mental health care provider documents that the person was examined and needs further evaluation for possible admission to a hospital unit for treatment.

If a person is admitted involuntarily for evaluation at an evaluating facility, the facility has five business days to determine whether the person needs hospitalization. If the person does need hospitalization but does not consent to voluntary admission, a petition must be filed with the probate court.

After reviewing the case, the probate court determines whether the person will receive involuntary treatment, and if so, if the treatment will be inpatient or outpatient. An initial order for involuntary inpatient commitment can be for no longer than six months. The court may order involuntary outpatient treatment for up to one year. O.C.G.A. § 37-3-81.1

Criteria for Inpatient Hospitalization

The criteria for inpatient hospitalization for mental health treatment is the same for involuntary and voluntary admissions. Inpatient hospitalization is appropriate when:

- The individual has a mental illness consisting of a disorder of thought or mood which significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life (traumatic brain injury does not qualify as a mental illness)
- Hospitalization is the least restrictive level of care available for the individual; and,
- The individual presents a substantial risk or harm to himself/herself or others, as manifested by recent overt acts or recent expressed threats of violence that present a probability of physical injury to himself/herself or others, or
- The individual is so unable to care for his/her own physical health and safety as to create an imminently life-endangering crisis. DBHDD Policy 03-502, "Criteria for Mental Health Admis-

sions of Adults to DBHDD Hospitals.”

Legal Status

In the context of psychiatric hospitalization, the term “legal status” means two things:

- The type of hospitalization, voluntary or involuntary, and
- The source of authority for involuntary examination, evaluation, or treatment.

The legal status of a patient determines the notices that must be provided to the patient and the rights the patient has for discharge. If the patient is an adult under guardianship, the rights the patient has determines the power and duties the guardian has in providing for the person’s mental health care.

If the person under guardianship needs inpatient treatment, PGO staff must discuss the need for treatment with the person under guardianship to determine if she or he consents to treatment and document the conservation in the case record.

Voluntary Admission

If the person agrees to treatment, PGO staff must take all the actions listed below. At admission,

- Select the hospital to which the person will be admitted for treatment
- Apply for admission and provide any information or documents the facility may need for admission, such as medical records or ID cards
- Ensure that the facility documents in the patient chart that the person is under guardianship and has PGO staff’s contact information
- Discuss with the person the rights during treatment, which include the right to request to be discharged
- Make sure that the person has clothing, grooming, and permitted personal items during the stay in the facility
- Verify that the hospital inventories the person’s belongings at admission and any items that are provided to the person throughout the duration of the stay at the facility and obtain a copy of the inventory
- Inform the person’s case manager (or other primary contact at the hospital) that the consent of the guardian must be obtained for all medical care.

Voluntary Treatment

During the course of treatment, PGO staff must:

- Monitor the person’s legal status and obtain copies of the person’s chart showing the legal status
- Ensure that an Individualized Recovery Plan (IRP) is developed that is appropriate for the person
- Obtain and place in the case record a copy of the IRP
- Review updates to the IRP and attend as many IRP meetings as possible

- Review and obtain copies of the person’s chart
- Maintain contact with the person and make in-person visits in accordance with PGO Policy Section 2020, “Monthly Contacts”
- Advocate for changes to the IRP if the course of treatment is not effective or appropriate
- Request any medical treatments that may be needed
- Anticipate and plan for discharge options as early as admission.

Discharge on Voluntary Status

During voluntary hospitalization, the person or the guardian can request discharge. If PGO staff, as guardian, believes that discharge is appropriate, PGO staff must:

- Discuss with the person readiness and willingness to discharge and service and treatment options available after discharge
- Notify the person’s case manager or psychiatrist that the guardian is requesting the discharge
- If required by the facility, complete a form requesting discharge; and,
- Follow up with the facility to make sure that a decision is made on request within 72 hours of submission of the form (or request if no form is required).

If the facility approves the discharge, PGO staff must:

- Ensure that the person discharges to an appropriate placement
- Obtain a sufficient supply of medications or prescriptions for medication that will last until new prescriptions or refills can be obtained
- Schedule appointments with outpatient psychiatrists, counselors, etc.
- Arrange for transportation for the person upon discharge
- Verify that the person discharges with all personal belongings
- Contact the person within 24 hours of discharge.

Mental Health Care Decisions When the Guardian and the Person Under Guardianship Disagree

If the person does not agree to treatment, PGO staff must document the conversation with the person in the case record. If the guardian believes that the person needs inpatient treatment, but the person under guardianship does not consent to treatment, the guardian does not have the legal authority to override the person’s refusal of treatment. Likewise, if a person receiving inpatient care voluntarily requests discharge, the guardian does not consent to discharge, but the facility approves the discharge, the facility may discharge the person without the permission of the guardian. If the safety or well-being of the person is at risk, the guardian still must take action to ensure that proper mental health care is sought.

If PGO staff believes that the safety of the person under guardianship is at risk due to an inability to obtain inpatient psychiatric care, PGO staff must:

- Consult her or his supervisor to determine whether a petition under O.C.G.A. § 37-3-41 or § 37-3-61 for involuntary treatment is needed

- If advised by the supervisor, refer the matter to the Department of Human Services (DHS) Associate General Counsel (AGC) assigned to the Division of Aging Services (DAS) following the procedure outlined in DAS Administration Manual Section 1010
- Arrange for and encourage the person to participate in outpatient services
- Discuss treatment options with any mental health care providers, updating the providers promptly if there is a change in the person's condition or symptoms
- Educate the person, or provider, on what to do in the event of a mental health crisis, such as calling 911, going to the closest emergency room, or calling the Georgia Crisis & Access Line at 1-800-715-4225
- Monitor the person closely, increasing phone or in-person contact as necessary
- If appropriate, engage the support of the person's loved ones to encourage treatment.

Involuntary Inpatient Status

If the person under guardianship does not consent to inpatient treatment, but an entity having authority to do so initiates involuntary examination, evaluation, or commitment of the person under guardianship, PGO staff must monitor the process to ensure that the person's rights are protected.

Involuntary Examination

In addition to those duties, if the person under guardianship enters an emergency receiving facility to be examined for possible inpatient care, PGO staff must:

- Ensure that the facility examines the person and determines the course of treatment within the 48 hours provided by law
- If the facility determines that the person should not be held further for inpatient evaluation or care, discharges the person within 48 hours of arrival of the ERF
- If the facility determines that the person requires further evaluation, that DBHDD form 1014 is completed within 48 hours of the person's arrival to the ERF and the person is transported to the evaluating facility within 24 hours after completion of the 1014
- If the facility fails to follow these timeframes, PGO staff must notify the PGO Section Manager or designee of the facility's failure to act in a timely fashion. The PGO Section Manager or designee will determine whether a referral to DHS' AGC for DAS is necessary.

Involuntary Evaluation

If the person is admitted for evaluation at an evaluating facility, PGO staff must:

- Ensure that the facility performs necessary evaluations and within five business days, files a petition in probate court for involuntary commitment or,
- Discharges the person within five business days after admission for evaluation

Involuntary Admission and Treatment

If the person is committed to inpatient treatment involuntarily, PGO staff must follow all the same procedures required for voluntary admission and voluntary treatment, except for filing the appli-

cation for treatment. PGO staff must:

- Determine whether a request should be made to have the person's legal status converted from involuntary to voluntary
- Speak with the person about her or his readiness and willingness to remain in treatment voluntarily
- Review the chart for proof that the person is improving and would benefit from voluntary treatment, such as improvement in the severity of symptoms, a decrease in dangerous behaviors, or a willingness to continue receiving treatment
- Speak with the members of the person's treatment team, to gather their professional opinions about the need for continued involuntary treatment
- If PGO determines that transferring to voluntary status would be beneficial, request that the person's status be converted.

In addition to those duties, PGO staff must also take action as the order for involuntary inpatient care nears expiration. Before the order expires, the facility must convene a review team, called the Committee for Continued Involuntary Treatment (CCIT), to determine if the person continues to need involuntary inpatient treatment. The findings of the CCIT will then be reviewed by the chief medical officer (CMO or the clinical director, "CD") of the facility. If the CMO/CD agrees with the findings, the CMO/CD must file a petition with the Georgia State Office of Administrative Hearings for a continued treatment. DBHDD Policy 24-106(E), "Legal Status for DBHDD Hospitals."


PGO staff must:

- Note the date that the order for involuntary inpatient treatment expires
- If the person is not ready for discharge 40 days before the order expires, contact the hospital social worker or primary contact at the facility to request to be notified of the decisions of the CCIT and if applicable, the CMO/CD
- Report to the PGO Section Manager or designee if the facility does not follow the procedures for holding the person for involuntary treatment so that a referral can be made to the DHS AGS for DAS, if necessary.

Transfer from Voluntary to Involuntary Status

If a person under guardianship who is receiving inpatient care voluntarily requests, with or without the consent of the guardian, to discharge, but the facility does not approve a discharge, the person's legal status converts to involuntary status. If this occurs, PGO staff must follow the procedures outlined above for involuntary inpatient treatment.

6010 Refusal of Psychotropic Medications

	Georgia Division of Aging Services Public Guardianship for Adults Manual			
	Chapter:	6000 Mental and Behavioral Health	Effective Date:	03/01/2022
	Section Title:	Refusal of Psychotropic Medications	Reviewed or Updated in:	MT 2022-02
Section Number:	6010	Previous Update:	MT 2019-02	

Purpose

This policy defines the responsibilities of Public Guardianship Office (PGO) staff when a person under guardianship refuses to take psychotropic medication prescribed to treat a mental illness.

Legal Basis and Requirements

Unless a guardianship has been established, an adult must give consent for medical care and may refuse medical care, even if the care refused may save the person’s life. O.C.G.A. § 31-9-7. In Georgia, even if a person has been diagnosed with a mental illness, the person retains the right to refuse medical care. O.C.G.A. § 31-9-4. A person with a mental illness also has the right to refuse to take psychotropic medications. O.C.G.A. § 37-3-163 (a)-(b).

Unless specified otherwise by the court, when a guardian is appointed for a person, the person loses the right to consent to medical treatment O.C.G.A. § 29-4-21. A guardian may give any consents or approvals that may be necessary for medical or other professional care, counsel, treatment, or service for the person under guardianship. O.C.G.A. § 29-4-23. However, a guardian does not have the legal authority to override the person’s refusal to take psychotropic medications and thus may not consent to the involuntary administration of psychotropic medication to a person with a mental illness. O.C.G.A. § 37-3-163(b).

Only physicians are granted legal authority to administer medication against the will of a person with a mental illness. O.C.G.A. § 37-3-163.

Procedures

When a person under guardianship is prescribed medication to treat a mental illness, PGO staff must:

- Explain or have medical staff explain the potential side effects to the person as well as the potential benefits of the medication to the person
- Ensure that the communication used to discuss the proposed medication is targeted and adapted to meet the language skills and capacities of the person
- Determine whether the person will willingly take the medication
- Document the conversation with the person in the case record

If the person consents to taking the medication, PGO staff must:

- Ask the person to report any undesirable or side effects of the medication
- Observe the person to see if there are any undesirable or side effects of the medication

- Report any undesirable or side effects to the prescribing the psychiatrist
- Monitor the person's compliance with taking the medication as prescribed by, for example, talking with the person or caregivers about taking the medication or counting pills during monthly in-person visits
- Raise concerns about the effectiveness or ineffectiveness of the medication with the person's psychiatrist
- Ensure that the person has prescriptions or refills as necessary and is able to get the medication from the pharmacy

If the person does not consent to taking the medication, PGO staff must:

- Refrain from authorizing or giving consent for the person to have medication injected or otherwise administered against the person's will
- Talk to the person about her or his objections to the medication
- Investigate alternatives to the medication the person is refusing, such as finding a medicine that has a less drowsing effect if the person's dislike for the medication is based on feeling sluggish after taking it
- Arrange for and encourage the person to submit to other therapeutic care, such as therapy, peer supports, or group counseling sessions
- If the person's mental health poses a risk to the person or others, arrange for a higher level of mental health care, including consulting with the PGO Section Manager or designee to consider whether a petition under O.C.G.A. § 37-3-41 or 37-3-61 for involuntary treatment is needed
- Communicate with any mental health care providers promptly if there is a change in the person's condition or symptoms
- Educate the person on what to do in the event of a mental health crisis, such as calling 911, going to the closest emergency room, or calling the Georgia Crisis & Access Line at 1-800-715-4225
- Monitor the person closely, increasing phone or in-person contact as necessary
- If appropriate, engage the support of the person's loved ones to encourage treatment

The Georgia Department of Behavioral Health and Developmental Disabilities' (DBHDD) policy specifies the manner and circumstances under which medication may be administered over a person's refusal to take the medication. The policy applies to an initial/emergency involuntary administration of the medication and ongoing administration of the medication.

If the physician determines that the person would be unsafe without medication, initially, the physician can involuntarily administer the medication for a period not to exceed 72 hours.

If the physician believes that the person would be unsafe without on-going involuntary administration of medication, with the concurring medical opinion of a second physician, the physician can involuntarily administer the medication for up to 30 days. However, the physician must:

- Complete a form or otherwise document in the person's chart the concurring physician's opin-

ion

- Add the involuntary administration of the medication as a new “problem” (need) to the person’s Individualized Recovery Plan
- Review the need for involuntary administration of medication every seven days

If the original physician and the concurring physician determine that the person still would be unsafe with medication, the two physicians can continue administering medication involuntarily for up to 30 more days.

If after 60 days the physician determines the person would be unsafe without the medication and believes that medication should be administered against the will of the person, the physician must convene a Clinical Review Panel to hold review the need for continued involuntary administration of medication. The panel is made of three clinicians.

The guardian should be notified of the review and has the right to attend the panel review. A guardian must be given at least 72 hours of notice of the review.

At the panel review, the physician presents the reasons for continued involuntary administration of the medication. If PGO staff have concerns about the involuntary administration of medications, PGO staff must present those concerns at the panel review.

The panel has two business days from the date of the review to reach a decision. If two out of the three panel members decide that on-going involuntary administration of medication is necessary, an order is placed in the person’s chart. The Clinical Review Panel must review the need for involuntary administration of medication every 30 days.

The person under guardianship being administered medication involuntarily has the right to object to the administration of the medication involuntarily. The person, without the requirement of the guardian’s permission, may request a review of the Clinical Review Panel’s decision. Also, the person by him- or herself or the guardian on behalf of the person, may file a petition in court to have the medication discontinued. The person under guardianship being administered medication involuntarily has the right to object to the administration of the medication involuntarily. The person, without the requirement of the guardian’s permission, may request a review of the Clinical Review Panel’s decision. Also, the person by him- or herself or the guardian on behalf of the person, may file a petition in court to have the medication discontinued. O.C.G.A. § 37-3-148. If PGO staff believes that involuntary administration of medication is unwarranted and is not able to stop the administration of the medication through communication with the mental health care team, PGO staff must inform the PGO Section Manager or designee so that the Section Manager or designee may refer the matter to the Department of Human Services (DHS) Associate General Counsel (AGC) assigned to the Division of Aging Services (DAS) following the procedure outlined in DAS Administration Manual Section 1010.

If a physician involuntarily administers medication to a person under guardianship, PGO staff must:

- Ask the person to report any undesirable or side effects of the medication
- Observe the person to see if there are any undesirable or side effects of the medication
- Report any undesirable or side effects to the prescribing the psychiatrist

- Raise concerns about the effectiveness or ineffectiveness of the medication with the person’s psychiatrist
- Obtain from the person’s chart a copy of documentation or forms showing the decision of the physician that involuntary administration of the medication was necessary
- Ensure that the physician is following the policy of DBHDD for involuntary medication administration

References

DBHDD Policy 03-534, “Informed Consent and Involuntary Administration of Psychotropic Medication in DBHDD Hospitals” (applicable to all psychiatric hospitals in Georgia, including private hospitals).

6050 Residence and Placement

6060 Placement in Licensed Long-Term Care Facilities

	Georgia Division of Aging Services Public Guardianship for Adults Manual			
	Chapter:	6050 Residence and Placement	Effective Date:	08/01/2022
	Section Title:	Placement in Licensed Long-Term Care Facilities	Reviewed or Updated in:	MT 2023-01
	Section Number:	6060	Previous Update:	MT 2022-02

Policy Statement

Public Guardianship Office (PGO) staff shall ensure that long-term care facilities (LTCF) are licensed by the appropriate licensing body before the placement of a person under guardianship.

Legal Basis and Requirements

Sections 29-4-23(a) and 29-4-22(a) of the Official Code of Georgia:

Section 29-4-23

- a. Unless inconsistent with the terms of any court order relating to the guardianship, a guardian may:
 1. ... [E]stablish the ... place of dwelling [of the person under guardianship] ...”

Section 29-4-22

- a. A guardian shall at all times act as a fiduciary in the ... best interest [of the person under guardianship] and exercise reasonable care, diligence, and prudence.

Basic Considerations

The guardian has a duty to act in the best interest of the person under guardianship. If the court order allows, the guardian makes placement decisions regarding where the person will live and

what health care they may receive.

If placement into a LTCF is in the best interest of the person under guardianship, the guardian shall place a person only in a licensed care facility. To the extent possible, the wishes of the person under guardianship will be considered in making this decision.

For the purposes of this policy, care facilities include:

- Assisted Living Communities
- Community Living Arrangements
- Nursing Homes
- Personal Care Homes

Procedures

When considering placement into a LTCF in Georgia, access the following website to verify licensure: gamap2care.info/. GaMap2care can also be accessed using the Georgia Department of Community Health site by clicking on the Healthcare Facility Regulation (HFR) link and then locating and clicking on the GaMap2Care link on the page.

Click on the “Verify License” tab and perform a search for the facility. If the facility is licensed, it will be listed on this website. Check to ensure that the facility name and the facility address match and are accurate to the name and location where the person under guardianship is to be located.

Documentation

Once the facility has been located on the website, the information on licensure status should be entered into the person’s file on the Division of Aging Services’ database system by “cutting and pasting” from the website into the database.


Licensure checks must be conducted and documented monthly for facilities housing persons under guardianship to monitor compliance and review citations. All citations must be brought to the attention of the supervisor, district manager, or section manager to determine if placement relocation is needed.

References

PGO Manual Section 3004; O.C.G.A. §§ 29-4-22(a), 29-4-23(a)

7000 Income and Resources of the Person Under Guardianship

7025 Emergency Relocation Funds

	Georgia Division of Aging Services Public Guardianship for Adults Manual			
	Chapter:	7000 Income and Resources of the Person Under Guardianship	Effective Date:	03/01/2022
	Section Title:	Emergency Relocation Funds	Reviewed or Updated in:	MT 2022-02
Section Number:	7025	Previous Update:	MT 2019-02	

Summary Statement

Public Guardianship Office (PGO) staff will adhere to policies and procedures of the Division of Aging Services for use of Emergency Relocation Funds (ERF).

ERF Overview

Eligibility criteria for ERF:

- Client is receiving APS or guardianship services in Georgia
- Client needs relocation from a dangerous situation, facility, or home for purposes of risk reduction or safety
- Client is experiencing an imminent threat to his or her health, well-being, or safety
- Client resources are insufficient or unavailable to purchase needed services.
- Client must be able to maintain services with his or her own resources after the initial infusion of ERF funds

Procedures


Refer to the Division of Aging Services Administration Manual, MAN 5600, Chapter 9075, Relocation Funds for procedures.

References

MAN 5600, Sections 9075, Relocation Funds Overview; MAN 5600, Section 9076 Temporary Emergency Relocation Funds (TERF); MAN 5600, Section 9080, Emergency Relocation Funds (ERF)

9000 End of Life and Dying

9001 Death of a Person Under Guardianship

	Georgia Division of Aging Services Public Guardianship for Adults Manual			
	Chapter:	9000 End of Life and Dying	Effective Date:	03/01/2022
	Section Title:	Death of a Person Under Guardianship	Reviewed or Updated in:	MT 2022-03
Section Number:	9001	Previous Update:	MT 2019-02	

Summary Statement

The Department of Human Services (DHS) Division of Aging Services (DAS) will follow established policy and procedure upon the death of a person under guardianship.

Requirements

The death of the person under guardianship automatically terminates the guardianship authority of DHS.

DHS, which was guardian at the time of the person's death, shall take actions to identify and notify all known relatives, next-of-kin, other significant persons, and agencies/care coordinators known to PGO of the death within 24 hours of being made aware of the death. All attempts to notify the family and collaterals must be documented in DDS. Voicemail, text or emails cannot be the method of notification but can be used to request the family member contact staff. This request does not negate continued efforts by PGO staff to reach family members as soon as possible.

NOTE PGO staff must check for family relations in DDS by checking the family relations tab and completing a keyword search for relatives (e.g., cousin, mother, brother, daughter...). The USPhoneBook, Google, Facebook, or other sources may also be used to find relatives. If these actions do not yield a record of a family relation, PGO staff may use ACCURINT to search for family relations.

Written notification of the death of the person under guardianship shall be made to PGO management within 5 calendar days. A report shall be made immediately upon receipt of any such report of a person's unexpected death no later than the close of the next business day. An "unexpected death" is defined as death that occurs as a result of homicide, suicide, accident or suddenly when in apparent good health. (Refer to Appendix "C," Definitions.)

Reports shall be made using the PGO Critical Incident and Death Reporting Form or its subsequently approved form. A final personal status report shall be immediately filed with the probate court of jurisdiction.

Guardianship Limitations

Autopsy or Donation of Body

Under Georgia Law, guardianship authority ceases at the death of a person under guardianship, see O.C.G.A. § 29-4-42(e). DHS, as former guardian, has no authority to authorize an autopsy or the donation of a person's body for research and cannot give consent. There are certain circumstances where a former guardian can choose to make some post-mortem decisions for a body, but no former guardian is required by law to do so.

NOTE The coroner and/or medical examiner has the legal authority to require or authorize an autopsy.

Release of Body

DHS, as former guardian, is not required by law to take steps to release a person's body from a hospital/nursing home to a funeral home.

DHS, as former guardian, is not required by law to take steps to authorize cremation of a body. The conservator, if one has been appointed, or the family have the legal right to handle all necessary arrangements.

The DHS Associate General Counsel for DAS and the Special Assistant Attorney General (if SAAG is involved) shall be consulted on matters of law, if there are complications, as needed, related to the death of a person under guardianship.

References

O.C.G.A. § 29-4-42(e)

9050 End of Guardianship

9055 Terminating Guardianship

Georgia Division of Aging Services Public Guardianship for Adults Manual			
	Chapter:	9050 End of Guardianship	Effective Date: 03/01/2022
	Section Title:	Terminating Guardianship	Reviewed or Updated in: MT 2022-03
	Section Number:	9055	Previous Update: MT 2019-02

Summary Statement

The Department of Human Services (DHS) shall take action to petition the probate court to modify or terminate a guardianship in certain circumstances.

Requirements

DHS shall take action to petition the probate court to modify or terminate a guardianship when:

- A. Someone on the preference order list is identified and willing to serve as guardian.
- B. The condition of the person under guardianship has significantly changed to the extent that restoration of some or all rights is indicated.

Additionally, the DHS shall be removed as guardian in accordance with O.C.G.A. § 29-4-3(b.1): "If, after having been so appointed, the department presents to the court a public guardian registered in accordance with Chapter 10 of this title or some other person suitable and appropriate to serve as guardian of a [person under guardianship] and willing to so serve, the court shall allow the department to resign and shall appoint such public guardian or such other person."

NOTE DHS, as guardian, does not vouch for the qualifications, suitability, or availability

of a proposed successor guardian. The agency will present the name to the court in accordance with O.C.G.A. § 29-4-3(b.1) for the probate court judge to determine suitability and appropriateness.

Georgia Code on Termination of Guardianship

O.C.G.A. § 29-4-42. Termination of guardianship; required evidence; burden of proof; return of property.

- a. Upon the petition of any interested person, including the [person under guardianship], or upon the court's own motion, and upon a proper showing that the need for a guardianship is ended, the court may terminate the guardianship and restore all personal and property rights to the [person under guardianship]. Except for good cause shown, the court shall order that notice of the petition be given, in whatever form the court deems appropriate, to the [person under guardianship], the guardian, the [person]'s legal counsel, if any, and the [person]'s conservator, if any. The court shall appoint legal counsel for the [person under guardianship] and may, in its discretion, appoint a guardian ad litem.
- b. A petition for termination must be supported either by the affidavits of two persons who have knowledge of the [person under guardianship], one of whom may be the petitioner, or of a physician licensed to practice medicine under chapter 34 of Title 43, a psychologist licensed to practice under chapter 39 of Title 43, or a licensed clinical social worker, setting forth the supporting facts and determinations. If, after reviewing the petition and the affidavits, the court determines that there is no probable cause to believe that the guardianship should be terminated, the court shall dismiss the petition. If the petition is not dismissed, the court shall order that an evaluation be conducted, in accordance with the provisions of subsection (d) of O.C.G.A. § 29-4-11. If, after reviewing the evaluation report, the court finds that there is no probable cause to believe that the guardianship should be terminated, the court shall dismiss the petition. If the petition is not dismissed, the court shall schedule a hearing, with such notice as the court deems appropriate.
- c. In any proceeding under this Code section, the burden is on the petitioner to show by a preponderance of the evidence that there is no longer a need for the guardianship.
- d. No petition for termination of a guardianship shall be allowed by the court within two years after the denial or dismissal on the merits of a petition for termination of the guardianship unless the petitioner shows a significant change in the condition or circumstances of the [person under guardianship].
- e. The death of the [person under guardianship] automatically terminates the guardianship, except as otherwise provided O.C.G.A. § 29-4-43.
- f. Upon termination of the guardianship, the guardian shall deliver any money or property to the [person under guardianship] or, if a conservator has been appointed for the [person under guardianship], to that conservator or, if the [person under guardianship] is deceased, to the [person]'s personal representative.

9056 Transfer of Guardianship

	Georgia Division of Aging Services Public Guardianship for Adults Manual			
	Chapter:	9050 End of Guardianship	Effective Date:	03/01/2022
	Section Title:	Transfer of Guardianship	Reviewed or Updated in:	MT 2022-03
	Section Number:	9056	Previous Update:	MT 2019-02

Summary Statement

The Department of Human Services (DHS) Division of Aging Services (DAS) will follow Georgia law when transferring a guardianship.

When to Transfer

O.C.G.A. § 29-11-20 Transfer proceedings to another state; notice; hearing; provisional orders; required findings; finalization; denial of petition

- a. A guardian or conservator appointed in this state may petition the court to transfer the guardianship or conservatorship to another state.

"State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States. O.C.G.A. § 29-11-2 (14).

A DHS representative must notify PGO management and DHS Associate General Counsel for DAS (AGC) if actions are considered that would move a person under guardianship out-of-state. DHS guardianship clients may not be moved out-of-state without prior approval of the DAS Director and an order of the probate court. Therefore, a case manager will fully apprise his or her supervisor, PGO management, and DAS AGC of any plans for the removal of a person under guardianship from Georgia so that an order of the court may be obtained to remove a person under guardianship out-of-state.

If litigation or a hearing is required, then a Special Assistant Attorney General (SAAG), if available, and DAS AGC will be notified by the DHS representative.

NOTE

For certain guardianship proceedings, the person under guardianship has a right to have an attorney. If the probate court may appoint an attorney for the person under guardianship. Additionally, if the person under guardianship is 60 years of age or older, the DHS representative may notify the Elderly Legal Assistance Program for representation of the person under guardianship.

Required Findings Prior to Transfer

O.C.G.A. § 29-11-20 Transfer proceedings to another state; notice; hearing; provisional orders; required findings; finalization; denial of petition

- d. The court shall issue an order provisionally granting a petition to transfer a guardianship and shall direct the guardian to petition for guardianship in the other state if the court is satisfied


that the guardianship will be accepted by the court in the other state and the court finds that:

1. The incapacitated person is physically present in or is reasonably expected to move permanently to the other state;
2. An objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the incapacitated person; and
3. Plans for care and services for the incapacitated person in the other state are reasonable and sufficient.

References

O.C.G.A. § 29-11-20; O.C.G.A. § 29-11-2

Appendix A Cover Letters

	Department of Human Services Policy and Manual Management System	MAN 5800
		Public Guardianship for Adults
		MT 2023-01

Manual Transmittal Number	Date	Subject/Purpose
2023-01	August 1, 2022	Updates policies 3021 Initial and Monthly Contacts, 3032 Case Planning, 3060 Documentation Standards, 3064 Signature Format, 4002 Responsibilities of Guardian During Natural Disaster or National Crisis, 4003 Client Safety, 4006 Critical Incident Reporting, 6060 Placement in Long-Term Care Facilities, revise PGO Client Assessment and add PGO Ethical Principles and Standards
2022-03	March 1, 2022	Updates policy formatting for sections 9000 through 9050. Updated Appendix A to reflect transmittal changes. Updated Appendix B forms: PGO Case Plan, PGO Case Plan Supplemental Page, Medical Consent Authorization Form. Added PGO Physician Recommendation Medical Treatment_Procedure Form
2022-02	March 1, 2022	Updates policy formatting for sections 4000 through 7000. Corrects spelling and grammatical errors. Adds new policy section, 4003 – Client Safety. Provides clarification and additional directions for policy sections 4006, 4056, and 5053.
2022-01	March 1, 2022	Updates policy formatting for sections 1000 through 3000. Corrects spelling and grammatical errors. Provides clarification and additional directions for policy sections 1002, 3004, 3012, 3021, 3032, 3060, and 3064. Added new policy section 3068 – Case Transfer.
2021-01	April 8, 2021	Adds new policy, 3062 Case Planning to document requirements. Updated, and revise forms and Appendix B – Forms and Templates as required and to reflect current practices.

Manual Transmittal Number	Date	Subject/Purpose
2019-02	June 15, 2019	All sections of MAN5800 have been revised to comply with branding standards and communication protocols in the April 4, 2019 edition of the Department of Human Services' (DHS) Office of Communications Stylebook and Communication Policy Guide. Additionally, clerical errors, such as typographical, grammar, and spelling errors, are corrected. References to form titles, Public Guardianship Office job titles, DHS division titles, computer software systems, and legal citations are updated.
2019-01	October 16, 2018	Adds Section 3001, Client Notification Letter Adds Client Notification Letter to Appendix B
2017-01	February 16, 2017	Reorganize and expand the Table of Contents to accommodate new areas of policy. Chapter names have been revised and references to AIMS have been removed or replaced with DAS Data Management System. Adds Section 6007, Inpatient Hospitalization. Add Section 6010, Refusal of Psychotropic Medication
2016-02	March 7, 2016	Adds Section 1010, Field Safety, Section 3052, Universal Guardianship Roles in Case Management, Appendix D, Policy Waiver. Revises Section 2005, Signature Format, Section 3050 – renamed Important Provisions in Guardianship Law, Section 3070, Personal Status Report
2016-01	October 20, 2015	Adds Section 5004, Temporary Guardianships Revises Section 2030 Emergency Relocation Funds
2015-01	January 20, 2015	Issues new policy and procedures regarding Documentation and Chart Review and Placement in LTCFs. Also adds three new forms to Appendix B as indicated in the cover letter
2014-02	April 1, 2014	Issues new policy and procedures regarding the signature format Public Guardianship Office staff will use when signing forms as the representative of the Department of Human Services as Guardian. Includes procedures for completing a Personal Status Report.
2014-01	October 15, 2013	Republish the Public Guardianship Manual; include some material from the training manual
2011-01	November 2, 2010	Public Guardianship for Adults MT 2011-1: DHR Public Guardianship Manual 5800

MT 2023-01

MT 2022-03

MT 2022-02

MT 2022-01

MT 2021-01

MT 2019-02

MT 2017-01

MT 2016-02

MT 2016-01


MT 2015-01

MT 2014-02

MT 2014-01

MT 2011-01

Appendix B Forms and Templates

	Department of Human Services Policy and Manual Management System	MAN 5800
		Public Guardianship for Adults
		MT 2023-01

Form Number	Form Name	Instructions	Revision Date	Other Information
	Client Cash Tracking Form		06/2023	Screen Print
	Checklist for Filing Guardianship Petition		03/2021	Screen Print
	Client Assessment		08/2022	Screen Print
	Client Notification Letter		06/2023	Copy and Paste to Current Letterhead
	Client Notification Letter - Successor		06/2023	Copy and Paste to Current Letterhead
	Client Notification Letter - Temporary		06/2023	Copy and Paste to Current Letterhead
	Guardianship Checklist		06/2023	Screen Print
	Guardianship Conservatorship Referral Form		06/2023	Screen Print
	Medications Checklist for Guardians		06/2023	Screen Print
	PGO Case Plan, Individual		03/2022	Screen Print
	PGO Case Plan Supplemental Page		03/2022	Screen Print
	PGO Ethical Principles and Standards		08/2022	Screen Print
	PGO Medical Consent Authorization Form		03/2022	Screen Print
	Physician Recommended Medical Treatment or Procedure Form		03/2022	Screen Print
	Resident Inventory Form		06/2023	Screen Print

Client Cash Tracking Form

Checklist for Filing Guardianship Petition

Client Assessment

Client Notification Letter

Client Notification Letter - Successor

Client Notification Letter - Temporary

Guardianship Checklist

Guardianship Conservatorship Referral Form

Medications Checklist for Guardians

PGO Case Plan, Individual

PGO Case Plan Supplemental Page

PGO Ethical Principles and Standards

The Division of Aging Services (DAS) Public Guardianship Office (PGO) serves as guardian representative for the Department of Human Services. The Ethical Principles and Standards below the are based on the National Guardianship Association's Ethical Principles and Standards of Practice and have been modified to more specifically address PGO policies and practices. The principles and standards have been developed to communicate the office's values and expectations as well as provide a framework that can be used as a reference for decision making processes and case management responsibilities. The nine principles and corroborative standards encourages ethical conduct, business honesty, integrity, and best practices. *(While the standards easily lend support to certain principles, they are not limited in application to a single principle.)*

Autonomy

Principle: The guardian representative respects and supports the right of the person under guardianship to make their own decisions whenever and wherever possible.

- The guardian representative maximizes the self-reliance and independence of the person.
- The guardian representative shall provide the person with every opportunity to exercise those individual rights that the person might be capable of exercising as they relate to the personal care and financial needs of the person.
- The guardian representative shall wherever possible, seek to ensure that the person leads the planning process; and at a minimum participates in the process.
- The guardian representative shall involve the person to the greatest extent possible in all decision making.
- The guardian representative shall seek to obtain informed consent where possible and only depends on surrogate decision making when necessary.

- The guardian representative shall encourage the person to develop or regain his or her own capacity to the maximum extent possible.
- Only when the person, even with assistance, cannot express his or her goals and preferences, shall the guardian representative seek input from others familiar with the person to determine what the individual would have wanted.
- The guardian representative shall determine whether the person executed any advance directives and shall inform the court and other interested parties of the existing health care and fiduciary documents such as powers of attorney, mental health power of attorney, living wills, organ donation status, advance directives, Portable Medical Orders/Physician Orders for Life-Sustaining Treatment (POLST).

Nonmaleficence

Principle: The guardian representative acts in the best interest of the person under guardianship at all times.

- The guardian representative shall weigh the risks and benefits and develop a balance between maximizing the independence and self-determination of the person and maintaining the person's dignity, protection, and safety.
- Only when the person's goals and preferences cannot be ascertained may the guardian representative make a decision in the person's best interest.
- If required to make a decision, the guardian representative shall select the option that best meets the personal and financial goals, needs, and preferences of the person under guardianship, placing the least restrictions on the person's freedom and rights without causing harm.
- The guardian representative shall seek to ensure that the person receives appropriate health care consistent with person-centered health care decision-making.
- To the extent the person cannot currently direct the decision, the guardian representative shall act in accordance with the person's prior general statements, actions, values, and preferences to the extent actually known or ascertainable by the guardian representative.

Beneficence

Principle: The guardian representative treats the person with dignity.

- The guardian representative shall ensure that provision is made for the support, care, comfort, health, and maintenance of the person.
- The guardian representative shall take reasonable measures to promote and protect the health and well-being of the person.
- The guardian representative shall identify and advocate for the person's goals, needs, and preferences.
- The guardian representative shall monitor the effectiveness of services provided as well as the person's living environment.
- The guardian representative promotes social interactions and meaningful relationships consistent with the preferences of the person under guardianship unless it will substantially harm the person.

- The guardian representative shall promptly report to the appropriate authorities abuse, neglect and/or exploitation as defined by state statutes.
- The guardian representative shall petition the court for limitation or termination of the guardianship when the person no longer meets the standard pursuant to which the guardianship was imposed, or when there is an effective alternative available.
- The guardian representative may request and consider family input when making medical decisions.

Confidentiality

Principle: The guardian representative respects the privacy rights of clients and keeps confidential the affairs of the person under guardianship.

- The guardian representative shall actively protect personal identifying and health related information in a secure manner and location.
- The guardian representative shall adhere to state law, the Health Insurance Portability and Accountability Act and related laws regarding the release of a person under guardianship's information and records.

Objectivity

Principle: The guardian representative respects, accept and/or seek to understand and learn about the culture, beliefs, values, norms, preferences and self-identity (e.g. race, gender, age, sexual orientation, religion, social class, disabilities) of those they serve.

- The guardian representative will not impose their own culture, beliefs, values, norms, preferences, social demographics, and self-identifiers on the person under guardianship.

Integrity

Principle: The guardian representative honors the trust placed in them and works to meet obligations and keep promises.

- The guardian representative's decisions made on behalf of the person under guardianship shall be based on the principle of Informed Consent.
- The guardian representative does not engage in any act of a dishonest, deceitful, or fraudulent nature in serving persons under guardianship.
- The guardian representative manages any monetary responsibilities for the person under guardianship in compliance with the Division of Aging Services Policy by:
 - Working cooperatively with the Conservator if applicable
 - Assisting client in applying for benefits
 - Completing a PGO Client Cash Tracking Form when directly handling client funds
- The guardian representative shall monitor the person under guardianship's personal effects (e.g., clothing, toiletries, assistive devices) and comfort items (e.g., tv, stuffed animals, radio, bedspread) for availability.
- The guardian representative shall actively pursue and facilitate periodic independent review of

their provision of guardianship services (e.g. case record review, staffings).

Professional Competence

Principle: The guardian representative acquires, maintains, and utilizes the skills and knowledge required to provide necessary, appropriate, and person-centered services.

- The guardian representative actively seeks trainings and conducts research to remain current on organizational policy as well as national and state laws regarding guardianship.
- The guardian representative maintains a current knowledge of national, state, and local resources available to the person under guardianship.
- The guardian representative develops and displays attributes (e.g., self-awareness, critical thinking/problem solving, self-management, social awareness, relationship skills, responsible decision making, teamwork) required to provide necessary, appropriate, and person-centered services.
- The guardian representative shall seek ongoing education concerning the following:
 - Person-centered planning
 - Surrogate decision-making
 - Responsibilities and duties of guardians
 - Legal processes of guardianship

Behavior

Principle: The guardian representative works within the scope of their expertise (based on education and training and experience) and the boundaries of their role as guardian.

- The guardian representative shall perform duties and discharge obligations in accordance with current state and federal law governing guardianships.
- The guardian representative shall comply with the requirements of the court that made the appointment.
- The guardian representative shall know the extent of the powers and the limitations of authority granted by the court and all decisions and actions shall be consistent with that court order.
- The guardian representative shall meet with the person as soon after the appointment as is feasible and:
 - Communicate to the person the role of the guardian representative
 - Provide emergency contact information
 - Explain the rights retained by the person
 - Assess the person's physical and social situation, needs, preferences, and support systems
 - Attempt to gather any missing necessary information
- The guardian representative shall gather and/or complete information and required assessments to develop and maintain a plan that addresses the person's needs and where possible preferences.

- The guardian representative shall maintain substantive communication with the person, and as appropriate, service providers, caregivers, family, and others attending to the person.
- If a person under guardianship is in need of specific professional services, the guardian will coordinate as necessary to try to meet the goals, needs, and preferences of the person.
- The guardian representative shall make a good faith effort to cooperate with other surrogate decision-makers for the person. (e.g., power of attorney agent, health care proxy, VA fiduciary, mental health power of attorney agent, and representative payee.)
- The guardian representative shall treat all professionals and service providers with courtesy and respect and shall strive to enhance cooperation on behalf of the person.
- The guardian representative shall notify relevant agencies and individuals of the appointment of guardianship
- The guardian representative shall document case activities in an accurate, informative (i.e., contain sufficient information to clearly describe all significant actions and interactions) and timely manner.
- The guardian representative shall promptly inform the court of any change in the capacity of the person that warrants an expansion or restriction of the guardian’s authority as well as other changes to which the court must be notified (e.g. change of address).

Conflict of Interest

Principle: The guardian representative avoids conflicts of interest and self-dealing and the appearance thereof.

- The guardian representative shall avoid personal relationships with the person, the person’s family, or the person’s friends. If such a relationship existed before the assignment of the case, the guardian representative shall let their supervisor know so that an appropriate assignment can be made.
- The guardian representative shall become fully educated as to what constitutes a conflict of interest and self-dealing, and why they should be avoided.
- The guardian is not a direct service provider and may not directly provide housing, medical, legal, or other direct services to the person.

I affirm that I have reviewed and understand the PGO Ethical Principles and Standards.

Staff Signature


Date

PGO Medical Consent Authorization Form

Physician Recommended Medical Treatment or Procedure Form

Resident Inventory Form

Appendix C Definitions

	Department of Human Services Policy and Manual Management System	MAN 5800
		Public Guardianship for Adults
		MT 2022-03

Abuse

The willful infliction of physical pain, physical injury, mental anguish, unreasonable confinement, or the willful deprivation of essential services to a person; for purposes of this policy manual specifically describing an adult with a disability or older adult.

Abuse/Neglect/Exploitation (A/N/E)

A way to state the global category of maltreatment of adults with disabilities or older adults investigated by Adult Protective Services and attempts to impede and which the Older Americans Act (OAA) targets for elder abuse prevention.

Activities of Daily Living (ADLs)

Those activities that are fundamental to self-care; such as eating, bathing, toileting, and dressing and that indicate whether a person can care for his/her own physical needs.

Arbitration Agreement

An Arbitration Agreement is a contract or a clause in a broader contract in which parties agree to settle disputes out of court. In signing the agreement, the signing parties surrender the right to go to court. These documents are often included in nursing home admissions packets.

Caregiver

A caregiver is a person who has the responsibility for the care of a disabled adult or elder person as a result of family relationship, contract, voluntary assumption of that responsibility, or by operation of law.

Case Plan

A written plan of action created by the Public Guardianship Office, with the involvement of the person under guardianship, and on behalf of the Department of Human services, that forms the basis for the activities that the case manager, client, family and others follow in order to reduce risk, address safety issues and ensure basic needs are met.

Client Assessment

The comprehensive and systematic process of collecting in-depth information about a person's situation and functioning. It supports the client's control and responsibility regarding their own health and lifestyle and leads to informed decisions about services provided to the person under guardianship. It includes:

- Client demographics and domicile

- Legal information, current services
- Medical information
- Education and vocational information
- Social and recreational preferences and activities
- Religious/spiritual preferences and beliefs
- End of life arrangements and documents

Conservator

A person given the legal right to be responsible for the assets and finances of a person deemed fully or partially incapable of providing these necessities for himself or herself. In Georgia law, "conservator" includes a "guardian of the property" appointed prior to July 1, 2005.

Department

The state designated entity that delivers a wide range of human services designed to promote self-sufficiency, safety, and well-being for all Georgians. Formally named the Department of Human Services (DHS) for purposes of this policy.

DHS Representative

An individual who has been assigned case management duties and responsibilities for DHS public guardianship when the DHS has been appointed as guardian.

Director

The appointed individual tasked with overseeing the mission, values, and core day-to-day functions of the Division of Aging Services (DAS) to include contractual administration, policy and standards, program management, and publications and outreach.

Division

The designated state unit in DHS whose primary focus is to serve at-risk adults, individuals who are 65 or older and/or disabled individuals age sixteen or older. Formally named the Division of Aging Services (DAS).

Do Not Resuscitate (DNR) Order

A Do Not Resuscitate (DNR) order is a medical order written by a doctor instructing health care providers not to do cardiopulmonary resuscitation (CPR) if a patient's breathing stops or if the patient's heart stops beating. Documents and clauses that serve the same purpose include: A.N.D.s (allow natural death), Do Not Attempt to Resuscitate (DNAR) orders and "No CPR/advanced cardiac life support (ACLS) and "Do not call a code" clauses.

Determination of Need – Revised (DON-R)

The validated, standardized screening tool used by DAS programs and the AAA Gateway staff to determine level of impairment and unmet needs. The DON-R defines the factors which help determine a person's functional capacity and their unmet need for assistance in dealing with these impairments. It assesses both impairment in functioning on basic Activities of Daily Living (ADL) and Instrumental Activities of Daily Living (IADL) and the need for assistance in accomplishing such tasks to compensate for having impairments.

Elderly Legal Assistance Program (ELAP)

ELAP provides persons 60 years of age and older legal representation, information, and education in civil legal matters.

Exploitation

The illegal or improper use of an adult with a disability or older adult or that person's resources through undue influence, coercion, harassment, duress, deception, false representation, false pretense, or other similar means for another's profit or advantage.

Guardian

An individual or entity appointed by a probate court to be legally responsible for the care and management of an individual adult who lacks sufficient capacity to make or communicate significant responsible decisions concerning his or her health or safety. Within Georgia law, "guardian" includes a "guardian of the person" appointed prior to July 1, 2005.

Guardian *ad litem*

An individual appointed pursuant to the provisions of O.C.G.A. § 29-9-2. The probate court in its discretion may at any time appoint a guardian *ad litem* to represent the interests of a minor, a proposed ward, or a ward in proceedings relating to the guardianship or conservatorship of that individual. However, the appointment of a guardian *ad litem* does not supersede any specific requirement that an individual be served by personal service and the guardian *ad litem* may not waive personal service for that individual.

Guardian of Last Resort

A guardian appointed by the probate court when no other person or entity is qualified, suitable, or available to serve.

Guardianship

A probate court appointment of guardian to make decisions for an adult who has lost sufficient capacity to make or communicate significant responsible decisions concerning his or her health or safety. The power of a guardian over the person of his or her ward is like that of a parent over his child, but only to the extent necessary for the adult's actual limitations and in the least restrictive manner possible while observing that adult's individual rights and dignity. Refer to Guardianship of Adults, O.C.G.A. §29-4-1, *et seq.*

Guardianship - Permanent

A guardianship appointment by the probate court that is not time limited by law and can only be terminated by restoration of rights, a successor guardianship, or death. Two types of permanent guardianship for which the Department of Human Services (DHS) could be appointed are:

- Successor
- New

Refer to O.C.G.A. §§ 29-4-1 (a); 29-4-42; 29-4-51.

Guardianship - Temporary

A guardianship appointment by the probate court which is limited in duration by law. Three types of temporary guardianships for which the Department of Human Services (DHS) could be

appointed are:

- Pre-hearing emergency
- Emergency
- Temporary substitute

Refer to O.C.G.A. §§ 29-4-14(b)(4); 29-4-15; 29-4-16; 29-4-60.

Health Insurance Portability and Accountability Act (HIPAA)

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) developed regulations protecting the privacy and security of certain health information. Its Privacy Rule, or Standards for Privacy of Individually Identifiable Health Information, establishes national standards for the protection of certain health information and provides technical and non-technical safeguards that organizations called “covered entities” must put in place to secure individuals’ “electronic protected health information” (e-PHI).

Healthcare Facility Regulation (HFR)

The Division within the Department of Community Health responsible for healthcare planning, licensing and certification of various healthcare facility and businesses. This office responds to reports of A/N/E in Long-Term Care Facilities.

Host Home

Private homes of individuals or families, whether owned or leased, in which life-sharing, residential supports are provided to one or two adults with developmental disabilities, who are not to be related to the occupant owner or lessee by blood or marriage. Must be licensed and regulated by the Department of Community Health and/or the Department of Developmental Disabilities and Behavioral Health to qualify.

Incapacitated

An adult whose ability to receive and evaluate information effectively and communicate decisions in any way is impaired to such a significant extent that he or she is partially or totally unable to manage his financial resources or to meet essential requirements for his physical health and safety.

Instrumental Activities of Daily Living (IADLs)

Those more complex activities associated with living independently in the community i.e. money management; meal preparation; housework, shopping, laundry, housework, mobility outside the home, managing routine and special health care needs and the ability to be home alone. These indicators, combined with basic Activities of Daily Living (ADLs), are considered in a comprehensive assessment of an adult’s functional capacity.

Letters of Guardianship

An order of the probate court which vests the appointed guardian with authority to act on the ward’s behalf upon the authority defined in the Order or otherwise by applicable Georgia. These letters will specify the type of guardianship as well as the powers and duties of the guardian.

Learning Management System (LMS)

The web-based learning infrastructure used by the Department of Human Services (DHS) that

offers training administration, skill and competency management and other tracking related to employee certification and training.

Long Term Care Facility (LTCF)

A facility that provides rehabilitative, restorative, and/or ongoing skilled nursing care to patients or residents in need of assistance with activities of daily living. It includes any Skilled Nursing Home, Intermediate Care Home, Personal Care Home (PCH), or Community Living Arrangement now or hereafter subject to regulation and licensure by the Department of Community Health (O.C.G.A. §31-8-51).

Neglect

The absence or omission of essential services to the degree that it harms or threatens with harm the physical or emotional health of a vulnerable adult.

Nursing Home (NH)

Any facility who primarily provides skilled nursing care and related services to residents who require medical or nursing care; rehabilitation services to the injured, disabled, or sick; or on a regular basis, health care and services to individuals who because of their mental or physical condition require care and services (above the level of room and board) which is available to them only through these facilities, and is not primarily for the care and treatment of mental diseases.

Person Centered Planning

A process to develop an individualized support plan that is driven by the individual's own preferences, strengths, and personal goals and directed by the individual when possible.

Personal Care Home (PCH)

Any dwelling that provides or arranges for the provision of housing, food service, and one or more personal services for two or more adults who are not related to the owner or administrator by blood or marriage. (Personal services include, but are not limited to, individual assistance with and supervision of self-administered medications and essential activities or daily living such as eating, bathing, grooming, dressing, and toileting.)

Personal Status Report (PSR)

Report mandated on the Guardian to be submitted to the probate court to update the court on the physical, emotional, and mental condition of the ward. Generally, to be submitted 60 days after appointment and annually thereafter, however it can be required at an interval ordered by Court.

Preadmission Screening and Resident Review (PASRR)

Preadmission Screening and Resident Review (PASRR) is a federally mandated screening process for individuals with serious mental illness and/or Developmentally Disabled related diagnosis who apply or reside in Medicaid Certified beds in a nursing facility regardless of the source of payment. The federal regulations governing PASRR are found in 42 CFR §§ 483.100 through 483.138.

PASRR requirements are found in the State Operations Manual (SOM), Appendix P Survey Protocol for Long-Term Care Facilities and Appendix PP Interpretive Guidance for Long-Term Care

Facilities. Centers for Medicare and Medicaid Services (CMS) State Survey Agency Directors guidance regarding PASRR, is dated September 27, 2007.

Physician Orders for Life-Sustaining Treatment (POLST)

Physician Orders for Life-Sustaining Treatment (POLST) is a portable medical order for specific medical treatments the patient would want during a medical crisis or upon a specific diagnosis and is actionable throughout the community including outside of an emergency or medical facility. The form documents a conversation between a medical professional and a patient and is intended as a complement to advance directives in that it serves as a translational tool and a continuity of care assurance. POLST orders are also known by other names in some states: Medical Orders for Life-Sustaining Treatment (MOLST), Medical Orders on Scope of Treatment (MOST), Physician's Orders on Scope of Treatment (POST) or Transportable Physician Orders for Patient Preferences (TPOPP).

Power of Attorney

A document that grants specific authority for another person (known as the Agent or Attorney in Fact) to act on behalf of the individual (known as the Principal) in certain financial matters. A Georgia Power of Attorney does not authorize the Agent to make healthcare or residential decisions or to make financial decisions against the wishes of the person who is the Principal of the POA. A Georgia Power of Attorney does not remove any rights from the Principal to continue acting under their own authority; it merely shares that authority with another person only authorized to act as directed by and in the best interests of the Principal. An Agent who acts against the wishes of the Principal or acts to enrich themselves has committed a breach of fiduciary duty and it could be a crime.

Public Guardian

An individual or private entity, including a nonprofit entity, who meets the qualifications required in O.C.G.A. § 29-10-1, et seq. and has registered with and been duly approved by the probate court to serve as a public guardian. DHS Representatives are not "Public Guardians."

Representative Payee

A person or other entity that manages an individual's Social Security benefits and/or Railroad Retirement benefits when an adult is determined unable to manage this function without assistance. (Also called "Payee").

Self-Abuse

Harm to oneself, e.g., mutilation or other self-destructive behaviors such as alcohol and drug abuse.

Serious Injury

Bodily injury to a DHS ward that involves a substantial risk of death, unconsciousness, extreme physical pain, sexual assault, violence, protracted and obvious disfigurement or impairment.

Sexual Abuse

The coercion for the purpose of self-gratification by a guardian or other person supervising the welfare or having immediate charge, control, or custody of a disabled adult or elder person to engage in any of the following conduct:

- Lewd exhibition of genitals or pubic area of any person
- Flagellation or torture by or upon a person who is unclothed or partially unclothed
- Condition of being fettered, bound, or otherwise physically restrained on the part of a person who is unclothed or partially clothed unless physical restraint is medically indicated
- Physical contact in an act of sexual stimulation or gratification with any person’s unclothed genitals, pubic area, or buttocks or with a female’s nude breast
- Defecation or urination for the purpose of sexual stimulation of the viewer
- Penetration of the vagina or rectum by any object except when done as part of a recognized medical or nursing procedure.

State Office

Generally, in the context used herein refers to the Division of Aging Services' physical office location in Atlanta, Georgia.

Unbefriended Adults or Elders

Those who do not have capacity to give informed consent, have not executed advance directives, have no legally authorized surrogate and no family, friends or interested persons to help with decision-making.


Unexpected Death

A death of a DHS ward that occurs as a result of homicide, suicide, accident or suddenly when in apparent good health.

Ward

A person placed under the care and protection of a guardian or conservator. (Referred to within DAS Public Guardianship Office as a person under guardianship)

Appendix D Policy Waivers

	Department of Human Services Policy and Manual Management System		MAN 5800
			Public Guardianship for Adults
			MT 2019-01

Policy Waiver Title	Policy Affected	Manual Transmittal	Effective Dates
Monthly Contacts Policy Waiver	MAN 5800 2020	MT 2016-2	01/15/2016 – 06/30/2016

Monthly Contacts Policy Waiver

Policy Statement

Public Guardianship Office (PGO) Man 5800, Section 2020 – Monthly Contacts, requires monthly face-to-face contact with the person under guardianship.

This waiver applies to this policy for a limited time, for a limited group of clients.

Effective Dates

January 15, 2016 through June 30, 2016.

Applicability

For the remainder of State Fiscal Year 2016, monthly, face-to-face contact is waived for any client who 1) lives in a personal care home, group home, host home, community living arrangement, or assisted living facility, **and** 2) has weekly contact with at least two other licensed, community-based service providers.

Rules for Waiver

A. PGO staff must:

1. Make face-to-face contact every other month with clients to whom the waiver applies;
2. For in-person contact months, follow all requirements of policy MAN 5800, Section 2020 – Monthly Contacts;
3. For a “waiver month,” in which no in-person contact is required, follow all requirements of MAN 5800, Section 2020, except visiting the client in-person that month;
4. Interview at least two of the licensed, community-based service providers who have weekly visits with the client to monitor provision of service to the client and the client’s progress and/or status on a monthly basis.

In MAN 5800, Section 2020, contact with a “family member, significant other or agency from which the ward receives or may receive services” is mentioned but does not specify the number of contacts that must be made or who must be contacted. For waiver months, at least two “licensed, community-based service providers” must be contacted;

5. Speak to the operator of the home in which the client resides at least once in the waiver month;
6. Speak by telephone to any client to whom the waiver applies who can use a telephone at least once in the waiver month; **and**,
7. Document all case contacts in the Harmony system in a timely manner, as defined by PGO MAN 5800, Section 2002 – Documentation Timeliness.

B. The waiver is not applicable to clients who experience health, residential, or other crises.

C. PGO Supervisors must review case records to verify that clients who are visited every other month meet all criteria for the waiver.

References

PGO MAN 5800, Section 2002 – Documentation Timeliness

PGO MAN 5800, Section 2020 – Monthly Contacts