

Guardianship Association of Iowa Network (GAIN) Presents: Iowa Guardianship & Conservatorship Newsletter

Legal Refresher & Best Practices

Overview: Guardianship & Conservatorship in Iowa

Iowa Code Chapter 633 provides the legal framework for guardianship and conservatorship. These tools support adults who cannot fully manage personal or financial matters. Understanding your responsibilities is critical—whether you are a professional or a family/volunteer guardian.

Tip: Even seasoned guardians benefit from a periodic refresher on the law and recent updates. There are many nuances when it comes to caring for the entire well-being of people. A great basis to refer to in making decisions is always the Iowa Code, and National Guardianship Association (NGA) code of ethics. From there, find a knowledgeable and reliable group to bounce ideas off of. GAIN is a great resource for that! (hint, hint)

Guardian vs. Conservator: Know the Difference

Role Responsibilities Notes

Guardian: Personal care decisions, healthcare, living arrangements
Can be limited to certain decisions

Conservator: Financial and property management. Often overlaps with guardian, but should remain distinct

Tip: Clarify roles early to prevent conflicts and ensure compliance with the law. When serving both as conservator and guardian, be sure to focus on the task at hand as you fulfill each duty, one at a time. It can be an advantage to serve as both because then you have an even more thorough understanding of the Protected Person's (PP) needs. Never put yourself at risk for appearing to be satisfying your own best interests in any way. Documentation is our most crucial piece to ensuring accountability for how we serve our PPs.

Rights Retained by the Protected Person

Even under guardianship or conservatorship, individuals can retain key rights:

- Voting
- Marriage
- Making certain personal or financial decisions
- Participating in healthcare and living decisions

Best Practice: Always consider retained rights and adopt the **least restrictive approach**. Research the Protected Person you are becoming guardian for as thoroughly as possible to get to know their needs. Interview caregivers and the petitioner to get to know their motivations behind asking for a guardian. Their intentions may be in the right place, but lack of understanding in how guardianship works can sometimes lead people to believe the most restrictive option is needed, when in reality, they may not have known where else to get them help with something. It is always better to investigate and understand their needs, so that you can best meet them, and be an advocate right out of the gate!

Least Restrictive Alternatives

Before pursuing formal guardianship/conservatorship:

- **Powers of Attorney** – Delegate decisions while retaining autonomy.
- **Supported Decision-Making Agreements** – Assistive decision-making instead of total replacement.

Tip: Courts favor less restrictive alternatives whenever feasible. When asking for restrictions (for example: moving to more restrictive living arrangements) always have thorough documentation from providers to indicate why this decision is in the best interest of the Protected Person.

The guardian holds the power to advocate for the best interest of the PP. Sometimes even when providers want to add a restriction, the guardian can clearly identify reasons why that may not be in the best interest of the PP. It is important for guardians to know the needs of the PP, and speak up when the team may be going against their best interest. The courts entrust that when these requests come to them, all less restrictive alternatives have already been considered and explored.

Recent Legislative & Court Updates

Stay current:

- Expanded annual reporting and care plan requirements
- Increased judicial oversight for least restrictive options
- Clarified temporary guardian/conservator powers

Tip: Regularly review Iowa's legislative updates to avoid compliance issues. GAIN has been sending members updates that have come through this legislative session to help us stay informed. Use that to your advantage.

Common Mistakes in Filings

- Incomplete petitions
- Not demonstrating why alternatives won't work
- Confusing guardian vs. conservator duties
- Failure to notify necessary parties
- Not knowing that initial and annual reports are required

Tip: Meticulous filings save time, reduce disputes, and ensure smoother court processes. Be sure to read the duties outlined in the court filings that go along with being appointed. Oftentimes, they are a reliable source for ensuring you know what is expected of you in your role as guardian/conservator.

Members Only: Best Practices for Annual Reporting & Documentation

1. Maintain Detailed Records

Track finances, healthcare decisions, and communications carefully. Use a software system that can streamline documentation no matter who is using it.

2. Use Standardized Forms

Iowa courts provide templates—using them reduces errors. They can be found on our website.

3. Document Decision Rationale

Explain why decisions were made, especially regarding alternatives. This may include keeping documentation of less restrictive alternatives as they have been attempted to show results of how they didn't work.

4. Submit Reports Timely

Late submissions can trigger court intervention or removal. Especially for professional guardians. Ensure you are tracking dates due and holding yourself and/or your team accountable to meeting those deadlines. Plan ahead and have a large buffer within the 60 day period in case other things come up that may delay completing and submitting reports on time.

5. Regularly Review Alternatives

Ensure the protected person remains in the **least restrictive setting** suitable for their needs. Review those needs as often as possible. There can be instances when restrictions can be lifted. Be sure to watch for those opportunities and advocate accordingly.

Pro Tip: Clear, organized documentation protects both the guardian/conservator and the protected person.

Conclusion

Guardianship and conservatorship are powerful tools that carry significant responsibility. Staying informed, following best practices, and honoring the rights of the protected person ensures successful outcomes for everyone involved.