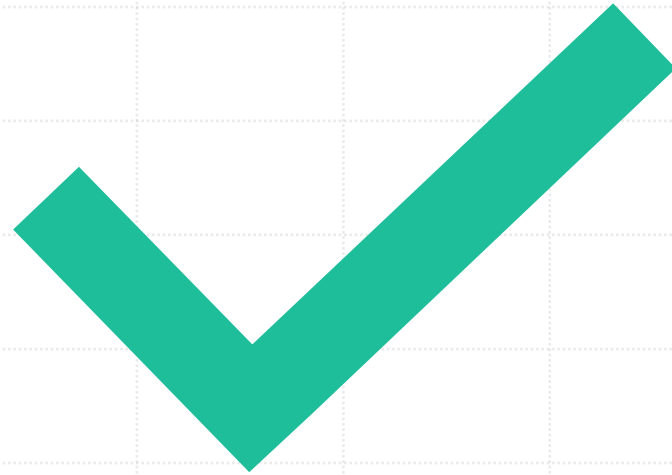


NGA Standards of Practice & Bill of Rights

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WHY NOW





Timeline for Updates

- Standard's first edition 2000
 - Revised 2002 & 2007
- Last revision 2013
 - Following 3rd National Guardianship Summit
- Rights first version 2007



4th National Guardianship Summit 2021

- **National Guardianship Network**
- **NGA member and sponsor**
- **150 delegates**
- **4 virtual days**
- **6 working groups**
- **22 recommendations**
- [Fourth_National_Guardianship_Summit_-_Adopted_Recommendations_\(May_2021\).pdf](#)
(syr.edu)



Key Summit Recommendations


Develop an enforceable Bill of Rights

**Provide meaningful due process post-appointment
Appoint counsel throughout**

**Ease process to restore rights
Review ongoing need for guardianship**

**Require consideration of LRA & supported decision
making**

**Eliminate plenary guardianship
Adopt Uniform Act--UGCOPAA**



Key
Uniform Act
Provisions—
UGCOPAA

No guardianship where LRA meets needs

Specific court findings before certain rights removed

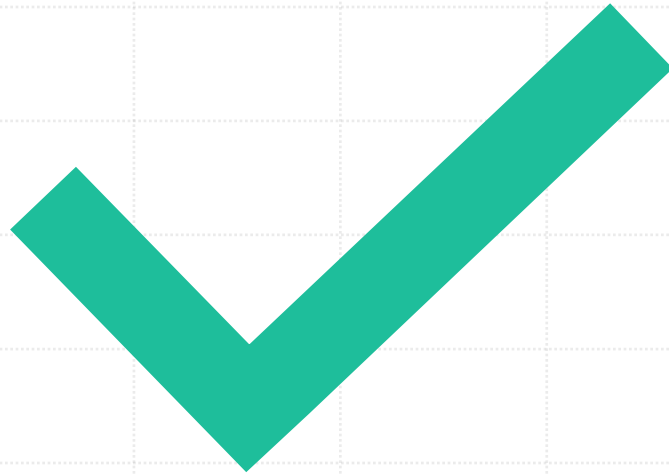
Triggers for modification/restoration

Lawyer as advocate

Use of protective arrangements



WHAT WE DID





TEAM

Sally Hurme (VA)

Greg MacKenzie (NM)

Julia Nack (OHIO)

Anthony Palmieri (FL)


Paul Stengle (PA)



MEETINGS

12 two-hour
sessions

August 2021
to June
2022



Section-by- Section, Sentence- by-Sentence Review

Clarity of expectations

Get rid of passive voice

Re-order the flow of some sections

Eliminate a few

Provide internal consistency



Summit: Restoration of Rights

Clear, easy court procedures

Legal representation

Notice of opportunity to seek restoration

Meaningful review of need to continue

Guardians educated on restoration process



Standards: Restoration of Rights

1

Give notice of
right to seek
restoration

2

Not interfere

3

Actively
support

4

Petition when
appropriate




Center on Preferences

Defined “family” & defined “friend”

Who the person considers family or friends

Or who the guardian reasonably believes are the person’s family or friends

Communicate significant occurrences to those the adult wants you to communicate with, or you reasonably believe the adult would want you to communicate with



Include “to the
greatest extent
reasonably possible”
in plans and
decisions



Person leads the
planning process,
or at least is included
if not able to lead

Center on
Self-determination

Relation to Family & Friends: Standard 4

Do not
interfere

Do not interfere with relationships
unless substantial harm

Get

Get court approval for restrictions on
family visits (more than 7 days) or
friends (60 days) (UGCOPAA)


Use

Use conflict resolution approaches



Delegation of Tasks: Standard 5

- May delegate with reasonable care, skill and caution in:
 - Selecting agent
 - Setting scope of work
 - Monitoring compliance and performance



Making a Move? Standard 12

Seek prior court approval if

- To other state
- To setting that restricts ability to leave or have visitors

Priorities in Choosing

- Meets needs in least restrictive manner reasonably feasible
- Allows continued social relationships without unnecessary restrictions

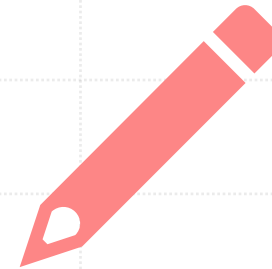


Fiduciary Defined: Standard 17



2013

used “fiduciary” without
explanation



2022

spells out what it means



Fiduciary Duties Delineated

- Administer diligently
- In good faith
- In least restrictive manner
- Maximize dignity, autonomy, self-determination
- Administer funds as prudent person would
- Exercise reasonable care, skill and caution

Conflict of Interest: Standard 16

Defines “self-dealing”

Stresses the duty of loyalty to person

Forbids taking advantage of position as guardian

Discusses when to go to court if guardian must provide some direct service

Removes “impropriety” due to lack of a firm definition

Guardian of Estate: Standard 18

Current needs come before preservation of estate

Need to manage, but not eliminate, risk

Confirms Medicaid planning when necessary

Requires bonding

Other Guardian Causing Harm



If reason to believe



Violation of standards



Cause significant harm



Report to appointing court

Rights of the Person With a Guardian

Summit: Task force to develop model Bill of Rights

- Work is done
- Built on NGA's *Rights of Individuals Under Guardianship (2000)*

Standard 1: Guardian's duties on Rights

- Advocate for preservation & protection of rights
- Make decisions that respect rights
- Support in exercising rights



Bill of Rights for Adults with a Guardian





National multidisciplinary team

Person whose rights have been restored

Professional guardian

Family guardian

Disability organization representative

Aging organization representative

Administration on Aging retiree

Lawyer

Former/current NGA presidents



Conceptual Format

Rights that are
retained

Rights that can
be **removed**

Rights that can
be **delegated**
to guardian



Rights Retained— Due Process & Access

All rights not granted to the guardian

A lawyer who advocates for you

Participate in all court matters

Let the court know of your concerns

Court review of need to continue

Ask the court to alter or end the guardianship

Independent assessment of abilities



Rights Retained— Participate

Treated with dignity and respect




Remain as independent as possible




Fully participate in decisions



Competent guardian who listens and advocates



Competent guardian who carefully manages resources



Rights Retained-- Personal

Free from abuse,
neglect,
exploitation

Exercise
religious
preferences

Receive services
needed

Safe living,
learning,
working
environment

Personal privacy

Confidentiality



Rights that Court can Remove or Restrict



Vote



Change marital
status



Employment



Education



Drive



Travel



Communicate

For ALL Rights

Specific
determination
for each right

Due process
before any
restrictions
imposed



**Rights
Delegated**

Social life

Residence

Medical
treatment

Mental
treatment

Contract

Manage
resources



Due process protections before
delegation



Consistent with adult's
preferences

Your Turn

What more
would you like
to know?

