

Agenda

Court Visitor Steering Committee

April 24, 2012
12:00 to 2:00 p.m.

Administrative Office of the Courts
Scott M. Matheson Courthouse
450 South State Street
Judicial Council Room, Suite N31

Summary of January meeting	Tab 1	
Introduction of Michaelle Jones		Tim Shea
Visitor recruitment and training	Tab 2	Karolina Abuzyarova Michaelle Jones
Judge orientation		Tim Shea
Manuals and forms	Tab 3	Karolina Abuzyarova Mary Jane Ciccarello Michaelle Jones Tim Shea

Committee Web Page: <http://www.utcourts.gov/committees/visitor/>

Meeting Schedule: 12:00 to 2:00 in the Judicial Council Room, Matheson Courthouse, unless otherwise noted.

May 22, 2012
June 26, 2012
September 25, 2012
October 23, 2012
November 27, 2012

Tab 1

Court Visitor Program Steering Committee meeting report

February 28, 2012

The topics of the meeting were Court Visitor Report form, education curriculum for judges and court clerks, background check screening.

Committee chair provided an update for the program, including presentation of the program at the Utah State Bar CLE seminar on February 23, 2012 and asked for the feedback if special rule needs to be introduced to protect visitors from attorneys' influences or manipulation. Committee stated that such a regulation would be beneficial.

Committee reviewed **Court Visitor's Report on Interviews and Observations** and recommended to itemize Section (3) Respondent's Values and Preferences, in section (5) Behavior – add a "subject deviation" item that would describe inability to address the question asked and instead deviating from the subject. It was noted that detailed forms developed for the Court Visitor Program will help making limited guardianship a more feasible option as opposed to almost exclusively plenary guardianships being granted at present.

Committee approved a **training curriculum for judges and clerks** addressing the details and procedures of the Court Visitor Program. Committee suggested adding a checklist from the probate code or summary of statutes regarding appointment of Court Visitors and guardianship process in general. Regarding the **timing of the training**, Committee agreed that the training for judges could be organized in the afternoon on Thursday, May 17, at the Spring Conference for District Judges in Park City.

Committee did not identify particular **screening/background check** criteria. It was suggested to have a look at the background check form used by the Utah Department of Health, Adult Protective Services and Long-Term Care Ombudsman office, as well as ask Court Visitor Coordinators nationwide about the best practices used. Committee agreed that no applicants with felonies, sex crimes, or hard drugs related crimes would be considered. Other than that Committee concluded that the review of the background check results will be done case by case.

Additionally Committee considered an option of organizing a program in a way that would have a completed visitor's report presented to the court and the parties involved before the scheduled hearing, particularly over the period of approximately two weeks. Options were considered when to appoint a visitor, e.g.: when clients are self represented, request of the visitor by interested party, when respondent is not present, and potentially random cases chosen by the court. The benefit to assign a visitor and prepare report before the hearing is reduction of cost for the parties involved in the case.

Tab 2



Utah State Courts

Court Visitor Volunteer Program

Training Agenda

May 14th, 16th, and 18th, 2012

Matheson Courthouse
Conference Rooms B and C, 1st floor
450 South State Street,
Salt Lake City, Utah

DAY 1

Monday, May 14, 2012

- | | |
|---------------|---|
| 8:00-8:15 | Sign in, pick up materials |
| 8:15 - 8:30 | Introduction: the need in the Court Visitor Program, what problems we will be addressing, why it is important. History of program development (Royal Hansen, Presiding Judge, Third District Court) |
| 8:30 – 9:15 | Structure of the program: what, where, when (Tim Shea Senior Staff Attorney, Administrative Office of the Utah State Courts, Karolina Abuzyarova, Court Visitor Program Coordinator; Michaelle Wells Jones, Court Visitor Volunteer Coordinator): <ul style="list-style-type: none">• Introduction of Court's staff• Overview of the volunteer roles: expectations, time commitments, length of appointments• What we are going to learn |
| 9:15 – 10:15 | Guardianship law and court procedures (Mary Jane Ciccarello, Director of Self-help Center, Utah State Law Library) |
| 10:15 – 10:30 | BREAK |
| 10:30 – 10:45 | Working with and helping Court employees: judges, court clerks (Tim Shea Senior Staff Attorney, Administrative Office of the Utah State Courts) |

- 10:45 – 11:15 Understanding the role of the guardians (**Donna Russell, Director, Office of Public Guardian**)
- 11:15 – 12:00 Ethics, confidentiality and conflict of interest – the volunteer role and its limits (**Brent Johnson, General Counsel, Administrative Office of the Utah State Courts**)

DAY 2

Wednesday, May 16, 2012

- 8:00 – 8:15 Sign in
- 8:15 – 9:15 Who are the people we will be helping: typical physical and mental conditions affecting individuals under guardianship (**Kelly Davis Garrett, Clinical Neuropsychologist, Intermountain Healthcare**)
- 9:15 – 10:00 Living conditions of vulnerable adults (**Donna Russell, Director, Office of Public Guardian**)
- 10:00 - 10:15 BREAK
- 10:15 – 12:15 Overview of the problems in guardianships:
- Abuse, neglect and isolation of vulnerable adults (**Nan Mendenhall, Director, Adult Protective Services**)
 - Financial exploitation (**Keith Woodwell, Division of Securities, State Department of Commerce**)
 - Other problems in guardianship matters (**Margy Campbell, Master Guardian/Owner, Guardian & Conservator Services, LLC**)
- 12:15 – 12:45 Available community resources, referrals (**Peter Hebertson, Salt Lake County Aging Services**)

DAY 3 (TRACK 1)

Friday, May 18, 2012

- 8:00 – 8:15 Sign in
- 8:15 – 8:30 Role and duty of the interviewer role. Need and importance of the service (**Michaëlle Wells Jones, Court Visitor Volunteer Coordinator**)

- 8:30 – 9:30 How to get started on the visit, how to best communicate with the guardian and the protected person, how to listen and problem solve (**Clara McClane, Director of Older Adult Services, Jewish Family Service; Rob Denton, Managing Attorney, Disability Law Center**).
- 9:30 - 10:00 Safety matters (**Carol Price, Security Director, Administrative Office of the Utah State Courts**)
- 10:00 – 10:15 BREAK
- 10:15 – 10:45 Court case files – how to find them, how to read them, what information to get from them (**Joanne Bueno Sayre, Probate Clerk, Third District Court**).
- 10:45 – 11:15 How to fill out the Court Visitor Report (**Michaelle Wells Jones, Court Visitor Volunteer Coordinator**)
- 11:15 – 11:30 Program evaluation (**Michaelle Wells Jones, Court Visitor Volunteer Coordinator**)

DAY 3 (TRACK 2)

Friday, May 18, 2012

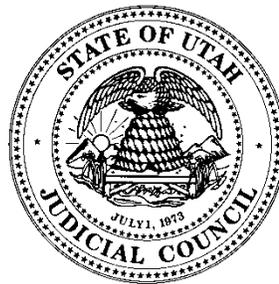
- 8:00 – 8:15 Sign in
- 8:15 – 8:30 Role and duty of the tracker and the researcher role. Need and importance of the service (**Karolina Abuzyarova, Court Visitor Program Coordinator**)
- 8:30 – 9:30 Guardianship flow chart: court procedures in guardianship matters. Checklist of documents for guardianship and conservatorship file (**Kent Alderman, Attorney, Parsons, Behle & Latimer**)
- 9:30 – 10:15 The researcher role: preparing case files for hearings and monitoring compliance of guardian’s reports (**Tim Shea, Senior Staff Attorney, Administrative Office of the Utah State Courts**).
- 10:15 - 10:30 BREAK
- 10:30 – 11:15 The tracker role: locating the guardian if the contact information is missing in court files (**Tim Shea, Senior Staff Attorney, Administrative Office of the Utah State Courts**).
- 11:15 – 11:30 Program evaluation (**Karolina Abuzyarova, Court Visitor Program Coordinator**)

Tab 3



Utah State Courts

Court Visitor Volunteer Program
Introductory Manual



May 1, 2012

(1) Acknowledgments

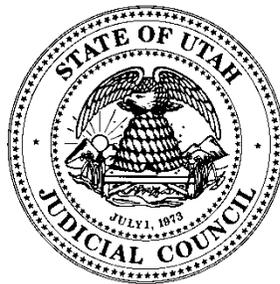
This manual is adapted from a manual by Erica Wood and Ellen Klem of the American Bar Association Commission on Law and Aging, Volunteer Guardianship Monitoring and Assistance: Serving the Court and the Community (2011), developed under a grant from the State Justice Institute. Reprinted by permission of the American Bar Association.

Contributors to that manual are not included here.

This manual is written and published with funds from the State Justice Institute, Grant Number SJI-11-N-001. The points of view expressed are those of the authors and do not necessarily represent the position or policies of the State Justice Institute, the Utah Judicial Council or the Utah State Courts.

The Judicial Council grants permission for this handbook to be reproduced, in print or electronic form, for use in courts and by the judiciary, in institutes of higher learning, and for use by not-for-profit organizations, provided that the use is for noncommercial purposes only and acknowledges original publication by the Judicial Council, including the title of the book and the legend “Reprinted by permission of the Utah Judicial Council.”

Copyright © 2012 Utah State Courts. All rights reserved.



(2) Message from the chief justice

Congratulations on becoming a court visitor, and thank you. You have embarked on what I hope will be a personally rewarding experience. You will be helping the court to appoint and monitor guardians of incapacitated adults. Your contribution of time and effort will make a real difference to the court, to the guardians responsible for vulnerable adults, and to the vulnerable adults themselves.

The court has prepared this series of manuals to introduce you to the world in which people under guardianship live and to serve as a continuing resource as you do your work.

Your contributions will improve the lives of incapacitated adults in our community, provide information on which the judge can base decisions, teach guardians to perform their duties with integrity, and protect incapacitated adults from abuse, neglect and exploitation.

The Utah courts value your important contributions. Again, thank you.

Matthew B. Durrant
Chief Justice, Utah Supreme Court
Presiding Officer, Utah Judicial Council

Court Visitor Volunteer Program: Introductory Manual

(1)	Acknowledgments	2
(2)	Message from the chief justice	3
(3)	Role of the court visitor.....	6
(4)	Introduction to guardianship	6
(a)	What Is guardianship?	6
(b)	Procedure for appointing a guardian.....	7
(i)	Petition to appoint a guardian	7
(ii)	Service of the petition and notice of hearing.....	8
(iii)	Objecting to the petition.....	8
(iv)	Lawyer for the respondent.....	8
(v)	Court visitor	8
(vi)	Mediation.....	9
(vii)	Hearing.....	9
(viii)	Evidence of incapacity.....	9
(ix)	Evidence of need for authority.....	10
(x)	Pre-appointment test	10
(xi)	Order and letters of guardianship	10
(c)	Who can serve as guardian?	11
(d)	Guardian’s authority.....	11
(i)	Limited authority.....	11
(ii)	Plenary authority	12
(e)	Temporary guardian	12
(f)	Guardian ad litem	12
(5)	Some problems after court appointment of a guardian.....	12
(6)	How the court responds to problems	13
(7)	Volunteer court visitor program administration.....	14
(a)	State court organization	14
(b)	Assignments	15
(c)	Court visitor program contacts	15
(d)	Getting to the courthouse; Local contacts.....	15

(i) Third Judicial District..... 15

(ii) Seventh Judicial District 16

(iii) Trax directions to the Matheson Courthouse..... 16

(iv) Driving and parking directions to the Matheson Courthouse 16

(e) Record keeping and reimbursement..... 16

(8) Confidentiality and conflict of interest 17

(3) Role of the court visitor

The court visitor is a special appointee of the court who has no personal interest in the proceedings. The court visitor program is a district court volunteer program with the goal of improving the lives of incapacitated adults, assisting guardians and improving judges' decisions. A court visitor investigates, observes and reports to the court, ensuring that the protected person's needs are met, that their property is protected and being used for their benefit, and that the court's orders are being followed. The Utah courts have developed five different roles for volunteers, all under the rubric of "court visitor."

- The **interviewer** interviews protected persons and others who are important in that person's life and observes the care of the protected person in their residential environment. Most of the visitor's work is in the homes of the people being interviewed.
- The **auditor**, a visitor with accounting skills, may be appointed to review financial reports filed by guardians and report any problems. Most of the visitor's work is in the courthouse.
- The **researcher** may help the court prepare case files for hearings and monitor compliance of guardians' reports. Most of the visitor's work is in the courthouse.
- The **tracker**, a visitor with forensic skills, may be appointed to find guardians with whom the court has lost contact. The visitor's work environment varies depending on the nature of the research: visiting social media websites; contacting friends, family and colleagues; and researching bank, medical or other records that might show the guardian's whereabouts.
- The **teacher**, a visitor with teaching skills, may train other visitors, guardians and the public. Most of the visitor's work is in a classroom setting, usually in a public building like a library.

(4) Introduction to guardianship

Your role in helping the court to appoint and monitor guardians occurs during and after the appointment process, and it may be helpful to understand that process. For a summary, see the [guardianship flow chart](#).

(a) What Is guardianship?

Adults have the right to make decisions about their lives. An adult who loses the capacity to make decisions may need special protection. There are several ways to help a person with diminished capacity. One option is for a "guardian" to make decisions on behalf of the protected person. (A person under guardianship is known as a "protected person." During the appointment proceedings, the protected person is referred to as the "respondent.") The order appointing a guardian transfers the right to make decisions

from the protected person to the guardian. A guardian is a position of high trust, with responsibilities for the protected person and duties to the court.

The court may appoint a guardian only if the protected person is “incapacitated.” “Incapacity” means that the protected person’s ability to make or communicate responsible decisions is so impaired that injury or illness may occur because s/he is unable to care for personal safety, or to provide for such necessities as food, shelter, clothing and medical care.

Generally speaking, a guardian is responsible for decisions about a protected person’s personal well-being: residence, healthcare, nutrition, education, recreation, personal care, etc. Generally speaking, a “conservator” is responsible for making decisions about a protected person’s estate: money, property, investments, business, contracts, etc. Under appropriate facts, the court might appoint one, or the other, or both. The guardian and the conservator might be two different people, or they might be the same person. If the court does not appoint a conservator, the guardian has many of the conservator’s duties. Both offices are also known as “fiduciaries,” and, upon appointment, both submit to the authority of the court.

You are a “court visitor,” someone the court appoints to observe and report about the protected person’s conditions and other matters as the court directs. The visitor does not give an opinion on the protected person’s capacity but reports on observable facts. A visitor is a special appointee of the court with no personal interest in the proceedings. The parties may request that a visitor be appointed. The court may appoint a visitor on its own initiative.

As you begin working on guardianship cases, remain aware of two things:

- Guardianship is a positive, protective device that helps to keep a person with diminished capacity from harm and helps them to be as independent as possible. Yet, at the same time, guardianship removes the fundamental right of a protected person to make their own decisions.
- Being a guardian is a most demanding role. A guardian must provide for the protected person’s care and welfare, manage their funds prudently, and, with the protected person’s values in mind, make medical treatment decisions—sometimes including end-of-life decisions. Often a guardian must decide where the person will live and must advocate for effective services. A guardian must make regular reports to the court.

(b) Procedure for appointing a guardian

(i) Petition to appoint a guardian

Any adult may file the petition. The petitioner may request that s/he or someone else be appointed guardian. The petitioner must file the petition in the county in which the respondent resides or is present.

(ii) Service of the petition and notice of hearing

Who must be served, how they must be served, and what they must be served with are governed by [Utah Code Section 75-5-309](#) and [Section 75-1-401](#). The petition and notice of the hearing must be served on the Respondent and on the Respondent's:

- spouse;
- parents;
- adult children;
- closest adult relative if no one listed above can be found;
- current guardian and conservator;
- caregiver or custodian; and
- guardian appointed by the will of Respondent's parent or spouse.

Only the notice of the hearing must be served on:

- Respondent's healthcare decision making agent; and
- Respondent's agent under power of attorney.

(iii) Objecting to the petition

Usually a party "responds" to a petition, but in a guardianship, any person served with notice may "object" to the petition. The person may file a written objection before the hearing or appear at the hearing to raise the objection verbally.

(iv) Lawyer for the respondent

Utah law requires that the respondent be represented by a lawyer. If the respondent has not chosen a lawyer, the court must appoint one, but the petitioner may need to arrange for respondent's lawyer before the first hearing, but the respondent's lawyer is an independent advocate. The respondent will usually have to pay for the appointed lawyer unless the petition is without merit.

(v) Court visitor

If it is proposed that the respondent not be present at the hearing, the court must appoint a court visitor to investigate the ability of the respondent to appear unless there is clear and convincing evidence from a physician that the respondent has fourth stage Alzheimer's Disease, extended coma, or an intellectual disability with an intelligence quotient score under 25.

The court may also appoint a court visitor to observe and report about the respondent's conditions and other matters. The visitor does not give an opinion on the respondent's capacity but reports on observable facts.

A visitor is a special appointee of the court with no personal interest in the proceedings. The petitioner, respondent or any interested person may request that a visitor be appointed. The court may appoint a visitor on its own initiative.

(vi) Mediation

If someone objects, the parties must try to mediate their dispute before proceeding to trial.

(vii) Hearing

The court will set a date for a hearing when the petition is filed. If the respondent is not already represented, the court will appoint a lawyer at the hearing. This hearing is not a trial with testimony by witnesses, although the judge may ask questions. The judge will consider:

- whether the petition has the necessary claims;
- whether proper notice of the petition and hearing has been given;
- whether the respondent is present or whether the respondent's presence has been properly waived;
- whether there is a need to appoint a court visitor;
- whether the respondent is represented by a lawyer;
- whether the necessary documents have been filed;
- whether the proposed guardian is willing to serve;
- whether the proposed guardian has taken the guardianship test and filed the declaration of completion of testing, whether required; and
- whether there are any objections.

Unless someone objects to the petition, the judge will appoint the guardian at the hearing. If there is an objection, the case will be referred to mediation or set for trial at which the petitioner will have to prove the claims made in the petition.

(viii) Evidence of incapacity

The petitioner must prove that the respondent is incapacitated by clear and convincing evidence. That means the evidence must leave no serious doubt that:

- (1) The respondent is not able to:
 - make responsible decisions; and/or
 - communicate responsible decisions.
- (2) The respondent's inability to make and/or communicate responsible decisions is caused by:

- mental illness;
 - mental deficiency;
 - physical illness or disability;
 - chronic use of drugs;
 - chronic intoxication; or
 - some other cause.
- (3) The respondent's ability to make and/or communicate responsible decisions is so impaired that injury or illness may occur because respondent is unable to:
- care for personal safety; or
 - attend to and provide for such necessities as food, shelter, clothing and medical care.

(ix) Evidence of need for authority

The petitioner must also present evidence on what authority the guardian should have. The petitioner must present evidence that the guardian's authority to make decisions in specific areas is necessary or desirable as a means of providing continuing care and supervision for the respondent. The court's order will limit the guardian's authority to these areas.

If the petitioner is seeking plenary authority, the petitioner must prove that no alternative exists and that nothing less than a full guardianship is adequate.

(x) Pre-appointment test

[Rule 6-501](#) requires that, before a person can be appointed as guardian, the person must take a test about their authority and responsibilities and file a [Certificate of Completion](#) with the court. The law does not require a test for a professional guardian or a parent appointed as guardian of their adult child. The test is not meant to screen anyone out of their role as guardian; it is meant to reinforce some of the responsibilities of the office.

(xi) Order and letters of guardianship

If the court is satisfied that the respondent is incapacitated and that the appointment is necessary or desirable as a means of providing continuing care and supervision of the respondent, the court will appoint a guardian. The guardian's authority will be limited unless nothing less than a full guardianship is adequate. The court's order will include the guardian's authority, and the letters of guardianship will conform to the order.

The letters show the guardian's authority to make decisions for the protected person.

(c) Who can serve as guardian?

Only a person appointed by a judge can serve as guardian. The judge can appoint any competent person, but [Utah Code Section 75-5-311](#) creates a priority list, and the judge will appoint in the following order unless there is a good reason not to.

The guardian may be a family member or friend. Usually family guardians have known the protected person for a long time and are familiar with the person's background and values. Family guardians likely have never served in this role before and are unfamiliar with it. They may need a lot of assistance.

The guardian may be a professional guardian who has experience serving in the role and who often has several protected persons for whom s/he is responsible.

The guardian may be the [Office of Public Guardian](#), a state agency, if there is no one else available to serve and insufficient money to pay a private agency.

(d) Guardian's authority

The guardian might have authority to make decisions only about certain things, sometimes called a limited guardianship. Or the guardian might have authority to make decisions about all aspects of the protected person's life, sometimes called a plenary guardianship. Utah law prefers limited guardianships, so that the protected person retains as much independence as possible. The court can give the guardian plenary authority only if nothing less than a full guardianship is adequate.

(i) Limited authority

Utah law prefers a guardian with limited authority. The guardian's authority should be tailored to the protected person's needs and abilities, and the challenge will be to describe that authority specifically enough to be clear and generally enough to be flexible. Depending on the protected person's needs and abilities, the guardian may need authority to make decisions about:

- medical or other professional care, counsel, treatment, or service;
- custody and residence;
- care, comfort, and maintenance;
- training and education; and
- clothing, furniture, vehicles, and other personal effects.

If no conservator has been appointed, the guardian may need authority to make decisions about:

- proceedings to safeguard the protected person's property;
- proceedings to compel a person to support the protected person; and

- receiving money and tangible property deliverable to the protected person and applying the money and property for the protected person’s support, care, and education.

If the petitioner believes that other authority is needed, the petitioner should describe and request that authority in the petition and present evidence of the need at the hearing. The order and letters of guardianship must clearly describe the authority that the judge grants.

(ii) Plenary authority

If the court finds that nothing less than a full guardianship is adequate, the guardian has the same powers, rights, and duties respecting the protected person that a parent has for a minor child.

Even with a plenary appointment, Utah law is unclear about whether the guardian has authority to make decisions about the protected person’s religion, friends and sexual activity; whether the protected person can marry or divorce; whether the protected person may drive, consume legal substances or own a firearm. If the petitioner believes that authority is needed for these matters, the petitioner should describe and request that authority in the petition, present evidence of the need at the hearing, and include the authority in the order.

The right to vote cannot be assigned to the guardian in any event. The petitioner should consider whether to include in the petition and order whether the protected person retains the right to vote. The guardian can assist the protected person to cast votes.

(e) Temporary guardian

A “temporary guardianship” is an appointment for a limited period of time, after which the court order expires. Utah law allows a temporary guardianship only if the welfare of the protected person requires immediate action. A temporary guardianship does not determine a person’s capacity, only that an emergency exists and that the person may be harmed if a guardian is not appointed.

(f) Guardian ad litem

A “guardian ad litem” is not the same as a “guardian.” The court might appoint a guardian ad litem to represent the best interests of the respondent at a hearing.

(5) Some problems after court appointment of a guardian

- (a) The guardian does not file care reports or financial reports in a timely manner.
- (b) The reports are incomplete or inconsistent.
- (c) Conflict among family members affects the protected person’s care or finances or results in the guardian being unable to make decisions.

- (d) The guardian wants or needs to resign. For example, the guardian is overloaded as the health of the protected person declines, or the guardian him or herself experiences diminished capacity.
- (e) Need for change in scope of guardianship. For example, if a protected person's functioning improves, the guardian needs to return to court to modify or terminate the guardianship.
- (f) Physical, sexual or emotional abuse.
 - The use of physical force that may result in bodily injury, physical pain, or impairment.
 - Inappropriate use of drugs and physical restraints, force-feeding, and physical punishment.
 - Non-consensual sexual contact of any kind with the protected person or sexual contact with a protected person who is incapable of giving consent.
 - The infliction of anguish, pain, or distress.
- (g) Neglect. The guardian fails to perform required duties in caring for the protected person or managing the person's property. For example, a guardian fails to make suitable living arrangements or medical appointments or moves the protected person without informing the court. Or the guardian has difficulty fulfilling responsibilities and needs help.
- (h) Financial exploitation is the illegal or improper use of a protected person's funds, property, or credit. For example, a guardian improperly uses the funds of the protected person to support someone other than the protected person or the protected person's dependents, charges unreasonably large fees, or make transactions not permissible without court review.
- (i) Abandonment is the desertion of the protected person.
- (j) Changing the protected person's lifestyle. For example, the guardian does not honor the protected person's values and preferences. Or the guardian spends too little (or too much) to support the standard of living to which the protected person is accustomed.
- (k) The guardian does not encourage and help the protected person to be as independent, engaged, and comfortable as possible in the circumstances.

(6) How the court responds to problems

If problems arise the court has a number of means to encourage—and, if necessary, to order—changes. Measures that the court can take include:

- (a) Request information or clarification from the guardian.
- (b) Inform the guardian of community resources or services.

- (c) Request the guardian to submit a plan for making improvements.
- (d) Request the guardian to take specific actions within a designated time.
- (e) Appoint a visitor or guardian ad litem for further investigation.
- (f) Appoint a co-guardian.
- (g) Refer the case to another agency, such as adult protective services or the long-term care ombudsman.
- (h) Order the guardian to a hearing to determine what problems exist and what changes are needed (sometimes called an “order to show cause” why the guardian should not be held in contempt of court).
- (i) If there is a serious emergency, appoint a new temporary guardian, without a hearing.
- (j) Remove the guardian and appoint a new guardian.
- (k) Terminate the guardianship if capacity has been restored or limit the guardian’s authority if capacity has improved—or expand the authority if capacity has diminished.
- (l) Make any other orders necessary to assure the safety and well being of the protected person.

(7) Volunteer court visitor program administration

(a) State court organization

The mission of the Utah state courts is to provide an open, fair, efficient, and independent system for the advancement of justice under the law.

The Utah state court system is comprised of two appellate courts—the Supreme Court and Court of Appeals; three trial courts—the District, Juvenile, and Justice Courts; and two administrative bodies—the Judicial Council and the Administrative Office of the Courts.

The district court is the trial court of general jurisdiction. It has original jurisdiction to try all civil and all criminal cases. The district court case load includes probate cases, including petitions to appoint guardians.

The Administrative Office of the Court is responsible for implementing the standards, policies, and rules established by the Utah Judicial Council and organizing and administering all of the non-judicial offices of the Utah state courts.

The court visitor program is administered by the Administrative Offices of the Courts in the district courts for the [Third Judicial District](#) and the [Seventh Judicial District](#). Third District includes Salt Lake, Summit and Tooele Counties; Seventh Judicial District covers Carbon, Emery, Grand and San Juan Counties. It is expected that the program

will expand statewide. The court visitor program is headquartered at the Matheson Courthouse in Salt Lake City.

(b) Assignments

A judge who needs a court visitor will contact the program coordinator and describe the nature of the assignment. The program coordinator will contact you to make sure you can take the assignment. The coordinator will spread the assignments as evenly as possible. Volunteers are expected to accept the assignments when offered, unless they do not feel competent to complete the work, they have commitments that will not allow them to complete the assignment on time, or they have a conflict of interest.

Upon the visitor's acceptance, the judge will sign an order making the appointment and directing the inquiry. Depending on the nature of the appointment, the order will give the visitor access to court records, access to the records of other organizations, access to the protected person's residence, and access to the people involved in the case for interviews. After completing all of the necessary inquiries, the visitor will file a written report with the court, which will be provided to the parties. If the case is contested, the visitor may be called to testify.

(c) Court visitor program contacts

Court Visitor Program Coordinator
Administrative Office of the Courts
450 South State Street, Suite N31
Salt Lake City, UT 84114-0241

Karolina Abuzyarova, 801-578-3925, karolinaa@email.utcourts.gov

Michaëlle Jones, 801-238-7030, michaëllej@email.utcourts.gov

(d) Getting to the courthouse; Local contacts

The courthouses have airport-type security, so leave whatever might be considered a weapon at home or in your car.

(i) Third Judicial District

- [Summit County: 6300 North Silver Creek Road // Park City](#)
 - Debra Anderson, 435-615-4300, deba@email.utcourts.gov
- [Tooele County: 74 South 100 East // Tooele](#)
 - 435-833-8000
- [Salt Lake County: Matheson Courthouse // 450 South State Street // Salt Lake City](#)
 - Joanne Bueno Sayre, 801-238-7162, joannelb@email.utcourts.gov

(ii) Seventh Judicial District

- [Carbon County: 149 East 100 South // Price](#)
 - Barbara Procarione, 435-636-3434, barbarap@email.utcourts.gov
- [Emery County: 1850 North 560 West // Castle Dale](#)
 - 435-381-2619
- [Grand County: 125 East Center Street // Moab](#)
 - 435-259-1349
- [San Juan County: 297 South Main // Monticello](#)
 - 435-587-2122

(iii) Trax directions to the Matheson Courthouse

Courthouse Station is the closest stop on the North/South Line, about one-half block from the courthouse west entrance. On the University Line, the closest stop is Library Station, about 1½ block from the east entrance, or Courthouse Station, about one-half block from the west entrance.

(iv) Driving and parking directions to the Matheson Courthouse

Validated parking is available for volunteers who park at the courthouse. Public parking (Level P2) is accessible only from 400 South, eastbound. If you are already west of the Courthouse, drive eastbound on 400 South and turn right into the driveway about mid-block between Main and State. (Don't go to the parking garage for the Ken Garff Building.) If you are east of the Courthouse, take 500 South to Main Street, turn right, and then right again on 400 South. Enter the driveway as above. Bear to the left as you descend the driveway. A deputy sheriff might ask you your business at the courthouse. After parking, take the elevator to the first floor rotunda.

(e) Record keeping and reimbursement

Volunteers are reimbursed for mileage to and from visits in guardianship cases. Mileage is not reimbursed for trips to the courthouse for court hearings or training.

- **Mileage reimbursement form**

In addition to the report that a volunteer might file with the court, volunteers must submit a "work report" which will help us measure the size and effectiveness of the volunteer program.

- **Work report form**

(8) Confidentiality and conflict of interest

The relationship between the volunteer visitor and the protected person and between the visitor and the guardian is a professional relationship and one of absolute confidentiality. You will learn very sensitive and personal things about the parties, and you must keep this information confidential. If you are discussing a case in a class or volunteer meeting, avoid using any person's name. Outside of the courts, do not discuss cases with anyone, even without naming names.

Confidentiality and emotional involvement will preclude you from taking a case in which you know any of the parties. So you must disqualify yourself from taking cases in which you have personal knowledge of anyone involved. This is especially difficult in small communities, but confidentiality must be respected.

You should avoid any activity that creates a conflict of interest or the appearance of conflict. For example, volunteers in a profession such as sales should not suggest or recommend anything from which they or their associates might profit. Volunteers in service industries or the long-term care industry must not suggest or recommend services from their employer.

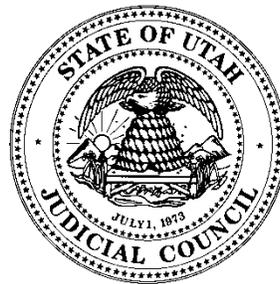
Any information gained as a volunteer should not be used for any purpose except to complete the court assignment. You should not apply things learned about a case to a situation from which you can profit.

You must not accept any gifts or loans from a protected person, guardian or anyone else involved in the case, nor make any gifts or loans to these people.



Utah State Courts

Court Visitor Volunteer Program Monitoring the Guardianship



May 1, 2012

(1) Acknowledgments

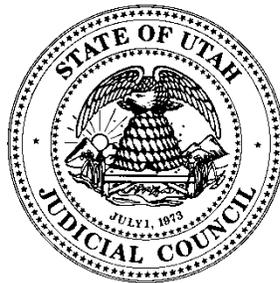
This manual is adapted from a manual by Erica Wood and Ellen Klem of the American Bar Association Commission on Law and Aging, Volunteer Guardianship Monitoring and Assistance: Serving the Court and the Community (2011), developed under a grant from the State Justice Institute. Reprinted by permission of the American Bar Association.

Contributors to that manual are not included here.

This manual is written and published with funds from the State Justice Institute, Grant Number SJI-11-N-001. The points of view expressed are those of the authors and do not necessarily represent the position or policies of the State Justice Institute, the Utah Judicial Council or the Utah State Courts.

The Judicial Council grants permission for this handbook to be reproduced, in print or electronic form, for use in courts and by the judiciary, in institutes of higher learning, and for use by not-for-profit organizations, provided that the use is for noncommercial purposes only and acknowledges original publication by the Judicial Council, including the title of the book and the legend “Reprinted by permission of the Utah Judicial Council.”

Copyright © 2012 Utah State Courts. All rights reserved.



(2) Message from the chief justice

Congratulations on becoming a court visitor, and thank you. You have embarked on what I hope will be a personally rewarding experience. You will be helping the court to appoint and monitor guardians of incapacitated adults. Your contribution of time and effort will make a real difference to the court, to the guardians responsible for vulnerable adults, and to the vulnerable adults themselves.

The court has prepared this series of manuals to introduce you to the world in which people under guardianship live and to serve as a continuing resource as you do your work.

Your contributions will improve the lives of incapacitated adults in our community, provide information on which the judge can base decisions, teach guardians to perform their duties with integrity, and protect incapacitated adults from abuse, neglect and exploitation.

The Utah courts value your important contributions. Again, thank you.

Matthew B. Durrant
Chief Justice, Utah Supreme Court
Presiding Officer, Utah Judicial Council

Court Visitor Volunteer Program: Monitoring the Guardianship

(1)	Acknowledgments	2
(2)	Message from the chief justice	3
(3)	Role of the court visitor.....	8
(4)	Who you will see: Conditions of persons under guardianship.....	8
(a)	Dementia.....	8
(b)	Mental illness	10
(c)	Intellectual disabilities	10
(d)	Traumatic brain injury; Strokes.....	11
(e)	Alcoholism and substance abuse.....	12
(f)	Reversible or temporary conditions	13
(5)	Where you will go: Living arrangements of persons under guardianship.....	13
(6)	What you will look for: Common problems; Abuse, neglect, self neglect and exploitation	15
(a)	Common problems in living arrangements.....	15
(i)	Independent Living—Alone	15
(ii)	Independent Living—With Others.....	15
(iii)	Group Home.....	16
(iv)	Assisted Living	16
(v)	Nursing Home	16
(vi)	Intermediate Care Facility for People with Developmental Disabilities	16
(vii)	Hospital	17
(viii)	Mental Health Institution.....	17
(b)	Common problems with medications	17
(i)	Characteristics of people at risk	17
(ii)	Definitions.....	18
(iii)	Noncompliance.....	18
(iv)	Forgetfulness.....	18
(v)	Doctors do not coordinate prescriptions	19
(vi)	Budgetary constraints.....	19
(vii)	Drug reactions	20

(viii)	Effects of aging.....	20
(c)	Conflict among family members.....	20
(d)	Guardian needs help.....	20
(e)	Guardian wants or needs to resign	20
(f)	Protected person’s capacity increases or decreases.....	20
(g)	Guardian changes the protected person’s lifestyle or standard of living	21
(h)	Guardian does not maximize the protected person’s capacity	21
(i)	Abuse, neglect, self neglect, and sexual and financial exploitation	21
(i)	Reporting	21
(ii)	Abuse means:	22
(iii)	Neglect means:	22
(iv)	Self neglect means:.....	22
(v)	Sexual exploitation means:.....	22
(vi)	Financial exploitation means:	23
(j)	Signs of abuse, neglect, self neglect and sexual and financial exploitation.....	23
(i)	Physical signs	23
(ii)	Behavioral signs	24
(iii)	Signs from the family or caregiver	24
(iv)	Signs of financial exploitation	24
(7)	What you will do: Inquire and observe.....	25
(a)	Checklist	25
(b)	Your personal safety	27
(8)	Effective communication.....	29
(a)	Overcoming barriers to communication	29
(b)	Communicating with and about people with disabilities	31
(i)	Do’s and Don’ts of good communication.....	32
(ii)	General tips for communicating with people with disabilities.....	33
(iii)	Tips for communicating with people who are blind or visually impaired.....	33
(iv)	Tips for communicating with people who are deaf or hard of hearing.....	34
(v)	Tips for communicating with people with mobility impairments.....	34
(vi)	Tips for communicating with people with speech impairments.....	35

(vii)	Tips for communicating with people with cognitive disabilities	35
(viii)	Tips for communicating with people from other cultures.....	35
(ix)	Tips for communicating through a language interpreter	36
(c)	Interview questions and strategy.....	37
(i)	Ideas for talking with the protected person	37
(ii)	Ideas for talking with the guardian.....	38
(iii)	Interview stages	38
(9)	Community resources.....	40
(a)	2-1-1	40
(b)	Reporting abuse and neglect	40
(i)	Adult Protective Services	40
(ii)	Long-Term Care Ombudsman.....	41
(c)	The aging network	41
(i)	Area Agencies on Aging.....	41
(ii)	Utah Division of Aging and Adult Services.....	41
(d)	The disability network	42
(i)	Disability Law Center	42
(ii)	Centers for Independent Living	42
(iii)	Utah Division of Services for People with Disabilities.....	42
(e)	Behavioral health network.....	43
(i)	Local mental health facilities	43
(ii)	Utah Division of Substance Abuse and Mental Health	43
(f)	Residential services.....	43
(i)	Search for living arrangements by geographical area and by type of assistance needed.....	43
(ii)	Medicare and Medicaid facility comparisons	44
(g)	Medicaid.....	44
(h)	Social Security Administration (SSA)	44
(i)	Veterans benefits.....	45
(j)	Legal resources	45
(k)	Multiple service listings	46

(3) Role of the court visitor

The court visitor interviews protected persons and others who are important in that person's life and observes the care of the protected person in their residential environment. Most of the interviewer's work is done in the homes of the people being interviewed.

The court visitor may be appointed during the initial guardianship appointment proceeding or after a guardianship has already been established. In either circumstance, the judge will appoint the visitor and give them directions about the observations to be made and the reports that will be filed with the court.

(4) Who you will see: Conditions of persons under guardianship

A guardianship becomes necessary when a person cannot make and communicate decisions about their care or their property, and less restrictive options are not available—for example, the person has no advance care planning documents.

How well a person functions is the key to determining whether a guardianship is needed. Too often, the rationale stated in the petition is simply a medical condition, rather than the functional limitations caused by the condition. For example, a guardianship is not necessarily needed simply because a person has an intellectual disability (a condition). However, a guardianship may be needed if the disability means the person cannot make decisions about self care or property (limited function). The key is how well a person functions.

As a volunteer visitor, you will be interviewing people with a wide range of mental and physical disabilities. This section gives you some background on the most common conditions that may cause functional limitations. You may encounter individuals with one or more of these disabilities, and you may see references to a physician's diagnosis for one or more of the disabilities in the person's guardianship case file.

Old age is neither a disability nor a reason for guardianship. Just because someone is old does not mean their mental functioning is impaired. We live in a society that stereotypes old age—a phenomenon called "ageism." As you conduct your interviews, be alert to this bias in others and even in yourself.

Similarly, eccentricity is neither a disability nor a reason for guardianship. . Moreover, dementia is not a normal manifestation of the aging process. Finally, a diagnosis of a mental disability does not mean that a person lacks all capacity. The person still may be able to make decisions in some areas and not others. And the guardian should encourage the protected person to participate in decision making to the extent possible.

(a) Dementia

According to the National Institute of Health, dementia is a word for a group of symptoms caused by disorders that affect the brain. It is not a specific disease, but a

syndrome characterized by decline in memory along with decline in other cognitive abilities. People with dementia:

may not be able to think well enough to do normal activities, such as getting dressed or eating. They may lose their ability to solve problems or control their emotions. Their personalities may change. They may become agitated or see things that are not there.... People with dementia have serious problems with two or more brain functions, such as memory and language. Many different diseases can cause dementia, including Alzheimer's disease and stroke. Drugs are available to treat some of these diseases. While these drugs cannot cure dementia or repair brain damage, they may improve symptoms or slow down the disease.

For more information, see:

- Medline Plus, <http://www.nlm.nih.gov/medlineplus/dementia.html>.

Alzheimer's disease, a specific type of dementia, accounts for 50 percent to 80 percent of dementia cases. Alzheimer's disease is not a normal part of aging, although the majority of people with Alzheimer's are age 65 and older. About five percent of people with the disease have "early onset" Alzheimer's, which can appear in the 40s and 50s. According to the Alzheimer's Association:

Alzheimer's is a disease in which symptoms gradually worsen over a number of years. In the early stages of the disease, memory loss is mild, but in late-stage Alzheimer's, people lose the ability to carry on a conversation and respond to their environment.

- For more information about the ten warning signs, the stages and standard treatments, as well as supportive resources for caregivers, see <http://www.alz.org/index.asp>

Books describing the struggles of individuals with Alzheimer's disease and their caregivers:

- Genova, Lisa. 2007. *Still Alice*. Simon & Schuster.
- Shriver, Maria. 2010. *The Shriver Report: A Woman's Nation Takes on Alzheimer's*. This study shows that women are disproportionately affected by the disease both as patients and as caregivers. The report includes chapters by professionals, along with essays of personal experiences.
- Petersen, Barry. 2010. *Jan's Story—Love Lost to the Long Goodbye of Alzheimer's*. Behler Publications.

Tips for court visitors. People with Alzheimer's disease or other dementias may be difficult to interview. In earlier stages, long-term memory often remains intact while short-term memory dwindles. Discussion may be confusing, since they are likely to lose track of the conversation or forget where they are or who you are. They may experience paranoia or become agitated during conversation. However, at other times, they may appear coherent, so an extended conversation may be necessary to reveal limitations. In the late stages, people with Alzheimer's may be unable to converse with you at all.

(b) Mental illness

According to the National Alliance on Mental Illness:

Mental illnesses are medical conditions that disrupt a person's thinking, feeling, mood, ability to relate to others, and daily functioning. Just as diabetes is a disorder of the pancreas, mental illnesses are medical conditions that often result in a diminished capacity for coping with the ordinary demands of life.

The good news about mental illness is that recovery is possible. Most people diagnosed with a serious mental illness can experience relief from their symptoms by actively participating in an individual treatment plan. In addition to medication treatment, psychosocial treatment, such as cognitive behavioral therapy, interpersonal therapy, peer support groups, and other community services can also be components of a treatment plan and that assist with recovery.

For more information, see:

- National Alliance on Mental Illness, www.nami.org.

Sometimes guardianships are imposed because of a severe mental illness that impairs a person's ability to think and make decisions. Additionally, people under guardianship often have experienced significant changes in physical capacity, loss of sensory abilities, loss of independence, loss of status and income, and loss of family and friends that can affect their mental and emotional health.

It is important for volunteers to be particularly aware of two prominent mental health conditions:

- **Depression** is the leading mental health problem of older Americans. Depression is an overwhelming feeling of sadness and dejection. An enduring period of depression can cause impairment in the person's ability to function.
- **Suicide.** Older people have the highest suicide rate of any age group, in particular men over 65 years. If you suspect that a person is seriously suicidal (speaks of desire to die, has a plan), report this immediately to the guardian, the nurse in charge, the social worker, caregiver and the court.

Tips for court visitors: People with psychotic conditions may be hard to interview. Some may hear voices or hallucinate. Some may have delusions or paranoia. You may want to consult with the guardian and/or caregiver for suggestions about visiting the person. Non-judgmental, attentive listening is usually the best course to take. Be alert and use special caution for safety.

(c) Intellectual disabilities

A person with an "intellectual disability" has an IQ between below 75 and significant limitations in adaptive behavior. Onset occurs before age 18. The term "intellectual

disability” is replacing the older term “mental retardation.” Sometimes intellectual disability is also called “developmental disability,” but, in fact, developmental disability is a broader term that also includes other disorders (for example, autism, epilepsy, or cerebral palsy) occurring during the developmental period of birth to age 18. A person with a developmental disability may not have an intellectual disability.

People with intellectual disability and developmental disability often need guardians. A child with such a disability will need a guardian—often the person’s parents— upon reaching majority at age 18.

There are different degrees of intellectual disability ranging from mild to profound. Intellectual disabilities vary in degree and effect. It is important not to make generalizations about the needs or capabilities of such individuals. Studies show that somewhere between one percent and three percent of Americans have intellectual disabilities. It is also notable that the lifespan of people with intellectual disabilities and developmental disabilities is increasing, and some may experience problems common to older people.

For more information, see:

- The Arc of the United States, <http://www.thearc.org/page.aspx?pid=2335>
- The U.S. Centers for Disease Control and Prevention, <http://www.cdc.gov/ncbddd/dd/ddmr.htm>
- The American Association on Intellectual and Developmental Disabilities, http://www.aamr.org/content_96.cfm?navID=20

Tips for court visitors: Treat adults with intellectual disability as adults and avoid talking down to them. Use their proper names. Communicating may require some extra time and effort. Try to keep your surroundings free from distractions and noise. Establish eye contact and speak slowly, clearly, and expressively. You may need to rephrase certain questions. Ask open-ended and either-or questions, rather than questions that can be answered with a yes or no.

(d) Traumatic brain injury; Strokes

Every year, millions of people in the United States sustain head and brain injuries—for example, from motor vehicle accidents or military action. Traumatic brain injury (TBI) can cause a wide range of changes that affect thinking, sensation, language, and emotions. People with moderate to severe injuries need rehabilitation, which may include physical therapy, occupational therapy, speech/language therapy, psychiatry, and social support. Sometimes people with brain injuries need guardians; sometimes people recover enough to be restored to capacity.

For information, see:

- Brain Injury Association of America, <http://www.biausa.org>;
- National Institute of Neurological Disorders and Strokes, <http://www.ninds.nih.gov/disorders/tbi/tbi.htm>.

A stroke is a medical emergency that occurs when blood stops flowing to the brain. There are two kinds of stroke. The more common kind, called ischemic stroke, is caused by a blood clot that blocks or plugs a blood vessel in the brain. The other kind, called hemorrhagic stroke, is caused by a blood vessel that breaks and bleeds into the brain. “Mini-strokes” or transient ischemic attacks (TIAs) occur when the blood supply to the brain is briefly interrupted. The affected area of the brain is unable to function, leading to limitations on movement, understanding, speech or vision.

Stroke patients undergo treatment to help them return to normal life as much as possible by regaining and relearning the skills of everyday living—especially physical and occupational therapy. Stroke patients who experience mental confusion may need guardianship, but may be restored to capacity upon successful rehabilitation.

For more information, see:

- American Stroke Association, <http://www.strokeassociation.org/STROKEORG/>.

Tips for court visitors: People with strokes or head injury may have difficulty communicating and may be very frustrated. Keep your manner encouraging, unhurried, and patient. Ask questions that require only short answers or a nod of the head. Some people may be able to write out their answers or use a sign. Observe the method of communication the person uses or ask the guardian and/or caregiver. If the person is in a wheelchair, sit on the same level with him or her.

(e) Alcoholism and substance abuse

Chronic use of alcohol or drugs can compromise a person’s ability to make decisions. In extreme cases, alcohol and drug abuse can lead to dementia, brain damage, mental illness, and death. Rehabilitation may help the person to overcome mental or physical impairments and regain independence. Unfortunately, sometimes the problem is cyclical—with treatment, the person regains independence, then reverts to a period of alcohol or drug abuse.

For more information, see:

- NIH Medline Plus, <http://www.nlm.nih.gov/medlineplus/substanceabuseproblems.html>
- Substance Abuse and Mental Health Services Administration, <http://www.samhsa.gov/>.

Tips for court visitors: When people suffer from alcohol or substance abuse, sometimes the inability to manage is limited to finances. Such individuals may require only a conservator or if public benefits are at issue, a Social Security Administration representative payee or a Veterans fiduciary.

For more information, see:

- Social Security Administration representative payee, <http://www.ssa.gov/payee>
- Veterans Fiduciary Program, <http://www.vba.va.gov/bln/21/Fiduciary/index.htm>.)

(f) Reversible or temporary conditions

Many conditions are temporary or reversible and should not be the basis for a permanent guardianship order. However, individuals who have experienced temporary conditions sometimes find themselves under guardianship and you may need to alert the court that restoration of capacity should be considered. Here are some examples of conditions that cause confusion and diminished capacity, but that often are temporary and reversible:

- delirium;
- medication effects;
- urinary tract infection;
- transfer trauma (stress caused by relocating to another environment);
- depression, stress, grief.

For more information, see:

- Judicial Determination of Capacity of Older Adults in Guardianship Proceedings: A Handbook for Judges, (2006), Appendix 2, p. 78, "Temporary and Reversible Causes of Confusion," American Bar Association Commission on Law and Aging, American Psychological Association, and National College of Probate Judges, http://www.americanbar.org/content/dam/aba/migrated/aging/PublicDocuments/judg_bk_web.authcheckdam.pdf

(5) Where you will go: Living arrangements of persons under guardianship

For most of us, our daily routine consists of eating, dressing, bathing, and getting to and from home, office, or school, and caring for other personal needs. In the caregiving community, these are known as "activities of daily living" ("ADLs") and "instrumental activities of daily living" ("IADLs") But what of the person who is unable to perform these activities to some extent or who depends totally on others?

Are the living arrangements of people under guardianship suitable to their needs? Are they living where they prefer to live? Is the quality of care acceptable? Are basic needs met? Is the level of care appropriate? Are they in a place where they are able to see and interact with family, friends, or others? How are services financed? The following description of housing and long-term care is a brief guide.

Residence	Level of Assistance Needed	Possible Funding Sources
<p>Independent Living Lives in own home or rental unit or subsidized housing. Lives alone or with spouse, adult children, others.</p>	<p>May require in-home services such as assistance with activities of daily living, home health care, care management, specialized transportation, home delivered meals, etc.</p>	<p>Area Agency on Aging Medicaid Private pay Programs for individuals with disabilities Housing may be subsidized by HUD. VA</p>
<p>Group Home Residential facility designed to serve adults with chronic disabilities. These homes usually have six or fewer occupants and are staffed 24-hours a day by trained caregivers.</p>	<p>Continual assistance with activities of daily living and supervision. May require management if behavior is dangerous to self or others, such as aggression or tendency to run away.</p>	<p>Medicaid Mental health funding Private pay Programs for individuals with disabilities VA</p>
<p>Assisted Living Residential facility designed to serve adults who need help with care, but not the 24-hour medical care provided by a nursing home. Range in size from small residential house to large facility.</p>	<p>Supervision or assistance with activities of daily living. Coordination of services. Medication management by trained staff.</p>	<p>Medicaid Private pay VA</p>
<p>Nursing Home Residential facility designed to serve adults who are chronically ill or recuperating, need continuous nursing care and other health services, but not hospitalization.</p>	<p>Person needs trained staff for help with activities of daily living, medication management, or supervision and nursing care.</p>	<p>Medicaid Medicare (limited to short-term rehabilitative services) Private pay VA</p>
<p>Rehabilitation Center Often a part of a nursing home facility. Short-term residence.</p>	<p>Physical therapy and other care during transition to another residential setting.</p>	<p>Medicaid Medicare (limited to short-term rehabilitative services) Private pay VA</p>

Residence	Level of Assistance Needed	Possible Funding Sources
Intermediate Care Facility for Mentally Retarded Institution for the treatment, rehabilitation, supervision of people with intellectual disabilities.	A protected residential setting with supervision, rehabilitation, evaluation, or care planning	Medicaid Private pay Programs for individuals with disabilities
Hospital Provides medical care for people who are ill or injured.	Individual requires 24-hour care for a physical illness or injury	Insurance; Private pay; Medicare; Medicaid; other public programs VA
Mental Health Institution Hospitals specializing in treatment of serious mental illness.	Individual needs psychiatric treatment and therapy. While patients may be admitted on a voluntary basis, involuntary commitment is required when a person poses a danger to themselves or others.	Insurance; Private pay; Medicaid VA

(6) What you will look for: Common problems; Abuse, neglect, self neglect and exploitation

(a) Common problems in living arrangements

Volunteer visitors should be alert for inconsistencies between the person’s ability to function and the level of placement—either too restrictive or not protective enough. Also, check the quality of care. Your report to the court should note any problems or inconsistencies. The scenarios below highlight common problems that a court visitor may encounter.

(i) Independent Living—Alone

Ms. Garcia is 75-years old and generally in good health. However, she recently developed severe arthritis of the right knee. She has difficulty getting up, eating, and using the bathroom. She lives in a two-story home where her bedroom is downstairs, but the bathroom is upstairs. She can’t get from one level to another. She needs help with meal preparation and taking medications.

(ii) Independent Living—With Others

Ms. Moore lives with her son and grandson. Her grandson has a developmental disability and requires constant care. Her son is guardian and also receives her Social Security and SSI checks as Representative Payee. When the visitor called on Ms. Moore, he found that she was not receiving proper care and that her son had been using his mother’s checks to pay his own son’s medical bills.

Mr. and Ms. Nolan have been together for over 60 years and have relied on each other for support. Mr. Nolan has several medical complications and significant memory loss. Ms. Nolan is his guardian, but now she is beginning to experience mental confusion herself and finds it increasingly difficult to care for her husband.

(iii) Group Home

Ms. Rogers is 20 years old and was diagnosed with schizophrenia. She was released to a group home from a state hospital and has improved significantly. She now wants to get a job and move into a supervised apartment setting. The group home has not helped with this transition.

(iv) Assisted Living

When Mr. Frank moved into assisted living, he had just recovered from a fall that left him with severe pain in his left hip. He needed help with medication, bathing, and toileting. After a while, the quality of care began to decline. He had to wait long periods for help getting to the bathroom. The bathing became irregular. When the guardian visited the facility, she found that staff had been reduced. The facility no longer met his needs.

(v) Nursing Home

Ms. Vaughn is a chronic alcoholic whose adult children petitioned for guardianship because she was spending all her monthly income on alcohol. She lived at home until poor health led her children to seek nursing home placement. After a few months, her health improved, and she can now perform most of her activities of daily living, and can take medication. She would like to leave the nursing home—but is incontinent and requires supervision. She could probably live in a more independent setting.

A stroke left Mr. Taziz paralyzed on the left side, and he is no longer able to live independently. His speech is poor and he is unable to move unassisted. After agonizing, his wife decided a nursing home would be best for him. Mr. Taziz understands why he is in the nursing home, but separation from his family has left him depressed and he has suicidal thoughts. The nursing staff provides for his physical needs, but his emotional state has been neglected.

(vi) Intermediate Care Facility for People with Developmental Disabilities

Mr. Johns is 49 years old with intellectual disabilities. He has resided in an intermediate care facility for many years. His elderly father, who is guardian, feels he has a stable and appropriate placement, where safety is assured. But the state protection and advocacy agency says the care in the facility is poor and neglect is common. They offer assistance in moving Mr. Johns to a smaller, more independent group home. Mr. Johns likes the idea, but his father is troubled.

(vii) Hospital

Mr. Stevens is an 80-year-old homeless man who suffered a stroke and was admitted to the hospital for treatment. The court appointed the Office of Public Guardian to make decisions about medical care. Mr. Stevens now needs care in a nursing home, but the Office of Public Guardian has not made arrangements for his discharge and placement. The hospital is anxious for him to vacate the bed.

(viii) Mental Health Institution

Ms. Rebe has been institutionalized in a state mental hospital for the past five years. After extensive treatment, her condition has improved sharply. She is now able to leave the hospital, providing she has appropriate supervision. However, her case is not up for review for another nine months.

(b) Common problems with medications

Protected persons are usually experiencing some kind of illness or disability. They often take medication. Court visitors do not prescribe drugs, evaluate the appropriateness of medications, or diagnose reactions to drugs. However, visitors should be aware that many of the people you will visit will be taking numerous medications and that sometimes problems arise from these medications. If you suspect a drug-related problem, note your observations in your report to the court.

(i) Characteristics of people at risk

- **Person is 75 years of age or older:** Numerous physiological changes that generally occur as people age may change the way medications affect the person.
- **Person is of extremely small (or large) physical stature:** A specific dose of medication may need to be adjusted to a patient's physical stature.
- **Person is receiving an numerous medications:** As the number of medications taken by an individual increases, so do the risks of adverse drug reactions and drug interactions. Forty-six percent of people over age 60 take two or more prescription drugs daily.
- **Person has developed new symptoms or changes in overall condition after modification of drug therapy:** Recent changes in an individual's drug therapy may result in adverse drug reactions that cause new symptoms or significant changes in a person's condition, such as confusion or depression. These changes or new symptoms should not automatically be considered to be characteristics of aging or the result of age-related changes in physical condition.
- **Person has developed kidney dysfunction:** Kidney function is an important consideration in drug therapy, because many drugs are eliminated from the body through the kidneys. If a person with poor kidney function is given a drug dose

that is too high, toxicity may occur. Kidney function declines as people age, and elderly persons may experience acute or chronic conditions that cause further decline in kidney function (e.g., diabetes).

- **Person is taking high risk medication:** Certain medications taken more frequently by older people are known to be associated with a relatively high degree of toxicity.

(ii) Definitions

- **Adverse drug reaction:** An unintended, harmful response to a drug occurring at regular dosage levels. Example: confusion may be the result of an adverse reaction to an anti-depressant. Other common adverse reactions to drugs taken by older people include: depression, loss of appetite, weakness, drowsiness and lethargy, irregular gait, forgetfulness, tremor, constipation, diarrhea, and difficulty in urinating.
- **Side effect:** An unwanted, predictable pharmacological reaction unrelated to the therapeutic effect of a drug and not due to over-dosage. Example: a side effect of an anti-histamine is dry sinuses and mouth.
- **Overdose:** A characteristic but excessive effect of a drug caused by administration of a dose that is larger than the usual therapeutic dose for the patient's size and age. The "usual dose" of a medication to an older person may still be inappropriately large because of age-related changes in metabolism. Example: residual morning drowsiness may result from an overdose of sleeping medication administered the night before.

(iii) Noncompliance

- When a protected person refuses to take prescribed medication.

Mr. Rodriguez is a 44-year-old male veteran with schizophrenia, who lives at home with his family. The guardian is an attorney. The visitor learns from the family that Mr. Rodriguez will not take medication to control his schizophrenia, and that he complains about being constantly anxious. He is too afraid to go to the veterans' hospital to pick up his medicine. The family offers virtually no support to the protected person. The man's condition is deteriorating rapidly.

(iv) Forgetfulness

- Memory loss may cause a person to forget to take medication or, it may cause a person to take repeat doses, having forgotten that the doses already have been taken.

Ms. Jones lives in a small assisted living residence. She takes four different medications: two need to be taken every four hours, one must be taken with meals, and the other is taken upon rising and again at bedtime. One of her medications is an anti-anxiety drug

that in normal doses helps keep Ms. Jones calm. In larger doses this drug may cause extreme drowsiness or lethargy. Ms. Jones sometimes forgets which medications she has taken and therefore takes double doses “just to be sure.” She often complains of drowsiness and the staff thinks she may have dementia.

(v) Doctors do not coordinate prescriptions

- Older patients take about three times as many medications as younger people do. Almost 90 percent of individuals age 65 and older take prescription drugs and, on average, they take about five different prescription drugs, as well as over-the-counter medications. Often the drugs are prescribed by different physicians. Coordination among physicians is essential to avoid harmful drug interactions.

Mr. Lopez suffered a stroke a few years ago and now lives with his daughter, who is his guardian. He makes regular visits to his internist, a neurologist, and a rheumatologist. The neurologist put Mr. Lopez on a blood thinner, an anti-clotting drug. The rheumatologist prescribed large doses of aspirin for his arthritis. Mr. Lopez subsequently developed prolonged and severe nausea. His daughter took him to the emergency room where a routine inventory was taken of his medications. It was only because of this incident that Mr. Lopez and his family learned that aspirin, when taken with a blood thinner, can cause nausea and even internal bleeding.

(vi) Budgetary constraints

- Sometimes medication is too expensive for people on fixed incomes to buy. Needed drugs may not be covered under the Medicare Part D plan’s “formulary” or list of medications, premiums and deductibles may be high, and plan coverage may change from year to year. Veterans may be eligible for prescription drug benefits and not be aware of this.

For information on Medicare Part D, see:

- <http://www.medicare.gov/navigation/medicare-basics/medicare-benefits/part-d.aspx>.

For information on Veterans benefits, see:

- http://www.va.gov/landing2_vetsrv.htm

Ms. O’Toole is a widow whose only source of income is her Social Security check which totals \$465 per month. She has high blood pressure and was prescribed medication by the doctor at the local clinic. The medication costs \$70 a bottle and is not fully covered by her Medicare plan. Ms. O’Toole feels she cannot afford to spend her meager funds on this medicine.

(vii) Drug reactions

- Sometimes reactions to drugs can imitate confusion, depression, weakness, and other behaviors that some people mistakenly attribute to disability or old age. These reactions are usually reversible.

Ms. Janowski, a nursing home resident, complained of stomach pains and was diagnosed with ulcers. She was prescribed a popular anti-acid medication.

Shortly after the medicine was started, Ms. Janowski became quite agitated and confused. The doctor ordered an anti-psychotic drug for what was thought to be a psychotic episode. A few days after the anti-psychotic drug was started, Ms. Janowski was moved into a “restricted” ward. Only persistent intervention by her son led to the discovery that her “psychotic” symptoms were really an adverse reaction to the anti-acid.

(viii) Effects of aging

- As our bodies age and metabolism changes, the effects of drugs can be different, and there may be a need for different dosages, intervals or duration of medications, or there may be some medications that are not appropriate.

For a list of potentially inappropriate prescription drugs for older people, see:

- “Beers List,” <http://www.empr.com/potentially-inappropriate-drugs-for-the-elderly-beerslist/article/125908/>

(c) Conflict among family members

Sometimes family members do not agree on the health and safety of a protected person. Ultimately, only the guardian has the authority to make decisions on behalf of a protected person, and the guardian should make the decision that the protected person would have made, unless that decision would be harmful. The conflict may be so great that the guardian may be unable to make decisions.

(d) Guardian needs help

Part of the guardian’s responsibility is to seek help when it is needed. The section below on [Community resources](#) offers an introduction into services and other resources.

(e) Guardian wants or needs to resign

The guardian may face circumstances that make it difficult to continue with decision making responsibilities. The guardian or any interested person should ask the court to appoint a co-guardian or to appoint a new guardian.

(f) Protected person’s capacity increases or decreases

If a protected person’s functioning changes, the guardian should return to court to modify the guardianship to ask for more or less decision making responsibility, as

appropriate. In some circumstances, the protected person may completely regain capacity, and the guardianship should be ended.

(g) Guardian changes the protected person's lifestyle or standard of living

For example, the guardian does not honor the protected person's values and preferences. Or the guardian spends too little (or too much) to support the standard of living to which the protected person is accustomed.

(h) Guardian does not maximize the protected person's capacity

The guardian does not encourage and help the protected person to be as independent, engaged, and comfortable as possible in the circumstances. For example, the guardian has not worked with the staff of the protected person's residential facility to establish activities that would appropriately engage the protected person. Or the guardian has not helped the protected person to work through an agitating circumstance.

(i) Abuse, neglect, self neglect, and sexual and financial exploitation

(i) Reporting

The court visitor will always report their observations to the court. Whether to report also to law enforcement or Adult Protective Services will depend on the severity of the circumstances.

- If you observe life-threatening or other extreme circumstances, call 911.
- If you observe indications of abuse, neglect, self neglect or exploitation,
 - contact Utah Long-term Care Ombudsman if the problem is in a long-term care facility. The Ombudsman can investigate if the person is 60 or older.
 - <http://www.hsdaas.utah.gov/ombudsman/>
 - contact Adult Protective Services if the problem is in a setting other than a long-term care facility. APS can investigate if the person is 65 or older or is a "vulnerable adult."
 - http://www.hsdaas.utah.gov/e-referral_form.jsp
 - 801-538-3567 in Salt Lake County and 800-371-7897 in all other counties.
- If neither the Ombudsman nor APS can investigate, call local law enforcement. (211 will provide the telephone number for law enforcement agencies in your community.)

To help you decide whether to report to the Ombudsman or to APS, you will need to understand what is meant by abuse, neglect, self neglect and exploitation. Note that it might be the guardian or some other person who is inflicting this harm on the protected

person. The descriptions that follow are a summary of the statutory definitions that apply to “vulnerable adults.” A protected person is a vulnerable adult.

- For official statutory definitions, see [Utah Code Section 62A-3-301](#).

(ii) Abuse means:

- causing physical injury to the protected person;
- causing or attempting to cause harm to the protected person or placing the protected person in fear of imminent harm;
- using physical restraint, medication, or isolation that causes harm to the protected person and that conflicts with a physician’s orders;
- depriving the protected person of life-sustaining treatment, except with the protected person’s informed consent or under the protected person’s Advance Health Care Directive.

Abuse can be physical abuse, sexual abuse or emotional or psychological abuse.

(iii) Neglect means:

- failure of a caretaker to provide nutrition, clothing, shelter, supervision, personal care, or dental or other health care, or failure to provide protection from health and safety hazards or failure to provide protection from maltreatment;
- failure of a caretaker to provide care that a reasonable person would provide;
- failure of a caretaker to carry out a prescribed treatment plan that results or could result in injury or harm;
- a pattern of conduct by a caretaker that deprives the protected person of food, water, medication, health care, shelter, cooling, heating, or other services necessary to maintain the protected person’s well being, without the protected person’s informed consent; or
- abandonment by a caretaker.

(iv) Self neglect means:

- the failure of a protected person to obtain food, water, medication, health care, shelter, cooling, heating, safety, or other services necessary to maintain one’s own well being. Choice of lifestyle or living arrangements may not, by themselves, be evidence of self-neglect.

(v) Sexual exploitation means:

- the protected person’s guardian permits the protected person to be a part of vulnerable adult pornography.

(vi) Financial exploitation means:

- improperly using the protected person's money, credit, property, power of attorney or guardianship for the benefit of someone other than the protected person.

(j) Signs of abuse, neglect, self neglect and sexual and financial exploitation

Key indicators of abuse, neglect and exploitation are below. These indicators do not necessarily mean that abuse, neglect or exploitation has occurred, but they are signs that further investigation is needed.

(i) Physical signs

- Injury from implausible cause
- Injury that has not been cared for properly
- Lack of bandages on injuries or stitches when injured, or evidence of unset bones
- Pain on touching
- Cuts, lacerations, puncture wounds
- Bruises, welts, discoloration structurally similar to an object
- Presence of old and new bruises at the same time
- Dehydration and/or malnourishment with or without illness-related cause
- Weight loss
- Pallor, sunken eyes, cheeks
- Evidence of inadequate care (e.g., bedsores without adequate medical care)
- Insect or parasite bites
- Evidence of inadequate or inappropriate administration of medication
- Eye problems, retinal detachment
- Poor skin hygiene
- Soiled clothing or bed
- Burns: may be caused by cigarettes, acids, or friction
- Signs of confinement (tied to furniture, locked in a room)
- Hoarding
- Animals in feral conditions

Injuries are sometimes hidden on areas of the body normally covered by clothing. Repeated skin or other bodily injuries should be noted and careful attention paid to their location and treatment. Frequent use of the emergency room or hospital or health care “shopping” may also indicate physical abuse. The lack of necessary appliances, such as walkers, canes, beside commodes; and the lack of necessities, such as heat, food, water, and unsafe conditions in the home (no railings on stairs, etc.) may indicate abuse or neglect.

(ii) Behavioral signs

- Fear
- Helplessness, Resignation, Withdrawal, Depression
- Non-responsive, hesitation to talk openly
- Implausible stories, contradictory statements
- Anger, denial, agitation, anxiety

(iii) Signs from the family or caregiver

- Problems with alcohol or drugs
- Person does not have opportunity to speak for self, or to see others without the caregiver present
- Obvious absence of assistance, attitudes of indifference, or anger toward the protected person
- Guardian “blames” the person (e.g., accusation that incontinence is a deliberate act)
- Aggressive behavior (threats, insults, harassment)
- Previous history of abuse to others
- Flirtations, coyness, etc., as indicators of possible inappropriate sexual relationship
- Social isolation of family, or isolation or restriction of activity of the person within the family unit
- Conflicting accounts of incidents by the family, supporters, victim
- Unwillingness or reluctance to comply with service providers in planning for care and implementation
- Withholding of security and affection

(iv) Signs of financial exploitation

- Activity in bank accounts that is unusual for the protected person

- Unusual interest by guardian, caregiver, or other in the amount of money spent for care; concern that too much is spent
- Refusal to spend money on protected person's care
- Numerous unpaid or overdue bills
- Recent acquaintances expressing strong affection for a wealthy protected person
- Recent change of title in protected person's house
- New or recent change in protected person's will
- New or recent change in protected person's power of attorney
- Missing personal belongs such as art, silverware, jewelry
- Caregiver/guardian asks only financial questions, not care questions
- Living arrangement not commensurate with size of protected person's estate
- Lack of amenities such as TV, personal grooming items, appropriate clothing, when protected person can well afford it
- Efforts to isolate protected person from friends and family; telling protected person no one wants to see him or her
- Promises of life-long care in exchange for all of protected person's money or property
- Signature on checks and other documents that does not resemble person's signature; or when person cannot write

(7) What you will do: Inquire and observe

A court visitor's only tools are asking people questions, noting the answers and observing circumstances.

(a) Checklist

- (1) Receive the certified copy of the order appointing you as visitor by e-mail or mail from the program coordinator. Some people whom you interview or interact with may want a copy of the appointment order. You may make copies of the appointment order to show or leave with them.
- (2) Review the court records for the essential documents and information:
 - protected person's name, age and location; case number
 - guardian's name and contact information
 - the date the guardian was appointed and guardian's authority (found in the letters of guardianship)
 - name and contact information of interested parties

- petition for appointment
 - physician's or other clinical statement; note any medications being taken, any treatments ordered, and any assistive devices ordered
 - letters of guardianship and order of appointment
 - annual care reports
- (3) You may make personal notes about the case to take with you, but court records may never be removed from the courthouse. Records must not be written on or changed in any way. If you need a document from a file, you may consult with the court clerk to determine whether a copy of the document may be made. If you make a copy, be sure to return it to the court for shredding when you are finished with it. Guardianship records are private so do not show documents to anyone else, other than the order appointing you as a visitor.
 - (4) Mail or email to the guardian a letter signed by the clerk of the court or the judge notifying the guardian that you will be in contact to schedule interviews and the purpose of the interviews.
 - (5) Contact the guardian to explain your role and set up an appointment for a visit to interview the guardian, the protected person, and anyone involved in the protected person's care. If the person lives in a nursing home, assisted living, or a group home, contact and make appointments with key staff, such as a floor nurse or social worker. Contact and make appointments with anyone else described in the judge's order. The guardian is responsible for the protected person's care, so it is important to schedule your first interview with the guardian. The guardian may then be able to help introduce you to the protected person. When you have scheduled appointments, e-mail the program coordinator so s/he knows when you are going and where you are.
 - (6) Ask for the guardian's guidance about visiting and communicating with the protected person. If the guardian is antagonistic or threatening, let the program coordinator know immediately.
 - (7) Print a blank report form: Visitor's Report on Interviews and Observations (Post-Appointment). Fill in the basic information about the case.
 - (8) Based on the judge's order appointing you and the report form that you will be completing, think about the interview questions you will ask the protected person, the guardian, and any caregivers. The actual interviews may deviate substantially, but it is good to have thought about how the interviews will proceed. It is important to focus on actively engaging the interviewees and being flexible during the interview.

- (9) When arriving for the visit, show a copy of the order appointing you as visitor. Keep the original with you and leave a copy if the person wants a copy.
- (10) Take the time to thoroughly interview the guardian, the protected person, caregivers and others as the judge might have directed. See the communication tips found in this manual. Take good notes. Interview the protected person privately if possible.
- (11) Leave any materials for the guardian as the court may have directed.
- (12) If the visit is at a nursing home or assisted living facility, review the medical records to verify facts or to get additional information. You may see only a limited part of the record in hard copy. Ask to see electronic files, including incident reports.
- (13) If you observe abuse, neglect, self neglect, or exploitation, contact law enforcement or Adult Protective Services, as appropriate, and notify the program coordinator as well. Include the observations in your report to the court.
- (14) Using your notes from the interviews, complete the report form as soon as possible and submit it to the volunteer coordinator. The coordinator will file it with the court that appointed you and mail a copy to all of the parties.
- (15) Schedule a meeting with the program coordinator to discuss the case and your report. Ask whether specific follow-up has occurred or will occur.
- (16) You may be called upon to testify at a hearing, in which case one of the parties will serve you with a subpoena. Although guardianship records are private, most guardianship hearings are public, and, if you are not called to testify, you may attend and observe.

(b) Your personal safety

- (1) During a home visit for an interview or observation, you will be going into a stranger's home, probably in a neighborhood with which you are not familiar. Your safety is the most important consideration. Here are some tips:
- (2) Always let someone know where you will be. Visit at high activity times, like 8am – 10am or 4pm - 6 p.m.
- (3) Know where you are going. Familiarize yourself with the area as much as possible. Refer to maps or a GPS device. Beware of "looking lost." Project an image of knowing where you are going and what you are doing, even if you don't.
- (4) Be aware of your own clothing that may misrepresent you. Dress professionally and conservatively.

- (5) Be sure you have enough gas in your car. As you approach the location, observe entrances, exits and places to avoid. If you feel uneasy or that you are in danger, leave. Park your car a few spaces down from the house. If you have to leave quickly, do not give a pursuer the opportunity to catch up too soon.
- (6) Keep your keys and mobile phone close at hand. If it is unsafe to return to your car, go to the nearest place where there are people, activity and security.
- (7) If you are unsure about going to a location, you can always decide not to go. We do not expect you to go into areas where you feel unsafe. Contact the program coordinator to ask that someone else be appointed or to ask that you be accompanied by another visitor.
- (8) At the door of a home, listen before you knock. If you hear sounds of any threatening situation, leave immediately. Stand to one side of the door when you knock, not directly in front. Do not accept invitations such as “Is that you? Just come on in.” Identify yourself and ask the occupant to come to the door to let you in.
- (9) Once inside, be alert and observe your environment. Are there dangerous weapons or drugs lying about? Is someone drunk or physically acting out? In such cases, tell your client that you cannot remain and then leave. Reschedule the visit or have them see you at the courthouse or some other public place.
- (10) Observe how clients are dressed. Are they wearing clothing that could conceal a weapon?
- (11) If the guardian is antagonistic or threatening, do not put yourself in jeopardy. Leave and call the program coordinator right away.
- (12) Do not threaten or get physical.
- (13) If you are in an escalation:
 - DIVERT – Switch attention to another subject, ask for a glass of water, change seats. Separate agitators.
 - DIFFUSE – Use soft voice, agree, and focus on how the person feels she/he has been treated. Assure the person they are safe.
 - DELAY – Ask to postpone.
 - LEAVE – Get out and walk away.

(8) Effective communication

(a) Overcoming barriers to communication

Most of us like to believe that we are effective at communicating. Yet, consider that in any encounter with another person, some or all of the factors listed below may be present, and true communication therefore may never occur:

- Different values and beliefs
- Misunderstandings about the meaning of non-verbal behavior
- Assumptions made on the basis of appearance
- Vocabulary issues—language, meaning of words, emotion-laden words; inability to hear or understand the words being said
- Differences in the way people relate to others based on culture
- Expectations based on past experience
- Preoccupation
- Fear, perception of threat
- Emotional blocks
- Stereotypes
- Anger, hostility, or defensiveness
- Status differences
- Factors in the physical environment
- The self-concept of either person
- The “climate” of the communication—time constraints, distractions, mood
- The needs of either person

Fortunately, with knowledge and practice, these barriers can be overcome.

How to Overcome Communication Barriers		
Speaker	Communication Barrier	Listener
Develop ideas according to listener's values and interests; be open to learning about people who are different from you; avoid being judgmental about the listener's cultural practices.	Beliefs And Value Systems	Be open to learning about people who are different; accept differences; avoid making premature judgments about the speaker's attitude about your culture.
Be sensitive to the emotional as well as the basic needs of the listener.	Needs	Be aware of the goals and purpose of the speaker.
Be conscious of past experiences in similar situations; think of listener's past experiences with social workers or public institutions.	Past Experiences	Think in terms of similar past experiences and speaker's past experiences with persons like yourself.
Confront rather than deny your own stereotypes; be willing to learn something about the other person; help the listener learn something about you.	Stereotyping	Ask questions before drawing conclusions about speaker's lifestyle, beliefs, characteristics and behaviors; be open to learning something about the speaker; share information about yourself with the speaker.
Be aware of the listener's mood, attentiveness, and concerns of the household.	Preoccupation	Acknowledge own problems and consciously focus on the speaker.
Be aware of the emotional messages a word may convey	Emotionally Charged Words	Ask for clarification or meaning of words with emotional messages.
Be cautious about how you approach a subject that may offend the listener; remove yourself from a situation when you are angry.	Anger/Hostility	Avoid escalating the anger; it is more important to listen than to respond angrily; don't jump to conclusions.

How to Overcome Communication Barriers		
Speaker	Communication Barrier	Listener
Recognizing that if a person has a poor self-concept it will interfere with communication, make such a person feel comfortable and relaxed; respect the listener's self-concept	Self-Concept	Respect the speaker's perception of his or her role in the situation.
Choose words with the listener in mind; use an interpreter with whom you have worked before and who is familiar with your speech habits and style.	Language	Repeat what the speaker has said in order to check your own understanding; ask questions if speaker uses unfamiliar words.
Use descriptive and nonjudgmental language; use non-threatening approach; make the listener feel secure and at ease.	Defensiveness	Feel comfortable and secure about your own capabilities and accept the capabilities of others.
Keep in mind the listener's status and role in the family and community.	Status	Think of the speaker in terms of his or her qualifications and abilities.

(b) Communicating with and about people with disabilities

The Americans with Disabilities Act, other laws, and the efforts of many disability organizations have made strides in improving accessibility in buildings, increasing access to education, opening employment opportunities, and developing realistic portrayals of persons with disabilities in television programming and motion pictures. Where progress is still needed is in communication and interaction with people with disabilities. Individuals are sometimes concerned that they will say the wrong thing, so they say nothing at all — thus, further segregating people with disabilities. Listed here are some suggestions on how to relate to and communicate with and about people with disabilities.

Words: Positive language empowers. When writing or speaking about people with disabilities, it is important to put the person first. Group designations such as “the blind,” “the retarded,” or “the disabled” are inappropriate because they do not reflect the individuality, equality, or dignity of people with disabilities. Further, words like “normal person” imply that the person with a disability isn’t normal, whereas “person without a disability” is descriptive, but not negative. The accompanying chart shows examples of positive and negative phrases.

Affirmative Phrases

- Person with an intellectual, cognitive, developmental disability
- Person who is blind, person who is visually impaired
- Person with a disability
- Person who is deaf, person who is hard of hearing
- Person who has multiple sclerosis
- Person with cerebral palsy
- Person with epilepsy, person with seizure disorder
- Person who uses a wheelchair
- Person who has muscular dystrophy
- Person with a physical disability, physically disabled
- Unable to speak, uses synthetic speech
- Person with psychiatric disability
- Person who is successful, productive

Negative Phrases

- retarded; mentally defective
- the blind
- the disabled; handicapped
- the deaf; suffers a hearing loss
- afflicted by MS
- CP victim
- epileptic
- confined or restricted to a wheelchair
- stricken by MD
- crippled; lame; deformed
- dumb; mute
- crazy; nuts
- has overcome his/her disability; is courageous (implies the person has courage because of having a disability)

Actions: Etiquette considered appropriate when interacting with people with disabilities is based primarily on respect and courtesy. Outlined below are tips to help you in communicating with persons with disabilities.

(i) Do's and Don'ts of good communication

Do

- Be a good listener. Show genuine interest and concern.
- Look to see if the person is listening or seems confused.
- Be alert to facial expressions. Does the expression match the tone of voice or body language?
- Listen to voice qualities—pitch, volume, rate of speed.
- Be aware of “comfort zone.” Some people (or cultures) prefer close contact, others more distant.

Don't

- Do all the talking
- Change the subject when the person is discussing troubling topics, such as death and dying.
- “Tune out” or selectively hear problem statements.
- Be argumentative or critical.
- Ask “why” or “how come” questions that put the person on the defensive.

Do

- Put the speaker at ease. Help the person know s/he is free to talk.
- Be honest. Speak directly to the person about difficult things, such as losses or illnesses to affirm the person's feelings.
- Ask the person's viewpoint and use open-ended questions to get more complete responses.
- Show empathy. Try to put yourself in the person's place.
- Be patient. Allow the person time to express thoughts.
- Be supportive of feelings, yet maintain objectivity.
- Offer choices or options when appropriate.

Don't

- Be inattentive or insensitive to the person's concerns or needs.
- Assume the role of "neighborhood friend" when the person reveals personal information.
- Get angry over statements made.
- Interrupt, start for the door, or walk away before the person is finished expressing concerns.
- Shuffle paper, doodle, tap, or otherwise seem inattentive.
- Cut short the amount of time spent.
- Give legal advice.

Note: Maintaining eye contact often helps communication. However, in some cultures it is considered threatening or disrespectful.

(ii) General tips for communicating with people with disabilities

- When introduced to a person with a disability, it is appropriate to offer to shake hands. People with limited hand use or who wear an artificial limb can usually shake hands. (Shaking hands with the left hand is an acceptable greeting.)
- If you offer assistance, wait until the offer is accepted. Then listen to or ask for instructions.
- Treat adults as adults. Address people who have disabilities by their first names only when extending the same familiarity to all others.
- Relax. Don't be embarrassed if you happen to use common expressions such as "See you later," or "Did you hear about that?" that seem to relate to a person's disability.
- Don't be afraid to ask questions when you're unsure of what to do.

(iii) Tips for communicating with people who are blind or visually impaired

- Speak to the individual when you approach him or her.
- State clearly who you are; speak in a normal tone of voice.

- When conversing in a group, remember to identify yourself and the person to whom you are speaking.
- Never touch or distract a service dog without first asking the owner.
- Tell the individual when you are leaving.
- Do not attempt to lead the individual without first asking; allow the person to hold your arm and control her or his own movements.
- Be descriptive when giving directions; verbally give the person information that is visually obvious to individuals who can see. For example, if you are approaching steps, mention how many steps.
- If you are offering a seat, gently place the individual's hand on the back or arm of the chair so that the person can locate the seat.

(iv) Tips for communicating with people who are deaf or hard of hearing

- Gain the person's attention before starting a conversation (i.e., tap the person gently on the shoulder or arm).
- Look directly at the individual, face the light, speak clearly, in a normal tone of voice, and keep your hands away from your face.
- Use short, simple sentences. Avoid smoking or chewing gum.
- If the individual uses a sign language interpreter, speak directly to the person, not the interpreter.
- If you telephone an individual who is hard of hearing, let the phone ring longer than usual. Speak clearly and be prepared to repeat the reason for the call and who you are.
- If you do not have a Text Telephone (TTY), dial 711 to reach the national telecommunications relay service, which facilitates the call between you and an individual who uses a TTY.

(v) Tips for communicating with people with mobility impairments

- If possible, put yourself at a wheelchair user's eye level.
- Do not lean on a wheelchair or any other assistive device.
- Never patronize people who use wheelchairs by patting them on the head or shoulder.
- Do not assume the individual wants to be pushed—ask first.
- Offer assistance if the individual appears to be having difficulty opening a door.

- If you telephone the individual, allow the phone to ring longer than usual to allow extra time for the person to reach the telephone.

(vi) Tips for communicating with people with speech impairments

- If you do not understand something the individual says, do not pretend that you do. Ask the individual to repeat what s/he said and then repeat it back.
- Be patient. Take as much time as necessary.
- Try to ask questions that require only short answers or a nod of the head.
- Concentrate on what the individual is saying.
- Do not speak for the individual or attempt to finish her or his sentences.
- If you are having difficulty understanding the individual, consider writing as an alternative means of communicating, but first ask the individual if this is acceptable.

(vii) Tips for communicating with people with cognitive disabilities

- If you are in a public area with many distractions, consider moving to a quiet or private location.
- Be prepared to repeat what you say, orally or in writing.
- Be patient, flexible, and supportive. Take time to understand the individual and make sure the individual understands you. Remember: Relax.
- Treat the individual with dignity, respect, and courtesy.
- Listen to the individual.
- Offer assistance completing forms or understanding written instructions and provide extra time for decision making. Wait for the individual to accept the offer of assistance; do not “over-assist” or be patronizing.
- Offer assistance but do not insist or be offended if your offer is not accepted.

(viii) Tips for communicating with people from other cultures

- Make a conscious effort to approach each person as an individual.
- Don’t operate on assumptions; avoid myths and stereotypes.
- Avoid the assumption that if an individual’s country of origin is outside the U.S. the person will have problems speaking English.
- Find out what the issues and needs are for the individuals with whom you will be working.
- Include others from the individual’s community in the discussion, if appropriate.
- Be honest, sincere, and sensitive.

- Be aware of cultural backgrounds, customs, and values of the persons with whom you are interacting. Also be aware that cultures have widely differing values and behavioral standards about family involvement, decision-making, and health care.
- Sometimes an over-friendly approach may be seen as a put-down.
- If a person tries to avoid eye contact, follow the lead. In some cultures, direct eye contact may be interpreted as confrontational, disrespectful, or rude.
- Be careful about touching other people. Develop a relationship and then evaluate what is appropriate.
- Learn to listen.
- Be flexible, patient and tolerant. There may be a period of testing. Don't give up. Keep trying.

(ix) Tips for communicating through a language interpreter

When you receive an assignment, ask court personnel whether the guardian or protected person or anyone else whom you might interview speaks a language other than English. If you communicate fluently in that language, also known as the “target language,” you may conduct the interviews in that language. However, if you have any doubts about your ability to communicate, ask the court to assign an interpreter, and one will be scheduled to attend the interviews with you.

- The interpreter is neutral and is restrained by the interpreter code of ethics from becoming involved personally. The interpreter is a medium through whom you will talk with the person being interviewed.
- At the beginning, ask the interpreter to explain to the person you are interviewing the interpreter's role. Then you can explain your role, and the interpreter will render what you say into the target language. The interpreter will render what the interviewee says into English.
- Speak to the interviewee directly, and conduct the conversation as you normally would. Do not look at the interpreter and say “tell her this”, or “ask him what he thinks about that.”
- Speak clearly using a natural volume and speed and, again, speak directly to the interviewee.
- The interpreter will speak simultaneously, either in the target language or in English, depending on who is speaking. It may be difficult, especially at first, to not ignore the interpreter speaking in the target language while you are speaking in English. It may also be difficult to hear the interpreter speaking English while focusing on the interviewee.

- The interpreter will repeat everything in the first person. So, if the interpreter says “I really like the afternoon social hour,” it is really the interviewee saying that.
- If the interpreter needs clarification, he or she will ask for a repetition in the third person (e.g. “the interpreter requests a repetition”).
- If you need clarification, ask the interviewee to explain; do not ask the interpreter to explain. And do not ask the interpreter to explain anything to the interviewee, apart from the interpreter’s role. If the interviewee needs you to explain something, do so in English, and the interpreter will render that into the target language.
- Do not ask for the interpreter’s opinion about the interviewee’s statements. If you are not clear on something, continue to ask questions of the interviewee.
- The interpreter will ask you to enter a beginning and ending time on an invoice for payment purposes. Please be accurate when entering the information and enter your initials for verification.
- If you have any concerns or questions about working with interpreters, contact Rosa P. Oakes at rosao@email.utcourts.gov or 801-578-3828.

(c) Interview questions and strategy

What will your interview with the protected person and the guardian be like? What questions should you ask? A careful review of the Visitor’s Report on Interviews and Observations, along with the court order appointing you and the specific information in the case file, will suggest questions to keep in mind. Review of the case file will provide a solid basis for your interviews and will help in gaining respect and confidence of the interviewees.

Below are some starters to tailor to the case at hand. Think about such questions, but it is important not to simply read from your list, but use it as an outline or reminder. The key is to engage the interviewees, develop a free-flowing dialogue, and keep the big picture in mind. Aim to develop a conversational interview style and be creative when asking questions.

(i) Ideas for talking with the protected person

- Explain who you are. “NN was appointed by the court as your guardian, and now the court has sent me to find out how things are going.”
- Do you remember NN? How often do you see him or her?
- How long have you lived here?
- Do you like it?
- What do you like to do?

- Where did you grow up? What did you do? Who was/is your family? Do you see them? How often?
- What is important to you?
- Are there problems living here?
- Who comes to visit you? Who do you talk to?
- How do you spend your time?
- Do you see the doctor? What for?
- Are there things you need?
- Are you afraid of anyone?
- Is there anything you would like me to tell the court?

(ii) Ideas for talking with the guardian

- How long have you been guardian for NN? How frequently do you see him/her?
- What services is NN getting?
- Can you comment on the quality of care at the nursing home/assisted living where NN is living? Have there been any problems?
- What are your plans for NN in the coming year?
- What medical problems does NN have, who are the physicians, and what is the treatment plan?
- Do you expect any major changes in residence for NN in the next year? Does NN still require nursing home care? Are there other options you have explored?
- Do you believe NN still requires a guardian? Would you recommend any changes in the scope of the guardianship?
- Do you believe the condition of NN has changed in the past year?
- Do you have any questions or comments for the court?
- Are the funds of NN sufficient for the current living arrangement/any needed medical care/needed social services?

(iii) Interview stages

Another helpful approach is to think of the interview - whether of the protected person, guardian, or other relevant party - in stages.

- Stage One: Greeting
 - Identify yourself and clarify or confirm the role of the court visitor.
 - Create a pleasant, relaxed environment.

- Stage Two: Opening
 - Explain the reason for the interview.
 - Tell the interviewee how much time the interview will take.
 - Give the interviewee some idea of what information you already have.
 - Summarize what you hope to learn during the interview.
- Stage Three: Body of Interview
 - Allow the interviewee to discuss what s/he feels is important through dialogue and questions.
 - Begin with broad, general questions and move to more specific questions.
 - Avoid leading questions, double questioning, and “bombarding” (see below).
 - Use closed questions to zero in on a topic.
- Stage Four: Closing
 - When closing, tell the interviewee when or if s/he can expect to hear from you again.
 - Refer back to the items discussed, with a concluding statement.
 - Recap any action items, if appropriate.
- Sample Questions
 - Open-Ended:
 - Oh?
 - Yes.
 - Really?
 - Well, what do you mean?
 - Please tell me more about that.
 - What specifically did you have in mind?
 - I’m not sure I understand.
 - How do you think things could be improved?
 - What kinds of problems have you had?
 - Closed-Ended
 - Do you have any trouble with that?
 - Is this most important to you?
 - Do you believe this could be improved?

- When did it happen?
- Double Questions
 - Do you want coffee or tea?
 - Do you prefer living alone or living with other people?
- Bombarding
 - Well, why don't you answer?
 - Do you need more time to think?
 - Would you rather I stop asking?

(9) Community resources

You may encounter questions from guardians—especially family guardians—about community resources. Available resources are a mix of federal and state and local government programs and organizations and private for-profit and non-profit programs. It can be quite a maze.

(a) 2-1-1

Dialing 2-1-1 will connect callers to health, human, and community services statewide. 2-1-1, a program of United Way of Salt Lake, provides free information and referral on topics such as emergency food pantries, rental assistance, public health clinics, child care resources, support groups, legal aid, volunteer opportunities, and a variety of other non-profit and governmental agencies.

- 211 Website
<http://www.informationandreferral.org/>

(b) Reporting abuse and neglect

(i) Adult Protective Services

[Adult Protective Services](#) protects persons 65 and older and vulnerable adults. Trained staff, working in cooperation with law enforcement, investigate cases of abuse, neglect, self neglect, or financial or sexual exploitation involving vulnerable adults. Adult Protective Services workers assist victims and prevent further abuse, neglect, and exploitation. Adult Protective Services include:

- receiving reports of adult abuse, exploitation, neglect, or self neglect;
- investigating reports of adult abuse, exploitation, or neglect;
- case planning, monitoring, and evaluation; and
- arranging for medical, social, economic, legal, housing, law enforcement or other protective, emergency, or supportive services.

APS caseworkers are the first responders to reports of abuse, neglect, and exploitation of vulnerable adults. Report abuse, neglect or exploitation to Adult Protective Services

- http://www.hsdaas.utah.gov/e-referral_form.jsp
- 801-538-3567 in Salt Lake County
- 800-371-7897 in all other counties

(ii) Long-Term Care Ombudsman

Long-term care ombudsmen are advocates for residents 60 and older of nursing homes, assisted living, and other adult care facilities. They work to resolve problems of individual residents. Report suspected abuse or neglect in nursing homes, assisted living, and other adult care facilities to the long-term care ombudsman.

You may give the contact information for the Utah Long-term Care Ombudsman to the guardian who has encountered problems with long-term care facilities. If the guardian is not taking action concerning poor quality of care, your report to the court might suggest contacting the ombudsman program.

- Utah Long-term Care Ombudsman, <http://www.hsdaas.utah.gov/ombudsman/>

(c) The aging network

(i) Area Agencies on Aging

Local Area Agencies on Aging provide a comprehensive variety of services to, and advocate for, the needs of persons 60 and older, caregivers, and some “high risk” adults” residing in their areas. Area Agencies on Aging provide information and assistance and contract with a range of services providers—for example, in-home care, legal services, congregate and home-delivered meals, and transportation. There is no financial eligibility requirement for these services, but the services are targeted to those “in greatest social and economic need.”

- http://www.hsdaas.utah.gov/pdf/utah_area_agencies_on_aging.pdf

(ii) Utah Division of Aging and Adult Services

- Senior Centers: <http://www.hsdaas.utah.gov/locations.htm>
- Caregiver support: http://www.hsdaas.utah.gov/caregiver_support.htm
- Health Insurance: http://www.hsdaas.utah.gov/insurance_programs.htm
- Advance health care directives:
http://www.hsdaas.utah.gov/advance_directives.htm
- Retired Senior Volunteer Program (RSVP):
http://www.hsdaas.utah.gov/ss_volunteerism.htm

(d) The disability network

(i) Disability Law Center

- <http://disabilitylawcenter.org>
205 N 400 W
Salt Lake City, Utah 84103
801-363-1347
800-662-9080
- The Disability Law Center is a private, non-profit organization serving as Utah's protection and advocacy agency. The Center provides information and referral to services for persons with disabilities statewide. The DLC does not represent individuals in guardianship cases.
- The Center's other mission is to enforce and strengthen laws that protect the opportunities, choices and rights of people with disabilities, in areas such as:
 - abuse and neglect in long term care facilities
 - accessibility
 - clients and applicants of vocational rehabilitation
 - education issues
 - housing discrimination
 - Medicaid or insurance denial of assistive technology
 - voting access

(ii) Centers for Independent Living

- Directory of centers for independent living in Utah:
 - <http://www.bcm.edu/ilru/html/publications/directory/utah.html>
- A center for independent living is a consumer-controlled, community-based, cross-disability, non-residential private nonprofit agency that provides a variety of independent living services.
 - Information and referral
 - Independent living skills training
 - Individual and systems advocacy
 - Peer counseling

(iii) Utah Division of Services for People with Disabilities

- <http://www.dspd.utah.gov>
195 N 1950 W

Salt Lake City, Utah 84116
801-538-4200
800-837-6811
TTY: 801-538-4192

(e) Behavioral health network

(i) Local mental health facilities

- Search for a local mental health facility by zip code
 - <http://store.samhsa.gov/mhlocator>

(ii) Utah Division of Substance Abuse and Mental Health

- Services for Substance Abuse and Mental Health
 - <http://www.dsamh.utah.gov/locationsmap.htm>
- Help for Families
 - <http://www.dsamh.utah.gov/helpforfamilies.html>

(f) Residential services

One of the most difficult tasks for a guardian may be finding the right living arrangements for the individual. Factors will include cost, Medicaid or insurance coverage, VA benefits, time factors, including hospital discharge, proximity to friends and relatives, services and amenities offered, and quality of care. If you encounter problems with the long-term care of a protected person, the following resources may be helpful. Be sure to contact the program coordinator before making a complaint or initiating any action.

(i) Search for living arrangements by geographical area and by type of assistance needed

- Utah Department of Health, Health Facility Licensing, Certification and Resident Assessment
 - Assisted Living Type I (Assists with one or two Activities of Daily Living ADLs)
 - <http://health.utah.gov/hflcra/facinfo/alpha.php?FACTYPE=02A>
 - Assisted Living Type II (Assists with any number of ADLs)
 - <http://health.utah.gov/hflcra/facinfo/alpha.php?FACTYPE=02B>
- www.retirementhomes.com
- <http://www.seniorsforliving.com>
- <http://seniorhousing.botw.org/States/Utah>

(ii) Medicare and Medicaid facility comparisons

The Centers for Medicare and Medicaid Services (CMS) provides detailed information about the performance of the following Medicare and Medicaid certified facility types:

- Nursing homes
- Home health agency
- Hospitals
- End stage renal dialysis
- To compare facilities, go to <http://health.utah.gov/hflcra/reportcard/reportcard.php>

(g) Medicaid

Medicaid is a state-run program that provides health care payment for individuals and families with low income. It is the largest source of funding for medical services for people with limited incomes in the nation. Medicaid is also the largest payer for long-term care. Medicaid covers nursing home care for individuals who are eligible financially and who also meet the state's level of care requirements. In Utah, Medicaid also helps to support assisted living care in limited circumstances. The Utah Medicaid agency is:

- Utah Department of Health
Division of Medicaid and Health Financing
<http://health.utah.gov/medicaid/>
288 N 1460 W
Salt Lake City, Utah 84116
801-538-6155
800-662-9651

(h) Social Security Administration (SSA)

The Social Security Administration field offices are SSA's primary point for face-to-face contact with the public. Field offices provide information, make determinations about eligibility, issue Social Security numbers and cards, take applications and determine eligibility for Medicare, and much more.

- Locate the nearest SSA field office
 - <https://secure.ssa.gov/apps6z/FOLO/fo001.jsp>
- Utah Social Security Office
175 E 400 S, Suite 500
Salt Lake City, Utah 84111
866-851-5275
800-772-1213

(i) Veterans benefits

The U.S. Department of Veterans Affairs provides a wide range of benefits, including disability, education and training, vocational rehabilitation and employment, home loan guaranty, dependant and survivor benefits, medical treatment, prescription drugs, aid and attendance, life insurance, and burial benefits.

- Summary description of VA benefits, with contact numbers:
 - <http://www.vba.va.gov/pubs/forms/VBA-21-0760-ARE.pdf>
 - <http://www1.va.gov/opa/newtova.asp>
- VA facilities and service centers in Utah
 - <http://www2.va.gov/directory/guide/state.asp?STATE=UT&dnum=3>
- Veterans Benefits Administration
Salt Lake City Regional Office
550 Foothill Drive
Salt Lake City, UT 84158
800-827-1000
- American Legion, 801-326-2380
- Disabled American Veterans, 801-326-2375
- Veterans of Foreign Wars, 801-326-2386
- Utah State Division of Veterans Affairs, 801-326-2372

(j) Legal resources

A guardian may need a lawyer to provide legal advice or to advocate on behalf of the protected person. Individuals who are financially eligible can receive legal services through legal aid or legal services programs. In addition, under the Older Americans Act, there are special programs of legal assistance for older people who are “in the greatest social and economic need.” For those not eligible for such legal programs, there are many private lawyers who focus on assisting elders or individuals with disabilities.

- Disability Law Center
 - <http://disabilitylawcenter.org>
 - 801-363-1347
 - 800-662-9080
- Utah Legal Services
 - www.utahlegalservices.org
 - 801-328-8891 in Salt Lake County
 - 800-662-4245 in all other counties

- Senior Help Line
 - 800-662-1772
- Legal Aid Society of Salt Lake
 - www.legalaidsocietyofsaltlake.org
 - 801-328-8849
 - Representation limited to:
 - domestic violence protective orders regardless of income
 - family law matters such as: divorce, custody, grandparent visitation, common law divorce, guardianships for minors and incapacitated adults for financially eligible clients
- Utah State Bar Lawyer Directory
 - www.utahbar.org/public/lawyer_referral_service_main.html
- Utah State Bar Committee on Law and Aging
 - http://aging.slco.org/html/legal_overview.html
 - Free legal services to people over 60 at Salt Lake County senior centers. by appointment.
- Utah State Courts list of free legal clinics
 - www.utcourts.gov/howto/legalclinics/
- Utah State Courts self-help resources
 - www.utcourts.gov/selfhelp
- Utah Division of Aging and Adult Services
 - <http://www.hsdaas.utah.gov/pdf/Legal%20Services%20for%20Older%20Adults%20in%20Utah.pdf>
 - <http://www.hsdaas.utah.gov/pdf/utah-elder-rights-booklet.pdf>
- National Academy of Elder Law Attorneys
 - www.naela.com (click on “[Find an Attorney](#)”)

(k) Multiple service listings

- Salt Lake County Aging Services
 - <http://www.55plusbook.slco.org/>
- Salt Lake County Senior Centers
 - http://aging.slco.org/html/centers_contactinfo.html
- Eldercare Locator

- <http://www.eldercare.gov/Eldercare.NET/Public/Index.aspx>
 - Phone: 800-677-1116
- Division of Services for People with Disabilities
 - <http://www.dspd.utah.gov/a-zindex.shtml>
- Utah Association of Community Services
 - <http://www.uacs.org/index.php/member-organizations>

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

Order Appointing Court Visitor

In the Matter of Protection for

_____ Case Number

_____,
Respondent

_____ Judge

- (1) Utah Code Section 75-5-303 and Section 75-5-308 permit the court to appoint a visitor to make inquiries on behalf of the court and report findings. The court requires further information concerning this guardianship.
- (2) _____ (name) is a special appointee of the court with no personal interest in these proceedings.

Therefore the court orders that:

- (3) The person named in Paragraph (2) is appointed as court visitor in this case, and shall inquire about the Respondent's/Protected Person's circumstances. The appointment shall continue until further court order.
- (4) No later than _____ (date), the court visitor shall file with the court and serve on all parties a report of her/his inquiries and observations.
- (5) All persons whom the court visitor contacts shall cooperate with the court visitor and assist in gathering this information. Upon request, the court visitor must have access to all records relating to the Respondent/Protected Person.

_____ Sign here ► _____
Date

Judge _____

This is a private record.

My Name

Address

City, State, Zip

Phone

Email

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

In the Matter of Protection for

Respondent

Visitor's Report on Request to Waive Respondent's Presence under Section 75-5-303

Case Number

Judge

(1) The court appointed me to investigate why the Respondent's presence at the hearing should not be required. During my investigation I:(Choose all that apply.)

- interviewed the Respondent;
- interviewed the proposed guardian,
- interviewed _____
(name and relationship to Respondent)
- visited the Respondent's residence;
- conducted the following other inquiries: (describe)

The Respondent lives at:

Address

City, State, Zip

(2) The Respondent lives:

With

Name	Relationship to the Respondent
_____	_____
_____	_____
_____	_____
_____	_____

Alone

Licensed facility _____ (name)

Other _____ (describe)

Unable to determine

(3) The Respondent's ability to travel to the hearing is

Good

Poor

Fair

Unable to determine

Why?

(4) The Respondent's ability to communicate at the hearing is

Good

Poor

Fair

Unable to determine

Why?

(5) The Respondent's ability to understand is

- Good
- Fair

- Poor
- Unable to determine

Why?

(6) Does the Respondent want to attend the hearing?

- Yes
- No

- Unable to determine

Why?

(7) What accommodations would help facilitate the Respondent's participation at the hearing?

(8) Any other relevant information.

_____ Sign here ► _____
Date
Typed or Printed Name _____

This is a private record.

My Name

Address

City, State, Zip

Phone

Email

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

In the Matter of Protection for

Protected Person

Visitor's Report on Interviews and Observations—Post-appointment

Case Number

Judge

(1) Scope. The court appointed me to inquire about:

During my inquiries, I: (Choose all that apply.)

- interviewed the Protected Person;
- interviewed the Guardian,
- interviewed _____
(name and relationship to Protected Person)
- visited the Protected Person's residence;
- made the following other inquiries:

(2) Information about the Protected Person.

The Protected Person lives at:

_____ Address

_____ City, State, Zip

The Protected Person lives:

With

Name	Relationship to the Protected Person
_____	_____
_____	_____
_____	_____
_____	_____

Alone

Licensed facility _____ (name)

Other _____ (describe)

Unable to determine

(3) Protected Person's Values and Preferences			
Is the Protected Person satisfied with their:	Yes	No	Unable to determine
Living situation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Medical and personal care?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Caregivers?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Finance management?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
What does the Protected Person want to change?			

• Does the Protected Person want a Guardian?

Yes

No

Unable to determine

• If yes, who does the Protected Person want to be Guardian? _____

- Are there activities the Protected Person wants to maintain or avoid?

- Are there relationships the Protected Person wants to maintain or avoid?

- Are there religious or cultural traditions or practices that the Protected Person wants to maintain or avoid?

- Are there any other preferences that the Protected Person has expressed?

(4) Protected Person’s Circumstances

(If you check fair or poor or if you have concerns, explain in the comments.)

	Observed			Reported by others		
	Good	Fair	Poor	Good	Fair	Poor
Overall	<input type="checkbox"/>					
Relationship between the Protected Person and the proposed Guardian.	<input type="checkbox"/>					
Relationship among the Protected Person’s family.	<input type="checkbox"/>					
Environment is safe and clean	<input type="checkbox"/>					
Activities of daily living are being met	<input type="checkbox"/>					
Financial needs are being met	<input type="checkbox"/>					
Physical needs are being met	<input type="checkbox"/>					
Medical needs are being met	<input type="checkbox"/>					
Social / recreational needs are being met	<input type="checkbox"/>					
Comments (Attach additional pages if necessary.)						

(5) Daily Functions (If you check fair or poor or if you have concerns, explain in the comments.)

	Observed			Reported by others		
	Good	Fair	Poor	Good	Fair	Poor
Activities of daily living (ADLs: bathing, grooming, dressing, mobility, toileting, eating, taking medication, etc)	<input type="checkbox"/>					
Instrumental Activities of Daily Living (IADLs: medication acquisition and monitoring, food shopping and preparation, transportation, paying bills, protect assets, resist fraud, etc.)	<input type="checkbox"/>					
Medical decision making (reason about health, express a choice, and understand, information, etc.)	<input type="checkbox"/>					
Care of home and functioning in community (manage home, health, telephone, mail, drive, leisure, etc.)	<input type="checkbox"/>					
Ability to protect self from harm, including physical harm, self-neglect, and financial exploitation.	<input type="checkbox"/>					
Comments (Attach additional pages if necessary.)						

(6) Behavior (If you check moderate or severe or if you have concerns, explain in the comments.)

	Observed			Reported by Others		
	None	Moderate	Severe	None	Moderate	Severe
Rambling, nonsensical, or incoherent thinking	<input type="checkbox"/>					
Confabulation (Deviates from the topic)	<input type="checkbox"/>					
Seeing, hearing, smelling things not there	<input type="checkbox"/>					
Extreme suspiciousness; believing things that are not true against reason or evidence	<input type="checkbox"/>					
Uncontrollable worry, fear, thoughts	<input type="checkbox"/>					
Acting without considering consequences	<input type="checkbox"/>					
Acting with hostility, anger or violence	<input type="checkbox"/>					
Disinhibition, sexual aggression, uncontrollable behavior,	<input type="checkbox"/>					
Refuses to accept help or follow directions	<input type="checkbox"/>					
Wandering	<input type="checkbox"/>					
Comments (Attach additional pages if necessary.)						

(7) Protected Person’s relationships and responsibilities

Name of the Protected Person’s spouse, partner, children, dependents or others with whom the Protected Person has a significant relationship.

Name	Relationship to the Protected Person	Name	Relationship to the Protected Person
_____	_____	_____	_____
_____	_____	_____	_____

Describe any of the Protected Person’s relationships that the guardianship is disrupting in ways that the Protected Person would not have chosen.

Describe any of the Protected Person’s responsibilities that the guardianship is disrupting in ways that the Protected Person would not have chosen.

Describe any people or circumstances that the Protected Person needs to be protected from.

(8) Accommodations What accommodations would help the Protected Person?

(Choose all that apply.)

- | | | |
|--|---|---|
| <input type="checkbox"/> 24-hr. supervision | <input type="checkbox"/> Manage financial affairs | <input type="checkbox"/> Toileting |
| <input type="checkbox"/> Bathing | <input type="checkbox"/> Meal preparation | <input type="checkbox"/> Transportation |
| <input type="checkbox"/> Day care program | <input type="checkbox"/> Medication monitoring | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Dressing | <input type="checkbox"/> Occupational therapy | _____ |
| <input type="checkbox"/> Feeding | <input type="checkbox"/> Physical therapy | _____ |
| <input type="checkbox"/> Grooming | <input type="checkbox"/> Provide necessities | |
| <input type="checkbox"/> Health care decisions | <input type="checkbox"/> Recreation or outings | |
| <input type="checkbox"/> Housekeeping | <input type="checkbox"/> Skilled nursing care | |

(7) Guardian’s care for the Protected Person.

(If you check fair or poor or if you have concerns, explain in the comments.)

	Observed			Reported by others		
	Good	Fair	Poor	Good	Fair	Poor
The Guardian’s understanding of their duties is:	<input type="checkbox"/>					
The Guardian’s completion of their duties is:	<input type="checkbox"/>					
The Guardian’s ability to file reports is:	<input type="checkbox"/>					
The Guardian’s understanding of the Protected Person’s rights is:	<input type="checkbox"/>					
The Guardian’s protection of the Protected Person’s rights is:	<input type="checkbox"/>					
The Guardian’s compliance with the court order is:	<input type="checkbox"/>					
Comments (Attach additional pages if necessary.)						

The Guardian’s current contact information is:

_____ Address

_____ City, State, Zip

_____ Phone

_____ Email

_____ Date Sign here ► _____

Typed or Printed Name _____