Basic Guidelines: Serving as Guardian or Conservator for an Adult



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WINGS
Working Interdisciplinary Networks of Guardianship Stakeholders

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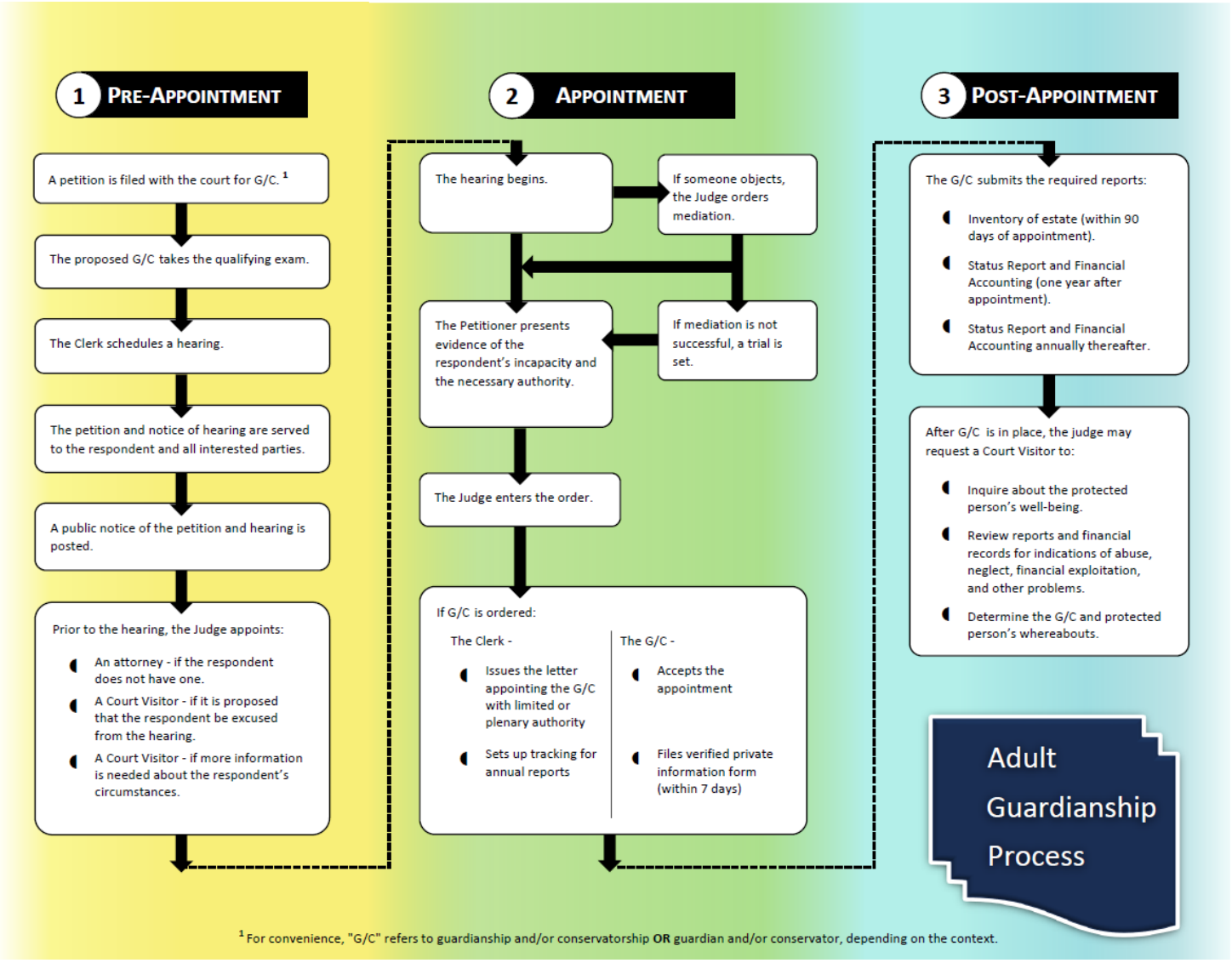
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A. Summary of the Adult Guardianship Process



[1] For convenience, "G/C" refers to guardianship and/or conservatorship **OR** guardian and/or conservator, depending on the context.

B. Introduction

When a person turns 18 or older, they have the right to make choices based on what they believe is right. This is true even if other people disagree with those choices. Making decisions is a very important part of being an adult. We make choices every day for ourselves and for the people who need us. Sometimes, making choices can feel hard or stressful. But most people would not want to lose the right to choose things for themselves. When a court names a **guardian** or a **conservator**, it takes away that person's right to make their own decisions. Because of this, the court is very careful about granting a guardianship. The court also carefully monitors the guardians and conservators it appoints.

A court might appoint a guardian, a conservator, or both. These two jobs might be done by two different people, or the court might choose the same person for both jobs. If the court does not choose a conservator, then the guardian has to take on some of the conservator's duties.

This handbook helps you learn what your **responsibilities** (jobs) are if you are thinking about asking the court to make you a guardian or conservator, or if the court has already appointed you.

This handbook does not teach you the steps for becoming a guardian or conservator. However, you can find the current rules for how a good guardian or conservator should act (standards and ethics) on the National Guardianship Association website.[1]

This handbook gives you general information. It is not meant to take the place of getting **legal advice**. If you have questions that are specific to your situation, you should talk to your lawyer.

What is a Guardian and a Conservator?

The court can appoint a guardian, a conservator, or both.

- **Guardian:** A guardian is a person chosen by the court to make decisions about the **care** of the person being protected. This protected person is sometimes called an "incapacitated person" or "ward."
- **Conservator:** A conservator is a person chosen by the court to manage the **property and financial affairs** (money) of the protected person.

If you are a guardian or conservator, you are in a **position of trust**. This means you have important legal duties and responsibilities (jobs) to the protected person. This position of trust is sometimes called a "fiduciary."[2]

A guardian is responsible for using current standards to help the protected person make choices. The court order explains exactly which areas the guardian can make decisions

[1] https://www.guardianship.org/standards/
[2] Utah Code Section 75-1-201(17)

in, except that the guardian does not have to use his or her own money for the protected person's care and support.[3] Guardians can use methods such as supported decision-making,[4] substituted judgment, and best interest to help make decisions on behalf of the protected person.

Guardian

A guardian of an adult is a person or group chosen by a court to make important choices for an adult who needs help. These choices might be about where the adult lives, their health care, food, or other personal needs.

A judge decides if an adult is "incapacitated."[5] If someone is **incapacitated**, it means they are not able to handle important things needed for their safety, health, or money, even if they use helpful technology resources.

To figure out if someone is incapacitated, the judge looks at what the person struggles to do. These struggles include:

- Not being able to understand information.
- Not being able to make or share their choices.
- Not being able to get necessary things like food, a home, clothes, health care, or safety for themselves.

A court will only choose a guardian if the adult is incapacitated and needs ongoing care and supervision and there is no other option that can meet those needs.

Adults sometimes need help with only a few choices, not everything, and guardianship should only include what is needed.

Limited Guardianship: This type of help is preferred under Utah law. A court can order a limited guardianship, meaning the guardian only has the power and jobs that are specifically written down in the court order.

Full Guardianship: This type of guardianship is only granted if the limited option won't keep the person safe. A full (sometimes called "plenary") guardianship gives the guardian responsibility and power similar to what a parent has over a minor child.

(The court may also limit the authority of someone who handles the adult's money, called a conservator.)

[3] Utah Code Section 75-5-312
[4] Utah Code Section 75-5-704
[5] Utah Code Section 75-1-201(25)

Conservator

A conservator of an adult is a person or group chosen by a court to make important decisions about an adult's money and belongings. The court appoints them to manage the protected person's "estate."

The estate includes everything the protected person owns. The conservator must use reasonable care and skill to manage this estate, so the protected person's needs are met over their expected life.

The estate covers many types of property:

Income: Money earned from wages, pensions, or government benefits (like Social Security).

Real Property: Buildings and land.

Personal Property: Things like cash, bank accounts, stocks, bonds, furniture, cars, jewelry, tools, and art.

Digital Property: Electronic or online things that belong to the protected person, like computer files, saved photos, things stored online using a service (often called "cloud storage"), owned website domain names, and personal codes and passwords.

Sometimes, a conservator is appointed even if the person is not sick or incapacitated. A conservator may be needed if the person cannot manage their property (money and things) well. Reasons for needing a conservator can include:

- Mental or physical illness or disability.
- Chronic use of drugs or alcohol.
- Being confined (like in jail) or missing.

The main jobs of a conservator are to:

- Stop the protected person's property from being harmed.
- Get or provide money to support the protected person and others they are supposed to support.

The conservator must be fair and honest and always work for the protected person's welfare, goals, and wishes, including:

Avoiding Conflicts of Interest: A conservator must avoid all conflicts of interest. A conflict happens when the conservator has a personal reason or connection that might look like it benefits them instead of the protected person.

Avoiding Self-Dealing: The conservator must never engage in self-dealing. This means they cannot try to take advantage of their position as

a conservator to help themselves. They must only act in the best interest of the protected person.

The court gives the conservator special papers (like the appointment order) that list exactly what kind of job they have and any specific rules or limitations they must follow.

Alternatives to a Guardian or Conservator

Guardianship is a serious step because it takes away many rights from a person. Because guardianship removes many things a person has the right to do, it is extremely important to look at other choices, called alternatives, first. Before asking for guardianship, you should seriously consider *all* of the alternatives.

Here are examples of alternatives that people can use instead of guardianship:

- Advanced Directives and Living Wills.
- Giving someone the Power of Attorney to help make decisions.
- Trusts.
- Supported Decision Making plans, which are ways to get help making your own choices.
- Beneficiary Designations and Forms.
- Healthcare provisions, such as a POLST order, which gives instructions for medical care.
- Health care Instructions, such as a DNR order (Do Not Resuscitate).
- HIPAA-permission forms, which let someone share your medical information with a representative (a helper).
- Digital Asset documents, which let someone share your digital files with a representative (a helper).

If you want a longer, more detailed list of these alternatives, see Appendix A at the end of this handbook.

How Long Will I Be a Guardian or Conservator?

When the court needs to act fast, it can choose an emergency guardian. This person only helps for up to 30 days. They are meant to help until the court can have a meeting (a hearing) to decide if the protected person needs a helper for a longer time.

The court might also appoint a temporary guardian. This person helps for longer than 30 days, but they are temporary until the court can have a full hearing to decide on a permanent guardian.

If you are chosen as a permanent guardian (or conservator), you are expected to stay in that role until the court officially ends your appointment.

If you are a permanent guardian and you want to stop, you can resign, but you must have the court’s permission.

- If the protected person still needs help, the court can choose a new helper, called a successor guardian, to take your place.
- If you were doing two jobs—guardian and conservator—you can quit one job and keep the other.

Sometimes, the reasons why a person needed a guardian change. Maybe the person who needed help gets better (regains capacity), or maybe the protected person passed away.

No matter the reason, you must keep doing your duties until the court officially removes you as the guardian or conservator.

When your job as guardian or conservator ends, there are required steps you must take:

- You must make a final report about the money and property (this is called a Financial Accounting Report).
- You must hand over the property to your successor[6] (the new helper) or, if the person doesn't need a guardian anymore, back to the protected person.
- If the protected person owns land, you might need to record a copy of the court order that ends your appointment with the county recorder. This makes sure that everyone officially knows who owns that land now.
- You can talk to your lawyer or the Court's Self-Help Center[7] to learn the proper way to end the job and turn over the estate.

Think of guardianship like being the captain of a ship. You take charge until the ship is safely docked (the court removes you) or a new, approved captain (the successor) takes over. Even if you want to quit, you can't just jump off; you have to wait until the court says the new captain is ready or the journey is officially complete.

C. Responsibilities and Restrictions

Remember, if you are named the guardian, your job is like taking care of a person's everyday needs.

- You are in charge of the care and support for the protected person.
- You make choices about the protected person's personal wellbeing. Think of "personal wellbeing" as their health, safety, and happiness.

In simple terms, the guardian helps take care of the person.

[6] Utah Code Sections 75-5-306, 75-5-307, and 75-5-415
[7] https://www.utcourts.gov/en/self-help/services/contact.html

If you are named the conservator, your job is about taking care of the protected person's money and property.

- You are responsible for making choices and providing support related to the protected person’s estate and finances.
- An "estate" often means their property, and "finances" means their money.

In simple terms, the conservator helps take care of the money.

General Responsibilities as Guardian

Understanding the rules for a Guardian is very important. Utah law tells you what your job as a guardian involves. The court order explains exactly what your powers are, and if there are any limits.

As a guardian, you might need to:

- Be in charge of the protected person.
- Decide where they live. This is called establishing their place of abode.
- Take care of their needs by providing comfort, basic maintenance, and care.
- Set up their school and social activities.
- Care for their things like clothes and personal belongings (personal effects).
- Say "yes" (consent) for them to get necessary medical care or professional treatment.
- Say "yes" to marriage or adoption, but only if the court gives you the power to allow it. For adoption, the rights of the person's parents must already be taken away.
- Start legal steps to protect the person’s property or make sure someone pays them money they are owed.
- Save money: You must carefully save any extra money or property (exercise fiduciary duty to conserve) for the protected person's needs in the future.

There are many things a guardian cannot do, unless the court specifically grants that power or you are also named the money helper (conservator).

As guardian, you may **NOT**:

- Send the protected person to a mental hospital (psychiatric hospital) unless there is a special court meeting (commitment hearing), the person agrees, or the court order clearly gives you that power.
- Sell the protected person’s property, such as houses (real estate) or investments (stocks), unless you are also the appointed money helper (conservator).

- Agree to the protected person's marriage, unless the court gives permission for you to consent to this.
- Agree to the adoption of a protected person, unless the judge gives you special permission AND the parents have already lost their legal rights as parents.
- Vote for the protected person in an election.
- Choose the protected person's religion.
- Write a will or change a will they already made.
- Hit or hurt the protected person (physically punish them).
- Ignore their needed healthcare.
- Leave the person alone if they need care.

If the court chooses a separate conservator, that person has most of the job of handling money and property. If there is a conservator, you must talk to them to be sure both of you understand your different jobs.

As the guardian, you have the right to receive reasonable money from the conservator to pay for the protected person's daily living costs. This money might be given to you as a regular amount (an allowance) to pay bills, or the conservator might pay the bills directly.[8] You must talk to the conservator to agree on the amount of money, how often it will be paid, and how to pay for surprise, big bills (extraordinary expenses).

Decision-making guidelines[9]

1. Help the Person Be Independent.
    - Guardians should encourage the person they protect to be as independent and self-sufficient as possible.
    - You must include the protected person in making choices. You should let them make as many decisions for themselves as they can.
2. The Rule of the "Least Restrictive Alternative."
    - A main guideline to help you make decisions is called the "least restrictive alternative."
    - This means that when you and the protected person choose an option, it should be the one that limits or restricts the person's freedom, rights, and ability to control their life the *least*.
    - This rule applies to many parts of their life, such as:
        - Where the person lives.

[8] Utah Code Sections 75-5-312 and 75-5-424
[9] Utah Code Section 75-5-312(1)(d) and (e)

- Who they spend time with.
- The medical or mental health care they receive.
- Where they work.
- What kind of training they get.

3. Making Choices.

- As a guardian, you either help the person make personal decisions, or you make the decisions for them if they are unable to choose.
- If the protected person cannot communicate, you must try hard to figure out what decision they would have made if they were able to choose.
- You must act based on what the protected person has said they want and what they believe in (their personal values), as long as you know them. [10]
- Your guide is what the protected person would do, not what you would do, as long as the decision is the best thing for them.

4. Balancing Safety and Freedom

- A guardian has to think about the good things (benefits) and the dangers (risks) of every choice.
- You must find a balance between two important things:
  - Letting the person be independent and make their own choices.
  - Keeping the person safe, protected, and respected.
- The goal is to manage the risks; you don't have to get rid of every single risk.
- The choice you pick must be consistent with what the person wants, needs, and prefers.

For more information about a guardian's specific decision-making authority, visit: https://www.utcourts.gov/howto/family/gc/authority-guardian.html

Health care

If you are helping a protected person with health care decisions, here is how you should decide what to do:

First, check if the protected person picked a special health care helper (called an agent) in a special paper. If they did, that special helper makes the health care choices for the protected person, even choices about their life ending (end-of-life decisions).

If the protected person did not pick a health care agent, then these choices are yours.

[10] Utah Code Section 75-5-312(1)

- You must work closely with the protected person's doctor and other healthcare workers.
- They might ask you to give your "yes" (consent) for medical treatment.
- Try hard to find out what the protected person would want. You can do this best by asking the protected person directly what they prefer.

If the protected person cannot communicate (talk or tell you what they want):

- Check for written wishes: Look for papers they wrote earlier, like a living will or an advance health care directive. If you find these special papers, you must use them to help guide your decision.
- Ask others: If you cannot find those papers, talk to the protected person's family and friends. Ask them about what medical treatment the protected person would have wanted.
- Think about religion: If you still have no idea what they wanted, think about the beliefs of the protected person's religion.

You should always ask questions about medical care.

- Ask if there are other choices or alternatives for treatment.
- Ask about the ways a proposed treatment might help (the benefits).
- Ask about the ways a proposed treatment might be harmful (the risks).
- If a surgery or a medicine is controversial (meaning people strongly disagree about whether it is the right thing to do), an ethics committee may help you make an informed, ethical decision.[11] You must ask a judge (the court) for permission before you say "yes" to these types of treatment.

Living arrangements

Try to let the person you are caring for keep living in their own house if they can.

Sometimes there is help available to keep them at home. This help might include getting meals delivered, having rides to places, or having assistance right inside the house.

If the person is not safe in their own house anymore, you might have to move them to a safer place.

Before moving them, you should ask the person's family, doctor, and other experts. Ask them for advice about where the best place for the person to live would be so that they get what they need.

[11] https://www.guardianship.org/wp-content/uploads/2017/07/Ethical-Principles-2017.pdf

After the person moves to a new place, you need to visit them often. Also, talk to the staff at the new place to make sure the person is still getting everything they need.

The person you are protecting is allowed to live with you. They can also live with your husband or wife, your parents, or your children.

However, you are not allowed to use the protected person's money to pay you for them living there (this is called room and board) unless a judge (the court) says it is okay. [12]

No matter where the protected person lives, you have important jobs. You must make sure the person is safe and comfortable. You are also responsible for making sure they get:

- Healthcare (seeing doctors).
- Nutrition (good food).
- Grooming (being clean).
- Recreation (fun things to do).

General Responsibilities as Conservator[13]

If the court does not appoint a separate conservator, you may also have some or all the conservator's responsibilities too.

Being a conservator means you are in charge of managing another person's money and property (called the estate).

Your Main Job: Be a Smart Manager.

- You must be careful, skillful, and wise when you invest and manage the estate.
- You should act like a "prudent investor," which means a smart person who knows how to handle money.
- You need to look at all the facts before making a decision.
- Every choice you make about money must be part of an overall plan to manage risk and get a good return for the entire estate.

When you are managing or investing the estate's assets, you should look at these things:

- The economy: What are general money conditions like, and will prices go up (inflation) or down (deflation)?

[12] Utah Code Section 75-5-312(2)(j)(iii)(A)
[13] Utah Code Sections 75-5-424, 75-5-425, 75-5-428, and 75-2-209

- Taxes: What will happen with taxes because of your investment choices?
- The whole picture: How does one investment fit with all the other money and property the estate owns?
- Returns: How much money is expected to come in from income and from the growth of the property's value?
- The estate's size: How large is the estate? Does the estate need quick cash (liquidity), regular money coming in (income), or is the goal to keep the money safe or make it grow?
- Special property: Does a certain asset have a special value for the person you are protecting or for the goals of the estate?

You must also consider any plan the protected person had for their estate. You are allowed to look at the protected person's will. [14]

What You **CAN** Do (Your Powers).

Unless the court order says you cannot do certain things, you have many powers. You can:

- Collect, hold, and keep the things and money in the estate.
- Invest in almost any kind of property or investment, as long as it meets the standards in Utah Code.
- Put estate money in a bank.
- Decide if money coming in or bills being paid count as estate income or as part of the main value (principal) of the estate.
- Buy, sell, invest, and reinvest estate assets.
- Keep running any business or enterprise the protected person owns.
- Manage, fix up, improve, trade, or change the protected person's assets.
- Fix, change, or tear down buildings.
- Rent property, even if the lease lasts longer than your time as conservator.
- Insure the estate property against damage or loss.
- Borrow money if it is needed to protect the estate or the protected person.
- Dealing with legal Issues and claims.
- Start or defend lawsuits to protect the estate assets or to protect yourself while you are doing your job.

[14] Utah Code Sections 75-5-424 and 75-5-427

- Pay, settle, or fight claims (like bills) the estate owes or that are owed to the estate.
- Give up on trying to collect a debt if the estate is owed money that cannot be collected.
- Pay taxes, pay yourself, and pay other necessary costs for managing and protecting the estate.
- Spend or give out money or income to support, educate, or care for the protected person and the people who depend on them.
- You can hire people to advise and help you with your duties.
- You may make gifts to charity if the protected person likely would have done so.

  However, you can only do this if the estate has enough money left over to care for the protected person and their dependents.

  Also, the total gifts made in one year cannot be more than 20% of the income the estate earned.
- If the court chooses a separate guardian, that guardian has the right to get money from you for the protected person's daily costs. You can either pay the guardian an allowance, or you can choose to pay the bills directly to the people or businesses owed money. [15] You should talk with the guardian to agree on the amount and timing of these payments.

What You **CANNOT** Do (Your Limitations).

As a conservator, you are NOT allowed to do certain things:

- Do not mix your money with the protected person’s money (called comingling).
- Do not use the estate’s money to pay your personal bills.
- Do not put estate funds into your personal bank account.
- Do not borrow money or property from the estate.
- Do not sell estate property for less than its fair market value (what it is truly worth). For example, you cannot sell property cheaply to family members.
- Do not put your own name on the protected person’s property as if you own it. It is okay to put your name on an account as the *conservator* for the protected person, but not as the owner.

[15] Utah Code Section 75-5-312 and 75-5-424

Financial decisions

When the court chooses a guardian, the guardian usually manages both the protected person's daily life *and* their money. When the guardian handles the money, they are also acting as the conservator.

If you are a guardian and do not want the job of handling the money, you can ask the court to pick a different person to be the conservator.

Your main job is to use the protected person's money and property to pay for their support, care, and education. If the protected person has extra money after all their needs are paid for, the conservator should save or invest that excess money. [16]

It is very important to let the protected person help with managing their money as much as they can. If they are able to handle small tasks, like paying routine bills or keeping a small checking account, you should encourage them to do so. This helps them feel more independent.

You must follow important rules when handling the protected person’s finances:

- Keep it Separate: You must keep the protected person's money and property separate from your own. (Avoid comingling)
- Use it Only for Them: You must use their property only for their benefit.
- Be Careful: Manage their property the same way you would want someone else to manage your own money.

Steps for Managing the Accounts:

- Open a special checking account just for the guardianship or conservatorship. This is where you put income and pay bills.
- Write down a complete description of every time money moves (each transaction).
- If too much money starts to build up in the checking account, move the extra money to a savings or investment account that earns interest.
- If you need to pay a special, large bill from the savings account, you must move that money into the checking account first before paying the bill.

If you have specific questions about money or property, you should ask your lawyer or a financial expert for help. You can also find a Budget Worksheet template on the court’s website to help you prepare a budget for the protected person. [17]

[16] Utah Code Sections 75-5-312 and 75-5-424
[17] https://www.utcourts.gov/en/self-help/case-categories/gc/budgeting.html

Protected Person's Rights[18]

Regardless of whether the appointment is limited or full, there are rights a protected person keeps:

Rights about the Court and the Guardian

- Lawyer Help: A protected person can always have a lawyer to help them, before or after the guardian is chosen.
- Speaking Up: They can have a family member, doctor, or any interested person speak for them in court hearings.
- Getting Papers: They must receive a copy of all the papers filed with the court about their guardianship.
- Asking Questions: They can ask the court questions and share any concerns or complaints they have about their guardian or what the guardian is doing.
- Checking the Guardian's Work: They can ask the court to check the guardian's activity if there is a disagreement.
- Ending Guardianship: They can ask the court to look at whether they still need a guardian, or to change or end the guardianship as soon as possible if they are no longer unable to care for themselves.

Rights about Personal Freedom and Respect

- Treated with Respect: They must be treated with dignity and respect.
- Treated Fairly: The guardian must treat them fairly.
- Keeping Secrets: They have the right to privacy and confidentiality in their personal matters.
- Being Independent: They must be allowed to be as independent as possible and should have the greatest degree of freedom possible, as long as it fits the reasons for the guardianship.
- Making a Plan: They get to help make their own care plan. This plan includes decisions about where they will live, how their money will be managed, and what services they will receive.
- Wishes Matter: The guardian must think about the protected person's current and past wishes, their choices for medical treatment, and their religious or moral beliefs.
- Staying in Control: They keep the power to make decisions about all parts of their life that the court did not specifically give to the guardian.

[18] Utah Code 75-5-301.5

- Daily Activities: They can do things like get married, travel, work, or have a driver's license, unless the court specifically says otherwise.
- Communication: They can receive telephone calls and personal mail.
- Friends and Family: They can keep personal relationships with relatives and acquaintances, unless the court decides that it must be limited by law. This means they can hang out with people the guardian may not approve of, and the guardian cannot stop them, unless the court says so. This is sometimes called "Right to Association."

Rights about Money and Property

- Managing Money: The guardian must manage the protected person's money and property wisely.
- Paychecks and Bank Accounts: They have the right to receive and control their own salary (paycheck). They can also keep a bank account and manage their personal spending money.
- Checking Reports: They must receive a copy of every report the guardian files with the court about their money.
- Guardian Fees: The court will check any requests the guardian makes for payment to make sure the costs are reasonable and not too high or unnecessary.

Rights about Health and Life Decisions

- Health Care: They have the right to receive appropriate and timely health care and medical treatment that does not violate their rights.
- Big Decisions: Even with a guardian, they keep the power to make choices about things like their religion, who their friends are, whether to consume legal substances, and whether they want to marry or divorce.
- Voting: They still have the right to vote.
- Wills and Trusts: They can still make or change a will or trust. To do this, they must be aware of their property and family, sign the document willingly, and follow the required legal steps.

D. Reporting to the Court

A guardian or conservator is like a helper who manages the life and money of the protected person. It is very important for this helper to keep excellent records.

You must file reports often (at least once a year) about the protected person's home life and their money. You have to be able to show proof for every time money was spent or earned. This proof can come from good recordkeeping.

Good recordkeeping includes:

- Keep receipts and vouchers. These are papers that are made right when something happens, like a receipt when you buy something or a bill for a service received. Saving these helps you write your reports later. The court might ask to see them at any time.

- Use folders and files to keep documents neat. You should have separate files for things like legal papers, tax information, bills that are paid, bills that need to be paid, letters, and other papers about the person you are helping.

- Do not mix up the protected person’s papers with your personal papers. Keep them totally separate.

- You should get copies of the protected person’s important planning documents, like their will (which says who gets their things when they pass away) or a trust. This lets you follow their wishes.

- Save copies of all papers that the court gives you or that you give to the court.

- If you are the guardian, you should keep a journal or diary. Use this diary all year long to write down important things the protected person does or big events that happen, especially if nobody else wrote it down.

- If the protected person lives somewhere else, write down the dates you go to visit them.

- Very important papers, like checks, deeds (papers proving ownership of property), and wills should be kept somewhere secure, like a safe deposit box at a bank. This box should be labeled with the name of the guardianship or conservatorship.

Good records are important because they protect you if someone ever asks questions about how you managed the estate. If you do not keep good records, you might have to pay money yourself.

If you cannot show the court how you spent the person's money or used their property, the court can make you pay that money back to the protected person’s estate. This is true even if you know you used the money correctly to help them.

Report Types

The table below shows a summary of the required reports and the person in charge of doing them:

Report	Filed By	Due Date / Timeframe
Inventory	Conservator*	Within 90 days after the appointment
Status of the Protected Person	Guardian	Within 60 days after the anniversary of the appointment
Financial Accounting	Conservator*	Within 60 days after the anniversary of the appointment
Final Financial Accounting	Conservator*	Upon resignation or removal of the conservator (or guardian), or upon termination of appointment.
**** Filed by the guardian if no conservator has been appointed.***		

Most guardians and conservators have to turn in reports every year. This includes spouses (husbands or wives) who are guardians. However, there is an exception if the guardian or co-guardian is the parent of the adult protected person; they usually do not have to turn in these reports, unless the judge says so. If the guardian or conservator is not the parent, they are required to file these reports. [19]

What Happens If Rules Are Broken?

A judge can make a guardian or conservator pay a fine of **$5,000** if they do certain things wrong:

- If they purposefully do not file a report.
- If they make a very big mistake in the report they turn in.
- If they act wrongly while handling the protected person's money or belongings.

CJA Rule 6-501 explains what needs to be included in each required report, who must get a copy of the report, how someone can disagree with (object to) a filed report, and when reporting is not required.[20]

[19] Utah Code Sections 75-5-312, 75-5-417, and CJA Rule 6-501
[20] https://legacy.utcourts.gov/rules/view.php?type=ucja&rule=6-501

Inventory Report

You need to create a special report just one time. This report is called an Inventory.[21] You must file this report within 90 days after the court chooses you to be the conservator (or the guardian, if there is no conservator).

To complete the Inventory, you need to find and make a list of everything the protected person owns. It is a good idea to start looking for this property as soon as possible. You can even start before the court's decision is final. Starting early helps you make sure you meet the 90-day deadline.

Once you have the whole list, you must prepare the Inventory Report. Then, you need to file it with the court. If you find more property later on that wasn't in your first list, you must create and file an updated (amended) Inventory report.

Report on the Status of the Protected Person ("Status Report")

If you are a guardian, you have to write a report for the court every year about the person you are protecting. This yearly report is called the Status Report.[22]

The Status Report tells the court about the protected person's care and how they are living. It also shows what the protected person is doing. It helps the court know about changes or possible problems. These reports are private, meaning only the people involved in the case can see them.

What is covered in the Status Report?

> The Status Report must cover a full 365 days. This 365-day period starts on the exact day you were named the guardian. Because of this, the due dates are different for everyone.
>
> **Example:**
>
> If you became the guardian on June 1, 2024, your report must include every day from June 1, 2024, until May 31, 2025.
>
> The next year, the report would cover June 1, 2025, to May 31, 2026, and so on.

When is the Status Report Due?

> The court gives guardians 60 extra days to complete the Status Report after the 365 days are finished.
>
> **Example:**
>
> Using the example above (the report covers until May 31, 2025), the final deadline to give the report to the court would be July 30, 2025.

[21] Utah Code Section 75-5-418
[22] Utah Code Section 75-5-312

Important: You are not allowed to turn in the Status Report early, before the full 365 days have passed.

These due dates are very important and will usually stay the same throughout the entire time you are the guardian, unless you ask the court to change them. If you are not sure when your report is due, you can ask the clerk at the courthouse for the correct dates.

Telling People About Changes

In between the yearly reports, you need to tell the family and other people who care about the case if there are any big or important changes in the protected person's life.

If the protected person dies, you must tell the court and all the interested people right away.

Financial Accounting Report ("Accounting Report")

If you are a conservator, or the guardian (if there is no conservator), you have to tell the court every year about how the protected person's money is doing. This report is called the Accounting Report. [23]

The reports track the protected person's personal money, investments, and other things they own over time.

It is important to make sure all the money is tracked correctly. The amount of money left over at the end of last year must be the exact amount you start with this year. The starting point for the Accounting Report is based on information you provided in the Inventory Report.

To prove that you handled the money correctly, you must send the Accounting Report along with bank statements, receipts, and other papers about the protected person's money.

What is covered in the Accounting Report?

The report must cover a full 365 days. This year starts on the day the court named you as the guardian or conservator. Because of this, the due date for the report is different for everyone.

Example:

If you became the guardian or conservator on June 1, 2024, your report must include every day from June 1, 2024, until May 31, 2025.

The next year, the report would cover June 1, 2025, to May 31, 2026, and so on.

[23] Utah Code Sections 75-5-312 and 75-5-417

When is the Accounting Report Due?

The court gives guardians 60 extra days to complete the Accounting Report after the 365 days are finished.

Example:

Using the example above (the report covers until May 31, 2025), the final deadline to give the report to the court would be July 30, 2025.

Important: You are not allowed to turn in the Accounting Report early, before the full 365 days have passed.

These dates are very important and will usually stay the same for as long as you are in charge. If you are unsure about your deadlines, you can ask the clerk at the courthouse for the right dates.

Reporting When There is a Separate Conservator

If you are only the guardian AND the court named a separate conservator, you do not report to the court. Instead, you must report your money actions for the protected person to the conservator. [24]

Since the conservator reports to the court every year, you should report your actions to the conservator at least once a year. You should talk with the conservator to agree on a time that works well for both of you to share your report.

Final Financial Accounting Report

The conservator - or the guardian if there is no conservator - must file a final accounting if any of these things happen:

- The guardian or conservator quits or is removed by the court.
- The protected person dies.
- The guardianship or conservatorship ends by order of the court.
- The court transfers the case to another state.

This final report needs to cover all the money transactions from the date the last report covered until the day the guardianship or conservatorship officially ends.[25]

Like the other reports, the court gives the person 60 days to turn in this Final Financial Accounting Report. The final accounting is done using the same form as the regular annual accounting. There is a place on the form to mark it as the final accounting.

[24] Utah Code Section 75-5-312
[25] Utah Code Section 75-5-419 and CJA Rule 6-501

Annual Report Due Dates

Annual reports must cover an entire full year (365 days).

This year begins counting from the exact day you were made guardian or conservator by the judge (this is called your date of appointment).

You must turn in these reports within 60 days of that starting day, every year.

For example:

- You are appointed as guardian or conservator on May 1, 2021.
    - You must file the one-time Inventory by July 30, 2021.
    - The Status and Accounting Reports are due by June 30, 2022.
    - Every year thereafter, the Status and Accounting Reports are due by June 30th.
    - The Status and Accounting Reports are late if they are turned in on July 1st or later.
    - This is repeated every year until the guardianship or conservatorship is terminated.

You can ask the court to change when you need to turn in your reports. For example, you might ask to switch to a calendar year (January 1st to December 31st) or any other 12-month period that is easier for you. [26]

If the court agrees to change the dates, your first report after the switch will be for a shorter amount of time.

Here is an example to show how this works:

- You are appointed on August 17th.
- You then ask the court if you can report using a calendar year.
- If the court says yes, your very first report will only cover the time from August 17th until the end of that current year.
- After that first, short report, all of your reports later on will cover the full calendar year, running from January 1st to December 31st.

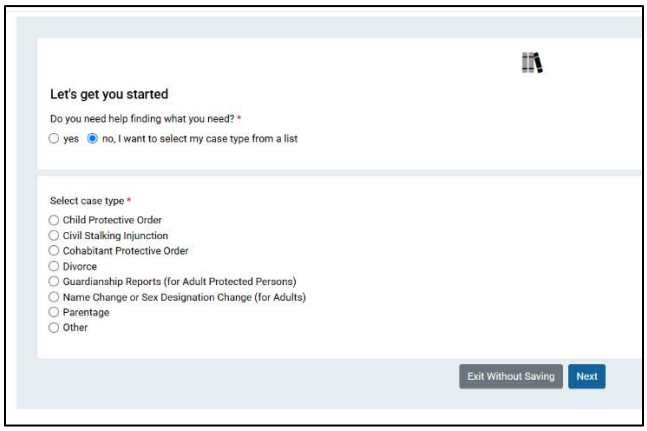
Remember, only the court has the power to change these reporting dates

[26] CJA Rule 6-501

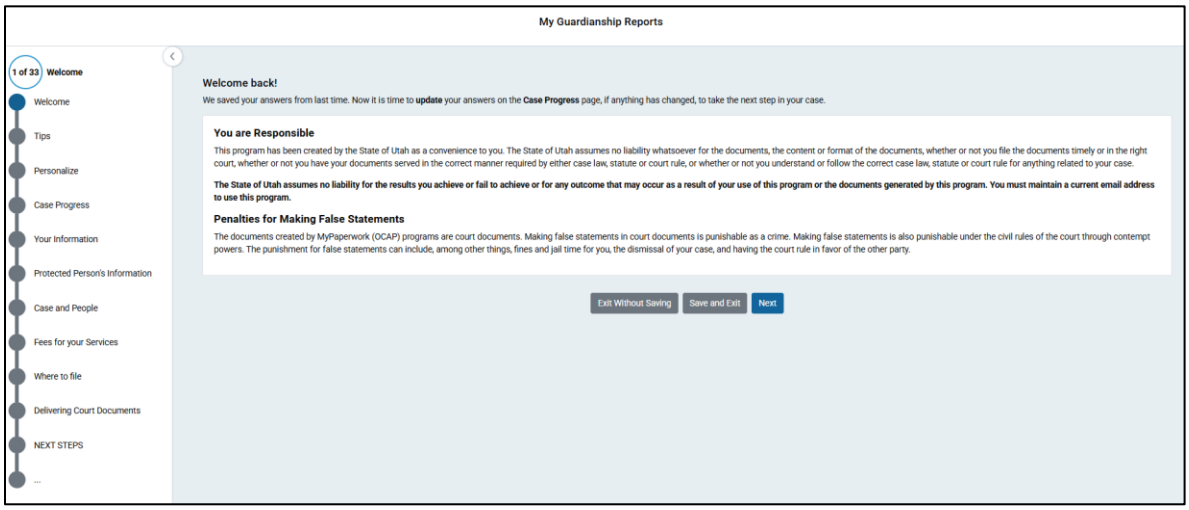
Filing Required Reports

You can fill out your report in two different ways: by hand or on the computer using the court's website.

1. **Doing the Report by Hand:**
   - You need to find the right report form on the court's website. [27]
   - You must print those papers.
   - Then, you complete the information needed.
   - Finally, you turn the forms in (file them) at the court.
2. **Doing the Report Online:**
   - Go to the MyPaperwork website. [28]
   - If you don't have an account already, you need to sign up to create one.
   - Choose the option called "Guardianship Reports." (see figure 1)
   - Follow all the directions on the screen. (see figure 2)
   - Once you have finished every item on the list, you must print the document.
   - Then, you turn it in (file it) at the court.



Figures 1 & 2: Examples from MyPaperwork website.



[27] https://www.utcourts.gov/en/self-help/case-categories/gc/reports.html
[28] https://apps.utcourts.gov/InterviewWEB/#/gi/ua/GI0385

Where to File Your Report?

You must file your papers with the court that first chose you to be the guardian (made the appointment).

If the protected person moves to a different county, you are allowed to ask the court to move your reports to that new county. [29]

Who Gets Copies of Your Report?

When you turn in your documents, you also need to send a copy to certain people, along with a notice that tells them they have the right to complain or disagree (object). This is called "serving" the documents.

You must serve copies on these people:

- The protected person (but only if they are mentally able to understand what the proceedings mean). [30]
- The protected person's guardian or conservator (if the judge picked different people for those jobs).
- The protected person's family, including their husband or wife, adult children, parents, and brothers and sisters (siblings).
- Anyone else who is officially asked to be notified. [31]

You can send these documents using mail, email, or by delivering them by hand.

What Happens After You File?

After you have filed your reports and any other papers that support them (supporting documentation), they will be sent to the judge to look over (review). The judge has several choices for what to do next:

- The judge may accept the report as it was turned in (approve the report as filed).
- The judge might ask you for more information.
- The judge might set a hearing (a meeting).
- The judge might order a Court Visitor. [32]

If anyone complains about your report (objects to the filing) or if the judge has more questions, the court clerk will set up a hearing. You and the other people involved will be told when and where this hearing will happen.

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[29] Utah Code Sections 75-5-205, 75-5-302, and 75-5-403
[30] Utah Code Section 75-5-405
[31] Utah Code Section 75-5-406
[32] https://www.utcourts.gov/en/about/courts/dist/gramp/cvp.html

E. Criminal penalties

People who are trusted to take care of someone else's money or well-being are sometimes called fiduciaries.

If you are a fiduciary, you must be very careful, especially about breaking the law. If you do certain wrong things, you can be found criminally liable. This means you could get into trouble with the police and courts.

In Utah, you can get in trouble if you do these kinds of bad things to the person you are supposed to protect:

- Stealing money or using it unfairly (this is called financially exploiting them).
- Not taking care of them (this is called neglecting them).
- Hurting their body or their feelings (this is called physical or emotional abuse).

There are many laws that talk about how a trusted person should act. Because these penalties are so serious, talk to your lawyer if you have specific questions.

Abuse or Neglect of a Vulnerable Adult

Utah Code Section 76-5-111.

Someone is guilty of abuse of a vulnerable adult if they do certain bad things to a protected person. This crime happens in three main ways:

1) A person makes a vulnerable adult suffer from harm, abuse, or neglect.
2) The person is in charge of the vulnerable adult (they have "care or custody") and they cause or allow that adult's body or health to be injured, abused, or neglected.
3) The person is in charge of the vulnerable adult and they cause or allow the adult to be put in a situation where they are in danger.

Exploitation of a Vulnerable Adult

Utah Code Section 76-5-111.

Exploitation of a vulnerable adult happens when someone takes advantage of an adult who needs extra care or protection. A person commits this offense when they do any of the following things:

- They use their influence to take money or property.
    - This happens if the person is someone the vulnerable adult trusts (like a caregiver or a business partner) or someone who has too much control over them.
    - They *knowingly* use lies or fear to take, use, or try to take or use the vulnerable adult's money, credit, or property.

    - They do this to keep the property away from the vulnerable adult, even if it is only for a short time, so that someone else benefits.
- They take money when the adult can't say "no."
    - This happens if the person knows (or should know) that the vulnerable adult cannot agree to decisions, and they then take or try to take the adult's money or property.
    - The goal is to keep the property away from the adult so someone else benefits. This also counts if they help another person do this.
- They unfairly use the adult’s resources.
    - They unfairly or wrongly use or manage the vulnerable adult’s money or belongings to help someone other than the vulnerable adult get money or an advantage.
- They unfairly use legal control.
    - They unfairly or wrongly use legal papers (like a power of attorney or guardianship papers) that give them control over the adult.
    - They use that control to help someone other than the vulnerable adult get money or an advantage.
- They involve the adult in a crime.
    - They involve a vulnerable adult who cannot agree to things in helping to plan or carry out any kind of crime.
- They commit sexual exploitation.
    - They commit sexual exploitation against a vulnerable adult.
- They share inappropriate images.
    - They purposely, knowingly, or carelessly make, share, or show pictures or recordings of the vulnerable adult when a normal person would not agree to it.
    - These images show the vulnerable adult's private body parts (even if they are clothed in a way that focuses only on those areas), or the images show the adult doing something that is bad for their mental or physical health or safety.
- They force the adult to do harmful or insulting things.
    - They purposely, knowingly, or carelessly make the vulnerable adult participate in an act that is really insulting or awful, or something that is bad for the vulnerable adult's mental health, physical health, or safety.

Unlawful Dealing of Property by a Fiduciary

Utah Code Section 76-6-513.

A person is guilty of unlawfully dealing with property by a fiduciary if they handle the property in a way they know is breaking the rules they are supposed to follow. This rule-breaking must create a big danger of loss or harm for the person who owns the property or the person who is supposed to benefit from that property.

A person acting as a fiduciary is also guilty if, without permission, they:

- They use the property as security (like a promise to pay back) for a personal loan they take out for themselves.
- They use the property as security to help someone else get a loan, when that "someone else" is not the owner or the person the property was supposed to help in the first place.

Theft

Utah Code Section 76-6-404.

Theft happens when a person takes or uses something that belongs to the protected person without getting permission. When they do this, they are trying to keep the protected person from having their property.

Reporting Abuse, Neglect, or Exploitation of a Vulnerable Adult

Utah Code Section 76-5-111.1.

If you believe an adult who needs protection (a vulnerable adult or protected person) is being hurt, neglected, or taken advantage of, there are rules about what you must do.

If you have a good reason to think a vulnerable adult has been abused (hurt), neglected (not cared for), or exploited (taken advantage of), you must tell someone right away.

If you think a protected person is being hurt physically or emotionally, or if someone is taking their money unfairly (financially exploited), you should report it. You need to contact one of these groups immediately:

- The nearest peace officer or law enforcement agency (the police).
- Adult Protective Services. This is an agency within the Department of Human Services, Division of Aging and Adult Services. (See Resources below.)

If you report suspected abuse because you truly believe something is wrong (in good faith), you will not get in trouble with the law (you are immune from civil and

criminal liability). This means you cannot be sued or charged with a crime just for making the report.

If you are a person who is required to report abuse, but you knowingly choose not to (willfully fail to do so), you are guilty of a crime called a class B misdemeanor.

F. Other Considerations

Compensation

Sometimes, a family member is a guardian or conservator and chooses not to be paid for their work. However, if the court agrees, a guardian or conservator is allowed to receive a fair payment from the money belonging to the protected person.

To figure out if the pay is fair (reasonable[33]), the court looks at a few things:

1. The type of help you gave.
2. How good you are at the job (your skill).
3. If the time and money you spent were necessary or justified.

You must always keep accurate records of everything you do.

Liability

You are not legally responsible for things the protected person may do.[34]

You do not have to pay for things the protected person does (like if a protected person committed a crime while under guardianship). You are also not responsible if you take actions that are reasonable and help the protected person.

When you manage the protected person's money and belongings, you will not be blamed if you act like a careful person handling someone else’s property.

However, you must pay if you personally make a mistake or are careless and it harms the protected person. [35]

To stop problems from happening, you should understand your job, use common sense, and make good decisions.

You do not need special talents or skills to be a guardian or conservator. But if you *do* have special skills, you must use those skills when you manage the person's money and belongings. If you have specific questions about your duties, you should ask your lawyer.

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[33] Utah Code Section 75-5-414
[34] Utah Code Section 75-5-312
[35] Utah Code Section 75-5-429

The court will usually ask for an insurance policy called a bond to keep the protected person's money safe. [36] The court can decide not to require this bond if there is a good reason. The protected person's estate pays for this insurance. The bond protects the person if your mistake causes the estate to lose money.

To figure out how much the bond should cost, you must add up the total value of the protected person's stuff that you manage and then add one year's estimated income.

Conflict of Interest

Guardians and conservators have important rules they must follow when they manage the money and things of a person who is protected. You must always try to avoid situations where there could be a conflict of interest or self-dealing.

> **Conflict of Interest** happens when the guardian has a personal reason (an interest) in the protected person's money that might seem helpful to the guardian or harmful to the protected person.
>
> **Self-Dealing** is when the guardian tries to use their job as guardian to help themselves instead of helping the person they are protecting.

Self-dealing can sometimes happen in ways that seem innocent. For example, living in the protected person's house, using the protected person's car for your own personal reasons, using any of the protected person's property just for you, or paying for a family vacation with the protected person's money, if the costs covered family members who did not need to be there to provide care.

You must not loan or give away the protected person's money or things unless you get special permission first.

Do not use the person's money or income to help or support other people, even if it is done indirectly. You can only do this if all of these things are true:

- You get special permission first.
- You can show that helping the other people fits with the protected person's goals, needs, and what they want.
- It will not greatly hurt the protected person's estate (their total money and things).

You must use the protected person's money only for their benefit.

When you spend money, you can take into account the protected person's usual way of life (their accustomed standard of living). [37]

If family members or others worry that the cost of care is too high, your most important job is still the protected person's well-being. You must value the well-being of the person more than saving the estate (the money).

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[36] Utah Code Sections 75-5-411 and 75-5-412
[37] Utah Code Section 75-5-425

Representative Payee

If a court decides that the protected person gets payments from a group like the Veteran's Administration or the Social Security Administration, those groups must choose a special helper. This helper is called a representative payee.

The job of the representative payee is separate from the job of a court-appointed guardian or conservator.

If you want to be the representative payee, you must ask the agency that sends the money. In most cases, the agency will choose the person who is already the court-appointed guardian or conservator. However, the agency that gives the benefits can choose another person to be the representative payee.

Once chosen by the agency, the representative payee has the power to receive and handle the benefit payments for the protected person.

G. Resources

PROTECTIVE SERVICES	**Adult Protective Services:** Call: 1-800-371-7897 Website: https://daas.utah.gov/adult-protective-services/ **Long-Term Care Ombudsman:** Call: 801-538-3910 Website: https://daas.utah.gov/long-term-care-ombudsman/
LEGAL RESOURCES	**Utah Legal Services:** Call: 801-328-8891 Website: http://www.utahlegalservices.org/ **Disability Law Center** Call: 800-662-9080 Website: https://disabilitylawcenter.org/ **Free Legal Clinics:** Website: https://www.utcourts.gov/howto/legalclinics/
DISABILITY SERVICES	**Division of Services for People with Disabilities:** Call: 1-844-275-3773 Website: https://dspd.utah.gov/

AGING SERVICES	**Division of Aging and Adult Services:** Call: 801-538-3910 Website: https://daas.utah.gov/ **Utah Commission on Aging:** Call: 1-888-985-6866 Website: https://ucoa.utah.edu/
COURT RESOURCES	**Self Help Center:** Call: 888-683-0009 Text: 801-742-1898 Website: https://www.utcourts.gov/selfhelp/contact/ Email: selfhelp@utcourts.gov
STATE GUARDIANSHIP SERVICES	**Office of Public Guardian:** Call: 801-538-8255 Website: https://opg.utah.gov/
INFORMATIONAL RESOURCES	**National Guardianship Association** Website: https://www.guardianship.org/find-a-guardian/ **Utah State Bar:** Call: 801-531-9077 Website: http://www.utahbar.org/
***** In case of an emergency, call local law enforcement or 911.***	

Appendix A – Alternatives to Guardianship

There are several options and legal tools under Utah law for protecting an adult with diminished capacity. You can find more details about these options on the court's website. [38]

Plan Ahead

When you turn 18, you are an adult, and you have the right to make your own choices. These choices are based on what you believe is important, even if other people don't agree with them. Making choices is a very important part of being an adult.

Sometimes, an adult might lose the ability to make good choices. If that happens, they might need someone to protect them.

It can be risky if someone else takes charge of an adult's money, property, or healthcare decisions. This risk happens when the adult can no longer make decisions for themselves.

If there is no written plan and nobody watches the person who is now caring for the adult, that caregiver must be trusted to do the right thing. They won't have much supervision or checking up on them.

It is smart to plan ahead. Planning helps make sure that if an adult loses the ability to make decisions, their wishes and what they care about will still be followed.

It is important to talk to a lawyer. This lawyer should know a lot about planning for older people or property (estate planning and elder law). The lawyer can tell you how to protect the adult from being hurt, ignored, or taken advantage of (abuse, neglect, and exploitation).

Arranging for Help and Services

The best thing to do may be to help the person with diminished capacity make their own decisions and follow through on them.

Both the person who has trouble deciding (the person with diminished capacity) and the people who are taking care of them may benefit from support.

This help can come from different places, including family, friends, government, or religious and other community groups. These organizations offer help by giving people information, services, education, and support.

Some of these options include:

Representative Payee

A Representative Payee is like a trustworthy helper who manages someone else's money.

[38] https://www.utcourts.gov/en/self-help/case-categories/gc/options.html

Who picks this helper?

A government agency chooses the Representative Payee. These are big groups that send out money, like the Social Security Administration, the Department of Veterans Affairs, or the Railroad Retirement Board.

The payee's job is to receive the money that the government sends and then manage it for the person who is supposed to get it.

How does someone become a payee?

If you want to be a Representative Payee, you have to ask the government group that is sending the benefits.

Who usually gets the job?

The person who needs the money sometimes already has someone helping them with important decisions, like a guardian or a conservator. Most of the time, the government agency will choose that same helper to be the payee.

But it is important to know that the agency can choose any person to be the Representative Payee.

Also, if a person has a guardian or conservator, the government must pick a Representative Payee to get those payments.

Power of Attorney

A power of attorney is a legal form that lets one person act for another person.

- The person who gives this power is called the principal.
- The person who gets the power to act is called the agent (sometimes called the "attorney in fact").

What Can the Agent Do?

The agent can be given power to do many different things. This is called "very broad" power.

For example, the agent might be allowed to:

- Take care of bank accounts.
- Sell houses or land (called "real property").
- Run a business.
- Ask for government help or benefits.

The power can also be very small, or "limited.” Maybe the agent can only do one specific thing, like sell just one certain house or piece of land.

It is very important that the agent must always use the principal's money and things exactly the way the principal wants. The agent cannot do anything that is against the principal's wishes.

Why is a Power of Attorney Helpful?

A well-written power of attorney is a very useful legal tool.

- It helps avoid complex arrangements. It lets someone else manage a person's money problems without needing complicated legal setups. For example, it helps avoid needing a trust or having a judge appoint a guardian or conservator. These other complicated arrangements sometimes take away the person's power to make any choices at all.
- It offers protection. This document can also help keep the principal safe from people who might try to steal their money or hurt them financially (this is called financial exploitation and abuse).

Trust

A trust is an arrangement in which one person gives their money and property to a second person to manage, invest and pay out for the benefit of a third person.

A trust has three main jobs, usually done by three different people:

1. The settlor is the person who gives the money or property.
2. The trustee is the person who manages, invests, and handles the money.
3. The beneficiary is the person who receives the help and money from the trust.

A trust can be a good way to make sure family members are taken care of, especially if the person who set up the trust passes away.

A common type is a living trust. In this type, one person can do all three jobs: they are the settlor, the trustee, and the beneficiary.

Running a living trust is much like managing your own savings and spending every day. The trust officially owns the person's money, but the person manages it for themselves. When that person dies, the trust's money can then be paid out to another beneficiary.

Special Trusts for People with Disabilities

There is a very important tool called a discretionary trust for a person with disabilities. This trust is a useful planning tool for people with disabilities and their families.

The best part about this special trust is that the government benefits that a person with disabilities may receive will usually not be cut back if it is put in a trust. State agencies are told to ignore this trust when they figure out if the person qualifies for services.

Rules for the Special Disability Trust

To make sure this trust counts as a discretionary trust for a person with disabilities, it must follow several rules[39]:

- Who creates it - It must be started by a parent, grandparent, legal guardian, or a court.
- Age and Disability - When the trust is created, the beneficiary must be under the age of 65 and have a disability.
- Trustee Power - The trustee must have the power to choose (or have discretion) when to give out payments.
- No Demands - The person getting the benefits (the beneficiary) cannot force the trustee to pay them money.
- Funding - The trust must contain the beneficiary's own money or property.
- It's Permanent - The trust must be permanent (irrevocable), meaning you cannot cancel it, unless the beneficiary's disability goes away.
- Paying the State Back - When the beneficiary dies, the state must get back all the money left in the trust, up to the total amount of money the state paid for that person's medical help.
- State Lien - If the state already has a claim on certain funds (called a state lien), you cannot put those specific funds into the trust. If the state claims the money after it is already in the trust, that part of the trust is no longer allowed.

Health Care Agent and Advance Health Care Directive

You can choose a helper, called an agent, to make decisions about your health (even mental health) if you can't make those decisions yourself later on. You should pick someone you trust. This person should know what you want, follow your wishes, and be ready to help if needed.

What is an Advance Health Care Directive?

An advance health care directive is a way to write down or tell people what you want for your health care. It makes sure your choices are followed, even if you can't talk or decide later. You can name your health care agent right inside this directive.

Rules for Making the Directive

- The person choosing an agent must be smart enough right now to understand that they are picking someone to handle their

[39] Utah Code 26B-6-412

health choices. Sometimes, a person can still pick an agent even if they cannot yet make all their own health care decisions.

- An advance directive can be spoken out loud, but writing it down is usually better and more dependable.
- Whether you write it down or speak it, someone must witness it (see or hear it). It does *not* need to be notarized (checked by a special official).
- If you write it, keep the original document in a safe spot where people can find it easily. Also, give a copy to your agent and to your doctors or other health care workers.

When Does It Start Working?

Making an advance directive and choosing an agent is not as complicated as making a trust, and lots of people do this without needing a lawyer.

The advance directive only starts working after doctors decide you can no longer make your own health decisions. It stays in place during all the time you are unable to make choices.

Important: Even after you write the directive, you still get to make your own health choices as long as you are able to. Your newest choices always count more than the older ones you wrote in the directive.

When Does It Stop Working?

The advance health care directive stops working when:

- You take away the agent's job or say that the directive is no longer valid (you revoke it).
- A doctor or health worker decides you *can* make health choices again.
- You argue against the doctor who said you couldn't make choices.
- A court (like a judge) says your directive is not valid.
- You can cancel (revoke) a written directive anytime by writing the word "void" across it or by destroying it. If you cancel the directive, you need to tell your agent, your doctors, and anyone else who has a copy.
- If you chose your husband or wife as your agent and you get a divorce, the divorce automatically cancels their job as your agent.
- If you have made more than one directive, the newest one is the one that counts.

Supported Decision-Making Agreement [40]

You can choose helpers, called supporters, to assist you with big decisions. This is done through a special paper called a supported decision-making agreement.

What Supporters Do (and Don't Do):

- A supporter can be next to you when you are making choices.
- They can help you tell other people what you decided.
- They can find information you need so you can make good choices.
- Supporters can join in talks with others when you are deciding things.
- Your supporter can give you ideas and explain information to you.
- A supporter cannot make the decision for you. You only receive the support or help that you actually want.

Starting and Stopping the Agreement

You can start a supported decision-making agreement whenever you want to. You can also cancel it (revoke it) at any time.

If you decide to cancel the agreement:

- You must put your decision to cancel it in writing and send it to the people listed in the agreement.
- You should make sure your supporters know you canceled the agreement.
- You should also tell anyone else who has a copy of that agreement paper (the directive).

[40] Utah Code 75-5-704

Appendix B – Care Planning Considerations

Once you are appointed, your responsibilities begin immediately, and it is easy to be overwhelmed. Take care of the most urgent needs first; then arrange for general needs.

You will be taking responsibility for another person's life, and you will want to give some thought to what that means day-to-day. Planning can make things easier when the time comes for hard choices. The **Care Planning Considerations** document may be helpful.[41] It is written as a conversation that you might have with yourself, with the protected person, and with any other helpers you want. You may need to make some decisions more than once, as things change.

- Try to discuss the questions and answers with the protected person as much as possible. Some parts of the plan start by asking what the protected person wants to do.
- If the person wants to do something, and it won't hurt them, then their wish is the best choice.
- Help the protected person be part of making choices. They should feel free to share ideas, say what worries them, and talk about what they want and what they care about.
- When you do this, you show respect for the person's right to be independent and have dignity. It also helps the person rely on themselves as much as possible.

[41] https://www.utcourts.gov/en/self-help/case-categories/gc/planning.html

Appendix C – Changes in the Guardianship

IF…	Provide to the Court:
If the Protected Person is deceased	• Any proof of death (i.e., death certificate, obituary) • Motion to terminate a guardianship or conservatorship • A final accounting, along with the Certificate of Service, Right to Object, and Order on Review forms
If the Guardian or Conservator is deceased	• Provide proof of death of the guardian or conservator • Locate contact information for the protected person or for the person now responsible for protected person's care
If the Guardian or Conservator no longer has contact with the Protected Person	• Motion to terminate a guardianship or conservatorship • A final accounting, along with the Certificate of Service, Right to Object, and Order on Review forms
If the Protected Person's capacity has changed (improved or worsened) and the Guardian's responsibilities need to be adjusted	• Motion to Review or Change a Guardianship or Conservatorship of an Adult, along with a Certificate of Service and Right to Object forms • Proposed Order on Motion to Review or Change a Guardianship or Conservatorship of an Adult • Optional – Request to Appoint an Attorney • Optional – Request to Assign a Court Visitor • Optional – Request for Order to Examine Respondent
If you need to add a Co-Guardian or Co-Conservator	• Motion to Review or Change a Guardianship or Conservatorship of an Adult, along with a Certificate of Service and Right to Object forms • The new guardian will need to complete the same forms as you completed in the initial petition – Certification of Completion of Testing, Acceptance of Appointment, Private Information Record
For more information, see "Changing or Ending a Guardianship or Conservatorship" https://www.utcourts.gov/en/self-help/case-categories/gc/change-or-end.html#accordion-b3e5734e15-item-b2c03d6961	

Reporting a Change of Residence

You do not need the court's permission to move the protected person to another residence within Utah, **BUT** you must notify the court that you are doing so and provide the court with the protected person's new address.

- There are no forms to report a change in residence; a letter or email will do.
- Address it to the clerk of the court from the appointment letter.
- Be sure to identify the case number and the protected person's name.
- Send a copy to the interested persons.

You **DO** need the court's permission to move the guardianship and conservatorship to another state or to another county within Utah.

You must also notify the court if you move.

- Contact the clerk of court from the appointment letter and provide your new contact information (i.e., address, phone number, email).

For more information, see “Moving the Protected Person to a Different Address or Moving the Guardianship or Conservatorship Case”

https://www.utcourts.gov/en/self-help/case-categories/gc/move.html

Appendix D – Utah Code 75-5-312

75-5-312. General powers and duties of guardian -- Penalties.

(1) A guardian of an incapacitated person has only the powers, rights, and duties respecting the ward granted in the order of appointment under Section 75-5-304.

(2) Except as provided in Subsection (4), a guardian has the same powers, rights, and duties respecting the ward that a parent has respecting the parent's unemancipated minor child

(3) In particular, and without qualifying Subsections (1) and (2), a guardian has the following powers and duties, except as modified by order of the court:

(a) To the extent that it is consistent with the terms of any order by a court of competent jurisdiction relating to detention or commitment of the ward, the guardian is entitled to custody of the person of the ward and may establish the ward's place of abode within or without this state.

(b) If entitled to custody of the ward the guardian shall provide for the care, comfort, and maintenance of the ward and, whenever appropriate, arrange for the ward's training and education. Without regard to custodial rights of the ward's person, the guardian shall take reasonable care of the ward's clothing, furniture, vehicles, and other personal effects and commence protective proceedings if other property of the ward is in need of protection.

(c) A guardian may give any consents or approvals that may be necessary to enable the ward to receive medical or other professional care, counsel, treatment, or service.

(d) A guardian may not unreasonably restrict visitation with the ward by family, relatives, or friends.

(e) If no conservator for the estate of the ward has been appointed, the guardian may:

(i) institute proceedings to compel any person under a duty to support the ward or to pay sums for the welfare of the ward to perform that duty;

(ii) compel the production of the ward's estate documents, including the ward's will, trust, power of attorney, and any advance health care directive; and

(iii) receive money and tangible property deliverable to the ward and apply the money and property for support, care, and education of the ward:

(A) except that the guardian may not use funds from the ward's estate for room and board that the guardian, the guardian's spouse, parent, or child have furnished the ward unless a charge for the service is approved by order of the court made upon notice to at least one adult relative in the nearest degree of kinship to the ward in which there is an adult; and

(B) the guardian shall exercise care to conserve any excess for the ward's needs.

(f)

(i) A guardian is required to report the condition of the ward and of the estate that has been subject to the guardian's possession or control, as required by the court or court rule.

(ii) A guardian is required to immediately notify all interested persons if the guardian reasonably believes that the ward's death is likely to occur within the next 30 days, based on:

(A) the guardian's own observations; or

(B) information from the ward's physician or other medical care providers.

(iii) A guardian is required to immediately notify persons who request notification and are not restricted in associating with the ward pursuant to Section 75-5-312.5 of:

(A) the ward's admission to a hospital for three or more days or to a hospice program;

(B) the ward's death; and

(C) the arrangements for the disposition of the ward's remains.

(iv) Unless emergency conditions exist, a guardian is required to file with the court a notice of the guardian's intent to move the ward and to serve the notice on all interested persons at least 10 days before the move. The guardian shall take reasonable steps to notify all interested persons and to file the notice with the court as soon as practicable following the earlier of the move or the date when the guardian's intention to move the ward is made known to the ward, the ward's care giver, or any other third party.

(v)

(A) If no conservator for the estate of the ward has been appointed, the guardian shall, for all estates in excess of $50,000, excluding the residence owned by the ward, send a report with a full accounting to the court on an annual basis.

(B) For estates less than $50,000, excluding the residence owned by the ward, the guardian shall fill out an informal annual report and mail the report to the court.

(C) A report under Subsection (3)(f)(v)(A) or (B) shall include a statement of assets at the beginning and end of the reporting year, income received during the year, disbursements for the support of the ward, and other expenses incurred by the estate. The guardian shall also report the physical conditions of the

ward, the place of residence, and a list of others living in the same household. The court may require additional information.

(D) The forms for both the informal report for estates under $50,000, excluding the residence owned by the ward, and the full accounting report for larger estates shall be approved by the Judicial Council.

(E) An annual report shall be examined and approved by the court.

(F) If the ward's income is limited to a federal or state program requiring an annual accounting report, a copy of that report may be submitted to the court in lieu of the required annual report.

(vi) Corporate fiduciaries are not required to petition the court, but shall submit their internal report annually to the court. The report shall be examined and approved by the court.

(vii) The guardian shall also render an annual accounting of the status of the person to the court that shall be included in the petition or the informal annual report as required under this Subsection (3)(f). If a fee is paid for an accounting of an estate, a fee may not be charged for an accounting of the status of a person.

(viii) If a guardian:

(A) makes a substantial misstatement on filings of annual reports;

(B) is guilty of gross impropriety in handling the property of the ward; or

(C) willfully fails to file the report required by this Subsection (3)(f), after receiving written notice from the court of the failure to file and after a grace period of two months has elapsed, the court may impose a penalty in an amount not to exceed $5,000.

(ix) The court may also order restitution of funds misappropriated from the estate of a ward. The penalty shall be paid by the guardian and may not be paid by the estate.

(x) The provisions and penalties in this Subsection (3)(f) governing annual reports do not apply if the guardian or a coguardian is the parent of the ward.

(xi) For the purposes of Subsections (3)(f)(i), (ii), (iii), and (iv), "interested persons" means those persons required to receive notice in guardianship proceedings as set forth in Section 75-5-309.

(g) If a conservator has been appointed:

(i) all of the ward's estate received by the guardian in excess of those funds expended to meet current expenses for support, care, and education of the ward shall be paid to the conservator for management as provided in this code; and

(ii) the guardian shall account to the conservator for funds expended.

(4)

(a) A court may, in the order of appointment, place specific limitations on the guardian's power.

(b) A guardian may not prohibit or place restrictions on association with a relative or qualified acquaintance of an adult ward, unless permitted by court order under Section 75-5-312.5.

(c) A guardian is not liable to a third person for acts of the guardian's ward solely by reason of the relationship described in Subsection (2).

(5) Any guardian of one for whom a conservator also has been appointed shall control the custody and care of the ward and is entitled to receive reasonable sums for services and for room and board furnished to the ward as agreed upon between the guardian and the conservator, if the amounts agreed upon are reasonable under the circumstances. The guardian may request the conservator to expend the ward's estate by payment to third persons or entitys for the ward's care and maintenance.

(6) A person who refuses to accept the authority of a guardian with authority over financial decisions to transact business with the assets of the protected person after receiving a certified copy of letters of guardianship is liable for costs, expenses, attorney fees, and damages if the court determines that the person did not act in good faith in refusing to accept the authority of the guardian.

(7) A guardian shall, to the extent practicable, encourage the ward to participate in decisions, exercise self-determination, act on the ward's own behalf, and develop or regain the capacity to manage the ward's personal affairs. To the extent known, a guardian, in making decisions, shall consider the expressed desires and personal values of the ward.

Appendix E – CJA Rule 6-501

Reporting requirements for guardians and conservators

Intent:

To set forth the testing requirements for guardians and conservators and to establish standards and procedures for inventories, reports, and accountings that guardians and conservators are required to file under the Utah Uniform Probate Code.

Applicability:

This rule applies to individuals seeking appointment as guardians and conservators and individuals who are appointed by the court as guardians and conservators.

Statement of the Rule:

(1) Definitions.

(1)(A) “Accounting” means the annual accounting required by Utah Code section 75-5-312 and section 75-5-417 and the final accounting required by Utah Code section 75-5-419.

(1)(B) “Interested person” means the respondent, if he or she is not a minor, the respondent’s guardian and conservator, the respondent’s spouse, adult children, parents and siblings, and any other person interested in the welfare, estate, or affairs of the respondent who requests notice under Utah Code section 75-5-406. If no person is an interested person as previously defined, then interested person includes at least one of the respondent’s closest adult relatives, if any can be found. For purposes of minor guardianship, interested persons include the persons listed in Utah Code section 75-5-207.

(1)(C) “Inventory” means the inventory required by Utah Code section 75-5-418.

(1)(D) “Serve” means any manner of service permitted by the Utah Rules of Civil Procedure.

(1)(E) “Protected person” means a minor or an incapacitated person for whom the court appoints a guardian or an individual for whom the court appoints a conservator.

(1)(F) “Report” means the inventory, accounting, or annual report on the status of the protected person under Utah Code sections 75-5-209 and 75-5-312, and the final accounting under sections 75-5-210 and 75-5-419

(1)(G) “Respondent” means a person who is alleged to be incapacitated and for whom the appointment of a guardian or conservator is sought.

(2) Exceptions.

(2)(A) Paragraph (3) does not apply to the following:

(2)(A)(i) a guardian certified under Utah Code section 75-5-311;

(2)(A)(ii) the Office of Public Guardian; or

(2)(A)(iii) a conservator issued a permit under Utah Code section 7-5-2.

(2)(B) Paragraphs (6), (7), (8), (9), and (10) do not apply if the guardian or conservator is a parent of the protected person.

(2)(C) Paragraphs (6)(C) and (8)(C) do not apply to the guardian of a minor if the minor's estate consists of funds that are deposited in a restricted account, which requires judicial approval for withdrawal, or if there is no estate.

(2)(D) Paragraph (9) does not apply to a conservator who is appointed for the purpose of receiving a personal injury settlement for a minor if 1) no funds are to be distributed until the minor reaches the age of majority, or 2) no structured settlement payments are to be made until the minor reaches the age of majority.

(3) Examination and private information record.

(3)(A) Before the court enters an order appointing a guardian or conservator, the proposed guardian or conservator must file:

(3)(A)(i) a verified statement showing satisfactory completion of a court-approved examination on the responsibilities of a guardian or conservator; and

(3)(A)(ii) a completed and verified Private Information Record form provided by the Administrative Office.

(3)(B) The guardian or conservator must continue to keep the court apprised of any changes to the guardian or conservator's contact information.

(4) Recordkeeping.

The guardian must keep contemporaneous records of significant events in the life of the protected person and produce them if requested by the court. The conservator must keep contemporaneous receipts, vouchers or other evidence of income and expenses and produce them if requested by the court. The guardian and conservator must maintain the records until the appointment is terminated and then deliver them to the successor guardian or conservator, to the protected person if there is no successor guardian or conservator, or to the personal representative of the protected person's estate.

(5) Filing and service of required reports and proposed Order on Review

(5)(A) The guardian or conservator will file with the court the reports required by paragraphs 6, 7, 8, 9, and/or 10 using the appropriate Council-approved form or a form that substantially conforms to the format and content of the Council form.

(5)(A)(i) A corporate fiduciary will attach its internal report or accounting, if any, as an exhibit to the Council form.

(5)(A)(ii) If the protected person's estate is limited to a federal or state program requiring an annual accounting, the guardian may file a copy of that accounting instead of the Council form.

(5)(B) The annual status report and annual accounting must contain sufficient information to put interested persons on notice of all significant events and transactions during the reporting period.

(5)(C) Along with the required report, the guardian or conservator will also file the Council-approved Order on Review of Guardian or Conservator Report ("Order on Review") as a proposed document.

(5)(D) The guardian or conservator must serve a copy of the required report on all interested persons in accordance with the Utah Rules of Civil Procedure. The required report must include the following language at the top right corner of the first page, in bold type: You have the right to object to this report within 28 days of service. If you do not object within that time, your objection may be waived.

(6) Inventory.

(6)(A) Within 90 days after the appointment, the conservator must file with the appointing court the inventory required by Utah Code section 75-5-418 in accordance with paragraph 5. The inventory must be in substantially the same form as the inventory form approved by the Council, including the required attachments. The court may extend the time for filing the inventory for good cause.

(6)(B) The judge may conduct a hearing even though no objection is filed. If the judge finds that the inventory is in order, the judge must approve it by signing the Order on Review.

(6)(C) If there is no conservator, the guardian must file the inventory required of a conservator under Utah Code section 75-5-312.

(7) Annual status reports.

(7)(A) The guardian must file with the appointing court a report on the status of the protected person no later than 60 days after the anniversary of the appointment in accordance with paragraph 5.

(7)(A)(i) The status report must be in substantially the same form as the status report form approved by the Council, including the required attachments.

(7)(A)(ii) The guardian must file the report with the court that appointed the guardian unless that court orders a change in venue under Utah Code section 75-5-313.

(7)(A)(iii) The reporting period is yearly from the appointment date unless the court changes the reporting period on motion of the guardian. The guardian may not file the report before the close of the reporting period. For good cause the court may extend the time for filing the report, but a late filing does not change the reporting period.

(7)(B) The judge may conduct a hearing even though no objection is filed. If the judge finds that the report is in order, the judge must approve it by signing the Order on Review

(8) Annual accounting.

(8)(A) The conservator must file with the appointing court an accounting of the estate of the protected person no later than 60 days after the anniversary of the appointment in accordance with paragraph 5.

(8)(A)(i) The accounting must be in substantially the same form as the accounting form approved by the Council, including the required attachments.

(8)(A)(ii) The conservator must file the accounting with the court that appointed the conservator unless that court orders a change in venue under Utah Code section 75-5-403.

(8)(A)(iii) The reporting period is yearly from the appointment date unless the court changes the reporting period on motion of the conservator. The conservator may not file the accounting before the close of the reporting period. For good cause the court may extend the time for filing the accounting, but a late filing does not change the reporting period.

(8)(B) The judge may conduct a hearing even though no objection is filed. If the judge finds that the accounting is in order, the judge must approve it by signing the Order on Review.

(8)(C) If there is no conservator, the guardian must file the accounting required of a conservator under Utah Code section 75-5-312.

(9) Final accounting.

(9)(A) The conservator must file with the court a final accounting of the estate of the protected person with the motion to terminate the appointment in accordance with paragraph 5.

(9)(B) The court may conduct a hearing even though no objection is filed. If the court finds that the accounting is in order, the court must approve it by signing the Order on Review.

(10) Objections.

(10)(A) If an interested person objects to a report, the person must file a written objection with the court and serve a copy on all interested persons within 28 days from the date of service of the report. A request to submit must be included with the objection. The court may for good cause, including in order to accommodate a person with a disability, waive the requirement of a writing and document the objection and request to submit in the court record.

(10)(B) The objection must specify in writing the entries to which the person objects and state the reasons for the objection.

(10)(C) An objection to a report may not contain a request to remove or substitute the guardian or conservator. Any request for removal or substitution of the guardian or conservator must be filed as a separate petition consistent with Utah Code section 75-5-307 or 75-5-415.

(10)(D) If an objection is filed, the court must conduct a hearing unless the court determines that a hearing is not necessary. If the court determines that a hearing is not necessary, the court must issue a minute entry or order stating why a hearing is not necessary.

(10)(E) At the hearing, the court may require the guardian or conservator to supplement or amend the report if the court determines there is good cause for the objection.

(10)(F) If the court determines that the objection is unfounded or is filed in bad faith, the court may deny the objection and approve the report.

(11) Waiver. If an interested person does not object to a report within 28 days of service, the interested person waives any objection unless:

(11)(A) the objection relates to matters not fairly disclosed by the report; or

(11)(B) the time for objection is extended by the court under the Utah Rules of Civil Procedure. If the request for an extension is made before the time has run, the court may extend the time for good cause. If the request is made after the time has run, the court may extend for excusable neglect.

(12) Report approval.

(12)(A) Approval. The court must examine and approve the report as required by Utah Code sections 75-5-312 and 75-5-417. Approving a report means the judge has reviewed it, to the court's knowledge notice has been given to every person

entitled to notice, no objection has been received, the report meets the requirements set forth by the report form, and the court has not requested additional information or scheduled a hearing. Such approval does not foreclose a valid claim permitted under paragraphs (11)(A) or (11)(B), nor does it start an appeal time.

(12)(B) Notice to interested persons. When a court approves a report, the court must sign and enter the Order on Review. When a court does not approve a report, the court must indicate on the Order on Review, or in another minute entry or order, the reasons for non-approval, any additional actions required, and serve it on all interested persons entitled to notice.

(13) Report on a minor.

Under Utah Code section 75-5-209, a person interested in the welfare of a minor may petition the court for a report from the guardian on the minor's welfare or the minor's estate. If the court orders a status report from the guardian, the status report must be in substantially the same form as the status report form for guardianships of adults approved by the Council, including the required attachments.

Glossary of Terms

Acceptance of appointment	A written document signed by the guardian/conservator confirming acceptance of the order to serve as guardian/conservator of the protected person. This document must be filed with the court.
Advance health care directive	A written document or oral statement by an adult that expresses the adult's wishes for health care treatment in case the adult is, in the future, not able to express current wishes. Utah law recognizes a standard advance health care directive form. Utah's form provides for the possibility of an expression of wishes as well as for the appointment of a health care agent. Utah law also recognizes a hierarchy of surrogate decision makers in case the adult has never issued an advance health care directive and is now unable to express current wishes.
Affidavit	A written and sworn statement witnessed by a notary public or other official with the authority to administer oaths. Affidavits may be admitted into evidence.
Agent	An adult appointed by another adult ("the principal") in a power of attorney, executed according to law. The agent's legal authority is limited to the authority granted by the principal.
Annual accounting	The yearly financial report of the protected person's estate that the guardian—or conservator if one has been appointed—must file with the court.
Annual report	Report required to be completed and filed with the court every year, within 60 days from the anniversary of the date the guardian or conservator was appointed. Annual reports include the Status Report and the Financial Accounting report.
Appointment	The designation of a person by the court to be a guardian or conservator and to discharge the duties of that office.
Bond	Insurance that the court may require that covers the protected person's estate. Paid for by the protected person's estate.
Certified copy	A certified copy of a court order is dated, signed, and stamped by the Clerk of Court certifying that the copy is a true copy of the original court order. A certified copy is a photocopy of the original, but it will have an original stamped or embossed seal of the court and clerk's signature.
Chambers	A judge's private office in the courthouse.

Closed hearing	A hearing that can be attended only by those with a direct interest in the proceeding. The public cannot attend. Any party in a guardianship / conservatorship proceeding may request closed hearings. Most hearings are open or public hearings and anyone may attend.
Code of Judicial Administration (CJA)	The rules established by the Utah Judicial Council governing administrative practices and procedures of the state judiciary.
Conservator	A person or institution appointed by the court to manage the property and financial affairs (“estate”) of a protected person. A guardian is a person or institution appointed by a court to make decisions about the care of another person who is in need of continuing care and protection, such as a minor child or an incapacitated adult. Sometimes the same person is appointed to both roles. If no conservator is appointed, the guardian has some of the responsibility of a conservator.
Conservatorship	The court proceeding to appoint a conservator and any subsequent proceedings. A conservatorship exists when the court has appointed a conservator for a person in need of protection.
Court visitor	A person who is trained in law, nursing, or social work and is an officer, employee, or special appointee of the court with no personal interest in the proceedings. The judge may appoint a visitor to inquire about and observe a protected person's circumstances to provide a more complete and nuanced picture of that person's life.
Emergency guardianship	An extraordinary court proceeding that may result in the appointment of an emergency guardian to provide for the immediate care and custody of a person for a specified period not longer than 30 days. If an emergency guardian is appointed, the court must hold a hearing within 14 days and begin the process to determine the respondent’s incapacity.
Estate	All of the protected person’s assets and liabilities, including all real property (land) and personal property (things).
Evidence	Testimony, records, documents, material objects, or other things presented at a hearing to prove the existence or nonexistence of a fact.
Fiduciary	A person who has assumed a special relationship to another person or another person's property, such as a trustee, administrator, executor, lawyer, or guardian/conservator. The fiduciary must exercise the highest degree of care to maintain and preserve the person's rights and/or property which are within his/her charge.
Financial accounting report	The yearly financial report of the protected person’s estate that the guardian—or conservator if one has been appointed—must file with the court.

Final accounting report	The last financial accounting that must be filed with the court by the guardian or conservator upon the death of the protected person, resignation of the guardian or conservator, or termination of the guardianship/conservatorship.
Guardian	A person or institution appointed by a court to make decisions about the care of another person who is in need of continuing care and protection, such as a minor child or an incapacitated adult. A conservator is person or institution appointed by the court to manage the property and financial affairs (“estate”) of a protected person. Sometimes the same person is appointed to both roles. If no conservator is appointed, the guardian has some of the responsibility of a conservator.
Guardian ad litem	A lawyer appointed by a court to look after the interests of a minor child during court proceedings, or to look after the interests of an adult in conservatorship proceedings.
Guardianship	The court proceedings to appoint a guardian and any subsequent proceedings. A guardianship exists when the court has appointed a guardian for an incapacitated person.
Hearing	A formal proceeding (generally less formal than a trial) with issues of law or of fact to be heard and decided.
Incapacitated person	A person (other than a minor) who cannot receive or evaluate information or communicate decisions, with or without assistance, concerning their health, safety, basic needs, or finances.
Incapacity	“Incapacity” means that an adult's ability to: • receive and evaluate information; or • make and communicate decisions; or • provide for necessities (food, shelter, clothing, health care, or safety) is impaired to the extent that s/he lacks the ability, even with appropriate technological assistance, to meet the essential requirements for financial protection or physical health, safety, or self-care. Incapacity is a judicial determination, and is measured by the person’s functional limitations.
Interested person	As defined in the Utah Uniform Probate Code, an "interested person" includes heirs, devisees, children, spouses, creditors, beneficiaries, and any others having a property right in or claim against a trust or the estate of a decedent, or protected person. It also includes persons having priority for appointment as personal representative, other fiduciaries representing interested persons, a settlor of a trust, if living, or the settlor's legal representative, if any, if the settlor is living but incapacitated. The court can determine who is an interested person in a particular case, so the meaning may vary from one case to the next.

Inventory	A detailed list of property and other assets with their estimated or actual values. A guardian or conservator must file an inventory with the court within 90 days after appointment.
Jurisdiction	The legal authority of a court to hear and determine a case. Jurisdiction also means the power of the court over the persons involved in a case and over the subject matter of the case.
Least Restrictive Alternative	A mechanism, course of action, or environment that allows the person to live, learn, and work in a setting that places as few limits as possible on the person's rights and personal freedoms as appropriate to meet the needs of the person.
Letters of guardianship or conservatorship	The document issued by the court authorizing the appointment of the guardian/conservator and the extent of the powers of the guardian/conservator to act on behalf of the protected person.
Limited guardianship	A guardianship that orders the guardian to have decision-making powers limited to the specific needs of the protected person. A limited guardianship order describes the guardian’s decision-making authority over the protected person. Utah law presumes that the court will order a limited guardianship.
Living will	A legal document by which a person expresses his/her end-of-life medical treatment wishes.
Minor	A child under the age of 18 who, by law, does not have the capacity to manage his or her affairs.
Notice	Written notification that a petition for appointment of a guardian has been filed and the date, time and location of the hearing. The notice will also include a description of the respondent’s rights and possible effects if the petition is granted.
Objection	To oppose some statement, claim, or procedure in a trial or other proceeding. For example, in guardianship proceedings, an interested person may object to (oppose) the appointment of a particular guardian or the claim that the respondent is incapacitated or the request that guardian should have certain authority.
Parens patriae	A Latin phrase meaning literally “parent of the country” and used to refer traditionally to the role of the sovereign as guardian of persons under legal disability, such as minor children or incapacitated adults.
Petition	A document filed to initiate a case, setting forth the alleged grounds for the court to take jurisdiction and asking the court to grant the petitioner’s request.

Petitioner	The person who files the petition, asking the court to do something. In guardianship proceedings, the petitioner is often, although not always, the person asking to be appointed as guardian.
Plenary guardianship	A guardianship that orders the guardian to have all decision-making powers for the protected person allowed by law. Also known as a “full” guardianship.
(Durable) Power of attorney	A written document in which one person, as principal, appoints another as agent, and gives that agent authority to do certain specified acts or kinds of acts, on behalf of the principal. Completing a power of attorney document does not require a court proceeding. The principal should sign the document before a notary public.
Private, public and protected records	Most records filed in the district courts and justice courts are "public" records, meaning that anyone who asks can view the record and make a copy of it. Many public records are available on the court's website. Some records are "private," meaning that only the parties, their lawyers, and a few others can view and copy the record. Less common are "protected" records, meaning also that only the parties, their lawyers and a few others can view and copy the record. Records in guardianship and conservatorship proceedings are private, except that the court’s orders and letters of appointment are public.
Protected person	The person in a guardianship proceeding who has been determined by the court to be legally incapacitated and in need of a guardian. Also, the person in a conservatorship proceeding who has been determined by the court to be in need of a conservator.
Representative payee	If an agency, such as the Veteran’s Administration or the Social Security Administration, pays benefits to the protected person who has been found by the court to be incapacitated, the agency must appoint a representative payee to receive the payments. This appointment is separate from the court-appointed guardian and conservator. Any person wishing to serve as the representative payee must apply to the agency that provides the benefits. In most cases, the agency will appoint the court-appointed guardian or conservator as representative payee. However, the agency providing the benefits has the authority to appoint any person it chooses to be the protected person’s representative payee. Once appointed by the agency, the representative payee has the authority to receive and handle the benefits for the protected person.
Respondent	The person who responds to a petition. In a guardianship/conservatorship proceeding, the person alleged to be incapacitated and in need of protection.
Serving papers	Serving papers—also called service of process—means delivering a copy of the papers filed with the court to the other parties and interested persons. Court rules require that all parties and interested persons be served with a copy of all papers filed and be given time to respond.

Standard of proof	There are three standards of proof in most court proceedings: (1) Beyond a reasonable doubt (the highest standard) means that the evidence must be firmly convincing about the truth of the fact to be proved. This standard applies in all criminal and juvenile delinquency cases. (2) Preponderance of the evidence (the lowest standard) means that the evidence must show that the fact to be proved is more likely true than not true. This standard applies in most civil cases. (3) Clear and convincing evidence (a middle standard) means that the evidence must leave no serious doubt about the truth of the fact to be proved. This standard applies in some civil cases, including deciding whether a person is incapacitated.
Status report	The guardian's yearly report to the court on the well-being of the protected person. The annual report shows the protected person's status and care and alerts the court to any changes.
Statute	A law passed by the Utah state legislature.
Temporary guardian	The court may appoint a temporary guardian, convert an emergency guardian to a temporary guardian, or appoint a different person as temporary guardian to replace the emergency guardian. Until the full hearing and order of the court, the temporary guardian is charged with the care and custody of the protected person and must not permit the protected person to be removed from the state. The authority of any permanent guardian previously appointed by the court is suspended so long as a temporary guardian has authority. A temporary guardian may be removed at any time, and must obey the court's orders.
Trust	A transaction in which the owner (called the trustor or settlor) of real property (land) or personal property (things) gives ownership to a trustee, to hold and to manage for the benefit of a third party (called the "beneficiary").
Trustee	A fiduciary in whom an estate, interest, or power is vested, under an express or implied agreement, to hold and to manage for the benefit of another.
Utah Code	The collection of all statutes enacted by the Utah legislature.
Utah Rules of Civil Procedure	The rules governing court procedures in all actions of a civil nature.
Venue	The county, city or geographical area in which a court with jurisdiction may hear and determine a case. A change of venue, that is, a change to a court in a different area, may be requested under some circumstances.



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