



DEVELOPMENTAL DISABILITIES COMMUNITY SERVICES DIVISION  
Olympia, Washington

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TITLE: GUARDIANSHIPS & PROTECTIVE ARRANGEMENTS 5.26

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**Authority:**

[RCW 7.70.065](#) *Informed Consent-persons authorized to provide patients who do not have capacity*

[RCW 71.32.040](#) *Presumption of capacity*

[RCW 71A.26.030](#) *Client rights-Notification*

[Chapter 11.125 RCW](#) *Uniform Power of Attorney Act*

[Chapter 11.130 RCW](#) *Uniform Guardianship, Conservatorship, and other Protective Arrangements*

[Chapter 11.90 RCW](#) *Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act*

[WAC 388-845-3056](#) *What if you need assistance to understand your person-centered service plan?*

[WAC 388-845-3062](#) *Who is required to sign the person-centered service plan and how can it be signed?*

[WAC 388-845-3070](#) *What happens if you do not sign your person-centered service plan?*

**Reference:**

[DDCS Policy 2.02](#) *Attorney General Advise and Presentation*

[DDCS Policy 5.13](#) *Protection from Abuse: Mandatory Reporting*

[DDCS Policy 7.03](#) *Informed Consent*

[DDCS Policy 12.01](#) *Incident Reporting and Management for DDCS Employees*

### **PURPOSE:**

This policy outlines business processes for DDCS staff on matters related to guardianship and alternative protective arrangements for clients.

### **SCOPE:**

This policy applies to DDCS field services staff. This policy does not include the program processes of another agency, nor does it include specific regional procedures or desk manual material that outlines how the field achieves these standardized procedures.

### **DEFINITIONS**

**Certified Professional Guardian** means professional fiduciaries appointed by the courts to protect the legal, social, and medical interests of adults who require “decisional support” due to cognitive or physical limitations that impede their ability to exercise these rights alone.

**Conservatorship** means a court process where a court appoints one or more people to be responsible for financial and estate matters only; formerly called guardianship of estate.

**Guardianship** means a court process where a court appoints one or more people to be responsible for non-financial decision-making; formerly called guardianship of a person.

**Incapacitated person** means the person subject to guardianship. A guardian of the person is appointed when the court finds significant risk of personal harm based on a demonstrated inability to adequately provide for their nutrition, health, housing or physical safety.

**Letters of office** means a record issued by a court certifying a guardian's or conservator's authority to act and its expiration. (Also referred to as letters of guardianship.)

**Lay Guardian** means a non-professional relative or friend who is appointed by the court to act on behalf of another person.

**Less restrictive alternative** means an approach to meeting a person’s needs which restricts fewer rights of the person than would the appointment of a guardian or conservator. The term includes supported decision making, appropriate technological assistance, appointment of a representative payee, and appointment of an agent by the individual, including appointment under the power of attorney for health care or power of attorney for finances.

**Office of Public Guardianship (OPG)** - The OPG contracts with Certified Professional Guardians and Conservators (CPGCs) statewide to provide decision-making assistance to low-income individuals with no one else to care for them. OPG provides legal decision-makers for individuals

with diminished capacity and in need of guardianship and/or conservatorship services. OPG also provides less restrictive alternatives to guardianship for individuals capable of executing a Durable Power of Attorney (DPOA) or Supported Decision-Making Agreement (SDMA).

**Order of Appointment** means a court order appointing a guardian or conservator.

**Power of Attorney** means a written document signed by the person where the person chooses to share decision-making with one or more agents they designate.

**Protective Arrangement** means a court process where a court, instead of appointing a guardian or conservator, authorizes or directs a transaction necessary to meet the adult's need for health, safety, or care, or to avoid harm to the adult or significant dissipation of the adult's property.

**Supported Decision-Making Agreement** means a written agreement between an adult with an intellectual or developmental disability and one or more supporters, allowing the person to retain their right to make their own decisions with support that does not require a court or an attorney to implement.

### **POLICY:**

Presumption of autonomy and capacity for adults with intellectual and developmental disabilities must be applied when addressing guardianship, conservatorship or any other form of decision-making. Clients that are 18 or older must be presumed to have the ability to advocate for themselves and treated as their own decision maker unless/until an alternative decision-making plan or guardianship is established and confirmed.

Staff are to provide guidance and assistance to protect the best interests and preferences of each person. The [Uniform Guardianship, Conservatorship, and Other Protective Arrangements ACT](#) is in place to protect the liberty and autonomy of our clients and enable them to exercise their rights. An adult is presumed to have legal capacity under [RCW 11.130.037](#). Restrictions imposed should be to the minimum extent needed to protect their own health, safety, and to manage their financial affairs.

1. Less restrictive alternatives to guardianship and conservatorship are available to clients and should be considered before a restrictive guardianship or conservatorship, which takes away their right to make their own decisions and preserve their autonomy.
2. The court orders and letters of office (aka letter of guardianship) determine the scope and authority of the restrictions imposed on a client when the court imposes guardianship and/or conservatorship. The letters of office are needed to give guardian authority to act on behalf of the client. These are time limited documents. [RCW 11.130.040: Letters of office](#) defines the limitations imposed on clients.

3. Informing clients and their families of resources available to them can help them to make informed decisions. Resources for DDCS staff can be located at [DDCS-Guardianship - Home](#) and on the regional SharePoint pages.
4. There are unique situations related to guardianship and conservatorship that require other considerations such as out of state, transition to adult, and tribal guardianship.

### PROCEDURES:

#### A. GUARDIANSHIP/CONSERVATORSHIP

The scope of authority and duties of a guardian/conservator are outlined in the court order that appoints them. In general, this includes financial management, health care decision-making, residential decisions, reporting to the court, and miscellaneous decision-making as needed to provide for what the person would want if the person were able to make their own decisions or in the person's best interest. The guardian does not manage every aspect of a person's life, and they are not care providers.

If a case manager identifies a client needs a guardian, conservator or protective arrangement, the case manager should contact their supervisor to discuss how DDCS can support this need. The CRM will:

1. Determine if the person has family or friends active in their life. If so, they may be in the best position to pursue guardianship/conservatorship and should be of first consideration.
2. Review possible concerns with their supervisor. If the case manager and the supervisor determine there is an urgent need involved such as a medical emergency, self-neglect, or other concerns that place a person at risk, then follow the procedures outlined in [DDCS Policy 5.13 and DDCS Policy 12.01](#)

If a person states that they are the guardian but does not provide the court order & current letters of guardianship the CRM will:

1. Explain that DDCS is legally required to verify guardianship status before allowing someone other than the client to consent to services, and without the court documentation DDCS will not be able to accept a guardian's consent and this may affect a client's DDCS services.
2. Some guardianship filing information may be found on the [Washington Courts](#) website. Review the case history and determine if new documents have been filed since the letter was originally issued. However, the website information is not adequate for proof of guardianship. The copy of the guardianship court orders and letters of guardianship must be received from the guardian.

In some Court orders there may be alternative legal decision-making individuals identified other than the primary name guardian. Stand-by guardians (minors only), successor guardians, agents, and others named in court orders, have no decision-making authority until letters of office are obtained and provided to DDCS that identify their legal authority.

When there are situations in your region when there are allegations of abuse, neglect, or exploitation issues involving a client with guardianship in place, please follow [DDCS policy's 5.13 and 12.01](#). This should be staffed with your supervisor.

All referrals to the AAG for guardianship issues must go through the regional guardianship coordinator, ([See Policy 2.02 Attorney General Advice and Representation, section A4 for AAG referral.](#)) Note: DDCS does not assist with guardianships for minors.

### B. ALTERNATIVES TO GUARDIANSHIP

There are many alternatives to guardianship that preserve the clients' right to make decisions that support their independence (See Appendix A). The case manager must obtain a copy of the document and verify the authority, and place in the client's file.

### C. COURT ORDERS AND LETTERS OF OFFICE/GUARDIANSHIP

Guardians do not have court authority to act without current letters of office from the court. Per [RCW 11.130.040](#), if letters expire, the guardianship remains in effect, but the guardian loses the authority to act on behalf of the client. Additionally, the person subject to guardianship does not automatically have their rights restored unless restored by the court.

The letters of guardianship should state the type of guardianship (i.e., limited or full, co-guardianship), the date the guardian was appointed by the court, and the date the letters expire. The guardian's authority to act expires when the letter expires. See sample Guardianship Order and Letter at [DDCS-Guardianship SharePoint](#).

Letters of guardianship issued on or after July 1, 2011, have an expiration date no more than five years after the date of appointment. This does not apply to guardianships for children under [Chapter 11.130 RCW](#).

For a client who has a guardian, the client's file must include the guardianship order and the letter of office (aka letter of guardianship). The guardianship order includes important information about the scope of authority, which is not included in the letter. For example, the person may retain their right to consent to services, but medical decisions are under the guardian's scope. Staff need to review all orders to determine rights/authorities granted or restricted and consult with the regional guardianship coordinator for questions as needed.

## Guardianships & Protective Arrangements

1. Depending on the scope of the guardianship, DDCS staff must obtain approval for service planning and consents from either the client or the person with documented, legal authority.
2. DDCS does not recognize a person as having legal authority without a valid guardianship order and letter of guardianship. When necessary, the CRM may consult with the supervisor and regional guardianship coordinator when the documentation of the legal authority is unclear or expired.
  - a. For a letter of guardianship to be valid, there must be no indication that the guardianship has been revoked or terminated.
  - b. For a guardianship established before July 1, 2011, without an expiration date, the CRM must use the [Washington Courts](#) website to review the case history and determine if new documents have been filed since the letter was originally issued.

Note: The CRM may consult the regional guardianship coordinator regarding how to perform this review or use the court's website.

3. If new documents have been filed since the letter of guardianship was issued, the CRM must:

- a. Request a new letter of office from the guardian, which can be requested using optional [DSHS 16-213](#), *Verification of Legal Status*; and
- b. Ensure the new letter is sent to the Hub Imaging Unit (HIU) by the guardian or DDCS. (See [MB H20-090](#) for directions on sending items to the HIU.)

Note: A guardianship established before July 1, 2011, will have an expiration date when it is renewed.

4. If an order or letter has no expiration date, and research does not indicate that the guardianship has been revoked or terminated, and new letters have not been issued, the CRM must do the following in CARE.

- a. On the Demographics screen under Client Details, enter the specific date of **12/31/2045** in the "Guardian Expiration Date" field, Add the following statement in the comment section, "Letters do not have an identified expiration date."
- b. DDCS CRM must review annually during plan review for updated letters.

5. If an order or letter of guardianship has an expired date and research on the Washington Courts website does not indicate that the guardianship has been revoked or terminated, the CRM may consult with the supervisor, regional guardianship coordinator or both.

- a. Ensure that the last known documented expiration date is entered on the Demographics screen under Client Details in the Guardianship field.
- b. DDCS CRM will review annually during plan review for updated letters.

6. If there are no letters of office on the Demographics screen under Client Details, enter the specific date of **12/31/2050** in the “Guardian Expiration Date” field. Add the following statement in the comment section, “No letters available.” CRM must engage with the noted guardian to obtain valid documentation (see #3 above).

**Note:** If a client has an expired guardianship, DDCS should continue to provide services already in place while efforts to obtain valid documentation are occurring. If changes to services need to be considered, this should be staffed with supervisor and regional guardianship coordinator.

7. For an out-of-state guardianship, the CRM must consult with the regional guardianship coordinator to determine validity of the order and letter of guardianship.

8. The CRM:

- a. Must maintain a copy of the orders and letters of guardianship and any other legal documents in Barcode by sending them to the HIU. (See [MB H20-090](#) for directions on sending items to the HIU);
- b. May additionally maintain guardianship documents in RMT; and
- c. Must document the guardian’s role in Contacts under the Contact Details screen.
- d. Must document each action taken regarding guardianship in a service episode record.

9. The CRM should consider sharing the following RCW/WACs when explaining to a person acting as guardian why DDCS requires a copy of the orders and letters of guardianship:

- a. [RCW 11.130.040](#) Letters of Office
- b. [WAC 388-845-3056](#) What if you need assistance to understand your person-centered service plan?
- c. [WAC 388-845-3062](#) Who is required to sign the person-centered service plan and how can it be signed?
- d. [WAC 388-845-3070](#) What happens if you do not sign your person-centered service plan?

### D. MODIFYING OR TERMINATING A GUARDIANSHIP

When DDCS is considering petitioning to create, modify, or terminate a guardianship or conservatorship, the CRM will:

1. Describe the facts of the case and make recommendations to the supervisor. The case manager may have to provide written testimony in a declaration for court.
2. Review the written declaration with a supervisor, guardianship coordinator, or AAG as directed.
3. Following AAG direction, DDCS staff may be asked to attend and testify at a court hearing. Usually, the written declarations are adequate, but sometimes the judge may have additional questions.

If a client does not currently have a guardian, and it is determined that professional guardianship should be pursued, a referral may be made to Office of Public Guardianship (OPG) Information can be found at [Washington State Courts- Guardian Portal](#). [See OPG referral Form](#). Review with the supervisor before initiating the next steps.

Temporary substitute guardians can be appointed in some instances, see [RCW 11.130.130](#) for further information. DDCS must obtain new orders/letters in these situations.

### D. PROTECTIVE ARRANGEMENTS

When made aware of a protective arrangement determined by the court (See Attachment A: Protective Arrangements), the case manager must request a copy for the client file and make note of the duration in an SER. DDCS must honor a court order describing the protective arrangement as determined by the court. If there are questions regarding a protective arrangement, CRM's can discuss with the regional guardianship coordinator.

### F. OUT OF STATE GUARDIANSHIP

Guardianship that was established in another state is valid in Washington State, provided that the guardianship is still active in the state in which it was issued, and the guardian maintains current authority. The out-of-state court may have different laws and use effective dates and terminology differently than WA. The CRM should contact your regional guardianship coordinator with questions.

Case managers can provide information about the opportunity for guardians to transfer the guardianship to the state and county in which the person subject to guardianship resides. Some states may have laws requiring that the guardianship be transferred to the state where the adult

subject to guardianship resides. Consult with your supervisor and the regional guardianship coordinator in your region when out-of-state guardianships issues are involved

#### G. TRANSITION TO ADULTHOOD AT AGE 18

People who are minors have most of their decisions made by their parents or legal guardians. When the client transitions into adulthood, presumption of capacity, as identified in [RCW 71.32.040](#), would support the clients best interests and to have the autonomy they need to make their own decisions. Support the client with discussions that begin with the presumption that the adult has the capacity to make decisions for themselves including less restrictive alternatives.

When a person turns 18, the person becomes an adult, and their own decision-maker. The parent/guardian of a minor can no longer legally make those decisions without a court order.

#### H. TRIBAL GUARDIANSHIP/CONSERVATORSHIP

If a guardianship/conservatorship was established by a tribal court, only that court has the authority to modify it. Each individual tribe has its own rules and regulations, which applies to guardianship issues. You may need to work with the tribe's social services staff when researching a guardianship issue.

Consult with the regional guardianship coordinator and Tribal Managers/Liaisons in your region as needed when tribal courts are involved.

For additional information, resources, training and advocacy information see [DDCS-Guardianship SharePoint](#).

#### **SUPERSESSION**

This policy supersedes all prior formal or informal written directives related to guardianship and alternatives and rescinds MB D24-006.

Approved:  \_\_\_\_\_  
Deputy Assistant Secretary  
Developmental Disabilities Community Services

Date: July 1, 2025

Attachment A –Types of Protective Arrangements  
Attachment B –Types of Guardianships

### Attachment A-Types of Protective Arrangements

**Custodial Trustee** means a person designated as trustee of a custodial trust or a substitute or successor to the person designated.

**Durable Power of Attorney:** It operates exactly like a regular power of attorney except that it contains language stating that the person wants the agent(s) to continue to have authority if/when the person becomes incapacitated and unable to make their own decisions.

**Informed Consent for Health Care:** [RCW 7.70.065](#) permits a health care provider to obtain informed consent for health care on behalf of a patient who is unable to provide informed consent him/herself from a person according to a statutory hierarchy.

**Limited guardianship/conservatorship:** A court process where the court appoints a person to be responsible for some decisions but has decided to let an incapacitate person retain any rights it feels they are capable of exercising on their own. These limitations must be specifically stated in the court order establishing the guardianship/conservatorship.

**Power of Attorney:** A written document signed by the person where the person chooses to share decision-making with one or more agents they designate. The person must be capable of understanding what they are signing. The agreement must set out the authority the person is sharing with the agent(s). The agent may make decisions for the person if the person has given the agent that authority, and the person retains the right to make their own decisions. The person retains the right to modify or revoke the agreement. If the person becomes incapacitated and the POA is not durable, it becomes ineffective.

**Protective Arrangement:** A court process where a court, instead of appointing a guardian or conservator, authorizes or directs a transaction necessary to meet the adult's need for health, safety, or care, or to avoid harm to the adult or significant dissipation of the adult's property. This generally requires the same level of need as a guardianship or conservatorship, but the need can be met by a court order without appointing a guardian or conservator.

**Protective Payee:** A protective payee is a person or an employee of an agency who manages client cash benefits to provide for basic needs - Housing, utilities, clothing, childcare, and food. They may also provide services such as training clients in how to manage money.

**Supported Decision-Making Agreement:** A written document signed by the person where the person makes their own decisions but has one or more supporters who help them. The person must be capable of understanding what they are signing. The agreement must set out how the supporter(s) will assist the person. The supporters do not have the authority to make decisions for the person. The person retains the right to modify or revoke the agreement.

### Attachment B-Types of Guardianships

**Conservatorship Guardianship of Person:** responsible for all non-financial decision-making.

**Guardianship of Person and Estate:** a full guardianship of person and estate.

**Limited Guardianship:** the court can choose to let an incapacitated person retain any rights it feels they are capable of exercising on their own. These must be specifically stated in the court order establishing the guardianship.

**Co-guardianship:** can be of a person, estate, or both. This is when two people share the decision-making responsibility equally.

**Resident Agent:** this is a Washington resident chosen to receive notification of legal action on guardianship matters for a guardian who lives out of state. For decision-making authority see [RCW 11.130.125](#).

**Parent:** After a client turns 18 years old, they are an adult, and their parents are no longer their legal guardians. Parents do retain the ability to make informed consent decisions if no legal guardian has been appointed and the client is incapable of making those decisions on their own. Parents must petition the court if they want to remain the legal guardians.