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NebFact



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Guardianship Responsibilities To The Ward

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This NebFact, the third in a series, discusses legal guardianship.

Guardianship is a court-appointed relationship granting the Guardian certain powers and duties. Guardians have many and on-going responsibilities both to the Ward and to the Court.

Responsibilities to the Ward

An effective Guardian must know her/his Ward's desires and preferences to effectively advocate for the Ward. A Guardian must have regular contact with the Ward and others concerned (i.e., family, caregivers, etc.) to assist the Guardian in better decision making.

The Ward is the Guardian's primary responsibility. A Guardian must advocate for the Ward by working to ensure the Ward's personal and financial interests are protected. Guardians must maintain a file of legal documents that include Guardianship documents, estate information, wills, health insurance, medical information, etc. The Guardian may need to conduct research to determine if the Ward's preferences have been previously documented.

The Guardian may obtain advice from a lawyer, accountant or other professionals to assist in the protection of the Ward.

The Guardian must be respectful of the Ward. A Guardian should always seek to include the Ward in decision making to the fullest extent possible. Ultimately, the decision on what information will be shared with the Ward is up to the Guardian. Ascertaining the Ward's feelings and then involving the Ward as much as possible in the decision shows respect.

Information regarding the Ward is confidential. The Guardian is expected to ensure that personal information about the Ward is treated as confidential and shared on a "need to know" basis. The Guardian is responsible for authorizing any release of information that could be considered as protected, such as health and financial information.

The Guardian supports the Ward in exercising personal preference. The Guardian needs to understand the Ward's preferences and should support the Ward in making choices that can foster greater self-reliance and self-esteem. The Guardian must strive to find ways to ensure the Ward's dignity by helping the Ward lead a full and satisfying life, seeking to protect the Ward from harm, and preserving the Ward's individual rights by not trying to take unnecessary control over her/his life.

The role of a Guardian is not to limit choice, but rather to ask how choice can be an effective part of a Ward's life. It is not expected that Guardians will control all aspects of a Ward's life. Most Wards may still maintain decision making in routines such as who their friends are, what they do socially, what type of diet they follow, etc. The Guardian must be a protector of the Ward and the rights the Ward may not be able to exercise on her or his own.

Guardians maintain relationships with professionals and service providers. Often, the Ward will receive services from other professionals, such as medical, financial or human-services providers. The Guardian is expected to have regular contact with these providers and to ensure that the Ward is receiving the best possible service consistent with the individual's preferences. Such preferences may include maintaining contact with family and friends, supporting the formation of new friendships, respecting the Ward's choices in personal relationships, and, in general, maintaining a level of personal satisfaction and comfort in life.

Guardians must consider the balance of a desire to protect Wards from any and all perceived threats to their well-being, versus the recognition that risk is part of life. To have a full and satisfying life, all of us take some risks, balanced with desires and wants. Guardians must bear this in mind, never losing sight of their responsibilities to the Ward's own personal quest to live life to the fullest.

The Guardian works to ensure the Ward is supported with the least restriction possible. Nebraska law states: "A Guardian shall make every reasonable effort to ensure (the Ward's) placement is the least restrictive alternative. A Guardian shall authorize a placement to a more restrictive alternative only after careful evaluation of such need."

As an example, a Ward who can handle most activities of daily living, such as cooking, bathing and dressing, but lacks skills in budgeting and money management would not require placement in a fully-staffed group home, which would be more restrictive than necessary. A less-restrictive alternative may be to arrange for someone on a regular basis to assist the Ward in money matters, while the Ward remains in her/his own home.

For an elderly Ward, an assisted-living facility where people have their own living areas with facility assistance for meals and medications is much less restrictive than placement in a nursing facility.

The need for a Guardian should be reassessed regularly. Many people have been able to overcome the conditions that led them to need a Guardian. A Guardian should re-evaluate the Ward's need from time to time. There is no greater reward to people who have worked very hard to overcome obstacles than having control of their life returned to them. It is a Guardian's duty to return to Court to legally reduce or remove Guardianship if the Ward's condition improves.

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Nebraska Revised Statutes, Article 26, Section 30-2601-2661.

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