

## Guardianship Program Rules

### 409 Financial Management

409.1 The guardian shall assure competent management of the property and income of the estate. In the discharge of this duty, the guardian shall exercise the highest level of fiduciary responsibility, intelligence, prudence, and diligence and avoid any self-interest. The management of the estate shall be documented by means of accurate and complete records of all transactions.

409.1.1 The guardian shall meet with the incapacitated person and gather information from family, friends and other collateral sources, as soon as practicable after appointment, to determine the current wishes of the incapacitated person and to obtain historical information about the incapacitated person's prior management of financial affairs.

409.1.2 The guardian shall, subject to court direction, allow the incapacitated person to manage funds to his or her ability when appropriate.

409.2 The guardian shall know and obey the law related to managing an incapacitated person's estate. Such knowledge shall include statutes relating to the investment of assets, restrictions imposed on investing and expenditures by RCW 11.88 and 11.92, and laws relating to employment, income, and taxes. The guardian shall hire competent professionals as appropriate and financially feasible to assure compliance with all statutes and regulations relating to the management of funds.

409.3 The guardian shall maintain all bonding, blocking, and insurance requirements as may be required by the court.

409.4 The guardian shall manage the estate with the primary goal of providing for the needs of the incapacitated person.

409.5 In certain cases, guardian shall consider the needs of the incapacitated person's dependents for support or maintenance, provided appropriate authority for such support is obtained in advance. The wishes of the incapacitated person as well as past behavior can be considered, bearing in mind both foreseeable financial requirements of the incapacitated person and the advantages and disadvantages to the incapacitated person of such support or maintenance.

409.6 When the available estate of the incapacitated person is sufficient, the guardian may petition the court for authority to make such gifts as are consistent with the wishes or past behavior of the incapacitated person, bearing in mind both foreseeable requirements of the incapacitated person and the advantages and disadvantages to the incapacitated person of such gifts, including tax consequences.

409.7 The guardian shall apply for all public and insurance benefits for which the incapacitated person is eligible. When implementing necessary changes in the

incapacity person's lifestyle, the guardian shall seek to minimize the stress of any transition.

409.8 The guardian shall exercise prudence in investment, shall periodically review the incapacitated person's situation and assets, and make recommendations regarding appropriate investments. In the exercise of prudence the guardian shall:

409.8.1 Not allow assets to sit idle except for good reasons.

409.8.2 Consider the tax consequences of decisions.

409.8.3 Consider the incapacitated person's long term ability to sustain costs of arrangements made by the guardian.

409.8.4 Consider the incapacitated person's ability to gain the benefits of specific decisions.

409.8.5 Consider the costs incurred in managing investments, including the costs of the guardian, those specialists hired by the guardian, and the costs of the investment vehicles.

409.8.6 Consider the incapacitated person's historical investment pattern and tolerance for risk, lifestyle needs, care and medical needs, estate considerations, tax consequences, and life expectancy.

409.9 A guardian shall not commingle the funds of an incapacitated person with funds of the guardian or the funds of staff. A guardian may consolidate client accounts, using appropriate accounting software and procedures, including pro-rata assignment of interest earned and fees paid and accurate individual accounting for each client's funds, provided the guardian has received specific authority from the court to do so. Each payment from a consolidated account shall be from funds held in the account on behalf of the individual for whom the payment is made.

409.10 The guardian shall not borrow from an incapacitated person. A guardian shall not lend funds at interest to an incapacitated person.

409.11 The responsibility to protect and preserve the guardianship estate rests with the guardian appointed by the court. When the guardian is an agency, this responsibility is that of the agency and the guardians identified with the Certified Professional Guardian Board as the responsible guardians for the agency. While it may be appropriate and necessary to retain and reasonably rely upon the services of knowledgeable individuals or entities to assist in the performance of duties, it is the responsibility of the guardian to provide appropriate oversight and review, in order to preserve the guardianship estate.

409.12 At the death of the incapacitated person, the guardian shall comply with RCW 11.88.150.

409.13 The guardian shall obtain insurance coverage, as appropriate and feasible, for guardianship property.