

## Guardianship ~~and Conservatorship~~ Program Rules Regulations

### 404 Contact with the ~~Incapacitated Person~~ Individual Subject to Guardianship and/or Conservatorship

404.1 Guardian ~~and conservators of the Person appointed as a guardian for an individual~~ shall have meaningful in-person contact with their clients as needed, generally no less than monthly. If contact is not made monthly, the reasons for less frequent contact shall be documented and included in the periodic reporting to the court. Living in a staffed residential facility or at home with a paid caregiver is not sufficient justification for reducing the frequency of in-person contact.

404.1.1 The guardian ~~and conservator~~ should, when appropriate, assess the ~~incapacitated person's- individual subject to guardianship's~~ physical appearance and condition (taking into account the ~~incapacitated person's- individual's~~ privacy and dignity) and assess the appropriateness of the ~~incapacitated person's individual's~~ current living situation and the continuation of existing services, taking into consideration all aspects of social, psychological, educational, direct services, health and personal care needs, as well as the need for any additional services.

404.1.2 The guardian ~~and conservator~~ shall maintain regular communication with ~~the individual subject to guardianship and/or conservatorship,~~ service providers, caregivers, and others attending to the ~~incapacitated person individual subject to guardianship.~~

404.1.3 The guardian ~~and conservator~~ shall participate in care or planning decisions concerning the residential, educational, vocational, or rehabilitation program of the ~~incapacitated person individual.~~

404.1.4 The guardian ~~and conservator~~ shall request that each residential care professional service provider develop an appropriate service plan for the ~~incapacitated person individual subject to guardianship~~ and take appropriate action to ensure that the service plans are being implemented.

404.1.5 The guardian ~~and conservator~~ shall ensure that the personal care plan is being properly followed by examining charts, notes, logs, evaluations, and other documents regarding the ~~incapacitated person individual subject to guardianship~~ at the place of residence and at any program site.

404.2 Guardians ~~of the Estate- and conservators appointed as conservator~~ only shall maintain meaningful in-person contact with their clients generally no less than quarterly absent court order, but in any event, at a frequency as appropriate and as necessary to verify the individual's condition and status and the appropriateness of financial arrangements.

404.3 A certified professional guardian ~~and conservator of the person appointed as a guardian,~~ as a sole practitioner or agency, must ensure that the initial in-person visit and

then one visit every three months is made by a certified professional guardian and conservator, unless otherwise approved by the court. For other meaningful in-person visits, a certified professional guardian and conservator, as a sole practitioner or agency, may delegate the responsibility for in-person visits with a client to: (a) a non-guardian and conservator employee of the certified professional guardian and conservator, sole practitioner or agency, (b) an independent contractor or (c) any individual who has been specifically approved by the court. In all cases, before the delegation, a certified professional guardian and conservator with final decision making authority on the case must document the suitability of the delegation, having considered: (a) the needs of the client, and (b) the education, training and experience of the delegate. (Adopted 10-14-2013). Delegation of a power to an agent must be consistent with the guardian and conservator's fiduciary duties and guardian and conservator's plan(s) and other requirements of delegation under RCW 11.130.125 and Regulation 414<sup>1</sup>.

<sup>1</sup>Regulation 414 will address delegation requirements specified in the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act at RCW 11.130.125.

404.4. Each certified professional guardian and conservator or certified professional guardian and conservator agency shall ~~conduct a criminal history check on any guardian or agency employees who come into contact with the person or estate of an incapacitated person prior to any contact. No guardian or agency shall knowingly allow an employee who has been convicted of a felony or has been adjudicated by any court or administrative agency of a having engaged in abuse, neglect or financial exploitation of a vulnerable adult or child to have contact with the person or estate of an incapacitated person.~~ exercise reasonable care, skill, and caution in ensuring a background check is conducted on their own employees, their agents, and any employees of those agents, prior to those persons providing direct services to the individual subject to a guardianship or conservatorship.

When determining the scope of a background check, the guardian or conservator should consider the abilities and vulnerabilities of the protected person and the specific task(s) that the employee or agent are being delegated.

A background check must include a criminal history check utilizing public or proprietary databases <sup>2</sup>that are available to the public.

<sup>2</sup> Examples of public or proprietary databases include, but are not limited to, the Washington State Patrol's "Washington Access to Criminal History" (WATCH), Superior Court databases (Odyssey, LINX, ECR Online), Department of Social and Health Services Public Disclosure Office, and the Federal Bureau of Investigations Identity History Summary Check (IdHSC).

Additionally, a background check should include a check of public or proprietary databases that report substantiated findings of abuse, neglect, or exploitation of a vulnerable adult.

When engaging licensed agencies that are required by law or regulation to obtain background checks on their employees, the guardian and conservator may rely on the declaration of the agency that they comply with State background check requirements.  
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