

Guardianship and Conservatorship Program Rules Regulations

407 Residential Decisions

407.1 The guardian and conservator shall take reasonable measures to implement the individual subject to guardianship's residential preferences.

407.2 The guardian and conservator shall select a residential setting the guardian and conservator believes the adult would select if the adult were able, in accordance with the decision-making standards in RCW 11.130.325 (4) and (5) and Regulation 405. If the guardian and conservator does not know and cannot reasonably determine what setting the adult subject to guardianship probably would choose if able, or the guardian and conservator reasonably believes the decision the adult would make would unreasonably harm or endanger the welfare or personal or financial interests of the adult, the guardian and conservator shall choose in accordance with RCW 11.130.325(5) and Regulation 405 a residential setting that is consistent with the adult's best interest.

~~407.13~~ The guardian and conservator shall ensure that the incapacitated person resides in the least restrictive environment that is appropriate and available give priority to a residential setting in a location that will allow the individual to interact with persons important to the individual and meet the individual's needs in the least restrictive manner reasonably feasible unless to do so would be inconsistent with the decision-making standard in RCW 11.130.325 (4) and (5) and Regulation 405 .

407.24 The guardian and conservator shall acknowledge the need to allow all persons the opportunity to engage in activities and live in conditions which are culturally and socially acceptable within the context of the ~~incapacitated person's~~ individual subject to guardianship's cultural and life values.

~~407.3 The guardian shall take reasonable measures to effectuate the incapacitated person's residential preferences.~~

407.45 The guardian and conservator shall know the current state of the law regarding limits on the guardian and conservator's authority as to residential decisions.

407.5.1 Absent a court order issued in accordance with the involuntary treatment provisions of chapters 10.77, 71.05, and 72.23 RCW, a guardian and conservator may not consent on behalf of an individual subject to guardianship to involuntary detention of the individual in a care setting which provides nursing or other care against the individual's will.

407.5.2 A guardian and conservator may establish or move the permanent place of dwelling of the adult to a care setting that places restrictions on the adult's ability to leave or have visitors only if:

(i) The establishment or move is in the guardian and conservator's plan under RCW 11.130.340;

(ii) The court authorizes the establishment or move; or

(iii) The guardian and conservator gives notice of the establishment or move at least fourteen days before the establishment or move to the adult and all persons entitled to notice under RCW 11.130.310(5)(b) or a subsequent order, and no objection is filed.

407.5.3 A guardian and conservator may take action that would result in the sale of, or surrender of the lease to, the primary dwelling of the adult only if:

(i) The action is specifically included in the guardian and conservator's plan under RCW 11.130.340;

(ii) The court authorizes the action by specific order; or

(iii) Notice of the action was given at least fourteen days before the action to the adult and all persons entitled to the notice under RCW 11.130.310(5)(b) or a subsequent order and no objection has been filed

407.5.4 The guardian and conservator may not establish or move the individual's dwelling outside the state unless consistent with the guardian and conservator's plan and specifically authorized by the court.

407.~~56~~ The guardian and conservator shall not remove the ~~incapacitated person~~ individual subject to guardianship from his or her home or separate the ~~incapacitated person~~ individual from family and friends unless such removal is necessary to prevent significant harm or because of financial constraints. The guardian and conservator shall make reasonable efforts to ensure the ~~incapacitated person~~ individual subject to guardianship resides at the ~~incapacitated person's individual's~~ home or in a community setting.

407.~~67~~ The guardian and conservator shall, to the extent possible, select residential placements which enhance the quality of life of the ~~incapacitated person~~ individual subject to guardianship, provide the opportunity to maximize the independence of the ~~incapacitated person~~ individual subject to guardianship, and provide for physical comfort and safety.

407.~~78~~ Before relocating the ~~incapacitated person~~ individual subject to guardianship to a new residence, the guardian and conservator shall consult with, and give timely notices as required by law to, the ~~incapacitated person~~ individual, and should consult with, and give timely notices as required by law to, professionals, notice parties, and other third parties ~~involved with~~ who demonstrate sufficient interest in the welfare of -the

~~incapacitated person's individual care~~ to the extent doing so does not put the ~~incapacitated person individual subject to guardianship~~, the guardian and conservator, or the guardian and conservator's staff at risk of personal harm. Emergency residential decisions to protect the ~~incapacitated person individual subject to guardianship~~ may be made without prior consultation.

407.~~89~~ The guardian and conservator shall, as necessary, thoroughly research and evaluate the ~~incapacitated person's individual subject to guardianship's~~ residential alternatives.

407.~~910~~ Should the only available residential placement not be the most appropriate or least restrictive, the guardian and conservator shall regularly review alternatives to that placement and shall make reasonable efforts to arrange an appropriate and least restrictive residential alternative.

407.~~1011~~ The guardian and conservator shall regularly monitor the ~~incapacitated person's individual subject to guardianship's~~ residential placement to ensure that it is appropriate and that such placement is the least restrictive alternative. The guardian and conservator should consent to changes, as they become necessary, advantageous, or otherwise in the ~~incapacitated person's individual's~~ best interests. The guardian and conservator should consider that even changes within an existing residential facility may have an impact on the quality of life of the ~~incapacitated person individual subject to guardianship~~.