PERMANENT GUARDIANSHIP PROCESS FOR ADULT WARDS (Wis. Stat. 54)

This process defines the steps that are needed for County Department of Social Services (DSS), as the responsible agency pursuant to Wis. Stat. 55.02(2), to initiate and follow through with a Permanent Guardianship pursuant to Wis. Stat. 54.

1. **Receipt of referral**
   1. Referrals for guardianship services shall be routed through the Access Unit in the Department of Social Services and assigned to the APS Social Worker for follow up.
   2. The assigned social worker will obtain information regarding the circumstances of the subject of the proposed guardianship.
      1. Based on initial information, if it appears the need for guardianship is based on a developmental disability or persistent mental illness, the referral information shall be forwarded to the County Department of Community Services.
      2. County Department of Social Services (DSS) will be the assigned agency responsible for any guardianship services that do not meet developmental disability or persistent mental illness criteria.
   3. The assigned social worker will meet with subject of the proposed guardianship to determine the individual’s capacities and level of need.
      1. The assigned social worker shall make efforts to determine if there is an activated decision maker for the subject of the proposed guardianship (i.e. power of attorney).
      2. The social worker will assess and determine the financial status and means of the individual in order to determine eligibility and appropriateness for county assistance in pursuing the guardianship.
      3. Collateral contacts will be made with relevant persons, (i.e. physicians, relatives, managed care providers, etc). Information gathered from collateral contacts will be utilized in the comprehensive determination of the individual’s level of need. Information gathered shall be documented in the subjects case file (i.e. medical records, case notes).
   4. Social worker shall assess the information to determine if guardianship of person and/or estate is appropriate per standards set forth in Wis 54.10(3). Consultation with corporation counsel is available at any point throughout the process, as needed.
      1. If there is a determination that guardianship services are not appropriate for the identified individual, the requesting party shall be notified, and the subject shall be provided information on community resources, including contact information for the Aging and Disability Resource Center (ADRC). The social worker shall provide the completed referral form to the ADRC for the individual, if services are requested.
      2. Assess the need for Temporary Guardianship services. The following circumstances may warrant pursuit of Temporary Guardianship services:
         1. An urgent/emergent medical need has been identified and there is no available/assigned decision maker for the subject
         2. The subject has a temporary condition affecting his or her decision making capacities, and may recover within the near future (i.e. traumatic brain injury). If necessary, refer to the Temporary Guardianship Process and contact corporation counsel.
      3. If a protective placement of the individual is necessary, please refer to Protective Placement process, located on the shared drive.
2. **Initiation of the Guardianship Petition(s)**
   1. Identify an appropriate and willing individual to act as the subject’s guardian. Pursuant to Wis 54.15, preference is given to relatives, if available.
      1. Any proposed guardian shall be referred to the Access Unit for completion of a background check. The proposed guardian shall complete and sign the background information disclosure form. The Access Unit staff shall complete DOJ, local law enforcement, sex offender, CCAP, and child maltreater databases and provide the results to the APS social worker for review.
      2. If an appropriate relative guardian is unable to be identified, the APS social worker shall consult the corporate guardianship list located on the shared drive to seek services of a corporate guardian.
      3. Consideration shall be given as to whether or not the appointment of a standby guardian is appropriate, based on the age and/or health of the subject and the proposed guardian.
   2. Draft the petition for guardianship (GN-3100). A Master Guardianship Petition form is located on the shared drive. Ensure that this is the most updated form, per Wisconsin circuit court access forms (<https://www.wicourts.gov/forms1/circuit/>).
   3. Contact the Register in Probate for a case number. Ensure court is notified as to whether a protective placement petition will be filed as well. Be sure the case number is recorded on the drafted guardianship petition, (GN-3100).
   4. A medical evaluation (typically completed by a licensed psychologist) and the evaluating physician’s testimony will be required. Contact a medical professional to complete the medical evaluation for the guardianship hearing.
      1. It is strongly recommended to coordinate with the medical professional to determine their availability to complete and submit the physician’s evaluation (GN-3130), and be available for testimony. If seeking a medical professional to complete the evaluation, consult the list of frequently used physicians on the shared drive. Complete the “caption” section of the GN-3130 form and provide a copy to the evaluating physician (via fax or email) for completion.
   5. Contact Register in Probate to schedule the guardianship hearing. The hearing must occur within 60 days of filing the completed petition for guardianship.
   6. Draft the following documents:
      1. Order and Notice of Hearing (GN-3110)
      2. Order for Examination (located on the shared drive)
      3. Waiver and Consent forms (GN-3115)
      4. Statement of Acts (GN-3140)
3. **Court Filings**
   1. Email a draft of the completed guardianship petition to corporation counsel for review prior to filing.
   2. File the following completed documents with the Register of Probate and provide filed copies to Corporation Counsel
      1. GN-3100 (Permanent Guardianship petition)
      2. GN-3110 (Order and Notice of Hearing)
      3. Order for Examination
   3. GN-3115 (Waiver and Consent Forms) shall be filed as soon as the completed forms are returned.
   4. GN-3110 (notice of hearing) should be drafted, filed with the court, and distributed to relevant parties with a copy to the subject (and subject’s attorney) as soon as possible.
   5. All filed documents shall be provided to interested parties as set forth in Wis. Stat. 54.38(2) at least ten (10) business days (if mailed, at least thirteen (13) business days) before the hearing by any of the following
      1. Personal service
      2. Certified mail with return receipt to last known address
      3. Facsimile transmission to last known number
   6. An affidavit of service shall be drafted and filed identifying who was served, when, what documents, and by what means.
4. **Court Preparation**
   1. SW shall ensure the physician’s evaluation (GN-3130) is completed, filed with the court, and copies provided to GAL, Corporation Counsel, and subject’s attorney (if applicable) at least four (4) business days before the hearing. The physician should file this evaluation directly with the court; SW may request a copy of the report from the court.
   2. Collaborate with Corporation Counsel to ensure medical professional or other individuals familiar with the subject are available for testimony.
      1. SW shall obtain witnesses’ telephone numbers for testimony.
   3. SW shall make arrangements for the subject to appear at the hearing (i.e. coordinate transportation with service provider or family member; arrange for video/telephonic appearance, etc). It is essential that SW makes arrangements for the subject to attend the hearing.
      1. Contact Corporation Counsel if there are concerns of transporting and/or having the subject present at the hearing. GAL can waive the subject’s appearance if appropriate.
   4. SW shall confirm that the proposed guardian and/or standby guardian are appearing at the hearing.
      1. If unable to appear in person, the SW may provide the guardian with information to contact the court to request an exemption to appear by phone. The guardian will need to contact the court directly to request telephonic appearance.
   5. SW shall ensure the GN-3140 (Statement of Acts) is filed at least four (4) business days before the hearing.
   6. Although a court report is not required for a stand-alone permanent guardianship, if warranted SW may consider providing a report to the court regarding the circumstances of the pending guardianship.
   7. In cases where more than one individual is requesting to serve as permanent guardian, review information regarding appropriateness of each guardian with corporation counsel. Testimony to provide supporting evidence regarding the appropriateness of a guardian may be requested.
5. Court Hearing
   1. SW present at hearing
   2. Orders and letters
      1. Ensure orders and letters reflect the rights removed as indicated by the Dr eval
      2. As for bond, consult Corporation Counsel if SW is considered re: guardian’s decision
      3. GN-3200 – letters for person
      4. GN-3210 – letters for estate
      5. GN-3170 – guardianship order
         1. Standard order in shared drive
         2. Verify most up to date order used
         3. Guardian compensation?
            1. If yes, include in petition as well
      6. GN-3190 for signature bond (if applicable)
   3. Information on accounting?
6. Post Hearing Follow Up Activities
   1. Not sure if DSS wants addressed
      1. Review of conduct
      2. Successor guardian