

Dunn County Register in Probate		
GUIDELINE	GUARDIANSHIP OF PERSON	Revised: August 30, 2019

NOTE: This guideline is provided only as a public service and is not meant to be legal advice. The Register in Probate office cannot give legal advice or complete forms for you; please contact an attorney if you have legal questions.

I. GUARDIAN OF ‘PERSON’ OF WARD

A. Duties of guardian of person:

1. Make an annual report to the Court and to the county department regarding the condition of the ward.
2. Secure any necessary care, services, and appropriate protective placement for the ward that are in the ward’s best interest.
3. Guardian to: make regular inspection, in person, of ward’s conditions, surroundings and treatment; examine ward’s health care records; attend and participate in staff meetings if the meetings include discussion of the ward’s treatment and care; inquire into the treatment of the ward; consult with health care providers and social workers.

B. Powers of guardian of person.

1. Guardian only has those powers authorized by statute, rule or by the Court. Any other right or power is retained by the ward unless the ward has been declared incompetent to exercise that right.
2. The Court will order that certain rights be retained by the ward.
3. The Court will order that the ward does not have the capacity to exercise certain rights.
4. Any question regarding the rights of the ward should be directed to the ward’s Social Worker, the ward’s Guardian ad Litem, or the ward’s attorney.

II. IS A GUARDIAN ENTITLED TO COMPENSATION FOR SERVICES.

- A. The Court can authorize compensation and/or reimbursement for the guardian in an amount the Court deems “just and reasonable”.
- B. Any reimbursement and/or compensation must be specifically authorized by the Court before payment is made.
- C. The guardian should submit a Petition and Order for Guardian Fees form in the current year. (Form available at the Probate Office)

III. ANNUAL REPORT

- A. Every year each guardian of the person must file an annual report on the condition of the ward with the court, and when there is a protective placement, to the Department of Human Services. The report is due **April 15** of each year.

- B. The purpose of the annual report is to provide information to the Court on the health, welfare and condition of the ward.

IV. IF A GUARDIAN DOES NOT FILE THE ACCOUNT OR REPORT

- A. The Court can remove the guardian.
- B. The Court can issue an Order to be served by the Sheriff on the guardian to show cause why the guardian should not immediately make and file the annual report.
- C. If the guardian fails to do so or respond, the Court may issue a warrant directed to the sheriff ordering that the guardian be brought before the court to show cause why the guardian should not be punished for contempt.

V. HOW IS A GUARDIANSHIP TERMINATED

- A. Guardianship of the person terminates:
 - 1. When a minor ward becomes 18.
 - 2. When a minor lawfully marries.
 - 3. When the Court adjudicates a former incompetent to be competent.
 - 4. When the ward changes residence from this state to another state and a guardian is appointed in the new state of residence.
 - 5. When the ward dies.
- C. Guardian of the person does not have any formal duties at termination except to notify the Court of the ward's death. The guardianship powers simply end.
- D. Guardian may resign from position. Guardian must continue in role until a successor is appointed.

PROTECTIVE PLACEMENTS

I. WHAT IS A PROTECTIVE PLACEMENT

Court ordered placement made to provide for the care and custody of an individual.

II. WHAT IS NECESSARY FOR A PROTECTIVE PLACEMENT

- A. The ward must have been determined by a Court to be legally incompetent and in need of a guardian.
- B. The ward must have a primary need for residential care and custody.
- C. The ward must be so totally incapable of providing for his or her own care or custody as to create a substantial risk of serious harm to him/herself or others; condition must be result of: developmental disabilities, degenerative brain disorder, serious and persistent mental illness, or other like incapacities.

D. The ward has a disability that is permanent or likely to be permanent.

III. IF THE COURT ORDERS PLACEMENT, WHO MAKES THE DECISION AS TO WHERE THE WARD SHOULD BE PLACED

A. Under Chapter 55 of the Wisconsin Statutes, placement authority is given to the County Human Services Board.

B. The Court, in determining placement, would designate a specific facility or a 'like' facility to receive the ward that is the 'least restrictive environment' consistent with the needs of the ward.

IV. IS THE PROTECTIVE PLACEMENT EVER REVIEWED

A. Protective placements must be reviewed annually.

B. Court appoints a GAL for the ward to conduct an investigation and make a report to the Court advising whether a full hearing is necessary; and

1. Whether the person still meets all the requirements for a protective placement; and
2. Whether the ward is still in the least restrictive placement.

C. A summary hearing is held before the Court to determine continued protective placement.

D. The guardian is responsible for paying the Guardian ad Litem fees out of the guardian's funds unless the ward is found indigent by the Court.