

ADVISORY COMMITTEE ON CHILDREN, FAMILIES & THE COURTS
SUPREME COURT OF OHIO

PROPOSED OHIO MINIMUM STANDARDS FOR GUARDIANS¹

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The standards contained in this document have not been adopted by the Supreme Court of Ohio.

STANDARD 1: Applicable Law

1.1 The guardian shall perform duties in accordance with current state and federal law governing guardianship. The guardian shall comply with orders and local rules of the probate court having jurisdiction over the guardianship.²

STANDARD 2: The Guardian's Relationship to the Probate Court

2.1 The probate court is the superior guardian of all wards residing in its jurisdiction.³ Therefore, the Letters of Guardianship determine the authority of the guardian and the limitations on the guardianship.⁴ The guardian shall know the extent of that authority and shall not act beyond it. All actions are subject to prior probate court approval unless otherwise specified by the probate court by judgment entry.⁵ The guardian shall maintain a bond and liability insurance on the guardian and his or her employees in amounts approved by the probate court by judgment entry.

2.2 The guardian shall file a guardian's report annually.⁶

¹ The National Guardianship Association's (NGA) Standards of Practice were the foundation for the development of the Ohio Minimum Standards. In some cases the committee has adopted different language to be more consistent with law and practice in the State of Ohio.

² See generally *Ohio C.P. Sup. R. 8*

³ *R.C. § 2111.50* (The probate court has exclusive jurisdiction to appoint and remove guardians, to control their conduct, and settle their accounts. The probate court is the superior guardian of all wards that are subject to its jurisdiction.) Also See *Ohio Rev. Code § 2101.24(A)(1)(e)* (The probate court has jurisdiction over the appointment and removal of guardians, conservators...direct and control their conduct, and settle their accounts.)

⁴ *Ohio C.P. Sup. R. 66* (A), (B) (In cases of a guardianship application on the grounds of the ward's mental incompetence either a statement from a physician or clinical psychologist or a statement that the prospective ward has refused 'shall' accompany the application. Additionally, prior to any application to expend funds, an Inventory must be filed.)

⁵ *R.C. § 2111.49(A)(1)* (requires biennial reporting)

⁶ *R.C. § 2111.49(A)(1)* (requires biennial reporting); *R.C. § 2111.02*.

2.3 Payments to the guardian from the assets of the ward shall follow applicable state law and local rules, and require prior approval of the probate court by judgment entry.⁷ There shall be no expenditures from the assets of the ward without probate court approval by judgment entry.

STANDARD 3: The Guardian's Professional Relationship with the Ward

3.1 The guardian shall act in a manner above reproach, and his or her actions will be open to scrutiny at all times by the probate court.

3.2 The guardian shall maintain a professional relationship with the ward. The guardian has the authority to make decisions that are in the best interest of the ward, but with which the ward may not always agree. The guardian shall demonstrate compassion and strive for a nurturing relationship, but must carry out his or her fiduciary responsibilities in a manner that reflects the guardian's role.⁸

3.3 The guardian may not engage in sexual relations with the ward.

STANDARD 4: The Guardian's Relationship with Family and Friends of the Ward

4.1 Recognizing the value of family and friends to the quality of life, the guardian shall encourage and support the ward in maintaining contact with those individuals who are known to the guardian. The guardian shall assist in maintaining or reestablishing positive relationships with family and friends, except when doing so would not be in the best interest of the ward. In the latter case, the guardian must document the reasons why the guardian believes it is not in the best interest of the ward.

4.2 The guardian shall treat the family and friends of the ward with respect and courtesy and communicate with them regularly and effectively.

4.3 The guardian should regularly and effectively communicate permitted medical information and other major decisions (i.e. change in residence) to immediate family and friends of the ward when doing so is in the best interest of the ward. The guardian should consider suggestions of immediate family and friends of the ward when making such decisions, provided the decisions are not contrary to the prior order of the probate court.

⁷ *In re Rauscher*, 40 Ohio App. 3d 106, 531 N.E. 2d 745 (1987) (The probate court has jurisdiction over a guardian's expenditures of a ward's funds.); See generally *Ohio C.P. Sup. R. 73* (Guardian compensation)

⁸ *R.C.* §§ 2111.14; 2111.13 (Guardian's duties)

4.4 The guardian shall notify known family members and friends identified by the ward when it is necessary to dispose of the ward's personal property of nominal value. If no controversy exists, the guardian shall allow family members and friends the opportunity to obtain possession of small items, particularly those of sentimental value.⁹

STANDARD 5: The Guardian's Relationship with Other Professionals/Providers

5.1 The guardian shall treat all professionals with courtesy and respect and shall strive to enhance cooperation on behalf of the ward.

STANDARD 6: The Guardian's Decision-Making

6.1 The guardian shall make decisions in the ward's best interest as required by state and federal law, by probate court orders, or by local rules of the probate court.¹⁰ "Best interest" means a decision that would be made by a reasonable person in the same circumstances as the ward. In determining the ward's best interests, the guardian shall:

- ❑ Determine if the ward has a current preference, and defer to that preference unless that preference would be harmful to the ward or contrary to prior orders of the probate court;
- ❑ Consider any evidence of the ward's stated preferences if the ward is unable to state a preference and make the decision consistent with those preferences unless those preferences would be harmful to the ward or contrary to the prior orders of the probate court; and
- ❑ Consider the religious and moral views of any available immediate family and/or other known significant relationships, if the ward has never been competent to make decisions or indicate preferences independently.

6.2 Decisions of the guardian on behalf of the ward shall be made using the principles of informed consent and shall be well documented. The guardian has a duty to use due diligence in making decisions. The guardian shall gather information, weigh the risks and benefits of the decision, shall discuss the situation with the ward to determine current preferences, if possible, and shall consider those preferences, including any advance directives completed by the ward, in reaching the decision, provided that the decision is not contrary to the prior orders of the probate court.

6.3 The guardian stands in place of the ward when specified by state and federal law and is entitled to the same information the ward would have received if he or she were competent.

6.4 The guardian shall maintain a relationship with appropriate professionals and shall seek an independent opinion from them when necessary to make a decision based on the principles of informed consent.

⁹ See generally *R.C. § 2111.14* (guardian's duty to manage estate, pay/collect debts)

¹⁰ *R.C. § 2111.14(B)*.

6.5 In extraordinary medical circumstances, the guardian should seek ethical, legal and/or medical advice from qualified experts to assist in clarifying the issues and principles involved.¹¹ Where there is a dispute regarding termination of treatment, the dispute shall be immediately brought to the probate court for the purpose of determining the best interest of the ward.

6.6 To determine where the ward will reside, the guardian shall evaluate whether the proposed residence is the least restrictive, most integrated community setting that is appropriate to the needs of the ward. The guardian shall report the proposed residence to the probate court, and shall obtain prior approval of the probate court before changing the residence of the ward, unless a delay in obtaining prior approval would affect the health and safety of the ward. In such event, the guardian shall notify the probate court in writing within 3 days indicating the change of residence and the reasons for the change.

The county of residence of a ward shall be determined by considering the last county of residence that the prospective ward was able to select prior to losing the cognitive ability to choose.

STANDARD 7: Least Restrictive Alternative¹²

7.1 The guardian shall carefully evaluate the alternatives that are available and shall choose the alternative that best meets the needs of the ward, while placing the least restrictions on his or her freedom, rights, and ability to control his or her environment. The guardian must develop a balance between maximizing independence and maintaining the ward's protection and safety. The guardian shall strive to know the ward's preference and shall document any complaints of the ward regarding less restrictive alternatives and immediately report the complaints in writing to the probate court.

7.2 In determining the least restrictive alternative, the guardian shall consider assessments of the ward's needs as determined by specialists with expertise and experience in the ward's area of disability and need. This may include obtaining an independent assessment of the ward's functional ability, the ward's health status, and the ward's care needs.

STANDARD 8: Self-Determination of the Ward

8.1 The guardian shall provide the ward with every opportunity to exercise those individual rights that the ward is capable of exercising with the goal of maximizing the self-reliance and independence of the ward.

8.2 The guardian shall understand and advocate for services focused on what the ward wants and needs to reach his or her full potential, often referred to as "person-centered" planning.

¹¹ R.C. § 2113.13(A)(1)(the guardian has the duty to protect and control the person of the ward)

¹² R.C. § 2111.02(C)(6)(The court may deny a guardianship based upon a finding that a less restrictive alternative to guardianship exists)

8.3 The guardian shall not deny access to the ward to governmental entities charged with investigating complaints filed by the ward or interested parties on the ward's behalf.¹³

8.4 The guardian shall assist the ward in gaining access to the probate court if the ward is requesting a review of the guardianship as provided for in the Ohio Revised Code.

8.5 The guardian has an affirmative duty to monitor the ward's abilities and approach the probate court seeking a reduction in the guardian's authority if the ward has improved his or her functional abilities or termination if the court determines that the ward has regained competency.

8.6 Decision making for a ward requires knowledge of what is important to the ward as well as understanding the ward's personal history, family background, ethnicity and religious beliefs. The guardian shall consider the ward's attitudes regarding: illness, pain, and suffering; death and dying; quality of life; societal roles and relationships; and funeral and burial customs, and shall document the information provided by the ward.

If the ward is no longer capable of providing information, the guardian has an affirmative duty to research these areas and to reach decisions that are in concert with the ward's beliefs and ethnicity rather than those of the guardian and to document the basis for the decisions.

8.7 The guardian must be sensitive to and be aware of a ward's right to a full range of interpersonal relationships. The guardian must take steps to ensure that the relationships are not abusive or exploitive of the ward, and that the ward's health and well-being are protected. Any relationships that are abusive or exploitive of the ward shall be immediately reported to Adult Protective Services and to the probate court.

STANDARD 9: Confidentiality

9.1 The guardian shall follow applicable state and federal law, probate court orders, and local rules of the probate court pertaining to confidentiality.

9.2 The guardian shall respect the ward's privacy and dignity, and shall keep the ward's personal and financial information confidential unless required to be reported to the probate court as a public record. The guardian shall maintain the confidential nature of personal identifiers.

9.3 The guardian may disclose or assist the ward in providing information to the ward's immediate family when it is in the best interest of the ward. Disclosure of information shall be limited to what is necessary and relevant to the issue being addressed. Conversely, the guardian may refuse to disclose information where it is not in the best interest of the ward.

¹³ E.g. R.C. §§ 5123.60-604

STANDARD 10: Duties of the Guardian of the Person¹⁴

10.1 The guardian is a coordinator and monitor of services provided to the ward. The guardian shall maintain a working knowledge of services available in the community and stay current with changes in resources to ensure that the ward receives the most appropriate services.¹⁵

10.2 The guardian shall make reasonable efforts to identify medical, psychological, therapeutic, and social services, training, education, social and vocational opportunities and secure those that are immediately necessary for the health and welfare of the ward. These opportunities shall address the ward's specific needs and shall be provided in the least restrictive environment and that will maximize the ward's potential for self-reliance and independence. The guardian shall coordinate the medical and services plan with the financial plan and shall obtain prior approval of the probate court by judgment entry.¹⁶

10.3 The guardian shall seek prior probate court approval by judgment entry when filing for a civil commitment, a divorce, or another extraordinary action concerning the best interest of the ward.

10.4 The guardian shall file all reports required by state and federal law, regulations, local rules of probate court, or probate court orders. The report shall be timely filed and shall include a recommendation for limitation or termination of the guardianship when the ward is no longer incompetent and in need of a guardian as specified in the Ohio Revised Code, or when there is a less-restrictive alternative available such as conservatorship.

10.5 The guardian shall develop a written guardianship plan setting goals for meeting the ward's needs. The plan should be based on a functional assessment that identifies the ward's strengths and needs, and areas the guardian should address. This plan shall be updated and filed with the guardian's annual report to the probate court.

10.6 The guardian shall make an inventory of all legal documents including, but not limited to, wills, trusts, deeds and advance directives, such as, powers of attorney, living wills, organ donation statements or other indications of the ward's wishes prior to incompetence and shall file the inventory of documents with the probate court.

¹⁴ See generally *R.C.* § 2111.13

¹⁵ *R.C.* § 2111.13(C) "A guardian of the person may authorize or approve the provision to the ward of medical, health, or other professional care, counsel, treatment, or services unless the ward or an interested party files objections with the probate court, or the court, by rule or order, provides otherwise."

¹⁶ *R.C.* § 2111.13(C)(ward or other objecting party must file an objection with the probate court in order to block an authorization or approval for services by the guardian)

10.7 The guardian shall meet with the ward in person at least two times annually, or more often as determined by the appointing court, or as needed to promote the best interests of the ward. The guardian shall talk directly with the ward in private. The guardian shall assess the ward's physical and mental condition and limitations and shall assess the appropriateness of the ward's current living arrangements. The guardian shall also assess the need for any additional services and shall advise the probate court in writing if the ward's level of care is not being met.¹⁷

10.8 The guardian shall regularly examine all services, charts and evaluations to assure that care plans are being followed and all the needs of the ward are being provided. The guardian shall maintain and document communication with service providers attending to the ward. The guardian shall assess the overall quality of services provided to the ward, using accepted regulations and care standards or guidelines and shall correct deficiencies when care is found to be deficient.¹⁸

10.9 In cases where they are different individuals, the guardian of the person shall regularly consult with the guardian of the estate in order to maintain eligibility for all public benefits for which the ward is eligible. The guardian of the estate shall only expend the ward's assets to support and maintain the ward and qualify the ward for public benefits when the assets are not sufficient to support the ward.

STANDARD 11: Conflict of Interest: Ancillary and Support Services

11.1 The guardian shall avoid conflicts of interest or the appearance of impropriety when dealing with the needs of the ward. The appearance of impropriety or conflict of interest arises where the guardian has some personal or business interest that can be perceived as self-serving, self-dealing or adverse to the best interest of the ward.¹⁹

11.2 A guardian shall not provide direct services to the ward except as otherwise provided in this standard. A guardian may provide direct services to the ward if the probate court has determined that it is in the best interest of the ward and the provider is related to the ward by blood or marriage, or the guardian can demonstrate unique circumstances indicating that no other qualified provider is available to provide the service. Reasons for the exception must be documented and the direct services shall be approved by the probate court by judgment entry. Also, the guardian shall require that fees for direct services are reasonable and billed separately by an itemized statement listing the services provided, the amount of time expended, and the charges for that time. The itemized statement shall not be paid from the ward's assets until approved by the probate court by judgment entry.

¹⁷ R.C. § 2111.06 "A guardian of the person shall ... provide for the maintenance of the ward"; See also R.C. § 2111.13.

¹⁸ R.C. § 2111.13 (Guardian's duties to authorize or approve the provision to the ward of medical, health, or other professional care, counsel, treatment, or services).

¹⁹ See generally *In re Gilfillen*, 2003 Ohio 3011, P2-P3 (Ohio Ct. App., Franklin County June 12, 2003); *Sechler v. Market*, 1996 Ohio App. LEXIS 5845 (Ohio Ct. App., Franklin County Dec. 24, 1996) (Courts may adjust or disallow guardianship where a conflict of interest exists). See also R.C. § 2111.091. (Restrictions on attorney representing guardian).

11.3 It is a conflict of interest for any residential facility, or its employees, or waiver program, or its employees, to serve as guardian for any resident, or recipient of services, and under no circumstances shall Letters of Guardianship be issued to them.

11.4 The guardian must remain free of any conflict of interest in order to challenge inappropriate or poorly delivered services and to advocate for the best interest of the ward.²⁰ Except as provided for by R.C. §§ 5123.55-59, a guardian shall receive no incentives or compensation from a direct service provider. Upon becoming aware of any actual or apparent conflict of interest, a guardian shall immediately take action to resolve the conflict and shall immediately notify the probate court in writing describing the conflict.

11.5 The guardian may not employ the guardian's own friends or family to provide services for a profit or fee unless the guardian discloses the purpose of this arrangement to the probate court, and the court approves the provision of the services by judgment entry.

STANDARD 12: Duties of the Guardian of the Estate²¹

12.1 The guardian of the estate shall manage the estate primarily for the benefit of the ward, and then followed by those for whom the ward is legally and financially responsible.²² The guardian shall provide competent management of the ward's assets and shall supervise all income and disbursements of the estate.^{23 24} The guardian shall post and maintain a bond with surety sufficient for the protection of the ward's estate unless the probate court reduces or excuses the bond by judgment entry. The guardian shall maintain liability insurance covering the guardian and his or her employees in an amount approved by the probate court by judgment entry.

12.2 The guardian of the estate must prepare an inventory of all property for which he or she is responsible.²⁵ The inventory shall itemize and appraise all the assets owned by the ward as of the date of the appointment and as directed by the probate court. The inventory shall be filed with the probate court

²⁰ See generally R.C. § 2111.13

²¹ See generally R.C. § 2111.14

²² R.C. § 2111.14(B) & (D) (the guardian has a duty to manage the estate for the best interest of the ward and shall obey all orders and judgments of the courts touching the guardianship)

²³ R.C. § 2109.302(A) (the guardian is required to submit an itemized statement on all receipts including all disbursements and distributions made during the accounting period)

²⁴ *Schneider v. Kelley*, 156 Ohio App. 3d 469, 806 N.E. 2d 610 (2004)(guardian was replaced after the guardian engaged in questionable practices with the ward's assets).

²⁵ R.C. § 2111.141 (The guardian may be required by the court to provide evidence as to the accuracy of the inventory report. The court may order the guardian to produce evidence showing that the guardian has knowledge of assets that belong to the ward, but are not included in the inventory. The court may assign a court employee or appoint an examiner to verify an inventory and file a report with the court. If a report is filed, the court holds a hearing on the report. The costs associated with verifying the inventory are paid by the ward's estate. If the court finds that the guardian wrongfully withheld information from the court, then the guardian must pay the costs of verifying the inventory.)

within ninety (90) days of the appointment of the guardian.²⁶ The guardian shall advise the probate court of any recent transfers of the ward's assets that reduce the size of the ward's estate.

12.3 The guardian of the estate shall keep the ward's assets separate from the guardian's personal assets. The guardian shall deposit the ward's money in a guardian's account as provided in 2109.41 of the Ohio Revised Code.²⁷

12.4 The guardian of the estate shall keep accurate records of all transactions, including, but not limited to, receipts, bank statements, cancelled checks, paid statements, and shall fully account for all the assets in the ward's estate as required by law and local rules of the probate court. The guardian shall employ prudent accounting procedures as directed in the Ohio Uniform Prudent Investor Act and shall limit investments as required by state law.²⁸

12.5 The guardian of the estate shall file claims against others on behalf of the ward's estate as deemed in the best interest of the ward and shall defend against actions that would result in a loss of estate assets.²⁹ A non-attorney guardian shall not engage in conduct that constitutes the unauthorized practice of law and shall employ the services of an attorney to undertake appropriate legal actions on behalf of the ward.

12.6 The guardian of the estate shall prepare a financial plan and budget that corresponds with the care plan for the ward, and shall communicate with and coordinate with the guardian of the person if one has been appointed. The guardian of the person shall direct the use of the assets in the best interest of the ward.³⁰

12.7 The guardian of the estate may allow the ward the opportunity to manage funds to his or her ability. The guardian shall, when appropriate, make funeral arrangements for the ward, with the participation of the ward to the extent that it is possible. When in the best interest of the ward, the guardian shall consult with and communicate with the ward's immediate family regarding funeral arrangements for the ward.

12.8 The guardian may not sell, encumber, convey or otherwise transfer property of the ward, or an interest in that property, without prior approval by judgment entry of the probate court.³¹ The guardian shall advise the probate court of any evidence regarding the ward's view about the disposition of the ward's property.

²⁶ R.C. § 2111.14(A)

²⁷ *In re. Clark*, 2000 Ohio 2572 (Ohio Ct. App., Mahoning County Sept. 28, 2000) (Guardian may be held liable for co-mingling ward's funds).

²⁸ See R.C. § 5809.01(A)(1)

²⁹ R.C. § 2111.14 (E) (the guardian has the duty bring suit for the ward when a suit is in the best interests of the ward); *Ohio C.P. Sup.R. 69* (describes authorization and procedure for guardian to address applications for settlement of a claim in favor of or against an adult ward)

³⁰ R.C. § 2111.13

³¹ R.C. § 2111.19 (real estate); 2111.20 (personal estate)

12.9 In considering whether it is in the best interest of the ward to dispose of the ward's property, the guardian shall consider whether the sale of the property will benefit or improve the quality of the ward's life. The guardian shall research appropriate alternatives to the sale of the property and the benefits versus the liability and costs of maintaining the property. The guardian shall sell the ward's assets when to do so will qualify the ward for public assistance, considering both income and asset eligibility criteria, as well as any disqualification period. The guardian shall document the research process for these decisions.

12.10 The guardian must provide and maintain insurance coverage, as appropriate, for property in the ward's estate.³²

STANDARD 13: Conflict of Interest in Estate, Financial and Business Services

13.1 The guardian shall not commingle his or her assets with assets of the ward. All of the ward's money shall be deposited in a guardianship account as described above.

13.2 The guardian shall not sell, encumber, convey, or otherwise transfer the ward's real or personal property, or any interest in that property, to himself or herself, a spouse, next of kin, coworker, employee, an agent, or an attorney, or any corporation, agency or trust in which the guardian has a personal or business interest. Likewise, the guardian shall not sell or otherwise convey to the ward's estate any property from any of these persons or entities.

13.3 The guardian shall not loan or give money or objects of value from the ward's estate, may not use the ward's assets to support other individuals, or borrow from or lend funds to the ward without prior approval of the probate court by judgment entry.³³

STANDARD 14: Termination and Limitation of the Guardianship

14.1 Limited guardianship is preferred over a plenary guardianship if it will meet the ward's needs. It is a less restrictive alternative and allows the ward to continue to make decisions in areas not limited by the guardianship. In initiating guardianship, limited authority shall be considered.

14.2 The guardian has an affirmative duty to report to the probate court improvements in the ward's ability to make decisions and to request limits on his or her authority, or termination of the guardianship if the ward's ability to make decisions and function independently has been regained.³⁴

³² R.C. § 2111.50

³³ See generally, R.C. § 2111.20

³⁴ R.C. § 2111.47; See also, *In re Breece*, 173 Ohio St. 542 (1962) (termination proceedings determine whether the ward presented "satisfactory proof that the necessity for the guardianship no longer exists," and where such proof exists the court is under a mandatory duty to terminate the guardianship.)

14.3 The guardian should also seek termination of the guardianship when it no longer benefits the ward and immediately notify the probate court when the ward has died.³⁵

14.4 When the ward's principle income is from governmental entities and there is a payee for that income and there are no other significant assets or income, the guardian should seek termination of the guardianship of the estate.

14.5 An emergency guardianship or an emergency order pursuant to 2111.02(B)(3) of the Ohio Revised Code is an extreme invasion of a person's due process rights, and, therefore, the applicant must submit evidence of an immediate danger to the person or estate of the individual. The discharge of a ward from a care facility is not considered an immediate danger to the person or estate of the individual.

STANDARD 15: Guardianship Fees³⁶

15.1 Guardians are entitled to reasonable compensation for services actually performed by the guardian. All fees related to the duties of the guardian must be reviewed and approved by the probate court by judgment entry.³⁷ Fees must be reasonable and related only to the guardian's duties.

15.2 Fees or expenses charged by the guardian shall be documented by itemized billings maintained by the guardian. The level of difficulty of the service should be reflected in a differentiation of the fees charged. Fees in excess of those considered by the probate court to be usual or ordinary shall be justified by a writing which itemizes the services provided, the time expended on the services, and the proposed charges for the services.

15.3 The guardian's fees should be in line with wages, salaries and overhead costs within the local community for similar services and shall be in accordance with state and federal law, probate court orders, and the local rules of the probate court.

15.4 Reimbursement arrangements other than hourly "fee for service" rates should be considered when they could improve quality and accountability and are authorized by the probate court by judgment entry.

³⁵ See *R.C.* § 2111.47

³⁶ See *Ohio C.P. Sup. R. 73* (addressing guardian and co-guardian compensation, designating fees to be set by local court, requiring itemized statement for reimbursement for expenses and compensation, compensation for extraordinary services and authorizing the court to require a hearing for the reimbursement application at which time the compensation or reimbursement may be denied or reduced)

³⁷ See generally, *R.C.* § 2111.50

STANDARD 16: Management of Multiple Guardianship Cases

16.1 Guardians having multiple, non-family wards shall limit their caseloads to a size that allows guardians to accurately and adequately support and protect wards, that allows at least two personal visits a year with each ward as provided by Standard 10.8, and allows regular contact with all service providers.

STANDARD 17: Quality Assurance

17.1 Guardians having multiple, non-family wards shall actively pursue and facilitate outside, independent review of their services. The review should occur at least every three years and shall include a review of a representative sample of cases, provided the review does not violate the guardian's duty of confidentiality to the ward. It should also include a review of policies, procedures and records, and should include visits with a sample of the guardian's caseload. If a funding entity or independent certification entity already reviews the services and includes those elements, that review can be used to meet this requirement. A quality assurance review does not replace other monitoring requirements established by the appointing probate court.

STANDARD 18: Training

18.1 To be eligible to serve as a guardian with multiple, non-family wards, an applicant shall successfully complete a pre-service training course and, thereafter, successfully complete a continuing education course in each succeeding calendar year to be eligible for continued appointment.

18.2 The pre-service training course shall be at least six (6) hours in length, and the continuing education shall be at least three (3) hours in length.

18.3 The Ohio Association of Probate Judges and the Ohio State Bar Association will collaborate in the development of training programs to meet the requirements for a pre-service training course and a continuing education course. The courses shall include:

- (a) the aging process and elder issues involving medical care and assessment, informed consent, treatment options, end of life decisions, and other topics necessary to extend and improve the quality of life of adult wards;
- (b) communication and diversity courses including, but not limited to, communication skills with adults, interviewing skills, methods of critical questioning, use of open-ended questions, understanding the perspective of older adults, sensitivity, building trust, multi-cultural awareness, and confidentiality, decision making, quality assurance, and caring for multiple wards;
- (c) preventing abuse, neglect, and exploitation of elderly wards including, but not limited to, assessing risk, safety, and reporting;

- (d) family issues including, but not limited to, promoting independence and self-reliance of elderly wards, “person-centered” planning, family dynamics, substance abuse and its effects, basic psychopathology for adults, domestic violence and its effects; and
- (e) legal compliance including, but not limited to, records and record keeping, investing assets or income, responsibility to and role in the probate court, mediation and other types of dispute resolution, types and termination of guardianship and guardian fees.

18.4 If a guardian fails to complete a three (3) hour continuing education course within any calendar year, that person shall not be eligible to serve as a guardian until this continuing education requirement is satisfied. If the person’s gap in continuing education is three (3) calendar years or less, the person is eligible to serve after completing a three (3) hour continuing education course offered under this recommendation. If the gap in continuing education is more than three (3) calendar years, that person must complete a six (6) hour pre-service training course to be eligible for an appointment.

18.5 A person who is currently serving as a guardian on the effective date of this recommendation, or who has served during the five (5) years immediately preceding the effective date, shall have one (1) year from the effective date to obtain the required six (6) hour pre-service training in order to avoid removal from the probate court’s list of eligible guardians.

18.6 Attendance at guardian training programs approved by the Ohio Association of Probate Judges or the appointing probate court as a pre-service training program, at any time prior to the effective date of this recommendation, shall be deemed in compliance with the pre-service training requirement.

STANDARD 19: Eligible Guardians Record

19.1 To ensure that only eligible persons are appointed guardians for multiple, non-family wards, the requirements of this recommendation are met if the probate court appointing guardians shall do all of the following:

- (a) maintain a record of persons who have successfully completed the pre-service training course and persons who have successfully completed the continuing education course;
- (b) require all applicants to annually submit a certificate and/or other satisfactory proof of compliance with the training requirements identified under Standard 18;
- (c) require all applicants to submit a resume or information sheet stating the applicant’s training, experience, and expertise which demonstrates the applicant’s ability to successfully perform the responsibilities of a guardian for multiple, non-family wards;
- (d) require all applicants to submit or cause to be submitted a criminal and civil background check and/or other satisfactory proof of the applicant’s fitness to serve as a guardian;

- (e) require all applicants to certify annually that they are not aware of any circumstances that would disqualify them from serving including, but not limited to, a criminal or civil complaint, bankruptcy, breach of fiduciary duties, conflict of interest, or delinquent filings with the probate court; and
- (f) at least annually, review the probate court's record to determine that all guardians of multiple, non-family wards are in compliance with the training and education requirements of this recommendation and local rules, that the guardians have performed satisfactorily on appointments during the preceding calendar year and are otherwise qualified to serve.

STANDARD 20: Probate Judge as Superior Guardian

20.1 Nothing in these standards shall automatically qualify a person to serve as guardian for another person. It is the duty and responsibility of the probate court to appoint only suitable guardians for wards on a case-by-case basis. The probate court must first determine that the proposed ward is incompetent before considering a suitable guardian. These standards are intended to assist the probate judge in the exercise of his or her discretion in appointing suitable guardians, to improve monitoring of guardianships, and to better serve as the superior guardian for wards.

Requested Actions:

- *The Supreme Court adopt the proposed Ohio Minimum Standards for Guardians as part of the Rules of Superintendence for Ohio Courts.*
- *The Subcommittee on Adult Guardianship work with the Ohio Association of Probate Judges to form an interdisciplinary workgroup to explore the most appropriate method for developing and implementing the training requirements contained in Standard 18.*