

COLORADO OFFICE OF PUBLIC GUARDIANSHIP
POLICY 6: PROGRAM SERVICES STANDARDS

Policy 6. Program Services Standards

The Colorado Office of Public Guardianship's (OPG) design and operation shall follow the tenets of the National Guardianship Association (NGA) Ethical Principles and the NGA Standards of Practice to assure that these principles guide program design and day to day services. National Guardianship Association Standards of Practice for Agencies and Programs Providing Guardianship Services Standards; National Guardianship Association Ethical Principles; National Guardianship Association Standards of Practice.

Policy 6.1. Applicable Law and General Standards

- a. **The Office of Public Guardianship Act**, C.R.S. §§ 13-94-101 – 13-94-111 (2017, 2019).
<https://advance.lexis.com/api/permalink/5e186416-ff24-4eab-afa0-ac6ec0dd0943/?context=1000516>

Highlights:

- Provide guardianship services to indigent and incapacitated adults who reside in the 2nd Judicial District/Denver County:
 - (A) Have no responsible family members or friends who are available and appropriate to serve as guardian;
 - (B) Lack adequate resources to compensate a private guardian and pay the costs associated with an appointment proceeding;
 - (C) Are not subject to a petition for appointment of guardian filed by a county adult protective services unit or otherwise authorized by section § 26-3.1-104, C.R.S.
- Gather data to help the general assembly determine the need for, and the feasibility of, a statewide office of public guardianship;
- The office is a pilot program, to be evaluated and then continued, discontinued, or expanded at the discretion of the general assembly in 2021 [2023];
- Director Report due before or on January 1, 2023;

- Treat liberty and autonomy as paramount values for all state residents;
- Permit incapacitated adults to participate as fully as possible in all decisions that affect them; and
- Assist incapacitated adults to regain or develop their capacities to the maximum extent as possible.

b. Colorado Probate Statutes

1. Colorado Probate Code – General Provisions, Definitions, Jurisdiction, §§ 15-10-101, et. seq.
 - i. Probate Glossary. If a conflict exists between a term defined under the Colorado Probate Code and the National Guardianship Association, the Colorado Probate Code definition supercedes.
2. Colorado Probate Code – Persons Under Disability – Protections
 - i. General Provisions, C.R.S. §§ 15-14-101 – 15-14-122;
 - ii. Guardianship of Incapacitated Adults, C.R.S. §§ 15-14-301 – 15-14-319;
3. Colorado Probate Code – Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act, C.R.S. §§ 15-14.5-101, et seq.

c. Colorado Rules of Probate Procedure, Supreme Court Rules Chapter 27 (2017).

d. National Guardianship Association (NGA) Standards of Practice for Agencies and Programs Providing Guardianship Services. See Policy 2.1.

e. NGA Ethical Principles. See Policy 2.2.

f. NGA Standards of Practice. See Policy 2.3.

Policy 6.2. Eligibility and Prioritization

Eligibility criteria is established pursuant to § 13-94-102 (2)(l), C.R.S. (2017): Provide guardianship services to indigent and incapacitated adults who reside in the 2nd Judicial District/Denver County:

- (A) Have no responsible family members or friends who are available and appropriate to serve as guardian;
- (B) Lack adequate resources to compensate a private guardian and pay the costs associated with an appointment proceeding;
- (C) Are not subject to a petition for appointment of guardian filed by a county adult protective services unit or otherwise authorized by section § 26-3.1-104, C.R.S.

Prioritization will be considered when accepting new cases as the number of cases in which services have been requested exceeds the number of cases in which public guardianship services can be provided. The Colorado Office of Public Guardianship (OPG) case acceptance priorities for an adult residing within the 2nd Judicial District and:

1. Individuals in need for immediate medical decision making, including individuals needing safe discharge/placement and must have been a Denver County/2nd Judicial District resident prior to institutionalization or hospitalization; or
2. At significant risk of harm from abuse, exploitation, abandonment, neglect or self-neglect; or
3. In imminent danger of losing or suffering a significant reduction in public services that are necessary to live successfully in the most integrated and least restrictive environment that is appropriate for a specific individual; or
4. Experiencing significant mental health issues creating a significant risk of harm from abuse, exploitation, abandonment, neglect or self-neglect; or
5. Homeless.

National Guardianship Association Standards of Practice for Agencies and Programs Providing Guardianship Services Standards I, II, V, and VI; National Guardianship Association Ethical Principles; National Guardianship Association Standards of Practice.

For the Colorado OPG purposes, a **homeless individual**, is defined as an individual who lacks a fixed, regular, and adequate nighttime residence, further meaning (*See 42 U.S. Code § 11302. General definition of homeless individual*):

- a. Has a primary nighttime residence that is a public or private place not meant for human habitation;

- b. Is living in a publicly or privately-operated shelter designated to provide temporary living arrangements; or
- c. Is exiting an institution where she has resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution and must have been a Denver County/2nd Judicial District resident prior to institutionalization or hospitalization.

Policy 6.3. Referral and Intake Process

Referrals and requests for a Public Guardian will be completed via an on-line process stated on the Colorado Office of Public Guardianship (OPG) website. It will be a secure and confidential process. For individuals that do not have access or the ability to complete a referral on-line, the Colorado OPG staff will assist those individuals by phone. National Guardianship Association Standards of Practice for Agencies and Programs Providing Guardianship Services Standards I, II, V, and VI; National Guardianship Association Ethical Principles; National Guardianship Association Standards of Practice.

A referring party may be an attorney, a social worker, or other party wishing to request a Public Guardian for a client or individual. As the Colorado OPG cannot file petitions as per statute, a referring party must have the legal resource to file a petition for guardianship.

- a. A referral will contain the following information. Information requested is necessary to ensure the Colorado OPG serves statutorily-mandated eligible individuals. Pursuant to C.R.S. 13-94-102 The Colorado OPG is to serve individuals that are:
 1. Adults (21 years of age or older);
 2. Indigent;
 3. Incapacitated; and
 4. Have no responsible family or friends appropriate or able to serve as guardian

Additional information requested is to assist the Colorado OPG Director with completing the Director Report and complying C.R.S. 13-94-105, C.R.S. 13-94-107.

Said information will be automatically populated into the Colorado OPG Case Management System from the online referral process:

- A. Demographic information of AIP
 - Name of Alleged Incapacitated Person (AIP)
 - Social Security Number of AIP or citizenship status of AIP
 - Address or homelessness of AIP
 - AIP county of residency (Denver only at this time)
 - Date of birth of AIP (must be 21 or older)
 - Race/Ethnicity

- Gender
- Veterans Status
- Confirmation of AIP 21 years of age or older
- Confirmation of no responsible family members or friends who are available and appropriate to serve as guardian of AIP
- Confirmation that AIP does not have funds to pay for guardianship services
- Confirmation of AIP not involved in any pending guardianship proceedings by adult protective services

B. Income and asset information of AIP

- All income sources of AIP – employment, SSA benefits, etc.
 - Ownership of real property and address and associated liabilities
 - Ownership of a vehicle and associated liabilities
 - Credit Cards and associated liabilities
 - Trust and associated documentation
 - ABLE account and associated documentation
- The basis of indigency follows C.R.S. § 13-16-103 and the Supreme Court of Colorado Chief Justice Directive (CJD) 98-01. The requested information follows Form JDF 205. The Income Eligibility Guideline are as established by the U.S. Department of Health and Human Services (See Federal Register 84 CFR 1167, 02/01/2019) and will be updated accordingly.
 - If the AIP's income is at or below the income eligibility guidelines and he or she has liquid assets of \$1,500.00 or less, as determined by the provided referral information, the AIP is indigent and eligible for public guardianship services.
 - If the AIP's income is up to 25% above the income eligibility guidelines and he or she has liquid assets of \$1,500.00 or less, and the monthly expenses equal or exceed the monthly income, as determined by the OPG Indigency Evaluation Form, the AIP is indigent and eligible for public guardianship services.
 - **Income** is gross income from all members of the household who contribute monetarily to the common support of the household. Income categories include wages, salary, commissions, profits, interest/investment earnings, social security benefits (including disability), Supplemental Security Income (SSI), maintenance (alimony), pension, workers' compensation, and unemployment benefits. NOTE: Income from roommates should not be considered if such income is not commingled in accounts or otherwise combined with the AIP's income in a fashion

which would allow the applicant proprietary rights to the roommate's income. Gross income does not include TANF payments, food stamps, subsidized housing assistance, veteran's benefits or child support.

- **Liquid assets** include cash on hand and in accounts, stocks, bonds, certificates of deposit, equity, and personal property or investments which could readily be converted into cash without jeopardizing the AIP's ability to maintain home or employment.

- **Expenses** for nonessential items such as cable television, club memberships, entertainment, dining out, alcohol, cigarettes, etc. shall not be included.

C. **Incapacity information of AIP**

- Primary Diagnosis
- Secondary Diagnosis
- Additional Diagnoses
- History of substance abuse
- Current corroborating evaluation and medical evidence regarding diagnosis and incapacity including specific description of how the diagnosis limit the AIP that deems them as incapacitated

D. **Benefits information of AIP**

- Name and contact information of caseworker
- Active or denied Food stamps
- Active or denied AABD
- Active or denied Medicaid
- Active or denied Medicare
- Social Security Administration (SSA) benefits and SSA Representative Payee contact information
- Veteran's Administration (VA) benefits and VA Fiduciary contact information

E. **Family member or friend availability and appropriateness information**

- Name and contact information of all known family members
- Specific steps taken to contact each family member and to assess appropriateness
- Name and contact information of known interested friends
- Steps taken to contact each interested friend and to assess appropriateness

F. Attachments

- Proposed Petition, if available
- Evaluations, capacity and medical documentation
- Financial documentation

G. AIP pending criminal or other civil proceedings

- Include case identification information and upcoming hearing, if applicable
- Criminal
- Divorce, child custody, child support
- Immigration

b. Incomplete Referrals

A referral will not be considered complete until all information is provided. The OPG will notify the referring party that the information was received and if it is considered complete or incomplete. The Colorado OPG may contact the referring party for clarifying information or if any information in the referral was marked as “unknown.”

An incomplete referral will be placed on an internal OPG register. The referring party has 30 days to complete the referral. At 30 days, the referral will automatically be closed and the Colorado OPG will not notify the referring party. A new referral will need to be completed if the party wishes to nominate the OPG.

c. Review of Referrals

If the Colorado OPG does not have caseload capacity, a complete referral will be reviewed and documented in the Colorado OPG Case Management System. The Case Management System will send the referring party a notification that the Colorado OPG does not have caseload capacity.

If the Colorado OPG has caseload capacity, a complete referral will initially be reviewed for acceptance by the Colorado OPG Director and Staff Assistant. The Staff Assistant may contact the referring party for clarifying information or if any information in the referral was marked as “unknown.” The Colorado OPG Director and Staff Assistant will then review the complete referral with the potentially assigned Public Guardian. The Staff Assistant will document the case acceptance or declination in the Case Management System. The Case Management System will send the referring party a notification of acceptance or declination.

d. Back up Review of Referrals

If the Colorado OPG Director is unavailable due to a significant reason such as vacation or medical leave, the Staff Assistant and all Public Guardians will follow the review of referrals as a team.

e. Case Acceptance

The OPG will respond in writing within 5 business days as to whether the referral will be accepted or not.

The OPG will provide an Acceptance of Appointment so that the referring party may formally nominate the OPG and file the Acceptance along with the nomination.

The OPG will provide a letter of declination to the referring party when the OPG does not accept a case.

f. Streamlined Referrals

A streamlined referral process will be available to allow referring parties to submit referrals for clients residing outside of Denver County/2nd Judicial District and when the Colorado OPG does not have caseload capacity to accept new cases. The streamlined process is available on-line and phone.

Policy 6.4 Emergency Referrals and Emergency Guardian

The Colorado Office of Public Guardianship (OPG) will consider emergency referrals on a case-by-case basis and in consideration of Policy 6.5 Case Assignment and Weighting Procedure. The Colorado OPG serving as Emergency Guardian is generally disfavored and the use of Colorado OPG staff for this purpose should be reserved for extraordinary circumstances and when resources allow.

Policy 6.3 Referral and Intake Process will be used for emergency referrals. An emergency referral must meet the eligibility guidelines of Policy 6.2 Eligibility and Prioritization. Policy 6.5 Case Assignment and Weighting Procedure will apply to determining the availability of caseload capacity for acceptance of an emergency referral and for the Colorado OPG to serve as Emergency Guardian.

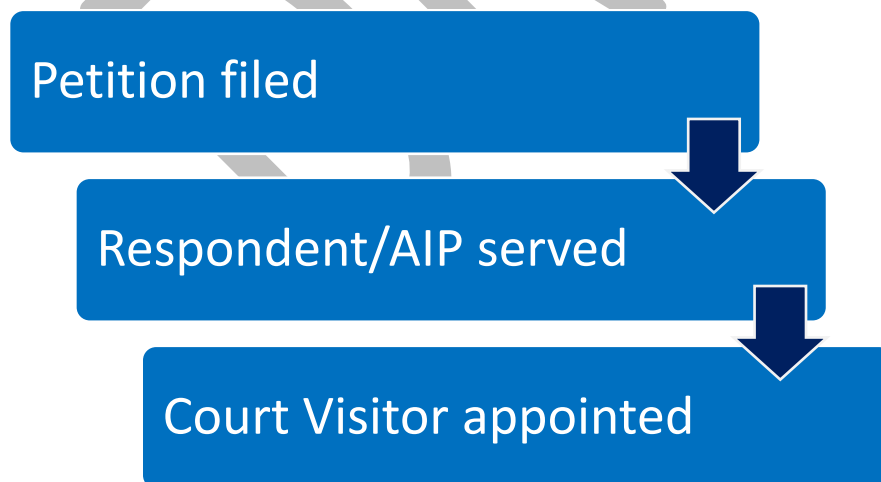
Prioritization for Emergency Referrals

The Colorado OPG will consider emergency referrals on a case-by-case basis.

- a. **Previously Accepted Referral.** The priority for accepting an emergency referral is that the Colorado OPG previously accepted the referral for nomination for a permanent guardianship, and
 1. The emergency referral meets the requirements of C.R.S. 15-14-312, and
 2. The emergency referral requires the immediate and urgent need for a medical proxy or medical decision-maker, and
 3. The emergency referral specifies the immediate and urgent need and that it involves an urgent and necessary medical procedure and/or decision, and
 4. The emergency referral specifies the steps taken to identify others to serve as emergency medical proxy or medical decision-maker.
- b. **Other Emergency Referrals.** The Colorado OPG will consider emergency referrals that have not been previously accepted for nomination for a permanent guardianship. These emergency referrals must meet a. 1-4. above for consideration.

The Colorado OPG will take appropriate actions and follow policies for ongoing case management (Policy 6.7. Ongoing Case Monitoring and Management) related to the identified emergency medical issue or as the Letters of Emergency Guardian allow.

POLICY 6.5. INITIAL COURT PROCESS AND FORMS





a. Withdrawal of Acceptance

If at any time prior to the court entering an Order Appointing the OPG as Guardian, should the OPG become aware that the AIP no longer meets eligibility criteria, the OPG will file a Withdrawal of Acceptance with the court.

b. Court Process After Acceptance

Once an Acceptance of Nomination is filed, The OPG is considered an Interested Party. The Staff Assistant will request a copy of the Court Visitor Report and all pleadings and documents will be secured and stored as per OPG Policy.

The designated Public Guardian will attend the evidentiary hearing. The Staff Assistant will request a certified copy of the Order of Appointment and the Letters of Guardianship, once available. Documents will be secured and stored as per OPG Policy.

c. Court Process After Appointment

- i. The designated Public Guardian will begin the process outlined in Policy 6.6. Individualized Guardianship Plans.
- ii. The Staff Assistant will prepare a second Acceptance of Appointment form which specifies the designated Public Guardian and file it with the court.

- iii. The Staff Assistant will prepare an Appointment of Designee form and file it with the court. If at any time there is a change in the designated Public Guardian, the Staff Assistant will prepare a Report of Change of Guardian Designee form and file it with the court.
 - iv. Objection: If the Colorado OPG needs to object to another legal party's motion, petition, etc., the Director will prepare the Objection. The Staff Assistant will file the Objection with the court.
 - v. General Motion: If the Colorado OPG needs to file a motion or request court intervention, the Director will prepare the Motion. The Staff Assistant will file the Motion with the court.
 - vi. Petition for Modification of Guardianship: If the Colorado OPG needs to modify the guardianship, the Director will prepare the Petition. The Staff Assistant will file the Petition with the court.
 - vii. Petition for Termination of Guardianship: If the Colorado OPG needs to terminate the guardianship, the Director will prepare the Petition. The Staff Assistant will file the Petition with the court.
- **The Public Guardian shall notify the Court immediately upon the death of a ward and/or a change in residency. A ward may not be moved from Colorado without prior court approval.**

d. List of Court Forms applicable to guardianships and Colorado OPG processes

- Rights of Respondent
- Notice of Hearing
- Court Visitor Report
- Acknowledgement of Responsibilities
- Notice of Appointment
- Acceptance of Office
- Order Appointing Guardian
- Letters of Guardianship
- Initial Guardian's Report
- Annual Guardian's Report
- Change of Address
- Notice of Death

- General Motion
 - Objection
 - Petition for Modification of Guardianship
 - Petition for Termination of Guardianship
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- If a reasonable accommodation is needed to access the courts, please contact the local ADA Coordinator. Contact information can be obtained from the following website:
http://www.courts.state.co.us/Administration/HR/ADA/Coordinator_List.cfm
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- The 2nd Judicial District – Probate Court Coordinator is Melissa Barnes at melissa.barnes@judicial.state.co.us

Policy 6.5. Case Assignment and Weighting Procedure

- a. The amount of work and involvement in the life of a person under guardianship differs depending on the type of service provided and the personal goals, needs and preferences of the individual. Factors such as geography, the type of case required, whether the person lives in a group setting, or in the community independently, all affect the difficulty of the caseload. National Guardianship Association Standards of Practice for Agencies and Programs Providing Guardianship Services Standards I - III, V, and VI; National Guardianship Association Ethical Principles; National Guardianship Association Standards of Practice 1 – 5, 10, 12 – 13, 23, and 24.
- b. Multiple, complex medical conditions may require more time from the individual Public Guardian advocating for an individual than for someone whose health is stable. The time required in money management services can be extensive, if bookkeeping and clerical functions are also included. One key to the dilemma of case overload is to identify duties that can be delegated to well-trained support staff. A pool of volunteers may be used to provide support services for stable, uncomplicated cases. However, the case assignment system is designed, it is critically important that the Colorado OPG identify the best use of the time of its employees and provide enough support to assure that the individual under guardianship is regularly visited and has access to the most appropriate support and advocacy when it is needed.

- c. Documents and information to assist in determining case assignment, case weighting, and caseload capacity:
 - 1. Referral information;
 - 2. Court Visitor Report and/or Guardian ad Litem Report;
 - 3. Collateral information and documentation; and
 - 4. The ongoing assessment documentation, including the Individualized Guardianship Plan (IGP), within the Case Management System (CMS).
- d. Court Visitor Report. The Court Visitor Report will be analyzed in the weighting process. The more documentation regarding issues of concern will likely result in a heavier “weight” to the case. As such, the Colorado OPG will consider this weight to determine whether the Public Guardian has capacity to accept the case at that time. This will be in relation to the other cases currently on the Public Guardian’s caseload.
- e. Ongoing Assessment. Similar to the initial Court Visitor Report, the Public Guardian will continue to monitor imminent risk and safety concerns within the CMS on cases to which he or she is already assigned. Information will be recorded and tracked within the CMS track progress made on such cases and to be aware of when such concerns are either heightened or lessened. If the Public Guardian has a caseload with several heightened cases, these cases will be given greater “weight” which may impact the current capacity for the Public Guardian to accept more cases at that time. If there is a mix of cases, the “weight” of the incoming case will be considered to determine if there is current capacity. If there are mostly cases where there are little to no imminent safety concerns, it is likely the pending cases will be accepted.
- f. The weighting of cases will be flexible and structured to allow for fairness of caseloads and for data-gathering purposes. A head count of case files is not usually a good indication of the actual work involved (adapted from Social Care Institute for Excellence, [Managing Practice, https://www.scie.org.uk/publications/guides/guide01/managing-work/caseload.asp](https://www.scie.org.uk/publications/guides/guide01/managing-work/caseload.asp)).
- g. Three categories of Public Guardian work input will be considered:
 - a. **Complexity:** this includes the number of other professionals involved with the Public Guardian and client. It recognizes the Public Guardian’s role in identifying and collaborating with professional networks, stakeholders and helping a client to make decisions about the client’s care, goals, and maintenance.
 - b. **Risk:** this considers the professional judgment required of the Public Guardian: decisions are to be made based on risk and safety assessment (IGP); the client’s situation may be a fast changing one; the work may be at a stage where professional anxiety is heightened because of lack of information or experience.

- c. **Travel:** this considers the whether the Public Guardian has to travel appreciable distances to undertake the work with a particular client.
- h. Caseload definitions and weighting:
- a. **Complexity**
 - i. **Tier 1 – Low Complexity:** Contact with other agencies and stakeholders is minimal, unproblematic or standard.
 - ii. **Tier 2 – Medium Complexity:** Contact with other agencies and stakeholders is changeable, requires initiation and/or ongoing maintenance.
 - iii. **Tier 3 – High Complexity:** Multiple or complex contact with other agencies and stakeholders requiring careful negotiation, advocacy, plan development or other high input.
 - b. **Risk:**
 - i. **Tier 1 – Low Risk:** No current risk involved, risk and safety assessment (IGP) is known and understood by all parties, including contingency plans negotiated.
 - ii. **Tier 2 – Medium Risk:** Risk and safety assessment (IGP) in process with options for action and decisions ready to be put into place.
 - iii. **Tier 3 – High Risk:** Current risk and safety are not assessed or a change in circumstances requires a new risk and safety assessment (IGP).
 - c. **Travel:**
 - i. **Tier 1 – Low Travel:** No travel outside of Denver County/2nd Judicial District on a monthly basis.
 - ii. **Tier 2 – Medium Travel:** Travel outside of Denver County/2nd Judicial District on more than a monthly basis. Unexpected travel outside of Denver County/ 2nd Judicial District more than 3 times a year.
 - iii. **Tier 3 – High Travel:** Travel outside of Denver County/2nd Judicial District on more than a monthly basis. Unexpected travel outside of Denver County/ 2nd Judicial District more than 6 times a year.

- iv. Tiers will change if the Colorado Office of Public Guardianship is expanded outside of the Denver County/2nd Judicial District.
- d. Caseload weighting
 - i. Low Weight: Combined Tier scores of 3
 - ii. Medium Weight: Combined Tier scores between 4-6
 - iii. High Weight: Combined Tier scores between 7-10
- i. The weighting of cases is designed to be flexible. The Colorado OPG acknowledges that cases will likely change over time and this will impact the “weight” of the case. As such, the ongoing assessment capability, will assist in determining capacity from time-to-time as new cases are presented for potential acceptance. Further, the Colorado OPG acknowledges that all cases and persons served must be considered individually in order to truly determine the capacity of the Public Guardian at any given time.

Policy 6.6. Individualized Guardianship Plan Procedure

- a. The Colorado Office of Public Guardianship (OPG) shall treat liberty and autonomy as paramount values for all state residents and permit incapacitated adults to participate as fully as possible in all decisions that affect them. The Colorado OPG shall assist incapacitated adults to regain or develop their capacities to the maximum extent possible. § 13-92-102 (3) C.R.S. (2017). National Guardianship Association Standards of Practice for Agencies and Programs Providing Guardianship Services Standards I - III, V, and VI; National Guardianship Association Ethical Principles; National Guardianship Association Standards of Practice.
- b. An Individualized Guardianship Plan Goals also provides necessary continuity for the individual under guardianship when there is turnover, or the individual’s Public Guardian is unavailable due to illness or other extended absences.
- c. Within 60 days, the Public Guardian will complete and file the Initial Guardian’s Report with the Denver Probate Court. In addition, the Public Guardian will create and begin implementing an Individualized Guardianship Plan (IGP).
- d. The Individualized Guardianship Plan (IGP) will be developed as follows:
 - 1. The Public Guardian must review the Court Visitor Report and all collateral information and documentation to gather information about the ward. The Public Guardian will need to ensure the areas of decision making for which he or she is responsible are specifically identified. These areas, along with the wards, strengths, abilities, and preferences will be the focus of the guardianship plan.

2. After reviewing the Court Visitor information and being aware of the areas of decision making specifically assigned to the guardian from the court, the Public Guardian should make an appointment to visit the ward in person. The initial visit will generally occur within 10 days, and no later than 30 days after the appointment. At the initial visit, the Public Guardian should follow the ***Social History Survey, Initial Guardianship Investigation and Checklist***, and ***5 Wishes***. Because the Public Guardian is responsible for decision making in assigned areas per the guardianship, he or she must be careful not to overstep into areas in which the ward is able to make decisions unless the ward asks the Public Guardian to participate in some way. The Social History Survey, Initial Guardianship Investigation Checklist can be accessed in the Case Management System. The Public Guardian will engage with the client to assess maximum input and collaboration of the client and to assess the needs, goals, services of the client.
3. If the Public Guardian has concerns about the ward's current ability to make certain decisions, the Public Guardian should note this within the assessment, and determine if further evaluation is needed by speaking with care providers, family members, friends, etc.
4. For each area of the Initial Guardianship Investigation and Checklist, the Public Guardian should document how the ward needs assistance. The Public Guardian must keep in mind the ward's culture, values, and beliefs in this process. Further, when assisting the ward in making decisions, the Public Guardian must plan to support the ward in making his or her own decisions or, if this is not presently possible, to determine how the ward would have made such decisions or what his or her culture, values, and beliefs would have impacted the ward in making such decisions. It is here where the Public Guardian must develop the best approach for interacting with the ward and meeting his or her needs in the Individualized Guardianship Plan.
5. Initial Guardianship Investigation and Checklist, the Public Guardian must determine:
 - i. What services and/or benefits are being provided to the ward
 - ii. What services and/or benefits may be needed
 - iii. Whether any assessments/evaluations need to be completed to gain a better understanding of what the ward needs
 - iv. What the goals of the ward are: to have a job, to have more social opportunities, etc.
 - v. Whether there is missing information that will help the Public Guardian to better understand the ward, such as the ward's culture, values, and beliefs. If this is not clearly indicated anywhere, the Public Guardian should go searching for this information by talking with service providers, family, friends, and others who may know.

- vi. The Public Guardian may wish to consult and utilize various person-centered planning tools to assist in determining how to best approach decisions and goals for the ward. Tools, such as those that assist with determining what is “important to” versus “important for” the ward, may also be helpful to ensure needed services are obtained, but that they also respond to the ward’s intrinsic motivations. Any person-centered planning tools utilized, must be scanned and saved within the CMS.
6. For both the Initial Guardianship Investigation and Checklist and the person-centered planning process, it may be necessary for the Public Guardian to consult with family, friends, physicians, and/or service providers to assist in the information gathering process. As a starting point, the Public Guardian may wish to consult with those with whom the court visitor consulted. Other people in the ward’s life may emerge later to be of value as the guardianship and ongoing planning is developed. Any plans from any other organizations or providers are not meant to supplant the guardianship plan. Instead, they should be incorporated so the Public Guardian may identify areas of need and who should provide for those needs. It is not the Public Guardian’s responsibility to provide direct services, but to find those with expertise and willingness to serve the ward. When completing the Initial Guardianship Investigation and Checklist and Individualized Guardianship Plans, the Public Guardian will also include comments provided directly from the client.
- e. Following the Initial Guardianship Investigation and Checklist and person-centered planning process, the Public Guardian must save the Individual Guardianship Plan (IGP) within the Case Management System and provide information relating to the areas of decision making with which the ward needs assistance. The IGP will glean information from the information included within the CMS and will incorporate information directly from conversations with the ward, any family, friends, and/or service providers. The intervention plan will need to be developed and updated on a monthly basis. This should be done as a part of the monthly Public Guardian visit with the ward, as the ward will need to continue to be an ongoing participant in the creation, modification, and implementation of the plan.
- f. See Handouts:
- ***Lawton-Brody IADL Scale***
 - ***Katz Index of ADLs***
 - ***Discharge Levels***
 - ***Means to Enhance Capacity***
 - ***Clinical Professionals***
 - ***Cognition and Cognitive Testing***

- g. Tracking and updating the plan monthly will alert the Public Guardian as to whether there need to be any changes to the actual guardianship. For example, if the ward's needs increase and the guardianship needs to reflect that the ward needs assistance with another area of decision making, the Public Guardian will need to notify the court that a modification should be made. The same is true if the person needs less assistance with decisions, if the guardianship should be terminated entirely, or if a successor guardian has been found. In such circumstances, the Public Guardian should consult with the Director to file a motion with the court to amend or terminate the guardianship.
- h. At each monthly client visit, the Public Guardian is responsible for updating the completing Individualized Guardianship Plan. The Public Guardian is responsible for updating the information in the Case Management System and in the Individualized Guardianship Plan. The document will be secured and stored as per OPG Policy.
- i. Should a client move, the Public Guardian shall notify the Staff Assistant and Director immediately. The Public Guardian is responsible for updating the information in the Case Management System. The Staff Assistant will prepare a Change of Address form and file it with the court.
- j. A client may not be moved out of the state of Colorado without prior court approval.

Policy 6.7. Ongoing Case Monitoring and Management

National Guardianship Association Standards of Practice for Agencies and Programs Providing Guardianship Services Standards I – III, V, VI, VIII; National Guardianship Association Ethical Principles; National Guardianship Association Standards of Practice 1 – 16, 23, and 24.

a. Person-Centered Planning

- i. The Public Guardian will engage the client in an interview to determine the client's goals, strengths, preferences, and needs, to best tailor services towards the needs of the client. The Public Guardian will guide services towards the client's expressed wishes, hopes, and aspirations. Person-centered planning should reflect the wishes of the client in all aspects of their life to allow the client to live as independently as possible.
- ii. The Public Guardian shall carefully evaluate the alternatives that are available and choose the one that best meets the personal, financial goals, needs, and preferences of the person, while placing the least restrictions on the person's freedom, rights, and

ability to control their environment. The Public Guardian will work with the client and service providers towards assessing the client's current and future medical, mental health, and other critical needs. The Public Guardian will collaborate with providers to determine the client's pertinent issues to address and will establish a timeline and target dates towards the completion of the recommended interventions.

- iii. The Public Guardian shall consider and carry out the intent of the Person prior to incapacity to the extent allowable by law. Through ongoing engagement with the client and their health care providers, the Public Guardian will continually assess for the client's health and safety.
- iv. The Public Guardian shall weigh the risks and benefits and develop a balance between maximizing independence and self-determination of the person and maintaining the person's dignity, protection, and safety. The Public Guardian will work with the client to establish short-range and long-range goals. The Public Guardian will identify the necessary supports for the client to reach their goals and will assist the client with creating an action plan with target dates to meet each of their goals.
- v. The Public Guardian shall make individualized decisions and will maintain a standard of practice that promotes dignity and respect.
- vi. The Public Guardian shall encourage the person to participate, to the maximum extent of the person's abilities, in all decisions that affect the person, to act on their own behalf in all matters in which the person is able to do so.
- vii. The Public Guardian shall make and implement an Individual Guardianship Plan that seeks to fulfill the person's goals, needs, preferences, and least restrictive alternative.
- viii. The Public Guardian will engage the client in creating a crisis prevention and crisis response plan that is tailored to the client. This plan will include an inventory of symptoms or behaviors that may trigger the onset of a crisis, prevention and early intervention strategies, and plans for response and stabilization.

b. Least Restrictive Alternatives

- i. The following guidelines apply in the determination of the least restrictive alternative: The Public Guardian shall become familiar with the available options for residence, care, medical treatment, vocational training, and education. National Guardianship Association Standards of Practice for Agencies and Programs Providing Guardianship Services Standards I – III, V, and VI; National Guardianship Association Ethical Principles 1 - 8; National Guardianship Association Standards of Practice 1 – 16, 23, and 24.

- ii. The Public Guardian shall strive to know the person’s goals and preferences.
- i. The Public Guardian shall consider assessments of the person’s needs as determined by specialists. This may include an independent assessment of the person’s functional ability, health status, and care needs.
- ii. The Public Guardian shall determine the extent to which the person identifies their ethnicity, religious beliefs, cultural values, and sexual orientation.
- iii. The Public Guardian shall also consider the following and complete an individualized “Five Wishes” template:
 - 1. The person’s attitudes regarding illness, pain, and suffering;
 - 2. The person’s attitudes regarding death and dying;
 - 3. The person’s views regarding quality of life issues;
 - 4. The person’s views regarding societal roles and relationships; and
 - 5. The person’s attitudes regarding funeral and burial customs.

c. **Standards for Decision-Making**

Decision-making is the fundamental responsibility of a Public Guardian. The obligation of a Public Guardian to make reasoned and principled decision remains constant. National Guardianship Association Standards of Practice for Agencies and Programs Providing Guardianship Services Standards I – III, V, and VI; National Guardianship Association Ethical Principles 1 - 8; National Guardianship Association Standards of Practice 1 – 16, 23, and 24.

Acting within the scope of the Order and Letters of Guardianship, the Public Guardian has authority to make legally binding decisions on behalf of the ward. These decisions are broad in scope and may involve the ability to control fundamental aspects of the life of another human being. The authority of a Public Guardian may encompass the ability to make decisions concerning the treatment and care of the ward, where the ward shall live, and the exercise of the legal rights of the ward.

In light of these broad and far-reaching powers, the Public Guardian has an obligation to make well-reasoned decision and ensure no undue harm befalls the ward.

A Public Guardian shall refrain from decision-making in areas outside the scope of the Order of Guardianship and, when necessary, assist the ward by ensuring that such decisions are made in an autonomous fashion. Furthermore, the Public Guardian must recognize that the ward may be entitled to make legally binding decisions

independent of the Public Guardian. Upon the request of the ward in making such decisions by ensuring that the ward is free from undue influence and has access to as much information as possible concerning the alternatives and likely outcome of his or her decision.

1. **Surrogate Decision-Making.** The Public Guardian may make all reasonable efforts to ascertain the preferences of the ward, both past and current, regarding all decisions which the Public Guardian is empowered to make. The Public Guardian shall make decisions in accordance with the ascertainable preferences of the ward, past and current, in all instances except those in which a Public Guardian is reasonably certain that the substantial harm will result from such a decision. The obligation to inform and involve the ward in decision-making increases in direct proportion to the significance of the decision.

a. The relative significance of the decision must be made from both an objective and subjective point of view. That is, a Public Guardian must recognize that the obligation to inform and involve the ward in decision does not only increase when the decision is fatally significant (i.e. consent to a major surgery); the Public Guardian must also view the decision from the ward's point of view. For example, a request by a nursing home for permission to relocate a ward to a different room may appear minor to the Public Guardian, but may, in fact, be critical to the ward. This underscores the importance of the Public Guardian forming as close of a personal relationship with the ward, his or her caregivers, as is possible under the circumstances.

2. **Substituted Judgment.** The principal of substituted judgment requires the surrogate to attempt to read the decision the incapacitated person would make if that person were able to choose. The ability of the Public Guardian to ascertain the ward's preferences may vary according to both the type and nature of the ward's disability or incapacity.

3. **Best Interest.** The Model Code of Ethics for Guardian's position is that the use of the best interest standard is a last resort, to be utilized only in cases where there is no previous competency or where the ward gave no indication of preference which could guide the Public Guardian in making the decision.

d. **Informed Consent**

i. The Public Guardian shall make decisions in conformity with the preference of the person when providing consent for the provision of care, treatment, and services *unless* the Public Guardian is reasonably certain that such decisions will result in substantial

harm to the person. National Guardianship Association Standards of Practice for Agencies and Programs Providing Guardianship Services Standards I – III, V, and VI; National Guardianship Association Ethical Principles 1 - 8; National Guardianship Association Standards of Practice 1 – 16, 23, and 24.

- ii. When the preferences of the person cannot be ascertained or will result in substantial harm, the Public Guardian shall make decisions with respect to care, treatment, and services, which as in conformity with the best interest of the person.
- iii. In the event the only available treatment, care, or services is not the most appropriate or least restrictive, the Public Guardian shall advocate for the person’s right to a more desirable form of treatment, care, or services, retaining legal counsel to assist if necessary.
- iv. The informed consent doctrine is independently relevant to the Public Guardian’s role as the health care decision-maker, as it is the starting point in the process of decision-making in the health care realm.
- v. The Public Guardian shall seek professional evaluations and assessments whenever necessary to determine whether the current or proposed treatment, care, or services represent the least restrictive form of intervention available.
- vi. The Public Guardian shall **NOT** consent to sterilization, electro-conversion therapy, or experimental treatment, forced psychotropic medications, or service without seeking review by the court or the person’s attorney or other representative.
- vii. As per § C.R.S. 15-14-316 (4):
 - i. A guardian may not initiate certification of a ward to a mental health care institution or facility except in accordance with the state’s procedure for involuntary treatment and evaluation of a mental health disorder pursuant to article 65 of title 27. To obtain hospital or institutional care and treatment for a ward’s mental health disorder, a guardian shall proceed as provided under article 65 of title 27.
 - ii. To obtain services and supports from an approved service agency as defined in section 25.5-10-202 for a ward with intellectual and developmental disabilities, a guardian shall proceed as provided pursuant to article 10 of title 25.5.
 - iii. To obtain care and treatment for a ward’s substance abuse disorder, a guardian shall proceed as provided pursuant to articles 81 and 82 of title 27.

iv. A guardian shall not have the authority to consent to any such care or treatment against the ward's will.

viii. Exceptions to Informed Consent. Generally, there are three exceptions to informed consent:

1. **Emergency Exception.** "If informed consent is suspended in an emergency, it should be because the time it would take to make disclosure and obtain patients' decision would work to the disadvantage of some compelling interest of patients...[such] an emergency situation...would involve the following factors:
 - a. There must be a clear, immediate, and serious threat to life and limb;
 - b. The treatment that will be provided without informed consent should be the one that...is in keeping with the standard of practice; and
 - c. The time it would take to offer an informed consent would significantly increase the patient's risk of mortality and morbidity, either because these are presently occurring, or because the effectiveness of a given treatment will be significantly diminished if not immediately instituted."
2. **Public Health Emergencies Exception.** "Public health emergencies can sometimes justify the state in demanding that certain treatments – for example, vaccinations to prevent pandemics or treatments to stop the spread of particularly dangerous contagious diseases – be imposed on patients over their objection."
3. **Psychiatric Treatment Exception.** A psychiatric treatment exception may be available because "a failure to treat mental illness can result in harm to the patient or others so there are situations in which mentally ill patients can be forced to receive unwanted medical treatment. These cases require that the patient receive certain due process protections through civil commitment statutes. Accordingly, the psychiatric treatment exception to informed consent requires the intervention of a court before the patient's right to direct their own medical treatment can be set aside in favor of more compelling state interests."