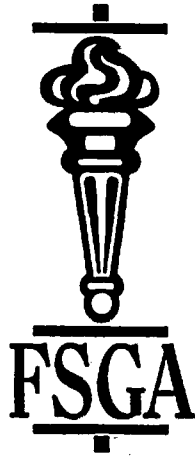


Florida State Guardianship Association, Inc.



**A**  
**RECOMMENDED**  
**GUARDIANSHIP**  
**PRACTICE**  
**PROTOCOL**

**For Florida Statute Chapter 744**

October, 2003

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# A RECOMMENDED GUARDIANSHIP PRACTICE PROTOCOL

For Florida Statute Chapter 744

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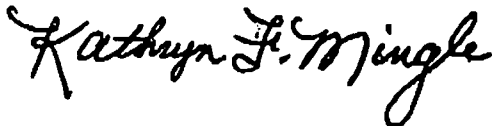
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## FOREWORD

This document is the product of FSGA committee work. Like some of the legislative work it reflects, it is a continuing work in progress requiring periodic updating as laws and rules change. The format is expandable, appropriate to the accommodation of changes and their insertion.

A number of persons have worked on this project at one time or another over the last couple of years since the idea was broached to attempt to codify in some form certain basic guardianship practice concepts. Each and every one's time and input have been appreciated, valued, and considerable. To mention the many names may mean missing someone. To avoid that embarrassment, a heartfelt thank you is given to those of you who know you contributed in some way to the completion of this stage of the project focusing on Florida Statute Chapter 744, as amended, including the administrative staff of FSGA in Tallahassee.

While all sections and subsections of FS 744 have not been referenced, the Guardian is expected to become familiar with ALL of them, including VA guardianships, not specifically treated here.



Kathryn Mingle, RG-NGF  
*RPP Committee Chairperson, FSGA*

## ABBREVIATIONS

The busier people become, the more commonly they use abbreviations as shortcuts. This is also true in guardianship. Following is a brief, but not exhaustive, list with which the practicing guardian should become familiar.

<u>Abbreviation</u>	<u>Definition</u>
ADC	Activities of Daily Living
AFELA	Association of Florida Elder Law Attorneys
AHCD	Advanced Health Care Directives
AIP	Alleged Incapacitated Person
ALF	Assisted Living Facility
DME	Durable Medical Equipment
DPOA	Durable Power of Attorney
EOMB	Explanation of Medical Benefits
ETG	Emergency Temporary Guardian
FS	Florida Statutes
FSGA	Florida State Guardianship Association
GDN	Guardian
GDNSHP	Guardianship
HHA	Home Health Agency
HMO	Health Maintenance Organization
HX	History
IADL	Independent Activities of Daily Living
IP	Incapacitated Person
LETTERS	Letters of Guardianship
MARS	Medication Administration Record Sheet
NAELA	National Academy of Elder Law Attorneys
NGA	National Guardianship Association, Inc.
PCP	Primary Care Physician
POA	Power of Attorney
OTC	Over the Counter
SSA	Social Security Administration
VA	Veterans Administration

# I. GENERAL PROTOCOL

This section defines the basic recommended protocol for the professional guardian. A professional guardian, as defined by F.S. Chapter 744.102(15), should not be confused with a guardian ad litem, as defined in F.S. Chapter 61.403 or F.S. Chapter 39.8296. While a guardian advocates for the Ward, a “guardian advocate” is defined under F.S. Chapter 393 and 394.

A. The professional guardian should present an appropriate appearance and attitude relative to the situation encountered. Courtroom dress and decorum would not be appropriate when taking a ward for an informal outing.

B. The guardian must act in an ethical manner in every situation. Some resources available to guide the guardian in ethics are the following:

- FSGA Ethical Standards ([www.floridaguardians.com](http://www.floridaguardians.com))
- NGA Code of Ethics ([www.guardianship.org](http://www.guardianship.org))

C. The guardian should maintain required and appropriate records regarding their practice. These include, but are not limited to, the following:

- employee records
- income tax records
- insurance records
- continuing education records
- professional registration records
- credit report record, calendaring the submission to the appropriate entity every two years or as required
- appropriate security/confidentiality of records

D. The guardian should research applicable rules and statutes regarding guardianship. Some of these include local administrative rules, agency policies, state statutes, and federal acts.

E. The guardian should familiarize him/herself with local resources, including, but not limited to, the following:

- aging services networks
  - \* eg. TRIAD / S.A.L.T. (Seniors and Law Enforcement Together)
- services available at low or no cost
  - \* loan closets
  - \* local assistance programs
- commercial provider lists
  - \* eg. pharmaceutical resources

## **II. GUARDIANSHIP OF THE PERSON**

### **INITIAL PHASE**

There may be prospective guardian involvement prior to the decision to seek guardianship for an individual. Determine if there is sufficient time within which to conduct an assessment, prior to an examining committee being appointed and the incursion of expenses for an individual. If so, an assessment should be conducted to establish the level of care needed.

#### **I. ESTABLISHMENT OF A.I.P.'S NEEDS (prior to the issuance of "Letters"):**

A. Determine whether a formal assessment tool(s) has been used or checklist(s) of required information processed to assess the functional level of the person who is the subject of the Petition to Determine Incapacity. If an assessment has not been completed, now is the time to schedule it. Keep in mind that although the report(s) of the examining committee are often of little assistance in determining the functional level of the A.I.P., they are mandatory and need to be referenced.

## II. GUARDIANSHIP OF THE PERSON

### INITIAL PHASE Continued

#### I. ESTABLISHMENT OF A.I.P.'S NEEDS (prior to the issuance of "Letters"): *Continued*

C. Assess residence for safety and suitability as to the appropriate level of care consistent with the A.I.P.'s level of functioning, needs and financial resources available.

#### II. ACCEPTING OR REFUSING THE CASE (prior to the issuance of "Letters"):

Decide, after a face-to-face meeting with the A.I.P., if you are willing to accept the responsibilities this particular case may present. Not accepting the case is an option, especially when there is a personality conflict present, or circumstances with which the guardian is uncomfortable.

If the need for guardianship is indicated, or a petition to determine incapacity has been filed, contact the attorney involved to determine what rights are to be removed. Keep in mind that the subject person does not lose the right to privacy or confidentiality, or other rights as enumerated under Florida Law.

#### FS 744.3215(1)(a) through (o)

If guardianship is not indicated, the prospective guardian should contact the attorney involved, remembering the A.I.P.'s right to confidentiality, to express his/her findings based on the assessment conducted. Assessment results should be made available to the attorney.

***KEEPING IN MIND THAT HIPAA (Health Information and Portability Accountability Act) IS IMPORTANT, THE FOLLOWING STEPS SHOULD NOT BE COMPLETED WITHOUT COURT AUTHORITY GRANTED BY THE ISSUANCE OF LETTERS OF GUARDIANSHIP.***

## II. GUARDIANSHIP OF THE PERSON

### INITIAL PHASE *Continued*

#### III. PREPARING DRAFT OF INITIAL GUARDIANSHIP PLAN (after the issuance of Letters’): *Continued*

A. There is no statewide consistency in the implementation of safeguards for guardians or Ward’s confidential information. Until statewide consistency with FDLE and Federal standards has been reached, it is recommended that the PLAN not identify the Ward’s specific condition. Paramount to the Ward’s advocacy is the confidentiality of as much health information as possible. Generalized wording, such as, “the Ward has a medical condition placing the Ward at physical risk” is preferred to maintain the Ward’s right to privacy. A separate confidential log should be kept noting specific medical or mental conditions and their requisite monitoring or re-evaluation frequency. Case notes should contain “identifiable health information” and provide the privacy required by HIPAA and FS 744.3215(j)(o). Be prepared to verbally respond to judicial inquiries about case specifics and to produce case notes for judicial review ONLY - not for filing with the court.

B. It is also recommended that the PLAN not identify the Ward’s specific medications and their dosages. This information should be contained in a separate log. Ensure each physician is aware of total medications prescribed and alert for possible contraindications. Note that all medications are in their appropriate containers and the expiration dates have not passed. It is also advisable to take a list of all medications, both prescriptions and OTC, to a pharmacist to have them reviewed for possible drug interactions.

## II. GUARDIANSHIP OF THE PERSON

### INITIAL PHASE *Continued*

### III. PREPARING DRAFT OF INITIAL GUARDIANSHIP PLAN (after the issuance of Letters’): *Continued*

- F. Approval of the PLAN constitutes the Guardians authority to act for the coming year. It is recommended that the Guardian include in the PLAN a statement that the Guardian or his/her designee will accompany the Ward to all medical appointments.

FS 744.369 (8)

## II. GUARDIANSHIP OF THE PERSON

### ONGOING CARE

#### I. ASPECTS OF ONGOING CARE:

A. Set, arrange transportation for, and attend all initial medical appointments for the Ward. Present to the physician "Letters" and telephone contact information. Discuss the Ward's prognosis and any needed treatment, including follow up with DME.

B. Request prior medical records. During the review, note past illnesses and conditions, and set check up appointments where appropriate. Medicare Summary Notices are good medical record historical resources for information.

C. Calendar regular visits to the Ward every 30 days, or as needed. Document any visits using statutory language.

## II. GUARDIANSHIP OF THE PERSON

### ONGOING CARE *Continued*

#### I. ASPECTS OF ONGOING CARE: *Continued*

E. Reduce medical costs where possible. This may include obtaining a supplemental Medicare policy to offset them. If currently ineligible, regularly re-evaluate eligibility as circumstances or program requirements for Medicare, Medicaid or private benefits, such as pension, VA benefits, HMO enrollment, etc. change. Note limitations and specifics of the Ward's benefits and policies. Determine existence of a chronic illness that may require extensive care and/or medications now or in the near future. Identify specific local assistance resources that may benefit the Ward, if available.

#### FS 744.3215(2)(c)

F. Inquire about the Ward's previous employment or his/her spouse's employment to determine if any benefits may apply to the Ward, especially health insurance, 401K, dental, vision, etc.

G. Discuss with the Ward any funeral and burial preferences. If preferences cannot be determined, family members, friends or clergy may be helpful in determining family customs or individual choices. Arrangements should be discussed in light of available financial resources.

H. Here again, an overlap in responsibilities between Person and Property matters may occur. One of these overlaps is possible with the necessity of listing personalty remaining with the Ward. Nursing homes and licensed assisted living facilities should be provided an inventory of personal items remaining with the Ward for their records. This inventory may include:

- a pictorial record of valuables, collections, etc.
- notations and/or descriptions of eye glasses, dentures, clothing,
- an inexpensive "duplicate" or substitute purchased in order to safeguard special jewelry, artwork or other valuables

The Guardian of the Property and the attorney should receive a copy of the list. There should be proper labeling of possessions left with the Ward. Items of particular value should be photographed for the Ward, but consideration should be given to safeguarding and documenting the items elsewhere.

I. If the Ward has expressed a CLEAR wish to remain in a specific residential setting, whether in the home, a Life Care Facility, or in a facility implementing the Eden Concept, attempt to factor that wish into your Planning.

## II. GUARDIANSHIP OF THE PERSON

### ONGOING CARE Continued

#### II. THE ANNUAL PLAN:

In completing the Annual PLAN, involve the Ward to whatever degree possible. Assess the Ward for appropriateness of restoration of right(s).

**FS 744.367**

**744.3675**

#### A. The Medical Assessment.

Calendar the Annual PLAN due date. In light of the due date, PLAN the Ward's visit to the primary care physician within the 90 day period before the PLAN due date.

There are several options in preparing for the annual physician evaluation visit. One option is to prepare a fill-in-the-blank form for the physician to complete, tailoring it to issues you wish the physician to address and covering those noted in **FS 744.3675(1)(b)2**. Another option is to request the physician to write a report for the court's annual Physician Evaluation of the Ward. In either option, send the form or the letter of request to the physician a week to ten days before the appointment with an SASE (self-addressed stamped envelope). Enclose a copy of **FS 744.3675**, **highlighting section (1)(b)2**, and emphasizing the deadline. Include ongoing needs, such as eyeglasses, dentures, etc. Bring an additional copy of the form with you to the appointment in case the first one is accidentally mislaid.

Maintain documentation, such as Medicare Summary Notices, which list all physicians and their dates of services. List only that a "physician" was seen and the date on the Annual PLAN. Note in the PLAN any hospital stays and any in-patient services, including rehabilitation services or mental health services for which the Ward was admitted. Again, specific information as to the doctor's name and the specific service provided should be entered on a separate log and NOT filed with the court.

Be sure to include in the PLAN that the guardian or their designee will attend all appointments or interactions with physicians and care providers, including any nursing home care PLAN conferences. Develop a communication PLAN with all medical providers and care givers. Remember to request a copy of any documentation generated during the medical appointment or care PLAN conference. Also request documentation of supervisory visit by HHA, if applicable. It is advisable to conduct internal care PLAN conferences (if staff is used) for in-home care or to supplement facility care.

Consult with attorney for any required court approval for authority to act.

## II. GUARDIANSHIP OF THE PERSON

### ONGOING CARE *Continued*

#### II. THE ANNUAL PLAN: *Continued*

##### C. The Functional Assessment.

Assess the Ward at each visit for functional progress or decline, pain level, and skin integrity. Document observations in case notes. Review facility chart and/or caregiver notes, if applicable, for significant changes in vital signs, activities, appetite, weight, and medications. Request a copy of the MARS for your file.

Evaluate social needs that may have changed due to health issues or changes in the environment. If appropriate, PLAN and prepare for vacations and regularly scheduled recreational activities, family reunions, weddings, etc. This may include consulting with the attorney for required court approvals, such as for out-of-state visits/functions, providing a time frame for completion of required court approval. It may be determined by consulting with the attorney that it would be appropriate to petition the court for authorization for periodic payments to the Ward from the Guardian of the Property.

Clarify in the petition whether receipts will be required (such as for taxi fare) by the court or the Guardian of the Property.

If prepaid funeral arrangements were not made according to the Ward's wishes during the first 60 days of the guardianship, they should be completed as soon as possible as this will save the Ward money. Unless the Ward is in imminent danger of death, consideration of the court's time is made if the petition for the approval of the contract and its payment can be coordinated with another event also requiring pulling of the court file, such as, but not limited to, the filing of the Annual PLAN.

FS 744.441(16)

Always advocate for ongoing quality of appropriate care.

## II. GUARDIANSHIP OF THE PERSON

### ONGOING CARE Continued

#### III. CRISIS AND EMERGENCY PLANNING: *Continued*

E. Timely action should be taken when the Ward requires emergency hospitalization.

- notify hospital of guardianship by fax or in person
- if in person, also bring a list of current medications or the medication containers
- when making a copy of the "Letters" for hospital or facility, copy onto brightly colored paper
- notify family and any ancillary medical providers
- notify HHA, HMO and therapists
- any regularly scheduled services, such as Meals on Wheels
- notify clergy, if appropriate
- ensure safety of the Ward's property by notifying the Guardian of the Property
- determine hospitalization duration for facility bed hold purposes

F. Sometimes extraordinary authority is required for the guardian to act on behalf of the Ward. Be sure documentation is available to establish clear and convincing evidence of the best interest of the Ward. This may include documentation of a consultation with a Bioethics Committee on making End of Life decisions. Some, but not all, of these situations may include:

- the Ward is to be Baker Act'ed
- there is a request to medically sterilize
- there is a request to perform an abortion
- experimental surgery is contemplated
- termination of life support
- dissolution of marriage
- removal of parental rights
- shock therapy treatments have been recommended

FS 744.3215(4)

744.3725

744.3725(2)

## II. GUARDIANSHIP OF THE PERSON

### TERMINATION OF GUARDIANSHIP

#### 1. WHEN THE WARD DIES:

- notify family, providers, other interested persons, and agencies, such as SAA, pension funds
- notify guardianship attorney
- notify Guardian of Property to utilize prepaid arrangements
- assist in Planning funeral service, if requested by family
- destroy unused medication if it cannot be returned for credit

FS 744.514

- remove all personalty from facility, if applicable
- prepare receipt to be signed by Guardian of the Property for items or by the recipient when delivered to the person entitled to receive them

FS 744.361(6)(c)

- retain copy of receipt; provide original to attorney
- notify Emergency Office of the Ward's death in order to have the name removed from the evacuation list
- cancel all scheduled appointments
- consult with attorney regarding petition and order of discharge
- records are kept for 3 years from the date of discharge of the guardian

FS 744.365(5)(a)

744.531

744.467

## **II. GUARDIANSHIP OF THE PERSON**

### **TERMINATION OF GUARDIANSHIP Continued**

#### **IV. WHEN THE GUARDIAN IS REMOVED:**

- coordinate with successor guardian for smooth transition
  - notify the Ward and all providers of change
  - develop a PLAN to ensure records confidentiality during transfer, obtaining a receipt for your records
  - consult with attorney regarding petition and order of discharge
- FS 744.361(6)(c)**

**744.524**

#### **V. WHEN THERE IS A DEATH OF THE GUARDIAN OR INCAPACITY, TEMPORARY OR PERMANENT:**

- the attorney of record for the guardianship petitions the court for an ETG and a successor guardian
  - the attorney of record for the guardianship is responsible for submitting a final report and petitioning for discharge
  - a PLAN should have been developed to ensure records confidentiality during this transfer
  - a receipt for records should be obtained by the attorney
- FS 744.361(6)(c)**

**744.102(17)**

- notify the attorney for the guardian of guardian's incapacity due to surgery, etc. and the expected date to resume duties so that a standby guardian can be appointed, if deemed necessary by the court

### **III. GUARDIANSHIP OF THE PROPERTY**

#### **INITIAL PHASE**

The Guardian of the Property generally does not become involved until after the issuance of "Letters". Hence, this section addresses property management from that point.

#### **I. INITIAL CONTACT AND ESTABLISHMENT OF NEEDS:**

##### **A. Identify Interested Parties**

The Guardian of the Property must first identify all interested parties. This may include the Guardian on the Person, family members and/or dependants, friends, caregivers, The Department of Children and Families, a Trustee, or others. In a voluntary guardianship, the Ward can limit the identity and number of interested parties. Review the term "interested parties" with the Ward. The Guardian of the Property should be familiar with the examining committee reports and initial petitions filed with the court, paying particular attention to the rights remaining to the Ward.

#### **FS 744.341**

Interview the Ward for items of special meaning, such as family memorabilia, heirlooms, collections, etc.

##### **B. Determine Scope of Guardianship**

Review Order Appointing Guardian and secure the required bond to be filed with the court, if any. Letters of Guardianship may specify limited or plenary status of the guardianship. The Determination of Incapacity will specify the rights removed from the Ward. Keep in mind that gift giving requires court approval, even in a voluntary guardianship.

#### **F.S. 744.441(17)**

E.T.G. "Letters" will specify only those specific responsibilities to be performed within a limited time. The date of the E.T.G. "Letters" begins to toll the 60-day period within which to file an Inventory if the document grants access to the property.

#### **FS 744.3031**

### III. GUARDIANSHIP OF THE PROPERTY

#### INITIAL PHASE Continued

#### I. INITIAL CONTACT AND ESTABLISHMENT OF NEEDS: *Continued*

##### F. Identify Immediate Liabilities

After cancelling credit card(s), if appropriate, compile a list of immediate liabilities for inclusion on the inventory. Verify all service addresses, especially if the service address is different than the primary residential address.

- determine recurring liabilities, such as utilities
- determine interest/penalty liability accruing ones for priority payment
- determine if there are any duplicates
- determine shut off status
- determine if there are any unsolicited bills
- determine liability accuracy, such as mortgage and loan balances

##### G. Determine Real Property Ownership

Many wards own real property in Florida that may or may not be registered as homestead property. Often there is out of state real property. Ownership of these properties and their titling need to be researched through public county records for mortgages or liens of record, and municipal records for local encumbrances. Determine whether there is insurance in effect and its adequacy. Note needed repairs and remember that major repairs require a Court Order. Calendar and budget for periodic maintenance. Change locks on all structures, unless the Ward who requested a voluntary guardianship still resides on the premises. Contact the property appraiser where the property is located to schedule appraiser inspections for the purpose of lowering the tax assessed value. Assure maximum homestead deduction is credited to property as well as all other appropriate tax credits or exemptions.

### III. GUARDIANSHIP OF THE PROPERTY

#### INITIAL PHASE Continued

#### I. INITIAL CONTACT AND ESTABLISHMENT OF NEEDS: *Continued*

##### I. Consult With Other Professionals

Retain an accountant for smaller estates, but retain a CPA for larger estates. Analyze previous tax returns for “missing” assets, potential evidence of exploitation, or for those assets that may have been sold. Schedule appointment for tax return preparation and to discuss tax ramifications of current portfolio. File Form 56 with the IRS when filing the first return. If necessary, schedule an appointment with a financial planner to review Planning for current and future needs.

#### FS 744.361(7)

When selecting a financial institution at which the guardianship checking account will be opened, the selection include an option that states it will return the original checks after processing. If a safe deposit box is discovered, arrangements should be made to inventory the box, keeping in mind that its inventory needs to be filed within 10 days of completion. Attempt to make this inventory coincide with the filing of the general inventory.

#### FS 744.365(4)

Set an appointment with the Director of Admissions or the Administrator of the facility in which the Ward resides, or may be placed. Present “Letters” and inform the billing office of the guardians mailing address, or any third party payor source. Provide emergency contact information. Review the contract and its potential for renegotiation. If the contract appears unclear, or if verbal promises do not appear in print, clarify it before signing and/or add an addendum. When signing the contract, sign it “as Guardian of .....” Follow up this appointment with a letter to the contacted person, enumerating topics discussed and your understanding of them.

Contact the guardianship attorney for will content relating to specific devises to set aside, if possible, for heirs. Discuss family interest in devised items and the preparation of a petition for their disposition, if the Ward will not need their value in the form of financial support.

The nurse or care manager can play an important role in maintaining the Ward’s life style. Determine Ward’s needs through consulting with the Guardian of the Person and decide whether to utilize an agency or to hire an individual for care giving in the home or to supplement facility care. Keep in mind the guardian will need to perform reference and background checks as the hiring entity, as well as paying appropriate employer taxes. If needed, schedule a one time assessment to determine the appropriate level of care, requesting a second opinion if indicated and financially feasible.

### III. GUARDIANSHIP OF THE PROPERTY

#### INITIAL PHASE *Continued*

#### I. INITIAL CONTACT AND ESTABLISHMENT OF NEEDS: *Continued*

##### L. First Entrance of the Ward's Residence

When entering the Ward's residence for the first time, be prepared. Take with you a witness, who is capable of testifying in court and who knows what to look for. Avoid taking family members, yours and theirs, for conflict of interest reasons.

#### FS 744.365(5)(b)

1. A list of items to take with you may include:
  - a camera or camcorder with several rolls of film and with date stamp capability
  - rubber gloves
  - trash bags
  - insect repellent
  - several pens and paper
  - a cell phone
  - a flash light
  - a magnifying glass

The locksmith should also accompany the guardian on this first visit to change the locks and open any locks for which the guardian does not have keys. If necessary, it may be advisable to contact the local authorities before entering the premises and have one of them accompany you.

2. Photograph everything for discovery purposes before disturbing anything. Then photograph each pertinent item as collected, noting where found.

### **III. GUARDIANSHIP OF THE PROPERTY**

#### **INITIAL PHASE Continued**

#### **II. PREPERATION AND FILING OF INVENTORY:**

A. Within the first 30 days from the date of the “Letters” the guardian must decide and notify the court whether to file the REPORT on a calendar or fiscal basis.

**FS 744.367(6)**

B. The Inventory is to be filed with the court within 60 days of the “Letters” date.

**FS 744.362**

Using information gathered from Section I, insert it on the applicable form(s) used in the local judicial circuit for reporting. Allow sufficient time for review by the attorney before submission to court. Determine if additional information is needed by the court on their form. Some circuits require a listing of the existence of a Will, including the location of the original Will. Also list the existence of a Living Will and any named health care surrogate(s), if required. Advise the court if there is a third party asset from which the Ward’s support may be provided, such as a trust.

**FS 744.365**

C. Determine which documentation must accompany the filing of the Inventory. Be sure all accounts are now titled in the guardianship name, or indicate that the process has been initiated and is pending. The guardian may request an exception if a name change to the guardianship requires a new account that would effect a loss to the Ward’s assets.

D. Remember to sign and date all forms before submitting to the attorney for filing. Obtain a receipt from the attorney’s office to indicate the date that office received the inventory.

E. Issue a guardianship check to accompany the Inventory as the audit fee.

**FS 744.365 (6)**

### **III. GUARDIANSHIP OF THE PROPERTY**

#### **ONGOING CARE**

The Guardian of the Property has duties that continue and can change on a daily basis and still remain within the scope of guardianship.

#### **I. PLANNING AND CONTINUING RESPONSIBILITIES:**

##### **A. Review all billings for accuracy and legitimacy:**

- verify that the Ward's name appears on each bill belonging to the Ward
- note dates of service to avoid duplicate payments
- compare billings against Medicare Summary Notices, if applicable
- call vendors to clarify any billing questions before payment
- be sure there is a paper trail for ALL payments
- verify to the extent possible that services billed were actually rendered
- analyze bills for content appropriate to the Ward's current condition, for example, if a diaper item is billed and the Ward is continent, a red flag should go up.

##### **B. Calendar periodic payment events such as the following:**

- quarterly estimated tax payments
- quarterly condo maintenance payments
- insurance renewal and premiums
- property tax payments
- periodic portfolio reviews with the financial planner.

**C. Consider Medicaid Planning in consultation with an Elder Law attorney. Review financial condition monthly to determine Medicaid qualification criteria and criteria required to qualify for other programs, such as pharmaceutical assistance offers or DME cost reductions. Ensure all Medicaid non-countable assets are retained, if possible. Review potential volunteer assistance to reduce costs. In considering whether Medicaid qualification has been reached, remember to allow for attorney and guardian fees. An attempt should be made to apply in a timely manner for all applicable benefits.**

### III. GUARDIANSHIP OF THE PROPERTY

#### ONGOING CARE Continued

#### II. THE ANNUAL REPORT AND ACCOUNTING:

- A. Calendar the Annual Report due date.
- B. Review and itemize the past year's transactions.
- C. Complete the form(s) used in the local judicial circuit.
- D. Remember to sign and date all forms before submitting to the attorney for filing and dissemination. Obtain a receipt upon delivery to the attorney's office.
- E. Issue a guardianship check to accompany the Accounting as the audit fee, if the accounting fee has not been waived or disallowed.

FS 744.3678(4)

744.3679(2)

- F. Determine if electronic filing is appropriate in the local circuit and advise the attorney of such. Follow up with the Clerk of the Court the day after the filing deadline to verify that the accounting has actually been filed. If it has not, remind the attorney to do so before a fine is levied.

### III. GUARDIANSHIP OF THE PROPERTY

#### ONGOING CARE *Continued*

#### III. CRISIS AND EMERGENCY PLANNING: *Continued*

F. When the Ward becomes hospitalized, discuss with the physician the Ward's condition in order to make an informed decision on a bed hold at the residential facility, if any. Suspend any now unneeded services, such as newspaper, telephone, meals on wheels, etc. depending on the situation. Contact the hospital billing office regarding insurance information and billing address. Confirm the security of the Ward's residence and personal property. Determine the impact of the Ward's condition on the financial condition of the guardianship and the PLAN filed with the court.

G. Emergency travel requires additional Planning. Discuss with the Guardian of the Person whether a medical escort is necessary and if appropriate transportation and housing can be secured with available funding. Request the attorney to petition the court for any court order, if needed. If emergency travel is approved, arrange for pet and plant care, if appropriate. Consult with the Ward to the extent possible.

H. When the Ward is involved in a divorce action, the guardian may need to prepare a financial statement as required by the action. Consult with the Ward (to the extent possible) and the divorce attorney as needed. Assist in drafting a response to the interrogatories. Calendar alimony and support payments if awarded. Negotiate a payment PLAN for attorney fees, if necessary.

I. Before the sale of real property becomes necessary, consult with an attorney concerning homestead status and the effects the potential sale may have on heirs. Determine whether any heir may wish to purchase the property. Discuss other property related issues, such as the effects a donation of the property may have on the Ward's tax liability.

### **III. GUARDIANSHIP OF THE PROPERTY**

#### **TERMINATION OF GUARDIANSHIP**

##### **II. WHEN THERE IS A SUCCESSOR GUARDIAN OR A GUARDIANSHIP TRANSFER:**

The Guardian should have a plan to ensure the confidentiality of all records for the smooth transfer of those records, even if the Guardian is not available. Notify creditors and family members of change of Guardian or transfer of the guardianship. Prepare the final accounting. Transfer copies of financial records, personalty and the Ward's documentation to person legally entitled to receive them, or their attorney. Retain signed transfer receipts. Request the attorney to petition for the order of discharge.

**FS 744.464**

**FS 744.527**

**FS 744.511**

**FS 744.528**

**FS 744.514**

**FS 744.531**

##### **III. WHEN THE GUARDIAN RESIGNS:**

Notify creditors and family of the guardian change and pay all final bills. Prepare a status report of all unresolved issues and deliver it with copies of the financial records and a receipt to be signed by the person entitled to receive them. Transfer any property and secure a second receipt. Prepare the final accounting for submission by the attorney with the petition for an order of discharge.

**FS 744.361(6)(c)**

**FS 744.511**

**FS 744.464**

**FS 744.514**

**FS 744.467**

**FS 744.527**

### III. GUARDIANSHIP OF THE PROPERTY

#### TERMINATION OF GUARDIANSHIP Continued

##### VI. WHEN THERE IS A RESTORATION OF RIGHTS:

The guardian should consult with the guardianship attorney regarding the suggestion of capacity and decide if any objection should be filed during the 20 day objection period which runs from the date of service of the notice.

If all rights are restored, pay all final bills. Notify all concerned entities, turning over all property under the guardianship to the former Ward and obtain a receipt for it. Keep copies of all records released to the former Ward. Prepare a status report of all unresolved issues. Submit the report with the final accounting to the attorney and obtain a receipt and an order of discharge.

If some of the rights are restored, the guardian must file a new report with the court within 60 days after the order of restoration.

FS 744.464

744.514

744.511

744.527

### **III. GUARDIANSHIP OF THE PROPERTY**

#### **TERMINATION OF GUARDIANSHIP Continued**

#### **IX. WHEN THE WARD DECIDES TO TERMINATE A VOLUNTARY GUARDIANSHIP:**

If the Guardian of the Property feels that the Ward may be unable to conduct their personal business in an appropriate manner, or if the Guardian feels that a Ward will be vulnerable to exploitation without a guardianship, it may be prudent to discuss the situation with the guardianship attorney and consider other options. Some options may include filing a Petition to Determine Incapacity or filing a current certificate from of a licensed physician to specify the Ward's current level of understanding after examination.

If the Guardian feels that no additional protection is needed, the guardian should pay all final bills and prepare the final accounting. The guardian should coordinate the transfer of records, obtain receipts, and advise the former Ward of the need for their secure storage. Request the attorney to petition for an order of discharge.

**FS 744.341(4)**

FLORIDA PAWNBROKER TRANSACTION FORM  
PAWNBROKER / CREDITOR

DATE: \_\_\_\_\_ CONTROL # N<sup>o</sup> 25501 DEPT # 01

TYPE OF TRANSACTION:  PURCHASE/TRADE  CONSIGNMENT  PAWN

SELLER / BUYER: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

DATE OF SALE: \_\_\_\_\_

ITEM 1: \_\_\_\_\_  
ITEM 2: \_\_\_\_\_  
ITEM 3: \_\_\_\_\_  
ITEM 4: \_\_\_\_\_  
ITEM 5: \_\_\_\_\_  
ITEM 6: \_\_\_\_\_

AMOUNT FINANCED: \$ \_\_\_\_\_  
FINANCE CHARGE: \$ \_\_\_\_\_  
TOTAL OF PAYMENTS: \$ \_\_\_\_\_  
ANNUAL PERCENTAGE RATE: \_\_\_\_\_  
MATURITY DATE: \_\_\_\_\_

REPAYMENT: You pay us until you have paid the amount of the Finance Charge. We will then refund you the balance of the amount you have paid.

PREPAYMENT: If you pay us more than the amount of the Finance Charge, we will refund you the balance of the amount you have paid.

PAWNBROKER'S NOTICE: This Pawnbroker's receipt is not a receipt for the property. It is a receipt for the amount of money advanced to you. The property is held in trust for the benefit of the lender. The Pawnbroker is not responsible for the property. The Pawnbroker is not responsible for the property. The Pawnbroker is not responsible for the property.

NOTICE: See Reverse Side

DEPT # 01 CONTROL # N<sup>o</sup> 25501

EXHIBIT A