

Glossary of Common Terms and Phrases

2014

This publication is provided for educational purposes only. The significance of these definitions may differ by location. Therefore, it is important to determine what your local practice is and how are terms defined. This information is not meant to be construed as legal advice. Please consult with a private attorney if you would like to receive legal advice.

Advance Directive: Document drafted by individual identifying his or her wishes for a particular situation, about one's health or medical care, in the event that the individual becomes unable to express his or her wishes.

Advocacy Counsel: Attorney appointed or retained to represent ward or proposed ward in a guardianship action. Sometimes referred to as "Adversary Counsel."

Agent: Person who is given the authority to act on the principal's behalf through a power of attorney.

Aging and Disability Resource Center (ADRC): Local entities that provide information about programs, services, benefits, and care-related issues, and assistance accessing benefits and services for individuals who are elder or disabled.

Aging Office: Local office that provides information about programs, services, benefits, and care-related issues, and assistance accessing benefits and services for individuals who are elder.

Adult Protective Services Agency (APS): County agency given the responsibility of identifying those adults who may be in need of services and/or at risk and performing outreach, counselling, case management, and referral services.

Annual Account: Report completed by the guardian of the estate each year that describes the ward's financial estate. It is currently identified as form GN-3500: Account of Guardian or Conservator.

Annual Report: Report completed by the guardian of the person each year that describes the ward's personal status and health. It is currently identified as form GN-3480: Annual Report on the Condition of the Ward.



Best Interests: Legal standard guardians are required to consider and use when making decisions for their wards (e.g., guardians must act in the best interests of the ward).

Bond: An agreement that provides surety for financial loss caused by the guardian. The guardian of the estate may be required to be bonded. The bond protects the ward's estate if the guardian of estate does not manage the ward's estate appropriately.

Centers for Medicare and Medicaid Services (CMS): Federal entity that oversees benefit programs like Medicare and Medicaid.

Conservatorship: Voluntary court process with continued court oversight that allows a third person to manage the financial affairs of another without a finding of incompetence. See Wis. Stat. § 54.76.

Deactivation: The process performed to show the principal has regained his/her capacity when his/her POA had been activated upon incapacity. No formal deactivation process must be followed by law, and when a person has regained the ability to make his or her own choices, the POA has to be informally deactivated.

Determination and Order on Petition for Guardianship due to Incompetency: Initial court order identifying the court's decision(s) on the petition for guardianship, specifically whether the petition for guardianship was granted, what rights were removed from the ward and what powers the guardians has, who will be the guardian, and any other matter decided by the court in the guardianship action. It is currently identified as form GN-3170: Determination and Order on Petition for Guardianship Due to Incompetency.

Department of Health Services (DHS): Wisconsin state department that oversees many issues including health care and the quality of care provided, state benefits, and matters affecting individuals who are disabled or at risk.

Disability Benefit Specialist (DBS): Person who primarily works with individuals who are disabled or their legally authorized representatives and provides information about applicable government benefits and programs and helps these individuals gain access to those benefits and programs. Most often found at the local ADRC.

Do-Not- Resuscitate (DNR) Order: Written order issued by an attending physician on the behalf of a qualified patient upon that qualified patient's request and subsequent consent that describes the resuscitation procedures the patient has chosen to forgo.

Elder Benefit Specialist (EBS): Person who primarily works with individuals who are over the age of 60 or their legally authorized representatives and provides information about applicable government benefits



and programs and helps these individuals gain access those benefits and programs. Most often found at the local ADRC or Aging Office.

Examining Physician's or Psychologist's Report: Document completed by a physician or psychologist in a guardianship action in which the physician or psychologist provides their professional opinion about the proposed ward or ward's possible incompetency (or is a minor). It is currently identified as form GN-3130: Examining Physician's or Psychologist's Report.

Foreign Guardianship: A guardianship that was granted outside of the state of Wisconsin.

Guardian: Individual appointed by the court to act on the ward's behalf and to act as the legal decision maker after the ward has been adjudicated incompetent. In Wisconsin a guardian can be appointed to be guardian of the person and/or estate.

Guardian ad Litem (GAL): Attorney appointed to represent the proposed ward's or ward's best interest during guardianship actions.

Guardian of the Estate: Guardian whose duties and responsibilities involve making decisions about the ward's finances and property. See Wis. Stat. § 54.19 & 54.20.

Guardian of the Person: Guardian whose duties and responsibilities involve making decisions about the ward's medical care and personal needs. See Wis. Stat. § 54.25.

Guardianship: Legal relationship created when an individual is determined to be incompetent by the court which provides for another to be the designated legal decision-maker (i.e., the guardian) for the individual who is incompetent (i.e., the ward). See Wis. Stat. Ch. 54.

Incompetency: Legal finding that an individual is at least 17 years and 9 months, has a qualifying impairment that causes the individual to be unable to receive/evaluate decisions or to make or communicate decisions related to his or her essential physical health and safety or finances and property, and the individual's need for assistance cannot be met through less restrictive ways. See Wis. Stat. § 54.10(3).

Incapacity: The inability to receive and evaluate information effectively or to make or communicate decisions pertaining to the exercise of a personal right. See Wis. Stat. § 54.01(15). See also Wis. Stat. § 155.01(8) for a specific statutory definition for a POA-HC and Wis. Stat. § 244.02(7) for the definition for a POA-F.



Inventory: Document the guardian of the estate is required to complete which describes the ward's finances, income, and property at the time of the guardian's appointment. It is currently identified as form GN-3440: Guardianship or Conservatorship Inventory.

Least Restrictive: Legal premise in adult guardianships that requires placing the least possible restriction on an individual's liberty while still considering the individual's personal and financial needs and the prevention of harm to the individual.

Letters of Guardianship: Document(s) issued by the court when the Determination and Order on Petition for Guardianship Due to Incompetency is entered. The Letters identify which rights were removed from the ward and the powers a guardian may have. The "Letters of Guardianship of the Estate" are currently identified as the form GN-3210: Letters of Guardianship of the Estate Due to Incompetency. The "Letters of Guardianship of the Person" are currently identified as form GN-3200: Letters of Guardianship of the Person.

Living Will: Legal document identifying a person's wishes about receiving or not receiving life-sustaining procedures or of feeding tubes when a person has a terminal condition or is in a persistent vegetative state. Also called a "Declaration to Physicians." See Wis. Stat. § 154.03.

Petitioner: The individual or entity that files the petition for guardianship.

Petition for Guardianship due to Incompetency: Document filed requesting the appointment of a guardian for the proposed ward. It is currently identified as form GN-3100: Petition for Guardianship due to Incompetency.

Physician's Orders for Life Sustaining Treatment (POLST): Document that provides instructions about an individual's wishes to receive life-sustaining treatment like CPR, antibiotics, IV fluids, artificial nutrition, or breathing assistance through a ventilator. The POLST is signed by the physician and the patient and then becomes medical orders for the patient. As of 12/2014, WI had no applicable legislation related to POLST.

Power of Attorney for Health Care (POA-HC): Legal document designating a separate person (i.e., the agent) to be given the legal authority to make decisions about the principal's health care if he or she becomes incapacitated. See Wis. Stat. Ch. 155.

Power of Attorney for Finances (POA-F): Legal document designating a separate person (i.e., the agent) to be given the legal authority to make decisions about the principal's finances and estate. Unlike a POA-HC, the POA-F may be effective upon execution unless another event or time is chosen by the principal. See Wis. Stat. Ch. 244.



Principal: Person who executes a power of attorney and grants the agent the authority to act on his or her behalf.

Protective Placement: Court-ordered placement of individuals determined to be incompetent made to provide for the individual's care and custody. See Wis. Stat. § 55.01(6).

Protective Services: Court-ordered services for individuals determined to be incompetent. See Wis. Stat. § 55.01(6r).

Register in Probate: County office whose duties include overseeing certain matters related to guardianships and the filing of powers of attorney for health care. Note: Several counties in Wisconsin have given these duties to the county's Clerk of Courts.

Statement of Acts: Document required to be filed by the petitioner in guardianship actions and is completed by the proposed guardian. The document inquires about the proposed guardian's background, including his or her criminal history. This document assists the court determine whether the proposed guardian would be an appropriate guardian if appointed. It is currently identified as form GN-3140: Statement of Acts by Proposed Guardian and Consent to Serve as Guardian.

Service of Process: The delivery of legal documents to other parties in a legal action.

Stand-by Guardian: A person, after appointment by the court, may assume the guardian's duties and authority if the guardian is deceased, incapacitated, or if the guardian is unable to serve for an extended period. The stand-by guardian may be appointed at any time, including when the initial Petition for Guardianship Due to Incompetency is heard. See Wis. Stat. § 54.52.

Successor Guardian: A person appointed as the guardian after the preceding guardian dies, is removed by the court, or resigns and the court approves of the resignation. See Wis. Stat. § 54.14.

Temporary Guardian: A guardian appointed for a short period of time. In Wisconsin, for an initial period of 60 days with the possibility of extending the temporary guardianship for another 60 days upon request. See Wis. Stat. § 54.50(2).

Ward: Individual adjudicated incompetent by the court in a guardianship action. A "proposed ward" is the individual alleged to be incompetent by the petitioner in a guardianship action but the court has not yet entered a decision about the individual's competency.

QUESTIONS? Call the Wisconsin Guardianship Support Center at 1-855-409-9410 or email at guardian@gwaar.org.



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