

Ethical Principles

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Retired Orange County Public Guardian. December 17, 2019

Guardianship Abuse

- Professional Fiduciary Nevada
- Professional Agency New Mexico

U.S. Senate Special Committee on Aging

- Committee Issued a report on Guardianship in November 2018.
- Key Findings:
 - Oversight of Guardians and Guardianship Arrangements.
 - Alternatives to Guardianship and Restoration of Rights
 - The need for better data

Training Objectives

- Decision-making models
- Difference between Ethics and Standards
- Ethical Principles
- How Ethical Principles apply to guardianship (conservatorship) cases

Difference between Ethics and Standards

- Ethics
 - Principles that guide a person to decide what is good or bad, right or wrong, in a given situation.

- Legal Standards
 - Standards that are set forth in governmental laws.

Decision-making Models

- Supportive Decision-making
- Substitute Judgment
- Best Interest Standard

Protect Civil Rights and Liberties

- Appointment Process
- Act as an advocate
- Protect Privacy
- Right of Association
- Right to Practice Religion

Exhibit highest degree of trust and loyalty

- Treat the ward (conservatee) with dignity.
- Honesty.
- Listen and show empathy.
- Ascertain the preferences of the ward (conservatee).
- Avoid any conflict of interest.

Residence – Least Restrictive Placement

- Conduct assessment to determine placement.
- Determine the least restrictive placement closest of family and friends.
- Monitor placement and the ward's (conservatee) satisfaction.
- Protect conservatee from physical harm or abuse.

Consent to care, treatment and services

- Determine the ward (conservatee's) preference for care.
- Consent to medical treatment considering the least restrictive intervention.
- Include family when making end-of-life decisions.

Management of Estate

- Comply with local, state and federal laws.
- Avoid conflict of interest or self-dealing.
- Protect the assets of the estate.
- Exhibit competence in your duties.
- Fees are reasonable.

Termination and Limitation of Guardianship

- Promote independence.
- If appropriate terminate the guardianship (conservatorship)
- Seek limitation of the guardian's, (conservator's) powers when appropriate.

Breach of Duty

- Breaching a Duty is cause for removal or surcharge.
- Failure to use ordinary care and diligence.
- Failure to perform duties.
- Conviction of a felony.
- Gross immorality.
- Insolvency or bankruptcy of guardian (conservator).

Overview of state laws

- California
- Texas
- Pennsylvania
- Florida

Questions

- Any questions or comments