

MISSOURI ASSOCIATION of PUBLIC ADMINISTRATORS
STANDARDS OF PRACTICE
Practice Manual

INTRODUCTION

The purpose of this Practice Manual is to provide recommendations for practical application of the MAPA Standards of Practice. While individual Public Administrators will practice differently based on the judgment and discretion of the individual Public Administrator, we hope that the practice tips and thoughts in this Manual will assist you in maintaining a high quality, efficient, and effective fiduciary practice.

The Task Force drafting these was comprised of Public Administrators from a wide variety of counties and represent a broad range of county populations, composition, and years of experience. We intend that the Task Force's work will continue beyond the publication of this Manual in order to incorporate future ideas, changes in law, and the evolution of the Public Administrator's Office (PAO).

Additionally, a draft version of this Practice Manual was available for review and comment by all Public Administrators and an inclusive group of stakeholders and other people and entities interested in and affected by public administrators' work.

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PART I GENERAL OFFICE PROCEDURES

1. Document Retention

a. Chapter 109, RSMo. Requirements

- i. State statute provides specific guidance to Public Administrators as to what type of documents must be maintained and in what form. Rather than reproduce those standards here, you may review them by following this link <https://www.sos.mo.gov/CMSImages/LocalRecords/General.pdf>
- ii. The standards applicable specifically to Public Administrators is available at the Missouri Secretary of State website and by following this link <https://www.sos.mo.gov/archives/localrecs/schedules/publicadmin>
- iii. Note General Records Retention Schedule 058 – Litigation Case Files must be maintained six years after the case is closed.

b. Electronic Filing

As a general rule, if you file a document with the court, you do not need to maintain it in your office. This general rule is subject to the following exceptions.

- i. Verified Documents and Affidavits: Missouri Supreme Court Rule 103.07 allowed the electronic filing of documents signed under penalty of perjury, however, the registered user (i.e. the person filing the document) is the custodian of the paper document until the entire case is finally disposed.
- ii. Although local court rules will vary by circuit, many require that original wills and original corporate surety bonds be filed physically in addition to their electronic filing.

c. Practice Tips

- i. Maintain documents that establish title to assets securely. For example, vehicle titles, bank account signature cards, pre-need burial plan contracts, and the like.
- ii. Maintain client identification documents securely. For example, birth and death certificates, Social Security cards, Medicare cards, and the like.
- iii. Wills – we recommend that all original wills be filed with the probate division “for filing only” pursuant to §473.043 RSMo.
- iv. Maintain such other documents as necessary to evidence the quality of your practice against scrutiny. For example, original pleadings, inventories, settlements, and documents that confirm that another document is filed with the court (i.e. e-filing confirmation or received stamped copy).
- v. Maintain documents that will be used as evidence in court proceedings in their original form.
- vi. Consider segregating non-estate related documents from estate related documents. For example, documents that contain public administrator thought product, work papers, and personal identifying information.
- vii. Keep in mind different approaches to maintaining your files:
 1. Paper files and electronic files,
 2. Thin files when the retention rules and office policy allow, and

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3. Be mindful of the purpose and use of each document. For example, to establish a client's eligibility for a public benefit, to evidence the reasonableness of an expenditure, to explain the reasons supporting a medical consent, or whether the information is accessible from another source.
- viii. When in doubt, and even if you have no doubt, refer questions to your county's attorney.
- ix. Note - your office files are not your personal files. They are produced for and belong to your county.

2. Sunshine Requests

- a. The public may request "public records". Public records generally include any document a public body retains, or that is retained on the public body's behalf. Public records do not include documents that consist of advice in connection with the deliberative decision making process of the public body, unless the records are retained or publically presented. Documents prepared for a public body by a consultant are public records.
- b. Each public government body must appoint a custodian responsible for the maintenance of that body's records.
- c. The custodian shall make public records available for inspection and copying by the public.
- d. Each request for access to public records shall be acted upon as soon as possible. A response is due no later than the end of the third business day after receiving the request. PAO may request a costs deposit to cover the copying costs and a reasonable time to produce the documents. Note, some documents must be redacted to protect privileged information.
- e. **Practice Tip** – immediately upon receiving, and before responding to, an open records request, notify your county attorney (this is not your office attorney).

Reference: Section 610.023 RSMo.

3. Confidentiality and Privacy Concerns

- a. Information concerning the persons under guardianship or conservatorship, or estates are considered confidential. However, if information is already public (e.g. available as public record in court file) PAO staff may disclose it or refer the person requesting it to the public record. PAO staff may refuse to disclose sensitive information about the person where disclosure would be detrimental to the well-being of the person or would subject the person's estate to undue risk.

b. Practice Tips:

- i.** Any communication PAO makes, whether verbal, written, or an internal notes, is potentially subject to disclosure either through discovery in litigation or through a Sunshine Law request. PAO should make notes to document its activities on behalf of its estates. However, write all notes and issue all communications in terms mindful that they are subject to potential disclosure.
- ii.** Keep all confidential material out of the public view.
- iii.** When a document may be destroyed, use secure shredding.
- iv.** Obtain a Tax Identification Number from the Internal Revenue Service for the PAO office itself.

Reference: NGA Standard 11
MAPA Standard 9

PART II CASE MANAGEMENT

1. Case Management Standards

- a.** When serving as guardian of an incapacitated person, PAO shall take charge of the person of the ward and provide for the ward's care, treatment, habilitation, education, support and maintenance; and the powers and duties shall include, but not be limited to, the following:
 - i.** Assure that the ward resides in the best and least restrictive setting reasonably available;
 - ii.** Assure that the ward receives medical care and other services that are needed;
 - iii.** Promote and protect the care, comfort, safety, health, and welfare of the ward.
 - iv.** Provide required consents on behalf of the ward.
 - v.** Exercise all powers and discharge all duties necessary or proper to implement the duties listed above.
- b.** The PAO does not provide housing, medical, legal, or other direct services.

Reference: Section 475.120 RSMo.
MAPA Standards 5 and 10

2. Least Restrictive Alternative Standard

- a.** In all case management decisions, PAO strives to provide the wards with such care, habilitation and treatment as are appropriate for a ward considering his or her physical and mental condition and financial means.
- b.** When assessing placement options, PAO will impose on personal liberty of the ward only such restraint as is necessary to prevent the ward from injuring himself/herself and others.
- c.** PAO shall weigh the risks and benefits of the alternatives available, and develop a balance between maximizing the ward's independence and self-determination and maintaining their dignity, protection, and safety.

3. Client Participation in Decision Making

- a.** As guardian or conservator, PAO has a duty to maximize the client's participation in making decisions. Consider the level to which a client can participate. These are suggested levels derived from NGA Standards:
 - i.** Ward is able to express wants and needs, and participates in care decisions to the maximum extent possible.
 - ii.** Ward is unable to direct decisions, but I have attempted to ascertain their values and preferences and act accordingly.

- iii. Ward's preferences are unknown and unascertainable, and I rely on professionals to determine their best interests.

b. **Practice Tip:** This is also a required field on the annual guardian report.

4. Restoration

- a. As a guardian or conservator subject to the least restrictive alternative theory, PAO has a duty to monitor its clients and seek restoration of their rights when the client's ability indicates that they can maintain their health and safety, or manage their finances.
- b. When considering a client's restorability, look to the following indicators of capacity, the client, independently or with support:
 - i. demonstrates an awareness of their own mental or medical condition, and can articulate their diagnoses, and identify symptoms they experience,
 - ii. demonstrates an understanding of the programs, treatments and services available to them,
 - iii. demonstrates an understanding of the community services and supports available to them,
 - iv. shows the ability to take action in response to their symptoms, for example, seeking review of medication levels, therapeutic intervention or hospitalization,
 - v. shows the ability to identify medication and its purpose,
 - vi. complies with medication,
 - vii. attends appointments regularly,
 - viii. demonstrates proper hygiene,
 - ix. demonstrates ability to acquire and prepare food and meals,
 - x. safe around home,
 - xi. demonstrates an ability to maneuver around the community,
 - xii. demonstrates an ability to understand risks and benefits of medical procedures and provide informed consent,
 - xiii. understands income and assets,
 - xiv. understands bills, insurance, benefits, spenddowns, and the like,
 - xv. demonstrates an ability to articulate and comply with a budget,
 - xvi. if applicable, understands need to have a payee and shows willingness to consent to one.
- c. **Legal Tip:** Some courts require a professional opinion supporting restoration and some do not. Some courts will grant restoration on the strength of a petition only, and some will require hearings.
- d. **Practice Tips:**
 - i. Consider partial restorations when the client's condition suggest it.

- ii. Be aware of the facts and conditions that created the basis for the guardianship or conservatorship in the first place. Consider whether those conditions continue to exist.
- iii. Note that clients are able to seek restoration both with and without the guardian/conservator's agreement.
- iv. It is recommended that PAO consult with the professionals serving the clients for their opinion, including documents showing their opinion, concerning the client's abilities.
- v. It is recommended that PAO maintain documentation supporting their analysis on the client's restoration.
- vi. The strength of a client's restorability increases with the length of time the client shows functional ability and consistency in their abilities.
- vii. A client may be restorable if they can obtain and maintain services to provide for their health and safety or financial needs.
- viii. Whether a guardianship or conservatorship should be maintained at its present level is a required field on the annual guardian report.

Reference: Section 475.120.3(1) RSMo.
MAPA Standard 7

5. Termination of Guardianship - A guardianship may be terminated if the court determines that the guardian is unable to provide the services of a guardian due to the ward's absence from the state or other particular circumstances of the ward. §475.083.2(4) RSMo.

6. Pre-Appointment Guardianship Issues

- a. If PAO receives a case referral from Missouri Children's Division (MCD), request the following documents:
 - i. Discharge, treatment and placement plans;
 - ii. Utilization Review Committee approval;
 - iii. Social Security award letter;
 - iv. Identity of the proposed provider and level of care;
 - v. The last Social History Court Report generated from MCD; and,
 - vi. a report of any funds belonging to the minor held by MCD.
- b. If PAO receives a case referral that proposes placing the respondent in a locked behavioral unit, inquire whether:
 - i. a Level II (DA 124) screening is complete;
 - ii. the current provider (hospital, etc.) has sent any referrals for respondent's placement and to whom;
 - iii. obtain the respondent's placement history: and
 - iv. contact case manager to request that the case manager sends out the referral packets.

c. SB 806 items to remember:

- i.** Right to Notice and Participate. Public Administrators have a right to notice of a hearing on a petition nominating the PA as guardian or conservator, a copy of the petition and accompanying documents and a right to participate in the proceeding. These rights apply at any stage of the proceeding if the PA is considered by the court to be nominated. §475.075.3 and §475.079.3 RSMo.
- ii.** Public Administrator is guardian of Last Resort. No change in law, but the revised code more clearly states that the court should consider other persons before appointing an unrelated third party as guardian or conservator. §475.050.2 RSMo. Additionally, the revisions make clear that guardianship itself is the remedy of last resort, and the court should consider alternatives to guardianship. §475.075.13 RSMo.
- iii.** Emergency guardianships expire by operation of law after ninety days. §475.075.15 RSMo.

Reference: Form 1 Checklist for Initial Court Appearance
MAPA Standard 2

7. Case Intake

a. Topics to consider with case intake:

- i.** respondent's demographics,
- ii.** diagnoses,
- iii.** social history (or reasons for guardianship),
- iv.** treatment plan (or recommendations), and
- v.** any noteworthy medical issues.

b. Case Review –

- i.** It is recommended that PAO review case referrals for issues that may affect the PAO's ability to effectively serve as guardian/conservator. These issues may include, for example, the respondent's drug or alcohol use, resistance to services or medication, or a personality disorder.
- ii.** It is also possible that the medical evaluation filed with the guardianship petition is not sufficient to evaluate whether the guardianship will be effective or whether appropriate funding to provide services to the respondent is available. Evaluate any need for timely consent to medical procedures, any imminent discharge planning, identify and locate any previously unknown assets or income, and obtain family information if possible.

c. NGA Standard 13

It is recommended that PAO act in a manner consistent with NGA Standard 13. PAO is encouraged to review Standard 13 along with the other NGA Standards. www.guardianship.org

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d. After Appointments – Actions to Take

- i.** Once appointed, the PAO should meet with the ward within 10 days or as soon as practical. Assess the ward to determine whether the level of guardianship is appropriate and gather the necessary information to assess the ward’s capacity and functional abilities within 30 days of appointment or as soon as practicable. Based on the information available, the PAO should develop a plan of action.
- ii.** Consider developing a formal assessment tool. A sample Assessment Tool is included as Form 3 (_____ County Outline for Initial and Annual Visits). Other resources include the stock Assessment module in SEM’s Estate Management System and the Oregon Client Assessment form. A comprehensive checklist that includes conservatorship information also is included as Form 4 (Cass County New Estate Setup Form).
- iii.** Send a copy of letters or order of PAO appointment and contact information to those service providers, and others, who will need PAO consent to act. For example: nursing facility, ISL or other residential provider, community case worker, Social Security Administration, MoHealthNet, Internal Revenue Service, credit reporting agencies, and possibly Department of Revenue, County Clerk or Board of Election Commissioners, and the like.

di. Legal Tip: It is arguable that no *ad litem* (temporary) appointment is effective for more than six months at a time. It is recommended that PAO strive to have no *ad litem* appointment last longer than six months from date of appointment and should request a status review hearing if necessary. Consult your attorney.

Reference: Form 2 Outline for Initial and Annual Visits
Form 3 New Estate Setup Form
Section 475.097.1 RSMo.
MAPA Standard 2
MAPA Standard 10.2
NGA Standard 13.I.C.

8. Visitation -- Initial Visit of Ward

- a.** When assigned a new case, the PAO should visit with the ward and complete the initial intake.
- b.** It is suggested that, if the initial visit is in a private residence the PAO should be accompanied by a second person.
- c.** As part of the initial intake, the PAO should explain the role of the guardian, assess the ward’s physical and social situation, educational, vocational and recreational needs, preferences and available support systems. It is suggested that you provide written information to the client outlining how your office functions. A sample is provided as Form 5. Additionally, the PAO should obtain the information and documents set out in the Checklist for Initial Visits.

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- d. If the client is in a facility: It is suggested that when admitting a ward to a new SNF, RCF, or ISL placement, provide the facility or provider with:
 - 1. A copy of your letters or order of appointment;
 - 2. Your contact information; and,
 - 3. Any instructions you may have regarding obtaining medical consents and reporting incidents outside of normal business hours.

Reference: Form 4 Notice to Persons under Guardianship
MAPA Standard 13.
NGA Standard 13
Section 475.078 RSMo
Section 475.120 RSMo.
Section 475.361 RSMo.

9. Visitation - After initial visit

After the initial visit, the PAO should

- i. Enter into PAO records the ward's physical description, diagnostic information, medication, assessment of ability to perform activities of daily living, need for aids, any behavioral issues, and any special concerns. It is recommended that you obtain a the client's photograph;
- ii. Forward the documents and information obtained during the initial visit to the appropriate person;
- iii. Re-execute the facility contract, lease, or otherwise provide consent to placement as necessary.
- iv. When PAO is serving as Conservator for a person placed in the community (i.e. not in a skilled nursing facility, Independent Supported Living, or DMH funded group home) the PAO should develop a budget.

Reference: MAPA Standard 10 & 11
NGA Standard 17 & 18

10. Annual Visits and Routine Contacts

a. Recommended Contacts:

- i. Consider developing a visitation schedule.
- ii. Make at least one face to face contact with each ward annually.
- iii. Strive to make other contacts with each ward quarterly, or as is appropriate in the circumstances. The quarterly contacts may consist of participation or review of care plans, habilitation plan or individual treatment plans, telephone contact with the ward, video conference with the ward or care staff, and other similar contacts. Each contact should be documented.

b. Annual Visit

- i. During the annual visit assess the ward's health and safety and the ward's environment. Gather the information necessary to complete the annual

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status report and obtain a copy of the care plan, if applicable, in order to file it with the court for the annual report as noted below.

- ii. Request a review of ward's charts for guardianship documents, advance directives and Do Not Resuscitate orders, medication log, event reports, and progress notes from physicians, nurses and social workers.

Reference: MAPA Standard 2, 5 & 10
NGA Standard 12
Section 475.082 RSMo.

11. Annual Guardian Report

- a. The Guardian and Conservator Annual Status Report and Statement of Affairs (or the Guardian Annual Status Report in estates without conservatorships) is due to the Probate Division on the anniversary date of the first letters issued in an estate.
- b. Remember, the guardian and conservator reports are public record. Do not include privileged or confidential information that you do not want to become public record.
- c. **Practice Tips:**
 - i. If drafting a plan of care for the ward for the annual report, be concise and direct. For example: "plan is for ward to remain in placement and comply with treatment"; "plan is for ward to remain drug free and not engage in risky behavior"; "plan is for ward to participate in social services to support their health and safety"; or similar statements.
 - ii. When describing the other activities you perform on the client's behalf, considering using language from §475.120 RSMo. which sets forth a guardian's duty. One example is set out in Appendix 2.

Reference: Appendix 1 Sample Guardian Report Language
Form 5 OSCA Form Annual Guardian Report
Forms 6 and 7 MAPA sample Annual Guardian Reports
SEM – EMS (or similar software) reports

12. Medical Consent Standards

- a. **Informed Consent Standard** -- The PAO applies the principles of Informed Consent when making decisions for the person under guardianship. Those principles are: That the agreement to a particular course of action is based on full disclosure of the facts needed to make the decision intelligently and assumes that consent is based on adequate information, voluntary action, and lack of coercion.
- b. **Procedures for Medical Consents**

- i. Prior to Consent -- Check PAO authority granted in your letters or order of appointment before giving any medical consent. Bring any concerns to your legal counsel or appointing court.
 - ii. Request for Consent – Using a deputy for Non-Invasive Procedures.
 - 1. If you have a deputy, consider giving them the authority to give verbal consent for a non-invasive procedures such as the following:
 - a. Transfusions
 - b. Vaccinations
 - c. Antibiotics-oral or intravenous (IV)
 - d. Hyperbaric therapy
 - e. Non-extraction dental procedures such as cleaning, x-rays, and exams
 - f. Blood tests including HIV
 - g. Medication and medication changes
 - h. Admission into treatment facilities
 - i. X-rays, MRIs, CTs with and without contrast media
 - j. Replacement of an existing PEG tube or J tube
 - k. Endoscopic procedures including those with biopsy
 - l. Repair and casting of non-surgical fractures of the bone
 - m. Paracentesis (withdrawal of fluid from lung)
 - n. Debridement of wounds
 - iii. The PA would then provide consent for complex or invasive procedures and Do Not Resuscitate Orders.
- c. **Questionnaires for Invasive or Complex Medical Procedures** -- Consider using a written questionnaire for all procedures not enumerated above. A proposed form, Request for Information Relating to Medical Surgical Consent, is attached for sending to the medical personnel. This form is designed to provide you with the information necessary to evaluate the request.
- d. **After-hours consents** -- it is suggested that you use the Questionnaire as guideline of questions to ask when evaluating a request for verbal consent after normal business hours.
- e. **Follow up on after hour calls** -- It is suggested that PAO follow up on after-hours consents during the next business day. Consider obtaining the following information:
 - 1. the reason for the emergency room visit;
 - 2. whether the ward was admitted; and,
 - 3. the treatment provided.
- f. **Track Hospitalizations** -- It is suggested that PAO track hospitalized wards by maintaining a list of all wards in the hospital along with their respective presenting medical issue:
 - 1. check daily for updates on wards' condition;
 - 2. especially follow medically fragile wards; and,

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3. obtain medical records as needed.

- g. Consent After Procedure** -- In the event a medical or dental procedure is performed and written or verbal consent was not obtained prior to the procedure, it is suggested that PAO not give consent after the event. PAO should document both consents and non-consents in the wards' file.

Reference: Form 8 Medical Surgical Questionnaire

13. Emergency Procedures -- When PAO receives a phone call indicating that the ward has a medical emergency and that there is not enough time to complete a written consent due to the nature of the emergency, verbal consent may be given according to the guidelines in Section 12 above.

14. Extraordinary Procedures -- PAO shall not authorize an extraordinary procedure without prior authorization from the Court unless the person has executed a living will or an advanced directive that clearly indicated the person's desire with respect to the action.

- a.** Extraordinary procedures include, but are not limited to:
 - i.** Psychosurgery,
 - ii.** Experimental Treatment,
 - iii.** Sterilization,
 - iv.** Abortion, and
 - v.** The withholding or withdrawal of life sustaining measures.
- b. Practice Tip** – this situations are often factually nuanced. You are advised to consult with your attorney.

15. Medical Procedures Governed by Statute – When PAO receives a request for consent for any medical procedures that are governed by specific statutory procedures, for example Electroconvulsive Therapy (§630.130 RSMo.), PAO shall follow the statutory provisions.

Reference: NGA Standard 14.XIV

16. Palliative Care -- PAO shall seek to ensure that appropriate palliative care is incorporated into all health care, unless not in accordance with the person's expressed preferences and values. For purposes of this subsection, "palliative care" is care focused on the relief of pain, symptoms, and stress of serious illness.

Reference: NGA Standard 14.XV

17. Sexual Expression -- PAO should acknowledge its clients' right to interpersonal relationships and sexual expression. PAO shall takes steps to ensure that its clients' sexual expression is consensual, they are not victimized, and an environment conducive to this expression in privacy is provided.

- a. Consent for Birth Control – Routine** PAO shoul ensure that the person is informed of birth control methods. PAO should consider birth control options and

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choose the option that provides the person the level of protection appropriate to the person's lifestyle and ability, while considering the preferences of the person. PAO should encourage the person, where possible and appropriate, to participate in the choice of a birth control method.

- b. Consent for Birth Control for Medical or Behavioral Issues** -- Follow the invasive procedure protocol and request the treating physician explain the physical or mental condition leading to the recommendation, the alternative treatments available and the result of any alternative treatment provided.
- c. Consent to Invasive Procedures Involving the Sexual Organs** –
 - i.** For persons who are post-menopausal and who suffer from a medical condition for which no other reasonable medical treatment is available, PAO may consent to a surgical procedure that would involve removal or impairment of their reproductive organs following the invasive procedure protocol.
 - ii.** For persons who are NOT post-menopausal and who suffer from a medical condition for which no other reasonable medical treatment is available, request the treating physician explain the condition, any alternative treatments or procedures and the likely consequences to the person if the recommended procedure is not performed. It is recommended as a best practice to obtain a court order prior to the procedure.

Reference: Form 9 Birth Control Questionnaire
NGA Standard 10.II

18. Withdrawing or Withholding Treatment -- The PAO follows the presumption in favor of the continued treatment of the person.

- a.** PAO will follow the previously expressed wishes of the person, or their current wishes if they are able to state them, when determining whether to consent to the withholding or withdrawal of treatments.
- b.** If the person's wishes cannot be ascertained, PAO will apply medical futility and bests interest models to determine whether treatment should be withheld or withdrawn.
- c.** If the treatment is life sustaining (i.e. nutrition, hydration or ventilation) PAO will not consent to the withholding or withdrawal of such treatment unless the person's wishes to do so (either previously or currently) are expressed by clear and convincing evidence. For example, by current direct statement of wishes, previously executed advanced directive, or a prior court order.

Reference: Section 475.120.3 RSMo.
NGA Standard 15

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MAPA Standard 6.III

19. Medical Futility Models -- When confronted with the question of whether to withhold medical treatment, the PAO considers the models of medical futility to ascertain whether the consent is in the person's best interests.

- a. "Futile" medical measures are those that (1) serve only to prolong the dying process and (2) offer no reasonable expectation of affecting a temporary or permanent cure of or relief from the illness or condition being treated.
- b. It is suggested that if the treating physician cannot provide a definitive opinion on the futility of a proposed procedure, you are encouraged to consult a medical ethicist or refer the matter to the appropriate hospital's ethics committee.

20. Do Not Resuscitate Orders -- Prior to authorizing a Do Not Resuscitate Order (DNR), PAO follows the steps in Withdrawing or Withholding Treatment. PAO will authorize a DNR Order based on the ward's previously expressed preferences or, if those preferences are unknown, then in accordance with the ward's best interest.

- a. Note: that you may consent to DNR orders that are either in hospital only, out of hospital only or both. In addition §190.600 RSMo. directs that Out of Hospital DNR consents are entered on a particular form (the purple form).
- b. It is suggested that you use the DNR Request Form attached to this Manual, after it is completed by the attending physician to document the basis for your decision. It is further suggested that your legal counsel review your DNR Order consents.
- c. A suggested form to provide DNR in and out of hospital consents is attached as "Form10a DNR Consent."

Reference: Form 10 DNR Questionnaire
Form 11 DNR Consent
Section 475.120.3(2) – (5) RSMo.

21. Involuntary Admission to a Mental Health or Intellectual Disability Facility – Standards

- a. The PAO has authority to consent to the admission of a ward to a mental health or intellectual disability facility for up to thirty days without a court order. Admissions lasting longer than 30 days require a court order.
- b. PAO will consent to such an admission when it is appropriate and in the ward's best interest. For purposes of this section, "appropriate and in the ward's best interest" is satisfied when the placement minimizes the risk of substantive harm to the person, obtains the most appropriate placement possible, and secures the best

treatment for the person. Risk of substantive harm means the likelihood of serious harm which the wards presents to themselves or to others.

Reference: MAPA Standard 10.4
NGA Standard 12
Section 475.120.5 RSMo.
Section 475.121.1 RSMo.

22. Procedures for Requesting Court Order for Involuntary Admission and Warrant

- a.** For those wards admitted to a mental health facility or a habilitation center, either voluntary by guardian or by court order, the PAO should track the expiration date of the admission by calendar.
- b.** Before the expiration date, the PAO should request from the facility a physician's statement setting forth the factual basis for the need for continued admission, including a statement of the ward's current diagnosis, plan of care, treatment or habilitation and the probable duration of the admission.
- c.** Use the sample form and proposed order provided and submit to the court with the doctor's statement provided by the facility.
- d.** Examples of when such a petition and order are needed include:
 - i.** When a ward is detained by order of a judge with jurisdiction over a criminal proceeding, and that order is released at the termination of the criminal proceeding, PAO provides a consent to admit the ward voluntary by guardian. The estate is calendared for a probate court order thirty days after the voluntary by guardian consent is effective.
 - ii.** When a ward is subject to a warrant and order to admit, on admission PAO provides a consent to admit voluntary by guardian and the estate is calendared for thirty days from the consent.
 - iii.** When a ward is already subject to a court order for continued admission.

Reference: Form 12 Petition to Admit Ward to Mental Health Facility
Form 13 Proposed Judgment to Admit Ward
Form 14 Proposed Warrant
Form 15 Petition and proposed Judgment for continued admission
Form 16 Template for Physician's Opinion regarding continued admission
MAPA Standard 10.IV
NGA Standard 12
Section 475.121 RSMo.

23. Discharge Recordation

Practice Tips:

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- i.** When a ward is discharged from an involuntary hospitalization, the PAO should request a copy of the discharge summary from the facility.
- ii.** In the event a ward is denied admission to a psychiatric hospital, the PAO should request from the facility any intake notes or physician notes drafted during the intake process.

Reference: MAPA Standard 10.I and II
NGA Standard 14

PART II ASSET MANAGEMENT AND BENEFITS

1. Duties Regarding Financial Matters

Identify whether you have a fiduciary duty by way of appointment as payee, conservator, trustee, or personal representative. Guardians, conservators, and personal representatives are creatures of statute. When appointed, PAO only has the authority specifically identified in the appointing statute. If in doubt whether PAO has authority for any particular action, get a court order authorizing the action. Seek legal advice, liberally.

As stated in *Estate of Stroh*:

It is the duty of the personal representative to look after the interests of the estate and to act for and on behalf of all persons who have an interest in the estate. The personal representative is liable for want of due care and skill with the measure of due care and skill being that which a prudent person would exercise in the direction and management of his own affairs. *Estate of Stroh*, 899 S.W.2d 534, 538 (Mo. App. 1995).

2. Standard of Care

- a. Use the degree of care, skill, and prudence an ordinarily prudent person uses in managing the property of, and conducting transactions on behalf of, others.
- b. If you have special skills or are appointed on the basis of representations of special skills or expertise, you are under a duty to use those skills.
- c. Always act in the interest of the estate and avoid conflict of interest which impair your ability to do so.

Reference: Section 475.130.1 RSMo.

3. Legal Tips:

- a. If appointed conservator you have the duty to take possession of all real and personal property, assets and income. §475.130 RSMo.
- b. If appointed personal representative remember that the real and personal property of the decedent passes on their death to either their heirs at law or beneficiaries named in a will. However, a personal representative has a right to sell real or personal property for those reasons identified in statute. §473.260 RSMo.
- c. If appointed personal representative in a supervised estate, you do not have an immediate right to possession of the decedent's real property. You must obtain an order to take charge of the property from the Probate Division. §473.263 RSMo.

- d. Title – title all bank accounts to reflect the fiduciary character of the account, for example: Joe Smith, Public Administrator, conservator for Carrie Client.

4. Duty as to Financial Records

Practice Tips:

- i. Have written policy and practice to demonstrate a system of internal controls to protect the funds of the persons for whom you provide financial management services;
- ii. Keep estate accounts separate, or keep separate ledgers if the accounts are pooled;
- iii. Follow applicable local, county, state and federal statutes and regulations. Each agency which might appoint PAO as payee, for example Social Security Administration or Veteran’s Administration, will have its own rules and regulation governing how you deal with those funds;
- iv. The Prudent Investor Act provides guidelines on how PAO invest its clients’ funds;
- v. Demonstrate a system of checks and balances so that client accounts are not accessible to unauthorized individuals;
- vi. Have client financial records audited by outside entity. This might include review of PAO inventories and settlements by the Probate Division, PAO payeeship accounts by the Social Security Administration, and the like; and,
- vii. Have an identifiable client file.

Reference: NGA Standards of Practice for Agencies and Programs
Providing Guardianship Services IV. F.

Appendix 2 The Bar Plan Surety and Fidelity Company “Directions for Court Appointed Fiduciary”

5. Asset Searches

a. Generally

- i. At the time PAO is appointed fiduciary for any estate, subject to any specific limitations on authority the Probate Division may direct, conduct a search for all assets for which the estate may have a beneficial interest. All such assets will be appraised, inventoried, preserved, and settled, according to the statute, law, or local procedure applicable to a given estate.
- ii. When PAO has reason to believe a particular asset is subject to administration, it is recommended that PAO confirm titling to that asset.
- iii. In a case where there is an open estate and a prior fiduciary, PAO should review the court file for documents indicating financial accounts or other assets (for example, verifications of deposit, bank statements, correspondence, inventories and accountings).

- b. Financial Institutions** -- PAO should consider sending out inquiries to:
 - i.** local banks most likely to have accounts and such other banks that PAO has reason to believe may contain an account beneficial to the estate;
 - ii.** completing a request for a IRS Wage and Income Transcript;
 - iii.** requesting a credit report;
 - iv.** annuity companies, brokerage companies and the like;
 - v.** known insurance company, pension company, health insurance, long term care insurance, Medicaid and Medicare.

Reference: Form 17 Banking Institution Inquiry Form

- c. Personal Property** -- PAO should conduct a search for personal property holding a written title by:
 - i.** reviewing County personal property accounts for any declared property;
 - ii.** reviewing Missouri Department of Revenue records; and,
 - iii.** searching for other property that the PAO has reason to believe is titled to the protectee or estate.
- d. Vehicles** – For vehicles, trailers, and the like, PAO should verify:
 - i.** owner name,
 - ii.** location,
 - iii.** vehicle description,
 - iv.** Vehicle Identification Number; and
 - v.** license number.
- e. Currency** -- When PAO identifies currency (for example during a search of real property, storage facility, or safe deposit box) it must be secured on site by:
 - i.** The PAO staff who located the currency announces to the other persons present that the currency has been located,
 - ii.** if on a real property search, video tape the currency, and
 - iii.** count or otherwise document the value of the currency.
 - iv.** Deposit to the estate operating account as soon as practical.
- f. Safe Deposit Boxes** -- Search of safe deposit boxes using the following guidelines:
 - i.** schedule the time of search with bank staff and request bank personnel be present;
 - ii.** the search team consists of the Public Administrator or deputy, another person, and bank personnel, if available;
 - iii.** confirm the title to the box is solely with the protectee or decedent. If there is a joint owner, obtain a court order to access the box;
 - iv.** check if PAO has a key to the box, and if not, arrange for a locksmith;
 - v.** inventory the contents of the box on site; and,
 - vi.** securing property located in the box following the guidelines for personal and real property described above.
 - vii. Legal Tip:** Remember, the title to the safe deposit box does not necessarily determine the title to its contents.

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- e. **Real Property** -- PAO should conduct a search for real property subject to administration in the estate by:
 - i. reviewing county tax records for declared real property;
 - ii. conduct grantor/grantee searches with County, Recorder of Deeds;
 - iii. searching for other property PAO has reason to believe is titled to the protectee or estate.
6. **Real Property- General Duty** In conservatorships and decedent estates where the court has entered an order to take charge of real property:
- i. The PAO will, subject to the solvency of the applicable estate, maintain the physical condition of all real property managed by the PAO.
 - ii. PAO should preserve all real property under its control against waste, make it profitable, or sell, or abandon it.
 - iii. Periodically conduct a physical check of the exterior of all vacant real property managed by the PAO for vandalism or other damage. That property includes, in decedent estates those parcels to which the Court has entered a take charge order and in conservatorships those parcels to which the Court has not entered an order authorizing its abandonment.

7. Real Property – Right of Possession

- a. **Conservatorships** – the conservator of the estate shall take possession of all of the protectee's real and personal property, and of rents, income, issue, and profits therefrom, whether accruing before or after the conservator's appointment, and of the proceeds arising from the sale, mortgage, lease, or exchange thereof. Subject to such possession, the title to all such estate, and to the increment and proceeds thereof, is in the protectee and not in the conservator. §475.130.2 RSMo.
- b. **Decedent Estates – supervised administration Legal Tips:**
 - i. Title passes at death to beneficiaries if estate is subject to a will or to heirs if there is no will.
 - ii. No right to possession or duty to manage unless the Court enters an order to take charge.
 - iii. Personal Representatives can be surcharged for making expenditures to maintain real property without an order to take charge.

Reference: Section 473.260 RSMo.
Section 473.263 RSMo.
Estate of Alexander, 360 S.W.2d 92 (Mo. 1962).

8. Real Property – Practice Tips:

- a. **Documents**
 - i. When PAO locates real property subject to administration in an estate, it is recommended that they copy the pertinent documents in the chain of title.

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- ii. During the real property search, PAO should consider retrieving the following documents: identification documents (e.g. Driver's License, Social Security cards, passports, etc.), benefits documents (e.g. Social Security, Medicare cards, Medicaid cards, Veteran's Administration, etc.), bank statements, birth, death, and marriage certificates, documents showing stocks, bonds, or brokerage accounts, wills or trust documents, advanced directives or living wills, burial documents, bank books, insurance policies, vehicle titles, credit cards, and real estate documents.

b. The Search

- i. It is recommended that PAO view any real property and schedule a search of real property within 14 days of appointment. It is recommended that the PAO search team include the Public Administrator, independent personal property appraiser, an independent real estate broker, and other county official as needed.
- ii. The purpose of the search is to document the condition of the real property and any personal property within it, locate documents indicating other assets subject to administration, and obtain valuations of the real property and any personal property subject to administration.
- iii. The search team should follow the following guidelines:
 - 1. videotape or photograph the real property before other members of the search team enter the premises. The idea is to document the condition of the property as it is found; and,
 - 2. PAO staff should have a copy of letters of appointment and their deputization papers on all searches.
- iv. If PAO is taking possession of the real property, the locksmith should rekey or otherwise secure the property and limit access to PAO staff.
- v. Consider taking clothing or other non-valuable personal articles to place in the ward's possession.
- vi. Consider requesting that local law enforcement meet search the team and clear the house before entry by any PAO staff to ensure there are no occupants.
- vii. For apartment searches arrangements should be made in advance with the landlord to gain access to the premises whether or not PAO have keys.
- viii. Locate and identify all vehicles on the premises and include them on the video tape. Write a description of the vehicle including the license number, license status and VIN.

Practice Tips:

- 1. Be aware of the structural and environmental conditions of the property to assure your safety.
- 2. Firearms and similar items may require assistance from trained handlers like law enforcement.
- 3. Be aware of the possibility of illegal or toxic or otherwise hazardous substances.

9. Real property – Legal Tip: In decedent estates, only search real property in the following situations:

- i. If it is not occupied, then only to secure the real property and conduct a search for personal property subject to administration in the estate;
- ii. If occupied, then only with the occupant’s consent; or,
- iii. after the Court enters an Order to Take Charge.

10. Valuation – Real Property It is recommended that PAO obtain a valuation for real property by either:

- i. reviewing the fair market value assigned to the real property by the County Assessor’s Office, or other similar jurisdiction;
- ii. by obtaining a broker’s valuation from a real estate broker; or,
- iii. by obtaining a professional appraisal.
- iv. The particular valuation used will be dictated by the particular estate’s circumstances.

11. Valuation – Personal Property It is recommended that PAO obtain a value for personal property as follows:

- i. Consider using an auction company, or other qualified professional, to provide an initial valuation and direct whether a particular item has characteristics requiring additional appraisal. Examples of such items include: art, collectible coins, baseball cards, fine jewelry, classic cars, and other collectibles.
- ii. For vehicles consider the valuation from either the Kelly Blue Book, the National Automobile Dealers Association, or other similar sources. If a vehicle’s mileage or condition is unknown, assume it is in fair condition and was driven 10,000 miles per year.

12. Surety Bonds – PAO should consider maintaining an official bond or surety bonds in individual estates sufficient to protect the estates’ assets and income.

- a. Note different courts apply different analyses in assessing the sufficiency of a fiduciary’s surety bond.
- b. Note Section 473.730.2 RSMo. requires the court to order PAO to make a statement annually of the amount of property under PAO control for the purpose of assessing the sufficiency of the official bond. It is recommended that PAO consult with its supervising court or attorneys in preparing the report.

13. Safeguarding Property and Property Management

- a. **Personal Property** When PAO locates personal property that is small, valuable, and subject to loss (for example fine jewelry, valuable coins, firearms, and other collectibles), PAO retrieves the property and places it in the office vault or otherwise secures it to protect against loss or waste. Insure the personal property needed.

- b. Maintenance** - It is suggested that PAO maintain the personal property as follows:
 - i. maintain an inventory of the personal property with a description of the property, the Estate name, and the date it was secured;
 - ii. segregate each estate's property from that from other estates;
 - iii. individual items should be labeled or tagged and described individually;
 - iv. When PAO adds or removes items from its secure place, notate the event including the description of the item added or removed, the date of the event, or the disposition of the property;
 - v. periodically review the vault's contents and compare it against the Vault Inventory and resolve any discrepancies.
- c. Large Items** -- Large items of personal property (for example, furniture, tools, etc.) should be secured in the real property belonging to the estate or, if not available, in a public facility as estate funds permit. Personal property may be delivered to the auctioneers in anticipation of sale.

14. Real Property Maintenance – It is recommended that in conservatorships or decedent estates with take charge order:

- a. Secure the Property** – change locks, screw windows doors, etc.
- b. Do not commit waste**
 - i. selling is recommended – cash is easier to administer than realty;
 - ii. if considering renting, consider using a management company and consult counsel on the liability and implications; and,
 - iii. do not allow the value of property to diminish while under your administration if the estate has the means to maintain the property.
- c. Maintain the Property** - insure, pay property taxes, maintain condition, utilities, etc.
 - i. Regular visits to the property to make sure it remains secured;
 - ii. Insure -- vacant/fire policies – duty to notify the insurance company if vacant; and,
 - iii. File police reports and insurance claims as needed.

15. Real and Personal Property – Practice Tips:

- a.** Strongly prefer to administer decedent estates as a supervised administration, not independent, because it facilitates transparency and accountability.
- b.** Visually record by video or photograph all house searches and property potentially subject to administration whether PAO decided to secure or sell the property or not.

- c. Maintain a list of all real and personal property subject to administration by PAO. Include helpful information such as:
 - i. the estate name,
 - ii. the property's description;
 - iii. it's location (for personal property);
 - iv. a statement of whether PAO has possession or control;
 - v. its value;
 - vi. a statement of taxes due and year; and,
 - vii. the date and means of the property's disposition.

16. Real and Personal Property - Taxes and Insurance

Subject to any given estate's solvency, the PAO will keep all tax obligations and appropriate insurance on all taxable personal property, real property in conservatorships and real property in decedent estates to which the Court has entered an order to take charge. In the event an estate is unable to fully maintain its real or personal property, PAO will analyze the estate to assess whether abandonment of the property is appropriate. "Abandoning" is a court order.

17. Abandonment:

- a. **Decedent Estates:** When any personal or real property administered in an estate is valueless, or is so encumbered, or is in such condition that it is of no benefit to the estate, PAO will, subject to Court order, initiate distribution of the valueless property to the heirs or legatees, its abandonment, giving away or destruction, the relinquishment of all interest of the estate therein, or such other disposition as may be appropriate in the circumstances.
- b. **Conservatorships:** It is recommended that PAO assess property for sale or abandonment within a reasonable time of being appointed to the estate. We recommend using economic (costs v. benefit) analysis when deciding whether to sell or abandon property. That is, will maintaining the property increase its value to the estate, and does the estate have the financial ability to maintain it?
- c. **Legal Tip** – an order to abandon only removes the duty to account for it on settlements, it does not alter or convey title.

Reference: Section 473.293 RSMo.
 Section 475.130 RSMo.

18. Property Sale – Practice Tips

- i. PAO should assess real and personal property subject to administration in an estate for sale or other disposition as soon practical.
- ii. In decedent estates, it is recommended that PAO consult with legal counsel on the basis for sale of real property. §473.460 RSMo.
- iii. PAO will not accept any offers to purchase real property for less than three-fourths of its appraised value. §473.500 RSMo.

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- iv. It is recommended that unless the value of the real property or the estate's interest in it is *de minimus*, all contracts for sale should be handled by an independent real estate broker.
- v. Do not execute a contract for sale of real property prior to obtaining an order to sell. Do not execute any deed conveying real property prior to obtaining a judgment approving and confirming sale of real property.
- vi. Sell all real property "as is" and do not give guarantee, covenant or warranty of title or condition.
- vii. All sales of property should be by public sale or auction using an independent auctioneer or salesperson. Conducts no "close" sales of personal property – if a family member, heir, or beneficiary to an estate wishes to purchase personal property from an estate they may do so at the public sale.
- viii. There are many ways of disposing of low value personal property. Consider estate sales, trading the costs of clean up for the property, supported employment workshops, or simply not taking possession. Use your judgment as to the best way to maximize the value of the estate and minimize its liabilities. Seek legal counsel.

19. Hearing and Notice of Hearing on Petitions to Sell Property

- a. Decedent Estates – all petitions for authority to sell real property must be set for hearing with notice to heirs and devisees.
- b. Conservatorships – Unless waived by the court for cause, the protectee shall have ten days' prior notice of a required court hearing on the petition for the sale of the protectee's real or tangible personal property. The protectee is not entitled to notice of a hearing on the petition for the sale of the protectee's intangible personal property.

20. Expenditures – Payment of Administrative Expenses

Typically, administrative expenses like court costs, fiduciary and attorney fees, and other costs of administration should be paid before other expenses. PAO should always obtain a court order prior to paying its fiduciary or attorney fees.

21. Routine Expenditures, Support and Maintenance Orders, and Budgets

Local practice varies, be informed what local rules or policies are issued by your judge. Local practice on contact with the Court also varies, seek legal counsel and friendship with court clerks.

22. Estate Planned Assets and Multi-Party Accounts in Conservatorships

- a. **General Duty** – As conservator, you are required to maintain the protectee’s estate plan. This includes property included in a will and property that directs a non-probate transfer.
 - i. Identify all property that has a joint owner, payable on death or transfer on death beneficiary designation, or other expression of an estate plan. When reviewing the title to any asset, look for joint ownership, payable or transfer on death designations, beneficiary designations, beneficiary deeds, specific bequests in a will, etc.
 - ii. A court order is required before taking possession or liquidating any estate planned asset. That order should also direct that the nature of the multiple party or estate planned asset is retained.
 - 1. In order to protect the protectee’s interest in any multi-party account the PAO locates, it is recommended to send a letter to the financial institution, stating that PAO, on behalf of the protectee, claims an interest in the account, that the account is subject to litigation and that we refuse further withdrawals from the account. Include a copy of PAO’s letters of appointment with the instruction letter.
 - 2. If the asset is a US bond held in co-ownership or with a death beneficiary, a deposit in a financial institution held in co-ownership or with a death beneficiary, or real or personal property owned in joint tenancy or tenancy by the entirety – you must obtain a court order prior to taking possession or liquidating.
 - iii. **Practice Tips:**
 - 1. A court may not order the liquidation of an account held as tenancy by the entirety without the consent of the protectee’s spouse.
 - 2. Make sure the Court order authorizing PAO to liquidate the asset also directs how the proceeds may be used during the protectee’s life and directs how any balance of the funds, after the protectee’s death and final expenses, be distributed.
 - 3. Segregate estate planned assets from non-estate planned assets.
 - 4. When you have multiple estate planned assets in the conservatorship, each with different beneficiaries, it is possible to obtain an order that permits pooling the accounts and finding the proportional interest of the beneficiaries.
 - 5. The sequence for using a protectee’s funds when there are estate planned assets is:
 - a. The protectee’s income first,
 - b. then property owned by the protectee solely, and
 - c. lastly, and proportionally, estate planned assets.
 - 6. Although the asset should be re-titled to reflect the conservatorship, as a rule, do not liquidate the asset unless the estate’s financial condition requires it to maintain the protectee – i.e. needed to pay expenses pursuant to §475.125 or claims under §475.211 RSMo.

Reference: Section 475.322 RSMo.

23. Expenditures for Support and Maintenance in Minors Estates Before making any payment for the support and maintenance of any minor for whom PAO serves as conservator:

- i. If the request is from a minor's parent(s), assess whether they are able to satisfy their duty to support the minor. It is recommended PAO request a financial report from the parent to assess their ability. If the request is for an ongoing order for support and maintenance, request a financial report from the parent annually;
- ii. follow the principle that the conservator's first duty is to conserve the estate until the minor reaches the age of majority; and,
- iii. analyze any request for expenditure against the extent of the estate, the age of the minor, and the nature and amount of expenditure requested.

Reference: Form 18 Budget Sheet Worksheet

24. Investment of Surplus Funds: Invest all assets not needed for a protectee's immediate support and maintenance or administrative expenses consistent with the Missouri Prudent Investor Act.

- a. Consider the following types of accounts for surplus funds:
 - i. Restricted accounts – accounts where the bank has agreed to maintain the funds such that it will not allow withdrawals without prior court order.
 - ii. ABLE accounts
 - iii. Special Needs Trust
 - iv. Investments
- b. It is strongly recommended PAO consult with financial advisors and your attorney to develop an investment plan and comply with all legal requirements.

25. Conserved Funds and Monthly Support for SSA Beneficiaries

- a. The Social Security Administration has specific guidelines for eligibility and income management. See: A Guide for Representative Payees <https://www.ssa.gov/pubs/EN-05-10076.pdf>

26. Protectees with Funds From Employment - As conservator, PAO has a duty to take possession of a protectee's income. §475.130 RSMo.

Practice Tips:

- i. In addition to the statute, PAO needs to track the income for purposes of assessing the protectee's eligibility for public benefits and income tax obligations.
- ii. It is recommended the funds from employment be paid back out to the protectee, in whole or part, as part of their budget.
- iii. Consider the alternative in certain cases to obtain copies of the paystubs in order to track its information and allow the protectee to receive the income directly.

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27. Deceased Protectees - Distribution of Estate

- a. As a rule, a conservator's authority to continue transaction for a protectee ceases on the death of the protectee, except as necessary to wind up the estate. Winding up, typically means paying, with court order, the obligations incurred by the conservator and expenses of administration, and funeral and burial expenses. §475.320 RSMo.
- b. **How to close estate if not exhausted –**
 - i. Suggestion of Death and Request that No Letters of Administration be Issued
 - 1. Criteria –
 - a. Protectee has no debt other than that of the conservatorship
 - b. Protectee left no will
 - c. Heirs at law are known
 - 2. Once Court enters its order that no letters be granted, operate as if administering a decedent estate.
 - a. This includes Mo Health Net forms
 - b. Note – time for annual settlement and final settlement
 - ii. Creditor's Refusal – if the protectee left creditors, it is possible for those creditors to file a Creditor's Refusal, which if granted, allows the conservator to pay the estate over to the Creditor (to the extent of its claim).
 - iii. If neither apply, consider opening a decedent estate.
- c. **Practice Tip** – It is recommended that when a protectee dies, regardless of how PAO closes the conservatorship estate, to file notice of the client's death with the Probate Division.

28. Banking Practice Tips:

- a. **Bank Statement Reconciliation** -- Reconcile the bank statements for each individual estate account monthly.
- b. **Patient Account reviews** -- Request all facilities holding a protectee's funds in resident funds accounts to produce an itemized accounting and state the balance of the resident funds account quarterly. Consider requesting the facility return any resident funds not needed for the protectee's immediate needs.

29. Claims and Litigation

- a. **General Duty** -- PAO is required to prosecute or defend actions, claims, or proceedings in any jurisdiction for the protection of the estate. §475.130.6(14); §473.273, and §473.760 RSMo.

b. Claims –

- i.** Consult with your attorney to consider what affirmative defenses you should assert. Some defenses include: statute of limitations, non-claim statute, unauthorized practice of law, failure to prosecute or satisfaction (because paid by Medicaid eligibility).
- ii.** Common ways in which claims are not sufficient:
 - 1. filed in the incorrect estate
 - 2. the evidence will not likely prove the elements of the underlying cause of action;
 - 3. the amount requested is not reasonable; and
 - 4. in conservatorships, the basis for the claim was not beneficial to the protectee.
- iii.** Allowed claims must be paid in a particular order by statute. Consult with your attorney prior to paying claims to assure you are paying them in the correct order. If the estate is insufficient to pay all allowed claims, consider a court order directing the order and ratio of payment.

c. Litigation – It is sufficient here to say that PAO may be required to bring certain types of litigation. Some typical actions are:

- i.** Petitions to Determine Liability – to determine the liability of prior fiduciaries.
- ii.** Petitions to Discover Assets – request the court determine title to an asset and whether it is subject to administration in an estate.

d. Practice Tips

- i.** If a fiduciary is appointed before you and you fail to determine their liability that liability likely becomes yours.
- ii.** All litigation, like the management of other property, is economic in nature. That is, you should weigh what it costs to maintain the property (or prosecute the cause of action) against what it is worth (or how much you can recover).

PART IV SETTLEMENTS AND ACCOUNTINGS

1. Accountings – General Duty - The PAO will inventory and account for the income, assets and property it administers on behalf of the estates to which it is appointed justly and accurately.

2. Inventories Generally

- a.** Due within thirty days after letters are granted, unless a longer time is granted by the court, and will contain a statement and valuation of all of the property of the protectee or decedent, which comes to PAO possession or knowledge, and a statement of all encumbrances, liens, and other charges on any item.
- b. In decedent estates**, the inventory includes a statement of all property owned by the decedent at the time of death.
- c. In conservatorships**, the inventory shall include property as to which the protectee is a joint tenant or tenant by the entirety and all policies of life insurance owned by the protectee, whether or not payable to a named beneficiary, together with a statement of all income and benefits to which the protectee is or will be entitled to receive. The inventory shall also disclose any nonprobate transferees designated to receive nonprobate transfers after the protectee's death.
- d. Date of Valuation**
 - i. In decedent estates, the property is valued on the inventory as of the date of the decedent's death.
 - ii. In conservatorships, the property is valued as of the date the protectee was adjudicated disabled.

3. Settlements

- a.** Due within sixty days of the anniversary date of the first letters granted, unless extended by the Court.
- b.** All settlements filed by the PAO will state the period for which it is made and, among other things, contain a just and true account of all moneys collected by the PAO, the date when collected, from whom collected and on what account collected, whether on claims charged in the inventory or for property sold or otherwise.
- c.** Show the exact amount of principal and interest collected on each claim, and also the amount and date of each expenditure or distribution, and to whom and for what paid.
- d. Specific Items to consider:**
 - i. obtain verifications of deposit and vouchers;
 - ii. confirm that the transactions are described accurately;

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- iii. confirm that legal authority exist for all expenditures, consult with your attorney and assess your local practice;
- iv. confirm that all known income and assets are accounted for;
- v. confirm that court costs, surety bonds and any administrative fees are paid or considered; and,
- vi. examine the long range solvency of the estate.

e. Practice Tips:

- i. It is recommended that PAO maintain a separate list of all settlements and guardian reports due for the estates it administers.
- ii. Consider developing a checklist to assure the adequacy of each settlement. Remember, if it is incorrect the liability goes to the fiduciary, not the attorney. A sample checklist is included as Appendix 5 (_____ County Attorney Settlement Checklist).
- iii. Some courts permit an abbreviated settlement for indigent estates and those where the assets are held in restricted custody. It is recommended you consult your attorney or Probate Division. §475.276 RSMo.
- iv. If permitted by your Court, there are advantages to placing an estate on “No Further Process” like reducing the costs of the estate’s bond premium, the time and expense of the accounting, and court costs. No Further Process requires a court order.

4. Final Settlements –

- a. When Due --** Generally, within 90 days of the termination of a conservator’s authority or when the estate is fully administered in a decedent estate.
- b. A conservator’s authority terminates when:**
 - i. the conservator dies, resigns, or has their letters revoked.
 - ii. the protectee dies, is restored or the court grants letters to a successor conservator.
- c. Notice –** As directed by your attorney, provide notice of filing PAO’s final settlement to all interested persons. These may include the former protectee if restored, a successor conservator, a personal representative, creditors whose claims are allowed but unsatisfied, and heirs at law or beneficiaries under a will.
- d. Distribution -** It is recommended that you consult your attorney to determine how the estate is distributed.
- e. Legal Tips:**
 - i. All orders of the Probate Division prior to the order approving final settlement are interlocutory. This means that all transactions during the estate’s administration are subject to objection on filing final settlement.

- ii. The end goal of all estate administration is the order of discharge. This is the event that starts the statute of limitations on your liability and closes the estate.

Appendix 1

Sample language to answer the Annual Guardian Report question about other activities the guardian performs on the ward's behalf is:

“Among other activities, we have provided for the ward’s care, treatment, habilitation, education, support and maintenance; assured that the ward resides in the best and least restrictive setting reasonably available; assured that the ward receives medical care and other services; promoted and protected the ward’s care, comfort, safety, health, and welfare; and, provided required consents on the ward’s behalf.”

DIRECTIONS FOR COURT APPOINTED FIDUCIARY

As an Executor, Administrator, Personal Representative, Guardian, Conservator, Receiver or similar title, you are a fiduciary, entrusted with the care of someone else's property.

The following DO's and DON'Ts are basic rules, which you should follow to properly and conveniently perform your duties:

DO's

1. Open a checking account in the name of the Estate using the Estate's social security or tax id number (not your own), for all money paid out. Your cancelled checks are the best record of how you have spent the money. This checking account should **ONLY** be for the money in the Estate and never your money or money belonging to anyone other than the Estate.
2. Keep an accurate record of **ALL** money you receive on behalf of the Estate and **ALL** money paid out on behalf of the Estate. The form on the other side may help you. It is very important to obtain receipts.
3. Talk to your Attorney **BEFORE** you pay any Creditors of the Estate. State laws dictate which Creditors should get paid before others. You may have personal liability for any payments made in error.
4. Talk to your Attorney **AND** obtain written Court approval, if necessary, **BEFORE** you pay out **ANY** money or dispose of **ANY** property.
5. In many states, investments in anything other than FDIC insured bank accounts or U.S. Government backed obligations are **PROHIBITED** without specific approval from the court. Always consult with your Attorney **BEFORE** making any investments and before reinvesting dividend payments in already approved investments.
6. Always act timely on any issues that arise. Court approval may take time.
7. Work with your Attorney at all times. Help and advice is what the Estate is paying for.

DON'Ts

1. Never Treat the property as your own, even if you are an heir or relative. The property is **NOT** yours until the Court and the law says it is. Keep the property separate from yours at all times. Not doing so could be a criminal offense.
2. Never Spend **ANY** amounts from the Estate without consulting with your Attorney.
3. Never Be afraid to ask your Attorney for advice and guidance. It will help make the work easier for both of you.
4. Never Delay in reporting to the Court. Follow your Attorney's directions on signing papers and filing them with the Court. If you fail to report to the Court on a timely basis, the Court may relieve you of your duties as a fiduciary. **You can be held personally liable if your failure to exercise your duties causes any damage or monetary loss to the Estate.**

Attorney Settlement Checklist

- ____ 1) Settlement beginning balance matches inventory or last annual settlement
- ____ 2) Income sources reviewed and showing on settlement or have plan to bring in
- ____ 3) Other assets reviewed:
 - (1) bank accounts plan to sell, abandon or issues
 - (2) tangible personal property plan to sell, abandon or issues
 - (3) real property plan to sell, abandon or issues
 - (4) vault inventory plan to sell, abandon or issues
- ____ 4) Any financial litigation: MPA, PDL, etc.
- ____ 5) MPA funds are properly segregated
- ____ 6) Annual Court costs paid
- ____ 7) Bond premium paid
- ____ 8) bond sufficient –
 - (1) current bond \$ _____
 - (2) current fungible assets \$ _____, plus one year income \$ _____, plus 4% \$ _____ equals \$ _____
- ____ 9) Annual tax liability assessed and paid
- ____ 10) Support and Maintenance order in place and sufficient
- ____ 11) All expenditures supported by court order
- ____ 12) Expenditures over \$75 supported by voucher
- ____ 13) Ending bank balances supported by verification
- ____ 14) Verifications are correct for restricted accounts, not restricted accounts, securities
- ____ 15) Budget –
 - (1) current income exceed expenditures by \$ _____
 - (2) current expenditures exceed income by \$ _____,
 - (i) need to liquidate assets – identify which
 - (ii) or estate will reach Medicaid limits in _____ months (send task to calendar)
- ____ 16) PAO administrative fee appropriate
- ____ 17) Staff Attorney approves settlement for signature

Checklist for Initial Court Appointment

- _____ 1. Was meaningful notice given to the Public Administrator?
- _____ 2. Were alternatives to guardianship/conservatorship explored?
- a. Durable power of attorney
 - b. Trustee
 - c. Representative payee
 - d. Supported decision-making
 - e. Use of appropriate services or assistive technology
 - f. Temporary emergency guardian ad litem/conservator ad litem
 - g. Limited guardianship/conservatorship
- _____ 3. Does the order include detailed findings of fact?
- a. The **extent of incapacity** (physical/mental/cognitive) to manage **essential requirements** (food/clothing/shelter/safety/etc.)
 - b. The **extent of incapacity** (physical/mental/cognitive) to manage **financial resources**
 - c. Whether a **supervised living situation** is required and, if so, to what degree
 - d. Whether **financial resources require supervision** and, if so, the nature and extent
 - e. Whether the **right to vote** is retained
 - f. Whether the **driving of a motor vehicle** is permitted
 - g. Whether the **right to marry** is retained
- _____ 4. What are the findings and factors regarding least restrictive environment? Does Ward require an order for continued admission?

VISIT CHECKLIST -- ASSESSMENT TOOL

I. Information to Gather on Initial Visit (10 days from appointment)

A. Address Section

1. Gender
2. Marital Status
3. Date of Birth
4. Social Security Number

B. More Information Section

1. Height
2. Weight
3. Hair Color
4. Eye Color
5. Race
6. Other Characteristics/Distinguishing Characteristics
7. Place of Birth:
8. Current Employment
 - i) Where, Hire Date, Contact person in payroll,
 - ii) Explain to ward process of paycheck funds.
9. Prior Employment,
 - i) Where?
 - ii) When?
10. Education
 - i) What school attended? _____
 - ii) What was highest grade completed? _____
11. Has ward ever served in the military? If so, gather information:
 - i) Branch?
 - ii) Dates of Service?
 - iii) Honorable discharge?
12. Parental Information
 - i) Father

- (1) Name
- (2) Place of birth
- (3) Alive?
- (4) Date of death
- ii) Mother
 - (1) Maiden name
 - (2) Place of birth
 - (3) Alive?
 - (4) Date of Death
- iii) Did either parent serve in the military or work for a government agency? If so, gather info:
 - (1) Branch?
 - (2) Dates of Service?
 - (3) Honorable discharge?
- iv) Language
- v) Religious Preference
- vi) Any Specific Medical Preferences

C. Medical Information -> Update on Annual Visit

- 1. Code Status and Date
- 2. Diagnoses – primary (Mental) and secondary (Medical)

D. Medical Additional Information -> Update on Annual Visit [Optional]

- 1. Medication
- 2. Allergies
- 3. Additional Diagnoses

E. [Ignore Stage]

F. Relatives/Friends or Supports

- 1. Spouse's name, address & telephone
- 2. Children – If so, obtain names & dates of birth
- 3. Name, address, telephone, and nature of relations should be added to EMS
- 4. Service Agencies: _____

5. Community Support Worker / Support Coordinator / Social Worker

G. Important Dates – add date of initial or annual visit

H. Assessment Section

1. Delegations

- Provide medical consents
- Re-execute facility contract / lease
- Arrange for personalty to ward
- Obtain MSE?
- Any delegations from benefits?
- Deliver copy of letters of appointment
- Deliver “new client “ letter
- Review the role of the guardian
- Review rights retained by ward

2. Personal Documents to Gather

- Photograph of ward
- State ID and/or Driver’s License
- Birth Certificate
- Insurance Cards

3. Medical/Placement Documents to Gather -> Update on Annual

- Face Sheet
- Health and Physical
- Last Doctor’s Note or Progress Notes
- Physician’s Order Sheet
- Treatment Plan, Care Plan, or Individualized Support Plan

4. Appearance and Care Needs – Check if Applies to Client

- Overall appearance is appropriate.
- Has the ability to express wants and needs.
- Suffers lack of orientation. If so, explain in comments.
- Has compromised ambulation or is a fall risk.

- Has history of substance abuse.
- Has history of trauma. If so, explain in comments.
- Has hearing impairment.
- Has vision impairment.
- Requires assistance with activities of daily living.
- Requires 24 hour supervision or care.

5. Placement Assessment – Check if applies to client.

- Ward meets criteria for placement. If not, explain: _____.
- Placement is the least restrictive alternative that will meet the ward’s health and safety needs. If not, explain: _____.
- Quality of care provided is adequate. If not, explain: _____.
- Care plan is up to date.
- Additional supports are needed. (If not, leave blank.)
- Ward has had hospitalization since last visit. If so, explain: _____.
- Ward has had significant changes in mental or physical condition from last annual visit. If so, explain: _____.
- Ward has had a significant changes in diagnosis or medication since last visit. If so, explain: _____.

6. Advanced Care Planning

- DNR currently in place? Yes / No
- Can ward articulate any preferences concerning medical care of advanced planning?
- If so, explain ward’s statements: _____
- Can ward identify diagnosis or medications?
- Can ward explain effects of condition/symptoms?

7. Recommendations:

- Is level of guardianship appropriate?
- If not, explain recommendation for increasing or decreasing authority or terminating guardianship: _____
- Is ward a candidate or restoration? If so, identify indicia of restorability.
- General assessment of effectiveness of guardianship (i.e. does ward continue to benefit from guardianship?): _____

- Current support needs are being meet? If no, please explain: _____
- Any recommendations for ward's: physical needs, social situation and support systems, and social services

8. Money Management

- Does protectee continue to require a conservator: yes/no
- If not, provide recommendation for level of protectee's ability to manage own finances:
- Does protectee require a budget to support community placement: yes/no
- If so, gather documents necessary to develop budget.

For Annual Review – complete Assessment Categories and obtain updated medical/placement documents

Name: [REDACTED]
Case Number: [REDACTED]

- Complete Appointment of Authorized Rep (DFS) (MS Word Doc) [REDACTED]

Public Administrator New Estate Setup List

- Attend Guardianship Hearing
- Scan Guardian/Conservator Letters
- Add New Ward to EMS
- Obtain documents from the Attorney/Probate regarding case history
- Obtain Face Sheet if in Care Facility
- Obtain/Document SSN
- Obtain/Document DOB
- Create New Ward Folder in Public Admin Directory
- Create Cover Pages for Scanning
- Create File Folder Labels
- Create Physical File Folders
- Meet with Family Members, if possible
- Winterize any Property (if necessary)
- Inquire about Taxes for Prior Year
- File Taxes for Current & 2 Prior Years
- Secure adequate Insurance for real/personal property
- Determine Placement for Ward**
 - Conduct Level 2 Screening
- Apply for Benefits**
 - SSI
 - Medicaid
 - Medicare
 - Food Stamps
 - Pension
 - Retirement Savings
 - Military Retirement
 - Military Disability
 - Military Aid & Attendance Benefit
 - Railroad Pension
 - Social Security
- Open Checking Account [REDACTED]
- Submit Representative Payee form to Social Security [REDACTED]
- Send Guardianship Letters to Facility [REDACTED]
- Send Guardianship Letters & Change of Address to DFS [REDACTED]
- Notify Casco (if necessary) [REDACTED]
- Postal Change of Address [REDACTED]
- Obtain Medicare A & B Dates
- Address change request for Insurance Companies
- Address Change for Pension Fund(s)
- Close Prior Bank Accounts / Change Addresses i.e., CD's, Stocks, Money Markets, Trusts, etc.
- Document Diagnosis
- Document Medications
- Document Admission Date

Shutoff/ Address change request for Utilities

- Gas
- Electric
- Cable
- Water
- Home Phone
- Mobile Phone
- Address change request for Stocks
- Address change request for Bonds
- Address change request for Annuities
- Address change request for Trusts
- Enter Birthday on Birthday List (Excel)
- Enter Annual Settlement Date on Settlement List (Excel)
- Enter Inventory Due Date on Outlook Calendar
- Enter Birthday on Outlook Calendar
- Enter Annual Settlement Date on Outlook Calendar
- Enter Monthly Pay Information
- Print Face Sheet for Notebook
- Procure Order to open Safe Deposit Box
- Open Safe Deposit Box
- Read Will – Determine preservation and disposition of specific assets
- Determine if Publication is necessary
- Notify CPA/Acctg Firm of New Individual
- Deposit Monies into new Checking Account
- Create Credit Letters (3 credit agencies)
- Establish Direct Deposit in New Bank Account
- Purchase Funeral Plan, if possible; otherwise develop Funeral Payment Plan
- Place PA Signs on Property
- Purchase Homeowner's Insurance
- Inventory House Property
- Inventory Storage Contents
- Inventory Care Facility Contents
- Capture Inventory Items in EMS
- Finalize Setup in EMS
- Finalize Inventory & provide to Judge
- Contact a Realtor re Selling Real Property
- Contact Auctioneer re Estate Sale

Name: [REDACTED]

Case Number: [REDACTED]

Items for Family to Provide:

- Name and Address where Protectee is currently living / Dates of Residence
- Previous address / Dates of Residence
- Family Member / Friends Contact Name(s), Address(es) and Number(s)
- Identify Father's Name & Mother's Maiden Name
- Name, Address and \$ Amount** of all Income Sources
 - Pension
 - VA Benefit \$ [REDACTED]
 - Social Security \$ [REDACTED]
 - DFS (Department of Family Services) \$ [REDACTED]
 - SSI (Supplemental Security Income) \$ [REDACTED]
 - Food Stamps \$ [REDACTED]
 - Railroad Retirement \$ [REDACTED]
 - Retirement Savings \$ [REDACTED]
 - Past Employers \$ [REDACTED]
 - Other \$ [REDACTED]
- Identify Church Affiliation
- Personal Information
 - Social Security Card
 - Driver's License (resident will no longer be allowed to drive)
 - Medicare Card
 - Medicaid Card
 - Other (Private) Insurance Card(s)
 - Prescription Drug Card
 - Private Insurance Card(s)
 - Missouri Food Stamps Card
 - Birth Certificate
 - Marriage License
 - Passport
 - Divorce/Separation Decrees
 - Adoption Papers
 - Military Records - DD214
- Funeral Information
 - Cemetery Deed / Address of Preferred Cemetery
 - Preferred Funeral Home
 - Provide Funeral Information / Details
 - Provide Funeral Plan (if available)
- Taxes
 - Prior 3 years Income Taxes
 - Personal Property Tax Receipt
 - Real Estate Tax Receipt
 - Rent Paid
- Home
 - House Deeds and/or Titles
 - Homeowners Insurance Policy
 - Apartment Insurance Policy
 - Loan/Mortgage Information (Contract)
- Automobile
 - Automobile/Equipment Title(s)
 - Automobile Insurance Policy
- Other Misc Loans
 - Contract(s)
- Amortization Schedule(s)
- Wills
 - Last Will and Testament
 - Living Will / Advance Directives
- Insurance/Medical
 - Physician Name, Addr & Phone #
 - Life Insurance Policy
 - Disability Insurance Policy
 - Long Term Care Insurance
- Provide Keys for
 - Home(s)
 - Building(s)
 - Vehicle(s)
 - Safe Deposit Box(es)
 - Storage Unit(s)
 - Anything which is locked
- Copies of all Utilities
 - Gas Bill
 - Water Bill
 - Electric Bill
 - Phone Bill
 - Cable/Satellite/Dish
- Financial
 - Any income checks of the Protectee currently in your possession or which are received in the future**
 - Outstanding Bills/Debts - Credit Cards, Book/CD/Movie Clubs, etc.
 - Personal Property Owned
 - Trusts
 - Brokerage Accounts
 - Stocks
 - Bonds
 - Annuities
 - CD's
 - Mutual Funds
- Identify Bank(s) (Checking & Savings)
 - Addresses
 - Phone Numbers
 - Account Numbers
 - Credit Cards & Statements
 - All Blank Checks
 - Checking/Savings Account Statement(s)
- Identify Items of Specific Value, i.e.
 - Guns
 - Jewelry
 - Collectors Items
 - Antiques
- Identify/List any Allergies

[insert letterhead]

**Notice to Persons Under Guardianship or Conservatorship
with the Public Administrator's Office**

The Probate Division of the Circuit Court of _____ County, Missouri has appointed the Public Administrator as your guardian or conservator. As guardian we are responsible to make personal decisions in your best interests. Depending on what authority the Probate Division has granted us, we will determine and monitor your residence, consent to and monitor medical treatment, coordinate social services, handle confidential information, make end-of-life decisions, among other matters. As conservator, we are required to protect and manage your income, money, and property. We must collect all your money and assets, invest them as required by law, and pay your bills. We file annual reports with the Probate Division to show the status of your guardianship and account for our financial activities.

Should you have any questions or need to contact the office, PAO's office address is _____; phone number is _____; facsimile number is _____. [or, contact information is identified in the letter head above}

Our role is to coordinate the provision of all necessary services to you and to advocate on your behalf for appropriate, high quality and well delivered services. We **do not** provide housing, medical, legal or other direct services.

In all guardianships, we strive to maximize your ability to live in the least restrictive placement possible, while maintaining your health and safety. It is important that you tell us whether you have a durable power of attorney (DPoA), living will, or advanced directive. Even if not, please tell your case manager your preferences about medical care, end of life matters, and any other personal decisions. To the extent permitted by law, we keep your personal information confidential. In the future, you may be eligible for restoration of your rights. We encourage you to work with us, your treatment team, and your doctors to develop the ability to manage your own personal and financial affairs.

If you disagree with an action taken by the Public Administrator's staff concerning your guardianship, you may address your concern directly to the **Public Administrator**. Contact him at the phone number and address above. Additionally, you may seek assistance from the **Missouri Protection and Advocacy Services** at (800) 392-8667 or 925 South Country Club Drive, Jefferson City, Missouri 65109 or the **Missouri Long-Term Care Ombudsman** at (800) 309-3282 or P.O. Box 570, Jefferson City, Missouri 65102. Public Administrator staff will also assist you to find other resources to protect your interests.

If additional space is needed please attach a separate page to this form.



IN THE _____ JUDICIAL CIRCUIT, _____ COUNTY, MISSOURI

Judge or Division PROBATE	Case Number:
------------------------------	--------------

In the Estate of _____,
Incapacitated/Disabled Person

Guardian and Conservator Annual Status Report and Statement of Affairs – Incapacitated/Disabled Person

I/We _____, guardian/co-guardians and conservator/co-conservators of the above named ward submit the following information as required pursuant to the provisions of sections 475.082 and 475.270, RSMo.

1. State the present address of the ward: _____

2. State your present address: _____

Please check here if your address has changed since filing your last report.

3. If ward does not reside with you, during the last year, how many times have you seen the ward? _____

4. State the nature and description of your contact with the ward: _____

5. What was the date you last saw the ward? _____

6. State the nature and description of your visits with the ward: _____

7. State any activities the ward has participated in during the past 12 months: _____

8. To what extent has the ward participated in decision-making? _____

9. Is the ward currently institutionalized? Yes No

Place of institutionalization: _____

Person in charge of institution/home: _____

10. If institutionalized:

As guardian/co-guardians have you received a copy of the treatment or habilitation plan? Yes No

If yes, what is the date of such plan: _____

11. Do you agree with the provisions? Yes No

If not, explain what you disagree with: _____

If additional space is needed please attach a separate page to this form.

12. When was the ward last seen by a physician or other professional? _____

13. What was the purpose of the visit? _____

14. State the current mental and physical condition of the ward: _____

15. State any major changes in the condition of the ward: _____

16. If so, explain, state you observations: _____

17. In your opinion, should this guardianship/conservatorship be continued? Yes No

If no, why not? _____

18. If you have been appointed limited guardian or conservator, should your powers be increased? Yes No

If so, in what respects and why? _____

19. If you have been appointed full or limited guardian or conservator should your powers be decreased? Yes No

If so, in what respects and why? _____

20. Pursuant to section 475.082.9 RSMo, provide a summarized plan of care for the ward. An individual support plan or treatment plan for the ward for the coming year may be submitted in lieu of this requirement.

21. During the past 12 months did **you** receive money for the ward from:

Social Security Yes Amount annually? _____ No

SSI Yes Amount annually? _____ No

If additional space is needed please attach a separate page to this form.

Vet. Admin. (VA) Yes Amount annually? _____ No

Other Yes Amount annually? _____ No

22. If other, state the source: _____
_____.

23. Other than the payments listed above, have you or anyone else received any lump sum payments or other property from any source listed above or from any other source? Yes No

If so, state the date received, source, amount (or value) and the present location thereof: _____

24. Was any money paid to anyone else for the ward's benefit? Yes No

If so, state the source of the money and the name and address of the person receiving it: _____

25. State the amount of the ward's money you have spent for the ward during the past 12 months and the purposes of the expenditures:

26. State the total amount of money you presently have on hand for the ward: \$ _____

State the name and address of the depository where you keep an account for the ward's money: _____

27. Does the ward have life insurance for burial expenses or a burial plan? Yes No

If so, state the name of the company and the amount of the benefit: _____

28. State the services being provided to the protected person: _____

29. Any other information requested by the court or useful to the court in your opinion? _____

If additional space is needed please attach a separate page to this form.

The undersigned swears that the answers set forth above are true and correct to the best knowledge and belief of the undersigned, subject to the penalties for making a false affidavit or declaration.

Return to:

Signed this _____ day of _____, 20_____

Signature of Guardian/Co-Guardians and Conservator/Co-Conservators

Printed Name of Guardian/Co-Guardians and Conservator/Co-Conservators

Street Address

City

State

Zip Code

Telephone Number

Email Address

Signature of Guardian/Co-Guardians and Conservator/Co-Conservators

Printed Name of Guardian/Co-Guardians and Conservator/Co-Conservators

Street Address

City

State

Zip Code

Telephone Number

Email Address

FOR COURT USE ONLY

Reviewed: _____
Date

Judge

IN THE CIRCUIT COURT OF *** COUNTY, MISSOURI**
AT *****
PROBATE DIVISION

In the Estate of:

Estate Number:

Ward-Protectee.

GUARDIAN AND CONSERVATOR ANNUAL STATUS REPORT
AND STATEMENT OF AFFAIRS
(RSMo. 475.082 and 475.270)

I, _____, guardian and conservator of the above named Ward-Protectee, submit the following information as required pursuant to the provisions of Revised Missouri Statutes sections 475.082 and 475.270 for the time period

2. Please describe the type/nature of placement for the Ward-Protectee's current address (e.g., mental health facility, nursing home, group home, private residence):

3. If the Ward-Protectee is currently institutionalized, please provide the name and phone number of the institution (if not applicable, place N/A):

4. If the Ward-Protectee is institutionalized, have you received a copy of the treatment or habilitation plan?

Date of Treatment Plan:

5. Do you agree with the provisions of the treatment or habilitation plan?

6. Has the Ward-Protectee's address changed since filing the last report?

7. Please list the number of contacts you have had with the Ward-Protectee within the last year:

8. Please detail the nature of the contacts including the last date the Ward-Protectee was seen by you:

Date Description

9. Summarize your other activities on the Ward's behalf:

10. Describe the extent to which the ward has participated in decision-making:.

11. Please provide the following identifying information for the Ward-Protectee:

DOB: Race: Sex:
Hair: Eyes: Distinguishing Marks (if any):

12. Please state the date when the Ward-Protectee was last seen by a physician or other professional:

What was the purpose of the visit:

13. Describe Ward's current mental and physical condition:

14. Have you observed any major changes in the Ward-Protectee's physical and/or mental condition? If so, please explain:

15. In your opinion, should this guardianship and conservatorship continue?

If you answered "No", please explain why:

16. In your opinion, your powers as guardian and conservator should be:

If you answered "Increased" or "Decreased", please state why:

17. Is a copy of the Ward's current individual support plan, treatment plan, or plan of care attached?

If not, summarize your plans for the Ward's future care:

18. During the past twelve (12) months, did you receive money for the Ward-Protectee from any source below? If so, how much?

Category Name	Amount
	\$0.00

19. Other than the payments listed above, have you or anyone else received any lump sum payments or other property, on behalf of the Ward-Protectee? This will include lump sum payments/property received from sources listed above as well as any other source.

If "yes", please state the date received, source, amount (or value) and/or the present location of the property:

20. Has any money been paid to anyone else for the Ward-Protectee's benefit?

If you answered "yes", please state the source of the money and the name and address of the person receiving it:

21. Please state the amount of the Ward-Protectee's money you have spent on behalf of the Ward-Protectee during the past twelve (12) months and the purposes for the expenditures:

Category Name	Amount
	\$0.00

22. Please state the amount of the money you currently have on hand for the Ward-Protectee:

	\$0.00
Total	\$0.00

23. Please state the name and address of the financial institution where you keep an account for the Ward-Protectee's money:

24. Does the Ward-Protectee have life insurance for burial expenses or a burial plan?

If you answered "Yes", please provide the name of the company and the amount of the benefit:

25. Additional Comments:

The undersigned swears that the answers set forth above are true and correct to the best knowledge and belief of the undersigned, subject to the penalties for making a false affidavit or declaration.

Date: _____

Guardian/Conservator

**IN THE CIRCUIT COURT OF _____ COUNTY, MISSOURI
PROBATE DIVISION**

In the Estate of: _____)
) Estate Number: _____
)
_____)
Ward.)

**GUARDIAN ANNUAL STATUS REPORT
(Sec. 475.082 RSMo.)**

I, _____, guardian of the above named Ward, submit the following information as required pursuant to the provisions of Revised Missouri Statutes sections 475.082.

1. State the present address of the Ward: _____
2. Please describe the type/nature of placement for the Ward’s current address (e.g., mental health facility, nursing home, group home, private residence): _____
3. If the Ward is currently institutionalized, please provide the name and phone number of the institution (if not applicable, place N/A): _____
4. If the Ward is institutionalized, have you received a copy of the treatment or habilitation plan?
_____ Date of Treatment Plan: _____
5. Do you agree with the provisions of the treatment or habilitation plan? _____
6. Has the Ward’s address changed since filing the last report? _____
7. Please list the number of contacts you have had with the Ward within the last year: _____
8. Please detail the nature of the contacts including the last date the Ward was seen by you:

9. Summarize your other activities on the Ward's behalf: _____

10. Describe the extent to which the Ward has participated in decision-making:

11. Please state the date when the Ward was last seen by a physician or other professional and the purpose of the visit: _____

12. Describe Ward's current mental and physical condition: _____

13. Have you observed any major changes in the Ward's physical and/or mental condition? _____
If so, please explain: _____

14. In your opinion, should this guardianship and conservatorship continue? _____
If you answered "No", please explain why. _____

15. In your opinion, your powers as guardian and conservator should be: _____
If you answered "Increased" or "Decreased", please explain why: _____

16. Is a copy of the Ward's current individual support plan, treatment plan, or plan of care attached? _____

If not, summarize your plans for the Ward's future care: _____

17. Additional Comments: _____

The undersigned swears that the answers set forth above are true and correct to the best knowledge and belief of the undersigned, subject to the penalties for making a false affidavit or declaration.

Date: _____

Guardian

Form Courtesy of
Public Administrator
_____ County, Missouri

REQUEST FOR COMPLEX SURGICAL/MEDICAL PROCEDURE

Ward's Name:	Age:	Date:
Physician Signature		
Please print name		
Physician performing procedure:		
State Physician's Qualifications:	Specialty:	If Resident, state year of residency:
Facility Name:	Fax #	Telephone #
Contact person:		
Proposed Medical Procedure:		Date of Proposed Procedure:
Nature of Procedure:		
Types and Number of Untoward Events that Occurred During These Procedures (e.g. infection, rarely):		
Patient's Current Medical Problems:		
Likely Risks of Proposed Procedure:		
Patient's Prognosis <u>with</u> Proposed Procedure:		
Patient's Prognosis <u>without</u> Proposed Procedure:		
Likely Benefits of Proposed Procedure and Likely Risks of Not Having Proposed Procedure:		
Are there any Reasonable Alternatives (including less invasive ones) to Proposed Procedure:		
Length of Current Hospitalization:	Anticipated Length of Stay if Consent Given:	

Is the ward able to articulate reasoned preference to the medical procedure request?	
Explain (e.g. ward unresponsive, demented, poor cognitive function, etc.):	
If yes, what is his/her response?	
Are there known significant relatives or friends who indicate the ward's preferences?	
If yes, what are their responses?	
Anesthesia	
Type of Anesthetic proposed:	
Will anesthesia require intubation?	
Likely Risks to Patient Resulting From Anesthetic or Any Special Risk Factors:	

Form Revised: 2/21/2017

REQUEST FOR USE OF BIRTH CONTROL

Ward's Name:	Age:	Date:
Physician Signature		
Please print name		
State Physician's Qualifications:	Specialty:	If Resident, state year of residency:
Facility Name:	Fax #	Telephone #
Contact person:		
Specific Treatment Proposed:		Date of Proposed Implementation:
Is the request routine ____, to address a medical issue ____, or to address a behavioral issue ____? (select one)		
For routine requests, state the ward's current level of cognitive function and ability to articulate a reasoned preference for treatment?		
Ward's Response to Request:		
If the request is to address a medical or behavioral issue, describe the ward's physical or mental condition leading to the recommended procedure or treatment:		
Are there any Reasonable Alternatives (including less invasive ones) to Proposed Treatment:		
What was the result of any alternative treatment previously provided:		

Likely Risks of Proposed Treatment:
Likely Benefits of Treatment:
Patient's Prognosis <u>with</u> Proposed Treatment:
Patient's Prognosis <u>without</u> Proposed Treatment:

Form Revised: 5/21/2017

REQUEST FOR DNR ORDER

<p>The PAO follows the presumption in favor of the continued treatment of its wards. PAO will authorize a do not resuscitate order based on the ward's previously expressed preferences, or, if those preferences are unknown, then in accordance with the ward's best interest. PAO does not authorize do not resuscitate orders based on the ward's quality of life, but rather applies medical futility models. For these purposes, "futility" is defined as medical procedures that (1) serve only to prolong the dying process and (2) offer no reasonable expectation of affecting a temporary or permanent cure of or relief from the illness or condition being treated.</p>		
Ward's Name:	Age:	Date:
Physician's Signature		
Please print name		
Facility Name:	Fax #	Telephone #
Contact person:		
Please describe the ward's current medical problems:		
Identify whether those problems are acute or chronic:		
Prognosis:		
Are CPR and other resuscitative measures futile? YES NO		
Is the ward able to articulate reasoned preference to the DNR Order request?		
Explain (e.g. ward unresponsive, demented, poor cognitive function, etc.):		
If yes, what is his/her response?		
Are there known significant relatives or friends who indicate the ward's preferences?		
If yes, what are their responses?		
Are there other reasons why a DNR Order is in the ward's best interests?		

Duration of DNR requested (please check one):		
In Hospital only expires when ward discharged	In Hospital continues after discharge	Out of Hospital Only
Is ward currently receiving any life sustaining measures?	Which?	Nutrition _____ Hydration _____ Ventilation _____
If so, are you requesting the withdrawal of any life sustaining measures?		

Form Revised: 2/21/2017

**AUTHORIZATION AND CONSENT TO
DO NOT RESUSCITATE ORDER BY GUARDIAN**

To: _____
or subsequent Health Providers

From: _____, **Public Administrator**

RE: **Do Not Resuscitate Order concerning:**

Date:

_____ **In Hospital only, this consent expires when ward is discharged from hospital**

_____ **In Hospital and to continue after discharge**

_____ **Out of Hospital**

As guardian for the ward stated above, I authorize and consent to a **Do Not Resuscitate Order** and authorizing you to withhold or withdraw cardiopulmonary resuscitation from my ward in the event he/she suffers cardiac or respiratory arrest. We define resuscitation to include intubation, chest compressions, defibrillation, cardiac resuscitation drugs, and attempting to initiate ventilation by means of mouth to mouth, bag, mask or tube resuscitation or automatic ventilator. We do NOT define resuscitation as the removal of a ventilator presently in place. I request that intravenous fluids, oxygen, therapies other than cardiopulmonary resuscitation, and any other supports necessary to provide comfort care and to alleviate pain be provided.

Unless otherwise indicated above, this authorization and consent shall remain in full force and effect for any future hospitalizations unless specifically revoked by separate document. If there is any change in my ward's medical condition that would necessitate re-evaluating this order, please contact my office at (____) ____-____ as promptly as possible.

Thank you for your concern and assistance in this matter.

, Public Administrator
Guardian for above named person

IN THE CIRCUIT COURT OF *** COUNTY, MISSOURI
AT **
PROBATE DIVISION**

IN THE ESTATE OF:)
)
,) Estate No.:
)
Ward.)

PETITION TO ADMIT WARD TO MENTAL HEALTH FACILITY
(Sec. 475.120.5 RSMo.)

COMES NOW, the undersigned Petitioner and states:

1. Petitioner, *****, Public Administrator, was heretofore appointed (limited) guardian (ad litem) of the person of the above-named Ward. That the document appointing Petitioner grants the Petitioner the authority to seek to have the Ward placed in a mental health facility for care, treatment, and placement.

2. That since ***, the Ward has been residing at *****.

3. That by reason of the Ward's mental condition, the ward is in need of admission to *****, or other inpatient psychiatric hospital, a mental health facility for care, treatment, and placement.

4. Pursuant to Section 475.120.5 RSMo, Petitioner is seeking to admit the Ward to a mental health facility. The Ward is refusing to go to the mental health facility voluntarily and, therefore, a court judgment is required in order for the guardian to obtain a warrant to allow law enforcement personnel to transport the Ward to the facility.

5. That placement in a mental health facility is an appropriate placement of the ward and due to the Ward's present condition admission is in the best interests of the Ward for the following reasons:

a) The Ward is diagnosed with the following illnesses or disorders: ***

- b) The Ward is currently prescribed the following medications: ****
- c) The Ward has been noncompliant with medication since ***,
- d) The Ward exhibits dangerousness or aggression in that *****
- e) Other facts that support the Ward's involuntary admission include: ***

6. That the probable duration of the Ward's placement in a mental health facility is indeterminate and will be as recommended by the mental health facility's treatment team.

WHEREFORE, Petitioner prays this Court to enter a judgment authorizing the Ward's admission to a mental health facility for the period of time stated above.

The undersigned swears that the matters set forth in the foregoing petition are true and correct to the best knowledge and belief of the undersigned, subject to the penalties of making a false affidavit or declaration.

Dated: _____

 *****, Public Administrator
 Guardian for the Above Named Ward

PETITIONER

IN THE CIRCUIT COURT OF ** COUNTY, MISSOURI**
AT ****
PROBATE DIVISION

IN THE MATTER OF:)
)
) Estate No.:
)
Ward.

JUDGMENT ADMITTING WARD TO FACILITY

NOW on this date, the court takes up for disposition the guardian's petition to admit Ward to a mental health facility, filed ***, and finds and concludes that the admission of the Ward to the facility designated in the Petition is appropriate and in the Ward's best interest. It is, therefore,

ORDERED that:

1. The above named Ward be admitted forthwith to the custody of ***** or other inpatient psychiatric hospital for the purpose of psychiatric care, treatment, and placement.
2. That said facility immediately report the date of admission of the ward to the court and to the guardian.
3. That this judgment shall expire thirty (30) days after the Ward's admission to said facility unless further detention is ordered by the Court.

Dated: _____

Judge

Commissioner

cc: Guardian
Facility

IN THE CIRCUIT COURT OF *** COUNTY, MISSOURI**
AT *****
PROBATE DIVISION

IN THE MATTER OF:)
)
*** ,) Estate No.:
)
 Ward.)

WARRANT

THE STATE OF MISSOURI TO THE SHERIFF OF _____ COUNTY,
MISSOURI OR ANY PEACE OFFICER IN THE STATE OF MISSOURI:

WHEREAS, an application to admit ward to a mental health facility for the purpose of psychiatric care, treatment and placement has been filed herein and the Court has found that the admission of the above named Ward to a mental health facility is appropriate and in the Ward’s best interest.

YOU ARE, THEREFORE, COMMANDED forthwith to take Ward into custody and transport ward to *****, or THE NEAREST MEDICAL EMERGENCY ROOM for medical and psychiatric evaluation and treatment and for transfer to Center For Behavioral Medicine, or the nearest mental health facility, for psychiatric care, treatment, and placement.

After executing this Warrant, you shall make return thereon to the Probate Division Clerk. This warrant shall expire ten days from date signed by Judge or Commissioner.

WITNESS MY HAND ON:

JUDGE

NOTE: ATTACHED PROOF OF SERVICE

Public Administrator: 2 attested copies

IN THE CIRCUIT COURT OF ** COUNTY, MISSOURI
AT ****
PROBATE DIVISION

IN THE MATTER OF:)
)
*****,) ESTATE No.: _____
 Ward.)

PETITION FOR CONTINUED ADMISSION OF WARD TO FACILITY
(Section 475.121 RSMo.)

Comes now the undersigned petitioner and states:

1. Petitioner was heretofore appointed (~~limited~~) guardian of the person of the above named ward.

2. That on *****, the ward was admitted to *****, a mental health or developmental disability facility, for care, habilitation, or treatment.

3. That by reason of the ward's mental condition, the ward is in need of continued admission to the mental health or developmental disability facility stated above.

4. That the ward's mental condition or behavior is set forth in the Physician's Statement setting forth the factual basis for the need for continued admission including a statement of the ward's current diagnosis, plan of care, treatment, or habilitation and the probable duration of the admission attached hereto and incorporated herein by this reference as Exhibit "A".

5. That continuing the Ward's admission to said facility is appropriate is in the ward's best interests.

6. That the probable duration of the ward's placement in said facility is:
*****.

WHEREFORE petitioner prays the court to enter an order authorizing the ward's admission to the above designated facility for the period of time stated above.

The undersigned swears that the matters set forth in the foregoing petition are true and correct to the best knowledge and belief of the undersigned subject to the penalties of making a false affidavit or declaration.

Dated: _____

***, Public Administrator
Guardian for the above named Ward

EXHIBIT A

CIRCUIT COURT OF _____ COUNTY, MISSOURI
AT ***
PROBATE DIVISION

IN THE ESTATE OF:

_____,
Ward/Protectee.

)
)
)
)
)

Case No.: _____

**PHYSICIAN’S STATEMENTS FOR
CONTINUED HOSPITALIZATION OF WARD
(Section 475.121 RSMo.)**

When was the Ward admitted to the Mental Health Facility? _____

Please state the factual basis supporting the Ward’s need for continued admission.

What is the Ward’s Current Diagnosis?

What is the Ward’s proposed plan of care, treatment or habilitation ?

What is the probable duration of the Ward's admission?

(days/weeks/months)

Physician's Signature

Print Physician's Name

Office of the Public Administrator
_____ County, Missouri

BANKING INSTITUTION ASSET INQUIRY FORM

Date: 6/26/2019

Protectee/Decedent/Minor Name	Social Security No.
Residence Address	Mailing Address

INSTRUCTIONS FOR FINANCIAL INSTITUTION

WE ARE IN THE PROCESS OF DETERMINING ASSETS FOR THE ABOVE MENTIONED. WE ARE REQUESTING THAT THE FOLLOWING INFORMATION BE COMPLETED FOR ALL ACCOUNTS THAT MAY BE HELD WITH YOUR INSTITUTION. (AUTHORIZING COURT LETTER IS ATTACHED)

Banking Institution	Bank Address
---------------------	--------------

PLEASE CHECK IF THERE ARE NO ACCOUNTS AT YOUR FINANCIAL INSTITUTION FOR THE ABOVE ESTATE. Please sign, date on the last page, and return these three pages.

CHECKING ACCOUNTS

	1	2	3
Type of Checking			
Account No.			
Titling of Account			
Name of any joint holder, Beneficiary of POD, TOD, or Trust designation			
Date Opened			
Date Closed			
Closed by Whom			
Balance on:			
Current Balance			

List all Direct Deposits or Autopayments on the above accounts:				
<u>Account No.</u>	<u>Vendor</u>	<u>Date</u>	<u>Amt of Deposit</u>	<u>OR</u> <u>Amt of Withdrawal</u>

SAVINGS ACCOUNTS

	1	2	3
Type of Savings			
Account No.			
Titling of Account			
Name of any joint holder, Beneficiary of POD, TOD, or Trust designation			
Date Opened			
Date Closed			
Closed by Whom			
Balance on:			
Current Balance			

CERTIFICATES OF DEPOSIT

	1	2	3	4	5
Certificate No.					
Titling of Certificate					
Name of any joint holder, Beneficiary of POD, TOD, or Trust designation					
Date Opened					
Maturity Date					
Date Closed					
Closed by Whom					
Term of CD					
Interest Rate					
Balance on:					
Current Balance					

SAFE DEPOSIT BOX

	1	2	3
Box No.			
Titling of Account			
Name of any joint holder, Beneficiary of POD, TOD, or Trust designation			
Date Opened			
Date Closed			
Closed by Whom			

MISC. ACCOUNTS

	1	2	3
Type of Account			
Account No.			
Titling of Account			
Name of any joint holder, Beneficiary of POD, TOD, or Trust designation			
Date Opened			
Date Closed			
Closed by Whom			
Balance on:			
Current Balance			

Financial Institution Completing Form

Completed by	Title	Phone No.	Date
--------------	-------	-----------	------

PA Office Use Only

Date Returned	Copies sent to:
Received by	

Estate of: _____

Person Requesting: _____

Date: _____

FINANCIAL WORKSHEET

1. Protectee's estimated monthly income (amount and source): _____

2. Name and relationship of all persons residing in the home and state whether any provide care taking services to ward:

Name	Relationship to Ward (caretaker?)

3. Identify the expenses that PAO is to pay directly to a vendor or provider (copy of mortgage or lease should have been obtained at time PAO re-executed the document):

Expense	Name and Address of Vendor (or attach copy of invoice)
Rent/Mortgage:	
Medication or Medical Expenses:	
Utilities:	
Other routine expenses:	

--	--

If the mortgage instrument or lease is not available, explain why not: _____

4. Identify those expenses that PAO is to someone other than the vendor (i.e. reimburse someone paying for expense directly):

Expense	Name and Address of Vendor (or attach copy of billing statement)
Rent/Mortgage	
Medication or Medical expenses	
Utilities	
Other routine expenses	

5. Obtain copies of mortgage, lease, utility bills and other documents for any expense requested. If copies of those documents are not available explain why not: _____

6. Does the protectee need a bus pass: Yes ___ No ___

7. Does protectee receive food stamps? Yes ___ No ___
8. Amount requested for spending money \$ _____
9. Will they pick up check at PAO Office _____ or does PAO mail it to residence _____
10. How often should spending money issued?
_____ Weekly _____ 1st & 15th _____ Monthly
11. Are you aware of anyone assisting the protectee with his/her bills? Yes ___ No ___
If yes, please explain: _____
-