MISSOURI ASSISTED LIVING ASSOCIATION · 2026 CONFERENCE

Guardianships and the Community

What you need to know and how we can help each other

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YOUR PRESENTERS

Three views, the same outcomes and objectives

Tracey Perry, BSW, MHRM

JEFFERSON COUNTY PUBLIC ADMINISTRATOR

- Social services director, 150-bed skilled facility (12 years)
- Hospital discharge planner (5 years)
- Retired U.S. Army Major (22 years)
- Certified in Dementia Mapping

Tim Weaks, Esq., NCG

ST. LOUIS COUNTY PUBLIC ADMINISTRATOR

- Attorney and National Certified Guardian
- Leads one of Missouri's appointed Public Administrator offices
- [Tim to add 1–2 background points]

Derrick Good, Esq.

SENIOR PARTNER, THURMAN LAW

- 25+ years in probate, guardianship and estate planning
- Counsel to the Jefferson County Public Administrator for 20+ years
- Co-founder, Hoofprints On My Heart therapy horses

TODAY'S OBJECTIVES

What you'll leave with

1. The functions of the Public Administrator's office
2. Guardians and conservators: what, when and how
3. After the petition: assets, bills and insurance
4. Someone has a guardian or conservator: now what?
5. How we can help each other help those in need

OBJECTIVE 1 · THE PUBLIC ADMINISTRATOR

The guardian of last resort

A county office

Elected in most counties (RSMo 473.730). Some charter counties, like St. Louis County, appoint.

Guardian and conservator

Appointed by the probate court when no family member or other suitable person is willing or able (RSMo 473.743).

Estates of the deceased

Serves as personal representative when an estate has no one else to administer it.

Answers to the court

Files the same inventories, annual reports and settlements as any guardian or conservator.

What the office is not

Common assumption	How it actually works
"The PA can step in today."	No authority until the court appoints and issues Letters.
"The county will pay the bill."	Bills are paid from the resident's own income and assets.
"The PA is Adult Protective Services."	Abuse, neglect and exploitation reports go to DHSS.
"The PA will find a placement."	We are not an emergency placement agency.
"The PA replaces the family."	Courts prefer a suitable, willing family member or nominee (RSMo 475.050).

OBJECTIVE 2 · GUARDIANS AND CONSERVATORS

Two roles: the person and the money

THE PERSON

Guardian

For an **incapacitated** person: someone who can't receive and evaluate information or communicate decisions well enough to meet essential needs for food, clothing, shelter, safety or care.

Decides residence, care and medical treatment.

THE MONEY

Conservator

For a **disabled** person: someone who can't receive and evaluate information or communicate decisions well enough to manage their financial resources.

Collects income, pays bills, protects assets.

One person can hold both roles, or different people can. Either may be **full** or **limited** to specific powers.

Definitions: RSMo 475.010 · Jefferson County Public Administrator · Thurman Law

OBJECTIVE 2 · GUARDIANS AND CONSERVATORS

Goals of the National Guardianship Association

Home first

Priority to home and community settings that fit the person's goals

Monthly

Visits at least monthly to assess services, needs and situation

20 : 1

Recommended wards per professional guardian

Roles

Advocate · surrogate decision-maker · coordinator and monitor of services · financial planner and estate manager

Decisions

Informed consent · substituted judgment (what the person would choose) · best interest when wishes are unknown

Ending it

Seek termination or limits when capacity returns, an alternative exists, or it no longer helps

National Guardianship Association Standards of Practice, 5th ed. (2022) · MAPA standards are based on NGA

OBJECTIVE 2 · LEAST RESTRICTIVE FIRST

Guardianship is the last step, not the first

LEAST RESTRICTIVE	**Supported decision-making**: the resident decides, with help
	Durable power of attorney (RSMo 404.700+) and **health care power of attorney** (RSMo 404.800+)
	Representative payee (the VA calls it a fiduciary), trusts and supportive services
	Limited guardianship or conservatorship: only the powers needed
MOST RESTRICTIVE	**Full** guardianship and conservatorship

Less restrictive alternatives must be ruled out: RSMo 475.075.13 · Jefferson County Public Administrator · Thurman Law

OBJECTIVE 2 · WHEN DO PEOPLE NEED ONE?

When does someone need one?

- Can't understand or communicate choices about their care
- Refusing needed care in a way that puts them at risk
- Bills going unpaid; the facility balance keeps growing
- Signs someone is taking their money or property
- No power of attorney, or the agent isn't acting
- Medicaid or benefits stalled with no one to sign

A diagnosis alone isn't enough. The question is what the person can and can't do.

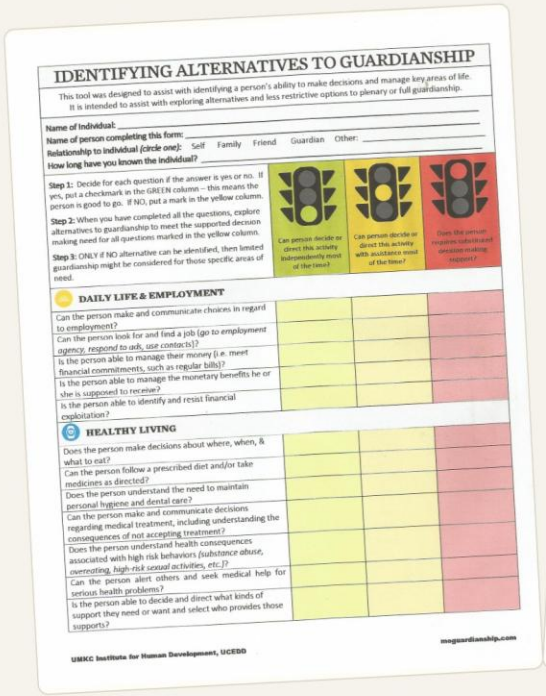
OBJECTIVE 2 · FREE TOOLS

Checklists that find the less restrictive option

The UMKC Institute for Human Development walks through daily life, health, safety, community living and citizenship to show where a person can decide alone, with support, or not at all.

- **Identifying Alternatives to Guardianship**
- **Tool for Exploring Decision Making Supports**

moguardianship.com · lifecoursetools.com


IDENTIFYING ALTERNATIVES TO GUARDIANSHIP

This tool was designed to assist with identifying a person's ability to make decisions and manage key areas of life. It is intended to assist with exploring alternatives and less restrictive options to plenary or full guardianship.

Name of Individual:
Name of person completing this form:
Relationship to individual (circle one): Self Family Friend Guardian Other:
How long have you known the individual?

Step 1: Decide for each question if the answer is yes or no. If yes, put a checkmark in the GREEN column – this means the person is good to go. If NO, put a mark in the yellow column.

Step 2: When you have completed all the questions, explore alternatives to guardianship to meet the supported decision making need for all questions marked in the yellow column.

Step 3: ONLY if NO alternative can be identified, then limited guardianship might be considered for those specific areas of need.

Can person decide or direct this activity independently most of the time?

Can person decide or direct this activity with assistance most of the time?

Does the person require substituted decision-making support?

DAILY LIFE & EMPLOYMENT

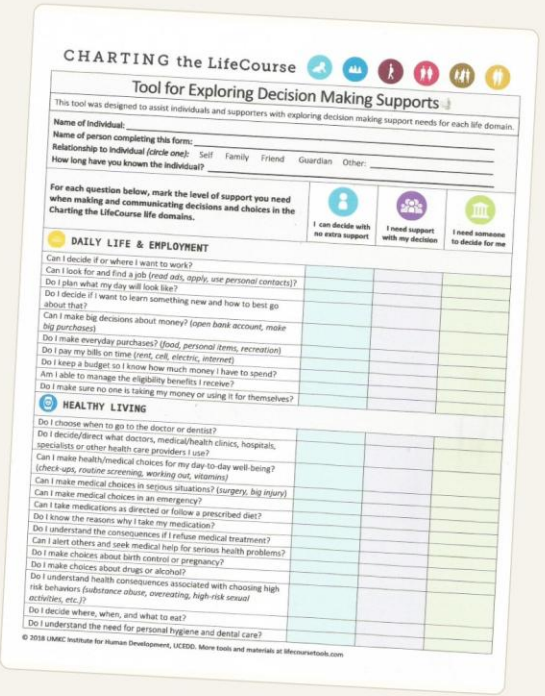
- Can the person make and communicate choices in regard to employment?
- Can the person look for and find a job (go to employment agency, respond to ads, use contacts)?
- Is the person able to manage their money (i.e. meet financial commitments, such as regular bills)?
- Is the person able to manage the monetary benefits he or she is supposed to receive?
- Is the person able to identify and resist financial exploitation?

HEALTHY LIVING

- Does the person make decisions about where, when, & what to eat?
- Can the person follow a prescribed diet and/or take medicines as directed?
- Does the person understand the need to maintain personal hygiene and dental care?
- Can the person make and communicate decisions regarding medical treatment, including understanding the consequences of not accepting treatment?
- Does the person understand health consequences associated with high risk behaviors (substance abuse, overeating, high-risk sexual activities, etc.)?
- Can the person alert others and seek medical help for serious health problems?
- Is the person able to decide and direct what kinds of support they need or want and select who provides those supports?

UMKC Institute for Human Development, UCEDD

moguardianship.com


CHARTING the LifeCourse

Tool for Exploring Decision Making Supports

This tool was designed to assist individuals and supporters with exploring decision making support needs for each life domain.

Name of Individual:
Name of person completing this form:
Relationship to individual (circle one): Self Family Friend Guardian Other:
How long have you known the individual?

For each question below, mark the level of support you need when making and communicating decisions and choices in the Charting the LifeCourse life domains.

I can decide with no extra support

I need support with my decision

I need someone to decide for me

DAILY LIFE & EMPLOYMENT

- Can I decide if or where I want to work?
- Can I look for and find a job (read ads, apply, use personal contacts)?
- Do I plan what my day will look like?
- Do I decide if I want to learn something new and how to best go about that?
- Can I make big decisions about money? (open bank account, make big purchases)
- Do I make everyday purchases? (food, personal items, recreation)
- Do I pay my bills on time (rent, cell, electric, internet)
- Do I keep a budget so I know how much money I have to spend?
- Am I able to manage the eligibility benefits I receive?
- Do I make sure no one is taking my money or using it for themselves?

HEALTHY LIVING

- Do I choose when to go to the doctor or dentist?
- Do I decide/direct what doctors, medical/health clinics, hospitals, specialists or other health care providers I use?
- Can I make health/medical choices for my day-to-day well-being? (check-ups, routine screening, working out, vitamins)
- Can I make medical choices in serious situations? (surgery, big injury)
- Can I make medical choices in an emergency?
- Can I take medications as directed or follow a prescribed diet?
- Do I know the reasons why I take my medication?
- Do I understand the consequences if I refuse medical treatment?
- Can I alert others and seek medical help for serious health problems?
- Do I make choices about birth control or pregnancy?
- Do I make choices about drugs or alcohol?
- Do I understand health consequences associated with choosing high risk behaviors (substance abuse, overeating, high-risk sexual activities, etc.)?
- Do I decide where, when, and what to eat?
- Do I understand the need for personal hygiene and dental care?

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Tools © UMKC Institute for Human Development, UCEDD · Jefferson County Public Administrator · Thurman Law

OBJECTIVE 2 · POWERS OF ATTORNEY

Read the POA before you rely on it

What a POA is

- The resident's own choice of agent
- Decides when the person can't
- Assists while the person still can

What a POA isn't

- Power to override a capable resident
- Valid after death
- Durable without the right words

Two kinds

- **Durable (financial):** RSMo 404.700+
- **Durable health care:** RSMo 404.800+

THE "MAGIC LANGUAGE"

"This is a durable power of attorney and the authority of my attorney in fact shall not terminate if I become disabled or incapacitated or in the event of later uncertainty as to whether I am dead or alive."

Durability language: RSMo 404.705 · Jefferson County Public Administrator · Thurman Law

OBJECTIVE 2 · REP PAYEE VS. CONSERVATORSHIP

Is a rep payee enough?

	Representative payee	Conservator
Appointed by	Social Security (or VA)	Probate court
Covers	That agency's benefits only	All income, accounts and property
Speed and cost	Faster; no court filing	Court process; filing and attorney costs
Oversight	Reports to the agency	Inventory, bond, annual court settlements
Works when	Benefits are the only income	Other assets, a home, or exploitation

A payee can't sign a Medicaid application, sell a house or freeze an exploited account.

SSA payee rules: 20 CFR 404.2001 et seq., 416.601 et seq. · Jefferson County Public Administrator · Thurman Law

OBJECTIVE 2 · HOW DO PEOPLE GET ONE?

From petition to Letters

1

Petition

Any interested person files in the probate division (RSMo 475.060)

2

Evidence

Medical statement describing what the person can and can't do

3

Notice

Resident is served and gets a court-appointed attorney

4

Hearing

Proof by clear and convincing evidence (RSMo 475.075)

5

Letters

Authority begins only when Letters issue

Emergency (RSMo 475.075.15): notice to the resident and their attorney, a hearing within 5 days, and Letters good for 90 days.

OBJECTIVE 2 · MEDICAL EVIDENCE

The case rises or falls on the medical evidence

What the court needs

- A physician's or licensed psychologist's statement
- Diagnosis *and* functional limitations
- How decision-making is affected
- Prognosis: will it improve?
- Whether the person can attend the hearing

What your facility can provide

- Current diagnoses and medication list
- Cognitive screening scores and dates
- Care-plan notes on daily functioning
- Incident reports: falls, wandering, refusals
- Name of the treating physician

OBJECTIVE 2 · DON'T WAIT TO START THE PROCESS

Start at the first signs, *not* the first crisis.

It takes time

Petition, medical evidence, service and a hearing usually take weeks to months.

Windows close

A resident who can sign a power of attorney today may not be able to next month.

Clocks keep running

Unpaid balances, Medicaid deadlines and exploitation don't pause for court.

OBJECTIVE 3 · MAKING A REFERRAL

What our intake form asks you

Background

Diagnoses, how long they've lived with you, what changed, and why now

Family

Names, phone numbers, who is involved, and any conflict between them

Friends

Who visits, who calls, who the resident trusts

Assets

Income sources, bank, home, vehicles, any POA or payee, and the balance owed

The more you can tell us up front, the faster we can decide the right tool and act.

OBJECTIVE 3 · AFTER THE PETITION

Collecting the assets takes time

Letters issue	Conservator's authority begins; bond posted as the court sets
First weeks	Discover and collect: banks, Social Security, pensions, insurers, joint accounts, the home and vehicles
Within 30 days	Inventory and appraisement filed with the court (RSMo 475.145)
Every year	Settlement accounting for every dollar in and out (RSMo 475.270)

Expect a lag. Banks and Social Security can take weeks to recognize a new conservator.

OBJECTIVE 3 · WHO IS RESPONSIBLE FOR BILLS?

The resident's money pays the resident's bills

The resident

Primarily liable for their own care, paid from their income and assets.

A spouse

May be liable for "necessaries" such as food, shelter and medical care under the doctrine of necessaries.

The guardian or conservator

Not personally liable. Acts in a representative capacity and pays from the resident's estate.

Adult children and family

Generally not liable, unless they personally guaranteed payment or misused the resident's funds.

OBJECTIVE 3 · INSURANCE COVERAGE AND CURRENT ISSUES

Keep the coverage from lapsing

Coverage to track

- Medicare and Medicare Advantage plans
- MO HealthNet (Medicaid) eligibility and annual reviews
- Medicare supplement and Part D premiums
- Long-term care, life and burial policies

Send us right away

- Lapse, cancellation or past-due notices
- Medicaid review or request-for-information letters
- Coverage denials and plan-change letters
- Any mail you open for the resident about benefits

⚠ **Current issues we're seeing:** [Tracey to add 2–3 current examples]

OBJECTIVE 4 · SOMEONE HAS A G/C: NOW WHAT?

Who has the final say?

Decision	Guardian	Conservator	Resident
Where the resident lives	Decides	No	Consulted
Medical treatment consent	Decides	No	Consulted
Admission and discharge papers	Signs (care)	Signs (payment)	Consulted
Paying bills and bank accounts	No	Decides	Per order
Selling a home or property	No	With court approval	Consulted
Visitors and phone calls	Decides	No	Consulted

The court order controls. Always ask for a copy of the Letters and read any limits.

Guardian powers: RSMo 475.120 · Conservator powers: RSMo 475.130 · Jefferson County Public Administrator · Thurman Law

OBJECTIVE 4 · RIGHTS

The resident keeps every right the order doesn't remove

Dignity, respect and all resident rights

To be heard: preferences considered in decisions

Visitors, mail and phone calls

To vote, unless the court order says otherwise

To ask the court to change or end the order

An annual report on their condition to the court

Annual guardian report: RSMo 475.082 · Restoration: RSMo 475.083 · Jefferson County Public Administrator · Thurman Law

OBJECTIVE 4 · COURT OVERSIGHT

The court checks in every year

Guardian: Annual Status Report

- Date of the last physician visit
- Number of guardian contacts
- Mental and physical condition
- Continue, expand or reduce?
- Plan for the coming year

Conservator: Annual Settlement

Every dollar of income and expense, filed with the court.

Restoration

Anyone can petition on the ward's behalf. The court may ask for a professional's report.

Annual Status Report: RSMo 475.082 · Restoration: RSMo 475.083 · St. Louis County Public Administrator

OBJECTIVE 4 · COMMUNICATION EXPECTATIONS

A two-way street

Call the guardian promptly about

- Falls with injury, ER visits, hospital admissions
- A significant change in condition
- Behavior incidents or new restrictions
- Discharge or move notices
- Suspected abuse, neglect or exploitation
- A death, immediately

What you can expect from the PA

- A named contact for each resident
- Ongoing discussion about the resident's care
- Contact information for the PA and staff
- Regular visits with the resident
- Bills paid from the resident's funds as available

OBJECTIVE 4 · WHAT DOES HIPAA MEAN TO US?

HIPAA doesn't block the guardian

Who is asking	What you may share
Guardian of the person	Treat as the resident: the guardian is the "personal representative" for health information within the scope of the order
Conservator only	Information needed for billing, payment and benefits
Family, no authority	Limited: per guardian direction
Anyone else	Only with a valid authorization or other HIPAA exception

Keep a copy of the Letters in the chart. It's your documentation for every disclosure.

45 CFR 164.502(g) personal representatives · 164.510(b) family involvement · Jefferson County Public Administrator · Thurman Law

OBJECTIVE 4 · WHAT ARE YOU ALLOWED TO DO?

Acting on the resident's behalf

Your staff can

- Provide care under the care plan
- Get emergency care in a true emergency
- Gather information and records for the guardian
- Manage a resident trust account under the rules
- Advocate for the resident's wishes

Your staff cannot

- Consent to treatment for the resident
- Sign contracts, consents or applications for them
- Take direction from family who lack authority
- Release belongings or funds to family
- Accept gifts or loans from the resident
- Release RTA funds to anyone other than the PA
- Change insurance coverage

OBJECTIVE 4 · WHAT IF WE ARE ONLY GUARDIANS?

A guardian of the person can't pay the bill

Guardian only can

- Choose where the resident lives
- Consent to medical care
- Sign the care side of admission paperwork
- Advocate for services and benefits

But has no authority to

- Access bank accounts or sign checks
- Redirect pensions or other income
- Sell or manage property

Closing the money gap

Representative payee

When Social Security is the only income

Petition for conservatorship

When there are accounts, property or other income

Call the PA

When no one is able or willing to serve

OBJECTIVE 4 · WHAT HAPPENS AFTER A WARD PASSES AWAY?

Authority ends at death. The paperwork doesn't.

1

Notify right away

Call the guardian or PA immediately, day or night.

2

Funeral decisions

Follow Missouri's right-of-sepulcher order: designee, spouse, then next of kin.

3

Secure belongings

Inventory and hold property, including RTA funds. Don't release to family without authority.

4

Final accounting

Conservator files a final settlement; assets pass to the estate.

Refunds of prepaid rent or trust balances go to the conservator or estate, not to family.

Termination: RSMo 475.083 · Right of sepulcher: RSMo 194.119 · Jefferson County Public Administrator · Thurman Law

OBJECTIVE 5 · EXCHANGING RESOURCES

Numbers to keep handy

Jefferson County Public Administrator
636-797-5385 · PublicAdmin@jeffcomo.org

Missouri Adult Abuse and Neglect Hotline
1-800-392-0210 · 24 hours

Jefferson County Probate Division
23rd Judicial Circuit · [phone]

Long-Term Care Ombudsman
[Regional ombudsman phone]

Area Agency on Aging
[Agency name and phone]

Social Security
1-800-772-1213 · rep payee questions

OBJECTIVE 5 · UNDERSTANDING EACH OTHER

What Public Administrators are up against

Rising caseloads

More appointments, more complex cases, younger wards

Failed family filings

Missed reports and settlements turn into PA appointments

Too few placements

Nursing homes, community housing and secure units

Hospital boarding

Wards stuck in hospitals with nowhere to go

Resident buy-in

Refused medication and services; thin community supports

Asset wrangling

Tracking down accounts and selling property takes months

OBJECTIVE 5 · CRISIS INTERVENTION

Behavioral crisis: the 96-hour hold

96 hours

Evaluation and treatment

- **Who can apply:** anyone
- **Who can make it happen:** the court, on an ex parte application, or a peace officer
- **Standard:** mental disorder and imminent likelihood of serious harm

21 days

Further detention

- Mental health facility petitions the court
- If the facility head believes the person is incompetent, guardianship should follow

RSMo 632.305 (96-hour detention) · Jefferson County Public Administrator · Thurman Law

OBJECTIVE 5 · CRISIS INTERVENTION

In a crisis, who do you call?

If...	Then...
Someone is in immediate danger	Call 911, then the guardian
You suspect abuse, neglect or exploitation	Report to DHSS: you're a mandated reporter (RSMo 198.070)
A ward needs a decision or consent now	Call the guardian or PA after-hours line
No guardian, resident can't decide, and is at risk	Call the PA or your attorney to discuss an emergency petition
A ward is being discharged or must move	Call the guardian before issuing the notice

Missouri Adult Abuse and Neglect Hotline: 1-800-392-0210 · Jefferson County Public Administrator · Thurman Law

OBJECTIVE 5 · THE ULTIMATE GOAL

The person's safety, dignity and independence, in the least restrictive way possible.

Same resident. Same goal. Different roles.

Questions?

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