



PROGRAM REFERRAL INFORMATION

INFORMATION AND REFERRAL

The Multnomah County Public Guardian's Office provides information and consultation on matters related to guardianship and conservatorship. We encourage you to call and discuss problem situations or a possible referral. Serious referrals must contain the assessments and information required by the program, to assure that intakes comply with program and court standards, and agency values. We encourage you to enlist the support of team members when completing the attached worksheet. A referral letter or existing narrative from evaluations, reports or case notes may be substituted if this documentation can sufficiently address the areas of incapacity. In either case, we must have the required information to file. Petitioning the court for guardianship and conservatorship is a process involving assessment, documentation and a legal proceeding in the Multnomah County Circuit Court.

ELIGIBILITY AND PROGRAM CRITERIA

- Age 18 or over.
- Multnomah County resident.
- No family or private sector resource willing and able to serve as guardian/conservator.
- High risk of abuse, exploitation, loss of life or health.
- No less restrictive intervention available.
- Meets Oregon Revised Statutes (ORS), court, and program standards for incapacity (see excerpts below).

GUARDIANSHIP (Personal and Health Care Decisions)

The Multnomah County Public Guardian/Conservator petitions the court on cases for which it has agreed to serve as guardian; the court decides whether guardianship and/or conservatorship will be granted. Within statutory and program criteria, triage referrals for urgency and risk to the individual.

The Public Guardian Office does not conduct the investigations or assessments necessary to determine and document incapacity; we rely on independent professional assessments. **Referrals must be documented sufficiently to allow an intake decision, a responsible and complete court filing, and to support a contested case hearing.**

"Incapacitated" means a condition in which a person's ability to receive and evaluate information effectively or to communicate decisions is impaired to such an extent that the person presently lacks the capacity to meet the essential requirements for the person's physical health and safety. *"Meeting the essential requirements for physical health and safety" means those actions necessary to provide the health care, food, shelter, clothing, personal hygiene and other care without which serious physical injury or illness is likely to occur.* ORS 125.005(5).

CONSERVATORSHIP (Property and Financial Decisions)

Referrals for conservatorship only may be accepted when the client is an individual with declining capacity who is expected to require guardianship in the foreseeable future. Priority is given to situations involving exploitation or where conservatorship may preserve a more independent lifestyle for the individual.

"Financially incapable" means a condition in which a person is unable to manage financial resources of the person effectively for reasons including, but not limited to, mental illness, mental deficiency, physical illness or disability, chronic use of drugs or controlled substances, chronic intoxication, confinement, detention by a foreign power or disappearance. "Manage financial resources" means those actions necessary to obtain, administer and dispose of real and personal property, intangible property, business property, benefits and income." ORS 125.005(3).

TEMPORARY FIDUCIARY (Emergency Guardianship)

A temporary fiduciary who will exercise the powers of a guardian may be appointed by the court "if the court makes a specific finding by clear and convincing evidence that the respondent is incapacitated or a minor, that there is an immediate and serious danger to the life or health of the respondent, and that the welfare of the respondent requires immediate action" (ORS 125.600). Our program gives priority for temporary guardianship/conservatorship to cases of abuse and exploitation.

DOCUMENTATION REQUIREMENTS

Documentation should address both incapacity and the results of that incapacity, as outlined in ORS 125.005(5). Opinions should be supported by facts. The factual information must demonstrate that appointment is necessary as a means of providing continuing care and supervision and must give a clear expectation of what guardianship or conservatorship can and will accomplish. Reports should be recent and suitable for court review.

Referral Worksheet/Letter: The worksheet (see attached) should contain the factual information that supports the request for the appointment of a fiduciary (guardian or conservator) and the names/addresses of all persons who have information that would support a finding of incapacity or financial incapability.

Medical Statement: Local court standards require submission of a letter from the treating physician which summarizes the diagnoses, at least one of which relates to the incapacity, as well as other relevant medical issues. This report should outline needed medical decisions, and include a clear statement of opinion about incapacity and a recommendation for guardianship.

Psychological/Psychiatric Assessment: This should directly address the areas of mental or functional incapacity. Extensive testing is not required if simple or partial instruments display the deficit(s) clearly and are interpreted. In cases involving judgment and insight deficits only, psychological testing is essential, as well as discussion by the clinician concerning the link between reported harmful behavior and the deficit(s).

WORKSHEET SUBMISSION INSTRUCTIONS

To submit the below worksheet for referral, save a copy of this PDF document to your computer (enabled for Adobe Reader users), then send **Attention: Mark Sanford or Mark Nishi-Strattner** using one of the following methods:

1. **Attach as an E-mail** to mcpgc@multco.us.
2. **Print a copy and FAX** to (503) 988-4075.
3. **Print a copy and MAIL** to the MCPGC at 209 SW 4th Avenue, Suite 510, Portland, OR 97204.
4. For Multnomah County users: **Print a copy and INTEROFFICE MAIL** to 167/1/510.

Any questions, please contact us at (503) 988-4567.

Legal Surrogacy: Options and Resources

Available Options

- Advance Directive for Healthcare
- POLST
- Appointed Health Care Representative for persons with ID and DD
- Declaration for Mental Health Treatment
- Durable Power of Attorney (Financial)
- Representative payee, VA fiduciary
- Money Management/Joint Accounts
- Trusts – discretionary support, special needs, income cap
- Case Management/Adult Protective Services
- Civil Commitment
- Guardianship/Conservatorship

Resources

DHS website: <http://tinyurl.com/Oregon-guardianship-resources> (links to a number of websites and/or documents for further information)

Oregon Health Decisions: Planning guide and form available. Website – www.oregonhealthdecisions.org (planning documents and copy of advance directive)

POLST Oregon: www.or.polst.org Medical order for those with advanced illness or frailty that is completed with your health care professional.

Guide to Oregon's Declaration for Mental Health Treatment: www.oregon.gov/oha/amh/forms/declaration.pdf

An attorney specializing in elder law is a valuable resource for consultation on these options. Retaining attorney is required for guardianship/conservatorship proceeding due to legal process. Also, it's a good idea to refer to attorney if caller is considering financial power of attorney.

Multnomah County Circuit Court **Probate Department (503-988-3022)**: Questions about whether someone has a guardian and/or conservator, complaints about guardian/conservator, objections to a guardianship/ conservatorship

Multnomah County Public Guardian/Conservator: <http://multco-publicguardian.org/>

Guardian and Conservator Association of Oregon (www.gcaoregon.org) for list of certified fiduciaries, information on guardianship/conservatorship

National Guardianship Association (www.guardianship.org) for general information, training and educational materials, information on becoming a certified fiduciary