

The Guardian Bulletin



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The IGA has upgraded its website. We have added a few new features and we are interested in receiving feedback from our readers. Please go to our Home Page and submit your comments.

Our current plan is to offer CEU and CLE approved training at our annual meeting in Chicago on May 10, 2017. The second 2017 training conference will be in Springfield in September(TBA) at the Illinois Education Association facility. We are always looking for current topics of interest to not only professionals and family guardians but also direct service providers. Please send in your recommendations by going to our IGA Home Page.

In this edition of the bulletin there is an extensive article explaining guardian certification by a spokesperson for the Center for Guardian Certification (CGC). There continues to be actions by guardians that create criticism and controversy even though the majority of guardians do outstanding and caring work. Certification and following standards of guardianship have reduced abuses in the system. This edition presents another guardianship case resulting in a positive guardianship outcome.

Finally, a review of Public Act 99-328 implemented in 2016 regarding the Power of Attorney for Health Care (PAH) reveals some tweaking of the PAH.

Successful Guardianship Case History

By Greg Fitzgerald, Decatur Catholic Charities, November 2016.

When Catholic Charities Elderly Guardianship program became the guardian of Cara, she was DD in her late 50's. She had a previous family guardian that was deemed abusive. Cara's health was compromised and had multiple surgeries to repair an abdominal hernia before Catholic Charities became guardian. The surgery itself was successful but the wound never healed due to a fistula. Staff contacted the doctor at the local hospital and a doctor in a hospital in St. Louis and both determined that it would be a permanent open wound and never heal.

Staff would not accept this as an answer. Cara was in constant abdominal pain, draining brown fluid that had a very foul smelling odor. Catholic Charities staff secured medical records and started on a crusade to do something about this open wound. Staff began by making an appointment with the surgeon that did the initial surgeries to find alternatives to close this wound. After several appointments and a year of advocacy by staff, staff convinced the surgeon to perform a surgery to close the wound. The surgery was a success and the wound healed.

Cara would have never been afforded the healthcare or quality of life without the advocacy done by the guardianship staff of Catholic Charities.

National Organization Provides Certification Program for Guardians

By Denise Calabrese, Exec, Dir. CGC

The Center for Guardianship Certification (CGC) is the only organization offering a national certification program for guardians. For many guardians, certification is the answer to credibility and proof of knowledge related to guardianship standards. In fact, CGC certification is required in twelve states and one county in Pennsylvania. The organization is working diligently for CGC certification to be mandatory in all 50 states.

"In today's increasingly complex and highly-competitive marketplace, credentials are very important," explains CGC Executive Director Denise Calabrese, CAE.

"Guardians must possess many skills to effectively do their job. Certification is one way to communicate a level of professionalism that sets those individuals apart from the competition."

Certification can lead to more visibility, opportunities and appointments. CGC's program screens individuals who are qualified to serve as a guardian through an application process, tests their knowledge of guardianship standards and core competencies with its certification examination, and has a robust disciplinary system for those guardians who have complaints filed against them.

Unless accepted by state law, applicants must possess the following minimum eligibility requirements:

- Be at least 21 years of age.
- Have experience related to a minimum of three different NCG core competencies.
- Have one of the following requirements:
 - be a high school graduate or possess the GED equivalent and submit proof of 30 hours of CGC approved coursework within two years prior to the applicant applying for certification;
 - hold a licensure in guardianship or certification in a field related to guardianship (for example, CFP, CPA, CMC, CCM) and submit proof of 20 hours of CGC approved coursework within two years prior to the applicant applying for certification;
 - possess a two-year degree in a field related to guardianship (for example, social work, criminal justice, accounting, nursing) and submit proof of 10 hours of CGC approved coursework within two years prior to the applicant applying for certification.
 - possess a four-year or higher degree in a field related to guardianship (for example, law, medical, social work, psychology, finance, business) and submit
 - proof of 10 hours of CGC approved coursework within two years prior to the applicant applying for certification.
- Submit to third-party verification and send proof of educational requirements.
- Not have been convicted or pled guilty or no contest to a felony, or admit to having a felony and share the circumstances for consideration.
- Submit to a criminal background check.
- Agree to comply with the NGA Ethical Principles and the NGA Standards of Practice.

- Not have been civilly liable in an action that involved fraud, misrepresentation, material omission, misappropriation, moral turpitude, theft, or conversion.
- Not have been relieved of responsibilities as a guardian by a court, employer, or client for actions involving fraud, misrepresentation, material omission, misappropriation, theft, or conversion.
- Be bonded or obtain appropriate bonding insurance after certification in accordance with state statutes and local practice.
- Not have been found liable in a subrogation action by an insurance or bonding agent.
- Disclose discipline by a state or national certification or licensing organization in any profession.
- Agree to comply with CGC policies, requirements, and rules & regulations.
- Be in good standing with CGC and not have had CGC certification revoked.
- Not have provided false information through the application process.

Once an applicant has passed the application process, they can then sit for the examination. The examination tests the applicant's knowledge of core competencies that are required to practice effectively. Those core competencies are: professional practices, knowledge of a person under guardianship, application of surrogate decision-making, knowledge of laws, courts and legal processes, personal management, financial management, and medical decision-making.

Calabrese pointed out, "When certified, individuals are added to a national searchable database where potential clients, the court system and the general public can easily find guardians who are knowledgeable." She further noted, "Unfortunately, while we can test knowledge we cannot test for ethics or behavior. Someone may have the knowledge to pass the examination, but makes poor decisions. Guardianship is no different than any other profession that requires knowledge-based testing, but cannot test for behavior. Some examples of this are attorneys, doctors, and accountants." She stated that is why the organization insists on having a robust disciplinary process in place. "Sometimes it is necessary to discipline a certificate," stated Calabrese. "Those individuals who have been disciplined are listed on our website and will remain there in perpetuity. That way consumers and court systems alike can determine if someone should be awarded a guardianship based upon past behavior, or if their certification has been suspended or revoked."

"Power of Attorney for Health Care (PAH) Tweaked for 2016"

By Jeffrey R. Gottlieb, Attorney -Posted on December 16, 2015

The changes in Public Act 99-328 became effective as of 1/1/16. The following is an edited summary which Mr. Gottlieb posted.

- Existing PAH are grandfathered a valid. Unless you do not have a PAH or you want to change an existing PAH, the change does not require you amend your estate plan.
- Witness restriction eased. Those restricted from witnessing the execution of a PAH was changed to substitute "psychologist" in place of "mental health service provider."
- Witness attestation block corrected. The form was changed to add advance practice nurse, dentist, podiatric physician, optometrist, and psychologist among the list of **impermissible** witnesses.
- Guardian nomination added back. The 2015 form omitted the nomination of the agent as guardian of person if a guardian is needed.
- Placement of successor agent nomination moved immediately below the first agent nomination on the form.
- Agent authorized to continue application for government benefits. The statute is amended to permit an agent (if no probate representative is appointed) to continue an application or appeal government benefits of the principal.
- When agent can start making decisions. The new form provided just two choices, first of which seemed to make the designation completely ineffective until a physician decides that the principal cannot make their own decisions. The revised statute now provides a third option, a middle ground choice, that limits the agent's decision making ability until a physician's determination, yet allows the agent access to records and to communicate with health care providers even prior to such determination.

Have an enjoyable and Happy Thanksgiving!