

TWIN FALLS COUNTY
BOARD OF COMMUNITY GUARDIANS
REFERRAL, DECISION AND PROCEDURES POLICY

INTRODUCTION: This policy statement contains the procedures pursuant to which the Board of Community Guardians (Board) will obtain information and assess the need for intervention on behalf of an individual who may need a guardian (a Ward), institute legal proceedings when appropriate, and follow the case after appointment.

REFERRALS: All referrals shall be initiated with a completed Referral Form and Physician's Affidavit. All referrals, including those received by Board members, shall be sent to the Coordinator, either by facsimile transmission to (208) 735-2126 or by U.S. Mail to: Treatment and Recovery Clinic, Attn: Coordinator, 630 Addison Ave W. Suite 1000, Twin Falls, ID 83301. Referral forms are available on Twin Falls County's website at www.twinfallscounty.org or through a request to the Coordinator at (208) 736-5048.

INVESTIGATION OF REGULAR REFERRALS AND RECONSIDERATIONS BY THE COORDINATOR:

- A. The Coordinator will review all referrals and provide an initial screening to determine whether or not the referral contains sufficient information for the Board to review.
- B. Following initial screening by the Coordinator, if the proposed Ward may qualify for a Board Guardian, the Coordinator will investigate the facts and circumstances as set forth in the referral.
- C. The Coordinator shall confer with the contact person listed on the referral and begin the investigation.
- D. The Coordinator should determine if the contact person knows of a qualified person willing to serve as Volunteer Companion. If a qualified person is identified, the Coordinator should provide the potential Volunteer Companion with an application to become a Board Volunteer Companion.
- E. Prior to making a recommendation to the Board, the Coordinator will make a reasonable effort to obtain financial documents and medical records regarding the proposed Ward.
- F. Following receipt of all relevant information as outlined above, the Coordinator shall review the decision criteria and when appropriate, present to the Board.
- G. A request for reconsideration of the Board's decision to reject a referral shall be made in writing to the Coordinator, and shall include all new information regarding the proposed ward's situation not presented in the initial referral. The Coordinator shall conduct an investigation and determine if there is substantial new information. The Coordinator shall notify the Board of the request for reconsideration, of the investigation findings, and make a recommendation to the Board as to reconsideration. The Board shall make a decision on the reconsideration. Should the reconsideration be denied, it shall not prevent a future referral from being made on the same individual should their life situations significantly change.

DECISION CRITERIA:

- A. Based on the investigation conducted by the Coordinator, the Board

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must conclude that the Ward is incapacitated, as defined in Idaho Code, in order to accept the application for referral.

1. As generally defined by Idaho law, “Incapacitated” means:

a. Any person who is impaired, except by minority, to the extent that he or she lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his or her person, provided, that the term shall not refer to a developmentally disabled person as defined in section 66-402(5), Idaho Code, and provided further that:

(1). “Incapacity” means a legal, not a medical disability and shall be measured by function limitations and it shall be construed to mean or refer to any person who has suffered, is suffering, or is likely to suffer, substantial harm due to an inability to provide for his or her personal needs for food, clothing, shelter, health care, or safety, or an inability to manage his or her property or financial affairs;

(2). Inability to provide for personal needs or to manage property shall be evidenced by acts or occurrences, or statements which strongly indicate imminent acts or occurrences; material evidence of inability must have occurred within twelve (12) months prior to the filing of the petition for guardianship or conservatorship;

(3). Isolated instances of simple negligence or improvidence, lack of resources, or any act, occurrence, or statement, if that act, occurrence, or statement is the product of an informed judgment, shall not constitute evidence of inability to provide for personal needs or to manage property;

(4). “Informed judgment” means a choice made by a person who has the ability to make such a choice, and who makes it voluntarily after all relevant information necessary to making the decision has been provided, and who understands that he is free to choose or refuse any alternative available and who clearly indicates or expresses the outcome of his choice.

2. If the Ward does not lack capacity as defined by Idaho law, the Coordinator and/or Board shall deny the referral.

B. In cases where a Ward lacks capacity and there is no family member or other qualified person who will volunteer to serve as guardian, the Board shall evaluate:

1. Does the Ward have shelter, healthcare, clothing, and food?
2. Is the Ward in a stable and safe place?
3. Does the Ward have assets?
4. Does the Ward have pending criminal court proceedings?
5. Is the Ward’s legal, social, personal, and/or economical needs such that they exceed the Board’s ability to provide those needs?
6. Can the Ward be safely, effectively, and responsibly supervised by the Board of Guardians?
7. Is the Ward likely to suffer substantial harm?

If the Board believes the answer to any of the first Five (1-5) questions are “yes” and/or either of the last two (6-7) are “no”, the Board may deny the referral application until such time as the needs of the Ward are not being met or the Board has the ability to meet the Ward’s needs.

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- C. If the Ward has assets and resources sufficient to provide shelter and sustenance, the Board should refer the applicant elsewhere and may provide general references to the other sources of information which may be of assistance to the applicant and the Ward.
- D. If the Ward is developmentally disabled as defined in Idaho Code, the Board should decline to intervene and may refer the applicant to the Idaho Department of Health and Welfare.
- E. If the Board elects to proceed, the Coordinator, in conjunction with the Volunteer Companion and the Board, will manage the case as the Board's representative. The Board may, at its discretion, choose another representative or Volunteer Companion at any time.
- F. A current Board Member cannot be a Volunteer Companion while serving on the Board.

INITIAL PROCEEDINGS

- A. In a timely manner, after the Board meeting during which the Board votes to proceed with a Petition for Guardianship for a Ward, the Coordinator will consult with the Twin Falls County Prosecuting Attorney's office, who shall assign a Prosecutor to handle the case.
 - 1. The Board must accept the Ward with an official simple majority vote.
 - 2. This vote shall be reflected in the minutes of the Board meeting.
 - 3. Minutes will be officially taken at all Board meetings or for any official Board action.
- B. Thereafter, the Coordinator will provide copies of the file to the prosecutor assigned to the case.
- C. The prosecutor will contact the Coordinator to obtain the necessary details and begin preparing the Petition. The Board of Community Guardians will act as the Guardian. The Coordinator may sign the documents on behalf of the Board and may attend any hearings scheduled.
- D. The qualified health care professional's opinion on incapacity should be no older than 30 days. If necessary, the Coordinator will obtain an updated letter from the health care professional.
- E. The Petition will be prepared by the Prosecutor leaving blanks for the Court to insert the name of the Guardian ad Litem and the Court Visitor.
- F. The Prosecuting Attorney will provide the Coordinator with copies of all pleadings and will give them as much advance notice as is possible regarding hearing dates and deadlines.
- G. The Petition will seek to have the Board of Community Guardians appointed.
- H. When the Court appoints the Board, the Prosecuting Attorney will obtain certified copies of the Order Appointing the Board, Letters of Guardianship, and the Letter Designating Representative from the Clerk or Court and will deliver them to the Coordinator.