

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE CREATION
OF A COMMISSION TO STUDY THE
CREATION AND ADMINISTRATION
OF GUARDIANSHIPS.

No. ADKT 0507

FILED

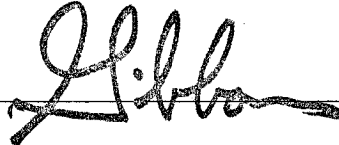
FEB 08 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

ORDER RE: STATEWIDE RULES FOR GUARDIANSHIP

On September 10, 2018, this court approved statewide rules for guardianship, and the new rules went into effect on October 10, 2018. These rules have now been reorganized into standard format and may be cited to as set forth in Exhibit A.

It is so ORDERED.

 C.J.

cc: All District Court Judges
Clark County Bar Association
Washoe County Bar Association
First Judicial District Bar Association
Richard Pocker, President, State Bar of Nevada
Kimberly Farmer, Executive Director, State Bar of Nevada
Administrative Office of the Courts

EXHIBIT A
ADOPTION OF STATEWIDE GUARDIANSHIP RULES

Rule 1. Scope of rules.

A. **Scope of rules in general.** These rules govern the procedure in the district courts in all guardianship actions.

B. **Proper person litigants.** When a proposed guardian or guardian is not represented by an attorney, the proposed guardian or guardian must comply with these rules.

Rule 2. Commencement of action. A guardianship action is commenced by filing a petition for appointment as temporary, general, or special guardian of the person, estate, or person and estate.

Rule 3. Rule regarding service of citations. Where a statute specifies the person or entity that shall prepare, issue, and/or serve a citation/notice, that statute shall control. In all other cases, the petitioner of the particular petition at issue shall prepare the citation/notice. If a citation is required, the petitioner shall have it issued by the clerk of the court. The petitioner shall then serve a copy of the citation/notice, and where applicable the petition or other required documents, and shall file proof of such service with the court. If a particular statute requires the manner in which service shall be made, service shall be made in compliance with that statute. Otherwise, service shall be made as required by NRCP 4.

Rule 4. Guardians appointed without citation. Where the court appoints a guardian for the proposed protected minor without issuing a

citation on the basis the petitioner and proposed guardian is a parent who has sole legal and physical custody of the proposed protected minor:

A. The court shall conduct a hearing on the appointment of such a guardian;

B. Upon indicia that the minor does not consent to the guardianship, the matter shall be set for a full hearing with citation notice; and

C. The provisions of this section only apply where the petitioner is a parent with sole legal and sole physical custody of the proposed protected minor and is petitioning as the sole proposed guardian.

Rule 5. Ex parte communication.

A. In order to carry out the court's oversight and enforcement of compliance in guardianship proceedings, communications which might otherwise be considered ex parte communications under the Nevada Code of Judicial Conduct, Rule 2.9, may be received and reviewed by the court under the provisions of this rule if such communications raise a significant concern about a guardian's compliance with his or her statutory duties and responsibilities, or the protected person's welfare.

B. In response to such communication, the court may:

1. Review the court file and take any action that is supported by the record, including but not limited to ordering a report on the protected person's condition, an inventory, an accounting, or any other filing which is outstanding;

2. Appoint a guardian ad litem;

3. Appoint an attorney ad litem;

4. Appoint an investigator pursuant to NRS 159.146;

5. Appoint a financial forensic specialist;

6. Refer the matter to the appropriate law enforcement agency;
7. Refer the matter to the appropriate licensing agency;
8. Refer the matter to appropriate agencies, including but not limited to Child Protective Services or Elder Protective Services;
9. Set a hearing regarding the communication, requiring the parties' attendance, and/or require a response from the guardian concerning the issues raised by the communication; or
10. Decline to take further action on the communication, with or without replying to the person initiating the communication or returning any written communication received from such person.

C. If the communication does not raise significant concerns regarding the guardian's compliance or the protected person's welfare and would otherwise be prohibited ex parte communication under the Nevada Code of Judicial Conduct, Rule 2.9, the court shall:

1. Return the written communication to the sender, if known; and
2. Disclose notice of the communication to the guardian, guardian ad litem, the protected person, the protected person's attorney, and all parties of record and their attorneys.

D. The court shall disclose any ex parte communication reviewed under subsection A of this rule, and any action taken by the court under subsection B, to the guardian, guardian ad litem, the protected person, the protected person's attorney, and all parties of record and their attorneys.

Rule 6. Initial Guardianship Plan.

A. **Initial guardianship plan in general.** The proposed guardian may file an initial guardianship plan not later than 60 days after the date

of appointment as general or special guardian of the person, estate, or person and estate or, if necessary, upon such further time as the court may allow.

B. Guardian of the person. The initial guardianship plan shall set forth objectives for meeting the goals, needs, and preferences of the person, and may:

1. Emphasize a person-centered philosophy;
2. Address the residential setting or facility best suited for the needs of the person and, if applicable, the place or proposed place of residence;
3. Address medical, psychiatric, social, vocational, educational, training, and recreational goals, needs, and preferences of the person; and
4. Address, to the extent known or discoverable, whether the person's finances and budget are sufficient or flexible to meet the person's known and reasonably anticipated needs.

C. Guardian of the estate. The initial guardianship plan shall set forth a financial plan and budget for the management of income and assets that corresponds with the care plan for the person and addresses the goals, needs, and preferences of the person, and may:

1. Emphasize a person-centered philosophy;
2. Maintain the goal of prudently managing, but not necessarily eliminating, risks;
3. Address available assets and income;
4. Address known and reasonably anticipated expenses; and
5. Address public and insurance benefits for which the person is eligible.

D. Attestation. The initial guardianship plan shall contain an attestation that the proposed guardian or guardian has consulted with the person to the extent possible and has considered the person's wishes consistent with the rights retained by the person under guardianship and the provisions of the initial guardianship plan.