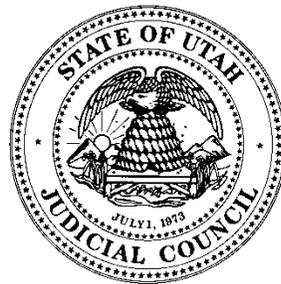




Utah State Courts

Volunteer Court Visitor Program
Protected Person's Circumstances and Well Being



May 1, 2013

(1) Acknowledgments

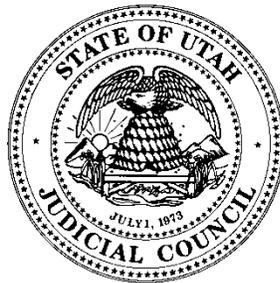
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Contributors to that manual are not included here.

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(2) Message from the chief justice

Congratulations on becoming a court visitor, and thank you. You have embarked on what I hope will be a personally rewarding experience. You will be helping the court to appoint and monitor guardians of incapacitated adults. Your contribution of time and effort will make a real difference to the court, to the guardians responsible for vulnerable adults, and to the vulnerable adults themselves.

The court has prepared this series of manuals to introduce you to the world in which people under guardianship live and to serve as a continuing resource as you do your work.

Your contributions will improve the lives of incapacitated adults in our community, provide information on which the judge can base decisions, teach guardians to perform their duties with integrity, and protect incapacitated adults from abuse, neglect and exploitation.

The Utah courts value your important contributions. Again, thank you.

A handwritten signature in black ink, appearing to read 'Matthew B. Durrant', with a long horizontal line extending to the right.

Matthew B. Durrant
Chief Justice, Utah Supreme Court
Presiding Officer, Utah Judicial Council

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(3) Role of the court visitor

The court visitor interviews the respondent or protected person and observes his or her circumstances and well-being in their residential environment. The court visitor may also interview the guardian or proposed guardian and others as the court might direct. Most of the interviewer's work is done in the homes of the people being interviewed.

The court visitor may be assigned during the initial guardianship proceeding or after a guardian has already been appointed. In either event, the judge will assign the visitor and give them directions about the observations to be made and the reports that will be filed.

Depending on the circumstances, the court visitor will focus on one of three separate objectives. All three involve interviews and observations, but the purpose of the information is different, and that purpose determines the scope of the inquiry. The three objectives:

- Obtain information to help the judge decide whether to excuse the respondent from the hearing.
- Obtain information about the respondent's circumstances before a guardian is appointed.
- Obtain information about the protected person's well being after a guardian has been appointed.

(4) Who you will see: Conditions of persons under guardianship

A guardianship becomes necessary when a person cannot make and communicate decisions about their care or their property, and less restrictive options are not available—for example, the person has no advance care planning documents.

How well a person functions is the key to determining whether a guardianship is needed. Too often, the rationale stated in the petition is simply a medical condition, rather than the functional limitations caused by the condition. For example, a guardianship is not necessarily needed simply because a person has an intellectual disability (a condition). However, a guardianship may be needed if the disability means the person cannot make decisions about self care or property (limited function). The key is how well a person functions.

As a volunteer visitor, you will be interviewing people with a wide range of mental and physical disabilities. This section gives you some background on the most common conditions that may cause functional limitations. You may encounter individuals with one or more of these disabilities, and you may see references to a physician's diagnosis for one or more of the disabilities in the person's guardianship case file.

Old age is neither a disability nor a reason for guardianship. Just because someone is old does not mean their mental functioning is impaired. We live in a society that stereotypes old age—a phenomenon called "ageism." As you conduct your interviews, be alert to this bias in others and even in yourself.

Similarly, eccentricity is neither a disability nor a reason for guardianship. . Moreover, dementia is not a normal manifestation of the aging process. Finally, a diagnosis of a mental disability does not mean that a person lacks all capacity. The person still may be able to make decisions in some areas and not others. And the guardian should encourage the protected person to participate in decision making to the extent possible.

(a) Dementia

According to the National Institute of Health, dementia is a word for a group of symptoms caused by disorders that affect the brain. It is not a specific disease, but a syndrome characterized by decline in memory along with decline in other cognitive abilities. People with dementia:

may not be able to think well enough to do normal activities, such as getting dressed or eating. They may lose their ability to solve problems or control their emotions. Their personalities may change. They may become agitated or see things that are not there.... People with dementia have serious problems with two or more brain functions, such as memory and language. Many different diseases can cause dementia, including Alzheimer's disease and stroke. Drugs are available to treat some of these diseases. While these drugs cannot cure dementia or repair brain damage, they may improve symptoms or slow down the disease.

For more information, see:

- Medline Plus, <http://www.nlm.nih.gov/medlineplus/dementia.html>.

Alzheimer's disease, a specific type of dementia, accounts for 50 percent to 80 percent of dementia cases. Alzheimer's disease is not a normal part of aging, although the majority of people with Alzheimer's are age 65 and older. About five percent of people with the disease have "early onset" Alzheimer's, which can appear in the 40s and 50s. According to the Alzheimer's Association:

Alzheimer's is a disease in which symptoms gradually worsen over a number of years. In the early stages of the disease, memory loss is mild, but in late-stage Alzheimer's, people lose the ability to carry on a conversation and respond to their environment.

- For more information about the ten warning signs, the stages and standard treatments, as well as supportive resources for caregivers, see <http://www.alz.org/index.asp>

Books describing the struggles of individuals with Alzheimer's disease and their caregivers:

- Genova, Lisa. 2007. Still Alice. Simon & Schuster.
- Shriver, Maria. 2010. The Shriver Report: A Woman's Nation Takes on Alzheimer's. This study shows that women are disproportionately affected by the disease both as patients and as caregivers. The report includes chapters by professionals, along with essays of personal experiences.

- Petersen, Barry. 2010. Jan's Story—Love Lost to the Long Goodbye of Alzheimer's. Behler Publications.

Tips for court visitors. People with Alzheimer's disease or other dementias may be difficult to interview. In earlier stages, long-term memory often remains intact while short-term memory dwindles. Discussion may be confusing, since they are likely to lose track of the conversation or forget where they are or who you are. They may experience paranoia or become agitated during conversation. However, at other times, they may appear coherent, so an extended conversation may be necessary to reveal limitations. In the late stages, people with Alzheimer's may be unable to converse with you at all.

(b) Mental illness

According to the National Alliance on Mental Illness:

Mental illnesses are medical conditions that disrupt a person's thinking, feeling, mood, ability to relate to others, and daily functioning. Just as diabetes is a disorder of the pancreas, mental illnesses are medical conditions that often result in a diminished capacity for coping with the ordinary demands of life.

The good news about mental illness is that recovery is possible. Most people diagnosed with a serious mental illness can experience relief from their symptoms by actively participating in an individual treatment plan. In addition to medication treatment, psychosocial treatment, such as cognitive behavioral therapy, interpersonal therapy, peer support groups, and other community services can also be components of a treatment plan and that assist with recovery.

For more information, see:

- National Alliance on Mental Illness, www.nami.org.

Sometimes guardianships are imposed because of a severe mental illness that impairs a person's ability to think and make decisions. Additionally, people under guardianship often have experienced significant changes in physical capacity, loss of sensory abilities, loss of independence, loss of status and income, and loss of family and friends that can affect their mental and emotional health.

It is important for volunteers to be particularly aware of two prominent mental health conditions:

- **Depression** is the leading mental health problem of older Americans. Depression is an overwhelming feeling of sadness and dejection. An enduring period of depression can cause impairment in the person's ability to function.
- **Suicide.** Older people have the highest suicide rate of any age group, in particular men over 65 years. If you suspect that a person is seriously suicidal (speaks of desire to die, has a plan), report this immediately to the guardian, the nurse in charge, the social worker, caregiver and the court.

Tips for court visitors: People with psychotic conditions may be hard to interview. Some may hear voices or hallucinate. Some may have delusions or paranoia. You may want to consult with the guardian and/or caregiver for suggestions about visiting the person. Non-judgmental, attentive listening is usually the best course to take. Be alert and use special caution for safety.

(c) Intellectual disabilities

A person with an “intellectual disability” has an IQ between below 75 and significant limitations in adaptive behavior. Onset occurs before age 18. The term “intellectual disability” is replacing the older term “mental retardation.” Sometimes intellectual disability is also called “developmental disability,” but, in fact, developmental disability is a broader term that also includes other disorders (for example, autism, epilepsy, or cerebral palsy) occurring during the developmental period of birth to age 18. A person with a developmental disability may not have an intellectual disability.

People with intellectual disability and developmental disability often need guardians. A child with such a disability will need a guardian—often the person’s parents—upon reaching majority at age 18.

There are different degrees of intellectual disability ranging from mild to profound. Intellectual disabilities vary in degree and effect. It is important not to make generalizations about the needs or capabilities of such individuals. Studies show that somewhere between one percent and three percent of Americans have intellectual disabilities. It is also notable that the lifespan of people with intellectual disabilities and developmental disabilities is increasing, and some may experience problems common to older people.

For more information, see:

- The Arc of the United States, <http://www.thearc.org/page.aspx?pid=2335>
- The U.S. Centers for Disease Control and Prevention, <http://www.cdc.gov/ncbddd/dd/ddmr.htm>
- The American Association on Intellectual and Developmental Disabilities, http://www.aamr.org/content_96.cfm?navID=20

Tips for court visitors: Treat adults with intellectual disability as adults and avoid talking down to them. Use their proper names. Communicating may require some extra time and effort. Try to keep your surroundings free from distractions and noise. Establish eye contact and speak slowly, clearly, and expressively. You may need to rephrase certain questions. Ask open-ended and either-or questions, rather than questions that can be answered with a yes or no.

(d) Traumatic brain injury; Strokes

Every year, millions of people in the United States sustain head and brain injuries—for example, from motor vehicle accidents or military action. Traumatic brain injury (TBI) can cause a wide range of changes that affect thinking, sensation, language, and emotions. People with moderate to severe injuries need rehabilitation, which may include physical therapy, occupational therapy, speech/language therapy, psychiatry, and social support. Sometimes people with brain injuries need guardians; sometimes people recover enough to be restored to capacity.

For information, see:

- Brain Injury Association of America, <http://www.biausa.org>;
- National Institute of Neurological Disorders and Strokes, <http://www.ninds.nih.gov/disorders/tbi/tbi.htm>.

A stroke is a medical emergency that occurs when blood stops flowing to the brain. There are two kinds of stroke. The more common kind, called ischemic stroke, is caused by a blood clot that blocks or plugs a blood vessel in the brain. The other kind, called hemorrhagic stroke, is caused by a blood vessel that breaks and bleeds into the brain. “Mini-strokes” or transient ischemic attacks (TIAs) occur when the blood supply to the brain is briefly interrupted. The affected area of the brain is unable to function, leading to limitations on movement, understanding, speech or vision.

Stroke patients undergo treatment to help them return to normal life as much as possible by regaining and relearning the skills of everyday living—especially physical and occupational therapy. Stroke patients who experience mental confusion may need guardianship, but may be restored to capacity upon successful rehabilitation.

For more information, see:

- American Stroke Association, <http://www.strokeassociation.org/STROKEORG/>.

Tips for court visitors: People with strokes or head injury may have difficulty communicating and may be very frustrated. Keep your manner encouraging, unhurried, and patient. Ask questions that require only short answers or a nod of the head. Some people may be able to write out their answers or use a sign. Observe the method of communication the person uses or ask the guardian and/or caregiver. If the person is in a wheelchair, sit on the same level with him or her.

(e) Alcoholism and substance abuse

Chronic use of alcohol or drugs can compromise a person’s ability to make decisions. In extreme cases, alcohol and drug abuse can lead to dementia, brain damage, mental illness, and death. Rehabilitation may help the person to overcome mental or physical impairments and regain independence. Unfortunately, sometimes the problem is

cyclical—with treatment, the person regains independence, and then reverts to a period of alcohol or drug abuse.

For more information, see:

- NIH Medline Plus, <http://www.nlm.nih.gov/medlineplus/substanceabuseproblems.html>
- Substance Abuse and Mental Health Services Administration, <http://www.samhsa.gov/>.

Tips for court visitors: When people suffer from alcohol or substance abuse, sometimes the inability to manage is limited to finances. Such individuals may require only a conservator or if public benefits are at issue, a Social Security Administration representative payee or a Veterans fiduciary.

For more information, see:

- Social Security Administration representative payee, <http://www.ssa.gov/payee>
- Veterans Fiduciary Program, <http://www.vba.va.gov/bln/21/Fiduciary/index.htm>.)

(f) Reversible or temporary conditions

Many conditions are temporary or reversible and should not be the basis for a permanent guardianship order. However, individuals who have experienced temporary conditions sometimes find themselves under guardianship and you may need to alert the court that restoration of capacity should be considered. Here are some examples of conditions that cause confusion and diminished capacity, but that often are temporary and reversible:

- delirium;
- medication effects;
- urinary tract infection;
- transfer trauma (stress caused by relocating to another environment);
- depression, stress, grief.

For more information, see:

- Judicial Determination of Capacity of Older Adults in Guardianship Proceedings: A Handbook for Judges, (2006), Appendix 2, p. 78, "Temporary and Reversible Causes of Confusion," American Bar Association Commission on Law and Aging, American Psychological Association, and National College of Probate Judges,

(5) Where you will go: Living arrangements of persons under guardianship

For most of us, our daily routine consists of eating, dressing, bathing, and getting to and from home, office, or school, and caring for other personal needs. In the care giving community, these are known as “activities of daily living” (“ADLs”) and “instrumental activities of daily living” (“IADLs”) But what of the person who is unable to perform these activities to some extent or who depends totally on others?

Are the living arrangements of people under guardianship suitable to their needs? Are they living where they prefer to live? Is the quality of care acceptable? Are basic needs met? Is the level of care appropriate? Are they in a place where they are able to see and interact with family, friends, or others? How are services financed? The following description of housing and long-term care is a brief guide.

Residence	Level of Assistance Needed	Possible Funding Sources
<p>Independent Living Lives in own home or rental unit or subsidized housing. Lives alone or with spouse, adult children, others.</p>	<p>May require in-home services such as assistance with activities of daily living, home health care, care management, specialized transportation, home delivered meals, etc.</p>	<p>Area Agency on Aging Medicaid Private pay Programs for individuals with disabilities Housing may be subsidized by HUD. VA</p>
<p>Residential Home Residential facility designed to serve adults with chronic disabilities. These homes usually have six or fewer occupants and are staffed 24-hours a day by trained caregivers.</p>	<p>Continual assistance with activities of daily living and supervision. May require management if behavior is dangerous to self or others, such as aggression or tendency to run away.</p>	<p>Medicaid Mental health funding Private pay Programs for individuals with disabilities VA</p>
<p>Assisted Living Residential facility designed to serve adults who need help with care, but not the 24-hour medical care provided by a skilled nursing facility. Range in size from small residential house to large facility.</p>	<p>Supervision or assistance with activities of daily living. Coordination of services. Medication management by trained staff.</p>	<p>Medicaid Private pay VA</p>

Residence	Level of Assistance Needed	Possible Funding Sources
Skilled Nursing Facility Residential facility designed to serve adults who are chronically ill or recuperating, need continuous nursing care and other health services, but not hospitalization.	Person needs trained staff for help with activities of daily living, medication management, or supervision and nursing care.	Medicaid Medicare (limited to short-term rehabilitative services) Private pay VA
Rehabilitation Center Often a part of a skilled nursing facility. Short-term residence.	Physical therapy and other care during transition to another residential setting.	Medicaid Medicare (limited to short-term rehabilitative services) Private pay VA
Intermediate Care Facility for Intellectual Disabilities Institution for the treatment, rehabilitation, supervision of people with intellectual disabilities.	A protected residential setting with supervision, rehabilitation, evaluation, or care planning	Medicaid Private pay Programs for individuals with disabilities
Hospital Provides medical care for people who are ill or injured.	Individual requires 24-hour care for a physical illness or injury	Insurance; Private pay; Medicare; Medicaid; other public programs VA
Mental Health Institution Hospitals specializing in treatment of serious mental illness.	Individual needs psychiatric treatment and therapy. While patients may be admitted on a voluntary basis, involuntary commitment is required when a person poses a danger to themselves or others.	Insurance; Private pay; Medicaid VA

(6) What you will look for: Common problems; Abuse, neglect, self neglect and exploitation

This Section describes circumstances that the volunteer court visitor might encounter in face-to-face interviews: some are life threatening; some are illegal; some are improper although not a crime.

(a) Common problems in living arrangements

Volunteer visitors should be alert for inconsistencies between the person’s ability to function and the level of placement—either too restrictive or not protective enough. Also, check the quality of care. Your report to the court should note any problems or

inconsistencies. The scenarios below highlight common problems that a court visitor may encounter.

(i) Independent Living—Alone

Ms. Garcia is 75 years old and generally in good health. However, she recently developed severe arthritis of the right knee. She has difficulty getting up, eating, and using the bathroom. She lives in a two-story home where her bedroom is downstairs, but the bathroom is upstairs. She can't get from one level to another. She needs help with meal preparation and taking medications.

(ii) Independent Living—With Others

Ms. Moore lives with her son and grandson. Her grandson has a developmental disability and requires constant care. Her son is guardian and also receives her Social Security payments as Representative Payee. When the visitor called on Ms. Moore, he found that she was not receiving proper care and that her son had been using his mother's checks to pay his own son's medical bills.

Mr. and Ms. Nolan have been together for over 60 years and have relied on each other for support. Mr. Nolan has several medical complications and significant memory loss. Ms. Nolan is his guardian, but now she is beginning to experience mental confusion herself and finds it increasingly difficult to care for her husband.

(iii) Residential Home

Ms. Rogers is 20 years old and was diagnosed with schizophrenia. She was released to a residential home from a state hospital and has improved significantly. She now wants to get a job and move into a supervised apartment setting. The residential home has not helped with this transition.

(iv) Assisted Living

When Mr. Frank moved into assisted living, he had just recovered from a fall that left him with severe pain in his left hip. He needed help with medication, bathing, and toileting. After a while, the quality of care began to decline. He had to wait long periods for help getting to the bathroom. The bathing became irregular. When the guardian visited the facility, she found that staff had been reduced. The facility no longer met his needs.

(v) Skilled Nursing Facility

Ms. Vaughn is a chronic alcoholic whose adult children petitioned for guardianship because she was spending all her monthly income on alcohol. She lived at home until poor health led her children to seek skilled nursing facility placement. After a few months, her health improved, and she can now perform most of her activities of daily living, and can take medication. She would like to leave the skilled nursing facility—but

is incontinent and requires supervision. She could probably live in a more independent setting.

A stroke left Mr. Taziz paralyzed on the left side, and he is no longer able to live independently. His speech is poor and he is unable to move unassisted. After agonizing, his wife decided a skilled nursing facility would be best for him. Mr. Taziz understands why he is in the skilled nursing facility, but separation from his family has left him depressed and he has suicidal thoughts. The nursing staff provides for his physical needs, but his emotional state has been neglected.

(vi) Intermediate Care Facility for People with Developmental Disabilities

Mr. Johns is 49 years old with intellectual disabilities. He has resided in an intermediate care facility for many years. His elderly father, who is guardian, feels he has a stable and appropriate placement, where safety is assured. But the state protection and advocacy agency says the care in the facility is poor and neglect is common. They offer assistance in moving Mr. Johns to a smaller, more independent residential home. Mr. Johns likes the idea, but his father is troubled.

(vii) Hospital

Mr. Stevens is an 80-year-old homeless man who suffered a stroke and was admitted to the hospital for treatment. The court appointed the Office of Public Guardian to make decisions about medical care. Mr. Stevens now needs care in a skilled nursing facility, but the Office of Public Guardian has not made arrangements for his discharge and placement. The hospital is anxious for him to vacate the bed.

(viii) Mental Health Institution

Ms. Rebe has been institutionalized in a state mental hospital for the past five years. After extensive treatment, her condition has improved sharply. She is now able to leave the hospital, providing she has appropriate supervision. However, her case is not up for review for another nine months.

(b) Common problems with medications

Protected persons are usually experiencing some kind of illness or disability. They often take medication. Court visitors do not prescribe drugs, evaluate the appropriateness of medications, or diagnose reactions to drugs. However, visitors should be aware that many of the people you will visit will be taking numerous medications and that sometimes problems arise from these medications. If you suspect a drug-related problem, note your observations in your report to the court.

(i) Characteristics of people at risk

- **Person is 75 years of age or older:** Numerous physiological changes that generally occur as people age may change the way medications affect the person.
- **Person is of extremely small (or large) physical stature:** A specific dose of medication may need to be adjusted to a patient's physical stature.
- **Person is receiving numerous medications:** As the number of medications taken by an individual increases, so do the risks of adverse drug reactions and drug interactions. Forty-six percent of people over age 60 take two or more prescription drugs daily.
- **Person has developed new symptoms or changes in overall condition after modification of drug therapy:** Recent changes in an individual's drug therapy may result in adverse drug reactions that cause new symptoms or significant changes in a person's condition, such as confusion or depression. These changes or new symptoms should not automatically be considered to be characteristics of aging or the result of age-related changes in physical condition.
- **Person has developed kidney dysfunction:** Kidney function is an important consideration in drug therapy, because many drugs are eliminated from the body through the kidneys. If a person with poor kidney function is given a drug dose that is too high, toxicity may occur. Kidney function declines as people age, and elderly persons may experience acute or chronic conditions that cause further decline in kidney function (for example, diabetes).
- **Person is taking high risk medication:** Certain medications taken more frequently by older people are known to be associated with a relatively high degree of toxicity.

(ii) Definitions

- **Adverse drug reaction:** An unintended, harmful response to a drug occurring at regular dosage levels. Example: confusion may be the result of an adverse reaction to an anti-depressant. Other common adverse reactions to drugs taken by older people include: depression, loss of appetite, weakness, drowsiness and lethargy, irregular gait, forgetfulness, tremor, constipation, diarrhea, and difficulty in urinating.
- **Side effect:** An unwanted, predictable pharmacological reaction unrelated to the therapeutic effect of a drug and not due to over-dosage. Example: a side effect of an anti-histamine is dry sinuses and mouth.
- **Overdose:** A characteristic but excessive effect of a drug caused by administration of a dose that is larger than the usual therapeutic dose for the patient's size and age. The "usual dose" of a medication to an older person may

still be inappropriately large because of age-related changes in metabolism. Example: residual morning drowsiness may result from an overdose of sleeping medication administered the night before.

(iii) Noncompliance

- When a protected person refuses to take prescribed medication.

Mr. Rodriguez is a 44-year-old male veteran with schizophrenia, who lives at home with his family. The guardian is an attorney. The visitor learns from the family that Mr. Rodriguez will not take medication to control his schizophrenia, and that he complains about being constantly anxious. He is too afraid to go to the veterans' hospital to pick up his medicine. The family offers virtually no support to the protected person. The man's condition is deteriorating rapidly.

(iv) Forgetfulness

- Memory loss may cause a person to forget to take medication or, it may cause a person to take repeat doses, having forgotten that the doses already have been taken.

Ms. Jones lives in a small assisted living residence. She takes four different medications: two need to be taken every four hours, one must be taken with meals, and the other is taken upon rising and again at bedtime. One of her medications is an anti-anxiety drug that in normal doses helps keep Ms. Jones calm. In larger doses this drug may cause extreme drowsiness or lethargy. Ms. Jones sometimes forgets which medications she has taken and therefore takes double doses "just to be sure." She often complains of drowsiness and the staff thinks she may have dementia.

(v) Doctors do not coordinate prescriptions

- Older patients take about three times as many medications as younger people do. Almost 90 percent of individuals age 65 and older take prescription drugs and, on average, they take about five different prescription drugs, as well as over-the-counter medications. Often the drugs are prescribed by different physicians. Coordination among physicians is essential to avoid harmful drug interactions.

Mr. Lopez suffered a stroke a few years ago and now lives with his daughter, who is his guardian. He makes regular visits to his internist, a neurologist, and a rheumatologist. The neurologist put Mr. Lopez on a blood thinner, an anti-clotting drug. The rheumatologist prescribed large doses of aspirin for his arthritis. Mr.

Lopez subsequently developed prolonged and severe nausea. His daughter took him to the emergency room where a routine inventory was taken of his medications. It was only because of this incident that Mr. Lopez and his family learned that aspirin, when taken with a blood thinner, can cause nausea and even internal bleeding.

(vi) Budgetary constraints

- Sometimes medication is too expensive for people on fixed incomes to buy. Needed drugs may not be covered under the Medicare Part D plan's "formulary" or list of medications, premiums and deductibles may be high, and plan coverage may change from year to year. Veterans may be eligible for prescription drug benefits and not be aware of this.

For information on Medicare Part D, see:

- <http://www.medicare.gov/navigation/medicare-basics/medicare-benefits/part-d.aspx>.

For information on Veterans benefits, see:

- http://www.va.gov/landing2_vetsrv.htm

Ms. O'Toole is a widow whose only source of income is her Social Security check which totals \$465 per month. She has high blood pressure and was prescribed medication by the doctor at the local clinic. The medication costs \$70 a bottle and is not fully covered by her Medicare plan. Ms. O'Toole feels she cannot afford to spend her meager funds on this medicine.

(vii) Drug reactions

- Sometimes reactions to drugs can imitate confusion, depression, weakness, and other behaviors that some people mistakenly attribute to disability or old age. These reactions are usually reversible.

Ms. Janowski, a skilled nursing facility resident, complained of stomach pains and was diagnosed with ulcers. She was prescribed a popular anti-acid medication.

Shortly after the medicine was started, Ms. Janowski became quite agitated and confused. The doctor ordered an anti-psychotic drug for what was thought to be a psychotic episode. A few days after the anti-psychotic drug was started, Ms. Janowski was moved into a "restricted" ward. Only persistent intervention by her son led to the discovery that her "psychotic" symptoms were really an adverse reaction to the anti-acid.

(viii) Effects of aging

- As our bodies age and metabolism changes, the effects of drugs can be different, and there may be a need for different dosages, intervals or duration of medications, or there may be some medications that are not appropriate.

For a list of potentially inappropriate prescription drugs for older people, see:

- “Beers List,” <http://www.empr.com/potentially-inappropriate-drugs-for-the-elderly-beerslist/article/125908/>

(c) Conflict among family members

Sometimes family members do not agree on the health and safety of a protected person. Ultimately, only the guardian has the authority to make decisions on behalf of a protected person, and the guardian should make the decision that the protected person would have made, unless that decision would be harmful. The conflict may be so great that the guardian may be unable to make decisions.

(d) Guardian changes the protected person’s lifestyle or standard of living

For example, the guardian does not honor the protected person’s values and preferences. Or the guardian spends too little (or too much) to support the standard of living to which the protected person is accustomed.

(e) Guardian does not maximize the protected person’s capacity

The guardian does not encourage and help the protected person to be as independent, engaged, and comfortable as possible in the circumstances. For example, the guardian has not worked with the staff of the protected person’s residential facility to establish activities that would appropriately engage the protected person. Or the guardian has not helped the protected person to work through agitating circumstances.

(f) Guardian needs help

Part of the guardian’s responsibility is to seek help when it is needed. The section below on [Community resources](#) offers an introduction into services and other resources.

(g) Guardian wants or needs to resign

The guardian may face circumstances that make it difficult to continue with decision making responsibilities. The guardian or any interested person should ask the court to appoint a co-guardian or to appoint a new guardian.

(h) Protected person’s capacity changes

If a protected person’s functioning increases or decreases, the guardian should return to court to modify the guardianship to ask for more or less decision making responsibility,

as appropriate. In some circumstances, the protected person may completely regain capacity, and the guardianship should be ended.

(i) Abuse, neglect, self neglect, and sexual and financial exploitation

(i) Reporting

The court visitor will always report their observations to the court. Whether to report also to law enforcement or Adult Protective Services will depend on the severity of the circumstances.

- If you observe life-threatening or other extreme circumstances, call 911.
- If you observe indications of abuse, neglect, self neglect or exploitation, contact Adult Protective Services. APS can investigate if the person is 65 or older or is a “vulnerable adult.”
 - http://www.hsdaas.utah.gov/e-referral_form.jsp
 - 801-538-3567 in Salt Lake County and 800-371-7897 in all other counties.
 - APS will ask for the protected person’s name, address, date of birth, and the nature of your concern.
- If APS cannot investigate, call local law enforcement. (211 will provide the telephone number for law enforcement agencies in your community.)

To help you decide whether to report to APS, you will need to understand what is meant by abuse, neglect, self neglect and exploitation. Note that it might be the guardian or some other person who is inflicting this harm on the protected person. The descriptions that follow are a summary of the statutory definitions that apply to “vulnerable adults.” A protected person is a vulnerable adult.

- For official statutory definitions, see [Utah Code Section 62A-3-301](#).

Key indicators of abuse, neglect and exploitation are described below. These indicators do not necessarily mean that abuse, neglect or exploitation has occurred, but they are signs that further investigation may be needed.

(ii) Abuse

Abuse means:

- causing physical injury to the protected person;
- causing or attempting to cause harm to the protected person or placing the protected person in fear of imminent harm;
- using physical restraint, medication, or isolation that causes harm to the protected person and that conflicts with a physician’s orders; or

- depriving the protected person of life-sustaining treatment, except with the protected person's informed consent or under the protected person's Advance Health Care Directive.

Examples of abuse include:

- physical abuse: striking (with or without an object), hitting, beating, pushing, shoving, shaking, slapping, kicking, pinching, and burning; inappropriate use of drugs and physical restraints; force-feeding; and physical punishment;
- sexual abuse: non-consensual sexual contact of any kind; unwanted touching; all types of sexual assault or battery, such as rape, sodomy, and coerced nudity; and
- emotional or psychological abuse: infliction of anguish, pain, or distress through verbal or nonverbal acts; verbal assaults, insults, threats, intimidation, humiliation, and harassment; treating the protected person like an infant; isolating the protected person from his or her family, friends, or regular activities; giving the protected person the "silent treatment;" and enforced social isolation.

Signs of physical abuse include:

- frequent use of the emergency room or hospital or frequent changes in health care providers
- injury from an implausible cause, contradictory explanations
- injury that has not been properly cared for
- pain upon touching
- bruises, black eyes, welts, cuts, burns, and rope marks
- sprains, dislocations, and internal injuries or bleeding
- injuries in various stages of healing
- presence of old and new bruises at the same time
- broken eyeglasses, signs of being punished, signs of being restrained
- eye problems, retinal detachment
- bone fractures and skull fractures
- overdose or under utilization of prescribed medication

Signs of sexual abuse include:

- bruises around the breasts or genital area
- venereal disease or genital infections
- vaginal or anal bleeding
- torn, stained, or bloody underclothing

(iii) Neglect

Neglect means:

- failure of a caretaker to provide nutrition, clothing, shelter, supervision, personal care, or dental or other health care, or failure to provide protection from health and safety hazards or failure to provide protection from maltreatment;
- failure of a caretaker to provide care that a reasonable person would provide;
- failure of a caretaker to carry out a prescribed treatment plan that results or could result in injury or harm;
- a pattern of conduct by a caretaker that deprives the protected person of food, water, medication, health care, shelter, cooling, heating, or other services necessary to maintain the protected person's well being, without the protected person's informed consent; or
- abandonment by a caretaker.

Examples of neglect include:

- refusal or failure of the guardian to provide or pay for necessary care and life necessities, such as food, water, clothing, shelter, personal hygiene, medicine, comfort, personal safety, and other essentials; and
- abandonment.

Signs of neglect include:

- unattended or untreated health problems
- inadequate or inappropriate administration of medication
- lack of necessary medical aids, such as eyeglasses, hearing aids, dentures, walkers, canes, and bedside commodes
- bed sores and signs of confinement (tied to furniture, locked in a room)
- lack of food in the home
- dehydration, malnutrition, weight loss, pallor, sunken eyes or cheeks
- homelessness or grossly inadequate housing
- unsanitary living conditions and poor personal hygiene (for example, dirt, fleas or lice on person, insect bites, soiled clothing or bedding, fecal/urine smell, inadequate clothing)
- unsafe conditions in the home (improper wiring, inadequate plumbing, no heat or running water no railings on stairs, etc.)
- hoarding
- animals in feral conditions

- deserting the protected person at a hospital, nursing facility, shopping center or other location

(iv) Self neglect

Self neglect means the failure of a protected person to obtain for himself/herself food, water, medication, health care, shelter, cooling, heating, safety, or other services necessary to maintain one's own well being.

Self-neglect does not include a mentally competent person who, understanding the consequences, makes a conscious and voluntary decision to engage in acts that threaten his or her health or safety. Choice of lifestyle and living arrangements are not, by themselves, evidence of self-neglect. However, a protected person for whom a guardian has been appointed, being incapacitated, is not legally permitted to make these decisions. A guardian is obligated to protect a protected person from self neglect.

The signs of self neglect are similar to the signs of neglect. (See the list above.) The principal difference is that the protected person is denying himself or herself the care and necessities to maintain one's own well being.

(v) Sexual exploitation

Sexual exploitation means:

- the protected person's guardian permits the protected person to be a part of vulnerable adult pornography.

Examples of sexual exploitation include:

- producing, viewing or possessing pornographic photos or videos of a vulnerable adult; and
- allowing the protected person to pose for pornographic photos or videos.

(vi) Financial exploitation

Financial exploitation means:

- improperly using the protected person's money, credit, property, power of attorney or guardianship for the benefit of someone other than the protected person.

Examples of financial exploitation include:

- cashing the protected person's checks without permission;
- forging the protected person's signature;
- misusing or stealing the protected person's money or possessions;
- coercing or deceiving the protected person into signing any document; and

- improperly using authority under a conservatorship, guardianship, or power of attorney.

Signs of financial exploitation include:

- large or frequent withdrawals of the protected person's money
- withdrawal for implausible reasons or with contradictory explanations
- withdrawals by a person accompanying the protected person
- withdrawals in spite of penalties
- increased activity on debit and credit cards
- unexplained disappearance of funds
- missing personal belongs, such as art, silverware, or jewelry
- co-mingling of funds: putting the protected person's money in the guardian's (or another's) bank account
- activity in bank accounts that is unusual for the protected person
- activity, events, and transactions unusual for the protected person or inconsistent with the protected person's ability
- change in account beneficiaries
- new authorized signers on accounts
- unexplained transfer of the protected person's assets to someone else
- recent change of title in the protected person's house or car
- new or refinanced loan
- paying for services that are not necessary
- unpaid or overdue bills
- lack of common amenities that the protected person can afford
- care or living arrangements not commensurate with what the protected person can afford
- the protected person's signature being forged
- a new person is involved in the protected person's life, with no logical reason for being there, such as
 - a new boyfriend or girlfriend much younger than the protected person
 - recent acquaintances expressing strong affection for the protected person
 - previously uninvolved relatives claiming rights to the protected person's affairs and possessions

- abrupt change of the protected person's physician, lawyer, or accountant
- change in the protected person's will, power of attorney, trust, or other legal document
- promises of life-long care in exchange for all of protected person's money or property

(vii) Problem signs from the protected person

The protected person may mention problems to you or to others. These reports need to be considered seriously.

- the protected person's report of being physically, sexually, verbally or emotionally abused or mistreated
- the protected person's report of being ignored, mistreated or abandoned
- the protected person's report of being a part of vulnerable adult pornography
- the protected person's report of financial exploitation

The protected person's sudden change in behavior might also indicate a problem of abuse, neglect or financial exploitation:

- fear, apprehension
- helplessness, resignation, withdrawal, depression
- non-responsive, reluctance to talk openly
- implausible stories, contradictory statements
- anger, denial, agitation, anxiety
- confusion
- confusion about financial transactions
- unusual behavior usually attributed to dementia (for example, aggressiveness, sucking, biting, rocking)

(viii) Problem signs from the guardian and others

Key indicators of abuse, neglect and exploitation are described above. Those indicators focus on the protected person's actions and circumstances. There may also be signs of problems from the actions and circumstances of the guardian and others:

- the guardian isolates the protected person from friends and family
 - the guardian says the protected person is not willing or able to accept visits or calls
 - the guardian tells the protected person that no one wants to see him or her

- the guardian often speaks for the protected person, even when the protected person is present
- the guardian will not allow the protected person to participate in normal activities
- the guardian seems overly concerned about the protected person's finances
- the guardian is concerned that too much is spent on protected person's care
- the guardian has no means of support other than the protected person's income
- the guardian exhibits a lifestyle beyond of his or her means
- the guardian has problems with alcohol or drugs
- the guardian has been charged with or convicted of abuse, neglect or exploitation of someone other than the protected person
- the guardian blames the protected person (for example, accusation that incontinence is a deliberate act)
- the guardian exhibits aggressive behavior (anger, threats, insults, harassment), sexual behavior (flirtation, coyness), or indifference toward the protected person
- the guardian is unwilling or reluctant to comply with service providers in planning and implementing care
- the protected person's family give conflicting accounts of events

(7) What you will do: Inquire and observe

A court visitor's only tools are asking people questions, noting the answers and observing circumstances.

(a) Checklist

- (1) Receive the certified copy of the order assigning you as visitor from the program coordinator. Some people whom you interview or interact with may want a copy of the assignment order. You may make copies of the assignment order to show or leave with them.
- (2) Review the court records for the essential documents and information:
 - protected person's name, age and location; case number
 - guardian's name and contact information
 - name and contact information of interested persons
 - the date the guardian was appointed and guardian's authority (found in the letters of guardianship)
 - petition for appointment

- physician's or other clinical statement; note any medications being taken, any treatments ordered, and any assistive devices ordered
 - letters of guardianship and order of appointment
 - annual care reports
- (3) You may make personal notes about the case to take with you, but court records may never be removed from the courthouse. Records must not be written on or changed in any way. If you need a document from a file, you may consult with the court clerk to determine whether a copy of the document may be made.
 - (4) Be sure to protect your notes and copies of any court records. Do not leave them where someone else can see them or take them. Be sure to return them to the Program Coordinator for shredding after you have filed your report. Guardianship records are private so do not show documents to anyone else, other than the order assigning you as a visitor. Also, do not talk about the case with anyone other than court staff.
 - (5) The Program Coordinator will mail or email to the guardian a letter notifying the guardian that you will be in contact to schedule interviews and the purpose of the interviews.
 - (6) Contact the guardian to explain your role and set up an appointment for a visit to interview the guardian, the protected person, and anyone involved in the protected person's care. If the person lives in a skilled nursing facility, assisted living, or a residential home, contact and make appointments with key staff, such as a floor nurse or social worker. Contact and make appointments with anyone else described in the judge's order. The guardian is responsible for the protected person's care, so it is important to schedule your first interview with the guardian. The guardian may then be able to help introduce you to the protected person. When you have scheduled appointments, e-mail the program coordinator so s/he knows when you are going and where you are.
 - (7) Ask for the guardian's guidance about visiting and communicating with the protected person. If the guardian is antagonistic or threatening, let the program coordinator know immediately.
 - (8) Print a blank report form: Visitor's Report on Interviews and Observations about the Protected Person's Well Being and, if needed, the Visitor's Report on Possible Problems. Fill in the basic information about the case.
 - (9) Based on the judge's order assigning you and the report form that you will be completing, think about the interview questions you will ask the protected person, the guardian, and any caregivers. The actual interviews may deviate substantially, but it is good to have thought about how the

interviews will proceed. It is important to focus on actively engaging the interviewees and being flexible during the interview.

- (10) When arriving for the visit, show a copy of the order assigning you as visitor. Keep the original with you and leave a copy if the person wants a copy.
- (11) Take the time to thoroughly interview the guardian, the protected person, caregivers and others as the judge might have directed. See the communication tips found in this manual. Take good notes. Interview the protected person privately if possible.
- (12) Leave any materials for the guardian as the court may have directed.
- (13) If the visit is at a skilled nursing facility or assisted living facility, review the medical records to verify facts or to get additional information. You may see only a limited part of the record in hard copy. Ask to see electronic files, including incident reports.
- (14) If you observe abuse, neglect, self neglect, or exploitation, contact law enforcement or Adult Protective Services, as appropriate, and notify the program coordinator as well. Include the observations in your report to the court.
- (15) Using your notes from the interviews, complete the report form as soon as possible and submit it to the Program Coordinator. The coordinator will file it with the court that assigned you and mail a copy to all of the parties.
- (16) Schedule a meeting with the Program Coordinator to discuss the case and your report. Ask whether specific follow-up has occurred or will occur.
- (17) Unless you are told otherwise, plan on attending the hearing if one is scheduled. You may be called upon to testify at the hearing. Although guardianship records are private, most guardianship hearings are public.

(b) Your personal safety

- (1) During a home visit for an interview or observation, you will be going into a stranger's home, probably in a neighborhood with which you are not familiar. Your safety is the most important consideration. Here are some tips:
- (2) Always let someone know where you will be. Visit at high activity times, like 8am – 10am or 4pm - 6 p.m.
- (3) Know where you are going. Familiarize yourself with the area as much as possible. Refer to maps or a GPS device. Beware of "looking lost." Project an image of knowing where you are going and what you are doing, even if you don't.

- (4) Be aware of your own clothing that may misrepresent you. Dress professionally and conservatively.
- (5) Be sure you have enough gas in your car. As you approach the location, observe entrances, exits and places to avoid. If you feel uneasy or that you are in danger, leave. Park your car a few spaces down from the house. If you have to leave quickly, do not give a pursuer the opportunity to catch up too soon.
- (6) Keep your keys and mobile phone close at hand. If it is unsafe to return to your car, go to the nearest place where there are people, activity and security.
- (7) If you are unsure about going to a location, you can always decide not to go. We do not expect you to go into areas where you feel unsafe. Contact the program coordinator to ask that someone else be assigned or to ask that you be accompanied by another visitor.
- (8) At the door of a home, listen before you knock. If you hear sounds of any threatening situation, leave immediately. Stand to one side of the door when you knock, not directly in front. Do not accept invitations such as “Is that you? Just come on in.” Identify yourself and ask the occupant to come to the door to let you in.
- (9) Once inside, be alert and observe your environment. Are there dangerous weapons or drugs lying about? Is someone drunk or physically acting out? In such cases, tell your client that you cannot remain and then leave. Reschedule the visit or have them see you at the courthouse or some other public place.
- (10) Keep your back to the door, with nothing obstructing your path to the door.
- (11) Observe how clients are dressed. Are they wearing clothing that could conceal a weapon?
- (12) If the guardian is antagonistic or threatening, do not put yourself in jeopardy. Leave and call the program coordinator right away.
- (13) Do not threaten or get physical.
- (14) If you are in an escalation:
 - DIVERT – Switch attention to another subject, ask for a glass of water, change seats. Separate agitators.
 - DIFFUSE – Use soft voice, agree, and focus on how the person feels she/he has been treated. Assure the person they are safe.
 - DELAY – Ask to postpone.
 - LEAVE – Get out and walk away.

(8) Effective communication

(a) Overcoming barriers to communication

Most of us like to believe that we are effective at communicating. Yet, consider that in any encounter with another person, some or all of the factors listed below may be present, and true communication therefore may never occur:

- Different values and beliefs
- Misunderstandings about the meaning of non-verbal behavior
- Assumptions made on the basis of appearance
- Vocabulary issues—language, meaning of words, emotion-laden words; inability to hear or understand the words being said
- Differences in the way people relate to others based on culture
- Expectations based on past experience
- Preoccupation
- Fear, perception of threat
- Emotional blocks
- Stereotypes
- Anger, hostility, or defensiveness
- Status differences
- Factors in the physical environment
- The self-concept of either person
- The “climate” of the communication—time constraints, distractions, mood
- The needs of either person

Fortunately, with knowledge and practice, these barriers can be overcome.

How to Overcome Communication Barriers		
Speaker	Communication Barrier	Listener
Develop ideas according to listener's values and interests; be open to learning about people who are different from you; avoid being judgmental about the listener's cultural practices.	Beliefs And Value Systems	Be open to learning about people who are different; accept differences; avoid making premature judgments about the speaker's attitude about your culture.
Be sensitive to the emotional as well as the basic needs of the listener.	Needs	Be aware of the goals and purpose of the speaker.
Be conscious of past experiences in similar situations; think of listener's past experiences with social workers or public institutions.	Past Experiences	Think in terms of similar past experiences and speaker's past experiences with persons like yourself.
Confront rather than deny your own stereotypes; be willing to learn something about the other person; help the listener learn something about you.	Stereotyping	Ask questions before drawing conclusions about speaker's lifestyle, beliefs, characteristics and behaviors; be open to learning something about the speaker; share information about yourself with the speaker.
Be aware of the listener's mood, attentiveness, and concerns of the household.	Preoccupation	Acknowledge own problems and consciously focus on the speaker.
Be aware of the emotional messages a word may convey	Emotionally Charged Words	Ask for clarification or meaning of words with emotional messages.
Be cautious about how you approach a subject that may offend the listener; remove yourself from a situation when you are angry.	Anger/Hostility	Avoid escalating the anger; it is more important to listen than to respond angrily; don't jump to conclusions.

How to Overcome Communication Barriers		
Speaker	Communication Barrier	Listener
Recognizing that if a person has a poor self-concept it will interfere with communication, make such a person feel comfortable and relaxed; respect the listener's self-concept	Self-Concept	Respect the speaker's perception of his or her role in the situation.
Choose words with the listener in mind; use an interpreter with whom you have worked before and who is familiar with your speech habits and style.	Language	Repeat what the speaker has said in order to check your own understanding; ask questions if speaker uses unfamiliar words.
Use descriptive and nonjudgmental language; use non-threatening approach; make the listener feel secure and at ease.	Defensiveness	Feel comfortable and secure about your own capabilities and accept the capabilities of others.
Keep in mind the listener's status and role in the family and community.	Status	Think of the speaker in terms of his or her qualifications and abilities.

(b) Communicating with and about people with disabilities

The Americans with Disabilities Act, other laws, and the efforts of many disability organizations have made strides in improving accessibility in buildings, increasing access to education, opening employment opportunities, and developing realistic portrayals of persons with disabilities in television programming and motion pictures. Where progress is still needed is in communication and interaction with people with disabilities. Individuals are sometimes concerned that they will say the wrong thing, so they say nothing at all — thus, further segregating people with disabilities. Listed here are some suggestions on how to relate to and communicate with and about people with disabilities.

Words: Positive language empowers. When writing or speaking about people with disabilities, it is important to put the person first. Group designations such as “the blind,” “the retarded,” or “the disabled” are inappropriate because they do not reflect the individuality, equality, or dignity of people with disabilities. Further, words like “normal person” imply that the person with a disability isn’t normal, whereas “person without a disability” is descriptive, but not negative. The accompanying chart shows examples of positive and negative phrases.

Affirmative Phrases

- Person with an intellectual, cognitive, developmental disability
- Person who is blind, person who is visually impaired
- Person with a disability
- Person who is deaf, person who is hard of hearing
- Person who has multiple sclerosis
- Person with cerebral palsy
- Person with epilepsy, person with seizure disorder
- Person who uses a wheelchair
- Person who has muscular dystrophy
- Person with a physical disability, physically disabled
- Unable to speak, uses synthetic speech
- Person with psychiatric disability
- Person who is successful, productive

Negative Phrases

- retarded; mentally defective
- the blind
- the disabled; handicapped
- the deaf; suffers a hearing loss
- afflicted by MS
- CP victim
- epileptic
- confined or restricted to a wheelchair
- stricken by MD
- crippled; lame; deformed
- dumb; mute
- crazy; nuts
- has overcome his/her disability; is courageous (implies the person has courage because of having a disability)

Actions: Etiquette considered appropriate when interacting with people with disabilities is based primarily on respect and courtesy. Outlined below are tips to help you in communicating with persons with disabilities.

(i) Do's and Don'ts of good communication

Do

- Be a good listener. Show genuine interest and concern.
- Look to see if the person is listening or seems confused.
- Be alert to facial expressions. Does the expression match the tone of voice or body language?
- Listen to voice qualities—pitch, volume, rate of speed.
- Be aware of “comfort zone.” Some people (or cultures) prefer close contact, others more distant.

Don't

- Do all the talking
- Change the subject when the person is discussing troubling topics, such as death and dying.
- “Tune out” or selectively hear problem statements.
- Be argumentative or critical.
- Ask “why” or “how come” questions that put the person on the defensive.

Do

- Put the speaker at ease. Help the person know s/he is free to talk.
- Be honest. Speak directly to the person about difficult things, such as losses or illnesses to affirm the person's feelings.
- Ask the person's viewpoint and use open-ended questions to get more complete responses.
- Show empathy. Try to put yourself in the person's place.
- Be patient. Allow the person time to express thoughts.
- Be supportive of feelings, yet maintain objectivity.
- Offer choices or options when appropriate.

Don't

- Be inattentive or insensitive to the person's concerns or needs.
- Assume the role of "neighborhood friend" when the person reveals personal information.
- Get angry over statements made.
- Interrupt, start for the door, or walk away before the person is finished expressing concerns.
- Shuffle paper, doodle, tap, or otherwise seem inattentive.
- Cut short the amount of time spent.
- Give legal advice.

Note: Maintaining eye contact often helps communication. However, in some cultures it is considered threatening or disrespectful.

(ii) General tips for communicating with people with disabilities

- When introduced to a person with a disability, it is appropriate to offer to shake hands. People with limited hand use or who wear an artificial limb can usually shake hands. (Shaking hands with the left hand is an acceptable greeting.)
- If you offer assistance, wait until the offer is accepted. Then listen to or ask for instructions.
- Treat adults as adults. Address people who have disabilities by their first names only when extending the same familiarity to all others.
- Relax. Don't be embarrassed if you happen to use common expressions such as "See you later," or "Did you hear about that?" that seem to relate to a person's disability.
- Don't be afraid to ask questions when you're unsure of what to do.

(iii) Tips for communicating with people who are blind or visually impaired

- Speak to the individual when you approach him or her.
- State clearly who you are; speak in a normal tone of voice.

- When conversing in a group, remember to identify yourself and the person to whom you are speaking.
- Never touch or distract a service dog without first asking the owner.
- Tell the individual when you are leaving.
- Do not attempt to lead the individual without first asking; allow the person to hold your arm and control her or his own movements.
- Be descriptive when giving directions; verbally give the person information that is visually obvious to individuals who can see. For example, if you are approaching steps, mention how many steps.
- If you are offering a seat, gently place the individual's hand on the back or arm of the chair so that the person can locate the seat.

(iv) Tips for communicating with people who are deaf or hard of hearing

- Gain the person's attention before starting a conversation (i.e., tap the person gently on the shoulder or arm).
- Look directly at the individual, face the light, speak clearly, in a normal tone of voice, and keep your hands away from your face.
- Use short, simple sentences. Avoid smoking or chewing gum.
- If the individual uses a sign language interpreter, speak directly to the person, not the interpreter.
- If you telephone an individual who is hard of hearing, let the phone ring longer than usual. Speak clearly and be prepared to repeat the reason for the call and who you are.
- If you do not have a Text Telephone (TTY), dial 711 to reach the national telecommunications relay service, which facilitates the call between you and an individual who uses a TTY.

(v) Tips for communicating with people with mobility impairments

- If possible, put yourself at a wheelchair user's eye level.
- Do not lean on a wheelchair or any other assistive device.
- Never patronize people who use wheelchairs by patting them on the head or shoulder.
- Do not assume the individual wants to be pushed—ask first.
- Offer assistance if the individual appears to be having difficulty opening a door.

- If you telephone the individual, allow the phone to ring longer than usual to allow extra time for the person to reach the telephone.

(vi) Tips for communicating with people with speech impairments

- If you do not understand something the individual says, do not pretend that you do. Ask the individual to repeat what s/he said and then repeat it back.
- Be patient. Take as much time as necessary.
- Try to ask questions that require only short answers or a nod of the head.
- Concentrate on what the individual is saying.
- Do not speak for the individual or attempt to finish her or his sentences.
- If you are having difficulty understanding the individual, consider writing as an alternative means of communicating, but first ask the individual if this is acceptable.

(vii) Tips for communicating with people with cognitive disabilities

- If you are in a public area with many distractions, consider moving to a quiet or private location.
- Be prepared to repeat what you say, orally or in writing.
- Be patient, flexible, and supportive. Take time to understand the individual and make sure the individual understands you. Remember: Relax.
- Treat the individual with dignity, respect, and courtesy.
- Listen to the individual.
- Offer assistance completing forms or understanding written instructions and provide extra time for decision making. Wait for the individual to accept the offer of assistance; do not “over-assist” or be patronizing.
- Offer assistance but do not insist or be offended if your offer is not accepted.

(viii) Tips for communicating with people from other cultures

- Make a conscious effort to approach each person as an individual.
- Don't operate on assumptions; avoid myths and stereotypes.
- Avoid the assumption that if an individual's country of origin is outside the U.S. the person will have problems speaking English.
- Find out what the issues and needs are for the individuals with whom you will be working.
- Include others from the individual's community in the discussion, if appropriate.
- Be honest, sincere, and sensitive.

- Be aware of cultural backgrounds, customs, and values of the persons with whom you are interacting. Also be aware that cultures have widely differing values and behavioral standards about family involvement, decision-making, and health care.
- Sometimes an over-friendly approach may be seen as a put-down.
- If a person tries to avoid eye contact, follow the lead. In some cultures, direct eye contact may be interpreted as confrontational, disrespectful, or rude.
- Be careful about touching other people. Develop a relationship and then evaluate what is appropriate.
- Learn to listen.
- Be flexible, patient and tolerant. There may be a period of testing. Don't give up. Keep trying.

(ix) Tips for communicating through a language interpreter

When you receive an assignment, ask court personnel whether the guardian or protected person or anyone else whom you might interview speaks a language other than English. If you communicate fluently in that language, also known as the “target language,” you may conduct the interviews in that language. However, if you have any doubts about your ability to communicate, ask the court to assign an interpreter, and one will be scheduled to attend the interviews with you.

- The interpreter is neutral and is restrained by the interpreter code of ethics from becoming involved personally. The interpreter is a medium through whom you will talk with the person being interviewed.
- At the beginning, ask the interpreter to explain to the person you are interviewing the interpreter's role. Then you can explain your role, and the interpreter will render what you say into the target language. The interpreter will render what the interviewee says into English.
- Speak to the interviewee directly, and conduct the conversation as you normally would. Do not look at the interpreter and say “tell her this”, or “ask him what he thinks about that.”
- Speak clearly using a natural volume and speed and, again, speak directly to the interviewee.
- The interpreter will speak simultaneously, either in the target language or in English, depending on who is speaking. It may be difficult, especially at first, to not ignore the interpreter speaking in the target language while you are speaking in English. It may also be difficult to hear the interpreter speaking English while focusing on the interviewee.

- The interpreter will repeat everything in the first person. So, if the interpreter says “I really like the afternoon social hour,” it is really the interviewee saying that.
- If the interpreter needs clarification, he or she will ask for a repetition in the third person (for example “the interpreter requests a repetition”).
- If you need clarification, ask the interviewee to explain; do not ask the interpreter to explain. And do not ask the interpreter to explain anything to the interviewee, apart from the interpreter’s role. If the interviewee needs you to explain something, do so in English, and the interpreter will render that into the target language.
- Do not ask for the interpreter’s opinion about the interviewee’s statements. If you are not clear on something, continue to ask questions of the interviewee.
- The interpreter will ask you to enter a beginning and ending time on an invoice for payment purposes. Please be accurate when entering the information and enter your initials for verification.
- If you have any concerns or questions about working with interpreters, contact Rosa P. Oakes at rosao@utcourts.gov or 801-578-3828.

(c) Interview questions and strategy

What will your interview with the protected person and the guardian be like? What questions should you ask? A careful review of the Visitor’s Report on Interviews and Observations, along with the court order assigning you and the specific information in the case file, will suggest questions to keep in mind. Review of the case file will provide a solid basis for your interviews and will help in gaining respect and confidence of the interviewees.

Below are some starters to tailor to the case at hand. Think about such questions, but it is important not to simply read from your list, but use it as an outline or reminder. The key is to engage the interviewees, develop a free-flowing dialogue, and keep the big picture in mind. Aim to develop a conversational interview style and be creative when asking questions.

(i) Ideas for talking with the protected person

- Explain who you are. “GG was appointed by the court as your guardian, and now the court has sent me to find out how things are going.”
- How often do you see GG?
- Orienting question: What day is it?
- Tell me about living here.
- Tell me about your daily/weekly routine
- Has your routine changed since you were appointed a guardian?

- What do you like to do?
- Tell me about your life growing up
- “Oh, I noticed this picture/greeting card; tell me about the people in the picture/tell me about the person who sent you this birthday/holiday card.
- What is important to you?
- Who comes to visit you? Who do you talk to?
- How do you spend your time?
- Do you see the doctor? What for?
- How do you get to the doctor?
- Are there things you need?
- If you fell down, who would you call?
 - How would you call him/her?

If you stove caught fire, what would you do?

“I see that you have bills here; how do you make sure these get paid?”

- Is there anything you would like me to tell the court?
- Is there someone else I should talk to?

(ii) Ideas for talking with the guardian

- How long have you been guardian for PP?
- How frequently do you see him/her?
- What services is PP getting?
- Can you comment on the quality of care at the skilled nursing facility/assisted living where PP is living?
 - Have there been any problems?
- What are your plans for PP in the coming year?
- What medical problems does PP have?
- Who are his/her physicians?
- What is the treatment plan?
- Do you expect any major changes in residence for PP in the next year? Does PP still require skilled nursing facility care? Are there other options you have explored?
- Do you believe PP still requires a guardian?
- Would you recommend any changes in the scope of the guardianship?

- Do you believe the condition of PP has changed in the past year?
- Do you have any questions or comments for the court?
- Are the funds of PP sufficient for the current living arrangement/any needed medical care/needed social services?

(iii) Interview stages

Another helpful approach is to think of the interview—whether of the protected person, guardian, or other relevant party—in stages.

- Stage One: Greeting
 - Identify yourself and clarify or confirm the role of the court visitor.
 - Create a pleasant, relaxed environment.
- Stage Two: Opening
 - Explain the reason for the interview.
 - Tell the interviewee how much time the interview will take.
 - Make concrete sensory observations of environment and protected person.
 - Give the interviewee some idea of what information you already have.
 - Summarize what you hope to learn during the interview.
- Stage Three: Body of Interview
 - Allow the interviewee to discuss what s/he feels is important through dialogue and questions.
 - Begin with broad, general questions and move to more specific questions.
 - Avoid leading questions, double questioning, and “bombarding” (see below).
 - Use closed questions to zero in on a topic.
- Stage Four: Closing
 - When closing, tell the interviewee when or if s/he can expect to hear from you again.
 - Refer back to the items discussed, with a concluding statement.
 - Recap any action items, if appropriate.
- Sample Questions
 - Open-Ended:
 - Oh?

- Yes.
- Really?
- Well, what do you mean?
- Please tell me more about that.
- What specifically did you have in mind?
- I'm not sure I understand.
- How do you think things could be improved?
- What kinds of problems have you had?
- Closed-Ended
 - Do you have any trouble with that?
 - Is this most important to you?
 - Do you believe this could be improved?
 - When did it happen?
- Double Questions
 - Do you want coffee or tea?
 - Do you prefer living alone or living with other people?
- Bombarding
 - Well, why don't you answer?
 - Do you need more time to think?
 - Would you rather I stop asking?
- Leading Questions
 - Are you afraid of anything?
 - What do you like about living here?

(9) Community resources

You may encounter questions from guardians—especially family guardians—about community resources. Available resources are a mix of federal and state and local government programs and organizations and private for-profit and non-profit programs. It can be quite a maze.

(a) 2-1-1

Dialing 2-1-1 will connect callers to health, human, and community services statewide. 2-1-1, a program of United Way of Salt Lake, provides free information and referral on

topics such as emergency food pantries, rental assistance, public health clinics, child care resources, support groups, legal aid, volunteer opportunities, and a variety of other non-profit and governmental agencies.

- 211 Website
<http://www.informationandreferral.org/>

(b) Reporting abuse and neglect

(i) Adult Protective Services

[Adult Protective Services](#) protects persons 65 and older and vulnerable adults (anyone over the age of 18 who has a mental or physical impairment which substantially impairs the person's ability to care for him or herself). Trained staff, working in cooperation with law enforcement, investigate cases of abuse, neglect, self neglect, or financial or sexual exploitation involving vulnerable adults. Adult Protective Services workers assist victims and prevent further abuse, neglect, and exploitation. Adult Protective Services include:

- receiving reports of adult abuse, exploitation, neglect, or self neglect;
- investigating reports of adult abuse, exploitation, or neglect;
- case planning, monitoring, and evaluation; and
- arranging for medical, social, economic, legal, housing, law enforcement or other protective, emergency, or supportive services.

APS caseworkers are the first responders to reports of abuse, neglect, and exploitation of vulnerable adults. Report abuse, neglect or exploitation to Adult Protective Services

- http://www.hsdaas.utah.gov/e-referral_form.jsp
- 801-538-3567 in Salt Lake County
- 800-371-7897 in all other counties

(ii) Long-Term Care Ombudsman

Protected persons retain important rights even when they reside in a long term care facility. The long-term care ombudsman will advocate for residents 60 and older of skilled nursing facilities, assisted living, and other adult care facilities. They work to resolve problems of individual residents.

You may give the contact information for the Utah Long-term Care Ombudsman to the guardian who has encountered problems with long-term care facilities. If the guardian is not taking action concerning poor quality of care, your report to the court might suggest contacting the ombudsman program.

- Utah Long-term Care Ombudsman, <http://www.hsdaas.utah.gov/ombudsman/>

(c) The aging network

(i) Area Agencies on Aging

Local Area Agencies on Aging provide a comprehensive variety of services to, and advocate for, the needs of persons 60 and older, caregivers, and some “high risk” adults” residing in their areas. Area Agencies on Aging provide information and assistance and contract with a range of services providers—for example, in-home care, legal services, congregate and home-delivered meals, and transportation. There is no financial eligibility requirement for these services, but the services are targeted to those “in greatest social and economic need.”

- http://www.hsdaas.utah.gov/pdf/utah_area_agencies_on_aging.pdf

(ii) Utah Division of Aging and Adult Services

- Senior Centers: <http://www.hsdaas.utah.gov/locations.htm>
- Caregiver support: http://www.hsdaas.utah.gov/caregiver_support.htm
- Health Insurance: http://www.hsdaas.utah.gov/insurance_programs.htm
- Advance health care directives:
http://www.hsdaas.utah.gov/advance_directives.htm
- Retired Senior Volunteer Program (RSVP):
http://www.hsdaas.utah.gov/ss_volunteerism.htm

(d) The disability network

(i) Disability Law Center

- <http://disabilitylawcenter.org>
205 N 400 W
Salt Lake City, Utah 84103
801-363-1347
800-662-9080
- The Disability Law Center is a private, non-profit organization serving as Utah’s protection and advocacy agency. The Center provides information and referral to services for persons with disabilities statewide. The DLC does not represent individuals in guardianship cases.
- The Center’s other mission is to enforce and strengthen laws that protect the opportunities, choices and rights of people with disabilities, in areas such as:
 - abuse and neglect in long term care facilities
 - accessibility
 - clients and applicants of vocational rehabilitation

- education issues
- housing discrimination
- Medicaid or insurance denial of assistive technology
- voting access

(ii) Centers for Independent Living

- Directory of centers for independent living in Utah:
 - <http://www.bcm.edu/ilru/html/publications/directory/utah.html>
- A center for independent living is a consumer-controlled, community-based, cross-disability, non-residential private nonprofit agency that provides a variety of independent living services.
 - Information and referral
 - Independent living skills training
 - Individual and systems advocacy
 - Peer counseling

(iii) Utah Division of Services for People with Disabilities

- <http://www.dspd.utah.gov>
 195 N 1950 W
 Salt Lake City, Utah 84116
 801-538-4200
 800-837-6811
 TTY: 801-538-4192

(e) Behavioral health network

(i) Local mental health facilities

- Search for a local mental health facility by zip code
 - <http://store.samhsa.gov/mhlocator>

(ii) Utah Division of Substance Abuse and Mental Health

- Services for Substance Abuse and Mental Health
 - <http://www.dsamh.utah.gov/locationsmap.htm>
- Help for Families
 - <http://www.dsamh.utah.gov/helpforfamilies.html>

(f) Residential services

One of the most difficult tasks for a guardian may be finding the right living arrangements for the individual. Factors will include cost, Medicaid or insurance coverage, VA benefits, time factors, including hospital discharge, proximity to friends and relatives, services and amenities offered, and quality of care. If you encounter problems with the long-term care of a protected person, the following resources may be helpful. Be sure to contact the program coordinator before making a complaint or initiating any action.

(i) Search for living arrangements by geographical area and by type of assistance needed

- Utah Department of Health, Health Facility Licensing, Certification and Resident Assessment
 - Assisted Living Type I (Assists with one or two Activities of Daily Living ADLs)
 - <http://health.utah.gov/hflcra/facinfo/alpha.php?FACTYPE=02A>
 - Assisted Living Type II (Assists with any number of ADLs)
 - <http://health.utah.gov/hflcra/facinfo/alpha.php?FACTYPE=02B>
- www.retirementhomes.com
- <http://www.seniorsforliving.com>
- <http://seniorhousing.botw.org/States/Utah>

(ii) Medicare and Medicaid facility comparisons

The Centers for Medicare and Medicaid Services (CMS) provides detailed information about the performance of the following Medicare and Medicaid certified facility types:

- Nursing homes
- Home health agency
- Hospitals
- End stage renal dialysis
- To compare facilities, go to <http://health.utah.gov/hflcra/reportcard/reportcard.php>

(g) Medicaid

Medicaid is a state-run program that provides health care payment for individuals and families with low income. It is the largest source of funding for medical services for people with limited incomes in the nation. Medicaid is also the largest payer for long-term care. Medicaid covers skilled nursing facility care for individuals who are eligible financially and who also meet the state's level of care requirements. In Utah, Medicaid

also helps to support assisted living care in limited circumstances. The Utah Medicaid agency is:

- Utah Department of Health
Division of Medicaid and Health Financing
<http://health.utah.gov/medicaid/>
288 N 1460 W
Salt Lake City, Utah 84116
801-538-6155
800-662-9651

(h) Social Security Administration (SSA)

The Social Security Administration field offices are SSA's primary point for face-to-face contact with the public. Field offices provide information, make determinations about eligibility, issue Social Security numbers and cards, take applications and determine eligibility for Medicare, and much more.

- Locate the nearest SSA field office
 - <https://secure.ssa.gov/apps6z/FOLO/fo001.jsp>
- Utah Social Security Office
175 E 400 S, Suite 500
Salt Lake City, Utah 84111
866-851-5275
800-772-1213

(i) Veterans benefits

The U.S. Department of Veterans Affairs provides a wide range of benefits, including disability, education and training, vocational rehabilitation and employment, home loan guaranty, dependant and survivor benefits, medical treatment, prescription drugs, aid and attendance, life insurance, and burial benefits.

- Summary description of VA benefits, with contact numbers:
 - <http://www.vba.va.gov/pubs/forms/VBA-21-0760-ARE.pdf>
 - <http://www1.va.gov/opa/newtova.asp>
- VA facilities and service centers in Utah
 - <http://www2.va.gov/directory/guide/state.asp?STATE=UT&dnum=3>
- Veterans Benefits Administration
Salt Lake City Regional Office
550 Foothill Drive
Salt Lake City, UT 84158
800-827-1000

- American Legion, 801-326-2380
- Disabled American Veterans, 801-326-2375
- Veterans of Foreign Wars, 801-326-2386
- Utah State Division of Veterans Affairs, 801-326-2372

(j) Legal resources

A guardian may need a lawyer to provide legal advice or to advocate on behalf of the protected person. Individuals who are financially eligible can receive legal services through legal aid or legal services programs. In addition, under the Older Americans Act, there are special programs of legal assistance for older people who are “in the greatest social and economic need.” For those not eligible for such legal programs, there are many private lawyers who focus on assisting elders or individuals with disabilities.

- Disability Law Center
 - <http://disabilitylawcenter.org>
 - 801-363-1347
 - 800-662-9080
- Utah Legal Services
 - www.utahlegalservices.org
 - 801-328-8891 in Salt Lake County
 - 800-662-4245 in all other counties
- Senior Help Line
 - 800-662-1772
- Legal Aid Society of Salt Lake
 - www.legalaidsocietyofsaltlake.org
 - 801-328-8849
 - Representation limited to:
 - domestic violence protective orders regardless of income
 - family law matters such as: divorce, custody, grandparent visitation, common law divorce, guardianships for minors and incapacitated adults for financially eligible clients
- Utah State Bar Lawyer Directory
 - www.utahbar.org/public/lawyer_referral_service_main.html
- Utah State Bar Committee on Law and Aging

- http://aging.slco.org/html/legal_overview.html
- Free legal services to people over 60 at Salt Lake County senior centers. by appointment.
- Utah State Courts list of free legal clinics
 - www.utcourts.gov/howto/legalclinics/
- Utah State Courts self-help resources
 - www.utcourts.gov/selfhelp
- Utah Division of Aging and Adult Services
 - <http://www.hsdaas.utah.gov/pdf/Legal%20Services%20for%20Older%20Adults%20in%20Utah.pdf>
 - <http://www.hsdaas.utah.gov/pdf/utah-elder-rights-booklet.pdf>
- National Academy of Elder Law Attorneys
 - www.naela.com (click on “[Find an Attorney](#)”)

(k) Multiple service listings

- Salt Lake County Aging Services
 - <http://www.55plusbook.slco.org/>
- Salt Lake County Senior Centers
 - http://aging.slco.org/html/centers_contactinfo.html
- Eldercare Locator
 - <http://www.eldercare.gov/Eldercare.NET/Public/Index.aspx>
 - Phone: 800-677-1116
- Division of Services for People with Disabilities
 - <http://www.dspd.utah.gov/a-zindex.shtml>
- Utah Association of Community Services
 - <http://www.uacs.org/index.php/member-organizations>