

Slide 1.

~~Goal: Duties of~~ Guardian of the Estate

- Guardian Must Protect Incapacitated Person From Financial Harm.
- Duties are Separate From Guardian of the Person.

Voice Over Narrative:

A guardian of the estate is appointed when an incapacitated person is at risk of harm to his or her financial affairs ~~due to a cognitive disability~~. You may be appointed guardian of the person, guardian of the estate, or both.

If you have been appointed guardian of the estate you will have duties that are separate and distinct from guardian of the person. This segment will involve your responsibilities as guardian of the estate.

Slide 2.

General Duties

- Manage Property and Finances.
- Receive Income and Pay Bills of the Incapacitated Person.
- Prepare and File Reports and Accountings with the Court.

Voice Over Narrative:

General Duties

In general, a guardian of the estate must manage the property, receive income and pay bills for the incapacitated person. The guardian must also file reports that account for all actions taken on behalf of the incapacitated person. The guardian must file an inventory of the incapacitated person's property and keep accurate records of money received and spent.

Reports to the court must be made periodically. Normally, these reports are due annually. However, statutes allow the court to set a ~~24 or 36 month~~ reporting cycle of up to 36 months in certain cases. Check the Order Appointing you to determine the reporting cycle in your case.

Slide 3.

General Duties

- Pay taxes and obtain insurance.
- ~~Use good judgment to invest~~ Invest surplus funds.
- Provide for the current needs of the incapacitated person.

Voice Over Narrative:

The guardian will deposit income, ~~invest surplus funds,~~ pay bills, handle taxes, and obtain insurance to protect major estate assets. The guardian must invest the incapacitated person's assets ~~prudently-cautiously, with good judgment and must avoid untested investments.~~

The guardian's primary duty is to use available resources for the benefit of the incapacitated person. The goal is to see that the needs of the incapacitated person are met in a manner consistent with available funds. The current needs of the incapacitated person are more important than the desire to preserve the estate for the benefit of potential heirs.

If excess funds exist, the guardian must invest in state or federal government insured assets. In certain cases, the court may give the guardian broader powers to invest in other assets. However, these powers may only be given through a specific court order. If so, the guardian will be subject to the prudent investor rule. It is beyond the scope of this basic training to provide further information regarding the prudent investor rule. We suggest that you consult an attorney or the court on this issue.

Slide 4 (originally slide 8 from this module).

Duties to be Done Immediately

- Order Appointing
- File Oath of Guardian.
- File Designation of Resident Agent, if Required.
- Obtain a Fiduciary Bond, ~~if As~~ Required by the Court.
- Obtain Letters of Guardianship.

Voice Over Narrative:

Duties to be done immediately.

Once the judge signs an Order Appointing Guardian, you will need to obtain “Letters of Guardianship” from the clerk of the court. The clerk will need to review the order appointing you and confirm that you have met all the legal requirements to act as guardian. Before Letters of Guardianship are issued, you must file your Oath of Guardian. If you reside outside the state of Washington, you must file a Designation of In-State (resident) Agent.

If the judge appointing you requires a fiduciary bond (there are liquid assets in excess of \$3,000), you must ~~also~~ obtain the bond ~~before letters can be issued~~. The court order may require a fiduciary bond prior to issuing letters of guardianship. A bond is a form of insurance and is obtained from a commercial insurance company. The guardianship bond ensures reimbursement to the estate for losses resulting from the guardian’s mishandling of the incapacitated person’s assets. The insurance company will provide you with a copy of the bond, indicating the amount and date of issuance. The bond must be presented to a judge for review and approval.

Only after Letters of Guardianship have been issued, can you begin to act as guardian of the estate. There is a small fee for the issuance of letters. ~~Take note that~~ The letters of guardianship have an expiration date and will need to be reissued from time to time.

Slide 5 (originally slide 9 from this module).

Duties to be done in 30 Days First Steps To Be Completed As Soon As Reasonable

- ~~Open a~~ Establish a Primary Guardianship Checking Account .
- Provide Declaration of Guardian: Funds Held in Financial Institution Form, if Required by the Court or Financial Institution.
- ~~Block All Accounts, if the Court has Ordered it. File a “Receipt for Blocked Account” within 30 Days~~
Begin Compiling an Inventory List.

Voice Over Narrative:

Duties to be done as soon as reasonable; ~~in 30 days.~~

Once Letters of Guardianship are given to you, you must locate and take control of the assets and funds of the incapacitated person. You must arrange for all accounts belonging to the incapacitated person to now be held in the name of the guardianship by you as a fiduciary. For example, if you are Mary Smith and the incapacitated person is John Doe, open or change the account name to:

- “Mary Smith as Guardian for John Doe.” or
- “John Doe, Mary Smith Fiduciary (or Guardian, or Representative Payee)”

Every guardianship case should have one primary checking account from which all bills are paid. This will simplify things when you prepare your accountings. Every disbursement should be found in the check register for this account. ~~Do not Avoid the use of cash and ; money orders because keeping track of them is difficult, or electronic fund transfers from savings in order to pay bills.~~ If there are multiple accounts, transfer funds into the primary checking account, if needed to pay bills.

When you attempt to take control of the incapacitated person’s account, you must properly identify yourself as the new guardian. ~~First, you must show~~ You will need the Order Appointing you and your Letters of Guardianship. ~~Next~~ In order to take possession of securities, the contents of a safe deposit box, or other assets, the institution may require you to provide the Declaration of Guardian, -Funds Held in Financial Institution form or Affidavit to the bank. Some courts may require you or the institution to file the Declaration or Affidavit in the court file. This form contains background information and identifies the court, the date you were appointed, the case number, etc. Finally, you must provide a stamped envelope pre-addressed to the clerk of the court. An agent of the financial institution will use the envelope to send the court confirmation of the funds or other assets delivered to you.

Slide 6 (originally slide 10 from this module).

~~Duties to be done in 30 days~~ First Steps to be Completed as Soon as Reasonable

- ~~Block All~~ Accounts, as Required by Court
- File a “Receipt for Blocked Account,” as Required by Court Order.
- Provide Notice of Right to Request Special Notice of Proceedings.
- Begin Compiling an Inventory List.

Voice Over Narrative:

As an alternative to requiring a fiduciary bond, the judge may order that guardianship funds be secured by creating a blocked account. This requires an additional step, beyond the process just described for taking control of an account. You must provide a Receipt of Funds Into Blocked Account form to the financial institution, along with your other documents. Note that ~~this form is a model form provided on~~ the state court website offers a model form; and some counties use local forms which can be found on ~~their~~ local court websites. The bank or financial institution will then put a “block” or “hold” on the account, which means that no funds can be released without a court order. An agent of the financial institution will then sign the Receipt of Funds into Blocked Account. The signed receipt ~~is to~~ should be filed with the court clerk as soon as possible. Some courts require receipts to be filed within 30 days.

The guardian must inform certain people of the right to ask for information about future court proceedings. The court will identify any such people during the hearing appointing the guardian. The guardian must mail the individuals a notice of the right to request special notice of further proceedings. A form for this step can be found on the state web site.

Get organized and create a filing system for the guardianship separate from your own personal records. Keep papers in a safe and secure area away from viewing by others. We'll talk about record keeping a little later, but know that it is an essential part of your role as guardian of the estate.

You should bBegin to compile an “inventory”. An inventory is a list of assets (money and property) that belong to the incapacitated person. Make a list of the accounts that you are aware of and make a list of the property, including personal items that belong to the incapacitated person. For example, the person may own a home, the contents of the home, a car and two bank accounts. The inventory is a “snapshot” of everything that the incapacitated person owns when you begin as guardian. You must accurately list these assets as of that date, so it is important to begin gathering -information right away.

Assess the needs and type of care the incapacitated person will need so that you can get an idea of what kind of monthly expenditures will be necessary to care for the incapacitated person. -Also explore what benefits may be available, such as social security disability benefits or vocational training.

Slide 7 (originally slide 11 from this module).

Duties to be done in 90 days

- File the Inventory/Hearing if One is Required.
- File a Petition to Approve Budget and Proposed Disbursements.
- Submit Order to Approve Budget and Disbursements.
- Designate a Standby Guardian.

Voice Over Narrative:

Duties to be done in 90 days.

Ninety days after the guardian's appointment is an important milestone. Within 90 days after being appointed, the guardian of the estate must complete the following tasks:

1. The guardian must designate a standby guardian. The state court website offers a form for this purpose. Check to see if your court has a local version.
2. The guardian must file an inventory of the incapacitated person's estate with the court. There will be a model inventory form you ~~must~~ may use. Check to see if your court requires a local version of the form, or whether you can use the one from the state court website. The inventory lists the incapacitated person's property with current values, ~~estimated monthly income~~, liabilities and debts. Remember, ~~t~~The inventory should list everything existing on the date the guardian ~~began acting as guardian~~ was appointed. It is important to be very accurate when preparing the inventory. Include ~~not only~~ bank accounts, ~~but~~ real property, and personal property ~~as well~~. Use an estimate of current market value for personal property. Use the current assessed value for real property.
- 1.3. Next, ~~t~~if the court order requires it, the guardian ~~must~~ will file a Petition to Approve Budget, Disbursements and Initial Personal Care Plan. Often, the court will waive this step in the Order Appointing Guardian. If you are guardian of the person, the initial personal care plan is due at the same time. There will be a standard form to use. You may use the model form from the state website.
4. Unless the court waives the requirement, you will prepare a proposed budget that will list the expected monthly costs to care for the incapacitated person. It is also helpful to list ~~and~~ the ~~estimated~~ monthly income.

~~2.5. You~~ If a hearing will occur to approve the budget, disbursements, and care plan, the guardian must provide an Order for the court to approve your budget. Again, this will be a standard form. Once the ~~Order is signed~~ approving your the budget is signed, ~~you are the guardian is~~ authorized to expend funds per the budget for the balance of ~~your the~~ first reporting period. After these 90 day reports are completed and approved, the guardian must report periodically to the court.

Slide 8 (originally slide 12 from this module).

Duties To Be Done Periodically

- Reports are ~~Frequently~~ Due ~~Annually~~Periodically.
- Report Period Begins When Guardian is Appointed.
- Guardian's Report, Accounting and Proposed Budget.
- Provide an Order for Court Hearing to Approve the Report, Accounting and Proposed Budget.
- Include Proposed Budget for the Next ~~Year~~Reporting Period.

Voice Over Narrative:

Duties to be done ~~annually~~periodically.

Reports and accountings are an important part of your duties as guardian of the estate. Accordingly, we'll spend some time discussing the ~~ir~~ requirements. The court will always set your reporting schedule in the order appointing you as guardian. Reporting is typically required on an annual basis. However, in certain cases reporting is permitted on a ~~24 or~~ cycle of up to 36 months-eyele. For instance, the court may permit up to a 36 month cycle if the property being managed is less than \$250,000 excluding real estate. Be sure to check the order appointing you to determine when the first report is due. It is your responsibility to keep track of the due date for your report.

The first reporting period begins when you are appointed guardian. It ends on the anniversary date of your appointment. For example, if you were appointed on May 5, 2010, an annual report would cover the period from May 5, 2010 to May 4, 2011.

The actual due date for the report will be 90 days after the end of the report period. This grace period allows time for checks to clear, bank statements to arrive and still gives you time to organize the information to place in the reports. It is important to complete your first report accurately. When listing the beginning balance for an asset such as a bank account, you should use the value from your inventory list. You will recall that the inventory lists the value of all the incapacitated person's assets at the time you were initially appointed guardian. Once you have listed the correct beginning values for all of the incapacitated person's property, you then set forth all of the income received and expenses paid during the reporting period.

You ~~will be required to~~ use the Guardian's Report, Accounting and Proposed Budget form found on the state website or as required by your local court. Make sure to ~~attach~~ include your proposed budget for the next reporting period. ~~to your accounting. Check to see if your local court has a required form, if not, you may use the form on the state court website.~~

You must be able to document all disbursements from the guardianship account shown in the report. This is why cash withdrawals from a guardianship account are generally not permitted.

Remember to keep copies of everything that you file for your own records. In addition, you must provide copies of your report to the incapacitated person and any person who has requested notice of the reports.

Slide 9 (originally slide 13 from this module).

Duties to Be Done ~~Annually~~Periodically

- Report Must Be Filed with Clerk's Office and Approved by the Court.
- Set a Hearing Date for Hearing of Report.
- Provide Notice of Hearing and Copy of Report to the Incapacitated Person and to Interested Parties.
- Local Rules Vary Considerably—You May Need to Seek Legal Help.
- ~~Provide an Order to Approve the Report, Accounting and Proposed Budget.~~
- ~~Include Proposed Budget for the Next Year.~~

Voice Over Narrative:

Once you have prepared the Annual Report, you will need to file it with the court clerk's office. It is not enough to simply prepare and file your report. You must have the report approved by the court.

You (or your attorney) will need to set a time for hearing of the report. Some courts will have already set a hearing date at which you must appear to review the case with the judge. You will need to check with your local court to find the proper procedure to follow or have an attorney represent you. Every county has local rules that you should be familiar with.

You (or your attorney) will need to provide the date and time of the hearing to the incapacitated person and the interested parties, along with the Report. Generally, whether you are represented by counsel or not, you will need to appear in court. The court will need to sign a court order approving the report that the guardian provides. In order to have your report approved, you must supply the court with an Order to Approve the Report. This generally requires that you appear in court. Under some circumstances you may be able to file your report and appear in court the same day. In other cases, when the court requires notice or when other interested people have requested notice, you will need to set a court hearing. Bring an Order Approving Annual Report to the hearing. Some courts will have already set a hearing date at which you must appear to review the case with the judge. You will need to check with your local court to find the proper procedure to follow.

Some courts require that you provide a duplicate report (known as a “bench copy”) to an assigned judge or judicial department. Other courts require that you provide a copy of your report to the court’s guardianship monitoring program.

Local court procedures will dictate which documents, if any, you need to provide to the court. In any event, you should have the supporting documents available for the judge who is reviewing your report. Again, you may need legal help ~~The court clerk’s office may be able~~ to clarify local procedures.

You must be able to document all disbursements from the guardianship account shown in the report. This is why cash withdrawals from a guardianship account are generally not permitted.

Remember to keep copies of everything that you file for your own records. In addition, you must provide copies of your report to the incapacitated person and any person who has requested notice of the reports.

Slide 10 (originally slide 14 from this module)

Record Keeping

- Keep accurate and complete records—if possible, keep records on a computer program.
- Account for all income and expenditures.
- ~~Obtain~~ Ensure that cancelled checks or scanned images for the guardianship checking account are available, in case the court requests them.
- Retain all periodic statements from bank and investment accounts.

Voice Over Narrative:

As a guardian of the estate, you must keep detailed records. Record keeping does not have to be complicated, but it must be accurate. This is essential in order for you to provide reports that will be acceptable to the court. Failure to keep adequate records will make satisfactory reporting impossible.

Failure to perform record keeping will be deemed a violation of the guardian's fiduciary duty and responsibility to the incapacitated person. Receipts and documentation must be kept to show how money has been spent. ~~The primary guardianship checking account should provide cancelled checks or scanned images of the checks. These, along with bank and brokerage statements, are required to be kept by the guardian and made available upon request to the court for review. Courts often require receipts for all expenditures made on behalf of the incapacitated person.~~

You must be able to document all disbursements from the guardianship account shown in the report. This is why cash withdrawals from a guardianship account are generally not permitted.

The court is responsible for monitoring the guardianship to ensure the incapacitated person's estate is handled properly. ~~If the estate's records are not kept to the court's satisfaction, the court may remove the guardian and name a successor. The court can also~~ or charge costs against a guardian who cannot properly account for the disbursement of funds entrusted to him or her.

Remember to keep copies of everything that you file for your own records. In addition, you must provide copies of your report to the incapacitated person and any person who has requested notice of the reports.

Slide 11 (originally slide 15 from this module).

Record Keeping

- Keep Statements Showing Values of Annuities, Life Insurance and other Valuable Property.
- Keep the Guardianship Records Safe and Separate from Your Records.

Voice Over Narrative:

Record Keeping

Make sure that you keep all statements that show the values of annuities, life insurance and other valuable property of the guardianship. You will need these values when preparing your periodic reports to the court.

Finally, you should keep guardianship records in a safe and secure place separate from your personal records. The guardianship records should be kept for three years following your discharge as guardian by the court.

Slide 12 (originally slide 17 from this module).

Examples of Sealed Confidential Documents

- Full Guardian ad Litem Report
- Financial Source Documents
- The Sealed/Confidential Document Cover Sheet.
- ~~Financial Account and Social Security Numbers.~~
- Confidential Information Form (for telephone numbers).

Voice Over Narrative:

~~You can have documents filed in the confidential file simply by attaching a Confidential Document Cover Sheet form. Filing a document under seal protects the privacy of the incapacitated person. Generally, the medical report(s) and financial source documents must be sealed. You will use this for financial source documents include documents, such as a tax return or bank statement containing a full account number. You may seal these documents through the use of a sealed confidential guardianship cover sheet.~~

~~You may use the confidential file for records. Additionally, you may seal documents that containing “restricted personal identifiers,” but the better practice is to redact that information or not include it in your reports. which would. Examples of restricted personal identifiers are include a social security number, a driver’s license number, a telephone number, a financial account number, and a or date of birth, to name a few. When you file documents containing these identifiers, you will need to complete the Confidential Document Cover Sheet, mark the appropriate type of record on the form and attach it to the confidential documents. This protects the privacy of the incapacitated person.~~

There is also an optional model form available if you just want to insure that either your phone number or that of the incapacitated person is kept confidential. This might be useful if you have an unlisted phone number due to concerns about domestic violence or harassment. ~~In that event, do not put your phone number on any reports destined for the public file. Instead, put your phone number, or that of the incapacitated person, on the Confidential Information Form. If you follow this procedure, only a judge or court staff will have access to your private phone number.~~

Slide 13 (originally slide 6 from this module).

Actions Requiring Specific Permission From the Court:

- Sale, purchase or mortgage of real estate.
- Sale, gifting or disposal of personal property.
- Payment of guardian and/or professional fees.

Voice Over Narrative:

~~While The order appointed~~ a guardian of the estate ~~allows the guardian to may~~ make many important decisions on behalf of the incapacitated person, ~~their~~ That authority, ~~however~~, has clear limitations. ~~A separate court order is required f~~For certain actions, ~~The~~ guardian ~~must~~ obtains permission ~~for these actions~~ by filing a petition with the court ~~and obtaining a separate court order authorizing the actions.~~ If you need to go to court on any of these issues, it is advisable to consult an attorney.

~~You must file a petition for court approval of the purchase, sale or mortgage of real estate. Likewise, specific permission is required for the sale, gifting or disposal of personal property. Here are some common examples of actions that must be authorized by court orders that are separate from the order appointing guardian.~~

1. Buying, selling, gifting, or otherwise disposing of real property and personal property (by leasing, mortgaging, exchanging, storing, or donating). Real property includes houses, land, and interests in land. Personal property includes things that are titled, like vehicles, as well as non-titled items like cash, clothing, and furniture. Courts generally allow a guardian to dispose of personal property that has little or no cash value without requiring a specific court order. For example, a guardian can donate used clothing.
2. Payment of fees to professionals. Fees payable-paid to professionals, such as guardians, guardians ad litem, attorneys, and -or accountants, should also-must be approved by the court as reasonable before the guardian may pay the fees. In the order appointing the guardian, the court may pre-approve payment of a monthly fee to the guardian. If the guardian takes this monthly fee, the guardian will have to justify the fee by documenting the hours spent and the work performed.prior to payment

Slide 14 (originally slide 18 from this module).

Miscellaneous Issues

- Burial Account.
- Direct Deposit for Recurring Income.
- Reoccurring Expenses ~~and Cash Journal Receipt.~~
- Insurance for Major Assets.

Voice Over Narrative:

Burial Account

A guardian may wish to establish a burial account or purchase a burial plan for the incapacitated person. This is generally permissible when the court approves. ~~However, there are limitations if the incapacitated person is a recipient of Medicaid or Supplemental Security Income. These are need based public benefit programs that have strict resource limits. Generally, a burial plan of not more than \$1,500 will be considered exempt and will not disqualify the incapacitated person from benefits. A burial account can be in a savings account labeled as a “burial account” without endangering the incapacitated person’s eligibility for Medicaid or other public benefits.~~

Direct Deposit for Reoccurring Income

Many incapacitated persons receive monthly income from sources such as social security or pension. Almost any monthly or regularly recurring income should, if possible, be directly deposited into a guardianship bank account. This will save time for the guardian and create a clear paper trail for the court.

Most expenses will be paid monthly. The guardian should create a complete list of expenses as soon as possible. If you would like to provide a small allowance of cash to the incapacitated person, this item should be included in the budget approved by the Court. ~~verify with the court that this is acceptable. If so, you should have the incapacitated person sign a receipt indicating the dates and amounts of the funds received.~~

Insurance for Major Assets

It is the guardian’s duty to protect and preserve the guardianship estate. This requires that the guardian carefully consider the need to insure major assets such as a home or automobile. Neglect of this duty could result in the guardian’s liability to the estate in the event of an uninsured loss.

Slide 15 (originally slide 19 from this module).

Miscellaneous Issues Remember:

- Separate Accounts / No Commingling.
- Petition and Order for Instruction.
- ~~Payment vs. Reimbursement.~~
- Guardian Fees and Costs.

Voice Over Narrative:

Separate Accounts

It can't be emphasized enough that ~~the a~~ guardian's ~~must keep their own~~ assets must be kept absolutely and completely separate from those of the incapacitated person. Separate bank accounts must be maintained . There should be no joint accounts and no joint ownership. Even small amounts of money must be maintained separately at all times. Again, accounts maintained for the guardianship are to be titled as follows:

- “Mary Smith as Guardian for John Doe.” or
- “John Doe, Mary Smith Fiduciary (or Guardian, or Representative Payee)”

~~If the guardian believes the incapacitated person should be able to manage some portion of his or her own funds, permission should be obtained from the court to allow this. It may be that a limited guardianship may be appropriate in which some financial management rights are reserved to the incapacitated person.~~

~~Petitions For Instructions~~

~~You may find yourself in a situation where you are uncertain of your authority as Guardian of the Estate. If this occurs, you may file a "Petition for Instructions" with the court. A petition for instructions may also be appropriate if you suspect you are facing a conflict of interest. This would be the case if your ability to exercise independent judgment on behalf of the incapacitated person might be called into question. An example would be if you wanted to sell guardianship property to a family member. The conflict would be between your duty to act in the sole best interest of the incapacitated person and your temptation to benefit your family member. You would need to make full disclosure to the court and obtain instruction from the court before proceeding. The petition should be filed together with a declaration that informs the court of the facts of your situation. The guardian must provide notice to all interested parties and the incapacitated person. These folks have the right to respond and may file statements in opposition to your petition. The court may hold a hearing and will enter an~~

~~order instructing the guardian on how to proceed.~~Payment vs. ReimbursementGuardian Fees and Costs

~~Generally, you will pay for goods and services for the incapacitated person by making payment directly to the provider from the guardianship checking account. In rare circumstances y~~You may wish to be reimbursed for expenses that you have made on behalf of the incapacitated person. This may be necessary and appropriate. However, you should not make reimbursement payments to yourself unless they are approved by the court at the time of the periodic report to the court.

~~To seek an order authorizing reimbursement of costs, you must keep receipts~~itemize your expenses. If the court has any questions you may be required to provide back-up documentation, including receipts .~~For example, t~~To be reimbursed for mileage, you must keep mileage records showing date, mileage, destination and purpose of the trip. Keep track of parking, meals, supplies, and incidentals. Guardians should figure expenses, mileage, meals, and supplies at cost or the standard government reimbursement rate. Note that if the guardian buys a gift for the incapacitated person, it should come from the guardian's personal funds and no reimbursement should be sought.

~~Most family members who serve as guardians, volunteer their time. They do not make a claim for compensation. Again, guardians may not pay themselves any fees except as specifically authorized by the court. Keep in mind that in many cases, incapacitated persons don't have funds to pay guardian fees. If there is a request for compensation as guardian, it must be supported by time records of the same period. These must show the activity performed for the incapacitated person along with the date and time involved. The fee must be reasonable for the circumstances. However, even if the court does not allow fees, the court will often order reimbursement of out of pocket expenses. To seek an order authorizing reimbursement of costs, you must keep receipts. For example, to be reimbursed for mileage, you must keep mileage records showing date, mileage, destination and purpose of the trip. Keep track of parking, meals, supplies, and incidentals. Guardians should figure expenses, mileage, meals, and supplies at cost or the standard government reimbursement rate. Note that if the guardian buys a gift for the incapacitated person, it should come from the guardian's funds and no reimbursement should be sought.~~

Slide 16 (originally slide 4 from this module)

Specific Requirements Remember (continued):

- Keep timely and accurate financial records.
- Avoid Don't commingling guardianship funds with personal funds of the guardian (or anyone else).
- Don't loan or borrow money without a specific court order.
- Avoid cash/ATM withdrawals.

Voice Over Narrative:

A guardian must handle the funds of the incapacitated person carefully. A guardian must keep timely and accurate financial records. Remember the guardian will be preparing an accounting that shows the court where each dollar has gone during the reporting period.

A guardian must never commingle guardianship funds with their own personal funds. This would make the job of tracing and accounting for funds difficult, if not impossible.

Additionally, the guardian should never loan or borrow on behalf of the incapacitated person without specific court order.

~~Remember the guardian will be preparing an accounting that shows the court where each dollar has gone during the reporting period.~~ For the same reason, the guardian should avoid cash or ATM withdrawals from the guardianship account. Again, this will create challenges when the guardian has to account for how the funds were used. Cash expenditures are permitted but the guardian must keep specific receipts for them.

Slide 17 (originally slide 5 from this module).

Specific Requirements Remember (continued):

- Use guardianship checking account to pay bills.
- Title bank account(s) in name of guardianship or other appropriate fiduciary such as representative payee.

Voice Over Narrative:

The guardian should set up one primary checking account to receive income and pay bills for the guardianship. It is usually helpful to arrange for direct deposit of monthly income into this account. For example, this would include monthly Social Security income. It is important that the bank account be titled in the name of the guardianship or other appropriate fiduciary such as a representative payee for Social Security funds. Banks have a higher duty of care when handling transactions on a clearly identified guardianship account or representative payee account.

The account should be set up using the Social Security number of the incapacitated person, not the guardian's number. Surplus funds may be placed in a savings or investment account. However, if the guardian wishes to spend money, it should be transferred to the checking account first. In this way, the records for all expenditures will be found in one account.

Slide 18 (originally slides 20 and 21 from this module).

Summary

- Guardian Must Manage the Financial Affairs of the Incapacitated Person Prudently.
- Guardian Must Keep Track of Due Dates for Reports.
- Always Act in the Best Interest of the Incapacitated Person.
- Obtain Permission or Direction when Needed.
- Thank You!

Voice Over Narrative:

In summary, the job of being a guardian is an important position of trust. The guardian must learn and take the duties of being guardian seriously. The guardian must manage the financial affairs of the incapacitated person prudently. He or she must be aware of the due dates for reports which are found on the last Order Approving or Appointing.

It is essential to keep detailed records in order to account for all funds in each periodic report. The guardian must always act in the best interest of the incapacitated person and avoid conflicts of interest.

When in doubt the guardian should seek direction from the court.

Thank you again for accepting this important responsibility.