Book Review
The Fundamentals of Guardianship: What Every Guardian Should Know

by

Rebecca C. Morgan

The Fundamentals of Guardianship: What Every Guardian Should Know from the National Guardianship Association (NGA) was published March 1, 2017, by the American Bar Association. This 2017 edition is an updated version of the original Fundamentals of Guardianship that was published in 2001. The NGA Committee on Education collaborated to update the book, with Sally Balch Hurme serving as the editor. This book was updated in part because of the changes to guardianship practice. The book is designed to provide general information to family, professional, and public guardians and conservators so that they are able to provide services that would meet or exceed all state requirements. [Further] anyone involved with or interested in the well-being of a person facing or under guardianship will benefit from having access to this concise book describing the fundamental responsibilities of a guardian.

The book sells for $24.95 in softcover from the American Bar Association Book Publishing and is also available from online book sellers.

Guardianship is statutory, with each state having a guardianship statute. There may be some similarities but also many differences. The Uniform Guardianship and Protective Proceedings Act has been adopted in some states but many states have adopted their own version of guardianship laws.

Guardianship can involve a significant deprivation of rights. The guardian serves as a powerful court-appointed fiduciary, having great responsibilities for the well-being of and the property of the person under guardianship. The laws specify the powers and duties of a guardian.

2 Boston Asset Management Chair in Elder Law, Center for Excellence in Elder Law, Stetson University College of Law.
3 NAT’L GUARDIANSHIP ASS’N, supra note 1, at viii.
4 Id.
5 Id. at vi.
8 See Committee on Guardianship, Conservatorship, and Other Protective Arrangements Act, description (noting some 20 states have adopted some form of the 1997/1998 version of the UGPPA or the earlier version); http://www.uniformlaws.org/Committee.aspx?title=Guardianship, Conservatorship, and Other Protective Arrangements Act.
Even so, to some extent whether a guardianship is administered correctly can be traced to the person chosen as the guardian.

The nature of the guardianship points to the importance of educating the person chosen to serve as guardian. The person needs to know her duties, obligations and the appropriate standards in performing her duties as guardian. Unless there is a requirement for licensing or education, the person chosen to be the guardian may not be properly trained on how to discharge her duties and obligations.

The *Fundamentals of Guardianship* book steps into this gap and provides a comprehensive primer for guardians. The book takes a general approach rather than focusing on a specific state’s laws. There are nine substantive chapters, covering topics such as the meaning of a guardianship and the alternatives to one, the process used in establishing a guardianship, the rights of the person who is the subject of a guardianship, the guardian’s role in discharging her duties, fiduciary principles that govern the guardian’s decisions, the guardian of the person and the property, abuse, neglect and exploitation of the person under guardianship, and altering or ending a guardianship. The book also contains valuable resources, including checklists, a glossary of terms, websites and the National Guardianship Association’s Ethical Principles (in Appendix A). The NGA Standards of Practice with an accompanying checklist are also included in Appendices B and C respectively.

It is critical for a guardian to be educated about her role as a guardian and the expectations placed on her by virtue of the court appointment. The guardian needs to have a clear understanding of her relationship to the person under guardianship as well as to the court. This book offers all of that in a succinct nine chapters. The book is written clearly and organized logically. The number of included checklists provide particular value and guidance; a guardian should complete each one of those for every guardianship in which she is guardian. The checklists are formatted in a way that they can be photocopied for ease of use. (The book offers the caveat that it is important to determine the specific requirements of the court in which the guardian practices for forms and required information.)

Incorporating NGA’s Ethical Principles and Standards of Practice make this book a ready reference for anyone serving as guardian, whether a new or experienced guardian. Sally Hurme, internationally known for her work in guardianships served as the editor for this book and her touch shines through in the thoroughly practical usefulness of the book.

The book offers practical tips for those serving as guardians, speaking directly to those serving in the role of a guardian. For example, Chapter 2, *The Guardianship Process*, offers “8 simple rules” for working with the attorney for the guardianship. Chapter 4, *Roles of the Guardian* includes a discussion of the guardian’s relationship with others and suggests that a professional guardian create a grievance process for use by interested individuals or those under guardianship. Chapter 5 *Fiduciary Principles* offers nine “commandments” of being a

---

9 NAT’L GUARDIANSHIP ASS’N, supra note 1 at 61.
10 Id. at 11.
11 Id. at 23-24.
fiduciary.\textsuperscript{12} Chapter 8, \textit{Guardianship of the Estate}, offers a seven step guide on how to avoid trouble.\textsuperscript{13}

This book is not only valuable for those serving as guardians. Consider the case of a family with one child appointed as the guardian. Giving all the siblings a copy of this book can help the other siblings understand why the child as guardian takes certain actions or does not take actions urged by her siblings. This book may not be the answer to family disputes, but educating the interested parties can be a good start to helping those involved understand the workings of a guardianship.

This book should be on the shelf of every guardian, elder law attorney, and anyone who works with guardians in any capacity. Attorneys will find this book a valuable resource, either to give them a quick overview of guardianship from beginning to end, or to help them educate guardians and families of individuals under guardianship. Those attorneys with a guardianship practice might consider purchasing copies of the book for their guardians or having several copies on hand for borrowing. The book is also a great resource for paralegals who work with cases of guardianships as well as law students and students in the field of gerontology who need a concise explanation of guardianship in the United States.

\textsuperscript{12} \textit{Id.} at 25-27.
\textsuperscript{13} \textit{Id.} at 55.