
HOUSE BILL 2402

State of Washington

64th Legislature

2016 Regular Session

By Representatives Kochmar, Griffey, Wylie, Appleton, Walsh, Short,
and Hickel

1 AN ACT Relating to communication with relatives of incapacitated
2 persons; and amending RCW 11.92.043.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 11.92.043 and 2011 c 329 s 3 are each amended to
5 read as follows:

6 It shall be the duty of the guardian or limited guardian of the
7 person:

8 (1) To file within three months after appointment a personal care
9 plan for the incapacitated person which shall include (a) an
10 assessment of the incapacitated person's physical, mental, and
11 emotional needs and of such person's ability to perform or assist in
12 activities of daily living, and (b) the guardian's specific plan for
13 meeting the identified and emerging personal care needs of the
14 incapacitated person.

15 (2) To file annually or, where a guardian of the estate has been
16 appointed, at the time an account is required to be filed under RCW
17 11.92.040, a report on the status of the incapacitated person, which
18 shall include:

19 (a) The address and name of the incapacitated person and all
20 residential changes during the period;

1 (b) The services or programs which the incapacitated person
2 receives;

3 (c) The medical status of the incapacitated person;

4 (d) The mental status of the incapacitated person;

5 (e) Changes in the functional abilities of the incapacitated
6 person;

7 (f) Activities of the guardian for the period;

8 (g) Any recommended changes in the scope of the authority of the
9 guardian;

10 (h) The identity of any professionals who have assisted the
11 incapacitated person during the period;

12 (i)(i) Evidence of the guardian or limited guardian's successful
13 completion of any standardized training video or web cast for
14 guardians or limited guardians made available by the administrative
15 office of the courts and the superior court when the guardian or
16 limited guardian: (A) Was appointed prior to July 22, 2011; (B) is
17 not a certified professional guardian or financial institution
18 authorized under RCW 11.88.020; and (C) has not previously completed
19 the requirements of RCW 11.88.020(3). The training video or web cast
20 must be provided at no cost to the guardian or limited guardian.

21 (ii) The superior court may, upon (A) petition by the guardian or
22 limited guardian; or (B) any other method as provided by local court
23 rule:

24 (I) For good cause, waive this requirement for guardians
25 appointed prior to July 22, 2011. Good cause shall require evidence
26 that the guardian already possesses the requisite knowledge to serve
27 as a guardian without completing the training. When determining
28 whether there is good cause to waive the training requirement, the
29 court shall consider, among other facts, the length of time the
30 guardian has been serving the incapacitated person; whether the
31 guardian has timely filed all required reports with the court;
32 whether the guardian is monitored by other state or local agencies;
33 and whether there have been any allegations of abuse, neglect, or a
34 breach of fiduciary duty against the guardian; or

35 (II) Extend the time period for completion of the training
36 requirement for ninety days; and

37 (j) Evidence of the guardian or limited guardian's successful
38 completion of any additional or updated training video or web cast
39 offered by the administrative office of the courts and the superior
40 court as is required at the discretion of the superior court unless

1 the guardian or limited guardian is a certified professional guardian
2 or financial institution authorized under RCW 11.88.020. The training
3 video or web cast must be provided at no cost to the guardian or
4 limited guardian.

5 (3) To report to the court within thirty days any substantial
6 change in the incapacitated person's condition, or any changes in
7 residence of the incapacitated person.

8 (4) To inform any relatives entitled to notice of proceedings
9 under RCW 11.92.150 as soon as reasonably possible if the
10 incapacitated person dies or has been hospitalized for three days or
11 more in an acute care hospital, as licensed under chapter 70.41 RCW,
12 and, in the case of death, of any funeral arrangements and the
13 location of the incapacitated person's final resting place.

14 (5) Consistent with the powers granted by the court, to care for
15 and maintain the incapacitated person in the setting least
16 restrictive to the incapacitated person's freedom and appropriate to
17 the incapacitated person's personal care needs, assert the
18 incapacitated person's rights and best interests, and if the
19 incapacitated person is a minor or where otherwise appropriate, to
20 see that the incapacitated person receives appropriate training and
21 education and that the incapacitated person has the opportunity to
22 learn a trade, occupation, or profession.

23 ((+5)) (6) Consistent with RCW 7.70.065, to provide timely,
24 informed consent for health care of the incapacitated person, except
25 in the case of a limited guardian where such power is not expressly
26 provided for in the order of appointment or subsequent modifying
27 order as provided in RCW 11.88.125 as now or hereafter amended, the
28 standby guardian or standby limited guardian may provide timely,
29 informed consent to necessary medical procedures if the guardian or
30 limited guardian cannot be located within four hours after the need
31 for such consent arises. No guardian, limited guardian, or standby
32 guardian may involuntarily commit for mental health treatment,
33 observation, or evaluation an alleged incapacitated person who is
34 unable or unwilling to give informed consent to such commitment
35 unless the procedures for involuntary commitment set forth in chapter
36 71.05 or 72.23 RCW are followed. Nothing in this section shall be
37 construed to allow a guardian, limited guardian, or standby guardian
38 to consent to:

- 39 (a) Therapy or other procedure which induces convulsion;
40 (b) Surgery solely for the purpose of psychosurgery;

1 (c) Other psychiatric or mental health procedures that restrict
2 physical freedom of movement, or the rights set forth in RCW
3 71.05.217.

4 A guardian, limited guardian, or standby guardian who believes
5 these procedures are necessary for the proper care and maintenance of
6 the incapacitated person shall petition the court for an order unless
7 the court has previously approved the procedure within the past
8 thirty days. The court may order the procedure only after an attorney
9 is appointed in accordance with RCW 11.88.045 if no attorney has
10 previously appeared, notice is given, and a hearing is held in
11 accordance with RCW 11.88.040.

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