



North Carolina Guardianship Association

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How to File a Complaint

What is Guardianship?

Guardianship is a legal relationship established by a court with the jurisdiction to hear a case in the state and local area where the individual resides. In North Carolina, the Clerk of Superior Court has original jurisdiction over guardianship. After evidence has been submitted to the court, the clerk determines whether an individual needs assistance with decision making and appoints a guardian(s) to assist them. A guardian is a person appointed by the court to assist with managing the personal and/or financial affairs of another. The local court that appointed the guardian is always responsible for the oversight of the guardian, unless venue has been officially changed by the court.

Important Information: Persons interested in the activities of guardians must understand that the court that appointed the guardian has the sole authority to remove, or otherwise sanction a guardian in a particular case. Therefore, complaints should be made first to the local court of jurisdiction that established the guardianship.

What is the Authority of the North Carolina Guardianship Association (NCGA)?

There are approximately sixty (60) individuals who are Certified under NCGA in North Carolina. NCGA has authority over only those individuals who voluntarily chose to become certified under NCGA. NCGA takes seriously its responsibility to protect the wards of certified guardians. NCGA provides training to assure guardians are aware of the roles and responsibilities as guardians. NCGA is an affiliate of the National Guardianship Association.

What does NCGA Certification Mean?

The certification process requires that applicants attest that they have no felony convictions, civil or criminal liability findings and that they are in good standing with state legal requirements, bonding and other local jurisdictional requirements. They must pay a fee, meet minimum criteria and pass a guardianship test. They must also affirm that they will adhere to the provisions of the NGA's Model Code of Ethics in their work as a guardian. Find more information about the Model Code of Ethics at www.nc-guardian.com

The NGA Model Code of Ethics spells out fundamental ethical precepts it expects guardians to follow:

Model Code of Ethics Rules:

- Rule 1 – Decision Making
- Rule 2 – Relationship Between Guardian and Ward
- Rule 3 – Custody of the Person, Residence
- Rule 4 – Consent to Care, Treatment and Services
- Rule 5 – Management of the Estate
- Rule 6 - Termination and Limitation of the Guardianship

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An Affiliate of the National Guardianship Association

What Can NCGA Do When a Complaint is Filed?

Pending investigation, NCGA may deny, suspend or revoke a certification on any individual certified. The process for reviewing a complaint against an individual guardian is quite extensive and is not taken lightly. The disciplinary review process is discussed in detail below.

What if I Wish to File a Complaint?

Individuals wishing to file a complaint against a NCGA certified guardian (CG) must provide evidence in writing of a violation of the Model Code of Ethics or any change in status that affects their eligibility to be certified. NCGA will not accept anonymous complaints. Letters of complaint should be addressed to the President, North Carolina Guardianship Association, P. O. Box 17673, Raleigh, North Carolina 27619.

Complainants wishing to have a guardian removed from a case, or cases should contact the appointing Clerk of Superior Court to determine that court's procedure for such a complaint. For a directory of NC Clerks of Superior Court, you may go to <http://www.nccourts.org>.

Complainants wishing to lodge a complaint against a CG who is alleged to have abused, neglected or exploited an individual should contact the county department of social services in the county where the individual is located to file a complaint. For a directory of county departments of social services, you may go to <http://www.ncdhhs.gov/dss/local>

Complainants wishing to lodge a complaint against a CG who is alleged to have violated professional codes of ethics may contact the appropriate licensing agency, (e.g., NC State Bar, NC Medical Board, NC Social Work Certification & Licensure Board).

Disciplinary Review Process:

The NCGA President will assign an ad hoc committee to convene within thirty (30) days when it has been determined that a CG (Certified Guardian) has violated the Model Code of Ethics, a professional code of ethics or has abused, neglected or exploited vulnerable persons such as older adults, or individuals with developmental disabilities, mental health or substance abuse service needs. The ad hoc committee will review the findings and disposition of each case and make recommendations to the NCGA Board of Directors on possible actions such as sanctions, penalties-which shall include but may not be limited to, a fine, suspension, or expulsion from the NCGA Certification program. The ad hoc committee will forward their recommendations to the NCGA Board within fifteen (15) days of convening to review the case. The Board will then make a decision on the individual's status in the certification program within fifteen (15) days from receipt of the ad hoc committee's recommendation. The President will then notify the individual via certified mail of the Board's decision within five (5) working days. The individual reserves the right to appeal the NCGA Board's decision. The appeal must be received in writing within fifteen (15) days from receipt of the NCGA Board's initial decision. The NCGA Board will review the appeal within five (5) days of its receipt. The President will notify the individual via certified mail within ten (10) days from receipt of the individual's appeal of NCGA's final decision. There will be no further appeal.