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Issues For Adult Guardianship - What Authority Is Like Parental Powers (UCA § 75-5-312(1)(c))?
What Other Provisions May Apply?

See UCA §§ 75-5-301.5 and 75-5-312 generally about the authority of guardian and the retained rights of the protected person. Do the following areas fall to the guardian unless otherwise provided by law or the court? Some are specifically retained by the protected person unless otherwise provided by the court (see particularly 75-5-301.5). Are other legal provisions applicable, too? See also, the standards set by the National Guardianship Associationⁱ for guardians made applicable by 75-5-312(2)(m), some of which are quoted in the endnotes; the version being revised as of October 2022 is the version of the Standards quoted.

- Residence and persons with whom residing (75-5-312)
- Adequate food, clothing, shelter (75-5-312)
- Education and training (75-5-312)
- Psychological test consent for school (53A-13-302)
- Academic accommodations (53A-15-1403)
- Dealing with welfare, relief, and other agencies
- Associations with family members, friends (see 75-5-312.5; 75-5-301.5)
- Joining groups and clubs
- Possession of goods, including guns, weapons, or dangerous items (federal rules may apply, too)
- Voting (20A-2-101)
- Sport licenses (hunting, fishing, etc.)
- Participation in events (sports, outdoor adventure, etc.) – waivers of liability (case law limits)
- Driver's license (retained by person if not retained by court 75-5-301.5(2)), boating licenses (see 31A-23b-401; different if limited guardian?)
- Religious participation (75-5-301.5)
- Health care (75-2a-112 – health directive applies over guardian unless court revokes)ⁱⁱ
- Safety and sanitation, and health care (75-2a-112(3); 75-2a-113; 75-5-312)
- Abortion (76-7-304.5); birth control (see endnote ii below)
- Anatomical gifts (26-28-102)
- Assistive reproduction consent
- Sterilization (62A-6-107)
- Medical research consent
- Smoking, drinking
- Authorize autopsy (26-4-24)
- Adoption consent (see 75-5-103 – guardian can't delegate)

- Marriage or domestic partner consent (30-1-9; retained by person if not retained by court 75-5-301.5(2); guardian can't delegate 75-5-103);ⁱⁱⁱ divorce (the standards would require court approval)^{iv}
- Sue on behalf (78B-3-102)
- Work and volunteer service (75-5-301)
- Grooming, tattoos (see 76-10-2201), piercing
- Custody delegation up to 6 months (75-5-103, but not marriage or adoption)
- Waiver of evidentiary privileges (see, e.g., Ut. Rul. Evid. 504(c))
- Access to email, digital accounts (75-10-114)
- Financial powers (to extent applicable) (75-5-209 and 75-5-102; 75-5-312(2)(b) and(d)(i)(ii))^v
- Tax reporting (IRC § 6012(b)(2))
- Consent to termination of irrevocable trust (no conservator or agent) (75-7-411(1))
- Representation in estate and trust proceedings (75-1-403; 75-7-303)
- Military enlistment consent (78A-6-105(35))
- Consent to insurable interest (31A-21-104)
- Enforce buyout for incapacity of professional LLC member (48-3a-1111)
- Only individual over 18 of sound mind may make a will (75-2-501)
- Compel disclosure of estate plan if no conservator (75-5-312(2)(j)(ii))

ⁱStandard 13, II; The guardian shall develop and implement a written guardianship plan setting forth short-term and long-term objectives for meeting the person's goals, needs and preferences. The plan shall:

- A. Emphasize a "person-centered philosophy".
- B. Be based on a multidisciplinary functional assessment.
- C. Address educational, medical, psychiatric, recreational, residential, social, training, and vocational needs, and any other state requirements.
- D. Address whether the person's finances and budget are in line with the services the person needs and are flexible enough to deal with the person's changing status.
- E. Be updated no less often than annually.

ⁱⁱ Standard 14, XI: The guardian may not authorize extraordinary procedures without prior authorization from the court unless the person has executed a living will or durable power of attorney that clearly indicates the person's desire with respect to that action. Extraordinary procedures may include, but are not limited to, the following medical interventions:

- A. Experimental treatment,
- B. Sterilization,
- C. Abortion,
- D. Electroshock therapy.

Standard 14, IX: When faced with extraordinary medical circumstances, in addition to assessing the criteria and using the resources outlined in Standards 6 and 7, the guardian shall enlist ethical, legal, and medical advice, with particular attention to the advice of institutional ethics committees.

Under the definitions in the Standards, Extraordinary Medical Circumstance includes abortion, removal of life support, sterilization, experimental treatment, and other controversial medical issues.

ⁱⁱⁱ Standard 10, II: The guardian shall acknowledge the person's right to sexual expression. The guardian shall take steps to ensure that a person's sexual expression is consensual, and that a setting is

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conducive to this expression in privacy is provided. The guardian shall make reasonable efforts to protect the person's right to sexual expression and preferences in a safe manner which does not victimize any person engaging in the sexual activity or otherwise cause substantial harm to the person.

A. The guardian shall ensure that the person has information about and access to accommodations necessary to permit sexual expression to the extent the person desires and to the extent the person possesses the capacity to consent to the specific activity.

B. The guardian shall take reasonable measures to protect the person's health and well-being.

C. The guardian shall ensure that the person is informed of birth control methods. The guardian shall consider birth control options and choose the option that provides the person the level of protection appropriate to the person's ability and lifestyle, while considering the person's goals, needs and preferences. The guardian shall encourage the person, where possible and appropriate, to participate in the choice of a birth control method.

^{iv} Standard 12, I, I: Seek court approval when a civil commitment, the dissolution of a marriage, or another extraordinary circumstance is being addressed.

^vStandard 18, X: The guardian shall obtain all public and insurance benefits for which the person is eligible. When appropriate and with any necessary court approval, the guardian shall oversee the disposition of the person's assets to qualify the person for any public benefits program.