CHAPTER 54-68
OFFICE OF GUARDIANSHIP AND CONSERVATORSHIP

54-68-01. Definitions.

As used in this chapter:

1. "Agency permit" means temporary authorization given by the office to an employee of a professional guardianship or professional conservatorship entity which allows the permitholder to provide guardianship or conservatorship services as an agent of the entity.
2. "Identifiable information" means an individual's personal details, including the individual's name, address, telephone number, facsimile number, social security number, electronic mail address, program identification number, employer identification number, or any other unique identifying number, characteristic, or code and any demographic information collected about the individual.
3. "Investigation counsel" means the guardianship and conservatorship counsel.
4. "Licensed conservator" means a person licensed by the office to provide conservatorship services.
5. "Licensed guardian" means a person licensed by the office to provide guardianship services.
6. "Office" means the office of guardianship and conservatorship.
7. "Operations committee" means the guardianship and conservatorship operations committee established under section 54-68-03.
8. "Public conservator" means a conservator under contract with the office to provide conservatorship services for an individual eligible for public services.
9. "Public guardian" means a guardian under contract with the office to provide guardianship services for an individual eligible for public services.
10. "Public services" means state or federally funded programs administered by the office available to eligible individuals.
11. "Review board" means the guardianship and conservatorship review board established under section 54-68-05.
12. "Unlicensed conservator" means a person providing conservatorship services without a conservator license.
13. "Unlicensed guardian" means a person providing guardianship services without a guardian license.

54-68-02. Office of guardianship and conservatorship - Purpose - Powers and duties - Report - Audit.

1. The office of guardianship and conservatorship is established, consisting of the operations committee, office staff, and review board.
2. The office, in its capacity of supervising and directing guardianship and conservatorship, shall operate independently of any state agency that provides services to individuals under guardianship or conservatorship. The office shall administer programs assigned by state law. The office may adopt rules to administer and enforce this chapter.
3. The office shall:
   a. Develop policies and procedures, including eligibility criteria for:
      (1) Receiving public services;
      (2) A public guardian or a public conservator;
      (3) A licensed guardian or a licensed conservator; and
      (4) Distribution of funding for direct payments and expense reimbursements for public services.
   b. Develop ethical standards for:
      (1) A licensed guardian or a licensed conservator; and
      (2) An unlicensed guardian or an unlicensed conservator.
   c. Monitor guardianship and conservatorship services.

d. Develop policies and procedures for proceedings if a guardian or a conservator is unable to fulfill the duties of a guardian or a conservator.
e. Keep accurate records of all financial transactions performed under this chapter in the manner required by the office of management and budget.
f. Provide a report each biennium to the legislative management regarding the operations of the office, including the cost of public guardians and public conservators, and any other information requested by the legislative management.

4. The office may:
   a. Recommend rules applicable to a licensed guardian or a licensed conservator.
   b. Grant licenses to a guardian or conservator and agency permits, including revoking or suspending an agency permit.
   c. Require insurance or bond coverage for a licensed guardian or a licensed conservator as a condition for licensure.
   d. Establish mandatory disclosure and reporting requirements for a licensed guardian or a licensed conservator, including a process to disclose information or submit reports to the office.
   e. Provide training for guardians and conservators.
   f. Provide annual reports to the governor.
   g. Distribute funding for direct payments, expense reimbursements, or other public services, including funding for public administrators.
   h. Establish and collect fees to support guardianship and conservatorship services and the duties of the office, which must be deposited in the guardianship and conservatorship support fund.
   i. Seek and apply for private, federal, or other funds to help support guardians and conservators and to safeguard the rights of individuals who receive public services.
   j. Accept private funds for deposit in the guardianship and conservatorship support fund.
5. The office may not authorize payment for services for any public guardian or public conservator that provides services for more individuals than allowed through statute, regulation, or administrative rule.
6. The office, its officers, or its employees may not act as a public guardian or a public conservator or act in any other representative capacity for any individual. This subsection does not prohibit an officer or employee from acting as a guardian or conservator in a personal capacity apart from any duties as an officer or employee.
7. The office is subject to audits by the state auditor under chapter 54-10.
8. The director of the office of management and budget shall allocate office space in the state capitol for the office of guardianship and conservatorship, or, if office space in the capitol is unavailable, shall negotiate for, contract for, and obtain office space for the office in the city of Bismarck or in the Bismarck area. The office of guardianship and conservatorship's office space may not be located in the office space of the department of health and human services or the judicial branch and must provide sufficient privacy and security for the office to conduct its business. The director of the office of management and budget shall charge the office of guardianship and conservatorship an amount equal to the fair value of the office space and related services the office of management and budget renders to the office of guardianship and conservatorship.

54-68-02.1. Transition - Requirements.

Repealed by S.L. 2025, ch. 550, § 6.

54-68-03. Operations committee.

1. A guardianship and conservatorship operations committee is created to oversee the operation of the office. The operations committee shall:

a. Appoint an office director and investigation counsel who serve at the will of the operations committee.
b. Oversee and provide consent to the office for the adoption of administrative rules.
c. Oversee the administration of programs and personnel under the office.
d. Provide input and approval of the office budget.

2. The operations committee shall consist of:
   a. Two members of the legislative assembly, one from each chamber, appointed by the chairman of the legislative management;
   b. Two members appointed by the chief justice of the supreme court;
   c. Two members appointed by the governor; and
   d. One member appointed by the state bar association of North Dakota.
3. Initially, members of the operations committee shall serve staggered terms as follows:
   a. Two members shall serve a term of one year;
   b. Two members shall serve a term of two years; and
   c. Three members shall serve a term of three years.
4. After the expiration of initial terms, all appointments must be for a term of three years. A member may not serve more than two consecutive terms of three years.
5. A member of the operations committee serves at the will of the appointing authority, and may be removed for good cause. A vacancy must be filled in the same manner as the original appointment for the unexpired portion of the term.
6. A member of the operations committee is entitled to:
   a. Per diem compensation in accordance with section 54-35-10; and
   b. Payment for mileage and travel expenses incurred in the conduct of committee business as provided under sections 44-08-04 and 54-06-09.

54-68-04. Director - Investigation counsel - Powers and duties.

1. The powers and duties of the director of the office of guardianship and conservatorship include:
   a. Within the limits of legislative appropriations, to employ the necessary staff to provide services in accordance with this chapter.
   b. To contract with guardians to administer services.
   c. To grant guardian and conservator licenses.
   d. To develop, maintain, and revise a comprehensive master plan for guardianship and conservatorship in this state, including the needs and resources.
   e. To recommend rules to the operations committee regarding the administration of the office.
   f. To develop and submit budgets for the office.
   g. To present an annual report to the operations committee on the status of the office.
2. The powers and duties of the investigation counsel of the office of guardianship and conservatorship include:
   a. To oversee the complaint process.
   b. To recommend rules to the operations committee regarding operation of the complaint and appeals process.
   c. To investigate noncompliance under this chapter reported after April 1, 2026, by conducting interviews, accessing records, issuing subpoenas, and ordering depositions.
   d. To issue formal disciplinary complaints.
   e. To attend disciplinary hearings.

54-68-05. Review board.

1. A guardianship and conservatorship review board is created to conduct disciplinary proceedings and issue sanctions for a guardian or conservator. The guardianship and conservatorship review board shall consist of:
   a. One member representing guardians, appointed by the guardianship association of North Dakota;

b. One member representing family guardians, appointed by the chief justice of the supreme court;
c. One member representing the protection and advocacy project, appointed by the committee on protection and advocacy;
d. Two members appointed by the state bar association of North Dakota, consisting of:
(1) One lawyer licensed to practice law in the state who is not an active judge or employee of a judge; and
(2) One retired judge, judicial referee, or surrogate judge; and
e. Two members of the public, appointed by the governor.

2. Initially, members of the review board shall serve staggered terms as follows:
a. Two members shall serve a term of one year;
b. Two members shall serve a term of two years; and
c. Three members shall serve a term of three years.

3. After the expiration of initial terms, all appointments must be for a term of three years. A member may not serve more than two consecutive terms of three years.

4. A member of the review board serves at the will of the appointing authority, and may be removed for good cause. A vacancy must be filled in the same manner as the original appointment for the unexpired portion of the term.

5. A member of the review board may not receive compensation for their service but is entitled to payment for mileage and travel expenses incurred in the conduct of committee business as provided under sections 44-08-04 and 54-06-09.

6. Office staff, under the oversight of the operations committee, shall develop by rule complaint protocols, hearing procedures, ethics rules, disciplinary measures, and sanctions. Office staff, under the oversight of the operations committee, may develop other rules necessary for the review board.

7. Review board meetings are closed meetings under chapter 44-04.

54-68-06. Guardianship and conservatorship support fund - Continuing appropriation.

There is created in the state treasury the guardianship and conservatorship support fund. The fund consists of all moneys transferred to the fund by the legislative assembly, interest upon moneys in the fund, fee collections, donations, grants, and other contributions received for deposit in the fund. All moneys in the fund are appropriated on a continuing basis to the office to defray the expenses of supporting guardianship and conservatorship services, including guardianship and conservatorship training and monitoring.

54-68-07. Records - Confidentiality - Disclosure - Penalty.

1. For purposes of this chapter, confidential records as defined under section 44-04-17.1 include:
a. Identifiable information that may reasonably be used to identify a guardian, conservator, complainant, or an individual applying for or receiving services; and
b. A report concerning an applicant, provider, or recipient of public services.

2. Confidential information may be disclosed only:
a. In the administration of a program under the supervision or administration of the office; or
b. When authorized or required by administrative rule, court rule, or law.

3. The office may disclose information uncovered during a disciplinary investigation to the attorney general or bureau of criminal investigation related to a criminal investigation when the investigation counsel suspects the subject of the investigation has committed a crime.

4. A person that discloses, authorizes, or knowingly allows, participates in, or acquiesces in the disclosure of confidential information in violation of this section is guilty of a class C felony.

54-68-08. Guardianship and conservatorship limitations - Representation to the public - Exemption.

1. A person may not serve as a guardian or a conservator for three or more adult individuals at the same time unless that person is a licensed guardian or a licensed conservator or has an agency permit. This subsection does not apply to an individual appointed as a guardian or conservator for a family member.
2. A public guardian or a public conservator may not provide services to a minor unless authorized by a proceeding under section 30.1-28-03.3.
3. A person must be a licensed guardian or a licensed conservator to offer guardianship or conservatorship services to the public.
4. This section does not apply to:
   a. A federal or state agency.
   b. A financial institution under section 6-08.1-01 when appointed as a conservator.
   c. Human service zones, including human service zone directors or human service zone team members, as defined in section 50-01.1-01.
5. A person who violates this section after August 1, 2026, is guilty of a class B misdemeanor.

54-68-09. Immunity.

1. A person who in good faith provides information or testimony regarding a guardian's or conservator's misconduct or lack of professionalism is not subject to civil liability.
2. An employee of the office, a member of the review board, or an agent of the review board acting in good faith is not subject to civil liability.

54-68-10. Authority - Appeals - Applicability.

1. The office may revoke or suspend a guardian or a conservator license.
2. Upon receipt of any report or complaint, the office shall assess the need for an investigation of the report or complaint. For the purpose of investigating a report or complaint:
   a. The office or operations committee shall:
      (1) Establish confidentiality and disclosure standards for investigating a report or complaint and subsequent disciplinary proceedings.
      (2) Adopt rules to effectuate the powers and duties under this chapter.
   b. Office staff may:
      (1) Interview an alleged victim, witness, or any other individual with knowledge of the situation.
      (2) Access any record or information on an applicant, provider, or recipient of public services.
      (3) Issue subpoenas for the attendance of witnesses and the production of designated documents, electronically stored information, or tangible things in accordance with the North Dakota Rules of Civil Procedure.
      (4) Order the deposition of a person residing within or outside the state to be taken in accordance with the North Dakota Rules of Civil Procedure.
      (5) Coordinate with other agencies and departments, including the attorney general and bureau of criminal investigation.
3. Appeals under this chapter must be conducted in accordance with chapter 28-32.
4. A guardian or conservator subject to the jurisdiction of a court of this state shall follow the rules of the office if the guardian or the conservator serves an adult ward, adult protected person, or incapacitated person, as defined in title 30.1.

54-68-11. Attorney general - Counsel - Bureau of criminal investigation - Primary authority for investigations.

1. The attorney general may act as legal counsel in any particular investigation or proceeding under section 54-12-02. The attorney general shall appear and defend any

officer or employee of the office and any member of the review board in any action founded on an act or omission arising out of performance of an official duty.

2. In accordance with chapter 54-12, the attorney general and bureau of criminal investigation have primary authority to investigate criminal cases related to a guardianship or conservatorship.

54-68-12. Duty to disclose and cooperate.

1. A state or local governmental entity and its officers and employees, and the officials, officers, and employees of the courts of this state shall disclose records and information requested by the review board or investigation counsel or any authorized representative of the review board or investigation counsel and shall cooperate with and give reasonable assistance to the review board or investigation counsel and any authorized representative of the review board or counsel unless prohibited by federal regulation or law.
2. A sheriff or police officer shall serve process and execute all lawful orders upon request of the office, its authorized representative, the review board, or the investigation counsel. The service of process extends to all parts of the state in any investigation or disciplinary proceeding under this chapter.

54-68-13. Duties of witnesses - Penalty.

1. An individual is obliged to attend as a witness in any investigation or disciplinary proceeding commenced under this chapter.
2. If an individual refuses to attend, testify, or produce any writings or things required by subpoena, the office, review board, or investigation counsel that issued the subpoena may petition the district court of the district in which the attendance or production is required for an order compelling the individual to attend and testify or produce the writings or things required by the subpoena. The court shall order the individual to appear before the court at a specified time and place to show cause why the individual has not attended, testified, or produced the writings or things as required. A copy of the order must be served on the individual. If the court determines the subpoena was regularly issued, the court shall order the individual to appear at the time and place fixed in the order and testify or produce the required writings or things.
3. An individual who fails to obey an order under this section is guilty of a class A misdemeanor.

54-68-14. Preferred claim.

1. The office has a preferred claim against the estate of an individual or an individual's spouse for recovery of funds expended under this chapter for the care of that individual or the individual's spouse. All funds recovered under this chapter must be deposited in the general fund.
2. A claim may not be required to be paid and interest may not begin to accrue during the lifetime of the decedent's surviving spouse, if any.
3. A statute of limitation or similar statute or the doctrine of laches may not bar a claim under this chapter.

54-68-15. Supreme court power.

A court of this state may refer cases to the office. The court may adopt court rules as necessary to facilitate case management with the district courts, the office, and the review board.