

RCW 11.130.125 Use of agent by guardian or conservator. (1)

Except as otherwise provided in subsection (3) of this section, a guardian or conservator may delegate a power to an agent which a prudent guardian or conservator of comparable skills could delegate prudently under the circumstances if the delegation is consistent with the guardian's or conservator's fiduciary duties and the guardian's plan under RCW 11.130.340 or the conservator's plan under RCW 11.130.510.

(2) In delegating a power under subsection (1) of this section, the guardian or conservator shall exercise reasonable care, skill, and caution in:

(a) Selecting the agent;

(b) Establishing the scope and terms of the agent's work in accordance with the guardian's plan under RCW 11.130.340 or the conservator's plan under RCW 11.130.510;

(c) Monitoring the agent's performance and compliance with the delegation;

(d) Redressing an act or omission of the agent which would constitute a breach of the guardian's or conservator's duties if done by the guardian or conservator; and

(e) Ensuring a background check is conducted on the agent, or conducted on persons employed by the agent when those persons are providing services to the individual subject to a guardianship or conservatorship.

(3) A guardian or conservator may not delegate all powers to an agent.

(4) In performing a power delegated under this section, an agent shall:

(a) Exercise reasonable care to comply with the terms of the delegation and use reasonable care in the performance of the power; and

(b) If the guardian or conservator has delegated to the agent the power to make a decision on behalf of the individual subject to guardianship or conservatorship, use the same decision-making standard the guardian or conservator would be required to use.

(5) By accepting a delegation of a power under subsection (1) of this section from a guardian or conservator, an agent submits to the personal jurisdiction of the courts of this state in an action involving the agent's performance as agent.

(6) A guardian or conservator that delegates and monitors a power in compliance with this section is not liable for the decision, act, or omission of the agent. [2019 c 437 s 125.]