

IN THE SUPREME COURT  
STATE OF NORTH DAKOTA

ORDER OF ADOPTION

Supreme Court No. 20170420

**Proposed Adoption of a North Dakota Supreme Court Administrative Rule  
Regarding Qualifications and Training Requirements of Guardians and a  
North Dakota Supreme Court Administrative Order Regarding the  
Guardian Monitoring Program**

[¶1] District Judge Douglas L. Mattson submitted a request to delay the effective date of North Dakota Supreme Court Administrative Rule 59 regarding guardians. The request is available at <https://www.ndcourts.gov/news/north-dakota/north-dakota-supreme-court/notices>. Individuals who do not have internet access may contact the Office of the Clerk of the Supreme Court to obtain a copy of the proposal. The Court considered the matter, and

[¶2] IT IS HEREBY ORDERED, that amendments to North Dakota Supreme Court Administrative Rule 59 are ADOPTED effective immediately.

[¶3] The Supreme Court of the State of North Dakota convened this 31st day of January, 2020, with, the Honorable Jon J. Jensen, Chief Justice, and the Honorable Gerald W. VandeWalle, the Honorable Daniel J. Crothers, the Honorable Lisa Fair McEvers, the Honorable Jerod E. Tufte, Justices, directing the Clerk of the Supreme Court to enter the above order.



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Petra H. Mandigo Hulm  
Clerk  
North Dakota Supreme Court

## **Administrative Rule 59 – GUARDIANS**

**(A) Purpose.** This rule establishes qualifications and training requirements for nonprofessional and professional guardians appointed under N.D.C.C. ch. 30.1-28. For purposes of this rule, "nonprofessional guardian" means an individual who serves as guardian for two or fewer individuals at the same time, and "professional guardian" means an individual or entity that serves as guardian for three or more individuals at the same time, an individual or entity appointed to serve as a public guardian or administrator, or an individual or entity that holds itself out as providing guardianship services for hire. This rule does not apply to emergency guardians appointed under N.D.C.C. § 30.1-28-10.1.

**(B) Qualifications - Nonprofessional Guardian.** An individual proposed to serve as a nonprofessional guardian:

- (1) Shall submit an affidavit stating that the proposed guardian has completed the online guardianship training program established by the North Dakota Supreme Court and file a certificate of completion with the appointing court before letters of guardianship are issued;
- (2) Unless waived by the court, shall provide a criminal history record check report to the appointing court before the hearing on the petition to appoint a guardian; and
- (3) Shall provide to the appointing court before the hearing on the petition to appoint the guardian an affidavit stating whether the proposed guardian has been investigated for offenses related to theft, fraud, or the abuse, neglect, or exploitation of an adult or child and shall provide a release authorizing access to any record information maintained by an agency in this or another state or a federal agency.

**(C) Qualifications - Professional Guardian (Entity).** An entity proposed to serve as a professional guardian:

- (1) Must be accredited through the Council on Accreditation or its employed guardians must possess certification through the Center for Guardianship Certification;
- (2) Shall provide to the court considering the petition for appointment as a guardian an affidavit stating whether the individual(s) who will provide guardianship services for the ward has been the subject of any disciplinary proceeding by a licensing entity or by an agency accredited through the Council on Accreditation;
- (3) Shall provide to the court considering the petition for appointment as a guardian an affidavit indicating the entity under the auspices of which the individual(s) will provide guardianship services has obtained a release authorizing access to any record information maintained by

an agency in this or another state or a federal agency, a criminal history record check report and the results of a background inquiry for offenses related to theft, fraud, or the abuse, neglect, or exploitation of an adult or child with respect to the individual(s) and indicating the results of the report and inquiry; and

(4) Shall provide to the court considering the petition for appointment as a guardian an affidavit indicating that all individuals employed by the entity to serve as a guardian have completed the online guardianship training program established by the North Dakota Supreme Court.

**(D) Qualifications - Professional Guardian (Individual).** An individual proposed to serve as a professional guardian, whether or not employed by a professional guardian entity:

(1) Must possess certification through the Center for Guardianship Certification;

(2) Shall submit an affidavit that the proposed guardian has completed the online guardianship training program established by the North Dakota Supreme Court and file a certificate of completion with the appointing court before letters of guardianship are issued;

(3) Unless waived by the court, shall provide a criminal history record check report to the appointing court before the hearing on the petition to appoint a guardian; and

(4) Shall provide to the appointing court before the hearing on the petition to appoint the guardian an affidavit stating whether the proposed guardian has been investigated for offenses related to theft, fraud, or the abuse, neglect, or exploitation of an adult or child, has been the subject of any disciplinary proceeding by a licensing entity or by an agency accredited through the Council on Accreditation, and shall provide a release authorizing access to any record information maintained by an agency in this or another state or a federal agency.

**(E) Notification - professional and nonprofessional guardians.** The guardian shall notify the trial court administrator in each administrative unit in which the guardian provides guardianship services that the guardian has been charged with a criminal offense related to fraud, theft, or abuse, neglect or exploitation of an adult or child or there has been a substantiated instance of abuse, neglect, or exploitation of an adult or child by the guardian. Where the guardian is or was employed by an entity, the entity is also required to provide notification.

**(F) Rule Implementation.** This rule applies to all guardianships established after the effective date. For active guardianships established prior to the effective date of this rule, the guardian must complete the

requirements above and must submit the required documentation to the court with jurisdiction over the guardianship within ~~two years~~30 months from the March 1, 2018 effective date of this rule.

#### **EXPLANATORY NOTE**

Rule 59 was adopted effective March 1, 2018; amended effective January 31, 2020.

Subdivision (F) was amended effective January 31, 2020, to require guardians to complete the requirements and submit the required documentation to the court with jurisdiction over the guardianship within 30 months from March 1, 2018.

SOURCES: Guardianship Standards Workgroup Minutes of July 20, 2015; August 31, 2015; October 26, 2015; January 25, 2016; March 28, 2016, October 10, 2016, December 12, 2016, February 13, 2017, April 3, 2017, July 31, 2017, and August 21, 2017.