



Power of Attorney vs. Uniform Guardianship

When a client is no longer able to consent to services, lacks the ability to execute a power of attorney to appoint an agent to assist in decision-making on their behalf, or is no longer able to consent for services and their historically executed power of attorney or issued guardianship order has been determined to lack sufficient authority for Medicaid purposes, there are two legal processes that may be explored to identify a legal decision maker with authority to assist the client with ongoing services. These processes are outlined below.

Legal Motion For Decision Making Authority: When to use Power of Attorney Act vs. Uniform Guardianship, Conservatorship, and Other Protective Arrangement Act

	Uniform Power of Attorney Act (POA)	Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act (UGA)
Governing Authority	Administrative Offices of the Court (AOC)	Administrative Offices of the Court (AOC)
Governing Statutes	RCW 11.125	RCW 11.130

	Uniform Power of Attorney Act (POA)	Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act (UGA)
What Motion Can Be Filed	<p>A POA motion can be filed to request:</p> <ul style="list-style-type: none"> • Order of Court Instruction • Clarification of Authority • Revocation or Removal of Current Agent • Determination of Active Agent • Terminate the POA document entirely • Confirmation of POA validity and effectiveness 	<p>A UGA motion can be filed to request:</p> <ul style="list-style-type: none"> • Establishment of a new Guardianship or Conservatorship • Order of Court Instruction or Relief • Clarification of Authority • Removal of Guardian or Conservator • Appointment of Successor Guardian or Conservator • Grievance or Investigation of Guardian or Conservator
When To File This Type of Motion	<p>This type of motion should be filed when:</p> <ul style="list-style-type: none"> • The client is unable to self consent • The client is unable to execute a superseding alternative arrangement such as a new robust power of attorney • The client has a previously executed power of attorney which has been determined to lack sufficient authority for Medicaid purposes 	<p>This type of motion should be filed when:</p> <ul style="list-style-type: none"> • The client is unable to self consent • The client is unable to execute an alternative arrangement such as a power of attorney • The client has no previously executed power of attorney or the client has an active guardianship case but listed authorities are determined insufficient for Medicaid purposes • The client has an active guardianship or conservatorship case but orders or letters of office are expired resulting in agent’s authority being in default requiring the court to act as “super guardian” to make decisions and provide relief to assist the client • There is an identified person willing to be nominated and serve as the client’s guardian or conservator
Who Can File Motion	POA Agent, Hospital, Facility, or Adult Protective Services.	Guardian/Conservator, Any Interested Party including family member or friend, Hospital, Facility, or Adult Protective Services
Where To File	File with the court clerk in the county the client resides or in the county that that client is currently located.	<ul style="list-style-type: none"> • For established cases: file with the court clerk in the county the UGA case is assigned to • For establishing new case: file with the court clerk in the county the client resides or in the county that that client is currently located

	Uniform Power of Attorney Act (POA)	Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act (UGA)
How To File	Filing may be completed by: <ul style="list-style-type: none"> • In-Person • Electronically • By Mail 	Filing may be completed by: <ul style="list-style-type: none"> • In-Person • Electronically • By Mail
Who May Assist	Legal advice can be provided by: <ul style="list-style-type: none"> • Hospital or facility legal counsel • Private counsel • Contacting the WA State Bar Association • Speaking with the court clerk for the identified county 	Legal advice can be provided by: <ul style="list-style-type: none"> • Hospital or facility legal counsel • Private counsel • Contacting the WA State Bar Association • Speaking with the court clerk for the identified county
Timeframe	Motions filed under RCW 11.125 are typically completed within 30 days	Motions filed under RCW 11.130 are typically completed within 120 days
Additional Information to Consider	<ul style="list-style-type: none"> • POAs are a less intrusive option for identification of an alternative decision maker since the client retains their civil rights • POAs promote client choice in who serves as the appointed agent • POAs are more cost and time effective to UGA options 	<ul style="list-style-type: none"> • UGA motions are the most restrictive option for identification of an alternative decision maker as this option removes civil rights from the client • UGA motions do not always honor client choice in who serves as the appointed agent • UGA motions are more costly than POAs • UGA motions provide greater oversight of the appointed agent which mitigates risk to the client

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