

Practice Standards

December, 2012

Section XVIII, Representation of Respondent in Guardianship/Conservatorship Proceeding

1. TRAINING AND COMPETENCY:

A. A public defender assigned to represent respondents in a guardianship or conservatorship proceeding should have a thorough understanding of the law governing guardianship or conservatorship proceedings, as well as the social services, health care services, and other supports or legal arrangements, including powers of attorney, trusts, and advanced directives that, if employed, may obviate the need for guardianship or conservatorship.

B. To be eligible for assignment to represent respondents in guardianship or conservatorship proceedings, counsel shall demonstrate proficiency or receive training in the duties, skills, and ethics of the representation of respondents in involuntary commitment proceedings. Counsel shall utilize training and support provided by the Office of the State Public Defender.

C. Counsel shall have basic knowledge of various mental and physical illnesses and disabilities, including mental illness and developmental disabilities, the features of those disabilities and illnesses, and the available treatments. Counsel should also have the ability to read and understand medical terminology related to these disabilities. Counsel should be aware of how a particular disability, illness or condition will affect the attorney-client communications and shall recognize communications may require additional efforts on the part of counsel. Counsel should also have familiarity with people with disabilities who function independently using alternative and less intrusive supports such as powers of attorney, trustees, and payees.