

Professional Guardian Licensing Act

HB [X] – Sponsored by Rep. Marian Matthews, Rep. Joanne Ferrary,
Sen. Gerald Ortiz y Pino & Sen. Katy Duhigg

Establishing licensure and state oversight of professional guardians and conservators

Why do we need to license professional guardians and conservators?

Guardians are charged with protecting the health, safety, welfare, and rights of their protected persons. Guardians make crucial life decisions on behalf of their protected persons, including health/medical, residential, employment, and financial decisions. Guardians are often the protected person's first or last line of defense against abuse, neglect, and exploitation. Guardians and conservators have enormous power over their protected persons, yet the state has no mechanism for direct oversight or monitoring of guardians or conservators and their activities.

Courts have jurisdiction over individual guardianship cases, but no state entity has the authority to ensure professional guardians follow ethical and professional standards of practice. For courts to address a concern about a guardian, an individual must bring the problem to the court, which can seem like an overwhelming or intimidating process, especially to a person living with disabilities. Even if a guardian is successfully removed from one case, many professional guardians have multiple cases in different courts, and each case would require a separate court proceeding. State licensure is needed to provide a streamlined, comprehensive oversight mechanism to hold professional guardians and conservators accountable for their practices.

What is the Professional Guardian Licensing Act?

The Professional Guardian Licensing Act authorizes DDPC Office of Guardianship (OOG) to license professional guardians and conservators, and requires OOG licensure to be eligible for appointment by a court. The Act requires that OOG prescribe procedures for license application, suspension, and revocation. The Act requires OOG to conduct annual comprehensive service reviews and other monitoring activities of its service providers to ensure protected persons served by OOG are receiving appropriate, high quality services. The Act also requires the head of the Office of Guardianship to be an attorney licensed in New Mexico.

Who benefits?

The courts currently have over 5,800 active guardianship and conservatorship cases across the state. The National Guardianship Association's Center for Guardianship Certification Mexico currently certifies just over 100 professional guardians. Over 80 of those certified guardians are OOG service providers. The number of guardianship cases is expected to increase significantly, as pandemic complications arise and the state's population ages rapidly. OOG wait lists have grown dramatically in the past year. Strengthening oversight will not only benefit existing protected persons, but will benefit anticipated protected persons and their families. The courts will also benefit because OOG will notify the courts of any issues resulting from its licensing activities and provide another layer of oversight.