



Frequently Asked Questions – Ohio Department of Veterans Services (ODVS) Policies and Procedures

Ohio Veterans Homes Nursing Home Admissions Policy: 21-OVH-002

Introduction

On October 29, 2021, ODVS issued the Ohio Veterans Homes Nursing Home Admissions Policy: 21-OVH-002. This frequently asked questions (FAQ) document was created to help answer questions nursing home administrators, staff, residents, families, or attorneys may have about certain changes made to the admission process at the Ohio Veterans Homes (OVHs). This FAQ may be updated from time-to-time as strategies and processes evolve. This FAQ is not intended to be inclusive of all potential scenarios presented by the changes to the nursing home admission process.

Frequently Asked Questions

- 1. What changes were made to the policy?** Recently, DVS updated Policy 21-OVH-002 (Policy) regarding certain requirements for admission into the OVH. Specifically, the Policy now states that a veteran-applicant may only undergo the admissions process if he/she has the capacity to make his/her financial and medical decisions; or if a veteran-applicant cannot make those decisions, DVS is now requiring a court-appointed guardian be appointed to make financial and medical decisions on his/her behalf.

Previously, the Policy would allow an executed durable health care power of attorney (POA) in lieu of a court-appointed guardianship. As of October 29, 2021, POAs are no longer acceptable.

- 2. Why are POAs no longer acceptable?** This modification was put in place after careful evaluation of appropriate safeguards to ensure all OVHs residents either have capacity themselves or have court-approved individuals to make critical care decisions on their behalf. Over several years, we observed many concerns with the use of only POAs, including: concerns for the judgment and capacity of the Attorney in Fact; family disagreements regarding expressed wishes of a resident; and capacity concerns for the resident at the time a POA is executed.

We acknowledge that POAs are an extraordinarily useful legal document for many situations. However, a court-appointed guardianship provides superior protections for the residents in our care because it clarifies who has authority to make decisions and provides a defined legal process for individuals with legitimate concerns regarding the guardianship designation.

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- 3. Does this apply to residents who are already admitted to an OVH?** Yes, this Policy applies any time a current resident needs to transfer to a different unit within OVH because he/she requires a higher level of care.
- 4. What if I cannot afford a guardianship or an attorney to assist me? Do I have any alternative options?** There are certain fees and expenses associated with obtaining a court-appointed guardianship, which may vary from court to court. We encourage you to reach out to your local probate court to identify legal assistance programs that may be able to assist with this process. Some examples are Legal Aid, Advocates for Basic Legal Equality, Inc. (ABLE), and Pro Seniors.
- 5. What happens if I apply for a guardianship and a probate court denies it?** As a result of DVS's new policy, it is possible that some veterans who usually would not qualify for guardianships of their estates due to the value of their estates may have to petition your local probate court for such guardianships. DVS has proactively communicated this change in Policy and requested that court-appointed guardianships be granted to facilitate OVH admission. Should you encounter issues petitioning your local probate court, please refer them to the enclosed communication as well as a copy of the Policy. If questions remain, please do not hesitate to have your local probate court contact DVS Chief Legal Counsel at: Jennifer P. Stires, Jennifer.stires@dvs.ohio.gov, 614-728-2142.
- 6. Are there any exceptions to the requirements to have a guardianship?** The Policy requires every veteran-applicant without capacity to make healthcare and/or financial decisions to have a court-appointed guardianship prior to admission. Every effort is expected to comply with this Policy. This includes, but is not limited to, applying to the relevant local probate court for a guardianship. In the event one is not granted, an explanation, preferably from the court, is required for any potential additional consideration.