

# GUARDIANSHIP: PLANNING FOR THE AGING AND THEIR FAMILIES

## What is Guardianship?

**Guardianship**, sometimes called Conservatorship, is a legal process used when someone cannot make good decisions about their health or belongings. A guardian is a person that is legally responsible for the safety of another person's health and belongings. The person that the guardian protects is called a ward.

## Who needs a Guardian?

Sometimes **CHILDREN** need them.

**ADULTS** also may need a guardian when they become old or sick. When this happens, they need someone to protect them against people that could take advantage of them. The court may make this decision.

## Does the Guardian have to be a family member?

No. A guardian can be a family member. A guardian can also be another person or a company that takes on the duty of caring for the ward or the ward's belongings.

## Who picks the Guardian?

Usually, a Guardian is chosen when the ward or someone interested in the ward's wellbeing asks for the appointment of a Guardian.

Sometimes the guardian is ordered by the court. Other times the guardian is named in the Will of the ward's parent or spouse.

## What are the duties of a Guardian?

A Guardian has the same general duties for a ward as a parent does for a child.

### *The Guardian:*

- May have legal custody of the ward
- Should take care of the ward's belongings and living conditions
- May consent to medical or other professional care
- Can make certain financial decisions for the ward
- Can make end-of-life decisions for the ward.
- May be entitled to get paid for their services

## **What are the Ward's Rights?**

Even though the Guardian will be making some decisions for the ward, the ward still has very important rights.

*The ward has the right to:*

- Respectful Treatment
- Privacy
- Opinion
- Marriage
- Attorney
- Explanation of medical care
- Confidentiality
- Go to court if unhappy with guardian.
- Safe and comfortable living conditions

## **Can a Guardian be Removed or Replaced?**

Yes. The courts can review the guardianship. A hearing may be held and evidence shown. A lawyer should be used. A guardian may be removed or replaced if the court finds the best interests of the ward are not being honored.

## **Can someone help me without becoming my Guardian?**

Yes. Alternatives to Guardianship may include:

- Sharing a checking account with someone that can help manage your finances.
- Having a "living will" stating your wishes for treatment or non-treatment if you become seriously ill.
- Using services such as meal delivery or adult day care.
- Home health care or social services.
- Using a trust. A trust is a legal plan for placing funds and other property in the control of a trustee for the benefit of a person with a disability.
- A Durable Power of Attorney

## **What is a Durable Power of Attorney?**

A Durable Power of Attorney is a legal agreement for one person to take over the affairs of someone that has become too sick to manage on their own.

## **How is a Durable Power of Attorney Different from a Guardian?**

A Guardian is chosen once someone needs help. A Durable Power of Attorney is set up before the person needs help.

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