

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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