



Guardianship Program

Q: What is adult guardianship?

A: A guardianship is a legal relationship between a court-appointed individual or agency (like Guardian Finance and Advocacy Services) and a person found by the court to be legally incapacitated. Guardianships are established through a legal process administered by a probate court. Once established, guardianships are subject to ongoing review and supervision by the court.

Q: Who needs a guardian and who does not?

A: Guardianships are reserved for individuals who are unable to make or communicate informed personal decisions. Probate courts follow a legal procedure to evaluate whether or not a guardianship is necessary for an individual. Guardianships are intended for individuals who are unable to understand the decisions that they are making or the consequences of those decisions. Guardianships are a "last resort" measure, and the fact that someone has some sort of diagnosis or disability doesn't automatically equate to the need for a guardian.

Q: How does guardianship work?

A: The appointed guardian is given the legal right and responsibility to make medical and placement decisions on behalf of the person with the disability (the "ward"). However, a guardian's authority may be limited to those areas of decision-making where there is evidence of incapacitation, if the court so orders.

Q: What are the indicators that guardianship is needed?

A: A guardianship is considered when there is proof that an individual is unable to make or communicate personal decisions. This determination can only be made by a Probate Court, and a specific legal procedure is followed to make this determination.

Q: Who can I trust to be my guardian?

A: Guardians are screened and monitored by the Probate Court. A guardian may be an individual, an attorney, or an agency. They may be a family member or friend who takes on the role voluntarily, or they may be a paid professional.

Q: What would it be like if I had a guardian?

A: The guardian would work with you, and with interested parties, to make personal decisions that are in your best interest. The guardian obtains access to needed medical care, makes arrangements for a safe and appropriate place to live, and helps you access community programs. Guardians strive to reflect the individual's values and judgments in making decisions. Guardians also strive to choose the least restrictive alternative in making decisions, with the intent of maximizing independence and self determination.

Q: Can guardianship be used in an emergency?

A: In most states there is a mechanism for emergency appointment of a guardian for a specific purpose. It is usually time-limited and not renewable without a full guardianship proceeding.

Q: How long does the process of appointing a guardian take?

A: In emergency situations, a few days. For non-emergency guardianships, proceedings take from two weeks to two months.

Q: Does Guardianship ever end?

A: A guardianship is in place unless someone (the individual, guardian or interested party) files a petition to modify or terminate. The judge would hold a hearing on the petition and may or may not grant a change in the guardianship.

Q: How does it start?

A: Anyone interested in the well-being of the proposed ward can request guardianship. Most courts appoint an attorney as guardian ad litem (legal advocate for the client) to visit the individual to explain the guardianship proceedings and to make recommendations to the court as a result of the visit.

Here is the contact information for probate courts in our area:

Calhoun County Probate Court
Calhoun County Justice Center
161 East Michigan Avenue
Battle Creek, Mi 49014-4066

Tel: (269)969-6794 - Fax: (269)969-679

Kalamazoo County Probate Court
150 East Crosstown Parkway
Kalamazoo, Michigan, USA 49001-2849
Phone: 269-383-8666
Fax: 269-383-8685
Email: KalamazooProbate@Kalcounty.com

Q: What if I change my mind?

A: Once a guardianship is put in place, it can only be modified or removed by a court. Therefore, it is important to explore less restrictive alternatives to guardianship.

Q: What are the alternatives?

A: Some of the less limiting alternatives to guardianship are power of attorney, durable power of attorney, health care power of attorney, and payeeship to name a few. These options should be carefully explored.

Need more information? You can contact us, your attorney, or the national association. Guardian Finance and Advocacy Services is a member of the National Guardian Association. Their web site is located at <http://www.guardianship.org/>, or contact them at:

526 Brittany Drive
State College, PA 16803
Phone: 814-238-3126
Fax: 814-238-7051
info@guardianship.org

Disclaimer: This FAQ is for general informational purposes only. 2/9/2009