

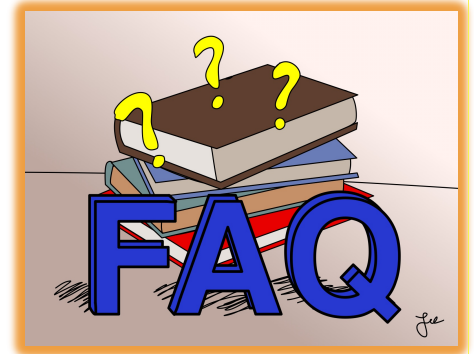
BECOMING YOUR CHILD'S

Does a Guardianship help a parent/ guardian control their adult child's actions? When your child is a minor, you have authority over their decisions such as, where the child lives, who the child could associate with and if they worked or went to school and where. As Guardian, you stand in essentially the same position to the 'child' as you did when the relationship was a minor child to a parent. Your "powers" as a guardian are set forth in the Court's Order. It is only a piece of paper. Your actual ability to control your child's actions will not change due to the guardianship.

Is a Guardian liable for all the ward's "bad acts" (such as sexual harassment, impregnation, assault, theft)? No, a Guardian is not liable for actions of the Ward simply because they are guardian. However, if the Guardian behaves negligently, they may be held liable.

Is the Guardian responsible for any purchases/contracts made by the ward? No, the Ward is limited in their ability to contract because they are incapacitated. However, it is almost impossible to stop the Ward if they are able to complete credit applications. The Guardian may, upon learning of the contract, seek to void it because of the Ward's incapacity. Regardless, the Guardian can't be held liable.

Once a person is under Guardianship can it be revoked or is it for the person's life time? A guardianship can be terminated if the Ward's condition improves to the point where a physician determines the person is able to make his/her own decisions. A guardianship is only terminated by Order of the Court.



Can I transfer my guardianship to someone else later on? You will need Court approval. A parent may provide for a successor guardian in his/her Will. Even if you have nominated someone in your Will, the Court needs to be notified.

How many people can share guardianship?

This is called co-guardianship. There is no statutory limit to the number of people who can act as co-guardians, but as a practical matter it will be challenging for more than two people to serve together. The Order can say that the co-guardians can act independently or that they all have to agree on matters related to the Ward.



Is it advisable to have more than one Guardian? It depends. If the Ward is cared for by two people, such as two parents, then it may be helpful for both to have been appointed so they can attend doctor visits, etc. If one guardian travels or is out-of-state co-guardianship could be useful. However, the co-guardians must be readily available and they must agree on the Ward's care so be mindful of these challenges.

Can a Guardian live out of state or in another country? Yes, but the Guardian's responsibilities do not change based on their proximity to the Ward. In this situation, it would be useful for the Guardian to have someone who lives close to the Ward available to visit the Ward and keep the Guardian updated on any issues or concerns they observe.

What does guardianship prevent my child from doing? Legally everything that involves the capacity to make decisions. The Ward can't consent to medical treatment, housing arrangements, marriage, divorce, adoption etc., unless you asked the Court to allow them to make specific decisions.

Will my child be able to drive or vote? The Court can allow a Ward to keep any rights that the Ward is able to perform on his/her own and so long as a physician has agreed, in writing, that the person can perform those tasks. If your child wants to be able to drive, the Court will typically allow the child to take a driving class to determine his/her ability. You will file that report with the Court and then the Court determines if a license can be applied for. If your child wants to vote, make sure to ask the Court for an Order that includes the child's right to vote.

Do I, or my child, have to carry the guardianship papers wherever we go? No, but you should give copies to persons or agencies involved in the Ward's life on an ongoing basis. See below.

Who needs to be informed that I am my child's (Ward's) Guardian?

- ❖ The Ward's doctor's office,
- ❖ the hospital upon admission,
- ❖ the school or other program,
- ❖ the Division of Developmental Disabilities and other government agencies,
- ❖ Social Security
- ❖ the Ward's health plan and your lawyer

How do divorced parents who had problems settling custody issues share guardianship? Very carefully and sadly too often not very well. Parents must realize their child is an adult and the balance has shifted. It is no longer about the parents' rights. The Court's focus is the Ward. The law does not have good or easy answers for the many problems created by parental animosity.

Can my position as Guardian be contested?

Yes, a person could object to the appointment or, after appointment, request that you be removed.



What is the difference between guardianship and conservatorship? Generally, a Guardian has authority over the person and a Conservator has authority over the money. Although the person appointed as guardian may also be the representative payee for Social Security or the Trustee of a Trust for the benefit of the Ward, they are separate roles that typically do not require Court involvement. If the only money an incapacitated individual has is social security income, being representative payee will be sufficient and a conservator will not be required. Being a conservator involves different and complex responsibilities.

If there are no assets or monies of the Ward, there is no reason to be appointed as conservator.

Does my child have to come to the hearing? If your child expresses a desire to be at the hearing, you will need to make sure he/she attends. If your child does not

express an interest in attending or does not want to go, there is no reason to bring him/her unless the court-appointed attorney requires his/her attendance.

Once I am appointed, do I have to do anything else? An annual report of guardian must be filed each year. The form can be obtained at the self-service center on-line or at any of the

Superior Court buildings. You must file a new Physician Report each year at the same time as the Annual Report and if the child receives social security, keep a copy of the annual report you send to Social Security and attach a copy to the annual report.

If you move or your child moves, you must inform the Court, in writing, as soon as possible. Medical hospitalizations and vacations need not be reported.