

Guardianship

1. What is a guardian?

A person with a severe mental disability may be unable to exercise some or all of his or her own rights or to protect his or her own interests. A guardian is a person appointed by a court to take the place of the person in exercising the rights he or she is unable to exercise, to make (or help make) decisions the person is unable to make independently, and to be an advocate for the person's interests. A guardian can only exercise powers that the state law and court order provide.

2. What are the different kinds of guardians?

There are two basic kinds of guardians, a guardian of the estate and a guardian of the person. A court appoints a guardian of the estate for a person who is incompetent to handle his or her own finances. A court appoints a guardian of the person for a person who is incompetent to provide or arrange for personal needs, such as the need for shelter, food, medical care, or social services. A guardian can be appointed for both.

3. What is the process to obtain a guardianship?

Contact your local Register in Probate, located in your local courthouse or justice center, for the paperwork. If you need help with the paperwork and its legalities, you can hire a lawyer. If you cannot afford a lawyer and the person is receiving Medicaid, then your county's Health & Human Service Department may be able to help.

4. What is a Power of Attorney document and do I need one?

Everyone should complete a Power of Attorney for both health care and financial decisions while you are of sound mind. This is also known as an advance directive. These documents appoint a person who would serve as your decision making person in the event that you cannot make decisions for yourself. This way you wouldn't need a guardian. It is very important to communicate your wishes to the person you appoint in advance. You can follow this link: [Power of Attorney](#) to fill out the documents online.