



To The Point

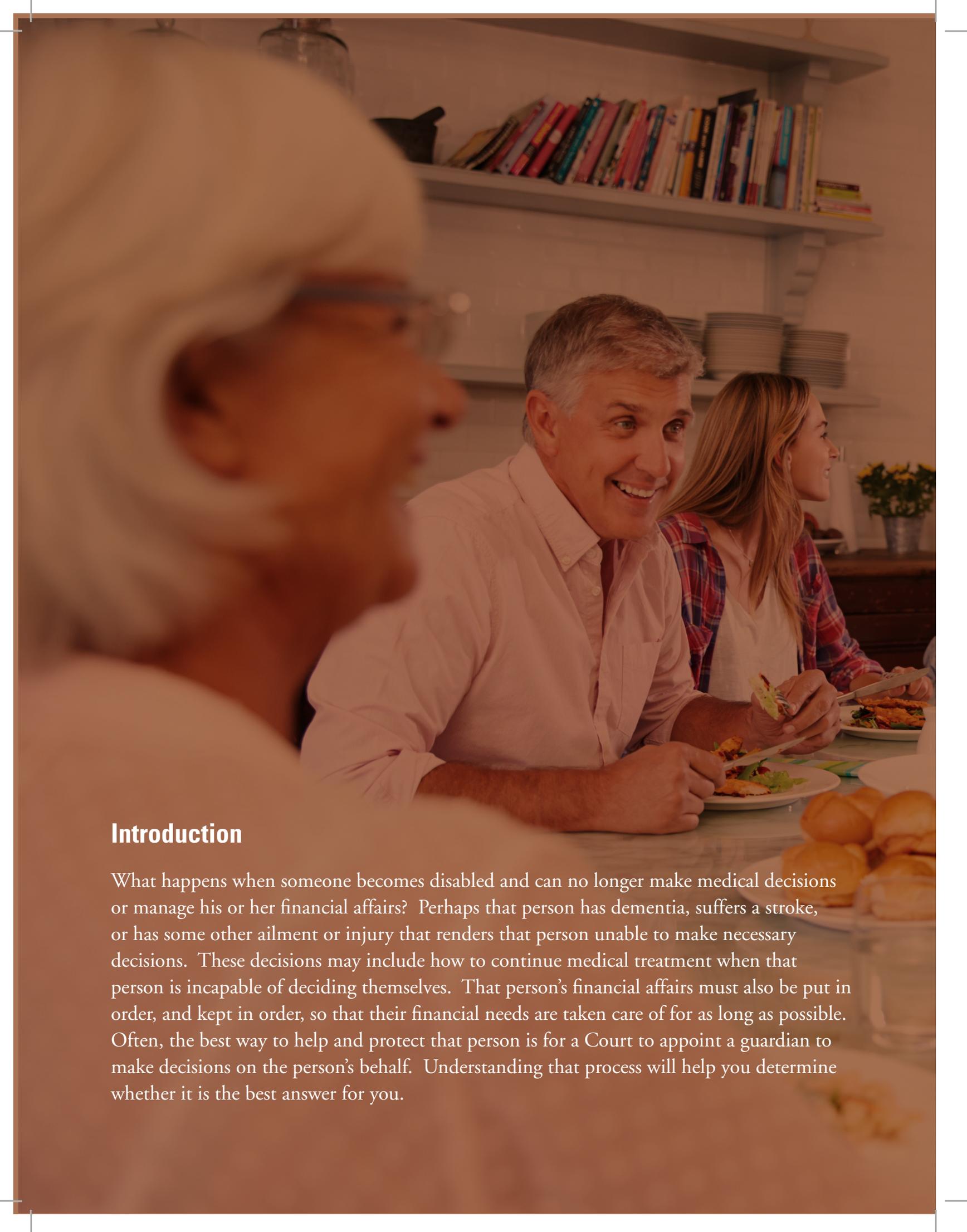
Adult Guardianship



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Introduction

What happens when someone becomes disabled and can no longer make medical decisions or manage his or her financial affairs? Perhaps that person has dementia, suffers a stroke, or has some other ailment or injury that renders that person unable to make necessary decisions. These decisions may include how to continue medical treatment when that person is incapable of deciding themselves. That person's financial affairs must also be put in order, and kept in order, so that their financial needs are taken care of for as long as possible. Often, the best way to help and protect that person is for a Court to appoint a guardian to make decisions on the person's behalf. Understanding that process will help you determine whether it is the best answer for you.

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What is an Adult Guardianship?

An adult guardianship is a person (“the Guardian”) who is appointed through a formal court process to act on behalf of the court to manage a disabled person’s care and/or property. A court does not engage in this process on its own but instead responds to the request of an interested person, such as a family member or government agency. A guardianship proceeding is initiated by an application to the Court along with statements from two health care professionals who, in their expert opinion, have determined that a person is unable to make responsible decisions concerning his or her medical care or financial matters, usually because of a physical or mental disability.



A court will review evidence to determine whether a person is, in fact, disabled and assess if there are any less restrictive alternatives available, such as a financial or health care power of attorney. If the court determines that the person is disabled and that there is no viable less restrictive means to protect the person, the Court will appoint a Guardian.

In Maryland there are two types of guardians. One type is called a **guardian of the person**. This type of guardian is appointed to make health care decisions for a disabled person or to be responsible for finding the proper home setting for that person. The second type of guardian is called a **guardian of the property**. A guardian of the property is responsible for managing the assets and paying the bills of a disabled person.

A guardianship proceeding can seek the appointment of just a guardian of the person, just a guardian of the property, or both. They can also be the same person.

When does a person lose the capacity to make decisions from a legal perspective?

Whether by age or illness, there may come a time during a person's life when someone else must make decisions concerning that person's medical care or financial affairs. But when is he or she legally incompetent?

The legal question of whether a person has the capacity to make decisions is particularly

difficult because it is not easy to determine at what point in the progression of a disease a person's faculties are so impaired that they fall below the standard of legal capacity.

Certainly, the mere diagnosis of a disease is not sufficient, in and of itself, to prove that a person lacks the legal capacity to make his or her own decisions. For example, a person may have a diagnosis of Alzheimer's disease, but still have sufficient capacity to manage his/her own finances.

The test of legal capacity is different for the two types of guardianships. For a guardianship of the person, a person lacks legal capacity, when, because of mental disability, disease, habitual drunkenness, or addiction to drugs, he or she does not have sufficient understanding or ability to make or communicate responsible decisions concerning himself or herself, such as provisions for health care, food, clothing, or shelter.

A court will establish a guardianship for a person's property when it finds that a person has or may be entitled to property or benefits that require proper management, and that that person is unable to manage that property effectively because of a physical or mental disability or disease (or in several other specific circumstances). When a medical condition is present, this standard is usually met by merely showing that a person can no longer balance a checkbook, pay household bills, or handle mail responsibly. At that point, the court can appoint a guardian to manage a disabled person's property.

Establishing a guardianship of a person is necessary in two primary situations. First, a guardian will be appointed when the allegedly disabled person fails to execute a health care power of attorney and certain necessary medical procedures require consent. Second, when more than one person in the family wants to care for the allegedly disabled person each in different ways and the family is unable to resolve this conflict on its own, the Court will appoint a guardian.

How is a guardian appointed?

Establishing a guardianship is a formal, public, legal process. It is initiated when an “Interested Person” files a petition with a Maryland circuit court to be appointed guardian for an “Alleged Disabled Person.” A person for whom a guardian is sought is always considered to be an “alleged” disabled person until that person is determined by a court to be disabled. Prior to that determination, a person is presumed to have capacity. If the court determines that a person is disabled, the court will appoint someone to serve as guardian and issue an order setting out the terms and conditions of the appointment.

Who is an Interested Person?

The law defines an Interested Person as one of the following: (1) a person, nominated by the Alleged Disabled Person; (2) a health care agent appointed by the Alleged Disabled Person; (3) the Alleged Disabled Person’s spouse; (4) the Alleged Disabled

Person’s parent or parents; (5) the Alleged Disabled Person’s adult children; (6) an adult who would be the Alleged Disabled Person’s heir if the Alleged Disabled Person were dead; (7) the local Department of Aging or Department of Social Services; (8) any governmental agency paying benefits to the disabled person (such as Social Security or Veterans’ Administration); or (9) any other person considered appropriate by the court. Anyone who petitions a court for a guardianship (“the Petitioner”) must be an Interested Person.

Where should a guardianship case be filed?

In all instances, a petition must be filed with the circuit court in the county where the Alleged Disabled Person resides. A petition for guardianship of the person may alternatively be filed in the county in which the Alleged Disabled Person is hospitalized or is living temporarily. A petition for guardianship of the property should be





filed in the county in which any part of the Alleged Disabled Person's property is located or, in the case of an Alleged Disabled Person who does not reside in Maryland, in the county in which a petition for guardianship of the person may be filed. Quite often guardianships of person and property are sought in the same petition, but they do not have to be.

What information needs to be included in a guardianship petition?

The petition should contain detailed information about both the petitioner and the Alleged Disabled Person, and must also provide (i) a description of the nature of the disability and how it affects the Alleged Disabled Person's ability to function, (ii) why a guardian should be appointed, and (iii) a description of the less restrictive alternatives that have been attempted and failed. If a

guardianship over property is sought, the petition should also include a description of the Alleged Disabled Person's assets, including the current value of those assets. A petition must disclose whether the disabled person is represented by an attorney, and if not, the petitioner should file a motion requesting an attorney be appointed by the court to represent the Alleged Disabled Person in the guardianship proceeding.

What certificates of disability are required?

A petition for guardianship must be accompanied by certificates from two health care professionals who have examined or evaluated the Alleged Disabled Person declaring that the Alleged Disabled Person is, in fact, disabled and in need of a guardianship. The certificates may be obtained from (i) two physicians licensed

to practice medicine in the United States or (ii) one licensed physician and either one licensed psychologist or one certified clinical social worker. Each certificate must state:

1. the name, address, and qualifications of the professional who performed the examination or evaluation;
2. a brief history of that professional's involvement with the Alleged Disabled Person;
3. the date of the last examination or evaluation of the Alleged Disabled Person; and
4. the professional's opinion as to:
 - a. the cause, nature, extent, and probable duration of the disability,
 - b. whether institutional care is required, and
 - c. whether the disabled person has sufficient mental capacity to understand the nature of and consent to the appointment of a guardian.

At least one examination or evaluation must occur within 21 days before the date the petition is filed.

These certificates are admissible as evidence of disability at a guardianship hearing, without the presence or testimony of the certifying health care professional, unless a request is filed by another party that the testimony be presented in court. These certificates are often the only evidence of disability on which a court will base its decision to appoint a guardian.

If you are unable to have the Alleged Disabled Person examined or evaluated because they are under the control of a person who has refused to permit examination, a process is available to request the court to order an examination.



What other roles does an Interested Person play in a guardianship case?

The guardianship petition must disclose the name, address and telephone number of all Interested Persons in the guardianship proceeding. In addition to filing a guardianship petition, Interested Persons have the right to receive notice of each step in the guardianship process, although that right may be waived.

During the guardianship proceedings, any Interested Persons have the right to (1) object to the need for a guardian, (2) object to the appointment of the petitioner as guardian, or (3) allege that the disabled person may incur damages as a result of the

appointment of a guardian. An Interested Person may also present to the court any material and/or relevant information which may affect the guardianship proceedings. After appointment of a guardian, any Interested Person may ask the court, at any time, to resolve questions concerning the guardianship estate or its administration.

What happens after the guardianship petition is filed?

Appointment of an Attorney for the Alleged Disabled Person

After a petition for guardianship of the person and/or property is filed, the court will appoint an attorney for an Alleged Disabled Person who is not already represented by his or her own attorney. This is required to ensure that the Alleged Disabled Person's constitutional due process rights are not violated during the proceedings.

The Alleged Disabled Person is the client of the court-appointed attorney and the attorney is required, as far as reasonably possible, to maintain a normal attorney-client relationship with the Alleged Disabled Person. A lawyer representing an Alleged Disabled Person should explain the proceedings to the Alleged Disabled Person, advise them of their rights, and advocate for the Alleged Disabled Person. If a lawyer for the Alleged Disabled Person reasonably concludes that the Alleged Disabled Person is not able to make a considered decision in connection with the guardianship case, it is the obligation of the lawyer to protect the client's interests to ensure that proper procedures are followed by the court. In addition, the court-appointed attorney may decide to request the presence at trial of the health care professionals who prepared certificates, request the appointment of an independent investigator, request a closed hearing, assert or waive the client's right to



be present at the hearing, or assert or waive the right to a jury trial.

When a court-appointed attorney believes that an Alleged Disabled Person is at risk of substantial physical, financial or other harm unless action is taken, and the Alleged Disabled Person cannot adequately act in his or her own interests, the court-appointed attorney may take protective action, including consulting with individuals or entities that have the ability to take action to protect the client.

The fees for a court-appointed attorney are typically paid out of the Alleged Disabled Person's assets (the "Guardianship Estate"), but the court can order the fees to be paid from another source, including by the Petitioner or other Interested Persons.

Show Cause Order

After the petition is filed, the court will sign an Order (a "Show Cause Order") requiring the Alleged Disabled Person, through his or her attorney, and any other Interested Person, to respond to the guardianship petition within a certain period of time. The Show Cause Order will also set the date and time for a court hearing on the guardianship petition.

The Petitioner is responsible for making sure that the Alleged Disabled Person, his or her attorney, and all Interested Persons, are served with a copy of the Show Cause Order within the time identified by the court in the Show Cause Order. A copy of the guardianship petition, certificates and other required documents must also be served



with the copy of the Show Cause Order. If the Alleged Disabled Person resides with the Petitioner, the Petitioner will be required to name a third party who can also be served with these documents.

Independent Investigator

The court may appoint an independent investigator to investigate the facts of the case and report written findings to the court. The role of the independent investigator is as a neutral fact-finder, and not that of an advocate for the Alleged Disabled Person or any other party to the proceeding. The fee of a court-appointed investigator is paid from the Guardianship Estate, or otherwise as the court directs.

Discovery

If the Alleged Disabled Person or any other Interested Person objects to the guardianship, the matter is said to be “contested.” Common areas of dispute relate to the existence or extent of disability of the Alleged Disabled Person, or a controversy over who is the appropriate guardian for an Alleged Disabled Person. A contested guardianship may take many months, or even years, to resolve. These cases, by anyone’s standards, can be difficult, lengthy and expensive.

Once the original petition for guardianship has been answered by the Alleged Disabled Person or an Interested Person in a manner that makes the case a contested matter, the parties will begin the “discovery” process. Any Interested Person may obtain discovery



in a contested guardianship matter. During discovery, parties may use several methods to find out (“discover”) as much information as possible regarding the opposing parties’ case.

Methods of discovery include:

- **Depositions of parties and potential witnesses:** A deposition is an oral examination of an adverse party or witness who is under oath to respond truthfully to relevant questions. It is similar to testifying at a trial but takes place in a conference room, usually well before trial, not in a courtroom at the trial itself.
- **Requests for production or inspection:** These require the other side to provide copies of relevant documents in their possession or control.
- **Written interrogatories:** These are questions that are required to be answered in writing under oath.
- **Requests for admissions of fact:** These are simple statements of fact that you are requesting the other side to admit to be true.

- Requests for a mental or physical examination of a party whose condition is an issue: If granted, this is one method to obtain an examination of a person you do not control or who will not submit to an examination voluntarily.

Often much of the conflict between parties in a contested guardianship takes place during the discovery phase. This means, of course, that the legal fees associated with going through the discovery process can be substantial.

Trial

Whether or not the guardianship is contested, a hearing on the guardianship petition will be conducted in the circuit court for the county in which the petition was filed. The two main issues in a guardianship hearing are (1) whether a guardian is needed (i.e., whether the Alleged Disabled Person is, in fact, disabled) and (2)

who is the most appropriate guardian for the disabled person. The Petitioner has the burden to prove both of these issues.

Guardianship of the Person

Usually, guardianship hearings are held before a trial court judge who decides the two issues. However, in guardian of the person cases, Maryland law provides that the Alleged Disabled Person is entitled to a trial by jury on the issue of whether a guardian is needed, i.e., whether he or she is legally disabled. When a jury trial is held, it is conducted like a formal trial. All Interested Persons may participate in the trial, and the Alleged Disabled Person has an absolute right to be present at a trial, to present evidence, and to cross-examine witnesses with the help of his or her attorney. The jury then determines, as a matter of fact, whether or not the Alleged Disabled Person is disabled. The Alleged Disabled Person, or their attorney, may waive the right to a





jury trial, in which case the judge would determine whether the Alleged Disabled Person is legally disabled.

There are three main factual issues that a judge or jury must decide in determining whether an Alleged Disabled Person is legally disabled and in need of having a guardian of the person appointed.

The first is whether the allegedly disabled person “lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his or her person, including provisions for health care, food, clothing or shelter.” The mere diagnosis of a disability is not sufficient; rather, specific evidence of poor decision-making must be presented to satisfy this requirement. For example, evidence must be presented that the Alleged Disabled Person is leaving the stove on, forgetting to take medications, or taking other specific actions

that are endangering their welfare or safety.

The second issue is whether that lack of capacity is due to a physical or mental disability or disease, habitual drunkenness, or addiction to drugs. The judge or jury will want to be sure that other factors have been examined and eliminated as sources of the Alleged Disabled Person’s inability to make or communicate responsible decisions. For example, if depression or other treatable mental disorder are causing the problem, it may be appropriate for therapy or drugs to be used to address the concern of capacity. Perhaps there may be a drug problem, or drug interactions or inappropriate dosing of medications involved. Or, there may be a vision, hearing, or speech impairment, or other language, family, social, cultural or religious barriers that are contributing to the perception of a disability, when no disability is actually involved.

Finally, the court will determine that there is no less restrictive alternative that is available that can protect the welfare and safety of the Alleged Disabled Person. Since a guardianship significantly restricts personal rights, it is important that there are no other alternatives available that may meet the needs of the Alleged Disabled Person, other than a guardianship. An example of a less restrictive alternative would be a health care power of attorney.

Guardianship of the Property

There is no right to a trial by jury in a case involving only guardianship of the property. In fact, if no response to the Show Cause Order is filed, and the court is satisfied that the Petitioner has complied with the legal filing requirements, the court may rule on the petition without a hearing. However, if the Alleged Disabled Person or an Interested Person contests the petition, the court shall set the matter for trial.

At a trial seeking to have a guardian of the property appointed, the Petitioner has the burden to prove that the Alleged Disabled Person is (1) unable to manage his or her property and affairs effectively, (2) that the cause for the Alleged Disabled Person to be unable to manage his or her property and affairs effectively is due to a physical or mental disability, disease, habitual drunkenness, addiction to drugs, imprisonment, compulsory hospitalization, detention by a foreign power, or disappearance of the person, and (3) the Alleged Disabled Person has or may be entitled to property or benefits that require proper management.

Selection of the Guardian

After the court has determined that the Alleged Disabled Person is, in fact, disabled, the court must determine who would be the best person to serve as the Guardian. Often, the disabled person previously



nominated someone in the family or a friend to serve as guardian, or the family has come to an agreement about who should serve. However, there are times when more than one person wants to serve as the Guardian or the Interested Persons disagree who should serve. In those cases, each prospective guardian must present his or her case to the court in a public trial, and the court then selects a person to serve.

Maryland law establishes an order of priority of individuals who are eligible to serve as guardian of the person and guardian of the property. The first priority candidate is someone designated by the disabled person before they became disabled. A competent person may nominate someone to serve as their guardian of their property in a general power of attorney. Likewise, a competent person may nominate a person to serve as guardian of their person in a health care power of attorney. In each of these situations, a court will almost always honor the person's decision and appoint the same person as a guardian.

Other persons eligible to serve as guardian, in order of priority, include the disabled person's spouse, parents, adult children, or other individuals who have a particular interest in the person, such as the director of the local social services or office on aging. A court may, for "good cause shown," appoint a person with a lower priority over a person with a higher priority. Maryland law is unclear on what "good cause" means, so this determination is left to the discretion of the trial judge.

Appointment of the Guardian

Once the Guardian is appointed, the Alleged Disabled Person becomes "the Ward." It is important to note that, in guardianship matters, a court assumes jurisdiction over the Ward's person and/or property. Therefore, in reality, the court is ultimately the Guardian, the court-appointed guardian merely serves as the agent for the court in carrying out the court's responsibilities. The various rules and requirements of guardians discussed in this brochure must be read with this important point in mind.

At an uncontested guardianship hearing, or after trial in a contested matter, if the court has determined that a guardian of the person and/or property is needed, and has selected an appropriate guardian, the court will issue a written order appointing a guardian. The order states (1) whether the guardianship is of the property or person or both, (2) the name of the disabled person, (3) the name, address, and telephone number of the guardian, (4) the reason for the guardianship, (5) the amount of the guardian of the property's bond, or that the bond is waived, (6) the date upon which any annual report of the guardian shall be filed (discussed below), and (7) the specific powers and duties of the guardian and any limitations on those powers or duties.

Attorney's fees in a guardianship petitioner

Any legal fees in excess of fifty dollars (\$50), including those of a court-appointed attorney for the Alleged Disabled Person,

must be approved by the court before payment from a Guardianship Estate. If a petition for attorney's fees is filed by an Interested Person (including the Petitioner) or an attorney employed by an Interested Person, the court may order reasonable and necessary attorney's fees incurred in bringing a petition for the appointment of a guardian of the person of a disabled person to be paid from the Guardianship Estate of the disabled person. The court shall consider the financial resources and needs of the Ward and whether there was substantial justification for the filing of the petition for guardianship. The court will deny a petition for attorney's fees if it finds that there was no substantial justification for bringing the petition for guardianship. The court may not award attorney's fees if the petition for guardianship is brought by a government agency.

Post-Guardianship Issues

The involvement of the court does not end once the Guardian is appointed. As guardian of the Ward's person and/or property, the Guardian is acting as the agent for the court, and, as such, is subject to its jurisdiction. In addition, the Guardian is bound by Maryland Rules of Procedure and law until the guardian is relieved of his or her duties by an Order from the court.

A guardian of the property must provide an annual accounting to the court of the disabled person's income, expenses and assets. Similarly, a guardian of the person must provide an annual report to the court

updating the court on the health and living arrangements of the disabled person. Other restrictions or powers, suitable to the specific case, can be incorporated into a guardianship order.

Post-Guardianship Issues Involving the Person

The court may grant to a guardian of a person only those powers necessary to provide for the demonstrated needs of the Ward. Generally, a guardian of the person has the same rights, powers, and duties that a parent has with respect to an unemancipated minor child, except that the guardian is not liable solely by reason of the guardianship to third persons for any act of the Ward.

Place of Abode

A guardian of the person has the right to the custody of the Ward and to establish his or her place of abode inside or outside the State of Maryland. However, a guardian of the person must petition the court for approval to change a Ward's "classification of abode," i.e., level of care. For example, transfers to a nursing home from an assisted living facility, or vice versa, would require court approval. Interestingly, Maryland law does not require court approval to remove a disabled person from the State of Maryland so long as there is no change in the level of care. However, if this is a concern, the requirement to obtain court approval before moving the Ward to another state can be included in a guardianship order.



Medical Decisions

A guardian of the person is typically authorized to make routine treatment decisions for the Ward, such as for preventive care and for non-life threatening procedures, including the admission to a hospital or nursing home or the transfer from one medical facility to another. However, court approval may be required where a proposed treatment or withdrawal of treatment poses a “substantial risk to [the] life” of the Ward. Such treatments would include using or removing life-sustaining measures such as artificial nutrition and hydration, CPR, and artificial respiration. However, a guardian of the person will be permitted to make decisions regarding medical treatment involving substantial risk of life to the Ward, without court approval, in three situations. First, if the

Ward has executed an advance medical directive naming the Guardian as agent, or if the provisions of that document give specific instructions regarding life-sustaining treatments. Second, if the Guardian is within a class of individuals specified under Maryland law as being authorized to make health care decisions for the Ward, and the court determines that the guardian of the person is familiar with the personal beliefs, values, and medical situation of the Ward. Third, the Guardian may make such decisions if there is a physician’s certification as to the condition of the Ward, and/or the futility of any proposed medical treatment options have been presented, so that the Guardian is honoring and acknowledging the situation and is merely acting accordingly. If none of the above situations exist, court approval will be required before life-sustaining treatment can be withheld or withdrawn.

Significantly, a guardian of a disabled person does not have the authority to commit the Ward to a psychiatric facility without an involuntary commitment proceeding, and cannot consent to the psychiatric treatment of the Ward.

Annual Report

The Guardian of a person must file an annual report with the court, on the anniversary date of his or her appointment, indicating (1) the present place of residence and health status of the Ward, (2) the guardian's plan for preserving and maintaining the future well-being of the Ward, and (3) the need for continuance or cessation of the guardianship or for any alteration in the powers of the Guardian. The court shall renew the appointment of the Guardian if it is satisfied that the grounds for the original appointment continue to exist. If the court believes such grounds may not exist, it shall hold a hearing at which the Guardian shall be required to prove that such grounds continue to exist. If the court does not agree that grounds continue to exist to support the need for the guardianship, it shall order the discontinuance of the guardianship of the person. If the Guardian declines to participate in the hearing, the court may appoint another guardian to replace him or her.

Compensation of the Guardian of a Person

If a guardian of the property has been appointed, the guardian of the person may ask the guardian of the property to pay for the care and maintenance services provided

directly to the Ward by the guardian of the person at a standard rate of reimbursement established by a court for such services. A guardian of the person may also be reimbursed for all expenses incurred on behalf of the Ward. A guardian of the person should maintain appropriate records in order to document the care, maintenance and expenses incurred for the Ward.

Post Guardianship Issues Involving the Property

After appointment of the Guardian of property, the court (through the Guardian) has all the powers over the Ward's property that the Ward could exercise if not disabled. Unlike a guardian of the person, a guardian of property has authority to do anything in a long list of powers in the law, unless specifically prohibited by the court, without court approval.

A guardian of the property is a "fiduciary" who has control over the disabled person's assets, subject to court supervision, and is charged with preserving those assets from being "squandered or improvidently used." As a "fiduciary" there are certain duties imposed by law. These duties include the following:

1. Protecting all assets of the Ward (e.g., bank accounts, stocks, bonds, real estate and any personal property), and preserving such property for the benefit of the Ward. A guardian of the property may pay, or apply income and principal from the estate, as needed for



the clothing, support, care, protection, welfare, and rehabilitation of the Ward.

2. Keeping accurate records, which would include, at a minimum, bank statements and receipts for purchases.
3. Never comingling the Guardian's funds with those of the Ward. They must be maintained separately for the Ward.
4. Obtaining court approval for certain expenses. For example, legal fees in excess of fifty dollars (\$50) must be approved by the court before payment. Another example would be that a guardian of the property, with proper approval from the court, can make lump sum or monthly gifts from the Guardianship Estate in order to spend down the assets of the disabled person for Medical Assistance eligibility purposes.

Inventory and Information Report

Within 60 days from the date of appointment as guardian of the property, the Guardian must file an initial report (an "Inventory") listing all assets owned by the Ward as of the date of appointment. Then, for each year the guardianship exists, the Guardian must file an accounting of all transactions that have been made from the guardianship account during that year (an "Accounting"). The Accounting requires the Guardian to report all income that has come into the Guardianship Estate during that year, as well as all expenses that have been paid. The court may require bank statements and receipts to be provided to document the expenses. The court will supply the necessary inventory and accounting forms.



The court shall review every annual accounting and either enter an order approving the accounting or take other appropriate action.

Fees to guardian

Except in unusual circumstances, the Guardian of property is entitled to the same compensation and reimbursement as the trustee of a trust. These “commissions” are based upon very specific percentages of the value of the Guardianship Estate set forth in the law. A schedule of the fees that may be paid can be provided to you by your attorney. It is not necessary to file a petition or obtain approval from the court to collect these commissions; however, they must be reported on the annual Accounting. If there are any questions about the commissions

paid, either by the court or by an Interested Person, the court may hold a hearing to review the payment of commissions.

Termination of guardianship

A guardianship may be terminated if (1) the Ward’s disability that required the appointment of a guardian has ceased; (2) if the Ward dies; (3) if the Guardianship Estate runs out of assets; or (4) there is any other good cause for termination. If one of these events occurs, a petition to terminate the guardianship must be filed with the court within forty-five days of discovery of the grounds for termination. In the case of a guardianship of the property, a final accounting must accompany the petition for termination.

Conclusion

Although this overview of the guardianship process touched on many of the questions and issues most people have when involved in a guardianship case, every case is different. The general discussion above may not apply to any particular case and will likely not answer all of your questions. When meeting with your attorney, you will have the opportunity to address the whole range of issues associated with your particular case. You can also discuss the anticipated costs and budget for your case, as well as the time it may take to get the guardianship in place.

A word of caution: establishing a guardianship can be traumatic for both the Alleged Disabled Person and that person's family. Sometimes these proceedings are used to address indirectly unresolved issues within the family that may or may not have anything to do with the actual guardianship proceeding. If you believe that a guardianship may be contested by another family member or an Interested Person, the costs associated with the establishment of a guardianship can skyrocket. Therefore, trying to resolve those issues within the family ahead of time, if at all possible, is strongly recommended.

Entering the court system can be scary or frustrating for many. An additional goal of this brochure is to provide information about the process so that you will know what to expect. At Davis, Agnor, Rapaport, and Skalny we strive to have open, transparent communications at all times with our clients so that they are fully informed and able to make appropriate decisions. If you are considering seeking a guardianship, please reach out to us and we would be happy to discuss any unanswered questions.

About Our Firm

Davis, Agnor, Rapaport & Skalny, LLC is based in Howard County, Maryland and serves the greater Baltimore-Washington Corridor. Our attorneys provide a broad range of services, legal advice and solutions for businesses, organizations and individuals.

Practice Areas Include: Banking & Financial Institutions; Business & Transactional; Civil Litigation; Community Association; Education Law; Estate Planning & Elder Law; Estate, Trust, Probate & Guardianship Litigation; Estate, Probate & Trust Administration; Intellectual Property & Technology Law; Labor & Employment Law; Non-Profit Organizations; Real Estate and Tax Planning & Litigation.

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