

FUNDAMENTALS OF GUARDIANSHIP

I. INTRODUCTION

- A. When is a guardianship appropriate?
- B. Types of Guardianship
 - 1. Person
 - 2. Property
 - 3. Limited v Plenary
 - 4. Guardian Advocacy
 - 5. Voluntary
 - 6. Veterans

II. ALTERNATIVES TO GUARDIANSHIP

III. THE PLAYERS

- A. Petitioner
- B. Alleged Incapacity Person
- C. Court Appointed Attorney
- D. Respondent (may or may not have)
- E. Attorney for the Guardian

IV. INITIAL PLEADINGS (for each include Forms)

- A. Petition and Order to Determine Incapacity
- B. Petition and order for Appointment of Guardian
- C. Emergency Temporary Guardianship (if applicable)

V. THE PROCEDURE

- A. Interested Persons
- B. Who must be given notice and types of notices required
- C. Examining Committee
 - 1. Appointment
 - 2. Reports
- D. Hearing
 - 1. General Magistrate v Judges
 - 2. Contested v Uncontested
 - 3. How to prepare for the hearing

VI. SELECTING A GUARDIAN

- A. Qualifications
- B. Preneed Guardian
- C. When a Professional Guardian may come into play
- D. Public Guardian
 - 1. Counties that have them
 - 2. How you get on the list
- E. Application
- F. Background Check
- G. Bond v Restricted Depository
- H. Educational requirements

VII. OTHER FILINGS (provide forms)

- A. Oath and Designation of Resident Agent
- B. Letters of Guardianship

- C. Initial Filings
 - 1. Inventory
 - 2. Initial Plan of the Person
- D. Annual Filings
 - 1. Plan of the Person
 - 2. Accounting
- E. Physician Report

VIII. DUTIES AND RESPONSIBILITIES OF THE GUARDIAN

IX. AUTHORITY OF THE GUARDIANS

- A. Without Court Approval
- B. With Court Approval
- C. Special Proceedings
 - 1. Settlements of Minor's Claims
 - 2. Medical Treatment, End of Life Decisions, DNR
 - 3. Estate Planning
 - 4. Support of Ward's Dependents
 - 5. Marriage, Divorce, and the Ward
 - 6. Change of Residence

X. COMPENSATION

- A. Guardian
- B. Attorney

XI. TERMINATING A GUARDIANSHIP

- A. Methods of Termination

1. Death of the Ward
 2. Restoration of Ward's Rights
 3. Ward Becomes Sui Juris
 4. Change of Ward's Domicile
 5. Disappearance of the Ward
 6. Exhaustion of the Ward's Assets
- B. Pleadings that Must be filed (provide Forms)
1. Final Report and Final Accounting
 2. Petition for Discharge
 3. Report of Distribution

XII. ETHICAL ISSUES

- A. Who do you represent and what is your role?
- B. Representing a client with diminished capacity