

Adult Guardianships – Protecting Your Loved One

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When a family member loses the capacity to effectively manage his or her affairs, it may become necessary to ask the court to appoint a guardian to protect that person's interests.

In Maryland, there are two different types of adult guardianships: (a) guardianship of the person, and (b) guardianship of the property. In many instances, both forms of guardianship are necessary.

The court will appoint a guardian of the person when it finds that:

- A person lacks sufficient understanding or capacity to make or communicate responsible personal decisions, including provisions for health care, food, clothing, or shelter, because of any mental disability, disease, habitual drunkenness, or addiction to drugs; and
- No less restrictive form of intervention is available that is consistent with the person's welfare and safety.

The court will appoint a guardian of the property if it determines that:

- The person is unable to manage effectively the person's property and affairs because of physical or mental disability, disease, habitual drunkenness, addiction to drugs, imprisonment, compulsory hospitalization, detention by a foreign power, or disappearance; and
- The person has or may be entitled to property or benefits which require proper management.

Failure to seek appointment of a guardian for a family member who lacks the capacity to manage his or her affairs can have serious, irreversible ramifications for a person's finances and health. For example, persons who lack the capacity to manage their finances can easily fall prey to scams seeking to take advantage of the elderly. Persons who lack capacity can also mismanage money to the point that all their assets are depleted. A loved one who lacks capacity might also neglect to seek necessary medical care or attend to the day-to-day tasks necessary to ensure that they are safe and healthy.

To ensure that a loved one is not put in harm's way, family members should act with urgency in seeking the appointment of a guardian. The process of seeking appointment of a guardian can be complicated and emotional, but an experienced guardianship attorney can explain the process, prepare all the pleadings that must be filed, and represent you during the trial in which the court determines whether a guardian should be appointed.