

Guide: Your Role as Guardian or Conservator

Being appointed as a Guardian or Conservator is a significant responsibility, and it's essential to understand your duties and obligations. In this guide, we'll outline what the expectations are for your role as a Guardian or Conservator.

Understanding Guardian and Conservatorship:

A Guardian is a court-appointed individual who is responsible for making personal and healthcare decisions on behalf of an individual (the "ward" or "protected person") who is incapacitated or unable to make such decisions themselves.

A Conservator is also court-appointed and is responsible for managing the financial affairs and assets of the ward. Many times, the Guardian and Conservator will be the same person.

Key Responsibilities as a Guardian:

1. Act in the Best Interests of the Ward:

Your primary duty is to act in the best interests of the ward. You should make decisions that align with their values, preferences, and well-being. When possible, you should make decisions based on what the ward desires or would desire if competent.

2. Manage Healthcare and Personal Decisions:

As a Guardian, you have the authority to make decisions regarding the ward's healthcare, living arrangements, and personal matters. This includes medical treatments, housing, and daily care.

3. Regularly Assess the Ward's Needs:

Continuously assess the ward's needs and ensure they receive appropriate care and support. Be proactive in advocating for their well-being.

4. Maintain Accurate Records:

Keep detailed records of the ward's medical history, healthcare decisions, and personal matters. These records will be important for legal and financial purposes.

5. Keep the Ward Informed (if possible):

If the ward can understand and participate in decisions, involve them in the decision-making process to the extent possible. Ensure they are informed about their situation and choices.

6. File Inventory and Annual Reports:

The guardian with financial responsibilities or the conservator must file an inventory of the assets coming under their control (AOC-855) within sixty (60) days of appointment. They must keep a detailed record of all the transactions they have performed on behalf of the ward. They must file a biennial report specifying the amount and type of real and personal property remaining in their control or invested by them, the nature of such investment, and expenditures made during the previous two years (AOC-856). Any transactions requiring the sale of the ward's property must first receive the approval of the court.

The conservator should seek the court's permission or at least put the court on notice of any large or unusual transactions of funds.

Key Responsibilities as a Conservator:

1. Act in the Best Interests of the Ward's Finances:

Your primary responsibility is to manage the ward's financial assets prudently and in their best interests. Avoid any conflicts of interest and make decisions that benefit the ward.

If you have any concerns that an expense is an appropriate, you can and should ask the court for guidance.

2. Safeguard the Ward's Assets:

Protect and preserve the ward's financial assets, including bank accounts, investments, and property. Take appropriate steps to safeguard their financial well-being.

3. Maintain Accurate Records:

On an ongoing basis, keep detailed records of the ward's assets and expenditures. This will make your job much easier when it is time to file a report with the court.

4. Prepare and File Reports:

You are required to prepare and file regular financial reports with the court, detailing the ward's assets, income, expenses, and any financial transactions.

5. Seek Court Approval for Certain Actions:

Before making significant financial decisions, such as selling property or making large investments, you may need court approval. Consult with an attorney to understand when court approval is necessary.

General Tips:

1. Seek Professional Guidance:

Guardians and Conservators often require legal and financial advice. Consult with an Elder Law Attorney or financial advisor to navigate complex matters.

2. Keep Accurate Records:

Detailed and well-organized records are crucial. Maintain records of all decisions, expenses, and financial transactions. This documentation is essential for legal compliance and accountability.

3. Regularly Review Your Role:

Periodically review your responsibilities as a Guardian or Conservator. If you encounter challenges or have questions, seek guidance to ensure you are fulfilling your role effectively.

4. Resign if Necessary:

If you find that you are unable to fulfill your duties or face conflicts of interest, you have the right to resign as a Guardian or Conservator. The process for resignation may be specified in the court order appointing you.

5. Act Prudently:

Use sound judgment in all your decisions and actions, whether as a Guardian or Conservator. Prudent decision-making helps protect the best interests of the ward.

Remember that acting as a Guardian or Conservator is a serious commitment, and you have a legal duty to act in the best interests of the ward. Seek legal counsel, if necessary, to ensure you are fulfilling your responsibilities correctly and ethically. Your role is critical in safeguarding the well-being and assets of the person you are appointed to protect.