

GUARDIANSHIP PRIMER

WHAT IS A GUARDIAN?

A person who is appointed by a judge to make decisions for an incapacitated person regarding the incapacitated person's health or property needs.

WHO NEEDS A GUARDIAN?

Any person who lacks mental capacity to exercise their own legal rights. Even an incapacitated person, however, retains certain rights, such as the right to privacy.

HOW IS A GUARDIAN APPOINTED?

An interested person petitions the court to make a determination regarding the capacity of the person in need. A panel of three experts examines the person alleged to be incapacitated and gives the Court their expert opinion regarding the areas where the person lacks capacity. The circuit judge makes a final decision about capacity and appoints a guardian, if necessary.

WHAT ARE THE RESPONSIBILITIES OF A GUARDIAN?

Guardian of Person

Manages the health care and personal needs of the ward (the incapacitated person) and reports annually to the court.

Guardian of Property

Manages the ward's property and protects property rights, contracts for ward, and collects and preserve ward's income and assets.

Guardian of person and property can be the same person.

WHAT IS THE ATTORNEY'S ROLE IN GUARDIANSHIPS?

Each guardian in Florida is required to be represented by an attorney. An Elder Law Attorney who is versed in guardianship law and procedure will guide the guardian in his or her duties, will provide oversight for protection of the ward's needs, and will be the liaison between the guardian and the court system.

FOR MORE INFORMATION PLEASE CONTACT:

Mary L. Wakeman, Esq.
Phone 850.222.8121
mwakeman@mcconnaughhay.com