

GUARDIANSHIP

Guardianship is the legal relationship in which one person is authorized to make decisions on behalf of another person. The Court determines a person's abilities and incapacities and considers the person's need in appointing a Guardian.

CONSIDERING GUARDIANSHIP

At age 18, each person is presumed to have capacity and ability to assume the legal responsibilities of self-determination. For adults who may be incapable of making decisions in their own best interests, a petitioner may seek to have the vulnerable person declared incapacitated in a court of law. The Court appoints a Guardian (limited or general) if the person is judged to be incapacitated.

GUARDIANSHIP STATUTES

N.J.S. 3B:12-19 et. seq. applies to all persons who may need limited or general guardianship and may involve guardianship of the person and/or property.

NJ DEPARTMENT OF HEALTH AND SENIOR SERVICES

**ADULT PROTECTIVE SERVICES (APS)
OFFICE OF THE PUBLIC GUARDIAN (OPG)
COUNTY AREA AGENCY ON AGING (AAA)**

Persons who are vulnerable to exploitation or self-neglect may be referred anonymously to APS in each county. A Judge may appoint the Office of the Public Guardian to be a person's Guardian if there are no family members who are appropriate. County Area Agencies on Aging administer NJ EASE Programs for senior and caregiver services.

PERSONS OR AGENCIES WHO MAY BE APPOINTED AS GUARDIAN

The Court may appoint a Guardian of the person and/or property from among: family members, friends, attorneys, private guardians, bank trust departments, NJ Office of the Public Guardian (for those age 60 and over), and the NJ Department of Human Services Bureau of Guardianship Services for clients of the Division of Developmental Disabilities.

PRESERVING BENEFITS

Consult an attorney and a licensed financial advisor or CPA for estate planning.



GANJI



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GUARDIANSHIP AND SURROGATE DECISION MAKING for Older Adults with Diminished Capacity

The Mission of the Guardianship Association of New Jersey, Inc., is to be a resource for guardians and advocates including families, professionals, and concerned individuals who are involved in the lives of persons needing assistance. The organization provides education and a referral network and promotes ethical standards of practice.

www.ganji.org

Toll Free: 1-877-GUARDNJ
973-927-5714

Each Education Institute publication treats an aspect of Guardianship. Other issues apply to every individual case. Users are advised to consult an attorney if legal action is contemplated.

PROFESSIONAL ORGANIZATIONS ON AGING

NJ GERIATRIC CARE MANAGERS (NJGCM)

856-795-8001 www.njgcm.com

ALZHEIMER'S ASSOCIATION OF NEW JERSEY

800-883-1180 www.alznj.org

NEW JERSEY FOUNDATION ON AGING

609-421-0206 office@njfoundationforaging.org

SOCIETY ON AGING IN NEW JERSEY (SANJ)

www.sanjonline.org

These organizations, and many other similar organizations along with GANJI, offer information and training to the public.

Helpful Hints for
Families
Caregivers
Case Managers

The Guardianship Association of
New Jersey, Inc. (GANJI)

Affiliate, National Guardianship Association

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SURROGATE DECISION MAKING

NON-JUDICIAL

The following documents do not need to be ordered by a Judge. If a person can understand what he or she is signing, these documents may prevent the necessity of Court action for Guardianship.

DURABLE POWER OF ATTORNEY may be limited or general and allows a person to choose an Agent to make financial and legal decisions as well as to access records.

MEDICAL POWER OF ATTORNEY may be limited or general and allows a person to choose an Agent to make medical decisions and to access records.

ADVANCE DIRECTIVES (informally “living will”; usually in the same document as the Medical Power of Attorney) states the medical/mental health treatments a person would accept or refuse if or when unable to communicate choice.

JUDICIAL

The following authority must be ordered by a Judge.

CONSERVATOR is a person appointed by a Court to manage the financial responsibilities of a person who requires assistance, is not mentally incapacitated, and consents to the Conservatorship.

LIMITED GUARDIAN recognizes that a person may need assistance in only some areas. The Guardian’s limitations are specified by the Judge.

GENERAL GUARDIANSHIP applies to a person who cannot make decisions. The Guardian is authorized to make legal, financial, personal, and medical decisions for the person deemed by the Judge to have a mental incapacity.

INITIATING GUARDIANSHIP

PRO SE FILING

Pro Se filings are “do-it-yourself” filings. Documents are available from www.judiciary.state.nj.us/prose/10558.pdf. SCARC Guardianship Services, Inc., provides assistance with *Pro Se* filings in six Northern New Jersey Counties.

Costs: Court fees, assessments, court appointed attorney; sliding scales may apply

ADULT PROTECTIVE SERVICES (APS)

Persons who are vulnerable to exploitation or self-neglect may be referred anonymously to county APS offices. Social workers will make an assessment and may recommend an examination by a health professional to determine the need for Guardianship.

LICENSED ELDER AND DISABILITY LAW ATTORNEY

Attorneys who specialize in Elder and Disabilities Law are familiar with matters relating to Guardianship and estate planning. In all Guardianship proceedings, the Court will appoint an attorney to represent the alleged incapacitated person.

Costs: Legal fees vary depending upon services, complexity, and issues such as financial planning. There is a Court fee for filing. Medical and psychological assessments usually incur fees. The Court may order fees for the attorney representing the alleged incapacitated person.

VOLUNTEER LAWYERS FOR JUSTICE (VLJ)

THE COMMUNITY HEALTH LAW PROJECT (CHLP)

VLJ assists the petitioner to obtain guardianship of an alleged incapacitated person.

CHLP works for the client regarding POA, MPOA, Medical or Mental Health Advance Directives, will, and reversal of Guardianship.

Costs: No cost or sliding scale

RESOURCES

PRIVATE AND PUBLIC GUARDIANSHIP SERVICES

SCARC Guardianship Services, Inc.

973-383-7442 ssheerin@scarc.org

Plan NJ

908-575-3800 www.plannj.org

Volunteer Guardians One-to-One

908-284-9100 www.volunteerguardianship.org

NJ Office of the Public Guardian (OPG)

609-530-8810 www.state.nj.us/health

ORGANIZATIONS AND PUBLIC AGENCIES

NJ Bar Association, Elder and Disability Law Section

732-249-5000 www.njsba.com

Community Health Law Project (CHLP)

973-275-1175 www.chlp.org chlpinfo.org

Volunteer Lawyers for Justice (VLJ)

973-645-1955 www.volunteerlawyersnj.org

NJ Psychological Association (NJPA)

973-243-9800 www.Psychologynj.org

County Surrogate’s Court

Guidance about and procedures for filings

NJ Department of Military and Veterans Affairs

1-800-624-0508 (see County Veterans Affairs Offices)

NJ Department of Health and Senior Services

1-800-792-8820 www.state.nj.us/health

COURT PROCEDURES

ASSESSMENTS prepared by a physician and/or a NJ licensed clinical psychologist to address the decision-making abilities of the alleged incapacitated person.

JUDGMENT states the Court’s decisions about capacity and the need for guardianship protections.

ANNUAL REPORT TO THE COURT prepared by the Guardian summarizing the ward’s status.

See www.njcourtsonline.com “Legal Forms.”

STANDARDS OF PRACTICE are the guiding principles that govern Guardianship procedures: self-determination, least restrictive alternative, substitute judgment, best interest. See websites for GANJL and National Guardianship Assoc. www.guardianship.org