ELDERLY CARE LAW FIRM

COMPASSIONATE, GENERATIONAL LEGAL SERVICES

Understanding Adult Guardianship: A Guide to Protecting Loved Ones in Florida

Life is unpredictable. Sometimes, a loved one may face challenges that make it hard for them to care for themselves or make important decisions. Whether due to age, illness, injury, or disability, they may need extra help to stay safe and live well.

That's where adult guardianship comes in. Guardianship is a legal process that allows a responsible person—usually a family member or trusted friend—to step in and make decisions for someone who can no longer manage on their own. It's a way to protect and support a vulnerable adult while ensuring their rights and dignity remain a priority.

If you have an aging parent, a disabled sibling, or a loved one struggling with memory loss, you may be wondering:

- How does guardianship work?
- Who can become a guardian?
- What are the different types of guardianship?
- What is the legal process in Florida?

We're here to answer these questions in a way that's easy to understand.

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What is Adult Guardianship?

Imagine your mom starts forgetting to take her medications, pays the same bill five times, or lets strangers into her home because she doesn't remember who they are. Or perhaps your adult child has a severe disability and needs help making daily life decisions.

In situations like these, a guardian can step in to help. A guardian is appointed by a Florida court to make important life decisions for someone who can't do it themselves anymore. These decisions might include:

• Medical care – Ensuring doctor visits, medications, and treatments are handled
• Financial decisions – Paying bills, managing bank accounts, preventing scams
• Personal needs – Making sure the person has food, shelter, and care
• Legal matters – Handling contracts, lawsuits, and other legal decisions

Types of Guardianship in Florida

Not all guardianship is the same. The court decides what level of help a person needs based on their situation. Here are the different types of guardianship in Florida:

1. Plenary Guardianship (Full Guardianship)
This is the most complete form of guardianship. The guardian makes all personal, financial, and medical decisions for the person because they are fully unable to manage their affairs.

Example: An elderly man with advanced dementia who can no longer make safe choices about his health or finances may need a plenary guardian.

2. Limited Guardianship
Sometimes, a person can make some decisions but not others. A limited guardianship allows the guardian to step in only where needed.

Example: A woman with early-stage Alzheimer's can still cook and live at home but forgets to pay bills and manage her money. A limited guardian may be assigned to help with finances but not other aspects of her life.

3. Guardian Advocacy
This is a special type of guardianship for adults with developmental disabilities, such as Down syndrome or autism, who need some but not total assistance in making decisions. Guardian advocacy allows parents or caregivers to continue helping their disabled adult child after they turn 18.

Example: A 19-year-old with autism can work a part-time job but struggles with contracts and medical decisions. A parent may apply to be their guardian advocate.

4**. Emergency Temporary Guardianship**
If someone is in immediate danger—maybe they're being neglected, abused, or financially exploited—the court can appoint an emergency temporary guardian for up to 90 days while a long-term solution is decided.

Example: An elderly woman is hospitalized after a stroke and has no one to manage her care. A temporary guardian can step in quickly to make medical and financial decisions.

How Does the Guardianship Process Work in Florida?

Becoming a guardian isn't as simple as stepping in and taking over. Because guardianship removes a person's rights, Florida law has strict rules to ensure it's only used when absolutely necessary.

Here's how the process works:
Step 1: Filing a Petition
A family member, friend, or concerned party files a Petition to Determine Incapacity and a Petition for Appointment of Guardian with the Florida court.

Step 2: Examination by a Court Panel
The court appoints an Examining Committee—usually a doctor, a social worker, and a mental health expert—to evaluate the person's ability to make decisions. They report their findings to the judge.

Step 3: Court Hearing
A hearing is scheduled, where the judge reviews the evidence and decides:

• If the person truly needs a guardian
• What type of guardianship is appropriate
• Who should be appointed as the guardian

The person being evaluated has a right to an attorney and can contest the guardianship if they believe they don't need one.

Step 4: Appointment of Guardian
If the judge decides guardianship is needed, they appoint a guardian—usually a spouse, adult child, or other trusted person. The guardian is required to:

• Complete court-approved training
• Submit annual reports on the person's well-being and finances
• Follow Florida's strict laws to ensure the best interest of the person

Are There Alternatives to Guardianship?
Guardianship is a big step because it takes away a person's right to make their own choices. Before choosing this option, it's important to consider less restrictive alternatives, such as:

1. Power of Attorney (POA) – Allows someone to make financial and legal decisions on behalf of another person without court involvement.
2. Healthcare Surrogate – A person is designated to make medical decisions when needed.
3. Trusts – A financial tool that helps manage a person's assets while ensuring their needs are met.
4. Representative Payee – Someone is appointed by Social Security to manage benefits for a person who can't do it themselves.

These options allow a person to keep more control over their life while still getting the support they need.

Why Guardianship Matters

Guardianship is about protecting and caring for someone when they can no longer protect themselves. It's a serious responsibility, and courts only grant it when it's truly necessary.

If you're worried about a loved one and think they might need a guardian, it's important to talk to an elder law attorney who can guide you through the process. At our firm, we believe in helping families find the best solutions—whether it's guardianship or a less restrictive alternative. Our goal is to ensure your loved one is safe, respected, and well cared for.

Need guidance? We're here to help! **Call us today** to discuss your options