



SeniorLAW Center

Seeking Justice for Older People

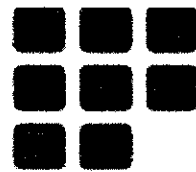
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Guardianship FAQ

This webpage is for general information purposes and is not intended to be legal advice. The information provided is not comprehensive – it is intended to assist the public, but it is not a substitute for legal advice. Always consult an attorney to receive individualized legal advice.

The information below is related to guardianship of *adults* in Pennsylvania. For information about guardianship of *minors* (under 18 years old) in Pennsylvania, please visit our [Grandparents Raising Grandchildren](#) webpage. In addition, please note that each state has different laws relating to guardianship. The information below is only relevant in Pennsylvania. If you are 60 years or older and a Pennsylvania resident, and if you have additional questions after reading the FAQs, please contact SeniorLAW Center – learn how by visiting the [“Access Services”](#) page of our website.

FREQUENTLY ASKED QUESTIONS

Hide

1. Common Terms & Definitions Relevant to Guardianship

- **Alleged Incapacitated Person (AIP)** – An adult who is the subject of a pending

guardianship petition filed with the Orphans' Court.

- **Fiduciary** – A person with a legal duty to act solely in the best interests of another person, being careful to avoid conflicts of interests or decisions that benefit oneself. Guardians, agents under powers of attorney, and trustees are all examples of fiduciaries.
- **Guardian** – A fiduciary appointed by the Orphans' Court to manage the personal and/or estate matters for an Incapacitated Person.
- **Guardian ad litem** – A person who may be appointed by the Orphans' Court to investigate the facts, independently assess whether a guardian is in the best interests of the Alleged Incapacitated Person (AIP), and make a report to the Court.
- **Incapacitated Person (IP)** – An adult for whom the Orphans' Court has appointed a guardian. Pennsylvania law provides the following definition: *"Incapacitated person" means an adult whose ability to receive and evaluate information effectively and communicate decisions in any way is impaired to such a significant extent that he is partially or totally unable to manage his financial resources or to meet essential requirements for his physical health and safety.* 20 Pa. C.S. § 5501.
- **Independent Medical Evaluation (IME)** – An assessment of the Alleged Incapacitated Person's (AIP) capacity performed by a qualified professional, such as a specialized medical doctor, upon order of the Orphans' Court. An IME is usually requested by an AIP who disagrees with the medical evaluation submitted by the person or entity petitioning for guardianship.
- **Orphans' Court** – The division of the Pennsylvania county's Court of Common Pleas that handles guardianship matters. Officially called the "Orphans' Division of the [County] Court of Common Pleas." Each of Pennsylvania's 63 judicial districts (covering all 67 counties) has an Orphans' Court.
- **Petition** – A written request to the court to issue an order or decree. A person or entity who submits a petition is called a "petitioner."
- **Plenary** – Unlimited or full, as in "plenary powers." Contrast with *limited*.

2. What is Guardianship?

Guardianship is when a court decides, after a legal process, that an adult of 18 years or older is legally "incapacitated." This means that the adult is partially or totally unable to care for themselves and/or manage their money and property. The court appoints one or more people – guardian(s) – to make decisions for the adult. The court responsible for deciding and overseeing guardianship matters is the Orphans' Court.

3. Are There Different Types of Guardianship?

Yes. A **guardian of the person** is appointed to make decisions to protect the health, safety, and welfare of the adult subject to guardianship. For example, making healthcare decisions, arranging a safe living situation, and coordinating social services on behalf of the adult. A **guardian of the estate** is appointed to manage the money, property, and legal affairs of the adult under guardianship to serve his or her best interests. For example, paying taxes, paying rent, spending income and government benefits on necessities, and keeping personal property safe. Often, the court will name the same person as both the guardian of the person and guardian of the estate.

There is one additional distinction: A **plenary** guardian has full or unlimited powers, whereas a

limited guardian has limited or restricted powers. For example, a court might appoint a “plenary guardian of the person and estate.” This means that the guardian has full authority to make decisions relating to the adult’s personal and healthcare matters as well as financial and estate matters. On the other hand, a court might appoint a “limited guardian of the person” or a “limited guardian of the estate” to deal with a specific situation or provide a specific type of assistance to the adult. **Pennsylvania law states that judges are required to prefer limited guardianship over plenary guardianship when possible.**

For information about **emergency guardianship**, see #6 below.

4. When is Guardianship Necessary?

Guardianship is a very serious matter and should be pursued as a last resort. An adult under guardianship may lose many important rights and freedoms that most people take for granted, such as the choice of where to live, how to spend income, how to manage real estate or personal property, whether to consent to medical procedures, and whether to sign legal documents.

A petition for guardianship should be filed only when there are no viable, less-restrictive alternatives to guardianship (see #5 below). There is no bright-line test that can be used in every case to say definitively whether a guardianship is needed; each case is different. Whether guardianship is necessary for a specific adult depends on their unique set of facts and circumstances.

Guardianship may be necessary when there are important legal, financial, and/or medical issues that the adult is no longer able to address – even with support from others – and there are no other decision-makers or alternative ways to resolve those issues. Whenever possible, the guardianship should be limited to the extent needed to meet the adult’s needs.

5. Are There Alternatives to Guardianship?

Yes. Guardianship results in the loss of important rights and freedoms, so it is necessary to determine whether other arrangements can meet the adult’s needs before taking the drastic step of seeking a guardianship. Even if there is clear medical evidence of incapacity, a judge should not order a guardianship if there are other supports and resources that can fully meet the adult’s needs.

Consider implementing one or more of the following alternatives to guardianship. Note that some of these options require the adult to be able to understand and consent to the arrangement. It is highly advised that the adult facing guardianship speak with SeniorLAW Center or another Pennsylvania attorney about the most appropriate options in each case. SeniorLAW Center only provides legal assistance directly to the adult who is at risk of guardianship. We do not speak to third parties about guardianship of another adult, even if that third-party is otherwise eligible for our services, and refer third parties to a Pennsylvania attorney to discuss alternatives to guardianship.

Alternatives to guardianship of the person:

- Agent under Durable Health Care (or Mental Health Care) Power of Attorney
- Pennsylvania health care representative**
- Advance directive/living will for sharing end-of-life decisions and preferences
- Supported Decision-Making (SDM): Informal support and assistance of friends, family, community members, clergy, doctors, social workers, etc. **NOTE:** SDM is not yet recognized by PA laws.

- Access to supportive services:
 - Housing options such as skilled nursing or assisted living facilities, Personal Care Homes, or Domiciliary Care
 - Home and Community-Based Services, also known as “waiver programs”
 - Help at Home (OPTIONS) program, LIFE (Living Independence for the Elderly) programs, Meals on Wheels, adult day centers, and more. Contact your local Area Agency on Aging for services in your area.

**** Pennsylvania law (Act 169 of 2006, codified at 20 Pa. C.S. § 5461) provides for a **health care representative** role – someone who may make health care decisions for an adult whose physician has determined that he or she is incapacitated. There is no need for a court procedure or even a document. When the adult is unable to make his or her own medical decisions, and when there is no existing authorization for another decision-maker to act on the adult’s behalf (e.g., no guardian of the person or health care power of attorney), the law prioritizes decision-makers in the following order: Spouse (unless pending divorce) and adult children who are not children of the current spouse; an adult child; a parent; an adult sibling; an adult grandchild; and finally, an adult who has knowledge of the incapacitated adult’s preferences and values. The health care representative has all the same rights to access medical records and make decisions as an agent under health care power of attorney. Depending on the circumstances, a health care representative may be a fully sufficient alternative to a guardian of the person.**

Alternatives to guardianship of the estate:

- Agent under Durable Financial Power of Attorney
- Representative Payee for all types of Social Security benefits
- VA Fiduciary for veterans’ benefits
- Trusts, including Special Needs Trusts
- Supported Decision-Making (SDM): Informal support and assistance of one or more friends, family, community members, clergy, doctors, social workers, etc.
- **NOTE:** SDM is not yet recognized by PA laws.
- Corporate and professional fiduciaries
- PA ABLE Savings Account (requires disability onset before age 26)
Senior money management programs (contact your local Area Agency on Aging)
- Credit counseling and financial literacy services
- Bank and credit monitoring programs/apps
- Joint bank accounts (beware: joint bank accounts are discouraged because of potential for theft or misuse of funds)

6. What is emergency guardianship?

Emergency guardianship is a temporary form of guardianship that is put in place much more quickly than a standard guardianship. It is designed to address situations in which an incapacitated adult needs help so urgently that failing to appoint a guardian immediately will result in “irreparable harm.” Emergency guardianship can only be used when there is a true emergency posing an immediate risk to the welfare of the adult; it cannot be used simply to speed up the guardianship process.

The emergency guardian’s powers and length of service is determined by the court in each case. An order appointing an emergency guardian of the person may be in effect for up to 72 hours,

subject to an extension of up to 20 days if the emergency continues. An order appointing an emergency guardian of the estate may be in effect for up to 30 days. If it is necessary to continue the guardianship after the expiration of the emergency guardianship order, a full/standard guardianship proceeding must occur, which means that a new petition must be filed.

7. How Long Does a Guardianship Last?

Except for an emergency guardianship (see #6 above), a guardianship arrangement may last indefinitely – up to the death of the adult subject to guardianship. A guardianship may also end if a judge determines that the adult has regained enough capacity, or has enough support from others, that there is no longer a need for the guardianship. Ending the guardianship this way is sometimes called “rights restoration” because the adult regains the legal right to make their own decisions once again.

8. Who Can Petition for Guardianship Over an Adult?

According to Pennsylvania law, any person interested in the adult's welfare may petition for guardianship. In practice, the petitioner is usually Older Adult Protective Services, a family member or other close contact, or an institution such as a hospital or a nursing facility. A court may dismiss the case if it determines that the guardianship petition was not filed in a good faith attempt to benefit the adult, or if the petition is incomplete.

SeniorLAW Center does not help individuals petition for guardianship.

9. If Someone I Know Needs a Guardianship, How Do I Start the Process?

First, determine whether there may be less-restrictive alternatives to guardianship that would meet the adult's needs (see #5 above). Guardianship should be the last resort because it strips away important rights and freedoms from the adult, it is usually expensive and time-consuming to put in place, and it requires extensive reporting to the court. Contact a Pennsylvania attorney to help you decide if guardianship really is needed, or if there are better alternatives.

If there are no viable, less-restrictive alternatives to guardianship, a guardianship petition must be prepared and filed in the county where the adult resides. It is strongly recommended that you hire an attorney for this purpose. *SeniorLAW Center does not help individuals petition for guardianship, even if that individual is otherwise eligible for our services.*

Finding a lawyer: There are very few free or low-cost services to assist guardianship petitioners. Therefore, it will likely be necessary to hire a private attorney or find one willing to do the work *pro bono* (for free). Contacting your county bar association's Lawyer Referral Service, described in the paragraph below, is a good first step if you are unsure about how to find an attorney. Those who cannot afford an attorney should ask their local legal aid organization(s) for other referral suggestions, but in many counties a private attorney may be the only option.

To find a private lawyer, contact your county bar association's Lawyer Referral Service. A list of the phone numbers to call in 45 of Pennsylvania's 67 counties can be found [here](#). If you live in one of the 22 counties that does not have its own Lawyer Referral Service, you may contact the general Pennsylvania Bar Association's Lawyer Referral Service [here](#). Once you have contacted the appropriate Lawyer Referral Service, you will schedule a 30-minute phone consultation with an attorney specializing in the relevant area of law. The fee for this consultation varies depending on the county, but it will be \$50 or less. You may choose to pay the lawyer for additional services beyond the 30-minute consultation, but there is no obligation to do so. In Philadelphia, contact the SeniorLAW Helpline (877-727-7529) to see if you are eligible for a referral to certain free or low-cost programs.

10. How Long Does It Take to Put a Guardianship in Place? ▶

The time frame varies depending on the county and the judge assigned to handle the case. It may take anywhere from a few days to several weeks or more for an attorney to prepare the guardianship petition. Once filed with the court, the judge usually schedules a hearing for a date a few weeks or months into the future. At the hearing, if the judge determines that the adult needs a guardian, one will be appointed immediately.

Note that the timeframe in an emergency guardianship case is much shorter – a hearing is usually scheduled within a few days or a week after the guardianship petition is filed. See #6 above for more about emergency guardianship.

11. If Someone Has Filed a Guardianship Petition About Me, What Are My Rights? ▲

If someone has asked the court for a guardianship over you, Pennsylvania law gives you the following rights:

- **You have the right to receive formal, written notice from the court.**
 - The papers should include a copy of the guardianship petition as well as notice of the legal rights you could potentially lose.
 - The time, date, and location of the guardianship hearing should be clearly stated.
 - The papers should be given to you at least 20 days before the hearing date.
 - Someone must hand the papers to you in person and verbally explain them in a way you can understand.
- **You have the right to request an attorney to defend you at the hearing.** A judge has the power to choose whether to grant the request. If you cannot afford to hire an attorney, you may ask the judge to choose an attorney for you and you will not have to pay. The judge may allow the attorney to be paid from government funds.
- **You have the right to attend the guardianship hearing.** If you are not able to leave your home or residence, you may request that the hearing be held at your home or residence.
- **You have the right to request an independent medical evaluation.** The person or institution that files for guardianship must submit medical testimony, either in person at the hearing or in the form of a written evaluation filed with the petition. If you disagree with the petitioner's medical testimony, you may request that a different doctor perform another evaluation of you. If you cannot afford to pay a doctor for this service, the judge will choose an independent doctor and you will not have to pay. The judge may allow the doctor to be paid from government funds.
- **You have the right to appeal the judge's final decision if you disagree.** There is a 30-day appeal period from the date of the judge's final decision.

12. How Does a Judge Decide if Someone Needs a Guardian? ▶

A judge appoints a guardian for an adult when *both* of the following are true: (1) The adult is "incapacitated"; and (2) The adult needs a guardian because there are no less-restrictive alternatives that will work.

In Pennsylvania, an "incapacitated" adult is someone whose ability to understand and evaluate information and communicate their decisions is so impaired that they are unable to manage their

finances and/or attend to their health and safety. A doctor or a family member may have an opinion about the adult's capacity, but only a judge can determine that an adult is legally incapacitated. To make this decision, a judge considers the contents of the petition and any written responses filed with the court, the medical testimony (either in writing or in person at the hearing), and other verbal testimony at the hearing, such as from the adult, family members, a social worker, or other witnesses. A doctor's opinion, whether written or given in person, is always required evidence.

It is important to know that capacity is not an "either-or" concept: capacity exists on a spectrum. For example, an adult may have trouble with some things – like short-term memory, or how to balance a checkbook – but they may be perfectly capable of other things, like routine grocery shopping and cooking, or deciding which of their children they trust to help make big decisions. Therefore, it is very important to evaluate each case for the possibility of implementing less-restrictive alternatives to guardianship. If guardianship is needed, consider requesting an order that will limit the guardianship only to the extent needed.

For information about less-restrictive alternatives to guardianship, see #5 above.

13. Who Can Serve as a Guardian?

Any guardian(s) must meet the requirements described in #14 below.

If a guardian is needed, the court may appoint any qualified adult, or one of several types of business entities (e.g., a corporate fiduciary such as a trust company, a non-profit corporation, etc.). The judge may appoint more than one guardian to serve in different roles or else to serve together as "co-guardians."

If the adult subject to guardianship previously selected someone to serve as guardian in a valid power of attorney or similar legal document, the court will often appoint that person. Otherwise, the court considers whether there are relatives who are willing and able to serve. If not, the court may appoint a professional guardian.

The court will not appoint any guardian that has a conflict of interest with the adult subject to guardianship.

Family members should be aware that if Medical Assistance ("Medicaid") pays a caregiver to provide in-home services to an adult under a "waiver program," the paid caregiver **cannot** serve as the adult's court-appointed guardian, agent under power of attorney, or Social Security representative payee. This is the policy of the Pennsylvania Department of Human Services.

14. What are the Requirements to Become a Guardian?

When a petition for guardianship is filed, the petitioner will nominate one or more proposed guardian(s). A proposed guardian must obtain and submit a Pennsylvania State Police Criminal History Report, as well as a criminal history report from any state in which they have lived within the past 5 years.

A guardian must be an adult. All guardians must also sign a consent form and provide their contact information to the court. In addition, the court will decide if a guardian of the estate needs to post bond.

In Pennsylvania, a person who is a legal guardian to three or more individuals is required to be certified with the Guardianship Tracking System. All guardians are legally required to fulfill specific duties (see #15 below). The national Center for Guardianship Certification has more information about becoming a Certified Guardian.

15. What are the Powers and Duties of a Court-Appointed Guardian?

Refer to the court order ("Final Decree") appointing the guardian(s) to determine the extent of the guardian's powers. Emergency guardians and limited guardians will only have the powers specifically granted by the court. A plenary guardian of the person and/or estate will have much broader powers. **In all cases, guardians should respect the wishes and preferences of the adult under guardianship as much as possible.** Adults under guardianship still have rights – see #17 below. Guardians must file various reports with the court. All reports are submitted online via the statewide Guardianship Tracking System. There are how-to guides and videos available to help guardians understand how to use the System. In general, a **plenary guardian of the person** has the following powers and duties:

- File a Report of the Guardian of the Person every year, and send a Notice of Filing to any "interested parties" named in the Final Decree.
- Make decisions to protect the health, safety, and welfare of the adult subject to guardianship. In making such decisions, the guardian of the person must act to protect the rights and best interests of the adult under guardianship. For example:
 - Decide where the adult under guardianship will live – e.g., at home with help, with a relative, in a personal care home, in a nursing facility, etc.
 - Give informed consent for medical procedures and treatments for the adult under guardianship.
- Help develop a plan of supportive services for the adult under guardianship. For example, plan for the adult to receive assistance with activities of daily living (e.g., bathing, dressing, cooking, taking medications) and other errands such as traveling to and from doctor's appointments or going shopping.
- Provide for the medical, psychological, educational, and social needs of the adult under guardianship.
- File a final Report of the Guardian of the Person within 60 days of the end of the guardianship, and send a Notice of Filing to any "interested parties" named in the Final Decree.
- Understand the limits on the powers of a guardian of the person. (See # 19 below: "Is there anything a guardian is not allowed to do?")

In general, a **plenary guardian of the estate** has the following powers and duties:

- Post bond, if required by the Final Decree.
- File a Guardian's Inventory for an Incapacitated Person within 90 days of being appointed as guardian of the estate, and send a Notice of Filing to any "interested parties" named in the Final Decree.
- File a Report of the Guardian of the Estate every year, and send a Notice of Filing to any "interested parties" named in the Final Decree.
- Manage the income, real estate, investments, and any other property owned by the adult under guardianship. In making decisions, the guardian of the estate must act solely in the best interests of the adult under guardianship. For example:

- Decide how to spend monthly income (e.g., Social Security and pension payments) for the benefit of the adult under guardianship.
- Enter into contracts on behalf of the adult under guardianship.
- Sue and defend lawsuits on behalf of the adult under guardianship.
- Apply for government benefits on behalf of the adult under guardianship.
- File and pay taxes on behalf of the adult under guardianship.
- Make a reasonable effort to locate and determine the value of all assets of the adult under guardianship, including bank or investment accounts, real estate, personal property, etc. Manage these assets and keep them safe.
- Make a reasonable effort to determine the existence of any debts, liabilities, and expenses of the adult under guardianship. Use the adult's income to pay such expenses.
- Search for and keep safe any legal documents previously signed by the adult under guardianship – e.g., any will, powers of attorney, trust, advance medical directives such as living wills and Do Not Resuscitate orders, etc.
- File a final Report of the Guardian of the Estate within 60 days of the end of the guardianship, and send a Notice of Filing to any "interested parties" named in the Final Decree.
- Understand the limits on the powers of a guardian of the estate. (See # 19 below: "Is there anything a guardian is not allowed to do?")

16. Do Guardians Get Paid?

Sometimes, Guardians may file a "petition for allowance" to ask the court to approve "reasonable compensation" for their time, usually based on an hourly rate accounting for experience, qualifications, and what is standard in that geographic location. The court will review the request and the financial situation of the adult under guardianship. If the court approves, payment will be made from the money of the adult under guardianship.

For adults under guardianship who are living in a nursing facility and receive Pennsylvania Medical Assistance (also called "Medicaid"), guardians of the estate are paid \$300 per month.

17. If the Court Has Appointed a Guardian for Me, What Are My Rights?

If you have been appointed a guardian, you still have rights. You have the right to be heard by your guardian and to be treated with respect. You have the right not to be neglected, abused or exploited. Other rights under the law include:

- **The right to appeal the judge's decision appointing the guardian(s) if you disagree.** There is a 30-day appeal period from the date of the judge's final decision.
- **The right to ask the court for a review hearing.** A review hearing is the only way to change the terms of the guardianship, replace a guardian, or terminate (end) the guardianship. You may ask the court for a review hearing for any of the following reasons:
 - There has been a significant change in your capacity;
 - There has been a change in your need for a guardian; or
 - The guardian has failed to follow the law or has not acted in your best interest. A request for a review hearing should be supported by evidence – for example, a new

doctor's report showing a significant improvement in capacity. A court may dismiss a request for a review hearing if the judge does not think there is enough evidence to support holding a review hearing.

- **The right to request an attorney to help you file an appeal or to ask the court for a review hearing.** If you cannot afford to hire an attorney, you may ask the judge to choose an attorney for you and you will not have to pay. The judge may allow the attorney to be paid from government funds.
- **The right to communicate your wishes and preferences to your guardian(s).** Your wishes and preferences should be respected to the greatest extent possible.
- **The right for the court to consider your intentions with respect to estate planning.** For example, if you have a will or intend to make one, or if you want to give money to family or charity during your lifetime, the court must consider this.

18. If I Have a Guardian, What Decisions Can I Make for Myself?

Refer to the court order ("Final Decree") appointing the guardian(s) to determine the extent of the guardian's powers. Emergency guardians and limited guardians will only have the powers specifically granted by the court, so you will still be able to make any decisions outside of their control. A plenary guardian of the person and/or estate will have much broader powers, so you will have less control over decisions that affect you.

If a judge has appointed a plenary guardian of the estate, then you will not be able to sign any legal documents. This means you cannot create a will, grant someone powers of attorney, sign an application for benefits, or enter into a contract.

Remember that regardless of the guardian's powers, you have the right to express your wishes and preferences. Although the guardian has a legal duty to make decisions in your best interests, the guardian should also follow your wishes to the greatest extent possible.

19. Is There Anything a Guardian Is Not Allowed to Do?

A guardian cannot do the following on behalf of the adult subject to guardianship:

- Admit to an inpatient psychiatric facility; or
- Give up parental rights.

A guardian must get court approval before doing any of the following on behalf of the adult subject to guardianship:

- Sell real estate or personal property.
- Spend principal (e.g., money in savings or investment accounts, or money tied up in real estate).
- Change residence to a location outside of Pennsylvania.
- Prevent marriage.
- Consent to divorce.
- Consent to abortion, sterilization, psychosurgery, electroconvulsive therapy, or removal of a healthy organ.

- Consent to participate in any biomedical or behavioral experiment.

20. Can a Guardian Be Removed or Replaced?

Yes, but only if there is evidence that the guardian:

- Has not performed their duties under the law; or
- Has not acted in the best interests of the adult under guardianship.

A court will only remove or replace a guardian for good cause. If a guardian is removed but the adult under guardianship still needs help, the court will appoint a successor guardian – that is, a new guardian who takes over from the old one. (The new guardian “succeeds,” or follows, the old guardian). For more information about ending a guardianship and regaining your rights, see #7 and #17 (concerning the right to a review hearing) above.

21. I Serve as Guardian for a Loved One, And I Am Worried About What Will Happen If I Die Or Become Too Sick to Perform My Duties. What Can I Do?

Consider whether you know already someone who is willing to take over as guardian when you are no longer able – for example, a younger relative or friend who will act in the best interests of your loved one. If there is nobody else, the person who takes over may be a professional guardian.

If you are a parent serving as guardian for your adult child, you can name somebody in your will to take your place as guardian after your death. The court will give preference to that person.

Another option is to file a petition with the court to ask them to appoint a **co-guardian**. A co-guardian would serve jointly as guardian with you, and you would have to make decisions together. The co-guardian will automatically become the sole guardian if you die or if you can no longer serve as guardian. Alternatively, you could ask the court for permission to resign as guardian. If you resign, the court will appoint a **successor** guardian. Whichever option you choose, you will need an attorney to help you file a petition with the court. Once a petition is filed, the court may or may not decide to hold a hearing to review the request.

Finding a Lawyer:

There are very few free or low-cost services to assist guardianship petitioners. Therefore, it will likely be necessary to hire a private attorney or find one willing to do the work pro bono (for free). Contacting your county bar association’s Lawyer Referral Service, described in the paragraph below, is a good first step if you are unsure about how to find an attorney. Those who cannot afford an attorney should ask their local legal aid organization(s) for other referral suggestions, but in many counties a private attorney may be the only option.

To find a private lawyer, contact your county bar association’s Lawyer Referral Service. A list of the phone numbers to call in 45 of Pennsylvania’s 67 counties can be found here. If you live in one of the 22 counties that does not have its own Lawyer Referral Service, you may contact the general Pennsylvania Bar Association’s Lawyer Referral Service here. Once you have contacted the appropriate Lawyer Referral Service, you will schedule a 30-minute phone consultation with an attorney specializing in the relevant area of law. The fee for this consultation varies depending on the county, but it will be \$50 or less. You may choose to pay the lawyer for additional services beyond the 30-minute consultation, but there is no obligation to do so.

22. When Does a Guardianship End?

A guardianship ends when any of the following events occur:

- The court, after a review hearing, has determined that the adult under guardianship has regained capacity or no longer needs a guardian.
- The guardianship was temporary and has expired. This usually applies to an emergency guardianship.
- The guardianship is transferred to another state.
- The adult under guardianship dies.

If an adult under guardianship dies, the guardian's only duty is to file a Final Report with the Court within 60 days of the date of death – see #15 above for more information. The guardian has no obligation to deal with any matters that occur after death, e.g., funeral and burial arrangements, opening an estate with the county Register of Wills, or completing tax returns for the deceased adult. These are the duties of the **executor** (if there was a valid will) or **administrator** (if there was no will) of the deceased adult's estate.

23. What Can Be Done to Avoid a Guardianship?

Planning ahead is the best way to avoid a guardianship. Consider implementing one or more alternatives to guardianship described in #5 above. Some alternatives to guardianship, such as powers of attorney, require that the adult be able to understand and consent to the arrangement. Therefore, it is best to act early, before the adult becomes incapacitated. It is highly advised to speak with SeniorLAW Center or another Pennsylvania attorney about the most appropriate options in each case.

In addition, take the time to talk to your loved ones, friends, doctors, and/or trusted community members. Have conversations about what you would like to happen if you fall seriously ill or develop dementia. Discuss preferences for the type of medical care you would and would not accept, as well as funeral and burial wishes. These conversations can be difficult, but it is better to have plans in place so people know that they are honoring your wishes when the time comes.

24. What Is the Law That Controls Guardianship?

Adult guardianship in Pennsylvania is governed by 20 Pa. C.S. § 5501 *et seq.* After over a decade of advocacy by SeniorLAW Center and other advocates, the guardianship statute was amended by Act 61 (of 2023), to provide enhanced protections to individuals subject to guardianship in Pennsylvania. The statute now requires:

1. Individuals facing guardianship be appointed an attorney to advocate for their wishes, regardless of their ability to pay.
2. Enhanced oversight of legal guardians, including requiring guardians with three or more wards be certified.
3. Petitions for guardianship must include specific facts demonstrating that less restrictive alternatives are unavailable or insufficient.

There are also statewide Orphans' Court procedural rules that affect how guardianship law is practiced. Finally, each county has its own set of Orphans' Court rules, known as "local rules." They can be found online or by contacting the Clerk of the Orphans' Court in a particular county.

25. How Can SeniorLAW Center help?

SeniorLAW Center has a project called "Access to Justice in Guardianship." Below is a description of our guardianship services:

- Philadelphia only: Represent eligible Philadelphia seniors facing guardianship proceedings in Orphans' Court.
- Philadelphia only: Help Philadelphia seniors who already have a court-appointed guardian but are experiencing abuse, neglect, or exploitation by the guardian or wish to limit or end the guardianship.
- All of Pennsylvania: Provide advice, information, and referrals through our [PA SeniorLAW HelpLine](#) to Pennsylvania residents aged 60+ with guardianship issues.
- Advocate for changes to state law and local court rules to better protect the rights of older adults involved in guardianships.
- Educate the public about less-restrictive alternatives to guardianship and the legal rights that exist for people facing guardianship or who already have guardians.
- Please note: As advocates for those facing or under guardianship, SeniorLAW Center does not petition for guardianship over older adults or provide advice about how to become a guardian.

[Click here](#) for more information about how to contact us and access our services. In most circumstances, as advocates and attorneys for older people, SeniorLAW Center must speak to the older adult who is experiencing the legal issue. If that person is unable to speak with us, then we provide referrals to other services or partner organizations who may help.

For those who do not speak fluent English, telephone interpretation is available in 150 languages.

Help Support SeniorLAW Center

Your support of SeniorLAW Center helps to ensure that Pennsylvania's elders may age with dignity and safety, free from abuse and violence, in their homes and neighborhoods.

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[VOLUNTEER](#) 

Watch the SeniorLAW Center Video



CONTACT INFORMATION



1650 Arch Street, Suite 1820
Philadelphia, PA 19103



Phone:
(215) 988 - 1244



Fax:
(215) 988 - 1243



SeniorLAW HelpLine:
(877) 727 - 7529



United Way Number:
4456



General Agency Number:
(215) 988 - 1244

UPCOMING EVENTS

SEP 9:00 AM - 12:30 PM

30

Community Legal Clinic at Juniata Park Older Adult Center

OCT 9:00 AM - 12:30 PM

7

Community Legal Clinic at MLK Older Adult Center

OCT 9:00 AM - 12:30 PM

14

Community Legal Clinic at Firehouse Active Adult Center