

Guardian of the Person - Video 11

Guardian of the Person Part 1

(Introductory music and images)

Speaker appears in comfortable, neutral setting. At times words and pictures will appear next to them or in place of them to support the dialogue.

This is the first of four videos about being a guardian of the person. In Pennsylvania, the guardian of the person is someone chosen by the court to make health and life decisions for the incapacitated person, and to ensure their safety and well-being.

As the guardian of the person, you must make decisions on behalf of the incapacitated person. You may not give that power to anyone else. Your choices must reflect the wishes and beliefs of the incapacitated person, rather than your own preferences or beliefs.

Your specific powers are in the court order or final decree, but generally as guardian of the person, you may be responsible for decisions related to the incapacitated person's residence, personal care, medical care including consenting to medications and surgical procedures, transportation, socialization, education, hobbies, and work.

Unless you are also the guardian of the estate, you do not have any rights or responsibilities related to the incapacitated person's money and property. If someone else has been appointed guardian of the estate, you will need to work with them in the best interest of the incapacitated person, specifically to assure housing costs, medical bills, and other expenses are paid.

When you are appointed guardian, you need to talk to the incapacitated person about your role and responsibilities as their guardian. You should plan to involve them in all decision-making as much as possible.

You should find out if they have any advance planning documents for health care decisions, like an advance directive, living will, or POLST: Pennsylvania Orders for Life-Sustaining Treatment. If they do have advance planning documents, the documents should be kept in a secure location and shared with medical providers. You should review the documents to help you understand the preferences of the incapacitated person, which will help you advocate for their preferences.

If there is a power of attorney document, the Court will typically declare in its order appointing a guardian that the power of attorney is no longer in effect. As guardian, your authority to make decisions supersedes the authority granted in a power of attorney. The Court should be asked to make clear in its order appointing a guardian whether the power of attorney is still in effect, and, if so, for what purposes. If there is a concern about the power of attorney, the court should be contacted.

You must determine what the incapacitated person's needs are and what supports are available to them through government agencies, the community, their family and friends, and service providers.

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Think about all areas of the incapacitated person's health, well-being, and daily life to determine what types of support they may need. Examples of supportive services include nursing, physical therapy, rehabilitation, mental health care, case management, transportation, cleaning, adult day programs, and meal preparation. Include the incapacitated person in the decision-making process as much as possible by discussing what types of support they want and presenting available options to them in a way they can understand so they can tell you their preferences.

Though it is your responsibility to ensure the incapacitated person's needs are met, this does not mean that you personally need to provide everything they need. There are many community and government programs, private service providers, and medical professionals who can help meet the incapacitated person's needs.

For help with finding local programs and services that may be able to assist, contact your local area agency on aging or call the Pennsylvania Link to Aging and Disability Resource Center's Toll-Free Helpline at 800-753-8827.

After you get the incapacitated person the support services they need, you must continue to check in on them regularly. You need to ensure that their needs continue to be met as those needs will likely change over time.

It is also important to monitor the incapacitated person's service providers to ensure they are doing what is expected. The incapacitated person may be vulnerable to neglect or exploitation by service providers and others, and the best way to prevent mistreatment is to check on the incapacitated person and those who work with them regularly.

For more information on prevention of abuse, watch the Abuse and Financial Exploitation of Persons with a Guardian video.

As guardian of the person, you have the responsibility to make decisions on medical choices, including normal medical treatments and doctor visits, surgery, rehabilitation services, and more. It is important to include the incapacitated person in the decision-making process to the extent possible.

While you have the authority to make most health care related decisions as guardian, you must always petition the court and get approval before consenting to abortion, sterilization, psychosurgery, electroconvulsive therapy, or the removal of a healthy body organ.

Court approval is also needed for marriage or divorce, participation in any experimental biomedical or behavioral medical procedure, and making end-of-life decisions including beginning hospice care and removing the incapacitated person from life support.

If you determine that the incapacitated person needs a certain treatment that requires court approval or that end-of-life planning is medically appropriate and in their best interest, you should prepare to file a petition with the court requesting approval. You

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should be ready to present evidence from a doctor to support that the decision you seek to make is in the best interest of the incapacitated person.

As guardian, there are certain actions you cannot take, including relinquishing the incapacitated person's parental rights, and admitting the incapacitated person to an inpatient psychiatric facility. However, if they are at immediate risk, the incapacitated person may be committed to a facility by a doctor per the Pennsylvania Mental Health Procedures Act, under Section 302.

If you plan to move the incapacitated person to a new address within Pennsylvania, you should tell the court about the change. If the new residence is in a different county, the guardianship may need to be transferred to a new court.

You must also notify the court in advance if you plan to move the incapacitated person out of Pennsylvania. You will need to apply for guardianship in the new state once they have moved.

Each state has its own laws and rules regarding guardianship, and you must complete all necessary steps to transfer guardianship, which include obtaining approval of the transfer from the Pennsylvania court as well as obtaining acceptance of the guardianship from the court in the new state.

As a guardian of the person, your responsibility is first and foremost to protect and support the incapacitated person's safety and well-being. To learn more about this important role, watch Guardian of the Person Parts Two, Three, and Four.

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