

Overview Series - Video 7

Changes to the Guardian or Guardianship

(Introductory music and images)

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

In this video, changes to guardians and guardianships and guidelines for co-guardians will be discussed.

There are several reasons a guardianship may need to be modified or ended but it is important to remember that you may be required to file a petition with the court to request any change or to end the guardianship. A court order is required for any change to the guardianship to go into effect or to end the guardianship. Common reasons to petition the court to modify or end the guardianship include:

- The incapacitated person regaining capacity to manage some or all of their affairs. This could occur if they recover from an injury or health condition that caused them to lose capacity. When this does occur, it is important to limit or end the guardianship in order to restore the rights of the individual under guardianship.
- Appropriate alternatives to guardianship become available that meet the needs of the incapacitated person while allowing them greater autonomy and access to their rights.
- The death of the incapacitated person.
- Moving the incapacitated person to a different county or out of state.
- Removal or resignation of the guardian.
- A guardian becoming ill or unable to continue as guardian.

Should a situation arise that leads to the termination of the guardianship or your role as guardian, you must file a final report within 60 days after the termination. A final report is like an annual report. If you are both the guardian of the person and estate, you will be required to file two final reports.

You must notify the court if the incapacitated person moves to a new address. If the new residence is in a different county, it may make sense to ask that the guardianship be transferred to a new court. You should notify the court in advance if you plan to move the incapacitated person out of Pennsylvania. You will need to apply to transfer the guardianship to the state to which they move. Each state has its own laws and rules regarding guardianship, and it is your duty to ensure you complete all necessary steps to transfer guardianship, which includes getting approval to end the guardianship in Pennsylvania as well as obtaining guardianship from a court in the new state. It is recommended that you consult with an attorney as this process can be complex.

If a guardian dies or is removed, a successor guardian will be appointed. A successor guardian assumes all responsibilities of the guardian as stated in the court order. Successor guardians are required to submit annual reports each year on the

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anniversary of their appointment. Additionally, successor guardians appointed as guardian of the estate are required to submit an inventory report within the first 90 days of their appointment.

Now let's consider situations in which more than one individual is appointed as guardian of the person or guardian of the estate, this is referred to as having co-guardians. In these situations, the co-guardians must work together to make all decisions relating to the responsibilities for the incapacitated person and/or their estate. Co-guardians of the estate must work together to file one inventory and the annual reports. Co-guardians of the person may choose to file the annual report together or separately. It is important that co-guardians work through any differences and agree on any decisions made on behalf of the incapacitated person. If a serious challenge arises that the co-guardians cannot resolve on their own, the court may be contacted to request guidance or to schedule a review hearing to determine who should continue to serve as guardian.

It is important to make the court aware of any significant changes impacting the guardian or guardianship. It is the guardian's responsibility to ensure that the court has accurate information regarding the incapacitated person and guardian's residence, and changes to the incapacitated person's level of capacity. This is necessary to protect and ensure the safety of incapacitated persons across the commonwealth.

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