

OVERVIEW OF NEVADA GUARDIANSHIPS

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Standard for Appointment of a Guardian.

In Nevada, the Court may appoint a guardian in the event the Proposed Ward is determined to be incompetent. NRS 159.019 defines "incompetent" as an adult person who, by reason of mental illness, mental deficiency, disease, weakness of mind or any other cause, is unable, without assistance, properly to manage and take care of himself or his property, or both. The term includes a mentally incapacitated person. A guardian may also be appropriate when a person has limited capacity. "Limited capacity" is defined by NRS 159.022 as follows: a person is of "limited capacity" if (1) the person is able to make independently some but not all of the decisions necessary for the person's own care and the management of the person's property; and (2) the person is not a minor.

Types of Guardianships.

Any court of competent jurisdiction may appoint: (1) Guardians of the person, (2) of the estate, or (3) of the person and estate for resident incompetents or resident minors. A guardian of the estate is charged with the responsibility for managing the finances of the Ward whereas a guardian of the person is responsible for the care and maintenance of the Wad. The Court may also appoint special guardians - a guardian of a person of limited capacity, including, without limitation, such a guardian who is appointed because a person of limited capacity has voluntarily petitioned for the appointment and the court has determined that the person has the requisite capacity to make such a petition.

Guardianship Procedure.

The guardianship is commenced by the filing of a Petition for Guardianship. The Petition, along with a Citation, will be forwarded to the Proposed Ward and any relatives within the second degree of consanguinity. The citation must state that the Proposed Ward may be adjudged to be incompetent or of limited capacity and a guardian may be appointed for the Proposed Ward; the Proposed Ward's rights may be affected as specified in the petition; the Proposed Ward has the right to appear at the hearing and to oppose the petition; and the Proposed Ward has the right to be represented by an attorney, who may be appointed for the Proposed Ward by the court if the proposed ward is unable to retain one. The Proposed Ward must be provided 20 days notice of the Hearing of the Petition. A Proposed Ward who is found in this state must attend the hearing for the appointment of a guardian unless: (a) a certificate signed by a physician who is licensed to practice in this state specifically states the condition of the proposed ward and the reasons why the proposed ward is unable to appear in court; or (b) a certificate signed by any other person the court finds qualified to execute a certificate states the

condition of the proposed ward and the reasons why the proposed ward is unable to appear in court. The Petitioner has the burden of proving by clear and convincing evidence that the appointment of a guardian of the person, of the estate, or of the person and estate is necessary.

If it appears to the court that the allegations of the petition are sufficient and that a guardian should be appointed for the Proposed Ward, the court shall enter an order appointing a guardian. The petitioner has the burden of proving by clear and convincing evidence that the appointment of a guardian of the person, of the estate, or of the person and estate is necessary.

Posting of a Bond.

Except as otherwise provided by law, every guardian shall, before entering upon his duties as guardian, execute and file in the guardianship proceeding a bond, with sufficient surety or sureties, in such amount as the court determines necessary for the protection of the ward and the estate of the ward, and conditioned upon the faithful discharge by the guardian of his authority and duties according to law. The bond must be approved by the clerk. Sureties must be jointly and severally liable with the guardian and with each other. Joint guardians may unite in a bond to the ward or wards, or each may give a separate bond. In lieu of obtaining a bond, the Court will order the accounts of the Proposed Ward to be "blocked". In the event the accounts are blocked, the Guardian(s) will submit a Petition for Approval of Payment of Monthly Expenses. As a result, a court order will not be required each and every time the Guardian(s) need to expend monies for the Ward. If there are no assets of the ward, no bond is required of the guardian.

Letters of Guardianship.

When a guardian has taken the official oath and filed a bond, the court shall order Letters of Guardianship to issue to the guardian. These letters are the official court authorization that the guardian may act on behalf of the Ward.

The information presented herein is general information only and should not be considered legal advice nor should you rely solely upon this information in taking any actions regarding your matter. While no attorney-client relationship is formed by supplying this information, please do not hesitate to contact us at (702) 798-4955 to schedule a time to discuss your particular circumstances.