



FEATURE ARTICLE FROM ALWAYS BEST CARE

Guardian and Conservatorship

by Tonja Edelman, MSW

The legal definitions of “conservatorship” and “guardianship” vary from state to state, but generally refer to a court-appointed individual who oversees the health and financial decisions of the person conserved. For the purposes of this article, the general term “conservatorship” will be used to refer to any adult guardianship.

Conservators are appointed by a court and have the authority and responsibility to manage the affairs of those who can no longer make their own decisions regarding finances or health-related decisions due to cognitive impairment. The court appointed person who oversees a person’s finances is referred to as “conservator of the estate.” A person who oversees medical and personal decisions is referred to as “conservator of the person.” A person who is incapacitated may need only one type of representative, or may need both. The same conservator may be appointed for both types, and is accountable to a court. A public conservator may be appointed if there is no family member who is willing, able or appropriate to carry out these responsibilities.

A public conservator may also be appointed if a conservator has mismanaged a conservatee’s assets or made poor choices regarding health care decisions. Court oversight includes regular detailed reports which outline how a conservator has managed the conservatee’s funds. This is to ensure that the conservator is not mismanaging or otherwise taking advantage of the conservatee’s assets. A court may also require permission prior to selling a conservatee’s property, approving major medical procedures, and withholding or terminating medical treatment. The conservator is not required to support the conservatee, but is required to manage the conservatee’s assets in a responsible manner and make appropriate personal decisions for the conservatee. A conservator of the estate is also obligated to secure all benefits for which the conservatee may qualify, including Social Security, Medicare or Medicaid, Veteran’s benefits, retirement, pension, and disability benefits, public assistance, and supplemental security income. Conservators are entitled to reimbursement for expenses from the conservatee’s estate, but the payments must be approved by the court.

When is a conservatorship not appropriate?

Often, families or well-intended senior care professionals believe that conservatorship is warranted if an older adult is spending money in a careless fashion, or not spending money “responsibly.” The reality is that older adults, like any adult, have the right to make poor decisions with their finances and to suffer the consequences of those decisions, as long as they have the capacity to do so. As a Franchise Operations Trainer for Always Best Care Senior Services and a former Deputy Public Conservator, I am acutely aware of the best way to avoid conservatorship. This includes planning ahead and signing durable powers of attorney for finances and health care. These documents allow a person to choose by name the person they would like to manage their health care decisions and their finances, should they lose the ability to make these decisions on their own.

More information on conservatorship, contact an Always Best Care Representative. To locate an Always Best Care Office nearest you, visit www.alwaysbestcare.com

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Always Best Care Senior Services

Always Best Care Senior Services (www.alwaysbestcare.com/) is based on the belief that having the right people for the right level of care means peace of mind for the client and family. Always Best Care Senior Services has assisted over 25,000 seniors, representing a wide range of illnesses and personal needs. This has established the company as one of the premier providers of in-home care, assisted living placement assistance, and skilled home health care.