

Responsibilities of the Guardian

If you are appointed as guardian for an adult, your fundamental responsibility is to make decisions about their personal affairs. You become their surrogate decisionmaker, advocate, and coordinator of services. You are there as protector, to make sure they are safe and their needs are taken care of. You are also there to encourage their self-reliance and independence, and make sure their rights are respected. In this video, we will talk about the responsibilities that come with being someone's guardian, and give you some ideas on how best to perform those duties.

The first thing to remember is that a guardianship involves three parties: you, the person you are guardian for, and the court that appointed you. Most often, this will be the county Probate Judge. Pay close attention to any paperwork the court gives you. Your Letters of Guardianship and the court's order appointing you will explain what authority you have. The Probate Judge may also have special instructions or deadlines for you to follow. For example, the judge can require you to report on the condition of the person you are guardian for. So, follow the court's directions and do what the judge asks. If you have any questions about what you can and can't do, you should talk to your lawyer.

Unless the judge limits your authority, you are responsible for the health, support, education, and maintenance of the person you are appointed for. This includes making the following types of decisions. Acquiring proper healthcare. Rehabilitation. Consenting to medical treatment. Hiring and firing doctors, nurses, caregivers, and other professionals. Choosing living accommodations. Authorizing education and vocational training. Arranging for transportation and social services. Even consenting to marriage. These are heavy responsibilities, and a guardian should exercise them with the utmost care and diligence.

Decision-making starts with knowing the incapacitated person, their needs, values, and preferences. Alabama law requires a guardian to become and remain *personally acquainted* with the person they are guardian for. The guardian has to maintain sufficient contact with the person to know what their abilities and limitations are. To understand their needs, and their physical and mental health.

When it comes to making decisions, there are three questions you should be asking. What would the person do? What is best for them? And what decision places the fewest restrictions on their independence?

First, think about what the person would do if they had the ability to make their own decisions. This is called *substituted judgment*. You might know the person well enough to have that answer. You may have talked to them about these issues before you were appointed as their guardian. You might still be able to communicate with the person about their wishes. Speak with people who know the person's preferences, such as family, friends, caregivers, or clergy. And, the person may have written some things down to make their wishes known. Look to their will, power of attorney, living will, or other documents for direction. Then, make the decision based on what the person would do if they could.

If you don't know what the incapacitated person would decide, you'll need to make a decision that is in their *best interests*. In Alabama, you always need to keep the person's best interests in mind. Acting in their best interest means weighing the benefits against the risks any act or decision will have on the person. It means considering all possibilities and choosing the option that will have the greatest benefit and result in the least harm to the person. You may need to seek out independent opinions from experts such as doctors, social workers, attorneys, or government agencies to help you with this process. And with this information, make the decision that is best for the person in the circumstances.

Finally, you should also consider what is called the *least restrictive alternative*. This means choosing the option that meets the needs of the incapacitated person while placing the fewest limits on their independence and dignity. When thinking about the least restrictive alternative, it is helpful to know the person's preferences, get professional opinions, and learn about community resources available to them. For example, what health or caregiving services are available to allow the person to live independently and safely at home? Try to choose the alternative that meets the needs of the person while promoting their rights and freedoms.

In the next video, we will talk about the duties of conservators.