

E-Filing New Hampshire Guardianships of Incapacitated Persons

Guardianships of incapacitated persons are established when the court determines that the functional limitations of an individual have declined to the point where that individual's ability to participate in and perform minimal activities of daily living is not present. Estate Guardianships of incapacitated persons are established when the court determines that a person's ability to understand and make decisions relative to financial matters is not present.

Guardianships of incapacitated persons can be over the person, over the estate or over the person & estate. Probate Division has jurisdiction of these guardianship types, which are e-filed.

Where can information be found about guardianships?

RSA 464-A is the New Hampshire Statute that covers guardianship procedures and RSA 547-B is the New Hampshire statute that describes public guardianship programs. If you have questions about guardianship you can contact either public guardianship agencies, Tri-County CAP Inc. Guardianship Services or Office of Public Guardian. You may also be able to obtain information from a mental health center, area agency, attorney, nursing home, or hospital.

When is it appropriate to petition for guardianship?

It is appropriate if the person petitioning for guardianship can prove "beyond a reasonable doubt" that the proposed ward is unable to provide for basic needs of food, shelter, clothing, health care, safety, and/or is unable to manage financial affairs. The petitioner must be able to prove that the proposed ward is incapable of making an informed choice not to provide for these needs, and must also prove that the proposed ward will or has come to substantial harm as a result of the incapacity. Finally, the petitioner must be able to prove that there are no other available solutions that would impose fewer restrictions on the proposed ward.

How can you tell if someone is making an informed decision or choice?

A proposed ward is making an informed decision or choice if (a) he/she can demonstrate an understanding of the issues and the consequences of a particular decision, and (b) the decision or choice is made freely.

What is "beyond a reasonable doubt?"

"Beyond a reasonable doubt" is the highest burden of proof that the law requires. According to Black's Law Dictionary, it requires the judge to be "...fully satisfied, entirely convinced, satisfied to a moral certainty..." of the proof that is offered.

What is involved in petitioning for guardianship?

The first step is to register on Turbocourt. Log in and e-file a petition for guardian of incapacitated person. The process is a guided interview and includes questions pertaining to the proposed ward, the petitioner, the proposed guardian, the name of any attorney the proposed ward has retained, the proposed ward's relatives, whether the proposed ward has durable power of attorney and/or a living will, the type of guardianship requested, the length of time for which guardianship is sought, and a statement of the facts showing the need for guardianship. A proposed guardian must be named prior to filing the petition.

How does the petitioner show the need for guardianship?

The petitioner must provide specific examples of the proposed ward's inability to provide for food, shelter, health care, safety, or an inability to manage his/her financial affairs. These examples must have occurred within the last six months and one of the incidents must have occurred within 20 days of the filing of the petition. For each example the petitioner must prove that the proposed ward will or has come to substantial harm as a result of the inability, that the inability is not the result of informed judgment, and that no less restrictive alternatives are available.

Information Center 1-855-212-1234

Hours of operation: Monday through Friday 8:00 a.m. to 4:00 p.m.