

# ELDER LAW REVIEW

April 2018

## Guardianship/Conservatorship

Last month we explored capacity to sign estate planning documents such as Powers of Attorney and Health Care Directives. This month we will look at the options available when an individual is no longer able to care for their own affairs but lacks the capacity to sign estate planning documents. A guardianship or conservatorship can be utilized in these situations.

❖ **What is Guardianship?**

- A legal arrangement in which an individual (guardian) is appointed by a court to **make personal decisions** for an incapacitated person (ward).

❖ **What is Conservatorship?**

- A legal arrangement in which an individual (conservator) is appointed by a court to **manage the financial affairs** of an incapacitated person (protected person).

❖ **Who can be a Guardian/Conservator?**

- Family members often act as Guardian/Conservator, but the Guardian/Conservator can also be a friend, a professional, or another qualified individual.

❖ **Who qualifies for guardianship/conservatorship?**

- An adult who lacks sufficient understanding or capacity to make or communicate responsible personal decisions and has demonstrated behavioral deficits, indicating an inability to meet their own needs for medical care, nutrition, clothing, shelter, or safety (guardianship) or behavioral deficits regarding their estate or financial affairs (conservatorship)
- A Ward or Protected Person often suffers from dementia, mental or physical disability, or severe mental illness

❖ **A Guardian has the power and duty to:**

- Make medical decisions for the Ward
- Determine where the Ward lives
- Apply for benefits on behalf of the Ward
- Make other personal decisions on behalf of the Ward

❖ **A Conservator has the power and duty to:**

- Pay the Protected Person's bills
- Enter into or decline contracts for the Protected Person
- Sell Real Estate for the Protected Person, with court approval
- Perform other functions with regards to the Protected Person's property and estate

Attorney Melanie Boes brings with her a vast knowledge of the rules and procedures involved in petitioning for guardianship and/or conservatorship for a family member. When less restrictive alternatives are no longer available or suitable for a loved one's care, she can assist you through the process of establishing guardianship and conservatorship or fulfilling your duties as guardian and conservator.

Pluto Boes Legal, PLLC offers prospective clients a NO-cost, NO-obligation consultation.

This is a great opportunity for you to become informed of the options available to you for your Estate Planning and Medical Assistance Planning needs.

We have many free, educational workshops coming up, so please give us a call, toll free at 1-866-457-3131 or visit our website [www.PlutoBoesLegal.com](http://www.PlutoBoesLegal.com) to see when our attorneys will be presenting a workshop in your area. Like us on Facebook! [www.facebook.com/PlutoBoesLegal](https://www.facebook.com/PlutoBoesLegal)

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