

If your adult child or other relative is unable to care for himself or herself due to age, disability, illness or injury, you may be considering stepping in to manage your loved one's affairs. In some situations, it is enough to provide assistance, like making sure they pay their bills on time and helping them enroll in Medicaid and other programs. However, in other situations, a person's condition can make it necessary for someone else to act on their behalf altogether.

Understanding Guardianship

In the latter scenario, a family member willing to take on responsibility for their loved one's affairs can file an application in the Texas probate courts for what is known as, "guardianship." A guardian takes on legal responsibility to care for their adult family member (who is referred to as a "ward"). Depending on the type of guardianship and any limitations imposed by the court, this may include:

Paying the ward's bills

Maintaining the ward's assets

Meeting the ward's needs for daily living and medical care

Guardianship limits the ward's legal rights, and it is usually a permanent arrangement. As a result, as recommended by the Texas Department of Aging and Disability Services, "it should be the last and the best choice to protect someone," before you decide to move forward.

Requirements and Considerations for Seeking

Guardianship

In order to become a guardian, a family member seeking guardianship must be able to establish that their adult relative is physically or mentally incapacitated. This requires submitting evidence to the court that the relative is incapable of managing his or her own health or financial affairs. This can be a difficult and emotionally-challenging endeavor, and it is typically best to hire an experienced guardianship lawyer to help you through the process.

As noted above, upon becoming a ward, your adult relative will lose many of his or her basic rights. These include the rights to choose where to live, consent to (or refuse) medical treatment and vote.

With all of these considerations in mind, there are a number of questions to ask before making the decision to apply for guardianship. Many of these focus on confirming whether there are any less-restrictive options available. For example:

Can you or someone else effectively assist your adult relative in managing his or her finances without taking over total control (for example, by establishing a joint checking account)?

Can you use a living will, durable power of attorney, or other estate-planning document for managing medical decision-making?

Are community services, in-home care or nursing home viable alternatives?

None of these are decisions to be taken lightly, and for many people, it makes sense to seek professional help when considering their options with regard to guardianship. If you would like to speak with someone in confidence, please feel free to contact us today.

The Nordhaus Firm | McKinney Guardianship Lawyers in Texas

The Nordhaus Firm is a McKinney, Texas law firm that represents individuals and families in guardianship, estate planning and other matters. If you would like to speak with a lawyer about your situation, call (214) 726-1450 or contact us online for a free initial consultation.