In Texas, a guardian is a person who has the legal authority and responsibility to take certain actions and make certain decisions on behalf of another person. This other person (who is known in legal terms as a "ward") can either be a minor or an adult who is legally incapacitated.

Guardians can have varying degrees and areas of responsibility; but, in any case, they play a crucial role in their wards' lives. In this article we provide an overview of the types of authority that a legal guardian can have under Texas law.

Guardian of the Person vs. Guardian of the Estate

There are two primary types of guardianship: guardian of the person and guardian of the estate. A **guardian of the person** is responsible for ensuring the physical well-being of his or her ward. In contrast, a **guardian of the estate** is responsible for safeguarding and making responsible use of the ward's accounts and other property. It is possible for a ward to have both a guardian of the person and a guardian of the estate, and these may or may not be the same individual.

Authority of a Guardian of the Person

Establishing guardianship takes away many of the ward's fundamental rights, and as a result, it is a matter that is taken extremely seriously by the Texas courts. As a result, the scope of a guardian's authority will depend on the unique circumstances of each individual case. But, generally speaking, the authority granted to a guardian of the person can include the power to:

Take charge and control of the ward's physical person
Establish the ward's primary residence
Provide the ward with food, clothing and medical care
Consent to medical and psychiatric treatment on the ward's behalf

Authority of a Guardian of the Estate

The authority of a guardian of the estate extends to making financial decisions and executing financial transactions on the ward's behalf. To perform these roles, a guardian of the estate is generally empowered to:

Possess and manage the ward's property
Manage the ward's finances
Pay the ward's bills
Pay taxes and court costs
Purchase insurance

In all situations, guardians must exercise their authority to protect the best interests of the ward. For a guardian of the estate, this includes managing the ward's finances in order to maintain his or her assets to the greatest extent possible. A guardian of the estate must also file annual reports detailing receipts and payments from their ward's accounts.

Limits on Guardians' Powers and Responsibilities

A guardian's authority comes with significant responsibilities. However, there are

certain matters that the law recognizes as being beyond a guardian's control. For example, guardians generally do not have the power to, and are not responsible for:

Preventing wards from making bad decisions or committing illegal acts
Forcing wards to take medication
Committing wards to mental health facilities

Are You Considering a Guardianship in Texas? Contact The Nordhaus Firm Today

If you are considering a guardianship in Texas and have questions, we invite you to contact us for a free, confidential consultation. To speak with one of our McKinney guardianship lawyers, call (214) 726-1450 or contact us online today.