

## Ask the Experts...

### The Florida Guardianship Law, and the Role of the Registered Guardian

**QUESTION:** WHAT IS A GUARDIANSHIP, AND WHY IS IT BENEFICIAL FOR SOME PEOPLE?

**ANSWER:** A guardianship can serve a very useful purpose, especially for those individuals suffering from a dementia related disorder, who have no family in the immediate area who can serve as their advocate. Under the protection of the Florida Guardianship Law, a Registered Guardian can act as an advocate for that person to assure that their bills are paid in a timely fashion, and that their needs are being met, while always considering the least restrictive alternative to meet those needs.

**QUESTION:** WHAT DO YOU MEAN BY “LEAST RESTRICTIVE ALTERNATIVE”?

**ANSWER:** Under the Florida Guardianship Law, every Registered Guardian is expected to be prudent in making decisions regarding the care for their client, including the choice of living arrangements that best meet the needs of the client. First consideration must be in-home care. If in-home care is not considered appropriate in meeting the particular needs of the client, than choosing the best Assisted Living Facility in meeting those needs would be considered, if an ALF is determined to be inadequate in meeting the particular needs of the client, than choosing a Skilled Nursing Facility that best meets their needs would be considered.

**QUESTION:** HOW AND WHEN SHOULD A GUARDIANSHIP BE CONSIDERED?

**ANSWER:** Whenever a relative, friend or neighbor has a concern about a person’s ability to make sound decisions regarding healthcare or financial issues, they should immediately contact the authorities who will follow up with a personal interview. An agency such as the Adult Protective Services division of Dept. of Children and Families will research the concern, and will intervene should the concern be validated.

**QUESTION:** HOW IS A PROFESSIONAL REGISTERED GUARDIAN DIFFERENT FROM A “POWER OF ATTORNEY” (POA)?

**ANSWER:** A Professional Guardian must be Registered with the State of Florida, pass a criminal background check, procure a Surety Bond, and pass a “competency Exam” before they may be approved as Registered Guardians by the local Circuit Court of Florida. A Registered Guardian

must file annual Guardianship Reports to the Court, accounting for every dime that has been spent from the Guardianship Assets. The Registered Guardian must also be Bonded. On the other hand, a person serving as a Durable Power of Attorney, reports to no one, and is not bonded.

**QUESTION:** HOW IS THE APPOINTMENT OF A PROFESSIONAL GUARDIAN STARTED?

**ANSWER:** When a person has been adjudicated by the Court as incapacitated, the Judge will appoint a Guardian to handle the healthcare and financial responsibilities for the person suffering from diminished capacity. This Adjudication of incapacity is made after an examining committee (consisting of a Psychiatrist, Medical Doctor and a Geriatric Social Worker), interview the “alleged incapacitated person” and file their report to the Court. After review of these reports and after hearing testimony, the Judge makes his/her ruling regarding the adjudication of incapacity.

**QUESTION:** AFTER BEING APPOINTED GUARDIAN FOR AN INCAPACITATED ADULT, WHAT HAPPENS?

**ANSWER:** The Court Appointed Guardian’s first responsibility to the Court and to the client may be to determine a safe living arrangement for the incapacitated person. After it is assured that the client is out of harms way, the guardian must secure the home and file a Verified Inventory with the Court.

**QUESTION:** WHAT ABOUT AN INDIVIDUAL WHO IS CARING FOR A SPOUSE, OR AN ADULT CHILD LIVING WITH THEM WHO IS DEVELOPMENTALLY DISABLED?

**ANSWER:** If the Caregiver is concerned about who will step in should he/she become unable (by illness or death) to continue serving as the primary caregiver for their loved one, they may interview a Registered Guardian, and if they choose, they may complete a document known as a “Declaration Naming Pre-Need Guardian”. Once this document is filed, the Court will first consider the Registered Guardian of their choice to care for their loved one in the event that they are unable to continue being the primary caregiver for their loved one.

**QUESTION:** WHAT ABOUT APPOINTMENTS WITH THE DOCTOR, HOW ABOUT BILL PAYING?

**ANSWER:** A Court Appointed Guardian will assume the responsibility for all these issues.

**QUESTION:** WHERE AND HOW CAN I LEARN MORE ABOUT THE SERVICES OF A PROFESSIONAL GUARDIAN?

**ANSWER:** More information can be received by contacting:

David F. Dumont or Rosalyn Dumont (who have served the 10th Judicial Circuit Court in Polk County for over 17 years)

P.O. Box 91806 Lakeland, FL 33804 or by phone at (863) 859-5517, or you may visit their website at [www.Florida-Eldercare.com](http://www.Florida-Eldercare.com)