

Video 1

Introduction

Welcome to the New Mexico Court’s orientation program for those who are thinking about becoming guardians or conservators. Guardians and conservators are people who care for adults who cannot manage their own personal or financial matters due to disability, mental illness, disease, chronic substance or alcohol abuse, or any other cause.

This video will help you understand:

- What guardians and conservators do for other adults;
- How a guardian or a conservator works with the court who manages the case; and
- The responsibilities and traits of a successful guardian or conservator.

Other videos in this series will include more information about both guardians and conservators, as well as how to spot and report abuse, and how to file a grievance.

As you may know, the guardianship process starts when someone files a petition with the local district court and states why an adult needs assistance. This person could be a family member, a close friend, or even a representative from Adult Protective Services.

At a hearing, the judge hears from all people involved—including the person who allegedly needs assistance. We call the adult who needs assistance the “protected person.” The judge then decides whether a guardian, conservator, or both, should be appointed to the person. Sometimes, the same person can serve as both the guardian and the conservator. Simply put, a guardian manages the protected person’s personal and medical care, and a conservator is responsible for the protected person’s money and property.

After the hearing, the judge issues an order that describes what sorts of decisions might be made by the guardian or conservator. The guardian typically makes decisions about the protected person’s housing, medical needs, clothing, and other necessities. The conservator manages finances and plans for the protected person’s future financial needs. The guardian and conservator must work together to ensure they’re effectively meeting the protected person’s needs.

Let’s look at an example of how a guardian and conservator might work together:

Paul’s daughter Grace is his guardian, his son Colin is his conservator. Paul lives in his own house, but now needs memory care. He told Grace and Colin he’d prefer to stay at home as long as possible. It’s Grace’s job to look for in-home support services. Colin must look into how to best manage Paul’s assets so that Paul can continue to live at home, and investigate whether Paul’s investments should be cashed in. Together, Grace and Colin discuss Paul’s long-term memory care needs, other potential medical issues, his available resources, and the best options for paying for his care.

You’ll learn more about the specific duties of guardians and conservators in this video series. The most important thing to understand is that the court supervises guardians and conservators,

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and both are fully accountable to the court. The court monitors guardians and conservators by reviewing the reports that are filed, and by addressing any problems that arise.

Even though guardians and conservators have different roles and duties, they share overlapping responsibilities and ethical principles. These include acting in the protected person's best interest, and advocating for the person's goals, needs, and preferences. This means they make decisions for the protected person that best reflect what the protected person might prefer for their lifestyle and beliefs. Guardians and conservators must make these decisions even if they would not make them for themselves.

They make individualized decisions that reflect the protected person's needs, and place the fewest restrictions possible on their freedom and rights. They keep all information concerning the protected person confidential, except when it's necessary to reveal that information for medical, legal, or other requirements. They comply with all laws and court orders—maintaining an ongoing responsibility to the court to make yearly reports on the decisions they make.

Guardians and conservators also share certain personal traits and skills. They should be organized, trustworthy, and reliable—always keeping good records of all decisions and transactions; meeting court deadlines; making prompt decisions; and following through with any promises they make to the court and to the protected person. They should be able to communicate with the protected person to ensure that the person is involved in all decisions as much as possible. They must also be good at collecting information to find the necessary resources to support the protected person and to ensure the person's needs are met. Finally, they must be good at observing and determining how the protected person is doing, and whether there are problems that need solving.

It's crucial that guardians and conservators are aware of their limits and ability to serve effectively. The court understands that circumstances change, and sometimes the guardian or conservator might become unable to serve. In this case, guardians and conservators must contact the court as soon as possible to arrange for another person to step in or assist. Guardians and conservators must remain aware of situations that might require contacting the court for direction, or getting support from other resources. They must be willing to hire or consult appropriate professionals to be sure that the right decisions are being made for the protected person. This may include healthcare professionals, behavioral health experts, mental health professionals, care managers, or investment advisors.

Remember, your role as a guardian or conservator is an important one because protected persons are vulnerable. The court thanks you for thinking about becoming a guardian or conservator.