

Guardianship of adult children

If your child is legally an adult and unable to fully care for him- or herself, you need either to be appointed as your child's guardian or have someone else appointed. In Delaware, guardianship of an adult with a disability is granted by the state's Court of Chancery. To call in

- New Castle County: (302) 255-0544
- Kent County: (302) 736-2242
- Sussex County: (302) 856-5777

But you can find all the forms you need—plus instructions on what to do before, during, and after the guardianship hearing—at www.courts.delaware.gov.

Note: The site is set up so you can petition for guardianship on your own, but if the guardianship can be contested, you should contact an attorney.

Step one—Go to www.courts.delaware.gov. Click on “Court of Chancery” and then “Guardianship” and “Forms.” The forms you need, including medical and financial forms, are listed as a packet under “Guardianship of a person only.” Print out the forms, fill them out, and get the signatures notarized. Then, present the completed forms to the court for filing.

One of the forms, Consent and Waiver of Notice, needs to be signed by all the next of kin (for example, parents and adult siblings). If all the next of kin have been sent this form but have not returned it in time for the hearing, then download and fill out the Affidavit of Mailing to submit, also. Another form, Physician's Affidavit, is for your adult-child's physician to complete.

Note: All signatures must be notarized, and the signer must be in the presence of a notary public before signing any form. In Delaware, attorneys are also notaries public, so you may contract this service with either your attorney or a notary public.

The filing fees are currently \$115 for the petition and a \$2.00-per-page scanning fee, all of which is due and payable to the court upon filing the petition.

Step two—The court appoints an attorney ad litem to act as the lawyer for your adult-child. The attorney ad litem then meets with you (or the applying guardian) and your adult-child, and files a report with the court describing the situation. If the guardianship is uncontested, then the applying guardian pays the attorney's fees, which usually run \$300–750.

Note: If this fee is out of your financial reach, ask the court about appointing an attorney who will work for free (pro bono). This request may not be possible, but asking never hurts.

At the hearing, the master (or judge) reviews the petition, other relevant forms, and the attorney ad litem's report. If all the papers are complete and no one contests the petition, the master signs the petition. The guardianship is now final.

If anything goes wrong during these two steps (for example, someone contests the guardianship or the forms are incomplete), additional steps are necessary. At this point, hiring an attorney is your best bet.

Step three—With guardianship finalized, the guardian sets up a bank account in a Delaware bank for your adult-child.

Note: The guardian should keep a copy of the court's order on hand to prove his or her right to make decisions regarding your adult-child.

The guardian submits a yearly financial inventory to the court. For any expenses made with your adult-child's money, receipts must be presented with the inventory.

The guardian must also make yearly submissions to the court, noting where everyone is living (geographic report) as well as a medical report.

A medical report form is also available at www.courts.delaware.gov/chancery. Click on “Guardianship” and “Forms,” and look for the list for the “Annual Update of Medical Report.”



Helping People and Families Affected by Autism

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