

Is a Guardian needed?

“It is better to question and seek advice than to ignore what may be uncomfortable... until it becomes irreparable.”

In many situations there is not a clear-cut or easy answer in determining whether a person requires a guardian. To add to the complexity of guardianship, a guardian can have various levels of influence in the person's life; from a single aspect to an all-encompassing umbrella of protection and assistance.

Guardianship should not be looked at as “ownership” of another's life; instead it should be viewed as a method of insuring a better, safer and more secure life for a person who may otherwise not be able to make safe or rational decisions for themselves.

Northern Nevada Guardianship Services (NNGS) can become a guardian and/or financial guardian only after the Court's approval. NNGS's geographical coverage is for those persons residing in Washoe County or Carson City, Nevada. For those in need of a guardian or conservator outside the aforementioned area, contact the National Guardianship Association, 1604 North Country Club Rd., Tucson, AZ 85716-3102, www.guardianship.org or contact an Elder Law Attorney in your area. Please be advised that the rules governing guardianship/conservatorship vary from state to state.

Information, rules, and guidelines for the State of Nevada can be found in:

Title 13 – Guardianships; Conservatorships; Trusts

Chapter 159 – Guardianships

On-line at: www.leg.state.nv.us/NRS/NRS-159.html

Revisions to the Chapter 159 have been added by Senate Bill No. 353 in 2005. These revisions may not yet be available on-line.

The following questions can help ascertain whether a guardian/conservator is warranted.

Immediate Response Required

1. Is the compromised person at risk of substantial and immediate physical harm?
2. Is the compromised person in need of immediate medical attention?
3. Is the compromised unable to respond to substantial and immediate risk of financial loss?

If you answer YES to questions 1, 2, or 3 it is suggested that you contact a guardianship service or Elder Law Attorney immediately.

Behavior and Lifestyle Questions

1. Is the demonstrated behavior a change in the lifestyle choice or lifestyle pattern?
2. Is the behavior you see a change from this person's normal behavior?
3. Is there a vulnerability to marketers or scams?
4. Is there a recent change in spending patterns?
5. Is the person getting lost in familiar places?
6. Is the persons living environment unhealthy, unsafe, or infested?
7. Is there a marked change in health status?
8. Is there a lack of willingness to acknowledge problems?
9. Is there a lack of willingness to make changes to improve safety, and well being?

10. Has there been a recent automobile accident, or repetitive and unexplained damage to the vehicle?
Caution: in many instances explanations are a failure or excuse to not assume responsibility. “It’s always someone else’s fault.”
11. Do you believe the compromised person is unable to comprehend the issues and verbalize legitimate consequences of their actions?
12. Does the person refuse to change their living situation if needed?
13. Does the person refuse to self-admit (sign in voluntarily) for psychiatric care if needed?
14. Does the person refuse to accept medical intervention if needed and/ implement previously drafted health care directives.

A **YES** answer to any of the questions (1 through 14) may indicate a need for a guardian. The more YES answers the greater the need to seek professional help from a guardianship service or Elder Care Attorney.

Medical Advice and Direction

1. Is the person’s doctor aware of any cognitive or life management problems?
2. Does the doctor believe the compromised person is “mentally incapacitated”?
3. Is an evaluation by a psychiatrist warranted?
4. Does the person require in-patient psychiatric care?

Professional medical advice and direction should be obtained if you feel the person is in any way compromised. If you, as the concerned individual, are in doubt, contact the attending physician in behalf of the compromised party.

Guardianship Considerations

1. Is there a family member or appointed agent who is willing to step in and address problems?
2. Is this person willing and able to serve in a decision making capacity?
3. Is the compromised person willing to allow an appointed agent to change risk situations?

Final decision for the appointment of a guardian or conservator lies with the courts. Guardianship should be a last resort option but must be implemented when needed. If the compromised person is able and willing to accept a specific family member’s assistance and/or direction, a guardianship may not be necessary. When the person refuses guidance and/or assistance or medical/psychiatric intervention is required but attempts to implement services are thwarted then consideration of what is best to minimize risk to one’s life and well being is necessary. In certain situations guardianship may be the only option to protect someone from harm. Contact a guardianship service or Elder Law Attorney for help and direction.

Financial Considerations

1. Is there a valid health care directive and/or financial Power of Attorney appointing an agent to act on the person’s behalf when the person is unable?
2. Is the bank willing to act on the established financial Power of Attorney?

If the answers to question 1 or 2 is **NO** or “**I don’t know,**” contact an Elder Care attorney as soon as possible. Rules governing financial POA’s vary from bank to bank and funds which would help in the compromised person’s care may not be available.