



Guardianship



Guardianship

- ✓ There are two types of guardianship- full or limited
- ✓ A guardian is court-appointed for ward or incapacitated person
- ✓ Guardians are responsible for life decisions (like living arrangements, consent to medical treatment & medication, & authorization or withholding of medical care).
- ✓ Statutes compare the relationship of a guardian-ward to that of a parent & a minor child.
- ✓ You have the right to be present during any conversation with your ward.
- ✓ The ward is not legally permitted to sign documentation.
- ✓ You are not liable for ward's behaviors unless clearly negligent
- ✓ Guardianship remains intact until the court deems otherwise
- ✓ Limitations: general guardianship does not give the guardian the legal authority to admit his or her ward to a locked psychiatric unit; guardianship does not carry the enforcement power of COT. However, another legal instrument giving the guardian specific power to admit his or her ward to a Level one psychiatric hospital can be granted by the court.
- ✓ Guardian must always act in the best interest of the ward

Things are not true!!

- ✗ The clinical team can choose to not involve you in decisions regarding the ward.
- ✗ You have final say in the treatment of the patient. If there is a court order in place, and there is a dispute, the clinical team has final say.
- ✗ If you discover that the patient is still psychotic, you can return to the hospital and be readmitted.
- ✗ If there is not a court order in place the clinical treatment team does not have the final say, the guardian does.

Incapacity is a moving target.

- **Guardianship:** "Incapacitated person" means any person who is impaired by reason of mental illness, mental deficiency, mental disorder, physical illness or disability, chronic use of drugs, chronic intoxication or other cause, except minority, to the extent that he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person.
- **Testamentary:** Must know the natural objects of his or her bounty, to understand the nature and extent of his or her property and must be able to tie these two together in order to create a rational plan.
- **Donative:** Requires understanding of the nature and purpose of the gift, an understanding of the nature and extent of property to be given, a knowledge of the natural objects of the donor's bounty, and an understanding of the nature and effect of the gift.
- **Contractual:** Must have ability to understand the nature and effect of the act and the business being transacted.
- **To Convey Real Property:** Must understand the nature and effect of the act at the time the conveyance is made.
- **Execute a Durable Power of Attorney:** Similar to the capacity to contract.

Guardianship

AZ statute A.R.S. § 14-5312

Legal Standard A.R.S. §14-5304(B)

In order to meet the legal standard for guardianship, the following elements must be present:

- Incapacity
- Necessary to Provide for Demonstrated Need
- Least Restrictive

Level-one behavioral health facility, there must be a mental health overlay ("14+") to the general guardianship. See A.R.S. § 14-5312.01(B).

Types and Timelines for Guardianships

- A non-emergency hearing is set about six weeks from the time of filing. An emergency happens faster.
- The court may find that an emergency exists, and that the person is in need of immediate action. It takes 3 to 10 days to obtain such an order. The order may be made with or without notice to the proposed ward or protected person.
- A further hearing will be required to establish the need for a permanent guardian or conservator or if the ward or protected person objects to an order appointing an emergency temporary guardian or conservator without notice.



Psychiatric urgent care centers:

- **Connections AZ Urgent Psychiatric Care Center (UPC)**
1201 S. 7th Ave. Phoenix, AZ 85007
602-416-7600
- **RI International Recovery Response Center (RRC)**
11361 N. 99th Ave. Peoria, AZ 85345
602-650-1212, press 2
- **Community Bridges Community Psychiatric Emergency Center (CPEC)**
358 E. Javelina Ave. Mesa, AZ 85210
1-877-931-9142
- **Observation Services for Children and Adolescents (OSCA)**
St. Luke's Behavioral Health Center
1800 E. Van Buren St. Phoenix, AZ 85006
602-251-8535

RHBA- Mercy Care Grievance and Appeals
If you prefer to file your grievance in writing,
please send your complaint to:

Mercy Care Grievance System Department
4500 E. Cotton Center Blvd.
Phoenix, AZ 85040
602-586-1719 or 1-866-386-5794
Fax: 602-351-2300