



GUARDIANS OF THE PROPERTY TRAINING

Disabled Persons

Thank you for agreeing to serve as guardian of a disabled person. The court chose you because you were the best person for the job and appreciates the commitment you made.

This program was developed by the Guardianship/Vulnerable Adults Workgroup of the Maryland Judicial Council's Domestic Law Committee.

Rev. 05.2018

WELCOME

Part 1: Guardianship Terms

Part 2: Role, powers, and duties

Part 3: Government Benefits

Part 4: Abuse, neglect, and exploitation

Part 5: Changes to the guardianship

This training will cover your general role and responsibilities as guardian of the property of a disabled person.

PART 1: GUARDIANSHIP TERMS

Key terms and roles

- Disabled Person
- Court
- Guardian
- Guardianship Estate
- Clerk/Trust Clerk
- Interested Persons
- Other Parties

There are key terms and roles that are important for you to understand as guardian of the property.

DISABLED PERSON

Also called:

Disabled adult

Ward

Incapacitated person

Person under guardianship

Vulnerable adult

Lacks the physical or mental capacity to provide for their personal or financial needs

The person under guardianship is legally called “the disabled person.” The disabled person may also be referred to as a “disabled adult,” “ward,” an “incapacitated person,” a “person under guardianship,” or a “vulnerable adult.”

The disabled person is someone who lacks the physical or mental capacity to provide for their personal or financial needs.

COURT

The court is the ultimate guardian

You are its **agent**

Monitors the guardianship

- Review reports
- Address issue or problems

In reality, the court is the disabled person's ultimate guardian. You are the person the court appointed as its agent to carry out its responsibilities as guardian. The court's job is to monitor the guardianship by reviewing reports and addressing issues or problems that come up.

GUARDIAN

Two types:

1. Guardian of the Person
Public Guardian
2. Guardian of the Property (Fiduciary)

Co-Guardians

There are two types of guardians:

Guardian of the Person – A guardian of the person makes decisions about where the disabled person lives and the disabled person’s medical care, clothing, food, education, and every-day needs.

- **Public Guardian** – Refers to a guardian of the person who works for a local Department of Social Services or Area Agency on Aging.

Guardian of the Property – A guardian of the property makes decisions about the disabled person’s money, income, property of any kind, stocks and bonds, and other financial matters.

- **Fiduciary** – A fiduciary is someone who has the primary legal duty to act for the benefit of another person. A guardian of the property is a type of fiduciary.

The court may appoint a guardian of the person, a guardian of the property, or both. The court may appoint the same person to serve as guardian of the person and property or different people.

The court may also appoint more than one person to serve as **co-guardians** and share the responsibilities of serving as a guardian of the person or guardian of the property.

GUARDIANSHIP ESTATE

The disabled person's assets (property) that are under guardianship, including any:

- Income
- Real or personal property
- Benefits
- Stocks, bonds, investments

The guardianship estate includes the disabled person's income, real or personal property, benefits, stocks, bonds, and investments.

CLERK/TRUST CLERK

Court employee whose responsibilities may include:

- Managing the guardianship case
- Processing all case paperwork
- Collecting fees
- Providing court forms
- Sending out notices
- Answering questions about court process
- Reviewing reports
- Reporting problems to the court

INTERESTED PERSONS

Include:

The disabled person

The disabled person's

- Spouse
- Parents
- Children (aged 18+)
- Other relatives
- Heirs

Agencies the disabled person receive benefits and services from

Any other persons named by the court

After appointment of a guardian, and throughout the guardianship, interested persons can ask the court to resolve issues with the guardianship and are entitled to notification about certain guardianship events.

PART 2: ROLE, POWERS, DUTIES

Fiduciary Responsibilities

Filing and reporting requirements

Commissions and expenses

Government Benefits

ROLE AS GUARDIAN OF THE PROPERTY

Fiduciary

Primary Responsibilities:

1. Act only in the best interest of the disabled person
2. Manage the disabled person's money and property carefully
3. Keep the disabled person's money separate from your own
4. Keep good records

As guardian of the property, you are known as a **Fiduciary**.

ROLE AS GUARDIAN OF THE PROPERTY

DECISION-MAKING STANDARD:

“[E]xercise the care and skill of a [person] of ordinary prudence dealing with his own property.”

- Spend money wisely
- Protect property as if it is your own

Read the guardianship order!

- What you can and cannot do
- Proof of appointment and your authority

Mismanagement can result in:

- Removal as guardian
- Lawsuit
- Repay guardianship estate

When making decisions on behalf of the disabled person, you must “exercise the care and skill of a [person] of ordinary prudence dealing with his own property.” This means you should to spend the disabled person’s money wisely and protect his or her property as if it were your own. If you do not meet this standard, you can be removed as guardian, sued, or have to repay the estate any money you lost or mismanaged.

Guardianship Order – Read the order appointing you as guardian very carefully. It is your responsibility to understand what you can and cannot do. The order is also proof to others that you have been appointed as guardian of the property and what authority you have.

POWERS AND DUTIES

Day-to-day management

- Pay bills, arrange for transportation, clothing, housing, support, care, protection, welfare, and rehabilitation needs

Collecting income

- Including rents, pensions, Social Security, and debts owed

Managing property

- Including rental property (e.g., entering into and enforcing leases, making repairs/improvements, collecting income, hiring agents)

Paying Taxes

- Prepare and file state and federal taxes before April 15th of each year
- You must file taxes in the disabled person's name and social security number and signed by you as "Guardian for [name of Disabled Person], an incapacitated person."

Financial Planning

- Ensure guardianship estate covers current and future needs (hiring accountants, financial advisors, other professionals)

As a fiduciary you have broad powers to manage the guardianship estate including:

- **Day-to-Day Management** – Paying from the guardianship estate the disabled person's bills and for the disabled person's transportation, clothing, housing, support, care, protection, welfare, and rehabilitation of the disabled person.
- **Collecting Income** – Collecting income including rents, pensions, Social Security, and debts owed to the disabled person.
- **Managing Property** – Manage the disabled person's properties including but not limited to rental property (e.g., entering in and enforcing the leases, making repairs and/or improvements, collecting income, and hiring agents).
- **Paying Taxes** – Preparing and filing the disabled person's state and federal tax returns before April 15th of each year.

TIP: You must file taxes in the disabled person's name and social security number and signed by you as "Guardian for [name of Disabled Person], an incapacitated person."

TIP: If you need help preparing and filing the disabled person's taxes, consider hiring an accountant. The accountant's fee can be paid out of the guardianship estate.

Financial Planning – Making financial decisions to ensure the guardianship estate can cover the disabled person's current and future needs. This may include hiring accountants, financial advisors, or other professionals.

FILING AND REPORTING REQUIREMENTS

Initial Inventory

- Assets and income in the guardianship estate
- File within 60 days of appointment date
 - Use Form CC-GN-011
- Include description and fair market values of
 - Bank accounts
 - Stocks and bonds
 - Real estate
 - Mortgages
 - Other valuable property

The image shows a sample of the 'INVENTORY (Rule 10-707(a))' form. At the top, it is titled 'Circuit Court for _____ Case No. _____'. Below this, there are fields for 'In the Matter of _____' and 'Name of Minor or Adult Person _____'. The form is divided into 'Part I' and 'Part II'. Part I is titled 'INVENTORY (Rule 10-707(a))' and contains the instruction: 'The FIDUCIARY ESTATE now consists of the following assets: (attach additional sheets, if necessary; each item listed shall be valued by the fiduciary at its fair market value, as of the date of the appointment of the fiduciary or the assumption of jurisdiction by the court; unless the court otherwise directs, it shall not be necessary to employ an appraiser to make any valuation; state amount of any mortgages, liens, or other indebtedness, but do not deduct when determining estimated fair market value)'. Below this, there is a table with two columns: 'A. REAL ESTATE (State location, liber/folio, balance of mortgage and name of lender, if any)' and 'ESTIMATED FAIR MARKET VALUE'. The table has several rows for data entry and a 'TOTAL' row at the bottom.

The Inventory is a listing of all assets and income in the guardianship estate at the time a guardian is appointed. The inventory lets the court know what is in the guardianship estate and will be used to compare future reports. You must file the inventory with the court within **60 days of appointment** as guardian of the property.

The inventory should include a description, including the fair market value, of the disabled person's bank accounts, stocks, bonds, real estate, mortgages, and other valuable property.

Which form?

- Inventory (CC-GN-011): <http://mdcourts.gov/family/forms/ccgn011.pdf>

FILING AND REPORTING REQUIREMENTS

Annual Fiduciary's Account

- Status of all income and assets in the guardianship estate
- File each year within 60 days of appointment date
 - Use Form CC-GN-012

Example:

Date of Appointment	• March 1, 2017
Fiduciary's Account Due	• Each year by April 30 th


Circuit Court for _____ **Case No.** _____
City or County

In the Matter of _____
Name of Minor or Disabled Person

FIDUCIARY'S ACCOUNT
(Rule 10-708(a))

I, _____, make this periodic final Fiduciary's Account
Guardian of the Property

for the period from _____ to _____
Date Date

The Fiduciary Estate consists of the following assets as reported on the Fiduciary's Inventory
 carried forward from last Fiduciary Account:

A. REAL ESTATE	\$ _____
B. CASH & CASH EQUIVALENTS	\$ _____
C. PERSONAL PROPERTY	\$ _____
D. STOCKS	\$ _____
E. BONDS	\$ _____
F. OTHER	\$ _____
<u>TOTAL</u>	\$ _____

The annual Fiduciary's Account is a report to the court about the status of all income and assets in the guardianship estate. The court uses this accounting to monitor changes to the guardianship estate and to make sure you are managing things properly. You must file a Fiduciary Account **each year within 60 days of the appointment date**.

For example, if you were appointed as guardian on March 1, 2017, your first fiduciary account would be due not later than April 30, 2018.

Which form?

- Fiduciary's Account (CC-GN-012):
<https://www.courts.state.md.us/sites/default/files/import/family/forms/ccgn012.pdf>

FILING AND REPORTING REQUIREMENTS

Fiduciary's Account Contents:

- List of all assets in the fiduciary estate
- Values and location of all assets
- Balances of any bank accounts
- All expenses paid since the last report
- Assets added to or removed from the estate
- Status of the fiduciary bond (if any)

Attach Documentation

- Expenses and disbursements
- Value of bank accounts
- Income received
- Types
 - Investment, or other account statements
 - Copies of cleared checks and deposits
 - Receipts for all items purchased using funds from the guardianship estate
 - Settlement sheets on the sale or transfer of real property
 - Paystubs
 - Annual social security benefit reports
 - Nursing home or in-home care expenses

You must attach documentation of all expenses/disbursements, the value of any assets or bank accounts, and all income received.

FILING AND REPORTING REQUIREMENTS

Fiduciary's Account

- Provide copies to Interested Persons (upon request)
- Court review
 - Order accepting
 - Other actions
 - Order to appear
- Show cause hearing

***Keep good records!**

In addition to filing the annual Fiduciary's Account with the court, you must provide copies to all interested persons upon request. The court will review each report and notify the judge if there are any problems or questions about your filing. The judge will review your report and either enter an order accepting it or take other actions, which may include ordering you to appear in court to explain the contents of your report or to provide additional documentation such as proof of transactions.

If you do not file the Initial Inventory or an Annual Fiduciary Report on time or fail to address problems with the report, the court will issue a **Show Cause Order** and schedule a hearing. At that hearing you will be asked to explain why your report was not filed or not filed properly and explain why you should not be removed as guardian.

Failure to keep proper documentation can result in personal liability.

COMMISSIONS AND EXPENSES

Based on value and size of the guardianship estate

- Reimbursement for actual and necessary expenses
- Commissions
 - Income commissions
 - Corpus commissions
 - Commissions on the sale of real property

Depending on the size and value of the disabled person's estate, you may be entitled to receive a commission or reimbursement for actual and necessary expenses incurred performing your duties as guardian. Commissions and expenses are payable from the guardianship estate. You may be paid an income commission, a corpus commission, or a commission on the sale of real estate.

Income Commissions – *Md. Code Ann., Est. & Trusts § 14.5-708(b)* – Calculated based on the amount of income that is added to the guardianship estate each year. Income commissions are:

- 6% of all income from real estate, ground rents, and mortgages collected each year; and
- 6.5% on the first \$10,000 of all other income collected each year;
- 5% on the next \$10,000;
- 4% on the next \$10,000; and
- 3% of any remainder.

Corpus Commissions – *Md. Code Ann., Est. & Trusts § 14.5-708(c)* – Calculated based on the fair market value of the guardianship estate (the corpus) at the end of each year. Corpus commissions are:

- 0.4% on the first \$250,000
- 0.25% on the next \$250,000
- 0.15% of n the next \$500,000; and
- 0.1% on any excess

Commissions on the Sale of Real Property

Calculated based on the proceeds to the sale of the disabled person's property at a rate set by the court.

Which form?

- Guardian of the Property Commission Worksheet (CC-GN-025):
<https://www.courts.state.md.us/sites/default/files/import/family/forms/ccgn025.pdf>

COURT AUTHORIZATION

You MUST get prior court approval to:

File the Annual Fiduciary's Account late

Close a guardianship account

Pay attorney fees over \$50

Make charitable donations or gifts from the guardianship estate

Make loans from the guardianship estate

Sell any assets in the guardianship estate to family or friends

Pay recurrent or monthly disbursements (payments) or expenses to you (the guardian) directly from the guardianship account

Make any major single disbursements over \$10,000 or (10% of the total value of the estate, whichever is lower) made from the guardianship account to a third party

Ask the court for permission in writing

There are certain actions you cannot take without prior court approval.

If you need to perform any of these acts, ask the court for permission in writing.

Which form?

- Motion for Appropriate Relief - Guardianship Proceeding (CC-GN-032):
<https://www.courts.state.md.us/sites/default/files/import/family/forms/ccgn032.pdf>

PART 3: GOVERNMENT BENEFITS

Deposit benefits to a guardianship Account

Social Security Administration (SSA)

- Supplemental Security Income (SSI)
- Social Security Disability Insurance (SSDI)
- Apply to become a **Representative Payee**
 - Annual recertification
- Public Assistance for SSA Beneficiaries
 - Local Department of Social Services (DSS)
 - Local Area Agency on Aging (65+)

U.S. Department of Veterans Affairs (VA)

- Apply to become a VA **Fiduciary**



www.ssa.gov/payee

Visit a local Social Security Administration office



www.benefits.va.gov/fiduciary

Visit a local VA office

If the disabled person receives government benefits, you need to take steps to have those benefits deposited to a guardianship account.

If the disabled person receives Social Security benefits including Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) benefits, you need to apply to be appointed as a Representative Payee with the Social Security Administration. Once you are appointed, you will need to file paperwork to each year to certify that the disabled person is eligible to receive benefits. Visit www.ssa.gov/payee or call 1-800-772-1213 for information about becoming a Representative Payee. A local Social Security Administration office can also help.

If the disabled person receives benefits from the Department of Veterans Affairs, you will need to apply to become a Fiduciary for the disabled person. Visit www.benefits.va.gov/fiduciary or visit a local VA office for more information.

TIP: Keep a copy of the guardianship order and any important information such as the disabled person's Social Security Number or Veterans Affairs file number on hand when you apply to become a representative payee or fiduciary.

Keep good records and mark your calendar for recertification dates.

MEDICAL BENEFITS

Medical Assistance Programs

- Medicaid/Maryland Medical Assistance
 - Low income individuals
- Medicare
 - Adults over 65 and certain people with disabilities
- Maryland Health Connection
 - Insurance marketplace
- Prescription Programs

*Guardians of the Property: Apply on behalf of the disabled person

If the disabled person does not have medical insurance, his or she may be eligible for medical assistance provided through state and federal programs, including:

- **Medicaid** – Also known as Medical Assistance in Maryland, provides health care for low-income individuals.
 - Learn more at: <http://dhr.maryland.gov/weathering-tough-times/medical-assistance/>
- **Medicare** – A federal program that covers some medical expenses for people age 65 or over and certain people with disabilities who receive SSDI.
 - Learn more at: <https://www.ssa.gov/medicare/>
- **Maryland Health Connection** – An insurance marketplace you can use to compare and enroll in health insurance and determine eligibility for Medicaid and other assistance
 - Learn more at: <https://www.marylandhealthconnection.gov/>
- **Programs that can help with prescriptions**

If the disabled person is eligible for medical assistance, you must apply for them on his or her behalf.

PROGRAM ELIGIBILITY

To determine eligibility or access services, contact:

- Local Department of Social Services
- Local Area Agency on Aging (65+)

If the disabled person does not currently receive government assistance benefits but may be eligible, you must apply for them on behalf of the disabled person.

To find out what government programs the disabled person is eligible for or for help accessing services and assistance, contact a local Department of Social Services (<http://dhr.maryland.gov/local-offices/>).

If the disabled person is over the age of 65, a local Area Agency on Aging (<http://www.aging.maryland.gov/Documents/AAADirectoryFeb2017.pdf>) can also help.

PART 4: ABUSE, NEGLECT, AND EXPLOITATION

Types and signs

People under guardianship often targeted because of:

- Age
- Physical, intellectual, or emotional limitations
- Dependence on others for basic needs
- Inability to communicate they are being hurt
- Limited ability to recognize and avoid danger

Victims of crime can suffer from physical psychological, and financial injuries

A signal indicator is usually not proof

Look for patterns or suggestions of a problem

People under guardianship are vulnerable and often targeted because of their age, physical, intellectual, or emotional limitations, and their dependence on others for basic needs.

Depending on the person under guardianship's age or disability, he or she may not be able to communicate if they are being hurt or be less able to recognize and avoid danger. If they are being hurt by a caregiver, spouse, or child, they may not report abuse because they are afraid of what will happen to them or to protect the abuser.

Victims of crime often suffer physical, psychological, and financial injuries from which it can be difficult to recover from. As guardian, you are in a unique position to help identify when the person under your care is being harmed.

There are signs or indicators that someone is being abused that may be explained by other causes. It is important to keep in mind that a single indicator is usually not proof of abuse, so be on the lookout for patterns or suggestions that there might be a problem.

Guardian Video Series: Abuse, Neglect, & Exploitation

<https://www.courts.state.md.us/family/guardianship/videoseries/abuseneglect>

PHYSICAL ABUSE

Use of force that may result on bodily injury, physical pain, or impairment

Signs

Complaint

Unexplained or poorly explained injuries

- Fractures, sprains, dislocations, bleeding
- Bruises, bites, cuts, sores, burns, scars, head trauma

Behavior Changes

- Withdrawal, aggression, regression, depression
- Substance abuse, attempts to escape, wariness, fear

Sudden Changes

- Weight loss, tooth loss, or hair loss

Other

- Different explanations for injuries
- Fear of a particular person
- Frequent/suspicious hospitalizations
- Delays in treatment

Physical abuse is the use of physical force that may result in bodily injury, physical pain, or impairment. It includes:

- Hitting, beating, pushing, shoving, shaking, and slapping
- Kicking, pinching, choking, pulling hair, and burning
- Inappropriate use of drugs or physical restraints
- Force-feeding, reckless driving, and physical punishment

Signs include:

- A specific complaint of mistreatment
- Unexplained or poorly-explained injuries, such as fractures, sprains, dislocations, or bleeding
- Bruises, bites, cuts, sores, burns, scars, or head trauma
- Sudden change in behavior such as withdrawal, aggression, regression, depression, substance abuse, attempts to escape, wariness of physical contact, or fear of certain places
- Sudden weight loss, tooth loss, or hair loss
- If the victim and the people around him or her have different explanations for the cause of injuries
- The victim seems afraid of or wants to avoid a particular person
- Frequent or suspicious hospitalizations, or if there are delays between the on-set of an injury and seeking medical care

Guardian Video Series: Types & Signs of Abuse

<https://www.courts.state.md.us/family/guardianship/videoseries/abuseneglect>

SEXUAL ABUSE

Nonconsensual sexual contact of any kind

Includes:

- Rape and molestation
- Sexual conduct with a person unable to consent

Victims include:

- Women and men
- Children and people with disabilities especially vulnerable

Signs

Complaint

Injuries

Behavior Changes

- Inappropriate, unusual, or aggressive behavior
- Bedwetting, sleep disruptions
- Fear of the dark, avoids undressing, overdresses

Sexual abuse is nonconsensual sexual contact of any kind. It includes rape, molestation, and any sexual conduct with a person who is unable to consent.

Most victims of sexual abuse are women. But men may also be victims. Children and people who have physical or cognitive disabilities are particularly vulnerable.

Signs of sexual abuse include:

- A specific complaint by the victim
- Report of genital or anal pain, irritation, or bleeding, difficulty walking or sitting, torn, stained, or bloody underclothing, and sexually transmitted diseases
- Behavior changes including inappropriate, unusual, or aggressive sexual behavior, bed wetting, and changes in sleep patterns (over- or under-sleeping and nightmares)
- Victim suddenly afraid of the dark, avoids undressing, or wears extra layers of clothing

Guardian Video Series: Types & Signs of Abuse

<https://www.courts.state.md.us/family/guardianship/videoseries/abuseneglect>

EMOTIONAL ABUSE

The infliction of pain, anguish, or distress

Also known as psychological abuse

Signs

Complaint

Changes

- Weight loss or gain
- Depression, confusion, agitation, withdrawal

Physical signs

- Rashes, hives, facial tics, stomach aches, elevated blood pressure
- Nervous habits (biting, rocking, head-banging, bedwetting, thumb sucking)

Emotional abuse is the infliction of pain, anguish, or distress. Sometimes, it's called psychological abuse.

Someone may cause emotional abuse by using verbal assaults, insults, or threats. Emotional abuse also includes:

- Intimidation, humiliation, and harassment
- Isolating a person from his or her family, friends, or regular activities

Signs of emotional abuse include:

- A specific disclosure by the victim
- Significant weight loss or gain, depression, confusion, agitation, and withdrawal
- Unexplained rashes, hives, facial tics, or stomach aches
- Nervous habits such as biting, rocking, or head-banging, or bedwetting and thumb sucking

Guardian Video Series: Types & Signs of Abuse

<https://www.courts.state.md.us/family/guardianship/videoseries/abuseneglect>

PERPETRATORS OF ABUSE

Can be anyone

- Often someone the victim knows
 - Family members
 - Acquaintances
 - Dating partners
 - Caregivers

Perpetrators of abuse could be anyone. Most victims of abuse are harmed by someone they know including family members, acquaintances, dating partners, or caregivers.

Guardian Video Series: Types & Signs of Abuse

<https://www.courts.state.md.us/family/guardianship/videoseries/abuseneglect>

NEGLECT

A caregiver's refusal or failure to provide for a person's basic needs

- Food, water, clothing, shelter
- Personal hygiene, medication, comfort, personal safety

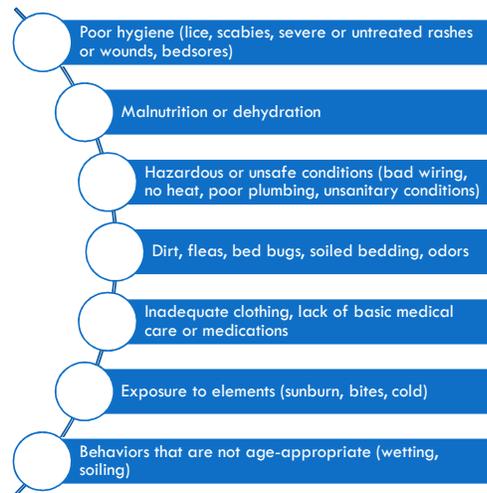
Passive neglect

- Caregiver unable to fulfill obligations

Intentional neglect

- Caregiver able to but refuses to fulfill obligations

Neglectors can be family members, caregivers, or staff at care facilities



Neglect is a caregiver's refusal or failure to provide for a person's basic needs. Basic needs include food, water, clothing, shelter, personal hygiene, medication, comfort, or personal safety.

Passive neglect occurs when a caregiver is unable to fulfill his or her obligations to another person because of illness, disability, stress, or lack of resources.

Intentional neglect occurs when a caregiver is able to fulfill obligations, but refuses to do so.

Neglectors may be family members, paid caregivers, or employees of care facilities.

Signs of neglect include:

- Poor hygiene, including lice, scabies, severe or untreated rashes or wounds, or bed sores
- Malnutrition or dehydration
- Hazardous or unsafe conditions such as exposed or improper wiring, no heat, or poor plumbing
- Unsanitary conditions, dirt, fleas, bed bugs, lice, soiled bedding, and fecal or urine smell
- Unsuitable or missing clothing or a lack of basic medical care or medications
- Indications of exposure to the elements, such as excessive sunburn, insect bites, or cold
- Behaviors that aren't age-appropriate, such as bed wetting, wetting, or soiling

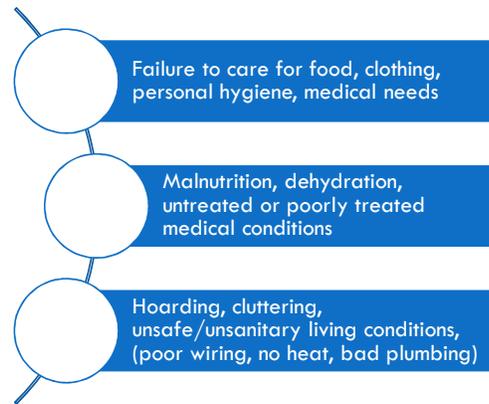
Guardian Video Series: Signs of Neglect

<https://www.courts.state.md.us/family/guardianship/videoseries/signsofneglect>

SELF-NEGLECT

When a person refuses to care for him/herself

- Declining health
- Mental health issues
 - Dementia
 - Substance abuse
 - Depression
 - Significant mental illness



Self-neglect is when a person refuses to care for him or herself. It is often associated with declining health and mental health issues such as dementia, substance abuse, depression, and significant mental illness

Signs of self-neglect include:

- A failure to take care of one's own food, clothing, personal hygiene, or medical needs.
- Malnutrition, dehydration, untreated or improperly-treated medical conditions
- Hoarding or cluttering
- Unsafe or unsanitary living conditions including poor wiring, no heat, or bad plumbing

Guardian Video Series: Signs of Self-Neglect

<https://www.courts.state.md.us/family/guardianship/videoseries/signsofselfneglect>

RESPONDING TO SUSPECTED ABUSE OR NEGLECT

If someone is in immediate danger, **call 9-1-1**.

Suspect abuse?

- Child Protective Services (under 18 years old)
- Adult Protective Services (over 18 years old)
- Investigate concerns about the safety or well-being of children and vulnerable adults
 - Offer services and support
- Leave investigation to the professionals

If the person is in immediate danger, call 911.

If you are concerned someone is a victim of abuse, neglect, or exploitation but cannot verify the details:

- If the person is under the age of 18, call the local Child Protective Services office
- If the person is over the age of 18, call the local Adult Protective Services office

Child protective services and adult protective services staff are professionals who are trained to investigate concerns about the safety or well-being of children and vulnerable adults. They offer services and support to help prevent or reduce the risk of someone being abused or neglected.

It is the job of police and protective services professionals to investigate allegations of abuse and neglect. If you think someone is being harmed, do not attempt to “investigate” or question potential suspects or witnesses on your own.

Guardian Video Series: Responding to Abuse or Neglect

<https://www.courts.state.md.us/family/guardianship/videoseries/respondingtoabuseandneglect>

PREVENTING ABUSE AND NEGLECT

Visiting the person under guardianship

- Monitor care
- Track changes
 - Behavior, physical appearance, physical surroundings
 - Specific complaints
 - Unexplained injuries or conflicting explanations
 - Depression, fear, agitation, withdrawal
 - Appropriate clothing, hygiene, living space
- Track people
 - Specific complaint
 - Reluctance/unwillingness to see certain people
 - Interference by others

Receiving proper care?

Is money paid being used properly?

Food, housing, clothing needs met?

Suspicious doctor/hospital visits?

Conflicting explanations for injuries?

You may not see the person under guardianship every day, but your visits are important. Preventing abuse and neglect requires an efficient use of your time with a person under guardianship. Keep records of your visits. Track changes in the person's behaviors and living conditions. Keep notes on the people in the person's life (those records may be the key to preventing problems).

When visiting with the person under guardianship, ask yourself:

- Does he or she report that they are not receiving proper care?
- Is the money paid to caregivers or service providers being used as it should be?
- Are the person's clothing, housing, and food needs being met?
- Is the person going to the hospital or doctor's offices for frequent or unexplained injuries?
- Are there conflicting accounts about what caused injuries?

Keep track of changes in the person's behavior, physical appearance, or physical surroundings.

- Does he or she report being harmed or not feeling safe?
- Does the person have any injuries that are not explained or for which there are conflicting explanations?
- Does he or she seem depressed, scared, agitated, or withdrawn?
- Is clothing weather-appropriate and clean?
- Is hygiene good?
- Is the living space clean and safe?

Keep track of people in the person's life.

- Does he or she report being harmed by someone?
- Is he or she afraid of someone?
- Are there new people influencing the person under guardianship?
- Is he or she reluctant or unwilling to see certain family members or service providers?
- Is anyone interfering with your ability to speak with the person alone or with the person's relationships with trusted family, friends, or service providers? Is anyone acting aggressively toward the person?

Guardian Video Series: How to Prevent Abuse & Neglect

<https://www.courts.state.md.us/family/guardianship/videoseries/howtopreventabuseandneglect>

FINANCIAL EXPLOITATION

Theft or misuse of another person's money, property, or belonging for personal benefit

- Deception
- Harassment
- Threats

Guardians of the Property

- Can identify, stop, and prevent financial exploitation
- Beware

Many types of financial exploitation

Theft

- Taking money or personal property

Fraud

- Acts of deception or misrepresentation
- Falsification of documents, forgeries, check fraud, investment fraud, mortgage fraud, insurance fraud

Identify Theft

- Illegal access to and use of personal or financial information (name, SSN, DOB, credit card/bank account numbers)

Marketing/Lottery Scams

- False promises of cash, services, or goods in exchange for fees, donations, or personal information
- Phone, e-mail, mail, ads, or in-person

Financial exploitation is the theft or misuse of another person's money, property, or belongings for personal benefit. Money or property may be taken through deception, harassment, or threats. Anyone can be a victim of financial exploitation, but vulnerable people, such as people under guardianship, are at a higher risk.

Guardians of the property must get a keen understanding of the types and signs of financial exploitation. You may be able to identify, stop, and prevent financial exploitation of a person under guardianship. Be aware. People may try to take advantage of you as a guardian of the property.

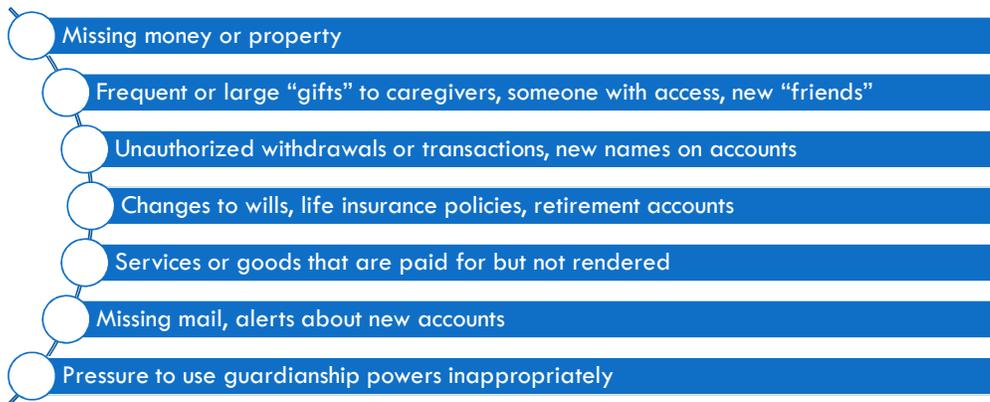
Common types include:

- **Theft** – The taking of money or property without permission
- **Fraud** – Acts of deception or misrepresentation for personal gain. Examples of financial fraud include falsification of documents, forgeries, unauthorized check writing, investment fraud, mortgage fraud, and insurance fraud.
- **Identity theft** – The illegal access to and use of a person's personal or financial information, such as a name, Social Security Number, date of birth, credit card or bank account numbers.
- **Marketing or lottery scams** – The use of false promises of cash, services, or goods in exchange for fees, donations, or personal information. Scammers target victims by phone, email, mail, television or print ads, or in-person.

Guardian Video Series: Financial Exploitation

<https://mdcourts.gov/family/guardianship/videoseries/financialexploitation>

SIGNS OF FINANCIAL EXPLOITATION



Signs of financial exploitation include:

- Missing money or property
- Frequent or large “gifts” to caregivers, someone with access to the victim, or new “friends”
- Sudden or unexplained changes in the guardianship estate such as:
 - Unauthorized withdrawals or transactions
 - New names added to credit card or bank accounts
- Changes – or attempts to change –wills, life insurance policies, or retirement accounts
- Services or goods are paid for, but they do not appear to be rendered
 - Paid-for goods are new, but inappropriate
 - Utilities that are supposed to be paid for are cut off
- Missing mail or text alerts about existing guardianship or emails or alerts about new accounts opened in the name of person under guardianship
- As guardian of the property, you may be targeted by financial exploiters. Watch for:
 - Individuals who may pressure you to use your powers inappropriately
 - Individuals asking you to spend money on unnecessary services or goods or to give them access to or authority of guardianship assets

PREVENTING FINANCIAL EXPLOITATION

Restrict access to accounts or property

Do not share:

- Social Security Number
- Credit card information
- Account numbers
- Passwords

Keep good records

- Money in and out
- Actions you take
- Secure records

Monitor accounts and bills

Tips: Never write blank checks

Get a safe

Don't sign if you don't understand

Watch for undue influence

Watch for "too good to be true" deals

Monitor people

To prevent financial abuse:

- Restrict others' access to guardianship accounts or property
- Do not share the person under guardianship's Social Security number, credit card information, account numbers, or passwords
- Record anything going in or coming out of the guardianship estate
- Record any actions you take as a guardian
- Keep records in a secure location to which only you have access
- Frequently monitor guardianship accounts and bills and keep your eye out for unusual or unauthorized transactions

TIPS:

- Never write blank checks allowing someone else to fill in the amount
- Secure valuable guardianship property (e.g., get a safe for jewelry or other personal property)
- Do not sign anything you do not understand
- Watch out for people who try to influence how you manage the guardianship estate
- Keep an eye out for deals that seem "too good to be true"
- Keep an eye out for people in personal or social circles who may try to influence, isolate, or harm a person under guardianship

FINANCIAL EXPLOITATION

Remember:

- Culprits may be friends, family, caretakers, financial planners, strangers, or con artists
- Signs include:
 - Missing money
 - Unauthorized transactions
 - Unexpected alerts about new accounts
- Prevention requires:
 - Good recordkeeping
 - Guarding financial information and documents

PART 5: CHANGES TO THE GUARDIANSHIP

Termination

Resignation

Removal

End of Appointment

TERMINATION

The guardianship can terminate when:

- Disabled person dies
- Disabled person recovers from disability (cessation)
- Other good cause

Notify the court!

- Within **45 days**: Petition to Terminate the Guardianship

Show cause order

Upon death

- Copy of death certificate

Recovery from disability

- Physician examination within 21 days of filing the petition
- Medical Certificate – Cessation of Disability

Guardians of the property

- Include a final Fiduciary's Account
- Proposal for distribution of remaining assets

The guardianship can terminate (end) when the disabled person dies, recovers from the disability, or other good cause. It is your responsibility to notify the court when one of these events occurs.

Within **45 days** after the disabled person dies, recovers from the disability, or other good cause occurs, you must file a petition to terminate the guardianship in the court that appointed you as guardian.

- If the disabled person died, a copy of the death certificate must be attached to the petition
- If the disabled person recovers from the disability, a physician must examine him or her within 21 days of your filing of the petition to terminate.
 - Have the physician complete and sign Form CC-GN-022 Medical Certificate – Cessation of Disability (<http://www.mdcourts.gov/family/forms/ccgn022.pdf>) and attach the original certificate it to your petition.
- Attach a final Fiduciary's Account covering the period not reported in the last account filed, or, if none, from the date you were appointed as guardian of the property.
 - Attach a proposal for how to distribute any assets that remain in the estate

After the court receives your petition, it will issue a **show cause order**. You must mail a copy of the petition and the show cause order to all interested persons as the court directs. The court will hold a hearing and decide whether to terminate the guardianship.

Which form?

- Petition for Termination of Guardianship of the Person (CC-GN-028):
<https://www.courts.state.md.us/sites/default/files/court-forms/ccgn028.pdf>
- Petition for Termination of Guardianship of the Property (CC-GN-029):
<https://www.courts.state.md.us/sites/default/files/court-forms/ccgn029.pdf>
- Fiduciary's Account (CC-GN-012):
<https://www.courts.state.md.us/sites/default/files/import/family/forms/ccgn012.pdf>

RESIGNATION

No longer able to serve?

Petition for Resignation of Guardian

- May request: Substituted or Successor Guardian (replacement)
- Include a final Fiduciary's Account

Show cause order

Resignation not automatic

- Court order accepting your resignation
- Continue responsibilities as guardian

The court understands that circumstances change and you may no longer be able to serve as guardian. If you are no longer able to fulfill your responsibilities you can resign as guardian. To resign, you must file a petition to resign with the court in the court that appointed you as guardian that includes your reasons for resigning. In your petition, you may request the appointment of a substituted or successor guardian.

Include a final Fiduciary's Account covering the period not reported in the last account filed, or, if none, from the date you were appointed as guardian of the property.

After the court receives your petition, it will issue a **show cause order**. You must mail a copy of the petition and the show cause order to all interested persons as the court directs.

Your request for resignation is not automatic. The court may hold a hearing. Your appointment as guardian does not end until the court enters an order accepting your resignation. Until then, you must continue to fulfill your responsibilities as guardian.

Which form?

- Petition for Resignation of Guardian of the Person and Appointment of Substituted or Successor Guardian (CC-GN-026): <https://www.courts.state.md.us/sites/default/files/court-forms/ccgn026.pdf>
- Petition for Resignation of Guardian of the Property and Appointment of Substituted or Successor Guardian (CC-GN-027): <https://www.courts.state.md.us/sites/default/files/court-forms/ccgn027.pdf>
- Consent of Substituted or Successor Guardian (CC-GN-030) <https://www.courts.state.md.us/sites/default/files/import/family/forms/ccgn030.pdf>
- Fiduciary's Account (CC-GN-012): <https://www.courts.state.md.us/sites/default/files/import/family/forms/ccgn012.pdf>

REMOVAL

Removal as guardian

- Court – Show cause
- Petition from Interested person – Petition for Removal of Guardian

Hearing

- Removal
- Perform neglected duties
- Other sanctions

Removal not automatic

- Court order removing you as guardian
- Continue responsibilities
- File a final Fiduciary's Account

If the court is not satisfied with your performance as guardian, it can order you to show cause why you should not be removed or subject to sanctions. If an interested person is dissatisfied with your performance as guardian, he or she can also file a petition for removal of guardian. The interested person must show cause as to why the court should appoint a substituted or successor guardian.

The court will hold a hearing to determine whether you should be removed as guardian, required to perform your neglected duties, or subjected to other sanctions.

If you are removed guardian, you must file a final Fiduciary's Account covering the period not reported in the last account filed, or, if none, from the date you were appointed as guardian of the property.

Your appointment as guardian does not end until the court enters an order to remove you as guardian. Until then, you must continue to fulfill your responsibilities as guardian.

Which form?

- Fiduciary's Account (CC-GN-012):
<https://www.courts.state.md.us/sites/default/files/import/family/forms/ccgn012.pdf>

END OF APPOINTMENT

Rights and responsibilities end upon termination

Does not discharge you from liability for wrongful acts

Once your appointment as guardian ends, you no longer have the rights or powers of a guardian. The end of your appointment does not discharge you from liability for any wrongful acts during the appointment.

QUESTIONS?

Visit: www.mdcourts.gov/guardianship

- Forms
- Videos
- Resources



GUARDIANS OF THE PERSON & PROPERTY TRAINING

Disabled Persons

Which form?

- Certificate of Completion - Guardian Orientation and Training (CC-GN-031):
<https://www.courts.state.md.us/sites/default/files/import/family/forms/ccgn031.pdf>