



## GUARDIANS OF THE PERSON & PROPERTY TRAINING

Minors

Thank you for agreeing to serve as guardian of a minor. 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.*

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# WELCOME

Part 1: Guardianship terms

Part 2: Role, powers, and duties of guardians of the person

Part 3: Role, powers, and duties of guardians of the property

Part 4: Abuse, neglect, and exploitation

Part 5: Changes to the guardianship

## PART 1: GUARDIANSHIP TERMS

### Guardianship terms

- Guardianship
- Minor
- Court
- Guardian
- Guardianship Estate
- Clerk/Trust Clerk/Register of Wills
- Interested Persons

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

## GUARDIANSHIP

Guardianship is a legal proceeding in which the court appoints a person to manage the affairs of a minor's person, property, or both.

## MINOR

Person under the age of 18 who is under guardianship.

Also called: "Ward"

Lacks the legal capacity to provide for his or her daily needs or manage financial affairs.

The person under guardianship is sometimes called a "ward."

## 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 minor'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
2. Guardian of the Property (Fiduciary)

Co-Guardians

There are two types of guardians:

**Guardian of the Person** – A guardian of the person is responsible for the day-to-day care of the minor including deciding where the minor lives, medical care, clothing, food, and education

**Guardian of the Property** – A guardian of the property oversees the minor’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 minor's assets (property) under guardianship, including any:

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

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



## CLERK/TRUST CLERK/REGISTER OF WILLS

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

**Register of Wills** – Serves as the clerk for the Orphans' Court

## INTERESTED PERSONS

The law defines “Interested Persons” in a guardianship to include:

The minor

The minor’s

- Parents
- Siblings (aged 18+)
- Heirs

Agencies the minor receive benefits and services from

Any other persons named by the court

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

## **PART 2: ROLE, POWERS, DUTIES OF GUARDIANS OF THE PERSON**

Role, powers, and duties

Filing and reporting requirements

## ROLE AND POSSIBLE POWERS

### 1. Providing food, shelter, clothing, and care for the minor

- Arranging for food, clothing, social, recreation, training, educational needs

### 2. Caring for the minor's personal items

- Taking reasonable care of clothing, furniture, vehicles, other personal items
- Taking steps to protect property

### 3. Arranging for services and care

- Finding government or private services and resources
- Working with the guardian of the property or Representative Payee (if any) to apply on behalf of the minor

### 4. Requesting funds for the minor's care from the guardian of the property

- Arranging for payment of expenses related to minor's care, comfort, well-being
- Working with the guardian of the property or Representative Payee (if any) to pay expenses out of the guardianship estate

### 5. Giving necessary consent or approval for medical or other professional care

- Coordinating and consenting to medical care, treatment, counseling, services
- Some treatment requires court authorization

The court may give you the power to any of the following:

- **Provide food, shelter, clothing, and care for minor** - This involves taking care of the minor's food, clothing, social, recreational, and training or educational needs.
- **Caring for the minor's personal items** – This involves taking reasonable care of the minor's clothing, furniture, vehicles, and other personal items and taking steps to protect the minor's property if needed.
- **Arrange for services and care** – This involves pursuing government or private services and resources that promote the well-being and safety of the minor. Some government benefits must be applied for and someone will need to apply for them on behalf of the minor. If the minor has a guardian of the property or another person handling his or her financial affairs, contact that person about applying for those benefits.
- **Request funds for the minor's care from the guardian of the property** (if one is appointed) – This involves taking steps to compel a guardian of the property or representative payee to ask for the court's approval to use funds from the guardianship estate to pay for expenses related to the minor's care, comfort, and welfare. You will need to work with the guardian of the property or Representative Payee throughout the guardianship to meet and pay for the minor's needs.
- **Give necessary consent or approval for medical or other professional care** – This involves coordinating and giving consent to allow the minor to receive medical or other professional care, treatment, counseling, or services.

## COURT AUTHORIZATION

You **MUST** get prior court authorization **BEFORE**:

Performing any action not authorized in the order appointing you as guardian

Moving the minor from one type of housing to another

Committing the minor to a mental-health facility

Starting, stopping, or withholding medical treatment that would involve a substantial risk to life of the minor

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>


# FILING AND REPORTING REQUIREMENTS

- Annual Report – file each year within 60 days of appointment date

Example:

Date of Appointment { \* March 1, 2017  
 Account Due { \* Each year by April 30<sup>th</sup>

- Use forms:
  - Circuit Court Form CC-GN-013
  - Orphans' Court Form: Form RW1342
- Complete the entire form
  - Write "not applicable" in sections where you have no information to include


**Circuit Court for** \_\_\_\_\_ **Case No.** \_\_\_\_\_  
City or County

In the Matter of \_\_\_\_\_  
Name of minor

**ANNUAL REPORT OF GUARDIAN OF MINOR**  
(Md. Rule 10-206(f))

ANNUAL REPORT OF \_\_\_\_\_,  
 GUARDIAN OF THE PERSON OF \_\_\_\_\_, WHO IS A MINOR

1. The name and permanent residence of the minor are: \_\_\_\_\_

2. The minor currently resides or is physically present in:

<input type="checkbox"/> own home	<input type="checkbox"/> hospital or medical facility
<input type="checkbox"/> foster or boarding home	<input type="checkbox"/> relative's home _____ <small>Relationship</small>

As guardian of the person, you must file an **Annual Report of Guardian of Minor each year within 60 days of the appointment date**. For example, if you were appointed as guardian on March 1, 2017, your first annual report would be due not later than April 30, 2018.

The court uses the report to monitor the minor’s residence and well-being and to make sure you are performing your guardianship duties. If you do not file the Annual Report on time or fail to address problems with the report, you will be asked to explain why your report was not filed properly and explain why you should not be removed as guardian.

## Which form?

- Annual Report of Guardian of Minor (Circuit Court Form CC-GN-013):  
<http://www.mdcourts.gov/family/forms/ccgn013.pdf>
- Annual Report of Guardian of the Person (Orphans’ Court Form RW1342):  
<http://registers.maryland.gov/main/forms/RW1342.pdf>

Complete the entire form. Write “not applicable” in sections where you have no information to include.

# DECISION-MAKING

Best interest of the Child Standard

Medical Decisions

Educational Decisions

Community Resources

As guardian of the person, you are responsible for making decisions that affect the safety, health, and well-being of the minor. Some decisions will be easy, but some may be more difficult.

# DECISION-MAKING

Your decisions affect the safety, health, and well-being of the minor

Use the Best interest of the Child Standard

- Choose the option with the most benefits and the least harm
- Consider how decisions about your life will impact the minor



As guardian of the person, you are responsible for making decisions that affect the safety, health, and well-being of the minor. Some decisions will be easy, but some may be more difficult. You must engage in a specific thought process for every decision made.

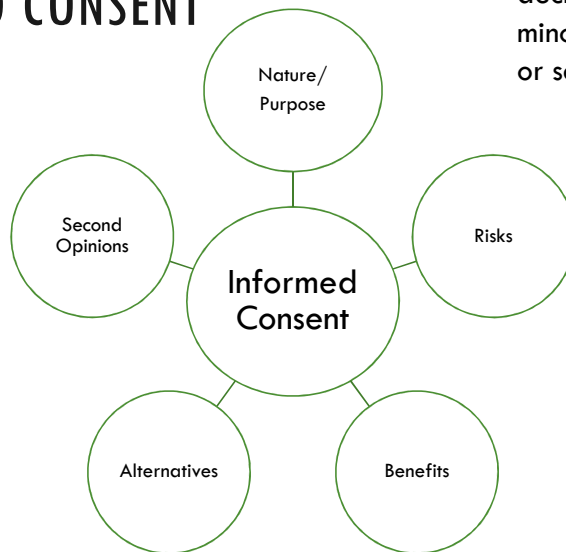
Using the best interest of the child standard means weighing the benefits against the burdens an act or decision will have on the minor. You should consider all possibilities and choose the option that has the most benefit and would result in the least harm for the minor.

Also consider how decisions about your life will affect the minor. For example, if you move to another school district, consider the disruption that move will have on the minor's personal, social, academic life and take steps to ease the transition.



# INFORMED CONSENT

Use when making decisions about the minor's care, treatment, or services



As guardian of the person, you must give informed consent for the minor to receive care, treatment, or services. This means that you need to know and understand the purpose, risks, benefits, and alternatives to any treatment or service you are considering for the minor. Your consent must also be given freely and without coercion or undue influence from others.

**TIP:** While it is good to get input from others, be careful about what information about the minor and about his or her condition you share with others.

Be sure to consult with the minor's guardian of the property or Representative Payee (if any) to cover any expenses related to the care of the minor. Remember that the court must approve all expenses before they are paid out of the guardianship estate.

If the minor has a surviving parent who pays child support for the minor, you may be entitled to those payments as the minor's guardian. To collect these payments, contact the Maryland Child Support Administration (<http://dhr.maryland.gov/child-support-services/>), an attorney, or the Maryland Courts Self-Help Centers (410-260-1392 or [www.mdcourts.gov/selfhelp](http://www.mdcourts.gov/selfhelp)) to learn about your options.

## MEDICAL DECISIONS

### Medical Insurance

- Add minor to insurance plan
- Coverage through the state?
  - Local Department of Social Services (DSS)

### You are the minor's advocate

- Ask questions
  - Risks vs. benefits of treatment
  - Alternatives
- Get second opinions

**If you don't know what to do, talk to the court!**

**Medical Insurance** – If you plan to cover the minor under your health insurance plan, notify your employer or the carrier about adding the minor as a dependent.

If the minor cannot get medical insurance through you or another source, he or she may be eligible for coverage through the state. A local **Department of Social Services (DSS)** can help you determine what benefits the minor is entitled to. To find your local DSS office, call 1-800-322-6347 or visit: <http://dhr.maryland.gov/local-offices/>.

You are not expected to be a medical expert but you are expected to be the minor's advocate. As guardian, it is your right to ask questions, get second opinions, and to have information explained to you in a way that allows you to make informed decisions. Ask specific questions about the benefits and risks associated with the starting, stopping, or withholding of treatment. Ask about alternatives to proposed treatments. Seek the guidance of medical advocates or social workers who can help you make an informed decision.

**TIP:** As an advocate for the minor, make sure that the experts are aware of and understand the minor's history, current condition, and anything else that is important for them to know when recommending medical care. If you do not have this information, put the expert in touch with someone who does.

Before making any medical decision for the minor, gather all the facts and information needed to make an intelligent decision about the minor's care. Make sure you understand all the benefits and risks associated with a particular treatment and that you are not being pressured by someone else to make a particular decision.

## EDUCATIONAL DECISIONS

- Notify school administrator
- Monitor minor's performance
  - Meet with teachers
  - Provide academic support
- Costs – May be payable from the guardianship estate
  - Tutors
  - Psychoeducational testing
  - Extracurricular activities
  - Education expense
- Best interest of the child standard applies

If the minor is already enrolled in a school, notify the school's administrator about your appointment as the guardian. Make sure the school always has your correct contact information.

Like a parent, you should keep track of the minor's academic performance, meet with teachers, and provide other academic support. If the minor had a guardian of property, you may be able to have costs for tutors, psychoeducational testing, extracurricular activities, or other educational expenses paid for or reimbursed out of the guardianship estate. The guardian of the property must get approval from the court to use any guardianship funds.

If the minor is not enrolled in school or needs to change school districts, notify the school of your appointments as guardian.

Remember, you are to act in the best interest of the minor when making educational decisions.

## COMMUNITY RESOURCES

### Services and Resources

- Federal agencies
- State agencies
- County agencies
- Private agencies

### Program Eligibility

- Means-based or other requirements
- Payable through certain government programs



As guardian of the person, it is your responsibility to learn about and take advantage of services and resources available through federal, state, county, and private agencies.

### Program Eligibility

Some service programs provide services regardless of ability to pay, while other may be means-based or have other eligibility requirements. Some services may be payable through government programs the minor receives benefits from such as Medicare, the Social Security Administration, or U.S. Department of Veterans Affairs.

If the minor does not receive benefits through one of these government programs, he or she may be eligible for them if he or she meets specific eligibility requirements. A local **Department of Social Services (DSS)** can help you determine what benefits the minor is entitled to and access medical, cash, and other public assistance. To find your local DSS office, call 1-800-322-6347 or visit: <http://dhr.maryland.gov/local-offices/>.

# MARYLAND COMMUNITY SERVICES LOCATOR

- Online directory
  - Housing
  - Food
  - Clothing
  - Medical and mental health care
  - Education resources
  - Recreation resources
  - Family support
  - Job readiness/employment
  - More

[www.mdcsll.org](http://www.mdcsll.org)

The screenshot shows the MDCSL website interface. At the top, there is a header with the MDCSL logo and a search bar. Below the header, the main content area is titled 'Maryland Community Services Locator (MDCSL)'. It features a search form with the following fields: 'Address or Intersection', 'City or Town', 'State', and 'Zip Code'. There is also a 'Search by county' section with a dropdown menu. The page includes a navigation menu on the left with categories like 'Home', 'NewsBytes', 'FAQ's', 'MDCSL Materials', 'MANAGE A LISTING', 'RESOURCE INFO', 'PARTNERS', and 'Behavioral Health Administration'. The page is powered by Google Translate.

The Maryland Community Service Locator is an online resource directory you can use to find services for the minor.

## COMMUNITY RESOURCES

Health care

In-home aide services for minors with disabilities

Mental and behavioral health resources

Legal advocacy

Public benefit eligibility

Social, recreational, and educational programs

Crisis intervention

Information and referrals to community services and resources

**\*Program Eligibility**

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### **Program Eligibility**

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If the minor does not receive benefits through one of these government programs, he or she may be eligible for them if he or she meets specific eligibility requirements. A local **Department of Social Services (DSS)** can help you determine what benefits the minor is entitled to and access medical, cash, and other public assistance. To find your local DSS office, call 1-800-322-6347 or visit: <http://dhr.maryland.gov/local-offices/>.

## **PART 3: ROLE, POWERS, DUTIES OF GUARDIANS OF THE PROPERTY**

Role, powers, and duties

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**.



## DECISION-MAKING STANDARD

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

- Spend money only with prior court approval

Mismanagement can result in:

- Removal as guardian
- Lawsuit
- Repay guardianship estate

### **Read the guardianship order carefully**

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

When making decisions on behalf of the minor, 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 minor’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.

## WITH COURT APPROVAL:

### Cover Expenses

- Pay bills, arrange for clothing, education, health, welfare

### Collect income

- Including rents, inheritances, Social Security, other government benefits

### Manage property

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

### Pay Taxes

- Prepare and file state and federal taxes before April 15<sup>th</sup> of each year
- You must file taxes in the minor's name and social security number and signed by you as "Guardian for [name of minor], a minor."

### Financial Planning

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

As a fiduciary you have the responsibility to manage the guardianship estate. If not authorized in the guardianship order, you must ask the court for approval to:

- **Cover Expenses** – Request court approval to pay or reimburse from the guardianship estate expenses for the minor's clothing, education, health, and welfare. The court may approve continuing expenses such as day care and before and after school care.
- **Collect Income** – Collect income including rents, inheritances, and Social Security or other government benefits payable to the minor
- **Manage Property** – Manage the minor's rental properties, including entering in and enforcing the leases, making repairs and/or improvements, collecting income, and hiring agents.
- **Pay Taxes** – Prepare and file the minor's state and federal tax returns before April 15<sup>th</sup> of each year. You must file taxes under the minor's social security number.

**TIP:** You must file taxes in the minor's name and Social Security number and signed by you as "Guardian for [name of minor], a minor."

**TIP:** If you need help preparing and filing the minor's taxes, consider hiring an accountant. With court approval, the accountant's fee can be paid out of the guardianship estate.

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

## COURT AUTHORIZATION

You MUST get court authorization to:

Make loans from the guardianship estate

Sell any assets in the guardianship estate

Pay expenses over the amount authorized in the guardianship order (If there is not authorization in the order, you should not be paying any expenses without court approval)

Extend the time to file the Annual Fiduciary Report/Guardianship Account

Close a guardianship account

Pay taxes

Sell or exercising stock subscriptions

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>

# FILING AND REPORTING REQUIREMENTS

## Inventory

- File within 60 days of appointment date
  - Circuit Court: Use Form CC-GN-011
  - Orphans' Court: Use Form RW1318
- Include description and fair market values of
  - Bank accounts
  - Stocks and bonds
  - Real estate
  - Mortgages
  - Other valuable property

Circuit Court for \_\_\_\_\_ Case No. \_\_\_\_\_  
Circuit Clerk

In the Matter of \_\_\_\_\_  
Name of Minor or Quarta Person

**INVENTORY**  
(Rule 10-707(a))

Part I

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, leases, or other indebtedness, but do not deduct when determining estimated fair market value)

A. REAL ESTATE (State location, 'beneficial', balance of mortgage and name of lender, if any)	ESTIMATED FAIR MARKET VALUE
TOTAL	

The Initial Inventory is a listing of all assets and income in the guardianship estate at the time a guardian is appointed. This 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 minor's bank accounts, stocks, bonds, real estate, mortgages, and other valuable property.

## Which form?

- Inventory (Circuit Court Form CC-GN-011): <http://www.mdcourts.gov/family/forms/ccgn011.pdf>
- Guardianship Inventory and Information Report (Orphans' Court Form RW1318): <http://registers.maryland.gov/main/forms/RW1318.pdf>

# FIDUCIARY'S/GUARDIAN'S ACCOUNT


File each year within 60 days of appointment date

▪ Example:

Date of Appointment { • March 1, 2017  
 Account Due { • Each year by April 30<sup>th</sup>

Circuit court: Use Form CC-GN012 (Fiduciary's Account)

Orphans' court: Use Form RW1302 (Guardian's Account)


**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 \$ \_\_\_\_\_  
**TOTAL** \$ \_\_\_\_\_

The annual Fiduciary's Account (Circuit Court)/Guardian's Account (Orphan's Court) is used by the court to monitor changes to the guardianship estate and to make sure you are managing things properly. You must file the annual Fiduciary/Guardian's Account **each year within 60 days of the appointment date.**

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

## Which form?

- Fiduciary's Account (Circuit Court Form CC-GN-012):  
<http://www.mdcourts.gov/family/forms/ccgn012.pdf>
- Guardian's Account (Orphans' Court Form RW1320):  
<http://registers.maryland.gov/main/forms/RW1320.pdf>

## FIDUCIARY'S/GUARDIAN'S ACCOUNT

### Attach Documentation to Fiduciary's/Guardian's Account

- 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

- Expenses and disbursements
- Value of assets and bank accounts
- Income received

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

## FIDUCIARY'S/GUARDIAN'S ACCOUNT

Provide copies to Interested Persons (upon request)

### Court review

- Order accepting account
- Other actions
  - Order to appear or provide additional documentation

### Failure to file or address problems

- Show cause order
- Hearing

**\*Keep good records!**

In addition to filing the annual Fiduciary's/Guardian's Account with the court, you must provide copies to all interested persons upon request. 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's/Guardian's Account 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>



## 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)

U.S. Department of Veterans Affairs (VA)

- Apply to become a VA **Fiduciary**



[www.ssa.gov/payee](http://www.ssa.gov/payee)

Visit a local Social Security Administration office



[www.benefits.va.gov/fiduciary](http://www.benefits.va.gov/fiduciary)

Visit a local VA office

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

If the minor receives Social Security 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 minor is eligible to receive benefits.

- Visit [www.ssa.gov/payee](http://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 you.

Some Social Security beneficiaries qualify for medical, food, transportation, and other public assistance through the state or county. A local Department of Social Services, or DSS, office can help access those services for the minor.

- To find your local DSS office, call 1-800-322-6347 or visit <http://dhr.maryland.gov/local-offices/>.

If the minor receives benefits from the Department of Veterans Affairs, you will need to apply to become a **Fiduciary** for the minor. Visit [www.benefits.va.gov/fiduciary](http://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 minor's Social Security or VA file number on hand when you apply to become a representative payee or fiduciary. Keep good records and mark your calendar for recertification dates.

If the minor does not currently receive government assistance benefits but may be eligible, you must apply for them on behalf of the minor. A local Department of Social Services can 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

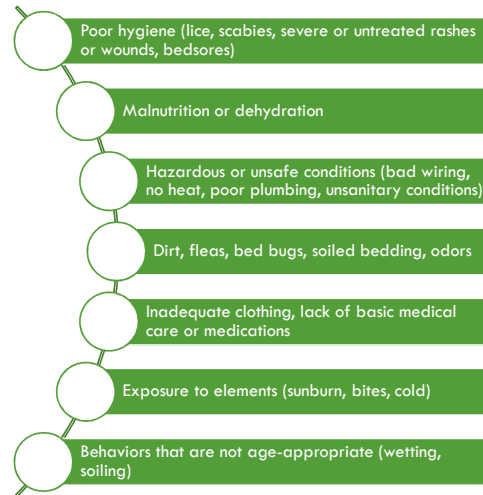
## Passive neglect

- 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>

## 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?
- Has he or she been 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.

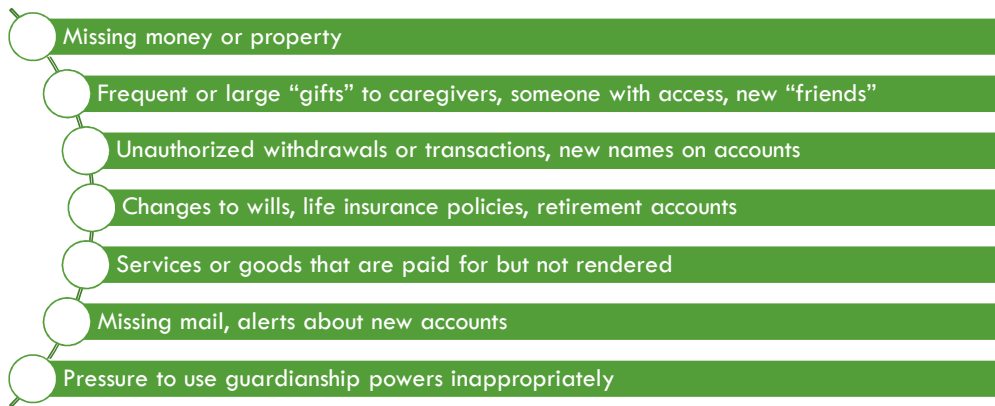
Common types include:

- **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

## TERMINATION

The guardianship can terminate when:

- Minor turns 18
- Becomes emancipated (marriage)
- Minor dies
- Petition to terminate filed by a parent

File Petition to Terminate the Guardianship –  
**Within 45 days**

Show cause order

- Mail to Interested Persons
- Hearing

Minors with disabilities

- File: Petition for Guardianship of Alleged Disabled Person (Form CC-GN-002)

Continue responsibilities until the court orders  
termination of the guardianship

### Turns 18

- Include a copy of birth certificate or other proof of age

### Emancipation by married

- Include a copy of marriage certificate

### Death of minor

- Include a copy of death certificate

### Guardians of the property

- Include a Final Fiduciary's/Guardian's Account
- Proposal for distribution of remaining assets

The guardianship can terminate (end) when the minor turns 18, is emancipated because of marriage, dies, or court approval of a petition to terminate filed by a parent. It is your responsibility to notify the court when one of these events occurs. The guardianship may also end if the court approves a petition from the minor's parents to terminate the guardianship.

Within **45 days** of after the minor turns 18, dies, or is emancipated you must file a **Petition for Termination of Guardianship**. The petition must include:

- Your interest in the guardianship estate
- The name and address of all interested persons entitled to notice
- If the minor turned 18, a copy of his or her birth certificate or other proof of age.
- If the minor died, a copy of the death certificate.
- If the minor became emancipated because of marriage, a copy of the marriage certificate.
- Attach a final Fiduciary's/Guardian'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 may 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.

If the minor has a disability and still needs a guardian of the person after age 18, a petition for guardianship of an alleged disabled person should be filed in the Circuit Court in the county where the minor lives.

### 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>
- Guardian's Account (Orphans' Court Form RW1320):  
<http://registers.maryland.gov/main/forms/RW1320.pdf>

# RESIGNATION

No longer able to serve?

Petition to Resign as Guardian

- May request: Substituted or Successor Guardian (replacement)
- Guardians of the property: Include a final Fiduciary's/Guardian's Account

Show cause order

- Mail to Interested Persons

Resignation not automatic

- Hearing
- Continue responsibilities until the court enters an order accepting your resignation

The court understands that circumstances change and you may no longer be able to serve as guardian of the property. 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 that includes your reasons for resigning; and
- Include a final Fiduciary's/Guardian'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.

In your petition, you may request the appointment of a substituted or successor guardian.

After the court receives your petition, it may 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 of 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>
- Guardian's Account (Orphans' Court Form RW1320): <http://registers.maryland.gov/main/forms/RW1320.pdf>



# REMOVAL

## Removal as guardian by:

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

## Hearing

- Removal
- Perform neglected duties
- Other sanctions

## Court order for removal as guardian

- Appointment ends
- Guardians of the Property: File a final Fiduciary's/Guardian'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 substituted or successor 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 the court does remove you, you must file a final Fiduciary's/Guardian'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>
- Guardian's Account (Orphans' Court Form RW1320):  
<http://registers.maryland.gov/main/forms/RW1320.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. You do have the duty to preserve, account for, and deliver all guardianship property to the substituted or successor guardian, personal representative of the estate, or the minor when he or she turns 18.

The end of your appointment does not discharge you from liability for any wrongful acts during the appointment.

## QUESTIONS?

Visit: [www.mdcourts.gov/guardianship](http://www.mdcourts.gov/guardianship)

- Forms
- Videos
- Resources



## GUARDIANS OF THE PERSON & PROPERTY TRAINING

Minors

### 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>