

Maryland Judiciary
Guardian Ethical Considerations

As guardian of a disabled person, when you make decisions for that person, you need to be mindful of certain ethical considerations. These include ideas such as extreme care and diligence, as well as trust, loyalty, and fidelity. You should know how to consider the least restrictive environment for the disabled person, how to use informed consent on their behalf, and when to limit or terminate the guardianship.

Let's look at each of these ethical consideration more closely, using examples to illustrate.

As guardian of the person, you must use **extreme care and diligence** when making decisions for the disabled person. For example, if you go on vacation, make sure people can reach you and that care for the disabled person is ongoing in your absence.

You must also demonstrate the highest degree of **trust, loyalty, and fidelity** when it comes to the disabled person. That means you act in their best interest, even above your own. For example, let's say you're looking for a new living arrangement for your disabled parent. The location closest to you may not necessarily be in your parent's best interest. If a location further away has a pool, and your parent is an avid swimmer, that may be the best option and should be the one you choose, even if it's less convenient for you. Here's another example: Let's say you recently learned from your parent's sister that your parent wishes to be cremated. Although you may object to cremation, it is the right option to choose for your parent when the time comes, to honor their wishes.

Another ethical consideration is that you must ensure that they live in the **least restrictive environment** possible. That may mean making sure that the person has access to a community with cultural connections and family. Here's an interesting example: Let's say you live in Anne Arundel county, and you are guardian to your disabled sister-in-law, who is Korean. The least restrictive environment for her may be a group home in Howard County, where the community is rich in Korean culture, including food and churches.

Another ethical consideration is your responsibility to provide **informed consent**. That means you will make decisions for the disabled person about their care, treatment, and services. You must make sure that they receive the least restrictive form of intervention. How will you do

that? Look at the pros and cons, and truly understand both sides before you make a decision. Is your decision more likely to benefit the person than harm them? For example, you may have to consent to major surgery, such as a hip replacement or heart transplant. You will need to weigh the benefits of the surgery against the risk posed to the disabled person by being under anesthesia. Advocating for them means asking questions and getting second, and maybe even third, opinions.

The final ethical consideration has to do with ending your guardianship. You must take active steps to **terminate or limit your guardianship** whenever indicated. For example, let's say you're guardian for your brother, who is a long-term alcoholic. You placed him in a hospital six months ago. Now, he's sober and has improved significantly. A physician's certificate no longer indicates he has a disability, so you must take steps to terminate your guardianship, even if you are afraid your brother will start drinking alcohol again.

In a nutshell, ethical considerations mean that when making a decision for the disabled person, ask yourself what they would do, or what would result in the best outcome for them. Recognize that what you would do for yourself may not be what is best for the disabled person.

Remember, when acting as a guardian, use extreme care and diligence and the highest degree of trust, loyalty, and fidelity, always consider the least restrictive environment for the disabled person, and use informed consent on their behalf. Finally, know when it's time to limit or terminate your guardianship.