Guardianship vs. Conservatorship in Massachusetts: Understanding the Key Differences

Services

Conservatorship & Guardianship

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Guardianship vs. Conservatorship

When a loved one is no longer capable of managing their own affairs, it can be difficult to know what steps to take. In Massachusetts, two options are available for those seeking legal authority to help manage their loved one's personal and financial matters: guardianship and conservatorship. In this blog, we will delve into the key differences between these two options and the legal authority conferred by each. If you're considering a guardianship or conservatorship for a loved one, don't hesitate to contact Cohen Cleary, P.C. at 508-880-6677 for a free consultation with one of our attorneys.

Guardianship

Guardianship is a legal arrangement in which a court appoints a person, known as a guardian, to make decisions for another individual (the "Incapacitated Person" or "Ward") who is unable to make personal, healthcare, and other non-financial decisions for themselves. This may be due to reasons such as mental incapacity, physical disability, or age-related decline.

In Massachusetts, a guardian can be granted authority to make decisions in the following areas:

1. Medical care and treatment: The guardian may consent to or refuse medical treatment on behalf of the ward, based on the ward's best interests.
2. Living arrangements: The guardian can determine where the ward will live, whether it's in their own home, with family members, or in an assisted living facility or nursing home.
3. Education and vocational training: The guardian may enroll the ward in appropriate educational programs or vocational training.
4. Personal care: The guardian can make decisions about the ward's daily needs, including grooming, nutrition, and clothing.

Conservatorship

Conservatorship, on the other hand, is a legal arrangement where a court appoints a person, known as a conservator, to manage the financial affairs of an individual (the "protected person") who is unable to do so themselves. This may be due to mental incapacity, physical disability, or age-related decline.

A conservator in Massachusetts has the following responsibilities:

1. Managing the protected person's assets: The conservator is responsible for managing

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and protecting the individual's property, including investments, real estate, and personal belongings.

2. Paying bills and debts: The conservator must ensure that the protected person's expenses are paid, including rent or mortgage, utilities, taxes, and any outstanding debts.
3. Collecting income: The conservator is responsible for collecting any income due to the protected person, such as Social Security, pension benefits, or rental income.
4. Developing a financial plan: The conservator must create a plan for the protected person's finances, taking into account their current needs and future requirements.

While both guardianship and conservatorship aim to protect vulnerable individuals and provide assistance in decision-making, they differ in the areas of authority they cover. Guardianship primarily deals with personal and healthcare decisions, whereas conservatorship focuses on managing financial matters. It's important to carefully assess your loved one's needs and consult with an experienced attorney to determine the most appropriate course of action.

If you believe a guardianship or conservatorship may be necessary for your loved one, contact Cohen Cleary, P.C. at 508-880-6677 for a free consultation with one of our knowledgeable attorneys. We will help guide you through the process and ensure that your loved one receives the care and protection they need.

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