

# Conservatorship & Guardianship

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## Related Services

Conservatorship & Guardianship  
Appointment of Guardians and Conservators For Adults  
Appointment of Guardians and Conservators For Minors  
Guardianship and Conservatorship Litigation  
Removal of Guardians and Conservators

## Overview

Calm through complexity. Because someone depends on you.

We help families, fiduciaries, and facilities navigate adult and minor guardianships, conservatorships, and disputes with the care and precision these sensitive matters demand.

## When Someone You Love Cannot Protect Themselves

A dementia diagnosis, a sudden incapacity, a family member who can no longer manage daily decisions: these situations do not wait for families to feel ready. Massachusetts law requires court authorization before anyone, even a spouse or adult child, can make legal, financial, or medical decisions on behalf of an incapacitated person. A power of attorney does not solve every problem. If it was never executed, if it was not drafted as durable, or if the person has already lost capacity, the only path forward is through the Probate Court.

Families often delay guardianship proceedings, hoping the situation will resolve on its own. By the time they act, the incapacitated person may have been exploited financially or medically, and what could have been a straightforward petition becomes contested, expensive, and adversarial. Early legal guidance changes that trajectory.

## Adult and Minor Guardianship, Conservatorship, and Dispute Resolution

Cohen Cleary handles the full range of guardianship and conservatorship matters in Massachusetts and Rhode Island Probate Courts, including:

### Appointment of Guardians and Conservators for Adults

[Petitioning for guardianship](#) over incapacitated adults, including limited guardianships that preserve the individual's remaining autonomy

### Appointment of Guardians and Conservators for Minors

Establishing [legal authority over minor children](#) when parents are deceased, incapacitated, or unable to provide care, and managing minors' financial assets through conservatorship

### Guardianship and Conservatorship Litigation

Representing families and individuals in [contested proceedings](#), accounting disputes, license to sell, and challenges to the scope of a guardian's or conservator's authority

### Removal of Guardians and Conservators

Pursuing [removal of fiduciaries](#) who have breached their duties, and defending appointed guardians or conservators against improper removal petitions

## How We Help: Conservatorship vs. Guardianship in Massachusetts

Massachusetts draws a clear distinction between guardianship and conservatorship. Guardianship grants authority over an individual's personal and medical decisions. Conservatorship grants authority over their finances and property. Rhode Island uses different terminology for the same division of authority: a guardian of the person manages personal and medical decisions, while a guardian of the estate manages finances. Families navigating these proceedings in both states need counsel who understands how each jurisdiction structures these roles. That terminology gap is the first source of confusion we help clients resolve.

We tell our clients that guardianship is one of the most consequential legal actions a family can take. Courts treat it that way. Under the Massachusetts Uniform Probate Code, a judge must find that the proposed ward lacks the capacity to make informed decisions and that no less restrictive alternative exists. This means the court will consider whether a durable power of attorney, a health care proxy, or a representative payee could achieve the same protection without removing the individual's autonomy.

[Our attorneys](#) prepare each case with that standard in mind. We work with medical professionals to develop the clinical evidence the court requires, present a clear plan of care, and structure petitions that reflect the least restrictive arrangement consistent with our client's safety. When families disagree about who should serve, or whether guardianship is appropriate at all, we bring the litigation experience necessary to resolve those disputes in [Probate](#) Court.

## Why Choose Cohen Cleary's Conservatorship and Guardianship Attorneys

At Cohen Cleary, our practice teams combine deep subject-matter experience with disciplined execution and responsive client service. We do not take a one-size-fits-all approach. Every matter is handled with careful preparation, clear communication, and a strategy tailored to the client's goals and the realities of the forum.

Clients choose Cohen Cleary because we deliver:

### Practice-Focused Legal Experience

Our attorneys work in defined practice areas, allowing us to develop practical insight into the legal, procedural, and regulatory nuances that matter most in each case. This focus allows us to anticipate issues, avoid unnecessary delays, and position matters for efficient resolution.

### Clear Guidance and Proactive Communication

We prioritize clarity at every stage. Clients receive straightforward explanations of their options, timely updates on developments, and practical advice grounded in real-world outcomes.

### Strategic Advocacy with Trial Readiness

Whether a matter calls for negotiation, mediation, or litigation, our attorneys prepare every case with discipline and foresight. We pursue efficient resolution when possible and are fully prepared to advocate aggressively when necessary to protect our clients' interests.

## Regional Knowledge and Local Presence

With offices throughout Massachusetts and experience across New England courts and agencies, we bring local insight and regional reach to every matter.

## Client-Centered Service

We treat every matter with urgency and respect. Our clients rely on us for responsive service, sound judgment, and steady counsel through complex legal challenges.

In our guardianship and conservatorship work, this approach helps clients navigate sensitive family dynamics and court proceedings with clarity, efficiency, and confidence.

## Rogers Guardianship and Specialized Court Proceedings

Certain guardianship matters in Massachusetts require specialized authority beyond a standard appointment. A Rogers guardianship, named after the landmark *Rogers v. Commissioner* decision, authorizes a guardian to consent to antipsychotic medication and other extraordinary medical treatments on behalf of a ward. These petitions require a separate judicial finding and a treatment plan developed with the ward's clinical team. Bristol County and Plymouth County Probate Courts each have specific procedural expectations for Rogers petitions, and presenting a well-prepared clinical record is essential to obtaining timely approval.

## Serving Families Across Massachusetts, Rhode Island, and New England

Cohen Cleary files guardianship and conservatorship petitions in Probate Courts throughout Massachusetts and Rhode Island, with offices in [Taunton](#) and [Plymouth](#) providing direct access to Bristol County, Plymouth County, and Norfolk County courts. Our attorneys are familiar with the filing requirements, scheduling practices, and procedural expectations of each courthouse. We also represent clients in guardianship and conservatorship proceedings throughout New England, bringing the same level of preparation and local knowledge to every jurisdiction in which we practice.

## Schedule a Consultation With Our Massachusetts Guardianship and Conservatorship Lawyers

If you are considering guardianship or conservatorship for a family member, or if you have concerns about an existing appointment, [contact](#) Cohen Cleary to discuss your situation. Our attorneys will assess your options, explain what the court process requires, and help you determine the right path forward.

## Frequently Asked Questions About Guardianship and Conservatorship

### What is the difference between guardianship and conservatorship in Massachusetts and Rhode Island?

In Massachusetts, guardianship grants legal authority over an individual's personal and medical decisions, while conservatorship grants authority over their financial affairs and property. Rhode

Island uses different terminology: a guardian of the person handles personal and medical decisions, and a guardian of the estate handles finances. Despite the different labels, the underlying roles are similar. Many families need both forms of authority, and the same person can serve in both capacities if the court determines it is appropriate.

### Does a power of attorney eliminate the need for guardianship?

Not always. A durable power of attorney can be an effective alternative, but only if it was properly executed while the person still had legal capacity. If the power of attorney is not durable, it terminates upon incapacity. If the person never signed one, or if the existing document does not cover the decisions that need to be made, guardianship may be the only option. We help families evaluate whether existing planning documents are sufficient or whether a court petition is necessary.

### How long does it take to obtain a guardianship in Massachusetts?

An uncontested guardianship petition in Massachusetts typically takes several weeks to a few months from filing to the court hearing, depending on the Probate Court's schedule and the completeness of the medical evidence. Contested cases take significantly longer. Emergency or temporary guardianships can be obtained on a shorter timeline when there is an immediate risk of harm, though the court requires specific evidence justifying that urgency.

### What is a Rogers guardianship?

A Rogers guardianship provides a guardian with authority to consent to extraordinary medical treatment, most commonly antipsychotic medication, on behalf of an incapacitated person. The name comes from the Massachusetts Supreme Judicial Court decision in *Rogers v. Commissioner of the Department of Mental Health*. Obtaining Rogers authority requires a separate court hearing and a detailed treatment plan prepared in coordination with the ward's medical team.

### Can a guardian be removed if they are not fulfilling their duties?

Yes. Massachusetts Probate Courts have the authority to remove a guardian or conservator who has failed to perform their duties, breached their fiduciary obligations, or become unsuitable to serve. Interested parties can file a petition for removal supported by evidence of the fiduciary's misconduct or neglect. The court will appoint a successor if removal is granted. Cohen Cleary represents both petitioners seeking removal and fiduciaries defending against removal actions.