Appointment of Guardians and Conservators For Adults

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Overview

A power of attorney does not cover every situation. When an adult loses the capacity to make decisions, and no valid legal instrument is in place, or the existing documents prove insufficient, the only path forward is a court-supervised guardianship or conservatorship. Many families assume this process is straightforward: that the court will simply appoint the closest relative and move on. That assumption is incorrect.

For most families, petitioning for legal authority over a parent or sibling is among the most difficult decisions they will face. Massachusetts Probate and Family Courts and Rhode Island Probate Courts scrutinize every petition carefully. The court evaluates the proposed guardian's suitability, the incapacitated person's specific needs, and any competing interests before granting authority over another adult's personal or financial decisions. Cohen Cleary represents families and individuals navigating these proceedings throughout Massachusetts and Rhode Island, preparing petitions that address the court's concerns before they become obstacles.

How We Help Families Petition for Adult Guardianship

Filing for guardianship or conservatorship in Massachusetts requires a medical certificate from a licensed physician confirming the individual's incapacity and a clinical team report evaluating the person's functional limitations. These documents are not formalities. Probate courts rely heavily on the quality and specificity of the medical evidence, and a vague or incomplete certificate can delay the proceeding or result in denial.

We prepare petitions for full and limited guardianship, conservatorship, and combined appointments. For families facing urgent circumstances, such as a parent who has been hospitalized and cannot consent to necessary treatment, we file temporary or emergency petitions to secure immediate authority while the permanent case proceeds.

Our practice also includes Rogers guardianship petitions, which authorize extraordinary medical treatment decisions, including the administration of antipsychotic medication, under court supervision through a Rogers monitor. In Rhode Island, parallel proceedings follow similar principles, though the terminology differs: Rhode Island designates a guardian of the person for personal and healthcare decisions and a guardian of the estate for financial management.

When families disagree about who should serve, we represent petitioners and interested parties in contested proceedings, presenting evidence of suitability and addressing the court's preference for the least restrictive alternative.

Why Clients Choose to Work With Cohen Cleary

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

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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 matters and court proceedings with clarity, efficiency, and confidence.

Guardian and Conservator Obligations After Appointment

Every guardianship or conservatorship carries ongoing obligations that extend well beyond the initial court appointment. We prepare clients for these responsibilities from the outset:

- Guardians must file annual reports documenting the incapacitated person's condition, living arrangement, and care plan.
- Conservators must file detailed financial accountings with the court, typically on an annual basis.
- Most conservators are required to post a surety bond protecting the ward's assets against mismanagement.
- Rogers monitors must report on treatment compliance to the court following each review period.

Failure to meet these obligations can result in removal, surcharge, or both. We build compliance into the guardianship plan from day one.

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Adult Guardianship and Conservatorship Attorneys Serving Massachusetts and Rhode Island

Cohen Cleary represents families in guardianship and conservatorship proceedings across Massachusetts and Rhode Island, with particular familiarity with the Probate and Family Courts in Bristol, Plymouth, and Norfolk Counties. Our offices in Taunton and Plymouth position us to serve clients throughout southeastern Massachusetts and the Greater Boston area. We also maintain an active guardianship practice throughout New England, representing families in probate courts across the region. Our attorneys bring the same level of preparation and court familiarity to every proceeding, whether the matter involves a straightforward, uncontested appointment or a complex, multi-party contested case.

Frequently Asked Questions About Filing for Guardianship

What is the difference between a guardian and a conservator in Massachusetts?

In Massachusetts, a guardian has authority over an incapacitated person's personal and healthcare decisions, while a conservator manages the person's financial affairs and assets. A court may appoint one or both, depending on the individual's needs. In Rhode Island, the equivalent roles are referred to as guardian of the person (for personal and healthcare decisions) and guardian of the estate (for financial management).

What medical evidence is required to file for adult guardianship?

Massachusetts requires a medical certificate from a licensed physician and a clinical team report evaluating the individual's functional capacity. These documents must detail the nature and extent of the incapacity. The court relies on this evidence to determine whether guardianship is necessary and what level of authority is appropriate.

How long does the guardianship appointment process take?

Timelines vary depending on whether the petition is contested. An uncontested guardianship in Massachusetts typically takes several weeks from filing to appointment. Emergency or temporary guardianship petitions can be heard on shorter notice when the incapacitated person faces an immediate risk. Contested proceedings involving disputes over who should serve may take significantly longer.

Can a family member be denied appointment as guardian?

Yes. The person you assume the court will appoint is not always the person the court selects. Massachusetts probate courts evaluate every proposed guardian based on suitability, proximity, relationship quality, and potential conflicts of interest. Family disagreements, geographic distance, or a history of financial mismanagement can lead the court to appoint a different individual or a professional fiduciary.

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