



*PROTECT YOUR LOVED ONE FROM ABUSE,  
EXPLOITATION, AND FINANCIAL FRAUD*

At Korsinsky & Klein, LLP, we are dedicated to protecting the rights of elders throughout New York and New Jersey. We know what is needed to establish and manage a guardianship so that your loved one is protected. We will prepare the necessary reports, file a petition, and seek an expansion of your guardian's powers if necessary.

## Guardianship Basics

Guardianship is the legal process that grants a person the power to make personal, financial, and/or health decisions for another adult. The circumstances that may warrant guardianship include:

- A loved one can no longer make sound decisions due to illness, disease, age, or disability
- A loved one did not previously execute documents appointing someone else as their agent

A Power of Attorney allows someone to handle financial affairs, while a Health Care Proxy allows someone to make healthcare decisions. If these documents don't exist, you may need to consider guardianship to obtain the legal authority to make financial or health care decisions on behalf of an incapacitated loved one.

## The Guardianship Process

- A family member petitions the court for need of guardianship
- The court determines if guardianship is warranted
- The court appoints a guardian

## Choosing a Guardian

Your choice of a guardian should be a dependable person who will act on behalf of your loved one with confidence and uphold his or her fiduciary duty. The guardian's powers and duties will be specifically tailored to fit the level of incapacity of the ward and will be listed in the guardianship order issued by the courts.

The different types of guardians include:

- Family members
- Friends or neighbors
- Private professional guardians, including banks or other financial institutions
- Public guardianship programs, including social services, case management, adult protective services, nursing homes and public adult education programs

## New York State Law

Article 81 of the New York State Mental Hygiene Law requires a high burden of proof for establishing a guardianship. The law also requires the courts to set up a system to consistently manage the guardian's performance in caring for the ward. If the courts determine that a guardian has failed to faithfully manage, protect or preserve the daily living of the ward, the court may reserve the right to revoke guardianship.

We know that it is never easy to have to deal with the anticipation of a loved one's disability. However, taking proactive steps early on can prevent future challenges and heartache. When you turn to us for assistance, we will go over the rights and responsibilities of your chosen guardian and provide you with compassionate legal guidance so that this time of transition can be smooth for your loved one and your family.