



Anyone in the world of long-term care has probably heard of **Guardianship...**

Mrs. Johnson is a new resident in your skilled nursing home. Mrs. Johnson has moderate dementia. She often repeats herself and has trouble following a conversation. She is also an avid bingo player, enjoys dinner with her fellow residents, and loves to sing during music time. Her daughter is her full guardian.

What does this mean? How does a guardianship work?

Read on to learn the “nuts and bolts” of guardianship.

(Information provided by Nicole Shannon, Systemic Advocacy Attorney at Michigan Elder Justice Initiative)

Interview with Nicole Shannon

What is a guardianship for adults?

Nicole: “Guardianship” is a legal term. When an adult cannot make decisions for themselves, a court may appoint a “guardian” to make decisions for them. Courts should do this only if there are no other alternatives. If Mrs. Johnson had signed a durable power of attorney or advance directive (health care power of attorney) before she became very confused, the person she chose to act for her could have made decisions for her when she was no longer able to do so. If she did not have these documents in place and could not make decisions herself, her daughter (or someone else) could be appointed her guardian.

How does guardianship work?

Nicole: The court decides what choices the guardian can make for the adult. Under a “full” guardianship, guardians can make choices about almost all parts of an adult’s life. This includes choices about medical issues, handling money and property, or choosing where to live. Under a “partial” guardianship, a guardian can only make some choices.

Interview Continued...

Who can be a guardian?

Nicole: The court will choose someone to be a guardian. Sometimes the guardian is a family member or close friend. Sometimes the guardian is a corporation. Under Michigan law, courts must go through a priority list to choose a guardian. If the person at the top of the list is not “suitable or willing” to serve, the court moves down to the next person on the list. At the top of the list is someone whom the adult wants to serve as guardian. Next are family members like spouses, adult children, or parents. Then, more distant relatives and caregivers. Finally, if none of these people are willing to serve, the court can choose a corporation. Fortunately, Mrs. Johnson’s daughter, a close relative, was “suitable and willing.”

Does a resident lose his or her identity while under a guardianship?

Nicole: Absolutely not! But unfortunately, sometimes residents with guardianships are referred to as “*not their own person*.” This can be unintentionally hurtful and dehumanizing.

Even with a guardian, residents are adults with preferences, friendships, and routines—very much “their own person.”

Mrs. Johnson is “her own person” who finds joy in activities like bingo and has important relationships, even if her daughter makes some decisions for her.

PROTECTING

the Elderly

AGAINST

Guardianship

ABUSE

Guardianship can protect vulnerable people from abuse and neglect if they cannot manage for themselves and don’t have someone with the ability to act for them. Unfortunately, sometimes guardians themselves can also abuse or neglect the people they should be caring for.

For example, if Mrs. Johnson needs surgery, but Mrs. Johnson’s daughter/guardian will not return the doctors’ phone calls to give consent, that could be neglect. If her daughter treats her roughly when she visits, that could be abuse. And if her daughter steals money that should be used to pay for Mrs. Johnson’s nursing home, that would be financial exploitation. The local long term care ombudsman could help Mrs.

Johnson deal with abuse and neglect by helping her talk to her daughter or referring Mrs. Johnson to a lawyer. If you are a mandatory reporter (and long-term care staff are!), you may have to report the abuse even if an ombudsman is involved. Find out when and how you must report any abuse and neglect you learn about.



Guardianship

Can a guardianship ever change or end?

A guardianship can change if someone files a “Petition to Modify” with the Probate Court. For example, someone may want to change who serves as guardian or limit what kind of choices a guardian makes. If Mrs. Johnson was unhappy with how her daughter was handling things, she might want to file a petition to modify to change the guardian to another loved one or even a professional guardian. Mrs. Johnson’s guardianship can only end if it is “terminated” by the court or if Mrs. Johnson passes away. A court can terminate a guardianship if the guardianship is no longer necessary. This could happen if Mrs. Johnson becomes able to make decisions for herself or if the court understands it made a mistake in deciding Mrs. Johnson needed a guardian in the first place.



**Thank you, Nicole Shannon,
for this valuable information!**

For more information about Guardianship,
go to

[https://www.michbar.org/
public_resources/probate_guardianship](https://www.michbar.org/public_resources/probate_guardianship)

To Report Abuse, Neglect, or Exploitation

Of a nursing home resident by a staff member: Call State of Michigan LARA @ (800) 882-6006

Of an older adult living at home, in assisted living, adult foster care, home for the aged, or if the person is living in a nursing home but the abuser is someone who is *not* a staff member, call:

Adult Protective Services: (855) 444-3911

If you think a crime has occurred: Call your local police/sheriff department (and LARA)—If the danger is immediate, **call 911**

**Thank you for all of you who
go above-and-beyond, every
day, caring
for your
residents!**



For More Information

Long Term Care Ombudsman: (517) 394-3027
Tri-County Office on Aging: (800) 405-9141

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