**Conservatorship/Adult Guardianship**Whether through illness, injury, or mental decline, anyone can require a guardian (also known as a conservator) to care for them if they become mentally or physically incapacitated. Unless the person has the proper estate planning in place that names a guardian, however, guardianship must be established through county probate court. At The Law Office of James Hogan, we can provide you with a guardianship/conservatorship attorney to guide you through this often complex and emotional process.

**Obtaining Adult Guardianship**Although naming a guardian for a minor child involves a somewhat similar process, obtaining adult guardianship is vastly different, especially in terms of what the court requires as proof that guardianship is warranted. In fact, the process begins with the interested party filing a petition in court that requests the court declare the incapacitated person incompetent.

Sometimes, these filings are made “ex parte” (in secret), so a guardianship can be established before family and friends even know it’s happening. Other times, guardianship filings can lead to heated disputes between family members and/or friends, who may claim they’d be better suited for the role.

Regardless of who files the petition, guardianship will only be granted if the court determines there’s enough evidence to show the person is mentally incapacitated—to the point where they can no longer make legal, financial, and/or healthcare decisions for themselves. If guardianship is granted, the incapacitated person is known as the guardian’s “ward.”

**Who Can Serve as an Adult Guardian?**

Although courts typically give preference to a spouse or another close family member, a guardian doesn’t have to be a relative. Provided the person is a competent adult, a close friend, or any other interested party can serve as long as they prove they’re best suited for the position.

If a relative or friend is not willing—or capable—of serving, the court will appoint a professional guardian or public guardian. Sadly, this can lead to horrible financial and/or physical abuse of the incapacitated, so it’s best to plan ahead and name a guardian in your estate planning documents to keep courts out of the picture entirely.

**Adult Guardianship Responsibilities**

Depending on the extent of the person’s incapacity, a court-appointed guardian can be given near complete control over a person’s life. There are two types of guardianship: guardianship of the person and guardianship of the estate.

Guardianship of the person involves making decisions about the ward’s place of residence, physicians, medical treatment, and a host of other personal issues. Guardianship of the estate involves decisions about the person’s income, legal actions, assets, insurance claims, and many other matters.

Usually one person is appointed for both roles, but the court can also split the responsibilities among multiple parties. For instance, one guardian may oversee the financial decisions, while another handles living arrangements and healthcare. Moreover, the court often requires the guardian(s) to file detailed status reports—like financial accounting—at regular intervals or whenever important decisions are made, such as the sale of assets.

Some of the most common duties of adult guardians include:

* Paying the ward’s bills
* Determining where they live
* Monitoring their residence and living conditions
* Providing consent for medical treatments
* Deciding how their finances are handled, including how their assets are invested and if any assets should be liquidated
* Managing real estate and other tangible property
* Keeping detailed records of all their expenditures and other financial transactions
* Making end-of-life and other palliative-care decisions

**Trusted Florida Guardianship Attorney**With the huge responsibility and loss of control that comes with guardianship, the process can often feel overwhelming. The best course of action is to use estate planning to name a preferred guardian ahead of time, so the family won’t have to deal with a courtroom or lawyers in the first place. Unfortunately, that’s not always how life works out, so if you need a reliable guardianship attorney, contact The Law Office of James Hogan today.