


# You Have Just Been Appointed Guardian for an Adult with a Disability

## Now What?

Updated 02/2021  
**LEGAL COUNCIL**  
FOR HEALTH JUSTICE

### Keep Documents Safe!

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1. **Court Order:** Appoints you as the guardian and tells you, and everyone else, what powers you have as the guardian acting on behalf of your ward;
  2. **Letters of Office:** An original document that describes the type of guardianship you have; only give away *copies* of this document – keep the original!
  3. **Annual report:** submit this every year the month the hearing was held – put this in your calendar or somewhere that will remind you each year to fill it out and mail it to the court


If outside of Cook County, you must obtain and submit a **Certificate of Guardianship Training**. Visit [bit.ly/GuardianshipTrainingOSG](http://bit.ly/GuardianshipTrainingOSG) to learn more.

### What Do I Do Next?

Give copies of the Letters of Office to the people and organizations providing care and services for the person with a disability, such as:

- Special Education Programs and/or Residential programs
- Healthcare, vocational, other service providers
- Agencies providing benefits, like the Social Security Administration and the Department of Public Aid

### Ward Rights



People, including wards of guardianship, have the freedom to make their own decisions based on their personal beliefs, thoughts, and abilities. This freedom includes the right to make bad decisions, like: overeating, hanging out with questionable friends, and wearing jeans to a formal dinner. Guardians must be mindful that you cannot use your position as guardian to impose your will on an adult who has a will of their own - even if the adult ward is your child.



## Ward Rights (Continued)

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### These Rights Include:

- The right to have input into decision-making
- The right to engage in sexual activity (The person with a disability must be able to give and obtain consent from their sexual partner. The disabled person only needs a basic understanding of the risks, benefits, and consequences of a sexual relationship to exercise this right.)
- The right to have services that are 1) least restrictive, 2) person-centered, and 3) maximize independence.
- The ward does **not** have the right to own a firearm.
- The right to refuse mental health treatment
- The right to vote; if they are legal residents, citizens of the U.S., and have the desire and ability to vote.
- The right to marriage (guardian needs a court order to prevent a marriage)
- The right to get counseling and psychotherapy (Persons with a disability have a right to get counseling or psychotherapy for a total of five sessions at 45 minutes per session without their guardian's consent or notice. After the first five visits, a guardian's consent is required to continue counseling or psychotherapy)



## Guardian Responsibilities to Ward and Court:

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**Your role as guardian is a special legal relationship with legal responsibilities that are different from your role as parent or family member.** You must comply with the Probate Act and you are accountable to the court.

### Annual Report to the Court:

- Submit report on status of the ward every year to the Judge who heard your case
  - report if you change address
  - report if the ward obtains funds over \$10,000 (like an SSI backpayment)
- If you fail to submit the Annual Report, the court will require you to appear at a hearing to give the report orally
- If you fail to appear at the court date, the court may remove you as Guardian
- Some judges have a specific form, others use the court form found on the court's website
- Send it to the Judge at the court
  - Cook County: [bit.ly/CCJudgeInfo](https://bit.ly/CCJudgeInfo)

## Guardian Decision-Making – Legal Considerations

### 1. Will this decision help the person become more independent?

*Example:* Is the person able to live semi-independently in an apartment with supportive services instead of a group home with 24-hour supervision?

### 2. Will this decision help the person with their self-reliance?

*Example:* Is the person able to learn to take the bus to the store instead of having to depend on someone for a ride?

### 3. Will this decision be the least restrictive option for the person?

*Example:* Can the person learn to work at a job in the community with the help of a job coach instead of working in a workshop with constant supervision?

### 4. Is this decision focused on the person with a disability?

*Example:* Is the decision based on what the person wants and needs instead of what the guardian wants and needs?

## Mental Health Services

Guardians for persons with mental illness **CAN:**

- Seek a court order with the assistance of the State's Attorney's Office to have your ward hospitalized and or treated for their mental illness;
- Have your ward taken to a hospital if you believe it is necessary; when calling the police, you should request a CIT officer (trained in crisis intervention)
- Fill out and file a court petition for involuntary admission to a mental health facility;
- Consent to psychiatric medications if your ward is not objecting to the medication and the guardian is able to give informed consent after consulting with the prescribing physician.

Guardians for persons with mental illness **CANNOT:**

- Force or consent to admission to a mental health facility;
- Force your ward to get mental health medication, treatment, or electroconvulsive therapy (ECT).

## Guardian Rights

**As a guardian, you have the right to:**

- Participate in treatment and care planning
- Access and talk to professionals involved in your ward's care
- Look at, and obtain, a copy of your ward's records including medical and school records
- Access your ward's residence
- Be notified of incidents, injuries, and changes in your ward's condition
- Authorize a representative payee for Social Security benefits



## You Must Return to Court to:

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1. Get authority for residential placement unless that authority is in the guardianship order
2. Get authority for any procedure that will permanently prevent your ward from having children except in emergency situations to preserve life or prevent serious impairment to your ward's health
3. Make changes to, revoke, or resign from the guardianship
4. Fully or partially restore your ward's decision-making rights
5. Have your ward involuntarily hospitalized or involuntarily treated for mental illness



## Other Items

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- A Guardian may choose someone to take over guardianship by filling out a Standby Guardianship Form if the guardian is unable to perform their duties
- If the Guardian can no longer care for the Ward, the Standby Guardian presents the Standby Guardian Form to the Court



## SSI (Supplemental Security Income) Disability Benefits

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- Once a person on SSI turns 18, Social Security Administration (SSA) expects them to pay rent. If the ward does not pay rent, SSA will keep one-third of the SSI check in place of the free housing the adult receives.
- The Guardian can create a lease to document that the guardian will pay part of the rent or mortgage from the ward's SSI. The Guardian should keep receipts of the payment (usually at least \$300 per month).

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**LEGAL COUNCIL**  
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**New Guardian  
Information Packet**