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SPECIAL TYPES OF GUARDIANSHIP

Generally, Ohio Court appointed Guardians are given a moderate range of authority to act on behalf of the Ward. However, Probate Judges may limit the powers of a Guardian, called a Limited Guardianship. A Limited Guardianship may be appropriate to obtain consent for a specific medical procedure or to manage a specific asset or problem. Ohio law also provides for an Emergency Guardian who can be temporarily appointed where it is reasonably certain that there will be immediate injury to the person or estate of the incompetent. The appointment of an emergency Guardian is a confidential proceeding but the accountings are part of the public record.

In addition, Ohio law now permits a “voluntary” guardianship, called a Conservatorship. This device permits a mentally competent, but physically infirm adult to establish a court appointed Conservator whose powers and duties are much like those of a Guardian. The Conservatorship will terminate at the ward’s request.

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While effective and safe, all Guardianships are cumbersome and expensive. Significant costs are incurred through legal and Guardian’s fees, court costs, and bond premiums. Also, the Court will often not approve the transfer of assets which would be advantageous from a Medicaid or estate planning perspective because it would have the effect of depleting the ward’s estate. Therefore, Guardianships are often used when a less intrusive alternative is not available.

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