# Massachusetts Probate and Family Court

# Module 2: Getting Started as a Guardian

## Welcome

Welcome to the Massachusetts Probate and Family Court's orientation program for guardians and conservators of adults.

In this training module you will learn:

* What is a guardian
* The difference between a limited and an unlimited guardianship
* What does a guardian do, and
* What makes a successful guardian

## What is a guardian

A guardian is a person appointed by the Court. They make personal decisions on behalf of an adult found to lack the capacity to make their own personal decisions.   
These may include decisions regarding the adult’s health care, living arrangements and overall well-being.

## The Difference between a Limited and an Unlimited Guardianship

In appointing a guardian, the Court must tailor the guardian’s authority to meet the needs and circumstances of the adult.

This is called a “limited guardianship.” Limited guardianships are preferred under Massachusetts law.   
The purpose of a limited guardianship is to maximize the adult's liberty and autonomy while still protecting them from harm.   
In a limited guardianship, a guardian will be given authority by the Court to make only the specific personal decisions the adult cannot make themselves.

For example, a guardian may be authorized to make only medical treatment decisions while the adult keeps the right to make all other decisions.

In an unlimited guardianship (also referred to as a “plenary” or “full” guardianship), the Court generally removes from the adult all personal decision-making responsibility and authority. Even when the Court appoints a guardian without limiting their authority, the adult keeps the right to vote, to practice their religion, and to visit with family and friends unless the guardianship Decree specifically prohibits it.

Whether limited or unlimited, a guardian must, as much as possible, encourage the adult to participate in decisions, to act for themselves, and to develop or regain the ability to manage their personal affairs.

Guardians must consider, as far as known, the adult’s “expressed desires and personal values” when making decisions for them. Every guardian must “act in the [adult’s] best interest.” They must use “reasonable care, diligence, and prudence.”

## What does a guardian do

If you are appointed as a guardian, the Court will enter a Decree.

The Registry will then issue you a document called “Letters.” The Letters prove that the Court has given you the authority to make certain decisions for the adult.

The Decree and Letters will describe your authority and state any limitations to it. Read these documents to understand what you can and cannot do as guardian. Keep the original Decree and Letters in a safe place.

If your authority is not limited, it includes decisions about the adult’s welfare. This covers housing, medical care, education, employment and their everyday needs.

*Attorney at Law Jamie Jordan:*

*“When you're serving as guardian, the amount of time that you need to devote to the protected person depends on what their needs are, what their health situation is.   
It can also be emotionally draining because you do have a big job. You're making medical decisions on behalf of a person who's lost the ability to make decisions for themselves. And so it may feel like a lot of pressure, but my advice was always rely on the experts, talk to the doctors, ask as many questions as you need to so that you feel you have enough information to make a decision that would be in the protected person’s best interest.”*

Whether your authority as guardian is limited or unlimited, YOU MAY NOT do any of the following unless the Court has expressly authorized you to:

* Admit the adult to a nursing facility for more than 60 days
* Make medical decisions if there is a pre-existing health care proxy in place
* Revoke the adult’s pre-existing health care proxy
* Apply for health insurance benefits including MassHealth on behalf of the adult;
* Obtain copies of statements or any other records from banks, insurance companies or other financial institutions verifying balances and transactions for accounts in the adult’s name, either alone or jointly with someone else
* Consent to treatment needing a substituted judgment such as treatment with antipsychotic medication, removal of artificial hydration or nutrition, sterilization, the entering of a Do Not Resuscitate/Do Not Intubate/Comfort Measures Only Order
* Execute a MOLST (Medical Orders for Life-Sustaining Treatment) or POLST (Portable Medical Order) for the adult.

If you are unsure of your authority after getting your Decree and Letters, contact the Office of Adult Guardianship and Conservatorship Oversight in the Administrative Office of the Probate and Family Court. The OAGCO will help you understand what the Court has authorized you to do.

## What makes a successful guardian

*Attorney at Law Joblin C. Younger:*

*“A good guardian is somebody who cares deeply about life and fulfilling that person's life that they're taking care of, ensuring that they have what they need. Their medical affairs are attended to. Their home is full of food and clothing.”*

As guardian, you should be trustworthy and reliable. Follow through on any promises to the adult. Regularly check in with the adult to involve them in all of your decisions as much as possible. Make prompt decisions.

You should be a good observer. Check how the adult is doing. Is their living situation suitable? Identify any problems to solve.

Find community resources that help meet the adult’s needs for treatment, training, and education.

Above all else, you must treat the adult with dignity and respect their values.

This includes making individualized decisions for them based on their preferences, lifestyle, and beliefs even if you would choose differently for yourself.

Advocate for their goals, needs, and preferences. Always act in the best interest of the adult.

Keep all information about the adult confidential. Share it only if necessary to secure medical or other services, or to obtain state or federal benefits.

Be organized and keep good records of all decisions and transactions. Complete the annual Guardian’s Care Plan Report and file it with the Court on time. Ask the Court to change or terminate the guardianship if the adult’s circumstances change.

## Resources

Remember, there are resources available to help you in your role as guardian.   
Click on the icons to see the various resources available.

* Court: If you have questions, you may always ask the Court for direction.
* OAGCO: You may also reach out to the OAGCO, that is the Office of Adult Guardianship and Conservatorship Oversight in the Administrative Office of the Probate and Family Court.
* Email: We are here to help you. You can contact us by email at OAGCO@jud.state.ma.us
* Webpage: You can visit us on the Probate and Family Court webpage at mass.gov to learn more about the OAGCO and how it can assist you as a guardian.

*Chief Justice John D. Casey:*

*“Thank you for becoming a guardian or conservator for an adult who needs your help.”*

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