

## Guardianships and Planning for Incapacity

Obtaining a guardianship can be a complex and time-consuming process. Manning Fulton's team of estate planning attorneys has worked with many families whose loved ones have lost the ability to care for themselves and who therefore require a court-appointed guardian to continue to manage their affairs. Our attorneys have extensive experience working with families to determine the level of capacity an individual may have and the proper guardianship that is needed.

Guardians in North Carolina have different levels of authority depending on the limitations of the incapacitated individual (also known as the Ward). Some individuals require guardianship for both their person and their estate. A "Guardian of the Person" is responsible for decisions related to medical treatment, living environment and other matters that safeguard the well-being of the Ward. The guardian of the estate has authority over the Ward's property and/or financial affairs. In the event that a person is in immediate danger, the court may grant an interim guardianship for a short-term period until a full guardianship hearing is granted. Manning Fulton will work with you and your family to help prepare the court petition, gather evidence, and manage the guardianship after it is granted.

It is a common myth that a durable power of attorney and/or healthcare power of attorney document means that there is no need for a guardianship. There are some limits to the authority in these documents and it is important not to mistakenly assume that they provide all authority necessary to care for a loved one in all situations. You may also discover that someone who is caring for a friend or relative with power of attorney documents is abusing their authority and a guardianship is necessary to protect that person from people that may try to harm them. Our experienced attorneys can work with you to determine the best course of action to take to make sure you can protect the ones for whom you care.

Placing a person under guardianship removes many civil liberties that we enjoy as citizens. A determination of incapacity by the court takes a ward's right to manage his or her own affairs away. Court's request substantial evidence before ordering a Guardianship over someone. Manning Fulton has significant experience in navigating these requirements and can help counsel you through the process.

### Related Services

- Wills and Planning for Young Families
- Estate and Gift Tax Planning
- Multi-Generational Wealth Transfer
- Tax and Wealth Preservation
- Estate and Trust Disputes

### Related Attorneys

- Ansley Chapman Cella
- Andrew W. Blair

For more information about this service,  
please contact...

Ansley Chapman Cella - (919) 510-9268 -  
acella@manningfulton.com  
Andrew W. Blair - (919) 510-9244 - blair@manningfulton.com

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Raleigh - 3605 Glenwood Avenue, Suite 500, Raleigh NC, 27612 - (919) 787-8880  
Durham - Crowe Building, Suite 420, 406 Blackwell Street, Durham NC, 27701 - (919) 787-8880