

## **Who is Eligible to Receive Guardianship Services Through NYSARC, Inc.'s Corporate Guardianship Program?**

Generally, an individual over the age of 18 who does not possess the cognitive, communicative or educational capacity to make autonomous decisions and to provide informed consent for personal, medical and/or financial affairs.

## **Are There Alternatives to Guardianship?**

Sometimes a person who would otherwise need a guardian can be served in a less restrictive way. The availability of supports and resources in the community, as well as entitlements may eliminate the need for the appointment of a guardian. It is best to evaluate all other alternatives to determine the appropriate needs of the individual with mental retardation and/or other developmental disabilities. Some alternatives to guardianship are:

**Advanced Medical Directives**  
**Health Care Proxy**  
**Living Will**  
**Personal Caregiver**  
**Power-of-Attorney**  
**Supplemental Needs Trust**  
*(for Guardian of Property only)*  
**Surrogate Decision Making**  
**Representative Payee**  
**Service Coordination**

## **Where Can I Get More Information About Guardianship and the Alternatives?**

For more information on guardianship or guardianship alternatives, you may contact the following:

NYSARC, Inc.  
393 Delaware Avenue  
Delmar, New York 12054  
(518) 439-8311  
[www.nysarc.org](http://www.nysarc.org)  
(or your local NYSARC Chapter)

Office of Mental Retardation and  
Developmental Disabilities (OMRDD)  
44 Holland Avenue  
Albany, New York 12229  
(518) 474-6601  
[www.omr.state.ny.us](http://www.omr.state.ny.us)

Commission on Quality of Care for  
the Mentally Disabled (CQC)  
401 State Street  
Schenectady, New York 12305  
(518) 388-1270  
[www.cqc.state.ny.us](http://www.cqc.state.ny.us)

Local Chapter Contact:



**A family-based organization  
working with and for people who  
have mental retardation or other  
developmental disabilities.**

**Thomas F. Moore**  
President

**Marc N. Brandt**  
Executive Director

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## What is Guardianship?

In New York State, when a person reaches 18 years of age, he or she is assumed to be a legally competent adult and able to manage his or her own affairs. Guardianship is a planning alternative that enables parents, relatives, or corporate guardianship programs to ensure that they, or others that they designate, may act with legal authority for the benefit of their family member who may require some level of assistance in managing their personal and/or financial affairs. Legal guardianship can only be appointed through the county court system.

## What is Article 17-A Guardianship?

An Article 17-A Guardianship is a legal proceeding which takes place in the Surrogate's Court of the proposed wards' county of residence and designates a parent, sibling, other relative, friend, or organization to act on behalf of an individual with mental retardation or other developmental disability. Article 17-A provides for continued legal guardianship of individuals who have mental retardation or other developmental disabilities, typically of individuals who are 18 years of age or older.

In order for a Court to appoint a guardian, it must be satisfied that the guardianship is necessary and in the best interest of the person with mental retardation or other developmental disabilities. Certifications by one licensed physician and one licensed psychologist or two licensed physicians, one of which has experience working with individuals with developmental disabilities or mental retardation, are required when filing a petition for guardianship.

## What are the Different Types of Guardianship?

**The Guardian of the Person** is appointed by the Court to assist in the management of the personal affairs of an individual with mental retardation or other developmental disabilities. The Guardian is responsible for protecting and assisting the individual who because of their mental retardation or other developmental disability is not able to manage their affairs and adequately provide for their own care or custody.

**The Guardian of the Property**, under supervision of the Court, is responsible for the control of any or all financial resources and property matters of the ward. The specific powers are limited to acting only with respect to property matters, investments, and in the expenditure of income and the use of assets. The Guardian of the Property is generally required to provide an accounting to the court yearly. Corporate guardians are precluded by law to act as Guardian of the Property under Article 17-A of the SCPA.

**The Standby/Alternate Standby Guardian** is a person or not-for-profit organization appointed to serve upon the death, incapacity or renunciation of the primary guardian. The standby guardian is permitted to assume duties immediately, subject to court confirmation within 60 days of the death, incapacity or renunciation of the primary guardian. An alternate standby guardian can also be appointed to fulfill the role of the standby guardian should the standby guardian become incapable or unable to serve.

## What is Gu

NYS Guardianship Association's assurance that the quality of mental retardation services are maximally in the area of appropriate recreational provided by behalf of NY

NYS dedicated funds, and in addition from public other resources involved.

NYS organization, which in 1970, the Guardianship Act established as a statute for those individuals and resided in the state was later excluded individuals with developmental head i

