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GUARDIANSHIP OF AN INCOMPETENT PERSON

Ohio Revised Code Section 2111 permits an individual to become the guardian over an incompetent person. Ohio defines an incompetent person as one who is so impaired as a result of mental or physical illness that he or she is incapable of taking proper care of himself or herself and/or property and/or fails to provide for his or her family. Proof of the need for a guardian is obtained by a medical examination performed by a licensed physician or psychiatrist who declares the individual incapable of taking proper care of himself or herself, property, or family.

To obtain a guardianship over an individual, one must file an application with the Probate Court setting forth the need for a guardianship, and forms providing information relating to the person for whom guardian is sought including that individual's next of kin.

After a court hearing on the facts, the Probate Court may appoint a guardian, if necessary, pursuant to Ohio law. There are two types of guardianships set forth as follows:

Guardian of the Person. A "guardian of the person" of an individual is responsible for the day to day care and supervision of the person under the guardianship and must protect the person's best interests. A guardian of the person has the following duties:

- (a) To protect and control the person under the guardianship;
- (b) To provide suitable maintenance for the person under the guardianship;
- (c) To provide education for the person under the guardianship.

Guardian of the Estate. A guardian of the estate of an individual must:

- (a) File an inventory with the Court setting forth the holdings of the person under the guardianship;
- (b) Manage the assets of the person under the guardianship;
- (c) Pay all just debts of the person under the guardianship.

All individuals who are guardians of another person must comply with Probate Court orders. Additionally, an accounting must be filed with the Court each year documenting the transactions of money over which the guardian has control. An annual guardian's report and expert evaluation are also required stating that the person is still in need of a guardian and providing reasons why the guardianship should continue.

Guardianships are not necessary in all instances. If you are a family member of an individual that you suspect is not able to care for himself or herself, an appropriate measure may be to contact an attorney to discuss guardianship possibilities.

The information you obtain at this site is not, nor is it intended to be, legal advice. You should consult an attorney for individual advice regarding your own situation.

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