

## Adult Guardianship in Colorado

- Guardianship of an adult falls under Colorado Revised Statutes 15-14 et al. Follow this link to read the statute's full text: <http://www.michie.com/colorado/lpext.dll?f^templates&m=main-h.htm&cp=>
- Adults need the protection of a guardianship when they meet the legal definition of incapacity: An adult "who is unable to effectively receive or evaluate information or both or make or communicate decisions to such an extent that the individual lacks the ability to satisfy essential requirements for physical health, safety, or self-care, even with appropriate and reasonably available technological assistance." (C.R.S. 15-14-102(5))
- Guardianship must always be considered ONLY as a last resort. It is THE most restrictive thing you can do to the rights of an adult; it literally strips away the adult's right to make any medical, legal or financial decisions, typically for the life of that person.
- Determining a person's capacity often must include a **formal evaluation by a neuropsychologist**.  
<https://www.apa.org/pi/aging/resources/guides/judges-diminished.pdf>
- Less restrictive measures include a **Medical Durable Power of Attorney** ([https://cha.com/wp-content/uploads/2017/03/medicaldecisions\\_2011-02.pdf](https://cha.com/wp-content/uploads/2017/03/medicaldecisions_2011-02.pdf)) **Statutory Power of Attorney** (new form in CO in 2010; covers financial powers (download by going to [https://www.ltgc.com/files/forms/co\\_poa06182013.pdf](https://www.ltgc.com/files/forms/co_poa06182013.pdf)) or **Medical Proxy Decision Making**
- A person acting as a Medical Proxy may make a one-off (or short series) of decisions when the patient can't speak for him/herself. Patient may refuse. Proxy takes on NO liability for the decision (outcome or financial responsibility).
- In order to grant someone a power of atty, one must have the capacity to do so. If it is even suspected that a person may be incapacitated, a POA is not the correct answer. At the same time, if it is suspected that the person has even SOME capacity, guardianship may be too restrictive. Consider "situational capacity."
- The person with a guardian is called a Ward (tho I prefer protected person). There are no "wards of the state" in CO. There is no public office at the state level dealing with issues of guardianship. Instead, it is passed to county departments of human/social services; the counties include it in their Adult Protective Services divisions AT THEIR DISCRETION. Some counties do not deal with guardianship at all; others have strict limitations on how they might intervene. No two counties in CO do it just the same; no two states in the entire US have the same guardianship laws.
- General Duties of a Guardian include:
  - Make decisions only as necessitated by the ward's limitations.
  - Encourage the ward to participate in decisions, act on his/her own behalf and develop or regain the capacity to manage his/her own personal affairs.
  - When making decisions, consider the expressed desires and personal values of the ward to the extent known; if not, make decisions based upon the ward's best interest.
  - Determine where the ward should live.
  - Arrange for and make decisions about care, medical treatment or other services for the ward.
  - See that the basic daily personal needs of the ward are met, including food, clothing and shelter.
  - Financial management for a ward with limited assets if there is no conservator.
  - Within 60 days after the appointment, guardians must file a report which includes a personal care plan for ward.

- Submit annual reports to the court regarding the status of the guardianship and condition of the ward.
- Obtain permission from the court to move the ward out of the State of Colorado.
- Guardians may NOT admit a ward for **involuntary treatment** for mental illness, alcohol abuse, drug abuse, or institutionalization solely because of developmental disabilities.
- If the **primary** reason a person is not acting in his/her best interest is due to a mental health or substance abuse issue, guardianship is NOT the way to intervene. See Colorado Revised Statutes 27-65 et al regarding involuntary care and treatment of a person affected by mental illness. <https://codes.findlaw.com/co/title-27-behavioral-health/co-rev-st-sect-27-65-102.html>
- We must always consider a LIMITED guardianship whenever possible, carving out specific rights for the person in need of protection or conversely limiting the guardian's authority in areas where the person is able to act for him/herself; this includes review periods for younger people (likely affected by developmental disability), folks with traumatic brain injury... anywhere it is possible for a person to improve/change their abilities
- Guardianship petitions must be filed in the county of residence of the person needing protection. An uncontested petition averages about 6-8 weeks to complete. Consumers may download the court forms for FREE at [https://www.courts.state.co.us/Self\\_Help/adultguardianship/](https://www.courts.state.co.us/Self_Help/adultguardianship/)

## Colorado Fund for People with Disabilities

[www.cfpdtrust.org](http://www.cfpdtrust.org)

### Our Services



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 A way to set aside some extra money and still qualify for Social Security and Medicaid benefits



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**Call or write for more information**  
**(303) 476-6322 ♦ [info@cfpdtrust.org](mailto:info@cfpdtrust.org)**