Guardianships and Conservatorships

In the State of South Carolina, a guardianship involves the appointment of an individual (a guardian) to handle personal and custodial matters for an incapacitated person (ward). The incapacity may be mental deficiency, mental illness, physical illness or disability, advanced age, chronic use of alcohol or drugs, or other cause (except minority) to the extend the individual lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person or property. The primary responsibilities of a guardian are to decide where the ward will live and make provisions for the ward’s care, comfort and maintenance including medical and health care decisions.

A conservatorships or other protected proceeding involves the management of financial affairs or property. Conservatorships may be established for an incapacitated person or for a minor. In every case, the court must determine that there is money or property, which requires management or protection, which cannot otherwise be provided. The primary responsibilities of a conservator are to manage and protect the property and to report periodically to the court about the assets, receipts and disbursements of the estate.

In some cases, there will be both a guardianship and conservatorship for the incapacitated person. All guardianships and conservatorships are under court supervision. It is the court’s responsibility to make certain that the guardianship and conservatorship are functioning in the best interests of the protected person. It is the guardian’s and conservator’s responsibility to follow the court’s instructions and to always act in the best interest of the protected person.