

Guardianship in Nursing Homes: Understanding Resident Rights

What does guardianship mean?

Guardianship is a serious legal process in which a court transfers decision-making authority from one individual to another person. It takes away or significantly limits a person's civil rights and autonomy regarding personal and medical choices. Because guardianship affects basic self-determination, it should be used only when absolutely necessary and after all less-restrictive alternatives have been exhausted.



Does every nursing home resident need a guardian?

No. Not every person living in a nursing home has or needs a guardian. A court may only appoint a guardian when someone cannot make medical, legal, personal, or day-to-day decisions for themselves.

Can a nursing home require guardianship?

No.

Under federal and state law, nursing homes cannot require any of the following as a condition for admission or continued stay:

- A third-party guarantee of payment.
- Any item, service, or other consideration.
- A resident to waive the ability to exercise their rights.

Requiring guardianship would require a resident to waive his personal and civil rights, in direct violation of federal and state law.



Rights Retained by Nursing Home Residents Under Guardianship

- Dignity.
- Freedom from abuse and neglect.
- Privacy.
- Express concerns and raise complaints.
- Communicate with others.
- Receive visitors.
- Participate in care planning.

Where to find more information

- [Virginia Code](#)
 - Virginia statutes on guardianship and conservatorship
- [Virginia Access to Justice Commission](#)
 - Guardianship and conservatorship resources
- [Virginia Department for Aging and Rehabilitative Services](#)
 - Resident rights
- [disAbility Law Center of Virginia](#)
 - Rights and resources for those residing in a nursing home or long-term care facility
- [disAbility Law Center of Virginia](#)
 - Supported decision-making resources
- [Centers for Medicare & Medicaid Services](#)
 - Nursing home resident rights
- [Long-Term Care Ombudsman](#)
 - Advocates for people in long-term care facilities