

## **Duties of a Guardian in Virginia**

Guardians of an incapacitated adult have several duties to fulfill. This list may not cover all duties and may not apply to all guardians. You must follow the Order of Appointment that states your authority to act as guardian.

### **Maintain Close Contact**

Guardians must maintain close contact with the person and others who provide direct care to the person to ensure the person is safe and cared for. Guardians must visit the person **at least once every 120 days**, which equals to 3 times per year. Visiting the person helps the guardian best understand their capabilities, limitations, needs, support, and opportunities. It also allows the guardian to assess the person's living environment to ensure it is the best arrangement to meet their needs.

### **Encourage Participation**

Guardians must encourage the person to participate in decisions and act on their own behalf when possible. Guardians must assist the person to regain or develop capacity to manage on their own. When faced with a decision, it is important to first **ask the person** what they want to do. If they are unable to participate, the guardian must make a **substituted judgement** on behalf of the person by considering the desires and values of the person. If the guardian is unable to determine this, the guardian must act in the person's **best interest**.

### **Honor Advance Directives**

The guardian must not interfere with the decisions as directed in an **advance directive** or **durable power of attorney**. If necessary, the guardian may ask the court to revoke, suspend or modify a durable power of attorney. A guardian may also ask the court to modify an advance directive, but the person's decisions regarding specific medical treatments or procedures cannot be modified.

### **Get Court Authorization**

A guardian must **ask the court for authorization** before doing any of the following:

- Move the person to another state.
- Terminate or consent to a termination of the person's parental rights.
- Initiate a change to the person's marital status.

A guardian also needs court authorization to consent on the person's behalf for a **voluntary admission to a psychiatric facility**. The admission cannot exceed more than 10 calendar days.