

Missouri Senate Bill No. 806

Effective: August 28, 2018

All statutory references are to RSMo 2018 unless otherwise indicated.

Guardianship/Conservatorship Changes in SB 806

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Additions by Dolores Sparks, 6-25-18

Further Revision by David English, 7-10-18

New Terms Defined by SB 806

§ 475.010

1. **Conservator ad litem:** someone appointed by the court on behalf of a minor, a disabled person, or an unborn person in a proceeding regarding the management of such person's financial resources.
2. **Interested Persons:** spouses, children, parents, adult members of a ward's or protectee's family, creditors or any others having a property right or claim against the estate of a protectee being administered, trustees of a trust of which the ward or protectee is a beneficiary, agents of a durable power of attorney for a ward or protectee, and children of a protectee who may have a property right or claim against or an interest in the estate of a protectee. This meaning may vary at different states and different parts of a proceeding and shall be determined according to the particular purpose and matter involved.
[definition is similar to definition at beginning of Missouri Probate Code, § 472.010]

Terms Modified by SB 806

1. **Disabled**-adds reference to "cognitive" condition
2. **Habilitation**-updates language to match current practice. Defined as "[a] process of treatment, training, care, or specialized attention that seeks to enhance and maximize the ability of a person with an intellectual disability or a developmental disability to cope with the environment and to live as determined by the person as much as possible, as is appropriate for the person considering his or her physical and mental condition and financial means."
3. **Incapacitated person**-adds reference to "cognitive" condition, makes clear that not incapacitated if individual can manage with "appropriate services and assistive technology."

Full definition now provides that an "incapacitated person" is "[o]ne who is unable to reason of any physical, mental or cognitive condition to receive and evaluate information

or to communicate decisions to such an extent that the person, even with appropriate services and assistive technology, lacks capacity to manage the person's essential requirements for food, clothing, shelter, safety or other care such that serious physical injury, illness, or disease is likely to occur.”

4. **Least restrictive alternative** -changes “environment” to “alternative” and updates language to match current practice. Defined as:

“Least restrictive alternative’ with respect to the guardianship order and the exercise of power by the guardian, a course of action or an alternative that allows the incapacitated person to live, learn, and work with minimum restrictions on the person, as are appropriate for the person considering his or her physical and mental condition and financial means. ‘Least restrictive alternative’ also means choosing the decision or approach that:

- (a) Places the least possible restriction on the person's personal liberty and the exercise of rights and that promotes the greatest possible inclusion of the person into his or her community, as is appropriate for the person considering his or her physical and mental condition and financial means;
- (b) Is consistent with meeting the person's essential requirements for health, safety, habilitation, treatment, and recovery and protecting the person from abuse, neglect, and financial exploitation.”

5. **Partially disabled person**-adds reference to “cognitive” condition

6. **Partially incapacitated person**-adds reference to “cognitive” condition

Existing Guardianships/Conservatorships

§ 475.016

Gives guardians/conservators one year after effective date to adjust to any new reporting requirements.

Appointment Priority

§ 475.050

Makes the following changes:

- 1. Removes requirement that a durable power of attorney or will nominating a guardian or conservator be executed within 5 years prior to the hearing on petition for appointment.
- 2. The court is to appoint a suitable relative who is willing to serve before appointing an unrelated third party.

3. If a minor entering adult guardianship or conservatorship is under care of Children's Division, there is a rebuttable presumption that there is no suitable relative willing to serve.

With these changes, the priority for appointment under § 475.050.1 now is as follows:

“Before appointing any other eligible person as guardian of an incapacitated person, or conservator of a disabled person, the court shall consider the suitability of appointing any of the following persons, listed in the order of priority, who appear to be willing to serve:

- (1) If the incapacitated or disabled person is, at the time of the hearing, able to make and communicate a reasonable choice, any eligible person nominated by the person;
- (2) Any eligible person nominated in a durable power of attorney executed by the incapacitated or disabled person, or in an instrument in writing signed by the person and two witnesses who signed at the person's request, before the inception of the person's incapacity or disability;
- (3) The spouse, parents, adult children, adult brothers and sisters and other close adult relatives of the incapacitated or disabled person;
- (4) Any other eligible person or, with respect to the estate only, any eligible organization or corporation, nominated in a duly probated will of such a spouse or relative.”

Background Checks

§ 475.050

Except as note below, now requires that:

1. A proposed guardian or proposed conservator submit to a background check at their own expense.
2. A proposed conservator submit to a credit history investigation.
3. The results of background checks and credit history reports be filed with the court at least 10 days prior to the hearing on the appointment.

The background check requirement does not apply to:

1. Public administrators
2. The ward's, incapacitated person's or disabled person's spouse, parents, children who have reached 18 years of age, or siblings who have reached 18 years of age.

Guardians certified by a national accrediting organization may file proof of certification in lieu of a background check.

Additional Petition Requirements

§ 475.060

Petition that requests appointment of co-guardian must now include:

1. Reasons for co-appointment
2. Whether co-guardians are to act independently or jointly
3. Statement that written consent has been obtained from proposed co-guardian

Petition for appointment of a guardian for minor must now state whether petitioner knows of any other court having jurisdiction over the proposed minor ward.

Petition for appointment of guardian for adult must now state factual basis for petitioner's conclusion of incapacity, including incidents and specific behaviors of respondent that support why the appointment of a guardian or limited guardian is sought.

Voluntary Conservatorship

§ 475.062

Adds that court-appointed attorney must advise the proposed protectee of his or her rights and of the consequences of having a conservator appointed by the court. As revised, the section now provides:

“If a petition for appointment of a conservator is made by a person on account of that person's alleged disability or is made by another on behalf of that person with that person's consent endorsed on the petition of filed therewith, the court shall first appoint an attorney for that person. The court-appointed attorney shall advise the respondent of the respondent's rights and of the consequences of the appointment of the conservator.

If the court determines that the disability exists and the respondent desires the appointment, understands its purpose, and makes a reasonable choice of conservator, the court may, without notice or hearing, appoint the person, organization, or corporation designated by the respondent as conservator of the respondent's estate, provided that the conservator is suitable and qualified and has accepted or will accept the appointment.”

Notice (Minor Guardianship)

§ 475.070

Adds that person nominated to be guardian must receive notice of the petition.

Notice (petition not on grounds of minority)

§ 475.075.2

Adds following to receive notice of the petition:

1. Proposed guardian
2. Proposed conservator
3. Co-tenants of respondent
4. Co-depositors of respondent

As revised, the subsection now provides:

“The respondent shall be served in person with the following:

A copy of the petition;

a written notice stating the time and place the proceeding will be heard by the court;

the name and address of appointed counsel, and the names and addresses of the witnesses who may be called to testify in support of the petition; and

with a copy of the respondent’s rights.”

“The notice shall be signed by the judge or clerk and served in person on the respondent a reasonable time before the date set for the hearing.

A written notice stating the time and place for the petition to be heard by the court, the name and address of counsel appointed to represent the respondent shall be served upon the spouse, parents, children who have reached the age of eighteen, any person serving as the respondent’s guardian, conservator, limited guardian, or limited conservator, any person proposed to serve as guardian or conservator, any person having power to act in a fiduciary capacity with respect to any of the respondent’s custody known to the petitioner, and any cotenants or codepositors with the respondent. If no such spouse, parent, or child is known, notice shall be given to at least one of the respondent’s closest relatives who have reached eighteen years of age.”

§ 475.075.3

Public Administrator (if nominated) must now receive petition and any accompanying documents, including exhibits and medical opinions, and have opportunity to attend and be heard at the hearing.

Court Appointed Attorney

§ 475.075.4-5

Adds that attorney:

1. Has the right to obtain respondent’s medical and financial information.
2. Must visit respondent at least 24 hours before the hearing, although the court may waive this requirement upon finding of good cause.

3. If the attorney finds that the respondent is capable of understanding the matter in question, or of contributing to the advancement of the respondent's interest, the attorney shall obtain from the respondent all possible aid.
4. If the attorney finds that the respondent is so impaired that the respondent cannot communicate or participate in the proceedings, the attorney shall consider all circumstances then prevailing and act with care to safeguard and advance the interests of the respondent.
5. May withdraw in favor of private counsel only if court permits.

Also provides that the petitioner may not nominate an attorney for the respondent.

Respondent's Attorney

§ 475.075.5, 10

Adds that attorney:

1. Cannot also serve as guardian ad litem or conservator ad litem and cannot be nominated by the petitioner.
2. Must inform respondent of respondent's rights.

Professional Evaluation

§ 475.075.6-8

Section continues to provide that the court may direct that the respondent be examined by a physician, licensed psychologist or other appropriate professional.

Adds that:

1. Professional appointed to examine respondent must have experience or training in the alleged mental, physical, or cognitive impairment of the respondent.
2. Professional no longer required to explain to respondent legal definitions of incapacity or disability
3. If objection to report by the parties, court may hold hearing to determine whether evaluation report is admissible.
4. Report may not be used in any other civil action or criminal proceeding without the consent of person holding evidentiary privilege.

Respondent's Rights at Hearing

§ 475.075.10

Now requires that respondent's attorney advise respondent of his or her rights. Also adds that respondent has right to appeal the decision. Other rights, which are carried forward from prior law, are:

1. The right to be represented by an attorney;
2. The right to have a jury trial;
3. The right to present evidence in the respondent's behalf;
4. The right to cross-examine witnesses who testify against the respondent;
5. The right to remain silent;
6. The right to have the hearing opened or closed to the public as the respondent elects;
7. The right to a hearing conducted in accordance with the rules of evidence in civil proceedings, except as modified by this chapter; and
8. The right to be represented at the hearing.

Findings

§ 475.075.11-12

Makes only minor revisions for purposes of clarity. The subsections as revised provide:

“If the court finds the respondent possesses capacity to manage the respondent's essential requirements for food, clothing, shelter, safety, and other care or that the respondent possesses the ability to manage the respondent's financial resources, the court shall deny the petition.”

“If the court finds the respondent to be in some degree incapacitated or disabled, or both, the court, in determining the degree of supervision necessary, shall apply the least restrictive alternative principle as defined in this chapter and shall not restrict the respondent's personal liberty or the respondent's freedom to manage the respondent's financial resources to any greater extent than is necessary.”

Less Restrictive Alternatives

§ 475.075.13

Now requires that before appointing a guardian or conservator, the court must consider whether the respondent's needs may be met without the necessity of the appointment of a guardian or conservator, or both, by a less restrictive alternative. Less restrictive alternatives include, but are not limited to:

1. Evidence that the respondent has appointed an attorney-in-fact in a durable power of attorney
2. The management of the beneficial interests of the respondent in a trust by a trustee;
3. Evidence that a representative payee has been appointed to manage the respondent's public benefits;

4. Supported decision-making agreements or the provision of protective or supportive services or arrangements provided by individuals or public or private services or agencies;
5. The use of appropriate services or assistive technology;
6. The appointment of a temporary emergency guardian ad litem or conservator ad litem; and
7. The appointment of a limited guardian or conservator.

Specific Findings Required

§ 475.075.14

SB 806 requires that court order appointing guardian/conservator must include following detailed findings:

1. Extent of respondent's physical, mental, and cognitive incapacity to manage essential requirements for food, clothing, shelter, safety, of other care and to manage financial resources
2. Whether respondent requires placement in a supervised living situation and, if so, degree of supervision required
3. Whether the respondent's financial resources require supervision and, if so, the nature and extent of supervision needed
4. Whether the respondent retains the right to vote
5. Whether respondent is permitted to drive if respondent can pass required driving test
6. Whether respondent retains the right to marry.

Emergency Appointments

§ 475.075.15

1. The court may appoint an emergency guardian ad litem or conservator ad litem for a period not to exceed 90 days (formerly 30 days).
2. Hearing must be held within 5 days of petition.
3. If petition for guardianship or conservatorship is not filed within the ninety 90-day appointment, the court may terminate the appointment upon a finding that doing so would not be manifestly contrary to the respondent's interests.

Retention of Rights

§ 475.078

1. The court order must now state whether the respondent retains the right to vote, marry, or drive.
2. Court may order that respondent retains the right to vote, drive, or marry even if respondent is adjudicated totally incapacitated.

Section as revised now provides:

“The court may expressly enter an order that the ward’s or protectee’s right to vote shall be retained even though the ward or protectee is otherwise totally incapacitated; that the ward or protectee is permitted to drive a motor vehicle if the ward or protectee can pass the required driving test; or that the ward or protectee retains the right to marry.”

Clear and Convincing Evidence

§ 475.079

Adds that to appoint guardian, must not only there be clear and convincing evidence of incapacity but there must also be clear and convincing evidence that respondent’s identified needs cannot be met by a less restrictive alternative.

Public Administrators

§ 475.079

1. Now provides that court may not appoint public administrator as guardian or conservator unless public administrator has opportunity to participate in hearing, including right to cross-examine witnesses and to offer witnesses and evidence.
2. Public administrator may waive notice and opportunity to participate.

Limited Guardian or Conservator

§ 475.080

Clarifies that limited appointment may be made only if respondent’s needs cannot be met by a less restrictive alternative. Section as revised provides:

“If the court, after hearing, finds that a person is partially incapacitated and that the respondent’s identified needs cannot be met by a less restrictive alternative, the court shall appoint a limited guardian. The order of appointment shall specify the powers and duties of the limited guardian so as to permit the ward to provide for self-care

commensurate with the ward's ability to do so and shall also specify the legal disabilities to which the ward is subject. In establishing a limited guardianship the court shall impose only such legal disabilities and restraints on personal liberty as are necessary to promote and protect the well-being of the individual and shall design the guardianship so as to encourage the development of maximum self-reliance and independence in the individual.

If the court, after hearing, finds that a person is partially disabled and that the respondent's identified needs cannot be met by a less restrictive alternative, the court shall appoint a limited conservator of the estate."

Annual Reports (added requirements)

§ 475.082

Section continues to require that "[a]t least annually the court shall inquire into the status of every adult ward and protectee under its jurisdiction for the purpose of determining whether the incapacity or disability may have ceased or changed and to insure that the guardian or conservator is discharging the guardian's or conservator's responsibilities and duties."

As under prior law, the report must give the opinion of the guardian as to the need for a continuation of the guardianship and whether it is necessary to increase or decrease the guardian's powers. But several new requirements are added. The report must now include:

1. Plans for future care
2. Summary of the guardian's visits with ward and activities on ward's behalf
3. The extent to which the ward has participated in decision making
4. Any changes in the ward's condition since the last report
5. A summarized plan for the coming year

An individual support plan, treatment plan, or plan of care may be submitted in lieu of a summarized plan. Also, as part of its review of the plan, court may contact department of health and senior services or other appropriate agencies to investigate conduct of the guardian and report its findings to the court.

Additional provisions of this section, all carried over from prior law, include:

Restoration

"If there is an indication that the incapacity or disability of the ward or protectee has ceased, the court shall appoint an attorney to file on behalf of the ward or protectee a petition for termination of the guardianship or conservatorship for restoration."

Failure to Carry Out Duties

“If it appears to the court as part of the review, or at any time upon motion of any interested person, including the ward or protectee or some person on behalf of the ward or protectee, that the guardian or conservator is not discharging the guardian’s or conservator’s responsibilities and duties as required or has not acted in the best interests of the ward or protectee, the court may order that a hearing be held and direct that the guardian or conservator appear before the court.”

“If such hearing is ordered and the ward or protectee is not represented by an attorney, the court shall appoint an attorney to represent the ward or protectee.”

“If the court finds that the guardian or conservator is not discharging his or her duties and responsibilities as required by this code, or is not acting in the best interests of the ward or protectee, the court shall enter such orders as it deems appropriate under the circumstances.”

Termination or Modification

§ 475.083

1. Adds that if the court determines that the guardian is unable to provide the necessary services due to the ward’s absence from the state or other particular circumstances of the ward, the guardianship appointment will be terminated.
2. Continues prior law that at any time the guardian, conservator, of any person on behalf of the ward or protectee may, individually or jointly with the ward or protectee, or the ward or protectee individually may petition the court to restore the ward or protectee, to decrease the powers of the guardian or conservator, or to return rights to the ward or protectee; except that, if the court determines the petition is frivolous, the court may summarily dismiss the petition without hearing.
3. Adds that the petition from the ward or protectee or on behalf of the ward or protectee may be an informal letter to the court. Anyone who interferes with the transmission of the ward’s or protectee’s letter or petition may be cited by the court for contempt after notice and hearing. If at any time the court, on its own motion, has reason to believe that the guardian’s or conservator’s powers should be increased or decreased or additional rights should be returned to the ward or protectee, the court shall set the matter for a hearing.
4. Continues prior law that upon the filing of a joint petition by the guardian or conservator and the ward or protectee, the court, if it finds restoration or modification to be in the best interests of the ward or protectee, may summarily order restoration or a decrease in

powers of the guardian or conservator or return rights to the ward or protectee without the necessity of notice and hearing.

5. Adds that the court may on its own motion set a hearing if the court believes that the powers of the guardian or conservator or rights of the ward or protectee should be increased or decreased.

6. Adds that the court may require that a report by a professional be provided:

“In deciding whether to terminate or modify a guardianship or conservatorship, the court may require a report by and consider the recommendations in the report of a physician, licensed psychologist, or other appropriate qualified professional who has experience or training in the alleged mental, physical, or cognitive impairment of the ward or protectee.”

Visitation of Minor

§ 475.084

A parent may be granted visitation if it is in the best interest of the minor under guardianship.

Conservator’s Estate Planning Powers

§ 475.094

Clarifies and expands authority of court. Following express authority of the court and notice to interested persons, a conservator may:

1. Make gifts the protectee might have been expected to make, including gifts that qualify protectee for government benefits or reduce federal estate taxes
2. Convey interests in property
3. Exercise a power of appointment
4. Create a revocable or irrevocable trust of the estate property or amend a trust
5. Change beneficiaries under insurance policies or surrender the policies
6. Exercise any right to an elective share.

In fashioning order, court must consider primarily the decision the protectee would have made.

Court must also consider:

1. Financial needs of protectee, dependents, and creditors
2. Possible reduction of tax liabilities

3. Eligibility for governmental assistance
4. Protectee's previous pattern of giving or level of support
5. Existing estate plan
6. Protectee's life expectancy
7. Any other factor the court considers relevant.

Without authorization of court, conservator may not revoke or amend a durable power of attorney of which the protectee is the principal.

Guardian Powers/Requirements

§ 475.120

Continues requirement under prior law that a guardian or limited guardian of an incapacitated person shall act in the best interest of the ward. Also continues to provide that the guardian has a duty to:

1. Assure that the ward resides in the best and least restrictive setting reasonably available;
2. Assure that the ward receives medical care and other services that are needed;
3. Promote and protect the care, comfort, safety, health, and welfare of the ward;
4. Provide required consents on behalf of the ward;
5. Exercise all powers and discharge all duties necessary or proper to implement the provisions of this section

Adds that:

1. A guardian must make decisions regarding the adult ward's support, care, education, health, and welfare.
2. A guardian may exercise authority only as necessitated by the adult ward's limitations; and
3. To extent possible, a guardian must encourage an adult ward to participate in decisions, to act on the adult ward's own behalf, and to develop or regain the capacity to manage the adult ward's personal affairs.

Support Allowance

§ 475.125

In setting the amount of a support allowance for the protectee or other entitled persons, the court must consider the previous standard of living of the spouse, family, composition of the estate, income and other assets, and expenses.

Managing the Estate of a Protectee

§ 475.130

Adds that in managing, investing, and distributing the estate of a protectee, the conservator shall use reasonable efforts to:

1. Ascertain the income, assets, and liabilities of the protectee;
2. Ascertain the needs and preferences of the protectee;
3. Coordinate with the guardian and consult with others close to the protectee;
4. Prepare a plan for the management of the protectee's income and assets; and
5. Provide oversight to any income and assets of the protectee.

Without court approval, a conservator may settle claims and sell and exchange assets with a value of less than \$5,000 (formerly \$1,000).

Several items are added to the list of transactions in which a conservator may engage in without prior court approval:

1. Receive additions to the estate.
2. Deposit funds in a bank
3. Pay taxes, assessments, and other expenses incurred in administration
4. Prosecute or defend actions for the protection of estate assets
5. Execute and deliver all instruments necessary to exercise powers.

Inventory of Protectee's Estate Must Now Disclose

§ 475.145

Any nonprobate transferees designated to receive nonprobate transfers after the death of protectee.

Sale of Real/Tangible Personal Property

§ 475.230

1. A protectee must now be given 10 days' notice prior to a hearing on a petition for the sale of the protectee's real or tangible personal property.
2. Prior notice to protectee not required for sale of intangible personal property.

Annual Settlement of Conservator's Accounts

§ 475.270

Must be filed within 60 days after the anniversary of the appointment of the conservator.
(formerly 30 days)

Additional Information to be Included in the Settlement

(Unless a Public Administrator is appointed)

§ 475.270

1. An opinion of the conservator as to the continued need for the appointment
2. Compensation requested
3. Plan for the coming year
4. Present address of protectee
5. Present address of conservator
6. Service being provided to protectee
7. Significant actions taken by the conservator
8. Any recommended changes in the scope of the conservatorship
9. Expenses incurred by the conservator
10. Any other information requested by the court
11. Any other information useful in the opinion of the conservator

If the Protectee's Assets are Controlled by Another Fiduciary

§ 475.276

Court may waive requirement of an annual settlement if assets are under control of another fiduciary such as a Social Security representative payee or VA fiduciary.

Final Settlement

§§ 475.290, 475.320

Court may now extend 90-day period for filing final settlement upon death of protectee if court has ordered that no letters issue in the decedent's estate. Upon the conservator's payment of funeral and burial expenses and other death-related expenses, the court may approve the conservator's final settlement and order distribution directly to the heirs in the same manner as if a decedent's estate had been opened.

Conflicts of Interest

§ 475.341

This is an entirely new provision.

Adds that a transaction entered into by the conservator for the conservator's personal gain or in which a conflict of interest exists is voidable, unless the transaction:

1. Was approved by the court
2. Involves a contract entered into or a claim acquired by the conservator before the person became or contemplated becoming conservator
3. Involves a deposit of estate moneys to a bank operated by the conservator
4. Involves an advance by the conservator of money for the protection of the estate

But no transaction by a Public Administrator for personal gain is allowed.

Earmarking/Commingling

§ 475.342

This is an entirely new provision. Adds that:

1. A conservator is prohibited from combining personal property and estate property.
2. A conservator must cause the estate property to be designated so that any ownership appears in records maintained by a financial institution or party other than the conservator or protectee.

Recodified Provisions

§ 475.343

A guardian is not required to use his or her own financial resources to support the ward. If needed, a guardian or conservator may apply to the County Commission under § 475.370. [formerly § 475.120.4]

No guardian may seek admission of the ward to a mental health facility or intellectual disability facility for more than thirty (30) days without a court order. [formerly § 475.120(5)]

Social Service Agencies [formerly § 475.120.6-8]

- Only the director or Chief administrative officer of a social agency serving as a guardian is legally authorized to act on behalf of a ward.
- Notification to the court is required within fifteen (15) days of a change in the person responsible for providing the guardianship services.
- Any social agency serving as guardian shall not provide other services to the ward.

Jurisdiction

§ 475.357

This is an entirely new provision.

Consistent with prior practice, the probate division of a circuit court has the jurisdiction over the issues of the adjudication of incapacity, partial incapacity, disability, and partial disability

Clarifies that if the appointment of a guardian or conservator is for an adult whose parents have a child custody or visitation case pending, the court with authority to enter the child support order may enter the order only after the adjudication and appointment of a guardian by the probate court.

The Rights of the Ward

§ 475.361

This is an entirely new provision. In every guardianship, the ward has the right to:

1. A guardian who acts in the best interests of the ward:
2. A guardian who is reasonably accessible to the ward:
3. Communicate freely and privately with family, friends, and other persons other than the guardian; except that, such right may be limited by the guardian for good cause but only as necessary to ensure the ward's condition, safety, habilitation, or sound therapeutic treatment;
4. Individually or through the ward's representative or legal counsel, bring an action relating to the guardianship, including the right to file a petition alleging that the ward is being unjustly denied a right or privilege granted by this chapter, including the right to bring an action to modify or terminate the guardianship under the provisions of section 476.083;

5. The least restrictive form of guardianship assistance, taking into consideration the ward's functional limitations, personal needs, and preferences;
6. Be restored to capacity at the earliest possible time;
7. Receive information from the court that describes the ward's rights, including rights the ward may seek by petitioning the court;
8. Participate in any health care decision-making process.

An adult ward may petition the court to grant the ward the right to:

1. Contract to marry or to petition for dissolution of marriage;
2. Make, modify, or terminate other contracts or ratify contracts made by the ward;
3. Consent to medical treatments;
4. Establish a residence or dwelling place;
5. Change domicile;
6. Bring or defend any action at law or equity, except an action relating to the guardianship;
or
7. Drive a motor vehicle if the ward can pass the required driving test.

The appointment of a guardian is not a determination that the ward lacks testamentary capacity.

The appointment of a guardian revokes the powers of an agent under a previous health care power of attorney unless the court orders otherwise.