

Living Longer Growing Stronger

from the Alaska Commission on Aging

June 2000

The mission of the Alaska Commission on Aging is to ensure dignity and independence for Alaska's seniors and to assist them, through programs and services funded by the Commission, to lead useful and meaningful lives.



Alaskan Seniors: Living Longer, Growing Stronger is a monthly publication of the Alaska Commission on Aging (ACoA)

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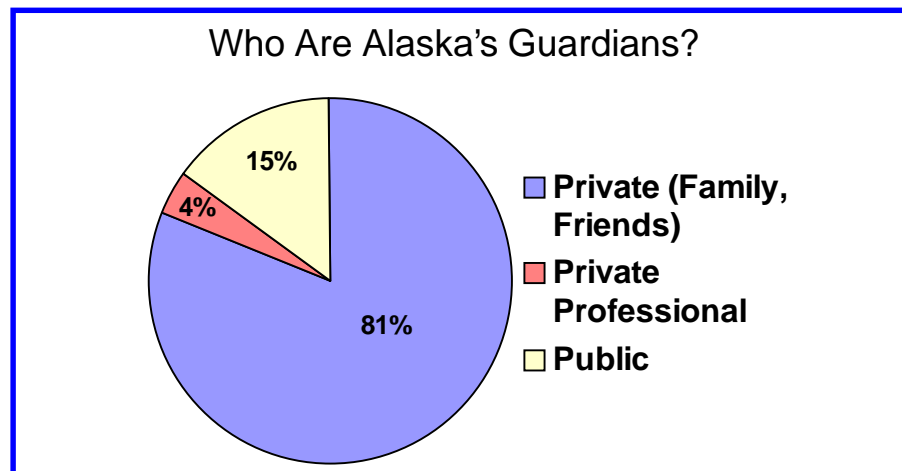
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Protecting Vulnerable Alaskan Adults

The first of a two-part profile of guardianship in Alaska, to be continued in July



According to Adult Protective Services, Division of Senior Services, Alaska Department of Administration, the family and friends of vulnerable adults make up an overwhelming majority of Alaska's court-appointed guardians. (Note that these figures are for guardians of all vulnerable adults, not just senior vulnerable adults.)

Guardians Provide Guidance and Safety for Vulnerable Alaskans

Aging is sometimes accompanied by mental or physical changes that prevent one from caring for oneself. This reality requires us to address the possibility of seeking help and protection for our loved ones or needing protection ourselves. For adults made vulnerable by mental or physical impairment, guardianship may be the solution. Alaska Statute 47.24.900 (16) defines vulnerable adults as persons 18 or older who, because of physical or mental impairment, are unable to meet their own needs or to seek help without assistance. If all other attempts to protect a vulnerable adult fail or prove inadequate, the court may appoint a guardian or conservator. In this and the next issue of *Alaskan Seniors: Living Longer, Growing Stronger*, we will explore guardianship in Alaska.

Alaska law calls for guardianship to be used only when necessary to promote and protect the well being of the vulnerable adult. A guardianship must encourage the development of maximum self-reliance and independence of the affected adult.

A vulnerable adult assigned a guardian or conservator is called a *ward*.

Because assigning a guardian or conservator restricts vulnerable adults' rights, they are entitled to due process, including a hearing, a jury trial if necessary, and

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ASAGA, Inc. Provides Information and Resources for Alaska's Guardians

ASAGA Inc. is a statewide non-profit association for the education and interaction of groups and individuals interested in adult guardianship, conservatorship, and alternative protective services for vulnerable adults. ASAGA stands for Alaska State Association for Guardianship and Advocacy. ASAGA, Inc. is affiliated with the National Guardianship Association. This gives ASAGA access to more opportunities and information for those it serves.

ASAGA Inc. produces a newsletter for those involved or interested in guardianship issues, holds a yearly conference (see below), and provides speakers to groups and organizations. It produced a half-hour video that describes what it means to be a guardian in Alaska. The video is available from ASAGA, or may be borrowed from most courts in Alaska, thanks to the Office of Public Advocacy.

ASAGA's board is a diverse group of volunteers including attorneys, court visitors, respondent attorneys, and guardians. They would like to involve more private guardians. They are also promoting more local involvement, especially in rural communities, where guardianship issues can be complicated by lack of information and resources. Most current members are based in Anchorage and other urban areas.

ASAGA's Guardianship Conference Will Include National Perspective

ASAGA, Inc. will hold its yearly conference Monday, August 7th, from 8:00 AM to 4:30 PM at Providence Alaska Medical Center in Anchorage. This year the National Guardianship Association is holding its national meeting in Anchorage. ASAGA, Inc. has scheduled its conference in conjunction with this meeting, so national guardianship experts from the NGA meeting can speak at the ASAGA conference.

The theme of this year's conference is Understanding Guardianship and Advocacy: "Bringing a National Perspective to Alaska in 2000 and Beyond." The objective of the conference is to give each participant the ability to do the following:

- Understand the role that mediation may play in guardianship cases
- Utilize the fundamentals of case management
- Recognize the characteristics and goals of the Eden Alternative (a project to improve quality of life in nursing homes)
- Discover new methods to work with resistive clients
- Understand the ethics and standards adopted by the National Guardianship Association for use in guardianship practice
- Recognize the signs of financial fraud and exploitation

The conference fee is \$35 for ASAGA members, \$60 for nonmembers. Registration is requested by July 24, as space is limited. For more information, call ASAGA, Inc. at (907) 333-9480.

Commission Opposes Tax Cap Initiative

The Alaska Commission on Aging has adopted *Resolution 00-006: In Opposition to Petition ID: 99PTAR An Act Providing Property Tax and Assessment Relief Appearing on the November, 2000 Ballot*. The resolution warns that passage of the tax cap initiative could seriously jeopardize the continuation of local benefits and services that allow older Alaskans to remain in their communities. The resolution notes that local property tax provides the primary revenue source for a variety of local government and social services, and bonds for capital improvements. Passage of the property tax limitation could severely reduce many communities' current revenue, forcing them to raise or implement local sales taxes, the effects of which are mostly felt by people with limited incomes.

The full text of the resolution is available on the Commission Web site: www.AlaskaAging.org.

Guardians and Conservators (continued from page 2.)

free representation if they cannot afford an attorney. According to Brant McGee, Public Advocate for the State of Alaska, petitions for guardianship rarely go to jury trial in Alaska. A guardianship hearing requires expert testimony, usually provided by a court visitor, who investigates the vulnerable adult's living situation and conditions. Based on the hearing, the court may appoint a guardian or a conservator. A *guardian* makes both living and financial decisions for a ward. A *conservator* makes only financial decisions for a ward.

Who Can Serve as a Guardian?

A guardian or conservator must be a competent person, public guardian, private association, or nonprofit guardian who does not have conflicting interests with the person under their protection. AS 13.26.145(d) lists the order of preference for a guardian:

1. someone (person, association, or private nonprofit organization) nominated by the vulnerable adult
2. the vulnerable adult's spouse
3. the vulnerable adult's adult child or parent
4. a relative with whom the vulnerable adult has resided for more than six months within the past year
5. a relative or friend with a sincere, long-standing interest in the vulnerable adult's welfare
6. a private association or nonprofit corporation with a guardianship program
7. the public guardian (in Alaska, this is the Office of Public Advocacy Public Guardian Program)

Training and certification is available for guardians, but a person need not be certified to be a guardian in Alaska.

Types of Guardianship:

A guardianship may be *full* or *partial*. A full guardianship is for those needing complete care and attention. A full guardian has the same powers and duties with the ward that a parent has with a child, except that the guardian is not liable for the care and maintenance of the ward and is not liable to anyone harmed by the ward's acts (AS13.26.150 (c)). The court may order a partial guardianship for those who need help with some, but not all areas of their lives. A partial guardian has only those powers and duties outlined in the court order (AS13.26.150 (b)).

Guardians Have Great Responsibility:

A guardian is granted a lot of power over another person's life. A guardian can decide where the affected adult lives, grant permission for medical treatment, and control the affected adult's money. This power must be exercised responsibly.

The court order that appoints a guardian and Letters of Guardianship describe the exact powers and limitations of a guardian or conservator's authority. The guardian must do everything necessary to ensure adequate health care, shelter, nutrition, and civil rights for the ward.

Safeguards:

Even a full guardian does not have unlimited power over a ward. For example, a guardian may not keep the ward from marrying or divorcing. Limitations to a guardian's powers are outlined in AS 13.26.150 (e).

Guardians are required to:

- file an inventory of a ward's assets
- complete a report that describes what must be done to ensure the ward's well being
- file regular (annual) reports showing actions on behalf of the ward
- complete a final report when the appointment ends or is changed, or whenever the court orders it

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