

**ARTICLE 81 GUARDIANSHIPS**  
**HOW DID I GET A GUARDIAN?**

Under Article 81 of the Mental Hygiene Law, a judge may appoint someone to act on your behalf if it has been determined that you lack the capacity to make decisions regarding your personal needs (such as your food, clothing and shelter), and/or your property and finances. According to the law, the appointment of a guardian is meant to address your specific needs, which means that you should get support where you need it while giving you as much freedom as possible to make your own decisions.

**A PETITION WAS FILED**  
Your guardianship process started because someone filed a petition in court stating that a guardian should be appointed to assist with your personal needs and/or your property or money. After the court gets this petition the judge will set a date where you will come to court to discuss this petition.

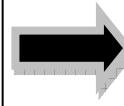
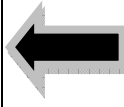
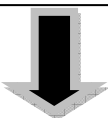
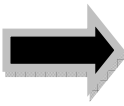
**A COURT EVALUATOR WAS APPOINTED**  
After the court gets the petition, the court will appoint a **court evaluator** whose job is to investigate and recommend to the court whether or not you need a guardian. The **court evaluator** will investigate the concerns in the petition and will talk with you and anyone else who may help the court decide whether you need a guardian.

**THE HEARING**  
All of the parties (for example, you, the court evaluator, your attorney, and the petitioner) must appear before the judge for a **hearing** to determine if you should have a guardian. You are expected to participate in this hearing. The court will also consider other evidence, including the report prepared by the court

**IF YOU NEED A LAWYER ONE WILL BE APPOINTED**  
The court evaluator will also help determine whether you want or need a **lawyer**. If you do, you are entitled to a **lawyer** regardless of your ability to pay.

**APPOINTMENT OF THE GUARDIAN**  
After the hearing, the judge will decide whether you need a guardian and, if so, what exact powers that guardian will have. If the court decides you do not need a guardian then the case ends.

**APPOINTMENT OF THE COURT EXAMINER**  
If the court decides to appoint a guardian then a **court examiner** will also be appointed to make sure that the guardian is doing his/her job according to the judge's orders.



## ARTICLE 81 GUARDIANSHIPS

### WHAT CAN I DO IF I HAVE PROBLEMS WITH MY GUARDIAN?

#### BE CLEAR AND DIRECT

You may have questions or complaints about how your guardian is treating you, or caring for your money or property. The **first** thing to do if you have questions or complaints is to **speak directly with your guardian** to see if you can resolve the problem with him or her. Before you initiate this conversation you should write a list of the questions or complaints which you have so that you can be clear and direct about what you need.

#### GUARDIANSHIP REPORT

Your guardian has to write a report telling the judge how much money and property you have. Your guardian must first write this report ninety days after becoming your guardian. After that, the report must be written once each year. You must be given a copy of this report and should look it over carefully.

#### WHAT IF I DON'T WANT A GUARDIAN?

You have the right to ask the court to remove your guardian, if you think that you do not need one anymore, or to name a different guardian. **Unless something about you or your life has changed since the original appointment of a guardian it will be very hard to get the judge to remove your guardian entirely.** If you make a request to change or remove your guardian the judge in your case will likely have you and your guardian come back to court to hear your opinions on this request. If you need a lawyer to assist you, one will be appointed.

#### WHAT IF I DON'T LIKE MY COURT-APPOINTED LAWYER?

You have a right to file a complaint against your lawyer if you think they are not doing a good job. If your complaint is found to be valid then you may get a new lawyer appointed to your case. If you have a court appointed lawyer, that lawyer probably works for Mental Hygiene Legal Service ("MHLS"). You should submit your complaint to the MHLS office in the borough where you live. Complaints against your lawyer should be in writing and should be very specific, including dates and times, where relevant.

#### TO FILE A COMPLAINT AGAINST YOUR GUARDIAN OR LAWYER YOU SHOULD CONTACT MHLS, OR THE JUDGE WHO APPOINTED YOUR GUARDIAN.

If you want to file a complaint against your guardian or lawyer, or want your guardian or lawyer removed or replaced, you should first contact Mental Hygiene Legal Service. The judge who appointed your guardian can also consider complaints.

### MENTAL HYGIENE LEGAL SERVICE

For the Bronx and Manhattan:  
Mental Hygiene Legal Service  
60 Madison Avenue - 2nd Floor  
New York, New York 10010  
Phone: (212) 779-1734  
Fax: (212) 779-1894

For Brooklyn, Queens and Staten Island:  
Mental Hygiene Legal Service  
170 Old Country Road  
Mineola, New York 11501  
Phone: (516) 746-4545  
Fax: (516) 746-4372