

## FREQUENTLY ASKED QUESTIONS (FAQ)?

Q: What is the Office of the Public Fiduciary?

A: The Office of the Public Fiduciary was established by the 1974 legislature to serve as a "Fiduciary of last resort" for individuals and decedents' estates in need of guardianship, conservatorship, or public administration where there is no person or corporation qualified and willing to act in such capacity.

Q: What steps should be taken before considering a referral to the Office of the Public Fiduciary?

A:1. All other possibilities for solution of the client's problems should be exhausted. This includes referral to other agencies for appropriate services.  
2. If the client appears genuinely unable to manage his/her affairs, encourage the family or close friends to accept responsibility for the client and become guardian and/or conservator if necessary.

Q: What is expected of a person or agency after making the initial referral?

A: The referring person or agency is expected to completely fill out the referral form and to obtain a properly written report signed by a physician, certifying that guardianship or conservatorship is necessary. This information is necessary for assessment of the case and for appropriate follow-up if the Public Fiduciary is appointed. The Public Fiduciary will petition for appointment of a guardian or conservator only in those cases where there is a demonstrated need as defined by Arizona Statutes. Because one meets the criteria for a guardianship or conservatorship, does not necessarily mean that there is a demonstrated need that the person has a guardian or conservator.

Q: Can the Office of the Public Fiduciary be appointed if there are other family members?

A: The Office of the Public Fiduciary should be considered only as a last resort. When a person becomes physically or mentally incapacitated and needs a guardian or conservator, the

|   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|---|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|   | responsibility of guardianship or conservatorship is best dealt with by the family.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| □ | <p>Q: Is there a cost for service from the Office of the Public Fiduciary?</p> <p>A: Yes, the Public Fiduciary has a claim against the estate of the ward, protected person, or decedent for reasonable expenses and fees incurred in the administration of the guardianship, conservator, or decedent estate.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|   | <p>Q: Is a durable power of attorney for medical decisions the same as a guardian?</p> <p>A: No, a guardian usually has more authority than an agent under a durable power of attorney. However, the proper use of a Durable Power of Attorney may prevent or delay the need for a guardian/conservator.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|   | <p>Q: Can a relative or friend serve as guardian/conservator instead of the public fiduciary?</p> <p>A: Yes, the Public Fiduciary is appointed only when there is no one else willing and capable of serving. There are also private fiduciaries who perform these services.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|   | <p>Q: Are Fiduciaries certified?</p> <p>A: Effective April 1, 1999 professional fiduciaries are not permitted to serve as a Fiduciary in the state of Arizona unless they are certified with the Supreme Court. Certification requirements include posting a bond, furnishing a full set of fingerprints and passing a criminal background check, taking 12 hours of initial training and passing an examination. Professional fiduciaries are required to maintain continuing education requirements. A list of professional fiduciaries who are currently registered with the Arizona Supreme Court may be obtained by writing: Private Fiduciary Program, Arizona Supreme Court, 1501 West Washington, Suite 410, Phoenix, AZ 85007-3327. Family members are not required to be registered with the Supreme Court in order to serve as fiduciary for a family member.</p> |
|   | Q: How do I find out more about                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

guardianships/conservatorships?

A: Guardianships/Conservatorships are legal creations. You may want to consult an attorney who is familiar with guardianships/conservatorships. Attorneys who practice in the probate area particularly are able to assist.