

WHAT YOU SHOULD KNOW ABOUT "JOINT" ADULT GUARDIANSHIP*

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***Information applies to residents of Ontario, Canada only.**

Applying for "Guardianship of Property" has become a necessary step to thoughtfully consider when preparing for the child's transition to adulthood.

If the loved one does not have the mental capacity to create "Powers of Attorney" documents, "Guardianship" may be the solution to ensure that your loved one's "personal care" needs are met, and that their "property" (their ODSP, RDSP, bills to pay, benefits to apply for, etc.) is properly managed.

When Caregivers have made the decision to apply for Guardianship of Property through the Office of the Public Guardian and Trustee (PGT) application process* their first instinct is often to bring in multiple family members to apply with them.

Yes, more than one person apply to be Guardian of Property" but there are some things that you need to consider when deciding WHO will be applying for Guardianship of Property, through the PGT*.

(*Obtaining Guardianship through a "judge in court" is another way to obtain Guardianship of Property, but is not discussed in this article)

IMPORTANT POINTS TO CONSIDER

1) Applicants must be 18+ and a "relative" to the incapable adult through blood, marriage, or adoption.

2) There are no legal limitations to "how many people" can apply as applicants to Guardianship of Property, however, if there are more than two (2) applicants on the application, the PGT may contact the applicants to ask for reasoning as to why the applicants are applying. The PGT may even contact you to ask you to consider removing some of the applicants that they feel "doesn't make sense" to be on the application.

3) Applicants MUST BE AWARE, that if their application is approved, a Certificate of Guardianship will be issued for "Joint" Guardianship, NOT "Joint and Several" Guardianship.

This is not negotiable. If there is more than one applicant approved as Guardian, "Joint" Guardianship is the ONLY possible result. "Joint and Several" Guardianship can NOT be obtained through the PGT application process*.

This means that all guardians must be involved (acting together as "one person") for EACH financial decision.

As a result of "Joint" Guardianship, a bank or trust company may limit or deny the Guardians' ability to:

- use internet (online) banking,
- use bank machines,
- withdraw money individually,
- or make payments individually.

To learn more about Substitute Decision Maker in Ontario, please visit:

<https://www.attorneygeneral.jus.gov.on.ca/english/family/pgt/ISBN-0-7794-3016-6.pdf>

A bank or trust company may also require all guardians:

- to be present when providing instructions,
- to be present when making withdrawals, and
- may require all cheques to be signed by each guardian.

It is important to ensure you consult with your loved-one's financial institution to understand how a "Joint" Guardianship would impact the Guardians when dealing with any accounts and investments.

4) The PGT will often approve BOTH parents as "Joint" Guardians of Property of their incapable adult child. This "makes sense" particularly if both parents are actively involved in the care of the child, and if both parents live under the same roof- or at least the same city.

5) The "role" of Guardian of Property is NOT to be taken lightly- and the applicants must fully understand the responsibilities involved with taking on this role.

Although it may make sense to you to add an additional applicant "as a back up" JUST IN CASE something happens to the main caregiver(s), that person that YOU think may be PERFECT- may not want the job... or isn't in the right place to take on that responsibility at this time.

The better idea is to "re-visit" the discussion of adding on additional guardians when the time is right. Making amendments to your submitted Management Plan, can be made by first contacting your PGT "client representative" who is assigned to you when your initial guardianship is granted.

To request a link to view "Adult Guardianship Explained" (video) or for more Adult Guardianship related Educational Resources for Caregivers / Care-Workers, please visit www.tbhlegal.ca/adultguardianship

Rachel Merucci is an Ontario licensed Paralegal and sole proprietor of TBH legal and TBH admin.

TBH legal was launched in 2023 providing FREE Adult Guardianship education to caregivers and care-workers of mentally incapable adults.

TBH admin provides an affordable Guardianship of Property Application Service as required by the Office of the Public Guardian and Trustee (PGT).

TBH admin is relied upon by Ontario Caregivers to obtain "Guardianship of Property" for their loved ones in the easiest and quickest way, at the most affordable price.

To learn more about TBH legal, TBH admin, and Rachel Merucci and/or connect with her on social media, check out www.tbhlegal.ca or <https://www.facebook.com/profile.php?id=100087336435462> or email rmerucci@tbhlegal.ca.
