



## **Why Skilled Nursing Facilities Need Guardianship Proceedings to Preserve Their Bottom Line**

Cona Elder Law PLLC

Guardianships can be an important legal tool to address a myriad of challenges for nursing homes when a resident lacks capacity. For example, a nursing home may be compelled to bring a guardianship proceeding in order to have a Guardian appointed who can make health care decisions on behalf of the resident. In many other cases, guardianship proceedings are brought because the resident lacks the ability to manage their financial affairs on his or her own behalf. In the nursing home setting, this is most often seen when a resident requires institutional Medicaid coverage, and lacks the ability to sign a Medicaid application, collect and authorize the release of financial documents, and to redirect his or her Net Available Monthly Income ("NAMI") to the facility each month. In cases where an agent appointed on behalf of the resident pursuant to a General Durable Power of Attorney has abused his or her authority by failing to remit the resident's income to the facility, or converting the resident's assets or income for his or her own use, it is imperative that a guardianship is brought without delay in order to ensure the earliest Medicaid pick-up date for the resident, and to expeditiously address the agent's mishandling of the resident's assets and income. Other cases involving financial quandaries can be ripe for guardianship, as well. These include cases where a resident cannot make arrangements for his or her own safe discharge from the facility when there is no payment source and/or no need for ongoing nursing home care. A Guardian can also be appointed to relinquish a resident's unused rental apartment, discontinue automatic debit payments from a resident's bank account, or represent an incapacitated resident in litigation, including but not limited to a turnover proceeding to secure the return of assets or income wrongfully transferred to another person or entity. Once these important financial issues are addressed, the resident's ongoing placement at the facility will be secure, ensuring that the resident's most basic needs for room, board and medical care will be met, and that the facility will have an ongoing payment source for such care for the foreseeable future.

The experienced attorneys at Cona Elder Law can assist your health care facility in addressing these and other legal issues impacting skilled nursing facilities. Please contact Christina Pecoraro at 631.390.5000 or [cpecoraro@conalaw.com](mailto:cpecoraro@conalaw.com) to schedule your free **virtual** "Best Practices" webinar (free for LeadingAge New York members) today.

Cona Elder Law PLLC is an award-winning Elder Law and Health Care Law firm. In practice for over two decades, Cona Elder Law offers unsurpassed expertise in Health Care Facility Reimbursement and Recovery, Elder Law, litigation and collections. Health care facilities turn to Cona Elder Law for innovative strategies and cutting-edge solutions regarding complex Medicaid eligibility matters, Guardianship proceedings, PRUCOL matters, collections, litigation, and other matters related to resident financial accounts and the facility's bottom line. Representing over 200 skilled nursing facilities, CCRCs and assisted living facilities throughout New York and New Jersey, Cona Elder Law is a preeminent law firm in this practice area. The firm has been ranked the #1 Elder Law Firm by *Long*

*Island Business News* for eight consecutive years and received the Business Achievement Award from the Hauppauge Industrial Association (HIA-LI). For additional information, visit [www.conaelderlaw.com](http://www.conaelderlaw.com).

Dana Walsh Sivak, Senior Associate, Healthcare Facilities Reimbursement & Recovery, Cona Elder Law PLLC, [dsivak@conalaw.com](mailto:dsivak@conalaw.com)

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