

Attorney Patricia Bloom-McDonald is a Licensed attorney in the Commonwealth of Massachusetts and has been in private practice since 2003.

She is admitted to practice before the United States Supreme Court, U.S. District Court, 1st Circuit, U.S. Bankruptcy Court, and all courts in the Commonwealth of Massachusetts.

She has extensive knowledge and experience with the preparation of Wills, Trusts, Health Care Proxies, Durable Power of Attorneys, and other Estate Planning documents.

Additionally, Attorney Bloom-McDonald possesses exceptional knowledge of Probate law and procedure as it is applied to Estate Administration, Elder Law, Guardianships, Conservatorships, and Name Change procedures.

Her outstanding experience with Real Estate procedures relating to loan and refinance documentation, including Reverse Mortgages, affords her the ability to counsel those over 62 years of age who wish to age at home with dignity. Attorney Bloom-McDonald is able to communicate clearly and concisely with people of diverse backgrounds, age, and levels of authority and is available for in-home consultations.

She is a Member of:

Massachusetts Bar  
Federal Bar, District of Massachusetts  
National Academy of Elder Law Attorneys  
Bristol County Estate Planning Counsel  
Bristol County Bar Association  
Norfolk County Bar Association  
Resources to Remember



Attorney Patricia Bloom-McDonald is an Elder Law and Estate Planning Attorney. You may reach Attorney Bloom-McDonald with questions or comments at 508-646-9888, at her website: [www.McBloomLaw.com](http://www.McBloomLaw.com), or email at [McBloomLaw@McBloomLaw.com](mailto:McBloomLaw@McBloomLaw.com)

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# What is a GUARDIANSHIP and What is a CONSERVATORSHIP



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General Practice of Law concentrating in:

**Probate  
Estate Planning  
Elder Law  
Real Estate including  
Reverse Mortgages**

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**Available to meet in my office,  
YOUR home, or an alternative  
place of convenience**

## WHAT IS GUARDIANSHIP?

Generally, guardianship is where one person makes personal decisions for another. When a person needs assistance in making decisions about medical treatment, guardianship is used. A guardianship is a legal proceeding in the Probate courts of Massachusetts in which a guardian exercises the legal rights of an incapacitated person. Guardians have the same powers, rights, and duties as a parent. A guardian can be either an individual or institution appointed by the court to care for an incapacitated person called a "ward". Guardians must be represented by an attorney who will serve as "attorney of record." Guardians are usually required to furnish a bond and may be required to complete a court-approved training program. The Clerk of the Court reviews all reports of guardians of the person.

**A guardian who does not properly carry out his or her responsibilities may be removed.**



## HOW IS A PERSON DETERMINED TO BE INCAPACITATED?

Any adult may file with the court a petition to determine another person's incapacity setting forth the factual information upon which they base their belief that the person is incapacitated. The court then appoints a committee of professionals, usually physicians, and a lay person to examine the person and report its findings to the court.

The court may also appoint an attorney to represent the person alleged to be incapacitated. If the examining committee concludes that the alleged incapacitated person is not incapacitated in any way, the court will dismiss the petition. If the examining committee finds the person to be incapable of exercising certain rights, however, the court schedules a hearing to determine whether the person is totally or partially incapacitated. A guardian is usually appointed at the end of the incapacity hearing.

## IS A CONSERVATORSHIP THE SAME AS A GUARDIANSHIP?

No. A conservatorship is created when an individual needs assistance in making decisions about property and/or financial matters. The person giving up his rights must fully understand the process and its ramifications. A

conservatorship is a legal proceeding in the Probate courts of Massachusetts in which a conservator exercises the legal rights of a person needing such assistance. A conservator can be either an individual or institution such as a bank trust department appointed by the court to care for the property and/or financial needs of a person. Conservators must be represented by an attorney who will serve as "attorney of record." Conservators are usually required to furnish a bond and may be required to complete a court-approved training program. The Clerk of the Court reviews all annual reports of Conservators of the property and finances for approval.

## HOW DO YOU BECOME A GUARDIAN or a CONSERVATOR?

1. Hire a lawyer and file a petition with the court.
2. The person to be placed under guardianship (ward) or conservatorship must be evaluated.
3. There must be a notice of hearing and the proposed ward must be told of his/her rights in court. An important right is to be represented by a lawyer.
4. Hold a public hearing to determine if the proposed ward needs a guardian or a conservator on a permanent or temporary basis.
5. A Judge appoints a guardian or conservator if one is needed.