

# Guardianship vs. Power of Attorney



**MIKE WEEKS, CELA**  
**THE WEEKS GROUP, LLC**  
**ST. CHARLES, MO**

**MAY 19, 2016**

# Objectives



- Understand what the difference between a guardianship/conservatorship and a power of attorney
- Understand the process involved in establishing either of these
- Understand when one is preferable over the other

# POA Basics



- Who can establish?
- How are they established?
- When do they work?
- Can they force care?
- Different for health care/financial decisions?
- Limitations on what the agent can do?

# Guardianship/Conservatorship



- **What is the difference between a guardian and conservator?**
- **Do you have to do both?**
- **Is this a permanent appointment?**
- **If you have a power of attorney do you need a guardianship/conservatorship?**

# How to Establish a Guardianship/Conservatorship?



- **Petition**
- **Appointment of GAL**
- **Role of GAL**
- **Medical Evidence**
- **Bond**
- **Hearing**
  
- **Timing of all this- what is a contested guardianship?**

# After Establishment



- **Forcing Care decisions**
- **Managing money**
- **Settlements/ Annual Reports**
- **Termination**

# Examples?



- Resident with dementia who refuses to stay in facility
- Multiple family members are fighting on care
- Resident with dementia who has good days/bad days
- Adult with Down's Syndrome
- Person who is on hospice and in coma
- You