Liability of the Guardian or Conservator

One of the first questions I hear from people who are considering applying for guardianship for someone else is, "Do I become liable for the things he/she does?" This is an obvious concern. Our lawmakers took it into consideration and specifically addressed the issue.

The Guardian and/or Conservator is not Liable:

- The guardian is not liable, solely because they are guardian, for the ward's expenses or the expenses of those who are supported by the ward.
- The guardian is not personally liable for contracts entered into as the guardian's fiduciary capacity.
- The guardian is not liable for the acts or omissions of the ward.
- The guardian is not liable for obligations arising from ownership or control of property of the ward.

When you take on the role of guardian or conservator, you are not assuming the debts of the ward, you are only assuming the responsibility to use the resources of the ward to satisfy their debts and meet their needs.

It is important to note that the guardianship or conservatorship itself does not give rise to liability, but there are other reasons why you may be liable. If you give something to the ward you know or should know would be dangerous to himself or others, you can be held liable for harm caused by that. As an extreme example, if you give a gun to someone who may have various mental diseases, and they shoot someone with the gun, you will not be liable because you were their guardian; however, you may be liable because you gave them a gun knowing they had limited capacity to properly and legally use the weapon. A less extreme example may be giving them the keys to a car.

As guardian, you often have to make decisions that are against the ward's wishes, you must be prepared to make these decisions and implement them. This can add hostility and hurt feelings to an already stressful relationship.