

Person Filing: _____

Address (if not protected): _____

City, State, Zip Code: _____

Telephone: _____

Email Address: _____

Lawyer's Bar Number: _____

Licensed Fiduciary Number: _____

Representing Self, without a Lawyer OR Attorney for _____



SUPERIOR COURT OF ARIZONA
IN MARICOPA COUNTY

In the Matter of the Guardianship and
Conservatorship of

Case Number: _____

ORDER TO GUARDIAN AND
CONSERVATOR OF AN ADULT

Ward and Protected Person's Name

(Assigned Judicial Officer)

Warning: Your appointment is not effective until the Clerk of Superior Court has issued your Letters of Appointment.

You have asked the court to appoint you as the guardian of your "ward" and the conservator for your "protected person," referred to in this order as the "subject person." While you serve as the guardian and conservator, you will be under this court's authority and supervision, and the court will continue to monitor the subject person's welfare and best interests.

This order generally explains your duties to the subject person and to this court. You may have additional duties imposed by statutes, rules, or the court. By separate order, the court may modify or excuse you from performing a specific duty described below.

YOUR POWERS AND DUTIES AS GUARDIAN:

- 1G. **General Powers and Duties.** You have powers and responsibilities like those of a parent of a minor child. A.R.S. § 14-5312(A). However, you are not legally obligated to contribute your own funds to support the subject person. Your responsibilities include, but are not limited to, making appropriate arrangements for the subject person's basic needs, such as food, clothing, and housing. A.R.S. § 14-5312(A)(1)-(2). You are responsible for making decisions concerning the subject person's educational, and social activities. A.R.S. § 14-5312(A)(2). You must consider the subject person's preferences to the extent they are known to you or that you can determine with a reasonable inquiry. A.R.S. § 14-5312(A)(11).
- 2G. **Contact Between Subject Person and Others.** You must encourage and allow contact between the subject person and other persons who have a significant relationship with the subject person. A.R.S. § 14-5316(A). In exercising this duty, you must consider the subject person's wishes and whether the subject person has sufficient mental capacity to make the decision in question. A.R.S. § 14-5316(C). However, unless the court orders otherwise, you may limit, restrict, or prohibit contact between the subject person and another person if you reasonably believe that the contact will be detrimental to the subject person's health, safety, or welfare. A.R.S. § 14-5316(B).
- 3G. **Health Care Decisions for Subject Person.** You are responsible for making decisions concerning the subject person's medical needs. A.R.S. § 14-5312(A)(3) and (9). Such decisions include, but are not limited to, choosing doctors, nurses, or other professionals to provide for the subject person's health care needs, and placing the subject person in a health care facility, including a residential care facility. However, you must use the least restrictive residential care setting that is available for meeting the subject person's needs. A.R.S. § 14-5312(A)(8). You may arrange for medical care for the subject person even if the subject person does not wish to have it.
- 4G. **Psychiatric and Psychological Treatment for Subject Person.** You may give consent to outpatient psychiatric and psychological treatment, including the administration of psychotropic medication. However, you may not place the subject person in an inpatient psychiatric facility without the subject person's consent, unless the court has specifically authorized you to do so. A.R.S. § 14-5312.01(A) and (B).
- 5G. **Notify Family Members of Subject Person's Hospitalization.** You must notify the subject person's family members as soon as practicable if the subject person is admitted to a hospital for more than 3 days, or if the subject person dies. A.R.S. § 14-5317(A).
- 6G. **Do Not Accept "Kickbacks."** You must not accept any compensation for placing the subject person in a particular nursing home or other care facility, using a certain doctor, or using a certain attorney. "Compensation" includes, but is not limited to, direct or indirect payment of money, "kickbacks," gifts, favors, or other items of value.

- 7G. File Annual Reports. You are required to file a written report with the court annually concerning the subject person's residence, physical and mental health, and whether the guardianship should be continued. A.R.S. § 14-5315(A). Your report is due each year no later than 60 days after the anniversary date of the issuance of your letters of permanent appointment, or on a date established by the court. Ariz. R. Prob. P. 46(a).
- 8G. Change of Subject Person's Contact Information. If the subject person's contact information changes, you must file Form 14, Notice of Change of Ward's Contact Information, within 3 court days after learning of such change. Ariz. R. Prob. P. 13(c)(1)(B). If the subject person dies, you must notify the court in writing no later than 14 calendar days after learning of the death. Ariz. R. Prob. P. 40(c).
- 9G. Termination of Subject Person's Incapacity. You must always be mindful of the subject person's needs and best interests. If the circumstances that made a guardianship necessary should end, you are responsible for petitioning the court to terminate the guardianship and obtaining your discharge as guardian. A.R.S. § 14-5312(A)(7). Even if the guardianship terminates, you will not be discharged from your responsibilities until you have obtained a court order discharging you. A.R.S. § 14-5306.

YOUR POWERS AND DUTIES AS CONSERVATOR:

- 1C. General Duty to Gather and Manage Subject Person's Assets. You must immediately locate, identify, secure, and inventory all of the subject person's assets, and make reasonable arrangements to protect those assets. *See* A.R.S. § 14-5417 (stating that a conservator must act as a fiduciary and observe the standard of care applicable to trustees).
- 2C. Titling of Subject Person's Assets. You must immediately change the title of any financial accounts, vehicles, and other titled assets owned by the subject person. The property should be titled in the name of the conservatorship: "(Your name), as Conservator(s) of the estate of (subject person's name)" or "(subject person's name), by (your name), Conservator." You should consider consulting with an attorney or petitioning the court for instructions if the subject person owns the property with another person, or if the subject person arranged for payment or transfer of benefits or interest in the property to another person at the subject person's death, such as a TOD, POD, or joint tenancy designation. *See* A.R.S. § 14-5417 (stating that a conservator must act as a fiduciary and observe the standard of care applicable to trustees); A.R.S. § 14-5427 (requiring conservator to take into account the protected person's estate plan).
- 3C. Restricted Assets. If the court has entered an order restricting an account, you must file Form 10, Proof of Restricted Account from Financial Institution, no later than 30 days after the court's order, or as otherwise ordered by the court. Ariz. R. Prob. P. 36(b)(2). Form 10 must be signed by an authorized representative of the financial institution.

- 4C. Recording of Letters of Appointment. No later than 10 court days after issuance of your letters of appointment, you must record a certified copy of those letters with the county recorder in every county of any state where the subject person owns real property. No later than 45 calendar days after a county recorder has recorded those letters, you must file a copy of the recorded letters with the court. Ariz. R. Prob. P. 39(g).
- 5C. Inventory, Consumer Credit Report, and Initial Budget. No later than 90 days after the date your temporary or permanent letters of appointment were first issued, you must file an inventory, a consumer credit report for the subject person, and an initial budget. A.R.S. § 14-5418(A); Ariz. R. Prob. P. 45(c)(1), (c)(3), and (d)(1). No specific form is required for the inventory; however, the inventory must list, with reasonable detail, all the property owned by the subject person on the date your letters were first issued and state the fair market value of each asset as of that date. A.R.S. § 14-5418(A); Ariz. R. Prob. P. 45(c)(2). You must use Form 5 for the initial budget. Ariz. R. Prob. P. 45(d)(2).
- 6C. Pay Valid Claims and Expenses; Maintain Records. You must pay the subject person's debts when they become due. Keep detailed records of all money you receive for the subject person and all expenses you pay on the subject person's behalf, including bills and invoices, payment receipts, bank statements, tax returns, bills of sale, promissory notes, etc. Do not deposit the subject person's funds into your own account, and do not pay the subject person's bills from your account. Instead, maintain the subject person's funds in one or more separate accounts that are distinct from your own and that are titled either "[your name], Conservator for [subject person's name]" or "[subject person's name], by [your name], Conservator." Avoid dealing in cash and do not write checks to "cash." See A.R.S. § 14-5417 (stating that a conservator must act as a fiduciary and observe the standard of care applicable to trustees); A.R.S. § 14-5428 (setting forth conservator's duty to pay all just claims against the protected person's estate).
- 7C. Annual Accounts and Budgets. You must file annual accounts with the court as follows:
- (a) using Form 6, you must file your first account and an annual budget as conservator on or before the first anniversary date of the issuance of your letters of appointment as permanent conservator;
 - (b) on or before all subsequent anniversary dates of the issuance of your letters of appointment as permanent conservator, you must file your account and annual budget as conservator using Form 7; and
 - (c) no later than 90 days after your appointment as conservator ends, you must file a final account using Form 8. A.R.S. § 14-5419(A); Ariz. R. Prob. P. 45(d), (e).
- 8C. Amended Budgets. You must file an amended budget no later than 30 days after

reasonably projecting that the expenditure for any specific category in your most recently filed budget will exceed the threshold stated in Form 5. Ariz. R. Prob. P. 45(d)(3).

- 9C. Investment of Subject Person's Assets. You must properly invest the subject person's assets. You may hire accountants, attorneys, and other advisors to help you carry out your duties as the size and the complexity of the conservatorship estate may require. *See* A.R.S. § 14-5417 (stating that a conservator must act as a fiduciary and observe the standard of care applicable to trustees).
- 10C. Duty of Undivided Loyalty. You have a duty of undivided loyalty to the subject person. You must use the subject person's money and property only for the subject person's benefit. Neither you, your friends, nor any other family members may profit by dealing in the assets of the conservatorship estate. You must be prudent in investing and managing the subject person's assets. *See* A.R.S. § 14-5417 (stating that a conservator must act as a fiduciary and observe the standard of care applicable to trustees).
- 11C. Use of Subject Person's Assets. You must make reasonable efforts to determine the subject person's preferences regarding all decisions you are empowered to make as conservator. Do not purchase merchandise or services that the subject person would have considered extravagant or inappropriate before your appointment. *See* A.R.S. § 14-5425(A)(2)(b). Use the assets to maintain the safety, health, and comfort of the subject person, bearing in mind the totality of the subject person's income and assets. A.R.S. § 14-5425(A)(2)(a). When investing and managing the subject person's property, you must consider the subject person's estate plan, if any, and petition the court for instructions if you have any questions regarding this obligation. A.R.S. § 14-5427.
- 12C. Termination of the Conservatorship. The conservatorship terminates only upon the entry of a court order terminating the conservatorship. The court will enter such an order only after either you or the subject person, or another interested person, files a petition requesting that the conservatorship be terminated. The petition should be filed if the subject person no longer needs a conservator (because the subject person's disability has ceased or because the conservatorship estate has been exhausted) or after the subject person dies. A.R.S. § 14-5430. Unless otherwise ordered by the court or unless, in the case of the subject person's death, you comply with A.R.S. § 14-5419(F), you will need to file a final account with the court before you can be discharged of liability in connection with the conservatorship and before your bond, if any, is exonerated. A.R.S. § 14-5419(A).

GENERAL INFORMATION:

1. Certified Copy of Letters of Appointment. You will need to obtain a certified copy of the Letters of Appointment that the Clerk of Superior Court will issue to you. The certified copy is proof of your authority to act on behalf of the subject person. You may need to

obtain additional (or updated) certified copies from time to time for delivery to, or inspection by, the people with whom you are dealing.

2. **Change of Your Contact Information.** If your contact information changes during your appointment, you must file Form 13, Notice of Change of Fiduciary's Contact Information, within 10 court days after such a change occurs. Ariz. R. Prob. P. 13(c)(1)(A).
3. **Compensation for Services as Guardian and Conservator.** If you are a licensed fiduciary or are related by blood or marriage to the subject person, you may be entitled to compensation for your services as the subject person's guardian and conservator. A.R.S. §§ 14-5314(A), 14-5414(A), and 14-5651. If you wish to be compensated for your services as guardian and conservator, you must file with the court a statement that explains how you will be compensated, including any hourly rate you intend to charge, and you must file an updated statement at least 30 days before you change the basis for your compensation, including your hourly rate. A.R.S. § 14-5109(A) and (B). In addition, you should keep detailed records of the time you spend performing your duties. The time records should include the date you perform each task, a description of the task, the amount of time you spent on the task, and the hourly rate you are charging for that task. Read Rule 33, Arizona Rules of Probate Procedure, and Arizona Code of Judicial Administration § 3-303 for more information about compensation for guardian and conservator services.
4. **Mail Notice of this Order.** Within 10 court days after entry of this Order to Guardian and Conservator of an Adult, you must mail a copy of this order to every party in this case (or if a party is represented, that party's attorney) and to any person who has filed a demand for notice.
5. **Inability to Serve as Guardian and Conservator.** If you become unable to continue with your duties for any reason, you (or your own guardian or conservator, if you have one) must petition the court to accept your resignation and appoint a successor. If you should die, your personal representative or someone acting on your behalf must inform the court of your death and petition for the appointment of a successor.
6. **Legal Advice.** You are responsible for obtaining proper legal advice about your duties. Failure to do so may result in personal financial liability for any losses. If you have any questions about the meaning of this order or the duties that the court's orders, statutes, and rules impose upon you by reason of your appointment as guardian and conservator, you should consult an attorney or petition the court for instructions.
7. **Forms.** The forms referred to in this order are available at <https://www.azcourts.gov/probate>.

Warning: Failure to obey this order, the other orders of this court, or the statutory provisions or rules relating to guardians and conservators may result in your removal as guardian and conservator and other penalties. In some circumstances, you may be held in contempt of court, and your contempt may be punished by confinement in jail, a fine, or both. Ariz. R. Prob. P. 48.

DATED this _____ day of _____, 20_____.

Judicial Officer's Signature

Judicial Officer's Name (Type or Print Name)

ACKNOWLEDGEMENT

I (We), the undersigned, agree to be bound by the provisions of this order, as long as I (we) continue to serve as guardian and conservator.

Date

Guardian/Conservator Signature

Guardian/Conservator Name (Type or Print Name)

Date

Co-Guardian/Conservator Signature

Co-Guardian/Conservator Name (Type or Print Name)