

# **GUARDIANSHIP**

## **For an Adult**

**1**

**OR a person at least 17.5 years old,  
to *become effective* at age 18**

**Part 1: Preparing the First Court Papers  
(Forms Packet)**

## SELF-SERVICE CENTER

# PERMANENT GUARDIANSHIP FOR AN ADULT (or person at least 17.5 years of age *to become effective at age 18*)

### CHECKLIST

*You may use the forms and instructions in this packet if . . .*

- ✓ You want the court to appoint a guardian for an incapacitated adult or for a person who is at least 17 and a half years of age who will need a guardian as an adult;
- ✓ Guardianship will be needed for **more than 6 months** (“permanent” guardianship), (See separate “**Temporary Orders**” packet if need expected to be for **6 months or less**);
- ✓ The person who needs the guardian lives in Maricopa County;
- ✓ A doctor or other person authorized by Arizona law A.R.S. §14-5303(C) will say that the incapacitated person needs a guardian *or will need a guardian when he or she becomes an adult*; AND
- ✓ You know that the court does **not** need to also (or instead) appoint a *conservator*.

#### **A CONSERVATOR IS GENERALLY NEEDED:**

- Because the person for whom the conservator is to be appointed has income or property which will be wasted or used up unless proper management is provided; funds are needed for his or her support, or the funds are needed for the support of persons legally entitled to support *from* the person said to need the conservator.

#### **\*A GUARDIAN IS GENERALLY NEEDED:**

- Because the person for whom the guardian is to be appointed is physically or mentally unable to take care of all of his or her own needs and requires someone legally authorized and responsible for acting in his or her best interests.

**\*Note:** If you are filing for the appointment of a Guardian and/or Conservator for a person aged at least 17 and a half, the appointment will become effective as of his or her 18<sup>th</sup> birthday.

**READ ME:** Consulting a lawyer before filing documents with the court may help prevent unexpected results. A list of lawyers you may hire to advise you on handling your own case or to perform specific tasks, as well as a list of court-approved mediators can be found on the Self-Service Center website.

SELF-SERVICE CENTER

# GUARDIANSHIP

**GET A PERMANENT APPOINTMENT FOR AN ADULT  
or a person at least 17.5 years old to become effective at age 18**

## Part 1: Preparing the First Court Papers (Forms Only)

This packet contains court forms and instructions to file a permanent appointment for an adult or a person at least 17.5 years old to become effective at age 18. Items in **BOLD** are forms that you will need to file with the Court. Non-bold items are instructions or procedures. Do not copy or file those pages!

| Order | File Number | Title   | # pages |
|-------|-------------|---|---------|
| 1     | PBGA1k      | Checklist: <i>You may use these forms if...</i>   | 1       |
| 2     | PBGA1ft     | Table of Contents (this page)   | 1       |
| 3     | PB10f       | <b>“Probate Information Cover Sheet”</b>  | 2       |
| 4     | PBGA11f     | <b>“Petition for Permanent Appointment of Guardian of an Adult”</b>   | 8       |
| 5     | PBGC13f     | <b>“Affidavit of Person to be Appointed”</b>  | 3       |
| 6     | PBGCA12f    | <b>“Petitioner’s Information Sheet to Court Investigator”</b>   | 2       |
| 7     | PBGC14f     | <b>“Order Appointing Attorney, Health Professional, Court Investigator”</b>   | 2       |
| 8     | PBGCA15f    | <b>“Guidelines for Health Professional’s Report”</b><br>(instructions and form together)  | 6       |
| 9     | PBGC18f     | <b>“Notice of Hearing”</b>  | 1       |
| 10    | PBGC19f     | Acceptance of Service with<br>(Optional) <b>“Waiver of Notice”</b> and<br>(Optional) <b>“Waiver of Servicemembers Civil Relief Act”</b> | 4       |
| 11    | PBGTM1      | <b>“Guardianship Training Manual”</b>   | 9       |

The documents you have received are copyrighted by the Superior Court of Arizona in Maricopa County. You have permission to use them for any lawful purpose. These forms shall not be used to engage in the unauthorized practice of law. The Court assumes no responsibility and accepts no liability for actions taken by users of these documents, including reliance on their contents. The documents are under continual revision and are current only for the day they were received. It is strongly recommended that you verify on a regular basis that you have the most current documents.

**SUPERIOR COURT OF ARIZONA  
IN MARICOPA COUNTY**

**PROBATE INFORMATION COVER SHEET**



FOR CLERK'S USE ONLY

Case Number: PB \_\_\_\_\_

A person needing a guardian or conservator is the "ward". A person who died is the "decedent".

**INFORMATION ABOUT THE WARD or THE DECEDENT**

|  |  |                      |  |
|--|--|----------------------|--|
| NAME: _____  |  | DATE OF BIRTH: _____ |  |
| MAILING ADDRESS : _____  |  |                      |  |
| STREET ADDRESS (if different): _____   |  |                      |  |
| TELEPHONE (Home): _____  |  | SSN: _____           |  |
| TELEPHONE (Cellular): _____  |  | EMAIL: _____         |  |
| <input type="checkbox"/> ADDITIONAL WARDS ARE INVOLVED. Information listed separately. |  |                      |  |

**INFORMATION ABOUT THE PETITIONER, the person filing these papers.**

|  |              |
|--|--------------|
| NAME: _____  |              |
| MAILING ADDRESS: _____   |              |
| TELEPHONE: _____   | EMAIL: _____ |
| INFORMATION ABOUT PETITIONER'S ATTORNEY: <input type="checkbox"/> Petitioner is not represented by an attorney, or |              |
| NAME: _____  | BAR # _____  |
| TELEPHONE: _____   | EMAIL: _____ |

An INTERPRETER IS NEEDED for this language: \_\_\_\_\_

(List Names of) Persons who need interpreter:      Name: \_\_\_\_\_

Name: \_\_\_\_\_      Name: \_\_\_\_\_

|   |
|---|
| <b>STAFF USE ONLY:</b> REASON FEES NOT PAID: <input type="checkbox"/> Government Charge <input type="checkbox"/> Deferred <input type="checkbox"/> Waived |
|---|

**NATURE OF ACTION:** Place an "X" next to number which describes the nature of the case. Check only **ONE**.

- |   |  |
|---|--|
| <p><b>200 ESTATE</b></p> <p>____ 201 Formal Appointment of Personal Representative</p> <p>____ 202 Informal Appointment of Personal Representative</p> <p>____ 203 Ancillary Administration</p> <p>____ 204 Affidavit of Succession to Realty</p> <p>____ 205 Trust Administration</p> <p>____ 206 Formal Probate of Will</p> <p>____ 207 Informal Probate of Will</p> <p>____ 208 Proof of Authority</p> <p>____ 210 Other _____</p> <p style="text-align: center; font-size: small;">Specify</p> <p>____ 211 Single Transaction/Limited Conservatorship</p> <p>____ 212 Foreign Domiciliary</p> | <p><b>220 CONSERVATOR</b></p> <p>____ 221 Minor</p> <p>____ 222 Adult Incapacitated Person</p> <p><b>230 GUARDIANSHIP</b></p> <p>____ 231 Minor</p> <p>____ 232 Adult (including those with Dementia, Alzheimer's)</p> <p>____ 233 Adult Requiring In-Hospital Mental Health Treatment</p> <p><b>240 GUARDIANSHIP-CONSERVATOR COMBINATION</b></p> <p>____ 241 Minor</p> <p>____ 242 Adult (including those with Dementia, Alzheimer's)</p> <p>____ 243 Adult Requiring In-Hospital Mental Health Treatment</p> |
|---|--|

Case No. \_\_\_\_\_

**INFORMATION ABOUT THE FIDUCIARY, \_\_\_\_\_ the person to serve as guardian, conservator, or personal representative (executor) of the Estate of someone who died.**

|  |                         |   |                      |
|--|-------------------------|---|----------------------|
| <b>NAME:</b> _____   |                         | <b>DATE OF BIRTH:</b> _____   |                      |
| <b>MAILING ADDRESS:</b> _____  |                         |   |                      |
| <b>STREET ADDRESS:</b> (if different) _____                                  |                         |   |                      |
| <b>TELEPHONE (Home):</b> _____   |                         | <b>SSN:</b> _____   |                      |
| <b>TELEPHONE (Cellular):</b> _____   |                         | <b>EMAIL:</b> _____   |                      |
| <b>TELEPHONE (Work):</b> _____   |                         | <b>CERTIFICATION #</b> _____<br>(for State-Licensed Fiduciaries ONLY) |                      |
| <b>RELATIONSHIP TO THE WARD OR (if an estate matter) THE DECEDENT:</b> _____ |                         |   |                      |
| <b>PHYSICAL DESCRIPTION:</b>   | <b>RACE:</b> _____      | <b>HEIGHT</b> _____   | <b>WEIGHT:</b> _____ |
|  | <b>EYE COLOR:</b> _____ | <b>HAIR COLOR:</b> _____  |                      |

**By signing below, I state to the Court under penalty of perjury that the contents of this document are true and correct to the best of my knowledge and belief.**

\_\_\_\_\_  
Petitioner or Attorney Signature

## NOTICE

### SUBMIT THIS FORM WITH NEW CASES ONLY.

If there is already a (Maricopa County) Probate Court case number and you are filing in an existing Superior Court case in Maricopa County, **DO NOT SUBMIT THIS FORM.**

Person Filing: \_\_\_\_\_  
Address (if not protected): \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
Lawyer's Bar Number: \_\_\_\_\_  
Licensed Fiduciary Number: \_\_\_\_\_

FOR CLERK'S USE ONLY

Representing  Self, without a Lawyer or  Attorney for  Petitioner OR  Respondent

## SUPERIOR COURT OF ARIZONA IN MARICOPA COUNTY

In the Matter of the Guardianship of:

Case Number PB: \_\_\_\_\_

### PETITION FOR PERMANENT APPOINTMENT OF GUARDIAN FOR AN ADULT, or

a Minor at least 17.5 years of age,  
to become effective at age 18

\_\_\_\_\_  
Name of Person to be Protected

### UNDER OATH OR BY AFFIRMATION:

#### INFORMATION REQUIRED BY ARIZONA LAW (A.R.S. § 14-5303)

**1. INFORMATION ABOUT THE PETITIONER** (the person filing this petition)

(My) Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

My interest in or relationship to the person to be protected is:

\_\_\_\_\_

(examples: mother, father, sister, brother, grandparent, legal guardian)

**2. INFORMATION ABOUT THE PERSON TO BE PROTECTED** (also known as "the proposed protected person" or "the ward")

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

**3. INFORMATION ABOUT THE PROPOSED GUARDIAN:**

(Complete this **only** if the proposed guardian is someone **other than** Petitioner.)

**A.** Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Telephone: \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
 Interest in or relationship to the person to be protected is: \_\_\_\_\_  
 \_\_\_\_\_

**B. PRIORITY FOR APPOINTMENT: The proposed guardian named above has priority for appointment as guardian under Arizona law A.R.S. § 14-5311, because he or she:**

- was selected by the (proposed) ward to be the guardian;
- was nominated to serve as guardian in the ward's most recent durable power of attorney or health care power of attorney;
- is the spouse of the ward;
- is an adult child of the ward;
- is a parent of the ward, or was nominated in a will or writing signed by a deceased parent of the ward;
- is a relative the ward has lived with for more than six months before filing this petition;
- was chosen by someone who is caring for or paying benefits to the ward;
- is a private fiduciary, a professional guardian, conservator, or the Arizona Department of Veterans' Services.
- Other** (explain): \_\_\_\_\_  
 \_\_\_\_\_

**4. INFORMATION ABOUT CONSERVATOR (OR OTHER GUARDIAN):**

**To the best of my knowledge:** (Check one box.)

No Guardian or Conservator has been appointed in any other court, and no court proceedings are pending for such appointment;

**OR**

Someone *has* been appointed Guardian or Conservator, or court proceedings are pending. (If "yes", provide details below.)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Relationship to the person to be protected is: \_\_\_\_\_

Was appointed  GUARDIAN  CONSERVATOR for the ward named in #2 above in:

Name of Court: \_\_\_\_\_ Located in:

City and State: \_\_\_\_\_

Date Appointed: \_\_\_\_\_ Other Details: \_\_\_\_\_

**5. INFORMATION ABOUT NEAREST RELATIVE:**

The nearest known relative is  the Petitioner  the proposed conservator  NEITHER.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Relationship to the person to be protected is: \_\_\_\_\_

**6. PROPERTY AND ASSETS OF THE PROPOSED PROTECTED PERSON: (Check one)**

The ward has no substantial assets or income. No bond is required;

**OR**

The ward has assets and/or annual income in the approximate amount of \$ \_\_\_\_\_

**List/Describe:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**7. REASONS FOR GUARDIANSHIP:** The proposed ward needs a guardian because he or she is incapacitated as defined by Arizona Law, A.R.S. §14-5101(1), to the extent that he or she lacks sufficient understanding or ability to make or communicate responsible decisions concerning his or her own well-being and self-interests. Appointment of a guardian is necessary or desirable to provide continuing care and supervision of the person, and is in his or her best interests.

**THE PERSON TO BE PROTECTED IS INCAPACITATED AND IN NEED OF CONTINUING CARE AND SUPERVISION DUE TO:** (Check all that apply):

Mental illness, mental deficiency, mental disorder as defined by A.R.S. § 36-3501;

Chronic use of drugs;  Chronic intoxication;

Physical illness or disability;

Other (explain): \_\_\_\_\_

**8. TYPE OF GUARDIANSHIP: LIMITED OR GENERAL: (A.R.S. § 14-5303(B)(8))**

**A.**  **A LIMITED GUARDIANSHIP** is requested with the following specific powers:

**1. Authority for the guardian to:**

Consent to Medical Treatment  Consent to Make Living Arrangements

Arrange Education or Training  Consent to Marriage

Apply for Public Assistance or Social Services

Consent to Outpatient Mental Health Care and Treatment

**2. INPATIENT Mental Health Powers:** The ward is incapacitated as a result of mental health disorder as defined in A.R.S. § 36-501.

Authority is requested for the Guardian to place the ward in an Inpatient Psychiatric Facility for **inpatient** mental health care and treatment. **This request is supported by the opinion of a licensed psychiatrist or psychologist, attached to and made part of this document by reference.**

**3.  OTHER LIMITED POWERS REQUESTED:** (List and Describe) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Continues on attachment titled "Powers Requested", made part of this document by reference.

(OR)

**B.  GENERAL GUARDIANSHIP is requested.** As required by Arizona law, **A.R.S. §14-5303(B)(8)**, less restrictive alternatives to general guardianship, including technological assistance, have been considered, **however:** (Check the box if true\*)

The proposed ward is incapacitated in a manner or to an extent that a limited guardianship would not adequately protect and provide for the proposed ward's care and well-being. (Optional additional information) \_\_\_\_\_  
\_\_\_\_\_

**\* For the court to order a general guardianship, you must check the box and be prepared to offer clear and convincing evidence that less restrictive means of meeting the proposed ward's demonstrated needs would not be sufficient. (A.R.S. § 14-5304(B))**

**NOTE:** A *general* guardianship includes authority to consent to *outpatient* mental health treatment for the ward, but the Court must specifically grant authority to place the ward in an **inpatient** mental health facility. Check the box below if the best interests of the incapacitated person require the Guardian to have this authority.

**INPATIENT Mental Health Powers:** Authority is requested for the Guardian to place the ward in an Inpatient Psychiatric Facility for **inpatient** mental health care and treatment. **This request is supported by the opinion of a licensed psychiatrist or psychologist, attached to and made part of this document by reference.**

**C. (Limited or General) DRIVING PRIVILEGES AND VOTING RIGHTS: (A.R.S. §§14-5304)**

1.  The proposed ward's incapacity does not prevent or interfere with safe operation of a motor vehicle. Petitioner requests that the court **not** suspend the ward's privilege to obtain or retain a driver's license. **Medical or other evidence will be presented in support of this statement and request.**

2.  The Petitioner believes the proposed ward has sufficient capacity and understanding to exercise the right to vote. On behalf of the proposed ward, the Petitioner hereby petitions the court to consider the issue and hold a hearing at the same time as this Petition. **Clear and Convincing evidence will be presented that the proposed ward has sufficient understanding to exercise the right to vote.**

**9. INFORMATION ABOUT OTHER COURT or AGENCY INVOLVEMENT**

**A. Other Court Cases (Mark the box beside the statements below that are TRUE.)**

**1. Divorce, Legal Separation, or Paternity cases with court orders**

- There are **NO** Divorce, Legal Separation, or Paternity **court orders or cases**, which include legal decision-making (custody) or parenting time (visitation) matters for the alleged incapacitated person.
- YES**, a Court Order exists for a Divorce, Legal Separation, or Paternity case involving the alleged incapacitated person.
  - The name of Arizona or other state Court where the above case is located: \_\_\_\_\_.
  - The name of the Arizona or other state case number for the above case is \_\_\_\_\_.
- The above case involved legal decision-making (legal custody) or parenting time (visitation).
  - The petitioner or proposed guardian in the above-named case is:
    - A parent of the alleged incapacitated person – or
    - A non-parent who has been awarded legal decision-making for the alleged incapacitated person.
- I attached a copy of the most recent court order regarding legal decision-making (legal custody) or parenting time (visitation) from the (Divorce, Legal Separation or Paternity) mentioned above. (On the top margin of the attached court order copy, write "Attachment for Question 9.A.)

**2. Other Guardianship or Conservatorship cases with court orders**

- No Guardian or Conservator was appointed by court order in any **other** court, and no Guardianship and/or Conservatorship court proceedings are pending for such appointment;
- Someone was appointed Guardian and/or Conservator, or Guardianship and/or Conservatorship court proceedings are pending. (If "yes", provide details below.)
  - Name: \_\_\_\_\_
  - Address: \_\_\_\_\_
  - Telephone: \_\_\_\_\_ Date of Birth: \_\_\_\_\_
  - Relationship to the person to be protected is: \_\_\_\_\_

Was appointed  **GUARDIAN** OR  **CONSERVATOR** for the alleged incapacitated.

Name of Court: \_\_\_\_\_

Located in: City and State: \_\_\_\_\_

Date Appointed: \_\_\_\_\_ Other Details: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**B. Agency Involvement (Place a check mark beside the statements below that are true.)**

- A state or local agency is NOT, or has NOT been involved or concerned with the alleged incapacitated person.

Yes, a state or local agency **is**, or has been involved or concerned with the alleged incapacitated person. The following state or local agency has a case with or has checked on the alleged incapacitated person: (**Mark** the box beside the agency involved, and **write in the date** of involvement)

- Division of Aging and Adult Services \_\_\_\_\_
- Department of Child Safety
- Division of Developmental Disabilities
- Police
- Other Agency: \_\_\_\_\_

**Authority granted to a guardian may include the authority to withhold or withdraw life sustaining treatment, including artificial food and fluid.** (A.R.S. § 14-5303(B)).

**10. APPOINTMENT OF PHYSICIAN** or other health professional authorized or required by A.R.S. § 14-5303(c) or § 14-5312(B): (Guardianship cannot be established **for an adult** unless the adult is examined by a medical doctor, registered nurse or psychologist whose written report is filed with the court before the hearing. **If** authority to consent to inpatient mental health care is requested, the report or a separate report recommending such authority **must** be prepared by a licensed psychiatrist or psychologist.)

The proposed protected person will be examined by a physician or other health professional authorized by A.R.S. § 14-5303(C) or § 14-5312 (B)), whose written report I will file with the court. The examiner will also indicate whether the protected person's driving privileges should be suspended and whether inpatient mental health treatment is recommended.

**The person I say is in need of protection will be examined by:**

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Telephone Number:** \_\_\_\_\_ **Email:** \_\_\_\_\_

**Professional Title:**     Medical Doctor     Registered Nurse     Psychologist

**11. APPOINTMENT OF AN ATTORNEY** (Guardianship or conservatorship cannot be established **for an adult** who does not have an attorney appointed by the Court to represent his or her interests in court.) (Check one box only and fill in the information requested):

The person I say is incapacitated already has an attorney who I request be appointed to represent him or her in court regarding the proposed guardianship and conservatorship:

**Name of Attorney:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Telephone Number:** \_\_\_\_\_

**The prior relationship** (if any) between the attorney and the Petitioner or the Ward consists of:  
(Explain) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**OR**

The incapacitated person does **not** have an attorney. I will contact the **Office of Public Defense Services** at **(602) 506-7437**, to arrange for a lawyer to be appointed by the court after this petition is filed.

**REQUIRED STATEMENTS TO THE COURT:** (Note: All of these statements must be true for this court to have the authority to grant your Petition.)

12.  TRUE **Venue** (the court in which you are filing this Petition) is proper in this county because the proposed protected person lives in or is present in this county.

13.  TRUE The proposed guardian has completed the **Affidavit of Person to be Appointed as Guardian of an Adult** and is filing that Affidavit with this Petition as required by Arizona law, A.R.S. § 14-5106.

14.  TRUE I or the person I request to be appointed in section 3 is a suitable and proper person to act as guardian and is entitled to consideration for appointment under Arizona Law, A.R.S. § 14-5106, 5311, and/or 5410.

15. **PERSONS ENTITLED TO NOTICE** of this matter under Arizona law **§14-5405** and to whom I will give notice of this case: (See instructions.)

|    | Name  | Address | Relationship to the Ward |
|----|-------|---------|--------------------------|
| A. | _____ | _____   | _____                    |
| B. | _____ | _____   | _____                    |
| C. | _____ | _____   | _____                    |
| D. | _____ | _____   | _____                    |

Additional persons (or agencies) are listed on attachment (“Additional Parties Entitled to Notice”, made part of this document by reference.)

**REQUESTS TO THE COURT: Petitioner asks the court to:**

1. Appoint a lawyer to represent the proposed protected person’s interests, a physician or other health professional authorized by A.R.S. § 14-5303 or 5312 to report on his or her physical and mental condition, as well as a court investigator.
2. After Petitioner gives notice of the hearing to all interested persons and to those required by law, hold a hearing to determine if the Court should order a Guardianship;
3. Make a finding that the person is incapacitated, needs a guardian, and if applicable, make a finding that the incapacitated person requires inpatient mental health care;

4. Make a finding that the person needs protection under law;
5. If a general guardianship is ordered, make a finding that less restrictive means, including technological assistance were considered, but not adequate or appropriate;
6. Appoint the person proposed in this petition as Guardian of the protected person;
7. Make any other orders the Court decides are in the best interests of the proposed incapacitated person.

### UNDER OATH OR AFFIRMATION

**I swear or affirm under penalty of perjury that the contents of this document are true and correct to the best of my knowledge and belief.**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Subscribed and sworn to or affirmed before me this: \_\_\_\_\_

(date)

by \_\_\_\_\_.

(notary seal)

\_\_\_\_\_  
Deputy Clerk or Notary Public

Person Filing: \_\_\_\_\_  
Address (if not protected): \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
Lawyer's Bar Number: \_\_\_\_\_  
Licensed Fiduciary Number: \_\_\_\_\_

FOR CLERK'S USE ONLY

Representing  Self, without a Lawyer or  Attorney for  Petitioner OR  Respondent

## SUPERIOR COURT OF ARIZONA IN MARICOPA COUNTY

In the Matter of the  
Guardianship and/or Conservatorship of:

Case Number: PB \_\_\_\_\_

### AFFIDAVIT OF PERSON TO BE APPOINTED GUARDIAN OR CONSERVATOR A.R.S. § 14-5106

an Adult or  a Minor

**INSTRUCTIONS:** As required by Arizona law A.R.S. § 14-5106, indicate whether statements 1-11 below are true or false, and provide the information requested to complete "12" and "13". Explain any "false" statements on separate page(s) and attach to this document before filing. Sign the document in the presence of a Clerk of the Court or a Notary Public, and file along with the *Petition for Appointment of Guardian and/or Conservator*.

### UNDER PENALTY OF PERJURY, I SWEAR OR AFFIRM:

- True or  False. I have not been convicted of a felony in any jurisdiction.
- True or  False. I have not acted as a guardian or conservator for another person for at least three years before I filed this Petition.
- True or  False. I know and understand the powers and duties I would have as a guardian and/or conservator.
- True or  False. I have not had a power of attorney for anyone for at least three years before I filed this Petition.
- True or  False. To the best of my knowledge, neither I nor any business in which I have an interest is listed in the Elder Abuse Registry at the Office of the Arizona Attorney General.
- True or  False. If I have been a guardian/conservator before, I either filed the required documents on time, or within 3 months of receiving a notice from the court that the report/accounting was due.
- True or  False. I have never been removed by the court as a guardian or conservator.

8.  True or  False. Neither I nor any business in which I have an interest has ever received anything of value greater than a total of one hundred dollars in any one year by gift, or will, or inheritance from an individual or the estate of an individual to whom I was not related by blood or marriage and for whom I served at any time as guardian, conservator, trustee, or attorney-in-fact.

9.  True or  False. To the best of my knowledge, neither I nor any business in which I have an interest is named as a personal representative, trustee, devisee (beneficiary of a will), or other type of beneficiary for any individual to whom I am not related by blood or marriage and for whom I have ever served as guardian, conservator, trustee, or attorney-in-fact.

10.  True or  False. I have no interest in any business that provides housing, health care, nursing care, residential care, assisted living, home health services, or comfort care services to any individual.

(Explain every "false" above on separate page(s) and attach to this document before filing.)

11. **My relationship to the proposed person in need of protection is:**  
(Examples: parent/grandparent/sister/caregiver/friend)  
\_\_\_\_\_

12. **I met the proposed ward under the following circumstances:**  
\_\_\_\_\_  
\_\_\_\_\_

**OATH OR AFFIRMATION OF THE PERSON TO BE APPOINTED GUARDIAN AND/OR CONSERVATOR**

**I swear or affirm that I have read and understand the contents of this document, and that the information I have provided is true and correct to the best of my knowledge and belief.**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Subscribed and sworn to or affirmed before me this: \_\_\_\_\_ by  
(date)

\_\_\_\_\_.

(notary seal)

\_\_\_\_\_  
Deputy Clerk or Notary Public

**NOTE: IF YOU ANSWERED "FALSE" TO ANY QUESTION ABOVE, YOU MUST ATTACH AN EXPLANATION AS INSTRUCTED ON THE NEXT PAGE.  
The page following is an instruction page only. Do NOT file it with the Court.**

**EXPLANATIONS THAT MUST BE ADDED TO THE AFFIDAVIT OF A PERSON  
WHO WANTS TO BE APPOINTED GUARDIAN OR CONSERVATOR**  
(Required by Arizona Law: A.R.S. § 14-5106)

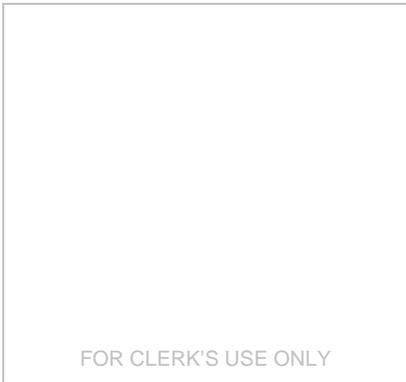
For any corresponding numbered statement on the Affidavit which you marked "False", ***explain the following*** on a separate page or pages and attach to your Affidavit. The information provided in the attachment is covered by the same oath or affirmation and penalty of perjury as the Affidavit.

***FILE THE EXPLANATIONS WITH THE AFFIDAVIT, BUT DO NOT FILE THIS PAGE.***

1. As to each felony for which you have been convicted, list:
  - a. The nature of the offense.
  - b. The name and address of the sentencing court.
  - c. The case number.
  - d. The date of conviction.
  - e. The terms of the sentence.
  - f. The name and telephone number of any current probation or parole officer.
  - g. The reasons why the conviction should not disqualify you from appointment.
2. If you have acted as guardian or conservator within three years before filing this petition, list:
  - a. The names of individuals for whom you are currently serving, and court case numbers.
  - b. The names of individuals for whom your appointment has been terminated within the three-year period, and the court case number.
3. State the total number of persons for whom you have served as a guardian or conservator. If you have acted under a power of attorney for the proposed ward/protected person, explain:
  - a. The date the power of attorney was signed.
  - b. The place where it was signed.
  - c. The actions you have taken pursuant to the power of attorney.
  - d. Whether the power of attorney is currently in effect.
4. If you do not have the required information, please explain how you intend to obtain this information.
5. State the reason for such listing on Elder Abuse Registry and the name of any business in which you have an interest that is listed on the Registry.
6. List the name and location of the court and the name and case number of the files in which you were delinquent in filing the required report.
7. List the name and location of the court, the name and case number of each file, and the circumstances of your removal.
8. State the number of occasions on which you and/or any business in which you have an interest received such gifts, list and describe the gifts, the dates received, and list the value of each.
9. State the number of occasions on which you or any business in which you have an interest have been named as a personal representative, trustee, or other type beneficiary listed.
10. List the name and address of each business and the extent and nature of your interest.

DO NOT FILE THIS SHEET  
WITH THE CLERK'S OFFICE  
INSTRUCTION SHEET ONLY

Person Filing: \_\_\_\_\_  
 Address (if not protected): \_\_\_\_\_  
 City, State, Zip Code: \_\_\_\_\_  
 Telephone: \_\_\_\_\_  
 Email Address: \_\_\_\_\_  
 Lawyer's Bar Number: \_\_\_\_\_  
 Licensed Fiduciary Number: \_\_\_\_\_



FOR CLERK'S USE ONLY

Representing  Self, without a Lawyer or  Attorney for  Petitioner OR  
 Respondent

## PETITIONER'S INFORMATION SHEET TO COURT INVESTIGATOR

**Instructions to Petitioner:** You must complete this form and send it to Court Administration. This information will assist the Court Investigator in scheduling and conducting an appointment with *the proposed ward*, the person for whom a guardian and/or a conservator is said to be needed. **Incomplete or inaccurate information may cause the Court hearing on your Petition to be delayed.**

Your Case Number: PB \_\_\_\_\_

**1. INFORMATION ABOUT THE PROPOSED WARD (the person said to need guardian or conservator):**

Name: \_\_\_\_\_ Telephone: \_\_\_\_\_  
 Present Address: \_\_\_\_\_  
 Permanent Address: (if different) \_\_\_\_\_  
 Email Address: \_\_\_\_\_  
 Language person speaks: \_\_\_\_\_  
 Information about communication barriers: \_\_\_\_\_

**PRIMARY WEEKDAY LOCATION**

Monday-Friday, 8:00 A.M. TO 5:00 P.M., the Ward can usually be found at: (List full address below)

**2. INFORMATION ABOUT THE PROPOSED GUARDIAN AND/OR CONSERVATOR:**

|                               | Petitioner | Co-Petitioner |
|-------------------------------|------------|---------------|
| <b>Name:</b>                  |            |               |
| <b>Address:</b>               |            |               |
| <b>City, State, Zip Code:</b> |            |               |
| <b>Home Telephone:</b>        |            |               |
| <b>Work Telephone:</b>        |            |               |
| <b>Email Address:</b>         |            |               |

|                              |  |  |
|------------------------------|--|--|
| <b>Race:</b>                 |  |  |
| <b>Height:</b>               |  |  |
| <b>Weight:</b>               |  |  |
| <b>Color of Hair:</b>        |  |  |
| <b>Color of Eyes:</b>        |  |  |
| <b>Relationship to Ward:</b> |  |  |

**3. INFORMATION ABOUT THE COURT-APPOINTED PHYSICIAN (or other authorized evaluator):**

|   |  |                   |  |
|---|--|-------------------|--|
| <b>Name:</b>  |  | <b>Telephone:</b> |  |
| <b>Address:</b>   |  |                   |  |
| If <u>not</u> a <i>physician</i> , the evaluator is a <input type="checkbox"/> Registered Nurse <input type="checkbox"/> Psychologist <input type="checkbox"/> Psychiatrist |  |                   |  |
| <b>Email Address:</b>   |  |                   |  |

**4. INFORMATION ABOUT PETITIONER'S ATTORNEY:**

|                       |  |                   |  |
|-----------------------|--|-------------------|--|
| <b>Name:</b>          |  | <b>Telephone:</b> |  |
| <b>Address:</b>       |  |                   |  |
| <b>Email Address:</b> |  |                   |  |

**5. INFORMATION ABOUT CO-PETITIONER'S ATTORNEY:**

|                       |  |                   |  |
|-----------------------|--|-------------------|--|
| <b>Name:</b>          |  | <b>Telephone:</b> |  |
| <b>Address:</b>       |  |                   |  |
| <b>Email Address:</b> |  |                   |  |

|   |
|---|
| <p><b>For Court Use Only:</b></p> <p>Date and Time of Hearing: _____</p> <p>Commissioner: _____</p> |
|---|

Person Filing: \_\_\_\_\_  
Address (if not protected): \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
Lawyer's Bar Number: \_\_\_\_\_  
Licensed Fiduciary Number: \_\_\_\_\_

FOR CLERK'S USE ONLY

Representing  Self, without a Lawyer or  Attorney for  Petitioner OR  Respondent

## SUPERIOR COURT OF ARIZONA IN MARICOPA COUNTY

In the matter of  
Guardianship and/or Conservatorship for:

Case Number PB: \_\_\_\_\_

**ORDER APPOINTING ATTORNEY,**  
 **HEALTH PROFESSIONAL,\* and**  
 **COURT INVESTIGATOR**  
regarding **Petition for:** (check one or both)  
 **GUARDIANSHIP**  **CONSERVATORSHIP**  
\*a physician or other medical professional  
authorized by A.R.S. § 14-5303 (C)\*

\_\_\_\_\_  
Name of Adult, or  Minor Needing Protection

- 1. SCHEDULED HEARING:** A sworn Petition for Appointment of a Guardian and/or Conservator was filed and this court has scheduled a hearing to determine the merits of the Petition as follows:

**DATE AND TIME:** \_\_\_\_\_  
**LOCATION:** \_\_\_\_\_  
**JUDICIAL OFFICER:** \_\_\_\_\_

- 2. ATTORNEY APPOINTMENT:** An attorney is appointed to represent the person by appearing at the hearing:

NAME: \_\_\_\_\_ TELEPHONE: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_

Counsel shall adhere to the Court's **Guidelines for Appointed Counsel.**

- 3. HEALTH PROFESSIONAL APPOINTMENT AND REPORT:** A physician or other medical professional authorized by Arizona law A.R.S. §14-5303(C) is appointed to examine the proposed ward and to prepare a written report about his or her physical and mental condition:

NAME: \_\_\_\_\_ TELEPHONE: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_

|   |
|---|
| <b>The appointee, if other than a medical doctor, is a:</b> <input type="checkbox"/> <b>Psychologist</b><br><input type="checkbox"/> <b>Registered Nurse (R.N.)</b> |
|---|

**4. COURT INVESTIGATOR:** An investigator from the court shall visit the proposed ward and submit a written report to the Clerk of the Court, Probate Registrar at least ten business days before the hearing date and shall give a copy of the report to the Petitioner or his or her attorney and to the attorney for the proposed ward.

**5. OTHER ORDERS TO PETITIONER:**

**A. WITHIN 24 HOURS FROM THE DATE OF THIS ORDER, Petitioner must mail or deliver to the court-appointed attorney** named in "2" above, copies of:

- 1. the **Petition for Permanent Appointment** and all related court paperwork,
- 2. any health professional's reports in his or her possession, and
- 3. any Orders of the court.

**B. IF** an "Evaluator" is named in "3" above, **NO LATER THAN 10 BUSINESS DAYS BEFORE THE HEARING, Petitioner must:**

- 1. **File the original** of the **health professional's Report** with the Clerk of the Court, Probate Registrar;
- 2. **Mail or hand-deliver a copy of the Report to the:**
  - a. attorney named in paragraph 2,
  - b. offices of the Judicial Officer named in paragraph 1, *and*
  - c. offices of the Court Investigator, 125 West Washington, Phoenix, AZ 85003.

**C. Other:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**DONE IN OPEN COURT:** \_\_\_\_\_ **JUDGE/COMMISSIONER** \_\_\_\_\_

# GUIDELINES FOR HEALTH PROFESSIONAL'S REPORT

FOR CLERK'S USE ONLY

**INSTRUCTIONS TO PETITIONER:** Fill in the information below and give this document to the physician, registered nurse, or psychologist appointed by the Court to evaluate the health of the person said to need protection immediately after the "ORDER APPOINTING (Attorney, Health Professional, and Court Investigator)" is signed. The complete written report should be given to everyone listed in the "ORDER APPOINTING" no later than **10 days before** the scheduled hearing.

COURT CASE NUMBER: PB \_\_\_\_\_

NAME OF EVALUATOR: \_\_\_\_\_

EVALUATOR'S PROFESSION:  Physician  Registered Nurse  Psychologist

NAME OF PATIENT (subject of this evaluation): \_\_\_\_\_  
(Person said to need guardian)

NAME OF PETITIONER: \_\_\_\_\_

PETITIONER'S TELEPHONE NUMBER: \_\_\_\_\_

DATE AND TIME OF COURT HEARING: \_\_\_\_\_

**INSTRUCTIONS TO PHYSICIAN OR OTHER EVALUATOR:** A court case has been filed that asks the court to appoint a guardian for the person named as "Patient" above. Before granting such a petition, the court must decide if mental, physical, or other cause exists which requires appointment of a guardian. To make that decision, the Court needs to know what you think about:

- the person's mental and physical health, and
- whether the person needs inpatient mental health treatment, and
- whether the person's driving privileges should be suspended.

The court has developed this form to make it easier for you to prepare your report. You may submit your report using this form *or in any format you choose*, but please provide the same type of information as provided for on this form. Note that if the Petitioner is seeking authority to consent to inpatient mental health treatment this report or a separate report recommending such authority must be signed by a licensed psychologist or psychiatrist. (A.R.S. § 14-5303(C))

After you complete the report, give the original report to *the Petitioner*, who is responsible for distributing copies to the proper parties. Please do not file your report with the Clerk of the Court.

**PLEASE DATE AND SIGN YOUR REPORT.** The Court realizes that your time is valuable.

**THANK YOU FOR YOUR TIME AND ASSISTANCE.**

**QUESTIONS FOR HEALTH PROFESSIONAL TO ANSWER:**

**Note: *If not enough space*** on this form to answer, write in "See attached" and respond on separate page. Please re-state the question on the attachment and use same number as from this document.

1. What is the date you last saw the patient? \_\_\_\_\_

2. How long have you been treating the patient? \_\_\_\_\_

3. Why were you asked to do this evaluation?  
 I have been the person's physician for many years.  
 I was asked to do so by the family.  
 I was selected by an attorney.  
 My office is close to the person's residence.  
 I am a  doctor,  registered nurse, or  psychologist, for the person's nursing home.  
 Other: \_\_\_\_\_  
 \_\_\_\_\_

4. What is your area of specialty? \_\_\_\_\_  
 Are you Board Certified in this area?  Yes  No  
 In any other areas?  Yes  No  
 If "yes", list: \_\_\_\_\_

5. Does the person you are evaluating appear to be having difficulty in any of the following areas?  
 Mental disorder  Physical illness  
 Chronic intoxication or drug use  Cognitive abilities  
 Anything else (explain below)  Physical illness ONLY

6. If he or she is having difficulty, please specify the nature of the illness, disorder, etc., including diagnosis:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

7. Has the person been treated or hospitalized before for this difficulty?  Yes  No  
 If yes, when and where?  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

8. Is the person able to do the following things? Please check each applicable box.

- Pay his or her bills
- Obtain food
- Live alone
- Take medication appropriately
- Provide adequate housing
- Exercise daily self-help skills
- Make appropriate judgments that will protect him or her personally, physically, or financially
- Drive a motor vehicle. (If "yes", explain below.)

If you believe a *guardianship* is warranted but you believe the person to be protected is capable of and *should be permitted to drive a motor vehicle*, please explain.

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9. If the person is currently on medication, please list:

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10. Do you believe that the medication is affecting the person's ability to respond coherently?  Yes  No

11. Do you believe that the medication is affecting the person's ability to ambulate?  Yes  No

12. Do you believe that a "medication holiday," if possible, would help you better evaluate the person?  Yes  No

13. Do you believe that any changes made in the type or amount of drugs the person is receiving would noticeably affect his or her mental or physical abilities?  Yes  No

14. Do you believe that any further medical evaluation or treatment would benefit the person?  Yes  No

If so, please give your recommendation:

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15. Do you think the person would benefit from other types of therapy such as counseling?  Yes  No If yes, describe:

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16. Where do you think the person should live today?

- |                          |  |                          |                      |
|--------------------------|--|--------------------------|----------------------|
| <input type="checkbox"/> | At home with a companion   | <input type="checkbox"/> | At home with a nurse |
| <input type="checkbox"/> | In a group home  | <input type="checkbox"/> | In a boarding home   |
| <input type="checkbox"/> | In a supervisory care facility   | <input type="checkbox"/> | In a nursing home    |
| <input type="checkbox"/> | In a hospital  |                          |                      |
| <input type="checkbox"/> | In an Inpatient Psychiatric Facility for inpatient mental health treatment. Explain. |                          |                      |
| <input type="checkbox"/> | Other -- please explain.   |                          |                      |

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17. Do you believe that the person's condition could improve within 6 months to a year?  Yes  No

18. Is there is any reason for the court to review this matter again within less than one year?  Yes  No

19. Please make any additional comments or suggestions you think would be helpful to the court in making this decision.

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**MENTAL HEALTH TREATMENT ISSUES** (This section must be completed IF the petitioner is requesting authority for a *guardian* to consent to inpatient mental health treatment, *and if so*, this report or a separate report covering this information must be completed and signed by a licensed psychologist or psychiatrist.)

**Note: *If not enough space*** on this form to answer, write in "See attached" and respond on separate page. Please re-state the question on the attachment and use same number as from this document.

1. Is it the opinion of the undersigned that the patient is incapacitated as a result of a mental disorder?  Yes  No

2. What is the mental disorder? \_\_\_\_\_  
\_\_\_\_\_

3. **Is it the opinion of the undersigned that the patient is likely to need inpatient mental health care and treatment within the next year?**  **Yes**  **No** (The maximum term for which authority may be granted to place a patient in an Inpatient Psychiatric Facility and treatment is one year. This authority may be renewed or extended based on the evaluation and recommendation of a licensed physician or psychologist submitted with the annual report of the guardian. **A.R.S. § 14-5312.01(P)**)

4. **In the event that the answer to #3 is “Yes”, please explain the need for, and the anticipated onset and duration of the inpatient treatment:**

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5. **What kind of treatment is the patient currently receiving for this disorder?**

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6. **Give a comprehensive assessment of any functional impairments of the patient.**

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7. **How and to what extent do these impairments affect the patient’s ability to receive or evaluate information needed in making or communicating personal and financial decisions?**

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8. **What tasks of daily living is the patient capable of performing without direction or with minimal direction?**

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9. **What is the most appropriate rehabilitation plan or care plan for the patient?**

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10. **What would be the least restrictive living arrangement reasonably available for the patient?**

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Case No. \_\_\_\_\_

11. **Is there any reason why this patient should not personally appear in court?**  Yes  No  
**If "yes", please explain.**

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12. **Please make any additional comments or suggestions you feel would be valuable to the court:**

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DATE REPORT PREPARED: \_\_\_\_\_

---

SIGNATURE

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PRINTED NAME, PROFESSIONAL TITLE (MD, RN, etc.)

Person Filing: \_\_\_\_\_  
Address (if not protected): \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
Lawyer's Bar Number: \_\_\_\_\_  
Licensed Fiduciary Number: \_\_\_\_\_

FOR CLERK'S USE ONLY

Representing  Self, without a Lawyer or  Attorney for  Petitioner OR  Respondent

## SUPERIOR COURT OF ARIZONA IN MARICOPA COUNTY

In the Matter of  
Guardianship and/or Conservatorship for:

Case Number: PB \_\_\_\_\_

### NOTICE OF HEARING REGARDING

(Check one box)

\_\_\_\_\_  an Adult  a Minor

Guardianship  Conservatorship  
 Guardianship and Conservatorship

**THIS IS A LEGAL NOTICE; Your rights may be affected.**  
An important court proceeding that affects your rights has been scheduled. If you do not understand this notice or the other court papers, contact an attorney for legal advice.

1. **NOTICE IS GIVEN** that the Petitioner has filed with the Court the following Petition and other court paper indicated below (Check the box to indicate whether the Petition was for a Permanent or Temporary appointment, and a second box to indicate whether for Guardian and Conservator, or just one):

Petition for  *Permanent*  *Temporary* Appointment of a  **Guardian and Conservator** (or)  **Guardian or**  **Conservator** (only)

#### Affidavit of Person to be Appointed

2. **COURT HEARING.** A court hearing has been scheduled to consider the Petition and matters in the court papers as follows:

DATE and TIME \_\_\_\_\_

PLACE: \_\_\_\_\_

JUDICIAL OFFICER: \_\_\_\_\_

3. **RESPONSE TO PETITION.** You are not required to respond to this Petition, but if you choose to respond, you *may* do so by filing a written response *or* by appearing in-person at the hearing. *If you choose to file a written response:*

- File the original with the Court;
- Provide a copy to the office of the Judicial Officer named above; and
- Mail a copy to all interested parties at least five (5) business days before the hearing.

**If you object to any part of the Petition or Motion that accompanies this notice, you must file with the court a written objection describing the legal basis for your objection at least three (3) days before the hearing date or you must appear in person or through an attorney at the time and place set forth in the notice of hearing. There is a FEE for filing a response. If you cannot afford the fee, you may file a *Fee Deferral Application* to request a payment plan from the Court.**

DATED: \_\_\_\_\_  
(Month/Day/Year)

\_\_\_\_\_  
Petitioner's Signature

Person Filing: \_\_\_\_\_  
Address (if not protected): \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
Lawyer's Bar Number: \_\_\_\_\_  
Licensed Fiduciary Number: \_\_\_\_\_

FOR CLERK'S USE ONLY

Representing  Self, without a Lawyer or  Attorney for  Petitioner OR  Respondent

## SUPERIOR COURT OF ARIZONA IN MARICOPA COUNTY

In the Matter of:

Case Number: PB \_\_\_\_\_

(Optional) **WAIVER OF NOTICE** and  
(Optional) **WAIVER OF SERVICE MEMBERS  
CIVIL RELIEF ACT(SCRA) RIGHTS**  
regarding:

\_\_\_\_\_ An incapacitated or protected **Adult** or  **Minor**

**Guardianship**  
 **Conservatorship** (check one or both)

### UNDER PENALTY OF PERJURY, I SWEAR OR AFFIRM:

1. **MY RELATIONSHIP** to the incapacitated or protected person named above is:

(examples: parent, grandparent, guardian) \_\_\_\_\_

2. **I HAVE RECEIVED the Petition and/or other court papers indicated below:**

(Check the box next to [only] the documents you received.)

- Petition for Permanent Appointment of:**  **Guardian**  **Conservator**
- Petition for *Temporary/Emergency* Appointment of:**  **Guardian**  **Conservator**
- Order Appointing Attorney, Health Professional, Court Investigator**
- Affidavit of Person to be Appointed**  **Consent of Parent** (*only* if regarding a minor)

or  Petition for Approval of Accounting       Annual Report of Guardian

Other: \_\_\_\_\_

3. (Optional)  **I WAIVE NOTICE** of all court filings and proceedings regarding this matter.

I understand that I can reverse this waiver by filing a written document with the court under this case number declaring that I no longer waive notice of hearings and other court proceedings.

**4. MILITARY STATUS**

I am **NOT** on active duty in the U.S. military;

OR

I **AM** on active duty in the U.S. military.

**If you are on active duty with the U.S. military, see the information on your rights under the Servicemember's Civil Relief Act and the optional waiver of the right to delay this court proceeding under the Act on the page following.**

## SERVICEMEMBER'S CIVIL RELIEF ACT (SCRA) INFORMATION AND *OPTIONAL* WAIVER

**NOTE:** When military duty interferes with the ability to participate in a case, the **Servicemember's Civil Relief Act (SCRA)** may permit a service member to delay or overturn a civil court proceeding. Waiving this right does **NOT** affect your right to later request a change regarding court appointment of a guardian or conservator.

It is generally advisable to consult a military legal assistance attorney before waiving any rights under the Servicemember's Civil Relief Act. If Luke Air Force Base is the military installation closest to you, you can contact the legal office at **623-856-6901**. Otherwise, contact the legal office at the nearest military installation.

**IF ACTIVE DUTY MILITARY and you do not wish to delay court proceedings in this matter, check the box below to WAIVE any right that may apply under the SCRA to cause the court to delay.**

(Optional)

**I WAIVE any right I may have under the SCRA to delay this matter.**

### **WAIVER OF NOTICE and *(if applicable)*** **SERVICEMEMBER'S CIVIL RELIEF ACT (SCRA) WAIVER**

I have read and understand this **Waiver of Notice** and the separate **Servicemember's Civil Relief Act Waiver**. I understand that I am not required to either waive notice **or** any rights that may apply under the SCRA, but **if** I have waived either notice or any rights under the SCRA as indicated above or on the preceding page, I do so voluntarily.

**UNDER PENALTY OF PERJURY**

I swear or affirm that I have read and understand this document and that the information I have provided is true and correct to the best of my information and belief.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Person Receiving Documents

\_\_\_\_\_  
Printed Name

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Subscribed and sworn to or affirmed before me this: \_\_\_\_\_ by  
(date)

\_\_\_\_\_.

(notary seal)

\_\_\_\_\_  
Deputy Clerk or Notary Public

# GUARDIANSHIP TRAINING MANUAL



*This program was developed under grant number SJI-11-E-008 from the State Justice Institute. The points of view expressed are those of the faculty and do not necessarily represent the official position or policies of the State Justice Institute.*

## **IMPORTANT NOTICE**

### **TRAINING REQUIREMENT**

**Effective September 1, 2012**

The Arizona Supreme Court requires that any person who is not a state-licensed fiduciary (or a financial institution) must complete a training program approved by the Supreme Court **before** Letters of Appointment to serve as a guardian, conservator, or personal representative can be issued by the Clerk of the Court.

#### **TRAINING SHOULD BE COMPLETED BEFORE THE COURT HEARING.**

The fiduciary may for good reason request additional time to complete the training.

**You may access and complete the training FREE online at:**

<http://www.azcourts.gov/probate/Training.aspx>

Go to the section for “**Non-licensed Fiduciaries**” and click on the link to access a narrated slide-show presentation of the materials applicable to your situation.

**AFTER** reviewing the materials, you will need to inform the Court that you have completed the training by filing either the Certificate available at the end of the online training, or the Declaration of Completion form available at the end of this training manual, or from either the Probate Filing Counter or the Self-Service Center. If you have questions about the training, contact the Probate Clerk at 602-506-3668.

# **Guardianship Training Manual**

After viewing the contents of this manual you will be able to:

- Summarize the major responsibilities of being a Guardian
- Compare and Contrast the roles of guardian and parent
- Explain the difference between best interest and substituted judgment
- Discuss the difficulties involving making decisions for the Ward

## **Responsibilities of a Guardian**

As the guardian, it is your job to ensure that the ward maintains as much independence and autonomy as possible. It is easy to fall into the role of protector, but try to keep in mind that your role is similar to that of a parent to a child. A parent wants to assist a child in navigating the world around them, ensuring they handle the tasks they are capable of handling on their own so they can continue to grow and learn. As the guardian of a disabled or elderly adult, you want to do the same thing. For example, if the ward is capable of maintaining their home without the assistance of a housekeeper or in-home care provider, allow them to do that. Try to allow them as much input into your decisions as possible.

## **Best Interest/Substituted Judgment**

Your role as the guardian is to listen to the ward and ensure that their preferences are being met as long as it does not cause harm. You are in a position to make decisions for the ward in one of two ways; using either substituted judgment or the best interest standard.

### **➤ Substituted Judgment**

When making decisions using substituted judgment you are doing exactly as it sounds; making the decision that the ward would make if they had the mental capacity to do so. You have an obligation to discuss the decision you are going to make with the ward and listen to their preferences in that situation. For example, if the doctor is recommending that the ward have surgery to put in a pacemaker you should discuss this with the ward. Try to put it in terms that they have the ability to understand. Discuss the benefits and the consequences of the decision you are about to make. Listen to their preferences and their reason for making the decision. When using substituted judgment it is also helpful to talk to other family members or friends about conversations they have had with the ward. Has the ward ever talked about their preference for medical treatment? Do they want all measures taken to prolong their life or do they want only pain management? Do they wish to be buried or cremated? Your job is to determine what their preferences were when they were still capable of making those decisions.

### **➤ Best Interest Decisions**

Making decisions using substituted judgment may be easier for a guardian dealing with an elderly disabled ward as opposed to an adult who has been disabled since birth. When dealing with an elderly ward, at one time they were most likely competent and capable of understanding cause and effect relationships. As such, they may have discussed their preferences before becoming disabled; thereby giving you a better understanding of what their wants would be now.

With a ward who has been disabled since birth, it may be more difficult to know their wants as these may never have been clearly expressed. In this situation, or in situations where the ward's preferences may cause serious harm or injury, you would be making your decision based on what you believe to be in the ward's best interest.

### **Difficult Decisions**

It is never easy to make a decision for another adult that goes against their wishes, but you must keep in mind that your friend or family member no longer has the ability to truly understand the consequences of their decision. This is why the court appointed you as guardian – to make the tough decisions. Ultimately the decision is yours, but if you are making a decision that is in contrast to the stated or demonstrated preferences of the ward, you should be prepared to defend that decision.

### **Coordinating Services**

As the guardian, it is your responsibility to ensure that the ward is receiving appropriate medical care, proper education and their overall health and welfare is protected. As a guardian you will be responsible for coordinating medical appointments and being aware of the medical needs of the ward. Do they need hearing aids? What about dentures? Are they diabetic? If so, quarterly appointments with a podiatrist may be useful.

Maybe the ward is a 19-year-old disabled adult. Can they still attend school? What about attending life skills training such as cooking or balancing a checkbook? If the ward has the ability to benefit from this type of training then it is your responsibility to coordinate these services for them.

### **Ensuring Medical Needs are Being Met**

#### **➤ What is informed consent?**

The National Guardianship Association (NGA) does an excellent job of discussing the issue of informed consent in their "Standards of Practice." NGA Standard 6 defines informed consent as "a person's agreement to a particular course of action based on a full disclosure of facts needed to make decisions intelligently."

In order for it to be considered informed consent, you must have received adequate information about the issue you are being asked to consider and you must enter into the decision voluntarily and without feeling coerced.

#### **➤ Medical Considerations**

The NGA provides an online outline that may be very useful when trying to make medical decisions on behalf of the ward. This outline can be found at

[http://www.guardianship.org/documents/Standards\\_of\\_Practice.pdf](http://www.guardianship.org/documents/Standards_of_Practice.pdf)

The pages that follow cover the NGA's Standards of Practice 6.

### ➤ **Informed Consent**

As a guardian you should have a clear understanding of the issue for which informed consent is being sought. If needed, ask as many questions as it takes to feel comfortable that you understand what is being proposed for the ward. Again, keep in mind the adult/child relationship. What types of questions would an adult ask if someone was suggesting this course of treatment for a child?

### ➤ **Determine Conditions**

Determine the conditions that necessitate treatment or action. In other words, what is the underlying problem that is causing the doctor to suggest this form of treatment? For example, what if the ward has started exhibiting behavioral outbursts and aggressiveness towards caregivers and the doctor wants to prescribe an anti-psychotic medication that has potential for significant side effects? You might first want to consider if these outbursts are because the ward is in pain and instead of the prescription medication, a simple regimen of over the counter pain medication would be the better solution.

### ➤ **Ward's Preference**

Advise the ward of the decision that is required and determine, to the extent possible, their current preferences. Determine whether the ward has previously stated preferences in regard to a decision of this nature. This relates back to the substituted judgment vs. best interest standard.

### ➤ **Alternatives**

Determine the expected outcome of each alternative. Using the example of the prescription medication versus simple medication, is it better to consent to the prescription or to request over the counter pain medication first to rule out the need for pain management?

In addition to the expected outcomes, you should also consider the benefits and risks of each alternative. Finally, you should ask, does this decision need to be made now rather than later?

### ➤ **Later vs. Sooner**

In relation to making a decision later rather than sooner, you may want to consider a decision to take no action at all. Keep in mind, sometimes this is the best decision.

It may be that the ward is elderly and was presented with an option to have a pacemaker in the past. At the time, the ward was competent and determined that she did not believe the risks of the procedure were worth the benefit. In this situation you would want to consider her reasoning at the time she made this decision and make your decision in the same manner.

### ➤ **Least Restrictive Decision**

When faced with a decision you may want to determine what the least restrictive alternative is for the situation. As the guardian, your role is to ensure that the ward receives the least restrictive form of intervention to ensure the ward maintains as much independence and autonomy as possible. In the behavioral example given earlier, over the counter pain medication would be the lesser restrictive alternative. Living at home with caregivers as opposed to placement in an assisted living facility or nursing home is another example of a lesser restrictive alternative.

### ➤ **Second Opinion**

Obtain a second opinion, if necessary. The same rights you have over your own person, you have over the ward. If you feel you need a second medical opinion before making a decision for treatment, by all means, seek a second medical opinion.

### ➤ **Seek Resources in Family and Friends**

It may be helpful to obtain information or input from family, friends or professional fiduciaries. Again, this goes back to making a decision using informed consent vs. substituted judgment. It is always beneficial to seek out assistance from the resources available in your community. Many professional guardians are willing to consult with you to assist you with a particular problem or issue. Many times they have dealt with a similar situation and can point you in the right direction. All hospitals will have a bioethics team available to consult with you about a particular medical procedure. Be familiar with the resources available within your community and use them.

### **Written Documentation**

Obtain written documentation of all reports relevant to each decision. Always keep in mind that your decision is open to scrutiny by others; other family members, court-appointed counsel, or the courts. You want to ensure that you can always support and/or justify a decision you have made on behalf of the ward.

### **Ensuring Benefits are Received**

You need to ensure that you have applied for and are receiving all of the benefits that the ward may be entitled to receive. This may include applying to Medicare, the Arizona Health Care Cost Containment System, the Arizona Long Term Care System, the Veteran's Administration for benefits, the Department of Developmental Disabilities, any form of supplemental health insurance that may be available to the ward, and Medicare Part D to help with prescription drug coverage.

### **Ward's Rights**

The rights that the ward maintains will be outlined in your order of appointment. In most instances the ward will lose the right to drive, vote, determine where they live, consent to medical treatment or maintain firearms. It should be noted that the right to vote on behalf of the ward does not transfer to the guardian.

### **Handling Money**

The law allows a guardian to handle money on behalf of the ward if there is no conservator appointed. In most instances, if the ward receives more than just Social Security income and has significant assets, such as a home, car or brokerage account, then the court will appoint a conservator. The Order to Guardian indicates that the guardian shall not manage more than \$10,000 on behalf of the ward. This value comes from the statutes related to a guardian of a minor. There is no provision in the law to indicate how much money a guardian can manage on behalf of the adult ward so most courts use the same standard as outlined for minors.

## **Accepting Gifts from the ward**

The disclosure statement you must file as the guardian indicates that you have not accepted a gift from someone, who is not related to you by blood, of more than \$100.00. That being said, it is typically looked at as a conflict of interest for you to accept any gift from the ward without first seeking court approval. Additionally, the statute requires that a conservator receive court approval prior to giving any gifts at all on behalf of a ward or protected person. The general rule is that you should not accept gifts from the ward.

## **Annual Guardianship Report**

### **➤ Obtain a physician's statement**

While it is not required that you obtain a current physician's statement for your annual guardianship report, it is very helpful for the court if you include one. It can be as simple as a summary outlining the most recent appointment with the ward or could be as detailed as the information contained in the original report to the court.

### **➤ Annual Report Due Dates**

The annual report is due on the anniversary date that your permanent letters of guardianship were issued. The first report will include the time from the date of your first appoint through the end of the ninth month after the permanent appointment. For example, if you were appointed as the temporary guardian on January 1<sup>st</sup> and your permanent letters of appointment were issued on February 1<sup>st</sup>, the time frame for your first annual guardianship report would be from January 1<sup>st</sup> through November 30<sup>th</sup>. If you only had permanent letters of appointment issued and they issued on January 30<sup>th</sup>, the report would be from January 30<sup>h</sup> through October 31<sup>st</sup>. Each report after that will be for an entire year. If the ending date of your first report was October 31<sup>st</sup>, the time frame for all subsequent reports will be November 1<sup>st</sup> through October 31<sup>st</sup>.

### **➤ Information in the Report**

The information contained in the guardianship report includes: the ward's current address; how many times you have seen the ward during the report period; the date you last saw the ward; the name and contact information for physicians and any specialists seen by the ward, including any dates for the most recent visits; any major changes in the ward's condition since the last report; whether or not you believe the guardianship should continue; an outline of any state or federal benefits received by the ward, and the caseworker assigned to oversee those benefits.

## **Change of Address Notification**

According to the Arizona Rules of Probate Procedure, Rule 10(C)(1)(c), the fiduciary must update the probate information sheet with the new address of the ward within three (3) days of the change of address.

## **Payment as the Guardian**

You are entitled to payment for your time as the guardian. If you intend to seek compensation from the estate of the ward, you are required to file a Notice of Compensation with the court. This will outline what you intend to charge as your hourly rate and why you believe you are entitled to that rate. The court may review your fees on an annual basis. You are also entitled to reimbursement from the ward's estate for any money you pay out of pocket for their benefit. For

example, if you pay for a filing fee with the court, you would be entitled to be reimbursed for that expense.

## **Attorney Fees**

### **➤ Can you hire an attorney?**

You may hire an attorney and you are entitled to have the fees for that attorney paid by the ward's estate. Just as you would have to file a Notice of Compensation with the court, any attorney who intends to seek compensation from the ward's estate must also file the notice with the court.

## **When the Ward Dies**

When the ward dies, you must file a Notice of Death with the court within ten (10) days after the date of death. As an operation of law, your authority as the guardian ceases at the time the ward dies. If you are managing any funds on behalf of the ward, such as Social Security benefits, you may be required to return those funds to the Social Security Administration or give them to the individual who will ultimately be responsible for distributing the ward's estate to the ward's beneficiaries.

**Thank you for viewing this training manual. The welfare of the ward and/or protected person is of utmost importance to the court. For more information about Probate please visit the Judicial Branch website devoted to Probate at [www.azcourts.gov/probate](http://www.azcourts.gov/probate).**

Your Name: \_\_\_\_\_  
Your Address: \_\_\_\_\_  
Your City, Zip Code: \_\_\_\_\_  
Your Telephone No. \_\_\_\_\_  
Represents  Self OR  Attorney for: \_\_\_\_\_  
State Bar Number (if applicable): \_\_\_\_\_

FOR CLERK'S USE ONLY

## SUPERIOR COURT OF ARIZONA IN MARICOPA COUNTY

In the Matter of the Estate of \_\_\_\_\_

Case Number PB: \_\_\_\_\_

### DECLARATION OF COMPLETION OF TRAINING for NON-LICENSED FIDUCIARIES

A  Deceased or  Protected Person

**Rule 27.1 of the Arizona Rules of Probate Procedure** requires that a person to be appointed guardian, conservator, or personal representative of an estate, who is neither a state-licensed fiduciary nor a corporation, complete a training program approved by the Supreme Court of this state before permanent **Letters of Appointment** are issued.

### UNDER PENALTY OF PERJURY

I state to the Court that in accord with Rule 27.1 of the Arizona Rules of Probate Procedure, I have completed the required training for non-licensed, non-corporate fiduciaries, as indicated below: (Check all that apply and provide applicable information.)

- |  |                       |
|--|-----------------------|
| <input type="checkbox"/> Unlicensed Fiduciary    | Date completed: _____ |
| <input type="checkbox"/> Conservatorship         | Date completed: _____ |
| <input type="checkbox"/> Personal Representative | Date completed: _____ |
| <input type="checkbox"/> Guardianship            | Date completed: _____ |

Date: \_\_\_\_\_

Signature \_\_\_\_\_

Printed Name \_\_\_\_\_

**INSTRUCTIONS:** Fill out this Declaration completely and provide accurate information. Make at least one copy. You will need to file the original with the Clerk of Court and provide a copy to the Probate Registrar before receiving any *permanent* letters of appointment.