

GUARDIANSHIP

For an ADULT

Do not copy
or file this page

3

**Part 3: Preparing for and Attending the
Court Hearing**

(Forms Packet)

SELF SERVICE CENTER

APPOINTMENT OF GUARDIAN FOR AN ADULT
(or person at least 17.5 years of age)

PART 3: PREPARING FOR AND ATTENDING THE COURT HEARING

CHECKLIST

You may use this packet if . . .

- ✓ You filed papers to request the court 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;
- ✓ You gave or will give notice of the court filing to all interested parties;
- ✓ A court hearing is scheduled;
- ✓ **The person to serve as guardian completed or will complete any court-ordered training before the hearing;*** AND
- ✓ You need the paperwork to prepare for and take to the court hearing.

* See **Notice Regarding Training Requirement** in this packet.

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

Part 3: Preparing for and Attending the Court Hearing

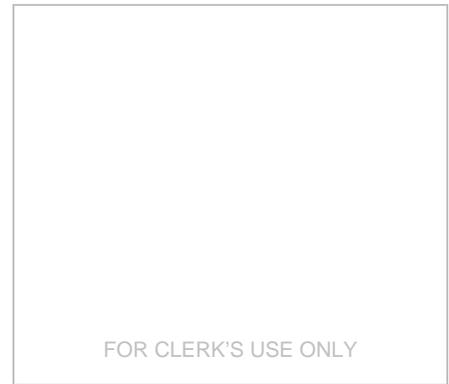
(Forms Only)

This packet contains court forms and instructions to file get a permanent appointment for an adult. 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 No.	Title	# pages
1	PBGA8k	Checklist: <i>You may use this packet if . . .</i>	1
2	PBGA8ft	Table of Contents (this page)	1
3	PBT80f	“Declaration of Completion of Training”	1
4	PBGA80f	“Order to Guardian(s) of an Adult and Acknowledgement”	5
5	PBGA81f	“Order of Appointment of a Permanent Guardian of an Adult”	5
6	PBGA82f	“Letters of Appointment and Acceptance of Appointment”	2

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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 Petitioner OR Respondent

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, or within 30 days of a temporary or emergency appointment.

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.

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 Petitioner OR Respondent

SUPERIOR COURT OF ARIZONA IN MARICOPA COUNTY

In the Matter of Guardianship of:

Case Number: PB _____

ORDER TO GUARDIANS of an ADULT AND ACKNOWLEDGMENT and INFORMATION TO INTERESTED PERSONS

Name of Protected Adult

Warning: This appointment is not effective until the *Letters of Appointment* have been issued by the Clerk of the Superior Court.

The welfare and best interest of the person named above ("your ward") are matters of great concern to this Court. By accepting appointment as guardian, you have subjected yourself to the power and supervision of the Court. Therefore, to help avoid problems and to assist you in the performance of your duties, this order is entered. You are required to be guided by it and comply with its provisions as it relates to your duties as guardian of your ward, as follows:

1. You have powers and responsibilities similar to those of a parent of a minor child, except that you are not legally obligated to contribute to the support of your ward from your own funds.
2. Unless the order appointing you provides otherwise, your duties and responsibilities include (but are not limited to) making appropriate arrangements to see that your ward's personal needs (such as food, clothing, and shelter) are met.
3. You are responsible for making decisions concerning your ward's educational, social, and religious activities. If your ward is 14 years of age or older, you must take into account the ward's preferences to the extent they are known to you or can be discovered without unreasonable effort.
4. You are responsible for making decisions concerning your ward's medical needs. Such decisions include (but are not limited to) the decision to place your ward in a nursing home or other health care facility and the employment of doctors, nurses, or other professionals to provide for your ward's health care needs. However, you are to use the least restrictive means and environment available that meet your ward's needs.

5. You may arrange for medical care to be provided even if your ward does not wish to have it, but you may not place your ward in an Inpatient Psychiatric Facility against your ward's will unless the Court specifically has authorized you to consent to such placement.
6. **You may handle small amounts of money or property belonging to your ward without being appointed conservator.** As a general rule, "small amount" means that the ward does not receive income (from all sources) exceeding **\$10,000.00 per year**, does not accumulate excess funds exceeding that amount, and does not own real property. **If more than these amounts come into your possession, or are accumulated by you, you are required to petition for the appointment of a conservator, whether yourself or someone else.**
7. If you handle any money or property belonging to your ward, you have a duty to do each of the following:
 - a. Care for and protect your ward's personal effects;
 - b. Apply any moneys you receive for your ward's current support, care, and education needs, and conserve any excess funds not so spent for your ward's future needs;
 - c. Maintain your ward's funds in a separate account, distinct from your own and identified as belonging to the ward;
 - d. Maintain records of all of the ward's property received and expended during the period of the guardianship;
 - e. Account to your ward or your ward's successors at the termination of the guardianship, if requested; and,
 - f. Not purchase, lease, borrow, or use your ward's property or money for your benefit or for the benefit of anyone else's, without prior Court approval.
8. You shall not accept any compensation of any kind for placing your ward in a particular nursing home or other care facility, using a certain doctor, or using a certain lawyer. "Compensation" includes, but is not necessarily limited to, direct or indirect payments of money, "kickbacks", gifts, favors, and other kinds of personal benefits. If you believe a certain placement or service that is in the best interest of your ward might be considered self-dealing or a conflict of interest, you must document to the court your reasoning and obtain court approval.
9. You will need to obtain a certified copy of the letters of appointment that are issued to you by the Clerk of the Superior Court. Your certified copy is proof of your authority to act as guardian of your ward, and you should have it available when acting on behalf of your ward. You may need to obtain additional (or updated) copies from time to time for delivery to, or inspection by, the people with whom you are dealing.
10. You are required to report annually, in writing, with respect to your ward's residence, physical and mental health, whether there still is a need for a guardian, and (if there is no conservator) your ward's financial situation. Your report is due each year on or before the anniversary date of the letters of appointment.
11. If your ward's physical address changes, you shall notify the Court by updating the probate information form within three (3) days of learning of the change in your ward's physical address. If your ward dies, you shall notify the Court in writing of the ward's death within ten (10) days of learning that the ward has died, **and** provide the court with a list of the ward's known assets.

12. You must be conscious at all times of the needs and best interests of your ward. If the circumstances that made a guardianship necessary should end, you are responsible for petitioning to terminate the guardianship and obtaining your discharge as guardian. Even if the guardianship should terminate by operation of law, you will not be discharged from your responsibilities until you have obtained an order from this Court discharging you.
13. If you should be unable to continue with your duties for any reason, you (or **your** guardian or conservator, if any) must petition the Court to accept your resignation and appoint a successor (a replacement guardian). If you should die, your personal representative or someone acting on your behalf must advise the Court and petition for the appointment of a successor.
14. If you have any questions about the meaning of this order or the duties which it and the statutes impose upon you by reason of your appointment as guardian, you should consult an attorney or petition the Court for instructions.
15. If you are not a certified fiduciary and are not related by blood or marriage to the ward, you are not entitled to compensation for your services as the ward's guardian and conservator. See A.R.S. §14-561(K)(1).
16. Within thirty (30) days after your letters of appointment as guardian are issued, you must mail a copy of this "**Order to Guardian and Acknowledgment and Information to Interested Persons**" to the following:
 - a. Your ward;
 - b. Your ward's attorney, spouse, parents, and adult children (if any);
 - c. Your ward's conservator if one has been appointed (other than yourself); and
 - d. Any person who has filed a demand for notice in connection with this matter.

MENTAL HEALTH POWERS: If you have been granted authority to consent to inpatient mental health treatment for the ward, the following additional duties and obligations apply:

1. You are additionally responsible for making decisions concerning your ward's mental health needs, including the decision to place your ward in a mental health treatment facility.
2. The court has granted you the authority to place the ward in an Inpatient Psychiatric Facility for inpatient mental health treatment. This means that you have the authority to admit the ward for inpatient mental health treatment. With that authority goes certain legal responsibilities which include:
 - a. You must seek the advice and assistance of qualified mental health professionals in determining your ward's needs for care and treatment, the degree of rehabilitation possible, and the best possible placement for your ward.
 - b. You must choose the care and treatment that is most suitable for your ward, taking into account the ward's needs and preferences, which will allow your ward to achieve the maximum possible degree of rehabilitation or recovery.

c. In making placement decisions, you must first seek alternatives to hospitalization. You should give due regard to the first preference of allowing the ward to live at home with family or friends, and to the second preference of placement in a mental health treatment facility close to home in an environment less restrictive than a hospital. Inpatient hospitalization should be your last resort.

d. Within forty-eight hours after placement of the ward in an inpatient treatment facility, the guardian must give notice of this action to the ward's attorney.

e. The Inpatient Psychiatric Facility is required to assess the appropriateness of the ward's placement in the facility every thirty days and provide a copy of the assessment report to the ward's attorney. You need to assure that this assessment is timely completed and that the assessment report is mailed to the ward's attorney.

f. When the ward is admitted to an Inpatient Psychiatric Facility, you must provide the facility with the name, address and telephone number of the ward's attorney. The facility shall include this information in the ward's treatment record.

g. You must place the ward in the least restrictive treatment alternative within ten days after you are notified by the medical director of the inpatient facility that the ward no longer needs inpatient care. If you cannot arrange alternative placement within that period of time after discussion with the medical director, or if you and the medical director disagree about the feasibility or availability of alternative placement, either you or the medical director, or both of you may request the Court to hold a hearing on the matter. If you request a hearing, the Court will set a hearing on the matter.

3. YOUR AUTHORITY TO ADMIT THE WARD TO AN INPATIENT PSYCHIATRIC FACILITY FOR INPATIENT MENTAL HEALTH CARE IS LIMITED TO ONE YEAR. Unless the Court orders the continuation of your inpatient mental health treatment authority for another year, your power to admit the ward for inpatient mental health treatment will lapse on the anniversary of your appointment.

If you want the inpatient placement authority to continue, you must request continuance of that authority by filing an evaluation report prepared by a psychiatrist or psychologist explaining the ward's current need for inpatient mental health care and treatment with your Annual Report of Guardian.

If no evaluation report is filed or if the evaluation report states that the ward is not currently in need of inpatient mental health treatment, your authority to consent to inpatient mental health care will cease. You must send a copy of your Annual Report of Guardian and the evaluation report to the ward's attorney. You should file the Annual Report of Guardian and evaluation report at least 30 days prior to the expiration date of your authority.

The ward through his or her attorney has a right to challenge your request for renewal of your authority to consent to inpatient mental health treatment. Any objection to your request must be filed within ten business days of the filing of your Annual Report of Guardian and evaluation report. The court must hold a hearing within thirty calendar days after it receives the objection. Your inpatient mental health treatment authority continues pending the court's ruling on the issue. At the hearing, you have the burden of proving by clear and convincing evidence that the ward is currently in need of inpatient mental health care and treatment.

If you are requesting renewal of your authority to consent to inpatient mental health care, in addition to the ward's attorney, you must send a copy of your Annual Report of Guardian and the evaluation report to the medical director of the mental health treatment facility or agency responsible for the ward's care and treatment. If your ward is in the Arizona State Hospital, you should send a copy of the Annual Report of Guardian and the evaluation report to: Medical Director, Arizona State Hospital, 2500 E. Van Buren, Phoenix, AZ 85008.

Should your authority to consent to inpatient mental health care cease, you still have the authority to consent to psychiatric and psychological care and treatment, including the administration of psychotropic medications, if the care and treatment takes place outside an Inpatient Psychiatric Facility licensed by the department of health services.

THIS IS ONLY AN OUTLINE OF **SOME** OF YOUR DUTIES AS GUARDIAN(S). IT IS **YOUR** RESPONSIBILITY TO OBTAIN PROPER LEGAL ADVICE ABOUT YOUR DUTIES. FAILURE TO DO SO MAY RESULT IN PERSONAL FINANCIAL LIABILITY FOR ANY LOSSES.

WARNING: FAILURE TO OBEY THE ORDERS OF THIS COURT AND THE STATUTORY PROVISIONS RELATING TO GUARDIANS MAY RESULT IN YOUR REMOVAL FROM OFFICE AND OTHER PENALTIES. IN SOME CIRCUMSTANCES, YOU MAY BE HELD IN CONTEMPT OF COURT, AND YOUR CONTEMPT MAY BE PUNISHED BY CONFINEMENT IN JAIL, FINE, OR BOTH.

Dated: _____

Signature of Judicial Officer or Judge Pro Tem

Printed Name of Judicial Officer/Judge Pro Tem

ACKNOWLEDGEMENT:

I (We), the undersigned, acknowledge receiving a copy of this order and agree to be bound by its provisions, whether or not read before signing, as long as serving as guardian or conservator.

Guardian - Conservator's Signature

Date

Co-Guardian - Conservator (if any)

Date

Printed Name

Printed Name

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 Petitioner OR Respondent

SUPERIOR COURT OF ARIZONA IN MARICOPA COUNTY

In the Matter of Guardianship of:

Case Number: PB _____

**ORDER OF APPOINTMENT OF A
PERMANENT GUARDIAN OF AN ADULT**
Or Person at least 17.5 years of age to
become effective at 18.

Name of Incapacitated Adult

Warning: This appointment is not effective until the *Letters of Appointment* have been issued by the Clerk of the Superior Court.

The Court has read the sworn Petition for Permanent Appointment of Guardian, and held a hearing to determine whether the court should enter the Order requested in the Petition.

THE COURT FINDS:

- A. Petitioner is entitled to file the Petition under Arizona law, A.R.S. 14-5303(A);
- B. Petitioner has given Notice of Hearing as required by law or Notice of Hearing was waived by all interested parties;
- C. Venue in this county is proper;
- D. The reports of the physician (or other health professional authorized under A.R.S. § 14-5312) and the court investigator have been considered by the Court.
- E. **GUARDIANSHIP:**
 - 1. The above-captioned person is an incapacitated person and in need of the continuing care and supervision of a GUARDIAN.

2. The appointment of a guardian is necessary to provide for the demonstrated needs of the incapacitated person.
3. The needs of the incapacitated person cannot be met by less restrictive means, including technological assistance.
4. The person appointed below is competent to serve as Guardian.
5. The person appointed has priority for appointment under A.R.S. § 14-5311, or is otherwise appointed for good cause in accord with A.R.S. § 14-5311(D).

6. **TYPE OF GUARDIANSHIP:** Less restrictive alternatives having been considered:

- A GENERAL GUARDIANSHIP is warranted; A limited guardianship is not appropriate** or in the best interests of the incapacitated person.

(OR)

- A LIMITED GUARDIANSHIP**, carrying only such authority as specified on the pages that follow, is appropriate and adequate to protect the best interests and well-being of the ward.

PHYSICAL HEALTH:

7. Appointment of a GUARDIAN is necessary due solely to the Physical incapacity of the alleged incapacitated person

F. REGARDING MENTAL HEALTH:

- By clear and convincing evidence the ward requires inpatient mental health care and treatment.

G. REGARDING DRIVING PRIVILEGES:

- There is sufficient medical or other evidence to establish the ward's incapacity does **not** prevent or interfere with the safe operation of a motor vehicle.
- The ward's incapacity **does** prevent or interfere with the safe operation of a motor vehicle; therefore, the ward's driving privileges are suspended.

H. REGARDING VOTING RIGHTS:

- By clear and convincing evidence the ward has sufficient capacity and understanding to exercise the right to vote.
- The ward does **not** have sufficient capacity and understanding to exercise the right to vote.

IT IS ORDERED:

1. **The Court appoints:** _____
as permanent guardian for the incapacitated person named above.

The incapacitated person is a MINOR, and the appointment is effective as of
the minor's 18th birthday on this date:

(Month, Date, Year of the ward's 18th Birthday)

2. **BOND:** The Guardian must file a bond in the amount of \$ _____
with the Clerk of the Court, Probate Registrar by (date): _____

OR **Bond is not required.**

3. **ISSUANCE OF LETTERS:**
Upon filing of any required bond, "**Letters of Guardianship of an Adult**" shall be issued by the Clerk of the Court, Probate Registrar, subject to the following restrictions, if any:

A. **A LIMITED GUARDIANSHIP is ordered. The Guardian's authority is limited to:**

1. **Mental Health Care Powers:** (check all that apply)

Guardian is granted authority to consent to **outpatient** mental health treatment.

Guardian is granted authority to place the ward in an Inpatient Psychiatric Facility for **inpatient** mental health care and treatment.

This authority expires on _____ (date).

2. (and/or) **The following specific powers indicated:**

Consent to Medical Treatment Consent to Marriage

Arrange Education or Training Consent to Make Living Arrangements

Apply for Public Assistance or Social Services

3. **OTHER LIMITED POWERS:** _____

(OR)

B. **A GENERAL GUARDIANSHIP is ordered, subject to the following restrictions (if any)**

4. **MENTAL HEALTH POWERS:** The guardian has the authority to consent to outpatient psychiatric and psychological care.

The Guardian is granted authority to place the ward in an Inpatient Psychiatric Facility for **inpatient** mental health care and treatment.

This authority expires on this date: _____ .

5. **DRIVING PRIVILEGES:**

The Ward's right to keep or obtain a driver's license **is suspended**

The Ward's right to keep or obtain a driver's license **is NOT suspended**

VOTING RIGHTS:

The Ward's right to vote is **suspended**

The Ward's right to vote is **NOT suspended.**

6. **ACCEPTANCE OF LETTERS:** The Guardian shall sign the "**Acceptance of the Letters**" under oath or by affirmation, and file the **Acceptance** with the Clerk of the Court, Probate Registrar.

7. **ANNUAL REPORT OF GUARDIAN:** The Guardian shall report to the Court on the status of the incapacitated person and the need to continue the guardianship at least annually on or before the anniversary date of the **Letters of Appointment** as guardian, in accord with **A.R.S. § 14-5315.**

8. **CHANGE OF ADDRESS:** The Guardian shall notify the Court in writing within **3 days** of any change in the address of either the guardian or the ward.

9. **DEATH OF THE WARD:** If your ward dies, you shall notify the Court in writing of the ward's death within ten (**10**) days of learning that the ward has died.

10. **OTHER DUTIES UNDER LAW:** The duties of the Guardian as required by Arizona law and as set forth in this Order shall continue until the Guardian is discharged from these duties by order of this court.

11. DISCHARGE OF ATTORNEY:

- The court-appointed attorney is discharged from further duties in this matter, **or**
- The Court having found that the best interests of the protected or incapacitated person require continuing representation, the court-appointed attorney **is not discharged** from further duties in this matter at this time.

12. OTHER ORDERS: _____

Dated: _____

Signature of Judicial Officer or Judge Pro Tem

Printed Name of Judicial Officer/Judge Pro Tem

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 Petitioner OR Respondent

SUPERIOR COURT OF ARIZONA IN MARICOPA COUNTY

In the Matter of Guardianship of:

Case Number: PB _____

LETTERS OF APPOINTMENT AS PERMANENT GUARDIAN of an ADULT and ACCEPTANCE OF LETTERS

Name of Protected Adult

ISSUANCE OF LETTERS:

1. (Guardian's Name:) _____
is appointed as guardian for the above-named adult, or person at least 17.5 years
of age to become effective on reaching the age of 18 *on this date*: _____
2. Reason for appointment: The above-named adult is an incapacitated person.
3. Length of appointment: until further order of this court.
4. Restrictions that apply to this permanent appointment, by order of the court:

5. **INPATIENT MENTAL HEALTH CARE:**
The Guardian **does not** have, or **has authority** to place the ward in an Inpatient Psychiatric Facility for inpatient mental health care and treatment. This authority expires on _____ (date).
6. **DRIVING PRIVILEGES:**
 The Ward's right to obtain or retain a driver's license is **suspended**.
 The Ward's right to obtain or retain a driver's license is **NOT suspended**.
7. **VOTING RIGHTS:** The Ward/Incapacitated Person's right to vote is **NOT suspended**.

WITNESS: _____

CLERK OF THE SUPERIOR COURT

SEAL

By _____
Deputy Clerk

Case No. _____

ACCEPTANCE OF LETTERS OF APPOINTMENT

I accept the duties as permanent guardian of _____
(Name of Incapacitated Person)

Date

Signature of Guardian

Printed Name of Guardian

STATE OF _____

COUNTY OF _____

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

_____.

(notary seal)

Deputy Clerk or Notary Public