

INSTRUCTIONS FOR APPOINTMENT OF GUARDIAN OF AN INCAPACITATED INDIVIDUAL

You have requested forms for the appointment of a guardian of an alleged incapacitated individual.

All forms must be typed or legibly printed.

The forms must be fully and accurately completed. The failure to comply with the below instructions will result in the Court rejecting your petition. **Should you be unable to understand or complete the forms as directed below, you should then contact an attorney for assistance.**

PUBLIC ACT 386 OF 1998, AS AMENDED BY PUBLIC ACT 52 OF 1999, COURT PERSONNEL SHALL NOT PROVIDE OR OFFER TO PROVIDE LEGAL ADVICE OR LEGAL COUNSEL TO A FIDUCIARY OR AN INTERESTED PERSON AND SHALL NOT COMPLETE A FORM, PETITION OR DOCUMENT FOR A FIDUCIARY OR INTERESTED PERSON.

FILING PROCEDURE

- A. Present the forms which have been typed or printed legibly to the Clerk at the Probate Court, 900 South Saginaw Street, Room 502, Flint, MI 48502. We may be reached by phone at (810) 257-3528.
- B. A hearing date will be set by the Clerk. Hearings are held on Tuesdays at 10:00a.m.
- C. A Guardian Ad Litem will be appointed to represent the alleged incapacitated individual.
- D. A copy of the documents filed with the Court will be given to the petitioner. It is the responsibility of the petitioner to serve the interested persons.

FEES

***** The Court does not accept personal checks *****

Petition to Appoint Guardian: \$175.00

Letters of Guardianship:\$11.00 per copy

Publication fee (when applicable--money order required
made payable to the Flint-Genesee County Legal News): \$ 92.00

B. Doctor's Statement

It is recommended that a statement by the treating physician should accompany the petition to appoint guardian. (The petition may be filed with out a Doctor's Statement.)

The statement must:

1. Be on doctor's letterhead, typed, dated, and signed by the doctor.
2. Describe the alleged incapacitated individual's condition or ailment and state the prognosis.
3. Indicate whether or not the person is able to attend a court hearing.

C. Order Appointing Guardian Ad Litem/Attorney

In the matter of--insert name of the alleged incapacitated individual.

Court personnel will complete the balance of the form.

D. Notice of Hearing

Your petition will be set for hearing on a Tuesday at 10 a.m. Your Notice of Hearing form shows the date, time, place, and assigned Judge. **You, the Petitioner, must attend the hearing or your petition will be dismissed and you will have to begin the process again.** The alleged incapacitated individual must also attend the hearing unless the Guardian Ad Litem is prepared to waive his/her presence in Court or the doctor's letter indicates that the person cannot attend the hearing.

In the matter of--insert the name of the alleged incapacitated individual.

Take Notice: A hearing will be held on (Court personnel will insert date and time of hearing and the Judge assigned to the case).

Insert the name of the nominated guardian and the name of the alleged incapacitated individual.

Insert the date and name, address, and telephone number of the petitioner.

E. Proof of Service

It is your responsibility to "serve" the parties with a copy of the petition and notice of hearing. If you do not complete service, your hearing will have to be adjourned. The Proof of Service form must be completed and returned to the Court at least five (5) days prior to the day of the hearing. The alleged incapacitated individual and/or alleged protected person must be served **personally** at least seven (7) days prior to the regular hearing for a guardian.

The other interested parties must be served in one of the following manners:

1. by personal service at least **7** days prior to the date of the hearing
2. by first class mail at least **14** days prior to the hearing

3. by publication at least **14** days prior to the date of the hearing if the address or whereabouts of interested persons are unknown. The legal newspaper fee in the amount of \$92.00 is paid when the petition is filed. Your money order is to be made payable to the Flint-Genesee County Legal News.

The parties interested in a Petition for Appointment of a Guardian of an Incapacitated Individual are:

1. the incapacitated individual,
2. if known, a person named as attorney in fact under a durable power of attorney,
3. the incapacitated individual's spouse,
4. the incapacitated individual's children and the individual's parents,
5. if no spouse, child, or parent is living, the presumptive heirs of the person,
6. the person who has the care and custody of the incapacitated individual,
7. the nominated guardian,
8. person who files a request for notice pursuant to MCL 700.5104(1),
9. special parties (Veterans Administration and Attorney General).

If Veterans Administration (VA) benefits are payable to the alleged incapacitated individual, the VA is a party of interest.

If there are no known presumptive heirs, the Attorney General (AG) is a party of interest.

When the VA or AG are parties of interest on your petition, they must be served, either personally or by mail at:

Veterans Administration
Patrick V. McNamara Bldg.
477 Michigan Avenue, Ste 1460
Detroit, MI 48226

Attorney General, Public Administration
PO Box 30736
Lansing, MI 48909

In the matter of--insert the name of the alleged incapacitated individual and file number.

2. Insert the name(s) and address(es) of the person(s) to whom you mailed the copies of the Petition(s) and Notice of Hearing, and date of service.
3. Insert the name of the alleged incapacitated individual and the place or address where this person was at the time you served him/her. Insert the date and time you served him/her.
4. Insert the name(s) of person(s) whose whereabouts are unknown.
5. Insert the date the Notice to Alleged Incapacitated Individual on Petition to Appoint Guardian form was served and the name of the alleged incapacitated individual.

Date and sign the form.

F. Notice to Alleged Incapacitated Individual on Petition to Appoint Guardian

This form must be personally served on the alleged incapacitated individual by the petitioner at least seven (7) days prior to the hearing and Proof of Service filed with the Court. This form is used only when requesting the appointment of a guardian.

If you are going to be a guardian for a nursing home resident, and you need information about applying for Medicaid or Medicare benefits for the resident, nursing home resident rights, the quality of care and services, etc., you may call Citizens for Better Care, the local long-term care ombudsman, at 1-800-284-0046 for help.

If you are a senior, or your questions are on behalf of someone age 60 or older, you may call the Legal Hotline for Older Michiganians for legal advice. The Legal Hotline's attorneys answer legal questions over the phone for eligible seniors statewide. Office hours are 9 a.m. to 5 p.m. weekdays. The toll free number is 1-800-347-5297 (372-5959 in the Lansing area), which is also TDD accessible for the hearing impaired.

G. Nominated Guardian Agreement

The nominated guardian must read and sign the Nominated Guardian Agreement. The form must be filed with the court. Your hearing will not Proceed without this form in the file.

H. Authorization for Release of Information

All nominated Guardians must complete the Authorization for Release of Information form. Your hearing will not proceed without this form in the file.

NEW GUARDIANS MUST ATTEND A SEMINAR AT NOON ON THE DAY OF THE COURT HEARING OR WITHIN 60 DAYS OF BEING APPOINTED.

INSTRUCTIONS FOR COMPLETING "PETITION FOR APPOINTMENT OF GUARDIAN OF INCAPACITATED INDIVIDUAL"

Please type or print neatly using black or blue ink.

Items A through Q must be read and filled in (when required) before your petition can be filed with the court. Please read the instruction for each item. Then fill in the correct information for that item on the form.

- A** Enter the name of the individual who you believe needs a guardian.
- B** Enter the date of birth, race, and sex of the individual named in **A**. Enter the address where the individual is currently located. This address may or may not be the home of the individual. For example, if the individual is currently in the hospital, enter the address of the hospital.
- C** Enter your name in the first line and your relationship to the individual (or your interest) on the second line.
- D** Check this box if there is or has been a case in the family division of the circuit court involving the individual in **A**. Examples of a family division case are personal protection, abuse or neglect, or a name change. If you have checked this box, enter the name of the court, the case number of the action, the name of the judge assigned to that case. Then place a check in the box indicating whether that case is still pending or not.
- E** Enter the city, village, or township and county and state the individual is a resident of and the full home address and telephone number of the individual.
- F** Check the boxes that apply and provide the name(s) and address(es).
- G** If the individual has a patient advocate and you believe there is a problem, check only the boxes that apply.
- H** Check the boxes that you believe apply to the individual.
- I** **Explain in as much detail as possible** specific examples of the individual's conduct that lead you to believe he or she needs a guardian. Give specific examples of his or her conduct that supports what you checked in **H** and that demonstrate the need for a guardian. **This information is extremely important for the court in making a decision about the need to appoint a guardian.** Use additional sheets of paper if needed.
- J** Enter the name, address, and telephone number of the person or agency who currently has care and custody of the individual. If there is no one, leave blank.
- K** Check whether the individual is or is not entitled to receive Veterans Administration benefits. If you checked that the individual is entitled to benefits, enter his or her VA claimant number.
- L - M** Check all the boxes that apply and enter the names, relationships, addresses and telephone numbers of each relative of the individual. If any of the adults named in **L** are under legal incapacity, enter the names in **M**. If you check the last box in **L** (item 10), you must notify the Attorney General by sending a copy of this form to: Attorney General, Public Administration, PO Box 30755, Lansing, Michigan 48909.
- N** Enter the name, address, and telephone number of the person you want to be appointed as guardian of the individual. Enter the relationship, if any, that this person has to the individual. Check the box for either a full guardian or a limited guardian.
- O** Check the box if there is an emergency requiring the appointment of a temporary guardian before the hearing on this petition is held.
- P** Enter today's date, sign your name, and enter your address and telephone number.
- Q** If the individual wants to nominate someone to be his/her guardian, check the box and enter the name, address, and telephone number of the person the individual is nominating. The individual must sign and date the form.

DRESS CODE POLICY

GENESEE COUNTY CIRCUIT AND PROBATE COURTS

Important legal proceedings take place within the Genesee County Circuit and Probate Courts. The following DRESS CODE POLICY shall take immediate effect:

DRESS NOT PERMITTED

- No shorts, tee-shirts, tank-type shirts, sweatshirts, sweat suits, jogging suits, or similar attire;
- No hats, sunglasses, or outdoor jackets shall be worn when appearing formally before the court;
- No baggy pants or pants that drag on the ground.

ENCOURAGED DRESS

Please remember that your choice of clothing often reflects an attitude when appearing before the court. The following attire is encouraged and parent(s) or guardian(s) are urged to encourage the same for children or wards:

- Shirt and tie for males;
- Pants other than blue jeans;
- Neat and clean shoes.

OTHER COURTROOM RESTRICTIONS

- Any pagers or cellular phones ringing in the courtroom are disruptive to the proceedings and interfere with the video recording system. They will be subject to confiscation;
- No food or drinks whatsoever shall be brought into the courtroom.

Richard B. Yuille, Chief Judge
7th Circuit Court
Genesee County Probate Court

Jennie E. Barkey, Presiding Judge
Genesee County Probate Court

March 1, 2012

STATE OF MICHIGAN
PROBATE COURT
COUNTY OF GENESEEPETITION FOR
APPOINTMENT OF GUARDIAN OF
INCAPACITATED INDIVIDUAL

FILE NO.

- (A)** In the matter of _____, **XXX-XX-**
Alleged incapacitated individual Last four digits of SSN
- (B)**

Date of birth	Race	Sex	Address of alleged incapacitated individual where now found
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- (C)** 1. I, _____, am interested in this matter
Name (type or print)
and make this petition as _____.
State interest/relationship
- (D)** ☐ 2. An action within the jurisdiction of the family division of circuit court involving the family or family members of the person named above has been previously filed in _____ Court, Case Number _____, was assigned to Judge _____, and ☐ remains ☐ is no longer pending.
- (E)** 3. The adult is a resident of _____, _____
City, village, or township County State
and has a home address and telephone number of _____
Address

City State Zip Telephone no.
- ☐ The individual is a citizen of the following foreign country: _____
- (F)** 4. The adult has ☐ a patient advocate/power of attorney for health care. (Specify name and address below.)
☐ a power of attorney. (Specify name and address below.)
☐ a conservator. (Specify name and address below.)

Name and address
- (G)** ☐ 5. ☐ The patient advocate designation was not executed in compliance with MCL 700.5506.
☐ The patient advocate is not complying with the terms of the designation or of MCL 700.5506 to MCL 700.5512.
☐ The patient advocate is not acting consistent with the ward's best interests.
- (H)** 6. The adult lacks sufficient understanding or capacity to make or communicate informed decisions because of
☐ mental illness. ☐ mental deficiency. ☐ physical illness or disability.
☐ chronic intoxication. ☐ chronic drug use. ☐ _____.
- (I)** 7. Specific facts about the adult's recent condition or conduct that lead me to believe the adult needs a guardian are
(Attach a separate sheet if more space is needed.)

- (J)** 8. The name, address, and telephone number of the person/agency (if any) who currently has care and custody of the adult are _____.

(SEE SECOND PAGE)

USE NOTE: If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form.

Do not write below this line - For court use only

K 9. The adult ☐ is ☐ is not entitled to receive Veterans Administration benefits. The Veterans Administration claimant number is _____.

- L** 10. The alleged incapacitated individual has
- ☐ a spouse whose name and address are listed below.
 - ☐ adult child(ren) whose name(s) and address(es) are listed below.
 - ☐ living parent(s) whose name(s) and address(es) are listed below.
 - ☐ no spouse, child(ren), or parent(s). The names and addresses of presumptive heirs are listed below.
 - ☐ none of the above (must notify Attorney General - see instructions for the address of the Attorney General).

NAME	RELATIONSHIP	ADDRESS AND TELEPHONE NUMBER			
		Street address			
		City	State	Zip	Telephone no.
		Street address			
		City	State	Zip	Telephone no.
		Street address			
		City	State	Zip	Telephone no.

M 11. None of the adults named above is under any legal incapacity except _____.

Give name, legal incapacity, and representative of the person, if any

N 12. **I REQUEST** that the court determine the adult is an incapacitated individual and appoint _____ Name

_____ Address

_____, who has priority as

City _____ State _____ Zip _____ Telephone no. _____

Priority relationship _____, ☐ full guardian with all powers provided by statute.

☐ limited guardian with the following powers:

_____.

O ☐ 13. No other person appears to have authority to act in the circumstances. I request that a temporary guardian be appointed pending a hearing on this petition because of the following emergency:

I declare under the penalties of perjury that this petition has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

P _____ Date _____

Attorney signature _____

Attorney name (type or print) _____ Bar no. _____ Petitioner signature _____

Attorney address _____ Petitioner address _____

City, state, zip _____ Telephone no. _____ City, state, zip _____ Telephone no. _____

Q ☐ 14. **NOMINATION BY THE ALLEGED INCAPACITATED INDIVIDUAL** In the event the court finds that I require a guardian, I nominate: _____

Name, address, and telephone no.

_____ Date

_____ Signature of alleged incapacitated individual

[illegible]

**STATE OF MICHIGAN
PROBATE COURT
COUNTY OF GENESEE**

**ORDER APPOINTING
GUARDIAN AD LITEM / ATTORNEY /
LAWYER-GUARDIAN AD LITEM**

FILE NO.

In the matter of _____

1. It appears to the court that ☐ a guardian ad litem ☐ a lawyer-guardian ad litem ☐ an attorney should be appointed in this proceeding for the individual(s) named or described below.

IT IS ORDERED:

2. _____
Name (type or print)

Address

City, state, zip Telephone no.

is appointed ☐ guardian ad litem ☐ lawyer-guardian ad litem ☐ attorney

for the following individual(s):

in respect to the following proceedings:

- ☐ 3. The guardian ad litem shall meet with the individual before the hearing and, to the extent that the person can comprehend, explain the nature of the proceedings. In addition, if the matter involves a petition to appoint a guardian for a legally incapacitated individual, the guardian ad litem shall give the individual form PC 626, Notice of Rights to Alleged Incapacitated Individual, as required by MCL 700.5306a(2).
- ☐ 4. A written report with recommendations shall be filed with the court ☐ at least 24 hours before the hearing.
☐ Specify other time frame _____.
- ☐ 5. The guardian ad litem shall be present at the time of hearing.
6. The guardian ad litem shall have access to all records, including but not limited to, medical records, psychological and psychiatric records, any protective service reports/contacts, and other materials or documents which he or she shall request regarding this matter. The guardian ad litem shall keep all information confidential, except upon further order of the court.
7. The lawyer-guardian ad litem must comply with the provisions of MCL 712A.17d or MCL 722.24.

Date

Judge Jennie E. Barkey, P-30405

Do not write below this line - For court use only

**STATE OF MICHIGAN
PROBATE COURT
COUNTY OF GENESEE**

NOTICE OF HEARING

FILE NO.

In the matter of _____

TAKE NOTICE: A hearing will be held on _____ at _____ ,
Date Time

at _____ before Judge _____
Location Bar no.

for the following purpose(s): (state the nature of the hearing)

TO APPOINT _____ AS GUARDIAN OF AN ADULT.
(Name of nominated guardian)

If you require special accommodations to use the court because of a disability, or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

Date

Attorney name Bar no.

Petitioner name

Address

Address

City, state, zip Telephone no.

City, state, zip Telephone no.

USE NOTE TO COURT: If this hearing is for a guardianship matter involving an Indian child as defined in MCR 3.002(5), you must comply with MCR 5.109(2).

USE NOTE: If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form.

Do not write below this line - For court use only