

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

Register in Chancery  
Kent County  
38 The Green, Ste. 208  
Dover, DE 19901  
302-735-1930

Register in Chancery  
New Castle County  
500 N. King St., Ste. 11600  
Wilmington, DE 19801  
302-255-0544

Register in Chancery  
Sussex County  
34 The Circle  
Georgetown, DE 19947  
302-856-5775

**Procedures for filing a Petition for the Appointment of Guardian(s) of the Person and Property of a Person with an Alleged Disability**

- The petition must be filled out completely.
  - The court clerk cannot complete the petition for you.
  - The petitioner(s) will need to have their signature(s) notarized on the petition, personal information sheet and affidavit of proposed guardian's history. If you appear in the Register's Office with identification and the correct paperwork, your signature(s) can be notarized by a court clerk in the Register's Office.
  - A detailed physician's affidavit must be attached to the petition. The physician's affidavit must be notarized.
- The filing fee for the petition is \$135.00 plus \$2.00 per page scanning fee. Payment must be received at the time of filing, or the petition will not be accepted by our office. We accept cash, check or money order (made payable to the "Register in Chancery"). If the Register in Chancery's office makes photocopies for you, we will charge a \$1.50 per page fee.
- The Court will appoint an attorney to represent the best interests of the person with an alleged disability. The attorney does not represent the petitioner(s). The Court will award the attorney *ad litem* a reasonable fee for his/her work on behalf of the person with an alleged disability. The petitioner is responsible for paying the attorney's fee although the Judicial Officer may order the fee be paid from the funds of the person with an alleged disability. For uncontested matters, the fee can be up to \$750.00. Extraordinary cases such as contested petitions or those that require out of state travel or further investigation may exceed \$750.00.
- The petitioner(s) is/are responsible for obtaining consents from the interested parties or sending notice of the petition to the interested parties by certified mail. Please review the enclosed instruction sheet for additional instructions on notifying the interested parties.
- Please Note: There is additional information and forms available on the Court's website at <https://courts.delaware.gov/chancery/guardianship/index.aspx>.

Rev. 04/2018



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**Guardianship Volunteer Program**

The Court of Chancery utilizes a volunteer program designed to monitor individuals who have been placed under guardianship and whose care is the responsibility of court-appointed guardians. This important monitoring function is coordinated by the Guardianship Monitoring Program of the Office of the Public Guardian, and enables the Court to receive first-hand information about people for whom the Court has ultimate responsibility. The volunteer, designated by the Office of the Public Guardian, is assigned a case, given necessary information about the case, and makes an appointment to meet with the guardian and person with a disability. After the visit, the volunteer fills out a report indicating the status of the person with a disability and may make recommendations for action. The volunteer's report is filed by the Office of the Public Guardian and subsequently viewed by Court staff to determine if further action is necessary. The volunteer is considered an extension of the Office of the Public Guardian and the Court and should be treated accordingly.

Persons subject to guardianship are very important and they deserve every right and protection available. You should expect to be contacted in the future by a volunteer and your cooperation with scheduling meeting times with the volunteer is greatly appreciated. Thank you in advance for your time and effort.

Sincerely,  
Sherri Hageman, M.S., Guardianship Advocacy Director  
Office of the Public Guardian  
(302) 255-1901 or (302) 358-0782

**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

IN THE MATTER OF: \_\_\_\_\_ :  
: C.M. # \_\_\_\_\_  
A person with an alleged disability :

**PETITION TO APPOINT GUARDIAN(S) OF THE  
PERSON AND PROPERTY**

1. Information about the person(s) who wish(es) to be appointed guardian(s):
  - a. Name(s): \_\_\_\_\_
  - b. Current address(es): \_\_\_\_\_  
\_\_\_\_\_
  - c. Telephone Number(s): \_\_\_\_\_
  - d. Relationship(s) to person with an alleged disability: \_\_\_\_\_
2. Information about the person with an alleged disability:
  - a. Age: \_\_\_\_\_
  - b. Date of birth: \_\_\_\_\_
  - c. Current address: \_\_\_\_\_  
\_\_\_\_\_
  - d. Permanent address: \_\_\_\_\_  
\_\_\_\_\_
  - e. If the person with an alleged disability is a patient/living at a hospital or an institution:
    - i. Admission date: \_\_\_\_\_
    - ii. Admitted by: \_\_\_\_\_
    - iii. Reason(s) for admission: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. The names and addresses of any potentially interested party which includes the spouse, any next-of-kin who would be entitled to inherit through the estate of the person with an alleged disability if that person died intestate, any person acting for or named by the person with an alleged disability as a fiduciary, executor or beneficiary in a power of attorney or testamentary instrument, or named as an agent in an advanced health care agreement or other health care proxy, any person primarily responsible in the past six months for the care of the person or finances of the person with an alleged disability, the administrator or other appropriate individual to contact at any care facility or hospital where the person with an alleged disability is currently receiving care and the house manager if the person with an alleged disability is residing in a group home. If an interested party is a minor, please provide the name and contact information for the minor's parent or other guardian as the parent or guardian will require notice.

| <b>Name of interested party</b> | <b>Relationship to person with an alleged disability</b> | <b>Address and phone number of interested party</b> | <b>Age</b> |
|---------------------------------|--|---|------------|
|                                 |  |   |            |
|                                 |  |   |            |
|                                 |  |   |            |
|                                 |  |   |            |
|                                 |  |   |            |
|                                 |  |   |            |
|                                 |  |   |            |

Please attach a separate sheet of paper if additional space is needed

4. Who is paying the expenses of the person with an alleged disability and out of what funds? \_\_\_\_\_

5. The marital status of the person with an alleged disability is: (check one)

Single             Married             Divorced             Widowed

6. Has the person with an alleged disability ever executed a Will?  Yes  No

If yes, the Will is located at the following address: \_\_\_\_\_

and is in the custody of the following person/entity: \_\_\_\_\_.

7. Has the person with an alleged disability ever appointed a Power of Attorney?  Yes  No

If "Yes", name and address of the Agent under the Power of Attorney:

\_\_\_\_\_  
\_\_\_\_\_.

8. Has the person with an alleged disability been represented by a Delaware attorney within the last two years?  Yes  No

If "Yes", include the name of the attorney, explain the reason and include the years of service: \_\_\_\_\_

\_\_\_\_\_.

9. Has the person with an alleged disability ever been a member of the military:

Yes  No

10. Explain in detail why the person with an alleged disability is in need of a guardian. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

11. Explain in detail why you should be appointed guardian(s).

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12. In your opinion, will notifying the person with an alleged disability that this petition is being filed likely result in harm to the person with an alleged disability?

(check one)  Yes  No. If “Yes”, please explain why. \_\_\_\_\_

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13. List **ALL** of the current sources of income for the person with an alleged disability: (attach additional pages if necessary)

| <b>Benefit or source of income</b>         | <b>Amount</b> | <b>When received<br/>(e.g. monthly/<br/>quarterly)</b> |
|--|---------------|--|
| Business (professional or self-employment) |               |  |
| Payments received for rental property      |               |  |
| Interest                                   |               |  |
| Dividends from stocks or bonds             |               |  |
| Pension                                    |               |  |
| Social Security*                           |               |  |
| VA Benefits*                               |               |  |
| Disability                                 |               |  |
| IRA/401K                                   |               |  |
| Annuity payments                           |               |  |
| Gifts                                      |               |  |
| Other: _____                               |               |  |

\*Who is the representative payee for these benefits? \_\_\_\_\_

14. List **ALL** of the assets of the person with an alleged disability: (attach additional pages if necessary)

| <b>Property</b>   | <b>Estimated Value</b> | <b>Retail Value</b> | <b>If jointly owned, name and address of co-owner</b> |
|---|------------------------|---------------------|---|
| Cash  |                        |                     |   |
| Bank Accounts   |                        |                     |   |
| Stocks/Bonds  |                        |                     |   |
| Mutual Funds  |                        |                     |   |
| Securities/Options  |                        |                     |   |
| Annuities   |                        |                     |   |
| Home/Residence  |                        |                     |   |
| Other real estate   |                        |                     |   |
| Motor vehicles  |                        |                     |   |
| Business  |                        |                     |   |
| Other valuable property (except ordinary household furnishings and clothes) |                        |                     |   |
| Life Insurance Policy   |                        |                     |   |
| Other: _____  |                        |                     |   |
| Other: _____  |                        |                     |   |

15. List **ALL** of the debts and monthly expenses for the person with an alleged disability, including any debts incurred for care of legal dependents: (attach additional pages if necessary)

| <b>Description of debts and monthly expenses/bills</b>                 | <b>Total debt</b> | <b>Monthly payment</b> |
|--|-------------------|------------------------|
| Mortgage (including taxes, insurance and escrow)                       |                   |                        |
| Rent   |                   |                        |
| Water  |                   |                        |
| Sewer  |                   |                        |
| Electric/Gas   |                   |                        |
| Oil  |                   |                        |
| Trash  |                   |                        |
| Television   |                   |                        |
| Telephone  |                   |                        |
| Groceries  |                   |                        |
| Household maintenance and repairs (list)<br>Item: _____<br>Item: _____ |                   |                        |
| Clothing   |                   |                        |
| Health insurance/COBRA   |                   |                        |
| Medication   |                   |                        |
| Healthcare/out of pocket medical expenses and dental                   |                   |                        |
| Laundry/dry cleaning   |                   |                        |
| Cosmetics/toiletries   |                   |                        |
| Hobbies/ Entertainment   |                   |                        |
| Barber/Hairdresser   |                   |                        |
| Newspaper/magazine subscription(s)                                     |                   |                        |
| Child support  |                   |                        |
| Charitable and/or religious donations                                  |                   |                        |

| Description of debts and monthly expenses/bills                                    | Total debt | Monthly payment |
|--|------------|-----------------|
| Vacation   |            |                 |
| Public Transportation  |            |                 |
| Automobile:<br>Monthly payment<br>Repairs and maintenance<br>Insurance<br>Gasoline |            |                 |
| Life insurance payment   |            |                 |

16. All of the following statements must be true before the Court of Chancery will consider this petition. Check all of the following statements to acknowledge they are true:

- a.  There is currently no guardian for the person or property of the person with an alleged disability.
- b.  The person with an alleged disability is unable to properly manage and care for his/her person and, as a consequence therefore, is in danger of becoming the victim of a designing person. He/she is in danger of substantially endangering his/her own health or becoming subject to abuse by other persons.
- c.  The person with an alleged disability is unable to properly manage and care for his/her property and, as a consequence therefore, is in danger of dissipating or losing such property by becoming the victim of designing person(s).
- d.  The person with an alleged disability lives in the State of Delaware.
- e.  Attached is the physician's affidavit from

Name of attending doctor/physician: \_\_\_\_\_

Doctor/Physician's office address: \_\_\_\_\_

Doctor/Physician's phone number: \_\_\_\_\_

- f.  I/We consent to the Register in Chancery of the Court being my/our agent for acceptance of service as to any claim arising out of the guardianship if, by reason of the guardian's absence(s) from this State, I/We cannot be personally served.
- g.  I/We understand the Court may require a guardianship bank account to be opened and for all of the income and assets to be deposited into the guardianship bank account. I/We wish to establish the guardianship bank account at this Delaware bank, \_\_\_\_\_.

**WHEREFORE,** Petitioner(s) respectfully request that:

1. This Court appoint him/her/them as guardian(s) of the person and property of the person with an alleged disability.
2. A preliminary order be entered to appoint an attorney *ad litem*, schedule a hearing and to notify interested parties.

\_\_\_\_\_  
Signature of Co-Petitioner

\_\_\_\_\_  
Signature of Petitioner

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone number

\_\_\_\_\_  
Phone number

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

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

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_ [Name of affiant].

\_\_\_\_\_  
Notary Public/Chancery Court Clerk

PHYSICIAN'S AFFIDAVIT

NOTE: This affidavit will be used in a legal proceeding to appoint a guardian for the patient named below. The information it contains must be based on your personal examination of the patient. Thank you for your concern and cooperation.

**IS THIS AN EMERGENCY GUARDIANSHIP PETITION?** If an *emergency* appointment of guardian is needed, please complete page three (3) of this form *in addition* to pages 1 and 2.

PATIENT'S NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

DATE OF BIRTH: \_\_\_\_\_

\_\_\_\_\_ located at: \_\_\_\_\_  
(Physician's name) (Address)

\_\_\_\_\_  
(Telephone number)

I am duly licensed and accredited in the following areas of medical practice:

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

The history of my involvement with this patient is the following:

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

Diagnosis: \_\_\_\_\_

I personally examined this patient on \_\_\_\_\_, 20\_\_\_\_\_.

The examination lasted approximately \_\_\_\_\_  
(Time)

Relevant tests and results:

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

Does the patient have difficulty communicating? If so, describe the difficulty in detail, and provide the cause of the patient's difficulty with communication:

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Based on tests and my examination of this patient, it is my professional opinion that she/he:

**does not have**

**does have**

a disability that significantly interferes with the ability to make responsible decisions regarding health care, food, clothing, shelter, or finances.

(Optional) The following documents are attached as supporting information regarding the particulars of the disability:

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If the patient has a cognitive disability, describe that disability:

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The cognitive disability impairs the patient's ability to perform the following functions:

In my opinion, the patient

**does have**

**does not have**

sufficient mental capacity to understand the nature of guardianship in order to consent to the appointment of a guardian.

**I solemnly swear and affirm under the penalties of perjury and upon personal knowledge that the contents of this petition are true.**

---

Date

---

Physician's Signature

---

Printed Name

**SWORN TO AND SUBSCRIBED** before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

---

Notary Public

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

**TO BE COMPLETED WHEN REQUESTING AN EMERGENCY GUARDIANSHIP**

Nature of the emergency, such as medical, abuse, neglect, exploitation, etc.:

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

If this is a medical emergency provide the diagnosis:

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

Describe the testing or treatment related to the diagnosis that is urgently needed and why it is urgently needed within the next 72 hours:

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Physician's Signature

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

**SWORN TO AND SUBSCRIBED** before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
Notary Public

**COURT OF CHANCERY  
PERSONAL INFORMATION SHEET**

Please Note: If there is more than one proposed guardian, each person will need to complete a separate form and use separate contacts on page two of this form.

In the matter of: \_\_\_\_\_, a person with an alleged disability/minor

Social Security Number: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Date this form is completed: \_\_\_\_\_

In connection with the above matter, I have applied to the Court of Chancery to be appointed as guardian of the person with an alleged disability/minor named above. I understand that I must complete this form in full or my guardianship petition may be denied. In order to provide the Court with sufficient information to determine my qualification to serve as guardian and to assist the Court in assuring that the Court's staff will always be able to locate and make contact with me, the following information and consent is given:

Proposed Guardian's current full name: \_\_\_\_\_

Proposed Guardian's physical address: \_\_\_\_\_

\_\_\_\_\_

Proposed Guardian's mailing address (if different): \_\_\_\_\_

\_\_\_\_\_

Home phone number: \_\_\_\_\_ Work phone number: \_\_\_\_\_

Cell phone number: \_\_\_\_\_ E-mail address: \_\_\_\_\_

Date of birth: \_\_\_\_\_ Social Security number: \_\_\_\_\_

Driver's License number and State: \_\_\_\_\_

Place of employment and address: \_\_\_\_\_

\_\_\_\_\_

Name of supervisor and telephone number: \_\_\_\_\_

\_\_\_\_\_

Name/Address/Telephone number of spouse (if not a co-petitioner/co-guardian):

\_\_\_\_\_



**Contacts:** List the information for two people who should always be able to locate or contact you and do not live at the same address as each other or the petitioner(s). If there is more than one proposed guardian, separate contacts must be listed

1. Name: \_\_\_\_\_

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

Phone number: \_\_\_\_\_ Relationship: \_\_\_\_\_

2. Name: \_\_\_\_\_

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

Phone number: \_\_\_\_\_ Relationship: \_\_\_\_\_

I fully understand that it is my duty to keep the Court informed of my whereabouts and to provide the Court with any change in my name, physical address or mailing address. I hereby authorize the staff of this Court to contact any of the persons named above and authorize and direct any of the persons named above and my attorney(s) to provide to the Court any information which might assist the Court in locating or contacting me in the future. I also authorize the court staff to search government or public databases to locate me. I further agree that any federal, state, public, or private agency with information about my whereabouts, or the whereabouts of the person with an alleged disability or minor named above, may release that information to the Court and its staff, and I authorize and direct such persons to release that information. I release the Court and the Court's staff from all liability associated with efforts to determine my whereabouts or the whereabouts of the person with an alleged disability or minor over whom guardianship has been established.

\_\_\_\_\_  
Proposed Guardian's signature

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

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

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_ [Name of affiant].

\_\_\_\_\_  
Notary Public/Chancery Court Clerk

**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

A person with an alleged disability/Minor: \_\_\_\_\_

**AFFIDAVIT OF PROPOSED GUARDIAN’S HISTORY**

Please Note: If there is more than one proposed guardian, each person will need to complete a separate form.

Proposed Guardian’s Name: \_\_\_\_\_

1. Have you ever declared bankruptcy?  Yes  No

If so, when? \_\_\_\_\_

If so, what type? \_\_\_\_\_

2. Have you ever been convicted of a misdemeanor?  Yes  No

If so, describe which misdemeanor, when and in what jurisdiction you were convicted (e.g. State, County and Police Department). \_\_\_\_\_

\_\_\_\_\_

3. Have you ever been convicted of a felony?  Yes  No

If so, describe which felony, when and in what jurisdiction you were convicted (e.g. State, County and Police Department). \_\_\_\_\_

\_\_\_\_\_

4. I give the State of Delaware permission to conduct a criminal background check on me at any time during the consideration of my petition for guardianship and, if granted, at any time during the period I am guardian. I solemnly swear and affirm under penalty of law that the statements and answers above are true to the best of my knowledge.

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

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

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_[Name of affiant].

\_\_\_\_\_  
Notary Public/Chancery Court Clerk

\_\_\_\_\_  
Proposed guardian’s signature

## **INSTRUCTIONS FOR NOTIFYING INTERESTED PARTY(IES) OF PETITION FOR GUARDIANSHIP**

It is the petitioner's(s') responsibility to notify the interested party(ies) when a petition for guardianship is filed with the Court. This includes notifying all of the parties you listed on numbers three (3) and eight (8) of the guardianship petition.

Each interested party may sign and have notarized a copy of the attached "Waiver of Notice and Consent." If any interested party does not sign the form, you must send via certified mail, return receipt requested, a copy of the completed "Notice of Petition" and a copy of the approved preliminary order to all interested parties who did not sign a consent form.

You must file the following documents with the Court by noon two days before the scheduled hearing date:

- a. Any and all consent forms;
- b. The attached "Affidavit of Mailing"; and
- c. The certified mail return receipts and/or the green cards that have been returned to you.

Any interested party who has not signed a notarized consent must receive notice of your petition by certified mail at least thirteen (13) days before the Court hearing. This ensures that all interested parties have adequate time to contact the Court with any questions they may have or file any objection to the guardianship petition.

If you do not know the address for an interested party, you must make every attempt to locate the address and file the enclosed affidavit of efforts to locate address of interested party with the Register's Office at least two (2) days prior to the hearing.

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

In the matter of: \_\_\_\_\_ :  
 :  
 : C.M. #: \_\_\_\_\_  
A person with an alleged disability :

**WAIVER OF NOTICE AND CONSENT**

I, \_\_\_\_\_, whose relationship to the person with an alleged disability is that of \_\_\_\_\_ (e.g. mother, brother), hereby waive my right to notice of the hearing and hereby consent to the appointment of \_\_\_\_\_ as guardian(s) of the (check all that apply)  person (to make his/her medical decision) and/or  property (to make his/her financial decisions) without further notice.

\_\_\_\_\_  
Interested Party's signature

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

Phone Number: \_\_\_\_\_

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

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

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_ [Name of affiant].

\_\_\_\_\_  
Notary Public/Chancery Court Clerk

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IN THE MATTER OF: \_\_\_\_\_ :  
 :  
 : C.M. # \_\_\_\_\_  
A person with an alleged disability :

**NOTICE OF PETITION FOR THE APPOINTMENT OF GUARDIAN(S)  
OF THE PERSON AND PROPERTY**

Dear Interested Parties:

This is a notice that I am/we are applying for guardianship of \_\_\_\_\_'s  person (to make his/her medical (Person with an alleged disability's name) decisions) and  property (to make his/her financial decisions). The Court of Chancery approved the enclosed preliminary order to schedule a hearing on this case. If you object to the petition, you must appear at the hearing or immediately contact the Register in Chancery's Office that has been marked above.

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

\_\_\_\_\_  
Co-Petitioner's Signature

Dated: \_\_\_\_\_



2. Certified mail return receipts and/or returned green cards are attached.

\_\_\_\_\_  
Petitioner

\_\_\_\_\_  
Co- Petitioner

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

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

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_[Name of affiant].

\_\_\_\_\_  
Notary Public/Chancery Court Clerk



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If I subsequently locate the missing interested party, I will notify the Court of his/her address.

\_\_\_\_\_  
Petitioner

\_\_\_\_\_  
Co-Petitioner

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

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

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_ [Name of affiant].

\_\_\_\_\_  
Notary Public/Chancery Court Clerk

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN THE MATTER OF:

\_\_\_\_\_  
A person with an alleged disability

:  
:  
:  
:

C.M. # \_\_\_\_\_

**PRELIMINARY ORDER FOR THE APPOINTMENT OF AN ATTORNEY  
AD LITEM AND TO SCHEDULE THE HEARING**

AND NOW, the Petition for the Appointment of a Guardian of (check all that applies):  the person and/or  the property of \_\_\_\_\_, a person with an alleged disability (hereinafter called “person with an alleged disability”) filed in this matter having been read and duly considered by the Court,

NOW, THEREFORE, IT IS ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, as follows:

1. A hearing shall be held at the Court of Chancery in \_\_\_\_\_ County, Delaware on \_\_\_\_\_, 20\_\_\_\_, at 9:30 a.m. to determine if the proposed guardian(s) should be appointed the guardian(s) of the person and/or property of the person with an alleged disability.

2. \_\_\_\_\_, Esquire, is appointed attorney *ad litem* for the person with an alleged disability.

3. The attorney *ad litem* shall give actual notice of the petition to the person with alleged disability pursuant to Chancery Court Rule 176. The attorney

*ad litem* shall visit the person with an alleged disability at his or her residence. If such a visit is not possible, the attorney *ad litem* shall detail why the visit was not possible in his or her report.

4. The attorney *ad litem* shall file a report with the Court before noon on this date: \_\_\_\_\_.

5. Pursuant to the preparation of the report referenced in paragraph “4” of this Order:

- a. All physicians, hospitals, and other healthcare providers covered under the Privacy Standards of the Health Insurance Portability and Accountability Act (HIPAA) are authorized to disclose to the attorney *ad litem* and shall provide the attorney *ad litem* unobstructed access to all medical records, treatment providers, clinical information and other healthcare information relating to the current mental and physical health of the person with an alleged disability [See 45 CFR sec. 164.512(e)] that the attorney *ad litem* deems necessary for the proper discharge of his/her duties.
- b. All said physicians, hospitals and other healthcare providers shall grant said access described in paragraph “5a” of this Order to the attorney *ad litem* without delay.



- c. The attorney *ad litem* is prohibited from using or disclosing the health information of the person with an alleged disability for any purpose other than this guardianship proceeding.
- d. The attorney *ad litem* shall return to the physician(s), hospital(s), and other healthcare provider(s) or shall destroy all of the health information provided to the attorney *ad litem* by the physician(s), hospital(s), or healthcare provider(s) (including all copies made) at the end of these guardianship proceedings.

6. At least thirteen (13) days before the hearing date, the petitioner(s) must send a copy of this preliminary order and notice by certified mail, return receipt requested, to each interested party who did not sign a Waiver of Notice and Consent. The notice must state the time, place and purpose of the hearing.

7. Petitioner(s) must file at the Register in Chancery's Office all certified receipts from the notice(s) mailed to the interested parties no later than two (2) days before the hearing date.

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Chancellor/Vice Chancellor/Master



property without a guardian and is in danger of substantially endangering his/her health, becoming subject to abuse by other persons, becoming the victim of designing persons and/or is in danger of dissipating or losing such property by becoming the victim of designing persons.

IT IS HEREBY ORDERED, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, as follows:

1. \_\_\_\_\_ is hereby appointed guardian of the person and property of \_\_\_\_\_, a person with a disability.

2. Before entering upon his/her duties as guardian pursuant to this Order, \_\_\_\_\_ shall execute a bond to be taken in the name of the State of Delaware in the amount of \$\_\_\_\_\_ with/without surety as a condition for the faithful performance of his/her duties as guardian, and shall be filed within seven (7) days of the date of this Order. No copy of the final order will be released until the bond is filed. Any person or entity presented with a valid order from the Court may use that order as proof that the bond has been executed and filed.

3. The guardian appointed herein is granted such powers, rights and duties which are necessary to protect, manage and care for the person and property of the person with a disability as provided for in 12 Del. C., Ch. 39.

4. The guardian shall open one or more bank account(s) at \_\_\_\_\_. All income must be directed to that account as soon as

practicable, and all assets must be placed in that account unless the assets are held in a Miller Trust or other similar trust. Bank accounts not held in trust must be closed and the balance of the account transferred to the guardianship account. The account(s) shall be titled "COURT OF CHANCERY, GUARDIANSHIP ACCOUNT FOR \_\_\_\_\_, \_\_\_\_\_, GUARDIAN, WITHDRAWALS ONLY BY ORDER OF THE COURT" except that the guardian may withdraw up to \$\_\_\_\_\_ total per month without further notice of the Court. Otherwise, the guardian may not make any withdraws from the account without first having a Court Order to do so.

5. An inventory is due within thirty (30) days of the date of this order.

6. The guardian shall make a just and true accounting of this estate at least once each year. The guardian shall file the first accounting for a period of six (6) months beginning with the date of this order, which accounting is due nine (9) months from the date of this order. Each subsequent accounting shall cover a twelve (12) month period and shall begin on the date following the date the previous accounting ends. The annual accountings are due on or before the first business day of the calendar quarter in which the guardian was appointed, and at such other times as the Court shall direct. The accountings shall include documentation of the value of each account at the beginning and end of the covered period and receipts for each disbursement.

7. The guardian is authorized to apply to become, or continue to act, as the representative payee for social security benefits.

8. The guardian shall file an annual update and medical statement with the Register in Chancery every year, which is due on or before the first business day of the calendar quarter in which the guardian was appointed. The annual update and medical statement shall include the current mailing address of both the person with a disability and the guardian, and a current medical statement from an approved medical practitioner setting forth the current medical status of the person with a disability and addressing the need for continued guardianship.

9. The guardian shall within thirty (30) days submit proof to the Register in Chancery that the terms of this Order have been complied with and the bank account(s) provided for in this Order has/have been opened in accordance with the provisions of this Order.

10. The guardian is required to pay \$ \_\_\_\_\_ to \_\_\_\_\_, Esquire, within thirty (30) days of the date of this order, for his/her services as the attorney *ad litem* for the person with a disability. The attorney *ad litem* is hereby discharged from further service as attorney for the person with a disability .

11. The Register in Chancery of this Court is appointed agent of the guardian to accept service of process on behalf of the guardian as to any claim arising out of

the guardianship if, by reason of the guardian's absence from this State, he/she cannot be served.

12. In the event of the death of the person with a disability, the guardian shall notify the Office of Register in Chancery within ten (10) days.

13. If the person with a disability becomes Medicaid qualified, the guardian shall provide proof of that qualification and a copy of any signed trust instrument with the Register in Chancery's Office within thirty (30) days.

14. An order from the Court of Chancery is required to authorize the opening of any safe deposit box of the person with the disability and to sell or encumber any real property of the person with a disability.

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Chancellor/Vice Chancellor/Master