Pennsylvania Handbook For Guardians of Incapacitated Persons

Prepared by the Erie County Bar Association's Orphans' Court Committee

Orphans' Court Division
Sixth Judicial District of Pennsylvania
Erie County Courthouse
Erie, Pennsylvania

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INTRODUCTION

You are either considering becoming a guardian of a person who is partially or totally unable to manage his or her financial resources or unable to meet the essential needs of physical health and safety or you have already been appointed as guardian of such a person. This is a very important responsibility and may require a significant time commitment from you.

This booklet is an attempt to explain the *"ins and outs"* of Pennsylvania law as it pertains to incapacitated persons. The law sets forth in detail the definitions of incapacitated persons, the method by which guardians are appointed, the duties of a guardian, and the role of the Court in overseeing the entire process. This Handbook adopts a question-and-answer format to assist you in understanding this process in the hope that the questions which arise regarding a guardian's duties and obligations will be answered.

It is important to know that there are two classifications of guardians - guardians of the person and guardians of the estate. A guardian of the estate is responsible for handling the financial affairs of the incapacitated person. A guardian of the person is responsible for the day-to-day care of an incapacitated person such as living accommodations, meals, personal care, transportation, recreation and the like.

It is the responsibility of the Court to see that guardianships are being properly performed so that both the financial and personal needs of incapacitated persons are being met. Representatives of the court may visit you annually to verify that you are meeting those needs. Additionally, reports must be filed outlining the care given to the incapacitated person and itemizing the income received and the monies spent for that person.

Your attorney will play a key role in the guardianship process. Any questions that you might have about your responsibilities or obligations should be addressed to your attorney first. You may also want to discuss all major issues regarding your incapacitated person with the family.

TABLE OF CONTENTS

Page #

Introduction

I. THE WHO, WHAT, WHEN AND WHERE OF GUARDIANSHIPS

When should the appointment of a guardian be considered?..... 1
Who may ask that a guardian be appointed?..... 1
Who has the authority to appoint a guardian?..... 1
Who may be appointed guardian?..... 2
Are co-guardians permissible?..... 2
What if no one is available to be appointed as guardian..... 2
What can be done to assist an incapacitated person in an emergency?..... 2

II. TYPES OF GUARDIANSHIPS

What types of guardianships are available?..... 3
What may a guardian of the person do?..... 3
Are there limits to the powers of a guardian of the person?..... 3
Are there different types of guardians of the estate?..... 4
What may a guardian of the estate do?..... 4

III: BEGINNING THE GUARDIANSHIP PROCESS

How is the need for a guardian presented to the Court?..... 5
Who must be notified when the petition is filed?..... 5
What type of notice is required?..... 6
When will the hearing take place?..... 6
Where will the hearing take place?..... 6

TABLE OF CONTENTS

Page #

Who attends the hearing?..... 6

What part does the allegedly incapacitated person have?..... 7

What facts must be established at the hearing?..... 7

How is the evidence presented?..... 8

What are the possible results of the hearing?..... 8

Who pays the expenses for the appointment of a guardian?..... 8

IV: NOW THAT YOU ARE A GUARDIAN

What are the legal responsibilities of the guardian?..... 9

What is an Inventory?..... 9

What is bond?..... 9

What rights does the ward have?..... 10

What if the ward objects to a particular program?..... 10

Can the ward execute a will or revise an estate plan?..... 10

Can the ward's assets be used for the guardian?..... 10

Who can assist the guardian?..... 11

V: GUARDIAN'S DUTY TO FILE REPORTS WITH THE COURT

Must a guardian of the person report to the Court?..... 11

Must a guardian of the estate report to the Court?..... 11

What records should a guardian keep?..... 12

TABLE OF CONTENTS

Page #

When are guardian's reports due?..... 12
Where is the report filed?..... 12
What happens after the report is filed?..... 12

VI: TERMINATION OR MODIFICATION OF GUARDIANSHIPS

How long does a guardian remain in office?..... 12
What happens if the guardian dies or wants to resign?..... 13
What if there is a change in the ward's condition?..... 13
What about reports when the guardianship is no longer needed?..... 13

APPENDIX

Sample Annual Report of Guardian of the Person
Sample Annual Report of Guardian of the Estate
Sample Physician Affidavit
Sample Court Order
Sample Guardian(s) Inventory

I. THE "WHO, WHAT, WHEN AND WHERE"

The following series of questions and answers is designed to highlight the primary steps for the appointment of a guardian for an incapacitated person. The procedures described are those which apply when a guardian is needed for a person who is an adult and is unable to look after his or her own affairs.

The law presumes that a minor, who is any person under the age of 18, has a limited ability to act with respect to his or her property. Generally, the parent of a minor acts with respect to the minor's personal matters, but a guardian may be appointed in special circumstances, including the ownership of substantial property by the minor. There is a separate section of the Pennsylvania Probate, Estates, and Fiduciaries Code which addresses the circumstances and procedures for the appointment of a guardian for a minor. The information set forth hereafter is not applicable to minors but only to incapacitated persons.

QUESTION: **WHEN SHOULD THE APPOINTMENT OF A GUARDIAN FOR AN INCAPACITATED PERSON BE CONSIDERED?**

ANSWER: Whenever a person is thought to be incapacitated, it is appropriate to consider whether the appointment of a guardian is necessary or desirable. Pennsylvania law defines an incapacitated person as follows:

> *Adults whose abilities to receive and evaluate information effectively and communicate decisions in any way are impaired to such a significant extent that they are partially or totally unable to manage their financial resources or to meet essential requirements for their physical health and safety.*

QUESTION: **WHO MAY ASK THAT A GUARDIAN BE APPOINTED?**

ANSWER: Any person interested in the welfare of an incapacitated person may seek the appointment of a guardian for that person.

QUESTION: **WHO HAS AUTHORITY TO APPOINT A GUARDIAN?**

ANSWER: A guardian may be appointed only by a judge of the Court of Common Pleas of the county where the incapacitated person resides. In certain cases, the Court may appoint a guardian for an incapacitated person who lives outside the county if the person owns property in the county. A court hearing is always required.

QUESTION: **WHO MAY BE APPOINTED GUARDIAN?**

ANSWER: The Court, after a hearing, may appoint as guardian any qualified individual, a corporate fiduciary (i.e., a bank), a non-profit corporation, a guardianship support agency or a county agency. In the case of a person who is a patient in a state facility, the Court may also appoint, only as guardian of the estate, the guardian officer of the appropriate state facility.

The Court will not appoint a person or entity providing residential services for a fee (i.e., a nursing home) to the incapacitated person or any other person whose interests conflict with those of the incapacitated person except where it is clearly demonstrated that no other alternative exists. If appropriate, the Court will give preference to someone named by the incapacitated person.

QUESTION: **ARE CO-GUARDIANS PERMISSIBLE?**

ANSWER: It is possible to have the Court appoint a co-guardian of the estate or person should the Court, in its discretion, deem such an appointment advisable.

QUESTION: **WHO WILL THE COURT APPOINT AS A GUARDIAN WHEN NO PROPER PERSON IS AVAILABLE FOR APPOINTMENT?**

ANSWER: Guardianship support agencies approved by the Court may be appointed as the guardian of the estate or person, or both, when no qualified person or corporate fiduciary is willing to serve. In certain instances, those agencies may be available to assist petitioners or individual guardians. Although those receiving guardian services from guardian agencies will be charged for services they provide, the charges will be adjusted to meet the ability of the incapacitated person to pay them and guardian support agencies are required to provide their services at minimal cost.

QUESTION: **WHAT CAN BE DONE TO ASSIST AN INCAPACITATED PERSON IN AN EMERGENCY SITUATION?**

ANSWER: The Court may appoint an emergency guardian of the person or estate when it finds, upon clear and convincing evidence, that the person is incapacitated and that failure to make an emergency appointment will result in irreparable harm to the person or estate. The Court will follow the same petition and hearing requirements of a permanent guardianship except if it finds, due to the emergency, that notice and hearing are not practical.

An emergency guardianship of the person remains in effect for up to seventy-two (72) hours, but may be extended for an additional twenty (20) days. The emergency guardianship powers will be determined by the Court according to the needs of the incapacitated person. For example, an emergency guardianship may be obtained if a person is in need of immediate medical care.

An emergency guardianship of the estate remains in effect for up to thirty (30) days.

II: TYPES OF GUARDIANSHIPS

QUESTION: WHAT TYPES OF GUARDIANSHIPS ARE AVAILABLE?

ANSWER: The Court may appoint a guardian of the person or a guardian of the estate or a guardian for both person and estate. Each type of guardianship may be plenary, that is, unlimited, or limited to just those specific powers necessary to meet the ward's needs. (An individual who has been determined by the Court to be incapacitated is referred to as the "ward" of the Court and of the guardian.)

QUESTION: WHAT MUST A GUARDIAN OF THE PERSON DO?

ANSWER: A plenary guardian of the person has the authority to make all decisions necessary for the personal well being of the incapacitated person. For example, the guardian may place the ward in a nursing home or make medical decisions, including life or death choices.

A limited guardian of the person has only those powers specifically set forth in the Court's decree.

When considering a guardianship, it is important to know the current and expected needs of the incapacitated person and the present ability of that individual to meet those needs.

QUESTION: ARE THERE LIMITS TO THE POWERS OF THE GUARDIAN OF THE PERSON?

ANSWER: Yes. Unless specifically approved by Court Order, a guardian of the person cannot consent on behalf of the ward to an abortion, sterilization, psychosurgery, electric shock treatment, removal of a healthy body part, or consent to medical experimentation. A guardian may not block the marriage of the ward or refuse to consent to a divorce. Even the Court may not give a

guardian permission to admit the ward to a mental unit or to consent to the relinquishment of parental rights.

QUESTION: **ARE THERE DIFFERENT TYPES OF GUARDIANS OF THE ESTATE?**

ANSWER: Yes. There are two types of guardians of the estate.

Limited Guardian of the Estate: Upon a finding that the person is incapacitated and in need of some guardianship services, the Court will appoint a limited guardian of the estate and will specifically define the powers and authority of the Limited guardian.

Plenary Guardian of the Estate: If the Court finds that the person is totally incapacitated, the judge will appoint a Plenary guardian of the Estate. A plenary guardian manages all of the incapacitated person's assets and financial affairs.

QUESTION: **WHAT MAY A GUARDIAN OF THE ESTATE DO?**

ANSWER: The guardian of the Estate gathers the assets of the incapacitated person, preserves them and invests them in interest bearing accounts and low-risk income producing securities. The guardian of the Estate also pays the bills for the incapacitated person from the ward's funds.

Generally speaking, a plenary guardian of the estate has the authority to handle all of the financial affairs of the ward, including such things as:

(a) Buy and sell assets, investments and real estate
(b) (subject to certain limitations);
(b) Operate a business which is part of the estate;
(c) Incorporate a business which is part of the estate;
(d) Vote any stocks which are held by the estate;
(e) Accept a deed in lieu of foreclosure;
(f) Compromise or settle controversies (with Court approval);
(g) Purchase liability insurance;
(h) Lease property of the estate, collect income and rents; and
(i) Make reasonable expenditures to preserve property of the estate;

A limited guardian of the estate has only those powers specifically set forth in the Court's decree.

III: BEGINNING THE GUARDIANSHIP PROCESS

QUESTION: **HOW IS THE NEED FOR A GUARDIAN PRESENTED TO THE COURT?**

ANSWER: A petition must be filed with the Court of Common Pleas. In most cases, the petition is prepared by an attorney hired by the person who asks for the appointment of a guardian. The petition must contain certain information. The following is a summary of that information:

(a) The name, age, residence and post office address of the alleged incapacitated person;
(b) The names and addresses of the husband or wife, parents and adult heirs of the alleged incapacitated person;
(c) The name and address of the person or institution providing residential services to the alleged incapacitated person;
(d) The names and addresses of other service providers;
(e) The name and address of the person or entity whom the petitioner asks to be appointed guardian;
(f) A statement that the proposed guardian has no interest opposed to the alleged incapacitated person;
(g) The reason why guardianship is requested;
(h) A description of the physical and mental limitations of the alleged incapacitated person;
(i) The steps taken to find other alternatives;
(j) The specific areas of incapacity over which it is requested that the guardian be given authority;
(k) The qualifications of the proposed guardian.

QUESTION: **WHO MUST BE NOTIFIED WHEN THE PETITION IS FILED WITH THE COURT?**

ANSWER:
(a) The alleged incapacitated person for whom the appointment of guardian is requested.
(b) All persons within Pennsylvania who are 18 years old or older and who would share in the property of the alleged incapacitated person if that person died without a will.
(c) All persons or institutions providing residential services to the alleged incapacitated person.
(d) Such other persons as the Court may direct.

CAUTION: check local court rules and procedures for proper service methods.

QUESTION: **WHAT TYPE OF NOTICE IS REQUIRED?**

ANSWER: Written notice must be given in large type and in simple language explaining the purpose and seriousness of the guardianship hearing and the rights that can be lost as a result. The date, time and place of the hearing on the petition and an explanation of all rights, including the right to a free attorney must be stated. The Court will provide the notice. This notice must be served personally on the alleged incapacitated person with a copy of the Petition, and it may also be served upon other persons in any manner the Court directs.

QUESTION: **WHEN WILL THE HEARING TAKE PLACE?**

ANSWER: The time and the place of the hearing will be assigned by the court when the petition is presented. The hearing must be no earlier than twenty (20) days after the petition is served upon the alleged incapacitated person.

In an emergency, the Court may appoint a guardian of the person, without notice, for up to seventy-two (72) hours and may continue that appointment for up to twenty (20) days after expiration of the initial emergency order. An emergency guardian of the estate may be appointed for up to thirty (30) days.

QUESTION: **WHERE WILL THE HEARING TAKE PLACE?**

ANSWER: In most instances, the hearing will take place in the courtroom of the judge who will hear the petition at the County courthouse. The law permits the hearing to be conducted at the residence of the person who is alleged to be incapacitated, but such hearings are relatively rare and a specific reason would have to be given.

QUESTION: **WHO ATTENDS THE HEARING?**

ANSWER:

(a) The petitioner, as the person initiating the guardianship proceeding, is generally expected to attend. In certain cases, the petitioner need not attend if the petitioner is not expected to offer any testimony.

(b) The alleged incapacitated person is required to be present at the hearing unless the Court is satisfied that the physical or mental condition of the alleged incapacitated person would be harmed by being present, or if it is impossible because the person is not in Pennsylvania. If the incapacitated person cannot appear at the hearing, the testimony, affidavit, or deposition of a physician or licensed psychologist must be presented with a statement indicating

that it would be against sound medical advice for the incapacitated person to attend.

(c) The proposed guardian.
(d) The attorney for the petitioner.
(e) Witnesses with testimony or other evidence to offer.
(f) The attorney for the alleged incapacitated person.
(g) Any interested person to whom notice of the proceeding was given and who desires to be present.

A person alleged to be incapacitated or his or her attorney may request that the hearing be closed to the public. In that event, only persons entitled to present evidence such as the petitioner, the alleged incapacitated person and their counsel would be present at the hearing with the judge and the court officers.

QUESTION: WHAT PART DOES THE ALLEGED INCAPACITATED PERSON HAVE IN THE HEARING?

ANSWER: Allegedly incapacitated persons have the right to present evidence concerning their capacity. They have the right to be represented by a lawyer and to have court-appointed counsel if they cannot afford their own. Alleged incapacitated persons have the right to contest the averments of incapacity or the appointment of a specific guardian.
They have the right to seek the appointment of a physician by the Court to determine their capacity. Alleged incapacitated persons have the right to cross-examine witnesses and to demand that the facts be heard by a Jury.

QUESTION: WHAT FACTS MUST BE ESTABLISHED AT THE HEARING?

ANSWER: The Court will consider evidence at the hearing concerning :

(a) The nature of any condition or disability which limits the individual's ability to make and express decisions.
(b) The extent of the individual's ability to make and express decisions.
(c) The need for guardianship services, if any, in light of the availability of family, friends and other support services to assist the individual in making decisions and in light of the existence, if any, of advance directives such as durable powers of attorney or trusts.
(d) The type of guardian, limited or plenary, of the person or estate, needed, based on the nature of any condition or disability or ability to make and express decisions.
(e) The length of time the guardianship may last.

QUESTION: **HOW IS THE EVIDENCE PRESENTED?**

ANSWER: Generally, evidence is offered under oath and in the courtroom.

To establish incapacity, the petitioner must present testimony in person or by deposition from individuals qualified by training and experience in evaluating individuals with an incapacity of the type alleged by the petitioner. The testimony should establish the nature and extent of the alleged incapacities and disabilities and the person's mental, emotional and physical condition, adaptive behavior and social skills.

The petitioner must also present evidence regarding the services being utilized to meet essential requirements for the alleged incapacitated person's physical health and safety; the services being utilized to manage the person's financial resources or to develop or regain the person's abilities; evidence regarding the types of assistance required by the person and why less restrictive alternatives would be inappropriate; and evidence regarding the probability that the person's incapacities may significantly lessen or change.

QUESTION: **WHAT CAN THE COURT DECIDE?**

ANSWER:

(a) The Court can determine that the proceeding has not been instituted to aid or benefit the alleged incapacitated person or that it does not have jurisdiction over the petition in question. In both these instances, the proceedings would be dismissed.

(b) The Court can determine that the alleged incapacitated person is able to receive and evaluate information effectively, is able to communicate decisions and that a guardian is not necessary.

(c) When the Court is satisfied upon the presentation of clear and convincing evidence that the person about whom the petition has been filed is incapacitated, the Court will appoint a guardian who may be (1) a limited or plenary guardian of the person; (2) a limited or plenary guardian of the estate; or some combination of both.

QUESTION: **WHO PAYS THE EXPENSES ASSOCIATED WITH THE APPOINTMENT OF A GUARDIAN?**

ANSWER: Generally, if the alleged incapacitated person has property sufficient to pay the expenses of the proceeding, those expenses would be paid from the incapacitated person's property by the guardian after appointment. If the petitioner was unsuccessful in securing the appointment of a guardian, the petitioner pays the expenses.

In those instances where the alleged incapacitated person does not have sufficient assets to pay the expenses, the petitioner may request the Court to excuse the payment of filing fees and may also ask the Court to appoint a physician to review the alleged incapacitated person's capacity. The Court may order the county to pay for an attorney or evaluation expenses when an alleged incapacitated person cannot pay.

IV: NOW THAT YOU ARE A GUARDIAN

QUESTION: **WHAT ARE THE LEGAL RESPONSIBILITIES OF GUARDIANS?**

ANSWER: All guardians have a legal duty to protect the rights and property of the incapacitated person. A guardian may be held personally liable by the Court for mismanagement of the ward's affairs. This is called a ***"fiduciary duty."***

QUESTION: **WHAT IS AN INVENTORY?**

ANSWER: Within ninety (90) days of appointment, the guardian of the estate, whether plenary or limited, must file an Inventory with the Court itemizing the financial assets of the ward. Subject to any limits set by the court, the guardian must take control of those assets and open a separate account with a financial institution in the name of the guardian, on behalf of the ward.

The Inventory is an itemized list of all real and personal property owned by the ward, and the value of the property. This includes personal property, vehicles, bank accounts, and other assets. The inventory must also include money which the ward may expect to acquire and a statement of his or her income.

QUESTION: **WHAT IS A BOND?**

ANSWER: At the hearing, the court will determine if it will be necessary for the guardian to file a bond and, if so, its amount. The premium for the bond can be paid from the assets of the ward.

A bond is a type of insurance policy that guarantees the guardian's faithful performance of all duties. If the guardian misappropriates property of the ward's estate and is unable to repay, the bonding company will pay the value of the property to the incapacitated person's estate. The bonding company may then have a legal claim against the guardian for the value of the property which was taken.

QUESTION: **WHAT RIGHTS DOES THE WARD HAVE?**

ANSWER: To the extent of their ability, incapacitated persons have the right to participate in decisions affecting their quality of life. The guardian must allow the ward to take an active role in planning support services and the ward has the right to petition the Court for a review of the guardianship at any time.

QUESTION: **WHAT DOES A GUARDIAN DO IF THE WARD OBJECTS TO A PARTICULAR PROGRAM?**

ANSWER: The guardian must report to the Court if the incapacitated person has a known objection to a specific act or omission. The Court can then determine if the guardian is correct in the assessment of the needs of the ward.

QUESTION: **CAN THE WARD EXECUTE A WILL OR REVISE AN ESTATE PLAN AFTER BEING DETERMINED TO BE INCAPACITATED?**

ANSWER: No. An incapacitated person cannot execute a Will or revise his estate plan during any period in which he has been determined to be incapacitated by the Court.

However, the Court, upon Petition and with notice to all interested parties, may permit incapacitated persons, through their guardians, to: make gifts, disclaim interests in property, exercise powers of appointments, enter into contracts, create trusts, change beneficiaries on life insurance policies, make certain elections relative to inheriting property, change domicile and make other estate planning type arrangements.

QUESTION: **CAN THE WARD'S ASSETS BE USED FOR THE GUARDIAN'S OWN PURPOSES?**

ANSWER: Absolutely not. The guardian must preserve the assets of the incapacitated person and must make reasonable expenditures of those assets only for the benefit of the ward. If a guardian of the estate misappropriates the ward's property for his own benefit, the Court will require the guardian to pay the property back to the estate of the incapacitated person and may appoint a new guardian of the Estate at that time. Misappropriation of the ward's property may also result in criminal charges being brought against a guardian.

However, the guardian of the estate may be entitled to reimbursement for out-of-pocket costs which are incurred as a result of the guardianship. The guardian should also apply for court approval before taking a fee for services.

QUESTION: **WHO CAN ASSIST THE GUARDIAN?**

ANSWER: An attorney can assist guardians in filing reports, providing information on permissible investments and otherwise fulfilling their duties. Guardianship support agencies may also be available to assist guardians in these areas.

V: GUARDIAN'S DUTY TO FILE ANNUAL REPORTS

QUESTION: **MUST THE GUARDIAN OF THE PERSON REPORT TO THE COURT?**

ANSWER: Yes. At least once within the first twelve months of the appointment and annually thereafter, the guardian of the person, whether plenary or limited, must file a report with the Court outlining the guardian's performance. The guardian must state the current residence of the ward and the type of placement. The guardian must also indicate the ward's health and mental condition, living arrangements, and support program. The guardian must list the number of visits with the ward, the length of each visit, and give an opinion as to whether the guardianship should be continued. A final report must be filed within sixty (60) days after the death of the incapacitated person.

QUESTION: **MUST THE GUARDIAN OF THE ESTATE REPORT TO THE COURT?**

ANSWER: Yes. In addition to the Inventory which must be filed within ninety (90) days of appointment, the guardian of the estate must also file annual reports. The report must specify the income received on behalf of the ward by the guardian, and the expenditures made.

The inventory should include an appraisement of personal. property; a statement of real estate owned by the ward and a statement of any property which the guardian expects to acquire thereafter.

Thereafter, at least once within the first twelve months of the appointment and annually thereafter, the guardian of the estate must file a report with the Court specifying the income received on behalf of the ward by the guardian and the expenditures made by the guardian on behalf of the ward. The Court may require that the report be filed more frequently. A final report must be filed within sixty (60) days after the death of the ward.

The annual report should include the following information:

(a) Current principal and how it is invested;
(b) Current income;
(c) Expenditures of Principal and Income since the last report; and
(d) Needs of the incapacitated person for which the guardian has provided since the last report.

QUESTION: WHAT RECORDS SHOULD A GUARDIAN KEEP?

ANSWER: All receipts for expenditures paid on behalf of the incapacitated person should be kept until the annual report is approved by the Court. Bank statements and information regarding assets, investments, and insurance should also be kept until the annual report is approved by the Court.

QUESTION: WHEN ARE REPORTS DUE?

ANSWER: Generally, the annual reports are due one year from the date of the guardian's appointment. and every year thereafter. The exact date will be specified in the Court's order .

QUESTION: WHERE IS THE REPORT FILED?

ANSWER: The reports should be filed with the Clerk of the Orphans' Court.

QUESTION: WHAT HAPPENS AFTER THE REPORT IS FILED?

ANSWER: The report will be reviewed and placed in the Court's file. A Court representative may contact you when the report is approved or if additional information is required.

VI: TERMINATION OR MODIFICATION OF GUARDIANSHIPS

QUESTION: HOW LONG DOES A GUARDIAN REMAIN IN OFFICE?

ANSWER: Generally, a guardian's appointment is permanent. Absent a circumstance where the condition of the incapacitated person is subject to change by reason of elapsed time, an appointment will be for an indefinite period ending upon the death of the incapacitated person.

Guardianships are terminated if the ward regains the ability to make rational decisions; guardianships may be modified in scope if the ward regains some of that capacity.

If a guardian is unable to carry out the duties and responsibilities of the guardianship, the guardian should notify the Court in writing and the Court will appoint a new guardian.

QUESTION: WHAT HAPPENS IF THE GUARDIAN DIES OR WANTS TO RESIGN?

ANSWER: The Court, after notice to the parties, may appoint a succeeding guardian to fill a vacancy in the guardianship.

QUESTION: WHAT IF THERE IS A CHANGE IN THE WARD'S CONDITION?

ANSWER: In the case of a change of condition, the Court will hold a hearing to determine the current condition of the ward. If individuals are no longer incapacitated, the Court will find that they have regained their capacity and will terminate the guardianship. On the other hand, if there had been a limited guardianship initially and the ward has become worse in condition, the Court may increase the powers of the guardianship.

QUESTION: WHAT ABOUT REPORTS WHERE THE GUARDIANSHIP IS NO LONGER NEEDED, AS IN THE DEATH OF THE WARD, OR THE REGAINING OF CAPACITY?

ANSWER: The guardian, on completion of duties, is required to prepare an accounting for all activities by the guardian during the time of the service from the last filed account to the date of the ward's death or court order finding a resumption of capacity.

An Account and Audit is prepared for the Court's review reflecting the original assets of the ward, the income that was earned for the guardianship, the expenses that were paid on behalf of the ward, the resulting funds available for distribution, and a suggested schedule of distribution for the Court's review.

If the ward has died, notice and a copy of the Account are given to all of the heirs of the ward so that they may review the document and submit any questions they may have about the administration of the ward's estate to the Court. If the ward has regained capacity, notice and a copy of the Account are given to the ward for the same reason.

After review of the account by interested parties and the Court, if all is satisfactory, the Court approves the account and the guardian is discharged.

APPENDIX

Sample Annual Report of Guardian of the Person

Sample Annual Report of Guardian of the Estate

Sample Physician Affidavit

Sample Court Order

Sample Guardian(s) Inventory

ANNUAL REPORT OF
GUARDIAN OF THE PERSON

COURT OF COMMON PLEAS OF

_____ COUNTY, PENNSYLVANIA

ORPHANS' COURT DIVISION

Estate of _____, an Incapacitated Person

No. _____

I. INTRODUCTION:

_____, was appointed

☐ **Plenary** ☐ **Limited** Guardian of the person by Decree of_____, J.,

dated _____.

☐ A. This is the **Annual Report** for the period from _____, _____

to _____, _____ (the "Report Period"); *or*

☐ B. This is the **Final Report** for the period from _____, _____

to _____, _____ (the "Report Period"), and is filed

for the following reason:

1. The death of the Incapacitated Person. Date of Death: _____
2. The Guardianship was terminated by the Court by Decree of

   _____ J., dated _____.

For a Final Report, omit Sections II through IV.

Estate of _____, an Incapacitated Person

II. PERSONAL DATA

Age of the Incapacitated Person: _____ Date of Birth: _____

III. LIVING ARRANGEMENTS

A. Current address of the Incapacitated Person:

B. The Incapacitated Person's residence is:

☐ own home/apartment

☐ nursing home

☐ boarding home/personal care home

☐ Guardian's home/apartment

☐ hospital or medical facility

☐ relative's home (name, relationship and address)

☐ other:

C. The Incapacitated Person has been in the present residence since _____ _____. If the Incapacitated Person has moved within the past year, state prior residence and reason(s) for move:

Estate of _____, an Incapacitated Person

C. Name and address of the Incapacitated Person's primary caregiver:

IV. MEDICAL INFORMATION

A. The major medical or mental problems of the Incapacitated Person are as follows:

B. Specify what, if any, social, medical, psychological and support services the Incapacitated Person is receiving:

V. GUARDIAN'S OPINION

A. It is the opinion of the Guardian of the Person that the guardianship should:

☐ continue

☐ be modified

☐ be terminated

Estate of _____, an Incapacitated Person

The reasons for the foregoing opinion are:

B. During the past year, the Guardian of the Person has visited the Incapacitated Person _____ times, with the average visit lasting _____hours, _____ minutes.

The report of a social service organization employed by the Guardian to oversee and coordinate the care of the Incapacitated Person for the period covered by this Report may be attached to supplement this Report.

I verify that the foregoing information is correct to the best of my knowledge, information and belief; and that this Verification is subject to the penalties of 18 Pa. C.S.A. § 4904 relative to unsworn falsification to authorities.

_____
Date

_____
Signature of guardian of the Person

_____
Name of Guardian of the Person (type or print)

_____
Address

_____
City, State, Zip

_____
Telephone

ANNUAL REPORT OF GUARDIAN OF THE ESTATE

COURT OF COMMON PLEAS OF

_____ COUNTY, PENNSYLVANIA

ORPHANS' COURT DIVISION

Estate of _____, an Incapacitated Person

No. _____

I. INTRODUCTION:

_____, was appointed

☐ **Plenary** ☐ **Limited** Guardian of the Estate by Decree of_____, J.,

dated _____.

☐ A. This is the **Annual Report** for the period from _____, _____

to _____, _____ (the "Report Period"); *or*

☐ B. This is the **Final Report** for the period from _____, _____

to _____, _____ (the "Report Period"), and is filed

for the following reason:

1. The death of the Incapacitated Person. Date of Death: _____

   Name of Personal Representative _____

2. The Guardianship was terminated by the Court by Decree of _____ J., dated _____.

Estate of _____, an Incapacitated Person

II. SUMMARY

A. State the value of the estate reported on the Inventory $ _____

B. State the value(s) of principal assets at the beginning of the Report Period. (Same as Inventory if first Report, otherwise, ending balance from last report.) $ _____

C. What is the total amount of income earned during The report period? $ _____

D. What is the total amount of income and principal spent for all purposes during the Report Period? $ _____

E. What are the balances remaining at the end of the Report Period?

1. Principal $ _____
2. Income $ _____
3. Total of Principal $ _____

III. ADDITIONAL INFORMATION

(If more space is needed, please attach additional pages.)

A. Principal

1. How is the oricipal balance listed above currently Invested? (Please specify, e.g., real estate, Certificates of deposit, restricted bank accounts, etc:)

_____

2. Have there been any expenditures from the principle during the report period? ..... ☐ **Yes** ☐ **No**

   If yes:

   a. Have all expenditures from the principle been for the sole benefit of the Incapacitated Person? ..... ☐**Yes** ☐ **No**

b. List purpose and amount of expenditures:

_____ $ _____

_____ $ _____

_____ $ _____

_____ $ _____

c. Was Court approval received prior to expending the principal? ☐ **Yes** ☐ **No**

3. Were additional principal assets received during the Report Period which were not included in the Inventory or a prior Report filed for the Estate? ☐ **Yes** ☐ **No**

If yes:

a. Was Court approval requested prior to Receiving the additional principal? ..... ☐ **Yes** ☐ **No**

b. State the sources and amounts of the Additional principal received:

_____ $ _____

_____ $ _____

_____ $ _____

_____ $ _____

B. Income

1. State sources and amounts of income received during the Report Period (*e.g.* Social Security , pension, rents, etc.):

_____ $ _____

_____ $ _____

_____ $ _____

_____ $ _____

_____ $ _____

Total income received during Report Period: $ _____

2. How is income currently invested? (Please Specify, *e.g.* restricted bank accounts, client Care account, etc.)

C. Expenses for care and Maintenance

Specify what expenditures were made from the principal and Income for the care and maintenance of the Incapacitated Person (*e.g.* clothing, nursing home, medicine, support, etc.)

D. Other Expenditures

Specify what other expenditures were made during the Report Period. (Do not include any items stated in response to Question C above.)

E. Guardian's Commissions

List amounts of compensation paid as Guardian's commission and state how amount was determined:

Amount	Method of Determination	Court Approval Obtained
_____	_____	☐ **Yes** ☐ **No**
_____	_____	☐ **Yes** ☐ **No**

Estate of _____, an Incapacitated Person

F. Counsel Fee

List amounts paid as counsel fee, and indicate whether Court approval was obtained.

Amount	*Court Approval Obtained*
_____	☐ **Yes** ☐ **No**
_____	☐ **Yes** ☐ **No**

I verify that the foregoing information is correct to the best of my knowledge, information and belief; and that this Verification is subject to the penalties of 18 Pa. C.S.A. § 4904 relative to unsworn falsification to authorities.

_____
Date

_____
Signature of Guardian of the Estate

_____
Name of Guardian of the Estate (type or print)

_____
Addresss

_____
City, State, Zip

_____
Telephone

IN RE	: IN THE COURT OF COMMON PLEAS
	:
	: OF ERIE COUNTY, PENNSYLVANIA
_____,	: Orphans' Court Division
	:
An Alleged Incapacitated Person	: No.

AFFIDAVIT OF PHYSICIAN
PURSUANT TO ERIE COUNTY ORPHANS' COURT RULE 14.2.1(c)

The undersigned, a physician licensed to practice medicine in Pennsylvania does hereby swear or affirm that he/she has examined the following individual and that the information below is accurate and complete to the best of his/her knowledge information and belief:

1. Identification of the Alleged Incapacitated Person

   a. Name _____

   b. Address _____

2. Reason for Evaluation: Plenary Guardianship of the Person and/or Estate.

3. Affidavit Completed by:

   a. Name _____

   b. Office Address _____

4. Are you currently licensed in Pennsylvania? ____ Yes ____ No

5. Are you currently licensed in any other states? ____ Yes ____ No

   If so, where? _____

6. Briefly describe your educational background, professional degrees, Board Certification, etc: _____

_____

7. Which hospitals are you affiliated with: _____

_____

8. Please list the date(s) upon which you've examined, evaluated or treated the Alleged Incapacitated Person within the past six (6) months: _____

_____

9. Please provide your diagnosis of the patient's current condition: _____

_____

10. Please provide your prognosis for the patient's condition and recovery: _____

_____

11. Is the patient able to feed him/herself? ____ Yes ____ No

12. Is the patient able to dress him/herself? ____ Yes ____ No

13. Is the patient able to walk unassisted? ____ Yes ____ No

14. Is the patient's ability to receive and evaluate information and to make and communicate decisions significantly impaired? ____ Yes ____ No

15. Is the patient presently able to manage her finances or to meet essential requirements for her physical health and safety. ____ Yes ____ No

16. Is the patient presently able to make and communicate decisions relating to legal, financial or other matters? ____ Yes ____ No

17. Would it be medically advisable for the patient to be transported to attend the Guardianship hearing at the Courthouse? ____ Yes ____ No

I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.

Date: _____

_____
Signature of physician

_____
Printed name of physician

Sworn to and subscribed
before me this _____day
of _____, 20____.

_____

IN RE:

_____,

An Alleged Incapacitated Person

IN THE COURT OF COMMON PLEAS
OF ERIE COUNTY, PENNSYLVANIA

Orphans' Court Division

No.

AFFIDAVIT TO EXCUSE ALLEGED INCAPACITATED PERSON FROM COURT HEARING PURSUANT TO ERIE COUNTY ORPHANS' COURT RULE 14.2.1(d)(1)

I, _____, am a licensed physician (psychologist). I have been licensed to practice in the Commonwealth of Pennsylvania. I do hereby swear or affirm that within a reasonable degree of medical certainty I believe that the above referred to alleged incapacitated person would not be furthered by his/her attendance at the Court hearing regarding his/her incapacity at the Erie County Court House because he/she is incapable of comprehending the nature of the proceedings or participating in any meaningful way in the proceedings. In my professional opinion his/her physical or mental condition would be harmed by the transportation to the Court Room and by his/her attendance at the Court hearing.

I have based my opinion on a personal examination of the individual and my records pertaining to his/her condition.

I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

_____
Signature of physician or licensed psychologist

Sworn to and subscribed
before me this _____day
of _____, 20____.

_____

In the Matter of the Person And Estate Of	:	IN THE COURT OF COMMON PLEAS OF ERIE COUNTY, PENNSYLVANIA
	:	ORPHANS' COURT DIVISION
_____, an Alleged Incapacitated Person	:	FILE NO. _____

ORDER

AND NOW, TO-WIT, this _____ day of _____, 20 _____, upon consideration of the Petition to Adjudicate An Incapacitated Person And For Appointment Of A Plenary Guardian Of The Person And Estate Of _____, and hearing thereon, it is hereby **ORDERED, ADJUDGED and DECREED** that _____ is adjudicated an incapacitated person and _____ is appointed Plenary Guardian of the Person and Estate.

The Guardian shall serve without bond. An inventory is to be filed within ninety (90) days. The first annual report shall be due on _____and each year thereafter.

BY THE COURT:

_____

Judge

GUARDIAN'S INVENTORY

COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA

ORPHANS' COURT DIVISION

Estate of _____, } ☐ an Incapacitated Person ☐ a Minor

No._____

1. **Real Estate: (Location, by whom occupied and rental terms, if applicable)**	**Estimated Value:**
Sub-Total for Real Estate:	

2. **Personal Property:**	**Estimated Value:**

3. **Jointly Held Property:** *(Set forth real and personal property owned by the Incapacitated Person JOINTLY with any other person(s). State whether held as tenants by the entireties; if not, whether the right of survivorship exists.)*	**Estimated Value:**
Jointly Held Property	

Estate of _____, } ☐ an Incapacitated Person / ☐ a Minor

4. Anticipated Assets: **Estimated Value:**

(Set forth property of any kind expected to be acquired hereafter, together with anticipated date of acquisition.)

Property	*Anticipated Date of Acquisition*	

Sub-Total for Personal Estate: _____

(Attach additional sheets if necessary)

TOTAL OF ITEMS 1, 2, 3, and 4: . . . . . _____

Commonwealth of Pennsylvania :
: ss.
County of _____ :

_____, says that the foregoing is a full,
Guardian
true and complete Inventory of the Estate of _____,

the aforesaid Incapacitated Person or Minor; and that all of the information set forth herein is

true and correct to the best of the Guardian's knowledge and belief.

I verify that the statements made in this)
Inventory are true and correct. I under-)
stand that false statements herein are)
made subject to the penalties of)
18 Pa.C.S. § 4904 relating to unsworn)
falsification to authorities.)

_____
Guardian

Attorney for Guardian: _____

Supreme Court I.D. No.: _____

Address: _____

_____

Telephone: _____