

FORMS FOR GUARDIANSHIP OF AN INCAPACITATED INDIVIDUAL

Forms must be filled out completely. All **ORIGINAL** forms get mailed to the Court; keep copies for your own record.

1. **What You Need to Know Before Filing a Petition** - this explains the duties and other requirements of guardianship of a legally incapacitated individual.
2. **Petition for Appointment of Guardian of an Incapacitated Individual with instructions for completing**- In order to begin the guardianship process you will need to deliver (by mail or in person) the completed petition to the Court along with your payment of \$175.00 payable to Ottawa County Probate Court. If you mail the paperwork, please give the Court two-three days to receive and process your petition.
3. **Notice to Alleged Incapacitated Individual on Petition to Appoint Guardian**- This form must be served upon the individual who is the subject of the petition along with a copy of the petition when it is filed with the Court; this informs that person of what is going on and their rights.
4. **Notice of Hearing**- Call 616-786-4110 to obtain a date and time for your Court hearing. Complete as much of the form as you are able, the rest of the information will be given to you by the Court when you call (date/time/file number).
5. **Proof of Service**- This form tells the Judge that you sent copies of the Petition to Appoint Guardian and Notice of Hearing to all interested parties. Interested parties include but may not be limited to the following:
 - a. Spouse and children of the ward (if no spouse or children, then the heirs at law).
 - b. If known, any person named power of attorney or attorney in fact.
 - c. The nominated guardian or current guardian if already appointed.
 - d. Any government agency paying benefits in care of the individual for which an application may be pending.

Complete the proof of service by filling in the names and addresses of each person served under the appropriate heading; by regular mail or in person and include the date the service was made. **The Court requires that all interested persons be served the required documents no less than 14 days prior to the scheduled hearing if serving by regular mail and no less than 7 days before the scheduled hearing if serving by hand (in person).** Don't forget to **sign and date** the bottom of the form.

*****STOP PLEASE READ*****

You must make every effort to obtain addresses for the people you are required to serve, if you do not know an address you must do the following:

- ✓ Check the phone book
- ✓ Complete an internet search, if possible
- ✓ Contact the Friend of the Court office for a last known address they may have on file
- ✓ Contact any known family members of the person in order to obtain a last known address

Please make all necessary copies of your petition and notice of hearing (including one for yourself and one for each interested party) *ALL ORIGINAL DOCUMENTS NEED TO BE MAILED OR PERSONALLY DELIVERED TO THE COURT

6. **Acceptance of Appointment**- This is signed by the proposed guardian(s); this lets the Court know that the person accepts the guardianship and its responsibilities.

COURT STAFF IS PROHIBITED BY LAW FROM GIVING LEGAL ADVICE, IF YOU HAVE ANY LEGAL QUESTIONS DURING THIS PROCESS PLEASE CONTACT AN ATTORNEY.

Ottawa County Probate Court
12120 Fillmore Street
West Olive MI 49460

Hours Mon-Fri 8:00 AM- 5:00 PM
Phone: 616-786-4110
Website: www.miottawa.org

Options You Should Know Before Filing a Petition for a Full Adult Guardianship

Sometimes adults need help taking care of themselves and making decisions. Michigan law allows a judge to appoint a "guardian" of an adult in certain situations where help is needed.

A court appointed guardian can make decisions for the person who needs help. The judge will determine what decisions the guardian can make.

A guardian might be able to decide:

- where the person lives
- what medical care the person should receive
- who will care for the person every day

There are many things you should think about before you file a petition. If at all possible, the adult who needs help should talk to a lawyer to help figure out what is best for him or her.

There are options other than a full guardianship. Not all the options will work for everyone. Some of them will only work if the person is still able to make decisions. Some depend on what help the person may need. A few of these options other than a full guardianship are briefly described here.

Conservator

A conservator is appointed by a judge to take care of another adult's finances and assets. A conservator is not expected to use his or her own money to support the adult needing assistance. The court can also limit a conservator's authority to certain kinds of decisions for the adult. The conservator:

- manages assets
- pays the bills
- makes general financial decisions for the person

Durable Power of Attorney

An adult can choose to appoint someone to take care of his or her finances through a financial "durable power of attorney." **The adult** must be of sound mind to sign this document. He or she can:

- limit when this document is effective
- limit what the appointed person can do

Because a durable power of attorney can be complicated and can give away a great deal of power, it is best that the adult seek the help of a lawyer to prepare it.

Health Care Power of Attorney

You will sometimes hear this called a "patient advocate designation" or a "durable power of attorney for health care." It is a document an adult can sign that gives someone else the authority to make care decisions when he or she is not capable. Those decisions could be about:

- health care
- mental health treatment
- living arrangements

The adult can give the "agent" or "patient advocate" as much or as little authority as the person wants. This can include authority to withhold or withdraw life support services. **The adult** must be of sound mind to sign this document and must decide he or she wants it.

Because this document can be complicated and can give away a great deal of power, it is best that the adult seek the help of a lawyer to prepare it.

(See Second Page)

Do Not Resuscitate Order

If the adult is an inpatient at a hospital, his or her wishes regarding resuscitation should be discussed with his or her physician as soon as possible.

If the adult is not in a hospital, he or she can sign a document that will refuse CPR (cardiopulmonary resuscitation). This document is known as a "Do Not Resuscitate Order" or "DNR." **The adult** must be of sound mind to sign this document.

Limited Guardian

A limited guardian is appointed by a judge to make limited decisions in certain instances. For example, the judge may say that the guardian can only make decisions about living arrangements. A limited guardianship can give a person some independence while providing the specific help needed.

Filing a Petition for Full Adult Guardianship

To ask that a guardian be appointed for an adult, a *Petition for Appointment of Guardian of Incapacitated Individual* (PC 625) must be filed with the court. A judge will appoint a guardian only if the condition of the adult fits specific requirements. The specific conditions that must be met are found in form PC 625, which is available at your local probate court or at www.courts.mi.gov/scao/forms.

STATE OF MICHIGAN PROBATE COURT COUNTY OF	PETITION FOR APPOINTMENT OF GUARDIAN OF INCAPACITATED INDIVIDUAL	FILE NO.
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A In the matter of _____ **XXX-XX-**
Alleged incapacitated individual Last four digits of SSN

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 _____, _____ State
City, village, or township County
 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, adult 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

 City State Zip Telephone no. , who has priority as
 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 _____
 Attorney signature Date

 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

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. Presumptive heirs includes minor children, if any. 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.

**STATE OF MICHIGAN
PROBATE COURT
COUNTY OF**

**NOTICE OF RIGHTS
TO ALLEGED INCAPACITATED
INDIVIDUAL**

FILE NO.

Court address

Court telephone no.

Notice that a Petition for a Guardian has been Filed: A petition has been filed in this court asking that a guardian be appointed to help you make personal decisions for you that you now make for yourself.

- If a guardian is appointed for you, the guardian will make decisions for you, such as what medical care you receive and where you live.
- A guardian will be responsible to get services for you that will help you return to managing your own affairs as soon as possible.
- This notice states all of your rights as to this matter. A guardian ad litem may be appointed by the court to more fully explain these rights to you. A guardian ad litem will give you this notice and do the following.
 - The guardian ad litem must visit you in person.
 - The guardian ad litem must explain the nature, purpose, and legal effects of the appointment of a guardian.
 - The guardian ad litem must inform you that a guardian may have the power to execute a do-not-resuscitate order or physician orders for scope of treatment (POST) form on your behalf and to place a do-not-resuscitate identification bracelet on you unless you object. The guardian ad litem must also inform you that you may ask the court to review a do-not-resuscitate order or physician orders for scope of treatment (POST) form that has been executed on your behalf.
 - The guardian ad litem must explain your rights about the guardianship hearing.
 - The guardian ad litem must inform you that you can object to the petition, request limits on the guardian's powers, object to a particular person being appointed as your guardian, come to the hearing, and be represented by an attorney and, if you cannot afford an attorney, to have one appointed at public expense.

You have certain rights before and at the court hearing on the petition to appoint a guardian for you.

- You have the right to have the guardianship case started and conducted where you reside or are present, or if you have been admitted to an institution by a court, in the county in which that court is located.
- You have the right to file a petition on your own behalf to have a guardian appointed for you.
- You have the right to be represented by an attorney. If you cannot afford an attorney, you can ask the court to appoint one for you at public expense.
- You have the right to have a guardian ad litem appointed to represent you if you are not represented by an attorney.
- You have the right to get an independent evaluation of your condition at your own expense. If you cannot afford to pay for the evaluation, the court will approve reasonable costs at public expense.
- You have the right to be present at the hearing. If you wish to be present at the hearing, all practical steps must be taken to ensure your presence, including moving the site of the hearing.
- You have the right to see and hear all the evidence presented during the hearing.

See other side for more rights

- You have the right to present evidence and cross-examine witnesses at the hearing.
- You have the right to a trial by jury.
- You have the right to request that the hearing be closed to the public.
- You have the right to be personally visited by the guardian ad litem, if one is appointed.
- You have the right to be informed of the name of each person asking to become your guardian. If a guardian ad litem is appointed, you have the right to be informed of these names by the guardian ad litem.
- You have the right to be given written notice of the nature, purpose, and legal effects of the appointment of a guardian.
- You have the right to choose the guardian you would like the court to consider appointing, if that person is suitable and willing to serve.
- You have the right to have your incapacity and the need for a guardian proven by clear and convincing evidence.

Rights When a Guardian is Appointed: You have certain rights after a guardian is appointed.

- You have the right to have the guardian's powers and the time period of the guardianship be limited to only the amount and time necessary.
- You have the right to have a guardianship that encourages the development of your maximum self-reliance and independence.
- You have the right to prevent a guardian from having powers that are already held by a valid patient advocate.
- You have the right to have a periodic review of your guardianship by the court. You have the right to a hearing and to have an attorney appointed if issues are discovered during the review.
- You have the right to send an informal letter to the judge asking that your guardianship be modified or ended.
- You have the right to have a hearing within 28 days of requesting a review, modification, or termination of your guardianship.
- If a petition to modify or terminate your guardianship is filed, you have the same rights as those on the petition to appoint a guardian, including appointment of a guardian ad litem.
- You have the right to get personal notice of a petition to appoint or remove a guardian.
- You have the right to consult with the guardian about major decisions affecting you, if meaningful conversation is possible.
- You have the right to be visited by your guardian at least once every three months.
- You have the right to have the guardian notify the court within 14 days of a change in your residence.
- You have the right to have the guardian secure services to restore you to the best possible state of mental and physical well-being so you can return at the earliest possible time to managing your own affairs.

Contact the court if you have any questions.

STATE OF MICHIGAN
PROBATE COURT
COUNTY OF

NOTICE OF HEARING

FILE NO.

In the matter of _____
First, middle, and last name

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

at _____ before Judge MARK A FEYEN P32369
Location Bar no.

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

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

USE NOTE TO COURT: If this hearing is for a guardianship matter involving an Indian child as defined in MCR 3.002(12), 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

STATE OF MICHIGAN
PROBATE COURT
COUNTY OF

ACCEPTANCE OF APPOINTMENT

FILE NO.

In the matter of _____

1. I have been appointed GUARDIAN _____ of the person/estate.
Type of fiduciary

2. I accept the appointment, submit to personal jurisdiction of the court, and agree to file reports and to perform all required duties.

3. For a period of _____ days from the date of my appointment, I exclude from the scope of my responsibility the
not to exceed 91 days

following real estate or ownership interest in a business entity: _____
Describe real property or business interest

because I reasonably believe the real estate or other property owned by the business entity is or may be contaminated by a hazardous substance, or is or has been used in an activity directly or indirectly involving a hazardous substance that could result in liability to the estate or otherwise impair the value of property held by the estate.

Date

Signature

Attorney name (type or print) Bar no.

Name (type or print)

Attorney address

Address

City, state, zip Telephone no.

City, state, zip Telephone no.

Date of birth

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.

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STATE OF MICHIGAN PROBATE COURT COUNTY OF	PROOF OF SERVICE	FILE NO.
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In the matter of _____

1. Titles of the papers served or mailed: PETITION TO APPOINT GUARDIAN OF INCAPACITATED INDIVIDUAL,
NOTICE OF HEARING

2. According to court rule, I served by first-class mail registered mail (copy of return receipt attached)
 certified mail (copy of return receipt attached) the papers described above on:

Name	Complete address of service	Date

3. According to court rule, I served by **personal service** the papers described above on:

Name	Complete address of service	Date and Time

4. After diligent search and inquiry, I have been unable to find and serve the following interested persons. I have served these persons by publication. Attached are copies of form PC 617.

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

Service fee	Miles traveled	Fee	
\$		\$	
Incorrect address fee	Miles traveled	Fee	TOTAL FEE
\$		\$	\$

Date

Signature

Name (type or print)

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