

## GUARDIANSHIP OF INCAPACITATED PACKET

### ATTENTION

↓To Attorneys who file Petitions for Adjudication and  
Appointment of Guardian(s) of an Incapacitated Person:

When filing the Petition and accompanying pleadings with the Clerk of the Orphans' Court,  
**DO NOT** attach the proposed Final Order Appointing Guardian of Person/Estate (**Form 5.2**)  
to the Petition or to any other pleading.

**ORPHANS' COURT DIVISION  
COURT OF COMMON PLEAS  
CHESTER COUNTY, PENNSYLVANIA**

**CAUTION: This packet does not include the revised AOPC forms.**

## MEMORANDUM

This Guardianship Packet has been prepared for guidance of counsel. The information provided complies with Chapter 55 of the PEF Code, 20 Pa. C.S.A. § 5501 et seq. (1992) and with state and local Orphans' Court Rules. The forms are intended to be used as guidelines only. **THEY ARE NOT TO BE USED AS FILL-IN FORMS.** Counsel is responsible to make any necessary changes to comply with any amendments to the pertinent statute or changes in the applicable rules.

## PROCEDURES FOR FILING PETITIONS FOR GUARDIANSHIPS

1. **File all Petitions (Emergency and Non-Emergency)** in the office of the Clerk of the Orphans' Court Division located on the Second Floor of the Justice Center.

Do not take any Petitions directly to any Judges' chambers or to the Orphans' Court Administrator's office before filing. Petitions must be docketed and given a court number before consideration.

2. **A. EMERGENCY PETITIONS:**

The clerk docket the Petition, assigns a court file number and returns it to the attorney. The attorney is then directed to take the Petition to either the Signing Judge of Orphans' Court or the Judge assigned by the Clerk of Orphans' Court.

The Judge's secretary assigns the emergency hearing time. The file is presented to the Judge for review. If the Emergency Decree is Granted a hearing within 72-hours will be scheduled.

The attorney then takes the signed Preliminary Decree or Emergency Order to the Orphans' Court Administrator for assignment of a hearing date for an extension hearing and/or permanent guardianship ( if needed ).

The attorney then must return the signed Preliminary Decree and/or Order to the Clerk of the Orphans' Court for preparation of the **Citation with Notice** for service by the attorney.

The clerk will send the file to the Orphans' Court Administrator for review. The Orphans' Court Administrator contacts the attorney if any information is needed.

2. **B. NON-EMERGENCY PETITIONS:**

The clerk docket the Petition, assigns a court file number and assigns a Judge (chosen on a rotation basis). The Petition then is given to the Orphans' Court Administrator for review.

After the Orphans' Court Administrator reviews the Petition and all other necessary supporting documents and if the file has been determined to be complete, the Orphans' Court Administrator will schedule a hearing date.

The file is returned to the Clerk of the Orphans' Court for preparation of the **Citation with Notice**. The attorney is notified when the **Citation with Notice** is complete and ready for service.

3. **HEARING FOR PERMANENT GUARDIANSHIP:**

Seven days before the hearing, the Clerk of the Orphans' Court sends the file to the law clerk of the hearing Judge. The law clerk checks the file for the **Affidavit of Notice** and the **Notice of Non-Representation** of the alleged incapacitated person. The law clerk contacts the attorney if these documents are not in the file. Failure to file these documents may result in the Court continuing the matter sua sponte.

**No hearing will go forward without the file being complete.**

## LIST OF FORMS FOR GUARDIANSHIP

- 1 ▲ CITATION WITH NOTICE
- 2 ▲ PETITION FOR APPOINTMENT OF GUARDIAN
- 3.1 ▲ PRELIMINARY DECREE - NON-EMERGENCY GUARDIANSHIP
- 3.2 ▲ ORDER APPOINTING GUARDIAN - NON-EMERGENCY GUARDIANSHIP
- 4.1 ▲ PRELIMINARY DECREE - EMERGENCY GUARDIANSHIP
- 4.2 ▲ ORDER FOR APPOINTMENT OF EMERGENCY TEMPORARY (72 HRS) GUARDIAN
- 4.3 ▲ ORDER APPOINTING GUARDIAN - EMERGENCY GUARDIANSHIP
- 5 ▲ CONSENT TO SERVE AS GUARDIAN
- 6 \* NOTICE TO COURT OF NON-REPRESENTATION
- 7 \* ORDER FOR APPOINTMENT OF COUNSEL
- 8 \* ORDER FOR PAYMENT OF COUNSEL FEES
- 9 \* AFFIDAVIT OF SERVICE OF CITATION WITH NOTICE AND PETITION
- 10 ▲ DOCTOR'S DEPOSITION [**MUST BE FILED WITH PETITION**]
- 11 ◇ NOTICE OF RIGHT TO APPEAL
- 12 ■ AFFIDAVIT OF SERVICE OF NOTICE OF RIGHT TO APPEAL
- 13.1 ○ DUTIES OF GUARDIAN OF ESTATE
- 13.2 ○ DUTIES OF GUARDIAN OF PERSON
- 14 ■ GUARDIAN INVENTORY [**ON WEBSITE**]
- 15 ○ REPORT OF GUARDIAN [**ON WEBSITE**]
- 16 ▲ FORM SP-4-131 (NO GUNS) [**MUST BE FILED WITH PETITION**] {**ON WEBSITE**}
- 17 CHECKLIST

▲ File with Petition

\* File at least 10 days before hearing

◇ Serve on Incapacitated person with copy of signed Order and attach copy to form 12

■ File after hearing

○ Give to guardian at hearing

**COURT OF COMMON PLEAS OF CHESTER COUNTY  
ORPHANS' COURT DIVISION**

**Forms To Be Used As Guidelines For Filing Petitions And Supporting Documents For Appointment of a Guardian of an Incapacitated Person.**

**FORM 1 CITATION WITH NOTICE**

1. Must be submitted with Petition for Appointment of Guardian.
2. Attorney serves completed form on the alleged incapacitated person. (Form completed by Clerk of the Orphans' Court.)

**FORM 2 PETITION FOR APPOINTMENT OF GUARDIAN**

File with FORM 1, FORM 5, and applicable Preliminary Decree (3.1, 4.1) and Order (3.2, 4.3).

**FORM 3.1 PRELIMINARY DECREE - NON-EMERGENCY GUARDIANSHIP**

**FORM 3.2 ORDER APPOINTING GUARDIAN - NON-EMERGENCY GUARDIANSHIP**

**FORM 4.1 PRELIMINARY DECREE - EMERGENCY GUARDIANSHIP**

1. Used when an emergency hearing is necessary.
2. File with FORM 3.1 if permanent guardian will be requested.

**FORM 4.2 ORDER FOR APPOINTMENT OF EMERGENCY TEMPORARY (72 HOURS) GUARDIAN**

1. Used for an immediate appointment without hearing.
2. File with FORM 3.1 if a permanent guardian will be requested.

**FORM 4.3 ORDER APPOINTING GUARDIAN - EMERGENCY GUARDIANSHIP**

This order may be modified to approve a 20-day extension of the Emergency Guardianship.

**FORM 5 CONSENT TO SERVE AS GUARDIAN – REQUIRED FOR ALL PETITIONS**

**FORM 6 NOTICE TO COURT OF NON-REPRESENTATION**

Used to notify the Court to appoint counsel for the alleged incapacitated person.

**FORM 7 ORDER FOR APPOINTMENT OF COUNSEL**

1. Used by the petitioner to request Court appointed counsel for the alleged incapacitated person.

OR

2. Used by the alleged incapacitated person to request Court appointed counsel.

**FORM 8 ORDER FOR PAYMENT OF COUNSEL FEES**

1. Used when alleged incapacitated person is unable to pay for counsel.
2. Must be attached to FORM 7.

**FORM 9 AFFIDAVIT OF SERVICE**

Used for service of Citation with Notice and Petition.

- FORM 10     **DEPOSITION**  
This **MUST** be filed with the Petition for Appointment of Guardian.
- FORM 11     **NOTICE OF RIGHT TO APPEAL**  
1.       Served on the incapacitated person with a copy of the signed Order.  
2.       It is suggested that service occur within 3 days of Order date.
- FORM 12     **AFFIDAVIT OF SERVICE OF NOTICE OF RIGHT TO APPEAL**  
1.       Must be filed within 7 days of the Order date.  
2.       Copy of the Notice of Right to Appeal must be attached.
- FORM 13.1   **DUTIES OF GUARDIAN OF ESTATE**  
Given to the guardian after appointment.
- FORM 13.2   **DUTIES OF GUARDIAN OF PERSON**  
Given to the guardian after appointment.
- FORM 14     **GUARDIAN INVENTORY**  
File within **three (3) months** of the date of the Order appointing the Guardian.
- FORM 15     **REPORT OF GUARDIAN**  
File **ANNUALLY** on the date of the anniversary of Order appointing the Guardian.
- FORM 16     **SP-4-131 (NO GUNS)**
- FORM 17     **CHECKLIST**  
This has been provided for your convenience and should not be considered all-inclusive.

COURT OF COMMON PLEAS OF CHESTER COUNTY, PENNSYLVANIA  
ORPHANS' COURT DIVISION

TO: \_\_\_\_\_

FILE NUMBER: \_\_\_\_\_

**IMPORTANT NOTICE  
CITATION WITH NOTICE**

**A petition has been filed with this Court to have you declared an Incapacitated Person. If the Court finds you to be an Incapacitated Person, your rights will be affected, including your right to manage money and property and to make decisions.** A copy of the petition which has been filed by \_\_\_\_\_ is attached.

**You are hereby ordered to appear at a hearing to be held in Chester County Justice Center, 201 W. Market Street, West Chester, Pennsylvania in**

**Courtroom No: \_\_\_\_\_ on \_\_\_\_\_ at \_\_\_\_\_ M**

to tell the Court why it should not find you to be an Incapacitated Person and appoint a Guardian to act on your behalf.

**To be an Incapacitated Person means** that you are not able to receive and effectively evaluate information and communicate decisions and that you are unable to manage your money and/or other property, or to make necessary decisions about where you will live, what medical care you will get, or how your money will be spent.

At the hearing, you have the right to appear, to be represented by an attorney, and to request a jury trial. If you do not have an attorney, you have the right to request the Court to appoint an attorney to represent you and to have the attorney's fees paid for you if you cannot afford to pay them yourself. You also have the right to request that the Court order that an independent evaluation be conducted as to your alleged incapacity.

**If the Court decides that you are an Incapacitated Person,** the Court may appoint a Guardian for you, based on the nature of any condition or disability and your capacity to make and communicate decisions. The Guardian will be of your person and/or your money and other property and will have either limited or full powers to act for you.

**If the Court finds you are totally incapacitated,** your legal rights will be affected and you will not be able to make a contract or gift of your money or other property. If the Court finds that you are partially incapacitated, your legal rights will also be limited as directed by the Court.

If you do not appear at the hearing (either in person or by an attorney representing you) the Court will still hold the hearing in your absence and may appoint the Guardian requested.

by: \_\_\_\_\_  
*Assistant Clerk of Orphans' Cou*

\_\_\_\_\_

IN THE MATTER OF:

- IN THE COURT OF COMMON PLEAS
- CHESTER COUNTY, PENNSYLVANIA
- 
- ORPHANS' COURT DIVISION
- 
- NO:

AN ALLEGED INCAPACITATED PERSON

**PETITION FOR ADJUDICATION OF INCAPACITY  
AND APPOINTMENT OF GUARDIAN**

TO THE HONORABLE, THE JUDGE OF SAID COURT:

Petitioner, \_\_\_\_\_ respectfully represents that:

1. The Petitioner, \_\_\_\_\_, resides at \_\_\_\_\_, and is the \_\_\_\_\_ (state relationship, if any, to alleged incapacitated person) of the alleged incapacitated person.

2. \_\_\_\_\_, an alleged incapacitated person, resides at \_\_\_\_\_, which address is also the alleged incapacitated person's postal address. (If postal address is different from residence, state here: \_\_\_\_\_), and is \_\_\_\_\_ years of age, having been born on \_\_\_\_\_.

3. The name and address of the alleged incapacitated person's spouse is as follows:



4. The name and address of the parents of the alleged incapacitated person are as follows: (if both parents are deceased, so state)

5. The names and addresses of the presumptive adult heirs of the incapacitated person are as follows:

6. The name and address of the person/institution providing residential services to the alleged incapacitated person is as follows:

7. The names and addresses of all other service providers to the alleged incapacitated person are as follows:

8. Petitioner requests that \_\_\_\_\_ be appointed guardian of \_\_\_\_\_. The proposed guardian's address is as follows:

9. The proposed guardian has no interest adverse to the alleged incapacitated person.

10. The petitioner believes that a guardian should be appointed for the alleged incapacitated person for the following reason:

11. The physical condition of the alleged incapacitated person is as follows:

12. The mental condition of the alleged incapacitated person is as follows:

13. The following is a description of the functional limitations of the alleged incapacitated person:

14. The petitioner and/or others have made the following steps to find less restrictive alternatives to an adjudication of incapacity:

15. Petitioner requests that a guardian be assigned powers over the following areas of incapacity: Estate \_\_\_\_\_ ; Person \_\_\_\_\_.

16. The proposed guardian is qualified to serve as such for the following reason:

17. The gross value of the alleged incapacitated person's estate is \$ \_\_\_\_\_.

18. The net monthly income of the alleged incapacitated person from all sources is as follows:

19. No other Court has ever assumed jurisdiction in a proceeding to determine the incapacity of \_\_\_\_\_.

20. The alleged incapacitated person's ability to receive and evaluate information effectively and communicate decisions in any way is impaired to such a significant extent that he/she is partially or totally unable to manage his/her financial resources or to meet essential requirements for his/her physical health and safety.

WHEREFORE, your Petitioner prays your Honorable Court to issue a citation directed to \_\_\_\_\_ to show cause why he/she should not be adjudicated an incapacitated person and a limited/plenary guardian of his/her estate/person be appointed to serve.

\_\_\_\_\_

IN THE MATTER OF :	} IN THE COURT OF COMMON PLEAS
	} CHESTER COUNTY, PENNSYLVANIA
	}
	} ORPHANS' COURT DIVISION
	}
AN ALLEGED INCAPACITATED PERSON	} NO.

**PETITION FOR ADJUDICATION OF INCAPACITY & APPOINTMENT OF GUARDIAN**

**PRELIMINARY DECREE**

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, upon consideration of the attached petition and on the motion of \_\_\_\_\_, Esquire, counsel for the petitioner, it is Ordered and Decreed that a Citation be awarded to \_\_\_\_\_, to show cause why (she/he) should not be adjudged an incapacitated person and a (limited/plenary) guardian of (her/his) (estate /person) should not be appointed, returnable at hearing as set forth below.

Hearing on the Petition for appointment of (limited/plenary) guardian of the (estate and/or person) of the alleged incapacitated person shall be held on \_\_\_\_\_, the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_:\_\_\_\_ am/pm, in Courtroom \_\_\_\_ of the Chester County Justice Center, West Chester, Pennsylvania, before the Honorable \_\_\_\_\_.

At least twenty days written notice of the hearing on the appointment of the guardian shall be given to the alleged incapacitated person by serving (her/him) personally with the Citation with Notice and this Order of Court and a copy of the petition; and at least twenty days written notice of the petition and hearing on the appointment of the guardian shall also be given to the next of kin and presumptive heirs, service providers and other parties in interest as set forth in this Order either personally or by registered or certified mail.

LIST OF PERSONS TO WHOM NOTICE IS TO BE GIVEN:

**BY THE COURT:**

\_\_\_\_\_

IN THE COURT OF COMMON PLEAS, CHESTER COUNTY, PENNSYLVANIA  
ORPHANS' COURT DIVISION

IN THE MATTER OF:

\_\_\_\_\_ No. \_\_\_\_\_

AN ALLEGED INCAPACITATED PERSON

**FINAL ORDER APPOINTING GUARDIAN**

\_\_\_\_ Person  
\_\_\_\_ Estate

**AND NOW**, this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, following a hearing held  
\_\_\_\_\_, pursuant to proper notice to the alleged incapacitated person (Respondent), who

\_\_\_\_\_ appeared in person at the hearing

\_\_\_\_\_ was represented at the hearing by \_\_\_\_\_, Esquire

\_\_\_\_\_ failed to appear because: \_\_\_\_\_,

after giving full consideration to the factors set forth in Chapter 55 of the Probate, Estate and

Fiduciaries Code, 20 Pa.C.S. §5501, *et seq.*, and in accordance with the following Findings of

Fact:

**Findings of Fact Pursuant to  
PEF Code, 20 Pa. C.S. §5512.1**

1. The name of the condition or disability which impairs Respondent's capacity to  
make and communicate decisions is \_\_\_\_\_  
\_\_\_\_\_;

2. The extent of Respondent’s capacity to make and communicate decisions is

\_\_\_\_\_;

3. Considering the availability of family, friends and other supports, and the existence of any advance directives, the Respondent is found to need the following guardianship services:

\_\_\_\_\_;

4. Based on the above factors, the Respondent is found to need a Guardian(s) as described below;

5. The duration of such guardianship shall be \_\_\_\_\_,

**IT IS** hereby **ORDERED** and **DECREED** as follows:

**I. Guardian of the Person**

\_\_\_\_\_ is appointed as a

\_\_\_\_A. Limited Guardian of Respondent’s Person – with the following responsibilities:

a. Provisions for care, maintenance and custody: \_\_\_\_\_

\_\_\_\_\_.

b. Place where Respondent shall live: \_\_\_\_\_

\_\_\_\_\_.

c. Provisions for training, education, medical and psychological services, social and vocational opportunities, and the like:

\_\_\_\_\_

\_\_\_\_\_.

d. Authority to execute consents or approvals on behalf of Respondent:

\_\_\_\_\_.

\_\_\_\_ B. Plenary Guardian of Respondent's Person

***Additional Powers***

*(Specific proof and findings of fact will be necessary to justify any of these additional powers. 20 Pa.C.S. §5521(d))*

The Guardian of the Person shall have, in addition to the powers granted above, the following authority:

\_\_\_\_\_ To consent to (abortion) (sterilization) (psychosurgery) (electroconvulsive procedure) (removal of bodily organ/s) (other: \_\_\_\_\_).

\_\_\_\_\_ To consent to performance of experimental procedures or participation in experiments (bio-medical) (behavioral) (other: \_\_\_\_\_).

\_\_\_\_\_ To prohibit marriage / To consent to divorce.

***Powers of Attorney***

Any general or limited powers of attorney (other than a health care power of attorney) previously executed by the Respondent are hereby revoked and vacated. If there is an existing health care power of attorney which is not revoked below, the health care agent is advised, pursuant to 20 Pa.C.S. §5460(a), that he or she is accountable to the Guardian of the Person as well as the Respondent (the principal).

- The Guardian of the Person is hereby authorized to revoke the appointment of the health care agent.
- The court hereby revokes the health care power of attorney.
- The court authorizes the continuance of the health care power of attorney.

***HIPAA Personal Representative***

The Guardian of the Person shall be deemed to have authority to act on behalf of Respondent, as personal representative for the purposes of the Health Care Insurance Portability and Accountability Act of 1996 (HIPAA), for the duration of the Guardianship. As the personal representative for HIPAA purposes, the Guardian of the Person shall be treated the same as Respondent by any health care related person or entity, and shall have access to all protected health information of Respondent.

**II. Guardian of the Estate**

\_\_\_\_\_ is appointed as a

\_\_\_\_\_ A. Limited Guardian of Respondent's Estate – with the following authority:

a. Portion of assets or income subject to Guardian's control:

\_\_\_\_\_;

b. Other: \_\_\_\_\_.

\_\_\_\_\_ B. Plenary Guardian of Respondent's Estate

***Additional Guardian of the Estate provisions***

The Guardian of the Estate may petition the court for allowances to pay for other fees, costs, or expenses incurred in providing services hereunder.

All banks and other financial institutions maintaining Respondent's accounts shall provide the Guardian of the Estate with all requested account related information pertaining to all account assets held in the Respondent's name, including jointly held accounts. If requested by the Guardian of the Estate, said banks and other financial institutions shall transfer to the Guardian of the Estate all account assets held solely in Respondent's name.



Except as authorized below, the Guardian of the Estate shall not use principal without first petitioning the court and obtaining approval therefore.

The Guardian of the Estate is authorized to expend the principal from the Respondent’s account(s) as follows:

To establish a burial fund or purchase pre-paid funeral expenses in the event the same do not currently exist.

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

The Guardian of the Estate shall take all actions necessary to obtain and/or maintain medical insurance for the Respondent, including under the Medical Assistance Program, if applicable. The Guardian of the Estate may use the Respondent’s income to pay for the Respondent’s expenses without obtaining court approval.

The Guardian of the Estate shall also file an inventory and copy of the Will of Respondent (if any) with the Chester County Clerk of the Orphans’ Court within three (3) months of today’s date, that is by \_\_\_\_\_.

***Bond***

The Guardian of the Estate (shall/shall not) post a bond with surety. If bond is required, it shall be posted within ten (10) days from the date of this Order in the amount of \$\_\_\_\_\_. The cost of the bond may be paid from the Estate assets.

***Firearms***

In order to comply with 18 Pa.C.S. §6105 (a) and (c)(4) of the Pennsylvania Uniform Firearms Act, the Guardian of the Estate shall inquire about the ownership and/or possession of any firearms by the incapacitated person and, within sixty (60) days of the Adjudication, shall arrange for the sale or transfer of the incapacitated person’s firearms to another eligible person who is not a member of the prohibited person’s household.

An incapacitated person is not permitted to obtain a license to carry a firearm. Any existing license issued to the incapacitated person should be returned to the issuing authority.

**III. Compensation of Guardian**

Person

Estate

\_\_\_\_\_

none

\$\_\_\_\_\_ monthly (Medical Assistance cases)

\$\_\_\_\_\_ hourly (if not Medical Assistance case)

other, per record: \$\_\_\_\_\_

***Billing for Compensation***

semi-annually \_\_\_\_\_

other \_\_\_\_\_

Payment to the Guardian for compensation must be preceded by the filing of a petition by the Guardian with the Chester County Clerk of the Orphans' Court and the court's approval of that petition. The petition must detail the time and type of services rendered by the Guardian which justifies the requested payment. Compensation for the Guardian must be taken from the Respondent's income, not from his/her assets (*i.e* not from investment account principal), unless court approval also has been obtained.

**IV. Review**

A Review Hearing in the above matter shall be held

- \_\_\_\_\_; or
- by further order of court.

**V. Reports**

The Guardians (Person and Estate) shall file reports as provided by 20 Pa. C.S. §5521(c), and applicable state and local rules.

**VI. Notice of Right to Appeal**

Respondent (has been) (will be) notified of (his) (her) right of appeal, in accordance with the **NOTICE OF RIGHT TO APPEAL** (“Notice”), the form of which is attached hereto. If the Notice is not read to the Respondent in court on the day this order is issued, \_\_\_\_\_ shall read the Notice to the Respondent, execute the Notice and file the executed Notice with the court within (10) days from the date of this Order.

BY THE COURT:

\_\_\_\_\_  
J.

IN THE MATTER OF :	} IN THE COURT OF COMMON PLEAS
	} CHESTER COUNTY, PENNSYLVANIA
	}
	} ORPHANS' COURT DIVISION
	}
AN ALLEGED INCAPACITATED PERSON	} NO.

**PETITION FOR EMERGENCY TEMPORARY GUARDIAN**

**PRELIMINARY DECREE**

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, upon consideration of the attached petition and on the motion of \_\_\_\_\_, Esquire, Counsel for the petitioner, it is Ordered and Decreed that a Citation be awarded, returnable forthwith, to, \_\_\_\_\_ to show cause why (she/he) should not be adjudged an incapacitated person and an emergency guardian of (her/his) (estate/person) should not be appointed.

Hearing on the petition for appointment of emergency guardian is scheduled for \_\_\_\_\_, the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_:\_\_\_\_ am/pm, prevailing time, in Courtroom \_\_\_\_ of the Chester County Justice Center, West Chester, Pennsylvania, before the Honorable \_\_\_\_\_.

Notice of the hearing on the appointment of the emergency guardian shall be given to the alleged incapacitated person by serving (her/him) personally with the Citation with Notice and this Preliminary Decree and copy of the petition.

Notice shall also be given to the next of kin and presumptive heirs, service providers and other parties in interest as set forth in the Order by personal service, registered mail or certified mail. [LIST PERSONS TO WHOM NOTICE IS TO BE GIVEN.]

**OR**

The Court finds that under the circumstances only the following next of kin and presumptive heirs, service providers and other parties in interest shall be notified of the hearing by personal service, registered mail, certified mail or other. [LIST PERSONS TO WHOM NOTICE IS TO BE GIVEN.]

**BY THE COURT:**

\_\_\_\_\_  
**J.**

IN THE MATTER OF :	} IN THE COURT OF COMMON PLEAS
	} CHESTER COUNTY, PENNSYLVANIA
	}
	} ORPHANS' COURT DIVISION
	}
AN ALLEGED INCAPACITATED PERSON	} NO.

**PETITION FOR EMERGENCY TEMPORARY GUARDIAN (72-HR)**

**ORDER**

AND NOW this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, upon the motion of \_\_\_\_\_, Esquire, it appearing to the Court that an immediate appointment of an emergency temporary guardian of the Estate\Person of \_\_\_\_\_ is necessary and further the Court finds that notice to the Alleged Incapacitated Person is not feasible in the circumstances for such appointment, \_\_\_\_\_ is appointed guardian of the Estate\Person of \_\_\_\_\_ pursuant to 20 Pa.C.S. §5513.

This Order expires on \_\_\_\_\_, unless an extension is granted.

A hearing on the continuation of this appointment shall be held on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ in Courtroom \_\_\_\_ at \_\_\_\_:\_\_\_\_ am/pm, before the Honorable \_\_\_\_\_.

A Citation with Notice shall be issued to \_\_\_\_\_ returnable at the hearing and a copy of this Order and Petition shall be served on \_\_\_\_\_.

Notice shall be given to the next of kin and presumptive heirs, service providers and other parties in interest by personal service, registered mail or certified mail. [LIST PERSONS TO WHOM NOTICE IS TO BE GIVEN.]

**OR**

The Court finds that under the circumstances only the following next of kin and presumptive heirs, service providers and other parties in interest shall be notified of the hearing by personal service, registered mail, certified mail, or other. [LIST PERSONS TO WHOM NOTICE IS TO BE GIVEN.]

**BY THE COURT:**

\_\_\_\_\_  
J.

\_\_\_\_\_  
IN THE MATTER OF:

- IN THE COURT OF COMMON PLEAS
- CHESTER COUNTY, PENNSYLVANIA

- ORPHANS' COURT DIVISION

AN ALLEGED INCAPACITATED PERSON

- NO.

**ORDER APPOINTING EMERGENCY GUARDIAN**  
Pursuant to 20 Pa.C.S. §5513

\_\_\_\_\_  
**AND NOW**, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, following a hearing, I find that proper notice has been given to \_\_\_\_\_, the alleged incapacitated person (Respondent); that Respondent lacks capacity and is in need of a Guardian; and that failure to appoint an immediate Guardian will result in irreparable harm to the (person) (and) (estate) of Respondent. I therefore appoint \_\_\_\_\_ to be Guardian of the person and \_\_\_\_\_ to be Guardian of the estate of Respondent, and grant such Guardian(s) the following powers and duties:

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

The Guardian shall post bond (with surety) as follows:

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

This Order shall expire at \_\_\_\_:\_\_\_\_ am/pm on \_\_\_\_\_ the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, unless extended by further Order of this Court.

**BY THE COURT:**

\_\_\_\_\_  
J

**CONSENT TO SERVE AS GUARDIAN**

\_\_\_\_\_, of \_\_\_\_\_  
\_\_\_\_\_, Pennsylvania, having been apprised of the matter of  
an alleged incapacitated person, does hereby consent to serve as (limited/plenary) guardian of the  
estate/person of \_\_\_\_\_, should the Court  
determine that the appointment of a guardian is appropriate.

\_\_\_\_\_

IN THE MATTER OF :

- IN THE COURT OF COMMON PLEAS
- CHESTER COUNTY, PENNSYLVANIA

- ORPHANS' COURT DIVISION

AN ALLEGED INCAPACITATED PERSON

- NO.

NOTICE TO THE COURT OF NON REPRESENTATION  
OF ALLEGED INCAPACITATED PERSON

The Petitioner in the above matter, \_\_\_\_\_, pursuant to 20 Pa.C.S. §5511(A)(II)(2), notifies the Court that neither it nor its counsel has knowledge of any legal counsel who has been retained by or on behalf of the alleged incapacitated person in the above matter.

The petitioner knows or has reason to believe the following circumstances exist that may make it appropriate for the Court to appoint counsel for the alleged incapacitated person:

- 1.
- 2.
- 3.

**OR**

The petitioner knows of no circumstances that may make it appropriate for the Court to appoint counsel for the alleged incapacitated person.

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(To be executed by petitioner or petitioner's counsel)



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IN THE MATTER OF:

- IN THE COURT OF COMMON PLEAS
- CHESTER COUNTY, PENNSYLVANIA
- 
- ORPHANS' COURT DIVISION
- 
- NO.

AN ALLEGED INCAPACITATED PERSON

ORDER

**AND NOW**, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, pursuant to 20 Pa C.S. §5511 (a)(2),  
it is ordered that \_\_\_\_\_, Esquire, is appointed to represent the alleged incapacitated  
person in the above captioned matter.

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J.

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IN THE MATTER OF:

- IN THE COURT OF COMMON PLEAS
- CHESTER COUNTY, PENNSYLVANIA

- ORPHANS' COURT DIVISION

AN ALLEGED INCAPACITATED PERSON

- NO.

ORDER

**AND NOW,** this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

\_\_\_\_\_, Esquire, having been appointed counsel in the above matter, the

County of Chester is ordered to pay counsel fees per 20 Pa.C.S. §5511 (C).

---

J.

\_\_\_\_\_  
IN THE MATTER OF:

- IN THE COURT OF COMMON PLEAS
- CHESTER COUNTY, PENNSYLVANIA
- 
- ORPHANS' COURT DIVISION
- 
- NO.

AN ALLEGED INCAPACITATED PERSON

AFFIDAVIT OF SERVICE OF CITATION WITH NOTICE AND PETITION

I, \_\_\_\_\_, (person who served citation with notice and petition) hereby certifies that I am an adult individual residing at \_\_\_\_\_, that I am not the petitioner and that on \_\_\_\_\_ (date) at \_\_\_\_\_ (place) I did give notice to \_\_\_\_\_ by personal service of the Citation with Notice and copy of the petition by reading them to her/him and explaining the contents and term of the petition to the maximum extent possible in language and terms she/he was most likely to understand. I also certify that notice of the petition and hearing was given to all persons who would be entitled to share in the estate of \_\_\_\_\_ if she/he died intestate and to the person or institution providing residential service to \_\_\_\_\_ and other service providers by \_\_\_\_\_ (type of service). Notice was given to: (list of person/institutions to whom notice was given)

\_\_\_\_\_  
**(NOTARIZE)**

\_\_\_\_\_

IN THE MATTER OF:

- IN THE COURT OF COMMON PLEAS
- CHESTER COUNTY, PENNSYLVANIA
- 
- ORPHANS' COURT DIVISION
- 
- NO.

AN ALLEGED INCAPACITATED PERSON

**DEPOSITION BY INDIVIDUAL QUALIFIED IN EVALUATION  
OF INCAPACITATED PERSON**

The deposition of \_\_\_\_\_, a witness, made  
on \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ at  
\_\_\_\_\_, Pennsylvania.

Q. What is your name and your professional address?

A. My name is \_\_\_\_\_,  
my professional address is \_\_\_\_\_

Q. Please describe your education, training, and background with particular emphasis on your expertise in evaluating individuals with incapacities.

A. I received my college degree at \_\_\_\_\_  
and my post-graduate training at \_\_\_\_\_  
and I have practiced \_\_\_\_\_  
(e.g. medicine, psychiatry, psychology, gerontological social work etc.) since \_\_\_\_\_. My  
special qualifications and training with respect to evaluating persons with incapacities  
consists of \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Q. In your capacity as (e.g. physician, psychologist, social worker, etc.) have you had the opportunity to meet with, examine, speak with and otherwise become acquainted with \_\_\_\_\_ (name) \_\_\_\_\_ and if so, upon what occasions and in what fashion have you been able to do so?

A. I first became acquainted with \_\_\_\_\_ (name) \_\_\_\_\_ in the month of \_\_\_\_\_, \_\_\_\_\_ when she/he was brought to my attention by means of \_\_\_\_\_ have since that time (visited/spoken with/examined/treated) her/him on \_\_\_\_\_ other occasions with an average frequency of \_\_\_\_\_ time per \_\_\_\_\_ day/week/month/year \_\_\_\_\_.

Q. Is \_\_\_\_\_ (name) \_\_\_\_\_ ability to receive and evaluate information effectively and communicate decisions in any way impaired to such a significant extent that she/he is partially or totally unable to manage her/his financial resources or to meet essential requirements for her/his physical health and safety?

A. Yes, I believe it is.

Q. Please describe the type and severity of \_\_\_\_\_ (name) \_\_\_\_\_ impairments.

A. \_\_\_\_\_ (name) \_\_\_\_\_ impairments are as follows:

←-----Check One-----→

Impairment	None	Mild	Moderate	Severe
a)	0	0	0	0
b)	0	0	0	0
c)	0	0	0	0
d)	0	0	0	0
e)	0	0	0	0
f)	0	0	0	0
g)	0	0	0	0
h)	0	0	0	0

Q. Is \_\_\_\_\_ (name) \_\_\_\_\_ partially or totally unable to manage her/his financial resources?

A. \_\_\_\_\_ (name) \_\_\_\_\_ ability to manage her/his financial resources is impaired (not at all, partially, totally) as follows:

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Q. Is \_\_\_\_\_ (name) \_\_\_\_\_ able to meet essential requirements for her/his physical health and safety?

A. \_\_\_\_\_ (name) \_\_\_\_\_ ability to meet essential requirements for her/his physical health and safety is impaired (not at all, partially, totally) as follows:

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Q. Can you please evaluate the present condition of \_\_\_\_\_ (name) \_\_\_\_\_ with respect to incapacities of the type alleged in the Petition. In particular, could you please comment on the nature and extent of the alleged incapacities and disabilities and also, insofar as you are able, \_\_\_\_\_ (name) \_\_\_\_\_ mental, emotional and physical condition, her/his adaptive behavior, and her/his social skills?

A. Based upon my education, training and experience, as well as my acquaintance with \_\_\_\_\_ (name) \_\_\_\_\_ as stated above, it is my opinion that her/his incapacity's and disabilities are

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Her/His mental condition is \_\_\_\_\_

Her/His emotional and physical condition are \_\_\_\_\_

---

Her/His adaptive behavior is \_\_\_\_\_

Her/His social skills are \_\_\_\_\_

Q. What recommendations would you make concerning services necessary to meet the essential requirements for \_\_\_\_\_ (name) \_\_\_\_\_ physical health and safety?

A. I would recommend that her/his physical health and safety be protected by \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Q. What recommendations would you make concerning management of \_\_\_\_\_ (name) \_\_\_\_\_ financial resources?

A. I would recommend \_\_\_\_\_  
\_\_\_\_\_

Q. What recommendations would you make concerning the development or regaining of \_\_\_\_\_ (name) \_\_\_\_\_ physical or mental abilities?

A. I would recommend the following: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Q. What types of assistance do you think are required by \_\_\_\_\_ (name) \_\_\_\_\_?

A. I believe she/he needs assistance with \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Q. Why is it that no less restrictive alternatives would be appropriate?

A. Less restrictive alternatives would not be appropriate because \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Q. What is the probability that the extent of \_\_\_\_\_ (name) \_\_\_\_\_ incapacity's \_\_\_\_\_ may significantly lessen or change?

A. In my judgment, and based upon my training, experience and acquaintance with \_\_\_\_\_ (name) \_\_\_\_\_ I believe the probability that her/his incapacities may significantly lessen or change is:

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Q. Would the physical or mental condition of \_\_\_\_\_ (name) \_\_\_\_\_ be harmed by her/his presence in open Court?

A. I believe that \_\_\_\_\_ (name) \_\_\_\_\_ presence in open Court (1) would be (2) would not be (circle 1 or 2) harmful to her/him because: \_\_\_\_\_

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**VERIFICATION**

I verify that the statements made in the foregoing DEPOSITION BY INDIVIDUAL QUALIFIED IN EVALUATION OF INCAPACITATED PERSONS 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.

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

\_\_\_\_\_

Signature

IN THE MATTER OF :	} IN THE COURT OF COMMON PLEAS
	} CHESTER COUNTY, PENNSYLVANIA
	}
	} ORPHANS' COURT DIVISION
	}
AN ALLEGED INCAPACITATED PERSON	} NO.

**NOTICE OF RIGHT TO APPEAL**  
**PURSUANT TO 20 Pa. C.S. §5512.1(H)**

In Re: \_\_\_\_\_, Incapacitated Person

Case No. \_\_\_\_\_

**TO** \_\_\_\_\_, Respondent:

1. You have been found to be an incapacitated person, and a (limited) (plenary) Guardian has been appointed for your (estate) (person). The Guardian is \_\_\_\_\_ for your estate and \_\_\_\_\_ for your person.

2. The powers of the Guardian are set forth in the Final Order dated \_\_\_\_\_, a copy of which accompanies this notice.

3. If you wish to appeal from that Decree, you have thirty (30) days from the date of the Decree to do so. If you choose to appeal, you must file a Notice of Appeal with the Clerk of Orphans' Court, located on the second floor of the Chester County Justice Center. The Appeal will be sent to the Superior Court of Pennsylvania. You should obtain a copy of the Pennsylvania Rules of Appellate Procedure as a guide. The Clerk of the Orphans' Court can provide the address of the Superior Court.

4. You may also petition the Court at any time to modify or terminate the guardianship, on the grounds that your situation has changed enough to justify a change in or termination of my Order.

5. You have the right to be represented by an attorney if you file a post-trial petition or an appeal. If you need the assistance of counsel and cannot afford an attorney, please inform the Court and an attorney will be appointed to represent you free of charge.

\_\_\_\_\_  
*Judge*

I acknowledge being advised of the above rights.

\_\_\_\_\_  
*Respondent*

**OR**

I, \_\_\_\_\_, attest that I read this notice in person to

\_\_\_\_\_ (Respondent) on \_\_\_\_\_.

\_\_\_\_\_  
*Signature*

**This form must be filed with the Clerk of the Orphans' Court within 10 days of the respondent's receipt of the Final Order**

IN THE MATTER OF:

- IN THE COURT OF COMMON PLEAS
- CHESTER COUNTY, PENNSYLVANIA
- 
- ORPHANS' COURT DIVISION
- 
- NO.

AN ALLEGED INCAPACITATED PERSON

**AFFIDAVIT OF SERVICE**

\_\_\_\_\_, (Petitioner or Attorney for  
 Petitioner) hereby certifies that a copy of the Order Appointing a Guardian and the Notice of Right to Appeal and  
 to Petition to Modify or Terminate the Guardianship has been served on \_\_\_\_\_ (name of incapacitated  
 person) \_\_\_\_\_, the Incapacitated Person on \_\_\_\_\_ date \_\_\_\_\_ by personal service at  
 \_\_\_\_\_ (place of service) \_\_\_\_\_ by \_\_\_\_\_ (person who served Notice) \_\_\_\_\_  
 in the form attached hereto (attach copy of notice) which was read to the Incapacitated Person, and a copy of same  
 was served on \_\_\_\_\_ (name of attorney) \_\_\_\_\_, Esquire, attorney for the Incapacitated  
 Person, by \_\_\_\_\_ (type of service) \_\_\_\_\_, on \_\_\_\_\_ (date) \_\_\_\_\_.

\_\_\_\_\_  
*(Petitioner or Petitioner's Attorney)*

(NOTARIZE IF SIGNED BY PETITIONER)

**DUTIES OF THE GUARDIAN OF THE ESTATE**  
**OF AN INCAPACITATED PERSON**

The following outline is not intended to be taken as specific legal advice upon any particular occasion for which the advice of qualified counsel is recommended. Please do not ask Court personnel to give legal advice on specific issues as they are not permitted nor qualified to do so.

As Guardian of the Estate of an Incapacitated Person your duties are:

1. **FAMILIARITY WITH COURT ORDER APPOINTING YOU**

You must examine and be familiar with the Court Order which appoints you Guardian of the Estate of the Incapacitated Person. This is particularly true in that you may only be authorized to exercise power in certain limited ways, unless you have been appointed "plenary" (general) Guardian of the Estate. If your appointment is subject to limitations, you must not exceed those limitations. You must also determine whether you have been directed to enter Bond (insurance) and if so, you must provide for the entry of an appropriate sized Bond before undertaking any of your duties. You must also pay your Guardian Supervisor fee in order to obtain the Certified Court copy of your Order. In every case, the following list of duties must be limited by the terms of the Order appointing you.

2. **INQUIRY AND DISCOVERY OF ASSETS**

You must make reasonable inquiry into the existence and whereabouts of all valuable assets of the Incapacitated Person, including the determination of their fair market value on the date of your appointment, which may require appraisals of realty, personal, or statements from banks or securities firms as to values of accounts and securities, or appraisals of antiques or jewelry.

3. **SAFEGUARDING OF ASSETS**

Once the assets have been discovered and values determined, you are under a duty to provide for reasonable safeguarding of the assets to protect them from being dissipated, lost, stolen, or destroyed.

4. **MANAGEMENT OF ASSETS**

You also must manage these assets using the standard of reasonable prudence so that they will produce income for the benefit of the Incapacitated Person. However, risky investments are not permitted, unless specifically authorized by the Court.

5. **PAYMENT OF DEBTS, OBLIGATIONS AND EXPENSES**

You are authorized, generally, to pay the reasonable debts, obligations and expenses of the Incapacitated Person, and in particular the support, medical expenses and maintenance of the Incapacitated Person which may include education where appropriate.

6. **INVENTORY**

You must prepare and file a document known as **Guardian Inventory** with the Clerk of Orphans' Court within three (3) months of the date of your appointment. This document should contain, so far as you have been able to discover using reasonable efforts, a list of all real estate, personal property, bank accounts, securities, and any and all other valuable assets belonging to the Incapacitated Person with values stated as of the date of your appointment. This document also should include a statement of any real or personal assets which you reasonably expect to acquire on behalf of the Incapacitated Person after the date of filing of this inventory.

7. **ANNUAL REPORT**

In addition to the Inventory, you also are required to file an Annual Report on or before the first 12 month anniversary of your appointment describing in detail the current principal of the Estate and how it is invested, the current income of the Estate, the expenditures of principal and/or income since the date of appointment, and the needs of the Incapacitated Person for which you have provided financially since the date of your appointment. You must follow your first Annual Report with succeeding reports on the twelve- (12) month anniversary of your appointment for each year thereafter that you continue to act as Guardian of the Estate of the Incapacitated Person. You also must, within sixty (60) days of the death of the Incapacitated Person, file a Final Report.

8. **FIDUCIARY DUTY GENERALLY**

As guardian of the Estate of an Incapacitated Person you are a "fiduciary." Legally you are obligated to exercise prudent judgment in the management of the Estate of the Incapacitated Person for her/his benefit only, and to avoid conflicts of interest or decisions which may benefit yourself. You may not invest the Incapacitated Person's assets in businesses or corporations owned or controlled by you nor may you loan the Incapacitated Person's funds to yourself for such enterprises unless you have requested in writing from the Court permission to do so and have specifically been authorized beforehand.

However, you also should not allow the Incapacitated Person's assets to remain idle. Any idle assets which fall into your management should, with prudence, be placed into productive form. Two simple examples are that cash in a checking account should be transferred to savings or money market account so that income is produced. Vacant residential or commercial property should be leased to produce income, where practicable.

As fiduciary you are also authorized, within reason, to hire experts for advice including accountants, investment advisers, and attorneys to assist you in proper management of the assets of the Incapacitated Person. The reasonable fees and commissions for these experts are properly chargeable to the Estate of the Incapacitated Person.

9. **ESTATE PLANNING**

If the assets of the Incapacitated Person for whom you are Guardian are substantial, you may request the Court to authorize estate planning on behalf of the Incapacitated Person or the members of her/his family, to include establishing a trust, making gifts, disclaiming interests in property or powers of appointment, all of which may be needed to manage and properly dispose of the Incapacitated Person's assets. In such an effort, the advice of a qualified attorney, investment adviser, and/or CPA will be very helpful, if not essential.

10. **PARTIAL LIST**

This list of duties and responsibilities is partial and is by no means complete. If you are the individual Guardian of an Incapacitated Person's Estate and there is no institutional or corporate Co-Guardian, it is highly recommended that you consult with a qualified attorney concerning additional duties and responsibilities which cannot, for reasons of space, be set forth here.

**DUTIES OF THE GUARDIAN OF THE PERSON  
OF AN INCAPACITATED PERSON**

The following outline is not intended to be taken as specific legal advice upon any particular occasion for which the advice of qualified counsel is recommended. Please do not ask Court personnel to give legal advice on specific issues as they are not permitted nor qualified to do so.

As Guardian of the Person of an Incapacitated Person your duties are:

1. **FAMILIARITY WITH COURT ORDER APPOINTING YOU**

You must examine and be familiar with the Court Order which appoints you Guardian of the Person of the Incapacitated Person. This is particularly true in that you may only be authorized to exercise power in certain limited ways, unless you have been appointed "plenary" (general) Guardian of the Person. If your appointment is subject to limitations, you must not exceed these limitations. You must also pay your Guardian Supervisor fee in order to obtain the Certified Court copy of your Order. In every case, the following description of duties must be limited by the terms of the Order appointing you.

2. **GENERAL DUTY OF GUARDIAN OF THE PERSON**

As either limited or "plenary" (general) Guardian of the Person, you have a general responsibility to assert the rights and the best interests of the Incapacitated Person. In doing so, the expressed wishes and preferences of the Incapacitated Person shall be respected to the greatest possible extent. If these expressed wishes and preferences, however, conflict with your independent judgment of what is in the best interests of the Incapacitated Person, then you should follow your independent judgment, but only to the extent necessary to pursue the best interests of the Incapacitated Person.



3. **PLAN OF SUPPORTIVE SERVICE**

Where appropriate, you should assist in the development of a plan for supportive services for the Incapacitated Person, which will explain how these services will be obtained. This may not be necessary in every case, depending upon the circumstances of the Incapacitated Persons as you find them upon the commencement of your duties.

4. **ENCOURAGEMENT OF INCAPACITATED PERSON TO PARTICIPATE IN DECISIONS**

You must encourage the Incapacitated Person to participate to the maximum extent feasible within the limitations of his or her ability. You should further encourage the Incapacitated Person to act on his or her own behalf whenever he or she may be able to do so. You should further encourage the Incapacitated Person to develop or regain his or her capacity to manage his or her personal affairs insofar as may be possible under the circumstances.

5. **GENERAL CARE, MAINTENANCE and CUSTODY OF THE INCAPACITATED PERSON**

Where authorized by the terms of the Court Order, you shall have general responsibility for the care, maintenance and custody of the Incapacitated Person. Your attention to these duties may be limited by the terms of the Court Order, however, in exercising these duties you must not exceed that authority. Your primary guiding principle should be to follow what is in the best interests of the Incapacitated Person, even in situations that may conflict with your personal beliefs or your personal interest. If the best interests of the Incapacitated Person conflict irrevocably with your strongly held personal beliefs or personal interests, you may, and should apply to Court for guidance or for relief from your duties and transfer those duties to another person. You must avoid any conflict of interest, or even the appearance of a conflict of interest, in your pursuit of the best interests of the Incapacitated Person.

6. **UNIFORM FIREARMS ACT – RESTRICTIONS ON THE INCAPACITATED PERSON**

Sections 6105(a) and (c) of the Uniform Firearms Act, prohibit a person who has been adjudicated an incapacitated person from possessing, using, controlling, selling, transferring or manufacturing, or obtaining a license to possess, use, control, sell, transfer or manufacture a firearm in the Commonwealth of Pennsylvania. The Guardian should inquire about the ownership and/or possession of any firearms by the incapacitated person and, within 60 days of the Adjudication, should arrange for the sale or transfer of the incapacitated person's firearms to another eligible person who is not a member of the prohibited person's household. As well, an incapacitated person is not permitted to obtain a license to carry a firearm. Any existing license issued to the incapacitated person should be returned to the issuing authority.

7. **PLACE FOR INCAPACITATED PERSON TO LIVE**

If so provided by the Court Order appointing you, you may be empowered to select a place in which the Incapacitated Person will reside. Again, you must follow the standard of what is in the best interests of the Incapacitated Person, using your own independent judgment. You should attempt to discern the preferences as expressed by the Incapacitated Person and members of his or her family and to accommodate these with respect to the place in which the Incapacitated Person will be living, except in those instances where your independent judgment determines that this would conflict with the best interests of the Incapacitated Person.

8. **RESPONSIBILITY FOR TRAINING, EDUCATION, MEDICAL and PSYCHOLOGICAL SERVICES OF INCAPACITATED PERSON**

You also must refer to the Court Order to determine the extent of your authority in these regards. Where so provided by the Court Order, however, you may be given the responsibility to provide for the training, education, medical and psychological services, or for the social and vocational opportunities to be offered to the Incapacitated Person. You also may be authorized to assist the Incapacitated Person in the development of maximum self-reliance and independence. Again, your guiding principle should be what is in the best interests of the

Incapacitated Person and consideration of expressed wishes of the Incapacitated Person or family members would be appropriate where it does not conflict with this principle.

9. **CONSENTS / APPROVALS FOR INCAPACITATED PERSON**

The terms of the Court Order may also give you the authority to enter consents or approvals for various medical, surgical, psychological, or other treatment alternatives which may become available for the Incapacitated Person. As before, you should endeavor to follow the express wishes of the Incapacitated Person and family members to the extent that these do not conflict with the overriding principle of what is in the best interests of the Incapacitated Person. Your independent judgment on these issues, however, should not be overridden by family wishes.

10. **ANNUAL REPORT**

In addition to the overall duties set forth above, you are required to file an Annual Report on or before the first 12 month anniversary of your appointment and annually thereafter in which you describe the following in detail:

- (A) The current address and type of placement of the Incapacitated Person.
- (B) The major medical or mental problems of the Incapacitated Person.
- (C) A brief description of the Incapacitated Person's living arrangements, social, medical, psychological and other support services he or she is receiving.
- (D) Your opinion as to whether or not the guardianship of the Person should continue, be terminated, or modified, and your reason for this opinion.
- (E) The number and length of times in which you have visited the Incapacitated Person, during the last year.

**Final Report** -- Within sixty (60) days of the death of an Incapacitated Person, you are required to file a Final Report with the Court.

11. **POWERS WHICH MAY ONLY BE GRANTED BY COURT**

Unless specifically included within your guardianship Order, you shall not have power to:

- (A) Consent, on behalf of the Incapacitated Person, to abortion, sterilization, psychosurgery, electroconvulsive therapy, or the removal of a healthy body organ.
- (B) Prohibit the marriage or consent to the divorce of the Incapacitated Person.
- (C) Consent, on behalf of the Incapacitated Person, to the performance of any experimental biomedical or behavioral medical procedure, or participation in any biomedical or behavioral experiment.

12. **PARTIAL LIST**

This list of duties and responsibilities is partial and is by no means complete. If you are the individual Guardian of the Person and there is no institutional or corporate Co-Guardian, it is highly recommended that you consult with a qualified attorney concerning additional duties and responsibilities which cannot, for reasons of space, be set forth here.

**CHECKLIST FOR GUARDIANSHIP PROCEEDINGS****1. Forms:**

- \_\_\_\_\_ Preliminary Decree
- \_\_\_\_\_ Citation with Notice
- \_\_\_\_\_ Final Order
- \_\_\_\_\_ Consent to Serve by all proposed Guardians
- \_\_\_\_\_ Affidavit of Service
- \_\_\_\_\_ Notice of Retention/Non-Retention of Counsel by A.I.P.
- \_\_\_\_\_ Doctor's Deposition
- \_\_\_\_\_ Form SP 4-131 (No Guns)

**2. Petition contains:****a. All of the following are required as per 20 Pa. C.S.A. § 5511(e):**

- \_\_\_\_\_ Name, age, residence, and P.O. address of A.I.P.
- \_\_\_\_\_ Names and addresses of spouse, parents and presumptive adult heirs of A.I.P.
- \_\_\_\_\_ Name and address of person or institution providing residential services to A.I.P.
- \_\_\_\_\_ Names and addresses of other services providers
- \_\_\_\_\_ Names and addresses of persons or entity whom petitioner seeks to have appointed guardian
- \_\_\_\_\_ Averment that proposed guardian has no interest adverse to A.I.P.
- \_\_\_\_\_ Reasons for seeking guardian
- \_\_\_\_\_ Description of functional limitations and physical and mental condition of A.I.P.
- \_\_\_\_\_ Steps taken to find LRA's (less restrictive alternatives)
- \_\_\_\_\_ Specific areas of incapacity for which guardian is to be assigned powers
- \_\_\_\_\_ Qualifications of proposed guardian
- \_\_\_\_\_ Gross value of estate and net income from all sources to the extent known (required if seeking a guardian of the estate)

**b. Verification: (required)**

\_\_\_\_\_ By Petitioner, not counsel (O.C. Rule L.3.4A(2))

**c. Attorney Information (O.C. Rule L.3.4A(1))**

\_\_\_\_\_ Petition, and any answer and reply must be endorsed with the name, address, zip code, telephone number, and identification number of the individual attorney representing the party filing the pleading.

**3. Citation with Notice (§ 5511(a); Pa. O.C. Rule 14.5)**

**a. Form of Notice: (The following are all required)**

\_\_\_\_\_ Proposed notice is in large type and simple language

\_\_\_\_\_ Notice states date, time, and place of hearing and rights of A.I.P., including right to counsel

\_\_\_\_\_ Notice sets forth purpose and seriousness of hearing and that rights may be lost

**b. Service: (The following are all required)**

\_\_\_\_\_ Personal service

\_\_\_\_\_ At least 20 days before hearing

\_\_\_\_\_ By qualified person (include qualifications on affidavit)

**c. Additional Notice: (first two must be notified as matter of law [see § 5511 (a)])**

\_\_\_\_\_ Next of kin or presumptive heirs (necessary)

\_\_\_\_\_ Person/institution providing residential services (if any)

\_\_\_\_\_ Others whom Court may direct, including other service providers \_\_\_\_\_ (as applicable)

**4. Counsel for A.I.P. (Inform Judge at least 7 days before the hearing if no counsel has been retained by A.I.P.)**

\_\_\_\_\_ Requested \_\_\_\_\_

\_\_\_\_\_ Appointed \_\_\_\_\_

**5. Venue (§ 5512)**

**At least one of the first three; fourth necessary**

\_\_\_\_\_ A.I.P. is resident of County, or of long-term facility within the County

\_\_\_\_\_ A.I.P. does not reside in County but is beneficiary of an estate or trust in the County

\_\_\_\_\_ A.I.P. does not reside in County but has assets in County

\_\_\_\_\_ No other guardian has been appointed

**6. Proposed guardian (§ 5511(f)):**

**At least one of first three; fourth necessary**

\_\_\_\_\_ Individuals \_\_\_\_\_

\_\_\_\_\_ Corporation \_\_\_\_\_

\_\_\_\_\_ Guardian Officer \_\_\_\_\_

\_\_\_\_\_ No adverse interest/adverse interest but no one else available (underline applicable alternative)