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| 1005 W. Main Street, Suite 500 Balsam Lake, WI 54810 | Polk County Register in Probate Office | Phone: 715-485-9238 Hours: 8:30 AM - 4:30 PM |
| GUIDELINE | GUARDIANSHIP PROCEDURE Due to Incompetency and Petition for Protective Placement/Services | Rev. 05/07 Page 1 of 2 |

PLEASE NOTE: This Guideline is provided as a public service and is not intended to be legal advice. If you have any questions about the forms or procedure, please contact an attorney as court staff cannot give legal advice. This Guideline is subject to change or amendments.

A guardianship action for an incompetent is used to appoint someone to make medical and/or financial decisions for the incompetent person. Although attorneys often complete guardianships, the law allows for individuals to complete it by themselves. A protective placement action is necessary when an incompetent individual meets the standards for placement in a facility, or meets the standards for protective services. Pro se petitioners are responsible for completing all the legal requirements.

A Handbook for Guardians may be obtained from the following website:
<http://www.legalexplorer.com/resources/database/pubpdfs/74-unguard.pdf>

TO COMMENCE PROCEEDING: Complete and file the following with the Register in Probate Office:

- Petition for Guardianship due to Incompetency (Form GN-3100)
- Petition for Protective Placement/Services (Form GN-4040) (if seeking Protective Placement/Services)
- Order and Notice of Hearing (Form GN-3110) (Hearing date to be obtained from probate court at time petitions are filed with the Probate Office)
- Waiver and Consent to Petition for Guardianship due to Incompetency (Form GN-3115)
- Affidavit of Service (Form GN-3120)
- Certificate of Personal Service on proposed ward (Form GN-3120)
- Order Appointing Guardian ad Litem (Form GF-131) **see below*
- Report of Guardian ad Litem (Form GN-3160)
- Statement of Acts by Proposed Guardian and Consent to Serve (Form GN-3140)
- Order for Comprehensive Evaluation. A comprehensive evaluation is necessary to meet the requirements of protective placement. The form may be obtained from the Register in Probate Office. You must make arrangements with the Polk County Human Services Department to complete this evaluation. Their report must be filed with the Register in Probate four days prior to the court hearing.
- Examining Physician/Psychologist report and Notice of Rights (Forms GN-3130 and GN-3125) A doctor, psychiatrist or psychologist must complete a full mental health examination and his/her report must be filed with the Probate office at least 96 hours prior to the hearing. A copy must be sent to the Guardian ad Litem.

***A GUARDIAN AD LITEM (ATTORNEY) WILL NEED TO BE APPOINTED FOR THE ALLEGED INCOMPETENT PERSON (WARD) TO REPRESENT THE BEST INTERESTS OF THE PROPOSED WARD (Form GF-131).** The Guardian ad Litem will be appointed by the court and the Court will make a determination as to who will be responsible for these fees. The Guardian ad Litem will meet with the proposed ward and will make a recommendation to the court as to what is in the best interest of the ward. The Guardian ad Litem will also talk with the proposed guardian. The Court cannot hold a hearing or appoint a permanent guardian if there is no Guardian ad Litem.

HEARING/GIVING NOTICE:

- A hearing will be scheduled by the Probate Court and an Order and Notice of Hearing (GN-3110) will be signed and copy provided to petitioner.
- Service requirements: The Petitioner shall serve notice of the Petition for Guardianship and Order and Notice of Hearing on the proposed ward by personal service no less than 10 days prior to hearing. The petitioner shall also provide notice to all other interested persons either in person or by mail at least 10 days prior to hearing. **ALL INTERESTED PARTIES MUST RECEIVE NOTICE OF THIS HEARING.** See Wis. Stat. 54.38(2)(a) and (b) for interested persons. It can be found at <http://www.legis.state.wi.us/rsb/Statutes.html>.

THE COURT HEARING:

Forms to have completed and with you at time of hearing:

- Determination and Order on Petition for Guardianship due to Incompetency (Form GN-3170)
- Order on Petition for Protective Placement/Services (GN-4060)
- Letters of Guardianship of Person (Form GN-3200)
- Letters of Guardianship of Estate (Form GN-3210)
- Affidavit of Service (GN-3120)
- Certificate of Personal Service or Certification of Personal Service by Custodian
- You must be prepared to provide all evidence required by the court before your petitions can be granted.

If you are appointed guardian of the estate, you will be required to do an Inventory (Form GN-3440) of the ward's assets as of the date of appointment. This form must be completed and filed with the Register in Probate within 60 days of appointment. A 0.2% filing fee (minimum of \$20.00 if assets are \$50,000 or less) must accompany the Inventory. Each January you will receive an annual accounting form to complete and file by the following April 15th. This form requests information on all income and expenses of the ward and his/her assets as of December 31st. If you are unable to complete the accounting and/or inventory by yourself, you may hire an accountant or attorney to assist you as an administrative expense of the guardianship. You will also be required to complete an annual report of guardian concerning your ward and his/her current placement and condition.

Certified copies of Letters of Guardianship are available from the Register in Probate Office. The certification fee is \$3.00, plus \$1.00 for each page copied and certified.

All guardianship forms are available on the Wisconsin Court System website at www.wicourts.gov by clicking on "Forms", "Circuit Court", then "Guardianship". A form packet is available for sale by the Register in Probate for \$5.00.

If the ward meets certain income criteria, Polk County may be able to assist you with the guardianship procedure. You may wish to contact the Polk County Corporation Counsel's Office at 715-485-9210, or the Polk County Human Services Department and speak with an adult social worker at 715-485-8400, to see if the County can assist.