
GUIDELINE FOR GUARDIANSHIP Due to Incompetency (and Protective Placement/Services)

POLK COUNTY
PROBATE OFFICE
1005 W. MAIN STREET, SUITE 500
BALSAM LAKE, WI 54810

HOURS:
MONDAY – FRIDAY
8:30 AM – 4:30 PM

PHONE: 715-485-9238

Email: Jenell.Anderson@wicourts.gov

NOTE: This guideline is provided only as a public service and is not meant to be legal advice. The Register in Probate office cannot give legal advice; please contact an attorney if you have legal questions. This Guideline is subject to change or amendments.

A guardianship action for an incompetent is used to appoint someone to make healthcare, medical, personal and/or financial decisions for an incompetent person. Although attorneys often complete guardianships, the law allows for individuals to petition the court without hiring an attorney. A protective placement action is necessary when an incompetent individual meets the standards for placement/service. *Self-represented individuals are responsible for completing all legal requirements.*

If you are commencing a guardianship proceeding without an attorney, you must:

- Review the following information carefully.
- Complete all forms required. ****You will need to complete all forms before they are submitted.***
- File the completed forms and other required documents with the Probate Office.
- e-Filing is now available and if you wish to e-File this proceeding, see the e-Filing section at the end of this document.

FORMS: All forms are available on-line and can be found at: www.wicourts.gov. You can fill the forms in on-line as a Word document and then print; or you can print the forms and complete them by hand.

**An appointment is recommended when you are ready to file your papers. Please call the Register in Probate Office at 715.485.9238 to set up an appointment.*

TO START THE GUARDIANSHIP: Complete and file the following with the Register in Probate Office:

- Form GN-3100 Petition for Guardianship due to Incompetency.
- Form GN-3110 Order and Notice for Hearing (the hearing date will be set with the Probate Court at the time the petition is filed).
- Form GN-3115 Waiver and Consent to Petition for Guardianship due to Incompetency (if interested persons wish to sign).
- Form GN-3140 Statement of Acts and Consent to Serve by proposed guardian.
- Form GN-3130 Examining Physician/Psychologist report. A doctor, psychiatrist or psychologist must complete a full mental health examination of the proposed ward; the 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.
- Form GF-131A Order Appointing Guardian ad Litem. ****See below***

****If there is a need for placement of the proposed ward in a nursing home, group home or like facility that requires an order for protective placement, you will also need the following:**

- Form GN-4040 Petition for Protective Placement/Services
- Order Order for Comprehensive Evaluation (Check with the Register in Probate office to see if this Order is required. The evaluation is necessary to meet the requirements of a protective placement. You must make arrangements with the Community Services

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Division for Polk County to complete the evaluation. Their report must be filed with the Probate Office four days prior to the court hearing.

***A GUARDIAN AD LITEM (ATTORNEY) WILL NEED TO BE APPOINTED FOR THE PROPOSED WARD TO REPRESENT THE BEST INTERESTS OF THE PROPOSED WARD.** The petitioner may contact an attorney to act in this capacity, or the Court will appoint a Guardian ad Litem (GAL). The Guardian ad Litem will meet with the proposed ward and the proposed guardian and will make a recommendation to the court as to what is in the best interest of the proposed ward. The payment of fees for the GAL will be paid from the proposed ward's estate or the petitioner per statute. Responsibility will be determined by the court.

HEARING/GIVING NOTICE:

Once the petition(s) and accompanying paperwork has been received and filed with the court, a hearing will be scheduled with the assigned court official. Once the hearing is scheduled, the petitioner will be required to give notice to all interested persons.

- A copy of the file-stamped petition(s) and the Order and Notice of Hearing will be provided to the petitioner. Petitioner shall provide copies of these documents at the time they file the originals for this purpose.
- **Service requirements:** The petitioner is responsible for serving the petition(s) and order for hearing at least 10 days prior to the hearing as follows: on the proposed ward by personal service (***Note: proposed ward must be served by someone other than the petitioner**); and on all interested parties listed on the petition(s) by mail or personal service. Refer to Wisconsin Statute Sec. 54.38(2)(a) and (b) for methods of service and time limits; and Sec. 54.38(3) for interested persons. **ALL INTERESTED PARTIES MUST RECEIVE NOTICE OF THE HEARING.** Statutes can be found at <http://www.legis.state.wi.us/rsb/Statutes.html>.

PRIOR TO THE COURT HEARING: File the following documents:

Form GN-3120 Affidavit of Service, showing petitioner complied with notice requirements on interested persons. A separate Affidavit or Certificate of Service must be filed showing proposed ward was personally served.

Form GN-3170 Proposed Determination and Order on Petition for Guardianship Due to Incompetency

Form GN-4060 Proposed Order for Protective Placement (if needed)

Form GN-3200 Proposed Letters of Guardianship of Person

Form GN-3210 Proposed Letters of Guardianship of Estate

NOTE: *The petitioner is required to prepare the final paperwork for the guardianship proceedings. Court staff cannot complete the final paperwork for you.*

AT THE HEARING:

The petitioner/proposed guardian must be present at the hearing. The Guardian ad Litem will be present at the hearing. The GAL will have determined as to whether or not the proposed ward is to be present for the hearing or if their appearance can be waived. Transportation for the proposed ward will

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then have to be arranged. You must be prepared to provide all evidence required by the court before your petition(s) can be granted.

If the guardianship is granted, you will receive copies of the signed Order(s) and Letters of Guardianship issued by the court. Additional information will be provided to the guardian concerning duties and responsibilities once a guardian has been appointed.

AFTER THE HEARING: If you are appointed guardian of the estate, you will be required to complete and file 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. If you are appointed guardian of the person, you will be required to complete an annual report on the condition of the ward.

CERTIFIED COPIES: The fee for certified copies of the Letters of Guardianship of the Person is \$5.00, and Letters of the Guardianship of the Estate is \$4.00. The fee for plain copies is \$1.00 per page copied. Requests for copies may be made in person or by mail. If the request is by mail, please enclose the correct fee **and** a stamped, self-addressed envelope. Payment must be received before the requested copies are provided.

NOTE: *If the ward meets certain income criteria, Polk County may be able to assist you with the guardianship procedure. Contact Polk County Community Services Division and speak with an adult protective services/behavioral health social worker at 715-485-8400, to see if the County can assist.*

ADDITIONAL RESOURCE: Information concerning guardianships and questions you may have with regard to acting in this capacity may be obtained at the Wisconsin Guardianship Support Center Helpline. You may call 855.409.9410, fax at 866.561.2652; or by email at guardian@gwaar.org. Their website can be found at www.gwaar.org; and their address is 1414 MacArthur Road, Suite 306, Madison, WI 53714.

The law and legal requirements for guardianships and/or protective placements are covered in Chapters 54 and 55 of the Wisconsin Statutes. You can review these statutes on-line or at your local library. You can refer to the statutes to review legal procedure and requirements.

E-FILEING IS NOW AVAILABLE: Individuals are now able to e-File guardianship actions with the Circuit Court. Follow the following steps:

- To register for an eFiling account: www.wicourts.gov
- Click **eFile/eCourts** on the tool bar
- Click on the **Circuit Court eFiling** from the drop down
- Follow the instructions to register for an eFiling account and filing instructions