

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

Register in Chancery
Kent County
38 The Green
Dover, DE 19901
302-735-1930

Register in Chancery
New Castle County
500 N. King Street, St. 1551
Wilmington, DE 19801
302-255-0544

Register in Chancery
Sussex County
34 The Circle
Georgetown, DE 19947
302-856-5775

**COSTS INVOLVED & GENERAL INFORMATION ON ACTING AS
A PRO SE LITIGANT**

Petition for Appointment of Guardian(s) of a Minor's Property
(Limited and Plenary)

You have elected to proceed without an attorney (pro se) to file a petition for guardianship. Our office wants you to be completely aware of the fees that are associated with this type of filing. The initial filing fee of \$135.00 and an additional \$2.00 per page scanning fee is required at the time you file your petition with our office. Note, we charge a \$1.50 per page for any documents that you may need photocopied. You may choose to pay by either cash or check. Checks are to be made payable to "Register in Chancery."

Delaware law and the Court's rules allow for the appointment of either a "limited" guardian or a "plenary," or unrestricted, guardian. You should decide what type of guardianship is needed in your case. The following guidelines may be of assistance:

- No guardian is necessary if the amount the minor will receive is equal to or less than \$25,000, including any associated costs, expenses, and attorneys' fees.
- Even when the value of the property or funds the minor is entitled to receive is equal to or less than \$25,000, a guardian may be needed to secure the property. For example, the insurance company may require a guardian before it will release funds, or property gifted to the minor may need to be sold, necessitating appointment of a guardian to complete the sale process. In that case, a limited guardian may be appointed. The "limited guardian" acts only for a specified period of time, and the guardianship automatically terminates when the guardian files proof with the Court that the guardian has performed his or her duties under the Court's order. Typically, this would mean that a guardian is appointed to take possession of the funds or property and secure them in an appropriate account, or take possession of property and complete the sale of the property. Once the guardian files proof that those tasks are completed, the guardianship terminates and the case is closed.
 - When the value of the property or funds the minor is entitled to receive is equal to or less than \$25,000, the guardianship would terminate when the funds are placed in a Uniform Transfers to Minors Act Account, also called a "custodial" account. The guardian must file proof that the account was opened, and must execute and file with the Court an affidavit attesting to the guardian's understanding of his or her obligations as custodian of the account.

- When the value of the property or the funds the minor is entitled to receive is more than \$25,000, a limited guardianship may be established if the funds are placed in an annuity or structured financial instrument for the benefit of the minor.
- A plenary, or unrestricted, guardianship is one that lasts until the minor turns 18 years old and files a petition to transfer funds at majority. Until the guardianship terminates, the funds must be held in a specially-titled guardianship account. Under a plenary guardianship, the Court will continue to monitor the account, will require the guardian to file annual bank statements, may require the guardian to file an accounting, and will restrict the account **so that the funds cannot be spent except with a Court order.** There also are restrictions regarding the bank where a guardianship account may be opened.

When filing a Petition for the Appointment of a Guardian of a Minor's Property, whether for limited guardianship or plenary guardianship, you will need to submit the following documents to our office:

- 1) The complete petition with the petitioner's signature notarized.
- 2) The minor's birth certificate.
- 3) An affidavit of petitioner's history.
- 4) A personal information sheet.
- 5) Notice to the next-of-kin (i.e. the other parent, siblings over the age of eighteen or grandparents if immediate family is no longer living).
 - a. Notarized consents or
 - b. If you are unable to obtain a consent, notice will need to be sent by certified mail. You will then need to complete the enclosed affidavit of mailing and file the green cards with our office.
- 6) If the money is being received due to someone's death, the death certificate will need to be filed.
- 7) If the money is being received through a life insurance policy, a letter needs to be filed from the insurance company to show that the minor is due to receive money.
- 8) If the minor is over the age of fourteen, he/she will need to sign a consent to the petition, with their signature notarized.

Should your petition to become guardian(s) be granted, you will receive additional documents and information from the Court. Among other things, you will be required to execute a bond in an amount set by the Court.

Please Note: There is additional information and forms available on the Court's website at <http://courts.delaware.gov/Chancery/guardianship/index.stm>

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN THE MATTER OF:

:
:
:
:
:
:

C.M. # _____

_____,

A Minor

**PETITION TO APPOINT PLENARY GUARDIAN(S) OF A
MINOR'S PROPERTY**

Petitioner(s), _____, represents:

1. Information about Petitioner(s) (You are the Petitioner):

a. Current address(es): _____

b. Telephone Number(s): _____

c. Relationship to the minor: _____

2. Information about the minor:

a. Age: _____ Minor turns 18 on: _____

b. Date of birth: _____

c. Current address: _____

3. The interested parties who are entitled to notice of the petition are the following (include parents (natural or adoptive), court appointed guardians, any attorney who represented the minor child in the previous

two years, siblings over the age of 18, and grandparents if one parent is deceased or cannot be contacted):

Name of Interested Party	Relationship to Minor	Address and Phone number of interested party	Interested Party's age

4. Specify the source of the property or funds the minor is entitled to receive, the approximate value of the property or amount of funds to be received, and the date upon which the minor expects to receive the property or award. _____

5. The reasons why this Court should establish a plenary guardianship rather than a limited guardianship are: _____

-
-
6. All of the following statements must be true before the Court of Chancery will consider this petition. Check ALL of the following statements to acknowledge they are true:
- a. There is currently no legal guardian for the minor's property
 - b. Attached is the minor's birth certificate
 - c. Attached is the death certificate (if the minor will receive funds or property as a result of the death of another person)
 - d. Attached is a letter from the insurance company stating how much the minor is to receive from the life insurance policy **OR** the decedent's will is attached
 - e. Petitioner(s) consents to the Register in Chancery of the Court being his/her/their agent for acceptance of service on behalf of the Petitioner(s) as to any claim arising out of the guardianship if, by reason of the guardian's absence(s) from this State, he/she/they cannot personally be served.
 - f. Petitioner(s) understands that the minor's money will be placed into a guardianship bank account and the funds shall remain in the account until the minor turns eighteen (18) at which time a Petition

to Transfer Funds at Majority must be filed with the Court.
Petitioner(s) understands and agrees that funds may not be
withdrawn from the guardianship account without a court order
authorizing such withdrawal.

WHEREFORE, Petitioner(s) respectfully request that:

1. This Court appoint him/her/them as plenary guardian(s) of the
minor's property.
2. The guardian(s) shall have the authority to receive
\$_____ from the Insurance Company/Estate. If
requested, the guardian(s) shall execute a release to the payor for the
amount received.
3. The guardian(s) be authorized to open an account at the
_____ Bank to be titled, "COURT OF
CHANCERY GUARDIANSHIP ACCOUNT FOR
_____, MINOR,
_____,
GUARDIAN(S). WITHDRAWALS ONLY BY ORDER OF THE
COURT" and to deposit all of the minor's funds in the account.
4. The Court fix bond for the guardianship without surety in an amount
determined by the Court.

5. There be paid by the guardian the court costs of this petition.

Signature of Co-Petitioner
(If Applicable)

Signature of Petitioner

Address: _____

Address: _____

Phone number: _____

Phone number: _____

SWORN TO AND SUBSCRIBED before me on the _____ day of
_____, 20_____.

Notary Public/Clerk of the Court

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN THE MATTER OF:

_____,
a minor

:
:
:
:
:
:

C.M. # _____

**MINOR'S CONSENT TO THE PETITION FOR THE APPOINTMENT OF
A GUARDIAN OF THE MINOR'S PROPERTY**

I, _____, a minor
(Name of minor)

over the age of fourteen (14) years old, hereby consent to the appointment of

_____ as the _____
(Petitioner's Name) (specify limited or plenary)

guardian of my property.

Date

Minor's signature

Minor's address: _____

SWORN AND SUBSCRIBED before me the date and year aforesaid.

Public Notary/Clerk of the Court

INSTRUCTIONS FOR NOTIFYING INTERESTED PARTIES OF PETITION FOR GUARDIANSHIP

It is the petitioner's responsibility to notify interested parties when a petition for guardianship is filed with the Court. This includes notifying all of the parties you listed in paragraph three of the guardianship petition. Under Rule 180(e)(3), interested parties entitled to notice include natural or adoptive parents, any court-appointed guardian, any attorney who has represented the minor child within the last two years, any siblings who have reached the age of majority, and the minor's grandparents if one or both parents are deceased or cannot be contacted.

You, as the petitioner(s), can approach this requirement in one of two ways:

1. A copy of the attached consent form can be signed and notarized by each interested person.

OR

2. You can send a copy of the completed "Notice of Petition" to all of the interested parties via certified mail. You will then file with the Court the following documents:
 - a. The attached "Affidavit of Mailing",
 - b. A copy of the "Notice of Petition" that was sent to the interested party, and
 - c. The certified mail return receipts.

PLEASE NOTE: Any interested party who has not signed a notarized consent must receive notice of your petition by certified mail at least thirteen (13) days before the Court will consider your petition. This ensures that all interested parties have adequate time to contact the Court with any questions they may have or file any objection to the guardianship petition.

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN THE MATTER OF:

_____, :
 (Minor's name) :
 A minor : C.M. # _____
 :

AFFIDAVIT OF MAILING

1. The petitioner(s), _____, mailed on this date, _____ a Notice of Petition dated _____ to the person(s) set forth in paragraph 2 informing them of the Petition for Appointment of Guardian of a Minor's Property that has been filed in this matter and that any objection to the petition must be filed with the Court within 13 days.

2. The person(s) to whom the letter above was mailed and their addresses are:

Name	Address

3. ATTACHED ARE: (Check both statements below to acknowledge both are attached.) A copy of the above referenced notice AND The certified mail return receipts.

 Petitioner

 Co- Petitioner

SWORN TO AND SUBSCRIBED before me, a notary/clerk of the Court, on the _____ day of _____, 20_____.

 Notary Public/Clerk of the Court

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

Register in Chancery
 Kent County
 38 The Green
 Dover, DE 19901
 302-735-1930

Register in Chancery
 New Castle County
 500 N. King Street, St. 1551
 Wilmington, DE 19801
 302-255-0544

Register in Chancery
 Sussex County
 34 The Circle
 Georgetown, DE 19947
 302-856-5775

IN THE MATTER OF: _____ :
 _____ : C.M. # _____
 (Minor's name) :
 A minor :

NOTICE OF PETITION FOR THE APPOINTMENT OF A GUARDIAN OF A MINOR'S PROPERTY

NAME	ADDRESS OF INTERESTED PARTY

Dear Interested Parties:

This is a notice that I am/we are applying for guardianship of _____'s
 Minor's name
 Property. Should you object, you must immediately send your written objections to the Register
 in Chancery's Office that has been marked above. Any objection must be filed within 13 days
 of the date of this notice.

 Petitioner's Signature

 Co-Petitioner's Signature

Dated: _____

**COURT OF CHANCERY
PERSONAL INFORMATION SHEET**

In the matter of: _____, an alleged disabled person/minor
Social Security Number: _____ Date of Birth: _____
C.M. # _____ Date: _____

In connection with the above matter, I have applied to the Court of Chancery to be appointed as guardian of the alleged disabled person/minor named above. I understand that I must complete this form in full or my guardianship petition may be denied. In order to provide the Court with sufficient information to determine my qualification to serve as guardian and to assist the Court in assuring that the Court's staff will always be able to locate and make contact with me, the following information and consent is given:

Proposed Guardian's current full name: _____

Proposed Guardian's physical address: _____

Proposed Guardian's mailing address (if different): _____

Home phone number: _____ Work phone number: _____

Cell phone number: _____ E-mail address: _____

Date of birth: _____ Social Security number: _____

Driver's License number and State: _____

Place of employment and address: _____

Name of supervisor and telephone number: _____

Name/Address/Telephone number of spouse (if not a co-petitioner/co-guardian):

Name, address and telephone number of at least two persons who should always be able to locate or contact me and do not live at the same address as each other or the petitioner(s):

1. Name: _____

Address: _____

Phone number: _____ Relationship: _____

2. Name: _____

Address: _____

Phone number: _____ Relationship: _____

I fully understand that it is my duty to keep the Court informed of my whereabouts and to provide the Court with any change in my name, physical address or mailing address. I hereby authorize the staff of this Court to contact any of the persons named above and authorize and direct any of the persons named above and my attorneys to provide to the Court any information which might assist the Court in locating or contacting me in the future. I also authorize the court staff to search government or public databases to locate me. I further agree that any federal, state, public, or private agency with information about my whereabouts, or the whereabouts of the disabled person or minor named above, may release that information to the Court and its staff, and I authorize and direct such persons to release that information. I release the Court and the Court's staff from all liability associated with efforts to determine my whereabouts or the whereabouts of the disabled person or minor over whom guardianship has been established.

Proposed guardian's signature

SWORN TO AND SUBSCRIBED before me, a notary/clerk of the Court for the County on the ____ day of _____, 20____.

Notary Public/Chancery Court Clerk



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

Alleged disabled person/Minor: _____

AFFIDAVIT OF PROPOSED GUARDIAN'S HISTORY

Proposed Guardian's Name: _____

1. Have you ever declared bankruptcy? Yes No

If so, when? _____

If so, what type? _____

2. Have you ever been convicted of a misdemeanor? Yes No

If so, describe which misdemeanor, when and in what jurisdiction you were convicted (i.e. State, County and Police Department). _____

3. Have you ever been convicted of a felony? Yes No

If so, describe which felony, when and in what jurisdiction you were convicted (i.e. State, County and Police Department). _____

4. Have you ever been found guilty of an offense by a court martial?

Yes No

If so, describe which offense and when you were found guilty? _____

5. Do you give the State of Delaware permission to conduct a criminal background check on you at any time during the consideration of your petition for guardianship and, if granted, at any time during the period you are a guardian? Yes No

I solemnly swear and affirm under penalty of law that the statements and answers above are true to the best of my knowledge.

Proposed Guardian's Signature

SWORN TO AND SUBSCRIBED before me on this date: _____

Notary Public or Clerk of the Court

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN THE MATTER OF:

_____ ,

a minor

:
:
:
:
:

C.M. # _____

ORDER TO APPOINT PLENARY GUARDIAN(S) OF THE MINOR'S PROPERTY

WHEREAS, the Petition for Appointment of Plenary Guardian(s) of the Minor's Property having been presented and duly considered by the Court,

IT IS HEREBY ORDERED, this _____ day of _____,

20____, as follows:

1. _____ is/are hereby appointed plenary guardian(s) of the property of _____, minor and that the guardian(s) is/are directed to receive the sum of approximately \$_____ from the life insurance policy/estate of _____ . If requested, the guardian(s) may execute a release in favor of the payor for the amount received. If the amount that will be received by the guardian is not now known, the guardian shall inform the Court of the amount within ____ days of the date of this order.

2. Before entering upon his/her duties as guardian pursuant to this Order, _____ shall execute a bond to be taken in the name of the State of Delaware in the amount of \$ _____ with/without surety as a condition

for the faithful performance of his/her duties as guardian. The bond shall be filed within seven days of the date of this Order.

3. The guardian(s) shall open an interest bearing account or certificate at _____ Bank, located in Delaware, entitled: "COURT OF CHANCERY GUARDIANSHIP OF _____, MINOR, _____ GUARDIAN(S), WITHDRAWALS ONLY BY ORDER OF THE COURT" and deposit the funds to be received. The guardian(s) may not make **ANY** withdraws from the account WITHOUT first having a Court Order to do so. The guardian(s) may roll over or reinvest the sums in similar accounts or certificates in the same bank and under the same limitations on withdrawals.

4. The guardian(s) shall, within thirty (30) days of the date of this order, submit proof to the Register in Chancery's Office that the bank account(s) provided for in this Order have been opened in accordance with the provisions of this Order.

5. Subject to the further order of the Court, the guardianship funds of minor may **not** be used for everyday living expenses such as food, shelter, clothing, etc.

6. Upon the minor reaching the age of majority, the guardian and former minor shall file with the Court a Petition to Transfer Funds at Majority. No funds

will be released from the guardianship account until the Petition to Transfer Funds at Majority is approved by the Court.

7. The guardian(s) consent to the Register in Chancery being his/her/their agent for the acceptance of service of process on behalf of the petitioner(s) as to any claim arising out of the guardianship if, by reason of the guardian's absence(s) from this state, he/she/they cannot personally be served.

8. The Register in Chancery or her designee as Administrator of the Account may from time to time inspect any account established for the benefit of the minor, and the financial institution holding said account(s) is authorized and directed to allow said inspection, and to supply a statement of the account, if requested, for the guardianship file. If the account is titled incorrectly, the financial institution is directed to make such corrections as per the original Order of this Court, and send a corrected copy to the guardian(s) and the Register in Chancery's Office.

9. The guardian(s) shall provide the Register in Chancery with the most recent bank statement, in lieu of an accounting, by January 15th of each year.

10. The guardian(s) must notify the Register in Chancery's Office of any address or phone number change within thirty days of occurrence.

Chancellor/Vice Chancellor/Master