

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

Register in Chancery
Kent County
38 The Green
Dover, DE 19901
302-736-2242

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 the Appointment of a Guardian of the Person of an
Alleged Disabled Person**

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 xeroxed. Acceptable method of payment is either cash or check. If you choose to write a check, make it payable to "Register in Chancery."

A Delaware lawyer will be appointed by the Court to act as the attorney *ad litem*. This attorney will represent the alleged disabled person over whom guardianship is sought. The attorney will investigate and respond to the petition you are about to file. There will be costs for this attorney *ad litem*. The Court will award the attorney *ad litem* a reasonable fee for his/her work on behalf of the alleged disabled person and will decide which party is responsible for payment of the fee. For uncontested matters, the fee can be up to \$750.00. Extraordinary cases such as contested petitions or those that require out of state travel or further investigation may exceed \$750.00. **AS THE PETITIONER, YOU WILL BE RESPONSIBLE FOR THE FEE OF THE ATTORNEY AD LITEM.**

You will be contacted by the Court once the attorney *ad litem* has been appointed to inform you when the court hearing will be held. You must arrive at least fifteen (15) minutes early for the hearing. Please be advised that you will be unable to bring a cell phone or any electronic device into the Court building. When you arrive, you will need to check in with the Court Clerk and then take a seat in the hall. When your case is called, you will need to step to the podium, state your name and state your case to the Judicial Officer. The Judicial Officer will have a copy of your petition and may ask you questions in reference to it. Please familiarize yourself with this guardianship packet. If you are appointed as guardian, you will receive additional documents and information from 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>

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Guardianship Volunteer Program

The Court of Chancery has created a volunteer program designed to monitor individuals who have been placed under guardianship and whose care is the responsibility of court-appointed guardians. This important monitoring function enables the Court to have first-hand information about people for whom the Court has ultimate responsibility. The Court Volunteer is assigned a case, given necessary information about the case, and makes an appointment to meet with the guardian and ward. After the visit, the volunteer fills out a report indicating the status of the ward and may make recommendations for action. The volunteer's report is viewed by Court staff to determine if further action is necessary. The volunteer is considered a member of the Court and should be treated accordingly.

Our wards are very important and they deserve every right and protection we can provide them. You should expect to be contacted in the future by one of our volunteers and your cooperation with scheduling meeting times with these volunteers is greatly appreciated. Thank you in advance for your time and effort. Together, we will provide the best care possible for all of our wards.

Sincerely,

Sherri Hageman
Guardianship Monitoring Program Director
(302) 358-0782
Statewide

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN THE MATTER OF:

_____,
An alleged disabled person

:
:
:
:
:

C.M. # _____

PETITION TO APPOINT GUARDIAN(S) OF THE PERSON

Petitioner(s), _____, represents:

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

- a. Current address(es): _____

- b. Telephone Number(s): _____
- c. Relationship to alleged disabled person: _____

2. Information about the alleged disabled person:

- a. Age: _____
- b. Date of birth: _____
- c. Current address: _____

- d. Permanent address: _____

- e. If the alleged disabled person is a patient/living at a hospital or an institution:
 - i. Admission date: _____
 - ii. Admitted by: _____
 - iii. Reason(s) for admission: _____

3. Who is paying the alleged disabled person's expenses and out of what funds? _____

4. The marital status of the alleged disabled person is: (check one)
 Single Married Divorced Widowed

5. The next-of-kin of the alleged disabled person who would be entitled to the estate of the alleged disabled person in the event of the alleged disabled person's death intestate are

the following:

Name of Next-of-Kin	Relationship to Alleged Disabled Person	Address and Phone number of next-of-kin	Next-of-kin's age

6. The alleged disabled person is believed to have made a Will that is located at the following address: _____ and is in the custody of the following person/entity: _____.
7. Has the alleged disabled person ever appointed a Power of Attorney? Yes No
If "Yes", name and address of the Agent under the Power of Attorney: _____
_____.
8. Has the alleged disabled person been represented by a Delaware attorney within the last two years? Yes No
If "Yes", include the name of the attorney, explain the reason and include the years of service: _____
_____.
9. Has the alleged disabled person ever been a member of the military: Yes No

10. A list of the believed assets and estimated value are the following: _____

_____.

11. A list of the believed current sources of income are the following (i.e. Social Security, Pension): _____

_____.

12. A list of the believed current sources of liabilities are listed as the following (i.e. living expenses, healthcare, medical expenses, other debts): _____

_____.

13. With detailed information, explain why it is necessary for the Court to grant you guardianship. _____

_____.

14. 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 guardian for the person of the alleged disabled person.
- b. The alleged disabled person is unable to properly manage and care for his/her person and, as a consequence therefore, is in danger of becoming the victim of a designing person. He/she is in danger of substantially endangering his/her own health or becoming subject to abuse by other persons.

- c. The alleged disabled person is domiciled in the State of Delaware.
- d. Attached is the medical report of
 Name of attending doctor/physician: _____
 Doctor/Physician's office address: _____

 Doctor/Physician's phone number: _____
- 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 be personally served.

WHEREFORE, Petitioner(s) respectfully request that:

1. This Court appoint him/her/them as guardian(s) of the person of the alleged disabled person.
2. A preliminary order be entered to schedule a hearing and to notify interested parties.

 Signature of Co-Petitioner
 (If Applicable)

 Signature of Petitioner

Address: _____

Address: _____

Phone number: _____

Phone number: _____

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

 Notary Public/Chancery Court Clerk

PHYSICIAN'S AFFIDAVIT

NOTE: This affidavit will be used in a legal proceeding to appoint a guardian for the patient named below. The information it contains must be based on your personal examination of the patient. Thank you for your concern and cooperation.

PATIENT'S NAME: _____

ADDRESS: _____

I, _____ located at _____
(provider's name) *(address)*

(telephone number)

I am licensed to practice in the United States in the following states:

I am board Certified in _____

This history of my involvement with this patient is the following:

I personally examined _____ on _____, 20____.
(Patient's Name)

The examination lasted approximately _____.
(time)

I performed or ordered the following tests: _____

Based on tests and my examination of this patient, it is my professional opinion that s/he

does not have a disability that interferes with the ability to make or communicate responsible decisions regarding health care, food, clothing, shelter, or administration of property.

does have a disability that interferes with the ability to make or communicate responsible decisions regarding health care, food, clothing, shelter, or administration of property.

The particulars of the disability are as follows: _____

The patient is unable to perform the following functions: _____

In my opinion, the patient **does have** sufficient mental capacity to understand the nature of guardianship and **can** consent to the appointment of a guardian.

In my opinion, the patient **does not have** sufficient mental capacity to understand the nature of guardianship and **cannot** consent to the appointment of a guardian.

I solemnly swear and affirm under the penalties of perjury and upon personal knowledge that the contents of this petition are true.

Date

Provider's Signature

Printed Name

STATE OF DELAWARE :

COUNTY OF _____ :

SWORN TO AND SUBSCRIBED before me this _____ day of

_____, 20__.

Notary Public

COURT OF CHANCERY

Information Needed on Civil Miscellaneous Filings

IN THE MATTER OF:

Address:

C.M.# _____

Social Security#: _____

Date of Birth: _____

Guardian:

Social Security#: _____

Drivers License#: _____

Date of Birth: _____

Current Address:

Home Phone#: _____

Work Phone#: _____

Email: _____

Co-Guardian

Social Security#: _____

Drivers License#: _____

Date Of Birth: _____

Current Address:

Home Phone #: _____

Work Phone #: _____

Email: _____



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

Alleged disabled person/Minor: _____

AFFIDAVIT OF PETITIONER'S HISTORY

Petitioner'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.

Signature

SWORN TO AND SUBSCRIBED before me on this date: _____

Notary Public or Clerk of the Court

INSTRUCTIONS FOR NOTIFYING NEXT-OF KIN OF PETITION FOR GUARDIANSHIP

It is the petitioner's responsibility to notify the alleged disabled person's next-of-kin (spouse, children over the age of eighteen, parents, and/or siblings) when a petition for guardianship is filed with the Court. This includes notifying all of the parties you listed on number five of the guardianship petition.

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

1. A copy of the attached "Waiver of Notice and Consent" can be signed and notarized by each of the alleged disabled person's next-of-kin/relatives.

OR

2. You can send a copy of the completed "Notice of Petition" and a copy of the granted Preliminary Order to all of the alleged disabled person's next-of-kin, via certified mail. You must then file the following documents with the Court, which are due by noon two days before the scheduled hearing date:
 - a. The attached "Affidavit of Mailing";
 - b. A copy of the "Notice of Petition" that was sent to the next-of-kin; and
 - c. The certified mail return receipts and/or the green cards that have been returned to you.

PLEASE NOTE: Any next-of-kin who has not signed a notarized consent must receive notice of your petition by certified mail at least thirteen (13) days before the Court hearing. This ensures that all next-of-kin 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:

C.M.#: _____

AN ALLEGED DISABLED PERSON

WAIVER OF NOTICE AND CONSENT

I, THE UNDERSIGNED, _____, name of next of kin to the alleged disabled person
whose relationship to _____ name of the alleged disabled person hereinafter called the
"alleged disabled person" is that of _____, next of kin's relationship to the alleged disabled person hereby waive
my right to notice of the Hearing upon the Petition of _____ Petitioner's name
to be appointed Guardian of the alleged disabled person's Person and/or Property and hereby
consent to _____ Petitioner's name's appointment as Guardian for the alleged disabled
person's (check all that apply) Person and/or Property without further notice.

Date

Next of Kin's Signature
Next of Kin's Address: _____

SWORN TO AND SUBSCRIBED before me on this date: _____

Notary Public or Clerk of the Court

3. **ATTACHED ARE:** (Check both statements below to acknowledge both are attached.)

A copy of the above referenced letter **AND**

The certified mail return receipts.

Date

Petitioner's Signature

SWORN TO AND SUBSCRIBED before me on this date _____

Notary Public or Clerk of the Court

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302-856-5775

IN THE MATTER OF:

_____,
(Alleged disabled person's name)
An alleged disabled person

:
:
:
:
:

C.M. # _____

NOTICE OF PETITION FOR THE APPOINTMENT OF GUARDIAN(S) OF THE PERSON

NAME	ADDRESS OF INTERESTED PARTY

Dear Interested Parties:

This is a notice that I am/we are applying for guardianship of _____'s
Alleged disabled person's name
 Person (to make his/her medical decisions). The Court of Chancery approved the enclosed preliminary order to schedule a hearing on this case. If you object to the petition, you must appear at the hearing or immediately contact the Register in Chancery's Office that has been marked above.

Petitioner's Signature

Co-Petitioner's Signature

DATED: _____

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN THE MATTER OF:

:
:
:
:
:
:

C.M. # _____

_____,
An alleged disabled person

**PRELIMINARY ORDER FOR THE APPOINTMENT OF AN ATTORNEY AD LITEM
AND TO SCHEDULE THE HEARING**

AND NOW, TO WIT, on this date, _____, the Petition for the Appointment of a Guardian of (check all that applies): the Person and/or the Property of _____ hereinafter called "alleged disabled person,"
(Alleged disabled person's name)
filed in this matter having been read and duly considered by the Court,

NOW THEREFORE, IT IS ORDERED as follows:

1. A hearing shall be held at the Court of Chancery in _____
(County in which your case was filed)
County, Delaware on _____, 20_____, at 9:30 a.m. to determine
(leave blank)
if the Petitioner should be appointed the Guardian of the Person and/or Property of the alleged disabled person.

2. _____, Esquire, is appointed attorney *ad litem* for the
(leave blank)
alleged disabled person.

3. The Court shall issue notice to the attorney *ad litem* for the alleged disabled person **at least ten (10) days before** the Hearing date pursuant to Chancery Court Rule 176(c) unless the appointed attorney ad litem files a Waiver of Service upon notification of the appointment.

4. The attorney ad litem shall give actual notice of the petition to the alleged disabled person pursuant to Chancery Court Rule 176(a) unless the Physician's Affidavit says it would be detrimental or meaningless to give notice.

5. The attorney *ad litem* shall file a report with the Court before noon on this date:

6. Pursuant to the preparation of the report referenced in paragraph “5” of this Order:

- a. All physicians, hospitals, and other healthcare providers covered under the Privacy Standards of the Health Insurance Portability and Accountability Act (HIPPA) are authorized to disclose to the attorney *ad litem* and shall provide the attorney *ad litem* unobstructed access to all medical records, treatment providers, clinical information and other healthcare information relating to the current mental and physical health of the Disabled Person [See 45 CFR sec. 164.512(e)] that the attorney *ad litem* deems necessary for the proper discharge of his/her duties;
- b. All said physicians, hospitals and other healthcare providers grant said access described in paragraph “6a” of this Order to the attorney *ad litem* without delay;
- c. The attorney *ad litem* and the said physicians, hospitals and other healthcare providers are prohibited from using or disclosing the disabled person’s health information for any purpose other than this guardianship proceeding.
- d. The attorney *ad litem* shall return to the physician(s), hospital(s), and other healthcare provider(s) or shall destroy all of the health information provided to the attorney *ad litem* by the physician(s), hospital(s), or healthcare provider(s) (including all copies made) at the end of these Guardianship proceedings.

7. **At least ten (10) days before** the Hearing date, Petitioner must send notice by **certified mail, return receipt requested**, to **each** next of kin of the alleged disabled person who did **not** file a Waiver of Notice and Consent. Notice must state the time, place and purpose of the Hearing.

8. Petitioner must file at the Register in Chancery's Office all **certified receipts** from the notice(s) mailed to the next of kin no later than two days before the Hearing date.

Chancellor/Vice Chancellor/Master

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN THE MATTER OF:

_____,
a disabled person

:
:
:
:
:
:

C.M. # _____

FINAL ORDER FOR APPOINTMENT OF GUARDIAN(S) OF THE PERSON

WHEREAS, on _____ a hearing was held in the above-matter (“hearing”);

WHEREAS, Petitioner(s) _____ is/are the _____ of _____ (hereinafter called “the disabled person”), and the disabled person’s next of kin have waived notice and consented (agreed) or has/have received notice through certified mail to the appointment of the petitioner(s) as guardian of the person of the disabled person;

WHEREAS, _____, Esquire, the previously appointed attorney *ad litem* for the disabled person has been personally served at least ten (10) days before the date of the hearing and has rendered his/her report; and

WHEREAS, the Court having reviewed the petition and affidavits, considered the medical report, and considered the statements made and evidence presented at the hearing, finds that _____ is a disabled person because he/she is aged, mentally infirmed, and/or physically incapacitated. By reason thereof such disabled person is unable to properly manage and/or care for his/her person and consequently, such disabled person without a guardian is in danger of substantially endangering his/her health or becoming subject to abuse by other persons or becoming the victim of designing persons.

IT IS HEREBY ORDERED, this _____ day of _____,
20_____, as follows:

1. _____ is/are hereby appointed guardian(s) of the person of _____ subject to the applicable law and Rules of the Court relating to the care and management of disabled persons pursuant to 12 Del. C. § 3922.

2. The guardian(s) shall file a status report with the Register in Chancery every year on the anniversary date of the appointment of guardian(s) (the date of this Order) as required by the Rules of this Court and at any other time the Court shall direct. The status report shall include the current mailing address of the disabled person and the guardian(s), and the current medical statement from the attending physician setting forth the current medical status of the ward and addressing the need for a continued guardianship.

3. The guardian(s) is/are required to pay \$ _____ to _____, Esquire, for his/her services as the attorney *ad litem* for the disabled person. The attorney *ad litem* is hereby discharged.

4. The Register in Chancery of this Court is appointed agent of the guardian(s) to accept service of process on behalf of the guardian(s) as to any claim arising out of the guardianship if, by reason of the guardian's absence from this State, he/she/they cannot be served.

5. In the event of the disabled person's death, the guardian(s) shall notify the Register in Chancery's Office within ten days.

Chancellor/Vice Chancellor/Master