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 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 utilizes 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 is coordinated by the Guardianship Monitoring Program of the Office of the Public Guardian, and enables the Court to receive first-hand information about people for whom the Court has ultimate responsibility. The volunteer, designated by the Office of the Public Guardian, 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 filed by the Office of the Public Guardian and subsequently viewed by Court staff to determine if further action is necessary. The volunteer is considered an extension of the Office of the Public Guardian and the Court and should be treated accordingly.

Persons subject to guardianship are very important and they deserve every right and protection available. You should expect to be contacted in the future by a volunteer and your cooperation with scheduling meeting times with the volunteer is greatly appreciated. Thank you in advance for your time and effort.

Sincerely,

Sherri Hageman, M.S.
Guardianship Advocacy Director
Office of the Public Guardian
(302) 255-1901 or (302) 358-0782

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN THE MATTER OF:	:	
	:	
	:	C.M. # _____
_____,	:	
	:	
An alleged disabled person	:	

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 names and addresses of any potentially interested party which includes the spouse, any next-of-kin who would be entitled to inherit through the estate of the alleged disabled person if that person died intestate, any person acting for or named by the alleged disabled person as a fiduciary, executor or beneficiary in a power of attorney or testamentary instrument, or named as an agent in an advanced health care agreement or other health care proxy, any person primarily responsible in the past six months for the care of the person or finances of the alleged disabled person and the administrator or other appropriate individual to contact at any long term care facility where the alleged disabled person has received care in the past six months.

Name of Interested Party	**Relationship to Alleged Disabled Person**	**Address and Phone number of Interested Party**	**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 the alleged disabled person is in need of a guardian. _____

_____

_____

_____

_____

14. With detailed information, explain why you are an appropriate guardian for the alleged disabled person. _____

_____

_____

_____

15. 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 lives in the State of Delaware.

d. ☐ Attached is the physician's affidavit from

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 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 he/she

[ ] ***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

SWORN TO AND SUBSCRIBED before me this _____ day of

_____, 20___.

_____
Notary Public

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

INSTRUCTIONS FOR NOTIFYING INTERESTED PARTY(IES) OF PETITION FOR GUARDIANSHIP

It is the petitioner's responsibility to notify the interested parties when a petition for guardianship is filed with the Court. This includes notifying all of the parties you listed on number five and number eight 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 interested parties.

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 interested parties, 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 interested parties; and
    c. The certified mail return receipts and/or the green cards that have been returned to you.

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 hearing. 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:	:	
	:	
_____,	:	C.M. #: _____
	:	
An alleged disabled person	:	

WAIVER OF NOTICE AND CONSENT

I, _____, whose relationship to the alleged disabled person is that of _____, hereby waive my right to notice of the hearing and hereby consent to the appointment of _____ as guardian for the alleged disabled person's person (to make his/her medical decision) without further notice.

_____
Interested Party's signature

Address: _____

Phone Number: _____

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

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IN THE MATTER OF: :
:
_____, : C.M. # _____
:
An alleged disabled person :

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

Dear Interested Parties:

This is a notice that I am/we are applying for guardianship of

_____'s Person (to make his/her medical
(Alleged disabled person's name)

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	:	
	:	

AFFIDAVIT OF MAILING

1. The petitioner(s), _____, mailed on this date, _____ a Notice of Petition dated _____ and a copy of the approved preliminary order to the following interested parties:

Name	**Address**

2. The following documents are attached: (Check both statements below to acknowledge both are attached.)

   a. ☐ A copy of the Notice of Petition AND

   b. ☐ 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

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, 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," filed in this matter having been read and duly considered by the Court,

NOW, THEREFORE, IT IS ORDERED this ____ day of _____, 20_____, as follows:

1. A hearing shall be held at the Court of Chancery in _____ County, Delaware on _____, 20_____, at 9:30 a.m. to determine if the Petitioner(s) should be appointed the guardian(s) of the person and/or property of the alleged disabled person.

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

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(d) 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 (HIPAA) 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* is 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, the Petitioner(s) must send **a copy of this Preliminary Order** and notice by **certified mail, return receipt requested,** to **each** interested party who did **not** file a Waiver of Notice and Consent. The notice must state the time, place and purpose of the hearing.

8. Petitioner(s) must file at the Register in Chancery's Office all **certified receipts** from the notice(s) mailed to the interested parties 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:	:	
	:	
	:	C.M. # _____
_____,	:	
	:	
a disabled person	:	

<u>FINAL ORDER FOR APPOINTMENT OF A GUARDIAN OF THE PERSON</u>

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

WHEREAS, Petitioner, _____, is the _____ of _____ (hereinafter called "the disabled person"), and the interested parties has/have waived notice and consented (agreed) to the appointment of the petitioner as guardian of the person of the disabled person or has/have received notice through certified mail;

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, or in the alternative has filed a waiver of service, 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 mentally infirm 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 hereby appointed guardian 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 shall file an annual update and medical statement with the Register in Chancery every year, which is due on or before the first business day of the calendar quarter in which the guardian was appointed. The annual update and medical statement shall include the current mailing address of the disabled person and the guardian, and a current medical statement from an approved medical

practitioner setting forth the current medical status of the ward and addressing the need for a continued guardianship.

3. The guardian is 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 to accept service of process on behalf of the guardian as to any claim arising out of the guardianship if, by reason of the guardian's absence from this State, he/she cannot be served.

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

_____
Chancellor/Vice Chancellor/Master