

**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

In the matter of:

\_\_\_\_\_  
A person with a disability

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C.M. #: \_\_\_\_\_

**Final Order for Appointment of Guardian of the Person and Property**

WHEREAS, on \_\_\_\_\_ a hearing was held on the guardianship petition;

WHEREAS, Petitioner \_\_\_\_\_ is the \_\_\_\_\_ of \_\_\_\_\_ (hereinafter called “person with a disability”), and the interested party(ies) has/have waived notice and consented (agreed) to or has/have received notice through certified mail on the appointment of \_\_\_\_\_ as guardian of the person and property of the person with a disability;

WHEREAS, \_\_\_\_\_, Esquire, the previously appointed attorney *ad litem* for the person with a disability, has filed his/her report;

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 person with a disability by reason of mental or physical incapacity. By reason thereof, such person is unable to properly manage and/or care for his/her person and

property without a guardian and is in danger of substantially endangering his/her health, becoming subject to abuse by other persons, becoming the victim of designing persons and/or is in danger of dissipating or losing such property by becoming the victim of designing persons.

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

1. \_\_\_\_\_ is hereby appointed guardian of the person and property of \_\_\_\_\_, a person with a disability.

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 \$\_\_\_\_\_ without surety as a condition for the faithful performance of his/her duties as guardian, and shall be filed within seven days of the date of this Order. No copy of the final order will be released until the bond is filed. Any person or entity presented with a valid order from the Court may use that order as proof that the bond has been executed and filed.

3. The guardian appointed herein is granted such powers, rights and duties which are necessary to protect, manage and care for the person and property of the person with a disability as provided for in 12 Del. C., Ch. 39. Unless otherwise noted herein, these powers, rights and duties are plenary, and this

appointment supersedes and supplants the authority previously exercised by, or entrusted to, any individual or entity as surrogate decision maker or agent under a power of attorney or advance healthcare directive. In exercising these powers, rights and duties, the guardian must comply with the clear and unambiguous preferences and directions in the person with a disability's advance healthcare directive, if any, and must petition to act contrary thereto.

4. The guardian is authorized to apply to become, or continue to act, as the representative payee for social security benefits.

5. 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 both the person with a disability and the guardian, and a current medical statement from an approved medical practitioner setting forth the current medical status of the person with a disability and addressing the need for continued guardianship.

6. The petitioner is required to pay \$ \_\_\_\_\_ to \_\_\_\_\_, Esquire, within thirty (30) days of the date of this order, for his/her services as the attorney *ad litem* for the person with a disability. The attorney *ad litem* is hereby discharged from further service as attorney for the person with a disability.

7. 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.

8. Any powers of attorney previously executed by the person with a disability are invalidated by the guardianship pursuant to 12 Del. C. § 49A-108(a).

9. The guardian is authorized to prepare, sign, verify and file on behalf of the person with a disability all income and other Federal or State tax returns pursuant to 12 Del. C. § 3923(d)(8).

10. In the event of the death of the person with a disability, the guardian shall notify the Office of Register in Chancery within ten (10) days. The guardian shall file a petition to terminate within ninety (90) days of the death of the person with a disability.

11. If the person with a disability becomes Medicaid qualified, the guardian shall provide proof of that qualification and a copy of any signed trust instrument with the Register in Chancery's Office within thirty (30) days.

12. An order from the Court of Chancery is required to authorize the opening of any safe deposit box, to sell a motor vehicle, or to sell or encumber any real property of the person with a disability.

13. The guardian is relieved of the requirement of opening a guardianship account, filing an inventory and filing annual accountings. However, if the person with a disability earns more than \$1,000.00 in any given month, other than Social Security benefits, the guardian shall report the earnings to the Court within thirty days for further review. If, in the future, the guardian comes into possession of additional funds or property belonging to the person with a disability or the person with a disability becomes gainfully employed, the guardian shall notify the Court and account for such funds or property as the Court may then direct.

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Magistrate in Chancery