IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

Register in Chancery	Register in Chancery	Register in Chancery
Kent County	New Castle County	Sussex County
38 The Green, Ste. 208	500 N. King St., Ste. 11600	34 The Circle
Dover, DE 19901	Wilmington, DE 19801	Georgetown, DE 19947
302-735-1930	302-255-0544	302-856-5777

Procedures for filing a Petition for the Appointment of Guardian(s) of the Person of a Person with an Alleged Disability

This petition is for guardianship of the person only. If you also need guardianship of the property (for financial decisions), please fill out the petition for the appointment of a guardian of the person and property (Form CM1).

- The petition must be filled out completely.
  - The court clerk cannot complete the petition for you.
  - The petitioner(s) will need to have their signature(s) notarized on several forms. If you appear in the Register's Office with identification and the correct paperwork, your signature(s) can be notarized by a court clerk in the Register's Office.
  - A detailed physician's affidavit must be attached to the petition and is required to be notarized. The person with an alleged disability must have been seen by the physician within the last three (3) months.
  - The filing fee for the petition is **$135.00 plus $2.00 per page scanning fee**. Payment must be received at the time of filing, or the petition will not be accepted by our office. We accept **cash, check or money order** (made payable to the "Register in Chancery"). If the Register in Chancery's office makes photocopies for you, we will charge a $1.50 per page.

- The Court will appoint an attorney to represent the best interests of the person with an alleged disability. The attorney does not represent the petitioner(s). The Court will award the attorney *ad litem* a reasonable fee for their work on behalf of the person with an alleged disability. The petitioner is responsible for paying the attorney's 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.

- The petitioner(s) is/are responsible for obtaining consents from the interested parties or sending notice of the petition to the interested parties. Please see the instruction sheet within this packet for additional information.

- A petition for guardianship should only be filed as a last resort. Information can be found online on the following alternatives:
  - Advance Health Care Directive https://www.dhss.delaware.gov/dsaapd/advance1.html
  - Durable Power of Attorney https://www.dhss.delaware.gov/dhss/dhcq/poa.html
  - Surrogate Decision Making https://delcode.delaware.gov/title16/c025/index.shtml
  - Supported Decision Making https://www.dhss.delaware.gov/dhss/dsaapd/supported_decision_making.html

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Georgetown, DE 19947
302-856-5775

Guardianship Monitoring Program

The Court of Chancery utilizes the Guardianship Monitoring Program 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 Advocacy Director of the Office of the Public Guardian and Court of Chancery under Chancery Rule 180-D and enables the Court to receive first-hand information about people for whom the Court has ultimate responsibility. A Guardianship Analyst is assigned a case, given necessary information about the case, and makes an appointment to meet with the guardian and person with a disability. This meeting will likely be virtual or could be face to face. After the meeting, the Guardianship Analyst fills out a report indicating the status of the person with a disability and may make recommendations for action. The Analyst's confidential report is filed by the Office of the Public Guardian and subsequently viewed by Court staff to determine if further action is necessary. The Guardianship Analyst, as well as the Guardianship Monitoring Program itself, is an extension of the Court of Chancery and the Office of the Public Guardian 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 the Guardianship Monitoring Program and your cooperation with scheduling meeting times in a timely fashion 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. # _____
A person with an alleged disability	:	

PETITION TO APPOINT GUARDIAN(S) OF THE PERSON

1. Information about the person(s) who wish(es) to be appointed guardian(s):
   a. Name(s): _____
   b. Current address(es): _____
   _____
   _____
   c. Telephone Number(s): _____
   d. Relationship(s) to person with an alleged disability: _____
   e. Do you require an interpreter? ☐ Yes ☐ No. If yes, what language?
   _____
2. Information about the person with an alleged disability:
   a. Age: _____
   b. Date of birth: _____
   c. Current address: _____
   _____
   d. Permanent address: _____
   _____
   e. Is the person with an alleged disability a patient at a hospital, living in an institution or living in a group home?
   ☐ No
   ☐ Yes. If "Yes", answer the following questions:

i. Name of facility: _____

ii. Admission date: _____

iii. Reason(s) for admission: _____

_____

_____

f. Does the person with an alleged disability require an interpreter?

☐ Yes ☐ No. If yes, what language? _____

3. Interested parties

a. Has the person with an alleged disability ever appointed an Agent through a Power of Attorney or Advance Health Care Directive?

☐ No

☐ Yes. If "Yes", name, address, and phone number of the Agent: _____

_____

_____

b. Has the person with an alleged disability been represented by a Delaware attorney within the last two years?

☐ No

☐ Yes. If "Yes", include the name of the attorney, explain the reason, and include the years of service: _____

_____

c. Has someone been primarily responsible in the past six (6) months for providing care or handling the finances for the person with an alleged disability?

☐ No

☐ Yes. If "Yes", provide their name, address, and phone number: _____

_____

d. The names and contact information of the next of kin, including anyone who would be entitled to inherit through the estate of the person with a disability if that person died without a will, a named fiduciary, executor, or beneficiary. If an interested party is a minor, please provide the name and contact information for the minor's parent or other guardian as the parent or guardian will require notice.

Name of interested party	**Relationship to person with an alleged disability**	**Address and phone number of interested party**	**Age**

Please attach a separate sheet of paper if additional space is needed.

4. Who is paying the expenses of the person with the alleged disability and out of what funds? _____

5. The marital status of the person with an alleged disability is: (check one)

☐ Single ☐ Married ☐ Divorced ☐ Widowed

6. Has the person with an alleged disability ever executed a Will?

☐ No

☐ Yes. If "Yes", the Will is located at the following address: _____ _____ and is in the custody of the following person/entity: _____.

7. Has the person with an alleged disability ever been a member of the military?

☐ Yes ☐ No

8. Are you aware of any reports made to, or investigations by, Adult Protective Services regarding you or the person with an alleged disability?

☐ No

☐ Yes. If "Yes", please provide an explanation: _____

_____

_____

_____

9. Are there areas of decision-making that you think the person with an alleged disability can continue to make? ☐ Yes ☐ No

If "Yes", please explain what areas: _____

_____

_____

_____

10. Explain in detail why the person with an alleged disability is in need of a guardian._____

_____

_____

_____.

Please attach a separate sheet of paper if additional space is needed.

11. Explain in detail why you should be appointed guardian(s).

_____

_____

_____

Please attach a separate sheet of paper if additional space is needed.

12. List **ALL** the assets of the person with an alleged disability (attach additional pages if necessary)

Property	**Estimated Value**	**Retail Value**	**If jointly owned, name and address of co-owner**
Cash			
Bank Accounts			
Stocks/Bonds			
Mutual Funds			
Securities/Options			
Annuities			
Home/Residence			
Other real estate			
Motor vehicles			
Business			
Other valuable property (except ordinary household furnishings and clothes)			
Life Insurance Policy			
Other: _____			
Other: _____			

13. List ALL the current sources of income for the person with an alleged disability (attach additional pages if necessary)

Benefit or source of income	**Amount**	**When received** (*e.g.* monthly/ quarterly)
Business (professional/self-employment)		
Payments received for rental property		
Interest		
Dividends from stocks or bonds		
Pension		
Social Security*		
VA Benefits*		
Disability		
IRA/401K/Annuity payments		
Gifts		
Other: _____		

*Who is the representative payee for these benefits? _____

14. List **<u>ALL</u>** the debts and monthly expenses for the person with an alleged disability, including any debts incurred for care of legal dependents (attach additional pages if necessary)

Description of debts and monthly expenses/bills	**Total debt**	**Monthly payment**
Mortgage (including taxes, insurance, and escrow)		
Rent		
Water		
Sewer		

Description of debts and monthly expenses/bills	**Total debt**	**Monthly payment**
Electric/Gas		
Oil		
Trash		
Television		
Telephone		
Groceries		
Household maintenance and repairs (list) Item: _____ Item: _____		
Clothing		
Health insurance		
Medication		
Dental/Out of pocket medical expenses		
Laundry/dry cleaning		
Cosmetics/toiletries		
Hobbies/Entertainment		
Barber/Hairdresser		
Newspaper/magazine subscription(s)		
Child support		
Charitable and/or religious donations		
Vacation		
Public Transportation		
Automobile: Monthly payment Repairs and maintenance Insurance Gasoline		
Life insurance payment		

15. All of the following statements must be true before the Court of Chancery will consider this petition. Check all the following statements to acknowledge they are true:

a. ☐ There is currently no guardian for the person of the person with an alleged disability.

b. ☐ The person with an alleged disability 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 person with an alleged disability has lived in the State of Delaware for at least the last six (6) months.

d. ☐ Attached is the notarized physician's affidavit.

e. ☐ I/We consent to the Register in Chancery of the Court being my/our agent for acceptance of service as to any claim arising out of the guardianship if, by reason of the guardian's absence(s) from this State, I/We cannot be personally served.

f. ☐I/We understand the following about the court appointed attorney *ad litem*: (1) the Court will appoint an attorney to represent the best interests of the person with an alleged disability; (2) the Court will award the attorney *ad litem* a reasonable fee for his/her work on behalf of the person with an alleged disability; (3) I/We as the petitioner(s) am/are responsible for paying the attorney's fee; and (4) for uncontested matters, the fee can be up to $750.00 and for extraordinary cases such as contested petitions, those that require out of state travel or further investigation, the fee may exceed $750.00.

WHEREFORE, Petitioner(s) respectfully request that:

1. This Court appoint him/her/them as guardian(s) of the person of the person with an alleged disability.

2. A preliminary order be entered to appoint an attorney *ad litem*, schedule a hearing and to notify interested parties.

_____	_____
Signature of Petitioner	Signature of Co-Petitioner
_____	_____
Address	Address
_____	_____
_____	_____
Phone number	Phone number

STATE OF _____:

COUNTY OF _____:

This instrument was acknowledged before me on this _____ day of _____, 20_____ by _____ [Name of affiant].

_____

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. Detailed information is necessary for the court to assess whether the patient has a disability under Delaware law. A person with a disability is defined under Delaware law as someone who "[b]y reason of mental or physical incapacity is unable properly to manage or care for their own person or property, or both, and, in consequence thereof, is in danger of dissipating or losing such property or of becoming the victim of designing persons or, in the case where a guardian of the person is sought, such person is in danger of substantially endangering person's own health, or of becoming subject to abuse by other persons or of becoming the victim of designing persons[.]" 12 Del. C. § 3901(a)(2). The information in this affidavit must be specific and detailed and based on your personal examination of the patient. By completing this form, you consent to make reasonable accommodations to speak to the court appointed attorney *ad litem* should they need to speak to you regarding the statements you made in this affidavit. Sample forms are available on the court's website at https://courts.delaware.gov/forms/. Thank you for your concern and cooperation.

IS THIS AN EMERGENCY GUARDIANSHIP PETITION? If an ***emergency*** appointment of guardian is needed, please complete page four (4) of this form *in addition* to pages one (1) through three (3).

PATIENT'S NAME: _____

ADDRESS: _____

DATE OF BIRTH: _____

I, _____, (check one) ☐M.D., ☐D.O., ☐Ph.D., ☐Psy.D., of full age, hereby certify as follows:

I am duly licensed and accredited in the following areas of medical practice: _____
_____

The history of my involvement with this patient is the following: (check the appropriate box(es) and add further clarification on the blank lines)

☐ 10+ years ☐ 5-10 years ☐ 1-5 years ☐ Less than 1 year ☐ First visit

_____
_____

The patient's diagnoses/conditions related to their incapacity include:

1. _____ ☐ Mild ☐ Moderate ☐ Severe ☐ N/A
2. _____ ☐ Mild ☐ Moderate ☐ Severe ☐ N/A
3. _____ ☐ Mild ☐ Moderate ☐ Severe ☐ N/A

Patient Name: _____

I personally examined this patient on _____, 20_____.

The examination lasted approximately _____
(Time)

Relevant tests and results related to their incapacity:

_____
_____
_____
_____

Does the patient have difficulty communicating? If so, describe the difficulty in detail, and provide the cause of the patient's difficulty with communication:

_____
_____

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

☐ **does not have**

☐ **does have**

a disability that significantly interferes with the ability to make responsible decisions regarding health care, food, clothing, shelter, or finances.

☐ (Optional) The following documents are attached as supporting information regarding the particulars of the disability:

_____
_____

Describe the patient's disability:

_____
_____
_____

The disability impairs the patient's ability to perform the following functions and activities:

_____
_____

In my opinion, the patient

☐ **does have**

☐ **does not have**

sufficient mental capacity to understand the nature of guardianship in order to consent to the appointment of a guardian.

Patient Name: _____

The patient is or is not able to perform the following functions independently:

Activities of daily living	☐ Is able	☐ Is not able
Pay his/her own bills	☐ Is able	☐ Is not able
Live alone	☐ Is able	☐ Is not able
Take medication appropriately	☐ Is able	☐ Is not able
Give informed consent for medical procedures	☐ Is able	☐ Is not able
Resist scams	☐ Is able	☐ Is not able

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

_____ _____

Date Physician's Signature

_____

Printed Name

Physician's Address: _____

Physician's Phone Number: _____

STATE OF _____:

COUNTY OF _____:

This instrument was acknowledged before me on this _____ day of _____, 20_____ by _____ [Name of affiant].

_____

Notary Public

Patient Name: _____

TO BE COMPLETED WHEN REQUESTING AN EMERGENCY GUARDIANSHIP OF THE PERSON

Nature of the emergency, such as medical, abuse, neglect, exploitation, etc.: _____
_____
_____

If this is a medical emergency, provide the diagnosis: _____
_____
_____

Describe the testing or treatment related to the diagnosis that is urgently needed and cannot be accomplished without imposition of a guardianship and why it is urgently needed within the next 72 hours: _____
_____
_____

Do you recommend a change in the code status at this time? ☐ Yes ☐ No
Do you recommend withdrawal of treatment at this time? ☐ Yes ☐ No

If you responded "Yes" to either of the above, please respond to the following:

What is the current code in the patient's file? ☐ Full code ☐ DNR ☐ Other _____
Is there a living will in the patient's file? ☐ Yes ☐ No
If yes, please attach a copy.
Have you spoken with the patient about their end of life wishes? ☐ Yes ☐ No
If "Yes", what are their wishes and how you know what their wishes are
_____
_____
_____

_____ _____
Date Physician's Signature

_____
Printed Name

STATE OF _____:

COUNTY OF _____:

This instrument was acknowledged before me on this _____ day of _____, 20_____ by _____ [Name of affiant].

_____
Notary Public

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE
PERSONAL INFORMATION SHEET

Please Note: If there is more than one proposed guardian, each person will need to complete a separate form and use separate contacts on page two of this form.
In the matter of: _____, a person with an alleged disability/minor

Social Security Number: _____ Date of Birth: _____

Date this form is completed: _____

In connection with the above matter, I have applied to the Court of Chancery to be appointed as guardian of the person with an alleged disability/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):

_____

Contacts: List the information for two people who should always be able to locate or contact you and do not live at the same address as each other or the petitioner(s). If there is more than one proposed guardian, separate contacts must be listed.

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 attorney(s) 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 person with an alleged disability 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 person with an alleged disability or minor over whom guardianship has been established.

_____

Proposed Guardian's signature

STATE OF _____ :

COUNTY OF _____:

This instrument was acknowledged before me on this _____ day of

_____, 20_____ by _____ [Name of affiant].

_____

Notary Public/Chancery Court Clerk

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

A person with an alleged disability/Minor: _____

AFFIDAVIT OF PROPOSED GUARDIAN'S HISTORY

Please Note: If there is more than one proposed guardian, each person will need to complete a separate form.

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 (*e.g.* 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 (*e.g.* State, County and Police Department). _____
   _____

4. I give the State of Delaware permission to conduct a criminal background check on me at any time during the consideration of my petition for guardianship and, if granted, at any time during the period I am guardian. I solemnly swear and affirm under penalty of law that the statements and answers above are true to the best of my knowledge.

STATE OF _____ :

COUNTY OF _____:

This instrument was acknowledged before me on this _____ day of

_____, 20_____ by _____[Name of affiant].

_____ _____

Notary Public/Chancery Court Clerk Proposed guardian's signature

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

It is the petitioner's(s') responsibility to notify the interested party(ies) when a petition for guardianship is filed with the Court. This includes notifying all the parties you listed on number three (3) of the guardianship petition.

Each interested party may sign and have notarized a copy of the attached "Waiver of Notice and Consent." The petitioner(s) will be required to send notice to anyone who does not sign a consent. Additional information will be provided to the petitioner(s) after the order is signed appointing the attorney for the person with an alleged disability and scheduling the hearing.

If you do not know the address for an interested party, you must make every attempt to locate the address and file the enclosed affidavit of efforts to locate address of interested party with your petition.

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

In the matter of:	:
	:
_____,	: C.M. #: _____
A person with an alleged disability	:

WAIVER OF NOTICE AND CONSENT

I, _____, whose relationship to the person with an alleged disability is that of _____ (*e.g.* mother, brother), hereby waive my right to notice of the hearing and hereby consent to the appointment of _____ as guardian(s) of the person (to make his/her medical decision) without further notice.

_____
Interested Party's signature

Address: _____

Phone Number: _____

STATE OF _____ :

COUNTY OF _____:

This instrument was acknowledged before me on this _____ day of _____, 20_____ by _____ [Name of affiant].

_____
Notary Public/Chancery Court Clerk

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN THE MATTER OF:	:	
	:	
_____,	:	C.M. # _____
A person with an alleged disability	:	

AFFIDAVIT OF EFFORTS TO LOCATE ADDRESS OF INTERESTED PARTY

I/We, _____, petitioner(s) in the above matter, hereby confirm that I/We have been unable, after exercising reasonable diligence, to locate an address for interested party, _____ [Name of interested party or missing person], in order to provide that interested party with notice of the filing of the guardianship petition.

My/Our last contact with _____ [Name of interested party or missing person] was on or around _____ [month/year] and to the best of my/our knowledge, the last contact he/she had with the person with an alleged disability was on or around _____ [month/year].

My/Our efforts have included the following [please check all that apply]:

☐ performing an internet search for the address of the interested party;

☐ asking other interested parties if they know of the missing person's current whereabouts;

☐ messaging the missing person through electronic means;

☐ Other: _____

_____

If I/We subsequently locate the missing interested party, I/We will notify the Court of his/her address.

_____ _____

Petitioner Co-Petitioner

STATE OF _____ :

COUNTY OF _____:

This instrument was acknowledged before me on this _____ day of _____, 20_____ by _____ [Name of affiant].

_____

Notary Public/Chancery Court Clerk

Pursuant to Court of Chancery Rule 178B, the use of an Unsworn Declaration (see below) is permitted rather than the notary requirement.

Petitioner	Co-Petitioner (if applicable)
I declare under penalty of perjury under the laws of Delaware that the foregoing is true and correct. Executed on the _____ day of _____ (month) _____ (year). _____ (Petitioner's Printed Name) _____ (Petitioner's Signature)	I declare under penalty of perjury under the laws of Delaware that the foregoing is true and correct. Executed on the _____ day of _____ (month) _____ (year). _____ (Co-Petitioner's Printed Name) _____ (Co-Petitioner's Signature)