

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

In the matter of:

:

:

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

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

**Attorney Affidavit to Explain Fiduciary Duties to the Proposed Guardian**

I, \_\_\_\_\_, Esquire, being duly sworn

according to law, deposes and says as follows:

1. I represent the Petitioner, \_\_\_\_\_.
2. I am an active member of the Delaware Bar and the information contained herein is true and correct.
3. I have explained to the proposed guardian their duties upon appointment as guardian of the person and property of the person with an alleged disability as set forth in 12 *Del. C.* § 3901 *et seq.*
4. I have explained to the proposed guardian that they are to make decisions concerning the care of the person with an alleged disability based upon what is in the best interest of the person with an alleged disability and not based upon their personal interest.
5. I have explained to the proposed guardian that they will be required to file an annual update and medical statement with the Court, pursuant to Chancery Rule 180 B.

6. I have explained to the proposed guardian that they are only to use the assets of person with an alleged disability for the benefit of the person with an alleged disability and not for their own benefit or any other person.

7. I have explained to the proposed guardian that they will be required to sign a bond with the Court within seven days upon their appointment as guardian, pursuant to 12 *Del. C.* § 3905.

8. I have explained to the proposed guardian that they will be required to open a guardianship account and to transfer all the assets of the person with a disability into the guardianship account upon appointment as guardian unless the Court waives this requirement. I have explained the guardian will be required to redirect all the income into the guardianship account, close any non-guardianship accounts, and divide any joint accounts. The guardian has been informed they are not permitted to take cash withdrawals from the guardianship account but must pay the monthly expenses directly from the guardianship account.

9. I have explained to the proposed guardian that they may be required to file an inventory with the Court of the assets of the person with an alleged disability within thirty (30) days of their appointment as guardian, pursuant to 12 *Del. C.* § 3921.

10. I have explained to the proposed guardian that they may be required to file accountings with the Court each year and at such times thereafter as required

by the Court, pursuant to Chancery Rule 114 and 12 Del. C. § 3941, 3943 unless the Court waives this requirement. I have explained the guardian is responsible for completing the accounting schedules and attaching all bank statements, invoices and receipts to the accounting.

11. I, as the attorney for the Petitioner, understand that I may be required to file a proof of compliance with the Court of the opening of the guardianship account within thirty days of the proposed guardian's appointment as guardian to demonstrate that the guardianship account has been properly opened, unless the Court waives this requirement.

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

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).

\_\_\_\_\_ (Attorney's printed name)

\_\_\_\_\_ (Attorney's signature)

I have received a copy of this affidavit and my duties as guardian have been fully explained. 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).

\_\_\_\_\_ (Proposed guardian's printed name)

\_\_\_\_\_ (Proposed guardian's signature)