

A HANDBOOK FOR ADULT GUARDIANSHIPS

Prepared by

**Oklahoma Bar Association
Estate Planning, Probate & Trusts Section
Guardianship Handbook Subcommittee***

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I. GENERAL INFORMATION

This handbook is published by the Oklahoma Bar Association as an easy-to-read guide on guardianship and conservatorship laws in Oklahoma and the duties and responsibilities required of guardians. These laws can be found at Title 30 of the Oklahoma Statutes.

This handbook includes a summary of the duties of guardians and conservators, legal notices, timetables, required court approvals, duty to account to the court, duty to account to the ward, and penalties for failure to comply.

The Oklahoma Guardianship and Conservator Act is cited throughout this handbook. The Act is found at Title 30 of the Oklahoma Statutes.

In this handbook, where you see the word “Section” or the symbol “§,” this is referring to the specific section of Title 30 or another title from the Oklahoma Statutes. For example, when you see “30 O.S. § 1-111,” this is a reference to Title 30, Section 1-111 of the Oklahoma Statutes.

The courts and the judges (as well as their clerks and bailiffs) assigned to the guardianship dockets cannot act as your attorney. They cannot advise people seeking guardianship without an attorney or acting “pro se” about how to proceed, what forms to use, how to present the case, or what is necessary legally to obtain a guardianship over an adult. Knowing the court’s limitations up front will help avoid frustration and confusion if you are trying to handle an adult guardianship on your own, or pro se. This handbook will provide information that should be helpful in the event you want to represent yourself in the adult guardianship process.

In accordance with Oklahoma law, guardianship for an incapacitated person shall be:

- 1. Used only as is necessary to promote and protect the well-being of the person and their property;***
- 2. Designed to encourage the development of maximum self-reliance and independence of the person; and***
- 3. Ordered only to the extent required by the actual mental, physical, and adaptive limitations of the person.***

(30 O.S. § 3-111(C)).

Do You Need an Attorney?

Guardianship and conservatorship laws are tricky. Title 30 of the Oklahoma Statutes contains over 100 statutes and thousands of clauses. It was written by legislators and has been interpreted and reinterpreted by courts for generations. Perhaps most important, your case will have a judge assigned to it. Their interpretation of the statutes and appellate court opinions will have an influence over your case.

Lawyers went to law school and have spent a good portion of their adult lives understanding what the statutes and cases mean. They have taken the time to understand how each judge works and what they may expect.

If you break your arm, you might set the broken bone on your own. Your best chance for a good recovery, though, is to go to the effort and expense of getting a doctor involved. Likewise, you might do your own guardianship, but your best chance at a problem-free experience is to involve professionals from the beginning.

II. DEFINITIONS

- 1) Abuse – The intentional infliction of physical pain, injury, or mental anguish or the deprivation of food, clothing, shelter, or medical care to an incapacitated or partially incapacitated person or a minor by a guardian or other person responsible for providing the necessary items for living and all required services to provide and/or maintain such items. (30 O.S. § 1-111).
- 2) Confidential Information – Medical records; physical, psychological, or other evaluations of a ward or subject of the proceeding; initial and subsequent guardianship plans; and reports of guardians, limited guardians, and conservators submitted to the court pursuant to the provisions of the Oklahoma Guardianship and Conservatorship Act. (30 O.S. § 1-111).
- 3) Conservator – A person appointed by the court to oversee the property of an adult physically unable to manage their property. (30 O.S. § 3-211).
- 4) Court – A judge or proceedings in front of a judge.
- 5) Court Order – A direction issued by a court or a judge requiring a person to do or not do something.
- 6) Entry of Appearance or Entering an Appearance – A document filed to show a person is a party of record, meaning that you are a party to the case and entitled to notice of all court filings. You can put all parties on notice that you are interested in the case.
- 7) Estate – The property of the person subject to the guardianship proceeding. (30 O.S. § 1-111).
- 8) Evaluation – A professional examination for purposes of forming an opinion about:
 - a) The ability of an adult to receive and evaluate information effectively or communicate decisions;
 - b) The impact of any impairment of these skills on the ability of the individual to meet their essential needs for their physical health or safety, or to manage their individual financial resources; or
 - c) The services necessary to provide for the ward. (30 O.S. § 1-111).

- 9) Exploitation – An unjust or improper use of the resources owned by an incapacitated or partially incapacitated person, or a minor, for the profit or advantage, monetary or otherwise, of a person other than the incapacitated or partially incapacitated person, or a minor, through the use of undue influence, coercion, harassment, duress, deception, false representation, or false pretense. (30 O.S. § 1-111).
- 10) Guardian – A person appointed by the court to take care of the person or property of another. (30 O.S. § 1-105).
- 11) Guardian ad Litem – A person appointed by the court to investigate and assist in deciding what is in a ward’s best interests. (30 O.S. § 1-111).

Note: A guardian ad litem (also referred to as a “GAL”) is different from a guardian. A GAL is a court-appointed professional (attorney) whose duty is to investigate and advocate for the best interests of a minor or incapacitated adult. (30 O.S. § 1-117).
- 12) Guardianship Plan – The plan for the care and treatment of a ward or for the management of the ward’s financial resources, or both. (30 O.S. § 1-111).
- 13) Guardianship Proceeding – A court case to appoint a guardian or for other orders regarding the condition, care, or treatment or the management of the financial resources of a ward. (30 O.S. § 1-111).
- 14) Guardianship Report – Any report required to be submitted by a guardian under the legal rules for incapacitated/partially incapacitated persons or guardianship about the person and/or property of the ward found in 30 O.S. §§ 4-305 and 4-306.

15) Incapacity/Incapacitated Person

An incapacitated person is defined by the statutes as someone:

- a) Who is impaired by reason of:
 - 1) Mental illness as defined by 43A O.S. § 1-103,
 - 2) Intellectual or developmental disability as defined by 63 O.S. § 1-818.2,
 - 3) Physical illness or disability,
 - 4) Drug or alcohol dependency as defined by 3A O.S. § 3-403, or
 - 5) Such other similar cases; and
- b) Whose ability to receive and evaluate information effectively or to make and communicate responsible decisions is impaired to such an extent that the person:
 - 1) Lacks the ability to meet essential needs for their physical health or safety,
or
 - 2) Is unable to manage their financial resources.

See below for definition of a partially incapacitated person.

16) Intangible Personal Property – Cash, stocks, bonds, mutual funds, money market accounts, certificates of deposit, insurance contracts, commodity accounts, and other assets of a similar nature. (30 O.S. § 1-111).

17) Limited Guardian – A person appointed by the court to serve as the guardian of a partially incapacitated person and who is authorized by the court to exercise authority over **only**:

- a) The person (that is, the ward);
- b) The estate (that is, the property of the estate and financial resources of the ward); and/or
- c) As otherwise indicated by the court. (30 O.S. § 1-111).

18) Least Restrictive Alternative – Meeting the needs of an individual that restricts fewer rights of the individual than the appointment of a guardian or conservator including, but not limited to, supported decision making, appropriate technological assistance, appointment of a representative payee, and appointment of an agent by the individual including under power of attorney for health care or finances. (30 O.S. § 1-111).

19) Letters (Letters of Guardianship) – A document signed by a judge after the appointment of a guardian. Letters of guardianship (letters) will designate the name of the guardian and specify the authority and powers of the guardian. (30 O.S. § 1-111).

20) Manage Financial Resources or Manage the Estate – The actions necessary to obtain, administer, and dispose of real property, business property, benefits, and income, and to otherwise manage personal financial or business affairs. (30 O.S. § 1-111).

- 21) Meet the Essential Requirements for Physical Health or Safety – Actions necessary to provide the health care, food, shelter, clothing, personal hygiene and other care that if not provided or maintained would likely cause serious physical injury. (30 O.S. § 1-111).
- 22) Minor – A person under 18 years of age. (30 O.S. § 1-111)
- 23) Neglect – A caregiver’s failure to do one of the following:
- a) Provide protection for the incapacitated person, a partially incapacitated person, or a minor who is unable to protect their own interest;
 - b) Provide sufficient shelter or clothing; or
 - c) Harming someone or threatening to harm someone through specific actions or failure to act by either the victim through their own failure to act because of a lack of awareness, incompetence, or incapacity, which has resulted or may result in physical or mental injury **or** by another person or the person’s own action or inaction. (30 O.S. § 1-111)
- 24) Notice – Informing other people that you are asking for a court order that may affect them or their rights. The process of “giving notice” means giving copies of court papers to the parties entitled to notice as required by law. The court papers can **only** be delivered in a manner allowed by law, and proof of lawful delivery must be filed with the court.
- 25) Notary Public (Notary or Public Notary) – A person legally allowed to perform certain legal formalities, such as confirming the authenticity of another person’s signature after verifying that person’s identity, particularly on legal documents and contracts. Having your signature notarized means having a notary verify your identity and witness your signature on court documents, then sign the documents to confirm your signature, the date of your signature, and the county you were physically present in when you signed the document. When a notary notarizes a document, they should write in the county in which you and the notary are physically present when the document was signed and notarized.

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| Common places to find a notary: |
| a) City and town clerks’ offices |
| A partially incapacitated person is someone who, without the court-approved assistance of a limited guardian, would be unable to: |
| <ul style="list-style-type: none"> a) Meet the essential requirements for their physical health or safety, or b) Manage all of their financial resources or to engage in all of the activities necessary for the effective management of his financial resources. |
| g) Tag agencies |

- 26) Partially Incapacitated Person – Someone not fully incapacitated who only needs partial help with physical care and/or financial management.

A finding that a person is partially incapacitated shall not be considered a finding of legal incompetence. A partially incapacitated person retains all legal rights and abilities except those expressly or specifically limited or curtailed in a court order. (30 O.S. § 1-111).

- 27) Party – A person filing a guardianship petition, application, motion, or other related legal documents. This can include but is not necessarily limited to the person seeking guardianship, a court-appointed guardian, guardian ad litem, court-appointed conservator, the ward or prospective ward, any party who has filed an objection, and anyone else who has entered an appearance.
- 28) Pauper’s Affidavit (“pauperis” affidavit) – A document that describes the income and assets of someone asking to not have to pay filing fees to the court because they cannot afford them. Usually, the judge will review the affidavit and decide whether you have to pay filing and court fees or not.
- 29) Petition – A written application from a person or people asking for relief (specific action or actions) in court. A formal application made to a court in writing that requests action on a certain matter, such as a Petition for Guardianship.
- 30) Property – Real property (such as land, house, or mineral rights), personal property (such as clothes, furnishings, or dishes), income, and any interest in real or personal property.
- 31) Representative Payee – A suitable person or payee who manages the payments on behalf of the Social Security beneficiary when the beneficiary is incapable of managing their Social Security or Supplemental Security Income (SSI) payments. All payees are responsible for keeping records of how the payments are spent or saved, and making all records available for review if requested by the Social Security Administration.
- 32) Restrictions on the Legal Capacity of a Person to Act in the Person’s Own Behalf – Powers of an incapacitated or partially incapacitated person which are assigned to a guardian.
- 33) Subject of the Proceeding – A person (whether a minor or an incapacitated/partially incapacitated adult) for whom a guardianship is needed. Also referred to in this handbook as: ward, minor, adult, or subject. (30 O.S. § 1-111).
- 34) Supported Decision Making – Assistance from one or more persons **chosen by** an individual to help understand the nature and consequences of potential personal and financial decisions to enable the individual to make such decisions, and in communicating such decisions if consistent with the wishes of the individual. The court may determine a guardianship is not necessary and may consider alternative options before appointing a guardian.
- 35) Surcharge – The assignment of personal liability ordered by the judge to a guardian if that guardian commits willful or negligent misconduct when handling a ward’s property or financial resources.

36) Ward – A person over whom a guardian is appointed and/or a person over whose property a guardian or conservator is appointed. (30 O.S. § 1-107).

In this handbook, the term “ward” refers to a “subject,” “physically incapacitated person,” “incapacitated person,” “partially incapacitated person,” or other person over whom a court has granted guardianship.

Additional definitions may be found at Title 30 of the Oklahoma Statutes, Section 1-111.

III. TYPES OF GUARDIANSHIP

General Guardianship – A guardian of the person, or of all the property of the ward within this state, or of both person and property. (30 O.S. § 1-109).

Limited Guardianship – A person authorized by the court to exercise limited powers over the person of the ward, or over the property of the ward within the state, or of both person and property. (30 O.S. § 1-109).

Special Guardianship – A guardian appointed for an emergency purpose, unless extended by the court, not to exceed 30 days. (30 O.S. § 3-115). To obtain a special guardianship, you must file both a Petition for General Guardianship and an Application for Special Guardianship.

No Guardianship – If the proposed ward’s needs can be met by alternatives less restrictive than guardianship, the court will determine the degree of the incapacity and the workability of less restrictive alternatives (alternatives to guardianship) to meet the needs of the subject of the proceeding. Once the court determines the level of incapacity, if the court finds that less restrictive alternatives to guardianship are feasible and sufficient to meet the needs of the subject of the proceeding, the court may determine that no guardianship is appropriate.

IV. WHO MAY BE APPOINTED AS GUARDIAN

1. Any person interested in the welfare of the person believed to be incapacitated or partially incapacitated may apply to the court for guardianship. (30 O.S. § 3-101).
2. If a person is **a) 18 years of age or older, b) of sound mind (has decision-making capacity), and c) is not being subjected to duress, menace, fraud, or undue influence**, they may recommend or nominate a candidate to serve as their court-appointed guardian over their physical care and/or property.

Such a nomination must be in writing (either completely typed or completely handwritten), signed by the person making the nomination, and in the form described in the statute. Similarly, a parent or parents can make a nomination or recommendation in their last will and testament or trust. See 30 § O.S. 3-102.

If two or more people are nominated, the person most recently nominated will have priority over any previously nominated persons. The court may also appoint two people as

co-guardians, when appropriate. (30 O.S. § 3-102). Note that the court is not required to appoint the nominated person(s) but must consider that person(s) if they are given proper notice of the nomination.

3. The court may consider the people listed below when appointing a guardian and does not have to choose in the order listed. The court has final say and chooses the guardian based on what is in the ward's best interests.

The court may consider the following people when choosing a guardian:

- a) The nominated person(s) by a person 18 years of age or older;
- b) The current guardian appointed or recognized by the court;
- c) A person nominated by the will or by other writing of a deceased parent, spouse, or an adult child who was serving as the guardian of the subject of the proceeding;
- d) The subject's spouse;
- e) An adult child of the subject;
- f) A parent of the subject;
- g) A sibling of the subject;
- h) Any individual approved by the court with whom the subject of the proceeding has been living for more than 6 months prior to the filing of the petition for guardianship; or
- i) A person qualified to serve as a guardian of a veteran pursuant to the Veteran's Volunteer Guardianship Act. (See Veteran's Volunteer Guardianship Act in Section XII below).

4. Guardian's Fitness Inquiry (30 O.S. § 4-105):

In conducting an inquiry to determine whether a person is suitable to serve as a conservator, the court shall inquire whether the person applying for guardianship:

- a) Is over the age of 18;
- b) Is of sound mind (not incapacitated or partially incapacitated);
- c) Is free of criminal convictions, protective orders, or pending criminal charges;
- d) Requires an Oklahoma State Bureau of Investigation (OSBI) criminal background check is needed (the person seeking guardianship shall tell the court about any criminal history of himself/herself, or any other adult household member, so the court can consider whether the criminal history relates to the requested guardianship);
- e) Is insolvent (unable to pay their legal debts with their current income) or has declared bankruptcy in the 5 years preceding the guardianship petition;
- f) Is under any financial obligation to the proposed ward;

- g) Has any self-interest that may cause them to misuse their position by failing to properly care for the ward or their finances; and
 - h) Is a citizen, legal resident, or is otherwise legally present in the United States of America.
5. If a guardian is being appointed **only** over the property of the incapacitated or partially incapacitated person, the court may appoint an organization nominated in writing by the proposed ward, or which would be in the best interest of the incapacitated or partially incapacitated person. (30 O.S. § 3-104).
 6. A public agency may not be appointed as a guardian of an adult except as required by 10 O.S. § 1415 for placement in an institution and/or 43A O.S. § 10-108 for the protection of a vulnerable adult. (30 O.S. § 3-104).

IV. STATUTORY NOTICES

A. NOTICE REQUIREMENTS – GENERAL GUARDIANSHIP (30 O.S. § 3-110)

(This differs from a special or emergency guardianship.)

What documents must be served in general guardianship?

- a) Notice of all hearings,
- b) A copy of the Petition for Guardianship, and
- c) Any other document filed with the court that is set for a hearing.

Who Receives Notice of a General Guardianship?

In addition to the ward or incapacitated person, the following parties should receive notice of a general guardianship:

- 1) The ward’s spouse, if any;
- 2) The ward’s attorney, if any;
- 3) The ward’s adult children or, if none, the ward’s parents, if living; or
- 4) If the ward has no living parent, the ward’s adult siblings and all adult children of any deceased siblings of the ward, and all adult grandchildren of the ward;
- 5) If none of the above, then to at least one and not over three of the ward’s nearest relatives;
- 6) Any person or organization nominated or proposed to serve as guardian or limited guardian or limited guardian by a will or other writing (if this is you, skip this step);
- 7) The person or facility having care or custody of the ward;

- 8) The Oklahoma Department of Human Services or the Oklahoma Department of Mental Health and Substance Abuse Services, if providing services to the ward;
- 9) If the ward is a veteran and receiving or entitled to receive veteran benefits or services from the U.S. Department of Veterans Affairs (VA), then give notice to the VA; and
- 10) Any other person as directed by the court.

When and How Is Notice Served in a General Guardianship?

(This is different for special guardianships.)

1. Notice by personal service to the ward.
 - a) At least 10 days before the hearing.
 - b) Copies of the notice of hearing and the Petition for Guardianship must be delivered in person to the ward by the sheriff or a licensed process server, or your attorney if you hire one. Process servers are people who are authorized to deliver court documents for payment.
 - c) An affidavit of service must be filed before the hearing. This must contain the date and time of service, and who completed service, and must have the notarized signature of the person making service.
2. Notice by mail to all others.
 - a) At least 10 days before the hearing.
 - b) Copies of the notice of hearing and the Petition for Guardianship must be mailed, by regular first-class mail, to all other persons entitled to notice of hearing on the Petition for Guardianship, listed in the Who Receives Notice section above.

V. REQUIRED COURT APPROVALS

Once you have been appointed as guardian, either as special or general guardian, you must work with the court to manage the care and finances of the incapacitated adult (the ward). As guardian, you must provide the court with certain information and the court must review your actions and plans. At a minimum, you must obtain the court's approval of:

- A. **ORDER APPOINTING GENERAL GUARDIAN.** This court-approved order creates the guardianship and lists the guardian's powers to act. If a power is not listed in the order, the guardian does not have that authority. **An order appointing a guardian shall include a specific finding that it was established by clear and convincing evidence that the identified needs of the subject (prospective ward) require a guardianship instead of less restrictive alternatives.** (30 O.S. § 3-111(B)(2)).
- B. **PLANS FOR THE GUARDIANSHIP.** There are two plans of care or management required to be filed by the guardian at or near the beginning of the guardianship:

- a) A plan for the management of the financial resources of the ward, and
- b) A plan for the care and treatment of the ward.

These plans outline the needs and services the guardian believes the ward needs and how the guardian plans to ensure that these needs and services are provided. The plans must be approved by the court. (See form: Plan for the Care and Treatment of the Ward). (30 O.S. §§ 3-120 and 122).

INVENTORY. Within 2 months of appointment, the guardian must file an inventory listing the ward's assets and debts. This provides a way for the court to know what property of the ward over which the guardian has control and/or access to. The inventory must be filed with the court clerk **and updated annually**. (See form: Inventory of Ward's Estate). (30 O.S. § 4-301).

MOVING THE WARD'S RESIDENCE. A guardian must get the court's approval to move the ward out of the county.

REMOVAL OF WARD'S PROPERTY FROM THE STATE. When the ward has property in Oklahoma, but the ward and guardian reside in another state, territory, or foreign country, an application can be submitted requesting permission to remove the ward's property to the state, territory, or foreign country where the ward resides. (30 O.S. § 4-605).

SALE OF THE WARD'S PROPERTY. The guardian may file a petition to the court requesting permission to sell property owned by the ward if they believe that such sale would be a benefit to the ward. In this circumstance, the guardian must present to the court a verified petition describing the estate of the ward and the facts and circumstances on which the request is made. (30 O.S. §§ 4-752 and 4-754).

TRANSFER OF GUARDIANSHIP TO ANOTHER STATE. A guardian or conservator appointed in this state may petition the court to transfer the guardianship or conservatorship to another state.

ANNUAL ACCOUNTING. The guardian must update the court and the persons whom the guardian had to initially notify of the case with the ward's status as ordered every year **unless** authorized to submit a report every five years.

VI. ACCOUNTABILITY TO THE COURT

A. GUARDIAN'S DUTIES

- 1) Promote and protect the wellbeing of the ward's person and/or property. (30 O.S. § 3-111(C)(1)).
- 2) Encourage the developments of the ward's maximum self-reliance and independence. (30 O.S. § 3-111(C)(2)).

- 3) Properly monitor and track the ward's health and financial assets, as outlined below.

In carrying out the duties to the court, any guardian must:

- 1) Assure the court that the rights of their appointed ward are protected. (30 O.S. § 1-106).
- 2) Perform in good faith and diligently any specific duties and powers assigned by the court.
- 3) Assure the court the ward's property is safe, in accordance with the order and the guardianship plan for the management of the financial resources of the ward. (30 O.S. § 3-121).
- 4) Assure the court the guardian is properly managing their **own** finances and affairs.
- 5) File with the court clerk a proposed Plan for the Care and Treatment of the Ward (care plan) and a proposed Plan for the Management of the Property of the Ward (financial plan).
 - a) The **proposed Plan for the Care and Treatment of the Ward** may be filed at the time of filing of the petition, time of hearing, or within 10 days of appointment as guardian. Any modification to the care plan must also be submitted. (30 O.S. § 3-120).

A proposed Plan for the Care and Treatment of the Ward should include:

- a) Services necessary to meet the essential requirements for the ward's physical health and safety, considering recommendations from the court;
- b) The plan for providing or obtaining those services;
- c) How the guardian of the physical person will share decision-making authority with the ward (if not the same person); and
- d) Any other services that are necessary to assist in fulfilling the ward's needs. (30 O.S. § 3-120). (See forms: Plan for the Care and Treatment of the Ward).

- b) The **proposed Plan for the Management of the Property of the Ward** must be filed within 2 months after appointment. Any modification to the financial plan shall also be submitted to the court. (30 O.S. § 3-122).

A proposed Plan for the Management of the Property of the Ward should include:

- a) Services necessary to manage the ward's property under the guardian or limited guardian's control;
- b) The plan for providing or obtaining those services;
- c) How the guardian of the property will share decision-making authority with the ward;
- d) Any other services that are necessary to assist in the management of the ward's property to fulfill the ward's needs and the guardian's duties. (See form: Plan for the Management of the Property of the Ward).

- 6) File with the court clerk an inventory of the estate of the ward within 2 months after their appointment. This deadline can be extended by the court by showing good reason for the extension. The inventory shall state the guardian's opinion of the value of the ward's estate. Any property discovered or transferred regarded as the state of the ward must have a new inventory filed. Inventories may be required by the court at any time. The judge, the ward, or any interested person may request that the property be appraised. (30 O.S. § 4-301). (See form: Inventory of Ward's Estate).
- 7) A guardian may have to post a bond with the court before serving as a guardian. If the value of the ward's estate and the yearly income of the ward is not over \$40,000, and the guardian is a parent, spouse, brother, sister, grandparent, child, or grandchild of the ward, the bond may be waived. The court alone may waive a bond. (30 O.S. § 4-201). Whether a bond is required will be stated in the Order Appointing General Guardian.
- 8) A guardian must, at the conclusion of their first year of guardianship, and at least once a year thereafter, file a report on the ward and guardianship of the property. (30 O.S. § 4-303).

This report must include an accounting of any money received by the guardian for the ward, any payment(s) made for the ward by the guardian, any changes of property on the inventory, and any significant change in the physical or mental condition of the ward, or the ward's financial resources. The report shall state the guardian's request for compensation and the guardian's request for compensation for the attorney. Additional reports may be required of guardians and limited guardians by the court appointing them.

See next page for more details.

Annual Report Requirements:

- a) The name and place of abode of the ward;
- b) The name and address of the guardian;
- c) Any significant changes in the capacity of the ward to meet the essential requirements for physical health or safety, manage financial resources and the service being provided for the management of those resources;
- d) The services being provided to the ward and their relationship to the guardianship plan;
- e) Problems during the reporting period; and
- f) Any significant actions by the guardian during the reporting period, and the reasons why the appointment should be continued and not terminated, the reasons, if any, why no less restrictive alternative environment for the ward is to be considered. (30 O.S. §§ 4-305 and 4-306).

(See forms: Annual Report and Proposed Plan for the Care and Treatment of the Ward, and Plan for the Management of the Property of the Ward).

- 9) Unless the court directs, or is required by the Uniform Veteran's Guardianship Act (72 U.S.C. § 126.J, et seq.), the guardian of the property of a ward may not have to file an annual accounting or an annual plan if the ward's financial resources or assets, other than the homestead, are worth less than \$40,000 if a bond has been posted, or are worth less than \$10,000, whether a bond has been posted and if the guardian or limited guardian of the property is the spouse or a relative of the ward to the fourth degree.
- 10) Any guardian, if allowed by court order, may start proceedings or other action to compel the performance by any person with a duty to support the ward or pay money for the welfare of the ward only when a guardian or conservator has not been appointed for the estate of the ward. (30 O.S. § 3-118).
- 11) If the guardian believes that the ward is no longer suffering from the disability that caused the incapacity, they can file a Petition to Terminate Guardianship. If granted, the guardian would no longer be the ward's guardian and the ward would be restored to their full rights. Additionally, the ward may file a Petition to Terminate if they believe that they are no longer incapacitated. (30 O.S. § 3-118).
- 12) When the guardianship is terminated, either because the ward dies or the court orders the termination, the guardian must file a final account and request any final reimbursement and/or compensation within 30 days of termination. After filing, the guardian must set a hearing on the final account. (30 O.S. § 4-803).

VII. ACCOUNTABILITY TO THE WARD

A. DUTIES OWED BY THE GUARDIAN TO THE WARD

- 1) Ensure the ward's proper care, safety, and protection.
- 2) Ensure the support, health, and education of the ward. (30 O.S. § 1-120).
- 3) Keep safe and in good condition the property of the ward. A guardian must permit no unnecessary waste or destruction of the real property of their ward unless by order. (30 O.S. § 1-121).
- 4) Safely encourage, to the extent possible, the ward's participation in decisions affecting the ward in all matters they are able, within any court-imposed limitations, including but not limited to allowing the ward to make their own decision.
- 5) Perform all duties and powers assigned by the court.
- 6) Become and remain knowledgeable of the ward's capabilities, limitations, and needs (physical, mental, medical, etc.).
- 7) Ensure the ward has proper housing in the least restrictive, safest, and most normal manner.
- 8) Determine the ward's place of residence. (The ward cannot move out of the county without court approval).
- 9) Timely pay the ward's debts. (30 O.S. § 4-701).
- 10) Collect all debts owed to the ward (30 O.S. § 4-702).
- 11) Settle claims or lawsuits as authorized by the court.
- 12) Sell real property, with court order only. (30 O.S. § 4-705).
- 13) Make investments, with court order only. (30 O.S. § 4-708).

14) Provide consents and approvals as authorized by the court. (30 O.S. § 3-118).

Some possible areas the court will authorize are:

- a) Consents necessary for financial management;
- b) Initiation of lawsuits or proceedings necessary to compel a duty to support the ward or pay sums for the ward's benefit;
- c) Consent to routine or necessary medical or other professional care, treatment, or advice; and
- d) Providing transfer or conveyance of property to protective arrangements such as special needs trusts, pooled trusts, as permitted for Medicaid qualification, to a sole benefit trust, or to a qualified ABLE account (Achieving a Better Life Experience). (30 O.S. §4-710(A)(1)). (Note: Seek the advice of a qualified attorney with experience and skills in these types of planning, as this is a very complicated area of law.)

B. WHAT THE GUARDIAN CANNOT DO

The guardian **cannot**:

- 1) Use the ward's money for anything other than the ward's needs and maintenance.
- 2) Sell the ward's property without prior order.
- 3) Move the ward's residence out of the county without prior order.
- 4) Consent on behalf of the ward to withhold or withdraw life support or life-sustaining procedures without court authorization or as authorized by an advance directive.
- 5) Consent on behalf of the ward to termination of the ward's parental rights.
- 6) Consent on behalf of the ward to an abortion, psychosurgery, removal of a bodily organ, or performance of any biomedical or behavioral procedure except in an emergency and as necessary to save the ward's life and with permission.
- 7) Prohibit marriage or divorce of the ward except with court approval.
- 8) Consent on behalf of the ward to placing the ward in a facility or institution absent formal commitment proceedings. (30 O.S. § 3-119).
- 9) Restrict or limit the ward more than necessary.
- 10) Have more than five wards at one time. (30 O.S. § 4-101).

VIII. RIGHTS OF THE WARD

A. RIGHT OF THE POTENTIAL WARD

Guardianship results in losing fundamental rights, including the right to decide where to live, how to spend money, and whether or not to consent to medical care. Persons with court-appointed guardians are therefore given rights and protections to reduce the risk they will be placed under a guardianship that is unnecessary or too restrictive.

1) **Burden of Proof**

Every adult is presumed to have capacity. The petitioner must prove that the potential ward lacks capacity. This must be proven by clear and convincing evidence, and the court must make a determination that there are no less restrictive alternatives to guardianship.

2) **Notice**

The potential ward must receive actual notice of all hearings. Notice of the initial hearing and a copy of the Petition for Guardianship must be personally served on the potential ward at least 10 days before the hearing. The right to be given notice cannot be waived. (See forms: Notice of Hearing Petition For Guardianship, and Petition for Guardianship).

3) **Attendance and Participation at Hearings**

The potential ward may be at any hearing held on the guardianship petition. If the potential ward is not present, the judge will ask why they are absent, and the petitioner must explain the absence. At the hearing, the potential ward may present evidence. The potential ward may call witnesses to testify on their behalf. If witnesses are called by the petitioner or other parties, the potential ward has the right to cross-examine these witnesses.

4) **Representation by an Attorney**

The potential ward may be represented by an attorney. This cannot be the same attorney who represents the petitioner. If the potential ward attends the hearing without an attorney, the judge will explain the potential consequences of the proceedings and the rights of the potential ward to have an attorney. The court must appoint an attorney for the potential ward if the potential ward requests one. If the judge feels it is in the best interest of the potential ward to be represented by an attorney, the judge may appoint an attorney even if the potential ward does not request one or does not appear at the hearing. If the judge appoints an attorney to represent the potential ward, the hearing will be postponed at least 5 days to give this attorney adequate time to prepare. The court-appointed attorney's fees may be paid by the court if the potential ward cannot afford an attorney.

5) **Appeal**

A potential ward who disagrees with the judge's decision may appeal. The appeal process is the same as any civil case.

B. RIGHTS OF THE WARD UNDER A GUARDIANSHIP

A ward under a guardianship retains the right to be respected and treated like an adult. This includes the right to privacy, to live independently, to participate in decisions, and to be in the least restrictive situation possible. Guardianship should only be ordered to the extent required by the ward's actual mental, physical, and adaptive limitations, and it should encourage the ward's development of maximum self-reliance and independence. (30 O.S. § 3-111(C)). A guardian must act to protect the ward's interest, and a guardian must seek the least restrictive alternative when meeting the needs of the ward.

C. THE RIGHT TO BE FOOLISH

Adults have the freedom to control their lives and with this freedom of choice comes the responsibility of dealing with the consequences of foolish choices. Adults enjoy this right to freedom of choice if able to understand the situations and the likely consequences of their choices.

If trauma, disability, and/or illness are severe enough to impair the mental abilities so much that a person cannot understand their situations and knowingly accept the likely consequences of their actions, it may be necessary to limit that individual's rights to prevent harm.

IX. CONFIDENTIALITY

Confidential information filed with or submitted with any proceeding under the Oklahoma Guardianship and Conservatorship Act is not public record and shall be sealed by the court. Access to confidential information shall be strictly controlled.

A. Except upon court order, no confidential information shall be disclosed to persons other than:

- 1) The subject of the proceeding and the attorney.
- 2) The guardian ad litem.
- 3) If the subject of the confidential information is a ward, the guardian or conservator of the ward.
- 4) If the subject of the confidential information is the guardian or conservator, the ward and the attorney, and the attorney of such guardian or conservator.
- 5) Abstractors licensed under the Oklahoma Abstractors Law, to have access to records regarding minors and determinations of persons as incapacitated or partially incapacitated persons under the Oklahoma Guardianship and Conservatorship Act. Abstractors shall maintain the confidentiality of this data, except for such parts as relate to the land title being researched.

- 6) An authorized representative of the U.S. Department of Veterans Affairs upon presentation of proper identification.
- 7) An authorized representative of the Oklahoma Department of Human Services upon presentation of proper identification.

B. The fact of a guardianship or conservatorship of a person or the person's estate shall not be considered confidential information. (30 O.S. § 1-122).

X. SANCTIONS/PENALTIES FOR NON-COMPLIANCE

A guardian must protect the incapacitated person (the ward) and their property. The guardian's duty extends to not benefitting themselves. This is called a **fiduciary duty**, which means that you must place the needs of the ward before your needs in regard to the ward's assets.

Guardians that fail to follow the court's orders, fail to timely file reports, or who waste, embezzle, or steal the ward's property may be subject to removal, fines, or even civil or criminal penalties. In addition, the guardian may also be required to correct the problem that resulted or could cause removal, fines, or penalties.

Guardians can also encounter problems when they fail to understand the requirements and limitations associated with their duties and responsibilities. There are age and residency requirements, and limitations based on criminal convictions, bankruptcies, dealings with the judge, and other conflicts of interest. As part of the application process, guardians may go through several background checks and may have to have a home study completed (even for an adult ward), if ordered by the court.

XI. VETERANS VOLUNTEER GUARDIANSHIP ACT

A. DEFINITIONS

The words "ex-service person," "veteran," or "war veteran" used in this act mean any person who:

- 1) Has served the full obligation for active duty, Reserve, or National Guard service in the military, or received an early discharge for a medical condition, hardship, or reduction in force; and
- 2) Has been separated or discharged from such service honorably or under honorable conditions. (72 O.S. § 2).

B. APPOINTMENT

- 1) The court may appoint a general or limited guardian for an incapacitated or partially incapacitated adult veteran under the procedures and requirements of the guardianship statutes found at 30 O.S. § 1-101. (See Section IV of this handbook.)

- 2) The court may appoint a general or limited guardian as defined at 30 O.S. § 1-109. (See Section II of this handbook.)
- 3) If a general guardian or limited guardian is appointed under the Veterans Volunteer Guardianship Act, the petition and orders for guardianship must specifically state that the guardianship or limited guardianship is granted under the Act. (72 O.S. § 191, et. seq.).
- 4) Except as otherwise provided in the Veterans Volunteer Guardianship Act, a guardian appointed under this Act shall be subject to all the duties, requirements, and protections provided at Title 30 of the Oklahoma Statutes, relating to a guardian of an incapacitated person or partially incapacitated person.
- 5) A guardian appointed under this Act **must** maintain:
 - a. Regular contact with the ward to assess the ward’s capabilities, limitations, needs, and opportunities; and
 - b. If applicable, regular contact with the ward’s social workers, health care providers, and/or institutions that provide services to the ward. (72 O.S. § 193).

C. REQUIREMENTS, AND GUARDIAN OR FIDUCIARY COMPENSATION

- 1) The subject of the proceeding in a guardianship established under the Veterans Volunteer Guardianship Act (also called a “ward”) **must**:
 - a. Meet the requirements of “veteran” under 72 O.S. § 2,
 - b. Be a resident of this state, and
 - c. Be in receipt of a veteran’s disability compensation or pension from the U.S. Department of Veterans Affairs under Title 38 of the Code of Federal Regulations (commonly called VA Disability) or in receipt of benefits under the Supplemental Nutrition Assistance Program (commonly called SNAP or food stamps).
- 2) The current or prospective guardian in a Veteran’s Guardianship **must**:
 - a. Be an individual.
 - b. Be a resident of this state.
 - c. Not be related to the ward by blood, adoption, or marriage;
 - d. Not be considered ineligible or barred from serving as a fiduciary for a Veterans Affairs beneficiary under 38 CFR § 13.130. Any guardian appointed under the Veterans Volunteer Guardianship Act subsequently denied appointment as a fiduciary by the U.S. Department of Veterans Affairs shall notify the court within 30 days of receipt of notice of the denial.
 - e. Serve as guardian on a volunteer basis.

- f. Waive compensation for services as a guardian, except the guardian may receive reimbursement of expenses incurred on behalf of the ward as authorized by court order and subject to the limitations imposed by the court.
 - g. Be availed of any benefits and subject to any additional requirements promulgated by rules or policy of the Oklahoma Department of Veteran Affairs, as the Department deems beneficial to the recruitment of community volunteer guardians and protection of the interest of the wards, including but not limited to background checks.
- 3) Nothing in this section shall be construed to prevent a guardian or prospective guardian from receiving compensation for services as a fiduciary appointed by the U.S. Department of Veterans Affairs or as a court-ordered guardian otherwise authorized under Title 30 of the Oklahoma Statutes and does not cite authority or request benefits from the Veterans Volunteer Guardianship Act.
- 4) Nothing in this section shall entitle a guardian of the property of a veteran to payments on behalf of the subject of the proceeding for veteran's benefits unless the guardian has applied to the U.S. Department of Veterans Affairs for appointment as a fiduciary as required by federal law. (72 O.S. § 194).

D. BOND REQUIRED

Before the guardian can receive the letters of guardianship and the Order Appointing General Guardian, they must provide a bond in the amount of the value of the ward's nonmaterial personal property (i.e., financial assets and real property) **plus** the expected annual income of the ward from all sources. (72 O.S. § 195).

E. APPOINTED AS A FIDUCIARY

If the guardian is appointed as a fiduciary by the U.S. Department of Veterans Affairs, the fiduciary accounting provided to the Department under 38 CFR § 13.130 shall be included in the annual accounting filed with the district court as part of the annual accounting of a guardian of the property as required by 30 O.S. § 4-303. (72 O.S. § 196).

F. PROCEEDINGS TO COMMIT/CONFINEMENT IN A HOSPITAL OR INSTITUTION

Whenever, in any proceeding under the laws of this state for the commitment of a person alleged to be of unsound mind or otherwise in need of confinement in a hospital or other institution for their proper care, it is determined after such adjudication of the status of such person as required by law that commitment to a hospital for mental disease or other institution is necessary for safekeeping or treatment and such person is eligible for care or treatment by the Veterans Administration or other agency of the U.S. government, the court, upon receipt of a certificate from the Veterans Administration or such other agency showing that facilities are available and that such person is eligible for care or treatment, may commit such person to said Veterans Administration or other agency.

- 1) The person who will be committed shall be personally served (as described before) with notice of the pending commitment; their right to appear and be heard in the proceedings is not affected in any way.
- 2) If committed, the agency that runs the facility, whether located in Oklahoma or outside of Oklahoma, must comply with the regulations of the U.S. Department of Veterans Affairs and any other applicable state or federal agencies.
- 3) The chief officer of any facility run by the U.S. Department of Veterans Affairs or any other facility run by a non-Oklahoma affiliated agency will have the same authority as an Oklahoma state-run facility. This authority includes holding custody, transfer, parole, and/or discharge of committed persons.
- 4) The court that made the commitment determination retains jurisdiction over the case and person. They are the only court that can inquire as to the mental condition of the person **and** only they can determine whether the commitment is still necessary. Any commitment of this person shall be based on the determination of this court unless they are committed by a court in another state or other governmental agency.

If a person is committed by a court in a different state or by another governmental agency, that determination is valid in Oklahoma. That foreign court and/or agency retains jurisdiction over continued necessity of the commitment and mental condition of the person. The laws, rules, and regulations of that state and/or agency are to be applied in Oklahoma.

Once it has been determined that a Veterans Affairs facility and/or services are available, the person can be transferred to such a facility. Once transferred, the facility receiving the person must notify the court.

No person shall be transferred to a Veterans Affairs facility or other facility run by other agency of the U.S. government if confined due to one of the following circumstances:

- a) Conviction for any felony,
- b) Conviction for any misdemeanor, or
- c) Acquitted of the charge solely on the basis of insanity,

unless the proper motion is filed, and an order is issued prior to the transfer. Any person transferred lawfully after the proper and timely motion and order are deemed committed. (72 O.S. § 197).

Adult Protective Services
(800) 522-3511

Alzheimer's Association
(800) 272-3900

**American Bar Association Commission
on Law and Aging**
(202) 662-8690
www.abanet.org/aging

Bazelon Center for Mental Health Law
(202) 467-5730
www.bazelon.org

**CAAVA: Court-Appointed Advocates for
Vulnerable Adults**
(405) 208-4021
<http://caava.org>

Legal Aid Senior Law (SPLASH)
(405) 557-0014
www.legalaidok.org

Long-Term Care Ombudsman
(405) 521-6734

Mental Health Hotline
(800) 522-9054

Oklahoma Bar Association
(405) 416-7000 or (800) 522-8065
www.okbar.org

**Oklahoma Department of Human
Services, Aging Services Division**
(800) 211-2116
www.okdhs.org

**Oklahoma Department of Human
Services, Developmental Disabilities
Services**
(405) 521-3571

**Oklahoma Developmental Disabilities
Council**
(405) 521-4984 or (800) 836-4470
www.okddc.ok.gov

Oklahoma Disability Law Center
(405) 525-7755 or (800) 880-7755
www.oklahomadisabilitylaw.org

**Oklahoma Mental Health and Aging
Coalition**
www.omhac.org

Oklahoma Supreme Court Network
www.oscn.net

Senior Info Line
Dial 211 or (800) 211-2116

Social Security Administration
(800) 772-1213
www.ssa.gov

Sunbeam Family Services
(405) 528-7721
www.sunbeamfamilyservices.org

**U.S. Department of Veterans Affairs
Muskogee Regional Office**
1-800-827-1000
www.va.gov

STEP BY STEP CHECKLIST

You have decided whether your guardianship is “**special**” (emergency and expires in 30 days) and/or “**general**.” Either way, you will need to schedule a hearing with a judge and let the others involved in the ward’s life know that you are applying for a guardianship.

Note: Where needed, compute the information in the “Important Time Frames” column by excluding the first day and including the last day. If the last day is a legal holiday, it shall be excluded.

| Section | Action | Important Time Frames | Initial when complete |
|--|--|-----------------------|-----------------------|
| SECTION 1 - GET READY FOR THE COURTHOUSE - You will need a notary and a copier. | | | |
| Step 1 | Find the completed form “ Petition for Appointment of Guardian. ” This is your application to be a guardian. | | |
| | <p>A. The last page is marked “Exhibit A.” This is the list of persons the court requires you to notify of guardianship proceedings. Make sure you have included the names and addresses of:</p> <ol style="list-style-type: none"> 1. The ward; and 2. These persons, other than yourself, who are known to you or whose existence and address can be found by you with reasonably diligent efforts: <ol style="list-style-type: none"> a. The spouse, if any, of the ward, b. The attorney, if any, of the ward, c. All adult children of the ward, d. If there is no such adult child, then the living parent or parents of the ward, or e. If there is no such parent, all adult brothers and sisters of the ward, and all adult children of any deceased brothers or sisters of the ward, and all adult grandchildren of the ward; 3. In case no person in paragraph 2 of this subsection is given notice, notice shall be given to at least one and not over three of the nearest adult relatives of the ward known to you or whose existence and address can be found with reasonably diligent efforts; 4. If not the petitioner, any person or organization which, in the petition, is proposed to serve as guardian or limited guardian or, to the extent such nomination is known to the petitioner, who is nominated by will or other writing to serve as guardian or limited guardian; | | |

| Section | Action | Important Time Frames | Initial when complete |
|---------------|--|-----------------------|-----------------------|
| | <p>5. To the extent known to you:</p> <p>a. The person or facility having care or custody of the ward, and</p> <p>b. The Oklahoma Department of Human Services or the Oklahoma Department of Mental Health and Substance Abuse Services, if the Departments are providing services to the ward;</p> <p>6. The Secretary of the U.S. Department of Veterans Affairs if the ward is a veteran and is reasonably believed to be eligible for or in receipt of benefits or services from the Department; and</p> <p>7. Any other person as directed by the court.</p> <p>B. Sign the original form in front of a notary.</p> <p>C. Make two copies of the original form. <i>(The original goes to the court clerk; one copy is for you and one is for the judge).</i></p> <p>D. Put the original petition plus the three copies in your “Go to Courthouse” folder.</p> | | |
| Step 2 | Find the form “ Order for Hearing Petition for Appointment of Guardian. ” | | |
| | <p>A. Make one copy of the original form. <i>(The original goes to the court clerk; one copy is for you.)</i></p> <p>B. Put the form and your copy in your “Go to Courthouse” folder. <i>(The hearing will be set by the judge’s clerk at the courthouse.)</i></p> | | |
| Step 3 | Find the “ Notice to Ward of Hearing Petition... ” | | |
| | <p>A. Make one copy of the original form. <i>(The original goes to the court clerk; one copy is for you.)</i></p> <p>B. Put the form and the copy in the “Go to Courthouse” folder.</p> | | |
| Step 4 | Find the “ Notice of Hearing Petition for Appointment of Guardian ” <i>(goes to every interested person except the ward).</i> | | |
| | <p>A. Make one copy of the original form. <i>(The original goes to the court clerk; one copy is for you.)</i></p> <p>B. Put the form and the copy in the “Go to Courthouse” folder.</p> | | |
| Step 5 | Find the “ Affidavit of Service ” form. | | |
| | <p>A. Make one copy of the original form. <i>(The original goes to the court clerk; one copy is for you.)</i></p> <p>B. Put the form and your copy in your “Go to Courthouse” folder. <i>(This will prove that you gave the Petition and the Notice of Hearing to the ward.)</i></p> | | |

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| Step 6 | Find the “ Affidavit of Mailing ” form. | | |
| | <p>A. Make one copy of the original form. <i>(The original goes to the court clerk; one copy is for you.)</i></p> <p>B. Put the form in your “Go to Courthouse” folder. <i>(This will prove you mailed the “Petition for Appointment...” and the “Notice of Hearing...” to all interested persons.)</i></p> | | |
| Step 7 | Find the “ Initial Plan for the Care and Treatment of the Ward ” form. | | |
| | <p>A. Sign the form.</p> <p>B. Make one copy.</p> <p>C. Put it in your “Go to Courthouse” folder.</p> | | |
| Step 8 | Find the “ Plan for the Management of the Property of the Ward ” form. | | |
| | <p>A. Sign the form in front of notary.</p> <p>B. Make one copy.</p> <p>C. Put it in your “Go to Courthouse” folder.</p> | | |

SECTION 2 - GO TO COURTHOUSE - Take your “Go to Courthouse” folder with all your documents.

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| Step 1 | Go to the court clerk’s office. | | |
| | <p>A. Step up to the cashier’s window.</p> <p>B. Present your original “Petition for Appointment of Guardian” to the cashier.</p> <p>C. Tell the cashier the fee is waived.</p> <p>D. You will be assigned a judge and a case number.</p> <p>E. The cashier will hand you back your original with the judge’s name and case number written on it.</p> <p>F. Write the name of the assigned judge on the two copies of the “Petition for Appointment of Guardian.”</p> | | |
| Step 2 | Go to one of the court clerks. | | |
| | <p>A. Give the clerk the original Petition and two copies. Tell the clerk you need to file them. They will file stamp them all, keep the original and give you back the two copies <i>(one for you and one for the judge)</i>.</p> <p>B. Put your filed copy in your “Go to Copier” folder.</p> | | |

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| Step 3 | Take the copy of the “ Petition for Appointment of Guardian ” to the office of the judge assigned to you. | | |
| | <ul style="list-style-type: none"> A. Present one copy of the “Petition for Appointment of Guardian” to the judge’s clerk for them to give to the judge. B. Tell the judge’s clerk you need to schedule your hearing. C. Get a date and time for your hearing. D. Write down the date and time. | <p>The hearing date will be no more than 30 days after the petition was filed.</p> <p><i>The timing must allow time to give the ward the paperwork 10 days before hearing.</i></p> | |
| Step 4 | Find the form “ Order for Hearing Petition for Appointment of General Guardian. ” | | |
| | <ul style="list-style-type: none"> A. On the original form, you will see blanks on which to write the date and time of the hearing. Write in the date and time. B. On your copy of the form, you will see blanks on which to write the date and time of the hearing. Write in the date and time. | | |
| Step 5 | Find the form “ Notice to Ward of Hearing Petition for Appointment of Guardian. ” | | |
| | <ul style="list-style-type: none"> A. On the original form, you will see blanks on which to write the date and time of the hearing. Write in the date and time. B. On your copy of the form, you will see blanks on which to write the date and time of the hearing. Write in the date and time. | | |
| Step 6 | Find the form “ Notice of Hearing Petition for Appointment of General Guardian. ” | | |
| | <ul style="list-style-type: none"> A. On the original form, you will see blanks on which to write the date and time of the hearing. Write in the date and time. B. On your copy of the form, you will see blanks on which to write the date and time of the hearing. Write in the date and time. | | |

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| Step 7 | Go to the court clerk’s office. | | |
| | <p>A. Find the “Order for Hearing Petition for Appointment of General Guardian.”</p> <ol style="list-style-type: none"> 1. Give the original form and the copy to the clerk. 2. Tell the clerk you need it filed and certified. 3. The clerk will keep the original and give you a certified copy. 4. Put your certified copy in your “Go to Copier” folder. <p>B. Find the “Notice to Ward of Hearing Petition for Appointment of General Guardian.”</p> <p>C. Please note: The Notice to the Ward is handled differently than the notices to everyone else.</p> <ol style="list-style-type: none"> 1. Give the original form and the copy to the clerk. 2. Tell the clerk you need it filed. 3. The clerk will keep the original and give you the copy. <p>D. Put your copy in your “Go to Copier” folder.</p> | | |
| Step 8 | Find the form “Notice of Hearing Petition for Appointment of Guardian.” | | |
| | <ol style="list-style-type: none"> A. Give the original form and the copy to the clerk. B. Tell the clerk you need it filed. C. The clerk will keep the original and give you the copy. D. Put your copy in your “Go to Copier” folder. | | |

| | | | |
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| SECTION 3 - GO TO COPIER - Take your “Go to Copier” folder with your filed-stamped documents with you. | | | |
| Step 1 | Find the “Petition for Appointment of Guardian.” | | |
| | <p>A. Make note of your total number of interested parties.</p> <ol style="list-style-type: none"> 1. Each interested party gets a copy of: <ol style="list-style-type: none"> a. Petition for Appointment of Guardian b. Notice of Hearing for Appointment of Guardian c. Plan for the Care and Treatment of the Ward d. Plan for the Management of the Property of Ward e. Make enough copies to give each interested person one copy. <p><i>Please note: The Notice to the Ward is handled differently than the notices to everyone else.</i></p> | | |

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| Step 2 | Find copy of file stamped “ Notice to Ward of Hearing Petition for Appointment of General Guardian. ” | | |
| | A. Make one copy of the “ Notice to Ward of Hearing on Petition for Appointment of Guardian ” for the ward. | | |
| Step 3 | Find copy of file-stamped “ Notice of Hearing Petition for Appointment of Guardian. ” | | |
| Step 4 | Find the “ Exhibit A ” form attached to the “ Petition for Appointment of Guardian ” (last page of “ Petition... ”) | | |
| | A. Write the name of each person who is an interested party on “ Exhibit A. ” | | |

| SECTION 4 - PREPARE FOR MAILING DOCUMENTS - Have envelopes and first-class postage | | | |
|---|--|--|--|
| Step 1 | Address envelopes to each place that gets copies of documents. | | |
| Step 2 | Put a copy of the “ Petition for Appointment of... ,” a copy of “ Notice of Hearing... ,” a copy of “ Plan for the Care and Treatment of the Ward, ” and a copy of “ Plan for the Management of the Property of the Ward ” in each addressed envelope. | | |
| | | <i>Documents must be mailed so that they arrive at least 10 days before the hearing.</i> | |
| Step 3 | Stamp and put in USPS mail. | | |

| SECTION 5 - PREPARE TO HAVE THE WARD GIVEN THE PAPERWORK | | | |
|---|--|--|--|
| Step 1 | <p>Arrange for an officer of the court to give the ward the “Petition for Appointment of...,” the “Notice to Ward...,” the “Plan for the Care and Treatment of the Ward,” and (if applicable) the “Plan for the Management of the Property of the Ward.”</p> <p><i>Oklahoma law specifies that the ward must be given the documents by an officer of the court. An officer of the court is an attorney, a sheriff, or a licensed process server.</i></p> | | |
| | | <i>Ward needs to be handed the documents at least 10 days before the hearing</i> | |

SECTION 6 - PREPARE DOCUMENTS THAT SHOW THE COURT THAT NOTICE WAS PROPERLY GIVEN - You will need a notary and to make copies.

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| Step 1 | Find “Affidavit of Service” form. | | |
| Step 2 | Fill in blanks. | | |
| Step 3 | Sign your name in front of the notary. | | |
| Step 4 | Make one copy. | | |
| Step 5 | Put original and copy in your “Go to Courthouse” folder. | | |
| Step 6 | Find “Affidavit of Mailing” form. | | |
| Step 7 | Fill in the names and addresses of all persons mailed a copy of the “Notice of Hearing...” | | |
| Step 8 | Sign your name in front of a notary. | | |
| Step 9 | Make one copy. | | |
| Step 10 | Put original and copy in your “Go to Courthouse” folder. | | |

SECTION 7 - GO TO COURTHOUSE - Bring your “Go to Courthouse” folder with the originals and copies of “Affidavit of Mailing” and “Affidavit of Service.”

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|---------------|---|--|--|
| Step 1 | Hand the court clerk your documents and ask that they be filed. | | |
| | | <i>Must be filed prior to the hearing.</i> | |
| Step 2 | The court clerk will file stamp the documents, keep the originals , and hand you the copies. | | |

| SECTION 8 - PREPARE FOR A COURT HEARING - Will need to make copies and have a notary. | | | |
|--|---|--|--|
| Step 1 | Find “ Order Appointing General Guardian of the Person and Estate ” form. | | |
| | A. Fill in the blanks. B. Make two copies. C. Put them in your “Go to Courthouse” folder. | | |
| Step 2 | Find the “ Letters of Guardianship ” form. | | |
| | A. Fill in the blanks. B. Make five copies. C. Put them in your “Go to Courthouse” folder. | | |
| Step 3 | Find the “ Plan for the Care and Treatment of the Ward ” form. | | |
| | A. Fill in the form. B. Sign the form. C. Make one copy . D. Put it in your “Go to Courthouse” folder. | <i>Can be filed with Petition or within 10 days of appointment of guardian.</i> | |
| Step 4 | Find the “ Plan for the Management of the Property of the Ward ” form. | | |
| | A. Fill in the form. B. Sign the form in front of notary . C. Make one copy . D. Put it in your “Go to Courthouse” folder. | <i>Can be filed with Petition or within 2 months of appointment of guardian.</i> | |
| Step 5 | Find the “ Order Approving the Plans for Care and Management. ” | | |
| | A. Make two copies . B. Put them in your “Go to Courthouse” folder. | | |

| SECTION 9 - ATTEND COURT HEARING - Bring your “Go to Courthouse” folder. | | | |
|---|--|--|--|
| Step 1 | Hand the judge: | | |
| | A. The “ Order Appointing General Guardian ” form, B. The “ Letters of Guardianship ” form, and C. The “ Order Approving the Plans for Care and Management ” form | | |
| Step 2 | The judge will sign the orders . | | |

| | | | |
|---------------|--|--|--|
| Step 3 | Collect the signed orders and put them in your “Go to Courthouse” folder. | | |
|---------------|--|--|--|

SECTION 10 - AFTER THE HEARING - Go to the court clerk’s office.

| | | | |
|---------------|---|--|--|
| Step 1 | Hand the clerk each signed order and the two unsigned copies . | | |
| Step 2 | Tell the clerk the copies need to be stamped with the judge’s signature stamp. All need to be filed and certified. | | |
| Step 3 | The clerk will keep your original and hand you back your two certified, file-stamped copies. | | |
| Step 4 | Keep your orders in a safe place. | | |
| Step 5 | Hand the clerk the “ Letters of Guardianship. ” | | |
| Step 6 | Tell the clerk you need the original and the five copies stamped with the judge's signature filed and certified. | | |
| Step 7 | The clerk will hand you back your five file-stamped and certified copies. Keep them in a safe place. <i>They are proof of the guardianship.</i> | | |

SECTION 11 - FOLLOW-UP REPORTS - Guardians must file periodic reports and accountings with the court.

Upon expiration of a year from time of appointment and annually thereafter.

| | | | |
|---------------|---|--|--|
| Step 1 | Find the “ Report on the Guardianship of the Person and Property ” and “ Annual Accounting. ” | | |
| | <ul style="list-style-type: none"> A. Fill them out. B. Make one copy of each. C. Take to the courthouse and file. | | |
| Step 2 | Mail copies to all interested parties contained in Exhibit A. | | |
| Step 3 | Find “ Affidavit of Mailing ” form. | | |
| | <ul style="list-style-type: none"> A. Make one copy. B. File “Affidavit of Mailing” with the court clerk. C. Save your file-stamped copy as proof of your mailing. | | |

FORMS

The forms appear on the following pages in **chronological order** according to the **step-by-step checklist**.

1. Pauper's Affidavit
2. Petition for Guardianship
3. Order for Hearing Petition for Guardianship
4. Notice of Hearing Petition for Guardianship
5. Notice of Hearing Petition for Letters of Guardianship
6. Affidavit of Mailing and Personal Service
7. Plan for the Care and Treatment of the Ward
8. Plan for the Management of the Property of the Ward
9. Order Appointing General Guardian
10. Letters of General Guardianship, Guardian's Oath
11. Order Approving the Plans for Care and Management
12. Inventory of Ward's Estate
13. Annual Report of the Guardian

ADDITIONAL/OPTIONAL FORMS:

14. Guardian's Bond

IN THE DISTRICT COURT OF _____ COUNTY
STATE OF OKLAHOMA

IN THE MATTER OF THE GUARDIANSHIP)
OF _____,) Case No.
 An incapacitated person.)

PAUPER'S AFFIDAVIT

Name: _____ Social Security No.: xxx-xx-_____ (last 4)

Address: _____

1. Are you employed? ___ Yes ___ No. If so, who is your employer?

Salary or rate per hour? _____ How long have you worked there? _____

2. Do you rent or own your residence?

a. How much is your rent or mortgage payment? \$ _____ per month.

b. List the names of the persons living with you and their relationship to you:

3. Financial Resources: List the following items:

a. Bank Accounts: \$ _____

b. Cash on Hand: \$ _____

c. Securities, Stocks, Bonds: \$ _____

d. Are you due a tax refund? ___ Yes ___ No. If so, how much? \$ _____

e. Life Insurance Cash Value: \$ _____

f. Does anyone owe you money? ___ Yes ___ No. If so, how much? \$ _____

g. Do you have any pending Lawsuits for the recovery of money? If so, List:

h. If you own any of the following, state the value:

- i. Home: \$ _____
- ii. Jewelry: \$ _____
- iii. Appliances: \$ _____
- iv. Car: \$ _____
- v. Furniture: \$ _____
- vi. Equipment: \$ _____
- vii. Boat: \$ _____
- viii. Tools: \$ _____

4. Expenses:

a. List the Debts you owe:

| Creditor | Balance | Monthly Payment |
|-----------------|----------------|------------------------|
| | \$ | \$ |
| | \$ | \$ |
| | \$ | \$ |
| | \$ | \$ |

b. What are your average monthly utility bills?

| | |
|-------------|----|
| Electricity | \$ |
| Water/Trash | \$ |
| Phone | \$ |
| Gas | \$ |

5. Have you transferred or sold any property since this case was filed?

a. If so, describe the buyer, the property, and the amount you received.

6. Do you have an attorney in this or any pending civil or criminal case?

a. If so, what is the attorney name and how much have you paid the attorney?

7. Do you have any friends and/or relatives who are able and willing to assist you in an attorney and/or paying the costs of this case? ___ Yes ___ No

a. If so, have those persons been asked for help? ___ Yes ___ No

I swear (or affirm under penalty of perjury) that I am without funds or other sources of income to pay an attorney and/or to pay the associated with this case. I have READ and UNDERSTAND the above sworn statement and understand that if it is knowingly false, a charge of PERJURY could be filed against me.

Sign Your Name

Print Your Name

SUBSCRIBED AND SWORN to before me on this _____ day of _____, 20____, by _____.

NOTARY PUBLIC

My Commission Expires

My Commission Number

ORDER RELATING TO COURT COSTS

It is ORDERED that the costs in this case shall be \$ _____ at this time, and shall be:
____ reconsidered at final hearing;
____ assessed before the final order is entered; OR
____ waived in full.

Dated: _____

JUDGE OF THE DISTRICT COURT

Print Your Name

Print Your Address

City, State, Zip Code

Phone Number

**IN THE DISTRICT COURT OF _____ COUNTY
STATE OF OKLAHOMA**

**IN THE MATTER OF THE GUARDIANSHIP)
OF _____,) Case No.
 An incapacitated person)**

PETITION FOR GUARDIANSHIP

COMES NOW (Petitioner) _____, and
in support of the Petition for Guardianship allege(s) and state(s) to the Court as follows:

1. THAT (Petitioner) _____ is the (relationship)
_____ of the incapacitated person, and is/are concerned about the
welfare of (Ward) _____, a resident of (city)
_____, _____ County, Oklahoma, and is/are
entitled to Petition this Court for appointment of Guardian over his/her person and estate.

2. That notice of this Petition should be given to the following individuals:

| NAME/ADDRESS | RELATIONSHIP |
|---------------------|---------------------|
| _____ | Ward |
| _____ | |
| _____ | |
| _____ | Ward's _____ |
| _____ | |
| _____ | |
| _____ | Ward's _____ |
| _____ | |
| _____ | |

3. That the proposed Ward is impaired by mental illness as defined by 43A Oklahoma Statutes §1-103 by reason of a (impairment) _____ and is thus unable to: 1) receive and evaluate information effectively and make and

communicate responsible decisions, 2) meet the essential requirements for physical health and safety, 3) effectively manage medical treatment needs and 4) manage financial resources, and there is no less restrictive alternative to guardianship at this time.

4. That Petitioner knows of no person or organization that has been nominated in writing to serve as Guardian of the prospective Ward.
5. That Petitioner is not aware of the identity of any attorney representing the prospective Ward.
6. That Petitioner(s) is/are a suitable person qualified to serve as Guardian as required by 30 Oklahoma Statutes §4-105 and is/are willing to assume the duties and responsibilities of Guardian upon appointment of this Honorable Court.
7. That the assets of the Ward consist of primarily _____.
8. That it would be in the best interest of the Ward and his estate that Petitioner be appointed Guardian, to serve without bond.
9. That Petitioner is a relative of said Ward within the fourth degree of consanguinity and that the Guardianship Estate is not subject to the provisions of the Veterans Volunteer Guardianship Act (72 O.S. § 191 et seq.) and that it is in the best interest of the Guardianship Estate and the Ward that pursuant to 30 Okla. Stat. § 4-303(B)(3), the Court waive the requirement for filing of an annual accounting and annual Guardianship Plan for the property herein, subject to further Order of the Court.

WHEREFORE, Petitioner prays that the Court enter its Order judicially determining (Petitioner) _____ to be an incapacitated person; for an Order appointing Petitioner Guardian of the person and estate of _____ (Ward) _____, to serve without bond; and for such other and further relief which this Honorable Court deems just, equitable and proper.

| | | |
|---------|------------|------------|
| Name | _____ | _____ |
| Address | _____ | _____ |
| | _____ | _____ |
| Tel: | _____ | _____ |
| | Petitioner | Petitioner |

VERIFICATION

STATE OF OKLAHOMA)
) ss
COUNTY OF _____)

I, _____, of legal age and being first duly sworn upon oath, depose and state that I am the Petitioner above named, that I have read and understand the above and foregoing Petition and that the contents contained therein are true and correct to the best of my knowledge, information and belief.

PETITIONER

SUBSCRIBED AND SWORN to before me on this _____ day of _____, 20____,
by _____.

NOTARY PUBLIC

IN THE DISTRICT COURT OF _____ COUNTY
STATE OF OKLAHOMA

IN THE MATTER OF THE GUARDIANSHIP)
OF _____,) Case No.
 An incapacitated person)

ORDER FOR HEARING PETITION FOR GUARDIANSHIP

NOW ON this ____ day of _____, 2022, there having been filed in this Court a Petition for Guardianship with prayer that (name of Petitioner) _____ be appointed Guardian(s) of the person and estate of (name of Ward) _____.

IT IS HEREBY ORDERED that the said Petition be, and is, hereby set for hearing on the ____ day of _____, 20__, at _____ o'clock __.m., before the Honorable Judge _____, in the District Courthouse of _____ County, City of _____, State of Oklahoma.

IT IS FURTHER ORDERED that Notice be mailed to each and every person interested in the person or estate of _____ at their last known address, with sufficient postage prepaid thereon, not less than ten (10) days prior to the date of hearing.

JUDGE OF THE DISTRICT COURT

Name _____

Address _____

Phone. _____

Petitioner(s)

IN THE DISTRICT COURT OF _____ COUNTY
STATE OF OKLAHOMA

IN THE MATTER OF THE GUARDIANSHIP)
OF _____,) Case No.
 An incapacitated person.)

NOTICE OF HEARING PETITION FOR GUARDIANSHIP

TO: ALL PERSONS INTERESTED IN THE PERSON AND ESTATE OF
_____, an alleged incapacitated person

NOTICE IS HEREBY GIVEN that _____
have filed in the District Court of Oklahoma County, Oklahoma, a Petition alleging that
_____ is an incapacitated person and praying for Letters of
Guardianship to be issued to _____ upon the person
and estate of _____, an adult.

NOTICE IS FURTHER GIVEN that the ____ day of _____, 20____, at
the hour of ____ o'clock ____ .m. in the District Courthouse of _____ County, in the City
of _____, State of Oklahoma, has been appointed as the time and place for hearing said
Petition, when and where any persons interested may appear and show cause, if any they have, why
such appointment should not be made.

DATED THIS ____ day of _____, 20____.

JUDGE OF THE DISTRICT COURT

Name _____

Address _____

Phone. _____

Petitioner(s)

**IN THE DISTRICT COURT OF _____ COUNTY
STATE OF OKLAHOMA**

**IN THE MATTER OF THE GUARDIANSHIP)
OF _____,) Case No.
 An incapacitated person.)**

NOTICE OF HEARING PETITION FOR LETTERS OF GUARDIANSHIP

TO: _____ (Ward)

YOU ARE HEREBY NOTIFIED that a Petition has been filed alleging that you are an incapacitated person and are incapable of caring for yourself, or properly managing your property. The Petition requests that a Guardian be appointed by the Court to make decisions for you regarding yourself and your property. A copy of the Petition is attached.

The hearing on the petition will be held on the ____ day of _____, 20__, at the hour of _____ o'clock __.m. before the **Honorable** _____, in the District Courthouse of _____ County, in the City of _____, State of Oklahoma. At the hearing a Guardian may be appointed for your person and property. The Judge will explain to you the nature, purpose and effect of the proceedings.

You have the right to attend the hearing. You may confront and cross-examine all witnesses and present your own witnesses. You have the right to request that your hearing be closed to the public. You may request that an expert be appointed to examine you and if the Judge believes that an examination is necessary, the Judge will order an evaluation to be done.

You have the right to hire an attorney of your choice to represent you. If you do not have an Attorney and you wish to be represented by an Attorney at the hearing, the Court will appoint one for you. You may request the appointment of an Attorney orally or in writing prior to the hearing or at the hearing. If you are able, you will be required to pay the cost of an Attorney appointed by the Court.

DATED THIS ____ day of _____, 20__.

JUDGE OF THE DISTRICT COURT

IN THE DISTRICT COURT OF _____ COUNTY
STATE OF OKLAHOMA

IN THE MATTER OF THE GUARDIANSHIP)
OF _____,) Case No.
An incapacitated person.)

AFFIDAVIT OF MAILING AND PERSONAL SERVICE

STATE OF OKLAHOMA)
) ss.
COUNTY OF OKLAHOMA)

I, _____ herein, of lawful age and being first duly sworn upon oath, state that on the ____ day of _____, 20__, I hand-delivered to the potential Ward, _____, a true and correct copy of the Notice of Hearing Petition for Guardianship and Petition for Guardianship, and deposited in the U.S. Mail, with sufficient postage prepaid thereon, true and correct copies of the Notice of Hearing Petition for Guardianship and Petition for Guardianship to the following:

NAME/ADDRESS

NAME/ADDRESS

FURTHER AFFIANT SAYETH NOT!

DATED this ____ day of _____, 20__.

PETITIONER

SUBSCRIBED AND SWORN to before me on this ____ day of _____, 20__,
by _____.

NOTARY PUBLIC

IN THE DISTRICT COURT OF _____ COUNTY
STATE OF OKLAHOMA

IN THE MATTER OF THE GUARDIANSHIP)
OF _____,) Case No.
 An incapacitated person.)

PLAN FOR THE CARE AND TREATMENT OF THE WARD

I _____, the Guardian of the Person of _____,
hereby submit this Guardianship Plan for the Care and Treatment of the Ward.

1. I believe the services necessary for the physical health and safety of the Ward are:
 - a. Arranging for the Ward to receive adequate medical, mental health, and personal care wither at home or in an appropriate facility;
 - b. Arranging for the Ward to receive assistance with personal hygiene and physical care, including but not limited to bathing, dressing, proper nutrition, exercise, and medication;
 - c. Applying for and assisting the Ward to receive government and private benefits;
 - d. Arranging for the Ward’s physical and personal care needs to be met, including clothing, food, medical equipment, home safety devices, or other supplies as needed;
 - e. Making decisions regarding mental health and medical care for the Ward, including consenting to or refusing mental health and medical treatment, and admitting the Ward into and consenting to the Ward’s discharge from a hospital, nursing home, or other health care or mental care facility as necessary for the best care of the Ward.

2. Those services will be obtained or provided as follows:

The Guardian will have responsibility for providing assistance to the Ward directly or through paid or volunteer providers, making medical decisions on behalf of the Ward, and monitoring the care the Ward receives at home or in any facility where the Ward is placed.

3. I will seek to provide the least restrictive environment possible considering the mental and physical condition of the Ward.

Date

Guardian Signature

Guardian Printed Name

**IN THE DISTRICT COURT OF _____ COUNTY
STATE OF OKLAHOMA**

**IN THE MATTER OF THE GUARDIANSHIP)
OF _____,) Case No.
 An incapacitated person.)**

PLAN FOR THE MANAGEMENT OF THE PROPERTY OF THE WARD

I _____, the Guardian of the Estate of _____,
an incapacitated person, hereby submit this Guardianship Plan for the Management of the Property
of the Ward.

1. I believe the services necessary to manage the property of the Ward which is subject to this

Plan are as follows:

- a. Arranging for all bills owed by the Ward to be timely paid;
- b. Filing and paying the Ward's taxes, if required;
- c. Representing the Ward in any legal matter that may arise;
- d. Gathering, organizing, and safeguarding the Ward's personal and financial papers,
including accessing documents held in the Ward's safe deposit box(es), if any;
- e. Receiving and managing the Ward's income.

2. Those services will be obtained or provided as follows:

I will have responsibility for managing the Ward's property and finances and will carry out
these duties personally or enlist assistance from others acting under my direction and
supervision. I will protect and manage the Ward's assets, utilize such assets to pay the costs of
the Ward's health, maintenance and support and use such assets for the comfort and security of
the Ward.

_____ Date

_____ Guardian Signature

_____ Guardian Printed Name

**IN THE DISTRICT COURT OF _____ COUNTY
STATE OF OKLAHOMA**

**IN THE MATTER OF THE GUARDIANSHIP)
OF _____,) Case No.
 An incapacitated person.)**

ORDER APPOINTING GENERAL GUARDIAN

Now on this ____ day of _____, 20____, there came on for hearing the Petition of _____ on file herein alleging that it is necessary that a general Guardian of the person and estate be appointed for the incapacitated person, _____, said Petitioner, appearing in person, and the incapacitated person, _____, appearing/not appearing in person, and the Court having examined the pleadings on file herein and the testimony of witnesses, and being fully advised in the premises:

FINDS, ORDERS, ADJUDGES, AND DECREES as follows:

1. That proper notice of this hearing has been given pursuant to law and the Court’s order issued herein and that no further notice of this hearing is necessary.

2. That the Ward is a resident of _____ County, Oklahoma.

3. That by clear and convincing evidence, the Ward is determined to be an incapacitated person, who is impaired by reason of

resulting in an inability to receive and evaluate information effectively, to meet the essential requirements for physical health and safety, and to manage financial resources.

4. That the financial resources of the Ward include personal property and

5. That the essential requirements for managing the financial resources of the incapacitated person are safeguarding and preserving the assets of the incapacitated person and managing the ordinary expenses of living and care for the incapacitated person.

6. That the requirements for the health and safety of the incapacitated person are health care, food, shelter, clothing, personal hygiene, and other care. That the necessary skills and knowledge to meet the essential requirements for the health and safety of the incapacitated person include the ability to obtain professional assistance in her health care and from time to time to provide health care, food, shelter, clothing and to assist with her personal hygiene.

7. That by reason of the Ward being an incapacitated person, a general Guardian should be appointed for the person and estate, and, the Court finds that by clear and convincing evidence, there is no less restrictive alternative to guardianship that will ensure the Ward's receipt of necessary care and assistance, and that the Ward's specific needs are as follows:

8. That Petitioner(s) is/are the (*relationship*) _____ of the Ward and are fit and proper persons qualified to serve as Guardian of the person and property of the Ward, in that they are not minors, incapacitated or partially incapacitated, convicted felon(s), bankrupt, nor are they insolvent or under any financial obligation to the Ward or subject to a conflict of interest which would preclude or be substantially detrimental to their ability to act in the best interest of the Ward, and the Petitioner(s) is/are hereby appointed to serve as general Guardian of the person and property of the Ward.

9. That this case is not subject to the Veterans Volunteer Guardianship Act, and that the anticipated annual income to the Ward plus the value of personal property of the Ward is less than \$40,000.00; therefore, bond may be waived by the Court as permitted by 30 O.S. § 4-201(B)(2), and Such bond is therefore waived, and Letters of General Guardianship will issue to Petitioner(s) upon taking the oath of office.

10. That Petitioner(s) is/are relatives of said Ward within the fourth degree of consanguinity and that the Guardianship Estate is not subject to the provisions of the Veterans Volunteer Guardianship Act (72 O.S. § 191 et seq.); that Ward's financial resources or assets, other than a homestead, are worth less than \$10,000.00,

11. That the Guardianship Plan due pursuant to 30 O.S. § 3-120 attached hereto and made a part hereof is approved.

12. The Ward does not/ does (circle one) retain the right to make personal medical decisions including but not limited to the following decisions:

- To withhold or withdraw life-sustaining procedures
- To receive hospice care
- To receive hospice services through a home or inpatient hospice program
- To donate organs
- To undergo elective surgery
- To consent to routine or necessary medical care or other professional care, treatment of advice

The Ward does not/ does (circle one) retain sufficient capacity to do any of the following business transactions including but not limited to:

- To appoint an agent to act in his or her behalf
- To enter into contracts
- To grant conveyances
- To make gifts of property

IT IS SO ORDERED!

JUDGE OF THE DISTRICT COURT

Name _____

Address _____

Tel. _____

Guardian(s)

IN THE DISTRICT COURT OF _____ COUNTY
STATE OF OKLAHOMA

IN THE MATTER OF THE GUARDIANSHIP)
OF _____,) Case No.
An incapacitated person.)

LETTERS OF GENERAL GUARDIANSHIP, GUARDIAN’S OATH

_____ is/are hereby appointed general Guardian(s) of the person and estate of _____, an incapacitated person. *If applicable, either Guardian may act alone and independent of the other Guardian.*

WITNESS my hand and seal this ____ day of _____, 20____.

JUDGE OF THE DISTRICT COURT

STATE OF OKLAHOMA)
) ss.
COUNTY OF OKLAHOMA)

I/We, (name of Guardians) _____, do solemnly swear that I/we will discharge all and singular the duties of Guardian(s) of the person and estate of (name of Ward) _____, an incapacitated person, according to law and to the best of my ability. So help me, God!

Signature of Guardian

Signature of Guardian

SUBSCRIBED AND SWORN to before me in open court this ____ day of _____, 20____, by _____.

JUDGE OF THE DISTRICT COURT

**IN THE DISTRICT COURT OF _____ COUNTY
STATE OF OKLAHOMA**

**IN THE MATTER OF THE GUARDIANSHIP)
OF _____,) Case No.
 An incapacitated person.)**

ORDER APPROVING THE PLANS FOR CARE AND MANAGEMENT

Now on the _____ day of _____, 20____, upon the review by the Court of the Plan for the Care and Treatment of the Ward and the Plan for the Management of the Property of the Ward, the Court finds such Plans are hereby approved and ordered to be filed.

Annual Reports of the Person and Property and an annual Accounting are due on or before the _____ day of _____, 20_____.

JUDGE OF THE DISTRICT COURT

IN THE DISTRICT COURT OF _____ COUNTY
STATE OF OKLAHOMA

IN THE MATTER OF THE GUARDIANSHIP)
OF _____,) Case No.
An incapacitated person.)

INVENTORY OF WARD'S ESTATE

COMES NOW _____, Guardian(s) of the person and estate of _____, and state(s) that the following is a true and correct inventory of all the estate of _____, including real and personal property, and all the goods, chattels, rights, credits and monies of the Ward that have come to the possession or knowledge of the Guardian(s) on the ____ day of _____, 20____, as follows:

REAL ESTATE: (Describe)

APPROX. VALUE

\$ _____

PERSONAL PROPERTY:

APPROX. VALUE

Personal property, furniture, clothing, jewelry and effects

\$ _____

Monthly Social Security benefits

\$ _____

Other Income

\$ _____

DATED THIS ____ day of _____, 20____.

| | | |
|-----------|----------|----------|
| Signature | _____ | _____ |
| Name | _____ | _____ |
| Address | _____ | _____ |
| | _____ | _____ |
| Tel: | _____ | _____ |
| | _____ | _____ |
| | Guardian | Guardian |

DATED this ____ day of _____, 20____.

PETITIONER

SUBSCRIBED AND SWORN to before me on this ____ day of _____, 20____, by _____.

NOTARY PUBLIC

**IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA**

IN THE MATTER OF THE GUARDIANSHIP OF _____)
_____,) **Case No. PG-** _____
AN INCAPACITATED ADULT. _____)

ANNUAL REPORT OF THE GUARDIAN

As to the state of this Guardianship, _____ (General Guardian) reports as follows:

HISTORY OF CASE

The undersigned Guardian(s), _____ (Name of Guardian), having been appointed as General Guardian(s) of the person and estate of the _____ (name of Ward), on _____ (date of appointment).

NECESSITY OF CONTINUED GUARDIANSHIP

As _____ (Ward) continues to suffer from _____

_____ (medical or other reason why Ward is incapacitated) which disallows them from being able to take care of daily activities including both matters of her person and estate. Therefore, _____ (Ward) remains incapacitated. Therefore, continuation of the guardianship remains necessary.

CONDITION OF THE WARD

_____ (name of Guardian) has obtained and/or maintained the services necessary for their physical and mental health needs and the Guardian. These services are in the current Guardianship Plan. The Ward has been and continues to reside at _____ (address or name of facility where Ward resides) in _____ (city and state). There have not been any significant problems relating to the Ward or to the Guardian's service on behalf of the Ward since of the ward since the previous Guardianship Report, if any.

FINANCIAL INFORMATION

1. The Guardian has maintained a bank account for Ms. Swinney's funds. The current accounts and balances are described below.

| <i>Account</i> | <i>Balance</i> |
|----------------|----------------|
| a. _____ | \$ _____ |
| b. _____ | \$ _____ |
| c. _____ | \$ _____ |

(Note: The source of these funds is/ are _____.)

TOTAL BALANCE \$ _____

2. The Ward receives the following amounts and sources of monthly income.

| <i>Income</i> | <i>Amount</i> |
|------------------------|---------------|
| a. Social Security: | \$ _____ |
| b. Other Income: _____ | \$ _____ |

3. **Average Monthly Living Expenses.** The Ward's average monthly living expenses are as follows:

| <i>Expenses</i> | <i>Amount</i> |
|---|---------------|
| a. Out of Pocket Medical | \$ _____ |
| b. Rent (Assisted Living Facility) | \$ _____ |
| c. Non-Food Expenses (toiletries, household supplies, etc.) | \$ _____ |
| d. Miscellaneous (includes _____) | \$ _____ |

TOTAL AVERAGE MONTHLY LIVING EXPENSES \$ _____

4. **Unexpected Expenses.** During this account and reporting period, the Guardian has had to make the following unusual out-of-pocket expenditures for the purposes indicated below.

| <i>Expenses</i> | <i>Amount</i> |
|-----------------|---------------|
| a. _____ | \$ _____ |
| b. _____ | \$ _____ |

TOTAL UNEXPECTED EXPENSES \$ _____

5. **Reimbursements to Guardian.** For expenses stemming from account and reporting period, Guardian requests reimbursement from the Ward's estate. The expenses below occurred personally while taking care of the Ward, the Wards' assets, and the Ward's transportation to stores, doctor's appointments, physical therapy visits, etc.

| <i>Expenses</i> | <i>Amount</i> |
|-----------------|---------------|
| a. _____ | \$ _____ |
| b. _____ | \$ _____ |
| c. _____ | \$ _____ |

TOTAL REIMBURSEMENTS \$ _____

**IN THE DISTRICT COURT OF _____ COUNTY
STATE OF OKLAHOMA**

**IN THE MATTER OF THE GUARDIANSHIP)
OF _____,) Case No.
 An incapacitated person.)**

GUARDIAN'S BOND

KNOW ALL PERSONS BY THESE PRESENTS, that we:

_____, as Principal, and _____, as Surety, are held
and firmly bound to the State of Oklahoma in the penal sum of
_____ Dollars (\$_____) in lawful money of the United States
of America, for the payment of which we bind ourselves, our heirs, executors, administrators,
personal representatives and assigns, jointly and severally.

The conditions of the above obligations are such that, whereas application has been made
by a petition to the District Court of _____ County, Oklahoma for the
appointment of the above-named "Principal" as Guardian of the person and estate of
_____, the Ward.

And whereas on the ___ day of _____, 20__ by order of said District Court, Letters
of Guardianship were directed to be issued to the above-named "Principal" upon his/her taking and
subscribing the oath required by law, and executing a bond to the State of Oklahoma in the above
mentioned amount.

Now, therefore, if the above-named "Principal" shall faithfully execute the duties of the
trust as such Guardian according to law, then this obligation to be null and void, otherwise to be
and remain in full force and effect.

Executed this ____ day of _____, 20__.

Principal/Guardian

Surety or Bond Company

Address

Before me, a notary public, on this ____ day of _____, 20__, personally appeared the above “Principal” and the above “Surety” or representative of the bond company who each executed the above Bond in my presence and who acknowledged that they executed the same as their free and voluntary act and deed.

Notary Public

The above bond approved this ____ day of _____, 20__.

JUDGE OF THE DISTRICT COURT