

GUARDIANSHIP

For an ADULT

3

**Part 3: Preparing for and Attending the
Court Hearing**

(Forms Packet)

SELF SERVICE CENTER

APPOINTMENT OF GUARDIAN FOR AN ADULT
(or person at least 17.5 years of age)

PART 3: PREPARING FOR AND ATTENDING THE COURT HEARING

CHECKLIST

You may use this packet if . . .

- ✓ You filed papers to request the court appoint a guardian for an incapacitated adult, **or** for a person who is at least 17 and a half years of age who will need a guardian as an adult;
- ✓ You gave or will give notice of the court filing to all interested parties;
- ✓ A court hearing is scheduled;
- ✓ **The person to serve as guardian completed or will complete any court-ordered training before the hearing;* AND**
- ✓ You need the paperwork to prepare for and take to the court hearing.

* See **Notice Regarding Training Requirement** in this packet.

READ ME: Consulting a lawyer before filing documents with the court may help prevent unexpected results. A list of lawyers you may hire to advise you on handling your own case or to perform specific tasks, as well as a list of court-approved mediators can be found on the Self-Service Center website.

Law Library Resource Center

Guardianship

Get a permanent appointment for an adult (or a person at least 17.5 years old to become effective at age 18)

Part 3: Preparing for and Attending the Court Hearing

(Forms Only)

This packet contains court forms and instructions to file get a permanent appointment for an adult. Items in **bold** are forms that you will need to file with the Court. Non-bold items are instructions or procedures. Do not copy or file those pages!

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Person Filing: _____

Address (if not protected): _____

City, State, Zip Code: _____

Telephone: _____

Email Address: _____

Lawyer's Bar Number: _____

Licensed Fiduciary Number: _____

Representing ☐ Self, without a Lawyer OR ☐ Attorney for _____

For Clerk's Use Only

SUPERIOR COURT OF ARIZONA
IN YUMA COUNTY

In the Matter of Guardianship of:

Case Number: _____

Ward's Name

ORDER TO GUARDIAN OF AN
ADULT

Warning: Your appointment is not effective until the Clerk of Superior Court has issued your Letters of Appointment.

You have asked the court to appoint you as the guardian of your "ward," referred to in this order as the "subject person." While you serve as the guardian, you will be under this court's authority and supervision, and the court will continue to monitor the subject person's welfare and best interests.

This order generally explains your duties to the subject person and to this court. You may have additional duties imposed by statutes, rules, or the court. By separate order, the court may modify or excuse you from performing a specific duty described below.

YOUR POWERS AND DUTIES AS GUARDIAN:

- 1G. General Powers and Duties. You have powers and responsibilities like those of a parent of a minor child. A.R.S. § 14-5312(A). However, you are not legally obligated to contribute your own funds to support the subject person. Your responsibilities include, but are not limited to, making appropriate arrangements for the subject person's basic needs, such as food, clothing, and housing. A.R.S. § 14-5312(A)(1)-(2). You are responsible for making decisions concerning the subject person's educational, and social activities. A.R.S. § 14-5312(A)(2). You must consider the subject person's preferences to the extent they are known to you or that you can determine with a reasonable inquiry. A.R.S. § 14-5312(A)(11).
- 2G. Contact Between Subject Person and Others. You must encourage and allow contact between the subject person and other persons who have a significant relationship with the subject person. A.R.S. § 14-5316(A). In exercising this duty, you must consider the subject person's wishes and whether the subject person has sufficient mental capacity to make such a decision. A.R.S. § 14-5316(C). However, unless the court orders otherwise, you may limit, restrict, or prohibit contact between the subject person and another person if you reasonably believe that the contact will be detrimental to the subject person's health, safety, or welfare. A.R.S. § 14-5316(B).
- 3G. Health Care Decisions for Subject Person. You are responsible for making decisions concerning the subject person's medical needs. A.R.S. § 14-5312(A)(3) and (9). Such decisions include, but are not limited to, choosing doctors, nurses, or other professionals to provide for the subject person's health care needs, and placing the subject person in a health care facility, including a residential care facility. However, you must use the least restrictive residential care setting that is available for meeting the subject person's needs. A.R.S. § 14-5312(A)(8). You may arrange for medical care for the subject person even if the subject person does not wish to have it.
- 4G. Psychiatric and Psychological Treatment for Subject Person. You may give consent to outpatient psychiatric and psychological treatment, including the administration of psychotropic medication. However, you may not place the subject person in an inpatient psychiatric facility without the subject person's consent, unless the court has specifically authorized you to do so. A.R.S. § 14-5312.01(A) and (B).
- 5G. Notify Family Members of Subject Person's Hospitalization. You must notify the subject person's family members as soon as practicable if the subject person is admitted to a hospital for more than 3 days, or if the subject person dies. A.R.S. § 14-5317(A).
- 6G. Money and Property. If the court has not appointed a conservator for the subject person, then, under A.R.S. § 14-5312(A)(4), you may:

- (a) Collect money and tangible property to which the subject person is entitled and spend the money and property for the subject person's support, care, and education. You may not use the subject person's money, however, for the subject person's food or housing that you or your spouse, parent, or child have furnished, unless the court has approved the expense. You must exercise care to conserve the subject person's funds for the subject person's needs.
 - (b) Initiate legal proceedings to require any person under a duty to pay the subject person money or a benefit to perform that duty.
- 7G. Do Not Accept "Kickbacks." You must not accept any compensation for placing the subject person in a particular nursing home or other care facility, using a certain doctor, or using a certain attorney. "Compensation" includes, but is not limited to, direct or indirect payment of money, "kickbacks," gifts, favors, or other items of value.
- 8G. File Annual Reports. You are required to file a written report with the court annually concerning the subject person's residence, physical and mental health, and whether the guardianship should be continued. A.R.S. § 14-5315(A). Your report is due each year no later than 60 days after the anniversary date of the issuance of your letters of permanent appointment, or on a date established by the court. Ariz. R. Prob. P. 46(a).
- 9G. Change of Subject Person's Contact Information. If the subject person's contact information changes, you must file Form 14, Notice of Change of Ward's Contact Information, within 3 court days after learning of such change. Ariz. R. Prob. P. 13(c)(1)(B). If the subject person dies, you must notify the court in writing no later than 14 calendar days after learning of the death. Ariz. R. Prob. P. 40(c).
- 10G. Termination of Subject Person's Incapacity. You must always be mindful of the subject person's needs and best interests. If the circumstances that made a guardianship necessary should end, you are responsible for petitioning the court to terminate the guardianship and obtaining your discharge as guardian. A.R.S. § 14-5312(A)(7). Even if the guardianship terminates, you will not be discharged from your responsibilities until you have obtained a court order discharging you. A.R.S. § 14-5306.

GENERAL INFORMATION:

1. Certified Copy of Letters of Appointment. You will need to obtain a certified copy of the Letters of Appointment that the Clerk of Superior Court will issue to you. The certified copy is proof of your authority to act on behalf of the subject person. You may need to obtain additional (or updated) certified copies from time to time for delivery to, or inspection by, the people with whom you are dealing.
2. Change of Your Contact Information. If your contact information changes during your

appointment, you must file Form 13, Notice of Change of Fiduciary's Contact Information, within 10 court days after such a change occurs. Ariz. R. Prob. P. 13(c)(1)(A).

3. Compensation for Services as Guardian. If you are a licensed fiduciary or are related by blood or marriage to the subject person, you may be entitled to compensation for your services as the subject person's guardian. A.R.S. §§ 14-5314(A) and 14-5651. If you wish to be compensated for your services as guardian, you must file with the court a statement that explains how you will be compensated, including any hourly rate you intend to charge, and you must file an updated statement at least 30 days before you change the basis for your compensation, including your hourly rate. A.R.S. § 14-5109(A) and (B). In addition, you should keep detailed records of the time you spend performing your duties. The time records should include the date you perform each task, a description of the task, the amount of time you spent on the task, and the hourly rate you are charging for that task. Read Rule 33, Arizona Rules of Probate Procedure, and Arizona Code of Judicial Administration § 3-303 for more information about compensation for guardian services.
4. Mail Copy of this Order. Within 10 court days after entry of this Order to Guardian of an Adult, you must mail a copy of this order to every party in this case (or if a party is represented, that party's attorney) and to any person who has filed a demand for notice.
5. Inability to Serve as Guardian. If you become unable to continue with your duties for any reason, you (or your own guardian, if you have one) must petition the court to accept your resignation and appoint a successor. If you should die, your personal representative or someone acting on your behalf must inform the court of your death and petition for the appointment of a successor.
6. Legal Advice. You are responsible for obtaining proper legal advice about your duties. Failure to do so may result in personal financial liability for any losses. If you have any questions about the meaning of this order or the duties that the court's orders, statutes, and rules impose upon you by reason of your appointment as guardian, you should consult an attorney or petition the court for instructions.
7. Forms. The forms referred to in this order are available at <https://www.azcourts.gov/probate>.

Case Number: _____

Warning: Failure to obey this order, the other orders of this court, or the statutory provisions or rules relating to guardians may result in your removal as guardian and other penalties. In some circumstances, you may be held in contempt of court, and your contempt may be punished by confinement in jail, a fine, or both. Ariz. R. Prob. P. 48.

Presiding Judge, Probate and Mental Health Department

ACKNOWLEDGEMENT

I (We), the undersigned, agree to be bound by the provisions of this order, as long as I (we) continue to serve as guardian.

Date

Guardian Signature

Guardian Name (Type or Print Name)

Date

Co-Guardian Signature

Co-Guardian Name (Type or Print Name)

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Lawyer's Bar Number: _____
Licensed Fiduciary Number: _____

FOR CLERK'S USE ONLY

Representing ☐ Self, without a Lawyer or ☐ Attorney for ☐ Petitioner OR ☐ Respondent

SUPERIOR COURT OF ARIZONA IN YUMA COUNTY

In the Matter of Guardianship of:

Case Number: _____

ORDER OF APPOINTMENT OF A PERMANENT GUARDIAN OF AN ADULT

Or ☐ Person at least 17.5 years of age to
become effective at 18.

Name of Incapacitated Adult

Warning: This appointment is not effective until the *Letters of Appointment* have
been issued by the Clerk of the Superior Court.

The Court has read the sworn Petition for Permanent Appointment of Guardian, and held a hearing to determine whether the court should enter the Order requested in the Petition.

THE COURT FINDS:

- A. Petitioner is entitled to file the Petition under Arizona law, A.R.S. 14-5303(A);
- B. Petitioner has given Notice of Hearing as required by law or Notice of Hearing was waived by all interested parties;
- C. Venue in this county is proper;
- D. The reports of the physician (or other health professional authorized under A.R.S. § 14-5312) and the court investigator have been considered by the Court.
- E. **GUARDIANSHIP:**
 - 1. The above-captioned person is an incapacitated person and in need of the continuing care and supervision of a GUARDIAN.

2. The appointment of a guardian is necessary to provide for the demonstrated needs of the incapacitated person.
3. The needs of the incapacitated person cannot be met by less restrictive means, including technological assistance.
4. The person appointed below is competent to serve as Guardian.
5. The person appointed has priority for appointment under A.R.S. § 14-5311, or is otherwise appointed for good cause in accord with A.R.S. § 14-5311(D).
6. **TYPE OF GUARDIANSHIP:** Less restrictive alternatives having been considered:
☐ **A GENERAL GUARDIANSHIP is warranted; A limited guardianship is not appropriate** or in the best interests of the incapacitated person.

(OR)
☐ **A LIMITED GUARDIANSHIP**, carrying only such authority as specified on the pages that follow, is appropriate and adequate to protect the best interests and well-being of the ward.

PHYSICAL HEALTH:

7. ☐ Appointment of a GUARDIAN is necessary due solely to the Physical incapacity of the alleged incapacitated person

F. REGARDING MENTAL HEALTH:

- ☐ By clear and convincing evidence the ward requires inpatient mental health care and treatment.

G. REGARDING DRIVING PRIVILEGES:

- ☐ There is sufficient medical or other evidence to establish the ward's incapacity does **not** prevent or interfere with the safe operation of a motor vehicle.
- ☐ The ward's incapacity **does** prevent or interfere with the safe operation of a motor vehicle; therefore, the ward's driving privileges are suspended.

H. REGARDING VOTING RIGHTS:

- ☐ By clear and convincing evidence the ward has sufficient capacity and understanding to exercise the right to vote.
- ☐ The ward does **not** have sufficient capacity and understanding to exercise the right to vote.

IT IS ORDERED:

1. **The Court appoints:** _____
as permanent guardian for the incapacitated person named above.

☐ The incapacitated person is a MINOR, and the appointment is effective as of
the minor's 18th birthday on this date: _____

(Month, Date, Year of the ward's 18th Birthday)

2. **BOND:** ☐ The Guardian must file a bond in the amount of \$ _____
with the Clerk of the Court, Probate Registrar by (date): _____
OR ☐ **Bond is not required.**

3. **ISSUANCE OF LETTERS:**

Upon filing of any required bond, "**Letters of Guardianship of an Adult**" shall be issued by the Clerk of the Court, Probate Registrar, subject to the following restrictions, if any:

A. ☐ **A LIMITED GUARDIANSHIP is ordered. The Guardian's authority is limited to:**

1. **Mental Health Care Powers:** (check all that apply)

☐ Guardian is granted authority to consent to **outpatient** mental health treatment.

☐ Guardian is granted authority to place the ward in an Inpatient Psychiatric Facility for **inpatient** mental health care and treatment.

This authority expires on _____ (date).

2. (and/or) **The following specific powers indicated:**

☐ Consent to Medical Treatment ☐ Consent to Marriage

☐ Arrange Education or Training ☐ Consent to Make Living Arrangements

☐ Apply for Public Assistance or Social Services

3. **OTHER LIMITED POWERS:** _____

(OR)

B. ☐ **A GENERAL GUARDIANSHIP is ordered**, *subject to the following restrictions* (if any)

4. **MENTAL HEALTH POWERS:** The guardian has the authority to consent to outpatient psychiatric and psychological care.

☐ The Guardian is granted authority to place the ward in an Inpatient Psychiatric Facility for **inpatient** mental health care and treatment.

This authority expires on this date: _____ .

5. **DRIVING PRIVILEGES:**

☐ The Ward's right to keep or obtain a driver's license **is suspended**

☐ The Ward's right to keep or obtain a driver's license **is NOT suspended**

VOTING RIGHTS:

☐ The Ward's right to vote is **suspended**

☐ The Ward's right to vote is **NOT suspended**.

6. **ACCEPTANCE OF LETTERS:** The Guardian shall sign the "**Acceptance of the Letters**" under oath or by affirmation, and file the **Acceptance** with the Clerk of the Court, Probate Registrar.

7. **ANNUAL REPORT OF GUARDIAN:** The Guardian shall report to the Court on the status of the incapacitated person and the need to continue the guardianship at least annually on or before the anniversary date of the **Letters of Appointment** as guardian, in accord with **A.R.S. § 14-5315**.

8. **CHANGE OF ADDRESS:** The Guardian shall notify the Court in writing within **3 days** of any change in the address of either the guardian or the ward.

9. **DEATH OF THE WARD:** If your ward dies, you shall notify the Court in writing of the ward's death within ten (**10**) days of learning that the ward has died.

10. **OTHER DUTIES UNDER LAW:** The duties of the Guardian as required by Arizona law and as set forth in this Order shall continue until the Guardian is discharged from these duties by order of this court.

11. DISCHARGE OF ATTORNEY:

- ☐ The court-appointed attorney is discharged from further duties in this matter, **or**
- ☐ The Court having found that the best interests of the protected or incapacitated person require continuing representation, the court-appointed attorney **is not discharged** from further duties in this matter at this time.

12. OTHER ORDERS: _____

Dated: _____

Signature of Judicial Officer or ☐ Judge Pro Tem

Printed Name of Judicial Officer/Judge Pro Tem

Person Filing: _____

Address (if not protected): _____

City, State, Zip Code: _____

Telephone: _____

Email Address: _____

Lawyer's Bar Number: _____

Licensed Fiduciary Number: _____

Representing ☐ Self, without a Lawyer or ☐ Attorney for ☐ Petitioner OR ☐ Respondent

FOR CLERK'S USE ONLY

SUPERIOR COURT OF ARIZONA IN YUMA COUNTY

In the Matter of Guardianship of:

Case Number: _____

Name of Protected Adult

**LETTERS OF APPOINTMENT AS
PERMANENT GUARDIAN of an ADULT
and ACCEPTANCE OF LETTERS**

ISSUANCE OF LETTERS:

1. (Guardian's Name:) _____

is appointed as guardian for the above-named adult, or ☐ person at least 17.5 years

of age to become effective on reaching the age of 18 *on this date*: _____

2. **Reason for appointment:** The above-named adult is an incapacitated person.

3. **Length of appointment:** until further order of this court.

4. **Restrictions** that apply to this permanent appointment, by order of the court:

5. **INPATIENT MENTAL HEALTH CARE:**

The Guardian ☐ **does not** have, or ☐ **has authority** to place the ward in an Inpatient Psychiatric Facility for inpatient mental health care and treatment. This authority expires on _____ (date).

6. **DRIVING PRIVILEGES:**

- ☐ The Ward's right to obtain or retain a driver's license **is suspended**.
☐ The Ward's right to obtain or retain a driver's license **is NOT suspended**.

7. **VOTING RIGHTS:** ☐ The Ward/Incapacitated Person's right to vote is **NOT suspended**.

WITNESS: _____

CLERK OF SUPERIOR COURT

SEAL

By _____
Deputy Clerk

ACCEPTANCE OF LETTERS OF APPOINTMENT

I accept the duties as permanent guardian of _____
(Name of Incapacitated Person)

Date

Signature of Guardian

Printed Name of Guardian

Person Filing: _____

Address (if not protected): _____

City, State, Zip Code: _____

Telephone: _____

Email Address: _____

Lawyer's Bar Number: _____

Licensed Fiduciary Number: _____

Representing ☐ Self, without a Lawyer OR ☐ Attorney for _____

For Clerk's Use Only

SUPERIOR COURT OF ARIZONA
IN YUMA COUNTY

In the Matter of the Guardianship of:

Case Number: _____

Ward's Name, an Adult.

SUPPLEMENTAL ORDER TO GUARDIAN
WITH INPATIENT PSYCHIATRIC
TREATMENT AUTHORITY AND
ACKNOWLEDGMENT

Warning: This appointment is not effective until the Letters of Appointment have been issued by the Clerk of Superior Court.

The welfare and best interest of the person named above ("your ward") are matters of great concern to this Court. This document addresses only your powers and duties relating to inpatient psychiatric treatment for your ward. Thus, the orders made in this document are in addition to, and supplement, the orders made in the Order to Guardian and Acknowledgment and Information to Interested Persons or the Order to Guardian and Conservator and Acknowledgment and Information to Interested Persons that you and the Court have signed.

Notwithstanding paragraph 6 of the Order to Guardian and Acknowledgment and Information to Interested Persons or the Order to Guardian and Conservator and Acknowledgment and Information to Interested Persons, you may place your ward in an inpatient psychiatric facility against your ward's will. However, you must comply with A.R.S. § 14-5312.01, including but not limited to the following requirements:

- A. Within forty-eight hours after placing your ward in an inpatient psychiatric facility, you must notify your ward's attorney of the placement.
- B. When your ward is admitted to an inpatient psychiatric facility, you must provide that facility with the name, address, and telephone number of your ward's attorney.
- C. You must sign any documents necessary to allow your ward's attorney access to all of your ward's medical, psychiatric, psychological, and other treatment records.
- D. You must place your ward in the least restrictive treatment alternative within five calendar days after the medical director of the inpatient psychiatric facility notifies you that your ward no longer needs inpatient care.
- E. You must file with the annual report of the guardian required pursuant to [A.R.S. § 14-5315](#) an evaluation report by a psychiatrist or a psychologist. The evaluation report must indicate whether your ward will likely need inpatient mental health care and treatment within the next 12 months. If you do not file the evaluation report, or if the report that is filed indicates that your ward will not likely need inpatient mental health care and treatment, your authority to consent to placement in an inpatient psychiatric facility will cease on the date specified in the prior court order. If the report supports the continuation of your authority to consent to inpatient treatment, the court may extend your authority to consent to this placement in an inpatient psychiatric facility. However, at least 30 days before that authority expires, you must file a motion requesting that the Court extend that authority.
- F. At any court hearing regarding the placement of your ward in an inpatient psychiatric facility, you will have the burden of proving by clear and convincing evidence that your ward is likely to be in need of inpatient mental health care and treatment within the period of the authority granted.

This order is only an outline of some of your duties as a guardian who has been granted the authority to place your ward in an inpatient psychiatric facility. It is your responsibility to obtain proper legal advice about your duties. Failure to do so may result in personal financial liability for any losses.

Case Number: _____

Warning: Failure to obey the orders of this court and the statutory provisions relating to guardians may result in your removal from office and other penalties. In some circumstances, you may be held in contempt of court, and your contempt may be punished by confinement in jail, a fine, or both.

Presiding Judge, Probate and Mental Health Department

ACKNOWLEDGEMENT

I (We), the undersigned acknowledges receiving a copy of this Order and agree(s) to be bound by its provisions, whether or not read before signing, as long as serving as guardian.

Date

Guardian's Signature

Guardian's Name (Type or Print Name)

Date

Co-Guardian's Signature (if any)

Co-Guardian's Name (Type or Print Name)