

SELF-SERVICE CENTER

INSTRUCTIONS: HOW TO COMPLETE THE FORMS TO APPOINT A GUARDIAN AND/OR CONSERVATOR OF AN ADULT or person who is at least 17.5 years old to become effective at age 18

USE THE FORMS AND INSTRUCTIONS in this packet **only if** the following factors apply to your situation:

- ü You want to have the court appoint a guardian and/or conservator for an adult or person who is at least 17.5 years old to become effective at age 18; **AND**
- ü The adult lives in _____ County; **AND**
(**You should file these forms in the Superior Court in the county where the adult lives.**)
- ü A doctor, psychologist or registered nurse has said or will say that the adult needs to have someone appointed as a guardian and/or conservator.

USE THIS PACKET if you want to be appointed as guardian and/or conservator for an incapacitated adult. This packet does not help you with the following processes:

- Guardianship or conservatorship for minors;
- Temporary or emergency appointments of guardians or conservators for adults

Follow each step carefully. Each step contains certain forms, and some of these forms have extra instruction sheets to help you. The whole process may take a couple of months.

The person you say *needs* a guardian and/or conservator may be referred to as:

- “the ward”, “the proposed ward”, “the incapacitated person”,
- “the person to be protected” or “the person needing protection”.

The person who is to serve as Guardian and/or Conservator may also be referred to as “the fiduciary,” a person placed in a position of trust regarding the protected person.

FIRST STEPS:

STEP 1 MAKE SURE YOU NEED TO BE APPOINTED AS GUARDIAN AND/OR CONSERVATOR. If you are not sure, the Arizona State Bar provides “A Guide to Guardianship and Conservatorship” on its website:

<http://www.azbar.org/legalhelpandeducation/consumerbrochures/aguidetoguardianshipandconservatorship/>

The Self-Service Center of the Superior Court in your county may also have information available describing the different requirements for appointments for guardianships and conservatorships.

Also, see the Checklist at the beginning of this packet.

To qualify for a guardian, the adult person you say needs a guardian must be “incapacitated”. This means he or she must be impaired by reason of a mental illness, mental deficiency, mental disorder, physical illness or disability, chronic use of drugs, chronic intoxication or other cause, to the extent that he or she lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his or her person.

STEP 2 COMPLETE THE TRAINING REQUIREMENTS FOR CUSTOMERS FILING PROBATE AND/OR GUARDIANSHIP MATTERS. Non-licensed fiduciaries, typically family members, must receive training in order to be appointed as a guardian or as a conservator. Specifically, Rule 27.1(A) of the Arizona Rules of Probate Procedure states: “Any person who is neither a licensed fiduciary under A.R.S. § 14-5651 nor a financial institution shall complete a training program approved by the supreme court before letters to serve as a guardian, conservator, or personal representative are issued....” The probate training modules provided by the Administrative Office of the Courts may be found at:

<http://www.azcourts.gov/probate/Training.aspx>.

From this page you will find a link to the training modules as well as other probate-related resources such as the new forms and fee guidelines. Please refer to the NOTICE in this packet for more information on completing the training.

STEP 3 MENTAL HEALTH TREATMENT: All guardians for adults have the authority to consent for their wards to receive psychiatric and psychological care and treatment as long as the treatment **occurs outside the hospital**. This includes:

- The authority to consent to administration of psychotropic medications, **AND**
- The court can also grant a guardian the added authority to consent to mental health care and treatment in an “inpatient psychiatric facility” (essentially in a hospital setting) if the court finds the ward is likely to need inpatient mental health care and treatment within the period of the added authority (one year).

Note: You must specifically request inpatient mental or behavioral health treatment authority in your Petition and must obtain a special report from the proposed ward’s doctor.

STEP 4 DRIVER’S LICENSE: Upon appointment of a guardian, the incapacitated adult “Ward”, generally loses his or her privilege to obtain or retain a driver’s license. The Court may allow the person to retain their driver’s license upon petition.

Note: If you believe the person should be allowed to continue to drive, you must request that in your Petition and must obtain a statement from the person’s physician that the person is capable of continuing to drive. **(See Step 6 below.)**

STEP 5

VOTING RIGHTS: Upon appointment of a guardian, the incapacitated adult “ward” generally loses the right to vote. For a limited guardianship only, The Court may allow the person to retain the right to vote if a specific request is made in this petition and the Court determines at the hearing by clear and convincing evidence that the person retains sufficient understanding to exercise the right to vote. (A.R.S. § 14-5304.02)).

Note: If you believe the person should be allowed to exercise the right to vote, you must request that in your Petition. You will have to provide clear and convincing evidence that the person retains sufficient understanding to exercise the right to vote. (**See Step 6 below.**) If you are requesting a *limited* guardianship and you believe the person *should* be allowed to vote, you must specifically request that in your Petition.

STEP 6

COMPLETE THE COURT FORMS IN THIS PACKET: Fill out all the forms completely. Type or print neatly. **BLACK INK ONLY.** Sign the forms in front of a notary if required.

- **Petition for Appointment of Guardian and/or Conservator of an Adult.** Fill out all the information carefully and list all persons entitled to know about this matter. If you have questions about who is entitled to notice, see the Self-Service Center Packet on **“Information of Legal Notice for Guardianship and Conservatorship.”**
- Documents defined or designated as “confidential documents” shall be submitted to the Court, following the procedures identified in the County where the documents are being filed. For example, the following documents are defined as confidential:
 - A. Medical Reports and Records
 - B. Inventories and Appraisements
 - C. Accountings
 - D. Credit Reports
 - E. Any other document ordered by the court to be “confidential”
- Documents not labeled and submitted as “confidential” should not contain confidential information, such as the **Social Security Number** of a living person, and/or any **financial account numbers**, including those for credit card, bank and **brokerage accounts**, **insurance policy and annuity contract numbers**, etc. as well, ***unless only the last 4 digits are displayed*** (Rule 7, **Arizona Rules of Probate Procedure**)
- **Healthcare Professional’s Report:** The court must appoint a physician, psychologist or registered nurse to examine and evaluate the alleged incapacitated person. The Petition may include the name and address of a physician, psychologist or registered nurse who has an established relationship with the person.
 - 1) If you are requesting that the person be allowed to continue to drive, you must have the healthcare professional state in the report an opinion whether the person has the physical and mental capacity to do so.

- 2) If you or the proposed ward are requesting the proposed ward retain the right to vote, you must present clear and convincing evidence that the person retains sufficient understanding to exercise the right to vote. Although other evidence may be considered by the court, one way to present this evidence is from a healthcare professional who can provide an opinion on the matter.
- 3) Ask the healthcare professional if the person is likely to need inpatient behavioral or mental health care and treatment within the next year. If so, you will likely want to request inpatient treatment authority in your Petition. If you are seeking inpatient treatment authority, the report must be from a licensed psychologist or psychiatrist stating that the person is likely to need inpatient behavioral or mental health care and treatment within the next year.

- **Appointment of an Attorney:** if the person already has a lawyer, you must include the name and address of the lawyer in the Petition. If an attorney does not represent the incapacitated person, the court shall appoint an attorney.
- **Guardianship / Conservatorship Cover Sheet.** Each superior court in each county will have its own cover sheet. You must contact that county's Office of the Clerk for a copy. Complete everything but the "Case Number." The Deputy Clerk at the Clerk of the Superior Court will stamp the case number when you file the papers. You will use this case number on all court papers after you file the papers with the clerk.
- **Affidavit of Person to be Appointed Guardian (A.R.S. § 14-5106(A)).** This document must be completed by the Petitioner (the person who wants to be appointed guardian or conservator) and filed with the PETITION FOR APPOINTMENT.
- **Guardianship / Conservatorship Information Sheet.** Complete this form for both the Guardian and co-Guardian, if there is a co-Guardian, and file with the PETITION FOR APPOINTMENT.
- **Consent and Waiver.** This is the form that you will file if other parties consent and waive any notice of any hearing or court proceeding in connection with this matter. Have the other party sign this document in front of a Notary Public and bring it with you when you file the Petition. The party may reverse the waiver by writing to the Court, along with proper filing fee.
- **Guidelines for Healthcare Professional's Report.** This form must be given to the physician, psychologist or registered nurse to complete. When completed the physician will return the original "Report" to the Petitioner. The Petitioner will make the necessary copies and distribute to persons entitled to receive copies. Once copies are distributed, the original "Report" can be filed with the Clerk of the Court.
- **Letters of Appointment and Acceptance of Letters.** Complete the information at the top of the form. Fill in the name of the alleged incapacitated adult for whom you are asking the court to appoint a guardian or a conservator. The rest of the document will be filled out by the Court or the clerk. Follow the instructions given by the clerk in your county when you submit PETITION FOR APPOINTMENT.
- **Order of Appointment of a Permanent Guardian and or Conservator.** Complete the information of person filing the document at the top of the page. Fill in the name of the alleged

incapacitated adult for whom you are asking the court to appoint a guardian or a conservator. The rest of the document will be filled out by the Court. Give this form to the clerk when you submit PETITION FOR APPOINTMENT.

STEP 7

COPIES: Once you have had your **signature notarized** in all the appropriate documents, make **the required number of copies** of all the completed forms. **Please check with the Office of the Clerk of the Court to see how many copies of each document is required by the court.** Assemble the originals and the copies into packets.