



Pennsylvania Handbook For Guardians of Incapacitated Persons

*Prepared by the Erie County Bar Association's
Orphans' Court Committee*

**Orphans' Court Division
Sixth Judicial District of Pennsylvania
Erie County Courthouse
Erie, Pennsylvania**

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INTRODUCTION

You are either considering becoming a guardian of a person who is partially or totally unable to manage his or her financial resources or unable to meet the essential needs of physical health and safety or you have already been appointed as guardian of such a person. This is a very important responsibility and may require a significant time commitment from you.

This booklet is an attempt to explain the "*ins and outs*" of Pennsylvania law as it pertains to incapacitated persons. The law sets forth in detail the definitions of incapacitated persons, the method by which guardians are appointed, the duties of a guardian, and the role of the Court in overseeing the entire process. This Handbook adopts a question-and-answer format to assist you in understanding this process in the hope that the questions which arise regarding a guardian's duties and obligations will be answered.

It is important to know that there are two classifications of guardians - guardians of the person and guardians of the estate. A guardian of the estate is responsible for handling the financial affairs of the incapacitated person. A guardian of the person is responsible for the day-to-day care of an incapacitated person such as living accommodations, meals, personal care, transportation, recreation and the like.

It is the responsibility of the Court to see that guardianships are being properly performed so that both the financial and personal needs of incapacitated persons are being met. Representatives of the court may visit you annually to verify that you are meeting those needs. Additionally, reports must be filed outlining the care given to the incapacitated person and itemizing the income received and the monies spent for that person.

Your attorney will play a key role in the guardianship process. Any questions that you might have about your responsibilities or obligations should be addressed to your attorney first. You may also want to discuss all major issues regarding your incapacitated person with the family.

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I. THE “WHO, WHAT, WHEN AND WHERE”

The following series of questions and answers is designed to highlight the primary steps for the appointment of a guardian for an incapacitated person. The procedures described are those which apply when a guardian is needed for a person who is an adult and is unable to look after his or her own affairs.

The law presumes that a minor, who is any person under the age of 18, has a limited ability to act with respect to his or her property. Generally, the parent of a minor acts with respect to the minor's personal matters, but a guardian may be appointed in special circumstances, including the ownership of substantial property by the minor. There is a separate section of the Pennsylvania Probate, Estates, and Fiduciaries Code which addresses the circumstances and procedures for the appointment of a guardian for a minor. The information set forth hereafter is not applicable to minors but only to incapacitated persons.

QUESTION: **WHEN SHOULD THE APPOINTMENT OF A GUARDIAN FOR AN INCAPACITATED PERSON BE CONSIDERED?**

ANSWER: Whenever a person is thought to be incapacitated, it is appropriate to consider whether the appointment of a guardian is necessary or desirable. Pennsylvania law defines an incapacitated person as follows:

Adults whose abilities to receive and evaluate information effectively and communicate decisions in any way are impaired to such a significant extent that they are partially or totally unable to manage their financial resources or to meet essential requirements for their physical health and safety.

QUESTION: **WHO MAY ASK THAT A GUARDIAN BE APPOINTED?**

ANSWER: Any person interested in the welfare of an incapacitated person may seek the appointment of a guardian for that person.

QUESTION: **WHO HAS AUTHORITY TO APPOINT A GUARDIAN?**

ANSWER: A guardian may be appointed only by a judge of the Court of Common Pleas of the county where the incapacitated person resides. In certain cases, the Court may appoint a guardian for an incapacitated person who lives outside the county if the person owns property in the county. A court hearing is always required.

QUESTION: WHO MAY BE APPOINTED GUARDIAN?

ANSWER: The Court, after a hearing, may appoint as guardian any qualified individual, a corporate fiduciary (i.e., a bank), a non-profit corporation, a guardianship support agency or a county agency. In the case of a person who is a patient in a state facility, the Court may also appoint, only as guardian of the estate, the guardian officer of the appropriate state facility.

The Court will not appoint a person or entity providing residential services for a fee (i.e., a nursing home) to the incapacitated person or any other person whose interests conflict with those of the incapacitated person except where it is clearly demonstrated that no other alternative exists. If appropriate, the Court will give preference to someone named by the incapacitated person.

QUESTION: ARE CO-GUARDIANS PERMISSIBLE?

ANSWER: It is possible to have the Court appoint a co-guardian of the estate or person should the Court, in its discretion, deem such an appointment advisable.

QUESTION: WHO WILL THE COURT APPOINT AS A GUARDIAN WHEN NO PROPER PERSON IS AVAILABLE FOR APPOINTMENT?

ANSWER: Guardianship support agencies approved by the Court may be appointed as the guardian of the estate or person, or both, when no qualified person or corporate fiduciary is willing to serve. In certain instances, those agencies may be available to assist petitioners or individual guardians. Although those receiving guardian services from guardian agencies will be charged for services they provide, the charges will be adjusted to meet the ability of the incapacitated person to pay them and guardian support agencies are required to provide their services at minimal cost.

QUESTION: WHAT CAN BE DONE TO ASSIST AN INCAPACITATED PERSON IN AN EMERGENCY SITUATION?

ANSWER: The Court may appoint an emergency guardian of the person or estate when it finds, upon clear and convincing evidence, that the person is incapacitated and that failure to make an emergency appointment will result in irreparable harm to the person or estate. The Court will follow the same petition and hearing requirements of a permanent guardianship except if it finds, due to the emergency, that notice and hearing are not practical.

An emergency guardianship of the person remains in effect for up to seventy-two (72) hours, but may be extended for an additional twenty (20) days. The emergency guardianship powers will be determined by the Court according to the needs of the incapacitated person. For example, an emergency guardianship may be obtained if a person is in need of immediate medical care.

An emergency guardianship of the estate remains in effect for up to thirty (30) days.

II: TYPES OF GUARDIANSHIPS

QUESTION: WHAT TYPES OF GUARDIANSHIPS ARE AVAILABLE?

ANSWER: The Court may appoint a guardian of the person or a guardian of the estate or a guardian for both person and estate. Each type of guardianship may be plenary, that is, unlimited, or limited to just those specific powers necessary to meet the ward's needs. (An individual who has been determined by the Court to be incapacitated is referred to as the "ward" of the Court and of the guardian.)

QUESTION: WHAT MUST A GUARDIAN OF THE PERSON DO?

ANSWER: A plenary guardian of the person has the authority to make all decisions necessary for the personal well being of the incapacitated person. For example, the guardian may place the ward in a nursing home or make medical decisions, including life or death choices.

A limited guardian of the person has only those powers specifically set forth in the Court's decree.

When considering a guardianship, it is important to know the current and expected needs of the incapacitated person and the present ability of that individual to meet those needs.

QUESTION: ARE THERE LIMITS TO THE POWERS OF THE GUARDIAN OF THE PERSON?

ANSWER: Yes. Unless specifically approved by Court Order, a guardian of the person cannot consent on behalf of the ward to an abortion, sterilization, psychosurgery, electric shock treatment, removal of a healthy body part, or consent to medical experimentation. A guardian may not block the marriage of the ward or refuse to consent to a divorce. Even the Court may not give a

guardian permission to admit the ward to a mental unit or to consent to the relinquishment of parental rights.

QUESTION: ARE THERE DIFFERENT TYPES OF GUARDIANS OF THE ESTATE?

ANSWER: Yes. There are two types of guardians of the estate.

Limited Guardian of the Estate: Upon a finding that the person is incapacitated and in need of some guardianship services, the Court will appoint a limited guardian of the estate and will specifically define the powers and authority of the Limited guardian.

Plenary Guardian of the Estate: If the Court finds that the person is totally incapacitated, the judge will appoint a Plenary guardian of the Estate. A plenary guardian manages all of the incapacitated person's assets and financial affairs.

QUESTION: WHAT MAY A GUARDIAN OF THE ESTATE DO?

ANSWER: The guardian of the Estate gathers the assets of the incapacitated person, preserves them and invests them in interest bearing accounts and low-risk income producing securities. The guardian of the Estate also pays the bills for the incapacitated person from the ward's funds.

Generally speaking, a plenary guardian of the estate has the authority to handle all of the financial affairs of the ward, including such things as:

- (a) Buy and sell assets, investments and real estate
- (b) (subject to certain limitations);
- (b) Operate a business which is part of the estate;
- (c) Incorporate a business which is part of the estate;
- (d) Vote any stocks which are held by the estate;
- (e) Accept a deed in lieu of foreclosure;
- (f) Compromise or settle controversies (with Court approval);
- (g) Purchase liability insurance;
- (h) Lease property of the estate, collect income and rents; and
- (i) Make reasonable expenditures to preserve property of the estate;

A limited guardian of the estate has only those powers specifically set forth in the Court's decree.

III: BEGINNING THE GUARDIANSHIP PROCESS

QUESTION: **HOW IS THE NEED FOR A GUARDIAN PRESENTED TO THE COURT?**

ANSWER: A petition must be filed with the Court of Common Pleas. In most cases, the petition is prepared by an attorney hired by the person who asks for the appointment of a guardian. The petition must contain certain information. The following is a summary of that information:

- (a) The name, age, residence and post office address of the alleged incapacitated person;
- (b) The names and addresses of the husband or wife, parents and adult heirs of the alleged incapacitated person;
- (c) The name and address of the person or institution providing residential services to the alleged incapacitated person;
- (d) The names and addresses of other service providers;
- (e) The name and address of the person or entity whom the petitioner asks to be appointed guardian;
- (f) A statement that the proposed guardian has no interest opposed to the alleged incapacitated person;
- (g) The reason why guardianship is requested;
- (h) A description of the physical and mental limitations of the alleged incapacitated person;
- (i) The steps taken to find other alternatives;
- (j) The specific areas of incapacity over which it is requested that the guardian be given authority;
- (k) The qualifications of the proposed guardian.

QUESTION: **WHO MUST BE NOTIFIED WHEN THE PETITION IS FILED WITH THE COURT?**

- ANSWER:**
- (a) The alleged incapacitated person for whom the appointment of guardian is requested.
 - (b) All persons within Pennsylvania who are 18 years old or older and who would share in the property of the alleged incapacitated person if that person died without a will.
 - (c) All persons or institutions providing residential services to the alleged incapacitated person.
 - (d) Such other persons as the Court may direct.

CAUTION: check local court rules and procedures for proper service methods.

QUESTION: WHAT TYPE OF NOTICE IS REQUIRED?

ANSWER: Written notice must be given in large type and in simple language explaining the purpose and seriousness of the guardianship hearing and the rights that can be lost as a result. The date, time and place of the hearing on the petition and an explanation of all rights, including the right to a free attorney must be stated. The Court will provide the notice. This notice must be served personally on the alleged incapacitated person with a copy of the Petition, and it may also be served upon other persons in any manner the Court directs.

QUESTION: WHEN WILL THE HEARING TAKE PLACE?

ANSWER: The time and the place of the hearing will be assigned by the court when the petition is presented. The hearing must be no earlier than twenty (20) days after the petition is served upon the alleged incapacitated person.

In an emergency, the Court may appoint a guardian of the person, without notice, for up to seventy-two (72) hours and may continue that appointment for up to twenty (20) days after expiration of the initial emergency order. An emergency guardian of the estate may be appointed for up to thirty (30) days.

QUESTION: WHERE WILL THE HEARING TAKE PLACE?

ANSWER: In most instances, the hearing will take place in the courtroom of the judge who will hear the petition at the County courthouse. The law permits the hearing to be conducted at the residence of the person who is alleged to be incapacitated, but such hearings are relatively rare and a specific reason would have to be given.

QUESTION: WHO ATTENDS THE HEARING?

- ANSWER:**
- (a) The petitioner, as the person initiating the guardianship proceeding, is generally expected to attend. In certain cases, the petitioner need not attend if the petitioner is not expected to offer any testimony.
 - (b) The alleged incapacitated person is required to be present at the hearing unless the Court is satisfied that the physical or mental condition of the alleged incapacitated person would be harmed by being present, or if it is impossible because the person is not in Pennsylvania. If the incapacitated person cannot appear at the hearing, the testimony, affidavit, or deposition of a physician or licensed psychologist must be presented with a statement indicating

that it would be against sound medical advice for the incapacitated person to attend.

- (c) The proposed guardian.
- (d) The attorney for the petitioner.
- (e) Witnesses with testimony or other evidence to offer.
- (f) The attorney for the alleged incapacitated person.
- (g) Any interested person to whom notice of the proceeding was given and who desires to be present.

A person alleged to be incapacitated or his or her attorney may request that the hearing be closed to the public. In that event, only persons entitled to present evidence such as the petitioner, the alleged incapacitated person and their counsel would be present at the hearing with the judge and the court officers.

QUESTION: WHAT PART DOES THE ALLEGED INCAPACITATED PERSON HAVE IN THE HEARING?

ANSWER: Allegedly incapacitated persons have the right to present evidence concerning their capacity. They have the right to be represented by a lawyer and to have court-appointed counsel if they cannot afford their own. Alleged incapacitated persons have the right to contest the averments of incapacity or the appointment of a specific guardian. They have the right to seek the appointment of a physician by the Court to determine their capacity. Alleged incapacitated persons have the right to cross-examine witnesses and to demand that the facts be heard by a Jury.

QUESTION: WHAT FACTS MUST BE ESTABLISHED AT THE HEARING?

ANSWER: The Court will consider evidence at the hearing concerning :

- (a) The nature of any condition or disability which limits the individual's ability to make and express decisions.
- (b) The extent of the individual's ability to make and express decisions.
- (c) The need for guardianship services, if any, in light of the availability of family, friends and other support services to assist the individual in making decisions and in light of the existence, if any, of advance directives such as durable powers of attorney or trusts.
- (d) The type of guardian, limited or plenary, of the person or estate, needed, based on the nature of any condition or disability or ability to make and express decisions.
- (e) The length of time the guardianship may last.

QUESTION: HOW IS THE EVIDENCE PRESENTED?

ANSWER: Generally, evidence is offered under oath and in the courtroom.

To establish incapacity, the petitioner must present testimony in person or by deposition from individuals qualified by training and experience in evaluating individuals with an incapacity of the type alleged by the petitioner. The testimony should establish the nature and extent of the alleged incapacities and disabilities and the person's mental, emotional and physical condition, adaptive behavior and social skills.

The petitioner must also present evidence regarding the services being utilized to meet essential requirements for the alleged incapacitated person's physical health and safety; the services being utilized to manage the person's financial resources or to develop or regain the person's abilities; evidence regarding the types of assistance required by the person and why less restrictive alternatives would be inappropriate; and evidence regarding the probability that the person's incapacities may significantly lessen or change.

QUESTION: WHAT CAN THE COURT DECIDE?

- ANSWER:**
- (a) The Court can determine that the proceeding has not been instituted to aid or benefit the alleged incapacitated person or that it does not have jurisdiction over the petition in question. In both these instances, the proceedings would be dismissed.
 - (b) The Court can determine that the alleged incapacitated person is able to receive and evaluate information effectively, is able to communicate decisions and that a guardian is not necessary.
 - (c) When the Court is satisfied upon the presentation of clear and convincing evidence that the person about whom the petition has been filed is incapacitated, the Court will appoint a guardian who may be (1) a limited or plenary guardian of the person; (2) a limited or plenary guardian of the estate; or some combination of both.

QUESTION: WHO PAYS THE EXPENSES ASSOCIATED WITH THE APPOINTMENT OF A GUARDIAN?

ANSWER: Generally, if the alleged incapacitated person has property sufficient to pay the expenses of the proceeding, those expenses would be paid from the incapacitated person's property by the guardian after appointment. If the petitioner was unsuccessful in securing the appointment of a guardian, the petitioner pays the expenses.

In those instances where the alleged incapacitated person does not have sufficient assets to pay the expenses, the petitioner may request the Court to excuse the payment of filing fees and may also ask the Court to appoint a physician to review the alleged incapacitated person's capacity. The Court may order the county to pay for an attorney or evaluation expenses when an alleged incapacitated person cannot pay.

IV: NOW THAT YOU ARE A GUARDIAN

QUESTION: WHAT ARE THE LEGAL RESPONSIBILITIES OF GUARDIANS?

ANSWER: All guardians have a legal duty to protect the rights and property of the incapacitated person. A guardian may be held personally liable by the Court for mismanagement of the ward's affairs. This is called a "*fiduciary duty*."

QUESTION: WHAT IS AN INVENTORY?

ANSWER: Within ninety (90) days of appointment, the guardian of the estate, whether plenary or limited, must file an Inventory with the Court itemizing the financial assets of the ward. Subject to any limits set by the court, the guardian must take control of those assets and open a separate account with a financial institution in the name of the guardian, on behalf of the ward.

The Inventory is an itemized list of all real and personal property owned by the ward, and the value of the property. This includes personal property, vehicles, bank accounts, and other assets. The inventory must also include money which the ward may expect to acquire and a statement of his or her income.

QUESTION: WHAT IS A BOND?

ANSWER: At the hearing, the court will determine if it will be necessary for the guardian to file a bond and, if so, its amount. The premium for the bond can be paid from the assets of the ward.

A bond is a type of insurance policy that guarantees the guardian's faithful performance of all duties. If the guardian misappropriates property of the ward's estate and is unable to repay, the bonding company will pay the value of the property to the incapacitated person's estate. The bonding company may then have a legal claim against the guardian for the value of the property which was taken.

QUESTION: WHAT RIGHTS DOES THE WARD HAVE?

ANSWER: To the extent of their ability, incapacitated persons have the right to participate in decisions affecting their quality of life. The guardian must allow the ward to take an active role in planning support services and the ward has the right to petition the Court for a review of the guardianship at any time.

QUESTION: WHAT DOES A GUARDIAN DO IF THE WARD OBJECTS TO A PARTICULAR PROGRAM?

ANSWER: The guardian must report to the Court if the incapacitated person has a known objection to a specific act or omission. The Court can then determine if the guardian is correct in the assessment of the needs of the ward.

QUESTION: CAN THE WARD EXECUTE A WILL OR REVISE AN ESTATE PLAN AFTER BEING DETERMINED TO BE INCAPACITATED?

ANSWER: No. An incapacitated person cannot execute a Will or revise his estate plan during any period in which he has been determined to be incapacitated by the Court.

However, the Court, upon Petition and with notice to all interested parties, may permit incapacitated persons, through their guardians, to: make gifts, disclaim interests in property, exercise powers of appointments, enter into contracts, create trusts, change beneficiaries on life insurance policies, make certain elections relative to inheriting property, change domicile and make other estate planning type arrangements.

QUESTION: CAN THE WARD'S ASSETS BE USED FOR THE GUARDIAN'S OWN PURPOSES?

ANSWER: Absolutely not. The guardian must preserve the assets of the incapacitated person and must make reasonable expenditures of those assets only for the benefit of the ward. If a guardian of the estate misappropriates the ward's property for his own benefit, the Court will require the guardian to pay the property back to the estate of the incapacitated person and may appoint a new guardian of the Estate at that time. Misappropriation of the ward's property may also result in criminal charges being brought against a guardian.

However, the guardian of the estate may be entitled to reimbursement for out-of-pocket costs which are incurred as a result of the guardianship. The guardian should also apply for court approval before taking a fee for services.

QUESTION: WHO CAN ASSIST THE GUARDIAN?

ANSWER: An attorney can assist guardians in filing reports, providing information on permissible investments and otherwise fulfilling their duties. Guardianship support agencies may also be available to assist guardians in these areas.

V: GUARDIAN'S DUTY TO FILE ANNUAL REPORTS

QUESTION: MUST THE GUARDIAN OF THE PERSON REPORT TO THE COURT?

ANSWER: Yes. At least once within the first twelve months of the appointment and annually thereafter, the guardian of the person, whether plenary or limited, must file a report with the Court outlining the guardian's performance. The guardian must state the current residence of the ward and the type of placement. The guardian must also indicate the ward's health and mental condition, living arrangements, and support program. The guardian must list the number of visits with the ward, the length of each visit, and give an opinion as to whether the guardianship should be continued. A final report must be filed within sixty (60) days after the death of the incapacitated person.

QUESTION: MUST THE GUARDIAN OF THE ESTATE REPORT TO THE COURT?

ANSWER: Yes. In addition to the Inventory which must be filed within ninety (90) days of appointment, the guardian of the estate must also file annual reports. The report must specify the income received on behalf of the ward by the guardian, and the expenditures made.

The inventory should include an appraisal of personal property; a statement of real estate owned by the ward and a statement of any property which the guardian expects to acquire thereafter.

Thereafter, at least once within the first twelve months of the appointment and annually thereafter, the guardian of the estate must file a report with the Court specifying the income received on behalf of the ward by the guardian and the expenditures made by the guardian on behalf of the ward. The Court may require that the report be filed more frequently. A final report must be filed within sixty (60) days after the death of the ward.

The annual report should include the following information:

- (a) Current principal and how it is invested;
- (b) Current income;
- (c) Expenditures of Principal and Income since the last report; and
- (d) Needs of the incapacitated person for which the guardian has provided since the last report.

QUESTION: WHAT RECORDS SHOULD A GUARDIAN KEEP?

ANSWER: All receipts for expenditures paid on behalf of the incapacitated person should be kept until the annual report is approved by the Court. Bank statements and information regarding assets, investments, and insurance should also be kept until the annual report is approved by the Court.

QUESTION: WHEN ARE REPORTS DUE?

ANSWER: Generally, the annual reports are due one year from the date of the guardian's appointment. and every year thereafter. The exact date will be specified in the Court's order .

QUESTION: WHERE IS THE REPORT FILED?

ANSWER: The reports should be filed with the Clerk of the Orphans' Court.

QUESTION: WHAT HAPPENS AFTER THE REPORT IS FILED?

ANSWER: The report will be reviewed and placed in the Court's file. A Court representative may contact you when the report is approved or if additional information is required.

VI: TERMINATION OR MODIFICATION OF GUARDIANSHIPS

QUESTION: HOW LONG DOES A GUARDIAN REMAIN IN OFFICE?

ANSWER: Generally, a guardian's appointment is permanent. Absent a circumstance where the condition of the incapacitated person is subject to change by reason of elapsed time, an appointment will be for an indefinite period ending upon the death of the incapacitated person.

Guardianships are terminated if the ward regains the ability to make rational decisions; guardianships may be modified in scope if the ward regains some of that capacity.

If a guardian is unable to carry out the duties and responsibilities of the guardianship, the guardian should notify the Court in writing and the Court will appoint a new guardian.

QUESTION: WHAT HAPPENS IF THE GUARDIAN DIES OR WANTS TO RESIGN?

ANSWER: The Court, after notice to the parties, may appoint a succeeding guardian to fill a vacancy in the guardianship.

QUESTION: WHAT IF THERE IS A CHANGE IN THE WARD'S CONDITION?

ANSWER: In the case of a change of condition, the Court will hold a hearing to determine the current condition of the ward. If individuals are no longer incapacitated, the Court will find that they have regained their capacity and will terminate the guardianship. On the other hand, if there had been a limited guardianship initially and the ward has become worse in condition, the Court may increase the powers of the guardianship.

QUESTION: WHAT ABOUT REPORTS WHERE THE GUARDIANSHIP IS NO LONGER NEEDED, AS IN THE DEATH OF THE WARD, OR THE REGAINING OF CAPACITY?

ANSWER: The guardian, on completion of duties, is required to prepare an accounting for all activities by the guardian during the time of the service from the last filed account to the date of the ward's death or court order finding a resumption of capacity.

An Account and Audit is prepared for the Court's review reflecting the original assets of the ward, the income that was earned for the guardianship, the expenses that were paid on behalf of the ward, the resulting funds available for distribution, and a suggested schedule of distribution for the Court's review.

If the ward has died, notice and a copy of the Account are given to all of the heirs of the ward so that they may review the document and submit any questions they may have about the administration of the ward's estate to the Court. If the ward has regained capacity, notice and a copy of the Account are given to the ward for the same reason.

After review of the account by interested parties and the Court, if all is satisfactory, the Court approves the account and the guardian is discharged.

APPENDIX

Sample Annual Report of Guardian of the Person

Sample Annual Report of Guardian of the Estate

Sample Physician Affidavit

Sample Court Order

Sample Guardian(s) Inventory

IN RE: THE PERSON OF _____ : IN THE COURT OF COMMON PLEAS
 : OF ERIE COUNTY, PENNSYLVANIA
 :
 :
 : ORPHANS' COURT DIVISION
 :
 Incapacitated : FILE NO. _____

**PERIODIC REPORT
 OF THE GUARDIAN OF THE PERSON**

From _____, 20____ To _____, 20____

1. I am the limited/plenary (*circle one*) guardian of the person of my Ward, named above, and my address, including zip code, is:

My telephone number at work is () _____ and my telephone number at home is () _____.

2. I was appointed guardian by Order of Court dated _____ which was/was not (*circle one*) modified by Court Order(s) dated _____.

3. Ward's present age: _____ and date of birth: _____.

4. Living arrangement:

a. Current address of my ward: _____

b. My ward's residence is:

- | | |
|---------------------------------|--|
| _____ Ward's own home/apartment | _____ My home/apartment |
| _____ Nursing Home | _____ Hospital or medical facility |
| _____ Foster or boarding home | _____ Relative's home _____
<i>Relationship</i> |

c. My Ward has been residing there since _____.
(insert date)

If moved within the past year, state from where and the reason for the change.

d. I rate my Ward's living arrangement as:

_____ Excellent _____ Average _____ Below Average

Explain: _____

e. I believe my Ward is:

_____ content with the living situation.

_____ unhappy with the living situation.

_____ unaware of the living situation.

5. Physical health

a. My Ward's current physical condition is:

_____ excellent _____ good _____ fair _____ poor.

b. My Ward's major physical health problems are as follows:

c. During the past year, my Ward's physical condition has:

_____ remained about the same.

_____ improved. Explain _____

_____ worsened. Explain _____

d. During the past year, my Ward received the following medical treatment (*include check-ups and dental work*):

Date	Ailment	Type of Treatment	Doctor's Name
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

6. Mental Health

a. My Ward's condition is _____ excellent _____ good _____ poor.

b. My Ward's major mental health problems are as follows:

c. During the past year, my Ward's mental condition has:

_____ remained about the same.

_____ improved. Explain _____.

_____ worsened. Explain _____.

d. During the past year, treatment or evaluation by a psychiatrist, psychologist or social worker was/was not (*circle one*) provided. Such mental health services are briefly described as:

7. Social Activities/Services

a. My Ward's current social condition is:

_____ excellent. _____ good. _____ fair. _____ poor.

b. During the past year, my Ward's social condition has:

_____ remained about the same.

_____ improved. Explain _____.

_____ worsened. Explain _____.

c. During the past year, my Ward has participated in the following activities:

_____ recreational _____.

_____ educational _____.

_____ social _____.

_____ occupational _____.

_____ no activities available.

_____ my Ward refused to participate in any activities.

_____ my Ward was unable to participate in any activities.

8. List of Visits:

- a. During the past year, I visited my ward as follows: _____

- b. The average amount of time I spent on each visit was _____
- c. The last time I visited with my ward was on _____
Date

9. Activities

During the past year, I performed the following activities on behalf of my Ward:

10. I believe my Ward has the following unmet needs: _____

11. The guardianship should/should not (*circle one*) not be continued without modification because:_____

12. I am/am not (*circle one*) guardian of my Ward's estate. If yes, my Report is attached.

I certify under the penalties of perjury that the information contained in this report is true and correct to the best of my knowledge, information and belief. I further certify that I have sent a copy of this report to all those parties in interest listed in the original Petition to declare my Ward incapacitated.

Date

Signature of Guardian of the Person

IN RE: THE ESTATE OF _____ : IN THE COURT OF COMMON PLEAS
: OF ERIE COUNTY, PENNSYLVANIA
: :
: ORPHANS' COURT DIVISION
: :
Incapacitated : FILE NO. _____

**PERIODIC REPORT
OF THE GUARDIAN OF THE ESTATE**

From _____, 20____ To _____, 20____

1. I am the limited/plenary (*circle one*) guardian of the estate of my Ward, named above, and my address, including zip code, is:

My telephone number at work is () _____ and my telephone number at home is () _____.

2. I was appointed guardian by Order of Court dated _____ which was/was not (*circle one*) modified by Court Order(s) dated _____.

3. My initial Inventory was filed on _____ and listed a total estate value of \$_____. The Inventory listed a total monthly income of \$_____ comprised of the following:

4. At the beginning date of this reporting period, my initial balance on had was \$_____.

5. During this reporting period, the following reflects all sources of income (*other than social security*) received by me for my Ward: (*Add additional pages, if needed*).

<u>Date Received</u>	<u>Source of Income</u>	<u>Amount</u>
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____
TOTAL =		_____

6. During this reporting period, the following reflects all payments I have made for my Ward: (*Add additional pages, if needed*).

<u>Date</u>	<u>To Whom Paid</u>	<u>Reason for Payment</u>	<u>Amount</u>
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. _____	_____	_____	_____
6. _____	_____	_____	_____
TOTAL =			_____

7. The present principal assets of my Ward are:

<u>Description of Asset</u>	<u>Present Value</u>	
1. _____	_____	
2. _____	_____	
3. _____	_____	
4. _____	_____	
5. _____	_____	
6. _____	_____	
TOTAL =		_____

8. The present amounts and sources of income for my Ward are:

<u>Source of Income</u>	<u>Amount of Income</u> <i>(Indicate whether monthly, quarterly, or annually)</i>
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____
6. _____	_____

9. The regular monthly expenses of my Ward which I pay are:

<u>To Whom Paid</u>	<u>Amount</u>
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____
6. _____	_____

10. I have/have not (*circle one*) petitioned the Court for permission to invade principal to meet the needs of my Ward. (*If applicable*) The following expenses of my Ward have been paid from principal:

<u>To Whom Paid</u>	<u>Purpose</u>	<u>Amount</u>
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____

11. I have/have not (*circle one*) paid myself compensation for services I rendered as guardian.

The amount I paid myself totaled \$ _____ and was calculated at the following rate: \$ _____ per week/month (*circle one*).

12. Place a check mark by the correct response and complete, if appropriate.

_____ There will be no need for extraordinary expenditures on behalf of my Ward in the next twelve (12) months.

OR

_____ There will be a need for extraordinary expenditures on behalf of my Ward in the next twelve (12) months because:

12. Place a check mark by the correct response and complete, if appropriate.

_____ My Ward receives monthly social security benefits directly.

_____ I am the designated payee to receive my Ward's social security benefits.

_____ The designated payee of my Ward's social security benefits is _____

whose address is _____

and is/is not (*circle one*) related to my Ward as _____

Relationship

I certify under the penalties of perjury that the information contained in this report is true and correct to the best of my knowledge, information and belief. I further certify that I have sent a copy of this report to all those parties in interest listed in the original Petition to declare my Ward incapacitated and that I have added a notice to those parties in the form below.

Date

Signature of Guardian of the Person

NOTICE

Enclosed is a copy of my periodic Report as Guardian of the Estate. If you have any questions regarding this report, please contact me. If you have any Objections to it, you are advised to prepare your Objections, in writing, make reference to the name of the incapacitated person and the court file number, and, within thirty (30) days of receiving this Notice, mail or deliver the Objections to me at the address listed in my Report **and** to the

Office of the Register of Wills
Erie County Courthouse
140 West Sixth Street
Erie, PA 16501-1011

IN THE MATTER OF _____ : IN THE COURT OF COMMON PLEAS
 : OF ERIE COUNTY, PENNSYLVANIA
 THE ESTATE OF _____ :
 : ORPHANS' COURT DIVISION
 : NO. _____

AFFIDAVIT

“Incapacitated persons are adult whose abilities to receive and evaluate information effectively and to communicate decisions in any way are impaired to such an extent that they are partially or totally unable to manage their financial resources or to meet essential requirements for their physical health and safety”

**The Statement of Evaluation does not declare the ward competent or incompetent, but is evidence to be considered by the court.*

1. Name of Person Evaluated: _____
2. Reason for Evaluation: _____
 A. Petition for Guardianship (Incapacitated Person) B. Review of Guardianship
 C. Other _____
3. Affidavit Completed by:
 Name _____
 Address _____
 Profession/Occupation _____
 Are you licensed to practice in Pennsylvania ___Yes___No
4. List the dates upon which you examined or evaluated the alleged incapacitated person

5. Please provide your diagnosis or description of the patient’s condition

6. Is the patient or client’s ability to receive and evaluate information and to communicate decisions impaired? ___Yes ___No
7. If the answer to #6 is “Yes”; Is the person able to manage their financial resources or to meet essential requirements for their physical health and safety? ___Yes ___No If “yes” please describe

I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18Pa.C.S.§ 4904 relating to unsworn falsification to authorities.

DATE: _____

 NAME/OFFICIAL TITLE

(If more space is required, attach additional sheets)

In the Matter of the Person And Estate Of _____, an Alleged Incapacitated Person : IN THE COURT OF COMMON PLEAS OF ERIE COUNTY, PENNSYLVANIA : ORPHANS' COURT DIVISION : FILE NO. _____

ORDER

AND NOW, TO-WIT, this ____ day of _____, 20 ____, upon consideration of the Petition to Adjudicate An Incapacitated Person And For Appointment Of A Plenary Guardian Of The Person And Estate Of _____, and hearing thereon, it is hereby **ORDERED, ADJUDGED and DECREED** that _____ is adjudicated an incapacitated person and _____ is appointed Plenary Guardian of the Person and Estate.

The Guardian shall serve without bond. An inventory is to be filed within ninety (90) days. The first annual report shall be due on _____ and each year thereafter.

BY THE COURT:

Judge

IN THE ORPHANS' COURT OF ERIE COUNTY

No. _____

ESTATE OF

INCAPACITATED
GUARDIAN(S) INVENTORY

REAL ESTATE (Location, by whom occupied and rental)	ESTIMATED VALUE
---	--------------------

_____	_____
_____	_____
_____	_____
_____	_____

PERSONAL PROPERTY

_____	_____
_____	_____
_____	_____
_____	_____

JOINTLY HELD PROPERTY (Set forth real and personal property owned by incapacitated jointly with any other person. State whether held as tenants by entireties; if not, whether the right of survivorship exists)

_____	_____
_____	_____
_____	_____
_____	_____

ANTICIPATED ASSETS (Set forth property of any kind expected to be acquired hereafter, together with anticipated date of acquisition)

_____	_____
_____	_____
_____	_____
_____	_____

TOTAL _____

THE GUARDIAN(S) CERTIFIES that _____ has/have not been able to find a testamentary writing of the aforesaid incapacitated; and that said writing has been submitted to the Court for inspection on _____ by said Guardian(s) or by _____.

FILE NO. _____

No. _____

INVENTORY

ESTATE OF

INCAPACITATED

ATTORNEY