GUARDIANSHIP
For an Adult

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1

OR a person at least 17.5 years old, to *become effective* at age 18

Part 1: Preparing the First Court Papers
(Forms Packet)

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PERMANENT GUARDIANSHIP FOR AN ADULT

(or person at least 17.5 years of age *to become effective at age 18*)

CHECKLIST

You may use the forms and instructions in this packet if . . .

- ✓ You want the court to 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;
- ✓ Guardianship will be needed for ***more than* 6 months** ("permanent" guardianship), (See separate "**Temporary Orders**" packet if need expected to be for ***6 months or less***);
- ✓ The person who needs the guardian lives in Pima County;
- ✓ A doctor or other person authorized by Arizona law A.R.S. §14-5303(C) will say that the incapacitated person needs a guardian *or will need a guardian when he or she becomes an adult;* AND
- ✓ You know that the court does **not** need to also (or instead) appoint a *conservator*.

A CONSERVATOR IS GENERALLY NEEDED:

- Because the person for whom the conservator is to be appointed has income or property which will be wasted or used up unless proper management is provided; funds are needed for his or her support, or the funds are needed for the support of persons legally entitled to support *from* the person said to need the conservator.

***A GUARDIAN IS GENERALLY NEEDED:**

- Because the person for whom the guardian is to be appointed is physically or mentally unable to take care of all of his or her own needs and requires someone legally authorized and responsible for acting in his or her best interests.

***Note**: If you are filing for the appointment of a Guardian and/or Conservator for a person aged at least 17 and a half, the appointment will become effective as of his or her 18th birthday.

READ ME: Consulting a lawyer before filing documents with the court may help prevent unexpected results. If you need to consult a Lawyer, the Pima County Bar Association offers a Lawyer Referral Service that provides half-hour consultations for a low cost.
http://www.pimacountybar.org/
The Clerk's office cannot provide legal advice. Employees may be able to offer instruction about how and where to file appropriate paperwork, but will not provide help on issues of law

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GUARDIANSHIP

GET A PERMANENT APPOINTMENT FOR AN ADULT
or a person at least 17.5 years old *to become effective at* age 18

Part 1: Preparing the First Court Papers
(Forms Only)

Do not copy or file this page

This packet contains court forms and instructions to file a permanent appointment for an adult or a person at least 17.5 years old to become effective at age 18. 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!

Order	File Number	Title	# pages
1		Checklist: *You may use these forms if…*	1
2		Table of Contents (this page)	1
3		***"Probate Information Cover Sheet" and Interpreter Request***	3
4		***"Petition for Permanent Appointment of Guardian of an Adult"***	8
5		***"Affidavit of Person to be Appointed"***	3
6		***"Order Appointing Attorney, Health Professional, Court Investigator"***	2
7		***"Guidelines for Health Professional's Report"*** (instructions and form together)	6
8		***"Notice of Hearing"***	1
9		Acceptance of Service with (Optional) ***"Waiver of Notice" and*** (Optional) ***"Waiver of Servicemembers Civil Relief Act"***	4
10		***"Unlicensed Fiduciary Training Manual"***	7
11		***"Guardianship Training Manual"***	9

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SUPERIOR COURT OF ARIZONA
IN PIMA COUNTY

PROBATE INFORMATION COVER SHEET

Case Number: _____

INFORMATION ABOUT THE FIDUCIARY, the person proposed to serve as: ☐ **Guardian**
(please check one) ☐ **Conservator**
☐ **Personal Representative (executor)**

NAME: _____ **DATE OF BIRTH:** _____
MAILING ADDRESS: _____
STREET ADDRESS: (if different) _____
TELEPHONE (Home): _____ **SSN:** _____
TELEPHONE (Cellular): _____ **EMAIL:** _____
TELEPHONE (Work): _____ **CERTIFICATION #** _____
(for State-Licensed Fiduciaries ONLY)

RELATIONSHIP TO THE WARD OR (if an estate matter) **THE DECEDENT:**

PHYSICAL DESCRIPTION:	**RACE:**		**HEIGHT**		**WEIGHT:**	
	EYE COLOR:		**HAIR COLOR:**		**GENDER:**	

INFORMATION ABOUT THE FIDUCIARY, the person proposed to serve as: ☐ **Guardian**
(please check one) ☐ **Conservator**
☐ **Personal Representative (executor)**

NAME: _____ **DATE OF BIRTH:** _____
MAILING ADDRESS: _____
STREET ADDRESS: (if different) _____
TELEPHONE (Home): _____ **SSN:** _____
TELEPHONE (Cellular): _____ **EMAIL:** _____
TELEPHONE (Work): _____ **CERTIFICATION #** _____
(for State-Licensed Fiduciaries ONLY)

RELATIONSHIP TO THE WARD OR (if an estate matter) **THE DECEDENT:**

PHYSICAL DESCRIPTION:	**RACE:**		**HEIGHT**		**WEIGHT:**	
	EYE COLOR:		**HAIR COLOR:**		**GENDER:**	

A person needing a guardian or conservator is the "**ward**". A person who died is the "**decedent**".

INFORMATION ABOUT THE WARD ☐ **or THE DECEDENT** ☐

NAME: _____ **DATE OF BIRTH:** _____
GENDER: _____
MAILING ADDRESS : _____
STREET ADDRESS (if different)**:** _____
TELEPHONE (Home): _____ **SSN:** _____
TELEPHONE (Cellular): _____ **EMAIL:** _____
☐ **ADDITIONAL WARDS ARE INVOLVED.**
Information listed separately.
DATE OF DEATH: _____

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Case No. _____

INFORMATION ABOUT THE PETITIONER, the person filing these papers.

NAME:	
MAILING ADDRESS:	
TELEPHONE:	**EMAIL:**
INFORMATION ABOUT PETITIONER'S ATTORNEY: ☐ **Petitioner is not represented by an attorney, *or***	
NAME:	**BAR #**
TELEPHONE:	**EMAIL:**

☐ **An INTERPRETER IS NEEDED for this language:** _____

(List Names of) **Persons who need interpreter:** **Name:** _____

Name: _____ **Name:** _____

By signing below, I state to the Court under penalty of perjury that the contents of this document are true and correct to the best of my knowledge and belief.

_____
Petitioner or Attorney Signature

NOTICE

SUBMIT THIS FORM WITH NEW CASES ONLY.

If there is already a (Pima County) Probate Court case number and you are filing in an existing Superior Court case in Pima County, **DO NOT SUBMIT THIS FORM**.

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ARIZONA SUPERIOR COURT IN PIMA COUNTY

REQUEST FOR LINGUISTIC ACCOMMODATIONS

IN THE MATTER OF _____) CASE NUMBER: _____

_____) REQUEST FOR: (*Mark One*)

_____) ☐ **Court Interpreter**

_____) ☐ **ADA Accommodation (*ASL, CART, ETC.*)**

Contact Information of Individual Needing an Interpreter <u>and</u> Attorney Requesting an Interpreter:

1. Name: _____ Attorney: _____
2. Address: _____ _____
3. City, State, Zip: _____ _____
4. Phone: _____ _____
5. E-mail: _____ _____
6. Is the interpreter for a party in the case? *Check party below*:

   ☐ Defendant ☐ Plaintiff ☐ Respondent ☐ Witness (Name/s): _____
   ☐ Victim/Family member (Name/s): _____

   Witness(es) or Victim/Family Member(s) are for: ☐ Defense or ☐ Prosecution or ☐ Pro Per

7. The hearing date is on: _____ at: _____ ☐ a.m. ☐ p.m. in Division: _____

   NOTE: If you have a civil or domestic matter and are requesting an interpreter, please ask that the assigned division set this matter AT 10:30 A.M. OR LATER IN THE DAY.

8. Do not file for a **Waiver or Deferral of Fees** as an interpreter will be provided to you at *no cost* regardless of ability to pay.

9. The primary language is: _____ Region/Dialect: _____

10. ☐ This is also a request for an ADA accommodation and the type of interpreter needed is an:

    ☐ American Sign Language Interpreter ☐ Lip reader **<u>and/or</u>** Assisted Listening Device

    ☐ CART (*can read and articulate, and need to follow the proceedings in written English*)

    ☐ Mexican Sign Language Interpreter… ☐ Other: _____

11. ☐ I have filed this form with the **Office of the Clerk of the Court** for imaging in the case file

12. ☐ I have submitted to the **Office of the Court Interpreter** by email to: CtInterpreter@sc.pima.gov or by fax to: 520-724-8872, a copy of this form **<u>10 business days in advance</u>** of my hearing.
    If it is an emergency hearing, *you must call* 520-724-3888 a.s.a.p. Forms are also accepted via U.S. Mail (*Arizona Superior Court in Pima County, Office of the Court Interpreter, 110 W. Congress, Ste. W919, Tucson, AZ 85701*) or you may hand deliver it to the Superior Courthouse, 9th Floor, Suite W919.

13. ☐ I have forwarded a copy to the court division that will hear my case.

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 PIMA COUNTY

In the Matter of the Guardianship of:

_____
Name of Person to be Protected

_____
Date of Birth

Case Number: _____

PETITION FOR PERMANENT APPOINTMENT OF GUARDIAN FOR AN ADULT, or

☐ **a Minor at least 17.5 years of age, to become effective at age 18**

UNDER OATH OR BY AFFIRMATION:

INFORMATION REQUIRED BY ARIZONA LAW (A.R.S. § 14-5303)

1. INFORMATION ABOUT THE PETITIONER (the person filing this petition)

(My) Name: _____
Address: _____
Telephone: _____ Date of Birth: _____
My interest in or relationship to the person to be protected is:

_____
(examples: mother, father, sister, brother, grandparent, legal guardian)

2. INFORMATION ABOUT THE PERSON TO BE PROTECTED (also known as "*the proposed protected person*" or "*the ward*")

Name: _____
Address: _____
Telephone: _____ Date of Birth: _____

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3. INFORMATION ABOUT THE PROPOSED GUARDIAN:

(Complete this ***only*** if the proposed guardian is someone **other than** Petitioner.)

A. Name: _____

Address: _____

Telephone: _____ Date of Birth: _____

Interest in or relationship to the person to be protected is: _____

_____

B. PRIORITY FOR APPOINTMENT: The proposed guardian named above has priority for appointment as guardian under Arizona law A.R.S. § 14-5311, because he or she:

☐ was selected by the (proposed) ward to be the guardian;

☐ was nominated to serve as guardian in the ward's most recent durable power of attorney or health care power of attorney;

☐ is the spouse of the ward;

☐ is an adult child of the ward;

☐ is a parent of the ward, or was nominated in a will or writing signed by a deceased parent of the ward;

☐ is a relative the ward has lived with for more than six months before filing this petition;

☐ was chosen by someone who is caring for or paying benefits to the ward;

☐ is a private fiduciary, a professional guardian, conservator, or the Arizona Department of Veterans' Services.

☐ **Other** (explain): _____

_____

4. INFORMATION ABOUT CONSERVATOR (OR OTHER GUARDIAN):

To the best of my knowledge: (Check one box.)

☐ No Guardian or Conservator has been appointed in any other court, and no court proceedings are pending for such appointment;

OR

☐ Someone *has* been appointed Guardian or Conservator, *or* court proceedings are pending. (If "yes", provide details below.)

Name: _____

Address: _____

Telephone: _____ Date of Birth: _____

Relationship to the person to be protected is: _____

Was appointed ☐ GUARDIAN ☐ CONSERVATOR for the ward named in #2 above in:

Name of Court: _____ Located in:

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City and State: _____

Date Appointed: _____ Other Details: _____

_____

5. INFORMATION ABOUT NEAREST RELATIVE:

The nearest known relative is ☐ the Petitioner ☐ the proposed conservator ☐ NEITHER.
Name: _____
Address: _____
Telephone: _____
Relationship to the person to be protected is: _____

6. PROPERTY AND ASSETS OF THE PROPOSED PROTECTED PERSON: (Check one)

☐ The ward has no substantial assets or income. No bond is required;

OR

☐ The ward has assets and/or annual income in the approximate amount of **$** _____
List/Describe: _____
_____
_____

7. REASONS FOR GUARDIANSHIP:

The proposed ward needs a guardian because he or she is incapacitated as defined by Arizona Law, A.R.S. §14-5101(3), to the extent that he or she lacks sufficient understanding or ability to make or communicate responsible decisions concerning his or her own well-being and self-interests. Appointment of a guardian is necessary or desirable to provide continuing care and supervision of the person, and is in his or her best interests.

THE PERSON TO BE PROTECTED IS INCAPACITATED AND IN NEED OF CONTINUING CARE AND SUPERVISION DUE TO: (Check all that apply):

☐ Mental disorder as defined by A.R.S. § 36-501(24);

☐ Chronic use of drugs; ☐ Chronic intoxication;

☐ Physical illness or disability; ☐ Intellectual Disability or Mental Deficiency

☐ Other (explain): _____

8. TYPE OF GUARDIANSHIP: LIMITED OR GENERAL: (A.R.S. § 14-5303(B)(8))

A. ☐ **A LIMITED GUARDIANSHIP** is requested with the following specific powers:

1. Authority for the guardian to:

☐ Consent to Medical Treatment ☐ Consent to Make Living Arrangements

☐ Arrange Education or Training ☐ Consent to Marriage

☐ Apply for Public Assistance or Social Services

☐ Consent to Outpatient Mental Health Care and Treatment

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2. INPATIENT Mental Health Powers: The ward is incapacitated as a result of mental health disorder as defined in A.R.S. § 36-501(24).

☐ Authority is requested for the Guardian to place the ward in an Inpatient Psychiatric Facility for **inpatient** mental health care and treatment. **This request is supported by the opinion of a licensed psychiatrist or psychologist, attached to and made part of this document by reference.**

3. ☐ OTHER LIMITED POWERS REQUESTED: (List and Describe) _____

_____

_____

☐ **Continues on attachment titled "Powers Requested", made part of this document by reference.**

(OR)

B. ☐ GENERAL GUARDIANSHIP is requested. As required by Arizona law, **A.R.S. §14-5303(B)(8),** less restrictive alternatives to general guardianship, including technological assistance, have been considered, ***however:*** (Check the box if true*)

☐ The proposed ward is incapacitated in a manner or to an extent that a limited guardianship would not adequately protect and provide for the proposed ward's care and well-being.
(Optional additional information) _____

_____

*** For the court to order a general guardianship, you must check the box and be prepared to offer clear and convincing evidence that less restrictive means of meeting the proposed ward's demonstrated needs would not be sufficient. (A.R.S. § 14-5304(B))**

NOTE: A *general* guardianship includes authority to consent to *outpatient* mental health treatment for the ward, but the Court must specifically grant authority to place the ward in an **inpatient** mental health facility. Check the box below if the best interests of the incapacitated person require the Guardian to have this authority.

☐ **INPATIENT Mental Health Powers**: Authority is requested for the Guardian to place the ward in an Inpatient Psychiatric Facility for **inpatient** mental health care and treatment. **This request is supported by the opinion of a licensed psychiatrist or psychologist, attached to and made part of this document by reference.**

C. (Limited or General)

1. DRIVING PRIVILEGES (A.R.S. §§14-5304.01)

☐ The proposed ward's incapacity does not prevent or interfere with safe operation of a motor vehicle. Petitioner requests that the court **not** suspend the ward's privilege to obtain or retain a driver's license. **Medical or other evidence will be presented in support of this statement and request.**

2. VOTING RIGHTS(A.R.S. §§14-5304.01)

☐ The Petitioner believes the proposed ward has sufficient capacity and understanding to exercise the right to vote. On behalf of the proposed ward, the Petitioner hereby petitions the court to consider the issue and hold a hearing at the same time as this Petition. **Clear and Convincing evidence will be presented that the proposed ward has sufficient understanding to exercise the right to vote.**

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9. INFORMATION ABOUT OTHER COURT or AGENCY INVOLVEMENT

A. Other Court Cases (Mark the box beside the statements below that are TRUE.)

1. Divorce, Legal Separation, or Paternity cases with court orders

☐ There are **NO** Divorce, Legal Separation, or Paternity **court orders or cases**, which include legal decision-making (custody) or parenting time (visitation) matters for the alleged incapacitated person.

☐ **YES**, a Court Order exists for a Divorce, Legal Separation, or Paternity case involving the alleged incapacitated person.
- The name of Arizona or other state Court where the above case is located:_____.
- The name of the Arizona or other state case number for the above case is _____.

☐ The above case involved legal decision-making (legal custody) or parenting time (visitation).
- The petitioner or proposed guardian in the above-named case is:
  - ☐ A parent of the alleged incapacitated person – or
  - ☐ A non-parent who has been awarded legal decision-making for the alleged incapacitated person.

☐ I attached a copy of the most recent court order regarding legal decision-making (legal custody) or parenting time (visitation) from the (Divorce, Legal Separation or Paternity) mentioned above. (On the top margin of the attached court order copy, write "Attachment for Question 9.A.)

2. Other Guardianship or Conservatorship cases with court orders

☐ No Guardian and/or Conservator has been appointed by court order in **any other** court, and no Guardianship and/or Conservatorship court proceedings are pending for such appointment;

☐ Someone was appointed Guardian and/or Conservator, *or* Guardianship and/or Conservatorship court proceedings are pending. (If "yes", provide details below.)

Name: _____

Address: _____

Telephone: _____ Date of Birth: _____

Relationship to the person to be protected is: _____

Was appointed ☐**GUARDIAN OR** ☐ **CONSERVATOR** for the alleged incapacitated.

Name of Court:_____

Located in: City and State:_____

Date Appointed:_____ Other Details:_____

_____

_____

B. Agency Involvement (Place a check mark beside the statements below that are true.)

☐ A state or local agency is NOT, or has NOT been involved or concerned with the alleged incapacitated person.

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☐ Yes, a state or local agency **is**, or has been involved or concerned with the alleged incapacitated person The following state or local agency has a case with or has checked on the alleged incapacitated person: (**Mark** the box beside the agency involved, and **write in the date** of involvement)

☐ Division of Aging and Adult Services _____
☐ Department of Child Safety
☐ Division of Developmental Disabilities
☐ Police
☐ Other Agency: _____

Authority granted to a guardian may include the authority to withhold or withdraw life sustaining treatment, including artificial food and fluid. (A.R.S. § 14-5303(B)).

10. APPOINTMENT OF PHYSICIAN or other health professional authorized or required by A.R.S. §§ 14-5303(C) or § 14-5312.01(B)**:** (Guardianship cannot be established ***for an adult*** unless the adult examined by a medical doctor, registered nurse or psychologist whose written report is filed with is the court before the hearing. **If** authority to consent to inpatient mental health care is requested, the report or a separate report recommending such authority **must** be prepared by a licensed psychiatrist or psychologist.)

The proposed protected person will be examined by a physician or other health professional authorized by A.R.S. § 14-5303(C) or § 14-5312.01(B), whose written report I will file with the court. The examiner will also indicate whether the protected person's driving privileges should be suspended and whether inpatient mental health treatment is recommended.

The person I say is in need of protection will be examined by:

Name: _____

Address: _____

Telephone Number: _____ **Email:** _____

Professional Title: ☐ Medical Doctor ☐ Registered Nurse ☐ Psychologist

11. APPOINTMENT OF AN ATTORNEY (Guardianship or conservatorship cannot be established ***for*** *an adult* who does not have an attorney appointed by the Court to represent his or her interests in court.) (Check one box only and fill in the information requested):

☐ The person I say is incapacitated already has an attorney who I request be appointed to represent him or her in court regarding the proposed guardianship and conservatorship:

Name of Attorney: _____
Address: _____
Telephone Number: _____

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The prior relationship (if any) between the attorney and the Petitioner or the Ward consists of:
(Explain) _____

_____

_____

OR

☐ The incapacitated person does **not** have an attorney. After filing this petition, the petitioner will also provide to the Probate Clerk, as required, an unsigned Order Appointing an Attorney, with hearing date filled in. The Court will assign a lawyer with that order.

REQUIRED STATEMENTS TO THE COURT: **(Note: All of these statements must be true for this court to have the authority to grant your Petition.)**

12. ☐ TRUE **Venue** (the court in which you are filing this Petition) is proper in this county because the proposed protected person lives in or is present in this county.

13. ☐ TRUE The proposed guardian has completed the **Affidavit of Person to be Appointed as Guardian of an Adult** and is filing that Affidavit with this Petition as required by Arizona law, A.R.S. § 14-5106.

14. ☐ TRUE I or the person I request to be appointed in section 3 is a suitable and proper person to act as guardian and is entitled to consideration for appointment under Arizona Law, A.R.S. §§ 14-5106 and/or §14- 5311.

15. **PERSONS ENTITLED TO NOTICE** of this matter under Arizona law A.R.S. §14-5309 and to whom I will give notice of this case: (See instructions.)

	Name	Address	Relationship to the Ward
A.			
B.			
C.			
D.			

☐ **Additional persons (or agencies) are listed on attachment ("Additional Parties Entitled to Notice", made part of this document by reference.)**

REQUESTS TO THE COURT: **Petitioner asks the court to:**

1. Appoint a lawyer to represent the proposed protected person's interests, a physician or other health professional authorized by A.R.S. § 14-5303(C) and/or § 14-5312 to report on his or her physical and mental condition, as well as a court investigator.

2. After Petitioner gives notice of the hearing to all interested persons and to those required by law, hold a hearing to determine if the Court should order a Guardianship;

3. Make a finding that the person is incapacitated, needs a guardian, and if applicable, make a finding that the incapacitated person requires inpatient mental health care;

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4. Make a finding that the person needs protection under law;

5. If a general guardianship is ordered, make a finding that less restrictive means, including technological assistance were considered, but not adequate or appropriate;

6. Appoint the person proposed in this petition as Guardian of the protected person;

7. Make any other orders the Court decides are in the best interest of the proposed incapacitated person.

UNDER OATH OR AFFIRMATION

I swear or affirm under penalty of perjury that the contents of this document are true and correct to the best of my knowledge and belief.

_____ Date

_____ Signature

_____ Printed Name

STATE OF _____

COUNTY OF _____

Subscribed and sworn to or affirmed before me this: _____

(date)

by _____.

(notary seal)

_____ Deputy Clerk or Notary Public

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

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

SUPERIOR COURT OF ARIZONA
IN PIMA COUNTY

In the Matter of the Guardianship and/or Conservatorship of:

_____
Name of person needing Guardian/Conservator

Case Number: _____

AFFIDAVIT OF PERSON TO BE APPOINTED GUARDIAN AND/OR CONSERVATOR

INSTRUCTIONS: The person who wants to be appointed the guardian and/or conservator must answer each statement as TRUE or FALSE. Each answer that is FALSE must be explained in writing in an attachment to this affidavit.

STATEMENTS MADE UNDER OATH TO THE COURT: Arizona law A.R.S. §14-5106 requires the person seeking appointment to answer items 1-15. This document must be filed with the ***Petition for Appointment of Guardian and/or Conservator***.

1. ☐True or ☐False. I have not been convicted of a felony in any jurisdiction.

2. ☐True or ☐False. I have not acted as a guardian or conservator for another person for at least three years before I filed this Petition.

3. ☐True or ☐False. I know and understand the powers and duties I would have as a guardian and/or conservator.

4. ☐True or ☐False. I have not had a power of attorney for anyone for at least three years before I filed this Petition.

5. ☐True or ☐False. I am not, to the best of my knowledge, listed in the Elder Abuse Registry at the Office of the Arizona Attorney General.

6. ☐True or ☐False. To the best of my knowledge, no business in which I have an interest is listed in the Elder Abuse Registry of the Arizona Attorney General.

7. ☐True or ☐False. Arizona law requires that a guardian/conservator file an annual report/accounting with the court. If I have been a guardian/conservator before, I either filed the required documents on time, or within 3 months of receiving a notice from the court that the report/accounting was due.

8. ☐True or ☐False. I have never been removed by the court as a guardian or conservator.

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9. ☐True or ☐False. The nature of my relationship to the proposed ward or protected person is:

_____

10. ☐True or ☐False. I met the proposed ward under the following circumstances:

_____

_____

11. ☐True or ☐False. I have never received anything of value greater than a total of one hundred dollars in any one year by gift, or will, or inheritance from an individual or the estate of an individual to whom I was not related by blood or marriage and for whom I served at any time as guardian, conservator, trustee, or attorney-in-fact.

12. ☐True or ☐False. No business in which I have an interest has ever received anything of value greater than a total of one hundred dollars in any one year by gift, or will, or inheritance from an individual or the estate of an individual to whom I am not related by blood or marriage and for whom I served at any time as guardian, conservator, trustee, or attorney-in-fact.

13. ☐True or ☐False. To the best of my knowledge, I am not named as a personal representative, trustee, beneficiary, or other type of beneficiary for any individual to whom I am not related by blood or marriage and for whom I have ever served as guardian, conservator, trustee, or attorney-in-fact.

14. ☐True or ☐False. To the best of my knowledge, no business in which I have an interest is named as a personal representative, trustee, beneficiary, or other type of beneficiary for any individual to whom I am not related by blood or marriage and for whom I have ever served as guardian, conservator, trustee, or attorney-in-fact.

15. ☐True or ☐False. I have no interest in any business that provides housing, health care, nursing care, residential care, assisted living, home health services, or comfort care services to any individual.

OATH OR AFFIRMATION OF THE PERSON SEEKING TO BE APPOINTED GUARDIAN AND/OR CONSERVATOR:

I have read, understood, and completed the above statements and the attached document. Everything I have said is true and correct to the best of my knowledge, information, and belief, under penalty of perjury.

_____ _____
Date Signature

Sworn to or Affirmed before me this _____ by _____
(Date) Printed Name

My Commission Expires: (or Seal below) _____ _____
Deputy Clerk or ☐ Notary Public

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Case No. _____

EXPLANATIONS THAT MUST BE ADDED TO THE AFFIDAVIT OF PERSON WHO WANTS TO BE APPOINTED (Required by Arizona Law: A.R.S. § 14-5106)

You must explain the following as an attachment to your Affidavit for any statement which you marked "F" (false). **FILE THE EXPLANATIONS WITH THE AFFIDAVIT, BUT *DO NOT FILE THIS INSTRUCTION SHEET***. All the information in the explanations is also under oath to the court.

1. As to each felony for which you have been convicted, list:
   a. The nature of the offense.
   b. The name and address of the sentencing court.
   c. The case number.
   d. The date of conviction.
   e. The terms of the sentence.
   f. The name and telephone number of any current probation or parole officer.
   g. The reasons why the conviction should not disqualify you from appointment.

2. If you have acted as guardian or conservator within three years before filing this petition, list:
   a. The names of individuals for whom you are currently serving, and court case numbers.
   b. The names of individuals for whom your appointment has been terminated within the three-year period, and the court case number.

3. If you do not have the required information, please explain how you intend to obtain this information.

4. State the total number of persons for whom you have done this. If you have acted under a power of attorney for the proposed ward/protected person, explain:
   a. The date the power of attorney was signed.
   b. The place where it was signed.
   c. The actions you have taken pursuant to the power of attorney.
   d. Whether the power of attorney is currently in effect.

5. State the reason for such listing.

6. List the name(s) of the business(s) and the reason for each such listing.

7. List the name and location of the court and the name and case number of the files in which you were delinquent in filing the required report.

8. List the name and location of the court, the name and case number of each file, and the circumstances of your removal.

11. State the number of occasions on which you received such gifts, list the gifts, the dates they were received, describe the gifts and list the value of each.

12. State the number of occasions on which the business received such gifts, list the gifts, the dates they were received, describe the gifts and list the value of each.

13. State the number of occasions on which you have been so named.

14. State the number of occasions on which the business was named.

14. List the name and address of each business and the extent and nature of your interest.

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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** ☐ **Petitioner** **OR** ☐ **Respondent**

SUPERIOR COURT OF ARIZONA
IN PIMA COUNTY

In the matter of
Guardianship and/or Conservatorship for:

_____

Name of Adult, or ☐ **Minor Needing Protection**

_____

Date of Birth

Case Number: _____

ORDER APPOINTING ATTORNEY,
☐ **HEALTH PROFESSIONAL,* and**
☐ **COURT INVESTIGATOR**
regarding Petition for: (check one or both)
☐ **GUARDIANSHIP** ☐ **CONSERVATORSHIP**
*****a physician or other medical professional authorized by A.R.S. § 14-5303 (C)*****

1. **SCHEDULED HEARING:** A sworn Petition for Appointment of a Guardian and/or Conservator was filed and this court has scheduled a hearing to determine the merits of the Petition as follows:

☐ Emergency/Temporary Petition ☐ Permanent Petition

DATE AND TIME: _____
LOCATION: _____
JUDGE/COMMISSIONER: _____

2. **ATTORNEY APPOINTMENT:** An attorney is appointed to represent the person by appearing at the hearing (to be named by Court):

NAME: _____ TELEPHONE: _____
ADDRESS: _____

Counsel shall adhere to the Court's **Guidelines for Appointed Counsel.**

3. **HEALTH PROFESSIONAL APPOINTMENT AND REPORT:** A physician or other medical professional authorized by Arizona law A.R.S. §14-5303(C) is appointed to examine the proposed ward and to prepare a written report about his or her physical and mental condition:

NAME: _____ TELEPHONE: _____
ADDRESS:

The appointee, *if other than* a medical doctor, is a:	☐ **Psychologist** ☐ **Registered Nurse (R.N.)**

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4. **COURT INVESTIGATOR:** An investigator from the court shall visit the proposed ward and submit a written report to the Clerk of the Court, Probate Registrar at least TWO (2) business days before the PERMANENT hearing date and shall give a copy of the report to the Petitioner or his or her attorney and to the attorney for the proposed ward. Note: The report deadline does not apply to the temporary/emergency hearing.

5. **OTHER ORDERS TO PETITIONER:**

A. **WITHIN 24 HOURS FROM THE DATE OF THIS ORDER, Petitioner must mail or deliver to the court-appointed attorney** named in "2" above, copies of:

1. the **Petition for Permanent Appointment (and Petition for Temporary Appointment, if applicable)** and all related court paperwork,
2. any health professional's reports in his or her possession, and
3. any Orders of the Court.

B. **IF** a Health Professional is named in "3" above, **NO LATER THAN TWO (2) BUSINESS DAYS BEFORE THE HEARING, Petitioner must:**

1. **File the original** of the **health professional's Report** with the Clerk of the Court, Probate Registrar;

2. **Mail or hand-deliver a copy of the Report to the:**
   a. attorney named in paragraph 2,
   b. the office of the Judge or Commissioner named in paragraph 1, *and*
   c. the Court Investigator assigned to the case.

C. **Other:** _____

_____

_____

DONE IN OPEN COURT: _____ _____
JUDGE/COMMISSIONER

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GUIDELINES FOR

HEALTH PROFESSIONAL'S REPORT

INSTRUCTIONS TO PETITIONER: Fill in the information below and give this document to the physician, registered nurse, or psychologist appointed by the Court to evaluate the health of the person said to need protection immediately after the "**ORDER APPOINTING** (Attorney, Health Professional, and Court Investigator)**"** is signed. The complete written report should be given to everyone listed in the "**ORDER APPOINTING"** no later than **10 days before** the scheduled hearing.

COURT CASE NUMBER: _____

NAME OF EVALUATOR: _____

_____

EVALUATOR'S PROFESSION: ☐ **Physician** ☐ **Registered Nurse** ☐ **Psychologist**

NAME OF PATIENT (subject of this evaluation)**:** _____
(Person said to need guardian)

NAME OF PETITIONER: _____

PETITIONER'S TELEPHONE NUMBER: _____

DATE AND TIME OF COURT HEARING: _____

INSTRUCTIONS TO PHYSICIAN OR OTHER EVALUATOR: A court case has been filed that asks the court to appoint a guardian for the person named as "Patient" above. Before granting such a petition, the court must decide if mental, physical, or other cause exists which requires appointment of a guardian. To make that decision, the Court needs to know what you think about:

- **the person's mental and physical health, and**
- **whether the person needs inpatient mental health treatment, and**
- **whether the person's driving privileges should be suspended.**

The court has developed this form to make it easier for you to prepare your report. You may submit your report using this form *or in any format you choose*, but please provide the same type of information as provided for on this form. Note that if the Petitioner is seeking authority to consent to inpatient mental health treatment this report or a separate report recommending such authority <u>must</u> be signed by a licensed psychologist or psychiatrist. (A.R.S. § 14-5303(C))

After you complete the report, give the original report to *the Petitioner,* who is responsible for distributing copies to the proper parties. Please do <u>not</u> <u>file</u> your report with the Clerk of the Court.

PLEASE DATE AND SIGN YOUR REPORT. The Court realizes that your time is valuable.

THANK YOU FOR YOUR TIME AND ASSISTANCE.

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Case No. _____

QUESTIONS FOR HEALTH PROFESSIONAL TO ANSWER:

Note: ***If not enough space*** on this form to answer, write in "See attached" and respond on separate page. Please re-state the question on the attachment and use same number as from this document.

1. **What is the date you last saw the patient?** _____
2. **How long have you been treating the patient?** _____

3. **Why were you asked to do this evaluation?**
   - ☐ **I have been the person's physician for many years.**
   - ☐ **I was asked to do so by the family.**
   - ☐ **I was selected by an attorney.**
   - ☐ **My office is close to the person's residence.**
   - ☐ **I am a ☐ doctor, ☐ registered nurse, or ☐ psychologist, for the person's nursing home.**
   - ☐ **Other:** _____

4. **What is your area of specialty?** _____
   Are you Board Certified in this area? ☐ **Yes** ☐ **No**
   In any other areas? ☐ **Yes** ☐ **No**
   If "yes", list: _____

5. **Does the person you are evaluating appear to be having difficulty in any of the following areas?**

   - ☐ **Mental disorder**
   - ☐ **Chronic intoxication or drug use**
   - ☐ **Anything else (explain below)**
   - ☐ **Physical illness**
   - ☐ **Cognitive abilities**
   - ☐ **Physical illness ONLY**

6. **If he or she is having difficulty, please specify the nature of the illness, disorder, etc., including diagnosis:**

   _____
   _____
   _____
   _____

7. **Has the person been treated or hospitalized before for this difficulty?** ☐ **Yes** ☐ **No**
   If yes, when and where?

   _____
   _____
   _____

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Case No. _____

8. **Is the person able to do the following things? Please check each applicable box.**

- ☐ **Pay his or her bills**
- ☐ **Take medication appropriately**
- ☐ **Obtain food**
- ☐ **Provide adequate housing**
- ☐ **Live alone**
- ☐ **Exercise daily self-help skills**
- ☐ **Make appropriate judgments that will protect him or her personally, physically, or financially**
- ☐ **Drive a motor vehicle.** (If "yes", explain below.)

If you believe a *guardianship* is warranted but you believe the person to be protected is capable of and *should be permitted to drive a motor vehicle*, please explain.

_____

_____

_____

9. **If the person is currently on medication, please list:**

_____

_____

_____

10. **Do you believe that the medication is affecting the person's ability to respond coherently?** ☐ **Yes** ☐ **No**

11. **Do you believe that the medication is affecting the person's ability to ambulate?** ☐ **Yes** ☐ **No**

12. **Do you believe that a "medication holiday," if possible, would help you better evaluate the person?** ☐ **Yes** ☐ **No**

13. **Do you believe that any changes made in the type or amount of drugs the person is receiving would noticeably affect his or her mental or physical abilities?** ☐ **Yes** ☐ **No**

14. **Do you believe that any further medical evaluation or treatment would benefit the person?** ☐ **Yes** ☐ **No**

If so, please give your recommendation:

_____

_____

_____

15. **Do you think the person would benefit from other types of therapy such as counseling?** ☐ **Yes** ☐ **No** **If yes, describe:**

_____

_____

_____

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Case No. _____

16. Where do you think the person should live today?

- ☐ **At home with a companion**
- ☐ **At home with a nurse**
- ☐ **In a group home**
- ☐ **In a boarding home**
- ☐ **In a supervisory care facility**
- ☐ **In a nursing home**
- ☐ **In a hospital**
- ☐ **In an Inpatient Psychiatric Facility for inpatient mental health treatment. Explain.**
- ☐ ***Other* -- please explain.**

_____

_____

17. Do you believe that the person's condition could improve within 6 months to a year?

☐ **Yes** ☐ **No**

18. Is there is any reason for the court to review this matter again within less than one year?

☐ **Yes** ☐ **No**

19. Please make any additional comments or suggestions you think would be helpful to the court in making this decision.

_____

_____

_____

_____

MENTAL HEALTH TREATMENT ISSUES

(This section must be completed IF the petitioner is requesting authority for a *guardian* to consent to inpatient mental health treatment, *and if so*, this report or a separate report covering this information must be completed and signed by a licensed psychologist or psychiatrist.)

Note: ***If not enough space*** on this form to answer, write in "See attached" and respond on separate page. Please re-state the question on the attachment and use same number as from this document.

1. Is it the opinion of the undersigned that the patient is incapacitated as a result of a mental disorder?

☐ **Yes** ☐ **No**

2. What is the mental disorder? _____

_____

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Case No. _____

3. **Is it the opinion of the undersigned that the patient is likely to need inpatient mental health care and treatment within the next year?** ☐ **Yes** ☐ **No** (The maximum term for which authority may be granted to place a patient in an Inpatient Psychiatric Facility and treatment is one year. This authority may be renewed or extended based on the evaluation and recommendation of a licensed physician or psychologist submitted with the annual report of the guardian**. A.R.S. § 14-5312.01(P)**)

4. **In the event that the answer to #3 is "Yes", please explain the need for, and the anticipated onset and duration of the inpatient treatment:**

_____

_____

_____

5. **What kind of treatment is the patient currently receiving for this disorder?**

_____

_____

_____

6. **Give a comprehensive assessment of any functional impairments of the patient.**

_____

_____

_____

7. **How and to what extent do these impairments affect the patient's ability to receive or evaluate information needed in making or communicating personal and financial decisions?**

_____

_____

8. **What tasks of daily living is the patient capable of performing without direction or with minimal direction?**

_____

_____

_____

9. **What is the most appropriate rehabilitation plan or care plan for the patient?**

_____

_____

_____

10. **What would be the least restrictive living arrangement reasonably available for the patient?**

_____

_____

_____

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Case No. _____

11. Is there any reason why this patient should not personally appear in court? ☐ **Yes** ☐ **No**
If "yes", please explain.

_____

_____

_____

12. Please make any additional comments or suggestions you feel would be valuable to the court:

_____

_____

_____

_____

DATE REPORT PREPARED: _____

_____

SIGNATURE

_____

PRINTED NAME, PROFESSIONAL TITLE (MD, RN, etc.)

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

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

SUPERIOR COURT OF ARIZONA
IN PIMA COUNTY

In the Matter of
Guardianship and/or Conservatorship for:

_____

Date of Birth: _____

Case Number: _____

NOTICE OF HEARING REGARDING

(Check one box)

☐ **Guardianship** ☐ **Conservatorship**
☐ **Guardianship and Conservatorship**

THIS IS A LEGAL NOTICE; Your rights may be affected.
Éste es un aviso legal. Sus derechos podrían ser afectados.

NOTICE IS GIVEN that the Petitioner has filed with the Court the following Petition and other court paper indicated below (Check the box to indicate whether the Petition was for a Permanent or Temporary appointment, and a second box to indicate whether for Guardian and Conservator, or just one):

Petition for ☐ ***Permanent*** ☐ ***Temporary*** **Appointment of a** ☐ **Guardian and Conservator** (or) ☐ **Guardian or** ☐ **Conservator** (only)

COURT HEARING. A court hearing has been scheduled to consider the Petition and matters in the court papers as follows:

DATE and TIME _____
PLACE: _____
JUDICIAL OFFICER: _____

DATED: _____ _____
Petitioner

You are not required to respond to this Petition, but if you choose to respond, you *may* do so by filing a written response *or* by appearing in-person at the hearing. *If you choose to file a written response:*

- File the original with the Court;
- Provide a copy to the office of the Judicial Officer named above; and
- Mail a copy to all interested parties at least five (5) business days before the hearing.

YOU ARE RESPONSIBLE FOR PROTECTING YOUR INTERESTS.

This matter may not be independently investigated or verified by the court. If you object to any part of the petition or motion that accompanies this notice, you must file (at least 3 days before the hearing) with the court a written objection describing the legal basis for your objection. Failure to file a written objection may jeopardize your interests. Without your written objections, you should expect that the requested relief will be granted. If you question any other action of the fiduciary, file an appropriate written petition or motion with the court.
This is a legal matter. If you have questions, seek legal advice from an attorney. You have the right to represent yourself. If you represent yourself you must correctly follow court procedures.

FOR CLERK'S USE ONLY

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**

SUPERIOR COURT OF ARIZONA
IN PIMA COUNTY

In the Matter of:

_____

An incapacitated or protected **Adult** *or* ☐ **Minor**

Case Number: _____

(Optional) **WAIVER OF NOTICE and**
(Optional) **WAIVER OF SERVICE MEMBERS CIVIL RELIEF ACT(SCRA) RIGHTS regarding:**

☐ **Guardianship**
☐ **Conservatorship**

(check one or both)

UNDER PENALTY OF PERJURY, I SWEAR OR AFFIRM:

1. **MY RELATIONSHIP** to the incapacitated or protected person named above is:
   (examples: parent, grandparent, guardian) _____

2. **I HAVE RECEIVED the Petition and/or other court papers indicated below:**
   (Check the box next to [only] the documents you received.)

   ☐ **Petition for Permanent Appointment of:** ☐ **Guardian** ☐ **Conservator**

   ☐ **Petition for *Temporary/Emergency* Appointment of:** ☐ **Guardian** ☐ **Conservator**

   ☐ **Order Appointing Attorney, Health Professional, Court Investigator**

   ☐ **Affidavit of Person to be Appointed** ☐ **Consent of Parent** (*only* if regarding a minor)

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or ☐ **Petition for Approval of Accounting** ☐ **Annual Report of Guardian**

☐ **Other:** _____

3. (Optional) ☐ **I WAIVE NOTICE** of all court filings and proceedings regarding this matter.

I understand that I can reverse this waiver by filing a written document with the court under this case number declaring that I no longer waive notice of hearings and other court proceedings.

4. MILITARY STATUS

☐ **I am <u>NOT</u> on active duty in the U.S. military**;

OR

☐ **I <u>AM</u> on active duty in the U.S. military.**

If you *are* on active duty with the U.S. military, see the information on your rights under the *Servicemember's Civil Relief Act* and the optional waiver of the right to delay this court proceeding under the Act on the page following.

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Case No. _____

SERVICEMEMBER'S CIVIL RELIEF ACT (SCRA) INFORMATION AND *OPTIONAL* WAIVER

NOTE: When military duty interferes with the ability to participate in a case, the **Servicemember's Civil Relief Act** (SCRA) may permit a service member to delay or overturn a civil court proceeding. Waiving this right does **NOT** affect your right to later request a change regarding court appointment of a guardian or conservator.

It is generally advisable to consult a military legal assistance attorney before waiving any rights under the Servicemember's Civil Relief Act. If Davis-Monthan Air Force Base is the Military Installation closest to you, you can contact the legal office at (520) 228-5242. Otherwise, office at the nearest military installation.

IF ACTIVE DUTY MILITARY and you do <u>not</u> wish to delay court proceedings in this matter, check the box below to WAIVE any right that may apply under the SCRA to cause the court to delay.

(Optional)

☐ **I WAIVE any right I may have under the SCRA to delay this matter.**

WAIVER OF NOTICE and *(if applicable)* SERVICEMEMBER'S CIVIL RELIEF ACT (SCRA) WAIVER

I have read and understand this **Waiver of Notice** and the separate **Servicemember's Civil Relief Act Waiver**. I understand that I am not required to either waive notice ***or*** any rights that may apply under the SCRA, but **<u>if</u>** I have waived either notice or any rights under the SCRA as indicated above or on the preceding page, I do so voluntarily.

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UNDER PENALTY OF PERJURY

I swear or affirm that I have read and understand this document and that the information I have provided is true and correct to the best of my information and belief.

_____ Date

_____ Signature of Person Receiving Documents

_____ Printed Name

STATE OF _____

COUNTY OF _____

Subscribed and sworn to or affirmed before me this: _____ by
(date)

_____.

(notary seal)

_____ Deputy Clerk or Notary Public

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UNLICENSED FIDUCIARY TRAINING MANUAL

This program was developed under grant number SJI-11-E-008 from the State Justice Institute. The points of view expressed are those of the faculty and do not necessarily represent the official position or policies of the State Justice Institute.

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PBFTM1 - 0912

IMPORTANT NOTICE

TRAINING REQUIREMENT

Effective September 1, 2012

The Arizona Supreme Court requires that any person who is not a state-licensed fiduciary (or a financial institution) must complete a training program approved by the Supreme Court **before** Letters of Appointment to serve as a guardian, conservator, or personal representative can be issued by the Clerk of the Court.

TRAINING SHOULD BE COMPLETED BEFORE THE COURT HEARING.

The fiduciary may for good reason request additional time to complete the training.

You may access and complete the training FREE online at:
http://www.azcourts.gov/probate/Training.aspx

Go to the section for **"Non-licensed Fiduciaries"** and click on the link to access a narrated slide-show presentation of the materials applicable to your situation.

Introduction to Serving as a Non-Licensed Fiduciary (Video)
Introduction to Serving as a Non-Licensed Fiduciary (printable PDF)

Welcome to Guardianship training module (Video)
Welcome to Guardianship training module (printable PDF)

Welcome to Personal Representatives training module (Video)
Welcome to Personal Representative training module (printable PDF)

Introduction to Conservatorship Account Forms Video Tutorial
Welcome to Conservatorship training module (Video)
Welcome to Conservatorship training module (Printable PDF)

You may also pick up a printout of the same materials at no charge from any Self-Service Center location.

AFTER reviewing the materials, you will need to inform the Court that you have completed the training by filing either the Certificate available at the end of the online training, or the Declaration of Completion form available at the end of this training manual, or from either the Probate Filing Counter or the Self-Service Center. If you have questions about the training, contact the Probate Clerk at 602-506-3668.

Probate Fiduciary Training Manual

After viewing the contents of this manual you will be able to:

- Recall the qualifying requirements
- Discuss the differences among the 3 roles
- List the basic responsibilities for each role
- Describe the order of priority for assigning each role

Unlicensed Fiduciary Roles

As an unlicensed fiduciary you may be appointed in one of 3 roles: Guardian, Conservator or Personal Representative. These roles have similarities, but also distinct differences. This overview is designed to help you determine the responsibilities associated with your appointed role.

GUARDIANSHIP

➢ What is a Guardian?

A guardian is responsible for making personal decisions for an individual deemed incapacitated by the Superior Court, typically referred to as the "ward." The guardian of a ward has the same rights and responsibilities as a parent does to an un-emancipated minor, except that the guardian does not have any liability to a third party. In other words, a guardian is not responsible for the debts or actions of their ward that a parent is for their child.

➢ Qualify for Appointment

A person must first qualify in order to be considered for appointment as someone's guardian. They must attest (or swear) that they have never been convicted of a felony, never been removed as a guardian for wrongdoing, and that they understand the responsibilities of being a guardian.

➢ Priority of Appointment

The court has the ability to pass over an individual who has a higher priority if the court believes there is a valid reason to do so. For example, if the court determines that the durable or healthcare power of attorney presented by the proposed ward's spouse is not a valid document, the proposed ward did not have the legal capacity to execute the document, or the spouse used undue influence to get the proposed ward to sign the document, the court may instead appoint the proposed ward's adult child.

➢ General Responsibilities

The guardian is responsible for making all medical and personal decisions on behalf of the ward. For example, the guardian must consent to medical treatment, determine where the ward will live while maintaining their current standard of living, and ensure that they are receiving the education and training that they would be entitled to and which may increase their quality of life.

CONSERVATORSHIP

➢ What is a Conservatorship?

A conservator is an individual who is responsible for managing the assets – for example, money, brokerage accounts, homes, or businesses - of a "ward" or "protected person." A ward is an individual who has been determined to be incapacitated by the superior court. A protected person is someone who has not had a guardian appointed and has not been declared incapacitated by the superior court but the court has determined that they need assistance in managing their assets. The court determines that someone needs protection if they have assets that may be wasted or lost because they cannot protect the assets themselves due to a number of reasons including mental illness, mental deficiency or chronic intoxication.

➢ Priority of Appointment

Just as when being appointed a guardian, an individual who wants to be appointed as conservator must first show the court that they are qualified. They must prove they have never been convicted of a felony, never been removed as conservator due to wrongdoing, and understand the role of a conservator. Once the court has determined that an individual is qualified, the court may also assign priority to the individual based on given criteria.

1st Level - A conservator who has been appointed in ANOTHER jurisdiction where the protected person resides.

A first level priority may be assigned to a conservator who has been appointed in ANOTHER jurisdiction where the protected person resides. This is different than the guardianship priority statute as it distinguishes between someone who has already been appointed in any jurisdiction, including the one where the petition may currently be pending, and one appointed in another jurisdiction, such as another county or state.

2nd Level - Nominated by protected person

A second level priority is assigned to someone nominated by the proposed person in need of protection if the court determines that the individual has the mental capacity to make the nomination.

3rd Level - Nominated in protected person's power of attorney

A third level priority is an individual nominated in the proposed protected person's durable power of attorney.

Additional levels of priority are assigned based on a certain set of criteria. However, as in a guardianship proceeding, the court has the ability to pass over an individual who has a higher priority if the court believes there is a valid reason to do so.

4th Level - The proposed protected person's spouse
5th Level - The proposed protected person's adult child
6th Level - The parent of the proposed protected person or an individual nominated in the Last Will and Testament of the deceased parent

7th Level - Any relative who the proposed protected person has lived with for the six months prior to the petition.
8th Level - Someone nominated by an individual proving care to or paying benefits for the proposed protected person.
9th Level - If the proposed protected person is a veteran or the spouse of a veteran, than the Department of Veterans Affairs
10th Level - A fiduciary who is licensed by the Arizona Supreme Court who is NOT the public fiduciary
11th Level - The public fiduciary

➢ General Responsibilities

The conservator has the responsibility to manage the assets of the protected person as a prudent man would. In other words, the conservator must ensure that the money and assets of the protected person are used only for the benefit of the protected person. The conservator must ensure that the assets of the protected person are invested properly and appropriately to maintain the protected person's current living circumstances.

➢ Endorsement

Finally, an individual who has been appointed as the conservator may petition the court to allow their letters of conservatorship to be "endorsed." This means that the court grants the same authority to the conservator that a personal representative has and that they may administer the estate of the decedent in accordance with the Last Will and Testament of the decedent, or by the laws of the State of Arizona. A conservator must wait 40 days from the date of death of the decedent before they apply to have their letters of conservatorship endorsed. There are a number of provisions to allow individuals with an interest in the estate to nominate an individual they believe is more appropriate to act.

PERSONAL REPRESENTATIVE

➢ What is a Personal Representative?

A personal representative (also known as an executor or administrator in other states) is a person responsible for handling the assets of a deceased, the decedent, and individual.

➢ Priority of Appointment

The court may assign priority to the individual appointed as personal representative based on a certain set of criteria.

1. The person nominated in the Last Will and Testament
2. The surviving spouse who is also a devisee (Devisee is a person named in the Will to receive property of the decedent)
3. Other devisees of the Will
4. The surviving spouse
5. Other heirs of the decedent (An heir is someone who is authorized to receive the property of a decedent by law such as children, grandchildren, siblings, etc. Just because someone is an "heir at law" does not mean they are the devisee of a Will.)
6. If the decedent was a veteran or the spouse of a veteran, the Department of Veteran's Affairs

7. Any creditor if a probate has not been initiated 45 days after the death of the decedent
8. The public fiduciary

➢ Testate versus Intestate

Testate administration means the decedent left a valid Last Will and Testament and the personal representative shall administer the assets of the estate in accordance with the provisions of the Last Will and Testament. An intestate estate is one in which an individual dies without leaving a valid Last Will and Testament and their assets pass according to what is referred to as "intestate succession." This is a provision in the law that outlines who is to receive the property of the decedent; typically, the spouse, children, grandchildren, parents, siblings, nieces/nephews, cousins, or other relatives.

➢ General Responsibilities

The personal representative is responsible for distributing the property of the decedent based on either the terms of the Last Will and Testament or the laws of the State of Arizona if the decedent died without a Will. The personal representative must protect the property of the decedent for the benefit of the beneficiaries.

Thank you for viewing this training manual. The welfare of the ward and/or protected person is of utmost importance to the court.
For more information about Probate please visit the Judicial Branch website devoted to Probate at www.azcourts.gov/probate.

GUARDIANSHIP TRAINING MANUAL

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IMPORTANT NOTICE

TRAINING REQUIREMENT

Effective September 1, 2012

The Arizona Supreme Court requires that any person who is not a state-licensed fiduciary (or a financial institution) must complete a training program approved by the Supreme Court **before** Letters of Appointment to serve as a guardian, conservator, or personal representative can be issued by the Clerk of the Court.

TRAINING SHOULD BE COMPLETED BEFORE THE COURT HEARING.

The fiduciary may for good reason request additional time to complete the training.

You may access and complete the training FREE online at:
http://www.azcourts.gov/probate/Training.aspx

Go to the section for **"Non-licensed Fiduciaries"** and click on the link to access a narrated slide-show presentation of the materials applicable to your situation.

AFTER reviewing the materials, you will need to inform the Court that you have completed the training by filing either the Certificate available at the end of the online training, or the Declaration of Completion form available at the end of this training manual, or from either the Probate Filing Counter or the Law Library Resource Center . If you have questions about the training, contact the Probate Clerk at (520) 724-3230.

Guardianship Training Manual

After viewing the contents of this manual you will be able to:

- Summarize the major responsibilities of being a Guardian
- Compare and Contrast the roles of guardian and parent
- Explain the difference between best interest and substituted judgment
- Discuss the difficulties involving making decisions for the Ward

Responsibilities of a Guardian

As the guardian, it is your job to ensure that the ward maintains as much independence and autonomy as possible. It is easy to fall into the role of protector, but try to keep in mind that your role is similar to that of a parent to a child. A parent wants to assist a child in navigating the world around them, ensuring they handle the tasks they are capable of handling on their own so they can continue to grow and learn. As the guardian of a disabled or elderly adult, you want to do the same thing. For example, if the ward is capable of maintaining their home without the assistance of a housekeeper or in-home care provider, allow them to do that. Try to allow them as much input into your decisions as possible.

Best Interest/Substituted Judgment

Your role as the guardian is to listen to the ward and ensure that their preferences are being met as long as it does not cause harm. You are in a position to make decisions for the ward in one of two ways; using either substituted judgment or the best interest standard.

➢ Substituted Judgment

When making decisions using substituted judgment you are doing exactly as it sounds; making the decision that the ward would make if they had the mental capacity to do so. You have an obligation to discuss the decision you are going to make with the ward and listen to their preferences in that situation. For example, if the doctor is recommending that the ward have surgery to put in a pacemaker you should discuss this with the ward. Try to put it in terms that they have the ability to understand. Discuss the benefits and the consequences of the decision you are about to make. Listen to their preferences and their reason for making the decision. When using substituted judgment it is also helpful to talk to other family members or friends about conversations they have had with the ward. Has the ward ever talked about their preference for medical treatment? Do they want all measures taken to prolong their life or do they want only pain management? Do they wish to be buried or cremated? Your job is to determine what their preferences were when they were still capable of making those decisions.

➢ Best Interest Decisions

Making decisions using substituted judgment may be easier for a guardian dealing with an elderly disabled ward as opposed to an adult who has been disabled since birth. When dealing with an elderly ward, at one time they were most likely competent and capable of understanding cause and effect relationships. As such, they may have discussed their preferences before becoming disabled; thereby giving you a better understanding of what their wants would be now.

With a ward who has been disabled since birth, it may be more difficult to know their wants as these may never have been clearly expressed. In this situation, or in situations where the ward's preferences may cause serious harm or injury, you would be making your decision based on what you believe to be in the ward's best interest.

Difficult Decisions

It is never easy to make a decision for another adult that goes against their wishes, but you must keep in mind that your friend or family member no longer has the ability to truly understand the consequences of their decision. This is why the court appointed you as guardian – to make the tough decisions. Ultimately the decision is yours, but if you are making a decision that is in contrast to the stated or demonstrated preferences of the ward, you should be prepared to defend that decision.

Coordinating Services

As the guardian, it is your responsibility to ensure that the ward is receiving appropriate medical care, proper education and their overall health and welfare is protected. As a guardian you will be responsible for coordinating medical appointments and being aware of the medical needs of the ward. Do they need hearing aids? What about dentures? Are they diabetic? If so, quarterly appointments with a podiatrist may be useful.

Maybe the ward is a 19-year-old disabled adult. Can they still attend school? What about attending life skills training such as cooking or balancing a checkbook? If the ward has the ability to benefit from this type of training then it is your responsibility to coordinate these services for them.

Ensuring Medical Needs are Being Met

➢ What is informed consent?

The National Guardianship Association (NGA) does an excellent job of discussing the issue of informed consent in their "Standards of Practice." NGA Standard 6 defines informed consent as "a person's agreement to a particular course of action based on a full disclosure of facts needed to make decisions intelligently."

In order for it to be considered informed consent, you must have received adequate information about the issue you are being asked to consider and you must enter into the decision voluntarily and without feeling coerced.

➢ Medical Considerations

The NGA provides an online outline that may be very useful when trying to make medical decisions on behalf of the ward. This outline can be found at

http://www.guardianship.org/documents/Standards_of_Practice.pdf

The pages that follow cover the NGS's Standards of Practice 6.

➢ Informed Consent

As a guardian you should have a clear understanding of the issue for which informed consent is being sought. If needed, ask as many questions as it takes to feel comfortable that you understand what is being proposed for the ward. Again, keep in mind the adult/child relationship. What types of questions would an adult ask if someone was suggesting this course of treatment for a child?

➢ Determine Conditions

Determine the conditions that necessitate treatment or action. In other words, what is the underlying problem that is causing the doctor to suggest this form of treatment? For example, what if the ward has started exhibiting behavioral outbursts and aggressiveness towards caregivers and the doctor wants to prescribe an anti-psychotic medication that has potential for significant side effects? You might first want to consider if these outbursts are because the ward is in pain and instead of the prescription medication, a simple regimen of over the counter pain medication would be the better solution.

➢ Ward's Preference

Advise the ward of the decision that is required and determine, to the extent possible, their current preferences. Determine whether the ward has previously stated preferences in regard to a decision of this nature. This relates back to the substituted judgment vs. best interest standard.

➢ Alternatives

Determine the expected outcome of each alternative. Using the example of the prescription medication versus simple medication, is it better to consent to the prescription or to request over the counter pain medication first to rule out the need for pain management?

In addition to the expected outcomes, you should also consider the benefits and risks of each alternative. Finally, you should ask, does this decision need to be made now rather than later?

➢ Later vs. Sooner

In relation to making a decision later rather than sooner, you may want to consider a decision to take no action at all. Keep in mind, sometimes this is the best decision.

It may be that the ward is elderly and was presented with an option to have a pacemaker in the past. At the time, the ward was competent and determined that she did not believe the risks of the procedure were worth the benefit. In this situation you would want to consider her reasoning at the time she made this decision and make your decision in the same manner.

➢ Least Restrictive Decision

When faced with a decision you may want to determine what the least restrictive alternative is for the situation. As the guardian, your role is to ensure that the ward receives the least restrictive form of intervention to ensure the ward maintains as much independence and autonomy as possible. In the behavioral example given earlier, over the counter pain medication would be the lesser restrictive alternative. Living at home with caregivers as opposed to placement in an assisted living facility or nursing home is another example of a lesser restrictive alternative.

➢ Second Opinion

Obtain a second opinion, if necessary. The same rights you have over your own person, you have over the ward. If you feel you need a second medical opinion before making a decision for treatment, by all means, seek a second medical opinion.

➢ Seek Resources in Family and Friends

It may be helpful to obtain information or input from family, friends or professional fiduciaries. Again, this goes back to making a decision using informed consent vs. substituted judgment. It is always beneficial to seek out assistance from the resources available in your community. Many professional guardians are willing to consult with you to assist you with a particular problem or issue. Many times they have dealt with a similar situation and can point you in the right direction. All hospitals will have a bioethics team available to consult with you about a particular medical procedure. Be familiar with the resources available within your community and use them.

Written Documentation

Obtain written documentation of all reports relevant to each decision. Always keep in mind that your decision is open to scrutiny by others; other family members, court-appointed counsel, or the courts. You want to ensure that you can always support and/or justify a decision you have made on behalf of the ward.

Ensuring Benefits are Received

You need to ensure that you have applied for and are receiving all of the benefits that the ward may be entitled to receive. This may include applying to Medicare, the Arizona Health Care Cost Containment System, the Arizona Long Term Care System, the Veteran's Administration for benefits, the Department of Developmental Disabilities, any form of supplemental health insurance that may be available to the ward, and Medicare Part D to help with prescription drug coverage.

Ward's Rights

The rights that the ward maintains will be outlined in your order of appointment. In most instances the ward will lose the right to drive, vote, determine where they live, consent to medical treatment or maintain firearms. It should be noted that the right to vote on behalf of the ward does not transfer to the guardian.

Handling Money

The law allows a guardian to handle money on behalf of the ward if there is no conservator appointed. In most instances, if the ward receives more than just Social Security income and has significant assets, such as a home, car or brokerage account, then the court will appoint a conservator. The Order to Guardian indicates that the guardian shall not manage more than $10,000 on behalf of the ward. This value comes from the statutes related to a guardian of a minor. There is no provision in the law to indicate how much money a guardian can manage on behalf of the adult ward so most courts use the same standard as outlined for minors.

Accepting Gifts from the ward

The disclosure statement you must file as the guardian indicates that you have not accepted a gift from someone, who is not related to you by blood, of more than $100.00. That being said, it is typically looked at as a conflict of interest for you to accept any gift from the ward without first seeking court approval. Additionally, the statute requires that a conservator receive court approval prior to giving any gifts at all on behalf of a ward or protected person. The general rule is that you should not accept gifts from the ward.

Annual Guardianship Report

➢ Obtain a physician's statement

While it is not required that you obtain a current physician's statement for your annual guardianship report, it is very helpful for the court if you include one. It can be as simple as a summary outlining the most recent appointment with the ward or could be as detailed as the information contained in the original report to the court.

➢ Annual Report Due Dates

The annual report is due on the anniversary date that your permanent letters of guardianship were issued. The first report will include the time from the date of your first appoint through the end of the ninth month after the permanent appointment. For example, if you were appointed as the temporary guardian on January 1st and your permanent letters of appointment were issued on February 1st, the time frame for your first annual guardianship report would be from January 1st through November 30th. If you only had permanent letters of appointment issued and they issued on January 30th, the report would be from January 30h through October 31st. Each report after that will be for an entire year. If the ending date of your first report was October 31st, the time frame for all subsequent reports will be November 1st through October 31st.

➢ Information in the Report

The information contained in the guardianship report includes: the ward's current address; how many times you have seen the ward during the report period; the date you last saw the ward; the name and contact information for physicians and any specialists seen by the ward, including any dates for the most recent visits; any major changes in the ward's condition since the last report; whether or not you believe the guardianship should continue; an outline of any state or federal benefits received by the ward, and the caseworker assigned to oversee those benefits.

Change of Address Notification

According to the Arizona Rules of Probate Procedure, Rule 10(C)(1)(c), the fiduciary must update the probate information sheet with the new address of the ward within three (3) days of the change of address.

Payment as the Guardian

You are entitled to payment for your time as the guardian. If you intend to seek compensation from the estate of the ward, you are required to file a Notice of Compensation with the court. This will outline what you intend to charge as your hourly rate and why you believe you are entitled to that rate. The court may review your fees on an annual basis. You are also entitled to reimbursement from the ward's estate for any money you pay out of pocket for their benefit. For

example, if you pay for a filing fee with the court, you would be entitled to be reimbursed for that expense.

Attorney Fees

- **Can you hire an attorney?**

You may hire an attorney and you are entitled to have the fees for that attorney paid by the ward's estate. Just as you would have to file a Notice of Compensation with the court, any attorney who intends to seek compensation from the ward's estate must also file the notice with the court.

When the Ward Dies

When the ward dies, you must file a Notice of Death with the court within ten (10) days after the date of death. As an operation of law, your authority as the guardian ceases at the time the ward dies. If you are managing any funds on behalf of the ward, such as Social Security benefits, you may be required to return those funds to the Social Security Administration or give them to the individual who will ultimately be responsible for distributing the ward's estate to the ward's beneficiaries.

Thank you for viewing this training manual. The welfare of the ward and/or protected person is of utmost importance to the court.
For more information about Probate please visit the Judicial Branch website devoted to Probate at www.azcourts.gov/probate.

Your Name: _____
Your Address: _____
Your City, Zip Code: _____
Your Telephone No. _____
Represents ☐ **Self OR** ☐ **Attorney for:** _____
State Bar Number (if applicable): _____

FOR CLERK'S USE ONLY

SUPERIOR COURT OF ARIZONA
IN MARICOPA COUNTY

In the Matter of the Estate of

_____

A ☐ Deceased or ☐ Protected Person

Case Number : _____

DECLARATION OF COMPLETION OF TRAINING for NON-LICENSED FIDUCIARIES

Rule 27.1 of the Arizona Rules of Probate Procedure requires that a person to be appointed guardian, conservator, or personal representative of an estate, who is neither a state-licensed fiduciary nor a corporation, complete a training program approved by the Supreme Court of this state before permanent **Letters of Appointment** are issued.

UNDER PENALTY OF PERJURY

I state to the Court that in accord with Rule 27.1 of the Arizona Rules of Probate Procedure, I have completed the required training for non-licensed, non-corporate fiduciaries, as indicated below: (Check all that apply and provide applicable information.)

☐ Unlicensed Fiduciary — Date completed: _____

☐ Conservatorship — Date completed: _____

☐ Personal Representative — Date completed: _____

☐ Guardianship — Date completed: _____

Date: _____

_____
Signature

_____
Printed Name

INSTRUCTIONS: Fill out this Declaration completely and provide accurate information. Make at least one copy. You will need to file the original with the Clerk of Court and provide a copy to the Probate Registrar before receiving any *permanent* letters of appointment.