

IN THE MATTER OF

Amended

**Report of Guardian ad Litem
Guardianship
Due to Incompetency**

Name _____

Date of Birth _____

Case No. _____

I am the court appointed Guardian ad Litem for the above-named individual and report to the court that I have completed the following duties **(except as noted in the "Additional Comments" section at the end of this report)** and make the following report and recommendations:

GENERAL DUTIES

1. INTERVIEWED INDIVIDUAL AND ADVISED INDIVIDUAL OF RIGHTS AND PROCEDURE

On [Date] _____ at [Place] _____,

I interviewed the individual and explained to the individual the

- contents of the Petition;
- applicable hearing procedure;
- right to counsel, and
- right to request or continue a limited guardianship.

I advised the individual, both orally, and in writing of the right to

- be present at the hearing;
- counsel, including when a lawyer can be appointed;
- an independent medical or psychological examination on the issue of competency; (at county expense if the person is indigent)
- a jury trial, and
- appeal.

2. INTERVIEWED PROPOSED GUARDIAN(S)

I interviewed the proposed guardian, proposed standby guardian, if any, and any other person seeking appointment as guardian.

3. REVIEWED ADVANCE PLANNING

I have reviewed any

- Power of Attorney for Health Care under ch.155;
- Durable Financial Power of Attorney under ch. 243 executed by the individual;
- other advance planning for financial and health care decision making in which the individual had engaged.

4. INTERVIEWED AGENT

I have interviewed any agent appointed by the individual under any document specified above.

5. RECEIVED NOTICE OF HEARING AND COPIES OF REPORTS

I have received proper notice of the hearing and copies of the physician's and/or psychologist's reports. If protective placement is being requested, I have received a copy of the comprehensive evaluation and, if applicable, the plan for home or community-based care.

6. PROVIDED NOTIFICATIONS

I have notified the petitioner or petitioner's attorney (if any) of the information contained below. I have also notified the appointed guardian (if any) of the duty to

- be present at and right to participate in the hearing;
- present and cross-examine witnesses;
- receive a copy of any comprehensive evaluation, and
- secure and present a report on an independent evaluation.

REPORT AND RECOMMENDATIONS

7. OBJECTIONS

The individual

- does not does object to a finding of incompetency.
- does not does object to the proposed or present placement.
- does not does object to the recommendation of the guardian ad litem.
- is not is ambiguous on these matters.

8. ADVERSARY COUNSEL

Adversary counsel is not is requested by the individual.
 Adversary counsel is not is recommended.

9. JURY TRIAL

A jury trial is not demanded.
 is demanded.

10. INDIVIDUAL'S ATTENDANCE

Regarding the individual's attendance at the hearing:

- It is my opinion the individual **can attend** the hearing in court.
- I **waive** the individual's attendance after considering the ability of the individual to understand and meaningfully participate, the effect of the individual's attendance on his/her physical or psychological health in relation to the importance of the proceedings and the individual's expressed desires. I certify the individual is unable to attend for these specific reasons: _____
- The individual is **unable to attend** the hearing in court because of residency in a nursing home or other facility, physical inaccessibility, or a lack of transportation; and the individual, advocate counsel, other interested person, or I request that the court hold the hearing in a place where the individual can attend. Specify location requested: _____

11. ADDITIONAL EVALUATIONS

Additional medical, psychological or other evaluation is not requested. is requested. Specify evaluation requested and reason: _____

12. ADVANCED PLANNING

My report to the court is that the individual's advance planning is is not adequate to preclude the need for guardianship: _____

13. BEST INTERESTS OF INDIVIDUAL

Based on my investigation, I recommend that the court find that the individual is substantially

- capable of caring for himself or herself.
- incapable of caring for himself or herself.
- capable of managing his or her property.
- incapable of managing his or her property.

14. GUARDIAN OF THE PERSON

A. Rights to be removed in full. If removed, these rights may not be exercised by any person.

I recommend that the court declare the individual has incapacity to exercise the following rights to

- (1) execute a will.
- (2) serve on a jury.
- (3) register to vote or to vote in an election.

B. Rights to be removed in full or exercised by individual only with consent of guardian of person.

The individual has incapacity or limited capacity to exercise the following rights:

| (If any box is <u>not</u> checked for a right, the individual <u>retains</u> that right in full.) | Individual may not exercise this right. Remove right in full. | Individual may exercise only with the consent of the Guardian of the Person. |
|--|--|---|
| (1) consent to marriage. | <input type="checkbox"/> | <input type="checkbox"/> |
| (2) apply for an operator's/driver's license. | <input type="checkbox"/> | <input type="checkbox"/> |
| (3) apply for a fishing license. | <input type="checkbox"/> | <input type="checkbox"/> |
| (4) apply for a license under Ch. 29, Wis. Stats., other than fishing. | <input type="checkbox"/> | <input type="checkbox"/> |
| (5) apply for any other license or credential under §54.25(2)(c)1.d., Wis. Stats. Specifically: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| (6) consent to sterilization. | <input type="checkbox"/> | <input type="checkbox"/> |

(7) consent to organ, tissue, or bone marrow donation.

C. **Powers to be transferred to guardian of the person in full or in part.**

I recommend the court transfer to the guardian of the person to exercise the power in full or in part to

- 1.A. give informed consent to the voluntary receipt by the individual of a medical examination, medication, including any appropriate psychotropic medication, and medical treatment that is in individual's best interest, if the guardian has first made a good-faith attempt to discuss with individual the voluntary receipt of the examination, medication, or treatment and if individual does not protest.
 Full Transfer. Partial Transfer. The individual retains the power to: _____
- 1.B. give informed consent, if in the individual's best interests, to the involuntary administration of a medical examination, medication other than psychotropic medication, and medical treatment that is in the individual's best interest.
 Full Transfer. Partial Transfer. The individual retains the power to: _____
- 2. authorize individual's participation in an accredited or certified research project if the research project might help the individual, or others if minimal risk of harm.
 Full Transfer. Partial Transfer. The individual retains the power to: _____
- 3. authorize individual's participation in research that might not help the individual but might help others if greater than minimal risk of harm to the individual but evidence indicates individual would have elected to participate.
 Full Transfer. Partial Transfer. The individual retains the power to: _____
- 4. consent to experimental treatment in the individual's best interests.
 Full Transfer. Partial Transfer. The individual retains the power to: _____
- 5. give informed consent to receipt by individual of social and supported living services.
 Full Transfer. Partial Transfer. The individual retains the power to: _____
- 6. give informed consent to release of confidential records other than court, treatment, and patient health care records and redisclosure as appropriate.
 Full Transfer. Partial Transfer. The individual retains the power to: _____
- 7. make decisions related to mobility and travel.
 Full Transfer. Partial Transfer. The individual retains the power to: _____
- 8. choose providers of medical, social, and supported living services.
 Full Transfer. Partial Transfer. The individual retains the power to: _____
- 9. make decisions regarding educational and vocational placement and support services or employment.
 Full Transfer. Partial Transfer. The individual retains the power to: _____
- 10. make decisions regarding initiating a petition for termination of marriage.
 Full Transfer. Partial Transfer. The individual retains the power to: _____
- 11. receive all notices on behalf of the individual.
 Full Transfer. Partial Transfer. The individual retains the power to: _____
- 12. act in all proceedings as an advocate of the individual, except the power to enter into a contract that binds the individual or the individual's property or to represent the individual in any legal proceeding pertaining to the property, unless the guardian of the person is also the guardian of the estate.
 Full Transfer. Partial Transfer. The individual retains the power to: _____

13. apply for protective placement or for commitment on behalf of the individual which does not require court approval.
 Full Transfer. Partial Transfer. The individual retains the power to: _____
14. have custody of the individual, if an adult, and the power to have care, custody, and control of the individual, if a minor.
 Full Transfer. Partial Transfer. The individual retains the power to: _____
15. Other: _____

See attached

15. **GUARDIAN OF THE ESTATE**

I recommend the court

- A. appoint a guardian of the estate to perform duties under §54.19, Wis. Stats., and exercise the powers that do not require court approval under §54.20(3), Wis. Stats., except as follows: (Choose one)
- (1) The individual retains all powers, except for the following powers, to be transferred to the guardian: _____
- (2) All powers to be transferred to the guardian, except for the following powers: _____
- (3) All powers to be transferred to guardian.
- B. authorize the guardian of the estate to perform the following additional powers (other than to make gifts) that require court approval under §54.20(2), Wis. Stats.: _____ See attached
- C. direct the guardian of the estate to deposit the individual's funds of \$100,000 or less in an insured account of a bank, credit union, savings bank or savings and loan association in the name of the guardian and the individual, payable only upon further order of the court, and waive bond for the guardian of the estate.

16. **ALTERNATIVE TO GUARDIANSHIP OF ESTATE FOR SMALL ESTATES**

I recommend the court find that it is in the best interest of the individual to dispense with the appointment of a guardian of the estate and transfer the individual's funds of \$50,000 or less according to one of the alternatives for small estates under §54.12(1), Wis. Stats., as follows: _____

See attached

17. **GUARDIANSHIP, PROTECTIVE PLACEMENT, PROTECTIVE SERVICES**

It is my opinion that the court

- should should not appoint a guardian of the person.
- should should not appoint a guardian of the estate with bond of \$ _____. without bond.
- should should not approve protective placement.
- should should not approve protective services.
- should find the least restrictive placement consistent with the individual's needs and, if the individual has a developmental disability, the most integrated setting appropriate to the needs of the individual, is a
- group home. foster home. community based residential facility. nursing home.
- intermediate care facility. Other: _____
- in an unlocked unit.
- in a locked unit because: _____

See attached

18. **SUITABILITY AND FITNESS OF PROPOSED GUARDIAN**

My recommendation to the court regarding the fitness, suitability and the statement of acts of the proposed guardian, standby guardian, and any other person seeking to be appointed as guardian is:

| NAME | SUITABILITY & FITNESS | COMMENTS ON STATEMENT OF ACTS | TYPE OF GUARDIAN |
|------|--|-------------------------------|--|
| | <input type="checkbox"/> Yes <input type="checkbox"/> No | | <input type="checkbox"/> person <input type="checkbox"/> co-guardian <input type="checkbox"/> estate <input type="checkbox"/> standby |
| | <input type="checkbox"/> Yes <input type="checkbox"/> No | | <input type="checkbox"/> person <input type="checkbox"/> co-guardian <input type="checkbox"/> estate <input type="checkbox"/> standby |
| | <input type="checkbox"/> Yes <input type="checkbox"/> No | | <input type="checkbox"/> person <input type="checkbox"/> co-guardian <input type="checkbox"/> estate <input type="checkbox"/> standby |

19. Additional comments: _____ See attached

Guardian ad Litem

Name Printed or Typed

Date

State Bar Number

DISTRIBUTION:

1. Court
2. Petitioner
3. Petitioner's Attorney