

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY

IN THE MATTER OF

Amended

Name

**Determination and Order on Petition for Guardianship
Due to Incompetency**

Date of Birth

Case No. _____

A Petition for Guardianship Due to Incompetency was filed and a hearing was held on [Date] _____. After consideration of the reports and other documents on file, all factors required by the statutes, and such additional information presented;

THE COURT FINDS:

1. JURISDICTION, VENUE, NOTICE, APPEARANCES AND EVALUATIONS TO COURT

- A. This court does does not have jurisdiction over the subject matter and the individual.
 Wisconsin is not the individual's home state but the court has jurisdiction because: _____
- B. This court is is not a proper venue.
- C. Notice was was not properly served.
- D. The individual is
 present.
 not present because the guardian ad litem waived the individual's attendance.
 Other: _____
- E. The proposed guardian and any proposed standby guardian are
 present as follows: _____
 not present and the court permits attendance by telephone for good cause shown as follows: _____
 not present and the court excuses the attendance as follows: _____
- F. Additional evaluations are not necessary.

2. CAPACITY AND NEED FOR GUARDIANSHIP

Upon presentation of clear and convincing evidence,

- the individual is not incompetent.
- advanced planning by the individual renders guardianship unnecessary.
- the elements of the petition are unproven.
- the application for appointment of a conservator by the individual under §54.76, Wis. Stats., is appropriate.
- the individual was adjudicated incompetent in another jurisdiction and a petition for receipt and acceptance of a foreign guardianship was granted.
- The individual is a minor who has attained age 14 and is developmentally disabled.
- The individual is found to be incompetent because
 - A. the individual is at least 17 years and 9 months of age; AND
 - B. the individual is impaired as a result of

- a developmental disability.
- degenerative brain disorder.
- serious and persistent mental illness.
- other like incapacities. AND

- C. the individual's need for assistance in decision-making or communication is unable to be met effectively and less restrictively through appropriate and reasonably available training, education, support services, health care, assistive devices, or other means that the individual will accept.
- D. (For appointment of **guardian of the person**) the individual, because of impairment, is unable effectively to receive and evaluate information or to make or communicate decisions to such extent that the individual is unable to meet the essential requirements for the individual's physical health and safety.
- E. (For appointment of **guardian of the estate**) the individual, because of an impairment, is unable effectively to receive and evaluate information or to make or communicate decisions related to management of the individual's property or financial affairs, to the extent that at least one of the following applies:
 - (1) The individual has property that will be dissipated in whole or in part; or
 - (2) The individual is unable to provide for the individual's support, or
 - (3) The individual is unable to prevent financial exploitation.

3. **GUARDIAN OF THE PERSON**

The individual is in need of a guardian of the person.

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

The individual has the incapacity to exercise the right 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 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.	<input type="checkbox"/>	<input type="checkbox"/>

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

The court **transfers** to the guardian of the person the power to exercise 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 the individual's best interest, if the guardian has first made a good-faith attempt to discuss with the individual the voluntary receipt of the examination, medication, or treatment and if the 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.
 - 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. make decisions related to mobility and travel.
 Full Transfer. Partial Transfer. The individual retains the power to: _____
6. receive medical or treatment records of the individual.
 Full Transfer. Partial Transfer. The individual retains the power to: _____
7. 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: _____
8. give informed consent to receipt by individual of social and supported living services.
 Full Transfer. Partial Transfer. The individual retains the power to: _____
9. choose providers of medical, social, and supported living services.
 Full Transfer. Partial Transfer. The individual retains the power to: _____
10. make decisions regarding educational and vocational placement and support services or employment.
 Full Transfer. Partial Transfer. The individual retains the power to: _____
11. make decisions regarding initiating a petition for termination of marriage.
 Full Transfer. Partial Transfer. The individual retains the power to: _____
12. receive all notices on behalf of the individual.
 Full Transfer. Partial Transfer. The individual retains the power to: _____
13. 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: _____
14. 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: _____
15. have custody of the individual.
 Full Transfer. Partial Transfer. The individual retains the power to: _____
16. Other: _____

See attached

4. **GUARDIAN OF THE ESTATE**

It is appropriate to

- A. appoint and authorize a permanent 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.: _____
- 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.
- D. order that the individual may not make contracts, except for necessities at reasonable prices, and all gifts, sales, and transfers of property made by the individual after the filing of a certified copy of the order are void, unless notified by the guardian of the estate in writing.

See attached

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

It is appropriate 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

6. **POWER OF ATTORNEY**

Even though the individual has executed a Financial Durable Power of Attorney, has a current, valid Power of Attorney for Health Care, or other advanced planning, guardianship is still necessary, for the following reasons: _____

- _____ See attached
- Good cause exists to revoke limit the Power of Attorney for Health Care because: _____
- _____ See attached
- Good cause exists to revoke limit the Financial Durable Power of Attorney because: _____
- _____ See attached
- The appointment of the agent under the individual's Power of Attorney for Health Care as guardian of the person is not in the best interest of the individual because: _____
- _____ See attached
- The appointment of the agent under the individual's Financial Durable Power of Attorney as guardian of the estate is not in the best interest of the individual because: _____
- _____ See attached

7. SUITABILITY OF GUARDIAN

Based upon the Statement of Acts by Proposed Guardian and Consent to Serve, the recommendation of guardian ad litem, and the court having considered all nominations and applicable preferences and criteria, including the opinions of the individual and of the members of his or her family, and any potential conflicts of interest resulting from the proposed guardian's employment or other potential conflicts of interest, the following is/are suitable to be appointed:

Type of Guardian	Name	Mailing Address [Street, City, State, Zip]	Telephone Number
Guardian of the Person			
Guardian of the Estate			
Standby Guardian of the Person			
Standby Guardian of the Estate			

8. PETITIONER'S ATTORNEY FEES AND COSTS

It is equitable inequitable to award payment of petitioner's reasonable attorney fees and costs from the individual's income and assets.

9. Other: _____

THE COURT ORDERS:

The Petition is

- dismissed for the following reason(s): _____
- granted as follows:

1. POWER OF ATTORNEY

- A. The Power of Attorney for Health Care
 remains in effect. is revoked. is limited as follows: _____ See attached
- B. The Financial Durable Power of Attorney
 remains in effect.
 is revoked.
 is limited as follows: _____ See attached

2. APPOINTMENT OF GUARDIAN

- A. The court appoints the person(s) nominated as guardian to serve in the capacities indicated.
- B. The guardian is authorized to exercise powers in part or in full consistent with the above findings in a manner that is appropriate to the ward and that constitutes the least restrictive form of intervention.
- C. Co-guardians must agree with each other when making decisions on behalf of the ward.
 Co-guardians may act independently when making decisions on behalf of the ward.
 Co-guardians may act independently when making decisions on behalf of the ward only in these limited circumstances: _____
- D. Any guardian shall immediately notify the court in writing of any change in the address of the ward or of any guardian.

3. **APPOINTMENT OF GUARDIAN OF PERSON**

A. **FIREARM RESTRICTION**

The ward is prohibited from possessing any firearm. Federal law provides penalties for, and you may be prohibited from possessing, transporting, shipping, receiving, or purchasing a firearm, including, but not limited to, a rifle, shotgun, pistol, revolver, or ammunition, pursuant to 18 U.S.C. 921(a)(3) and (4) and 922(g)(4). This prohibition shall remain in effect until lifted by the court.

(1) Any firearm owned by the ward shall be seized by _____.
Ward's firearms may be found at the following location(s): _____.
Any person residing at the/these locations is required to cooperate with law enforcement attempts to seize firearms. Failure to cooperate may result in contempt sanctions.

(2) As an alternative to seizure, the following person is designated to store any firearm(s) until the firearm restriction order has been canceled: _____.

(3) Ward is informed of the requirements and penalties under §941.29, Wis. Stat. including imprisonment for up to 10 years, a fine not to exceed \$25,000 or both.

(4) The court clerk shall notify the department of justice of the restriction unless the department was previously informed of a prohibition for this ward.

B. The guardian of the person shall file the Annual Report on the Condition of the Ward.

4. **APPOINTMENT OF GUARDIAN OF ESTATE**

A. **BOND**

The Guardian of the Estate

will be issued Letters of Guardianship upon filing surety bond signature bond in the amount of \$ _____.

is not required to file a bond if the guardian of the estate deposits ward'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 ward, and payable only upon further order of the court. Proof of deposit shall be filed with the court within _____ days.

will be issued Letters of Guardianship without filing a bond.

Other: _____.

See attached

B. **INVENTORY AND ANNUAL ACCOUNT**

(1) The guardian of the estate shall file an inventory of the ward's assets within 60 days

and provide a copy of the inventory to the following persons: _____.

(2) The guardian of the estate shall file an annual account by April 15 of each year

or as otherwise required by the court as follows: _____.

See attached

C. **CONTRACTS**

The ward may not make contracts, except for necessities at reasonable prices, and all gifts, sales, and transfers of property made by the ward after the filing of a certified copy of the order are void, unless notified by the guardian of the estate in writing.

5. **ALTERNATIVE TO GUARDIANSHIP OF ESTATE**

As an alternative to appointing a guardian of the estate, the ward's funds of \$50,000 or less shall be transferred according to one of the alternatives for small estates under §54.12(1), Wis. Stats., as follows:

See attached

6. **FEES AND COSTS OF PROCEEDING**

A. Guardian is not appointed. The petitioner shall pay the compensation of the guardian ad litem and the ward's attorney.

B. Guardian is appointed.

(1) Reasonable compensation of the guardian ad litem and ward's attorney shall be paid from the ward's income or assets, if sufficient. If the ward's income or assets are insufficient, the guardian ad litem shall be paid by the county of venue and the ward's attorney shall be paid at public expense or by the county of venue.

(2) Petitioner's reasonable attorney fees and costs (if any) shall be paid

by the petitioner.

from the ward's income or assets.

C. Other: _____.

7. GUARDIAN'S COMPENSATION AND REIMBURSEMENT

The guardian's compensation and reimbursement of expenses, if any, must be approved by the court before payment is made.

8. Other: _____

THIS IS A FINAL ORDER FOR THE PURPOSE OF APPEAL IF SIGNED BY A CIRCUIT COURT JUDGE.

DISTRIBUTION:

1. Court
2. Ward/Ward's Legal Counsel, if any/Guardian ad litem
3. Guardian/Ward's Agent under a Power of Attorney
4. Corporation Counsel
5. Social worker/ County Dept. of Human Services
6. Spouse/Adult Children/Parent of Minor
7. Facility, if any
8. Other: _____