

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

WASHINGTON DC 20001

GUARDIANSHIP INFORMATION SHEET

The following information is provided to those individuals appointed as limited or general guardian of an incapacitated individual (protected individual) but is not intended to be all-inclusive. Individuals serving as guardians shall be governed by all applicable statutory provisions, rules of court, and by such orders as may be entered by the Court.

1. PERMANENT GENERAL GUARDIAN

A permanent general guardian is one appointed by the Court and on whom the Court has conferred, without limitation, those general powers set forth in D.C. Code Sec. §20-2047(a) & (b) (1989 Replacement Volume to 1981 Ed.).

2. PERMANENT LIMITED GUARDIAN

D.C. Code Sec. §21-2044(c) reads as follows:

The Court at the time of appointment, later on its own motion, or on appropriate petition or motion of the incapacitated individual or other interested person, may limit the powers of a guardian otherwise conferred by this chapter. Any limitations on the statutory power of a guardian of an incapacitated individual shall be endorsed on the guardian's letters. Following the same procedure, a limitation may be removed or modified and appropriate letters issued.

3. QUALIFICATION

A guardian, limited or general, qualifies by executing an acceptance of appointment and consent to jurisdiction (paragraph 14 of Petition for a General Proceeding or by execution of Form II-A-1, whichever is appropriate). To qualify the guardian must also execute a bond in the amount set by the Court, if bond is required by Order of Court. The Court may or may not require bond of a guardian.

4. POWERS

Upon qualification, a guardian is responsible for the care, custody, and control of the ward, subject however to any limitations imposed by the Court. A guardian shall become or remain personally acquainted with and maintain sufficient contact with the ward to know of the ward's capacities, limitations, needs, opportunities and physical and mental health.

The guardian shall exercise only those powers under D.C. Code 21-2047(a)(b) and (c) (copy attached) as set forth in the Court's Order of Appointment or as may be authorized in subsequent order of the Court.

5. PETITIONS

Application to the court for an order subsequent to appointment shall be by verified petition on Form II-Q or a format substantially consistent with that format, together with a notice (Form I-J) in accordance with SCR-PD 311. The petition shall state with specificity the grounds for the request. The petition shall be accompanied by a proposed order for the court's signature.

6. GUARDIANSHIP REPORTS

(a) Filing of Reports

A guardian, limited or general, shall submit a written report to the Court at least semi-annually on the condition of the ward and the ward's estate that has been subject to the guardian's possession or control. The report shall be prepared on Form II-M and be signed under oath. The first report shall be due six months from date of appointment and successive reports shall be due at six-month intervals thereafter.

(b) Service of Reports

Reports shall be served upon all parties, upon any person who has filed an effective request for notice and upon other such persons as the Court may direct.

7. SUGGESTION OF DEATH

Upon the death of the ward, the guardian shall forthwith file a suggestion of death (notice of death).

8. FINAL REPORT OF GUARDIAN

Upon death of the ward, termination of the guardianship or resignation of the guardian, the guardian shall within sixty (60) days thereafter file a final report of guardian with respect to assets under the guardian's control or possession. An affidavit in lieu of final report of guardian shall be filed within the prescribed period if no assets were administered by the guardian.

9. RECEIPTS

Promptly after full distribution and settlement a guardian shall file receipts or canceled checks evidencing final distribution of any assets held.

10. The following additional information is also of importance to guardians, limited or general:

- (a) The applicable statute with respect to guardianship is Title 21-Chapter 20.

- (b) The applicable Court Rules governing guardianships are located in the 300 Series of the Probate Rules.
- (c) No fees are to be paid out of estate funds unless specifically authorized by order of court after compliance with SCR-PD 308.
- (d) No guardian shall commingle any estate assets with non-estate assets.
- (e) Guardians are admonished that any authority granted by the court to administer funds of the ward terminates upon death. Upon death of the ward, no further expenditures shall be made.
- (f) Court Clerks are prohibited from giving any legal advice. If legal questions arise the guardian should consult an attorney. Neither the Register of Wills nor any member of her staff is permitted to recommend lawyers. Should assistance in securing the services of a lawyer be required, one may wish to consult the Lawyer Referral Information Service of the D.C. Bar (202) 331-4365.

Sec. §21-2047 General Powers of Duties of Guardian

Except as may be limited by court order pursuant to Sec. 21-2044, a guardian of an incapacitated individual is responsible for care, custody and control of the ward, but is not personally liable to third persons by reason of that responsibility for acts of the ward.

- (a) In particular and without qualifying the forgoing, a guardian shall:
 - (1) Become or remain personally acquainted with the ward and maintain sufficient contact with the ward to know of the ward's capacities, limitations, needs, opportunities and physical and mental health.
 - (2) Take reasonable care of the ward's personal effects and commence protective proceedings, if necessary to protect other property of the ward.
 - (3) Apply any available money of the ward to the ward's current needs for support, care, rehabilitation and treatment.
 - (4) Conserve any excess money of the ward for the ward's future needs, but if a conservator has been appointed for the estate of the ward, the guardian, at least quarterly, shall pay to the conservator money of the ward to be conserved for the ward's future needs.
 - (5) Report in writing the condition of the ward and of the ward's estate that has been subject to the guardian's possession or control, as ordered by the court on petition of any person interested in the ward's welfare or as require by court rule, but at least semi-annually.

(b) A guardian May:

- (1) Receive money payable for the support of the ward under the terms of any statutory benefits or insurance system or any private contract, devise, trust, conservatorship or custodianship.
- (2) Take custody of the person of the ward and establish the ward's place of abode within or without the District, if consistent with the terms of any order by a court of competent jurisdiction relating to detention or commitment of the ward.
- (3) Institute proceedings, including administrative proceedings, or take other appropriate action to compel the performance by any person of a duty to support the ward or to pay sums for the welfare of the ward, if no conservator for the estate of the ward has been appointed.
- (4) Consent to medical examination and medical or other professional care, treatment, or advice for the ward, without liability, by reason of the consent for injury to the ward resulting from the negligence or acts of third persons, unless the guardian fails to act in good faith.
- (5) Obtain medical records for the purpose of applying for a government entitlement or private benefits and have the status of a legal representation under the District of Columbia Mental Health Information Act of 1978, effective March 3, 1979 (D.C. Law 2-136: D.C. Sec. 6-2001 et seq.) and 6. If reasonable under all of the circumstances, delegate to the ward certain responsibilities for decisions affecting the ward's well-being.

(c) A guardian shall not have the power:

- (1) To consent to an abortion, sterilization, psycho-surgery, or removal of a bodily organ except to preserve the life or prevent the immediate serious impairment of the physical health of the incapacitated individual, unless the power to consent is expressly set forth in the order of appointment or after subsequent hearing and order of the court.
- (2) To consent to convulsive therapy, experimental treatment or research, or behavior modification programs involving aversive stimuli, unless the power to consent is expressly set forth in the order of appointment or after subsequent hearing and order of the court.

- (3) To consent to the withholding of non-emergency life-saving medical procedures unless it appears that the incapacitated person would have consented to the withholding of these procedures and the power to consent is expressly set forth in the order of appointment or after subsequent hearing and order of the court.
- (4) To consent to the involuntary or voluntary civil commitment of an incapacitated individual who is alleged to be mentally ill and dangerous under any provision or proceeding occurring under Chapter 5 of Title 21 or the Mentally Retarded Citizens Constitutional Right and Dignity Act of 1978, effective November 8, 1978 (D.C. Law 2-137; D.C. Code Sec. 6-1901 et seq.)
- (5) To consent to the waiver of any substantive or procedural right of the incapacitated individual in any proceeding arising from an insanity acquittal.
- (6) To prohibit the marriage or divorce, or consent to the termination of parental rights unless the power is expressly set forth in the order of appointment or after subsequent hearing and order of the court.

(d) A guardian is entitled to reasonable compensation for services as guardian and to reimbursement for room, board, and clothing personally provided to the ward, but only as approved by order of the court pursuant to Sec. 21-2060(a). (Feb 28, 1987, D.C. Law 6-204, Sec. 2(A), 34 DCR 632; May 10, 1989, D.C. Law 7-231, Sec. 27, 36 DCR 492).