GUARDIANSHIP

3

Get a Permanent Appointment for a Minor

Part 3: Preparing for and Attending the Court Hearing (Forms Packet)

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PBGM8fc - 5262

SELF SERVICE CENTER

FOR APPOINTMENT OF A PERMANENT GUARDIANSHIP FOR A MINOR

PART 3: Preparing for and Attending the Court Hearing
(Forms Only)

How to assemble these documents

This packet contains court forms to file to prepare for and attend the court hearing for the appointment of a permanent guardianship for a minor.

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PREPARATION AND COURT HEARING APPOINTMENT OF GUARDIAN FOR A MINOR

CHECKLIST

Use the forms and instructions in this packet only if the following factors apply to your situation:

- ✔ You want to have the court appoint a guardian for a minor.
- ✔ You have given notice to all interested parties, or will do so.
- ✔ You have a court hearing scheduled.
- ✔ You need the paperwork to go to the court hearing.

READ ME: It is very important for you to know that when you sign a court document, you may be helping or hurting your court case. Before you sign any court document, or get involved with a court case, it is important that you see a lawyer to make sure you are doing the right thing. The Self-Service Center has a list of lawyers who can give you legal advice and can help you on a task-by-task basis for a fee. If you want to know more about our list of lawyers and our list of mediators, ask the Self-Service Center staff.

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Your Name:_____
Your Address:_____
Your City, State, Zip Code:_____
Your Telephone Number:_____
State Bar Number (Attorneys only):_____
Represents: ☐ **Self (Without a Lawyer) or** ☐ **Attorney for**:_____

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

In the Matter of the Guardianship

Case Number: PB_____

ORDER TO GUARDIAN(S) AND ACKNOWLEDGMENT

_____
☐ an Adult or ☐ a Minor

The welfare and best interest of the person named above ("your ward") are matters of great concern to this Court. By accepting appointment as guardian, you have subjected yourself to the power and supervision of the Court. Therefore, to help avoid problems and to assist you in the performance of your duties, this order is entered. You are required to be guided by it and comply with its provisions.

1. You have powers and responsibilities similar to those of a parent of a minor child, except that you are not legally obligated to contribute to the support of your ward from your own funds.

2. Unless the order appointing you provides otherwise, your duties and responsibilities include (but are not limited to) making appropriate arrangements to see that your ward's personal needs (such as food, clothing, and shelter) are met.

3. You are responsible for making decisions concerning your ward's educational, social, and religious activities. If your ward is 14 years of age or older, you must take into account the ward's preferences to the extent they are known to you or can be discovered with a reasonable amount of effort.

4. You are responsible for making decisions concerning your ward's medical needs. Such decisions include (but are not limited to) the decision to place your ward in a nursing home or other health care facility and the employment of doctors, nurses, or other professionals to provide for your ward's health care needs. However, you are to use the least restrictive means and environment available which meets your ward's needs.

5. You may arrange for medical care to be provided even if your ward does not wish to have it. This includes outpatient mental health care and treatment.

6. You may handle small amounts of money or property belonging to your ward without being appointed conservator. As a general rule, "small amount" means that the ward does not receive income (from all sources) exceeding $5,000.00 per year, does not accumulate excess funds exceeding that amount, and does not own real property. If more than these amounts come into your possession, or are accumulated by you, you are required to petition for the appointment of a conservator.

7. If you handle any money or property belonging to your ward, you have a duty to do each of the following:
a. Care for and protect your ward's personal effects;
b. Apply any moneys you receive for your ward's current support, care, and educational needs;

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c. Conserve any excess funds not so spent for your ward's future needs;
d. Maintain your ward's funds in a separate account, distinct from your own and identified as belonging to the ward;
e. Maintain records of all of the ward's property received and expended during the period of the guardianship;
f. Account to your ward or your ward's successors at the termination of the guardianship, if requested; and,
g. You are not to purchase, lease, borrow, or use your ward's property or money for your benefit or for the benefit of anyone else without prior Court approval.

8. You shall not accept any remuneration of any kind for placing your ward in a particular nursing home or other care facility, using a certain doctor, or using a certain lawyer. "Remuneration" includes, but is not necessarily limited to, direct or indirect payments of money, "kickbacks", gifts, favors, and other kinds of personal benefits.

9. You will need to obtain a certified copy of the letters which are issued to you by the Clerk of the Superior Court. Your certified copy is proof of your authority to act as guardian of your ward, and you should have it available when acting on behalf of your ward. You may need to obtain additional (or updated) copies from time to time for delivery to, or inspection by, the people with whom you are dealing.

10. You are required to report annually, in writing, with respect to your ward's residence, physical and mental health, whether there still is a need for a guardian, and (if there is no conservator) your ward's financial situation. Your report is due each year on the anniversary date of your appointment. In addition to sending copies to the other persons named in the statute, you are directed to lodge a copy of your annual report with the Presiding Judge of the Probate Department of this Court.

11. You must be conscious at all times of the needs and best interest of your ward. If the circumstances which made a guardianship necessary should end, you are responsible for petitioning to terminate the guardianship and obtaining your discharge as guardian. Even if the guardianship should terminate by operation of law, you will <u>not</u> be discharged from your responsibilities until you have obtained an order from this Court discharging you.

12. If you should be unable to continue with your duties for any reason, you and <u>your</u> guardian or conservator must petition the Court to accept your resignation and appoint a successor. If you should die, your personal representative or someone acting on your behalf must advise the Court and petition for the appointment of a successor.

13. If you have <u>any</u> questions about the meaning of this order <u>or</u> the duties which it and the statutes impose upon you by reason of your appointment as guardian, you should consult an attorney or petition the Court for instructions.

14. If you are now, or in the future, become guardian for more than two persons who are not related to you by blood or marriage, you must advise the Court of that fact and provide the Court with such information as it may require. With respect to each such appointment, you must advise the Court in writing of at least the following: (a) the name and address of the court that appointed you, (b) the case number, and (c) the name and address of your ward.

If you have been granted authority to consent to inpatient mental health treatment for the ward, the following additional duties and obligations apply:

1. You are additionally responsible for making decisions concerning your ward's mental health needs, including the decision to place your ward in a mental health treatment facility.

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2. The court has granted you the authority to place the ward in a level one mental health treatment facility for inpatient mental health treatment. This means that you have the authority to admit the ward for inpatient mental health treatment. With that authority goes certain legal responsibilities which include:

a. You must seek the advice and assistance of qualified mental health professionals in determining your ward's needs for care and treatment, the degree of rehabilitation possible, and the best possible placement for your ward.

b. You must choose the care and treatment that is most suitable for your ward, taking into account the ward's needs and preferences, which will allow your ward to achieve the maximum possible degree of rehabilitation or recovery.

c. In making placement decisions, you must first seek alternatives to hospitalization. You should give due regard to the first preference of allowing the ward to live at home with family or friends, and to the second preference of placement in a mental health treatment facility close to home in an environment less restrictive than a hospital. Inpatient hospitalization should be your last resort.

d. Within forty-eight hours after placement of the ward in an inpatient treatment facility, the guardian must give notice of this action to the ward's attorney.

e. The inpatient behavioral health treatment facility is required to assess the appropriateness of the ward's placement in the facility every thirty days and provide a copy of the assessment report to the ward's attorney. You need to assure that this assessment is timely completed and that the assessment report is mailed to the ward's attorney.

f. When the ward is admitted to a level one behavioral health treatment facility, you must provide the facility with the name, address and telephone number of the ward's attorney. The facility shall include this information in the ward's treatment record.

g. You must place the ward in the least restrictive treatment alternative within ten days after you are notified by the medical director of the inpatient facility that the ward no longer needs inpatient care. If you cannot arrange alternative placement within that period of time after discussion with the medical director, or if you and the medical director disagree about the feasibility or availability of alternative placement, either you or the medical director, or both of you may request the Court to hold a hearing on the matter. If you request a hearing, the Court will set a hearing on the matter.

3. **YOUR AUTHORITY TO ADMIT THE WARD TO A LEVEL ONE BEHAVIORAL HEALTH FACILITY FOR INPATIENT MENTAL HEALTH CARE IS LIMITED TO ONE YEAR.** Unless the Court orders the continuation of your inpatient mental health treatment authority for another year, your power to admit the ward for inpatient mental health treatment will lapse on the anniversary **of your** appointment. **If you want the inpatient placement authority to continue, you must request continuance of that authority by filing with your Annual Report of Guardian an evaluation report prepared by a psychiatrist or psychologist explaining the ward's current need for inpatient mental health care and treatment.** If no evaluation report is filed or if the evaluation report states that the ward is not currently in need of inpatient mental health treatment, your authority to consent to inpatient mental health care will cease. You must send a copy of your Annual Report of Guardian and the evaluation report to the ward's attorney. You should file the Annual Report of Guardian and evaluation report at least 30 days prior to the expiration date of your authority.

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The ward through his or her attorney has a right to challenge your request for renewal of your authority to consent to inpatient mental health treatment. Any objection to your request must be filed within ten business days of the filing of your Annual Report of Guardian and evaluation report. The court must hold a hearing within thirty calendar days after it receives the objection. Your inpatient mental health treatment authority continues pending the court's ruling on the issue. At the hearing, you have the burden of proving by clear and convincing evidence that the ward is currently in need of inpatient mental health care and treatment.

If you are requesting renewal of your authority to consent to inpatient mental health care, in addition to the ward's attorney, you must send a copy of your Annual Report of Guardian and the evaluation report to the medical director of the mental health treatment facility or agency responsible for the ward's care and treatment. If your ward is in the Arizona State Hospital, you should send a copy of the Annual Report of Guardian and the evaluation report to: Medical Director, Arizona State Hospital, 2500 E. Van Buren, Phoenix, AZ 85008.

Should your authority to consent to inpatient mental health care cease, you still have the authority to consent to psychiatric and psychological care and treatment, including the administration of psychotropic medications, if the care and treatment takes place outside a level one behavioral health facility licensed by the department of health services.

WARNING: FAILURE TO OBEY THE ORDERS OF THIS COURT AND THE STATUTORY PROVISIONS RELATING TO GUARDIANS MAY RESULT IN YOUR REMOVAL FROM OFFICE AND OTHER PENALTIES. IN SOME CIRCUMSTANCES, YOU MAY BE HELD IN CONTEMPT OF COURT, AND YOUR CONTEMPT MAY BE PUNISHED BY CONFINEMENT IN JAIL, FINE, OR BOTH.

DATED:_____ _____
Judge/Commissioner

ACKNOWLEDGMENT: THE UNDERSIGNED ACKNOWLEDGES RECEIVING A COPY OF THIS ORDER AND AGREEING TO BE BOUND BY ITS PROVISIONS, WHETHER OR NOT HE OR SHE READ IT BEFORE SIGNING, AS LONG AS HE OR SHE IS GUARDIAN.

_____ _____
Signature of Guardian Date Signed

_____ _____
Signature of Guardian Date Signed

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June 12, 2002
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Your Name:_____
Your Address:_____
Your City, State, Zip Code:_____
Your Telephone No:_____
Representing ☐ Self (Without an Attorney) OR ☐ Attorney for _____

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

In the Matter of the Guardianship

Case Number: PB_____

ORDER OF APPOINTMENT OF A PERMANENT GUARDIAN OF A MINOR

_____
A Minor

The Court has read the sworn Petition for Appointment of the Guardian and held a hearing to determine whether the Court should enter the Order requested in the Petition.

THE COURT FINDS:

A. Petitioner is entitled to file the Petition under Arizona law, A.R.S. 14-5303(A);
B. Petitioner has given Notice of Hearing as required by law or Notice of Hearing was waived by all interested parties;
C. Venue in this county is proper;

D. **GUARDIANSHIP:**

1. The above-captioned person is an unmarried minor born on_____

2. All parental rights of custody have been terminated or suspended by prior court order, written consent of the parent or other circumstances. No guardian of the minor has been appointed by Will or any order of any court, and no other proceedings for the appointment of a guardian are pending in any other court. The welfare and best interests of the minor require the appointment of a guardian. A fingerprint report has been reviewed and the Court has concluded that it contains nothing to prevent the appointment or no fingerprint report was required.

3. (Name) _____is qualified to serve as Guardian for the minor.

IT IS ORDERED: **(check the boxes that apply)**

1. APPOINTMENT OF GUARDIAN: The Court appoints:

NAME: _____ as Guardian for the Minor as described in the caption above.

2. BOND:

☐ The guardian will serve without bond, restricted letters to issue to him or her upon acceptance of the appointment.
☐ Bond is set in the amount of $_____

3. ☐ **RESTRICTED LETTERS:** Upon entrance of this order, Letters of Guardianship of a Minor shall be issued by the Clerk of the Court, Probate Registrar, SUBJECT TO THE FOLLOWING RESTRICTIONS:

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4. **ACCEPTANCE OF LETTERS:** The guardian shall sign the Acceptance of the Letters under oath, and file the Acceptance with the Clerk of the Court, Probate Registrar.

5. **ANNUAL REPORT OF GUARDIAN:** The guardian shall report to the Court on the status of the ward and the need to continue the guardianship at least annually by this date as required by A.R.S. 14-5315, by filing the required form with the Clerk of the Court.

6. **CHANGE OF ADDRESS:** The guardian shall immediately notify the court in writing of any change in the address of him or herself or of the Minor.

7. **OTHER DUTIES UNDER THE LAW:** The duties of the guardian as required by Arizona law and as set forth in this Order and the Order of Instruction shall continue until the guardian is discharged from these duties by order of this court.

8. **IT IS FURTHER ORDERED** setting this matter for internal review within (no. of days) _____ to determine compliance by person appointed with this Order.

DONE IN OPEN COURT:_____. _____
JUDGE/COMMISSIONER OF THE SUPERIOR COURT

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Your Name:_____
Your Address:_____
Your City, State, Zip Code:_____
Your Telephone Number:_____
Attorney Bar Number (if applicable):_____
Representing: ☐ **Self (Without a Lawyer) OR** ☐ **Attorney for**_____

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

In the Matter of
the Guardianship of

_____

☐ an Adult or ☐ a Minor

Case Number: PB_____

LETTERS OF APPOINTMENT AS PERMANENT GUARDIAN AND ACCEPTANCE OF LETTERS

ISSUANCE OF LETTERS:

1. **This person is appointed**: (name) _____ as guardian for the above captioned adult or minor.

2. **Reason for appointment**: The above captioned adult or minor is an incapacitated ward.

3. **Length of appointment**: until further order of this court or _____.

4. **Restrictions** that apply to this permanent appointment, by order of the court:

WITNESS:_____

SEAL

CLERK OF THE SUPERIOR COURT

By_____
Deputy Clerk

ACCEPTANCE OF LETTERS OF APPOINTMENT

State of Arizona)
Maricopa County) ss.

I accept the duties as permanent guardian of (NAME)_____ and I swear that I will perform these duties according to law.

_____
GUARDIAN

Subscribed and sworn to before me this date: _____ by_____

My Commission Expires:

_____
Deputy Clerk/Notary Public

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