

GUARDIAN AND CONSERVATOR

For a MINOR

3

**Get a Permanent
Appointment for a Minor**

Part 3: Preparing for and Attending the Court Hearing

(Forms)

SELF-SERVICE CENTER

**PERMANENT APPOINTMENT OF A
GUARDIAN AND CONSERVATOR FOR A MINOR**

**PART 3: PREPARING FOR AND
ATTENDING THE COURT HEARING**

CHECKLIST

You may use these forms and instructions if . . .

- ✓ You filed papers to request permanent (longer than 6 months) appointment of a guardian and conservator for a minor;
- ✓ You gave or will give notice of the court filing to all interested parties;
- ✓ A court hearing is scheduled;
- ✓ The person who is to serve as guardian-conservator completed or will complete any court-required training before the hearing;* AND
- ✓ You need the paperwork to prepare for and to take to the court hearing.

*See “**Notice Regarding Training Requirements**” in this packet.

READ ME: Consulting a lawyer before filing documents with the court may help prevent unexpected results. A list of lawyers you may hire to advise you on handling your own case or to perform specific tasks, as well as a list of court-approved mediators can be found on the Self-Service Center website at www.superiorcourt.maricopa.gov/SSC

SELF-SERVICE CENTER

APPOINTMENT OF A PERMANENT GUARDIAN AND/OR CONSERVATOR FOR A MINOR

PART 3: PREPARING FOR AND ATTENDING THE COURT HEARING

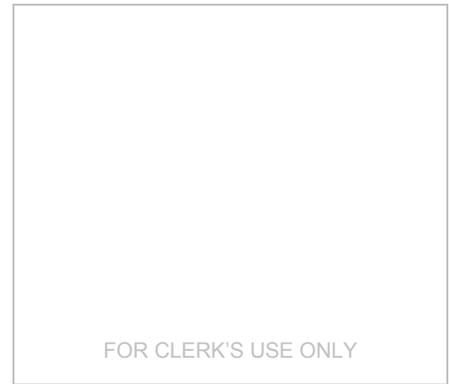
This packet contains court forms to prepare for attending the court hearing for the permanent (longer than 6 months) appointment of a guardian and conservator for a minor.

Order	File No.	Title	# pages
1	PBGCM8k	Checklist: <i>You may use these forms if . . .</i>	1
2	PBGCM8ft	Index (this page)	1
3	PBT80f	<i>“Declaration of Completion of Training”</i> (also included in the separate “Training” packet)	1
4	PBC83f	<i>“Acknowledgment of Conservator and Lawyers Undertaking”</i> (Used only if conservator represented by attorney)	2
5	PBGCM80f	<i>“Order to Guardian and Conservator and Acknowledgment”</i>	4
6	PBGCM81f	<i>“Order of Appointment of Permanent Guardian and Conservator For a Minor”</i>	4
7	PBGCM82f	<i>“Letters of Appointment” and “Acceptance Letters”</i>	2

*used only if conservator is represented by an attorney

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



SUPERIOR COURT OF ARIZONA IN MARICOPA COUNTY

In the Matter of the Estate of _____

Case Number PB: _____

DECLARATION OF COMPLETION OF TRAINING for NON-LICENSED FIDUCIARIES

A Deceased or Protected Person

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.)

- | | |
|--|-----------------------|
| <input type="checkbox"/> Unlicensed Fiduciary | Date completed: _____ |
| <input type="checkbox"/> Conservatorship | Date completed: _____ |
| <input type="checkbox"/> Personal Representative | Date completed: _____ |
| <input type="checkbox"/> 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.

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

FOR CLERK'S USE ONLY

**SUPERIOR COURT OF ARIZONA
IN MARICOPA COUNTY**

In the Matter of the Conservatorship of

Case No. PB _____

**ACKNOWLEDGEMENT OF
CONSERVATOR and
LAWYER'S UNDERTAKING AND
OBLIGATION**

Name of the Protected Adult or Minor

I, _____, having been appointed by
(Conservator's Name)

the Superior Court of Arizona in Maricopa County as Conservator for the protected person
named above, hereby authorize _____ to
(Attorney's Name)

deposit all of the net conservatorship assets, in the amount of \$ _____

The assets will be deposited in a restricted account in my name _____ as the Conservator for:

(Name of the Protected Adult or Minor)

- This shall be a restricted account.
- No withdrawals of principal or interest will be permitted except by certified order of the Superior Court of Arizona in Maricopa County.
- Reinvestments may be made without an order of the Court as long as each account remains restricted and at the same financial institution.

Date

Conservator's Signature

Signed or Affirmed before me: _____ by _____
(Date)

Printed Name

My Commission Expires/: _____
Seal below:

Deputy Clerk or Notary Public

Case No. _____

LAWYER'S UNDERTAKING AND OBLIGATION

I, as an officer of this Court and as the attorney for _____
(Conservator's Name)

in this person's capacity as the conservator for _____
(Protected Person's Name)

hereby assume and undertake personal responsibility to the protected person and to the Court to make the above designated restricted deposit and to deliver to the Court a completed *Proof of Restricted Account* form evidencing the restricted deposit and the amount thereof within thirty (30) days from this date or to refund all of the funds to the Court immediately upon demand.

Date: _____

(Attorney's Signature)

(Attorney's Printed Name)

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

FOR CLERK'S USE ONLY

SUPERIOR COURT OF ARIZONA IN MARICOPA COUNTY

In the Matter of the Conservatorship of _____

Case Number: PB _____

ORDER TO GUARDIAN and CONSERVATOR OF A MINOR AND ACKNOWLEDGMENT and INFORMATION TO INTERESTED PERSONS

Name of Protected Minor(s)

Warning: Appointment is not effective until the *Letters of Appointment* have been issued by the Clerk of the Superior Court.

The welfare and best interest of the minor named above are matters of great concern to this Court. By accepting appointment as guardian and conservator you have subjected yourself to the power and supervision of the Court. This order is entered to assist you in the performance of your duties. You must be guided by it and comply with its provisions as relates to your duties as guardian and conservator.

GUARDIANS:

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. You may arrange for medical care, including mental health care, to be provided even if your ward does not wish to have it, however, you are to use the least restrictive means and environment available that meets your ward's needs.

5. 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 education needs, and conserve any excess funds for your ward's future needs;
 - c. Maintain your ward's funds in a separate account, distinct from your own and identified as belonging to the ward;
 - d. Maintain records of all of the ward's property received and expended during the period of the guardianship;
 - e. Account to your ward or your ward's successors at the termination of the guardianship; and
 - f. Not purchase, lease, borrow, or use your ward's property or money for your benefit or for the benefit of anyone else's, without prior Court approval.
6. You shall not accept any compensation 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. "Compensation" includes, but is not necessarily limited to, direct or indirect payments of money, "kickbacks", gifts, favors, and other kinds of personal benefits.
7. 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.
8. 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 your ward's financial situation. Your report is due each year on the anniversary date of your Letters of Appointment.
9. If your ward's physical address changes, you shall notify the Court by updating the Probate Information Form within three (3) days of learning of the change in your ward's physical address.
10. If your ward dies, is adopted, marries, turns 18 or is otherwise legally emancipated, you shall notify the Court in writing within ten (10) days of learning of the death or other listed event. If the minor does not have a conservator at the time of death or other of these events, the guardian shall provide the court (and if living, the former minor ward) with a list of any known assets owned by the former ward.
11. You must be conscious at all times of the needs and best interest of your ward. If the circumstances that 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 (for example: the minor turned 18 or died), you will **not** be discharged from your responsibilities until you have obtained an order from this Court discharging you.

CONSERVATORS:

1. The conservatorship property is not your property. It does not belong to you. It is the minor's property and you must hold it for the benefit of the minor until the minor turns eighteen (18).
2. Unless the court orders otherwise, you must place the minor's property in a restricted, interest-bearing account at a federally insured institution authorized to do business in the state of Arizona or in a restricted interest-bearing account with the _____ County Clerk of the Superior Court, titled "THE ESTATE OF (the minor's name), MINOR" with no withdrawals of principal or interest permitted therefrom without order of this court.
3. You may not withdraw funds from the restricted account without a court order. If the financial institution allows you to withdraw the fund without a court order YOU will be personally liable for whatever amount was withdrawn from the account. In addition, you may be removed as conservator, found in contempt of court and/or sanctioned for your failure to follow the court's order.
4. Once the minor attains the age of eighteen (18), you MUST file a Petition with the court to terminate the conservatorship. Once a petition is filed, the court will hold a hearing in order to terminate the conservatorship and disburse the conservatorship property to the former minor.
5. The conservatorship terminates only upon the entry of a court order terminating the conservatorship. The court will enter such an order only after you, the minor, or another interested person files a petition requesting that the conservatorship be terminated. The petition should be filed after the minor becomes 18 years of age, after the conservatorship estate has been exhausted, or after the death of the minor, whichever occurs first. In the case of the minor's death, unless you comply with A.R.S. § 14-5419(F) or are otherwise ordered by the court, you will need to file a final account with the court before you can be discharged of liability in connection with the conservatorship and before your bond is exonerated.
6. If you move and/or change your address, you must notify the Court within **10** days of the change. You will be responsible for any costs incurred as a result of your failure to notify the Court of any change of address.
7. If you have any questions as to your duties as a conservator, contact an attorney who handles conservatorships before taking any action.
8. If you are not a licensed fiduciary and are not related by blood or marriage to the minor, you are not entitled to compensation for your services as the minor's conservator. See A.R.S. § 14-5651(K)(1).
9. Within thirty (30) days after your letters of *conservator* are issued, you must mail a copy of this "**Order And Acknowledgment And Information To Interested Persons**" to the following:
 - (a) The Minor, if the minor is at least 14 years of age;
 - (b) The Minor's attorney (if the minor has an attorney) and parents;
 - (c) The minor's guardian, if one has been appointed for the minor; and
 - (d) Any person who has filed a demand for notice in connection with this matter.

GUARDIANS AND CONSERVATORS:

1. You must notify the court within ten (10) days of learning of the death of the protected person or ward.
2. If you should be unable to continue with your duties for any reason, you or **your** guardian or conservator (if any) 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.

This is an outline of only some of your duties as guardian and conservator. It is your responsibility to obtain proper legal advice about your duties. Failure to do so may result in personal financial liability for any losses.

WARNING: FAILURE TO OBEY THE ORDERS OF THIS COURT AND THE STATUTORY PROVISIONS RELATING TO GUARDIANS AND CONSERVATORS 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, A FINE, OR BOTH.

Dated: _____

Signature of Judicial Officer or Judge Pro Tem

Printed Name of Judicial Officer/Judge Pro Tem

ACKNOWLEDGEMENT

I, the undersigned, acknowledge receiving a copy of this order and agree to be bound by its provisions, whether or not I read it before signing, as long as I am guardian or conservator.

Guardian and Conservator's Signature

Date

Printed Name

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

FOR CLERK'S USE ONLY

SUPERIOR COURT OF ARIZONA IN MARICOPA COUNTY

In the Matter of the
Guardianship and Conservatorship of

Case Number: PB _____

ORDER OF APPOINTMENT OF A PERMANENT GUARDIAN AND CONSERVATOR for a MINOR

Name of Minor(s)

Warning: This appointment is not effective until the *Letters of Appointment* have been issued by the Clerk of the Superior Court.

The Court has read the sworn "**Petition for Appointment of a Guardian and Conservator for A Minor**" 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) and 14-5404(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 AND CONSERVATORSHIP:

1. The above-captioned minor is an unmarried person 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. Appointment of a conservator is necessary because the minor owns money or property that requires management or protection which cannot otherwise be provided or has or may have business affairs which may be jeopardized or prevented by his minority, or the minor needs funds for his or her education and protection is necessary or desirable to obtain or provide funds.
4. (Name) _____ is qualified to serve as guardian and conservator for the minor.

IT IS ORDERED: (check the boxes that apply)

1. APPOINTMENT OF GUARDIAN AND CONSERVATOR: The Court appoints:

(Name) as Guardian and Conservator for the Minor named in the caption above.

2. BOND: The Guardian and Conservator **must file a bond** in the amount of \$ _____
with the Clerk of the Court, Probate Registrar before issuance of the letters.

OR **Bond is not required and is waived.**

3. ISSUANCE OF LETTERS: Upon filing the bond, "**Letters of Guardianship and Conservatorship of a Minor**" shall be issued by the Clerk of the Court, Probate Registrar,

SUBJECT TO THE FOLLOWING RESTRICTIONS:

4. RESTRICTED ACCOUNT: Funds shall be deposited into an interest bearing, federally insured restricted account at a financial institution engaged in business in Arizona. The account should be titled: "**The Estate of** (name of minor), **a Minor, by** (name of conservator), **Conservator.**"

No withdrawals of principal or interest may be made without certified order of the superior court. Unless otherwise ordered by the court, reinvestment may be made without further court order so long as funds remain insured and restricted in this institution at this branch. (Arizona Rules of Probate Procedure, (A.R.P.P.) Rule 22 (C) 2).

The Conservator may only hold funds in a depository which agrees to be bound by the terms of this Order and to make written proof of its agreement to be bound, including such proof of the account, the account number, the amount of the deposit, the notarized signature of the depository branch manager, and the agreement not to permit any withdrawal unless it is first provided with a certified copy of this Court's order permitting the withdrawal.

The following funds/accounts shall be restricted:

a. THE PERSON RESPONSIBLE for establishing the restricted account(s) and filing the proof required within 30 days of this order is:

- the Conservator the Attorney for Conservator
 the Attorney for the minor the Attorney for the insurance company

b. ESTABLISHING AN ANNUITY CONTRACT: The conservator and/or counsel shall file with the Court proof of purchase of the annuity in the form of a copy of the annuity contract and proof of the carrier's agreement to abide by the terms of this Order within **thirty (30) days.**

5. **RESTRICTED REAL PROPERTY** (real estate/land): **No restricted realty** shall be leased for a period of more than one year, sold, encumbered or conveyed without prior court order.

The following property or properties shall be restricted:

PROOF OF RECORDED RESTRICTION: The Conservator is responsible for filing proof of recorded restriction with the Court within 30 days of this Order.

6. **ACCEPTANCE OF LETTERS:** The Guardian-Conservator shall sign the **“Acceptance of the Letters”** under oath or by affirmation, and file the **Acceptance** with the Clerk of the Court, Probate Registrar.

7. **INVENTORY and CREDIT REPORT:**

- Within **90** calendar days of this date, the Conservator must prepare and file with the Clerk of the Court a **detailed inventory** of the protected person’s assets indicating fair market value, as required by A.R.S. § 14-5418, and **attach to the inventory a copy of the protected person’s credit report that is dated within ninety days before the filing of the inventory.**

OR

- “Inventory” and Credit Report are waived** and are **not** required to be filed with the court.

8. **ESTATE BUDGET:**

Within **90** calendar days of the appointment date, the Conservator must prepare and file with the Clerk of the Court a detailed budget for the current year. A new budget must be prepared and filed with the Annual Accounting for each year thereafter. (A.R.P.P. Rule 30.3)

9. **STATEMENT OF SUSTAINABILITY:**

Within **90** calendar days of the appointment date, the Conservator must provide the court with an estimate as to whether the assets available to the Conservator are enough to meet the expenses of the protected person for the duration of time the protected person is expected to need care or fiduciary services. (A.R.P.P. Rule 30.2)

10. **ANNUAL ACCOUNTING OF CONSERVATOR:**

- The Conservator shall report to the Court on the administration of the protected person’s property by filing an annual accounting, and petitioning the court for approval of the accounting on or before the anniversary date of qualifying as conservator (the date the Letters of Appointment were issued). (A.R.S. § 14-5419) **OR**

- Annual Accounting is waived** and is not required to be filed with the court

11. **ANNUAL REPORT OF GUARDIAN:** The Guardian shall report to the Court on the status of the incapacitated person and the need to continue the guardianship at least annually on the anniversary date of the appointment, by filing the required form with the Clerk of the Court. (A.R.S. § 14-5315)

- 12. **NOTIFY THE COURT:** The Guardian-Conservator shall notify the Court in writing:
 - a. within **10 days** of a change of his or her own address;
 - b. within **3 days** of a change of a change of address of a protected minor;
 - c. within **10 days** of learning of the death of a protected minor.

- 13. **OTHER DUTIES UNDER LAW:** The duties of the Guardian and Conservator as required by Arizona law and as set forth in this Order and the Order of Instructions shall continue until discharged from these duties by order of this court.

- 14. **DISCHARGE OF ATTORNEY:** The court-appointed attorney is discharged or is not discharged from further duties in this matter, the Court having found that the best interests of the protected person/incapacitated person require continuing representation by an attorney.

DONE IN OPEN COURT: _____

JUDGE/COMMISSIONER **Pro Tem**

JUDGE/COMMISSIONER (Printed Name)

Your Name: _____
Your Address: _____
Your City, State, Zip Code: _____
Your Telephone Number: _____
Representing Self or Attorney for _____
Attorney Bar Number (if applicable): _____



FOR CLERK'S USE ONLY

SUPERIOR COURT OF ARIZONA IN MARICOPA COUNTY

In the Matter of _____ Case Number: PB _____

the Guardianship Conservatorship of

_____ Adult Minor

LETTERS OF APPOINTMENT AS PERMANENT

- GUARDIAN
- CONSERVATOR
- GUARDIAN AND CONSERVATOR
AND ACCEPTANCE OF LETTERS

ISSUANCE OF LETTERS:

1. **This person is appointed:** (name) _____ as
 guardian, conservator, or guardian and conservator for the abovecaptioned adult or minor.

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

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

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

5. MENTAL HEALTH CARE:

OUTPATIENT MENTAL HEALTH CARE. The Guardian has the authority to consent for the Ward/Incapacitated Person to receive outpatient mental health care and treatment.

INPATIENT MENTAL HEALTH CARE. The Guardian has the authority to place the ward in a level one behavioral health facility for inpatient mental health care and treatment. This authority expires on _____ (date).

6. DRIVING PRIVILEGES.

- The Ward/Incapacitated Person's right to obtain or retain a driver's license is suspended. OR
- The Ward/Incapacitated Person's right to obtain or retain a driver's license is **not** suspended.

WITNESS: _____

CLERK OF THE SUPERIOR COURT

SEAL By _____

Deputy Clerk
Case No. _____

ACCEPTANCE OF LETTERS OF APPOINTMENT

State of Arizona)
Maricopa County) ss.

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

Signature of Person to be Appointed Guardian

Signed, sworn to or affirmed before me this date: _____

Notary

Michael K. Jeanes, Clerk of Superior Court

OR

My commission expires: _____

By: _____
Deputy Clerk of Court