

SUPERIOR COURT OF ARIZONA IN MARICOPA COUNTY

**In the Matter of the Guardianship
and Conservatorship of**

Case Number: _____

ORDER TO GUARDIAN(S) AND CONSERVATOR(S) AND ACKNOWLEDGMENT

an Adult or a Minor

The welfare and best interest of the person named above ("your protected person and your ward") are matters of great concern to this Court. By accepting appointment as guardian and/or conservator 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 because it relates to your duties as guardian of your ward and conservator of your protected person, as follows:

GUARDIAN(S):

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 without unreasonable 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 that 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, but you may not place your ward in a level one behavioral health facility against your ward's will unless the Court specifically has authorized you to consent to such placement.

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 \$10,000.00 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 education needs;
 - 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. 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.
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.
11. 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. If your ward dies, you shall notify the Court in writing of the ward's death within ten (10) days of learning that the ward has died.
12. 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, you will not be discharged from your responsibilities until you have obtained an order from this Court discharging you.

13. 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.
14. If you have any questions about the meaning of this order or 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.
15. If you are not a certified fiduciary and are not related by blood or marriage to the ward, you are not entitled to compensation for your services as the ward's guardian and conservator. See A.R.S. §14-561(J)(1).

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.
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.
4. 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.

THIS IS ONLY AN OUTLINE OF **SOME** OF YOUR DUTIES AS GUARDIAN(S) AND CONSERVATOR(S). 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.

CONSERVATOR(S): (continues on pages following)

CONSERVATOR(S):

1. Immediately locate, identify and inventory all of the assets of the protected person and make proper arrangements for their protection, such as changing the locks on the house, renting a safe deposit box for important documents, etc.
2. Immediately begin to take title to all of the protected person's property. The property should be titled in the name of the conservatorship: "(Your name) as Conservator(s) of the estate of (Protected Person's Name), or (Protected Person's name by your name), Conservator." Unless otherwise ordered by the Court, do not put the protected person's funds into joint accounts, trust accounts ("in trust for"), or payable on death (POD) accounts. Do not list yourself as beneficiary on any bank accounts or other assets belonging to the protected person.
3. If the Court has ordered you to place funds in a restricted account, you must immediately file a receipt from the bank or financial institution showing that you have deposited the money in an account which the bank has restricted in accordance with the Court order. The receipt should include the name and address of the financial institution, the type of account, the account number and the amount deposited.
4. Record certified copies of your Letters of Conservatorship with the County Recorder in each county where the protected person owns property in order to protect title to those properties. If the protected person owns property in another state, record letters in the county in that state in which the property is located as well.
5. File your formal Inventory with the Court no more than 90 days after your appointment as conservator, whether permanent or temporary, were first issued. If you are filing it without an attorney, be sure to put the case name and number on all papers you file with the Court.
6. Keep detailed records of all receipts and expenditures you make on behalf of the protected person, including bills, receipts, bank statements, tax returns, bills of sale, promissory notes, etc. Open a separate conservatorship checking account for deposit of your protected person's income and other receipts, and payment of all bills and expenses. Avoid dealing in cash and do not write checks to "cash."
7. Establish a budget, pay the protected person's debts when they become due, and properly invest the protected person's assets. You may hire accountants, attorneys and other advisors to help you carry out your duties as the size and the extent of the conservatorship estate may dictate.
8. Keep detailed records of the time you are spending in identifying, managing and protecting the conservatorship estate in case you later decide to ask the Court to be paid for your time from the conservatorship estate.

- 9. File annual accountings with the Court.** Unless otherwise ordered by the Court, your first accounting must reflect all activity relating to the conservatorship from the date your letters of conservator, whether temporary or permanent, were first issued through and including the last day of the ninth month after the date your letters of permanent conservator were issued and must be filed with the court on or before the first anniversary date of the issuance of your letters of permanent conservator.

Unless otherwise ordered by the Court, all subsequent accountings shall reflect all activity relating to the conservatorship estate from the ending date of the most recent previously filed accounting through and including the last date of the twelfth month thereafter, and must be filed with the court on or before the anniversary date of the issuance of your letters of permanent conservator.

Each accounting must list all conservatorship property at the beginning of the accounting period and the conservatorship property at the end of the accounting period, and must describe all money and property received or disbursed by you during the accounting period. As to money and property received, you must provide the date of each receipt, the source of the receipt, the purpose of the receipt, and the amount of the receipt. As to money and property disbursed, you must provide the date of each disbursement, who the money went to, the purpose of the disbursement, and the amount of the disbursement. With each accounting, you also must submit a bank statement or financial account statement that supports the ending balances of each account shown on the accounting.

- 10. NEVER** use any of the protected person's money or property for any reason other than the protected person's direct benefit. You may not profit in any way from access to the protected person's assets. You have a legal duty of fairness and impartiality to the protected person. Neither you, your friends, nor other family members may profit by dealing in the assets of the conservatorship estate. You must be cautious and prudent in investing the protected person's assets.
- 11.** You must not make speculative investments. Do not purchase merchandise or services which the protected person would have considered extravagant or inappropriate for his/her lifestyle prior to your appointment. Use the assets to maintain the safety, health and comfort of the protected person, bearing in mind that the protected person may have no additional sources of income for the remainder of his/her life.
- 12.** 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 protected person, or another interested person files a petition requesting the conservatorship be terminated. If the protected person is a minor, such a 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 protected person, whichever occurs first. If the protected person is an adult, such a petition should be filed if the protected person no longer needs a conservator (either because the protected person's disability has ceased or because the conservatorship estate has been exhausted) or after the protected person dies. Unless otherwise ordered by the court or unless, in the case of the protected person's death, you comply with A.R.S. §14-5419(F), you will need to file a final accounting with the court before you can be discharged of liability in connection with the conservatorship and before your bond is exonerated.

- 13. If you have any questions as to your duties as a conservator, contact an attorney who handles conservatorships **before** taking any action.
- 14. If you are not a licensed fiduciary and are not related by blood or marriage to the protected person, you are not entitled to compensation for your services as the ward's conservator. See A.R.S. §14-5651(J)(1).

THIS IS ONLY AN OUTLINE OF **SOME** OF YOUR DUTIES AS 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, 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(S) AND CONSERVATOR(S).

Signature of Guardian and Conservator

Date Signed

Signature of Guardian and Conservator

Date Signed