## Jackson County Probate Court

312 S. Jackson St. Jackson, MI 49201 Phone: 517-788-4290 Fax: 517-788-4291

Diane M. Rappleye Probate Judge Bruce W. Crews Probate Register

Julie A. Kelley Chief Deputy Probate Register Evelyn Meerman Deputy Probate Register

## Instructions for Petition for Conservatorship of a Legally Incapacitated Adult

Completed paperwork must be legible and typed or written in ink. The Court is required by law to refuse any paperwork that is not legible.

A guardian has authority over the well-being of an individual. This may include residential or medical decisions, among others. A conservator has authority over a person's finances. Use this packet if you are seeking conservatorship ONLY.

## **Temporary Conservatorship**

The Court has no authority to appoint a temporary conservator in these circumstances. However, there may be rare circumstances where there is an emergency and authority is needed to protect the assets of the individual over the 3-5 weeks it takes to get a hearing. In that event, you may request a preliminary protective order. This is done by filling out number 12 on the Petition for Appointment of Conservator.

## Guardian ad Litem

A Guardian ad Litem (GAL) is appointed on behalf of the individual you are seeking conservatorship over. The GAL is an attorney, and it is his/her responsibility to visit the individual. While there, the GAL will explain to the individual the meaning of conservatorship, the process, and the individual's rights. At the hearing, the GAL will report to the Court on whether a conservatorship is appropriate. There is a \$125 fee (plus mileage if appropriate) for the GAL. At the hearing, the judge will determine who is responsible for paying this fee (this may include the County if no one involved can afford the fee).

## Fees

- Filing Fee \$150.00
- Certified Copies of Letters of Authority (optional) \$10.00 per certification and \$1.00 per page (usually totals \$11.00 per certified copy)
- GAL Fee \$125
  - o The judge will determine who is responsible for this fee at the hearing.

Fees cannot be returned if your petition is denied.

### Forms

Below, you will find specific instructions for each form contained in the packet.

- 1. Petition for Appointment of Conservator (PC 639): Complete the entire form. If you are requesting a preliminary protective order, please be as specific as you can about what emergency exits that requires the appointment of such an order. If you need additional space, you may attach an additional page. A more detailed instruction sheet for this form follows the form in the packet.
- 2. What You Need to Know Before Filing a Petition to Appoint a Conservator (PC 667): This informational packet is prepared by the State Court Administrator's Office. It contains frequently asked questions and answers about obtaining conservatorship. You should read this packet carefully.
- 3. <u>Fiduciary Proof of Identity</u>: Complete this form with all requested information. The information required is the proposed conservator's information. You must attach to the form a clear photo copy of the proposed conservator's driver's license. Even if the proposed conservator is eligible for appointment, Letters of Authority will not be issued unless this form is filed with the Court. This document is only used by the Court. It is not made available to the public.
- 4. Report of Physician or Mental Health Professional (PC 630): This form must be completed by a physician or mental health professional. Do NOT fill out this form yourself. It is best to file this form when you file the petition, but it must be in no later than 5 days before your hearing. Please note that if you already have a medical report, this form must be used in addition to that report.
  - Mental health professional means an individual who is trained and experienced in the area of mental illness or developmental disability and includes Michigan-licensed doctors, psychologists, registered nurses, physicians assistants, licensed professional counselors, and certified social workers. A social worker must be a licensed master's social worker to meet the mental health professional standard.
- 5. <u>Notice of Hearing (PC 562)</u>: Complete as much of this form as possible. Do not write in the date or time of the hearing, or the identity of the judge. This information will be provided when you file your documents with the Court.
- 6. <u>Notice of Rights to Alleged Incapacitated Individual (PC 625)</u>: This form must be provided to the individual you are seeking guardianship and conservatorship over.

7. <u>Proof of Service (PC 564)</u>: After all paperwork has been filed with the Court you are responsible for making copies of all documents filed with the Court (not including the Fiduciary Proof of Identity) and serving them on all of the interested parties. Service must be completed at least 14 days before the scheduled hearing if served by mail, or at least 7 days before the hearing if personally served.

After serving all of the interested parties, you must indicate on this form who was served, how they were served, and when they were served. The form is then filed with the Court. Failure to file the Proof of Service may result in dismissal or adjournment of your case.

Approved, SCAO JIS CODE: CSR STATE OF MICHIGAN FILE NO. **PETITION FOR** PROBATE COURT ☐ APPOINTMENT OF CONSERVATOR COUNTY OF JACKSON ☐ PROTECTIVE ORDER Estate of Individual alleged to need protection Last four digits of SSN , am interested in this matter and make this petition as State interest/relationship , resides in County C 2. The individual was born Address and has property in County. City, state, zip D 🗔 3. An action within the jurisdiction of the family division of circuit court involving the family or family members of the above individual has been previously filed in \_\_\_\_\_\_ Court, Case Number \_\_\_\_\_, was , and  $\square$  remains  $\square$  is no longer pending. assigned to Judge E 4. The individual has a power of attorney. (Specify name and address below.) a guardian. (Specify name and address below.) a representative payee for social security. (Specify name and address below.) Name and address The individual is an adult unable to manage his/her property and business affairs effectively because of mental illness chronic use of drugs detention by a foreign power ☐ disappearance mental deficiency ☐ chronic intoxication physical illness or disability confinement and either the adult has property that will be wasted or dissipated unless proper management is provided, or the adult or his/her dependents are in need of money for support, care, and welfare, and protection is necessary to obtain or provide money. ☐ b. The adult petitioner is mentally competent but because of age or physical infirmity is unable to manage his/her property and affairs effectively, and recognizing the disability, requests appointment of a conservator. The individual is a minor who owns money or property that requires management or protection that cannot otherwise be provided. has or may have business affairs that may be jeopardized or prevented by minority. needs money for support and education, and that protection is necessary or desirable to obtain or provide money. ☐ d. I am the guardian of the ward and it is in the ward's best interests to sell or otherwise dispose of the ward's real property or interest in real property. G 6. The statements in item 5 are supported by the following facts: (Attach a separate sheet.)

Do not write below this line - For court use only

USE NOTE: If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form.

(SEE SECOND PAGE)

	dual to be protected ha		-	d at: \$	\$	
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				rom governmental age 	ncies: ninistration \$	, claimaı \$
9. The individed a spour child(red) descer if no child if none	dual to be protected has se whose name and ac en) whose name(s) and dants of deceased chil ild(ren) or descendants of the above, presump	s ddress are listed below daddress(es) are liste ld(ren) whose name(s s of deceased child(re otive heirs whose name	w. d below. d) and addi en), parent ne(s) and a	ress(es) are listed belo s whose name(s) and a ddress(es) are listed b	w. address(es) are listed be	elow.
NAME	<u> </u>	ADDRESS AND TE	ELEPHON	E NUMBER	RELATIONSHIP	AGE/DOB (if minor)
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	City	State	Zip	Telephone no.		
	Street addre	ss	•			
	City	State	Zip	Telephone no.		
10. None of th	e persons named abov	ve are under any lega	l incapacit	y except		
	Name, address, and telep	phone no.		, as coi	nservator of the estate to	o be protected
				tment of a conservator		·
 15. Enter a p	rotective order that pro	vides				
 ☐ 16. Appoint t	•	-	nority to se	ll or otherwise dispose	of the ward's real prope	erty or
of my informati	the penalties of perjur on, knowledge, and be		s been exa	mined by me and that	its contents are true to t	he best
Attorney signatur	re			Date		
Attorney name (t	ype or print)	Ва	ır no.	Petitioner signature		
Attorney address	· · · · · · · · · · · · · · · · · · ·			Petitioner address		
City, state, zip		Telephone	e no.	City, state, zip		Telephone
☐ 17. <b>NOMINA</b>	TION BY PERSON TO	BE PROTECTED:	am 14 ye	ars of age or older. I n	ominate as my conserva	ator
Name, add	dress, and telephone no.					
Date				Signature of person to b	e protected	

## INSTRUCTIONS FOR COMPLETING "PETITION FOR APPOINTMENT OF CONSERVATOR"

Please type or print neatly in black or blue ink. Items A through S must be read and filled in (when required) before your petition can be filed with the court. Please read the instruction for each item. Then fill in the correct information for that item on the form.

A	Enter the name of the individual who you believe needs a conservator.
В	Enter your name in the first line. Enter your relationship to the individual (or your interest) in the second line.
C	Enter the date the individual was born: what county the individual is a resident of: the address of the place where the individual normally lives, and the county the individual's property is in.
D	Check this box if there is or has been a case in the family division of the circuit court involving the individual in $\boxed{\mathbf{A}}$ . Examples of a family division case are personal protection, abuse or neglect, or a name change. If you have checked this box, enter the name of the court, the case number of the action, the name of the judge assigned to that case. Then place a check in the box indicating whether that case is still pending or not.
E	Check the boxes that apply and provide the name(s) and address(es). If the individual has a power of attorney and you have a copy of the document, make a copy for the court.
F	Check the boxes that you believe apply to the individual.
G	<b>Explain in</b> as much <b>detail</b> as possible the specific facts about the individual's conduct or condition that lead you to believe he or she needs a conservator. Give specific examples of his or her conduct that supports what you checked in F and that demonstrate the need for a conservator. <b>This information is extremely important for the court in making a decision about the need to appoint a conservator. If you are the guardian asking for authority to sell or otherwise dispose of your ward's real property, state the reasons why it is in the ward's best interest to do so.</b>
Н	Specify the approximate value of any real property, personal property, insurance, and monthly income of the individual. An example of real property is a house. Examples of personal property are home furnishings, bank accounts, and checking accounts.
I	Check whether the individual is currently receiving benefits from governmental agencies and the amount(s).
J - K	Check all the boxes that apply and enter the names, relationships, addresses and telephone numbers of each relative of the individual. If any of the adults named in $\frak{J}$ are under legal incapacity, enter the names in $\frak{K}$ . If you check the last box in $\frak{J}$ (item 9), you must notify the Attorney General by sending a copy of this form to: Attorney General, Public Administration, PO Box 30755, Lansing, Michigan 48909.
L	Enter the address and telephone number where the individual is currently located. This address and telephone number may or may not be the home of the individual. For example, if the individual is currently in the hospital, enter the name, address, and telephone number of the hospital.
M	If there is an emergency that requires that a preliminary protective order be entered before the hearing, check the box and state the reason(s).
N	Enter the name, address, and telephone number of the person you want to be appointed as conservator of the individual. Enter the relationship, if any, that this person has to the individual. If you are the guardian asking for authority to sell or otherwise dispose of your ward's real property, leave this blank and complete $\boxed{\mathbb{Q}}$ .
0	Check this box only if you checked M.
P	Check this box if you want the individual's property protected but you do not want a conservator appointed.
Q	Check this box if you want the guardian appointed special conservator to dispose of real property.
R	Enter today's date, sign your name, and enter your address and telephone number.
S	If the individual wants to nominate someone to be the conservator, check the box and enter the name, address, and telephone number of the person the individual is nominating. The individual must sign and date the form.

## WHAT YOU NEED TO KNOW BEFORE

## FILING A PETITION TO

## APPOINT A CONSERVATOR

## » What is a conservator?

A conservator is a person appointed by a probate court and given power and responsibility for the estate (financial assets and property) of an adult (called a *protected individual*).

## »» What is a guardian?

A guardian is a person appointed by a probate court and given power and responsibility to make certain decisions about the care of another individual. These decisions might include treatment decisions or where the individual should live. If the individual has a reduced life expectancy due to advanced illness, the guardian may have the power to make an informed decision on behalf of the individual regarding receiving, continuing, discontinuing, or refusing medical treatment. A full guardian can make all decisions for the individual. A limited guardian can only make decisions for the individual that the court allows.

## »» When would a conservator be needed?

A conservator may be needed when the individual is unable to manage his or her property and financial affairs effectively because of certain reasons and:

- he or she has property that will be wasted or used up unless proper management is provided; or
- funds are needed for the support, care, and welfare of the adult and any of his or her dependents.

A mentally competent adult who, because of age or physical limitation, may voluntarily petition the

court himself or herself for the appointment of a conservator to assist in managing his/her estate.

Some of the reasons that might prevent the individual from being able to manage his or her property and financial affairs are:

- mental illness or deficiency;
- 2) physical illness or disability;
- 3) chronic use of alcohol /other intoxicants;
  - 4) confinement;
- 5) detention by a foreign power; or
  - 6) disappearance.

# »» Is a conservator needed for an individual who cannot manage his or her property or financial affairs effectively?

A conservator might not be necessary if someone else already has legal authority (an individual with power of attorney, for example) to make decisions about the individual's estate and there are no problems with the decisions being made.

# »» How is a proceeding for a conservator started?

Any person who is interested in the individual's welfare may complete a Petition for Appointment of Conservator (form PC 639) and file it, along with the filing fee, with the probate court.

## »» Is a lawyer necessary?

No, but a lawyer can be helpful, especially if any interested person opposes the appointment of a conservator.

# »» Can mediation be used for disagreements about a conservator?

Certain disagreements about a request for a guardian may be mediated outside the court if all parties agree to attend mediation or if a judge order parties to attend mediation. The court clerk can tell you if

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PC 667 (11/02)

mediation services are available in your court.

# »» What happens when the court accepts the petition for filing?

After the petition is accepted for filing, the court will appoint a guardian ad litem to represent the individual in the court proceeding unless the individual has his or her own lawyer or unless a mentally competent adult voluntarily requests the appointment.

It is important for you to cooperate with the guardian ad litem. The guardian ad litem does not have the authority to make decisions for the individual. The individual may have to pay for the guardian ad litem.

If necessary, the court may also order the individual to be examined by a physician or a mental health professional. The court may also send someone (called a visitor) to interview the individual. The visitor may be the guardian ad litem or a court officer or court employee.

## »» Can the individual get a conservator immediately in an emergency?

If the court believes an individual's estate requires immediate protection before appointing a conservator, the court may issue a preliminary protective order. This order may involve the appointment of a special conservator. The order will authorize specific acts that provide for immediate protection of the individual's assets.

## FIDUCIARY PROOF OF IDENTITY

(To be completed by all fiduciaries)

## PLEASE TYPE OR PRINT LEGIBLY

File Name:	File No.				
Full Name of Fiduciary	DOB DL#				
Home Address Own Rent	Home Phone (including area code)				
City/State/ZIP	Work Phone (including area code)				
YOU MUST ATTACH A LEGIBLE CO	OPY OF YOUR DRIVER'S LICENSE				
Occupation	Work Address				
Employer Name	City/State/ZIP				
Banking Institution	Address of Bank Branch				
Banking Institution	Address of Bank Branch				
Personal Reference:					
Name	Address				
Phone (including area code)	City/State/ZIP				
This document is for Court use only and will N	NOT be part of the public record.				
JCPC Fiduciary Proof of Identity (1/14)					

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## STATE OF MICHIGAN PROBATE COURT COUNTY OF JACKSON

## REPORT OF PHYSICIAN OR MENTAL HEALTH PROFESSIONAL

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In 1	the matter of				, alleged incapac	citated individual
1.	I am a licensed	physician.	mental health p	rofessional.	My specialty is	
2.	I last examined the	individual on			if any	
3.	Based on that exam	nination and his/her me	edical record the individua	al suffers from th	e following physical or psycholog	gical infirmities:
4.	These infirmities into	erfere in the following	ways with the individual's	s ability to receiv	e or evaluate information in mak	king decisions:
5.	-	st of all medications th upon the individual's	-	the dosage of ea	ach medication, and a descriptio	n of the effects
6.	I believed the individend the check all that apply	determining w		☐ handlii	make informed decisions in the fing personal financial affairs.	-
<ul> <li>7. The prognosis for improvement in the individual's conditions is  My recommendation for the most appropriate rehabilitation plan is attached.</li> <li>  8. Further comments may be attached on a separate sheet.</li> </ul>						
Dat	te					
Sig	nature			Address		
	me (type or print)  E NOTE: If this form is	being filed in the circuit of	court family division, please e	City, state, zip	ne and county in the upper left-hand o	Telephone no.

Do not write below this line - For court use only

Approved, SCAO JIS CODE: NOH FILE NO. **STATE OF MICHIGAN** PROBATE COURT NOTICE OF HEARING **COUNTY OF JACKSON** In the matter of **TAKE NOTICE:** A hearing will be held on Date before Judge \_\_\_\_ at 312 S. Jackson St., Jackson, MI 49201 Bar no. Location for the following purpose(s): (state the nature of the hearing) If you require special accommodations to use the court because of a disability, or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements. Date Attorney name Bar no Petitioner name Address Address City, state, zip City, state, zip Telephone no. Telephone no. USE NOTE TO COURT: If this hearing is for a guardianship matter involving an Indian child as defined in MCR 3.002(5), you must comply with MCR 5.109(2). USE NOTE: If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form. Do not write below this line - For court use only

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STATE OF MICHIGAN PROBATE COURT COUNTY OF JACKSON

## NOTICE OF RIGHTS TO ALLEGED INCAPACITATED INDIVIDUAL

FILE NO.

Court address 312 S. Jackson St., Jackson, MI 49201 Court telephone no. 517-788-4290

**Notice that a Petition for a Guardian has been Filed:** A petition has been filed in this court asking that a guardian be appointed to help you make personal decisions for you that you now make for yourself.

- If a guardian is appointed for you, the guardian will make decisions for you, such as what medical care you receive and where you live.
- A guardian will be responsible to get services for you that will help you return to managing your own affairs as soon as possible.
- This notice states all of your rights as to this matter. A guardian ad litem may be appointed by the court to more fully explain these rights to you. A guardian ad litem will give you this notice and do the following.
  - The guardian ad litem must visit you in person.
  - The guardian ad litem must explain the nature, purpose, and legal effects of the appointment of a guardian.
  - The guardian ad litem must inform you that a guardian has the power to execute a do-not-resuscitate order on your behalf and to place a do-not-resuscitate identification bracelet on you unless you object. The guardian ad litem must also inform you that you may ask the court to review a do-not-resuscitate order that has been executed on your behalf.
  - The guardian ad litem must explain your rights about the guardianship hearing.
  - The guardian ad litem must inform you that you can object to the petition, request limits on the guardian's powers, object to a particular person being appointed as your guardian, come to the hearing, and be represented by an attorney and, if you cannot afford an attorney, to have one appointed at public expense.

### You have certain rights before and at the court hearing on the petition to appoint a guardian for you.

- You have the right to have the guardianship case started and conducted where you reside or are
  present, or if you have been admitted to an institution by a court, in the county in which that court is
  located.
- You have the right to file a petition on your own behalf to have a guardian appointed for you.
- You have the right to be represented by an attorney. If you cannot afford an attorney, you can ask the court
  to appoint one for you at public expense.
- You have the right to have a guardian ad litem appointed to represent you if you are not represented by an attorney.
- You have the right to get an independent evaluation of your condition at your own expense. If you cannot afford to pay for the evaluation, the court will approve reasonable costs at public expense.
- You have the right to be present at the hearing. If you wish to be present at the hearing, all practical steps
  must be taken to ensure your presence, including moving the site of the hearing.
- You have the right to see and hear all the evidence presented during the hearing.

See other side for more rights

- You have the right to present evidence and cross-examine witnesses at the hearing.
- You have the right to a trial by jury.
- You have the right to request that the hearing be closed to the public.
- You have the right to be personally visited by the guardian ad litem, if one is appointed.
- You have the right to be informed of the name of each person asking to become your guardian. If a guardian
  ad litem is appointed, you have the right to be informed of these names by the guardian ad litem.
- You have the right to be given written notice of the nature, purpose, and legal effects of the appointment of a quardian.
- You have the right to choose the guardian you would like the court to consider appointing, if that person is suitable and willing to serve.
- You have the right to have your incapacity and the need for a guardian proven by clear and convincing evidence.

### Rights When a Guardian is Appointed: You have certain rights after a guardian is appointed.

- You have the right have the guardian's powers and the time period of the guardianship be limited to only the amount and time necessary.
- You have the right to have a guardianship that encourages the development of your maximum self-reliance and independence.
- You have the right to prevent a guardian from having powers that are already held by a valid patient advocate.
- You have the right to have a periodic review of your guardianship by the court. You have the right to a hearing
  and to have an attorney appointed if issues are discovered during the review.
- You have the right to send an informal letter to the judge asking that your guardianship be modified or ended.
- You have the right to have a hearing within 28 days of requesting a review, modification, or termination of your guardianship.
- If a petition to modify or terminate your guardianship is filed, you have the same rights as those on the petition to appoint a guardian, including appointment of a guardian ad litem.
- You have the right to get personal notice of a petition to appoint or remove a guardian.
- You have the right to consult with the guardian about major decisions affecting you, if meaningful conversation is possible.
- You have the right to be visited by your guardian at least once every three months.
- You have the right to have the guardian notify the court within 14 days of a change in your residence.
- You have the right to have the guardian secure services to restore you to the best possible state of mental and physical well-being so you can return at the earliest possible time to managing your own affairs.

## Contact the court if you have any questions.

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STATE OF MICHIG PROBATE COURT COUNTY OF JACK			PROOF OF SEF	RVICE	FILE NO.
In the matter of					
1. Titles of the pape	ers served or r	mailed <sup>.</sup>			
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Name		Complete a	address of service		Date and Time
			en unable to find ned are copies o		following interested persons. I have
I declare under the part to the best of my inf	•			is been examir	ned by me and that its contents are true
Service fee	Miles traveled	Fee	]	Date	
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Incorrect address fee	Miles traveled	Fee	TOTAL FEE	Signature	
\$		\$	\$	Name (Type o	or Print)
USE NOTE: If this form is	being filed in the	circuit court family divi	sion, please enter the		unty in the upper left-hand corner of the form.

Do not write below this line - For court use only