

Name of Attorney:
Attorney at Law
Address:
Street, City, Zip Code:
Telephone Number:

SUPERIOR COURT OF ARIZONA, PIMA COUNTY

In the Matter of the Guardianship and
Conservatorship of:

NO.

**GENERAL ORDER TO GUARDIAN OF
AND CONSERVATOR FOR AN
INCAPACITATED AND PROTECTED
PERSON, AND ACKNOWLEDGMENT**

Date of Birth:

An Adult or A Minor

The welfare and best interest of the ward 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. 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 as it relates to your duties as guardian of and conservator for the person named above, as follows:

GUARDIANS AND CONSERVATORS:

Address changes: pursuant to Pima County Local Rule 9.1(e)(2), during the term of your appointment, you must immediately notify the Court in writing of any change of address.

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. 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 \$5000.00 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 monies you receive for your ward's current support, care, and educational 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 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 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. If your ward is an adult, 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. 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 not 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 or your 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 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 and/or conservator, you should consult an attorney or petition the Court for instructions.
14. If now or in the future, you become guardian for more than two persons who are not related to you by blood, 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 person named above, the following additional duties and obligations apply:

15. 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.
16. 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 are 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.
17. **YOUR AUTHORITY TO ADMIT YOUR 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 the Evaluation Report at least 30 days prior to the expiration date of your authority.

Your 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 take place outside a level one behavioral health facility licensed by the Department of Health Services.

CONSERVATORS:

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. File your formal Inventory with the Court no more than 90 days after your appointment as conservator. 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. You must disclose on the inventory if any assets are held in joint tenancy, in trust for, or designated as payable on death to a third party, without disclosing the name of the third party.

When accounts are transferred into your name as conservator, any joint tenancy accounts, accounts in trust for a third party, and payable on death accounts should be opened as payable on death accounts payable to the third party or parties as named on the accounts at the time of your appointment. In paying expenses for the protected person, the conservator shall pay expenses out of accounts in such a manner that the protected person's estate plan (through will or ownership and beneficiary designation) is preserved to the extent possible.

The inventory should also include the information requested in paragraph five below. If you have any questions about payment of expenses out of any particular account or how cash should be designated, you should petition the Court for instructions.

3. Immediately begin to transfer the protected person's property into the name of "The Conservatorship of (name of protected person), by your name as Conservator." Do not list yourself or any other person as beneficiary on any bank accounts or other assets belonging to the protected person unless you or that other person was named as such on the protected person's accounts at the time of your appointment.

4. Keep detailed records of all income received and expenditures made on behalf of the protected person, including original 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 his/her bills and expenses. Avoid dealing in cash.
5. Keeping in mind the protected person's right of confidentiality, you should make a reasonable effort to locate any estate planning documents executed by the protected person, i.e., Wills, trusts, beneficiary designation forms, bank statements or brokerage statements indicating joint tenancy designations or possible payable on death designations, and file a summary information sheet with the court regarding those documents, copying the court-appointed counsel, including a description of the document, the date of the document and where the document is located. The summary information sheet shall only include a description of the document, the date of the document, and the location of the document. This information shall be included on the Inventory referred to in Paragraph 2 above.
6. If you become aware that the protected person has executed any estate planning documents subsequent to the date of this order, you shall immediately notify the court in writing as well as the court-appointed counsel, if court-appointed counsel is still representing the protected person, delivering a copy of any said estate planning documents that are in your possession.
7. Establish a budget, pay the protected person's debts when they become due, and properly invest the protected person's assets in accordance with the Prudent Investor's Rule. 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. You may receive compensation for performing your duties as conservator. To receive compensation you must file a written request for court approval of your fees. Your petition must include a detailed record of time expended in performing these duties, including in detail the duties performed.
9. 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.
10. If the Court has ordered you to place funds in a restricted account, you must immediately file a Proof of Restricted Account form 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. If the financial institution the funds are placed with ever changes name, merges with another company, or is acquired by another company, a new Proof of Restricted Account must be filed with the Court.
11. File an annual accounting with the Court as directed (and in each subsequent year) showing everything the protected person owned when you were appointed; all sums and property received since your appointment itemized by date, source, purpose and amount; and all expenditures made since your appointment, itemized by date, payee, purpose and amount; and the balance on hand at the end of the accounting period.
12. **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 undivided loyalty 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.

13. 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.
14. The conservatorship funds shall not replace the parental obligation to support a minor protected person.
15. All conservatorships terminate on the death of the protected person, the depletion of his/her conservatorship estate or upon the minor protected person's reaching 18 years of age. Court proceedings and a final accounting are **required** before you can be discharged as conservator and your bond exonerated (canceled).
16. If you have any questions as to your duties as a conservator, contact an attorney who handles conservatorships **before** taking any action.

THIS IS ONLY AN OUTLINE OF **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, FINE, OR BOTH.

ACKNOWLEDGMENT: I ACKNOWLEDGE RECEIVING A COPY OF THIS ORDER AND I AGREE TO BE BOUND BY ITS PROVISIONS, WHETHER OR NOT I HAVE READ IT BEFORE SIGNING, AS LONG AS I AM GUARDIAN OF AND CONSERVATOR FOR THE PERSON NAMED ABOVE.

Signature of Guardian and Conservator

Date Signed

Signature of Judicial Officer

Date Signed