

GUARDIAN'S HANDBOOK



Judge Mark J. Bartolotta
Lake County Probate Court
Painesville, OH

www.lakecountyohio.org/probate



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I.

INTRODUCTION

- Using the Handbook
- What is a Guardian?
- Difference Between a Guardian and Conservator
- Difference Between a Guardian and a Durable Power of Attorney

A. Using the Handbook



"A guardian is an individual appointed by the Probate Court to protect, make decisions for, and act for a person in need of a guardian."

You have been appointed Guardian because someone - your parent, spouse, or some other relative or friend - needs help and you are willing to lend a hand. You are the guardian because you care about that person. This handbook has been written to help you carry out your duties. ***It is not a law book and should not be considered as legal authority. If you have questions about guardianship law, consult with an attorney.***

B. What is a Guardian?

A guardian is an individual appointed by the Probate Court to protect, make decisions for, and act for a person in need of a guardian. The person who needs a guardian is known as a ward.



"The person who needs a guardian is known as a ward."

A guardian of an adult ward receives Letters of Guardianship to act as guardian after the Probate Court has determined at hearing that:

1. the proposed ward is incompetent, that is, "so mentally impaired that he is incapable of taking proper care of himself or his property"; and
2. the proposed guardian is a suitable person for appointment as guardian.

C. Difference Between a Guardian and a Conservator

A guardian and a conservator may be distinguished by the fact that a conservatee (the person subject to conservatorship) must be mentally competent but physically infirm, and *must consent to the need for a conservator*, while a ward *need not consent*, but must be found to be incompetent and in need of a guardian.

Unless limited by the conservatee, the powers and duties of a guardian and conservator are the same. Due to this lack of difference in powers or duties, for convenience, the remainder of this *handbook* *refers only to guardians*. However, when referring to guardians, unless noted otherwise, *the provision also applies to conservators*.

D. Difference Between a Guardian and a Durable Power of Attorney

A person who is competent may designate someone to be his power of attorney when he becomes incompetent. If a person is deemed incompetent, he cannot appoint a power of attorney and the court must appoint someone to serve as guardian. The Probate Court has no power over a Power of Attorney. If a guardian is appointed, the guardian may revoke the Power of Attorney.

II.

TYPES OF GUARDIANS

- Person Only
- Estate Only
- Person and Estate
- Limited

The appointment and other procedures pertaining to the following guardians are the same - the difference is the authority exercised, or type of decisions made, on behalf of the ward.

A. Person Only

A guardian of the *Person Only* makes decisions of a personal nature, and provides for the personal needs of a ward. Decisions such as the type of food, clothing, living arrangements, and medical treatment are examples.

B. Estate Only

A guardian of the *Estate Only* makes decisions of a financial nature, and manages the ward's estate. The ward's estate includes any real property, personal property, monies, etc. [Examples would be payment of bills, taxes, and investment of a ward's excess income.]

C. Person and Estate

Quite often, decisions of the person and estate overlap. Therefore, a guardian's job is more easily managed when one person is named as guardian of both the *Person and Estate*.

D. Limited

A *Limited Guardian* may be appointed to perform specific duties for either a definite or an indefinite period of time. In such cases, the guardian's authority is limited to those duties only, and the ward retains full control over all other aspects of his life.

III.

DUTIES OF GUARDIANS

Applies to All Guardians

- Make Decisions that are in the Ward's Best Interest
- Protect the Ward and the Ward's Interests
- Visit and Communicate with Ward
- Obey Orders of the Probate Court
- Report to the Probate Court
- Preserve the Ward's Will
- Receive Training

Applies to Guardian of Person

- Ensure the Ward's Personal Needs are Met

Applies to Guardian of Estate

- Manage the Ward's Estate

As a guardian, you have a challenging responsibility which involves a variety of duties. The source of those duties is found in Ohio law and the rules of the Probate Court. The following is a list of some of the guardian's most significant duties, and guidelines for carrying out those duties.

A. Make Decisions for a Ward that are in the Ward's Best Interest

Duties of
All



Guardians

Making decisions for a ward is a fundamental part of being a guardian. When making decisions for a ward or guardianship, a guardian should:



"Your ward cannot, or has limited ability to, protect his or her interests. That is one of the reasons for the guardianship."

1. Base the decision on what is in the best *interest of the ward*.
2. *Never* base the decision on reasons that are for the advantage or gain of the guardian or guardian's family. *Payments or transfer of assets of the guardianship to the guardian must have the prior approval of the Probate Court.* Transfer without Court approval may be considered theft, and reason for criminal prosecution of the guardian.
3. Depending on the capacity of your ward, allow the ward to make as many decisions as possible.
4. When making *major* decisions for a ward, either medical or financial, if possible, inform and discuss the decision with the ward and the ward's family.

B. Protect the Ward and the Ward's Interests

Duties of
All



Guardians

Your ward cannot, or has limited ability to, protect his or her interests. That is one of the reasons for the guardianship.

It is your duty to protect your ward, and ensure that the ward is not taken advantage of because of the ward's incapacity. This extends both to physical and financial protection of the ward and the ward's assets, including defending the ward's legal interests in litigation either for or against the ward.

C. Visit and Communicate with Your Ward



Without visiting or communicating with the ward, or someone who is in close contact with the ward, a guardian will not have the knowledge necessary to perform the duties and act as guardian.

Because ongoing contact and involvement is important to a successful guardianship, the guardian should have regular visits and/or communications with the ward.

See Appendix K for some helpful hints on visiting your ward.

D. Obey Orders of the Probate Court



The Probate Court is the superior guardian of a ward. As superior guardian, the Court delegates power over the ward to the guardian. The guardian has a duty and responsibility to the Court for the exercise and use of that power. To comply with that responsibility, the guardian *must* obey all Orders and rules of the Probate Court.

E. Report to the Probate Court as the Superior Guardian



A guardian must keep the Court informed as to the progress of the ward and guardianship. To fulfill that responsibility, a guardian must provide the Court, *on a timely basis*, all reports, accountings, and other required information necessary for the Court to monitor the guardianship.

Information a Guardian Must Report to Court

All Guardians:

Duties of
All



Guardians

1. Inform the Court of any major problems with the guardianship, such as abuse of the ward or theft of ward's property.

2. GUARDIAN'S REPORT - *due each year*

(See Appendix H for sample Report.)

3. Change of address or telephone for either the ward or the guardian.

Guardians of the Estate:

Duties of
Guardian



of Estate

4. INVENTORY - *due three months from date of appointment of guardian.*

(See Appendix B for sample Inventory.)

5. ACCOUNTING - *due each year not later than the anniversary of the date of appointment of the guardian, and when the guardian resigns or the guardianship is terminated.*

(See Appendix E for sample Accounting.)

Continuance:

For an extension of time to file a Report, Inventory, or Accounting, see Appendix I, Continuance.
Sample Form on Page 74.

F. Preserve the Ward's Will



The guardian has the duty to preserve the Will of the ward.

G. Receive Training as a Guardian



A well-informed guardian is a successful guardian. A guardian should strive to learn as much as possible about applicable guardianship procedures and duties.



"You will be required to attend a training session on accounting procedures."

H. Provide for the Ward's Personal Needs

Duties of Guardian



of Person

As guardian of the Person, you are responsible for the ward's personal needs. These needs include provisions for adequate and suitable:

1. **Living Arrangements**, including food, clothing, and shelter at a standard appropriate for the financial resources, or at a level to which the ward is accustomed. (See Appendix F, Living Arrangements.)
2. **Medical care**, including decisions for treatment and non-treatment. (See Appendix G, Medical Treatment.)
3. **Social stimulation and recreation** to ensure that the ward maintains a healthy mental attitude through outings, contact with family and friends, and recreational and educational opportunities.



"As guardian of the Person, you are responsible for the ward's personal needs."

I. Manage the Ward's Estate

Duties of Guardian



of Estate

A guardian of an estate must prudently safeguard the ward's assets and income. This duty includes payment of the expenses, taxes, and costs of the guardianship, such as bond premiums, attorney's and guardian's fees, and investment of excess income. When managing a ward's estate, the guardian must:

1. *Maintain legible and complete written records*

Maintain legible and complete written records of the ward's finances and all money received or spent.

2. *When required, obtain prior Court approval.*

Before using guardianship funds, paying guardian's or attorney's fees, selling the ward's property, investing, or making gifts from the ward's income or assets, the guardian *must* have the prior approval of the Court. (See Appendix C, Expending Funds-Gifts and Appendix D, Sale of Ward's Property.)

PRIOR COURT APPROVAL

- ☒ Any Expense
- ☒ Attorney Fees
- ☒ Guardian's Fees
- ☒ Investments
- ☒ Selling Property
- ☒ Making Gifts

3. *File tax returns.*

The guardian must file income tax returns for a ward, and pay any tax debts of the ward.

4. *Maintain separate Guardian's Bank Accounts.*

The ward's or guardianship funds must be kept separate from your own personal funds or monies. The guardian has a duty to place the ward's funds in guardianship accounts, either checking, savings, or both. See Appendix A, Collecting and Preserving Assets, for procedure to establish guardian's account.

5. *Obtain a Guardian's Bond*

Prior to being appointed guardian of the estate, the applicant must secure a bond. A bond is an insurance policy which protects the ward from any misuse of the assets. The bond amount will be set at the time of the hearing. The law requires that the bond amount be at least double the amount of the ward's personal property and income. Real property or personal property that is sequestered is not subject to bonding and may reduce the amount of the bond. Sequestering assets means that a special account is established which cannot be accessed without prior Court approval.

The Court will always require the posting of bond for a guardianship of the estate, even if all assets are exempt assets. This is called a minimum bond. Because the bond is a benefit to the guardian, the premiums paid to obtain the bond may be charged to the guardianship. The bond must be renewed annually. The amount of the bond can be changed upon the order of the Court. See also, Appendix A, Collecting and Preserving Assets - Increase Guardian's Bond.



"The guardian of the estate has a duty to safely invest the ward's funds."

6. *Prudently Invest the Guardianship Funds.*

The guardian of the estate has a duty to safely invest the ward's funds. The guardian may place the ward's funds in only those financial institutions and investments authorized by law. Check with an attorney or the Court as to which institutions are approved. Remember, prior approval must be obtained before investing. The guardian cannot speculate with the ward's funds, or personally benefit from the investment of the ward's assets. The law specifically prohibits "self dealing"; that is, you, as a guardian, cannot buy from, or sell to, yourself. (See Appendix D, Sale of Ward's Property - Self-Dealing - Selling to a Relative.)

7. *Follow Statutory Rules Before Making Gifts of Ward's Funds.*

Gifts may be made of a ward's property, but only when those gifts are made in compliance with Ohio law and prior Probate Court approval. (See Appendix C, Expending Funds-Gifts.)

8. *Sign all Contracts as Guardian to Avoid Personal Liability.*

Whenever a guardian signs a contract or bill for the ward, the words "guardian for" and the ward's name should be included next to the guardian's signature. By including the words "guardian for" and the ward's name, the guardian will not be personally liable for the ward's bills should the ward's assets be depleted. A guardian is, however, personally liable to account to his ward for any part of the ward's estate lost or wasted through failure of the guardian to exercise reasonable care.

9. *When Claiming Fees, Have Prior Court Approval.*

A guardian is entitled to be paid from the ward's estate for work performed for the ward's benefit. Court approval must be obtained before the guardian takes any compensation for performing his duties.

IV.

SEEKING HELP

- Attorney at Law
- Probate Court
- Community

When a guardian has a question or a problem, the following are suggested persons or organizations that may be of assistance.

A. Attorney at Law

Attorney fees may be paid from guardianship funds; however, the fees must first be approved by the Court.

B. Probate Court

The Probate Court has a number of court personnel who may be of help depending on the specific problem. However, the Court is not permitted to give legal advice.

V.

RIGHTS OF THE WARD

- Personal dignity and respect
- Contest the guardian's actions
- Be represented by an attorney of choice
- Question need for the guardianship
- Privacy
- Contest living arrangements
- Object to medical treatment
- Vote
- Drive
- Choose religious practice

Some of the important rights the ward has after a Guardian is appointed are:

THE RIGHT TO:

- A. Personal dignity and respect.
- B. Contest the actions of the guardian. The ward or interested parties can ask the Court to review the situation and decide upon the best course of action.
- C. Representation by an attorney of his or her choice. If the ward cannot afford an attorney, one will be appointed at county expense.

- D. Question the need for the guardianship and ask the Court to end or change the guardianship. (See Termination, Page 24.)
- E. Privacy. This includes the right to bodily privacy and the right to private and uncensored communication with others by mail and telephone. The ward also has the right to visit and maintain contact with anyone he chooses, unless such visits or communication are not in the ward's best interests.
- F. Contest the living arrangement that has been established for the ward. The goal of the guardian should be to maintain the ward in the most normal, least restrictive environment possible. (See Appendix F for information on providing living arrangements for a ward.)
- G. Object to medical treatment. A guardian of the person may authorize medical, health, or other professional services for the ward. The ward or an interested party may file objections with the Probate Court. (See Appendix G, Medical Treatment.)
- H. Vote. If there is a question about the ward's capacity to vote, and he or she wishes to do so, the Board of Elections should be contacted for guidance.



"If there is a question about the ward's capacity to drive, the guardian should consult with the ward's physician."

- I. Drive. If there is a question about the ward's capacity to drive, and he or she wishes to do so, the guardian should consult with the ward's physician. A physician may make a referral to the Bureau of Motor Vehicles requesting that an individual's license be re-evaluated or suspended due to their infirmities.
- J. Choose religious practice.

VI. TERMINATION OF THE GUARDIANSHIP*

Guardianship may be terminated by:

- *Death of a Ward*
- *Order of the Court*

A. Death of a Ward

If the ward dies, the guardian's authority ends. The guardian must, within 30 days, file a written notice of the death with the Court. The guardian does not have authority to pay bills or expend the ward's funds after his death. The final duty of the guardian is to give an account to the Court up to the date of the ward's death. The guardian has no further authority over the ward's estate except to safely keep and deliver the assets to whomever the Probate Court appoints to administer the ward's estate.

B. Order of the Court

1. **On Request of Guardian:**
The guardian should constantly evaluate the ward's condition. If at any time the guardian realizes, and a physician agrees, that the ward no longer needs the protection of a guardianship, the guardian should ask the Court to end the guardianship.
2. **On Request of Ward or Other Interested Party:**
120 days after the date of the guardian's appointment, and yearly thereafter, a written request for termination may be filed. If the ward states he is competent, the burden is on the guardian to prove that the ward is incompetent and that the guardianship is necessary

*NOTE: The procedure for termination of a conservatorship is different from that of a guardianship. Either an attorney or the Court should be consulted for information on termination of a conservatorship.

APPENDIX A

COLLECTING AND PRESERVING GUARDIANSHIP ASSETS

One of the most important functions of a Guardian of an estate is to collect and preserve the assets of the ward. The following are suggestions that may be helpful in collecting and preserving the ward's assets.

Use Letters of Guardianship

The Court has issued Letters of Guardianship which states that you are a guardian and have the power to collect and control the assets of your ward. As proof of your authority, Letters of Guardianship should be displayed when a question arises as to your power to receive, control or manage assets of your ward.

If you should lose, or need additional copies of, the Letters of Guardianship, you may request it from the Court.

Do Not Co-Mingle Your Assets with Ward's Assets

It is a breach of duty to co-mingle (mix) your assets or funds with those of your ward. This means you must maintain a separate savings and checking account for guardianship funds. Do not deposit your own funds into those accounts, and only pay bills of the guardianship from those accounts.

Establish Guardian's Accounts

A. Types of Guardian's Accounts

1. Checking

You will need a guardian's checking account to pay recurring and small bills or debts of the guardianship. Remember, Court approval must be obtained before expending guardianship funds. This rule includes expenditures from your guardian's checking account. (See Procedure, Expending Funds, Appendix C.)

2. *Sequestered Accounts*

A Guardian's Sequestered Account (sometimes also referred to as a custodial account or a restricted account) represents funds of the ward-guardianship which are not needed to pay for routine or minor expenses. (Those expenses are paid from a guardian's checking account.) Because the guardianship does not have an immediate need for those funds, the Court requires those funds to be impounded and placed in a sequestered account.

A sequestered account may be a savings or investment account with a bank, credit union or other financial institution. The most important aspect of a sequestered account for you to remember is that the *bank, credit union or financial institution will not release funds from a sequestered account without a Court order*. For the procedure to release funds from a sequestered account, see Appendix C, Expending Funds.

B. Procedure for Establishing Accounts

- Make sure the bank you choose will accept a guardian's account.
- Make sure the financial institution provides you with cancelled checks.
- Determine the bank(s) or financial institution(s) in which your ward has deposits.
- Send copies of your Letters of Guardianship to the bank(s) or financial institution(s), and request specific information (Account number and balance) of the ward's account(s).
- File with the Court:
 1. Application for Authority to Release Ward's Funds, Form 15.6 (See sample form.)

- Submit a certified copy of the Application to Release Ward's Funds to the ward's bank(s) or financial institution(s), and transfer the funds to your guardianship bank.

When Necessary, Increase Guardian's Bond

Funds that are impounded (custodial accounts) will not require a guardian's bond. Those funds that are not impounded (as an example, funds in your guardian's checking account) require a guardian's bond. The amount of your guardian's bond has been set by the Court. If, at some future point, there is a significant increase in the guardianship's non-custodial funds or property, the Court may increase the guardian's bond. Since the guardian's bond protects you and the ward in case of misapplication of funds, bring to the Court's attention any large or significant increase in non-custodial property or funds so that the guardian's bond may be increased.

Inventory Ward's Assets

So that you can manage the guardianship assets, you must have an accurate idea of what property the ward possesses, and the value of that property. To accomplish this task, inventory the ward's property. Remember, a report of the results of your inventory is to be filed with the Court. (See Appendix B, Inventory.)

Temporary Change of Address

One way to determine the property and debts of your ward is to temporarily change the ward's mailing address to that of your own. The bills and statements received in the ward's mail will give you an idea of the ward's finances. However, your ward has a right to receive his or her personal mail such as magazines, letters, and cards, and every effort should be made to see that your ward receives non-financial mail. After a few months, or when you have taken from this mail as much information as you can about your ward's finances, a second change of address back to your ward's address should be filed with the Post Office. This second change will allow for direct delivery of personal mail to the ward. After the second change of address, mail dealing with the ward's finances should continue to be mailed to you as guardian.

Effect of Guardianship on Powers of Attorney for Financial Transactions

A guardian has the same power the ward would have to revoke all or any part of the Power of Attorney and authority of the attorney-in-fact (the person designated by the ward to act for the ward under the Power of Attorney). If the guardian does not revoke the Power of Attorney, the attorney-in-fact may continue to act under the Power of Attorney, and must report or account to the guardian. *To avoid problems due to a Power of Attorney, if your ward has one, inform the Court and your attorney, and discuss the advisability of revoking the power.*

Devise Plan to Preserve Guardianship Assets

Once you have completed an inventory of the ward's assets, you must devise a plan to manage and preserve those assets. If your ward has large amounts of stock, cash, or valuable property, you should consider seeking professional advice. Before you can invest, remember that the types of investments are specified and controlled by statute.

ASSETS TO LOOK FOR

- ◆ Cash
- ◆ Uncashed checks and refunds
- ◆ Bank accounts
(checking, savings, certificates of deposit)
- ◆ Stocks
- ◆ Bonds
- ◆ Promissory notes
- ◆ Partnerships
- ◆ Other business interests
- ◆ Life insurance policies
- ◆ Real estate
- ◆ Furniture
- ◆ Antiques
- ◆ Artwork
- ◆ Jewelry
- ◆ Valuable dogs or other pets
- ◆ Valuable collections
- ◆ Vehicles

Ways to Protect the Ward's Valuable Possessions

- Remove valuables such as silver, art, jewelry, and furs from the house unless the ward wants to keep them at home.
- If the ward wants to wear jewelry, substitute less expensive jewelry. For instance, if the ward wants to wear expensive pearls on a regular basis, substitute costume jewelry.
- If the ward insists on wearing valuable jewelry, alert the ward's relatives, friends, and lawyer that you are allowing the ward to wear his or her jewelry.
- Take an inventory of all valuables that remain in the home, and photograph them. Keep this information in the guardianship safe deposit box, or other secure place. Let everyone who comes into the house know that an inventory has been taken.
- Go through the house annually to check the inventory.
- Put locks on valuables when you can - for example, on china closets or closets in which valuables such as silver or jewelry are stored.
- Insure valuables. Valuables can be added to homeowners' or tenants' policies. List and describe these items individually. Consider taking this step no matter who is in possession of these items.
- Engrave identification numbers on the television and on the stereo equipment. You might use the ward's Social Security number. Be sure to let everyone know that these items are marked.
- If you hire an aide directly or through an agency, be sure to check references.
- If you hire an aide through an agency, make sure the agency screens, bonds, and insures its employees.

**PROBATE COURT OF LAKE COUNTY, OHIO
MARK J. BARTOLOTTA, JUDGE**

IN THE MATTER OF JANE DOE

Case No. 13 GU 0123 Docket _____ Page _____

APPLICATION TO RELEASE FUNDS TO GUARDIAN

Now comes the guardian of the above-named ward and makes application for authority to secure the release of the following funds of the ward.

Chase checking account #***3456 \$250.00
Chase savings account #***1234 \$3,000.00 plus interest

The applicant further states that is for the best interest of the ward that this authority be granted.

Prepared By:

Attorney's name John Guardian

Address 987 Oak Street, Painesville

Phone No. 440/350-2626

Guardian

ORDER AUTHORIZING RELEASE OF FUNDS

This _____ day of _____, this cause came on to be heard upon the application of the guardian of the estate of the above named ward and the evidence, and the Court being fully advised in the premises, hereby authorizes the guardian to release funds as set forth in the Application.

Probate Judge

**MARK J. BARTOLOTTA, JUDGE
PROBATE COURT OF LAKE COUNTY, OHIO**

IN THE MATTER OF JANE DOE

CASE NO. 13 GU 0123

VERIFICATION OF RECEIPT AND DEPOSIT

Pursuant to Court order, the sum of \$ 50,000.00 was deposited with

First Bank on the 10 day of June, **2013**, as evidenced by

Savings/Certificate of Deposit Account Number ***9876. This account is held
solely in the name of John Guardian, as guardian of Jane Doe.

By accepting said deposit for said ward, this institution agrees that said deposit, together with
accumulated interest, shall held and no part thereof released; except upon further order of this Court.

Financial Institution

By _____
Authorized Officer

Typed or Printed Name

Phone Number

Date

APPENDIX B

SAMPLE INVENTORY

Collection and Control of Ward's Assets

Upon your appointment as guardian, it is your duty to take steps to locate and take control of the ward's assets. When you have located the ward's assets, you must file an inventory.

What is an Inventory?

An inventory is a document prepared by the guardian, and filed with the Court, that lists all of the assets owned by the ward on the date the guardian of the estate was appointed, and lists the value of those assets.

In addition, an inventory lists the yearly rent collected from any real property owned by the ward, lists whether the ward has a safety deposit box and/or a Last Will and Testament, and lists their locations.

When is an Inventory Due?

An inventory must be filed within three (3) months of the date of the appointment of a guardian of the estate.

NOTE: For information on Application to Extend Time to File, see Appendix I, Continuance.

What Forms Do You Use in Preparing and Submitting an Inventory?

There is one form:

Guardian's Inventory
(Form 15.5)

Preparing an Inventory

- Once you have collected the ward's property, place a value on that property. Real property should be appraised at the same value as the last county auditor's tax duplicate for real estate tax purposes.
- When you have determined the values of the ward's assets, list all assets with their values on the Guardian's Inventory. (See Sample.)
- Remember to list on the Inventory uncashed checks received prior to, or on, the day of appointment of the Guardian. Do not list checks received after the appointment date. Those checks should be listed as income on the first Accounting filed. (See Sample - Inventory and Accounting.)
- Real and personal property should be entered and totaled separately on the Inventory form. (See Sample.)

Guardian's Inventory - Form 15.5

- Add the figures representing the total real property and personal property together, and enter the total on the Inventory under "REAL AND PERSONAL ESTATE OF WARD" on Guardian's Inventory. (See Sample.)
- If any of the ward's real property (real estate) is being rented, enter the value of that rent for one year on the Guardian's Inventory form under "YEARLY RENT".
- Sign and date the Guardian's Inventory form.

NOTE: *Expenditures will not be approved if an Inventory has not been filed. (See Appendix C - Expending Funds-Gifts.)*

Property Discovered After an Inventory is Filed

If you find, or are given, assets after the Guardian's Inventory is filed, you must file a Supplemental Inventory. List only newly-discovered assets on the Supplemental Inventory. Discovery of stock held in the ward's name after the Inventory is filed would be an example of property reported on a Supplemental Inventory. However, a dividend check (or any check representing income-such as Social Security) received after the date of appointment is not reported on an Inventory, but as income on an Accounting filed by the Guardian.

PROBATE COURT OF LAKE COUNTY, OHIO
MARK J. BARTOLOTTA, JUDGE

IN THE MATTER OF THE GUARDIANSHIP OF JANE DOE

CASE NO. 13 GU 0123

GUARDIAN'S INVENTORY

[R.C. 2111.14(A)]

of the real and personal estate of the ward with its
value and the value of the yearly rent of the real estate

List any safe deposit box and date and location of any will.	\$ <u>NO WILL</u>
1. Real property located at 123 Main Street, Painesville, OH	\$ <u>89,000.00</u>
2. 2010 Ford Focus NIN#123456789A	\$ <u>13,000.00</u>
3. Chase checking account #***3456	\$ <u>250.00</u>
4. Chase savings account #***1234	\$ <u>3,000.00</u>
5. Social Security (\$1,200/month x 12 months)	\$ <u>14,400.00</u>

RECAPITULATION

Total value of Personal Estate	\$ <u>16,250.00</u>
Total value of Real Estate	\$ <u>89,000.00</u>
Yearly rent of Real Estate	\$ _____
Other Annual Income	\$ <u>14,400.00</u>
Total	\$ <u>119,650.00</u>

Guardian

PROBATE COURT OF LAKE COUNTY, OHIO
MARK J. BARTOLOTTA, JUDGE

IN THE MATTER OF THE GUARDIANSHIP OF JANE DOE

CASE NO. 13 GU 0123

SUPPLEMENTAL

GUARDIAN'S INVENTORY

[R.C. 2111.14(A)]

of the real and personal estate of the ward with its
value and the value of the yearly rent of the real estate

List any safe deposit box and date and location of any will.

\$ _____

First Bank Money Market #9876

\$50,000.00

RECAPITULATION

Total value of Personal Estate \$ \$50,000.00

Total value of Real Estate \$ _____

Yearly rent of Real Estate \$ _____

Other Annual Income \$ _____

Total \$ 50,000.00

Guardian

PROBATE COURT OF LAKE COUNTY, OHIO
MARK J. BARTOLOTTA, JUDGE

IN THE MATTER OF JANE DOE

Case No. 13 GU 0123 Docket _____ Page _____

APPLICATION FOR AUTHORITY TO EXPEND FUNDS

Now comes the undersigned, guardian of the above-named minor incompetent ward, and makes application for authority to expend funds for the best interest of the ward as follows:

[State amount requested, nature of expenditure, and the frequency and duration of authority requested.

Attach additional explanation, documentation, or estimates as needed]

1. Golden Time Nursing Home \$3,000.00/month
2. A+ Insurance, car insurance \$600.00/twice yearly
3. Prescriptions, various providers, up to \$100.00/month
4. Hospital bed for ward \$2,000.00 per attached estimate. One time payment

The assets of the ward consist of:

Real property \$89,000, Chase Checking \$250,
Chase savings \$3,000, Annual Social Security
\$14,400.00, First Bank money market \$5,000.

Attach proof of assets.

Guardian

Prepared By:

Attorney's Name John Guardian

Address 987 Oak Street, Painesville, Ohio

Phone No. 440/350-2626

ORDER AUTHORIZING EXPENDITURE OF FUNDS

This _____ day of _____, this cause came on to be heard upon the application of the guardian of the estate of the above named ward and the evidence, and the Court being fully advised in the premises, hereby authorizes the guardian to expend funds as set forth in the Application.

Probate Judge

APPENDIX C

EXPENDING FUNDS - GIFTS

EXPENDING FUNDS

Court approval must be obtained prior to expending monies of the ward.

Procedure

- *Expenditures from Checking Account or Non-custodial Funds:*
File with Court Application for Authority to Expend Funds, Form 15.7. (See sample form.)
- *Expenditure or Transfer of Funds from a Custodial Account:*
File with Court Application for Authority to Release Funds. (See sample form.) (See Types of Accounts, Appendix A, for explanation of a Custodial Account.)
- Attach to Application, if available, copies of bills or other documents to support need for expenditures or transfer.

NOTE: Expenditures will not be approved if an Inventory has not been filed. (See Appendix B for filing Inventory.)

Recurring Expenditure

If you have recurring expenditures, to avoid filing multiple Applications, you may wish to file one Application for continuing authority to pay for those recurring expenses. An example of a recurring expense (See sample form) would be the need to pay monthly nursing home bills.

GIFTS

Gifts may be made of a ward's funds or assets to the ward's family, friends, or charities. *However, before a gift may be given, Court approval must be obtained.* The procedure for obtaining Court approval depends on the amount of the gift, and is as follows.

One Thousand Dollars (\$1,000) or Less

If a gift is for \$1,000 or less, Court approval may be obtained by submitting the request on Form 15.7 - Application to Expend Funds. The Application should state the amount of the gift, who the gift is being given to, and the reason for the gift.

More Than One Thousand Dollars (\$1,000)

A gift of more than \$1,000 requires the filing of a Motion, Notice to interested parties, and a hearing before the Court. Due to the complexity of those procedures, if contemplating requesting a gift of more than \$1,000, it is suggested that an attorney be retained.

*No gift will be approved by the Court if the gift impairs the financial ability of the ward's estate to provide for the foreseeable needs for maintenance and care of the ward.
See R.C. 2111.50(D).*

APPENDIX D

SALE OF WARD'S PROPERTY

It may be necessary, because of debts or other reasons, to sell the ward's property. When selling the ward's property, you must secure the best price obtainable. *Remember, before you can sell, you must have the Court's approval.*

The procedure for obtaining the Court's approval depends on the type of property, either personal (car, furniture, stocks, etc.) or real (land, house, buildings).

PERSONAL PROPERTY

A. Personal Property Requiring Court Approval:

1. Personal property specifically bequeathed under the ward's Will. Example: Jane Doe's (ward) Will states that Ellen Doe is to receive her sapphire ring. The sapphire ring cannot be sold without Court approval.
2. Personal property sold to a relative of the ward or guardian.

B. Procedures for Obtaining Court Approval:

To obtain the Court's approval, submit a motion and a proposed Judgment Entry. If approval is granted, a Judgment Entry granting the motion will be returned to you. The Court may set the matter for hearing. If an item is specifically bequeathed under the ward's Will, that information should be included in an Application to Sell.

REAL PROPERTY

Ohio law requires the filing of a land sale before real property in a guardianship may be sold. This means that a civil action or complaint will have to be filed with the Court to obtain approval. Since a civil action can be complicated, it is suggested that you seek the advice of an attorney to assist in filing the action.

SELF-DEALING - SELLING TO A RELATIVE

Remember, guardians cannot enrich themselves at the expense of their wards. If a guardian violates this rule, he or she may be removed and/or criminally prosecuted.

This rule applies to the sale of the ward's property. A guardian may not purchase his ward's property. A guardian should be particularly careful in selling property to his family, or to relatives of the ward. If a relative wishes to purchase property, he or she must be charged the same price as a non-relative, and cannot receive a reduced price because they are related. If, due to special circumstances, you do wish to purchase, or to reduce the price of property for a relative, you must have valid reasons and *Court approval*.

SAMPLE ACCOUNTING

WHAT IS AN ACCOUNTING?

An Accounting is a report filed with the Court by a Guardian of the Estate, outlining expenditures and receipts of guardianship funds and property during the accounting period and funds and property on hand at the end of that period.

In other words, an Accounting is a report of the guardian's handling of guardianship property, income, and expenses during a given period of time.

WHAT IS THE PURPOSE OF AN ACCOUNTING?

First, to cause the guardian to maintain and keep records of guardianship activities, and, second, to provide the Court with information that will allow it to supervise and monitor the management of guardianship assets.

WHAT ARE THE TYPES OF ACCOUNTINGS?

There are three types of Accountings. They are:

1. *Annual* -An Accounting that is filed each year
2. *Final* -An Accounting filed on termination of the guardianship
3. *On Order of the Court* - An Accounting, other than an Annual or Final, that is specifically ordered by the Court.

Ohio law requires every Guardian of the Estate to file Annual Accountings and, on termination of the guardianship, a Final Accounting.

WHEN ARE ACCOUNTINGS DUE?

- * *Annual* - One year from the date of appointment, and annually thereafter on the date of appointment
- * *Final* - 30 Days after the termination of the guardianship
- * *On Order of the Court* - The Order to account will state when the accounting is to be filed.
- * *Continuance* - For information on Application to Extend Time to File, see Appendix I, Continuance.

NOTE: The date of appointment can be found on the Guardian's Letter of Authority.

WHAT FORMS ARE USED TO FILE AN ACCOUNTING?

There is one standard form that the Lake County Probate Court uses when filing a Guardian's Accounting - Form 15.8 "Guardian's Account"

TIPS ON FILING AN ACCOUNTING

- * Keep good records. If you have kept good records, it will be much easier when the time comes to prepare an Accounting.
- * Your Accounting must be *typewritten or neatly printed*. Filings that are not legible, that is, readable, will be rejected.
- * Disbursements must be approved by the Court. Disbursements, that is, expenditures made from guardianship funds, cannot be made without prior Court approval. When an Accounting is reviewed by the Court, if no Order of approval for expending funds is on file, the Accounting will be rejected until an Order approving the expenditure is submitted and approved. Expenditures not approved will be disallowed on the Accounting. (See Appendix C-Expending Funds.)
- * Each disbursement must be supported by a voucher (cancelled check or receipt) to prove payment. At the time your Accounting is presented to the Accounts Clerk, you will be required to provide evidence that each disbursement listed has actually been paid. The simplest method for proving disbursement is to show the clerk a cancelled check or paid receipt for each disbursement. The clerk will not retain the voucher, but will return them to you when the Accounting has been accepted.
- * All current Court costs must be paid before an Accounting will be accepted. Before filing an account, contact the Court to determine if there are, and the amount of, any outstanding Court costs. Don't forget to include Court cost of filing the Accounting.

- * Attach to the Guardian's Account a copy of the settlement closing statement when guardianship *REAL PROPERTY* has been sold.
- * Do not report funeral expenses unless they were prepaid, that is, they were paid while the ward was still living.
- * Refunds are reported as income. However, when calculating guardian's fees, they are *not* considered as income, and should not be used to calculate income on an Application to collect guardian's fees.
- * Unless specifically instructed to do so by this Court, do not list appreciation or depreciation of property.

An example of an *incorrect* entry would be common stock that has gained in value, appreciated, according to a Stock Exchange Report, but the stock has not been sold. The appreciation would not be reported.

- * The Bank Certification, must be signed by a Bank employee with authorization to sign, along with an imprint of the Bank stamp.

A copy of your current Bank Statement may be substituted and filed in place of the Bank Certification.

- * Don't forget, as Guardian, to sign the Guardian's Account.

MARK J. BARTOLOTTA, JUDGE
PROBATE COURT OF LAKE COUNTY, OHIO

IN THE MATTER OF THE GUARDIANSHIP OF JANE DOE

CASE NO. 13 GU 0123

GUARDIAN'S ACCOUNT
[R.C. 2109.30]

FIRST PARTIAL ACCOUNT
FROM MAY 16, 2013 TO MAY 15, 2014

<u>2013-2014</u> (year)	(Balance from previous account)	Voucher No.	\$	\$
	Receipts:			
	Real property		\$89,000.00	
	Net proceeds from sale of Ford Focus		\$ 5,000.00	
	Chase Checking account #3456		\$ 250.00	
	Chase savings account #1234		\$ 3,000.00	
	Social Security (\$1,200 x 12)		\$14,400.00	
	First Bank money market #9876		\$50,000.00	
	Interest, Chase checking		\$ 13.00	
	Interest, First Bank money market		\$ 200.00	
	Total:			\$161,863.00
	Disbursements:			
	Golden Time nursing home (\$3,000 x 12) JE of 6-4-13		\$36,000.00	
	Prescriptions JE of 6-4-13		\$ 1,123.50	
	Hospital bed, JE of 6-4-13		\$ 1,945.50	
	A+ Insurance, car insurance JE of 6-4-13		\$ 600.00	
	Total:			\$ 39,669.00

15.8 GUARDIAN'S ACCOUNT

3/1/96

RECAPITULATION

Total Receipts	\$ 161,863.00
Total Disbursements	\$ 39,669.00
Balance Remaining	\$ 122,194.00

ITEMIZED STATEMENT OF ALL FUNDS, ASSETS AND INVESTMENTS

ITEM

	\$
Real Property, 123 Main Street, Painesville	\$ 89,000.00
First Bank guardianship checking account #4567 (Chase #3456 closed)	\$ 981.00
First Bank guardianship savings account #2345 (Case #1234 closed)	\$ 1,013.00
First Bank money market account #9876	\$ 31,200.00

Attorney

Attorney Registration No.

Guardian

John Guardian

Typed or Printed Name

987 Oak Street, Painesville

Address of Guardian

440/350-2626

ENTRY SETTING HEARING

The Court sets _____ at _____ o'clock _____ .M., as the date
And time for hearing the above account.

Date

Probate Magistrate

MARK J. BARTOLOTTA, JUDGE
PROBATE COURT OF LAKE COUNTY, OHIO

ESTATE OF _____
CASE NO. _____

CERTIFICATE OF SERVICE OF NOTICE OF HEARING ON ACCOUNT

The undersigned hereby states that all persons required to receive notice as provided in Ohio R.C. 2109.33 have received or waived notice of Hearing on the Account filed.

Fiduciary or Attorney for Estate

WAIVER OF NOTICE OF HEARING ON ACCOUNT
[R.C. 2108.33]

The undersigned, being the surviving spouse, next of kin, legatees or devisees of decedent, hereby waive notice of hearing on Account. I further acknowledge that a copy of the Account has been provided.

Prepared By:

Attorney's Name

Address

Phone No.

Attorney Registration No.

PROBATE COURT OF LAKE COUNTY, OHIO
MARK J. BARTOLOTTA, JUDGE

ESTATE OF
GUARDIANSHIP OF
TRUST OF JANE DOE

Case No. 13 GU 0123

APPLICATION TO REDUCE BOND

The undersigned states that the personal property in the hands of the fiduciary is \$ 47,594.00 as shown on ☐ the inventory; ☒ First Partial account filed June 1, 20 13.

The undersigned further states that \$ 31,200.00 of the total assets are held in a custodial depository pursuant to prior order of the Court.

Wherefore, your applicant prays that the present bond with A+ Bond Co. as surety in the amount of \$ 58,800.00 be reduced to \$ 32,788.00.

John Q, Attorney

Attorney's printed name

John Guardian

Applicant's printed name

Attorney's signature

Applicant's signature

ENTRY

The Court finds the above application to be true and correct. Therefore the Court orders that the bond be reduced to the amount specified in the application.

MARK J. BARTOLOTTA

Prepared By:

Attorney's Name John Q. Attorney
Address 987 Oak Street, Painesville, O 44077
Phone No. 440/350-2626

LIVING ARRANGEMENTS

One of your most important duties as Guardian of the Person is to decide where the ward should live. Wherever the ward lives, you are responsible for seeing that the ward's living arrangements are safe, comfortable, and allow the ward as much independence as possible!

1st Choice - Allow the Ward to Live at Home

If possible, the first choice should be to maintain a ward in his or her own home. Living in his or her own home offers the ward the security of familiar surroundings, neighbors and friends close by, as well as his or her own belongings and memories. The following are suggestions you should consider in helping to maintain the ward in his or her present home or residence.

- * Consider having the ward professionally evaluated by health care professionals to determine what level of care and services he or she requires.
- * Hire part-time or full-time in-home aides to prepare meals, launder clothes, and help the ward take medicine, and perform other personal care tasks.
- * Have the ward's home and yard thoroughly cleaned to get rid of debris and unsanitary conditions. Make necessary repairs. Arrange for regular house cleaning and yard maintenance services.
- * Remove fire hazards, and buy fire extinguishers and smoke detectors.
- * Have the locks changed or a security system installed, or both.

- * Contact the gas, electric, water, garbage, and telephone companies to continue service.
- * If the ward is a renter, ask the landlord to make needed repairs.
- * Arrange for nearby family members, friends, and neighbors to look in on the ward, help with shopping, and take the ward to medical and dental appointments or on recreational outings. You might offer to pay their reasonable out-of-pocket expenses.

When the Ward Can No Longer Live at Home

At some point, it may no longer be physically or financially possible for the ward to continue to live in his or her own residence. You, as Guardian of the Person, have the power to make this decision, as well as the responsibility of selecting a new residence. This is a drastic step, and should not be taken simply for the convenience of others. This decision must be based on the ward's needs, preferences, and best interests. Avoid making last-minute decisions by thinking through this possibility in advance.

Remember, you must notify the Court whenever you change the residence of the ward for anything other than a temporary period of time. You cannot move the residence of the ward to a place outside of Ohio without Court approval.

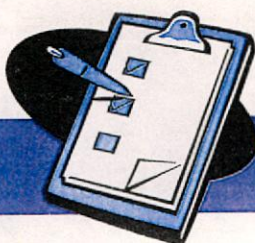
Examining Placement Alternatives

If you decide that the ward can no longer live at home, discuss the ward's needs with the ward, the ward's family, and his or her physician. Figure out how much the ward can afford to pay for care, housing, and other living expenses, then decide which type of facility can best take care of the needs you have identified.

Remember, the more care a facility offers, the more it costs to live there. The daily cost of a skilled nursing facility is many times that of a board and care facility or a group home. Placement alternatives include:

1. *Board and care facilities, foster care homes, group homes, or assisted living residences* usually provide meals and laundry, transportation for appointments, companionship, supervision of medications, and assistance with daily living activities, such as bathing and dressing.
2. *Retirement Communities* offer a variety of living situations and levels of care. The community may have independent apartments or cottages, "assisted living" services, and a skilled nursing facility. There may be a dining room to serve residents, maid service, and transportation.
3. *Intermediate care facilities (ICF)* provide room, meals, help with daily activities, and daily (but not 24 hour) nursing care.
4. *Skilled nursing facilities (SNF)* provide room, meals, help with dressing, personal hygiene, and other personal care needs; physical and occupational therapy; and 24 hour nursing care, supervised by a doctor.

NURSING HOME CHECKLIST



Nursing Home Name _____

Administration

Please Circle Y for Yes
or N for No

1. Does the nursing home have the required current license from the state, or letter of approval from a licensing agency?
2. Is the home certified to participate in the Medicare and Medicaid programs?
3. Do staff members show patients genuine interest and affection?
4. Do patients look well cared for and generally content?
5. Are patients allowed to wear their own clothes, decorate their rooms, and keep a few prized possessions on hand?
6. Is there a written statement of patients' rights? Is this statement displayed where it can be seen?

Y N	Y N	Y N
Y N	Y N	Y N
Y N	Y N	Y N
Y N	Y N	Y N
Y N	Y N	Y N
Y N	Y N	Y N

General Physical Considerations

Comfort

1. Is the nursing home clean and orderly?
2. Are toilet and bathing facilities easy for handicapped patients to use?
3. Is the home well lighted?
4. Is the home reasonably free of unpleasant odors?
5. Are rooms well ventilated and kept at a comfortable temperature?

Y N	Y N	Y N
Y N	Y N	Y N
Y N	Y N	Y N
Y N	Y N	Y N
Y N	Y N	Y N

Safety

1. Are there wheelchair ramps where necessary?
2. Are there grab bars in toilet and bathing facilities?
3. Are there handrails on both sides of the hallway?
4. Is there an automatic sprinkler system and automatic emergency lighting?
5. Are there portable fire extinguishers?
6. Are exit doors unobstructed and unlocked from inside and easily accessible?
7. Are emergency evacuation plans posted in prominent locations?
8. Are there smoke detectors and fire alarms on every floor?
9. Is there a fire station near the home?

Y N	Y N	Y N
Y N	Y N	Y N
Y N	Y N	Y N
Y N	Y N	Y N
Y N	Y N	Y N
Y N	Y N	Y N
Y N	Y N	Y N
Y N	Y N	Y N
Y N	Y N	Y N

Medical, Dental, and Pharmaceutical Services

1. In case of medical emergencies, is a physician available at all times, either on staff or on call?
2. Does the home have an arrangement with an outside dental service to provide patients with dental care?
3. Are pharmaceutical services supervised by a qualified pharmacist?
4. Does the home have arrangements with a nearby hospital for quick transfer of patients in an emergency?

Y N	Y N	Y N
Y N	Y N	Y N
Y N	Y N	Y N
Y N	Y N	Y N

NURSING HOME CHECKLIST (Cont'd)

Nursing Home Name

General Physical Considerations (Cont'd)

Nursing Services

- | | | | |
|---|-----|-----|-----|
| 1. Is at least one registered nurse (RN) or licensed practical nurse (LPN) on duty day and night? | Y N | Y N | Y N |
| 2. Are nurse call buttons located at each patient's bed, and in toilet and bathing facilities? | Y N | Y N | Y N |

Food Services

- | | | | |
|--|-----|-----|-----|
| 1. Is the kitchen clean and reasonably tidy? | Y N | Y N | Y N |
| 2. Are at least 3 meals served each day? | Y N | Y N | Y N |
| 3. Are patients given enough food? | Y N | Y N | Y N |
| 4. Are special meals prepared for patients on therapeutic or other diets? | Y N | Y N | Y N |
| 5. Do patients who need help receive it, whether in the dining room or in their own rooms? | Y N | Y N | Y N |

Rehabilitation Therapy, Social Services, and Patient Activities

- | | | | |
|---|-----|-----|-----|
| 1. Is there a full-time program of physical therapy for patients who need it? | Y N | Y N | Y N |
| 2. Are there special services available to aid patients and their families? | Y N | Y N | Y N |
| 3. Does the nursing home have a varied program of recreational, cultural, and intellectual activities for patients? | Y N | Y N | Y N |
| 4. Are activities offered for patients who are relatively inactive or confined to their rooms? | Y N | Y N | Y N |

Patient's Rooms

- | | | | |
|---|-----|-----|-----|
| 1. Is a married couple allowed to share a room? | Y N | Y N | Y N |
| 2. Do all rooms have a window to the outside? | Y N | Y N | Y N |
| 3. Is there a curtain or screen available to provide privacy for each bed whenever necessary? | Y N | Y N | Y N |
| 4. Does each patient have a reading light, a comfortable chair, and a closet and drawers for personal belongings? | Y N | Y N | Y N |

Responsibilities

- | | | | |
|--|-----|-----|-----|
| 1. Once a patient is admitted, will the nursing home assume responsibility for taking the patient to medical appointments or other outside community activities? | Y N | Y N | Y N |
| 2. Is the nursing home clear about what responsibilities should be assumed and/or kept by the family? | Y N | Y N | Y N |

VISITING YOUR WARD AT AN EXTENDED CARE FACILITY

Many wards come to a point where they need to be cared for in a long term care facility. Sometimes it is not comfortable to see the person you care for in a facility. Here are some things you should know if your ward resides in an extended care facility and some suggestions to make you more comfortable in visiting your ward. Also, Appendix K provides some helpful advice on communicating with your ward.

The Facility Staff

The staff at the facility are the people who get to know your ward best. Consider the staff as a part of your team with the goal of improving the quality of life for the older adult. Share information with the staff that can help them with the care and answer questions when they arise.

Each facility usually has at least one full-time social worker who can be invaluable in helping coordinate care for your ward or handling any problems your ward may have. Talk to the nurses and aides who provide daily care for your ward. Learn about the staff, not only their names, but their interests. This can provide some common ground that can help the older adult bond with the people who are providing daily care.

What you may see

When you enter a long-term care facility, usually the first thing you see is the main desk. There is usually a registry for visitors. Let the facility know who you are and who you are there to visit. You may want to visit with your ward in his or her room, or most facilities have a central area where the residents congregate. It may be at the nurses station or in a lounge area.

As you walk through the facility, you will see many residents. Some people will be awake, others may be dozing. Some will be in wheelchairs, others may be using canes or walkers. You may see oxygen tanks or other assisting devices. Some of the people you see may look healthy but have memory problems or difficulty with communication, hearing or vision.

What you may hear

The noises you will hear will be different from what one would hear at home or even in a hospital. There could be anything from the “machine noises” such as alarm bells, beepers, or medical equipment to laughter, loud TVs, people calling to each other, crying, or yelling. This can often be disturbing to a visitor, but it can also be disturbing to the ward. Make the ward as comfortable as possible and report any unusual noises to the staff.

What you may smell

The smells of a long-term care facility are often the first thing a person notices when entering the facility. Just as everyone’s home can have its own smell, each facility will be different and may vary from time of day or one facility to another. Some of these may be unpleasant body odors, cleaning solutions, air fresheners, food scents, beauty shop shampoos and chemicals.

WAYS TO ENHANCE THE WARD'S QUALITY OF LIFE AT HOME OR IN A CARE FACILITY

- Arrange a network of visitors. The more people who show concern, the happier the ward will be. Care facility staff often provide the best possible care to a resident with frequent visitors.
- If the ward has been active in a church or synagogue, arrange for the congregation members or clergy to visit on a regular schedule.
- Decorate the area around the ward's bed with familiar objects. Care facility residents have the right to have personal belongings from home in their rooms.
- Place a bulletin board near the bed. Put up photos showing family and friends with the ward. Include photos of the ward at different ages and in happy times.
- Put diplomas, letters of appreciation that were written to the ward in earlier years, and other mementos on the bulletin board.
- Encourage family and friends to write letters and cards. Post them on the bulletin, and help the ward write back.
- Hire a part-time aide to help, to keep the ward company, or to take the ward on outings.
- Arrange for the ward to be taken out for activities like day-care programs, entertainment, family gatherings, and beauty or barber services.
- Provide favorite foods and beverages.
- Provide a radio, stereo, television, or VCR with a remote control if the ward can't move around easily.
- Rent old movies with the ward's favorite stars, and show them on the VCR.
- Provide ear plugs if the ward shares a room in a care facility.
- Arrange for a telephone with a private line.
- Arrange parties for the ward on birthdays and other special occasions. Have the ward act as host.
- Thank the ward's caregivers often.
- Nearby family members, friends, and neighbors often are willing to look in on the ward and help with shopping or take the ward to medical and dental appointments or on recreational outings. You might offer to pay their reasonable out-of-pocket expenses.

APPENDIX G

MEDICAL TREATMENT

AS GUARDIAN OF THE PERSON, DO I HAVE THE AUTHORITY TO CONSENT TO MEDICAL TREATMENT FOR MY WARD?

YES. As Guardian of the Person, you have the power to consent to medical treatment for your ward.

HOW DO I MAKE MEDICAL DECISIONS FOR MY WARD?

As with all guardian's decisions, consent for medical treatment should be given only when the treatment is in the best interest of the ward. The following guidelines will help you make medical decisions that are in the best interest of your ward.

FIRST, *check to see if your ward has a written document such as a durable health care power of attorney or a living will.* If there is a document, and if it is valid, you must follow your ward's instructions as found in the document, especially when making life-sustaining decisions.

SECOND, *when possible, before making a decision, discuss your decision with your ward and your ward's family.* It may not be feasible due to time, capacity, or condition of your ward, but, if possible, you should discuss with, and allow for input of, your ward and the ward's family. Such discussions will help your ward and the ward's family. Such discussions will help your ward and family accept your treatment decisions.

THIRD, *make sure that consent to your ward's medical treatment is informed.* Before making treatment decisions, get the facts. Talk to your ward's doctor and find out what the benefits of treatment are, the chance of success, and alternatives. Don't be afraid to ask questions. You may want a second opinion. Remember, an informed decision is what you would expect if someone were making a decision for you.

ORDERS NOT TO RESUSCITATE

As the guardian you may be called up to decide whether the ward should not receive further medical treatment. These are called Do Not Resuscitate Orders (DNR's). There are two types of DNR's: Arrest and Comfort Care. You can consult with the ward's physician or the staff at the nursing home for further details and appropriateness.

Placement Assistance:

Several area agencies may offer placement and other assistance:

Lake County Council on Aging	440-205-8111
Western Reserve Area Agency on Aging	1-800-626-7277
Lake County Board of Developmental Disabilities/Deepwood	440-350-5100

Selecting a Nursing Care Facility

Before placing a ward in a facility, a guardian should take a tour (unguided if possible). Take a good look at the residents, and notice:

- * How are the residents treated by staff?
- * Are they up and dressed at a reasonable time?
- * Are they clean, are their hair and nails neat and clean, have the men been shaved?
- * Are there meal trays sitting around untouched?
- * Are call bells answered in a reasonable time?
- * Are the residents' questions answered?
- * Would you place one of your family members there?
- * Talk with family members of current residents.

In order to select the most appropriate nursing care facility for the ward, consider visiting at least three facilities. Use the "Nursing Home Checklist" as you tour the facility. It can also help you in comparing homes.

Remember, wherever the ward lives, you are responsible for seeing that the home is safe, comfortable, and allows the ward as much independence as possible.

APPENDIX H

FILING THE GUARDIAN'S REPORT

Guardian's Report is Important.

The Guardian's Report provides a current summary of the condition of your ward. The Court monitors and determines if the guardianship is still necessary and whether a proper continuing care plan is being followed.

All Guardians Must File the Report.

- **When to File**

You are to file a Guardian's Report (Form 17.7) on or before January 2nd each year. The Guardian's Report will not be filed without the Statement of Expert Evaluation. The Statement of Expert Evaluation will not be filed without the Guardian's Report.

- **Statement of Expert Evaluation**

A Statement of Expert Evaluation (Form 17.1) must accompany the Guardian's Report. This form may be completed by a licensed physician, psychologist, licensed independent social worker or a mental retardation team.

- **Co-Guardians**

If there are two guardians, one for the person and one for the estate, only the guardian of the person need file the report.

Filing Procedure:

- **Mail to, or File with, Court**

Once completed, the Guardian's Report and Statement of Expert Evaluation should be mailed or delivered to the Lake County Probate Court for filing. A statutory filing fee of \$5.00 will be charged.

- **When Represented by an Attorney**

When necessary, Guardians who are represented by an attorney should consult that person for guidance in completing and filing the Report.

Completing the Report Form:

(See sample form at the end of this Appendix.)

- Fill in all blanks and provide the requested information. Your ward's current location (hospital, nursing home, etc.) may be different from the legal residence or home address.
- Signatures:
 1. Attorney's signature - required if he/she assisted you with this report.
 2. Guardian's signature - the Guardian must sign the report. Please include your work telephone number where you can be reached during day time hours.

If You Cannot File on Time:

File an Application to Extend Time, asking the Court for additional time. Include in the Application the reason you need additional time and how much time you think you will need.

Failure to File:

- If you fail to file your Report you will receive a notice from the Court directing you to file the Report.
- Failure to file a Report on time is considered a serious infraction, and may cause the guardian to be cited to appear before the Court. (See Appendix I, Continuance -Failure to File.)

MARK J. BARTOLOTTA, JUDGE
PROBATE COURT OF LAKE COUNTY, OHIO

IN THE MATTER OF JANE DOE

Case No. 13 GU 0123 Docket _____ Page _____

GUARDIAN'S REPORT
(R.C. 2111.49)

NOTE: If allotted space is inadequate to respond, write "See Exhibit" in the space and add appropriate exhibit letter sequence, then attach containing information requested for that space.

1. This is the (circle one): 1st, 2nd, 3rd, 4th, 5th, 6th, or _____, Guardian's Report.
2. Ward's present address: GOLDEN TIME NURSING HOME, 123 MAIN STREET
City PAINESVILLE State OHIO
Zip 44077 Telephone (440) 350-9999
3. Ward's living arrangements at the above address are best described as:
 - ☐ a. His or her own apartment or home (includes assisted living facilities).
 - ☐ b. Private home or apartment of:
 - ☐ (1) the ward's guardian.
 - ☐ (2) a relative or the ward whose name is _____
and relationship is _____
 - ☐ (3) a non-relative whose name is _____
 - ☐ c. A foster, group or boarding home.
 - ☒ d. A nursing home.
 - ☐ e. A medical facility or state institution.
 - ☐ f. Other (describe) _____
 - ☐ g. If c, d, e, or f is checked, complete the following:
 - (1) The name of the home, facility or institution _____
 - (2) The name of an individual at the home, facility or institution who has knowledge and is authorized to give information to the Court about the ward.
Name _____
Telephone Number (_____) _____
4. The ward will be at the address given in Item 2:
 - ☒ a. Indefinitely.
 - ☐ b. Temporarily. The new address and telephone number is:
 - ☐ (1) Unknown. I will provide this information when known.
 - ☐ (2) _____
City _____ State _____
Zip _____ Telephone (_____) _____

5. Guardian's contact with the ward:
- Approximate number of times the guardian had contact with the ward during the period covered by this report: 12
 - The nature of those contacts (phone, personal, or other): Telephone and personal visits. Monthly contact with nursing home staff
 - Date the ward was last seen by the guardian: 12-15-13
6. Have you observed any major change in the ward's physical or mental condition during the period covered by this report? ☐ Yes ☒ No
- If "yes" is checked, briefly describe the changes. _____
7. The care given to the ward is: ☒ Adequate ☐ No Adequate
- If "Not Adequate" is checked, explain. _____
8. The guardianship should be: ☒ Continued ☐ Not Continued
- If "Not Continued" is checked, explain. _____
9. During the period covered by this report, the ward: ☒ has ☐ has not been seen by a physician. If the ward has been seen, the last date was 11-13-13 and for the purpose of annual exam/Statement of Expert Evaluation

Attached is a statement by a licensed physician, a licensed clinical psychologist, a licensed social worker, or a mental retardation team, that has evaluated or examined the ward within three months prior to the date of this report regarding the need for continuing the guardianship. [R.C. 2111.49(A)(1)(i)] (Form 17.1)

If an attorney has been consulted on this report: _____ Date 12-20-13

Attorney's Signature

John Q. Attorney
(Type Attorney's Name)

987 Oak Street
(Street)

Painesville, OH 44077
(City, State, Zip Code)

(440) 350-2626 0000001
Telephone Number Sup. Ct. Regis No.

Guardian's Signature

John Guardian
(Type Guardian's Name)

987 Oak Street
(Street)

Painesville, Ohio 44077
(City, State, Zip Code)

(44) 350-2626
Telephone Number

(Knowingly giving false information on a Probate document is a criminal offense.)
[R.C. 2921.13(A)(11)]

PROBATE COURT OF LAKE COUNTY, OHIO
MARK J. BARTOLOTTA, JUDGE

IN THE MATTER OF THE GUARDIANSHIP OF JANE DOE

Case No. 13 GU 0123 Docket _____ Page _____

STATEMENT OF EXPERT EVALUATION

[Sup. R. 66 & R.C. 2111.49]

Definition of Incompetent (R.C. 2111.01(D)): " 'Incompetent' means any person who is so mentally impaired as a result of a physical or mental illness or disability, or retardation, or as a result of chronic substance abuse, that he is incapable of taking proper care of himself or his property or fails to provide for his family or other persons for whom he is charged by law to provide, or any person confined to a penal institution within this State."

The Statement of Evaluation does not declare the individual competent or incompetent, but is evidence to be considered by the Court. The fee for completing this evaluation **WILL NOT** be paid by the Probate Court. Each evaluator should secure payment from the Applicant/Guardian.

1. This Statement of Evaluation is to be filed with or attached to::

☒ A. Guardianship Application: Completed by ☒ Licensed Physician or ☐ Licensed Official Psychologist prior to filing and attached to the application.

☐ B. Guardian's Report: Completed by ☐ Licensed Physician or ☐ Licensed Official Psychologist ☐ Licensed Independent Social Worker ☐ Licensed Professional Clinical Counselor or ☐ Mental Retardation Team.
The evaluation or examination shall be completed within three months prior to the date of the Report. R.C. 2111.49

☐ C. Application for Emergency Guardian: ☐ of the person: a Licensed Physician shall complete the Supplement for Emergency Guardian, form 17.1A with specificity indicating the emergency, and why immediate action is required to prevent significant injury to the person. The Supplement shall be signed, dated, and attached as part of this completed Statement.

2. Statement completed by:

Name&Title/Profession: WILLIAM BOMBAY, M.D.

Business Address: 555 Hospital Drive, Painesville, Ohio 44077

Business Telephone Number: 440-350-0000

3. Date(s) of evaluation: April 3, 2013
Place(s) of evaluation: Office of Dr. Bombay
Amount of time spent on evaluation: 30 minutes
Length of time the individual has been your patient: Since 2003

FORM 17.1 STATEMENT OF EXPERT EVALUATION

4. Is the individual presently under medication? ☒ Yes ☐ No If yes, what is the medication, dosage, and purpose? Aricept, Xanax

Are there any signs of physical and/or mental impairments caused by the medications themselves? No

5. Is the individual mentally impaired? ☒ Yes ☐ No If yes, please indicate the diagnosis below:

☐ Mental Retardation/Developmental Disabilities:

☐ Profound ☐ Severe ☐ Moderate ☐ Mild

☐ Mental Illness: Type and Severity _____

☐ Substance Abuse: Description _____

☒ Dementia: Description Alzheimer's dementia and vascular dementia, severe, with behavioral disturbances

☐ Other: Description _____

Please provide additional comments and test scores if available. (Continue comments on Page 4): 13/26 MSE

6. During the examination did you notice an impairment of the individual's:

a.) Orientation	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown
b.) Speech	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown
c.) Motor Behavior	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown
d.) Thought Process	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown
e.) Affect	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown
f.) Memory	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown
g.) Concentration and comprehension	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown
h.) Judgment	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown

7. Please describe any impairments identified in question six. (Continue comments on page 4).

8. Is the individual psychologically impaired? ☐ Yes ☒ No If yes: Description

9. Are there any special characteristics of the individual which should be considered in evaluating the individual for guardianship: ☐ Yes ☒ No If yes: Explain

10. Are there any indication of abuse, neglect or exploitation of the individual? ☒ Yes ☐ No
If Yes: Explain Self neglect

11. Do you believe the individual is capable of caring for the individual's activities of daily living or making decisions concerning medical treatments, living arrangements and diet?
☐ Yes ☒ No If No: Explain Lacks ability to make good judgment

12. Do you believe this individual is capable of managing the individual's finances and property? ☐ Yes ☒ No If No: Explain Does not understand extent of assets

13. Prognosis:

A. Is the condition stabilized? ☒ Yes ☐ No

B. Is the condition reversible? ☐ Yes ☒ No

14. In my opinion a guardianship should be:

☒ Established/Continued

☐ Denied/Terminated

I certify that I have evaluated the individual on April 3, 2013

Date: 4/6/13

Signature of Evaluator

GUARDIAN'S REPORT ADDENDUM

(Not to be used with initial Application)

It is my opinion, based upon a reasonable degree of medical or psychological certainty, that the mental capacity of this ward will not improve.

Date: _____

Signature-Licensed Physician/Clinical Psychologist

CASE NO. _____

ADDITIONAL COMMENTS

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper appears to be a standard notebook page.

Date: _____

Signature-Licensed Physician/Clinical Psychologist

APPENDIX I

CONTINUANCE - FAILURE TO FILE (REPORT - INVENTORY - ACCOUNTING)

CONTINUANCE

The Court expects any type of report, that is, a Guardian's Report, Inventory, or Accounting, to be timely filed. (For times to file, see Appendix H, Guardian's Report: Appendix B, Guardian's Inventory: and Appendix E, Guardians Accounting.)

However, you may need additional time to file. *If you have not been cited for failure to file*, you may request a continuance. Your request must be in writing (typed or printed), in the form of an Application to Extend Time to File and Judgment Order. See Sample, Page 74

CONTINUANCE DOES NOT EXTEND PERIOD OF ACCOUNTING OR REPORT

When an Application to Extend Time to File an Accounting or Report is granted, the time period covered by the Accounting or Report remains the same - 12 months. This means that your next Accounting or Report is due on the next anniversary date of your appointment as guardian, *not the anniversary date of your last filing*.

FAILURE TO FILE

If you fail to file on time a Guardian's Report, Inventory or Accounting, the Court will issue a Citation, which means you must appear in open Court to explain why you have not filed on time.

PROBATE COURT OF LAKE COUNTY, OHIO
MARK J. BARTOLOTTA, JUDGE

GUARDIANSHIP OF:
JANE DOE

MINOR/INCOMPETENT
, DECEASED

CASE NO. 13 GU 0123

APPLICATION TO EXTEND TIME

The undersigned makes this application to extend the time for filing the ACCOUNT
In the above captioned matter which first became due on MAY 16, 2014, for
the following reasons:

The Guardian is waiting for cancelled checks from the bank. An extension of 30 days is requested.

The undersigned further states that this matter:

☐ has not been previously extended ☐ has been extended _____ time previously

Fiduciary

Prepared By:

John Q. Attorney

987 Oak Street, Painesville, Ohio 44077

440-350-2626

Attorney

0000001

Supreme Court Attorney Registration Number

ENTRY EXTENDING TIME

Upon application and for good cause shown, the Application to Extend Time is hereby
granted and time for filing is hereby extended to _____.

MARK J BARTOLOTTA, Judge

Costs (which are \$25.00) of the hearing and notification will be assessed against you. At the hearing, the Court may order any of the following:

1. Levy a fine up to \$100.00;
2. Continue the matter to allow for filing;
3. Remove the guardian;
4. Deny guardian's fees;

Note: If a guardian fails to appear when ordered to appear before the Court, the Sheriff will bring the guardian to Court.

REMEMBER - KEEP TRACK OF FILING DATES. If you cannot file on time, file an Application to Extend Time to File with the Court. A continuance means avoiding a costly Citation appearance before the Court.

HELPFUL HINTS FOR VISITING YOUR WARD

It is often difficult to see someone you care about go through the changes that aging sometimes brings - forgetfulness, anxiety, infirmity, and agitation to name a few. As the guardian you need to remember that it is still important to visit and communicate with your ward as much as possible. In order to help make these visits easier and more enjoyable we have compiled some suggestions to put both you and your ward at ease.

Most of the following suggestions are directed to those adults who are residing in an extended care facility, however, many of the suggestions will help with visits for adults who are living in the community. (See Appendix F for additional information on living arrangements and placement in an extended care facility.)

ARRANGING VISITS

Here are a few hints that might help on arranging your visit to see your ward in an extended care facility:

- ◆ Call ahead of time and find out when is the best time to visit.
- ◆ Do not hesitate to just “pop in” for a visit. That is often the best way to assure that your ward is receiving proper care.
- ◆ Bring a smile and a positive attitude. If you are supportive and extenuate the positive, it can help the ward. If something is amiss, do not dwell on it, but report it promptly to the staff so it can be corrected.
- ◆ Plan a short visit. A visit of 1/2 hour or less is fine. It is not the length of time you stay, but the fact that you visit.
- ◆ Bring another friend, family member or clergy with you to visit.

- ◆ Bring something to share or do to help pass the time. If your ward likes to garden, bring a book or magazine of flowers. If your ward enjoys cars or sports, bring the latest issue of a popular magazine to share and talk about.
- ◆ Consider visiting at lunch time. Bring your lunch and eat with your ward. If the ward is not on a restricted diet, bring in lunch for your ward. It always makes you feel better to have some “comfort food.” Share it with your ward, but consult the staff first to assure that it will not interfere with the ward’s dietary needs.

CONVERSATION STARTERS

It is often difficult to know what to talk about, especially if your ward has communication problems. However, there are many ways to have a great visit.

- ◆ Before the visit, call a friend or family member who lives out of town and find out what their family has been doing, then provide the ward the update at your visit.
- ◆ Talk about children in the family or neighborhood, how they are doing in school, and their accomplishments or events.
- ◆ Reminisce about past family events, vacations, their house or childhood sweetheart.
- ◆ Ask about favorite foods, music, holidays, restaurants, actors or places.
- ◆ Talk about recent events on the news, feel good stories, or what you watched on television.
- ◆ Bring a photo album or pictures to share with the ward.

The visit is important, the conversation is good, but it can be a good visit to just sit together and enjoy the moment.

THINGS TO DO WHEN YOU VISIT

When you are just stopping by to say hello and do not have time for a longer visit, these are some suggestions for 15 to 30 minute visits.

- ◆ read a story from the newspaper
- ◆ dust off the family pictures
- ◆ share a snack (make sure it is allowed in their diet)
- ◆ recap the news of the day
- ◆ take the older adult to visit another friend in the facility
- ◆ flip through a photo album
- ◆ complete a quick word puzzle
- ◆ put together a small jigsaw puzzle
- ◆ create an ongoing craft project to work on a little bit at a time
- ◆ assist the person in phoning a friend or sending a note

If you visit your ward often, you may want to make a special bag to take with you to the facility. This can help you prepare for the visit and provide fun activities for your time together. Some items that can be carried in this bag are: snacks, photo album, magazines, books, games, a deck of cards, music or book on tape, hand lotion, craft item, cards or stationary, a camera, tape recorder with blank tapes and something for you to do if you are waiting for the person to finish an activity.

TAKING THE OLDER ADULT OUT OF THE FACILITY FOR A VISIT

If the adult is physically able, it is often beneficial to have a visit away from the facility. You know how you feel after being cooped up for several days in your home. The adult feels the same way. However there are some things you should know before taking the adult from the facility.

Before leaving the building with the older adult it is your responsibility to know any dietary restrictions, safety precautions, special assistance needed and medications that need to be taken while out of the facility. Make sure the weather conditions are favorable and know the person's endurance level. Make sure they are signed out and signed back in when you return. Have a plan and phone numbers in case an emergency exists. Keep the visit simple - go for a meal or a scenic drive.

VISITING OLDER ADULTS COMMUNICATION & MEMORY PROBLEMS

Many of the adult wards will have communication and memory problems. Remember to keep it simple when communicating. Try asking questions that require only a yes or no answer, a nod or a hand squeeze. You can talk about things that interest the adult and include the adult in the conversation, but do not expect them to join in to enjoy the visit. If the older adult is confused and does not seem to understand what is being said during the conversation, uses nonsense words or does not recognize the family members, then try some of these tips:

- ◆ Be patient
- ◆ When you come to visit say, "Hi (Grandma), it's _____"
- ◆ Visit in a quiet area
- ◆ Utilize simple vocabulary and short sentences-avoid "baby talk"
- ◆ Be aware and sensitive to their body language and facial expressions
- ◆ Give instructions one step at a time
- ◆ Ask yes/no questions
- ◆ Ask simple choice questions
- ◆ Give enough time for the person to respond, even if it takes a few minutes
- ◆ If they are having difficulty with word recall, encourage them to point to or describe the object
- ◆ Do not change conversation topics too frequently
- ◆ Use gestures to help them understand what you are saying
- ◆ If you cannot understand what they are trying to communicate, make a caring comment such as: "I wish I could understand what you said" or "Let's try again later" or "This must be frustrating for you".

Another activity that others can join in is to hang a large calendar in their room and each time someone visits they can write his/her name in that date block and a sentence about what they did during that visit. This can help the older adult and the staff know when visits have occurred. You can also use this calendar to write birthdays and anniversaries.

VISITING AN OLDER ADULT WHO HAS LIMITED OR NO RESPONSE

It can be difficult to visit with an older adult who is unable to communicate or move about during the visit. You may be visiting with a person who remains in bed or in a reclined chair most of the day. Your time with them is still important. You can simply talk about your day or tell a story that they would appreciate or perhaps play some music or read familiar books or religious passages to them.

GIFTS

Often a facility space is at a premium and things are not secure. Here are some ideas for simple gifts to bring to brighten up their day.

- ◆ small radio and/or cassette player
- ◆ special pillow
- ◆ music or books on tape
- ◆ blank tapes, postage paid addressed envelopes to mail the taped letter
- ◆ simple jewelry
- ◆ lap blanket, throw, or handmade quilt
- ◆ something comforting to hold
- ◆ subscription to local newspaper or magazine
- ◆ book of word puzzles
- ◆ large print calendar
- ◆ addressed, postage paid stationary or post cards to family and friends
- ◆ crafts made by the grandchildren
- ◆ bag for the wheelchair or walker to carry personal items
- ◆ bulletin board or frames for displaying pictures

Additional Forms

PROBATE COURT OF LAKE COUNTY, OHIO
MARK J. BARTOLOTTA, JUDGE

GUARDIANSHIP OF JANE DOE

CASE NO. 13 GU 0123

APPLICATION FOR APPOINTMENT OF GUARDIAN
OF ALLEGED INCOMPETENT
[R.C. 2111.03]

Applicant represents to the Court that JANE DOE resides or has a legal settlement at 123 MAIN STREET, PAINESVILLE in LAKE County, Ohio and that the prospective ward is incompetent by reason of (R.C. 2111.01(D)) DEMENTIA

The proposed ward's date of birth is 01/01/1932

A Statement of Expert Evaluation is attached. (Form 17.1)

A list of Next of Kin of Proposed Ward is also attached. (Form 15.0)

The whole estate of the prospective ward is estimated as follows:

Personal Property.....	<u>\$15,000.00</u>
Real Estate.....	<u>\$89,000.00</u>
Annual Rents.....	<u>\$</u>
Other annual income.....	<u>\$14,400.00</u>

Applicant represents that the applicant is not an administrator, executor or other fiduciary of the estate wherein the alleged incompetent is interested.

Applicant offers the attached bond in the amount of \$58,800.00

Applicant further represents that a guardian of the alleged incompetent is necessary in order that

☐ the ward ☒ ward's property may be taken proper care of and asks that a guardian be appointed.

TYPE OF GUARDIANSHIP APPLIED FOR IS [check the applicable boxes]

☐ non-limited ☐ limited ☒ person and estate ☐ estate only ☐ person only

If limited guardianship is applied for, the limited powers requested are

CASE NO. 13 GU 0123The time period requested is ☒ indefinite ☐ definite to _____Applicant's relationship to alleged incompetent is no relations. Court-appointed attorney/guardian

The Applicant has (not) been charged with or convicted of a crime involving theft, physical violence, or sexual, alcohol or substance abuse except as follows (if applicable, state date and place of each charge or each conviction.)

☐ The Applicant represents that a guardian has been nominated in a writing pursuant to R.C. 1337.09(D) or R.C. 2111.121. The nominated person is _____

☐ The nominated person's contact information is listed on Form 15.0 (Next of Kin).

☐ A copy of the document which nominates the guardian is attached.

☐ The Applicant represents that the proposed ward had military service.

Military I.D.: _____

Branch of service: _____

Dates of service: _____

☐ Applicant represents that the address provided is the applicant's permanent address and acknowledges the requirement that the court be notified of any change of address. Removal may result from a failure to comply with this requirement.

Attorney for Applicant

John Q. Attorney
Typed or Printed Name

987 Oak Street
Address

Painesville Ohio 44077
City State Zip

440/350-2626
Telephone Number (include area code)

Attorney Registration No. 0000001

Applicant

John Guardian
Typed or Printed Name

35
Age

987 Oak Street
Permanent Address

Painesville Ohio 44077
City State Zip

440/350-2626
Telephone Number (include area code)

WAIVER OF SERVICE BY NEXT OF KIN

With the knowledge that _____
has applied to be guardian of _____,
we consent to that appointment, waive service of notice of the application and hearing, and voluntarily enter our
appearance in the matter.

1. _____	6. _____
2. _____	7. _____
3. _____	8. _____
4. _____	9. _____
5. _____	10. _____

.....

SELECTION OF GUARDIAN BY MINOR OVER 14 YEARS OF AGE

Under Ohio law, R.C. 2111.12, if the Court finds the person selected suitable, a minor over 14 years of
age may select his/her own guardian.

I, _____, Age _____,
elect _____, a resident of
_____ County, Ohio, as my guardian, and request the Court to find the
person suitable and appoint that person guardian.

Date

Minor

MARK J. BARTOLOTTA, JUDGE

PROBATE COURT OF LAKE COUNTY, OHIO

IN THE MATTER OF JANE DOE

Case No. 13 GU 0123 Docket Page

NEXT OF KIN OF PROPOSED WARD

(Note: If the next of kin is a minor 15 years or under, his age should be entered next to his name, and the name, address, and relationship to the minor of a natural parent, or guardian who has custody, should be listed in the next name block.)

Service Waived

1. ☐ Name JOHN DOE, JR Relationship SON
Address 123 ELM STREET, MADISON, OHIO ZIP 44057
2. ☐ Name JANICE DOE Relationship DAUGHTER
Address UNKNOWN ZIP
3. ☐ Name Relationship
Address ZIP
4. ☐ Name Relationship
Address ZIP
5. ☐ Name Relationship
Address ZIP
6. ☐ Name Relationship
Address ZIP
7. ☐ Name Relationship
Address ZIP
8. ☐ Name Relationship
Address ZIP
9. ☐ Name Relationship
Address ZIP
10. ☐ Name Relationship
Address ZIP

LIST OF WAIVER OF NEXT KIN – APPLICATION EXHIBIT B

Probate Court of Lake County, Ohio
Mark J. Bartolotta, Judge

In the matter of the guardianship of JANE DOE
Case No. 13 GU 0123

Supplement for emergency Guardian of Person
[R.C. 2111.49]

This supplement must be completed when there is a request for Emergency Guardianship. The following questions must be answered with **specificity** and item 1., page 1 of the statement of expert Evaluation, Form 17.1 must be checked.

- A. Does the individual have a durable health care power of attorney? No If yes, why is it not being honored?

- B. Exact nature of emergency :
Patient brought to ER via ambulance, confused, dirty, disheveled,
non-ambulatory, unable to provide medical history, home address,
names or location of family members. Not eating or taking medication.

- C. Length of time emergency has existed, and why?

- D. Specific action required to prevent significant injury to person:
Ward needs immediate medical care and to be placed in a safe place.

- E. Ability of the alleged Incompetent to receive notice and give consent:
Ward cannot give informed consent.

- F. Medical Prognosis in detail if immediate action, within 24 hours, is not taken:
Ward a danger to herself if returned to the community. Not compliant
with medication, is not eating. Could perish.

- G. Additional statements regarding condition, family, support services, etc:

Note: Any above answers may be supplemented by attachments.

Date and Time of Evaluation

Licensed Physician

Date of Report

Select Local Rules

SELECT LOCAL RULES OF COURT

LAKE COUNTY RULE 64. Accounts.

Rule 64.1. When Due.

All trustees and guardians of the estate must submit their fiduciary accounts each year on the anniversary date of their appointment.

Rule 64.2. Vouchers.

Guardians must submit receipts and canceled checks or photocopies (front and back) from their guardian checking account; personal checks of guardians cannot be accepted as vouchers.

In any case wherein a computer printout (statement of transaction) is presented as an itemized statement of receipts and disbursements, approval of all beneficiaries must be obtained and filed with the account.

In lieu of submitting vouchers in a solvent decedent's estate, the fiduciary may file with the account a waiver and consent from the heirs at law or beneficiaries under a Will acknowledging that each person received a copy of the account, waives notice of hearing on the account, and consents to the account.

The signature of each heir at law or beneficiary under a Will must be dated. The attorney for the fiduciary must sign his or her name on the account if vouchers are not submitted.

The court, on its own motion, may require the fiduciary to submit vouchers with his or her account.

LAKE COUNTY RULE 66. Guardianships.

Rule 66.2. Annual Report.

An annual report must be filed by the guardian of an incompetent person on or before January 2nd of each year.

Rule 66.3. Depositing of Ward's Will.

Guardians of adult wards shall deposit the Last Will and Testament, if any, of their respective wards with the court as provided by R.C. 2107.07 immediately following their appointment as guardian.

Rule 66.4. Fees from Indigent Guardianship Fund.

Attorney and guardian fees paid from the court's indigent guardianship fund shall be no more than \$50 per hour for a maximum fee of \$800 per year. All requests for fees in addition to this amount shall be made by the filing of an application for extraordinary fees. Such applications may or may not be set for hearing, depending on the circumstances.

Rule 66.5. Notification of Ward's Death.

Guardians shall notify the court within 45 days of the death of the ward. Failure to comply may result in the removal of the guardian and attorney and/or a disallowance of guardian and/or attorney fees.

Rule 66.6. Visitation with Ward.

The court shall require the guardian or a representative of his or her office to visit the ward at least once every two months. Failure to comply may result in the removal of the guardian. The court also has established a volunteer visitor program and/or an internship program to visit wards every other month. After his or her visit, a visitor's report shall be filed with the court.

Rule 66.7. Right to Vote.

No adult person adjudicated incompetent shall lose the right to vote, except upon motion, notice, and record hearing before the court.

LAKE COUNTY RULE 73. Guardian's Compensation.

Rule 73.1. Ordinary and Extraordinary Services.

Guardians, unless otherwise provided by law, are allowed an amount for ordinary services not to exceed the following:

- (A) 4% on all amounts received and 4% on all amounts paid out during accounting periods on sums not exceeding \$100,000;
- (B) 3% on all amounts received and 3% on all amounts paid out during accounting periods on sums in excess of \$100,000;
- (C) no percentage will be allowed on balances carried forward from one accounting period to another;
- (D) an investment of funds is not to be considered an expenditure;
- (E) a final distribution of unexpended balances to a ward at the closing of a guardianship shall be considered an expenditure.

The foregoing allowance is subject to a minimum charge of \$250 per year. Guardian fees may be deferred one accounting period only.

On motion, the court may make further allowances for extraordinary services or expenses when it is shown that the allowance is just and reasonable.

Rule 73.2 Payment from Indigent Fund.

Attorney and guardian fees paid from the court's indigent guardianship fund shall be no more than \$50 per hour for a maximum fee of \$800 per case for a period of one year. All requests for fees in addition to this amount shall be made by the filing of an application for extraordinary fees. Such applications may or may not be set for hearing, depending on the circumstances of the request.

Rule 94.2. Motion to Correct Inventory.

Inventories shall not be amended. Assets improperly included on an inventory, inaccurately valued or incorrectly described, must be reconciled by a motion to correct the inventory with corresponding judgment entry that rectifies the inaccuracy and reflects the estate's total value.

Assets inadvertently omitted from an inventory or later discovered, may be submitted as newly discovered assets in estates and on a supplemental inventory in guardianships.

Select Statutes

Baldwin's Ohio Revised Code Annotated
Title XXI. Courts--Probate--Juvenile (Refs & Annos)
Chapter 2109. Fiduciaries (Refs & Annos)
Bond; Sureties

R.C. § 2109.04

2109.04 Bond

Effective: January 13, 2012

Currentness

(A)(1) Unless otherwise provided by law, order, or local rule, every fiduciary, prior to the issuance of the fiduciary's letters as provided by section 2109.02 of the Revised Code, shall file in the probate court in which the letters are to be issued a bond with a penal sum in an amount that is fixed by the court, but in no event less than double the probable value of the personal property and of the annual real property rentals that will come into the possession or under the control of the person as a fiduciary. The bond of a fiduciary shall be in a form approved by the court and signed by two or more personal sureties or by one or more corporate sureties approved by the court. It shall be conditioned that the fiduciary faithfully and honestly will discharge the duties devolving upon the person as fiduciary, and shall be conditioned further as may be provided by law.

(2) Except as otherwise provided in this division, if the instrument creating the trust dispenses with the giving of a bond, the court shall appoint a fiduciary without bond, unless the court is of the opinion that the interest of the trust demands it. If the court is of that opinion, it may require bond to be given in any amount it fixes. If a parent nominates a guardian for the parent's child in a will and provides in the will that the guardian may serve without giving bond, the court may appoint the guardian without bond or require the guardian to give bond in accordance with division (A)(1) of this section.

(3) A guardian of the person only does not have to give bond unless, for good cause shown, the court considers a bond to be necessary. When a bond is required of a guardian of the person only, it shall be determined and filed in accordance with division (A)(1) of this section. This division does not apply to a guardian of the person only nominated in a parent's will if the will

provides that the guardian may serve without giving bond.

(4) When the probable value of the personal property and of the annual real property rentals that will come into the possession or under the control of the guardian as a fiduciary is less than ten thousand dollars, the court may waive or reduce a bond required by division (A)(1) of this section.

(B) When an executive director who is responsible for the administration of children services in the county is appointed as trustee of the estate of a ward pursuant to section 5153.18 of the Revised Code and has furnished bond under section 5153.13 of the Revised Code, or when an agency under contract with the department of developmental disabilities for the provision of protective service under sections 5123.55 to 5123.59 of the Revised Code is appointed as trustee of the estate of a ward under sections 5123.55 to 5123.59 of the Revised Code and any employees of the agency having custody or control of funds or property of that ward have furnished bond under section 5123.59 of the Revised Code, the court may dispense with the giving of a bond.

(C) When letters are granted without bond, at any later period on its own motion or upon the application of any party interested, the court may require bond to be given in an amount that is fixed by the court. On failure to give that bond, the defaulting fiduciary shall be removed.

No instrument authorizing a fiduciary whom it names to serve without bond shall be construed to relieve a successor fiduciary from the necessity of giving bond, unless the instrument clearly evidences that intention.

The court that appoints a fiduciary may reduce the amount of the bond of the fiduciary at any time for good cause shown.

When two or more persons are appointed as joint fiduciaries, the court may take a separate bond from each or a joint bond from all.

CREDIT(S)

(2011 S 124, eff. 1-13-12; 2009 S 79, eff. 10-6-09; 1991 H 82, eff. 9-10-91; 1989 S 46; 1984 H 263; 1980 H 900; 1971 H 290; 132 v H 1; 129 v 1623; 125 v 903; 1953 H 1; GC 10506-4, 10506-8, 10506-13, 10506-21)

Notes of Decisions (33)

R.C. § 2109.04, OH ST § 2109.04

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Baldwin's Ohio Revised Code Annotated
Title XXI. Courts--Probate--Juvenile (Refs & Annos)
Chapter 2111. Guardians; Conservatorships (Refs & Annos)
General Provisions

R.C. § 2111.02

2111.02 Appointment of guardian

Effective: March 22, 2013

Currentness

(A) If found necessary, a probate court on its own motion or on application by any interested party shall appoint, subject to divisions (C) and (D) of this section and to section 2109.21 and division (B) of section 2111.121 of the Revised Code, a guardian of the person, the estate, or both, of a minor or incompetent, provided the person for whom the guardian is to be appointed is a resident of the county or has a legal settlement in the county. If the person for whom the guardian is to be appointed is an adult, the person must be a qualified respondent as described in section 2112.21 of the Revised Code and have the opportunity to have the assistance of counsel in the proceeding for the appointment of that guardian. An interested party includes, but is not limited to, a person nominated in a durable power of attorney under section 1337.24 of the Revised Code or in a writing as described in division (A) of section 2111.121 of the Revised Code.

Except when the guardian of an incompetent is an agency under contract with the department of developmental disabilities for the provision of protective services under sections 5123.55 to 5123.59 of the Revised Code, the guardian of an incompetent, by virtue of the appointment as guardian, shall be the guardian of the minor children of the guardian's ward, unless the court appoints some other person as their guardian.

When the primary purpose of the appointment of a guardian is, or was, the collection, disbursement, or administration of moneys awarded by the veterans administration to the ward, or assets derived from those moneys, no court costs shall be charged in the proceeding for the appointment or in any subsequent proceedings made in pursuance of the appointment, unless the value of the estate, including the moneys then due under the veterans administration award, exceeds one thousand five hundred dollars.

(B)(1) If the probate court finds it to be in the best interest of an incompetent or minor, it may appoint pursuant to divisions (A) and (C) of this section, on its own motion or on application by an interested party, a limited guardian with specific limited powers. The sections of the Revised Code, rules, and procedures governing guardianships apply to a limited guardian, except that the order of appointment and letters of authority of a limited guardian shall state the reasons for, and specify the limited powers of, the guardian. The court may appoint a limited guardian for a definite or indefinite period. An incompetent or minor for whom a limited guardian has been appointed retains all of the incompetent's or minor's rights in all areas not affected by the court order appointing the limited guardian.

(2) If a guardian appointed pursuant to division (A) of this section is temporarily or permanently removed or resigns, and if the welfare of the ward requires immediate action, at any time after the removal or resignation, the probate court may appoint, ex parte and with or without notice to the ward or interested parties, an interim guardian for a maximum period of fifteen days. If the court appoints the interim guardian ex parte or without notice to the ward, the court, at its first opportunity, shall enter upon its journal with specificity the reason for acting ex parte or without notice, and, as soon as possible, shall serve upon the ward a copy of the order appointing the interim guardian. For good cause shown, after notice to the ward and interested parties and after hearing, the court may extend an interim guardianship for a specified period, but not to exceed an additional thirty days.

(3) If a minor or incompetent has not been placed under a guardianship pursuant to division (A) of this section and if an emergency exists and it is reasonably certain that immediate action is required to prevent significant injury to the person or estate of the minor or incompetent, at any time after it receives notice of the emergency, the court, ex parte, may issue any order that it considers necessary to prevent injury to the person or estate of the minor or incompetent, or may appoint an emergency guardian for a maximum period of seventy-two hours. A written copy of any order issued by a court under this division shall be served upon the incompetent or minor as soon as possible after its issuance. Failure to serve that order after its issuance or prior to the taking of any action under its authority does not invalidate the order or the actions taken. The powers of an emergency guardian shall be specified in the letters of appointment, and shall be limited to those powers that are necessary to prevent injury to the person or estate of the minor or incompetent. If the court acts ex parte or without notice to the minor or incompetent, the court, at its first opportunity, shall enter upon its journal a record of the case and, with specificity, the reason for acting ex parte or without notice. For good cause shown, after notice to the minor or incompetent and interested parties, and after hearing, the court may extend an emergency guardianship for a specified period, but not to exceed an additional thirty days.

(C) Prior to the appointment of a guardian or limited guardian under division (A) or (B)(1) of

this section, the court shall conduct a hearing on the matter of the appointment. The hearing shall be conducted in accordance with all of the following:

- (1) The proposed guardian or limited guardian shall appear at the hearing and, if appointed, shall swear under oath that the proposed guardian or limited guardian has made and will continue to make diligent efforts to file a true inventory in accordance with section 2111.14 of the Revised Code and find and report all assets belonging to the estate of the ward and that the proposed guardian or limited guardian faithfully and completely will fulfill the other duties of guardian, including the filing of timely and accurate reports and accountings.
- (2) If the hearing is conducted by a magistrate, the procedures set forth in Civil Rule 53 shall be followed.
- (3) If the hearing concerns the appointment of a guardian or limited guardian for an alleged incompetent, the burden of proving incompetency shall be by clear and convincing evidence.
- (4) Upon request of the applicant, the alleged incompetent for whom the appointment is sought or the alleged incompetent's counsel, or any interested party, a recording or record of the hearing shall be made.
- (5) Evidence of a less restrictive alternative to guardianship may be introduced, and when introduced, shall be considered by the court.
- (6) The court may deny a guardianship based upon a finding that a less restrictive alternative to guardianship exists.
- (7) If the hearing concerns the appointment of a guardian or limited guardian for an alleged incompetent, the alleged incompetent has all of the following rights:
 - (a) The right to be represented by independent counsel of the alleged incompetent's choice;
 - (b) The right to have a friend or family member of the alleged incompetent's choice present;

- (c) The right to have evidence of an independent expert evaluation introduced;
- (d) If the alleged incompetent is indigent, upon the alleged incompetent's request:
 - (i) The right to have counsel and an independent expert evaluator appointed at court expense;
 - (ii) If the guardianship, limited guardianship, or standby guardianship decision is appealed, the right to have counsel appointed and necessary transcripts for appeal prepared at court expense.

(D)(1) If a person has been nominated to be a guardian of the estate of a minor in or pursuant to a durable power of attorney under section 1337.24 of the Revised Code or a writing as described in division (A) of section 2111.121 of the Revised Code, the person nominated has preference in appointment over a person selected by the minor. A person who has been nominated to be a guardian of the person of a minor in or pursuant to a durable power of attorney or writing of that nature does not have preference in appointment over a person selected by the minor, but the probate court may appoint the person named in the durable power of attorney or the writing, the person selected by the minor, or another person as guardian of the person of the minor.

(2) A person nominated as a guardian of an incompetent adult child pursuant to a durable power of attorney under section 1337.24 or pursuant to section 2111.121 of the Revised Code shall have preference in appointment over a person applying to be guardian if the person nominated is competent, suitable, and willing to accept the appointment, and if the incompetent adult child does not have a spouse or an adult child and has not designated a guardian prior to the court finding the adult child incompetent.

CREDIT(S)

(2012 H 27, eff. 3-22-13; 2011 S 117, eff. 3-22-12; 2011 S 124, eff. 1-13-12; 2009 S 79, eff. 10-6-09; 2008 S 157, eff. 5-14-08; 1996 H 288, eff. 1-14-97; 1989 S 46, eff. 1-1-90; 1988 S 228; 1983 S 115; 129 v 1448; 128 v 76; 1953 H 1; GC 10507-2)

OSBA PROBATE AND TRUST LAW SECTION

1983:

See the comment for 1983 following Sec. 2111.121.

Notes of Decisions (168)

R.C. § 2111.02, OH ST § 2111.02

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Baldwin's Ohio Revised Code Annotated
Title XXI. Courts--Probate--Juvenile (Refs & Annos)
Chapter 2111. Guardians; Conservatorships (Refs & Annos)
General Provisions

R.C. § 2111.03

2111.03 Application for appointment of guardian

Currentness

A person applying for appointment as a guardian, including, but not limited to, as a limited guardian, pursuant to section 2111.02 of the Revised Code, shall file with the probate court an application that contains a statement of the whole estate of the ward, its probable value, and the probable annual rents of the ward's real property, and that also contains the following:

(A) A statement whether the applicant ever has been charged with or convicted of any crime involving theft, physical violence, or sexual, alcohol, or substance abuse, and, if the applicant has been so charged or convicted, the date and place of each charge and each conviction;

(B) A statement whether a limited guardianship is sought and, if sought, a specification of the limited powers that are requested and a statement whether the limited guardianship is to be for a definite or indefinite period;

(C) In the case of an application for the appointment of a guardian of a minor, all of the following:

(1) Name, age, and residence of the minor;

(2) Name and residence of each parent of the minor;

(3) Name, degree of kinship, age, and address of next of kin of the minor, if no parent is living or if a parent of the minor is absent, under disability, or for other reason cannot be notified;

(4) Name and residence address of the person having custody of the minor.

(D) In the case of an application for the appointment of a guardian of an alleged incompetent, all of the following:

(1) Name, age, and residence of the person for whom such appointment is sought;

(2) Facts upon which the application is based;

(3) Name, degree of kinship, age, and address of the next of kin of the alleged incompetent.

The court, on its own motion, shall proceed as provided in this chapter, upon suggestion by the bureau of workers' compensation that any person who has made application for or been awarded compensation or death benefits as an employee or the dependent of a killed employee is a minor or incompetent. In that case, no application need be filed and the bureau shall furnish the court with the name and residence of such person and the name, degree of kinship, age, and address of the father, mother, or next of kin of such person insofar as known by the bureau.

CREDIT(S)

(1992 H 427, eff. 10-8-92; 1989 H 222, S 46; 129 v 1448; 1953 H 1; GC 10507-3)

Notes of Decisions (5)

R.C. § 2111.03, OH ST § 2111.03

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Chapter 2111. Guardians; Conservatorships (Refs & Annos)
General Provisions

R.C. § 2111.04

2111.04 Notice

Effective: January 13, 2012

Currentness

(A) Except for an interim or emergency guardian appointed under division (B)(2) or (3) of section 2111.02 of the Revised Code, no guardian of the person, the estate, or both shall be appointed until at least seven days after the probate court has caused written notice, setting forth the time and place of the hearing, to be served as follows:

(1) In the appointment of the guardian of a minor, notice shall be served as follows:

(a) Upon the minor, if over the age of fourteen, by personal service;

(b) Upon each parent of the minor whose name and address is known or with reasonable diligence can be ascertained, provided the parent is free from disability other than minority;

(c) Upon the next of kin of the minor who are known to reside in this state, if there is no living parent, the name and address of the parent cannot be ascertained, or the parent is under disability other than minority;

(d) Upon the person having the custody of the minor.

(2) In the appointment of the guardian of an incompetent, notice shall be served as follows:

(a)(i) Upon the person for whom appointment is sought by personal service, by a probate court investigator, or in the manner provided in division (A)(2)(a)(ii) of this section. The notice shall be in boldface type and shall inform the alleged incompetent, in boldface type, of the alleged incompetent's rights to be present at the hearing, to contest any application for the appointment of a guardian for the alleged incompetent's person, estate, or both, and to be represented by an attorney and of all of the rights set forth in division (C)(7) of section 2111.02 of the Revised Code.

(ii) If the person for whom appointment is sought is a resident of, or has a legal settlement in, the county in which the court has jurisdiction, but is absent from that county, the probate court may designate, by order, a temporary probate court investigator, in lieu of a regular probate court investigator appointed or designated under section 2101.11 of the Revised Code, to make the personal service of the notice described in division (A)(2)(a)(i) of this section upon the person for whom appointment is sought.

(b) Upon the next of kin of the person for whom appointment is sought who are known to reside in this state.

(B) After service of notice in accordance with division (A) of this section and for good cause shown, the court may appoint a guardian prior to the time limitation specified in that division.

(C) Notice may not be waived by the person for whom the appointment is sought.

(D) From the service of notice until the hearing, no sale, gift, conveyance, or encumbrance of the property of an alleged incompetent shall be valid as to persons having notice of the proceeding.

CREDIT(S)

(2011 S 124, eff. 1-13-12; 1989 S 46, eff. 1-1-90; 1975 S 145; 129 v 1448; 127 v 36; 1953 H 1; GC 10507-4)

COMPARATIVE LAWS

Minn.--M.S.A. § 525.55.

Notes of Decisions (40)

R.C. § 2111.04, OH ST § 2111.04

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Chapter 2111. Guardians; Conservatorships (Refs & Annos)
Powers and Duties of Guardian

R.C. § 2111.13

2111.13 Duties of guardian of person

Currentness

(A) When a guardian is appointed to have the custody and maintenance of a ward, and to have charge of the education of the ward if the ward is a minor, the guardian's duties are as follows:

- (1) To protect and control the person of the ward;
- (2) To provide suitable maintenance for the ward when necessary, which shall be paid out of the estate of such ward upon the order of the guardian of the person;
- (3) To provide such maintenance and education for such ward as the amount of the ward's estate justifies when the ward is a minor and has no father or mother, or has a father or mother who fails to maintain or educate the ward, which shall be paid out of such ward's estate upon the order of the guardian of the person;
- (4) To obey all the orders and judgments of the probate court touching the guardianship.

(B) Except as provided in section 2111.131 of the Revised Code, no part of the ward's estate shall be used for the support, maintenance, or education of such ward unless ordered and approved by the court.

(C) A guardian of the person may authorize or approve the provision to the ward of medical, health, or other professional care, counsel, treatment, or services unless the ward or an interested

party files objections with the probate court, or the court, by rule or order, provides otherwise.

(D) Unless a person with the right of disposition for a ward under section 2108.70 or 2108.81 of the Revised Code has made a decision regarding whether or not consent to an autopsy or post-mortem examination on the body of the deceased ward under section 2108.50 of the Revised Code shall be given, a guardian of the person of a ward who has died may consent to the autopsy or post-mortem examination.

(E) If a deceased ward did not have a guardian of the estate, the estate is not required to be administered by a probate court, and a person with the right of disposition for a ward, as described in section 2108.70 or 2108.81 of the Revised Code, has not made a decision regarding the disposition of the ward's body or remains, the guardian of the person of the ward may authorize the burial or cremation of the ward.

(F) A guardian who gives consent or authorization as described in divisions (D) and (E) of this section shall notify the probate court as soon as possible after giving the consent or authorization.

CREDIT(S)

(2006 H 426, eff. 10-12-06; 2000 H 538, eff. 9-22-00; 1989 S 46, eff. 1-1-90; 1984 H 263; 1953 H 1; GC 10507-16)

Notes of Decisions (32)

R.C. § 2111.13, OH ST § 2111.13

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Chapter 2111. Guardians; Conservatorships (Refs & Annos)
Powers and Duties of Guardian

R.C. § 2111.14

2111.14 Duties of guardian of estate

Effective: January 13, 2012
Currentness

(A) In addition to a guardian's other duties, every guardian appointed to take care of the estate of a ward shall have the following duties:

- (1) To make and file within three months after the guardian's appointment a full inventory of the real and personal property of the ward, its value, and the value of the yearly rent of the real property, provided that, if the guardian fails to file the inventory for thirty days after having been notified of the expiration of the time by the probate judge, the judge shall remove the guardian and appoint a successor;
- (2) To manage the estate for the best interest of the ward;
- (3) To pay all just debts due from the ward out of the estate in the possession or under the control of the guardian, collect all debts due to the ward, compound doubtful debts, and appear for and defend, or cause to be defended, all suits against the ward;
- (4) To obey all orders and judgments of the courts touching the guardianship;
- (5) To bring suit for the ward when a suit is in the best interests of the ward;
- (6) To settle and adjust, when necessary or desirable, the assets that the guardian may receive in kind from an executor or administrator to the greatest advantage of the ward. Before a settlement and adjustment is valid and binding, it shall be approved by the probate court and the approval shall be entered on its journal. The guardian also shall have the approval of the probate court to

hold the assets as received from the executor or administrator or to hold what may be received in the settlement and adjustment of those assets.

(B) No guardian appointed to take care of the estate of a ward may open a safety deposit box held in the name of the ward, until the contents of the box have been audited by an employee of the county auditor in the presence of the guardian and until a verified report of the audit has been filed by the auditor with the probate court. The court then shall issue a release to the guardian permitting the guardian to have access to the safety deposit box of the ward.

CREDIT(S)

(2011 S 124, eff. 1-13-12; 1992 H 427, eff. 10-8-92; 1969 S 42; 1953 H 1; GC 10507-15)

Notes of Decisions (102)

R.C. § 2111.14, OH ST § 2111.14

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Title XXI. Courts--Probate--Juvenile (Refs & Annos)

Chapter 2111. Guardians; Conservatorships (Refs & Annos)

Termination of Guardianship

R.C. § 2111.47

2111.47 Wards other than minors

Effective: August 7, 2007

Currentness

Upon reasonable notice to the guardian, to the ward, and to the person on whose application the appointment was made, and upon satisfactory proof that the necessity for the guardianship no longer exists or that the letters of appointment were improperly issued, the probate court shall order that the guardianship of an incompetent terminate and shall make an appropriate entry upon the journal. Thereupon the guardianship shall cease, the accounts of the guardian shall be settled by the court, and the ward shall be restored to the full control of the ward's property as before the appointment. Such entry terminating the guardianship of an incompetent person shall have the same effect as a determination by the court that such person is competent.

CREDIT(S)

(2007 H 53, eff. 8-7-07; 129 v 1448, eff. 10-25-61; 1953 H 1; GC 10507-61)

Notes of Decisions (32)

R.C. § 2111.47, OH ST § 2111.47

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Title XXI. Courts--Probate--Juvenile (Refs & Annos)
Chapter 2111. Guardians; Conservatorships (Refs & Annos)
Termination of Guardianship

R.C. § 2111.471

2111.471 Transfer of guardianship on removal of ward from county

Currentness

If the ward for whom a guardian has been appointed removes to another county within this state and acquires a new residence or legal settlement therein, the probate court having jurisdiction over the guardian and the ward, may, on its own motion, or on motion of the guardian or any interested party, with the consent of the probate court of the county to which such ward has removed, transfer the jurisdiction over said guardian and ward to such probate court, provided it appears that such transfer would be in the best interest of the ward.

Thereupon, the original probate court shall prepare certified copies of the appointment, letters of guardianship, bond, inventory, the last account, if any, a full and complete transcript of its docket and journal entries up to and including the order of transfer and copies of such other papers as may be requested by the receiving court, and shall cause the same to be filed in the probate court accepting jurisdiction, all costs to be paid by the guardian out of the assets of the estate of the ward.

Upon the filing of the certified copies of the original papers and the transcript, and the payment of costs, the probate court to which the proceedings have been transferred may assign a case number and by journal entry, accept jurisdiction. A copy of the entry accepting jurisdiction shall be returned to the court of original jurisdiction. Thereupon, the probate court to which the proceedings have been transferred shall acquire jurisdiction over the guardian and the ward as though such probate court had jurisdiction and appointed the guardian in the first instance, and the jurisdiction of the probate court from which the proceedings have been transferred shall cease.

CREDIT(S)
(129 v 7, eff. 10-5-61)

OSBA PROBATE AND TRUST LAW SECTION

1961:

The committee, working with the Probate Judges Committee on the subject, found a strong need for legislation to authorize the transfer of a guardianship from the county of original appointment to another county when convenience of all concerned so dictates. This would be when a ward removes to another county within the state. Families move and minors move with them. Adults under guardianship may go to live with relatives or be placed in an institution in another county.

Notes of Decisions (2)

R.C. § 2111.471, OH ST § 2111.471

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Miscellaneous Provisions

R.C. § 2111.49

2111.49 Guardian's report; court intervention; hearing

Currentness

(A)(1) Subject to division (A)(3) of this section, the guardian of an incompetent person shall file a guardian's report with the court two years after the date of the issuance of the guardian's letters of appointment and biennially after that time, or at any other time upon the motion or a rule of the probate court. The report shall be in a form prescribed by the court and shall include all of the following.

- (a) The present address of the place of residence of the ward;
- (b) The present address of the guardian;
- (c) If the place of residence of the ward is not the ward's personal home, the name of the facility at which the ward resides and the name of the person responsible for the ward's care;
- (d) The approximate number of times during the period covered by the report that the guardian has had contact with the ward, the nature of those contacts, and the date that the ward was last seen by the guardian;
- (e) Any major changes in the physical or mental condition of the ward observed by the guardian;
- (f) The opinion of the guardian as to the necessity for the continuation of the guardianship;

- (g) The opinion of the guardian as to the adequacy of the present care of the ward;
 - (h) The date that the ward was last examined or otherwise seen by a physician and the purpose of that visit;
 - (i) A statement by a licensed physician, licensed clinical psychologist, licensed independent social worker, licensed professional clinical counselor, or mental retardation team that has evaluated or examined the ward within three months prior to the date of the report as to the need for continuing the guardianship.
- (2) The court shall review a report filed pursuant to division (A)(1) of this section to determine if a continued necessity for the guardianship exists. The court may direct a probate court investigator to verify aspects of the report.
- (3) Division (A)(1) of this section applies to guardians appointed prior to, as well as on or after, the effective date of this section. A guardian appointed prior to that date shall file the first report in accordance with any applicable court rule or motion, or, in the absence of such a rule or motion, upon the next occurring date on which a report would have been due if division (A)(1) of this section had been in effect on the date of appointment as guardian, and shall file all subsequently due reports biennially after that time.
- (B) If, upon review of any report required by division (A)(1) of this section, the court finds that it is necessary to intervene in a guardianship, the court shall take any action that it determines is necessary, including, but not limited to, terminating or modifying the guardianship.
- (C) Except as provided in this division, for any guardianship, upon written request by the ward, the ward's attorney, or any other interested party made at any time after the expiration of one hundred twenty days from the date of the original appointment of the guardian, a hearing shall be held in accordance with section 2111.02 of the Revised Code to evaluate the continued necessity of the guardianship. Upon written request, the court shall conduct a minimum of one hearing under this division in the calendar year in which the guardian was appointed, and upon written request, shall conduct a minimum of one hearing in each of the following calendar years. Upon its own motion or upon written request, the court may, in its discretion, conduct a hearing within the first one hundred twenty days after appointment of the guardian or conduct more than one hearing in a calendar year. If the ward alleges incompetence, the burden of proving incompetence shall be upon the applicant for guardianship or the guardian, by clear and convincing evidence.

CREDIT(S)

(1996 S 223, eff. 3-18-97; 1989 S 46, eff. 1-1-90)

Notes of Decisions (6)

R.C. § 2111.49, OH ST § 2111.49

Current through Files 1 to 94 and Statewide Issue 1 of the 130th GA (2013-2014).

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Baldwin's Ohio Revised Code Annotated
Title XXI. Courts--Probate--Juvenile (Refs & Annos)
Chapter 2111. Guardians; Conservatorships (Refs & Annos)
Miscellaneous Provisions

R.C. § 2111.50

2111.50 Probate court powers over guardianship

Effective: January 13, 2012
Currentness

(A)(1) At all times, the probate court is the superior guardian of wards who are subject to its jurisdiction, and all guardians who are subject to the jurisdiction of the court shall obey all orders of the court that concern their wards or guardianships.

(2)(a) Subject to divisions (A)(2)(b) and (c) of this section, the control of a guardian over the person, the estate, or both of the guardian's ward is limited to the authority that is granted to the guardian by the Revised Code, relevant decisions of the courts of this state, and orders or rules of the probate court.

(b) Except for the powers specified in division (E) of this section and unless otherwise provided in or inconsistent with another section of the Revised Code, the probate court may confer upon a guardian any power that this section grants to the probate court in connection with wards.

(c) For good cause shown, the probate court may limit or deny, by order or rule, any power that is granted to a guardian by a section of the Revised Code or relevant decisions of the courts of this state.

(B) In connection with any person whom the probate court has found to be an incompetent or a minor subject to guardianship and for whom the court has appointed a guardian, the court has, subject to divisions (C) to (E) of this section, all the powers that relate to the person and estate of the ward and that the ward could exercise if present and not a minor or under a disability, except the power to make or revoke a will. These powers include, but are not limited to, the power to do any of the following:

(1) Convey or release the present, contingent, or expectant interests in real or personal property of the ward, including, but not limited to, dower and any right of survivorship incident to a survivorship tenancy, joint tenancy, or tenancy by the entireties;

(2) Exercise or release powers as a trustee, personal representative, custodian for a minor, guardian, or donee of a power of appointment;

(3) Enter into contracts, or create revocable trusts of property of the estate of the ward, that may not extend beyond the minority, disability, or life of the ward;

(4) Exercise options to purchase securities or other property;

(5) Exercise rights to elect options under annuities and insurance policies, and to surrender an annuity or insurance policy for its cash value;

(6) Exercise the right to an elective share in the estate of the deceased spouse of the ward pursuant to section 2106.08 of the Revised Code;

(7) Make gifts, in trust or otherwise, to relatives of the ward and, consistent with any prior pattern of the ward of giving to charities or of providing support for friends, to charities and friends of the ward.

(C) Except for the powers specified in division (D) of this section, all powers of the probate court that are specified in this chapter and that relate either to any person whom it has found to be an incompetent or a minor subject to guardianship and for whom it has appointed a guardian and all powers of a guardian that relate to the guardian's ward or guardianship as described in division (A) (2) of this section, shall be exercised in the best interest, as determined in the court's or guardian's judgment, of the following:

(1) The ward whom the probate court has found to be an incompetent or a minor subject to guardianship;

(2) The dependents of the ward;

(3) The members of the household of the ward.

(D) If the court is to exercise or direct the exercise, pursuant to division (B) of this section, of the power to make gifts in trust or otherwise, the following conditions shall apply:

(1) The exercise of the particular power shall not impair the financial ability of the estate of the ward whom the probate court has found to be an incompetent or a minor subject to guardianship and for whom the court has appointed a guardian, to provide for the ward's foreseeable needs for maintenance and care;

(2) If applicable, the court shall consider any of the following:

(a) The estate, income, and other tax advantages of the exercise of a particular power to the estate of a ward whom the probate court has found to be an incompetent or a minor subject to guardianship and for whom the court has appointed a guardian;

(b) Any pattern of giving of, or any pattern of support provided by, the ward prior to the ward's incompetence;

(c) The disposition of property made by the ward's will;

(d) If there is no knowledge of a will of the ward, the ward's prospective heirs;

(e) Any relevant and trustworthy statements of the ward, whether established by hearsay or other evidence.

(E)(1) The probate court shall cause notice as described in division (E)(2) of this section to be given and a hearing to be conducted prior to its exercise or direction of the exercise of any of the following powers pursuant to division (B) of this section:

(a) The exercise or release of powers as a donee of a power of appointment;

(b) Unless the amount of the gift is no more than one thousand dollars, the making of a gift, in trust or otherwise.

(2) The notice required by division (E)(1) of this section shall be given to the following persons:

(a) Unless a guardian of a ward has applied for the exercise of a power specified in division (E)(1) of this section, to the guardian;

(b) To the ward whom the probate court has found to be an incompetent or a minor subject to guardianship;

(c) If known, to a guardian who applied for the exercise of a power specified in division (E)(1) of this section, to the prospective heirs of the ward whom the probate court has found to be an incompetent or a minor subject to guardianship under section 2105.06 of the Revised Code, and any person who has a legal interest in property that may be divested or limited as the result of the exercise of a power specified in division (E)(1) of this section;

(d) To any other persons the court orders.

(F) When considering any question related to, and issuing orders for, medical or surgical care or treatment of incompetents or minors subject to guardianship, the probate court has full *parens patriae* powers unless otherwise provided by a section of the Revised Code.

CREDIT(S)

(2011 S 124, eff. 1-13-12; 1989 S 46, eff. 1-1-90)

Notes of Decisions (24)

R.C. § 2111.50, OH ST § 2111.50

Current through Files 1 to 94 and Statewide Issue 1 of the 130th GA (2013-2014).

Baldwin's Ohio Revised Code Annotated
Rules of Superintendence for the Courts of Ohio (Refs & Annos)
Probate Division

Sup. R. Rule 66

Sup R 66 Guardianships

Currentness

(A) All applications for the appointment of a guardian on the grounds of mental incompetency shall be accompanied by either a statement of a physician or clinical psychologist or a statement that the prospective ward has refused to submit to an examination.

(B) An Application for Authority to Expend Funds (Standard Probate Form 15.7) shall not be approved until an Inventory (Standard Probate Form 15.5) has been filed.

(C) An application for allowance of care and support of a minor shall allege, if such is the fact, that the father and mother are financially unable to provide the items for which the amount is sought.

CREDIT(S)

(Adopted eff. 7-1-97; amended eff. 10-1-97)

COMMENTARY

1997:

This rule is analogous to former C.P. Sup. R. 34, and the title has been amended to be more inclusive in that the rule does not only apply to the guardian but also to all issues affecting the guardianship.

Division (A) has been deleted in that it described the parameters of the probate forms created under Sup. R. 51(D) and is therefore superfluous.

Former C.P. Sup. R. 34(B) has been relettered as division (A). The rule required the submission of a statement of a physician upon the filing of an application for guardianship or an application for dismissal of a guardianship or a declaration of competency. The rule has been amended to permit a clinical psychologist to complete the expert evaluation. This amendment recognizes that

a psychologist's report is often more thorough than that of the physician and recognizes that the psychologist may complete the expert evaluation for the biennial report. The rule has not been expanded to permit the initial evaluation to be completed by a licensed clinical social worker.

The requirement for an expert evaluation for the dismissal or termination of a guardianship has been deleted due to statutory changes under R.C. 2111.49(C).

Former C.P. Sup. R. 34(C) has been deleted and incorporated in part in amended division (B), which continues the requirement to file an inventory prior to the authorization of any expenditure required in former C.P. Sup. R. 34(C).

Former C.P. Sup. R. 34(D) has been relettered as division (C). Division (C) has been amended to delete the term "parent-guardian" from the rule and to allow the application to be filed by the appointed guardian, who is not in all cases also the parent of the minor ward. With an application to expend funds for support of a minor ward, the rule formerly required a parent-guardian to state whether the parents had the ability to provide the support. The amendment expands the rule to require any guardian to state whether the parents can provide the support when requesting expenditure of the ward's funds for support.

Notes of Decisions (1)

Rules of Superintendence Rule 66, OH ST SUP Rule 66
Current with amendments received through April 1, 2014