

INSTRUCTIONS FOR FILLING OUT PETITION FOR ADULT GUARDIANSHIP

These instructions are only intended to provide information on how to fill out this form. It is not intended to substitute legal advice. An attorney may give you legal advice. There may be additional documents and procedures for your particular type of civil action. If you have any legal questions regarding the specific facts of your case, please consult with an attorney.

Do not include these instructions when you file your completed petition

Completion of Forms: All required forms must be typed or legibly printed in ink. All forms must be accurately and fully completed. Illegible or incomplete forms will not be accepted for filing.

A *Petition for Adult Guardianship* is an initial pleading that starts a guardianship action, states the basis for the court's jurisdiction, the request for relief and the basis for the request for relief.

The petitioner is the party who brings the action to court.

Temporary Guardianship: If after consideration of a petition for temporary guardianship, the Trial Court finds that the welfare of a spendthrift or an alleged incompetent **requires the immediate appointment** of a guardian of the person or estate or both, the Court may appoint a temporary guardian for a period not to exceed six (6) months unless by order of the Trial Court.

If petitioning for temporary guardianship, the person petitioning must serve notice of the Petition before filing the petition, at the time of filing or as soon as possible after filing the petition on the proposed ward. The Notice to the proposed ward must include notice that the proposed ward has the right to petition for reconsideration or modification of the temporary guardianship within thirty (30) days of receipt of the notice. *See ADULT GUARDIANSHIP ORDINANCE, 4 HCC § 14.7c.*

Required Forms/Documents: A *Statement of Acts by Proposed Guardian and Consent to Serve as Guardian* form is filed with the *Petition for Adult Guardianship*. A physician's report or psychologist's/psychiatrist's report will also need to be filed with petition or at least five (5) days before the hearing.

Instructions:

- **Page 1: Caption:** Write the initials of the proposed ward's name to whom you are filling out a petition for. Include the ward's date of birth next to the ward's initialed name (i.e. A.A.A., DOB 01/01/1998). You may check more than one box. You do not need to write a case number. A case number will be assigned by the Court.
- **Page 1: Opening Paragraph:** In the first paragraph below the caption, provide your name in the space provided and the full name of the proposed ward below.
- **Page 1, Number 1:** Check the appropriate box that best describes the petitioner's relationship or interest with the proposed ward.
- **Page 1, Number 2:** Provide the proposed ward's name, date of birth, sex, address, County of residence, tribal affiliation and tribal ID number in the spaces provided.
- **Page 2, Number 3:** Provide the name, address, and contact information of the person or institution that is taking care of the proposed ward, if any. Check the box that best describes the person's or institution's relationship with the proposed ward.

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- **Pages 2 and 3, Number 4:** Provide the names and address of all interested parties to the Petition.
- **Page 3, Number 5:** If the proposed ward is married, please indicate whether the ward has any children born of the current marriage.
- **Page 3, Number 6a:** Indicate whether the proposed ward has a current and valid financial power of attorney (hereinafter POA)¹ by checking the appropriate box provided. Next, check the appropriate box indicating whether the POA is activated and if there is a current POA. Provide the name and address of the person or agency with the financial POA in the space provided.
- **Page 3, Number 6b:** Indicate whether the proposed ward has a current valid POA for health care.² Next, check the appropriate box indicating whether the POA is activated. Please also provide the name and address of the person or agency with the POA for health care.
- **Page 3, Number 6c:** Indicate whether the proposed ward has a healthcare advance directive or other advance planning of record. If the proposed ward has such a document, please attach or explain in the attachment.
- **Page 3, Number 7:** Indicate whether there is a guardianship case or spendthrift case in another jurisdiction involving the proposed ward or alleged spendthrift.
- **Page 3, Number 8:** Indicate whether there is an elder abuse or domestic abuse proceeding involving the individual you are petition for by checking the appropriate box.
- **Pages 3-4, Number 9:** Check the box indicating for which type of guardianship (temporary or permanent) you are petitioning the Court. Next, provide the name and contact information of the guardian you are proposing the Court appoint as either temporary or permanent guardian. Please indicate whether you are requesting the Court to issue a bond against the person nominated to serve as temporary/permanent guardian of the person or estate by checking the appropriate box provided.
- **Pages 4-5, Number 10:** Read the definition of “Standby Guardian” provided on page 4. Next, please provide a list of at least two (2) people/ or agencies who may serve as guardian of the proposed ward in the events or circumstances described in the definition.
- **Page 5, Number 11:** Provide the approximate value of the proposed ward’s property and income.
- **Page 5, Number 12:** Provide the amount of all monthly payment(s) the proposed ward owes to the Nation as a debt.
- **Page 6, Number 13:** Check the box that indicates whether a physician/psychologist’s report is being filed with the Petition or if it will be filed after the Petition, but at least five (5) calendar days before the first scheduled Hearing. You may also check the box that

¹ “Power of Attorney” means an original written document signed by an adult and notarized giving another person power to act in conducting the person’s business in the name of the person. *See* ADULT GUARDIANSHIP ORDINANCE, 4 HCC § 14.4z. A Power of Attorney for Finances and Property covers all the person’s business activities. *Id.*

² A Power of Attorney for Health Care grants powers to individuals to make health care decisions on a person’s behalf should they become incapacitated. *See* ADULT GUARDIANSHIP ORDINANCE, 4 HCC § 14.4z(3).

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indicates a Certificate of Administrator of U.S. Department of Veteran Affairs is being filed.

- **Page 6, Number 14:** Read the options carefully and check the appropriate boxes. You may refer to the ADULT GUARDIANSHIP ORDINANCE, 4 HCC §§ 14.5 and 14.14 for further information.
- **Page 7, Number 15:** Provide an explanation as to the individual's risk of abuse, exploitation, neglect, or violation of rights on either the space provided on the Petition or on a separate piece of paper. If you are attaching additional pages, please state clearly on the attached page which section you are writing about. For example, you may write "Proposed Ward's Risk of Abuse" on the top of the page and continue writing below it.
- **Page 7, Number 16:** Provide a list of available resources that can help meet the proposed ward's personal needs or property management. Describe how or why a temporary or permanent guardian of the proposed ward is the least restrictive means to meet the proposed ward's needs.
- **Page 7, Number 17:** Indicate whether you are petitioning the Trial Court for a Guardianship of the Person by checking the appropriate box. If you are not requesting for a Guardianship of the Person, you may leave this section blank and move to Guardianship of Estate on page 10.
- **Page 7, Number 17A:** Select which rights the proposed ward has the incapacity³ to exercise.
- **Pages 7-8, Number 17B:** Read this section **carefully**. Check the box in the upper left and the individual rights below it that the proposed ward lacks the capacity to exercise. (i.e. if the proposed ward lacks the capacity to consent to marriage, then check the far left box above and chose either (1) or (2) below it).
- **Page 8, Number 17C:** Read this section **carefully**. Select which powers the Guardian of the Person should have to meet the needs of the proposed ward. (i.e. If the proposed ward lacks the capacity in full or in part to consent to participation in an accredited or certified research project, then you may check the box in the far left of the section and chose either (1) that the individual retains limited capacity and describe such limited capacity or (2) that the proposed ward lacks the capacity in full to consent to such participation).
- **Pages 10-11, Number 18:** Check the box to the far left of the section if you are petitioning for the Court to award a Guardian of the Estate.
- **Page 11: Number 18a:** Check the box to the far left again if you are requesting any of the powers under this section. Under 1, you may check the box if it is applicable and provide a description of the proposed ward's limitations in taking care of themselves financially. Under 2, you may check the box if it is applicable and provide the Court with those powers the proposed ward is capable of performing without the assistance of a guardian. Check 3 if the proposed ward lacks the individual capacity to make financial decisions in full. If you check 3, the Guardian of Estate, if appointed, would make all of the proposed ward's financial decisions.

³ "Incapacity" means the inability of an individual to effectively receive and evaluate information or to make or communicate a decision with respect to the exercise of a right or power. ADULT GUARDIANSHIP ORDINANCE, 4 HCC § 14.4s.

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- **Page 11: Number 18b:** Check this box if you want the Court to authorize creating an account in both the proposed ward's and guardian's name whereby funds in the amount of \$40,000.00 or less can be deposited. Such funds would be payable only upon further order of the Court and would waive bond for the guardian of the estate.
- **Pages 11-12: Signature:** Write your name, address, phone number and the current date in the space provided on Page 11. If represented by counsel, your attorney will sign and provide their contact information after your name on page 12.