

FORM M

SUPERIOR COURT OF WASHINGTON COUNTY OF PIERCE

In re the Guardianship and/or
Conservatorship of:

Case No.:

DECLARATION OF PROPOSED GUARDIAN AND/OR CONSERVATOR (Non-Certified)

Respondent.

Clerk's code: (DCLR)

(1) Personal Information.

Name: _____

Mailing Address: _____

City, State, Zip _____

Street Address: (if different) _____

City, State, Zip _____

Telephone Number: _____

Email: _____

If the proposed Guardian/Conservator does not reside in Washington State, provide the name, address, phone and email address for the resident agent:

(2) Non-Professional Status. I am not charging fees for carrying out the duties of court-appointed Guardian/Conservator of three or more incapacitated persons. I acknowledge that before I may receive fees for serving as a Guardian/Conservator for three or more persons, I am required to be certified in the State of Washington. RCW 11.130.010(26)

(3) Business Form. If appointed, I will serve as a Guardian/Conservator as an individual and not as an entity or representative of a business entity, such as a trust company or non-profit corporation.

(4) Background and Experience Helpful to Service as Guardian/Conservator. I have the following background, education, and experience that may be helpful in my service as Guardian/Conservator:

(5) Licenses Held. _____

(6) Relationship to Respondent. I have the following relationship to the Respondent: _____

(7) Prior History as Fiduciary or Guardian/Conservator.

(a) _____ I have served in a fiduciary capacity (*such as an attorney-in-fact pursuant to power of attorney, trustee, executor, administrator, guardian, conservator*).

_____ Yes No

(b) _____ I have been removed as a fiduciary.

_____ Yes No

If the answer above is "Yes", describe the circumstances leading to your removal as a fiduciary:

(8) Criminal History. RCW 11.130.090(1)(b) states that a person who has been convicted of a crime involving dishonesty, neglect, or use of physical force or other crime relevant to the functions a person would assume as a guardian or conservator is generally not qualified to be a guardian or conservator. I have been convicted of such a crime:

Yes No

If the answer above is "Yes", describe the crime for which you were convicted and the outcome:

(9) Civil Proceedings. Describe any civil or administrative proceeding in which there was a finding that you had engaged in dishonesty, misappropriation of funds, breach of fiduciary duty, or mistreatment of any person. Also identify any proceeding(s) where there was a settlement, even if such settlement was without specific findings by the Court:

(10) Disciplinary Proceedings. Describe any disciplinary proceeding against you by any applicable disciplinary body or licensing agency that resulted in a finding of misconduct. This would include any proceedings by a professional organization such as a state bar association, a medical disciplinary review board, and the like:

(11) Ability to Secure Bond. In some cases, it is necessary for the Guardian or Conservator to secure a bond, which is insurance coverage providing protection to the Individual in the event of financial loss or personal harm caused by the negligent or intentional conduct of the proposed Guardian/Conservator. Is there any reason (such as bankruptcy or poor credit record) why you would have difficulty obtaining a bond?

(12) Compensation and Reimbursement. State whether you intend to request hourly compensation for your services and describe expenses for which you expect to be reimbursed.

(13) Summary of Guardian/Conservator Duties. The below signed proposed Guardian/Conservator understands and agrees that:

My duties as Guardian/Conservator are more fully described in:

- (1) the Court Order that appoints me,
- (2) the statutes of the State of Washington – generally RCW 11.130.
- (3) the case law.

I should consult with my attorney if I have any questions. I am presumed to understand my duties and responsibilities. I can be held personally responsible if I do not properly carry out my duties as Guardian and/or Conservator.

As Guardian/Conservator, I act in a fiduciary capacity in my dealings on behalf of the Individual. This means that as the Guardian/Conservator, I am required to put the interests of the Individual ahead of my personal interests in all transactions, as well as any transaction in which my interests and the interests of the Individual may be in conflict.

Additionally, if I have been appointed Conservator, I am charged with the responsibility of acting as a reasonably prudent person in dealing with the investment and conservation of the assets of the Individual and to avoid self-dealing.

For health care decisions, “Before any person authorized to provide informed consent on behalf of a patient who does not have the capacity to make a health care decision exercises that authority, the person must first determine in good faith that that patient, if he or she had the capacity to make the health care decision, would consent to the proposed health care. If such a determination cannot be made, the decision to consent to the proposed health care may be made only after determining that the proposed health care is in the patient’s best interests.” RCW § 7.70.065(1)(a)(C)(c).

If my personal beliefs could be in conflict with the interests of the Individual subject to guardianship and/or conservatorship, I must first do what I believe the Individual would do if competent. If that cannot be determined, either because of lack of knowledge or because the Individual has always been disabled, I may act in the manner that I believe is in the best interest of the Individual. I understand that at any time I can seek direction from the court if there is any question of what is in the best interest of the Individual

Any attorney whom I retain to assist me in this guardianship/conservatorship proceeding will have independent responsibilities and obligations to the Court. The attorney-client privilege may not extend to information regarding misfeasance or malfeasance of a fiduciary. The attorney-client privilege may not extend to information given by me, the Guardian/Conservator, to my attorney, for any failure to follow the laws of a court-appointed Guardian/Conservator.

If I am appointed the Guardian or Conservator, I must:

- Give the Individual and notice parties a copy of the Order with the notice of the right to request termination or modification within 14 days of appointment;
- Give the Individual and notice parties the Notice of Right within 30 days of appointment;
- keep the Court informed of any change in my name, address, or bonding status;
- file a Change of Circumstance Report within thirty (30) days of any change of location, major or permanent changes in health or finances, or of the death of the Individual;
- file a Final Accounting within ninety (90) days after the termination of a conservatorship. RCW 11.130.570
- **If I am appointed Conservator, I must also:**
- keep the Individual's funds separate from my own, in a separate conservatorship bank account;
- make all payments in a timely manner and with a method so there is a record of all transactions that can be verified by the Court at the time of each accounting (e.g. checking account);
- file, within ninety (90) days of my appointment, a Conservator's Plan and an Inventory of the assets in the conservatorship estate, and
- file, within ninety (90) days of the anniversary date of my appointment (as shown on the Letters of Conservatorship), an Accounting showing the receipts and disbursements made on behalf of the Individual during the previous accounting period.

If I am appointed the Guardian, I must also:

- file, within ninety (90) days of my appointment, a Guardian's Plan describing the care needs and condition of the Individual with the court.
- file, within ninety (90) days of the anniversary date of my appointment (as shown on the Letters of Guardianship), a Report describing the care and condition of the Individual during the previous reporting period.

If I am appointed the Guardian and/or Conservator, I cannot:

- spend, sell, borrow, loan, invest or give away ANY of the Individual's property (including money), without a court order;
- spend, loan, invest, or give away any of the Individual's principal or income for any purpose without a court order;
- borrow money on behalf of the Individual, without a court order;
- use the Individual's money for myself or my needs, without a court order;
- pay myself a fee from the Individual's money, without the filing of a verified petition with an Affidavit detailing the time spent, services provided, and compensation requested, and a corresponding court order approving said petition; or

- force the Individual to live ANYWHERE, including a mental institution or nursing home facility.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

Signed at _____, Washington on _____
 _____ (City) _____ (Date)

 _____ (Signature of Proposed Guardian/Conservator)

 _____ (Printed Name)

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR PIERCE COUNTY

In Re the Guardianship of:

—[Name]

An Incapacitated Person.

CAUSE NO.

**DECLARATION OF PROPOSED GUARDIAN
 (Non-Certified)**

~~(1) Personal Information.~~

~~Name of Proposed Guardian:~~

~~Mailing Address of Proposed Guardian:~~

~~Street Address (if different):~~

~~City/State/Zip:~~

~~Telephone Number: _____ Fax Number:~~

~~Email Address:~~

~~If the proposed Guardian does not reside in Washington, provide the name, address, phone and email for the proposed Guardian's resident agent:~~

~~(2) Non-Professional Status.~~ ~~I am not charging fees for carrying out the duties of court-appointed guardian of three or more incapacitated persons. I acknowledge that before I may receive fees for serving as a Guardian for three or more persons, I am required to be certified in the State of Washington. See RCW § 11.88.008.~~

~~(3) Business Form.~~ ~~If appointed, I will serve as a Guardian as an individual and not as an entity or representative of a business entity, such as a trust company or non-profit corporation.~~

~~(4) Background and Experience Helpful to Service as Guardian.~~ ~~I have the following background, education training and experience, which may be helpful in my service as Guardian:~~

~~(5) Licenses held:~~

~~(6) Relationship to Alleged Incapacitated Person.~~ I have the following relationship to the Alleged Incapacitated Person (such as family member, friend, etc.):

~~(7) Prior History as Fiduciary or Guardian.~~

~~(a) I have served in a fiduciary capacity (such as an attorney-in-fact pursuant to power of attorney, a trustee, an executor, an administrator, or a Guardian).~~

~~_____ Yes _____ No~~

~~(b) I have been removed as a fiduciary.~~

~~_____ Yes _____ No~~

~~If the answer above is "Yes," describe the circumstances leading to your removal as a Guardian or as a fiduciary.~~

~~(8) Criminal History.~~ RCW 11.88.020(3) expressly provides that no person is qualified to serve as a Guardian if he or she has been "convicted of a felony or of a misdemeanor involving moral turpitude," (a crime involving dishonesty, misappropriation of funds, breach of fiduciary duty, or mistreatment of any person).

~~I have been convicted of such a crime _____~~

~~Yes _____ No~~

~~If the answer to the question is "Yes," identify all such convictions dated, and whether or not your civil rights have been restored.~~

~~(9) Civil Proceedings.~~ Describe any civil or administrative proceeding in which there was a finding that you had engaged in dishonesty, misappropriation of funds, breach of fiduciary duty, or mistreatment of any person. Also identify any proceeding(s) where there was a settlement, even if such settlement was without specific findings by the Court.

~~(10) Disciplinary Proceedings.~~ Describe any disciplinary proceeding against you by any applicable disciplinary body or licensing agency that resulted in a finding of misconduct. This would include any proceedings by a professional organization such as a state bar association, a medical disciplinary review board and the like:

~~(11) Ability to Secure Bond.~~ In some cases, it is necessary for the Guardian to secure a bond, which is insurance coverage providing protection to the Incapacitated Person in the event of financial loss or personal harm caused by the negligent or intentional conduct of the proposed Guardian. Is there any reason (such as bankruptcy or poor credit record) why you would have difficulty obtaining a Guardian's bond. If yes, please explain:

~~(12) Compensation and Reimbursement.~~ State whether you intend to request hourly compensation for your services and describe the expenses (e.g. mileage, postage copies charges, etc.) for which you expect to be reimbursed.

~~(13) Summary of Guardian Duties:~~ The below signed proposed Guardian understands and agrees that:

My duties as Guardian are more fully described in:

(1) the Court Order that appoints me;

~~(2) the statutes of the State of Washington—(for example see the Revised Code of Washington (RCW) at Chapters 11.88 & 11.92 and specifically 11.92.042 and 11.92.043 RCW.)~~

~~(3) the case law.~~

~~I should consult with my attorney if I have any questions. I am presumed to understand my duties and responsibilities. I can be held personally responsible if I do not properly carry out my duties as Guardian.~~

~~As Guardian, I act in a fiduciary capacity in my dealings on behalf of the Incapacitated Person. This means that as the Guardian, I am required to put the interests of the Incapacitated Person ahead of my personal interests in all transactions, as well as any transaction in which my interests and the interests of the Incapacitated Person may be in conflict.~~

~~Additionally, if I have been appointed Guardian of the Estate, I am charged with the responsibility of acting as a reasonably prudent person in dealing with the investment and conservation of the assets of the Incapacitated Person and to avoid self dealing.~~

~~For health care decisions, “Before any person authorized to provide informed consent on behalf of a patient not competent to consent exercises that authority, the person must first determine in good faith that that patient, if competent, would consent to the proposed health care. If such a determination cannot be made, the decision to consent to the proposed health care may be made only after determining that the proposed health care is in the patient’s best interests.” RCW § 7.70.065(3)~~

~~If my personal beliefs could be in conflict with the interests of the Alleged Incapacitated Person, I must first do what I believe the Incapacitated Person would do if competent. If that cannot be determined, either because of lack of knowledge or because the Incapacitated Person has always been disabled, I may act in the manner that I believe is in the best interest of the Alleged Incapacitated Person. I understand that at any time I can seek direction from the court if there is any question of what is in the best interest of the Alleged Incapacitated Person.~~

~~Any attorney that I retain to assist me in this guardianship proceeding will have independent responsibilities and obligations to the Court. The attorney-client privilege may not extend to information regarding misfeasance or malfeasance of a fiduciary. The attorney-client privilege may not extend to information given by me, the Guardian, to my attorney, for any failure to follow the laws of a court-appointed Guardian.~~

~~If I am appointed the Guardian of the Person or Guardian of the Estate I must:~~

- ~~• file a Designation of Standby Guardian with the Court;~~
- ~~• keep the Court informed of any change in my name, address, or bonding status; and~~

- ~~file a Change of Circumstance Report within thirty (30) days of any change of location, major or permanent changes in health or finances, or of the death of the Incapacitated Person.~~
- ~~file a Final Accounting within ninety (90) days after the termination of a guardianship. 11.92.053 RCW, see also 11.88.140 RCW.~~

If I am appointed the Guardian of the Estate I must also:

- ~~keep the Incapacitated Person's funds separate from my own, in a separate guardianship bank account;~~
- ~~make all payments in a timely manner and with a method so there is a record of all transactions that can be verified by the Court at the time of each annual accounting (e.g. checking account);~~
- ~~file, within ninety (90) days of my appointment, an Inventory of the assets in the guardianship estate, and a Budget authorizing disbursements; and~~
- ~~file, within ninety (90) days of the anniversary date of my appointment (as shown on the Letters of Guardianship), an Accounting showing the receipts and disbursements made on behalf of the Incapacitated Person during the previous accounting period.~~

If I am appointed the Guardian of the Person I must also:

- ~~file, within ninety (90) days of my appointment, a Personal Care Plan describing the care needs of the Incapacitated Person with the court; and~~
- ~~file, within ninety (90) days of the anniversary date of my appointment, a Status Report describing the care and condition of the Incapacitated Person during the previous accounting period.~~

If I am appointed the Guardian of the Person or Guardian of the Estate I cannot:

- ~~spend, sell, borrow, loan, invest or give away ANY of the Incapacitated Person's property (including money), without a court order;~~
- ~~spend, loan, invest, or give away any of the Incapacitated Person's principal or income for any purpose without a court order;~~
- ~~borrow money on behalf of the Incapacitated Person, without a court order;~~
- ~~use the Incapacitated Person's money for myself or my needs, without a court order;~~
- ~~pay myself a fee from the Incapacitated Person's money, without the filing of a verified petition for payment of fees with an Affidavit detailing the time spent, services provided, and compensation requested attached thereto, and a corresponding court order approving said petition; or~~
- ~~force the Incapacitated Person to live ANYWHERE, including a mental institution or nursing home facility.~~

I certify (or declare) under penalty of perjury under the laws of the State of Washington that to the best of my knowledge the statements above are true and correct.

Signed at _____, Washington

This _____ day of _____, 20_____.

Signature of Proposed Guardian

Printed Name of Proposed Guardian,

Address

Telephone/Fax Number

City, State, Zip Code

Email Address

Effective 9/1/~~06~~2022

