

Adult Guardianship & Conservatorship

Contents of Guardianship and Conservatorship packet:

- **Advisory**
- **Information Sheet**
- **Instructions and Flowchart**
- **Resource list**
- **Petition for Appointment of Guardian and Conservator**
- **Order of Appointment of Guardian ad Litem**
- **Order of Appointment of Qualified Healthcare Professional**
- **Order of Appointment of Visitor**
- **Report of Qualified Healthcare Professional**
- **Giving Legal Notice**
- **Notice of Guardianship and Conservatorship Proceeding**
- **Order Appointing Guardian and Conservator**
- **Acceptance of Appointment**
- **Letters of Guardianship and Conservatorship**
- **90-Day Report of Guardian**
- **Guardian and Conservator's Annual Report**

***** Request for Interpreter & Cancellation of Interpreter forms *****

STOP

Please read this ADVISORY

REMEMBER – **you are responsible for your case.** You must fill out the paperwork correctly, request and attend hearings, check whether the opposing party is filing paperwork, keep track of deadlines, etc.

Please, READ the instructions contained in the forms. The instructions are specifically designed to help you fill out these forms.

Please, TAKE YOUR TIME when completing these forms. This paperwork will have some legal effect on your life.

If you do not read the instructions and take your time when completing these forms, you may find you have to repeat steps, wasting your time and energy.

Please, always use your case **caption** and case number (for example: In the Matter of the Guardianship-Conservatorship of John Doe, D-1329-PQ-2013-0094) on all court papers, letters, and with the clerk's and judge's offices.

If at any time you do not understand, or are unsure or are uncomfortable with the information you must put down on a form, **it is strongly urged you seek the help of an attorney.**

What is a Guardian?

A guardian is a person appointed by the court **to care for and make decisions about residence, activities, medical care, etc. on behalf of an incapacitated individual**, called the Protected Person (PP). Incapacitated means that the person is unable to care for himself and make certain decisions independently.

A guardian does not have to use his own money to provide for the PP. Additionally, being a guardian does not give you the right to access the PP's finances. Nor is the guardian legally responsible or liable for the PP's actions.

A guardian must make yearly reports to the court informing the court of the PP's wellbeing, including physical and mental health, major decisions made on behalf of the PP, who cares for the PP, and why guardianship should continue.

What is a Conservator?

A conservator is **a person appointed by the court to manage the financial and business interests of an incapacitated individual, called a Protected Person (PP)**. Like a guardianship, a conservatorship should be a last resort, after other options have failed. Conservatorships can be limited, allowing, for example, a PP to manage their household expenses like shopping and utility bills, or a full conservatorship, where the conservator has all the power to deal with all of the PP's finances. A conservator has a special legal obligation, called a fiduciary duty, to manage the PP's assets in the best interest of the PP. This means a conservator cannot use the Protected Person's money for the conservator's own benefit. The PP's assets are to be used for his care above all else. A conservator, like a guardian, must make yearly reports to the court.

How do I get appointed guardian and conservator?

In order to ask the court to appoint you guardian and conservator you need to file **a Petition for Guardianship and Conservatorship**. It is often useful to have both a guardian and conservator appointed for one PP, and the guardian and conservator **can be the same person**.

Reporting Requirements

The guardian and conservator **must write reports to the court about the PP**. New Mexico law requires a first report be filed with the court within **90 days** of the appointment as guardian and conservator. The guardian and conservator then must make a report each year within 30 days of the anniversary of appointment as guardian-conservator. This report has to detail the physical and mental conditions, activities, plan of care and finances of the PP. **Because of these reporting requirements, the guardian-conservator must keep excellent records of purchases, contracts, bank accounts, income statements, tax returns, financial statements and other records relating to the guardianship and conservatorship.**

Petition for Guardianship and Conservatorship Flowchart

<p><u>Step 1</u></p> <p>Identifying important people</p>	<p>To get a guardianship and conservatorship, the judge has to decide that the Protected Person (PP) is, in fact, incapacitated and unable to take care of himself and manage his own finances. To do this the law requires four people participate in the court process:</p> <ol style="list-style-type: none"> 1. The proposed Guardian and Conservator (this is YOU, the person preparing the paperwork) 2. A Qualified Healthcare Professional who gives a written report to the court and testifies in court about the health and mental state of the PP (usually the PP's own doctor) 3. A Court Visitor who gives a written report to the court and testifies in court about the ability of the PP to personally care for himself and to manage his finances (a person YOU hire) 4. A Guardian ad Litem (GAL), an attorney who makes legal arguments for the best interest of the Protected Person and represents him in court (an attorney YOU hire) <p><u>Before</u> filing any paperwork you need to identify the 4 people above. A list of resources for finding these people is in this packet.</p>
<p><u>Step 2</u></p> <p>Completing & filing forms with the court clerks</p>	<p>The Petitioner (YOU, the person asking to be guardian and conservator) completes and files these forms:</p> <ul style="list-style-type: none"> • Petition for Guardianship & Conservatorship (you will need the original plus one copy for yourself, and one copy for each of the people you have to give notice to, see Step 3, below) • Notice of Hearing (leave the date and time blank for the court clerk to fill out, also you will need the original plus one copy for yourself, and one copy for each of the people you have to give notice to, see Step 3, below) • Order of Appointment of Qualified Healthcare Professional (the original plus two more copies, and one stamped envelope addressed to the Qualified Healthcare Professional, so the court can mail the order to him after the judge signs it) • Order of Appointment of Court Visitor (the original plus two more copies, and one stamped envelope addressed to the Court Visitor so the court can mail the order to him after the judge signs it) • Order of Appointment of Guardian ad Litem (GAL) for the Protected Person (the original plus two more copies, and one stamped envelope addressed to the GAL so the court can mail the order to him after the judge signs it) • You also need one more stamped envelope addressed to yourself so the court can mail you signed copies of the Orders of Appointment for the Healthcare Professional, Visitor and GAL <p>DO NOT sign any of the forms until you are in front of a notary public. The court clerks are notaries, so you can sign in front of them if you wish.</p> <p>The filing fee is \$117.00, cash (exact change only), money order, or cashier's check payable to: Thirteenth District Court. If you want to ask the court to waive the filing fee, you will also need to file an Application for Free Process and Affidavit of Indigency. This form is available at the court clerk's office. If you file this form a judge must first decide whether you are allowed to file for free. You may have to wait several days before a judge is able to review</p>

<p><u>Step 2</u> (continued)</p>	<p>your Application for Free Process.</p> <p>After you pay the filing fee, or after your filing fee is waived, the court clerks will:</p> <ul style="list-style-type: none"> • Assign a case number • assign a judge • date stamp and keep all original documents • Date stamp all of your copies, and give them back to you • Issue the Notice of Hearing form
<p><u>Step 3</u></p> <p>Serve the Other Parties and the GAL, Visitor and Qualified Healthcare Professional</p>	<p>Now you need to serve several people with a copy of the Petition for Appointment of Guardian & Conservator, and also the Notice of Hearing.</p> <p>The following people must be served by <u>personal service</u> (see the “Giving Legal Notice” page later in this packet):</p> <ol style="list-style-type: none"> 1. The Protected Person 2. The PP’s spouse IF s/he lives in or is currently in New Mexico. <p>You also have to <u>mail or hand deliver</u> copies of the Petition and Notice of Hearing to all the people listed in Paragraphs 2(d),(e) and (f) of the Petition; they are:</p> <ol style="list-style-type: none"> 3. The Protected Person’s parents (if living) and adult children (if any) 4. If the Protected Person has no adult children then the closest adult relatives (brothers/sisters, grandchildren, nephews/nieces, cousins, etc.) 5. The person who is currently caring for the daily needs of the Protected Person 6. The spouse of the Protected Person, IF s/he is outside of New Mexico 7. Anyone already appointed by the PP to act on his/her behalf, such as someone named in a Power of Attorney, Advanced Healthcare or Mental Health Directive, anyone already appointed by any court to act on behalf of the PP, any Trustee of a trust that benefits the PP, a Social Security Representative Payee or anyone else that may have authority to act on behalf of the PP. 8. The GAL, Visitor, and Qualified Healthcare Professional <p>All of the people above must receive notice of any hearing at least 14 days before the hearing.</p>
<p><u>Step 4</u></p> <p>Before the Hearing</p>	<p><u>YOU</u> are responsible for making sure that the GAL, Qualified Healthcare Professional and Visitor:</p> <ol style="list-style-type: none"> 1. Schedule times to meet with you and the PP before the hearing 2. Are at the hearing, and 3. That they have filed copies of their reports with the court at least 14 days before the hearing. There is a form Report in this packet that the Qualified Healthcare Professional may use. Note: the GAL and Visitor will write their own reports <p><u>YOU</u> also must:</p> <ol style="list-style-type: none"> 4. Make sure that a Return of Service showing service of the Petition and Notice of Hearing on the PP and the PP’s spouse is filed before the hearing 5. Fill out the Order Appointing Guardian and Conservator, the Acceptance of Appointment as Guardian and Conservator, and Letters of Guardianship and Conservatorship and bring them with you to the hearing

<p><u>Step 5</u></p> <p>At the Hearing</p>	<ul style="list-style-type: none"> • At the hearing the judge will decide if the PP is incapacitated. The burden of proof is on YOU, the Petitioner, to demonstrate that the Protected Person is incapacitated. YOU will have to be prepared to make legal arguments to the court to convince the judge that the PP is incapacitated. • The Qualified Healthcare Professional and Visitor will testify about whether the PP is incapacitated. YOU will have to be prepared to ask them questions about their reports and what they observed during their meetings with the PP. • The GAL will make legal arguments about what is in the best interest of the PP.
<p><u>Step 6</u></p> <p>After the Hearing – Agree to be Guardian and Conservator</p>	<p>If the judge decides the PP is incapacitated, and that you are qualified, the judge will sign the order appointing you guardian and conservator, which YOU must bring to the hearing.</p> <p>You will continue to be guardian and conservator unless the court enters another order changing this. The law requires that before the Guardianship and Conservatorship become effective, you MUST accept these duties. Do this by:</p> <ul style="list-style-type: none"> • Filing an Acceptance of Appointment as Guardian and Conservator form with the court clerk. • Preparing the Letters of Guardianship and Conservatorship form and giving it to the clerk. • The clerk then will give you a certified copy of the Letters of Guardianship and Conservatorship – this allows you to act as Guardian and Conservator. You will need to show this to hospitals, nursing homes, doctors, banks, and other financial institutions and businesses. It is a good idea to have several certified copies. The clerks charge \$1.50 per copy for certified copies of documents.
<p><u>Step 7</u></p> <p>Filing Reports (90 Day and Annual)</p>	<p><u>REMEMBER:</u> You have to account for the income and expenses of the Protected Person <u>so you should keep very good records</u> of what you buy for the Protected Person, copies of all contracts you make for the protected person, records of bank accounts, all income statements, and all tax returns and other financial statements <u>starting the day you accept the guardianship and conservatorship.</u></p> <p>Now that you have been appointed guardian and conservator you have to make a series of written reports to the judge in your case.</p> <ul style="list-style-type: none"> • First, you have to file the Guardian’s Ninety (90) Day Report detailing the assets (valuables and income) and condition of the Protected Person. • Then, each year you have to <u>file</u> a report (use the “Report of Guardian and Conservator” form) with the court outlining the Protected Person’s physical and mental conditions, activities, plan of care and finances. This report MUST be filed within 30 calendar days of the anniversary date of your appointment as guardian. For example. If you were appointed guardian on July 1, your report must be filed by July 31 of the next year. <u>The judge can fine you \$5 per day, can hold you in contempt of court, and can also end your guardianship and conservatorship if the report is late or incomplete.</u> • YOU also have to <u>mail</u> copies of these reports to the Judge in the case, AND to the PP • The Judge will hold a hearing at least once every 10 years to review the case.

<p>*** Ask for Interpreter ■ ■ ■ ■ ■ Forms to use</p>	<p>If you or a witness in your case needs an interpreter for American Sign Language or to translate from English into another language then:</p> <ul style="list-style-type: none"> • Complete the Request for Interpreter form at the back of this packet and submit it to the court clerk • Make sure to write in the date, time and location of the hearing • There is NO CHARGE for the interpreter <p><u>Important:</u> If your hearing is cancelled or you don't need the interpreter any more it is <u>YOUR</u> job to cancel the interpreter well in advance of the date of the hearing. Use the Cancellation of Court Interpreter form at the back of this packet. If <u>YOU</u> do not cancel the interpreter, <u>YOU</u> will have to pay for the interpreter's costs and mileage fees.</p>
---	--

List of Resources

For finding Guardians ad Litem, Qualified Healthcare Professionals and Visitors

Before the Court can hold a hearing on whether the Protected Person is incapacitated and needs a guardian and conservator, you have to contact several people and hire them to assess the Protected Person. While these people are appointed by the judge, YOU are responsible for proposing individuals who are qualified, and who are willing to serve. You are also responsible for paying any costs involved in hiring them. These costs will run around \$800-\$1,000 in simple cases. The costs will go up if the case gets more complex.

Guardian ad Litem (GAL)

First, you will need to find a *Guardian ad Litem* (GAL), an attorney to represent the Protected Person during the court process. The GAL has to visit with the Protected Person before the hearing and listen to the Protected Person's wishes. GALs must be licensed attorneys and they can charge a range of costs. You should plan on spending around \$500 for an average case, but this can increase if the case gets more complex.

Court Visitor

You will also need to hire a Court Visitor. A Visitor is someone appointed by the court "who has no personal interest in the proceeding and who has been trained or has the expertise to appropriately evaluate the needs of the person who is allegedly incapacitated" and can, but doesn't have to, include "a psychologist, a social worker, a developmental incapacity professional, a physical and occupational therapist, an educator and a rehabilitation worker" 45-5-101(V) NMSA 1978.

The Visitor meets with the Protected Person and assesses the Protected Person's ability to care for his or herself and to manage finances. The Visitor also writes a report and submits this to the judge, and also testifies at the hearing. Visitors cost can range from \$150 - \$300, though the cost will go up if the Visitor has to travel a lot in order to meet with the Protected Person and go to the hearings, or if the case gets more complex.

Qualified Healthcare Professional

Finally, you also need a Qualified Healthcare Professional to assess the medical condition and mental health of the Protected Person. Under the law a Qualified Healthcare Professional must be "a physician, psychologist, physician assistant, nurse practitioner or other health care practitioner whose training and expertise aid in the assessment of functional impairment" 45-5-101(U) NMSA 1978.

Often you can get one of the Protected Person's own doctors or nurses to serve as the Qualified Healthcare Professional. Sometimes, the Protected Person's personal doctor may not wish to serve due to privacy concerns. In those cases see if the doctor would direct you to other healthcare professionals in the same or nearby office for help. The Qualified Healthcare Professional must send a written report of the Protected Person's mental and physical health to the court and also testify at the hearing. Many times the Protected Person's own doctors and nurses will not charge a fee or just ask that you cover their expenses.

NOTE: These lists are provided purely as a convenience. They are intended as a starting point in your search for a GAL and Visitor and are **not** an endorsement or recommendation of any one provider.

List of Guardians ad Litem (GALs)

(around \$500.00 for a simple case)

<p><u>Senior Citizens' Law Office</u> 4317 Lead Avenue S.E., Suite A Albuquerque, New Mexico 87108 (505) 265-3600</p> <p>(Fees are based on your income, and you or the Protected Person must be over 60 years old)</p>	<p><u>Peter G. Ortega</u> Attorney at Law P.O. Box 190 Los Lunas, New Mexico 87031 (505) 301-6745</p>	<p><u>Luis Quintana</u> P. O. Box 196 Corrales, NM 87048 (505) 243-6718</p>
	<p><u>Leisa Richards</u> 924 Park Ave SW, Suite A Albuquerque, NM 87102 (505) 242-2835</p>	<p><u>Rosa Sanchez-Armijo</u> P.O. Box 69 Bosque, NM 87006-0069 (505) 861-1159</p>
<p><u>John Duran</u> 108 Wellesley Dr SE Albuquerque, NM 87106 (505) 924-2121</p>	<p><u>Kelli Wisler Roberts</u> 9332 Nationwide St NW Albuquerque, NM 87114 (505) 304-1081</p>	<p><u>Sherrie Trescott</u> 1107 Blue Sage Road NE Rio Rancho, NM 87144 505-299-6457</p>
<p><u>Laurel Carrier Feilmeier</u> 1650 Camino del Valle SW Albuquerque, NM 87105-3213 (505) 265-0951</p>		<p><u>Pilar Vaile</u> 215 Central Ave NW, Suite 3C Albuquerque, NM 87102 (505) 247-0802</p>

List of Court Visitors

(around \$150.00 to \$300.00 for a simple case)

<p><u>Louis F. (Rick) Alt</u> 86 Herrada Rd. Santa Fe, NM 87508 (505) 216-8368</p>	<p><u>Douglas Special Services</u> Henry L. Douglas, Jr. 835 Terracotta Pl. SW Albuquerque, NM 87121 (505) 710-6375</p>	<p><u>Nicole Miller</u> 6705 Paese Pl. NW Albuquerque, NM 87114 (505) 903-9339</p>
<p><u>Ayudando Guardians LLC</u> 1400 Central SE, Ste 3000 Albuquerque, NM 87106 (505) 332-4357</p>	<p><u>Dennis R. Galvan</u> 1402 James Thompson Lane Española, NM 87532 (505) 901-1742</p>	<p><u>Cassandra Sickenger</u> 8031 Lyndsi Ave NW Albuquerque, NM 87120 (505) 235-4940</p>
<p><u>Deborrah L. Berlin</u> 3 Casa del Oro Lane Santa Fe, NM 87508 (505) 466-4739</p>	<p><u>Tina Good</u> 6824 Candelia Ave NW Albuquerque, NM 87114 (505) 710-7609</p>	<p><u>Shell Shorty</u> 204A Dartmouth Dr SE Albuquerque, NM 87106 (505) 269-7564</p>

STATE OF NEW MEXICO
COUNTY OF CATRON
SEVENTH JUDICIAL DISTRICT COURT

IN THE MATTER OF THE
GUARDIANSHIP- CONSERVATORSHIP OF

_____,'

No. _____

Petitioner: _____

PETITION FOR APPOINTMENT OF GUARDIAN AND CONSERVATOR

Petitioner, _____, asks the Court to appoint Petitioner as the
conservator and guardian of _____, the Protected Person.

In this first section you will need to provide general information about the Petitioner and the Protected Person.

1. Petitioner information:
 - a. Relationship to the Protected Person: _____
 - b. Address: _____
 - c. Phone number: _____
 - d. Age: ____ Date of birth: _____
2. Information about the Protected Person:
 - a. Age: ____ Date of birth: _____
 - b. Residence: _____
 - c. No one else has been appointed by any court to be the Protected Person's conservator or guardian and no one else is acting as conservator or guardian.

- d. Those currently caring for the daily needs of the Protected Person include (*provide the name, address, and relationship to the Protected Person*):

<i>Name</i>	<i>Address</i>	<i>Relationship</i>

- e. The names and addresses of the people most closely related to the Protected Person by blood or marriage (*for example: parents, spouse, adult children, brothers and sisters, etc.*):

<i>Name</i>	<i>Address</i>	<i>Relationship</i>

- f. The names and addresses of anyone already appointed to act on behalf of the Protected Person (*for example: someone named in a Power of Attorney, Advanced Healthcare or Mental Health Directive, any Trustee of a trust that benefits the Protected Person, a Social Security Representative Payee or anyone else that may have authority to act on behalf of the Protected Person*):

<i>Name</i>	<i>Address</i>	<i>Authority</i>

3. Approximate value and description of property of the Protected Person (*for example a home, other real estate, bank accounts, retirement accounts, jewelry, vehicles, etc. – attach additional pages if necessary*):

In the next section (paragraphs 4-7) you need to tell the judge why you should be guardian and conservator and what limitations, if any, should be placed on your guardianship and conservatorship.

- In Paragraph 4 you need to talk about the Protected Person’s physical and mental conditions in general. You **do not** have to provide exact medical diagnoses using precise medical terminology, rather an everyday language explanation of the Protected Person’s condition is enough (for example, you could just say that the Protected Person is confined to a wheelchair and has limited use of his legs and/or that he now struggles with simple math and isn’t able to pay his bills any longer).

4. The reasons for appointment of a guardian and conservator are *(for example, talk about the Protected Person’s physical and mental conditions and abilities; attach additional pages if necessary)*:

In Paragraph 5 tell the judge about any restrictions that you think should be placed on the guardianship or conservatorship. The law requires that the court order the “least restrictive means necessary” to ensure the Protected Person’s safety and well being. So, if there are personal care or financial care tasks that the Protected Person can manage on his own, you should consider leaving these out of the guardianship-conservatorship. For example, if the Protected Person can manage to buy his own groceries and daily necessities, but not manage to pay his bills, then you could ask the court to allow the Protected Person to continue to buy these daily items on his own while giving you the power to manage other finances.

5. These are the activities that the Protected Person needs my help with:

6. I am qualified to be a conservator and guardian for the Protected Person. I am familiar with him/her, his/her medical situation, his/her property matters, and all other aspects of his/her life. I can competently manage my own affairs, and would do so in regard to the Protected Person. If the Protected Person recovers to the point he/she can manage his/her own affairs, then at that time my conservatorship and guardianship should end.

I should be appointed conservator and guardian over all others related to or known by the Protected Person because *(here, tell the judge why you are the best choice for guardian and conservator – for example, the Protected Person lives with you, you are the Protected Person’s parent or child, you are the only family member able to care for the Protected Person, etc.)*:

7. These are the names, addresses, and phone numbers of two people who are able to contact me in the event the Court or other interested parties cannot reach me at my phone number and address listed on this Petition:

1) Name:	2) Name:
Address:	Address:
Phone: ()	Phone: ()

8. Select one:

I am not a guardian or conservator for anyone else.

I am acting as guardian or conservator for one or more other protected person(s), their relationship to me *(for example; friend, parent, child, brother, sister, etc.)* and the authority making me guardian or conservator of them are *(for example, the court case, power of attorney, advanced directive or other document)*:

<i>Name of <u>other</u> Protected Person</i>	<i>Relationship to Petitioner</i>	<i>Authority</i>

9. Select one:

I have never been convicted of a felony, OR

I have been convicted of a felony (If so, please list; County and State where convicted, date of conviction, charge convicted of, case number)

You are going to end your Petition by asking the judge to appoint:

- 1) you as guardian and Conservator,
- 2) a Guardian ad Litem to represent the legal interests of the protected person (an attorney you must hire),
- 3) a Qualified Healthcare Professional to write a report and tell the judge about the Protected Person's medical and mental condition (usually the Protected Person's doctor), and
- 4) a Visitor to write a report and tell the judge about the Protected Person's ability to care for his/her personal care and financial matters (a person you hire).

THEREFORE, I ask the Court to grant my request, and in particular to appoint me as the guardian and conservator of the Protected Person. In addition, as part of this process, the Court should:

A. Set a date for hearing on the issues raised in this petition;

B. Pursuant to Section 45-5-303(C) and Section 45-5-407(B) NMSA 1978, appoint an attorney to represent the alleged Protected Person as *Guardian ad Litem*;

_____ (name of proposed attorney or law firm) has indicated a willingness to serve in this capacity;

C. Pursuant to Section 45-5-303(D) and Section 45-5-407(C) NMSA 1978, appoint a qualified health care professional to submit a report in writing to the Court;

_____ (name of proposed Qualified Healthcare Professional) has indicated a willingness to serve in this capacity;

D. Pursuant to Section 45-5-303(E) and Section 45-5-407(D) NMSA 1978, appoint a Visitor to interview the Protected Person and me, visit our home(s), evaluate the Protected

Person's needs, and submit a written report to the Court.

_____ (name of proposed Visitor), has indicated a willingness to serve in this capacity.

The Petitioner states: I have read this petition and agree with everything in it. By signing below, I also state, upon oath or affirmation, that this document and the statements in it are true and correct as far as I know and believe.

Date

Signature of Petitioner

STATE OF NEW MEXICO } ss
COUNTY OF _____ }

Signed and sworn before me on this ____ day of _____, _____.

Notary Public: _____ My commission expires: _____

STATE OF NEW MEXICO
COUNTY OF CATRON
SEVENTH JUDICIAL DISTRICT COURT

IN THE MATTER OF THE
GUARDIANSHIP-CONSERVATORSHIP OF

No. _____

Petitioner: _____

ORDER OF APPOINTMENT
OF GUARDIAN AD LITEM

THIS MATTER having come before the court on Petitioner's Petition for Appointment of
Guardian and Conservator of _____ (alleged Protected Person), the
Court hereby appoints _____, a New Mexico licensed attorney to
serve as Guardian ad Litem for the alleged Protected Person pursuant to Section 45-5-303(C) and
Section 45-5-407(B) NMSA 1978.

DISTRICT COURT JUDGE

STATE OF NEW MEXICO
COUNTY OF CATRON
SEVENTH JUDICIAL DISTRICT COURT

IN THE MATTER OF THE
GUARDIANSHIP-CONSERVATORSHIP OF

No. _____

Petitioner: _____

ORDER OF APPOINTMENT
OF QUALIFIED HEALTHCARE PROFESSIONAL

THIS MATTER having come before the court on Petitioner's Petition for Appointment of
Guardian and Conservator of _____ (alleged Protected Person), the
Court hereby appoints _____, who is qualified as a;

- licensed physician
- licensed psychologist or psychiatrist
- licensed physician assistant
- licensed nurse practitioner
- other licensed health care practitioner (describe this person's qualifications,
e.g. education, experience, and licensure):

to serve as Qualified Healthcare Professional in the above case pursuant to Sections 45-5-303(D)
and 45-5-407(C) NMSA 1978.

DISTRICT COURT JUDGE

STATE OF NEW MEXICO
COUNTY OF CATRON
SEVENTH JUDICIAL DISTRICT COURT

IN THE MATTER OF THE
GUARDIANSHIP-CONSERVATORSHIP OF

No. _____

Petitioner: _____

ORDER OF APPOINTMENT
OF COURT VISITOR

THIS MATTER having come before the court on Petitioner's Petition for Appointment of
Guardian and Conservator of _____ (alleged Protected Person), the
Court hereby appoints _____, who is qualified as a (*check any
that apply*);

- licensed psychologist
- licensed social worker
- developmental incapacity professional
- licensed physical or occupational therapist
- licensed educator
- licensed rehabilitation worker

to serve as Visitor in the above case pursuant to Sections 45-5-303(E) and 45-5-407(D) NMSA
1978.

DISTRICT COURT JUDGE

STATE OF NEW MEXICO
COUNTY OF CATRON
SEVENTH JUDICIAL DISTRICT COURT

IN THE MATTER OF THE
GUARDIANSHIP-CONSERVATORSHIP OF

No. _____

Petitioner: _____

REPORT OF QUALIFIED HEALTHCARE PROFESSIONAL

I, _____ (name) have been appointed as Qualified
Healthcare Professional in this case. I am a licensed healthcare professional holding a current,
valid license as a _____.

I have met with the Protected Person in this case and have made a thorough examination
of the Protected Person. In my professional medical opinion I state that:

1. The Protected Person is incapacitated because of these conditions (*for example, list
the Protected Person's medical condition(s), and describe the severity of the
condition(s), attach additional pages if necessary*):

_____.

2. The level of the Protected Person's intellectual, developmental, and social functioning is:

3. My observations, along with data supporting these observations, regarding the Protected Person's ability to make his/her own healthcare decisions are:

4. My observations, along with data supporting these observations, regarding the Protected Person's ability to manage his/her own finances:

5. My observations, along with data supporting these observations, regarding the Protected Person's ability to manage the activities of daily living are:

_____.

6. The statements in this report are true and correct to the best of my knowledge and ability.

Respectfully submitted,

Signature

Printed name

Address

Phone

STATE OF NEW MEXICO } ss
COUNTY OF _____ }

Signed and sworn before me by _____ on this _____ day of _____, _____.

Notary Public: _____ My commission expires: _____

Giving Legal Notice

YOU are the PETITIONER






YOU . . . must legally notify the Protected Person and his/her Spouse (if the spouse is in New Mexico) that you have filed a petition (using a SUMMONS)

YOU . . . must file proof with the Court that you notified the Protected Person and his/ her spouse (using a RETURN OF SERVICE)

The Court WILL NOT do this for you

To give legal notice, YOU must have a copy of the Petition and Notice of Hearing, delivered to the Protected Person and his/her spouse

	<p style="text-align: center;">PERSONAL SERVICE</p> <p>THIS IS BEST: If you know where the Protected Person lives or works, or can be found, the best way to notify the Protected Person is to have a Sheriff's Deputy (or a private process server) deliver a copy of all the paper work to the Protected Person. <u>You yourself cannot serve the Protected Person with the paperwork.</u></p>
	<p style="text-align: center;">MAIL</p> <p>If you have a good mailing address for the Protected Person, you may serve the Protected Person by certified mail. The Protected Person, and only the Protected Person, <u>must sign</u> for the legal paperwork. Restricted delivery to the Protected Person helps.</p>
	<p style="text-align: center;">FILE PROOF OF SERVICE</p> <p>DON'T FORGET: The Court doesn't know if the Protected Person was legally notified unless YOU file the right paper work that proves the Protected Person was legally notified.</p> <p>The right paper work is the return of service form if the Protected Person is served personally or by the mail.</p>

This information sheet only highlights the three most common ways to serve a Respondent. For details, see Rule 1 – 004 NMRA, New Mexico Rules Annotated. Your case may not move forward unless you legally notify the Protected Person that you have filed your petition. You may want to see a lawyer for advice.

STATE OF NEW MEXICO
COUNTY OF CATRON
SEVENTH JUDICIAL DISTRICT COURT

IN THE MATTER OF THE
GUARDIANSHIP- CONSERVATORSHIP OF

No. _____

Petitioner: _____

NOTICE OF GUARDIANSHIP AND CONSERVATORSHIP PROCEEDING
AND
NOTICE OF HEARING¹

TO (name and address of person receiving notice):

This is your notice that the Thirteenth Judicial District Court will hold a hearing to determine whether a guardian and conservator should be appointed for _____ (name of Protected Person).

The hearing will be held at the _____ County Courthouse located at,

_____.

DATE AND TIME OF HEARING:

_____, 20____, at _____ AM/PM (circle one).

¹ You **must serve** a separate Notice on the Protected Person **and** his/her spouse, if the spouse lives in New Mexico. You must **mail** or otherwise deliver a separate Notice to each person listed in paragraphs 2(d),(e) and (f) of the Petition.

The purpose of this hearing is to protect _____ (Protected Person). A copy of the petition requesting appointment of a guardian and conservator is attached to this notice.

At the hearing the court will determine whether _____ (Protected Person) is an incapacitated person under New Mexico law. If the court finds that he or she is incapacitated, the court at the hearing shall also consider whether _____ (Petitioner) should be appointed as guardian and conservator of _____ (Protected Person). The court may appoint some other qualified person as guardian or conservator. The court may also limit the powers and duties of the guardian or conservator to allow _____ (Protected Person) to retain control over certain activities.

_____ (Protected Person) shall attend the hearing and be represented by an attorney appointed by the court. The Protected Person also has the right to hire the attorney of his or her own choosing. The petition may be heard and determined in the absence of _____ (Protected Person) if the court determines that his or her presence is not possible. The court may, on its own motion or on request of any person, postpone the hearing to another date or time, or move the hearing to another place.

(Signature of Petitioner)

Dated at Socorro, New Mexico, this _____ day of _____, 20____.

CLERK OF COURT

By: _____
Deputy

Printed Name: _____

Address: _____

Phone Number: _____

RETURN

STATE OF NEW MEXICO)

COUNTY OF _____)

I, being duly sworn, on oath, state that I am over the age of eighteen (18) years and not a party to this lawsuit, and that I served this Notice in _____ county on the _____ day of _____, 2____, by delivering a copy of this Notice, with a copy of the Petition attached, in the following manner: **(check one box and fill in the appropriate blanks)**

[] to (name of person receiving service) _____ *(used when recipient accepts a copy of the Notice and Petition or refuses to accept the Notice and Petition)*

[] to (recipient's name) _____ by [mail] [courier service] as provided by Rule 1-004 NMRA *(used when service is by mail or commercial courier service)*. A return receipt signed by the recipient is attached to this Return.

After attempting to serve the summons and petition on the recipient by personal service or by mail or commercial courier service, by delivering a copy of this Notice, with a copy of the Petition attached, in the following manner:

[] to _____, a person over fifteen (15) years of age and residing at the usual place of abode of _____ *(used when the recipient is not presently at place of abode)* **and** by mailing by first class mail to the recipient at _____ *(insert recipient's last known mailing address)* a copy of the summons and petition.

[] to _____, the person apparently in charge at the actual place of business or employment of the recipient **and** by mailing by first class mail to the recipient at _____ *(insert respondent's business address)* **and** by mailing the summons and petition by first class mail to the recipient at _____ *(insert respondent's last known mailing address)*.

[] to _____, an agent authorized to receive service of process for recipient _____.

[] to _____, [parent] [guardian] [custodian] [conservator] [guardian ad litem] of recipient _____ *(used when recipient is a minor or an incompetent person)*

Signature of person making service

Title

Fees (if any)

Printed name of person making service

Subscribed and sworn before me this _____ day of _____, 2_____.

Notary Public

My Commission Expires

If service is made by the sheriff or a deputy sheriff of a New Mexico county, the signature of the sheriff or deputy sheriff need not be notarized.

STATE OF NEW MEXICO
COUNTY OF CATRON
SEVENTH JUDICIAL DISTRICT COURT

IN THE MATTER OF THE
GUARDIANSHIP- CONSERVATORSHIP OF

No. _____

Petitioner: _____

ORDER APPOINTING GUARDIAN AND CONSERVATOR

This matter having been brought before the Court on the Petition of the above Petitioner, the Court having held a hearing where (the Judge will complete);

The alleged Protected Person was present

The alleged Protected Person was not present because

_____.

The appointed Guardian ad Litem, _____, was present.

The appointed Qualified Healthcare Professional, _____
was present.

The appointed Visitor, _____, was present.

The Petitioner was present.

and having heard the testimony and read the written reports of the appointed Qualified Healthcare Professional and the appointed Visitor, the Court finds the following:

1. The Court has jurisdiction over the subject matter and parties, and venue is proper.
2. The Protected Person is incapacitated under the laws of New Mexico.
3. It is in the best interest of the Protected Person that he or she have a guardian and conservator appointed.

4. The guardianship is necessary as a means of providing continuing care, supervision and rehabilitation of the Protected Person.
5. The conservatorship is necessary as a means of effectively managing the estate or financial affairs, or both, of the Protected Person.
6. There are no available alternative resources that are suitable with respect to the alleged Protected Person's welfare, safety and rehabilitation or that enable the effective management of the Protected Person's estate or financial affairs.
7. The guardianship is appropriate as the least restrictive form of intervention consistent with the preservation of the civil rights and liberties of the Protected Person.
8. The proposed guardian and conservator is qualified and suitable, has reviewed the proposed order of appointment and is willing to serve.
9. The following restrictions should apply to the Guardianship and Conservatorship (the Judge will complete this section):

THEREFORE, it is ORDERED that:

- A. _____ is appointed Guardian and Conservator of, _____, the Protected Person, to serve until further order of this court.
- B. _____ shall file a report with this Court as required by section 45-5-314 NMSA 1978 within ninety (90) days of the entry of this order.

- C. _____ shall file a **yearly** report with this Court as required by sections 45-5-314 and 45-5-409 NMSA 1978 within thirty (30) days of the anniversary of appointment as guardian and conservator.
- D. The Clerk of the District Court shall issue Letters of Guardianship and Conservatorship to _____ upon his/her filing an Acceptance of Appointment as Guardian and Conservator.
- E. The appointments of the Qualified Healthcare Professional, Guardian ad Litem and Visitor are terminated, and all are fully discharged by the Court from their duties in this case.
- F. The Protected Person has the right to appeal this order to the New Mexico Court of Appeals by filing a Notice of Appeal with the Clerk of the Seventh Judicial District Court within thirty (30) days of the entry of this order and by serving copies of the Notice of Appeal on the clerk of the Court of Appeals, the undersigned judge, the court reporter, and on any attorney who represents a party in this case.
- G. The Protected Person, guardian and conservator, or any interested party may petition this Court at any time to revoke, end, or modify the terms of the guardianship and conservatorship.

DISTRICT COURT JUDGE

Printed Name of guardian
and conservator:

Address:

Phone:

() _____

STATE OF NEW MEXICO
COUNTY OF CATRON
SEVENTH JUDICIAL DISTRICT COURT

IN THE MATTER OF THE
GUARDIANSHIP- CONSERVATORSHIP OF

No. _____

Petitioner: _____

ACCEPTANCE OF APPOINTMENT AS GUARDIAN AND CONSERVATOR

I, _____, Petitioner, hereby accept the duties of guardian
of _____ (Protected Person) and of conservator of his/her
estate and do solemnly swear or affirm that I will perform these duties according to law.

Date

Signature of Petitioner

Printed Name: _____

Address: _____

Phone: _____

() _____

STATE OF NEW MEXICO } ss
COUNTY OF _____ }

Signed and sworn before me on this ____ day of _____, _____.

Notary public: _____ My commission expires: _____

STATE OF NEW MEXICO
COUNTY OF CATRON
SEVENTH JUDICIAL DISTRICT COURT

IN THE MATTER OF THE
GUARDIANSHIP- CONSERVATORSHIP OF

No. _____

Petitioner: _____

LETTERS OF GUARDIANSHIP AND CONSERVATORSHIP

TO ALL TO WHOM THESE PRESENTS COME, GREETINGS:

By Order of the Seventh Judicial District Court, on the _____ day of _____,
_____, _____ (Petitioner) whose address and telephone number are
_____ ,

having filed the acceptance required by law, was duly appointed the guardian of
_____ and the conservator of his/her estate. These Letters of
Guardianship and Conservatorship are issued as evidence of _____'s
authority as guardian and conservator by order of this Court.

WITNESS, THE HONORABLE _____, District Judge and
the Seal of the Court, this _____ day of _____, _____.

CLERK OF THE DISTRICT COURT

By: _____
Deputy

(SEAL)

STATE OF NEW MEXICO
COUNTY OF CATRON
SEVENTH JUDICIAL DISTRICT COURT

IN THE MATTER OF THE
GUARDIANSHIP- CONSERVATORSHIP OF

No. _____

Guardian-Conservator: _____

GUARDIAN'S NINETY (90) DAY REPORT

As required by the Court's Order appointing me guardian and conservator, and as required by section 45-5-314 NMSA 1978, I am making the following report regarding the above-named Protected Person.

1. My current contact information:

a. My full legal name is: _____

b. Address: _____

c. Phone number: _____

2. The Protected Person's current address is:

3. A description of the Protected Person's residence is (for example, nursing home, guardian's home, etc.): _____

4. The person primarily responsible for the care of the Protected Person where he/she lives is (for example, the guardian, name of nurse, doctor, other family member, etc):

5. The recreational, educational and social activities and services the Protected Persons is involved in are:

6. The name and address of any hospital or other institution where the Protected Person is now temporarily admitted is:

7. I made the following contracts on behalf of the Protected Person (for example, leases, nursing home contracts, etc.):

8. I have made the following financial decisions on behalf of the Protected Person since my appointment as guardian and conservator; including how all income was distributed, any sale, lease or mortgage of the Protected Person's assets, and any investment made on behalf of the Protected Person:

9. A list of assets of the Protected Person as of the date I was appointed guardian and conservator is (for example; a home, other real estate, bank accounts, retirement accounts, jewelry, vehicles, etc.):

The guardian and conservator says: I have read this report and agree with everything in it. By signing below, I also state, upon oath or affirmation, that this document and the statements in it are true and correct as far as I know and believe.

Date

Signature of Guardian and Conservator

STATE OF NEW MEXICO } ss
COUNTY OF _____ }

Signed and sworn before me on this ____ day of _____, _____.

Notary Public: _____ My commission expires: _____

STATE OF NEW MEXICO
COUNTY OF CATRON
SEVENTH JUDICIAL DISTRICT COURT

IN THE MATTER OF THE
GUARDIANSHIP- CONSERVATORSHIP OF

No. _____

Guardian-Conservator: _____

ANNUAL REPORT OF GUARDIAN AND CONSERVATOR

As required by the Court's Order appointing me guardian and conservator, and as required by sections 45-5-314 and 45-5-409 NMSA 1978, I am making the following annual report regarding the above-named Protected Person.

1. I was appointed guardian and conservator on: _____ (date).
2. My current contact information:
 - a. My full legal name is: _____
 - b. Address: _____
 - c. Phone number: _____
3. The Protected Person's current address is:
_____.
4. A description of the Protected Person's residence is (for example, nursing home, guardian's home, etc.): _____.
5. The person primarily responsible for the care of the Protected Person where he/she lives is (for example, the guardian, name of nurse, doctor, other family member, etc):
_____.

6. Has the Protected Person's residence changed in the past year?

Yes

No

If yes, state why the residence changed:

7. The recreational, educational and social activities and services the Protected Persons is

involved in are:

8. The name and address of any hospital or other institution where the Protected Person is now

temporarily admitted is:

9. The Protected Person's physical condition:

A. Got better in the past year

B. Got worse in the past year

C. Stayed the same in the past year

If you answered A or B then the reason for the change is:

10. The Protected Person's current physical condition is:

11. The Protected Person's mental condition:

- A. Got better in the past year
- B. Got worse in the past year
- C. Stayed the same in the past year

If you answered A or B then the reason for the change is:

12. The Protected Person's current mental condition is (for example, ability to recognize family and friends, have meaningful conversations, make daily or long term financial decisions):

13. The Protected Person's current healthcare providers and their addresses are:

Physician: _____.

Dentist: _____.

Mental Health Professional: _____.

Other Healthcare Professional: _____.

14. The Protected Person had the following hospitalizations or significant mental and medical events in the past year:

15. I made the following contracts on behalf of the Protected Person in the past year (for example, leases, nursing home contracts, etc.):

16. I made the following financial decisions on behalf of the Protected Person in the past year; including how all income was distributed, any sale, lease or mortgage of the Protected Person's assets, and any investment made on behalf of the Protected Person:

17. I made the following other major decisions on behalf of the Protected Person in the past year (for example, changes in healthcare providers, got in-home help, placed in nursing home, got a pet, any other changes you haven't already discussed):

18. The reasons that the guardianship-conservatorship should continue and any changes that should be made are (for example, the Protected Person is the same or worse as when you were appointed guardian and conservator, or if the Protected Person's condition improved what, if any, limitations should be placed on the guardianship or conservatorship):

Accounting

The undersigned guardian-conservator makes the following summary of assets, income and expenditures of _____ (Protected Person) from _____ (beginning date of reporting period) to _____ (end date).

A. A list of assets of the Protected Person as of _____ (beginning date of reporting period):

B. Income of the Protected Person during the reporting period:

C. Expenditures of the Protected Person during the reporting period:

D. A list of assets of the Protected Person as of _____ (end date of reporting period):

The guardian and conservator says: I have read this report and agree with everything in it. By signing below, I also state, upon oath or affirmation, that this document and the statements in it are true and correct as far as I know and believe.

Date

Signature of Guardian and Conservator

STATE OF NEW MEXICO } ss
COUNTY OF _____ }

Signed and sworn before me on this ____ day of _____, _____.

Notary Public: _____ My commission expires: _____

STATE OF NEW MEXICO
COUNTY OF CATRON
SEVENTH JUDICIAL DISTRICT COURT

IN THE MATTER OF THE
GUARDIANSHIP- CONSERVATORSHIP OF

No. _____

Petitioner: _____

REQUEST FOR COURT INTERPRETER

PERSON NEEDING INTERPRETER: Party _____ Witness for _____

NAME OF PERSON NEEDING INTERPRETER: _____

SPECIFIC MATTERS TO BE HEARD: _____

DATE: _____ **TIME:** _____ **LOCATION:** _____

JUDGE: _____ **TIME REQUIRED:** _____

LANGUAGE NEEDED: Spanish _____ Sign _____ Other _____

REQUESTED BY: _____

Signature of party or party's attorney

NOTE: The person requesting the interpreter is responsible for notifying the court if the interpreter is no longer needed. If the requester fails to notify the court, well in advance of the court date, that an interpreter is no longer needed, then the requester *will be responsible for paying* the fees and mileage expenses of the interpreter.

FOR COURT USE ONLY

NAME OF INTERPRETER: _____

DATE INTERPRETER CONTACTED: _____

DATE/TIME VERIFIED WITH INTERPRETER: _____

BY _____

STATE OF NEW MEXICO
COUNTY OF CATRON
SEVENTH JUDICIAL DISTRICT COURT

IN THE MATTER OF THE
GUARDIANSHIP- CONSERVATORSHIP OF

No. _____

Petitioner: _____

CANCELLATION OF COURT INTERPRETER

The court interpreter previously requested is no longer needed. Please cancel the court interpreter scheduled for

DATE: _____ **TIME:** _____ **LOCATION:** _____

JUDGE: _____

REQUESTED BY: _____
Signature of party or party's attorney

NOTE: The person requesting the interpreter is responsible for notifying the court if the interpreter is no longer needed. If the requester fails to notify the court, well in advance of the court date, that an interpreter is no longer needed, then the requester *will be responsible for paying* the fees and mileage expenses of the interpreter.

FOR COURT USE ONLY

NAME OF INTERPRETER: _____

DATE INTERPRETER CONTACTED FOR CANCELLATION: _____

BY _____