

GUARDIANSHIPS FOR LEGALLY INCAPACITATED INDIVIDUALS (Adults)

The information and instructions in this packet are informational only providing a brief explanation of the basic procedures required to file a Petition with the Court. The information provided should not be construed as legal advice. If you are unable to complete the required forms you may wish to seek the advice of an attorney to assist you in filing your Petition. Probate Court staff cannot complete the forms for you.

INTRODUCTION

There are 2 types of adult guardianships for individuals who have been deemed “legally incapacitated” full (GA) and limited (GL). This refers to an adult who has been deemed, by a medical professional, (physician, psychologist, or psychiatrist) unable to make informed decisions regarding their personal or medical needs. The degree to which an individual can make informed decisions is the determining factor in whether or not a full or limited guardianship is appropriate.

WHO MAY BE APPOINTED GUARDIAN

Any competent, suitable, willing adult designated by the respondent has first priority for being appointed guardian. If the individual does not express a preference, the Court may consider appointment in the following order of priority:

- A person previously named in a durable power of attorney
- The spouse or someone nominated by the spouse
- An adult child of the respondent.
- A parent or someone nominated by a parent
- A relative the respondent has lived with for 6 months before the petition was filed.
- Someone nominated by the person who is caring for the respondent or paying for his/her care.
- Any competent adult suitable and willing to serve.
- A Public Guardian

DOCUMENTS REQUIRED FOR FILEING

- Petition for Appointment of a Guardian ([PC 625](#))pdf
- Personal Identifying Information ([MC97](#))pdf
- Copy of a Durable Power of Attorney and/or Patient Advocate (if one exists)
- Report of Physician completed by a physician, psychologist, or psychiatrist ([PC 630](#))
- Acceptance of Appointment ([PC571](#))pdf & ([MC97a](#))pdf
- Contact Information Form ([MC505](#))pdf
- \$175.00 filing fee

* The law also requires the court to appoint a Guardian Ad Litem. The Guardian Ad Litem is appointed to investigate the matter, to make recommendations to the court, as to what is in the best interests of the individual (Respondent). You should be aware that the respondent may contest the petition and is entitled to be present at the hearing. If the individual objects to the Petition the Court will appoint an attorney to represent the individual.

THE PETITIONER WILL BE REQUIRED TO PAY THE FEES OF THE COURT-APPOINTED GUARDIAN AD LITEM/ATTORNEY FOR THE RESPONDENT AT THE COURT-APPOINTED RATE OF \$35.00 PER HOUR.

FILING THE PETITION

The completed Petition and all other required documents can be submitted to the Court in the following ways:

- By e-mail at: probateoffice@eatoncounty.org (documents must be in PDF format)

- Delivered to the on-site drop box located inside the main entrance of the Courthouse
- Mailed to the Probate Court via U. S. Postal Service to:
Eaton County Probate Court
1045 Independence Blvd
Charlotte, MI 48813
- In person Monday – Friday 8:00 am to 5:00 pm – The Court does not ensure same day filing if you file in person.

After the petition is filed, a hearing is scheduled before the Probate Judge. The hearing is normally set to be held 3-6 week after the Petition is filed. The Petitioner must arrange for the respondent to be present at the hearing. The Guardian Ad Litem may waive the respondent's appearance at the hearing providing that the respondent does not object to the Petition for Appointment of Guardian. At the hearing, the petitioner must be present and give testimony of the need for a guardian. The Court will appoint a guardian if it is satisfied by clear and convincing evidence that the respondent is incapacitated and that the appointment of a guardian is necessary or desirable as a means of providing continuing care and supervision of the person.

SERVICE

The following people must be served with a copy of the Petition and Notice of Hearing ([PC 562](#)). The notice of hearing informs interested persons of the date and time of the hearing. Attorneys, Public Guardians, and other Public Agencies are responsible for service of these documents. The Court will provide service of Petitions filed by individuals not represented by an attorney.

- **The respondent must be served personally at least seven days before the hearing, regardless of the respondent's physical or mental capacity.** He/she must be served a copy of the Petition and Notice of Hearing.
- The respondent's spouse must be served. If there is not spouse their adult children must be served. If there are not adult children, their parents must be served. These persons can be served by mail at least 14 days before the hearing or personally 7 days prior to the hearing.
- If the respondent has no living spouse, children, or parents, the heirs/next of kin must be served by mail at least 14 days before the hearing or personally 7 days prior to the hearing.
- In addition to the persons mentioned above, any person who has care and custody of the respondent and any Conservator, Durable Power of Attorney or Patient Advocate must be served by mail at least 14 days before the hearing or personally 7 days prior to the hearing.
- The nominated guardian, if he/she is not the Petitioner, must be served by mail at least 14 days before the hearing or personally 7 days prior to the hearing.
- If a Respondent has no interested parties you must give notice to the Attorney General. Notice should be sent to:
Office of the Attorney General
Public Administrator
P.O. Box 30755
Lansing, MI 48909

PUBLICATION

If the address of an interested party is unknown, the petitioner must file a Declaration of Intent to Give Notice by Publication ([PC 617](#)) and publish (at your expense) a Publication of Notice of Hearing ([PC 563](#)) in an Eaton County approved newspaper.

- The County Journal
- The Charlotte Shopping Guide
- The Delta Waverly Community News
- The Grand Ledge Independent
- The Eaton Rapids Community News
- The Flashes
- The Lansing State Journal

NOTICE MUST BE PUBLISHED AT LEAST 14 DAYS BEFORE THE HEARING. The Petitioner must pay the newspaper for this publication in order for the notice to be published in the paper. The newspaper will send the Court verification of publication; however, it is your responsibility to make sure we receive verification of publication.

Proof of Service

Prior to the hearing the Petitioner or their attorney, must provide the Court with Proof of Service ([PC564](#))pdf that the required documents have been served. Failure to provide Proof of Service may result in the hearing being cancelled. To avoid any issue, we suggest that you file your Proof of Service no later than 7 days prior to the hearing.