

Filing Fee \$187.00

# Filing a Petition to Appoint a Guardian for an Incapacitated Adult

Effective March 2016

## REQUIREMENTS:

1. Driver's license, social security number of person seeking guardianship or conservatorship of an incapacitated adult.
2. Full names, address, telephone numbers of:
  - a. Person seeking guardianship or conservatorship of incapacitated adult.
  - b. All interested parties (spouse, parent, children) if no one other heirs (sisters, brothers).
3. Full name, address, social security number of incapacitated person.
4. Case number of any other court actions involving family members of incapacitated person.
5. Full name, address, and telephone number of person/agency currently with care/custody (if any).

## Options You Should Know Before Filing a Petition for a Full Adult Guardianship

Sometimes adults need help taking care of themselves and making decisions. Michigan law allows a judge to appoint a “guardian” of an adult in certain situations where help is needed.

A court-appointed guardian can make decisions for the person who needs help. The judge will determine what decisions the guardian can make.

A guardian might be able to decide:

- where the person lives
- what medical care the person should receive
- who will care for the person every day

There are many things you should think about before you file a petition. If at all possible, the adult who needs help should talk to a lawyer to help figure out what is best for him or her.

There are options other than a full guardianship. Not all the options will work for everyone. Some of them will only work if the person is still able to make decisions. Some depend on what help the person may need. A few of these options other than a full guardianship are briefly described here.

### Conservator

A conservator is appointed by a judge to take care of another adult’s finances and assets. A conservator is not expected to use his or her own money to support the adult needing assistance. The court can also limit a conservator’s authority to certain kinds of decisions for the adult. The conservator:

- manages assets
- pays the bills
- makes general financial decisions for the person

### Durable Power of Attorney

An adult can choose to appoint someone to take care of his or her finances through a financial “durable power of attorney.” **The adult** must be of sound mind to sign this document. He or she can:

- limit when this document is effective
- limit what the appointed person can do

Because a durable power of attorney can be complicated and can give away a great deal of power, it is best that the adult seek the help of a lawyer to prepare it.

### Health Care Power of Attorney

You will sometimes hear this called a “patient advocate designation” or a “durable power of attorney for health care.” It is a document an adult can sign that gives someone else the authority to make care decisions when he or she is not capable. Those decisions could be about:

- health care
- mental health treatment
- living arrangements

The adult can give the “agent” or “patient advocate” as much or as little authority as the person wants. This can include authority to withhold or withdraw life support services. **The adult** must be of sound mind to sign this document and must decide he or she wants it.

Because this document can be complicated and can give away a great deal of power, it is best that the adult seek the help of a lawyer to prepare it.

**(See Second Page)**

### **Do Not Resuscitate Order**

If the adult is an inpatient at a hospital, his or her wishes regarding resuscitation should be discussed with his or her physician as soon as possible.

If the adult is not in a hospital, he or she can sign a document that will refuse CPR (cardiopulmonary resuscitation). This document is known as a "Do Not Resuscitate Order" or "DNR." The adult must be of sound mind to sign this document.

### **Physician Orders for Scope of Treatment (POST) Form**

An adult can work with his or her attending health professional to complete a document that will specify types of medical treatment that are permissible. This document is called a physician orders for scope of treatment (POST) form.

A POST form contains medical orders that are jointly agreed to by the adult and the attending health professional or a patient representative and the attending health professional. A POST form is not intended to be used as a stand-alone advance health care directive. The adult must be of sound mind to sign the form. A POST form may be obtained through the Michigan Department of Health and Human Services.

### **Limited Guardian**

A limited guardian is appointed by a judge to make limited decisions in certain instances. For example, the judge may say that the guardian can only make decisions about living arrangements. A limited guardianship can give a person some independence while providing the specific help needed.

### **Filing a Petition for Full Adult Guardianship**

To ask that a guardian be appointed for an adult, a *Petition for Appointment of Guardian of Incapacitated Individual* (PC 625) must be filed with the court. A judge will appoint a guardian only if the condition of the adult fits specific requirements. The specific conditions that must be met are found in form PC 625, which is available at your local probate court or at [www.courts.mi.gov/formssearch](http://www.courts.mi.gov/formssearch).

# INSTRUCTIONS FOR COMPLETING "PETITION FOR APPOINTMENT OF GUARDIAN OF INCAPACITATED INDIVIDUAL"

Please type or print neatly using black or blue ink.

Items A through Q must be read and filled in (when required) before your petition can be filed with the court. Please read the instruction for each item. Then fill in the correct information for that item on the form.

- (A)** Enter the name of the individual who you believe needs a guardian.
- (B)** Enter the date of birth, race, and sex of the individual named in **(A)**. Enter the address where the individual is currently located. This address may or may not be the home of the individual. For example, if the individual is currently in the hospital, enter the address of the hospital.
- (C)** Enter your name in the first line and your relationship to the individual (or your interest) on the second line.
- (D)** Check this box if there is or has been a case in the family division of the circuit court involving the individual in **(A)**. Examples of a family division case are personal protection, abuse or neglect, or a name change. If you have checked this box, enter the name of the court, the case number of the action, the name of the judge assigned to that case. Then place a check in the box indicating whether that case is still pending or not.
- (E)** Enter the city, village, or township and county and state the individual is a resident of and the full home address and telephone number of the individual.
- (F)** Check the boxes that apply and provide the name(s) and address(es).
- (G)** If the individual has a patient advocate and you believe there is a problem, check only the boxes that apply.
- (H)** Check the boxes that you believe apply to the individual.
- (I)** **Explain in as much detail as possible** specific examples of the individual's conduct that lead you to believe he or she needs a guardian. Give specific examples of his or her conduct that supports what you checked in **(H)** and that demonstrate the need for a guardian. **This information is extremely important for the court in making a decision about the need to appoint a guardian.** Use additional sheets of paper if needed.
- (J)** Enter the name, address, and telephone number of the person or agency who currently has care and custody of the individual. If there is no one, leave blank.
- (K)** Check whether the individual is or is not entitled to receive Veterans Administration benefits. If you checked that the individual is entitled to benefits, enter his or her VA claimant number.
- (L) - (M)** Check all the boxes that apply and enter the names, relationships, addresses and telephone numbers of each relative of the individual. Presumptive heirs includes minor children, if any. If any of the adults named in **(L)** are under legal incapacity, enter the names in **(M)**. If you check the last box in **(L)** (item 10), you must notify the Attorney General by sending a copy of this form to: Attorney General, Public Administration, PO Box 30755, Lansing, Michigan 48909.
- (N)** Enter the name, address, and telephone number of the person you want to be appointed as guardian of the individual. Enter the relationship, if any, that this person has to the individual. Check the box for either a full guardian or a limited guardian.
- (O)** Check the box if there is an emergency requiring the appointment of a temporary guardian before the hearing on this petition is held.
- (P)** Enter today's date, sign your name, and enter your address and telephone number.
- (Q)** If the individual wants to nominate someone to be his/her guardian, check the box and enter the name, address, and telephone number of the person the individual is nominating. The individual must sign and date the form.