

DUTIES OF THE GUARDIAN OF THE PERSON OF AN INCAPACITATED PERSON

The following outline is not intended to be taken as specific legal advice upon any particular occasion for which the advice of qualified counsel is recommended. Please do not ask Court personnel to give legal advice on specific issues as they are not permitted nor qualified to do so.

As Guardian of the Person of an Incapacitated Person your duties are:

1. FAMILIARITY WITH COURT ORDER APPOINTING YOU

You must examine and be familiar with the Court Order which appoints you Guardian of the Person of the Incapacitated Person. This is particularly true in that you may only be authorized to exercise power in certain limited ways, unless you have been appointed "plenary" (general) Guardian of the Person. If your appointment is subject to limitations, you must not exceed these limitations. In every case, the following description of duties must be limited by the terms of the Order appointing you.

2. GENERAL DUTY OF GUARDIAN OF THE PERSON

As either limited or "plenary" (general) Guardian of the Person, you have a general responsibility to assert the rights and the best interests of the Incapacitated Person. In doing so, the expressed wishes and preferences of the Incapacitated Person shall be respected to the greatest possible extent. If these expressed wishes and preferences, however, conflict with your independent judgment of what is in the best interests of the Incapacitated Person, then you should follow your independent judgment, but only to the extent necessary to pursue the best interests of the Incapacitated Person.

3. PLAN OF SUPPORTIVE SERVICE

Where appropriate, you should assist in the development of a plan for supportive services for the Incapacitated Person, which will explain how these services will be obtained. This may not be necessary in every case, depending upon the circumstances of the Incapacitated Persons as you find them upon the commencement of your duties.

4. ENCOURAGEMENT OF INCAPACITATED PERSON TO PARTICIPATE IN DECISIONS

You must encourage the Incapacitated Person to participate to the maximum extent feasible within the limitations of his or her ability. You should further encourage the Incapacitated Person to act on his or her own behalf whenever he or she may be able to do so. You should further encourage the Incapacitated Person to develop or regain his or her capacity to manage his or her personal affairs insofar as may be possible under the circumstances.

5. GENERAL CARE, MAINTENANCE and CUSTODY OF THE INCAPACITATED PERSON

Where authorized by the terms of the Court Order, you shall have general responsibility for the care, maintenance and custody of the Incapacitated Person. Your attention to these duties may be limited by the terms of the Court Order, however, in exercising these duties you must not exceed that authority. Your primary guiding principle should be to follow what is in the best interests of the Incapacitated Person, even in situations that may conflict with you personal beliefs or your personal interest. If the best interests of the Incapacitated Person conflict irrevocably with your strongly held personal beliefs or personal interests, you may, and should apply to Court for guidance or for relief from your duties and transfer those duties to another person. You must avoid any conflict of interest, or even the appearance of a conflict of interest, in your pursuit of the best interests of the Incapacitated Person.

6. UNIFORM FIREARMS ACT – RESTRICTIONS ON THE INCAPACITATED PERSON

Sections 6105(a) and (c) of the Uniform Firearms Act, prohibit a person who has been adjudicated an incapacitated person from possessing, using, controlling, selling, transferring or manufacturing, or obtaining a license to possess, use, control, sell, transfer or manufacture a firearm in the Commonwealth of Pennsylvania. The Guardian should inquire about the ownership and/or possession of any firearms by the incapacitated person and, within 60 days of the Adjudication, should arrange for the sale or transfer of the incapacitated person's firearms to another eligible person who is not a member of the prohibited person's household. As well, an incapacitated person is not permitted to obtain a license to carry a firearm. Any existing license issued to the incapacitated person should be returned to the issuing authority.

7. PLACE FOR INCAPACITATED PERSON TO LIVE

If so provided by the Court Order appointing you, you may be empowered to select a place in which the Incapacitated Person will reside. Again, you must follow the standard of what is in the best interests of the Incapacitated Person, using your own independent judgment. You should attempt to discern the preferences as expressed by the Incapacitated Person and members of his or her family and to accommodate these with respect to the place in which the Incapacitated Person will be living, except in those instances where your independent judgment determines that this would conflict with the best interests of the Incapacitated Person.

8. RESPONSIBILITY FOR TRAINING, EDUCATION, MEDICAL AND PSYCHOLOGICAL SERVICES OF INCAPACITATED PERSON

You also must refer to the Court Order to determine the extent of your authority in these regards. Where so provided by the Court Order, however, you may be given the responsibility to provide for the training, education, medical and psychological services, or for the social and vocational opportunities to be offered to the Incapacitated Person. You also may be authorized to assist the Incapacitated Person in the development of maximum self-reliance and independence. Again, your guiding principle should be what is in the best interests of the Incapacitated Person and consideration of expressed wishes of the Incapacitated Person or family members would be appropriate where it does not conflict with this principle.

9. CONSENTS / APPROVALS FOR INCAPACITATED PERSON

The terms of the Court Order may also give you the authority to enter consents or approvals for various medical, surgical, psychological, or other treatment alternatives which may become available for the Incapacitated Person. As before, you should endeavor to follow the express wishes of the Incapacitated Person and family members to the extent that these do not conflict with the overriding principle of what is in the best interests of the Incapacitated Person. Your independent judgment on these issues, however, should not be overridden by family wishes.

10. ANNUAL REPORT

In addition to the overall duties set forth above, you are required to file an Annual Report on or before the first 12 month anniversary of your appointment and annually thereafter in which you describe the following in detail:

- (A) The current address and type of placement of the Incapacitated Person.
- (B) The major medical or mental problems of the Incapacitated Person.
- (C) A brief description of the Incapacitated Person's living arrangements, social, medical, psychological and other support services he or she is receiving.
- (D) Your opinion as to whether or not the guardianship of the Person should continue, be terminated, or modified, and your reason for this opinion.
- (E) The number and length of times in which you have visited the Incapacitated Person, during the last year.

Final Report -- Within sixty (60) days of the death of the Incapacitated Person or an adjudication of capacity and modification of existing orders, you must file a final report with the court. A Death Certificate **MUST** be attached.

11. POWERS WHICH MAY ONLY BE GRANTED BY COURT

Unless specifically included within your guardianship Order, you shall not have power to:

- (A) Consent, on behalf of the Incapacitated Person, to abortion, sterilization, psychosurgery, electroconvulsive therapy, or the removal of a healthy body organ.
- (B) Prohibit the marriage or consent to the divorce of the Incapacitated Person.
- (C) Consent, on behalf of the Incapacitated Person, to the performance of any experimental biomedical or behavioral medical procedure, or participation in any biomedical or behavioral experiment.

12. PARTIAL LIST

This list of duties and responsibilities is partial and is by no means complete. If you are the individual Guardian of the Person and there is no institutional or corporate Co-Guardian, it is highly recommended that you consult with a qualified attorney concerning additional duties and responsibilities which cannot, for reasons of space, be set forth here.