

IN THE COURT OF COMMON PLEAS, CHESTER COUNTY, PENNSYLVANIA  
ORPHANS' COURT DIVISION

IN THE MATTER OF: \_\_\_\_\_,

No. 15 \_\_\_\_\_

AN INCAPACITATED PERSON

**FINAL ORDER APPOINTING GUARDIAN**

\_\_\_\_\_ Person  
\_\_\_\_\_ Estate

**AND NOW**, this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, following a hearing held  
\_\_\_\_\_, pursuant to proper notice to the alleged incapacitated person

(Respondent), who

\_\_\_\_\_ appeared in person at the hearing

\_\_\_\_\_ was represented at the hearing by \_\_\_\_\_, Esquire

\_\_\_\_\_ failed to appear because: \_\_\_\_\_,

after giving full consideration to the factors set forth in Chapter 55 of the Probate, Estate and  
Fiduciaries Code, 20 Pa.C.S. §5501, *et seq.*, and in accordance with the following Findings of

Fact:

**Findings of Fact Pursuant to  
PEF Code, 20 Pa. C.S. §5512.1**

1. The name of the condition or disability which impairs Respondent's capacity to  
make and communicate decisions is \_\_\_\_\_  
\_\_\_\_\_;

2. The extent of Respondent's capacity to make and communicate decisions is

\_\_\_\_\_;

3. Considering the availability of family, friends and other supports, and the existence of any advance directives, the Respondent is found to need the following guardianship services: \_\_\_\_\_;

4. Based on the above factors, the Respondent is found to need a Guardian(s) as described below;

5. The duration of such guardianship shall be \_\_\_\_\_,

**IT IS** hereby **ORDERED** and **DECREED** as follows:

**I. Guardian of the Person**

\_\_\_\_\_ is/are appointed as:

\_\_\_\_\_ A. Limited Guardian(s) of Respondent's Person – with the following responsibilities:

a. Provisions for care, maintenance and custody: \_\_\_\_\_  
\_\_\_\_\_.

b. Place where Respondent shall live: \_\_\_\_\_  
\_\_\_\_\_.

c. Provisions for training, education, medical and psychological services, social and vocational opportunities, and the like:  
\_\_\_\_\_.

d. Authority to execute consents or approvals on behalf of Respondent: \_\_\_\_\_

\_\_\_\_\_ B. Plenary Guardian(s) of Respondent's Person

***Additional Powers***  
*(Specific proof and findings of fact will be necessary to justify any of these additional powers. 20 Pa.C.S. §5521(d))*

The Guardian(s) of the Person shall have, in addition to the powers granted above, the following authority:

- \_\_\_\_\_ To consent to (abortion) (sterilization) (psychosurgery) (electroconvulsive procedure) (removal of bodily organ/s) (other: \_\_\_\_\_).
- \_\_\_\_\_ To consent to performance of experimental procedures or participation in experiments (bio-medical) (behavioral) (other: \_\_\_\_\_).
- \_\_\_\_\_ To prohibit marriage/To consent to divorce.

***Powers of Attorney***

Any general or limited powers of attorney (other than a health care power of attorney) previously executed by the Respondent are hereby revoked and vacated. If there is an existing health care power of attorney which is not revoked below, the health care agent is advised, pursuant to 20 Pa.C.S. §5460(a), that he or she is accountable to the Guardian(s) of the Person as well as the Respondent (the principal).

- The Guardian(s) of the Person is hereby authorized to revoke the appointment of the health care agent.
- The court hereby revokes the health care power of attorney.
- The court authorizes the continuance of the health care power of attorney.

***HIPAA Personal Representative***

The Guardian(s) of the Person shall be deemed to have authority to act on behalf of Respondent, as personal representative for the purposes of the Health Care Insurance Portability and Accountability Act of 1996 (HIPAA), for the duration of the Guardianship. As the personal representative for HIPAA purposes, the Guardian(s) of the Person shall be treated the same as

Respondent by any health care related person or entity, and shall have access to all protected health information of Respondent.

**II. Guardian of the Estate**

\_\_\_\_\_ is/are appointed as

\_\_\_\_\_ A. Limited Guardian(s) of Respondent’s Estate – with the following authority:

a. Portion of assets or income subject to Guardian’s control:

\_\_\_\_\_;

b. Other: \_\_\_\_\_.

\_\_\_\_\_ B. Plenary Guardian(s) of Respondent’s Estate

***Additional Guardian of the Estate provisions***

The Guardian(s) of the Estate may petition the court for allowances to pay for other fees, costs, or expenses incurred in providing services hereunder.

All banks and other financial institutions maintaining Respondent’s accounts shall provide the Guardian(s) of the Estate with all requested account related information pertaining to all account assets held in the Respondent’s name, including jointly held accounts. If requested by the Guardian(s) of the Estate, said banks and other financial institutions shall transfer to the Guardian(s) of the Estate all account assets held solely in Respondent’s name.

Except as authorized below, the Guardian(s) of the Estate shall not use principal without first petitioning the court and obtaining approval therefore.

The Guardian(s) of the Estate is authorized to expend the principal from the Respondent's account(s) as follows:

To establish a burial fund or purchase pre-paid funeral expenses in the event the same do not currently exist.

\_\_\_\_\_  
\_\_\_\_\_

The Guardian(s) of the Estate shall take all actions necessary to obtain and/or maintain medical insurance for the Respondent, including under the Medical Assistance Program, if applicable.

The Guardian(s) of the Estate may use the Respondent's income to pay for the Respondent's expenses without obtaining court approval.

The Guardian(s) of the Estate shall file a copy of the Will of Respondent (if any) with the Chester County Clerk of the Orphans' Court within three (3) months of today's date that is by \_\_\_\_\_.

Furthermore, all financial institutions, including without limitation, banks, savings and loans, credit unions, and brokerages, shall grant to the Guardian(s) of \_\_\_\_\_ [Respondent's] estate access to any and all assets, records, and accounts maintained for the benefit of Respondent, and the Guardian(s) of Respondent's estate shall be entitled to transfer, retitle, withdraw, or to otherwise exercise dominion and control over any and all said assets, records, and accounts. The failure of any financial institution to honor this order may lead to contempt proceedings and the imposition of sanctions.

***Bond***

The Guardian(s) of the Estate (shall / shall not) post a bond with surety. If bond is required, it shall be posted within ten (10) days from the date of this Order in the amount of \$\_\_\_\_\_. The cost of the bond may be paid from the Estate assets.

***Firearms***

In order to comply with 18 Pa.C.S. §6105 (a) and (c)(4) of the Pennsylvania Uniform Firearms Act, the Guardian(s) of the Estate shall inquire about the ownership and/or possession of any firearms by the incapacitated person and, within sixty (60) days of the Adjudication, shall 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.

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.

**III. Compensation of Guardian**

Person

Estate

\_\_\_\_\_

- none
- \$\_\_\_\_\_ monthly (Medical Assistance cases)
- \$\_\_\_\_\_ hourly (if not Medical Assistance case)
- other, per record: \$\_\_\_\_\_

***Billing for Compensation***

- semi-annually \_\_\_\_\_
- other \_\_\_\_\_

Payment to the Guardian(s) for compensation must be preceded by the filing of a petition by the Guardian(s) with the Chester County Clerk of the Orphans' Court and the court's approval of that petition. The petition must detail the time and type of services rendered by the Guardian(s) which justifies the requested payment. Compensation for the Guardian(s) must be taken from the Respondent's income, not from his/her assets (*i.e* not from investment account principal), unless court approval also has been obtained.

#### IV. Review

A Review Hearing in the above matter shall be held

- \_\_\_\_\_; or
- by further order of court.

#### V. Reports

The Guardians (Person *and* Estate) shall file the following reports with the Clerk of the Orphans' Court, via the statewide Guardianship Tracking System ("GTS"):

1. An inventory by the Guardian(s) of the estate within 90 days of this decree;
2. An annual report by the Guardian(s) of the estate one year after appointment and annually thereafter;
3. An annual report by the Guardian(s) of the person one year after appointment and annually thereafter;
4. A final report by the Guardian(s) of the person *and* the estate within 60 days of the death of the incapacitated person, an adjudication of capacity, a change of guardian, or the expiration of an order of limited duration;
5. A final report from the Guardian(s) of the person and the estate upon receipt of the provisional order from another state's court accepting transfer of a guardianship.

6. Notice of the filing of the above reports, using Form G-07, shall be given to the following: \_\_\_\_\_

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**VI. Notice of Right to Appeal**

**Read to Respondent in Court**

**To be read to Respondent by:** \_\_\_\_\_

**& an affidavit of service/verification filed within 10 days of this Order.**

\_\_\_\_\_ [Respondent] is hereby notified of the right to seek reconsideration of this Order pursuant to Pa. O.C. Rule 8.2 and the right to appeal this Order within 30 days from the date of this order by filing a notice of appeal with the clerk of the Orphans' Court, located on the second floor of the Chester County Justice Center. The appeal will be sent to the Superior Court of Pennsylvania. You should obtain a copy of the Pennsylvania Rules of Appellate Procedure as a guide. The Clerk of the Orphans' Court can provide the address of the Superior Court.

Respondent may also petition the court at any time to review, modify, or terminate the guardianship due to a change in circumstances. Respondent has a right to be represented by an attorney to file a motion for reconsideration, an appeal, or seek modification or termination of this guardianship. If the assistance of counsel is needed and Respondent cannot afford an attorney, an attorney will be appointed to represent Respondent free of charge.

BY THE COURT:

\_\_\_\_\_  
J.