

INSTRUCTIONS FOR APPOINTMENT OF GUARDIAN OF ALLEGED INCOMPETENT

These instructions are intended as a guideline only and should not be relied upon as a comprehensive list of duties in a guardianship.

A person can apply to be Guardian of the Person, Estate or Person & Estate of an alleged incompetent when the applicant believes that an adult is incompetent as defined by statute.

When a Guardianship of the Estate of an Incompetent or a Guardianship of the Person & Estate of an Incompetent is established there must be joint control of those monies between the guardian and an attorney.

A filing fee of \$186.00 (person only) or \$210.00 (person & estate or estate only) deposit is required at the time of filing. Please confirm the amount with the Cashier since filing fees may have changed subsequent to the publication of this instruction sheet. **This fee must be paid in cash, money order, certified check, MasterCard, Discover, or American Express. No personal checks will be accepted.**

The forms may be obtained from the Issue Desk on the 9th floor of the Probate Court, 230 East 9th Street, Cincinnati, Ohio or by downloading the forms from the web site.

PROCEDURAL STEPS

WHEN TO FILE

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STEP 1: COMPLETE THE FOLLOWING FORMS FOR THE INITIAL FILING	
Application for Appointment of Guardian of Alleged Incompetent (17.0) - Complete information	At the time of initial filing
Next of Kin of Proposed Ward (15.0) - List all <i>next of kin</i> (those people who are closest blood relatives) of the alleged incompetent. - Be sure to specify <i>complete</i> addresses of all those listed.	At the time of initial filing
Judgment Entry Setting Hearing on Application for Appointment (15.01) - Fill in the name of the alleged incompetent only, the magistrate will fill in hearing date & time and sign & date the form.	At the time of initial filing
Waiver of Notice and Consent (15.1) - Have next of kin of the proposed ward execute form. - If unable to obtain all waivers, certified mail service must be completed on those that did not sign waivers (See form 16.4)	At the time of initial filing if signed by next of kin
Fiduciary's Acceptance (H.C. 15.2) - Complete name of proposed ward, sign and date.	At the time of initial filing

<p>Note: The Court will hold applicant responsible for the duties described on this form.</p>	
<p>Authorization to Release Confidential Information (H.C. 15.11)</p> <ul style="list-style-type: none"> - Complete form, sign in presence of a witness, and have witness sign. 	<p>At the time of initial filing</p>
<p>Statement of Expert Evaluation (H.C. 17.10)</p> <ul style="list-style-type: none"> - Applicant must have a Licensed Physician or a Licensed Clinical Psychologist evaluate the alleged incompetent and complete the form. - Date of evaluation must have been within 3 months of filing of the application. 	<p>At the time of initial filing</p>
<p>Notice to Prospective Ward of Application and Hearing (17.3)</p> <ul style="list-style-type: none"> - Complete form. - Make certain that correct daytime address of the proposed ward is provided. Eg. school, workshop, hospital, etc. - The Court will fill in hearing date & time and sign & date the form. 	<p>At the time of initial filing</p>
<p>Notice of Hearing for Appointment of Guardian of Alleged Incompetent (H.C. 17.4)</p> <ul style="list-style-type: none"> - List next of kin of the alleged incompetent who have not waived notice (form 15.1). - Complete certified mail on each person listed. - Complete affidavit on <i>back</i> of form. - Present certified mail return (green card) from each individual who did not waive notice to the magistrate assigned to your case. 	<p>At the time of initial filing if not obtaining waivers. The clerk will return the form to the applicant. The applicant will serve a copy of the form by certified mail on the next of kin. The original form will be presented to the magistrate on the day of the hearing.</p>
<p>Investigator's Report (17.8)</p> <ul style="list-style-type: none"> - Complete the top portion of the form. - The Court Investigator will complete the form after evaluating the alleged incompetent. 	<p>At the time of initial filing</p>
<p>Affidavit of Indigency and Entry Authorizing Payment (H.C. 117.0)</p> <ul style="list-style-type: none"> - Filed when the alleged incompetent has no assets or the monthly income received goes to the nursing home, group home, etc. - Form is only accepted if applying for guardian of the person only. 	
<p>THE NEXT GROUP OF FORMS IS NOT NEEDED AT THE INITIAL FILING.</p>	

<p>Guardian's Bond (15.3)</p> <ul style="list-style-type: none"> - For Guardianship of the Estate of an proposed ward, the applicant is required to execute a bond when the proposed ward's total property value is over \$10,000. - Applicant must execute and date form. - Bond must be executed by a surety company in front of court personnel. - The bond amount is normally twice the value of the proposed ward's personal property. 	<p>Once signed by the applicant, the bond form needs to be left with the court in order for the agent of the surety company to execute the bond in the presence of the clerk.</p> <p>May be left with the court anytime prior to the hearing.</p>
<p>Oath of Guardian (15.9)</p> <ul style="list-style-type: none"> - Complete form, but do not sign. Oath must be executed in front of a magistrate. 	<p>Preferably at the time of initial filing, if not, day of hearing.</p>
<p>Letters of Guardianship (15.4)</p> <ul style="list-style-type: none"> - Complete form. - The court clerk will sign and date, if guardianship is granted. 	<p>Preferably at the time of initial filing, if not, day of hearing.</p>
<p>Statement of Counsel and Guardian – Custody of Funds (H.C. 115.20)</p> <ul style="list-style-type: none"> - Complete form. - Both attorney and applicant must sign. - Filed only when guardianship includes Estate, a bond is presented and the assets are not being placed in the Deposit In Lieu Program. 	<p>Preferably at the time of initial filing, if not, day of hearing, if needed.</p>
<p>Entry Appointing Co-Signer for Estate Funds (H.C. 115.21)</p> <ul style="list-style-type: none"> - Complete form. - Magistrate will sign on day of hearing. 	<p>Preferably at the time of initial filing, if not, day of hearing, if needed.</p>
<p>Judgment Entry – Appointment of Guardian for Incompetent Person (H.C. 17.5)</p> <ul style="list-style-type: none"> - Complete form. - The court will execute if the guardianship is granted. 	<p>Preferably at the time of initial filing, if not, day of hearing.</p>
<p>Application for Release of Funds to Custodial Depository in Lieu of Bond (H.C.204.05)</p> <ul style="list-style-type: none"> - Complete form. - Filed when there is not an attorney and applicant does not want to obtain one. - Filed to dispense with requirement of joint control with an attorney, posting of a bond and filing of yearly accounts. 	<p>Normally the day of the hearing</p>
<p>Entry Releasing Funds to Custodial Depository in Lieu of Bond (H.C. 204.06)</p>	<p>Normally the day of the hearing</p>

<ul style="list-style-type: none"> - Complete form. - Make sure you have obtained an account number from the bank. 	
<p>Verification of Receipt and Deposit of Custodial Depository (H.C. 204.07)</p> <ul style="list-style-type: none"> - A bank clerk completes form once the funds are in the account. - Normally the bank sends the form to the Court. 	<p>Filed by the bank, normally within 30 days from filing of Entry Releasing Funds to Custodial Depository</p>
<p>Guardian's Inventory (15.5)</p> <ul style="list-style-type: none"> - If the guardianship is for the Estate or Person & Estate, the guardian must file an Inventory specifically listing the assets of the incompetent and the value of those assets. 	<p>3 months from date of appointment</p>
<p>Application and Order Authorizing Release of Funds (15.6)</p> <ul style="list-style-type: none"> - To obtain the right for the guardian to release funds, complete form. - Specifically list the name of the financial institution, the type of account and the account number. 	<p>Anytime after the appointment has been granted</p>
<p>Application and Order Authorizing Expenditure of Funds (15.7)</p> <ul style="list-style-type: none"> - All expenditures made by the guardian have to be approved by the court if a Guardianship of the Estate is established. - Complete form - List who is to be paid, purpose of the expenditure, and amount of expenditure. 	<p>Anytime after the Guardian's Inventory has been filed</p>
<p>Guardian's Account (H.C. 15.8) (Custodial Depository is not utilized)</p> <ul style="list-style-type: none"> - From the date of their appointment, the Guardian of the Estate is responsible for filing of an annual account. - Specifically list the assets of the ward that were listed on the Inventory (15.5) plus all income and disbursements. 	<p>Every year from date of appointment.</p>
<p>Bank Certificates (15.81)</p> <ul style="list-style-type: none"> - Have an employee of each bank where Guardianship funds are deposited complete form. - Guardian must sign. - Attach this form (15.81) to the Guardian's Account (15.8). 	
<p>Entry Setting Hearing on Account (H.C. 213.8)</p> <ul style="list-style-type: none"> - Fill in the name of the ward only, the Court will fill in hearing date & time and sign & date the form. 	
<p>Notice of Hearing on Account (H.C. 13.5)</p> <ul style="list-style-type: none"> - When filing a <i>final</i> account, the guardian shall serve certified 	

<p>mail notice on all of the ward's next of kin, unless waivers (13.7) are obtained.</p> <ul style="list-style-type: none"> - See Local Rule 64.1 (D). 	
<p>Waiver of Notice of Hearing on Account (H.C. 13.7)</p> <ul style="list-style-type: none"> - If possible have all next of kin execute form. 	
<p>Entry Approving and Settling Account (H.C. 13.3)</p> <ul style="list-style-type: none"> - Complete form. - Present to an account clerk for further processing. 	
<p>Guardian's Report (17.7)</p> <ul style="list-style-type: none"> - Guardian must complete form. - Make sure to complete the <i>front</i> and <i>back</i> of the form and to sign in the appropriate area. 	Every two years from date of appointment
<p>Statement of Expert Evaluation (In Support of Guardian's Report) (H.C. 17.15)</p> <ul style="list-style-type: none"> - Guardian must have a Licensed Physician, Psychologist, Clinical Social Worker <i>or</i> Mental Retardation Team evaluate the ward and complete the form. - The evaluation must be within three months of the date of this report. - This Evaluation (17.15) must be filed together with the Guardian's Report (17.7) 	Filed with the Guardian's Report
<p>STEP 2: ASSIGNING OF MAGISTRATE, REVIEWING OF FORMS, AND SETTING HEARING DATE.</p>	
<p>When all forms have been completed, present them to the magistrate's assistant at the information desk on the 9th Floor of Probate Court for a magistrate to be assigned. All forms are then taken to the available magistrate for review and setting of hearing. If you are unable to obtain waivers from the next of kin in Ohio, the hearing date may be continued for the certified mail service to be completed.</p>	
<p>STEP 3: FILING OF FORMS WITH CASHIER</p>	
<p>All forms are taken to the cashier who will assign a case number. At this time, the cashier will require the payment of the filing fee of \$186 or \$210 depending on whether you are applying for guardian of the person or estate or both.</p> <p>If filing the Affidavit of Indigency and Entry Authorizing Payment (H.C. 117.0), it must be approved by the magistrate prior to taking the forms to the cashier.</p> <p>The cashier will stamp the case number on all the papers plus one set of copies, if provided, and clock in the original forms that can be docketed that day.</p>	

<p>After clocking in the forms, the cashier will place the forms in a file folder and give it to you to take to the Issue Desk. The clerk at the Issue Desk will return to you any notices that you are to serve.</p>	
STEP 4: SERVICE OF NOTICE ON ALLEGED INCOMPETENT	
<p>The Notice to Prospective Ward will be served by the court investigator at least eight days prior to the hearing date. Please make sure you let the Court know the daytime address of the alleged incompetent so proper service can be made on him or her. After the investigator completes service, he will complete an Investigator's Report regarding the alleged incompetent. The notice and investigator's report will be docketed and placed in the file folder for the magistrate to review.</p>	
STEP 5: THE HEARING – WHAT TO EXPECT	
Uncontested Hearing – Person only	
<p>At the date and time of the hearing, you (and your attorney, if attorney is obtained) should report to the 9th Floor of the Probate Court to the assigned magistrate. (The magistrate will already have the file with the forms you initially filed.) If you had to obtain waivers or serve notices of the hearing you will give them to the magistrate. The magistrate will conduct the hearing. If service has been completed and the magistrate finds a guardian should be appointed, a Decision of Magistrate and Entry Appointing Guardian will be signed. The magistrate will escort you to the Issue Desk and have the Letters of Guardianship issued.</p>	
Uncontested Hearing – Person and Estate or Estate Only	
<p>At the date and time of the hearing, you (and your attorney, if attorney is obtained) should report to the 9th Floor of the Probate Court to the assigned magistrate. (The magistrate will already have the file with the forms you initially filed.) If you had to obtain waivers or serve notices of the hearing you will give them to the magistrate. The Magistrate will conduct the hearing. If service has been completed and the Magistrate finds a guardian should be appointed, a Decision of Magistrate and Entry Appointing Guardian will be signed. The magistrate will escort you to the Issue Desk and have the Letters of Guardianship issued if:</p> <ul style="list-style-type: none"> - Service on next of kin has been completed. - Bond has been executed by surety. - If presenting a bond, the Statement of Joint Control and Entry 	

<p>Appointing Co-Signer is also filed.</p> <ul style="list-style-type: none"> - If not posting bond, need Application and Entry for Custodial Depository (with account number). 	
<p>Contested Hearing</p> <p>At the date and time of the hearing, you (and your attorney, if attorney is obtained) should report to the 9th Floor of the Probate Court to the assigned magistrate. (The magistrate will already have the file with the forms you initially filed.)</p> <p>A more complicated hearing could occur when:</p> <ul style="list-style-type: none"> - The alleged incompetent or an attorney representing him/her appears at the hearing to contest the appointment. - A person who has power of attorney may appear to contest the appointment. - A next of kin may appear and state that he/she would like to fill out an application also. <p>At this time the magistrate may proceed with the hearing or continue the hearing to another date and time.</p> <p>If a competing application was filed; the hearing will likely be continued allowing the new applicant time to file and service to be completed.</p> <p>At the hearing, the Magistrate hears testimony and makes a decision whether to appoint a guardian.</p> <p>Letters of Guardianship would be issued as stated above in the uncontested hearings.</p>	