

STATE OF NORTH DAKOTA
COUNTY OF _____

IN DISTRICT COURT
_____ JUDICIAL DISTRICT

IN THE MATTER OF THE GUARDIANSHIP OF

AN INCAPACITATED INDIVIDUAL

Case No. _____

**FINDINGS OF FACT AND ORDER APPOINTING
SUCCESSOR GUARDIAN/CO-GUARDIANS FOLLOWING REVIEW**

Name of ward/person:

Age:

Address:

City:

State:

Zip:

In accordance with Section 30.1-28-04(5), N.D.C.C., a hearing was held on _____, 20____, to review the above-named guardianship and to determine whether the guardianship should continue, whether the current guardian should be reappointed, or whether a new guardian should be appointed. The following individuals were present at the hearing:

_____, current guardian of the above-named ward

_____, ward

_____, others interested in this guardianship

_____, visitor (if applicable)

_____, expert examiner (if applicable)

_____, ward's guardian ad litem (if applicable)

Following the hearing, the Court makes the following:

FINDINGS OF FACT

[¶1] Notice has been given as required by law.

[¶2] The written report of the guardian ad litem for the ward, the expert examiner appointed by the court to examine the ward, the written report of the person appointed visitor by the court, have been submitted to the court for review.

[¶3] _____, the current guardian is
unable unwilling inadequate for the following reasons to continue to serve as guardian:

The court also finds by clear and convincing evidence as follows:

[¶4] The ward continues to be incapacitated due to:

[¶5] Appointment of a new guardian is necessary and desirable as the best means of providing care, supervision, and habilitation of the ward.

[¶6] There is no available alternative resource plan that is suitable to safeguard the health, safety, or habilitation of the ward which could be used instead of a guardianship.

¶7] _____ is/are the proper and best qualified person(s) to serve as the guardian or limited guardian, or co-guardians or limited co-guardians, of _____, an incapacitated person or person of limited capacity.

¶8] The Court finds the ward has the following capacity to make decisions:

Full Limited None

Place of residence, based upon the following specific findings:

 Vocation, based upon the following specific findings:

 Legal matters, based upon the following specific findings:

 Financial matters, based upon the following specific findings:

 Education and training, based upon the following specific findings:

 Medical treatment, based upon the following specific findings:

 Involuntary treatment with prescribed medications, based upon the following specific findings:

-
-
- Access to and control of safety deposit box and contents,**
based upon the following specific findings:

[¶9] _____ is/are willing and qualified to act as guardian/co-guardians for the ward.

[¶10] Due to _____, the ward's right to _____ should be restricted.

[¶11] Ward has been adjudicated as a mental defective and the federal firearms restrictions under 18 U.S.C. 922(d)(4)(g)(4) apply.

Ward has not been adjudicated as a mental defective and the federal firearms restrictions under 18 U.S.C.922(d)(4)(g)(4) do not apply.

ORDER

IT IS ORDERED, ADJUDGED, AND DECREED that:

[¶12] The guardianship of _____, the above-named Ward, will continue.

[¶13] The appointment of _____, the current guardian, is terminated. _____ shall provide a final inventory report within 60 days.

[¶14] _____ is/are appointed full limited guardian/co-guardians of the incapacitated person and Letters of Guardianship shall issue. **The Letters take effect immediately and expire**_____.

The appointment of the guardian/co-guardians shall be effective upon the guardian's/co-guardians' acceptance.

[¶15] The powers and duties to be conferred upon the guardian/co-guardians are appropriate as the least restrictive form of intervention consistent with the ability of the ward for self care are as follows:

<u>Full</u>	<u>Limited</u>	<u>None</u>	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Place of residence
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Vocation
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Legal matters
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Financial matters
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Education and training
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Medical treatment
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Involuntary treatment with prescribed medications
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Access to and control and disposition of safety deposit box and contents

[¶16] This degree of authority granted and limited above is as follows: The guardian/conservator shall involve the ward to the fullest degree possible.

[¶17] The guardian/co-guardians shall not place the ward in a mental health facility or state institution for more than forty-five days.

[¶18] If the guardian/co-guardians is/are granted full authority to consent to involuntary treatment of the ward with prescribed medications, consent may not be provided without receiving a recommendation and determination from the ward's treating physician, physician assistant, or advanced practice nurse that:

- a. The proposed medication prescribed medication is clinically appropriate and necessary to effectively treat the ward and that the ward requires treatment;
- b. The ward was offered that treatment and refused it or that the ward lacks the capacity to make or communicate a responsible decision about that treatment;
- c. Prescribed medication is the least restrictive form of intervention necessary to meet the treatment needs of the ward; and

d. The benefits of the treatment outweigh the known risks to the ward.

[¶19] The ward retains the legal right to:

- vote
- seek to change marital status
- obtain or retain a motor vehicle operator's license

[¶20] The guardian/co-guardians may not use funds from the ward's estate for room and board which the guardian/co-guardian or the guardian's/co-guardian's spouse, parent, or child have furnished the ward unless a charge for the service is approved by order of the court made upon notice to at least one of the next of kin of the ward, if notice is possible.

[¶21] The guardian/co-guardians shall provide to the Court within ninety (90) days of the date of this Order a beginning inventory of all assets owned by the ward or in which the ward has an interest. The guardian/co-guardians must provide a copy of the inventory to the ward and to any interested persons designated in this Order.

[¶22] The guardian/co-guardians shall provide an annual report to the Court concerning the status of the guardianship and the ward. Such reports shall be written and shall contain a summary of any changes within the past year. These reports should commence on _____, and continue on a yearly basis thereafter.

[¶23] The following person(s) are the proper and best qualified persons to serve as guardian, or limited guardian, or co-guardians, or limited co-guardians, of the incapacitated person named above: _____.

[¶24] The guardian/co-guardians shall involve the ward as much as possible, when making decisions about living arrangements, healthcare, and all other care.

[¶25] The guardian/co-guardians shall allow the ward as much freedom as possible using the least intervention possible and by intervening only when necessary for the safety of the ward or of other people.

[¶26] The guardian's/co-guardians' authority is limited by Chapter 30.1-28 of the North Dakota Century Code.

[¶27] Upon issuance of Letters of Guardianship, the guardian ad litem, _____, shall be and is hereby discharged of the duties as guardian ad litem.

[¶28] The following interested persons shall receive information regarding this guardianship:

[¶29] Unless the ward is represented by counsel, the guardian/co-guardians must meet with the ward following the hearing and explain to the fullest extent possible the contents of this Order and the extent of the guardian's/co-guardian's authority.

[¶30] **This Order takes effect immediately and expires _____.**

[¶31] The ward has been has not been adjudicated as a mental defective and the federal firearms restrictions under 18 U.S.C. §922(d)(4)(g)(4) do do not apply.

IF THE FEDERAL FIREARMS RESTRICTIONS APPLY, the ward is given NOTICE that the Ward is prohibited by federal law [18 U.S.C. §922(d)(4) and (g)(4)] from possessing or receiving any firearm or ammunition or selling or disposing of any firearm or ammunition to a person the Ward knows or has reasonable cause to know the person had been found to be a mental defective or has

been committed to a mental institution. Respondent is prohibited by North Dakota law [N.D.C.C. §62.1-02-01(1)(c)] from purchasing a firearm or having a firearm in possession or under control.

If co-guardians, add this:

[¶32] The signature of one co-guardian/co-conservator is is not sufficient to authorize any matter.

NOTICE TO WARD AND GUARDIAN AD LITEM:

YOU ARE HEREBY GIVEN NOTICE OF YOUR RIGHT TO APPEAL THIS ORDER APPOINTING A GUARDIAN OR LIMITED GUARDIAN FOR YOUR PERSON, WITHIN 60 DAYS FROM THE DATE OF SERVICE OF THIS ORDER UPON YOU AND YOUR GUARDIAN AD LITEM AND OF YOUR RIGHT TO SEEK ALTERATION OR TERMINATION OF THIS GUARDIANSHIP AT ANY TIME.

BY THE COURT:

Judge of the District Court