

FORMS FOR ESTABLISHING, MAINTAINING AND TERMINATING ADULT GUARDIANSHIPS

(N.D.C.C. [Chapter 30.1-26](#) and [Chapter 30.1-28](#))

IMPORTANT! READ BEFORE USING THESE FORMS AND INSTRUCTIONS

ND Legal Self Help Center staff and court employees cannot help you fill out the form(s).

If you are unsure how to proceed, or need legal advice or legal representation, consult a lawyer licensed to practice in North Dakota.

To protect your rights, carefully read this information and any instructions to which you are referred.

When you represent yourself, you must abide by the following:

- State or federal laws that apply to your case;
- Case law, also called court opinions, that applies to your case; and
- Court rules that apply to your case, which may include:
 - North Dakota Rules of Civil Procedure;
 - North Dakota Rules of Court;
 - North Dakota Rules of Evidence;
 - North Dakota Administrative Rules and Orders; and
 - Any local court rules.

Links to the state laws, case law, and court rules can be found at www.ndcourts.gov.

When you represent yourself, you are held to the same requirements and responsibilities as a lawyer, even if you don't understand the rules or procedures. If you are unsure if these forms and instructions suit your circumstances, consult a lawyer.

A glossary with definitions of legal terms is available at www.ndcourts.gov/legal-self-help.

These instructions and forms are not a complete statement of the law. *The information covers basic procedure for establishing, maintaining and terminating adult guardianships. If the forms do not fit your circumstances or if you need legal advice, consult a lawyer licensed to practice in North Dakota. There is no guarantee that all judges and courts will accept forms available through the ND Legal Self Help Center. The Center is not responsible for any consequences that may result from the forms or information provided. **Use at your own risk.***

Forms **are not** available for every legal issue or circumstance in a guardianship of an adult. If you do not find the form on the North Dakota Legal Self Help Center website, the form **is not** available through the North Dakota Legal Self Help Center.

You may need to create legal documents yourself. The General-Use forms in the District Court Civil Action Section below may be used as a starting point for creating your own legal documents.

If you would like assistance making decisions about what to write on a form, or assistance creating a legal document, consult a lawyer licensed to practice in North Dakota. Ask about limited legal representation.

The requirements for adult guardianships are found in [North Dakota Century Code \(N.D.C.C.\) Chapter 30.1-26](#) and [Chapter 30.1-28](#). Please refer to these Chapters when filling out the forms.

DEFINITIONS:

****The following definitions are intended to be helpful, BUT they are NOT intended to constitute legal advice OR address every possible meaning of the terms in this section.****

(See [Chapter 30.1-01 of the North Dakota Century Code](#) for more definitions.)

Alleged Incapacitated Person: (See Incapacitated Person) An adult individual, who is alleged to be an incapacitated person, for whom an emergency adult guardianship is sought.

Court appointment of an emergency guardian is not a finding that the adult is incapacitated.

Alternative Resource Plan: A plan that provides an alternative to guardianship, using available support services and arrangements which are acceptable to the alleged incapacitated person. The plan may include the use of providers of service such as visiting nurses, homemakers, home health aides, personal care attendants, adult day care and multipurpose senior citizen centers; home and community-based care, county social services, and developmental disability services; powers of attorney, representative and protective payees; and licensed congregate care facilities.

Emergency Appointment: A temporary appointment of a guardian that can last no more than 90 days. When a petition for an appointment of an emergency guardian is received by the court, a Guardian ad Litem is appointed to advocate for the best interests of the alleged incapacitated person.

Ex Parte Emergency Appointment: An emergency appointment of a guardian that is ordered without first holding the required hearing, and without first giving notice to the alleged incapacitated person or other interested parties. The alleged incapacitated person must be given notice within 48 hours of the ex parte appointment. A hearing must be held within 10 days of the ex parte appointment of a guardian.

Expert Examiner: A person appointed by the court to examine the proposed ward and submit a written report to the court regarding the proposed ward’s medical and/or psychological incapacity. An Expert Examiner is:

1. A licensed physician;
2. A psychiatrist;
3. A licensed psychologist trained in a clinical program;
4. An advanced practice registered nurse who is licensed under North Dakota Century Code [Chapter 43-12.1](#) within the role of a certified nurse practitioner or certified clinical nurse specialist, who has completed the requirements for a minimum of a master's degree from an accredited program, and who is functioning within the scope of practice in one of the population foci as approved by the state board of nursing; or
5. A physician assistant who is licensed under North Dakota Century Code [Chapter 43-17](#) and authorized by the state board of medical examiners to practice in this state.

Guardian: A person appointed by the court to make personal decisions for an incapacitated person.

Guardian ad Litem: A lawyer appointed by the court to advocate for the best interests of the proposed ward.

Guardianship Qualification and Training Requirements: [Rule 59 of the North Dakota Supreme Court Administrative Rules](#) requires proposed guardians and current guardians of adults to meet qualification and training requirements.

Emergency guardians are not required to meet the qualification and training requirements.

Incapacitated Person: An adult person who is impaired by reason of mental illness or deficiency, physical illness or disability, or chemical dependency to the extent that the person lacks capacity to make or communicate responsible decisions concerning that person's matters of residence, education, medical treatment, legal affairs, vocation, finance, or other matters, or which incapacity endangers the person's health or safety.

Court appointment of an emergency guardian is not a finding that the adult is incapacitated.

Judicial Referee: A judicial officer, appointed by the presiding District Court Judge, who has the authority to preside in adult guardianship proceedings. The findings and order of the Judicial Referee have the effect of the findings and order of a District Court Judge until superseded by a written order of a District Court Judge.

Least Restrictive Form of Intervention: The emergency guardianship imposed on the alleged incapacitated person must compensate for only those limitations necessary to provide the needed care and services, and that the alleged incapacitated person must enjoy the greatest amount of personal freedom and civil liberties consistent with the ward's mental and physical limitations.

Letters of Guardianship: A document signed by a North Dakota state district court judge or judicial referee that identifies the authority and limitations of the guardian to make decisions on behalf of the incapacitated person; identifies any other powers or authority given to the guardian by the court; and identifies any limitations the court puts on the incapacitated person in matters where powers are not granted to the guardian.

Limited Guardian: A person or nonprofit corporation, appointed by the court, to supervise certain specified aspects of the care of a person with limited capacity.

Petitioner: A person who presents an adult guardianship petition to a North Dakota state district court.

Proposed Guardian: A person or nonprofit corporation who the petitioner requests be appointed by a North Dakota state district court to make personal decisions for an alleged incapacitated person.

Proposed Ward: An individual, who is alleged to be an incapacitated person, for whom an adult guardianship is sought.

Successor Guardian: A guardian appointed when the first appointed guardian is unable or unwilling to continue to serve as guardian.

Venue: The place where the guardianship petition is or will be filed. Generally, in adult guardianship proceedings, the venue is the North Dakota county where the proposed ward resides or is present and expected to remain for the duration of the guardianship proceedings.

Visitor: A person appointed by the court to interview the proposed guardian and the proposed ward. The visitor gives a written report to the court, which includes recommendations on powers to be granted to the proposed guardian. The visitor is a person in nursing or social work with no special interest in the guardianship proceedings. **(N.D.C.C. Chapter 30.1-28)**

Ward: An adult for whom a state court appointed a guardian.

FORMS FOR ADULT GUARDIANSHIPS:

Forms for Establishing Emergency Adult Guardianships

A North Dakota District Court may appoint an emergency guardian. At least one hearing is required. The emergency appointment can last for no more than 90 days. The emergency appointment can happen with or without prior notice to the proposed ward. Requirements can be found in [N.D.C.C. Chapter 30.1-28](#). See particularly **N.D.C.C. § 30.1-28-10.1**.

Form Title	Purpose
Forms for Ex-Parte Appointment of an Emergency Guardian (Required Hearing Held AFTER Appointment)	
Instructions for Ex-Parte Emergency Adult Guardianship	Instructions for the basic process and for the following forms to petition a North Dakota District Court for ex-parte appointment of an emergency guardian for an alleged incapacitated adult BEFORE the required hearing is held.
Petition for Ex-Parte Appointment of an Emergency Guardian – Pending Hearing	Formal request to the court for ex-parte appointment of an emergency guardian BEFORE the required hearing is held.
Confidential Information Form	Lists the full confidential information that is not allowed to appear in other documents filed with the court. This form is a part of the court record that is not seen by the public.
Order for Appointment of Guardian ad Litem	Proposed order of the court appointing a Guardian ad Litem for the alleged incapacitated person. The proposed order is not effective until it is signed by the court.
Order – Emergency Guardianship – Ex Parte Appointment <i>(Before hearing held)</i>	Proposed order appointing an ex-parte emergency guardian before the full hearing is held on the petition for appointment of an emergency guardian. This document is not effective until it is signed by the judge or judicial referee.
Letters of Emergency Guardianship Pending Hearing <i>(Before hearing held)</i>	Proposed letters of guardianship before the full hearing is held on the petition for appointment of an emergency guardian. This document is not effective until it is signed by the judge or judicial referee.

Form Title	Purpose
Notice of Hearing and Statement of Rights	Gives the date and time of the emergency guardianship hearing, name and address of the Guardian ad Litem, and the name of the proposed emergency guardian. Gives important information about the guardianship process to the alleged incapacitated person.
Forms for Appointment of an Emergency Guardian (Required Hearing Held BEFORE Appointment)	
Instructions for Emergency Adult Guardianship	Instructions for the basic process and for the following forms to petition a North Dakota District Court for appointment of an emergency guardian for an alleged incapacitated adult AFTER the required hearing is held.
Petition for Appointment of an Emergency Guardian	Formal request to the court for appointment of a guardian for an alleged incapacitated person.
Confidential Information Form	Lists the full confidential information that is not allowed to appear in other documents filed with the court. This form is a part of the court record that is not seen by the public.
Order for Appointment of Guardian ad Litem	Proposed order of the court appointing a Guardian ad Litem for the alleged incapacitated person. The proposed order is not effective until it is signed by the court.
Notice of Hearing and Statement of Rights	Gives the date and time of the emergency guardianship hearing, name and address of the Guardian ad Litem, and the name of the proposed emergency guardian. Gives important information about the guardianship process to the alleged incapacitated person.
Order – Emergency Guardian <i>(After hearing held)</i>	Proposed order appointing an emergency guardian after the full hearing is held on the petition for appointment of an emergency guardian. This document is not effective until it is signed by the judge or judicial referee. The Order expires within 90 days.
Letters of Emergency Guardianship <i>(After hearing held)</i>	Proposed letters of guardianship after the full hearing is held on the petition for appointment of an emergency guardian. This document is not effective until it is signed by the judge or judicial referee. The Letters of Emergency Guardianship expire within 90 days.

Forms for Establishing Adult Guardianships (Non-Emergency)

Any person interested in the welfare of an allegedly incapacitated person may petition for the appointment of a guardian. An emergency guardian may petition for appointment of a long-term guardian. Requirements can be found in [North Dakota Century Code \(N.D.C.C.\) Chapter 30.1-26](#) and [Chapter 30.1-28](#).

Form Title	Purpose
Instructions for Establishing Adult Guardianship	Instructions for the basic process and for the following forms to petition a North Dakota District Court for guardianship of an incapacitated adult.
Notice of Hearing and Statement of Rights	Gives the date and time of the guardianship hearing, name and address of the Guardian ad Litem, and the name of the proposed guardian. Gives important information about the guardianship process to the proposed ward.
Petition for Appointment of a Guardian	Formal request to the court for appointment of a guardian for an alleged incapacitated person.
Confidential Information Form	Lists the full confidential information that is not allowed to appear in other documents filed with the court. This form is a part of the court record that is not seen by the public.
Order for Appointment of Guardian ad Litem	Proposed order of the court appointing a Guardian ad Litem. The proposed order is not effective until it is signed by the court.
Guardian ad Litem's Report	A form a Guardian ad Litem may use to submit the required report to the court.
Order Appointing a Visitor	Proposed order of the court appointing a visitor. The proposed order is not effective until it is signed by the court.
Report of Visitor	A form a Visitor may use to submit the required report to the court.
Order Appointing an Expert Examiner	Proposed order of the court appointing an expert examiner. The proposed order is not effective until it is signed by the court.
Report of Expert Examiner	A form an expert examiner may use to submit the required report to the court.

Form Title	Purpose
Findings of Fact and Order Appointing Guardian/Co-Guardians	After hearing all of the evidence, the proposed explanation of facts the judge found to be true and the legal consequences of those facts. The proposed findings of fact and order are not effective until signed by the court.
Letters of Guardianship	Proposed letters of guardianship after the full hearing is held on the petition for appointment of a guardian. This document is not effective until it is signed by the court.

Forms for Guardian Qualification and Training Requirements (Non-Emergency Guardians)

[Rule 59 of the North Dakota Supreme Court Administrative Rules](#) requires proposed guardians and current guardians of adults to meet qualification and training requirements.

Emergency guardians are not required to meet the qualification and training requirements.

Form Title	Purpose
Certificate of Completion (Guardianship Training)	Guardians must take the online Guardianship Training course at ndtraining.org . Upon completion, the Guardian prints the Certificate of Completion and files with the court, along with their affidavit.
Affidavit of Proposed Nonprofessional Guardian and Authorization to Release Record Information	Completed by a proposed non-professional guardian who is not yet appointed by the court. Rule 59 requirements must be completed BEFORE the court will appoint. A non-professional guardian is an individual who serves as guardian for two or fewer individuals at the same time.
Affidavit of Proposed Professional Guardian (Individual) and Authorization to Release Record Information	Completed by a proposed professional guardian who an individual and not yet appointed by the court. Rule 59 requirements must be completed BEFORE the court will appoint. A professional guardian is an individual that serves as guardian for three or more individuals at the same time, an individual appointed to serve as a public guardian or administrator, or an individual that holds itself out as providing guardianship services for hire.

Form Title	Purpose
Affidavit of Proposed Professional Guardian (Entity)	<p>Completed by a proposed professional guardian that is an entity and not yet appointed by the court. Rule 59 requirements must be completed BEFORE the court will appoint.</p> <p>A professional guardian is an entity that serves as guardian for three or more individuals at the same time, an entity appointed to serve as a public guardian or administrator, or an entity that holds itself out as providing guardianship services for hire.</p>
Affidavit of Nonprofessional Guardian and Authorization to Release Record Information	<p>Completed by a current non-professional guardian who is already appointed by the court. Rule 59 requirements must be completed BEFORE March 1, 2020.</p> <p>A non-professional guardian is an individual who serves as guardian for two or fewer individuals at the same time</p>
Affidavit of Professional Guardian (Individual) and Authorization to Release Record Information	<p>Completed by a professional guardian who an individual and already appointed by the court. Rule 59 requirements must be completed BEFORE March 1, 2020.</p> <p>A professional guardian is an individual that serves as guardian for three or more individuals at the same time, an individual appointed to serve as a public guardian or administrator, or an individual that holds itself out as providing guardianship services for hire.</p>
Affidavit of Professional Guardian (Entity)	<p>Completed by a professional guardian that is an entity and already appointed by the court. Rule 59 requirements must be completed BEFORE March 1, 2020.</p> <p>A professional guardian is an entity that serves as guardian for three or more individuals at the same time, an entity appointed to serve as a public guardian or administrator, or an entity that holds itself out as providing guardianship services for hire.</p>

Forms for After Guardianships are Established

Once a guardian is appointed, the guardian is required to inventory and report the ward's assets. After a guardianship is established, changes to the guardianship may be necessary. Guardianships may be terminated, guardians may resign, be removed, and successor guardians may be appointed. Requirements may be found in [North Dakota Century Code \(N.D.C.C.\) Chapter 30.1-26](#) and [Chapter 30.1-28](#).

Form Title	Purpose
Forms to Fulfill Guardianship Reporting Requirements	
Beginning Inventory Report	Within 90 days of the date of the order appointing the guardian, the guardian must provide a beginning inventory of all assets owned by the ward or in which the ward has an interest. Copies must be provided to the ward and interested parties included in the appointment order.
Annual Report (With Notice to Ward and Interested Parties)	The guardian is required to file an annual report with the court. Copies must be provided to the ward and interested parties included in the appointment order.
Ending Inventory Report	When a guardianship ends, the guardian is required to file an ending inventory report with the court. Depending on the reason the guardianship ends, copies may be required to be provided to the ward, successor guardian, and interested parties.
Forms to Request Payment of Room and Board from Ward's Funds	
Notice and Motion to Allow Payment of Room and Board	Formal request to the court by a guardian to allow the Guardian to use funds from the ward's estate to pay for the ward's room and board. (N.D.C.C. § 30.1-28-12(7))
Forms to Request the Court Appoint a Successor Guardian	
Notice and Motion for Appointment of Successor Guardian	Formal request by the guardian to the court to appoint a successor guardian. This is a request to modify the original or most recent guardianship order.
Order Appointing Successor Guardian	Proposed order of the court appointing a successor guardian. May be used if the court approves the motion for a successor guardian. The proposed order is not effective until it is signed by the court.

Form Title	Purpose
Letters of Guardianship (Successor Guardian)	Proposed letters of guardianship for successor guardian. May be used if the court approved the motion for a successor guardian. This document is not effective until it is signed by the court.
Forms to Request Transfer of the Guardianship to A Different North Dakota County	
Notice and Motion for Change of Venue	Formal request to the court to transfer the guardianship to a court in a different county. See also N.D.C.C. Chapter 28-35 .
Order for Change of Venue	Proposed order of the court transferring the guardianship to the court of a different county. The proposed order is not effective until it is signed by the court.
Forms to Terminate the Guardianship due to Death of the Ward	
Petition for Termination of Guardianship – Death of Ward	Formal request to the court to end the guardianship and discharge the guardian because the ward died.
Order Confirming Termination of Guardianship – Death of Ward	Proposed order of the court ending the guardianship and discharging the guardian because the ward died. The proposed order is not effective until it is signed by the court.
Forms to Terminate the Guardianship Because Ward No Longer Needs a Guardian	
Petition for Termination of Guardianship and Discharge of Guardian	Formal request to the court to end the guardianship and discharge the guardian because the guardianship is no longer needed.
Order Terminating Guardianship and Discharging Guardian	Proposed order of the court ending the guardianship and discharging the guardian because the guardianship is no longer needed. The proposed order is not effective until it is signed by the court.
Guardianship Review Forms	
Notice of Guardianship Review	Notice of a guardianship review scheduled by the court. Notice of a hearing to decide if the guardianship should continue, if the guardian should be reappointed or a new guardian appointed. A form for a sworn statement of the guardian is included.

Form Title	Purpose
Order of Reappointment and Continuation of Guardianship	Proposed order of the court after a guardianship review hearing. The proposed order is not effective until it is signed by the court. (N.D.C.C. § 30.1-28-04(5))
Letters of Guardianship (Reappointment and Continuation of Guardianship)	Proposed letters of guardianship for guardian when, after court review of the guardianship, the guardian is reappointed and the guardianship is continued. This document is not effective until it is signed by the court.
Order of Termination of Guardianship	Proposed order of the court after a guardianship review hearing. The proposed order is not effective until it is signed by the court. (N.D.C.C. § 30.1-28-04(5))
Findings of Fact and Order Appointing Successor Guardian Following Review	After hearing all of the evidence offered during the review, the proposed explanation of facts the judge found to be true and the legal consequences of those facts. The proposed findings of fact and order are not effective until signed by the court.
Letters of Guardianship (Guardianship Continued with Successor Guardian)	Proposed letters of guardianship for successor guardian when, after court review of guardianship, guardianship is continued and a successor guardian is appointed. This document is not effective until it is signed by the court.