

Instructions for Motion for Resignation of Guardian and Appointment of a Successor Guardian

Important! Read Before Using These Forms & Instructions!

ND Legal Self Help Center staff and court employees **can't** help you fill out the form(s). If you're unsure if these forms and instructions suit your circumstances, consult a lawyer.

ND Legal Self Help Center forms **aren't** official court forms and judges and courts **aren't** required to accept them. There's no guarantee Center forms will be accepted.

If you need legal advice or legal representation, consult a lawyer licensed to practice in North Dakota. Go to ndcourts.gov/legal-self-help/finding-a-lawyer for information about finding a lawyer to represent you.

When you represent yourself, you're expected to know and follow the law, including:

- 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 ndcourts.gov.

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

When you represent yourself, you're held to the same requirements and responsibilities as a lawyer, even if you don't understand the rules or procedures.

*These instructions and forms **aren't** a complete statement of the law. They cover the basic procedure for asking a North Dakota state district court to allow the current Guardian to resign and appoint a new Guardian to an existing guardianship of an adult. There's no guarantee that all judges and courts will accept forms available through the ND Legal Self Help Center. The Center isn't responsible for any consequences that may result from the forms or information provided.*

Use these forms and instructions at your own risk.

Don't include these instructions when you serve or file the completed forms.

Purpose

These forms may be used by a current Guardian to ask to resign as Guardian and appoint a Successor Guardian.

A Successor Guardian takes the place of the current Guardian. When a Successor Guardian is appointed by the North Dakota State District Court, the guardianship remains in place with the Successor Guardian acting as the Guardian.

These completed forms are filed with the North Dakota State District Court that currently has jurisdiction over the guardianship.

[North Dakota Century Code Section 30.1-28-07](#) relates to resignation of the current Guardian of a Ward.

[North Dakota Century Code Section 30.1-28-15](#) relates to appointment of a Successor Guardian for a Ward.

If you're a current Guardian representing yourself, you complete and sign the forms. If you're unsure how to proceed or unsure if these forms are suitable for your situation, consult an attorney.

Who Can Be Nominated (& Appointed) Successor Guardian?

Any competent person or a designated person from a suitable institution, agency, or nonprofit group home may be appointed Successor Guardian of the Ward.

North Dakota law lists, in order of priority, who can be appointed the Successor Guardian of the Ward.

Top priority goes to the Ward's most recent nomination in their durable power of attorney.

The judge or judicial referee may find the most recent nomination in the person's durable power of attorney is unqualified, or there find other good cause not to appoint them.

If the Successor Guardian you want to nominate isn't the most recent nomination in the Ward's durable power of attorney, they may still be appointed Successor Guardian if:

- You prove to the judge or judicial referee that there isn't a nomination in a durable power of attorney, the most recent nomination isn't qualified, or there's other good cause not to appoint the most recent nomination; **And**

- The Successor Guardian is one of the following (*listed in order of priority*):
 1. A person nominated by the Ward before they became incapacitated (*other than a nomination in a durable power of attorney*).
 2. The Ward's spouse.
 3. The Ward's adult child.
 4. The Ward's parent.
 5. Any relative of the Ward with whom the Ward has lived for more than 6 months before the Motion for Successor Guardian is filed.
 6. Any relative or friend who maintained significant contacts with the Ward; or a designated person from a volunteer agency.
 7. A non-profit corporation established to provide direct guardianship services, as long as the corporation doesn't provide direct care to incapacitated persons.
 8. Any appropriate government agency, including human services zones.
 9. A person nominated by the person who is caring for or paying benefits to the Ward.

If there are proposed Successor Guardians with equal priority, the judge or judicial referee selects the proposed Successor Guardian they decide is best qualified to serve.

The National Guardianship Association's Find a Guardian search at guardianship.org/find-a-guardian may be of interest.

The Nominated Successor Guardian **Must** Complete the Guardian Qualification and Training Requirements

Before completing the forms packet, the person nominated to be appointed Successor Guardian **Must** complete the [Rule 59 of the North Dakota Supreme Court Administrative Rules](#) guardian qualification and training requirements.

The North Dakota Guardianship Training Course and declaration forms for the nominated Successor Guardian are available at ndcourts.gov/legal-self-help/adult-guardianship.

The training course and declaration forms are in the "Guardian Responsibilities, Qualifications and Training Requirements, and Payment Information" section.

For the cost and process of obtaining a North Dakota criminal history record report, contact the Bureau of Criminal Investigation Division of the North Dakota Attorney General.
(attorneygeneral.nd.gov/public-safety/criminal-history-records)

Forms

The forms in the Motion for Resignation of Guardian and Appointment of Successor Guardian packet are:

- Notice of Motion for Resignation of Guardian and Appointment of Successor Guardian;
- Motion for Resignation of Guardian and Appointment of Successor Guardian;
- Brief in Support of Motion for Resignation of Guardian and Appointment of Successor Guardian;
- Declaration in Support of Motion for Resignation of Guardian and Appointment of Successor Guardian;
- Nominee Statement;
- Findings of Fact and Order Accepting Guardian's Resignation and Appointing Successor Guardian (proposed);
- Letters of Guardianship (Successor Guardian) (proposed);
- Declaration of Service by Mail; and
- Declaration of Service by Hand Delivery

Step One: Complete the Forms

Notice of Motion for Resignation of Guardian and Appointment of a Successor Guardian Form *(Completed and signed by the current Guardian.)*

- **Top of Form (Caption)**
 - Enter the county and district court names.
 - Fill in legal name of the Ward.
 - Enter the case number from your Letters of Guardianship.
- **Date and Signature**
 - Date and sign the form.
 - Print your name, address, telephone number, and email address.

Motion for Resignation of Guardian and Appointment of a Successor Guardian Form

(Completed and signed by the current Guardian.)

- **Top of Form (Caption)**
 - Fill in the Caption exactly as you filled in the Caption for the Notice of Motion.
- **Complete Paragraphs 1 through 3 of this form.**
- **Date and Signature**
 - Date and sign this form.
 - Print your name, address, telephone number, and email address.

Brief in Support of Motion for Resignation of Guardian and Appointment of a Successor Guardian Form *(Completed and signed by the current Guardian.)*

- **Top of Form (Caption)**
 - Fill in the Caption exactly as you filled in the Caption for the Notice of Motion.
- **Complete Paragraphs 1 through 11 of this form.**
- **Date and Signature**
 - Date and sign this form.
 - Print your name, address, telephone number, and email address.

Declaration in Support of Motion for Resignation of Guardian and Appointment of a Successor Guardian Form *(Completed and signed by the current Guardian.)*

- **Top of Form (Caption)**
 - Fill in the Caption exactly as you filled in the Caption for the Notice of Motion.
- **Complete Paragraphs 1 through 9 of this form.**
- **Read Paragraph 10 carefully.**
 - Make sure everything your type or write is true and correct. Make any corrections before you sign and date this form

- **Date and Sign this Form**

- Indicate the county, state, and country where you sign the form.
- Print the date you sign the form.
- Sign the document;
- Print your name, address, telephone number, and email address.

Nominee Statement Form *(Completed and signed by the person nominated by the current Guardian to be appointed Successor Guardian.)*

- **Top of Form (Caption)**

- Fill in the Caption exactly as the current Guardian filled in the Caption for the Notice of Motion.

- **Complete Paragraphs 1 through 10 of the Form**

- **Read Paragraph 11 carefully!**

- Make sure everything you type or write is true and correct. Make any corrections before you sign and date this form.

- **Date and Sign this Form**

- Indicate the county, state, and country where you sign the form.
- Print the date you sign the form.
- Sign the document;
- Print your name, address, telephone number, and email address.

Findings of Fact and Order Accepting Guardian's Resignation and Appointing Successor Guardian (proposed) *(Completed by the current Guardian. **Don't** sign or date.)*

- **Top of Form (Caption)**

- Fill in the Caption exactly as you filled in the Caption for the Notice of Motion.

- **Ward Information – Before Paragraph 1.**

- Fill in the Ward's name, age and address

- **Leave the Rest of the Form Blank!**

- If the judicial officer accepts the Guardian's resignation and appoints a Successor Guardian and uses this form as the judicial officer's Findings of Fact and Order, the judicial officer will complete and sign the form.

Letters of Guardianship (proposed) *(Completed by the current Guardian. **Don't** sign or date.)*

- **Top of Form (Caption)**
 - Fill in the Caption exactly as you filled in the Caption for the Notice of Motion.
- **Ward Information – Before Paragraph 1.**
 - Fill in the Ward's name, age and address
- **Leave the Rest of the Form Blank!**
 - If the judicial officer accepts the Guardian's resignation and appoints a Successor Guardian and uses this form as the judicial officer's Letters of Guardianship, the judicial officer will complete and sign the form.

Step Two: Serve Copies of Completed Forms

Make Copies of Completed Forms

Make a copy of the following completed and signed forms for the Ward, each interested person designated in the Court's order establishing the guardianship, and every interested person who has made an appearance or requested notice of the guardianship proceedings:

- Notice of Motion for Resignation of Guardian and Appointment of Successor Guardian;
- Motion for Resignation of Guardian and Appointment of Successor Guardian;
- Brief in Support of Motion for Resignation of Guardian and Appointment of Successor Guardian;
- Declaration in Support of Motion for Resignation of Guardian and Appointment of Successor Guardian;
- Nominee Statement;
- Findings of Fact and Order Accepting Guardian's Resignation and Appointing Successor Guardian (proposed); and
- Letters of Guardianship (Successor Guardian) (proposed).

Arrange to Serve Copies of the Completed Forms *(Current guardian arranges for service.)*

You, the current Guardian, must arrange to serve a copy of the completed forms listed above on the following:

- The Ward;
- Each interested person listed in the Court's order establishing the guardianship; and
- Every interested person who has made an appearance or requested notice of the guardianship proceedings.

The North Dakota State District Court **requires proof** that the Ward and each interested person received a copy of the completed forms. An Declaration of Service is your proof.

Two Declaration of Service forms are included in this form packet:

- Declaration of Service by Mail; and
- Declaration of Service by Hand Delivery.

If you arrange to have copies of the completed forms mailed:

- The person who mails the envelope(s) containing the copies by certified mail or first class mail **must be** 18 years old or older.
- The person who mails the envelope(s) containing the copies by certified mail or first class mail completes and signs the Declaration of Service by Mail form.
- Make a copy for your records. The original(s) are filed with the Clerk of Court in Step Three.

If you arrange to have copies of the completed forms hand delivered:

- The person who hand delivers the copies **must be** 18 years old or older, and **can't** be a party or interested in the guardianship case.
- The person who hand delivered the copies completes and signs the Declaration of Service by Hand Delivery form.
- Make a copy for your records. The original(s) are filed with the Clerk of Court in Step Three.

Step Three: File Originals of the Completed Forms

File the Original, Completed Forms with the Clerk of Court

File the following original, completed forms with the Clerk of Court of the North Dakota State District Court that has jurisdiction of the guardianship:

- Notice of Motion for Resignation of Guardian and Appointment of Successor Guardian;
- Motion for Resignation of Guardian and Appointment of Successor Guardian;
- Brief in Support of Motion for Resignation of Guardian and Appointment of Successor Guardian;
- Declaration in Support of Motion for Resignation of Guardian and Appointment of Successor Guardian;
- Nominee Statement;
- Findings of Fact and Order Accepting Guardian's Resignation and Appointing Successor Guardian (proposed);
- Letters of Guardianship (Successor Guardian) (proposed); and
- Declaration of Service forms showing service on the Ward and each interested person.

Filing Fee

You may be required to pay a filing fee. Contact the Clerk of Court for the amount, if any.

Contact information for Clerks of Court by North Dakota county is available at ndcourts.gov/court-locations.

After the Original, Completed Forms are Filed

The people who received copies of the completed forms have 14 or 17 calendar days to serve and file a response or objection to your request to appoint a successor Guardian.

- If you served by hand delivery, they have 14 calendar days.
- If you served by mail, they have 17 calendar days.

You're notified if a hearing on your request is scheduled, or if the court requires you to do something before the court makes a decision.

If the court appoints a Successor Guardian, the current Guardian may be required to complete and file a final, or ending, inventory report. **Read the court order carefully to determine whether the current (previous) Guardian must file a final report and when the report is due.**

Requirements After the Court Appointment of a Successor Guardian

Letters of Guardianship:

If the judge or judicial referee appoints a Successor Guardian, they issue findings of fact and an order and letters of guardianship. To accept the duties of Successor Guardian, the Successor guardian must sign the letters of guardianship.

You, the current Guardian, may be required to serve a copy of the order to all persons to whom you served your Motion for Successor Guardian.

You, the current Guardian, must mail copies of the signed letters of guardianship to the Ward and the Ward's attorney, if any. See Step Two for service and proof of service.

Beginning Inventory Report:

Within 90 days of the court's order appointing a Successor Guardian, the Successor Guardian must complete, serve, and file a beginning inventory report of all assets owned by the Ward or in which the Ward has an interest.

The Successor Guardian must provide a copy of the beginning inventory report to the Ward and any interested persons listed by the judge or judicial referee in the order appointing the Successor Guardian.

A form for the beginning inventory report is available at ndcourts.gov/legal-self-help/adult-guardianship. Scroll to the "After Adult Guardianships are Established" section. Service information and forms are included.

Guardian's Annual Report:

The Successor Guardian must file an annual report with the court. The requirements of the report are found in [N.D.C.C. § 30.1-28-12](#).

The Successor Guardian must provide a copy of the report to the Ward and any interested persons listed by the judge or judicial referee in the order appointing the Successor Guardian. The copy of the report provided to the Ward must include a statement of the Ward's right to seek alteration, limitation, or termination of the guardianship at any time.

A form set for the annual report is available at ndcourts.gov/legal-self-help/adult-guardianship. Scroll to the "After Adult Guardianships are Established" section.

Payment of Room and Board from Ward's Funds Not Allowed in Certain Circumstances:

Funds from the Ward's estate can't be used to pay for the Ward's room and board when room and board is being furnished by the Successor Guardian, or the Successor Guardian's spouse, parent or child.

A court order is required to allow funds from the Ward's estate to be used for room and board in these instances. (See [N.D.C.C. § 30.1-28-12\(6\)](#).)

Forms to make a request to the North Dakota State District Court to allow payment of room and board from the Ward's funds at ndcourts.gov/legal-self-help/adult-guardianship. Scroll to the "After Adult Guardianships are Established" section.

[Payment for Guardianship Services](#)

Funds from the Ward's estate may be used to pay the Successor Guardian's fees.

A court order is required to allow funds from the Ward's estate to be used for payment of Successor Guardian's fees. (See [N.D.C.C. 30.1-28-03\(14\)](#)). The judge or judicial referee assigned to the guardianship case decides what is a guardian service, and whether your fee approval request will unreasonably jeopardize the Ward's well-being and estate.

Forms are available at ndcourts.gov/legal-self-help/adult-guardianship. Scroll to the "After Adult Guardianships are Established" section.

The responsibilities of the Successor Guardian terminate upon the death of the Ward or upon order of the court. The court may terminate the Guardianship if the Ward no longer meets the standard for establishing the Guardianship.

State of North Dakota

In District Court

County of _____

_____ Judicial District

In the Matter of the Guardianship of

_____.

Case No. _____

**Notice of Motion for Resignation of Guardian
and Appointment of Successor Guardian**

1. The following Motion for Resignation of Guardian and Appointment of Successor Guardian(s) is brought in accordance with Rule 3.2 of the North Dakota Rules of Court. This motion will be decided on the documents filed with the court unless a hearing is timely requested by a party or required by the Court.
2. A Motion, Brief in Support of Motion, Declaration in Support of Motion, and Nominee Statement are attached that explain why this request for resignation of the current Guardian and appointment of the nominated Successor Guardian is being made to the court.
3. You have 14 days after service of this Motion upon you within which to serve and file a response or objection to the Court. Upon the filing of an answer, or upon expiration of the time for filing, the Motion is deemed submitted to the Court, unless a party timely requests a hearing.
4. A Judge or Judicial Referee may decide whether to accept the resignation of the current Guardian and appointed the nominated Successor Guardian. If a Judicial Referee is assigned, any party to the motion has the right to have the motion decided by a Judge of the District

Court, instead of a Judicial Referee. The written request must be filed with the Clerk of this Court with 7 days after service of this Notice of Motion upon you.

Dated _____.

(Signature of Guardian)

(Printed Name of Guardian)

(Address)

(City, State, Zip Code)

(Telephone Number)

(Email)

State of North Dakota

In District Court

County of _____

_____ Judicial District

In the Matter of the Guardianship of

_____.

Case No. _____

**Motion for Resignation of Guardian
and Appointment of Successor Guardian**

1. The Guardian of the above-named Ward makes this motion to resign as Guardian and nominate a Successor Guardian under North Dakota Century Code Sections 30.1-28-07(1) and 30.1-28-15, and Rule 3.2 of the North Dakota Rules of Court.

2. The Guardian respectfully requests that the Court enter an order accepting the Guardian's resignation and appointing _____

(name of proposed Successor Guardian) as Successor Guardian of the Ward.

3. This motion is based on the Brief, Declaration, and Nominee Statement in support of this Motion, which are served and filed with the motion.

Dated _____.

(Signature of Guardian)

(Printed Name of Guardian)

(Address)

(City, State, Zip Code)

(Telephone Number)

(Email)

State of North Dakota

In District Court

County of _____

_____ Judicial District

In the Matter of the Guardianship of

_____.

Case No. _____

**Brief in Support of Motion for Resignation of Guardian
and Appointment of Successor Guardian**

1. As required by Rule 3.2 of the North Dakota Rules of Court, the Guardian of the above-named Ward submits this Brief in Support of Motion for Resignation of Guardian and Appointment of Successor Guardian.

Facts

2. The facts are stated in the Declaration in Support of Motion for Resignation of Guardian and Appointment of Successor Guardian and the Nominee Statement, which are filed with the Motion for Resignation of Guardian and Appointment of Successor Guardian and incorporated by reference.

Law and Argument

3. North Dakota Century Code (N.D.C.C.) Sections 30.1-28-07(1) and 30.1-28-15 allow the District Court to accept a guardian's resignation and appoint a successor guardian for an adult when Court finds the adult is incapacitated.

4. The North Dakota _____ County District Court found the Ward to be incapacitated and appointed _____ (*name of Guardian*) on _____ (*date*).

5. The Guardian is requesting the Court accept the Guardian's resignation and appoint

_____ (*name of proposed Successor
Guardian*) as Successor Guardian of the Ward.

6. North Dakota Century Code (N.D.C.C.) Section 30.1-28-07(1) states:

On petition of the ward or any person interested in the ward's welfare, the court may remove a guardian and appoint a successor if in the best interests of the ward. On petition of the guardian, the court may accept the guardian's resignation and make any other order which may be appropriate.

7. N.D.C.C. Section 30.1-28-15(1) states "[i]f the appointment of a successor guardian is required, the current guardian or any interested person may file a motion with the court for the appointment of a successor guardian."

8. As stated in the Declaration in Support of Motion for Resignation of Guardian and Appointment of Successor Guardian and the Nominee Statement, the proposed Successor Guardian meets the requirements of N.D.C.C. Section 30.1-28-11 and is willing and able to serve as Successor Guardian.

9. The proposed Successor Guardian meets the requirements under Rule 59 of the North Dakota Supreme Court Administrative Rules and has submitted all required filings to the Court.

(This space left intentionally blank.)

10. The Guardian requests the proposed Successor Guardian have the degree of authority indicated:

<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"/>	Education and/or training
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Legal matters
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Vocation
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Financial matters
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Medical treatment
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Access to and control and disposition of safety deposit box and contents.

11. The Guardian respectfully requests that the Court enter an Order accepting the Guardian's resignation and appointing _____
(*name of proposed Successor Guardian*) as Successor Guardian of the Ward.

Dated _____.

(*Signature of Guardian*)

(*Printed Name of Guardian*)

(*Address*)

(*City, State, Zip Code*)

(*Telephone Number*)

(*Email*)

State of North Dakota

In District Court

County of _____

_____ Judicial District

In the Matter of the Guardianship of

_____.

Case No. _____

**Declaration in Support of Motion for Resignation of Guardian
and Appointment of Successor Guardian**

1. My name is _____.

2. My address is _____

_____.

3. On _____ (*date*), I was appointed the Guardian for
the above-named Ward.

4. The Ward is _____ years old and their current address is _____

_____.

5. The approximate value of the real and personal property and income of the Ward is
listed in the most recent annual report I filed with the Court on _____
(*date of most recently filed guardianship annual report*).

6. I am unable to continue to serve as Guardian for the Ward for the following reasons:

(Paragraph 6 continued)

7. It is my desire to make arrangements to ensure the continuity of the guardianship for the Ward. I hereby nominate _____

(name of proposed Successor Guardian) to serve as Successor Guardian.

8. As stated in the Nominee Statement, the person nominated is competent to serve as Successor Guardian, and is willing and able to serve as Successor Guardian. The Nominee Statement of the person nominated to serve as Successor Guardian is filed with this motion.

9. I will prepare a final financing accounting, surrender titles, invoices, receipts, insurance policies, bank and financial statements, and all other papers and assets in the Ward's estate as the Court directs.

10. I declare, under penalty of perjury under the law of North Dakota, that everything I stated in this Declaration is true and correct.

Signed on _____ (date) in _____ (city),
_____ (county), _____ (state), _____ (country).

(Signature of Guardian)

(Printed Name of Guardian)

(Address)

(City, State, Zip Code)

(Telephone Number)

(Email)

State of North Dakota

In District Court

County of _____

_____ Judicial District

In the Matter of the Guardianship of

_____.

Case No. _____

Nominee Statement

1. My name is _____.

2. My address is _____

_____.

3. I have been nominated to serve as Successor Guardian for the above-named Ward. I accept the nomination and I am willing and able to serve as Successor Guardian.

4. I am (*choose one*):

☐ A person nominated by the Ward in their most recent durable power of attorney.

☐ A person nominated by the Ward before the Court found the Ward to be incapacitated.

☐ The spouse of the Ward.

☐ An adult child of the Ward.

☐ A parent of the Ward.

☐ A relative of the Ward, specifically, the Ward's _____.

The Ward has lived with me for more than 6 months before this Motion was filed.

☐ A relative or friend of the Ward, specifically, _____.

☐ A designated person from _____, a volunteer agency.

☐ A non-profit corporation established to provide guardianship services.

☐ A government agency.

☐ A person nominated by the person who is caring for or paying benefits to the Ward.

☐ Other: _____.

5. My occupation is: _____
_____.

6. My qualifications to serve as Successor Guardian are:

7. I would like the Court to consider the following additional information in making a decision:

8. I understand and accept the powers and responsibilities designated in the Order appointing the current Guardian.
9. I have fulfilled the qualification and training requirements for appointment of a Guardian under Rule 59 of the North Dakota Supreme Court Administrative Rules and submitted all required documents to the Court.
10. I understand that I will be required to provide to the Court an annual report describing the status and condition of the Ward and that a copy of the annual report must be provided to the Ward and to any interested persons designated in the Order appointing the original guardian.
11. I declare, under penalty of perjury under the law of North Dakota, that everything I stated in this Nominee Statement is true and correct.

Signed on _____ (date) in _____ (city),
_____ (county), _____ (state), _____ (country).

(Signature of Nominated Successor Guardian)

(Printed Name of Nominated Successor Guardian)

(Address)

(City, State, Zip Code)

(Telephone Number)

(Email)

State of North Dakota

In District Court

County of _____

_____ Judicial District

In the Matter of the Guardianship of

Case No. _____

**Findings of Fact and Order Accepting Guardian's Resignation
and Appointing Successor Guardian**

Name of Ward: _____ **Age:** _____

Ward's Address: _____

City: _____ **State:** _____ **Zip Code:** _____

1. _____, the current guardian of the above-named Ward, filed a motion requesting that the Court terminate their appointment as Guardian and appoint _____ as Successor Guardian.

2. Following the hearing, the Court makes the following **Findings of Fact:**

3. Notice has been provided as required by law.

4. The above-named Ward is still in need of a guardian.

5. The current Guardian is unable to continue to serve as guardian.

6. Appointment of a Successor Guardian is necessary and desirable as the best means of providing care, supervision, and habilitation of the Ward.

7. _____ has been nominated to serve as Successor Guardian and is willing, able, and qualified to serve as guardian.

8. No objection has been filed to the nominated Successor Guardian's Appointment.

It is Ordered, Adjudged and Decreed that:

9. _____ is hereby appointed as Successor Guardian for the person and estate of _____, an incapacitated person. Letters of Guardianship shall issue to the Successor Guardian. **The Letters are effective immediately and expire _____.**

10. The appointment of _____ as a Guardian is hereby terminated, and they are discharged from their duties and responsibilities.

11. _____ shall provide a final report and inventory within 60 days of entry of this Order, and upon approval of the final accounting, they are released from the bond they were required to furnish.

12. The powers and duties conferred upon the Successor Guardian 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"/>	Access to and control and disposition of safety deposit box and contents

This degree of authority granted and limited above is as follows:

- ☐ No limitations beyond those listed in Chapter 30.1-28 of the North Dakota Century Code.
- ☐ Other limitations (*if "Limited" is selected above, specify the area and limitations.*):

13. The Successor Guardian shall involve the Ward to the fullest degree possible.
14. The Successor Guardian shall not place the Ward in a mental health facility or state institution for more than forty-five days.
15. The Ward retains the legal right to:
- ☐ Vote
 - ☐ Seek to change marital status
 - ☐ Obtain or retain a motor vehicle operator's license
 - ☐ Use, own, control, or possess a firearm
16. The Successor Guardian shall involve the Ward as much as possible, when making decisions about living arrangements, healthcare, and all other care.
17. The Successor Guardian 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.
18. The Successor Guardian may receive reasonable compensation from the ward's estate if the compensation will not unreasonably jeopardize the ward's well-being. The Court must approve compensation and reimbursement before payment to the Successor Guardian is made.
19. The Successor Guardian 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.

20. The Successor Guardian shall provide a beginning inventory of all assets owned by the Ward or in which the Ward has an interest within 90 days of entry of this Order appointing the Successor Guardian. A copy of the beginning inventory must be provided to the Ward, any interested persons designated in the Order appointing the original guardian, and any other persons interested in this guardianship.

21. The Successor Guardian shall provide to the Court an annual report describing the status and condition of the Ward. Such reports shall be written and shall contain a summary of any changes within the past year. A copy of the annual report must be provided to the Ward, any interested persons designated in the Order appointing the current Guardian, and any other persons interested in this guardianship. The Ward's copy must be accompanied by a statement, not less than double-spaced twelve-point type, of the Ward's right to seek alteration, limitation, or termination of the guardianship at any time. **The annual report shall commence on _____ and continue on a yearly basis thereafter.**

22. **This Order takes effect immediately and expires _____.**

23. The following interested persons shall receive information regarding this guardianship, including copies of annual reports and other notices or information required by Chapter 30.1-28 of the North Dakota Century Code to be given to interested persons:

24. Unless the Ward is represented by counsel, the Successor Guardian must meet with the Ward and explain to the fullest extent possible the contents of this Order and the extent of the Successor Guardian's authority.

25. 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. The Ward 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.

26. If co-guardians are appointed, the signature of one co-guardian/co-conservator ☐ is ☐ is not sufficient to authorize any matter.

Notice to Ward:

You are hereby given notice of your right to review by a district court judge of a judicial referee's findings and order. To request a review, you must file a written request within seven (7) days after service of this notice. The written request must state the reasons you are request the review.

You are hereby given notice of your right to appeal this Order appointing a successor guardian or limited guardian for your person to the North Dakota Supreme Court. You must appeal this Order within 60 days from the date of service of this order upon you.

You are hereby given notice of your right to seek alteration or termination of this guardianship at any time.

By the Court:

Judge of the District Court
Judicial Referee of the District Court

State Of North Dakota

In District Court

County of _____

_____ Judicial District

In The Matter Of The Guardianship Of

_____.

Case No. _____

Letters of Guardianship

Name of Ward:

Address of Ward:

I/We accept the duties of guardian/co-guardians of the Ward and will perform these duties according to law.

Dated _____.

Guardian Signature

Co-Guardian Signature

To:

Name of Guardian:

Address:

Telephone & Email:

(Write "Not Applicable" if no Co-Guardian appointed.)

Name of Co-Guardian:

Address:

Telephone & Email:

1. The district court appoints the guardian(s) listed above to be the guardian(s) of the indicated Ward.

2. The guardian/co-guardians shall have the degree of authority indicated below to make decisions for the Ward in the following areas:

<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"/>	Education and/or training
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Legal matters
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Vocation
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Financial matters
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Medical treatment
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Access to and control of safety deposit box and contents

If the guardian's/co-guardians' authority as specified above is limited, the limitations are as follows: _____

3. If co-guardians are appointed, the signature of one co-guardian:

☐ is sufficient to authorize any matter.

☐ is not sufficient authorization.

4. These Letters take effect immediately and expire _____.

By the Court:

Judge of the District Court
Judicial Referee of the District Court

State Of North Dakota

In District Court

County Of _____

_____ Judicial District

In The Matter Of The Guardianship Of

_____.

Case No. _____

Declaration of Service by Mail

*(May serve multiple persons **only if** envelopes are mailed same day.)*

The person serving court documents by mail states:

1. My name is _____ *(person who mailed documents)*. I am at least 18 years of age.

2. **List of Court Documents Served** *(checkmark (✓) the box of each item served. If you have additional documents, checkmark the box and list the document):*

- ☒ Notice of Motion for Resignation of Guardian and Appointment of Successor Guardian
- ☒ Motion for Resignation of Guardian and Appointment of Successor Guardian
- ☒ Brief in Support of Motion for Resignation of Guardian and Appointment of Successor Guardian
- ☒ Declaration in Support of Motion for Resignation of Guardian and Appointment of Successor Guardian
- ☒ Nominee Statement
- ☒ Findings of Fact and Order Accepting Guardian's Resignation and Appointing Successor Guardian (proposed)
- ☒ Letters of Guardianship (Successor Guardian) (proposed)
- ☐ _____

3. **Service by Mail:** I served a true and correct copy of each of the court documents listed in Paragraph 2 by mailing them, enclosed in an envelope, by *(choose one)* ☐ Certified Mail *(or)* ☐ First-Class mail, postage prepaid, and by depositing them in the United States Mail, directed to each person listed in Paragraph 5.

4. Date of Service by Mail:

Date Court Documents were served by Mail: _____

5. Person or Persons Served by Mail:

1. Name of Person Served: _____

Mailing Address: _____

City, State, Zip Code: _____

2. Name of Person Served: _____

Mailing Address: _____

City, State, Zip Code: _____

3. Name of Person Served: _____

Mailing Address: _____

City, State, Zip Code: _____

6. I declare, under penalty of perjury under the law of North Dakota, that everything I stated in this Declaration of Service by Mail is true and correct.

Signed on _____ (date) in _____ (city),
_____ (county), _____ (state), _____ (country).

(Signature)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

(Email)

State Of North Dakota

In District Court

County Of _____

_____Judicial District

In The Matter Of The Guardianship Of

_____.

Case No. _____

Declaration of Service by Hand Delivery

(A separate Declaration is required for each person served.)

The person serving court documents by hand delivery states:

1. My name is _____ *(name of person who hand delivered documents).*

2. I am at least 18 years of age. I am **not a party or interested in the above named civil matter.**

3. **List of Court Documents Served** *(checkmark (✓) the box of each item served. If you have additional documents, checkmark the box and list the document):*

☒ Notice of Motion for Resignation of Guardian and Appointment of Successor Guardian

☒ Motion for Resignation of Guardian and Appointment of Successor Guardian

☒ Brief in Support of Motion for Resignation of Guardian and Appointment of Successor Guardian

☒ Declaration in Support of Motion for Resignation of Guardian and Appointment of Successor Guardian

☒ Nominee Statement

☒ Findings of Fact and Order Accepting Guardian's Resignation and Appointing Successor Guardian (proposed)

☒ Letters of Guardianship (Successor Guardian) (proposed)

☐ _____

☐ _____

4. Date, Time, and Address of Service by Hand Delivery:

Date: _____ Time: _____ ☐ a.m. (or) ☐ p.m.

Address: _____
(street address) (city) (zip code)

5. Service by Hand Delivery: As required by Rule 5(b)(3) of the North Dakota Rules of Civil

Procedure, I served a true and correct copy of each of the court documents listed in Paragraph

3 to _____ (name of person

served) at the date, time and address listed in Paragraph 4 by handing the court documents

directly to them. I know the person I served is the person intended to be served because

(explain how you identified the person): _____

6. I declare, under penalty of perjury under the law of North Dakota, that everything I
stated in this Declaration of Service by Hand Delivery is true and correct.

Signed on _____ (date) in _____ (city),
_____ (county), _____ (state), _____ (country).

(Signature)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

(Email)