

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

IN THE MATTER OF THE GUARDIANSHIP/CONSERVATORSHIP OF

AN INCAPACITATED INDIVIDUAL/PROTECTED PERSON

Case No. _____

**FINDINGS OF FACT AND ORDER FOLLOWING REVIEW OF ☐ GUARDIANSHIP
☐ CONSERVATORSHIP ACCEPTED FOR TRANSFER FROM ANOTHER STATE**

Name of ward/protected person:

Age:

Address:

City:

State:

Zip:

1. In accordance with Section 28-35-16(6) of the North Dakota Century Code (N.D.C.C.), the Court reviewed the ☐guardianship ☐conservatorship accepted for transfer from another state to determine whether modifications are necessary to conform to North Dakota law. In accordance with N.D.C.C. Section 28-35-16, N.D.C.C. Section 30.1-28-04(5), and N.D.C.C. Section 30.1-29-08(3) a hearing was held on _____, to modify the other state's order and to review the above-named ☐guardianship ☐conservatorship and to determine whether the ☐guardianship ☐conservatorship should continue, whether the current ☐guardian/co-guardians ☐conservator/co-conservators should be reappointed, or whether a new ☐guardian/co-guardians ☐conservator/co-conservators should be appointed.

2. The following individuals were present at the hearing:

_____, current guardian/conservator

_____, current co-guardian/co-conservator

_____, ward/protected person

_____, interested person


_____, interested person


Following the hearing, the Court makes the following Findings of Fact:


3. Notice has been given as required by law.
4. The ☐guardianship ☐conservatorship order was accepted for transfer from another state.
5. The current ☐guardian/co-guardians ☐conservator/co-conservators is willing and able to serve as ☐guardian/co-guardians ☐conservator/co-conservators for the ward/protected person.
6. ☐ There are no objections to the current ☐guardian/co-guardians ☐conservator/co-conservators continuing to serve.

☐ The following objections were raised:
7. Bond ☐is ☐is not required from the ☐guardian/co-guardians ☐conservator/co-conservators. If bond is not required, the Court finds good cause as follows:

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

8.  (*Guardianship*) The ward continues to be incapacitated due to:

 (*Conservatorship*) The protected person continues to be unable to manage the person's property and affairs effectively for reasons such as mental illness, mental deficiency, physical illness or disability, chronic use of drugs, or chronic intoxication based due to:

 (*Conservatorship*) The protected person continues to be unable to manage the person's property and affairs effectively for reasons of confinement, detention by a foreign power, or disappearance due to:

☐ (*Conservatorship*) The protected person continues to have property that will be wasted or dissipated unless proper management is provided, or that funds are needed for the support, care, and welfare of the person or those entitled to be supported by the person and that protection is necessary or desirable to obtain or provide funds due to:

9. The known real and personal property, and estimated value if known, of the ward/protected person is listed in the annual report filed with the Court within the last twelve months, and:

☐ Has not changed.

☐ Has changed as follows:

10. The known income, insurance, pension, or allowance, and estimated value if known, to which the ward/protected person is entitled is listed in the annual report filed with the Court within the last twelve months, and:

☐ Has not changed.

☐ Has changed as follows:

11. ☐ Reappointment of the current guardian/co-guardians is necessary and desirable as the best means of providing care, supervision, and habilitation of the ward.

☐ Reappointment of the current conservator/co-conservators is necessary and desirable as the best means of managing the property and affairs of the protected person.

12. ☐ 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.

☐ There is no less intrusive alternative to conservatorship for the protected person that could be used instead of a conservatorship.

13. ☐ _____ 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.

☐ _____ is/are the most suitable and best qualified person(s) to act as conservator or co-conservators of _____, the protected person.

14. ☐ (*Guardianship*) 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:

Full Limited None
☐ ☐ ☐

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:

☐☐☐

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

☐ (*Guardianship*) Due to _____,

the ward's right to _____
should be restricted.

☐ (*Guardianship*) The ward has been adjudicated as a mental defective and the federal firearms restrictions under 18 U.S.C. 922(d)(4)(g)(4) apply.

☐ (*Guardianship*) The 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.

☐ (*Conservatorship*) The Court finds the protected person is able to make decisions with respect to their estate and affairs as follows:

It Is Ordered, Adjudged, and Decreed That:

15. The ☐guardianship ☐conservatorship of _____
will continue.

16. _____ is/are
reappointed to serve as ☐guardian/co-guardians ☐conservator/co-conservators until
_____, when this ☐guardianship ☐conservatorship will again
be reviewed, unless terminated earlier by the Court.

17. ☐ The guardian will exercise ☐full ☐limited guardianship of the incapacitated person
and Letters of Guardianship shall issue in accordance with the Order. **The Letters take effect
immediately and expire** _____.

☐ The conservator will exercise ☐full ☐limited conservatorship of the protected person
and Letters of Conservatorship shall issue in accordance with the Order. **The Letters take effect
immediately and expire** _____.

18. ☐ (*Guardianship; continues on next page*) The powers and duties to be conferred upon
the guardian/co-guardians 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.*):

☐ (*Conservatorship; continues on next page*) The powers and duties to be conferred upon the conservator/co-conservators appropriate as the least restrictive form of intervention consistent with the ability of the protected person for self-management of their estate and affairs, except the power to make a will, are as follows:

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

☐ No limitations beyond those listed in Chapter 30.1-29 of the North Dakota Century Code.

☐ Other limitations (*specify the area and limitations.*):

19. The guardian/conservator shall involve the ward/protected person to the fullest degree possible.

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

☐ (*Conservatorship only*) Paragraph 20 does not apply.

21. ☐ 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.

☐ (*Conservatorship only*) Paragraph 21 does not apply.

22. ☐ The guardian/co-guardians 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 guardian/co-guardians is made.

☐ (*Conservatorship only*) Paragraph 22 does not apply.

23. ☐ 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.

☐ (*Conservatorship only*) Paragraph 23 does not apply.

24. ☐ The conservator at all times has the power, without court authorization or confirmation, to invest and reinvest funds of the estate as would a trustee.

☐ (*Guardianship only*) Paragraph 24 does not apply.

25. ☐ In exercise of the conservator's powers, the conservator is to act as a fiduciary and shall observe the standards of care applicable to trustees.

☐ (*Guardianship only*) Paragraph 25 does not apply.

26. The ☐guardian/co-guardians ☐conservator/co-conservators shall:

☐ Serve without bond.

☐ Serve with bond in the amount of \$_____. The bond must be posted with the Court by _____ . If bond is posted by a surety, notice of any proceeding must be provided to the surety by registered or certified mail at the surety's address as listed with the court where the bond is filed and to the surety's address as then known.

27. The ☐guardian/co-guardians ☐conservator/co-conservators shall provide an annual report to the Court concerning the status of the guardianship/conservatorship and the ward/protected person. Such reports shall be written and shall contain a summary of any changes within the past year. These reports shall cover the period from _____ to _____, and continue on a yearly basis thereafter. The report is due within

30 days of the period covered by the annual report. The ☐guardian/co-guardians ☐conservator/co-conservators must provide a copy of the annual report to the ward/protected person and to any interested persons designated in this order under N.D.C.C. Section 30.1-28-12 and to other parties as required by N.D.C.C. Section 30.1-29-18. The ward's/protected person's copy must be accompanied by a statement, not less than double-spaced twelve-point type, of the ward's/protected person's right to seek alteration, limitation, or termination of the guardianship/conservatorship at any time.

28. ☐ Upon issuance of Letters of Guardianship, the guardian ad litem, _____, shall be and is hereby discharged of the duties as guardian ad litem.

☐ A guardian ad litem was **not** appointed for this review of guardianship/conservatorship.

29. The following interested persons/other parties shall receive information regarding this guardianship/conservatorship, including copies of annual reports and other notices or information required by N.D.C.C. Chapter 30.1-28 and Chapter 30.1-29 to be given to interested persons/other parties:

30. Unless the ward/protected person is represented by counsel, the ☐guardian/co-guardians ☐conservator/co-conservators must meet with the ward/protected person following the hearing and explain to the fullest extent possible the contents of this Order and the extent of the ☐guardian's/co-guardians' ☐conservator's/co-conservators' authority.

31. This Order takes effect immediately and expires _____.

32. (Guardianship) 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.

(If co-guardians/co-conservators, add this:)

33. The signature of one co-guardian/co-conservator ☐is ☐is not sufficient to authorize any matter.

Notice to Ward/Protected Person And Guardian Ad Litem:

(Notice continues on next page.)

You are hereby given notice of your right to review of a Judicial Referee's Findings and Order by a District Court Judge. To request a review, within Seven (7) Days after service of this notice, you must file a written request stating the reasons for the review.

You are hereby given notice of your right to appeal this Order Appointing a Guardian/Conservator or Limited Guardian/Conservator for your person, within Sixty (60) Days from the date of service of this order upon you and your guardian ad litem.

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

BY THE COURT:

Judge of the District Court
Judicial Referee of the District Court