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Guide to Becoming a New York Guardian Without a Lawyer

New York Mental Hygiene Law Article 81

Instructions and Sample Forms

This guide was created to assist individuals who cannot afford an attorney and believe another person needs a court to appoint a guardian under New York Mental Hygiene Law Article 81.

Remember: a guardian should only be a last resort and in many case there are alternatives that will help the person who you believe may need a guardian.

Because a guardianship case is very serious, can deprive a person of many rights, and is complicated, we recommend that you talk to a lawyer before you try to file papers in court.

If you do not have the money to hire an attorney, and there are no alternatives to a guardianship case, this guide is designed to make the process as easy and understandable as possible.

For more help, we have included contact information and website links to other guardianship resources.

We have included instructions, sample forms, and checklists to help you follow all the necessary steps if a guardianship under Article 81 is the only option.

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Guide to Becoming a New York Guardian Without a Lawyer

New York Mental Hygiene Law Article 81

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Getting started: Guardianship should be the last option

Look for alternatives before you file court papers to be a Guardian!

In many situations, everything that needs to be done can be done without having to ask a court to appoint a guardian.

Even if you have been told that the person needs a guardian, you may be able to help without a guardian.

For example, a person may already have certain documents known as “advance directives” and/or have or need a representative payee for Social Security Benefits, including Retirement, Disability, and Supplemental Security Income.

“Advance directives” include documents such as a *power of attorney*, *health care proxy*, or *living will*. We explain these documents in this guide.

A guardian means less freedom for a person, so before appointing a guardian, a court will make sure there are no other “less restrictive” ways to help beside a guardian.

If there are other ways to help the person, the court will not appoint a guardian. Even if the person does not have any advance directives and cannot understand legal forms, you will need to tell the court exactly what a guardian is needed for.

If you cannot find a lawyer, you can still file papers in court for a guardian.

- But, we **strongly recommended** that you consult and hire a lawyer if you can afford to.
- This guide should be used by people who cannot afford to hire an attorney.
- The guardianship process is different for every State.
- This guide is based on New York law and is for people who need to ask a court to appoint a guardian for an adult **under Article 81 of the Mental Hygiene Law**.

How to use this guide.

- Carefully read this guide. It gives practical information about alternatives to a guardianship and, if there is no other option, how to become a guardian under Article 81 of the New York Mental Hygiene Law.
- Review the information about alternatives to guardianship.
- If you have no other option but to file for guardianship in court, follow the steps in this guide.

- The main forms you need are attached to this guide.
- After you complete these forms, follow the directions to file them in the appropriate court.
- For your local court information, call or find the court’s website.

What is an Article 81 guardianship case?

- A guardianship case is a legal action brought by someone (a “Petitioner”) who believes that another person cannot take care of their own personal needs (for example, making health care decisions) and/or manage their property (for example, pay bills).
- In a guardianship case, the person who is believed to be unable to care for their personal needs and/or manage their property is called either an “Alleged Incapacitated Person” (AIP) or a “Person In Need of a Guardian” (PING).
- The Petitioner believes that because the AIP or PING is unable to care for their personal needs and/or manage their property, the court should appoint someone (maybe the Petitioner or someone else) and give them certain powers as guardian.
- The guardian, if appointed, will have the power to make certain decisions for the AIP/PING about their personal needs or property and finances.
- **Remember:** A guardianship should only be used as a last resort when there are no other “less restrictive” alternatives available to help the person who you think needs a guardian.

What are “less restrictive” alternatives to a guardianship?

- **Guardianship is a last resort.** A court should only appoint a guardian for an adult as a last resort, if there are no other “less restrictive” alternatives. Appointing a guardian takes away a person’s rights, so it should only be used if there is no other way of helping the person.
- **Advance directives.** If the person who needs help can understand a legal document, then advance directives that name an agent to help manage a person’s finances and property (power of attorney) and/or name an agent for health care decisions (health care proxy) may avoid the need to have a guardian appointed.
- **Health care decisions.** If a person resides in a hospital, nursing home, or a hospice facility, and decisions about medical treatment or health care have to be made, a “surrogate” under the New York Family Health Care Decisions Act, should be able to help make those decisions without appointing a guardian.

- **Representative payee for Social Security benefits.** If the person receives any kind of Social Security benefit, including Retirement, Disability, or Supplemental Security Income: another person may apply to be the Representative Payee to manage their benefits. This may avoid the need to have a guardian appointed to manage the Social Security benefits.
- **Caretakers and support services.** Home health care aides, a senior center, money management services, friends, and family may give the person enough support to avoid needing a guardian appointed by a court.
- **Transactions that can be approved by a court without appointing a guardian.** If the only need is for a single or series of transactions or decisions (for example, medical treatment or signing a contract such as a lease), the court with the power to appoint a guardian can approve the transactions without appointing a guardian.

Who are the people in a guardianship case?

- **Petitioner:** The “Petitioner” is the person who is applying to the Court to have a guardian appointed for someone.
- **AIP or PING:** “AIP” stands for “Alleged Incapacitated Person” and “PING” stands for “Person In Need of a Guardian.” These terms have different meanings in a guardianship case, but both refer to the person the Petitioner alleges needs a guardian. A person in need of a guardian means that the person consents to having a guardian appointed. An Alleged Incapacitated Person is a person who the petitioner is trying to prove is incapacitated under the law.
- **Attorney for AIP:** The attorney for the AIP represents what the AIP wants, which may include arguing that the court should dismiss the petition and not appoint a guardian. The AIP may hire their own attorney, or the Court may appoint one for them.
- **Court Evaluator:**
 - The Court Evaluator acts as the “eyes and ears” of the Court.
 - The Court appoints the Court Evaluator to investigate the case for the judge.
 - The Court Evaluator will ask you and other people interested in the proceeding questions to find out if a Guardian is needed, who that Guardian should be, and what powers that the Guardian should have.
 - The Court Evaluator is independent.
 - Their job is not to give you guidance or legal advice as the Petitioner, but to review and make recommendations to the Court
- **Other interested parties:**
 - Family members and others involved in the AIP’s life.

How do you prove your case?

- In order to have a guardian appointed in an Article 81 case, you will need to prove that the appointment of a guardian is **necessary**.
- In order to prove that a guardian is necessary you will need to show by **clear and convincing evidence** (meaning that the evidence is highly or substantially more likely to be true than not true) that the person is likely to suffer harm because:
 - They cannot manage their property and/or provide for their personal needs; **and**
 - They cannot understand and appreciate the nature and consequences of not being able to care for their own property and/or own personal needs.

What happens if the court agrees with your petition?

- If your petition for guardianship is successful, the court will decide who should be the guardian and what powers the guardian may have to make certain decisions on behalf of the AIP or PING.
- Because the law states that the court must respect and promote the rights of the AIP or PING, the court should limit the powers of a guardian to those that are the “least restrictive.”

What powers may a court give to a guardian?

The powers of a guardian are separated into two different areas:

1. Property management; **and**
 2. Personal needs.
- If your petition for guardianship is successful, a guardian will be appointed by the court to make certain decisions on behalf of the AIP or PING.
 - Because the court tries to respect and promote the rights of the AIP or PING, the powers of a guardian will be limited to those that are the “least restrictive.”
 - A guardian’s powers might be limited to just one of these areas, but often a guardian’s powers include both. If you are petitioning for guardianship, you can pick and choose which powers you want to ask for, but the judge will decide who should be the guardian and what powers the guardian should have.
 - You should ask for only those powers that you truly need in order to help the AIP or PING with their specific needs.

- **Property management** may include, but is not limited to, the power to pay bills, authorize the release of confidential records, make gifts, enter into contracts (including a lease), marshal assets, create trusts, pay for funeral expenses, and apply for government and private benefits.
- **Personal needs** may include, but are not limited to, the power to manage health care and medical treatment, decide where the person should live, arrange the social activities of the person, decide if the person should travel, make decisions about education, and apply for government and private benefits.

Who can the court appoint as guardian?

- A court can appoint any person over 18 who has an interest in the person who is alleged to need a guardian.
- This can include a spouse, family members, someone who lives in the home of the person who may be in need, and any other person or organization who is concerned about the person's well-being.

What are the duties of a guardian under Article 81?

A guardian has many duties and responsibilities, including the following (a court may modify these requirements):

- Visit the person at least four (4) times a year.
- Prepare and file initial 90 day and annual reports to the court that describe how the person is doing, and for guardians of the person and property, include information about income, expenses, savings, and other financial matters.
 - These reports must describe how the person is doing. The first report is due 90 days after the guardian officially qualifies to be a guardian (this means the guardian has a "Commission" paper from the court).
 - The next reports are due once every year by the end of May.
- Always make decisions for the person as if the person was making those decisions on their own, based on their wishes, preferences, and values, and with their best interest in mind.
- Only use the powers the court grants in the Order appointing a guardian.
- Be trustworthy, loyal, and diligent.
- Respect the person's independence and autonomy.
- Be responsible and prudent in managing the person's property and finances as guardian.

What papers do you need to start an Article 81 Guardianship case?

Important: the person may not think that they need a guardian, and they might oppose or contest your Petition. They may hire their own attorney, or the Court may appoint an attorney for them. This can be a difficult and emotional process for all involved.

1. Order to Show Cause (“OTSC”):

- The OTSC (along with the Verified Petition) must be personally served (given to them in person) on the AIP or PING. The OTSC tells them that you have started a case to have a guardian appointed for them.
- The OTSC tells the AIP/PING what their legal rights are in the guardian case.
- The OTSC also tells the AIP/PING the date, time, and place of the hearing, and the powers that you want the court to give to the guardian.

Note: The powers listed on the OTSC should be the same powers you list in the Verified Petition. See the attached “Instruction Sample Order to Show Cause” for the information necessary to put in the OTSC.

Important: After you file the Order to Show Cause and Verified Petition with the court, a judge will sign the OTSC and fill in the following:

- Time, date, and place of the hearing.
- Name of the Court Evaluator.
- Name of an attorney, if the judge is appointing an attorney for the person.
- Who has to be served with the papers.

It is then your responsibility to get the signed OTSC from the court and serve it, along with the other required papers, on the interested parties. the name of an attorney if the court appoints .

2. Verified Petition:

- You use this form to tell the court why a guardian is necessary for the AIP/PING and why the person you want to be the guardian should be the guardian.
- You must describe why the AIP/PING needs a guardian (the ways in which the person is not able to manage their personal needs and/or property) and why you, or somebody else, should be the guardian.
- Be specific! The Verified Petition should “tell the story” of why the person needs a guardian, name the proposed guardian, and list the specific powers you think the guardian needs.

- Read and fill out the attached “Petition Form” for the information necessary to put in the Verified Petition.
- Sign and verify the Petition in front of a notary public. A notary public can often be found at banks or in offices near courthouses.

3. Notice of Proceeding:

- This form tells the AIP/PING and the interested parties that you have started a guardianship proceeding.
- You must serve the Notice of Proceeding with a copy of the signed Order to Show Cause to the interested parties (usually this means mail, but the judge will include this in the Order to Show Cause).
- Do not serve the Verified Petition on the interested parties: usually, only the AIP or PING, the Court Evaluator, and the attorney for the AIP or PING (if any) are served with the Verified Petition (along with the Order to Show Cause).
- See the attached “Sample Notice of Proceeding” for the information that is necessary to put in the Notice of Proceeding.

4. Request for Judicial Intervention (“RJI”) and Index Number:

You must file an RJI for the court to process your case and assign it to a judge.

- Find an RJI form here: <https://www.nycourts.gov/forms/rji/index.shtml>
- Be sure to make at least one copy of the RJI for the court clerk to have on file.
- The cost in 2020 to file an RJI is \$95.
- You must also get an index number when you file your papers with the court. The cost in 2020 for an index number is \$210.
- The Index Number tracks your case in the court and must be included on all of the papers you file in court.
 - Each court may have different requirements for filing your papers, including being able to file electronically, so it will be helpful to call the court to make sure you understand what that court requires.

Important: If you can’t afford to pay the cost of the RJI and index number, you can ask the court to waive the fees. For information and the form for N.Y.S. Supreme Court: <https://www.nycourts.gov/courthelp/GoingToCourt/feewaiver.shtml>

Also: Courts usually do not accept personal checks, and the amount of these filing fees may change. Check the [New York Unified Court System](http://www.courts.state.ny.us/) (<http://www.courts.state.ny.us/>) or contact the County or Guardianship Clerk for the current filing fees for an Article 81 guardianship case.

Where and how should you file the guardianship papers?

- You must mail or take to the court, the RJI, Order to Show Cause, and Verified Petition. Usually, you will file your papers with the guardianship clerk in the Supreme Court in the county where the person you think needs a guardian lives (at home or in a facility such as a nursing home).
- Some courts may allow or require electronic filing, so call the guardianship clerk to find out how you must file your papers with that court.
- You will have to get an Index Number in order to file your papers.
- You should keep at least one copy of your papers for yourself. Make sure you have a receipt that shows you actually filed the papers. If you file the papers in person at the court, you can ask the Clerk to stamp the copies as “Filed.”

Remember: If you cannot afford the filing fees, ask the court for a “Poor Person’s Affidavit” form to request that the fees be waived.

How to find local court information. You can find information about the Guardianship Clerk office in the Supreme Court of most counties in New York State (in some upstate counties, the County or Surrogate’s Court may handle Article 81 guardianship cases) by calling or on the New York Court System website: <http://www.courts.state.ny.us/courts/>.

What happens after you file the guardianship papers?

- **A judge will sign the Order to Show Cause.** If the judge reading your papers decides they include all the required information, the judge will fill in certain information on the Order to Show Cause and sign it.
- **Follow up with the court to find out if the Order to Show Cause has been signed.**
 - Call the court clerk a few days after you file the papers and ask if the signed copy is ready to be picked up.
- **Get a signed copy of the Order to Show Cause.**
 - You may have to go to the court personally to make a copy, or the court might be able to fax or email a copy of the signed Order to Show Cause.
 - You may need to bring a copy of the Order to Show Cause you submitted and fill in the information from the signed Order to Show Cause.
- **Check the date of the hearing!**
 - The Order to Show Cause will have the hearing date, which is usually within 28 days from the date it was signed by the judge. Check that date and make sure you are can come to court on that day. If you can't come that day, ask the court if it can give you another hearing date.
- **You must have the Order to Show Cause served on the interested parties, along with either the Verified Petition or Notice of Proceeding.**
 - Important: read the Order to Show Cause carefully! It will list all the parties you must serve with papers, when you have to serve them, and who you must serve in person, by mail (and if must be certified mail), or in another way. The Order to Show Cause may also add other information that is important.
 - Once you have a copy of the signed Order to Show Cause, you have to serve copies of the Order to Show Cause and either the Verified Petition or Notice of Appearance on the interested parties.

How do you serve the guardianship papers on the interested parties?

- **Who** gets the Order to Show Cause?
- **What** other papers do they get?
- **How** should the papers be served?
- **When** should the papers be served?

Who?	Alleged Incapacitated Person (AIP)	Attorney for the Alleged Incapacitated Person (if appointed by the court or retained by the AIP)	Court Evaluator	Interested Parties
What?	Order to Show Cause and Verified Petition	Order to Show Cause and Verified Petition	Order to Show Cause and Verified Petition	Order to Show Cause and Notice of Proceeding (not Verified Petition)
How?	Judge will state in the Order to Show Cause (usually the AIP must be served in person, by someone other than the Petitioner)	Judge will state in the Order to Show Cause (usually by fax, email, or mail). If the court appoints an attorney, the Order to Show Cause will include their name, address, phone, email, and fax number.	Judge will state in the Order to Show Cause (usually fax, email, or mail). The Court Evaluator's name, address, phone, email, and fax number will be included in the Order to Show Cause.	Judge will state in the Order to Show Cause (usually by regular or certified mail)
When?	Judge will state in the Order to Show Cause (usually at least 14 days before the hearing)	Judge will state in the Order to Show Cause (usually within 3 business days after the Judge has signed the Order to Show Cause)	Judge will state in the Order to Show Cause (usually within 3 business days after the Judge has signed the Order to Show Cause)	Judge will state in the Order to Show Cause (usually at least 14 days before the hearing)

What happens at the Article 81 guardianship hearing?

How do you get ready for the hearing?

It is impossible to know everything that might happen at the hearing. Each judge is different, and each judge runs their courtroom differently. However, you can take the following steps to prepare for the hearing.

- **Prepare what you are going to say.** You will have to speak in court. Carefully review your Verified Petition and make sure you know what you want to ask for at the hearing and that it matches what you have asked for in your Petition.
- **Be ready to tell your story.** Develop a clear and short story telling the judge why the alleged incapacitated person needs a guardian and why the person you nominated as guardian should be appointed as guardian.
- **Practice** what you are going to say before the hearing. Be prepared to describe the person's daily routine, what services the person uses or needs, and why they are no longer able to manage personal needs and/or property.
- **Talk to other people who might support your case.** If there are other people who you think should testify in court, such as family members, neighbors, people who care for the person, and social workers, let them know of the hearing date and time.
- **During the hearing, ask questions!** Remember, you can ask for the judge or attorney questioning you to clarify or explain if you don't understand something. Everyone has a right to be heard fairly and justly in a court of law, with or without an attorney.

What should you do at the hearing?

You explain to the judge why you think the person needs a guardian, and tell the judge who you believe the guardian should be and what powers the guardian should have.

- The burden is on you, the petitioner, to prove that the person really needs a guardian.
- The Court Evaluator will also present their report and will usually testify at the hearing.
- If the person you think needs a guardian has an attorney, they may also present evidence, especially if they object to having a guardian.
- Questions or objections may be raised by any interested person. This includes you!
- Usually, the judge will decide whether or not to appoint a guardian at the end of the hearing. The judge will decide who the guardian will be, what powers they will have, and for how long.

- At the end of the hearing, the judge will usually tell the petitioner (you!) to “settle” the order. See the section titled “Settling the Order” for a step-by-step guide to “settling” an order.
- Important: Ask the Judge to direct the Court Evaluator to help you prepare the Order.

What happens after the hearing if the court appoints a guardian?

“Settling” the Order: Frequently asked questions

1. What is the Order?

If the Judge decides that your Petition for a guardian should be granted, the judge will have to sign an Order, which is the document that includes the name of the guardian, their powers and responsibilities, and other important information.

The Order will also name all persons who should receive notice of further proceedings.

2. What does it mean to “settle” the Order?

To “settle” the Order, the parties must agree on the terms of the Order.

The Order must match any decision the judge makes at the hearing (sometimes the judge will wait until making a decision).

If the Petition is granted, the petitioner has to draft a proposed Order and mail it to the interested parties.

3. How do you draft the Order?

Ask the Court if it has a sample Order you can follow.

Ask the Court to direct the Court Evaluator to help you prepare the Order.

You must get at least the “decision part” of the court transcript (record) from the court reporter. Ask the court reporter for their business card so you can request a copy of the decision.

Once you receive the decision part of the hearing transcript, use it to draft the Order, which has to match the judge’s oral decision at the hearing.

4. What information has to be in the written Order?

The Order should describe in detail:

- The court’s findings of fact about the AIP or PING, why they need a guardian, and if the court decided they are incapacitated or if the person consented to have a guardian.
- Who is appointed guardian, the powers granted to the guardian, and any other relevant information in the judge’s decision.
- Follow the sample Order from the court, or ask the Court Evaluator to help you with the Order.

5. What happens after you write the Order?

After you write the Order, you have to mail it with a “Notice of Settlement” to all the interested parties. You also have to file the Order with the court together with an affidavit of service (you can call the court to ask if you should mail, file in person, or file electronically).

The “Notice of Settlement” must include a “return date” **at least** 13 days in advance, which includes 5 days for mailing; this gives the interested parties time to object, correct, or make additions to the Order. Usually, you do not have to go back to Court on the return date. You should add a few extra days when you choose the return date.

After the “return date,” the judge can modify the proposed Order and sign it.

After the judge signs the order, it is “entered.” “Entered” refers to the process of the Order being filed with the court clerk.

6. What to do after the order is entered?

The petitioner must a **Notice of Entry** form along with a copy of the final signed Order to all parties who were served with the Order to Show Cause, and any other parties the judge directs should be served with the Order.

The **Notice of Entry** tells all the parties that the Order is final and has been signed and entered. If any party wants to appeal the court Order, the time to appeal starts when they are served with the Notice of Entry.

You must file the Notice of Entry and Order, along with an affidavit of service, with the Court. The affidavit of service tells the Court that you have mailed the Notice of Entry and a copy of the signed Order to all the interested parties.

What does the guardian do after the signed Order is filed in court?

The Guardian Must:

- ☑ If required by the court Order, apply for a **bond**. A bond is like insurance to protect any assets the guardian will control. A bond may be required when the person who needs the guardian has a lot of money or property. A judge may waive a bond.
- ☑ Sign an **Oath and Designation** form. This is where you swear to carry out the duties of a guardian, and file it with the court clerk.
- ☑ Prepare a **Written Commission** and file it with the Clerk with the Oath and Designation form. **Important:** Sometimes, the Order you submit will also have a Commission, so you won't need to submit a separate Commission. The Commission is the document a guardian can show to prove that the guardian has the legal power to act and exercise the powers granted in the Order. You should be able to get a sample Commission from the court.
- ☑ Complete a guardian training. You can find a training program through the [Guardian Assistance Network \(GAN\)](http://ww2.nycourts.gov/ip/gan/index.shtml) (<http://ww2.nycourts.gov/ip/gan/index.shtml>), which is part of the New York State court system.
- ☑ Within 90 days after the guardian gets their Commission, they must file an **Initial Report** with the Court Examiner. The Court Examiner will be appointed by the court in the Order and is the person who monitors the guardian. The initial 90 day report must show the guardian has completed the training and describe what the guardian has started to do for the person subject to the guardianship. If you believe changes need to be made to the powers authorized to you, then you must state that in the report and explain why. You should ask the Court Examiner for help if any changes need to be made.
- ☑ File annual report by the end of May each year. The guardian must file an annual report in May about the previous calendar year. For example, your report for the year of 2020 will be filed by the end of May 2021. The guardianship training materials should include a sample initial and annual report. Forms may be found at the Guardianship Assistance Network website, at the Court where the guardian was appointed (or its website), or through the New York State Office of Court Administration.
 - **Remember:** A guardian must keep careful and detailed records about all their activities as guardian.
 - These records may include, but are not limited to: receipts, bills, notes, medical records, bank records and statements, and government benefit records. These documents may be included with the annual report.

Checklist for petitioner: Before the hearing

- Fill out the Contact Sheet for Interested Parties.
- Fill out the **Verified Petition** (and have it notarized)
- Fill out the **Order to Show Cause**
- Fill out the **Request for Judicial Intervention (RJI)**
- Take the **RJI, Order to Show Cause**, and **Verified Petition** to the Court and file the forms with the court clerk and receive an index number
- Wait a few days for the judge to sign the **Order to Show Cause**
- Personally serve (give) the signed **Order to Show Cause** and the **Verified Petition** to the person who needs a guardian (the AIP or PING). and his or her lawyer (if applicable)
- Serve (send) the **Order to Show Cause** and **Verified Petition** to the Court Evaluator and attorney for the AIP (if any) as directed in the Order to Show Cause.
- Fill out the **Notice of Proceeding** and send the signed **Order to Show Cause** and the **Notice of Proceeding** to all interested parties (family, friends, others) as directed in the Order to Show Cause.
- Prepare for the hearing: be ready to explain why the person needs a guardian, who should be the guardian, and have copies of any relevant documents.
- If there are other witnesses, make sure they know what they will say and will be available to testify at the hearing.
- Attend the hearing.

Contact worksheet for an Article 81 Guardianship Petition

Petitioner	
Name:	
Relationship to Person Believed to Need a Guardian:	
Address:	
Telephone (Home):	
Telephone (Cell):	
Email:	

Person Believed to Need a Guardian	
Name:	
Address:	
Telephone (Home):	
Telephone (Cell):	
Email:	

Other Interested Parties	
Party # 1	
Name:	
Relationship to Person Believed to Need a Guardian:	
Address:	
Telephone (Home):	
Telephone (Cell):	
Email:	
Party # 2	
Name:	
Relationship to Person Believed to Need a Guardian:	
Address:	
Telephone (Home):	
Telephone (Cell):	
Email:	

Other Interested Parties (Continued)	
Party # 3	
Name:	
Relationship to Person Believed to Need a Guardian:	
Address:	
Telephone (Home):	
Telephone (Cell):	
Email:	
Party # 4	
Name:	
Relationship to Person Believed to Need a Guardian:	
Address:	
Telephone (Home):	
Telephone (Cell):	
Email:	
Party # 5	
Name:	
Relationship to Person Believed to Need a Guardian:	
Address:	
Telephone (Home):	
Telephone (Cell):	
Email:	
Party # 6	
Name:	
Relationship to Person Believed to Need a Guardian:	
Address:	
Telephone (Home):	
Telephone (Cell):	
Email:	

* Add pages as needed if there are more interested parties, including family members.

Checklist for petitioner-guardian: After the hearing (if the judge appoints a guardian)

- Prepare an **Order** form (ask the Judge if he or she has an Order form to fill out)
- Fill out the **Notice of Settlement**. The “return date” on the **Notice of Settlement** should be at least 10 days from the day you mail it (you should add 5 days to give a little more time).
- Mail the **Order** and **Notice of Settlement** to all interested parties
- Prepare an **Affidavit of Service**, which tells the Court that you have served the **Notice of Settlement** and a copy of the **Order** to all interested parties.
- File the **Notice of Settlement and Order** , along with an **Affidavit of Service**, with the court clerk.
- Wait a few days for the judge to sign the **Order** and then pick up or arrange to get, the **Order** from the Court.
- Mail the signed **Order** to all interested parties.
- Fill out the **Oath and Designation** (and have it notarized).
- Fill out the **Commission**.
- File the **Oath and Designation** and **Commission** with the court clerk.
- Complete a guardianship training course.
- File an **Initial Report** with the Court Examiner within 90 days after you get the Commission.

Alternatives to guardianship

Power of Attorney

- A power of attorney is created by a “principal” who gives another person (“agent”) powers to make decisions about property, contracts, and money.
- The power of attorney can activate immediately, or activate in the future (for example, if a doctor believes a person cannot make decisions about property and money). If the power of attorney activates immediately, it will stay activated even if the person loses the ability to make decisions.
- When a person creates a power of attorney, the agent will have powers granted in the power of attorney form. These might include the power to pay bills, sign contracts (including a lease), and support the person’s family.
- The agent must act in the principal’s best interests and use their powers for the principal’s benefit. The agent can be taken to court if they steal money or use the power of attorney for their own benefit.
- If a principal wants to give the agent the power to make gifts of more than \$500 a year to any person, including themselves as agent, the principal has to give the agent that specific power. Any gifts made by the agent must be what the principal would give and be in the principal’s best interests.
- A principal can ask your agent for information at any time. A principal can name a monitor in the power of attorney to make sure the agent is acting properly.
- A principal can revoke a power of attorney and create a new document that names a different person as agent and/or changes the powers granted to the agent. If the principal doesn’t have the understanding to revoke the power of attorney, a court can remove an agent if the agent is acting improperly.
- An agent cannot make health care decisions or decide where the principal should live. A health care proxy can name an agent for health care decisions.
- A power of attorney has to be filled out and signed properly before a notary public; if the agent is given power to make gifts over \$500 there has to be two witnesses and a notary.

Health Care Proxy

- A **Health Care Proxy** is a document that lets a person name an agent with the power to make decisions about health care and medical treatment if the person's doctor believes that they are no longer able to make their own health care decisions.
- In order to give legal decision-making authority to a family member or friend, an agent should be appointed as a health care proxy.
- If no one is available or suitable to serve as an agent under a Health Care Proxy, a **living will** can provide clear and convincing evidence of a person's wishes, morals, and religious beliefs about medical treatment.
- Appointing an agent as a Health Care Proxy is the most effective way of maintaining control over decisions about health care and medical treatment.
- A person does not need a lawyer to name someone as health care agent. There needs to be two adult witnesses, other than the proposed health care agent.

For more information and forms, including a health care proxy:

[New York State Department of Health Website](https://www.health.ny.gov/community/advance_care_planning/)

https://www.health.ny.gov/community/advance_care_planning/

Representative Payee for Social Security Benefits

- When an individual who receives Social Security or Supplemental Security Payments cannot manage their benefits by themselves, Social Security will allow a family member, friend or qualified organization, to receive those benefits on behalf of the individual.
- This person is known as a "Representative Payee" and must use the benefits to pay for the individual's current and/or reasonably-known future needs.
- Representative Payees must keep careful records of their use of the individual's benefits and must complete an annual accounting which can be done online at: <http://www.ssa.gov/payee/form/index.htm>.
- For more information about Representative Payees, please go to the Social Security Administrative website: <http://www.ssa.gov/payee/>.

Supplemental Needs Trust

- A supplemental needs trust (SNT) is a trust established to allow people to have excess income or assets and still be eligible to receive government benefits. For example, if a person is currently receiving Medicaid and/or needs Medicaid to receive a home health care aid, they can still be eligible so long as their excess income goes into the SNT. There are different types of SNTs. Some SNTs allow an individual to put their own funds into a trust while other trusts are created by someone else, using their funds.

- To establish an SNT with your own money, there are two types to consider:
 - Individual Trusts: With individual trusts, any money left over after the person passes is used to pay back Medicaid, and if there is still money left over, it then goes to the individual's estate.
 - Pooled Trusts: With pooled trusts, any money left over in the trust goes to the non-profit organization that administers the trust, for the benefit of other individuals.

- To qualify for either type of SNT a person who is the beneficiary must have a legally recognized disability.

- The rules for creating an SNT are complicated, and a lawyer will usually have to help in order to make sure it is created as required by law.

- For more information: <http://wnylc.com/health/14/>

Assisted Out-Patient Treatment (Kendra's Law)

- Assisted Out-Patient Treatment (“AOT”) is available for individuals who have mental health challenges and cannot live in the community independently without being a danger to themselves or others. AOT allows individuals and institutions (such as hospitals) to petition a court for AOT services for the person in need of mental health support services. The goal of AOT is to enable individuals with mental health challenges to live safely in the community, avoid repeated inpatient hospitalizations, and have access to services.

- A person may be ordered to receive AOT if a court finds that the person:
 - Is at least 18 years of age and suffers from a mental illness;
 - Is unlikely to survive in the community without supervision based on a clinical determination;
 - Has a history of non-compliance with treatment, which has led to hospitalizations or resulted in at least 1 act of violence toward self or others, or threats of serious physical harm to self or others;
 - Is unlikely to voluntarily participate in outpatient treatment that would enable them to live safely in the community;
 - Based on treatment history and current behavior, is in need of outpatient treatment to prevent a relapse or deterioration likely to result in serious harm to self or others; and
 - Will likely benefit from AOT.

- Authorized petitioners for a person who needs AOT include:
 - Anybody 18 years of age or older who resides with the person;
 - A parent, spouse, adult sibling, or adult child of the person;
 - The director of a hospital in which the person is hospitalized;
 - The director of any public or charitable organization, agency or home providing mental health services to the person or in whose institution the person resides;
 - A qualified psychiatrist supervising or treating the person;
 - A licensed psychologist or a licensed social worker treating the person;
 - The director of community services, or his or her designee, or the social services official where the person is present;
 - A parole or probation officer assigned to supervise the person.

For more information: https://omh.ny.gov/omhweb/kendra_web/khome.htm

New York Mental Hygiene Law Article 81

Guardianship Forms

At an I.A.S., Part _____ of the
Supreme Court of the State of
New York, County of New York
at the Supreme Court
Building_

on the _____ day of _____, 20_____.

P R E S E N T :

HONORABLE _____
JUSTICE

SUPREME COURT OF THE STATE OF
NEW YORK COUNTY OF _____

-----X

In the Matter of the Application of

[Your Name] Petitioner,

For the Appointment of a Guardian
of the Personal Needs and
Property Management of

ORDER TO SHOW CAUSE
Index No.: _____

*[Name of Alleged Incapacitated Person (AIP) or
Person in Need of a Guardian (PING)]*

An Alleged Incapacitated Person Pursuant to
Article 81 of the Mental Hygiene Law,
Respondent.

-----X

IMPORTANT

AN APPLICATION HAS BEEN FILED IN COURT BY

_____ **WHO BELIEVES YOU MAY BE UNABLE TO**
[Your Name]

TAKE CARE OF YOUR PERSONAL NEEDS OR FINANCIAL AFFAIRS.

_____ **IS ASKING THAT** _____
[Your Name] *[Name of Proposed Guardian]*

BE APPOINTED TO MAKE DECISIONS FOR YOU. WITH THIS PAPER IS A COPY OF THE APPLICATION TO THE COURT SHOWING WHY

_____ **BELIEVES YOU MAY BE UNABLE TO TAKE**
[Your Name]

CARE OF YOUR PERSONAL NEEDS OR FINANCIAL AFFAIRS. BEFORE THE COURT MAKES THE APPOINTMENT OF SOMEONE TO MAKE DECISIONS FOR YOU THE COURT HOLDS A HEARING AT WHICH YOU ARE ENTITLED TO BE PRESENT AND TO TELL THE JUDGE IF YOU DO NOT WANT ANYONE APPOINTED. THIS PAPER TELLS YOU WHEN THE COURT HEARING WILL TAKE PLACE. IF YOU DO NOT APPEAR IN COURT, YOUR RIGHTS MAY BE SERIOUSLY AFFECTED.

YOU HAVE THE RIGHT TO DEMAND A TRIAL BY JURY. YOU MUST TELL THE COURT IF YOU WISH TO HAVE A TRIAL BY JURY. IF YOU DO NOT TELL THE COURT, THE HEARING WILL BE CONDUCTED WITHOUT A JURY. THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE CLERK OF THE COURT ARE:

_____ *[Name, address, telephone of Guardianship Clerk]*

THE COURT HAS APPOINTED A COURT EVALUATOR TO EXPLAIN THIS PROCEEDING TO YOU AND TO INVESTIGATE THE CLAIMS MADE IN THE APPLICATION. THE COURT MAY GIVE THE COURT EVALUATOR PERMISSION TO INSPECT YOUR MEDICAL, PSYCHOLOGICAL OR PSYCHIATRIC RECORDS. YOU HAVE THE RIGHT TO TELL THE JUDGE IF YOU DO NOT WANT THE COURT EVALUATOR TO BE GIVEN THAT

PERMISSION. THE COURT EVALUATOR’S NAME, ADDRESS, AND TELEPHONE NUMBER

ARE: *[Court will fill in the name, address, telephone, email, fax of the Court Evaluator below]*

YOU ARE ENTITLED TO HAVE A LAWYER OF YOUR CHOICE REPRESENT YOU. IF YOU WANT THE COURT TO APPOINT A LAWYER TO HELP YOU AND REPRESENT YOU, THE COURT WILL APPOINT A LAWYER FOR YOU. YOU WILL BE REQUIRED TO PAY THAT LAWYER UNLESS YOU DO NOT HAVE THE MONEY TO DO SO.

You and any other party to this proceeding have the right to:

- Present evidence
- Call witnesses, including expert witnesses, and
- Cross-examine witnesses, even those witnesses called by the court

On reading and filing the annexed petition of _____, duly
[Your Name]
verified on _____, from which it appears that the
[Date you signed the Order to Show Cause]
Alleged Person or Person in Need of a Guardian, is physically present in _____,
[Name of County]
County, State of New York and that the appointment of a Guardian is necessary to provide for
the personal needs and to manage the property and financial affairs of that person; and that
person agrees to the appointment, or that the person is incapacitated as defined in subdivision
(b) of Section 81.02 of the Mental Hygiene Law; and it appearing that the Alleged Incapacitated
Person owns or possesses certain property within the State of New York.

LET _____, the Alleged Incapacitated Person or Person in
[Name of AIP or PING]
need of a Guardian, and those persons entitled to service pursuant to Mental Hygiene
Law Section 81.07(e) and the court evaluator, hereinafter named, *[Court will fill in names]*

SHOW CAUSE before me or the Justice presiding at I.A.S. Part _____ of this court,

to be held in the _____ County Supreme Court, located at _____,
[Name of County] *[Address of Court in Your County]*

on the _____ day of _____, _____, at _____ AM or PM of that day, or as soon
[Court will fill in date and time hearing will take place]
thereafter as counsel can be heard,

WHY a Guardian should not be appointed for the Personal needs and Property
Management of _____ an Alleged Incapacitated Person or Person in Need
[Name of AIP or PING]
of a Guardian, upon the Guardian qualifying in accordance with the statutes of the State of New
York in such cases made and provided; and

WHY a personal needs and property management guardian should not be authorized
to exercise the following powers on behalf of the Alleged Incapacitated Person or Person in
Need of a Guardian if the relief sought in the petition is granted:

PERSONAL NEEDS POWERS

If a Guardian is appointed for you, the Guardian may have the authority to exercise
the following powers over your person: *[List personal needs AIP or PING cannot take care of]*

PROPERTY MANAGEMENT POWERS

If a Guardian is appointed for you, the Guardian may have the authority to exercise the following powers over your property: *[List property/ financial decisions AIP or PING cannot make]*

SUFFICIENT REASON APPEARING THEREFOR:

ORDERED, that _____ of _____,

[Court will fill in name, address, phone, email, fax of Court Evaluator]

is hereby appointed Court Evaluator herein to investigate the claims made in the petition; to determine whether Counsel should be appointed by the Court; and report to the Court the functional abilities and limitations of the Alleged Incapacitated Person in this proceeding; and it is further

ORDERED, that _____ of _____,

[Court will fill in name of AIP's lawyer (if appointed) with address, telephone, email, fax]

New York is hereby appointed Counsel to represent _____ in this proceeding, and it is further *[Name of AIP or PING]*

ORDERED, that service pursuant to MHL § 81.07 (e)(2)(i) of a copy of this Order and of the papers upon which it is granted upon _____ by personal delivery, *[Name of AIP or PING]*

on or before the _____ day of _____, be deemed good and sufficient *[Day]* *[Month, Year]* service, and it is further

ORDERED, that this Order to Show Cause and the papers upon which it is based shall be served personally, by overnight delivery or by fax, pursuant to MHL § 81.07 (e)(2)(ii) upon

_____ the Court Evaluator and _____, the
[Name of Court Evaluator] *[Name of AIP or PING's Lawyer, if any]*

court appointed attorney on or before the _____ day of _____ shall be
[Day] *[Month, Year]*
deemed good and sufficient service; and it is further

ORDERED, that service by mail of the Order to Show Cause and Notice of Proceeding, pursuant to MHL §81.07 (g)(2) upon the following: *[List all Interested Parties, other than AIP or PING, the court evaluator, and the attorney for the AIP or PING, if any]*

E N T E R,

[Judge's Signature] J.S.C.

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF _____
[Name of County]

_____ X

In the Matter of the Application of:

Verified Petition

[Your Name] Petitioner

Index No: _____

For the Appointment of a
Guardian of the Person and/or
Property of

[Name of Alleged Incapacitated Person (AIP)]
A Person Alleged to be Incapacitated

Respondent.

_____ X

TO THE SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF _____

The Petition of _____, as an interested party of the Alleged
[Your name]
Incapacitated Person, _____, respectfully shows as follows.
[Name of AIP or PING]

1. The alleged incapacitated person is _____ years old, and was born on
[Age of AIP or PING]

[AIP or PING Date of Birth]

2. They live at _____.
[AIP or PING Address]

Their telephone number is _____.
[AIP or PING's telephone Number]

[If applicable add:]

_____ is currently a patient at _____,
[Name of AIP or PING] *[Name of Hospital or Facility]*

located at _____, having been
[Address of Hospital or Facility]

admitted on or about _____ . Their room is located at _____.
[Date of Admission] *[Location of Room]*

Their telephone number is _____.
[Area Code and Telephone Number at Hospital or Facility]

3. Describe the marital status of AIP or PING, including spouse's relationship to petitioner, date of marriage, medical and mental status of spouse, and residence of spouse:

4. As described in this petition, _____ is incapacitated in that
[Name of AIP]
they are unable to provide for his/her personal needs and property management and cannot adequately understand and appreciate the nature and consequences of such inability.

5. Describe in detail the AIP's current condition:

6. Describe in detail items illustrating the AIP's inability to function in a manner necessary to prevent harm to themselves (i.e. describe the AIP's inability in some of the following areas: mobility, eating, toileting, dressing, grooming, housekeeping, cooking, shopping, money management, banking, driving or using public transportation, and other activities related to personal needs and to property management):

7. Because of their condition, _____ is unable to
[Name of AIP]
consistently provide for their own personal needs and is likely to suffer harm in the following areas: *[List areas where AIP will suffer harm, for example, proper nutrition, health care and hygiene, safety measure, and living environment]*

8. _____ is likely to suffer harm because he/she cannot
[Name of AIP] adequately understand and appreciate the nature and consequences of their inability to

provide for property management. The specific allegations that demonstrate that

_____ would suffer harm are as follows:
[Name of AIP]

[List in detail AIP's inability to handle various aspects of property management including inability to protect assets and meet financial obligations. For example, inability to attend to financial transactions, balance a checkbook, manage social security check, budget and allocate resources.]

9. In light of the medical conditions and functional limitations listed above, I believe that

_____ is likely to suffer harm and that the least
[Name of AIP] restrictive form of intervention is the appointment of a guardian of the person with the

following powers: *[List personal needs powers court should grant]*

10. In light of the medical conditions and functional limitations listed above, I believe that

_____ is likely to suffer harm and that the least
[Name of AIP] restrictive form of intervention is the appointment of a guardian of the property with the

following powers: *[List property management powers court should grant]*

SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF _____
[Name of County]

-----X

In the Matter of the Application of

[Your Name]
Petitioner,

NOTICE OF PROCEEDING

Index No. _____

For the Appointment of a Guardian for _____
[Name of Alleged Incapacitated Person (AIP)]
An Alleged Incapacitated Person.

-----X

NOTICE OF GUARDIANSHIP PROCEEDING

PLACE OF HEARING:

Date & Time: _____
Honorable _____
Supreme Court _____ County

[Address of Court in Your County]

[Address of Court in Your County]

NATURE OF PROCEEDING:

Article 81 Guardianship Proceeding Seeking the Appointment of a Personal Needs and Property Management Guardian of

[Name of Alleged Incapacitated Person (AIP)]

AIP or PING NAME & ADDRESS:

NAMES & ADDRESSES OF OTHER INTERESTED PARTIES:

Party 1: _____

Party 2: _____

Party 3: _____

Party 4: _____

Party 5: _____

Party 6: _____

PETITIONER'S NAME AND ADDRESS:

DATED: _____, New York

[Your Signature]

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF _____
[Name of County]
_____ X

In the Matter of the Application of:

[Your Name]

Petitioner

For the Appointment of a Guardian of the Person
and/or Property of

[Name of Alleged Incapacitated Person (AIP)]
Person in Need of a Guardian/ Incapacitated Person

Respondent
_____ X

PLEASE TAKE NOTICE that the Order and Judgment Appointing Guardian of which the within is a true copy will be presented for settlement to the

HON. _____, one of the Judges of the within
[Name of Judge]
named Court as the _____

Supreme Courthouse, located at _____,
[Address of Court in your county]

IAS Part _____, on the _____.
[Part of Court] *[Date of Hearing]*

Dated: _____

From: _____
[Your Name]

NOTICE OF SETTLEMENT

Index No:

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF _____
[Name of County]

In the Matter of the Application of: _____ X

Oath and Designation

[Your Name]
Petitioner

Index No:

For the Appointment of a Guardian
of the Person and/or Property of

[Name of Alleged Incapacitated Person (AIP)]
An Incapacitated Person Pursuant to Article 81
Of the Mental Hygiene Law,

Respondent
_____ X

TO THE SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF _____
[County]

_____, being duly sworn, deposes and says:
[Your name]

- OATH OF GUARDIAN:** I am a citizen of the United States and/or reside in New York State, and I am over the age of eighteen years. I will well, faithfully and honestly discharge the trust reposed in me as a guardian for _____, an incapacitated person or
[Name of Incapacitated Person or PING]
person in need of a guardian. I will obey all lawful directions of any court of competent jurisdiction, and I will render a just and true account of all moneys and other property received by me and of my application of the same whenever required to do so by a court of competent jurisdiction pursuant to the aforementioned Order of this court.
- DESIGNATION OF CLERK FOR SERVICE OF PROCESS:** I have been appointed guardian for _____ of _____, New York, an
[Name of Incapacitated Person or PING] *[County]*
incapacitated person, and I do hereby designate the Clerk of the Supreme Court, _____ County and their successor in office, as the person on
[County]
whom service of any process issuing from said court in this proceeding, or in any other proceeding, which shall affect the estate of _____, may
[Name of Incapacitated Person or PING]

be made in like manner and with like effect as if it were served personally upon me whenever I cannot be found and served within the State of New York after due diligence is used. I further advise the said clerk that I am a resident of the State of New York and maintain my home at _____, as appears in the Court Order appointing me guardian.

[Your Address]

DATED: _____,
[Day Month, Year]

_____, New York,
[County]

[Signature]

[Print Name of Guardian]

On the _____ day of _____, in the year _____,
[Day] [Month] [Year]

before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis
[Your Name]

of satisfactory evidence to be the individual(s) whose name is subscribed to the within instrument and acknowledged to me that with their signature on the instrument, the individual(s), or the person upon behalf of whom the individual acted, executed the instrument.

NOTARY PUBLIC

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF _____

[Name of County]

X

In the Matter of the Application of:

COMMISSION

[Your name]

Index No:

Petitioner

For the Appointment of a Guardian of the Person
and/or Property of

[Name of Alleged Incapacitated Person (AIP)]

Person in Need of a Guardian/ Incapacitated Person

Respondent

_____X

THE PEOPLE OF THE STATE OF NEW YORK,
TO ALL TO WHOM THESE PRESENTS SHALL

COME: GREETINGS:

WHEREAS, by Order duly made on _____, and entered in the
[Date of Order]
Office of the Clerk of the County of _____ on _____, in
[Your County] *[Date on Order]*
a proceeding in the Supreme Court entitled, "In the Matter of the Application of
_____,
[Your Name] Petitioner, for the
appointment of a Guardian of _____, an
[Name of Incapacitated Person or PING]
Alleged Incapacitated Person" it was found that the said _____ was duly
[Name of Incapacitated Person or PING]
adjudged to be an incapacitated person on _____, and an order
[Date of Decision]
having been signed by the Honorable _____ on _____;
[Name of Judge] *[Date of Order]*

WHEREAS, _____, _____
[Your Name] *[Your Address]*

was appointed guardian by said Order and was directed to file in the clerk's office of the County of _____ a bond for the security required by law in the sum of \$ _____
[Your County] *[Amount of Bond]*
and on condition that said guardian will in all things faithfully discharge the duties and obey all lawful directions of any court officer of competent jurisdiction pertaining to said trust and render a just and true account of all moneys received and disbursed whenever required to do so by a court of competent jurisdiction; and

WHEREAS, the authority of the guardian shall extend to all of the property of the incapacitated person, both real and personal; and

WHEREAS, the bond has been duly executed and filed with the Clerk of this County; and

WHEREAS, the designation of the clerk of this court has been duly executed and filed in his or her office;

NOW, THEREFORE, KNOW YE, that we have granted, given and committed, and by these presents do give, grant and commit unto the said guardian, the possession, care and management of the estate, real as well as personal, of said incapacitated person;

AND, the Guardian of the Property may, without prior authorization of the court, make reasonable expenditures for the purpose of preserving the property of the incapacitated person;

AND, pursuant to Section 81.20 of the Mental Hygiene Law, the guardian shall:

- (a) exercise only those powers that the guardian is authorized to exercise by order of the court;
- (b) exercise utmost care and diligence when acting on behalf of the incapacitated person;
- (c) exhibit the utmost degree of trust, loyalty and fidelity in relation to the incapacitated person;
- (d) visit the incapacitated person not less than four times per year;
- (e) afford the incapacitated person the greatest amount of independence and self-determination with respect to property management and personal needs in light of that person's functional level, understanding and appreciation of [his or her] functional limitations, and personal wishes, preferences and desires with regard to managing the activities of daily living;

AND, pursuant to Section 81.20 of the Mental Hygiene Law, the guardian shall:

- (a) preserve, protect and account for the incapacitated person's property and financial resources faithfully;
- (b) at the termination of the appointment, deliver the property to the person legally entitled to it; and
- (c) perform all other duties required by law;

AND, pursuant to Sections 81.21 and 81.22 of the Mental Hygiene Law, the guardian shall:

- (a) determine who shall provide personal care or assistance;
- (b) make decisions regarding social environment and other social aspects of life;
- (c) apply for government and private benefits, including Medicaid;
- (d) consent to or refuse generally accepted routine or major medical or dental treatment;
- (e) choose place of abode;
- (f) authorize access to or release of confidential records; marshal income and assets;
- (g) manage income and assets, including paying bills and monthly expenses;
- (h) enter into contracts;
- (i) defend or maintain any civil judicial proceedings;
- (j) retain counsel, subject to court approval of fees;
- (k) retain accountants, investment counsel and similar professionals and pay same;
- (l) sign tax returns and deal with all federal, state and local tax authorities on all claims litigation, settlement and other matters; and
- (m) provide _____ with spending money;
[Name of IP or PING]

AND, the duration of the appointment of the guardian is indefinite [if applicable: or for a period of _____ years];

AND, upon the death of the incapacitated person, the guardian shall have the authority to pay for the reasonable funeral expenses of the incapacitated person;

AND, upon the death of the incapacitated person, the guardian shall have authority to pay the bills of the incapacitated person which were incurred prior to the death of the incapacitated person, provided the guardian would otherwise have had the authority to pay such bills;

AND, all persons are hereby directed and commanded to deliver to the guardian, upon demand and presentation of a certified copy of the commission, the property of the incapacitated person of every kind and nature which may be in their possession or under their control.

WITNESS, the Honorable _____, one of the Justices of the
Supreme Court of the State of New York, at the Courthouse, in the County of _____,
this _____ day of _____.

BY THE COURT

CLERK OF THE COURT

COUNTY OF _____
[County of Court]