

GUIDE TO GUARDIANSHIP

**For Lay Guardians
Appointed Under Article 81 of the
New York State Mental Hygiene Law**

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TABLE OF CONTENTS

<u>Chapter 1:</u>	
What is a Guardian?	1
Section 1.1: When Is A Guardian Needed?	1
Section 1.2: Two Basic Types of Guardianship	2
Section 1.3: Making Decisions for Your Ward	3
1.3a How can I make decisions that take my ward's wishes into account?	3
1.3b Why does the court remain involved in my ward's case now I am the Guardian?	4
1.3c Getting help and guidance from experts in the court house.	4
1.3d What is the Index Number?	5
<u>Chapter 2:</u>	
From Court Hearing to the Guardianship Commission	6
Section 2.1: The Order and Judgment	6
2.1a: How can I get a copy of the Order and Judgment?	7
2.1b: What information is in the Order and Judgment?	7
2.1c: How do I use the Order and Judgment?	8
Section 2.2: The Oath and Designation	8
2.2a: What information is in the Oath and Designation?	8
2.2b: Where can I get an Oath and Designation?	8
Section 2.3: The Fiduciary Bond	9
2.3a: How do I get a bond?	9
2.3b: How much does a bond cost?	9
2.3c: Where do I file the bond?	10
Section 2.4: The Guardianship Commission	10

<u>Chapter 3:</u>	
The First 90 Days: From the Commission to writing the Initial Report	11
Section 3.1: Start-Up Duties of All Guardians	11
3.1a: How can I take care of my duties and also get ready to write the Initial Report?	12
<u>Chapter 4:</u>	
The Guardian for Personal Needs	14
Section 4.1: Limitations of Personal Needs Guardians	14
4.1a: Can I ask the Judge to change the Order and Judgment?	15
Section 4.3: Detailed Tasks of Guardians for Property Management	15
<u>Chapter 5:</u>	
The Guardian for Property Management	16
Section 5.1: Things Guardians for Property Management May Not Do	16
Section 5.2: Guardians Must Spend Their Ward’s Money Wisely	17
Section 5.3: Detailed Tasks of Guardians for Property Management	17
5.3a: Establishing a Guardianship Checking Account	17
5.3b: Identifying Sources of Income	18
5.3c: Identifying Your Ward’s Eligibility for Public Benefits	18
5.3d: Arranging for Pre-need Burial Expenses	18
5.3e: Becoming Representative Payee for Government Income Checks	18
5.3f: Paying Bills	19
5.3g: Paying Outstanding Debts	19
5.3h: Arranging For Your Ward’s Mail to Be Re-Directed To You	20
5.3i: Finding Bank Accounts with Help from the IRS	20
5.3j: Locating Other Unclaimed Property	21
5.3k: Looking For Safe Deposit Boxes	21
5.3l: Locating Insurance Policies	21
5.3m: Identifying All Investments	21
5.3n: Identifying Valuable Personal Items	22
5.3o: Looking For Valuable Documents	22
5.3p: Locating Real Property	22
5.3q: Filing Tax Returns	22
5.3r: Spending Down Your Ward’s Assets	23
<u>Chapter 6:</u>	
The Initial and Annual Reports	24

Section 6.1: What Information Must Be Included In The Reports?	24
Section 6.2: Asking For Reimbursement of Your “Out-Of-Pocket” Expenses	25
Section 6.3: Asking for Changes in the Guardian’s Power	25
6.3a: Can Guardians Ask For Changes when There is an Emergency?	26
6.3b: Who Should Receive My Initial or Annual Reports?	26
6.3c: What happens to the Reports after I file them?	27
Section 6.4: The Initial Report	28
Section 6.5: The Annual Report	30
<u>Chapter 7:</u>	
Ending a Guardianship	32
Section 7.1: The Final Accounting	32
7.1a: Who should receive a copy of the Final Accounting?	34
<u>Attachments:</u>	35
One: List of County Clerks and Guardianship Offices In Metropolitan Area Courts	37
Two: Bonding Agencies	38
Three: Medical Terminology and Abbreviations	39
Four: Caring for People who are Mentally or Physically Disabled	43
Five: Medicare	45
Six: Medicaid in New York State	49
Seven: Resource Directory for Guardians	52
• General Information & Resources	
• Information & Resources Related to Housing	
• Services for People over the Age of 60	
• Organizations for Specific Diseases and Conditions	
• Services for People with Mental Retardation and Developmental Disabilities	
• Services for People with Mental Disabilities	
Eight: Mental Illness and Assisted Outpatient Treatment	59

Nine:	Explanation of Words Used in Guardianship	61
Ten:	Sample Letter to Creditors	63
Eleven:	Funeral & Burial Planning	65
Twelve:	Report Writing	71
	<ul style="list-style-type: none"> • Information Needed for Writing an Annual Report • FAQS & Tips for Writing an Annual Report • Sample cover letter to Health Care Professionals • Sample report for Health Care Professionals 	
Thirteen:	Sample Guardianship Forms	77
	<ul style="list-style-type: none"> • ORDER AND JUDGMENT • COMMISSION • OATH AND DESIGNATION • STATEMENT IDENTIFYING REAL PROPERTY • INITIAL REPORT • GUARDIAN’S ANNUAL REPORT (ANNUAL ACCOUNTING) • STATEMENT OF DEATH • FINAL ACCOUNTING 	79 87 89 92 95 109 117 121

Chapter 1: What is a Guardian?

A guardian is an adult who is selected by a judge to make decisions for another person who needs help managing finances and making personal care decisions. Guardians are usually appointed to care for adults but sometimes parents or other family members of a child with a severe disability are appointed guardian to take care of the child throughout the child's lifetime.

Example: Guardianship for an Older Adult

Sylvia, a 92-year-old widow with dementia caused by Alzheimer's Disease, recently ended up in a nursing home after she broke her hip. Sylvia's home, in which she lived until her accident, is in bad shape. Unfortunately she does not have the means to have it repaired—she will not be able to return there. But now that she feels better she wants to leave the nursing home. Sylvia's niece, who lives in Brooklyn, applied to the court to become guardian for her aunt. After she was appointed she made arrangements for Sylvia to move to an assisted living residence, where she will have her own room and will have much more freedom of movement than she has in the nursing home. Sylvia is delighted and looks forward to her new home.

Example: Guardianship for a Young Child

Owen, who is now 4-years-old, has severe brain damage as a result of lack of oxygen during his birth. His mental age is six months and he is not going to develop further. Recently, Owen got a large sum of money as a result of a lawsuit that was brought against the hospital where he was born. The money was placed in a special trust account that will provide for his needs as he grows older. Since Owen will never be able to care for himself, he needs someone else to take care of him and manage his money. Owen's aunt, with whom he lives, applied for guardianship so that she will be able to make all personal care decisions for him, manage his money, and apply for the government benefits he may be eligible for.

Section 1.1: When Is A Guardian Needed?

Adults generally have the right to decide how to conduct their lives as they see fit. But some adults lose the ability to make decisions because of illness, injury or advanced age. When that happens a guardian may be needed to help them. New York State laws make sure that the rights of adults to act and decide for themselves are not taken away lightly or accidentally or because someone else wants to take advantage of a vulnerable person.

Before someone is appointed guardian for another person, a judge must find out what the real situation is of the person who needs help by getting information from different people who know the person. This helps the judge to determine whether a guardian is needed and what sort of help the person needs. The law requires that judges give a guardian **ONLY** those powers that are absolutely necessary to take care of the particular needs of the person who needs help. Because each person's situation is different, the duties of each guardian are different.

Section 1.2: Two Basic Types of Guardianship

Under Article 81 of the Mental Hygiene Law there are two types of guardianship:

- A Guardian for Property Management has the power to manage finances.
- A Guardian for Personal Needs has the power to make personal care decisions.

Sometimes a guardian is given both powers and sometimes the judge appoints two different guardians for the two different jobs, who then must work together to manage the affairs of their ward. The judge also has the option to appoint a "standby guardian" who automatically can take over when the original guardian can no longer carry out his or her duties or has died.

NOTE: The person for whom a guardian is appointed is usually called the Incapacitated Person or "the IP" or "the ward." The judge who appointed the guardian is sometimes referred to as the court.

Example: Limited Guardianship for an Older Adult

Mrs. Smith lives alone and remembers to visit her doctor regularly to check her diabetes. However, she keeps losing her Social Security checks and forgets to pay her rent and other bills. Because the landlord is trying to evict her, the court has appointed Mrs. Smith's daughter, Gladys, as Guardian for Property Management to take care of her mother's financial affairs. The judge has decided that Mrs. Smith does not need a Guardian for Personal Needs at this time. As a result, Mrs. Smith stays in her own apartment and makes her own personal care decisions. Because her daughter is now managing her money Mrs. Smith does not have to worry about bills or filling out health insurance forms. Gladys can rest easy, knowing that her mother will not be evicted from her apartment.

Section 1.3: Making Decisions for Your Ward

When the judge appointed you guardian the court gave you a big responsibility: **to care for someone else who cannot care for him or herself**. Much of what you will do as guardian is what you have already been doing for your ward—the things that come naturally when taking care of a family member or friend in need. But once you become the guardian for your relative or friend, your relationship with your loved one is no longer just personal because the court remains involved and oversees your actions to make sure that you do a good job and your ward is well cared for.

Guardians must do everything they can to make plans for their wards in the **least restrictive manner**. This means that you must involve your ward when you must make decisions for him or her by asking your ward for his or her opinion. In addition you must always make sure that your ward is able to live in ways that offer the greatest amount of freedom. For instance, if a choice must be made for your ward to stay at home with home care or to be moved to a nursing home, your ward probably would choose to stay at home—this would also be the least restrictive choice.

Making important decisions for your ward can be quite stressful and difficult because things may happen that don't fit neatly into your plan. Your loved one may be unhappy because you are now making decisions that he or she used to make alone and other relatives may be resentful of the fact that you now have special authority that they don't have.

Section 1.3a: How can I make decisions that take my ward's wishes into account?

First, you should ask your ward what he or she wants—for instance, where to live, how much time a home care worker should be present in your ward's home, or whether or not to go to a day program. Even when you can't do everything your ward wants, you should still keep him or her involved in making decisions that are simpler and give your ward some choice.

If your ward cannot talk or communicate, there may be other ways to determine what your ward wants. For instance, you may have letters written by him or her, or you or other relatives or friends may have memories of conversations that will help you decide what has been important to your ward in the past. Then, perhaps you may be able to make a decision in line with how he or she used to live.

If your ward needs medical care and still can make decisions, you should urge the doctors and hospitals to follow your ward's decisions. But if your ward cannot communicate, you need to check whether he or she has written a "living will" or a "health care proxy". A living will is a document in which your ward wrote down what he or she would or would not like to have done at the end of life. A health care proxy is a document in which your ward may have appointed another person to make health care decisions. If your ward has a health care proxy, you should contact the person named in that document and ask him or her to make the necessary decisions.

Section 1.3b: Why does the court remain involved in my ward's case now I am the Guardian?

Once a court has found that someone needs a guardian the court will continue to review what the guardian does to make sure that the incapacitated person is well cared for. All guardians must therefore learn what the law and the court expect of them. As part of their oversight responsibilities the courts demand that guardians report to the court on a regular basis.

Section 1.3.c: Getting help and guidance from experts.

The Judge's Law Clerk

Each judge has at least one law clerk who works with the judge on the judge's cases. The law clerks are lawyers and they can be very helpful when you have specific questions about your ward's case. You can find out who the law clerk is for the judge in your case by asking any officer in the court house for the law clerk's name and phone number.

The Court Clerk or Guardianship Office

The court in each county has its own administrative procedures and rules, and each court has different departments that specialize in guardianship issues. County clerks, guardianship clerks, or court clerk specialists are some of the titles of the clerks that can be helpful to you and can guide you through the first difficult months. (In Attachment One you will find a list of clerks in the court houses in the metropolitan area.)

The clerks are available whenever you have questions about court rules or the steps you must take while carrying out your duties outlined in the Order and Judgment. The clerks keep files on all cases, including your ward's case. The files contain the originals of all papers that were generated in your ward's case, such as the Petition, the court evaluator's report, the Order and Judgment, the Oath and Designation, the bond, the Guardianship Commission, and all reports you have submitted. You can also get copies of forms from the clerks. In addition, any time you want to see what is in your ward's files, you may go the clerk's office and look at the entire file – you are also allowed, for a fee, to make photo copies of any document that is in your ward's case file.

The Court Examiner

Though the Court Examiner is not an employee of the Court, s/he is the individual who will be reviewing your reports. Contact information generally can be found on the signed Order & Judgment. This individual will not be able to offer legal advice but may offer some general information and guidance. The Chapter on Reports provides additional details.

NOTE: Whenever you contact the judge's law clerk or the county clerk you should have **your ward's "index number"** available. The index number, sometimes called the "docket number", is printed on all legal papers. When

you go to the county clerk's office you must always bring **your own picture ID** with you.

Section 1.3d: What is the Index Number?

The index number is the number that enables the court to find the document in the files that are kept in the county clerk's office. Index numbers are always located in the right hand corner of the first page of each legal document. When you write the judge or contact his or her law clerk you should always include the index number so that the judge or the law clerk can quickly find your ward's files. You should make it a habit to use the index number on all your letters and other official correspondence.

Chapter 2: From Court Hearing to the Guardianship Commission

Even though the judge at the hearing appointed you to be the guardian for your ward, you cannot officially act as guardian until you have obtained your **Guardianship Commission**. But before you can get your “Commission,” as it is usually called, you must take care of some important paper work. Don’t get too discouraged at this point—the next couple of months may be a little bit confusing but once you have your “Commission,” things will be easier. If you follow the steps outlined below you will get your Commission about three months after the hearing.

The documents that you must get before you can obtain your Commission include:

- An **Order and Judgment**, signed by the judge
- A **Designation**, sometimes called an “Oath and Designation,” signed by you before a Notary Public
- A **Fiduciary Bond** (if the judge orders you to get one)

NOTE: These documents must be filed with the county clerk in the courthouse where you had your hearing (in some counties the county clerk is called the “Guardianship Clerk” or the “Guardianship Part Clerk.”). Your lawyer may complete all or some of the tasks listed above.

Section 2.1: The Order and Judgment

The Order and Judgment signed by the judge is the document containing the judge’s decision that a guardian is needed for an incapacitated person, what general and specific duties the guardian has, and who the guardian is. At the end of the hearing the judge usually asks the lawyer for the petitioner or a lawyer for one of the other parties, to write the Order and Judgment and send it to the judge to be signed. After the judge has signed it, it is filed in the county clerk’s office. In some counties this may take 90 days or more. If it is taking too long, contact the lawyer to see what is causing the delay. (See Attachment Eleven, page 62 for a sample copy of an Order and Judgment.)

NOTE: If there is some reason that the judge wants you to be able to take care of your ward’s affairs immediately, the judge may sign a so called “Interim Order” in which the judge authorizes you to do something right away for your ward. Interim Orders remain in effect until the judge has signed the final Order and Judgment.

Section 2.1a: How can I get a copy of the Order and Judgment?

The lawyer who is writing the Order and Judgment may send you a copy in the mail, but if you don't get a copy from the lawyer you should call the county clerk's office to find out if the Order and Judgment has been filed yet. (Some county clerks do not want to answer questions by phone and you may have to go to the courthouse to see the county clerk in person to get the information you need.)

Section 2.1b: What information is in the Order and Judgment?

The Order and Judgment states that you have been appointed the guardian of your loved one. It also describes in detail what you must do as guardian. Because each case is different, the Order and Judgment is written to describe your ward's case. It is an important document for you—even if it is difficult to read. You should keep the Order and Judgment in a safe place together with all the other official papers you will get that are described in the next pages.

Each paragraph that begins with the words “Ordered and Adjudged” will tell you a specific thing the judge has decided you must do. For instance, it will tell you:

- What type of guardian you are (for Property Management, Personal Needs, or both)
- Whether you must get a bond, and if so for how much
- Whatever else the judge expects you to do on behalf of your ward
- The name and address of the court examiner who reviews your reports
- The fee for the petitioner's attorney and the court evaluator for the work they have done on your ward's case (these fees must be paid out of your ward's funds)

If you have difficulty finding these sections you should ask the lawyer for help or the staff in the county clerk's office to explain them to you.

Section 2.1c: How do I use the Order and Judgment?

The Order and Judgment is your proof that you have been appointed by the court to manage your ward's affairs and what sort of authority you have. You therefore need the signed Order and Judgment when you contact a bonding agency to apply for a bond if the judge ordered you to get one. It is also an important document when you have to do business for your ward with banks, brokerage houses, medical facilities and other institutions. In addition, the Order and Judgment is an important guide for you throughout your guardianship because it outlines what the judge expects from you.

Section 2.2: The Oath and Designation

The Oath and Designation (sometimes just called the "Designation") gives the county clerk the power to accept legal papers on behalf of your ward in case you cannot be found. When an Oath and Designation form is used guardians must also promise the court that they will follow the Order and Judgment faithfully, honestly, and with care. (See Attachment Eleven, page 72 for a copy of an Oath and Designation.) You must sign the Oath and Designation in the presence of a Notary Public and once it is signed, you must file it in the county clerk's office.

Section 2.2a: What information is in the Oath and Designation?

In the Oath and Designation you state that:

- You are going to carry out your responsibilities honestly, that you will be careful with your ward's money, and that you will report regularly on what you have done to care for your ward's person and property;
- You are over 18 and a US citizen or you have a green card;
- You agree that the county clerk may be served with any legal papers if you cannot be found.

Section 2.2b: Where can I get an Oath and Designation?

You can usually get a blank copy of the Oath and Designation from the county clerk's office in the courthouse.

Section 2.3: The Fiduciary Bond

A fiduciary bond is court-ordered protection, a form of insurance. It is not protection for the guardian but it is protection for the person who needs a guardian. By issuing a bond the bonding agency agrees to repay the ward any money that might be lost because of the guardian's actions or mistakes. Fiduciary bonds are also called "surety bonds" but in general they are usually just called "bonds."

Not every guardian must get bonded. Guardians for Personal Needs usually do not have to get a bond, but most Guardians for Property Management do, unless the ward's assets are very limited and the judge decides that a bond is not needed. The Order and Judgment is the document that states the judge's decision about whether or not you must get a bond and, if so, for how much.

NOTE: If you are required to get a bond, **you must get one as soon as possible** because you cannot get your Guardianship Commission without it.

Section 2.3a: How do I get a bond?

Bonds are issued by a bonding agency. You must call a bonding agency as soon as possible after you have received the signed Order and Judgment. Check with the bonding agency to find out if you can submit your application by mail, phone or fax. Remember, when you contact the bonding agency you must have the Index Number available. When you apply for a bond you must show the agency a copy of the Order and Judgment, since it is the document that states what the amount is of the bond. (See Attachment Two on page 36 for a list of bonding agencies).

Whether the bonding agency permits you to be bonded depends on **your** financial situation. The bonding agency wants to know whether you are financially responsible - it will check your credit rating, your income and resources, whether or not you have any debt, and whether you have ever filed for bankruptcy. If the bonding agency decides for any reason that you are not a good financial risk, it will not bond you.

NOTE: If you cannot get a bond because the bonding agency has refused to give you one, you should immediately notify the judge. Judges sometimes will reduce the bond so that the bonding agency will accept you and sometimes the judge will waive the bond requirement altogether. However, in some cases the judge will appoint someone else as Guardian for Property Management.

Section 2.3b: How much does a bond cost?

The amount you have to pay to get a bond and maintain it, the annual premium, is based on a percentage of the value of your ward's property and income. The amount of the bond is set by the judge; the amount of the

premium is set by the bonding agency. Annual premiums must be paid out of your ward's assets.

If you paid the initial premium for establishing the bond out of your own funds, you can ask for reimbursement when you submit your Annual Report. Make sure that you keep receipts!

NOTE: If the value of your ward's assets changes after you have been bonded, you must tell the judge who will order you to obtain another bond to reflect the change.

Section 2.3c: Where do I file the bond?

After you have received the bond from the bonding agency, you must file it together with the signed and notarized Oath and Designation with the county clerk's office. In some counties the bond must first be reviewed and approved by the guardianship office, before it can be filed with the county clerk. Check with the county clerk in your county to see what the local practice is there. Remember to keep a copy of the bond and the Oath and Designation for your records.

NOTE: You may get your Guardianship Commission from the county clerk on the same day that you file the bond and Oath and Designation.

Section 2.4: The Guardianship Commission

The Guardianship Commission is the official document that gives guardians the legal power to act on behalf of another adult - it is the paper you have been waiting for and it is your proof that you have the power to decide and act for your ward in those areas the court has ordered. In most cases the Commission is attached to the Order and Judgment. (See Attachment Eleven, page 70 for an example of a Guardianship Commission.)

Once the county clerk has given you the signed Guardianship Commission, you should make at least two copies and have each copy certified at the county clerk's office. Attach your certified commission to the Order and Judgment. You may need an original certified copy of the Commission for each bank, brokerage house, or other financial institution, hospital or nursing home or any other important organization or facility where you must transact business for your ward. When you show your certified Commission to any party, you should ask them to make their own copy for their files so that you can take your own certified copy back home with you. They also may request a copy of the Order and Judgment.

NOTE: The word "commission" is sometimes confusing since it also refers to court-approved compensation (payment) for work done by the guardian. But in general, a Commission is the document that provides proof that you have been appointed guardian for someone else.

Chapter 3: The First 90 Days: From the Commission to writing the Initial Report

Now that you have your Commission in hand you can start to make decisions for your ward the way the judge wants you to. The first 90 days after you received your Guardianship Commission are important since you are learning the rules of the law and become familiar with the requirements of the court AND you are also expected to find out how you can best care for your ward. At the end of those first 90 days you are expected to write your Initial Report to the court.

Since your job is limited to what the judge put in the original Order and Judgment you must keep this document handy so that you can refer to it any time you have a question. Some of the things you must do during the first 90 days after you have received your Commission are very general and some depend on whether you are a Guardian for Property Management or for Personal Needs, or both. You should follow the list below as you start your work as a guardian.

Section 3.1: Start-Up Duties of All Guardians

As guardian, regardless of whether you are a guardian for Personal Needs or Property Management, you must:

- Visit your ward at least once during the first 90 days (the law requires you to visit at least four times per year)
- Attend a guardianship training program, which explains your responsibilities as guardian
- See whether you can find a will, living will, health care proxy or other contract created by your ward
- Determine what services and programs your ward needs
- Start making a plan for your ward's care
- Set up a system to keep all documents and papers in a safe place
- Keep receipts of all payments you make for your ward
- At the end of the first 90 days you must submit your Initial Report to the court

Section 3.1a: How can I take care of my duties and also get ready to write the Initial Report?

Once you start to carry out your duties, it is wise to keep notes of everything you do on behalf of your ward. Many guardians buy a notebook for this purpose in which they write down what they have done for their ward, whom they have spoken with, the names of people and institutions they have contacted and their phone numbers and addresses. A good habit would be to write the date down for each activity you describe in your notebook – such notes to yourself are important reminders that you can use later when you start writing your Initial Report and the Annual Reports you are expected to submit in the following years.

When you visit your ward or when you undertake any task on behalf of your ward you should write down what you have done and for what purpose. When you visit your ward you should write some of your observations down. A Guardian for Personal Needs might ask for example:

- How well is your ward doing?
- Is he or she clean, well groomed, content?
- Has he or she been ill?
- How well are his or her personal and medical needs addressed?
- Are there major changes in his or her condition for better or for worse?
- What additional services and medical care does your ward need?
- What appointments must be made for your ward.
- What questions you may have for your ward's caregivers (doctors, nurses, homecare workers, therapists).
- The names, addresses and phone numbers of your ward's doctors; social workers; homecare agencies; and other relevant information.
- A list of all medications your ward is currently taking, including prescription drugs and over-the-counter medications - include how often and how much each medication is taken.

In addition to keeping a notebook you should also get in the habit of keeping all important papers together in one place, starting with your Order and Judgment and everything else that you will receive from the court over time. Other important papers you must save in a safe place are the documents you may find in your ward's home, such as: insurance papers, a will or testament, a health care proxy or living will, tax filings, contracts, and anything else you find among your ward's papers. Some guardians use a large plastic container

to keep all their documents in, others designate a drawer in a file cabinet they may have.

Guardians for Property Management also must keep all bank statements, invoices and receipts for money they spend either out of their own funds or out of their ward's funds.

NOTE: Having good notes and receipts and documents will make your task much easier in the long run when you must write your Initial and Annual Reports to the court about the actions you have taken on behalf of your ward.

Chapter 4: The Guardian for Personal Needs

If you are your ward's Guardian for Personal Needs, the judge has given you the power and duty to make personal decisions for your ward in just those areas the judge decided your ward needs. And because the law says that wards must be given as much physical freedom and freedom of choice as possible, you are required to involve your ward as much as possible when decisions must be made. Examples of such personal decisions are generally those most people make for themselves in ordinary life.

Example: Guardian for Personal Needs

John Barnes is a retired merchant marine who lives alone in a small walk-up apartment in Brooklyn. John is known to many neighbors on his block because he is always willing to do small chores for them. Lately the neighbors have noticed that John is not looking well, his clothes are dirty, and he has lost a lot of weight. Recently John was hospitalized when he broke his hip falling on the icy street in front of his apartment. At the hospital the doctors found him confused and suffering from malnutrition. John was sent to a nursing home to learn to walk again. The staff there felt that he should not go home again because he was too frail to live alone. The nursing home applied to have a guardian appointed for John. At the hearing the judge found John to be frail but also noticed that he very much wanted to go back home again—he hated to be in the nursing home. At the hearing John agreed that he would accept a guardian to help him and that he would accept home care to make it possible for him to live alone. His next door neighbor, Harry, was appointed Guardian for Personal Needs to help John live at home, to obtain homecare for him, and to make sure that John goes for regular doctor visits and obtains the medications he needs. The judge found that John is still able to take care of his financial affairs and did not give Harry the power for Property Management.

The Order and Judgment will give you directions about your duties as Guardian for Personal Needs. For example, the judge may have given you power to make all of the decisions listed below, or just some of them:

- Where your ward will live
- Whether your ward must have home care
- Who will provide personal care or housekeeping assistance
- Whether or not your ward may have a driver's license or travel
- What social environment and social life your ward may have
- What, if any, education or training your ward may have
- What sort of medical care decisions you may make for your ward

Section 4.1: Limitations of Personal Needs Guardians

Guardians are always limited in what they are allowed to do by the Order and Judgment. Below are examples of things guardians **may not do without court approval**.

- Take away any powers or rights from the ward that the judge has not approved beforehand
- Move the ward to another home or a nursing home. In the order this will be called “changing the place of abode” of the IP.
- Involuntarily committing the IP to a mental health or substance abuse facility or forced treatment with psychiatric medications, with out an order from the Mental Hygiene Court
- Revoke a will, health care proxy, living will, power of attorney, or other contract that the ward made before a Guardian was appointed
- Obtain a divorce on behalf of the ward

NOTE: In general, guardians with medical decision-making power have the right to make routine and some major health care decisions for their wards (such as agreeing to surgery). Under the Family Health Care Decision Act of 2010, Guardians are now able to make end of life decisions.

Section 4.1a: Can I ask the Judge to change the Order and Judgment?

Yes, if you believe that a change is needed and have a good reason, you can always ask the judge for a change. For instance, if you think that your ward must be moved to another residence or facility, or needs other services and interventions that are not listed in the original Order and Judgment, you should discuss this with your lawyer or you may write the judge yourself or call the judge’s law clerk. You should explain why you are asking for the changes - the judge must approve them before you can make the changes.

Section 4.2: Detailed Tasks of Personal Needs Guardians

- Visit your ward **at least** four times per year. Best practice is monthly visits.
- Develop, implement and monitor a care plan
- Keep a list of all medications and dosages
- Make sure that all benefits and entitlements have been obtained and the required authorization continues
- Maintain a list of all health care professionals and their contact information
- Keep a log of all visits to health care professional

Chapter 5: The Guardian for Property Management

If you are Guardian for Property Management, you must now start to manage the income and assets of your loved one. Taking control of your ward's property is called "marshalling the assets." In general, the rule about managing another person's assets is to be very careful in how you spend or invest your ward's money.

Newly appointed Guardians for Property Management have distinct responsibilities that are different from Guardians for Personal Needs. Before you start working on the various tasks you might want to review the Order and Judgment. This document is your guide.

NOTE: Whenever you do business for your ward, you must bring a certified copy of your Order and Judgment and Commission with you to prove that you are authorized by the court to act on behalf of your ward.

Section 5.1: Things Guardians for Property Management May Not Do

Guardians for Property Management are limited in what they are allowed to do by the Order and Judgment. Below are examples of things guardians may not do without court approval:

- Take away any powers or rights from your ward that the judge has not approved beforehand
- Sell your ward's real estate or keep your ward's real estate in your own name rather than in your ward's name
- Combine your own money with that of your ward, even if you had a joint bank account with your ward before the guardianship
- Use your ward's funds for your own purposes, or borrow from your ward
- Make investments that are risky
- Hire professionals or special experts, for example an accountant to file income tax returns, unless the judge has given you permission to do so
- Revoke a will, power of attorney, or other contract that your ward made before you were appointed

NOTE: If you believe that you have a good reason to do something that is not listed in the Order and Judgment, for instance, if you have to manage substantial assets, you may want to ask the court for permission to hire an investment broker or other financial manager to help you. You should contact your lawyer if you have one and ask for advice or ask the judge's law clerk for guidance by explaining why you believe that the Order should be changed.

Section 5.2: Guardians Must Spend Their Ward's Money Wisely

Guardians are supposed to spend their wards' money wisely and make it last as long as possible. Without the judge's prior approval you should be careful about buying very expensive items for your ward, even if you think that your ward has enough money to pay for it or deserves it. Examples of such major expenses are:

- Rebuilding your ward's home to make it wheelchair accessible
- Buying a special van to transport your ward
- Trying some alternative medical treatment for your ward that is not likely to be covered by your ward's medical insurance
- Taking an expensive vacation with your ward

NOTE: When you are thinking about buying something very expensive your ward needs or could benefit from, you should get it approved ahead of time by the judge. If you don't get prior approval, the court examiner, who reviews all reports, may not approve of the purchase of the item and demand that you pay this expense out of your own funds.

Section 5.3: Detailed Tasks of Guardians for Property Management

The authors are indebted to Leona Beane, Esq. who developed the list of tasks described in this section and gave permission to adapt the list for this manual.

Section 5.3a: Establishing a Guardianship Checking Account

Identify all bank accounts owned by your ward (checking, savings, money market, etc.). Divide any joint accounts and separate your ward's share from it. Close your ward's accounts and open a guardianship checking account with your ward's Social Security Number on it and with your name as Guardian in the title.

Example: The Guardianship Account

Joe Smith became the guardian for his wife Jane, who has Alzheimer's disease. Although the couple always had a joint bank account, now that Joe has become Jane's guardian, he must open a separate bank account for his wife. This new account has Jane's social security number on it but the account is in Joe's name as guardian for an incapacitated person. Here is how the account is titled: "Joe Smith as Guardian for Jane Smith, an Incapacitated Person".

NOTE: If your ward had arranged for direct deposit of income checks (Social Security, SSI, VA checks, and pensions) you need to open the Guardianship Account **first** and then request that the income checks be re-directed from the old account into the Guardianship Account. Once the checks are being deposited into the new account you can close the old one.

Section 5.3b: Identifying Sources of Income

Identify all sources of your ward’s income: pension benefits; rental income from tenants; interest income from investments; Social Security Income; Supplemental Security Income; veteran’s benefits. Make a list, describing each source and the monthly amount your ward receives and arrange for all income to be deposited into the guardianship account.

If any public benefit checks are missing, arrange for the checks to be reissued.

Section 5.3c: Identifying Your Ward’s Eligibility for Public Benefits

If your ward does not currently receive public benefits but may be eligible, you must apply for them on behalf of your ward.

Section 5.3d: Arranging for Pre-need Burial Expenses

If your ward receives Supplemental Security Income or Medicaid or if you are applying for these benefits or are engaged in “Medicaid Planning,” you are permitted to open a separate Guardianship savings account with no more than \$1,500 as a special burial account. This account may generate interest and grow over time but you may never use it during your ward’s lifetime – it is a set aside for your ward’s future funeral expenses. In addition to a separate burial savings account, you also may obtain an irrevocable burial trust, arrange for a pre-paid funeral with a funeral home, or purchase a cemetery plot. You may want to discuss this with the judge’s law clerk before you make the decision and spend your ward’s funds.

NOTE: Medicaid Planning is the process of preparing to apply for Medicaid with the assistance of an attorney who is a specialist in Medicaid law. See also section 5.3r: Spending Down Your Ward’s Assets on page 23.

Section 5.3e: Becoming Representative Payee for Government Income Checks

If your ward receives Social Security benefits or Supplemental Security Income you should apply to be appointed Representative Payee (for VA benefits the Representative Payee is called “Fiduciary”) and have the checks automatically deposited into the guardianship account. If your ward lives in a nursing facility or a residence for people with disabilities, you may prefer to have the facility or residence become Representative Payee. That way the

nursing home will receive the money and you don't have to manage it and pay the nursing home each month.

Example: The Nursing Home as Representative Payee

Mary Elkins and her disabled brother John have lived together for many years. Ever since she turned 65, Mary had the Social Security Administration deposit her Social Security check and John's SSI check into a joint bank account. Now that John has been placed in a nursing home and Mary has become John's guardian, either Mary or the nursing home can apply to the Social Security Administration to become John's Representative Payee. If the nursing home becomes the Representative Payee the nursing home will use the money for John's monthly nursing home cost and will then apply for additional Medicaid coverage. Mary will only gain access to John's Medicaid-approved personal allowance to be used for John's personal needs. This arrangement will make managing John's funds very easy for Mary.

Section 5.3f: Paying Bills

You must assess your ward's monthly expenses and arrange to have these met. Include payments for rent, food, clothing, pet care, housekeeping and personal care providers, social activities, educational programs, medical expenses, and care of dependents (if ordered by the judge). Request that all recurring bills (such as those for utilities and rent) be re-directed to you so that they can be paid in a timely fashion. Identify non-recurring bills and arrange for payment. Examples of non-recurring bills are doctor's bills, payroll taxes and related expenses for household employees. You may set up a local account with a grocery store or arrange for petty cash for homecare workers to make your life a little easier. If your ward is able to manage a small amount of money you may arrange for weekly spending money so that he or she still has some independence.

NOTE: You should always pay by check rather than cash since it is extremely difficult to account for cash payments when you write your reports to the judge. If you need to pay by money order, write down on the receipt what the payment was for. And, if you must pay with cash ask that the recipient sign a receipt for you.

Section 5.3g: Paying Outstanding Debts

Identify all current debt and arrange for payment. Include court ordered payments to various professionals who were involved in the guardianship process. Check your Order and Judgment for the names of the people who must be paid and the amount of their fees.

If your ward receives Social Security benefits or Supplemental Security Income and has no financial assets, your first obligation is to ensure that your

ward's monthly expenses are covered, such as for shelter, food and clothing. Guardians should advise all creditors that their wards are not capable of paying their outstanding debt by sending the creditor a letter explaining the ward's situation and the fact that you are now Guardian and Representative Payee for your ward. A copy of a sample letter to creditors can be found in Attachment Ten on page 60.

NOTE: Creditors can usually gain access to your ward's income before you can. However, creditors **cannot** gain access to your ward's government income checks. Furthermore, if your ward had received an "overpayment" from Social Security or SSI, and must pay the overpaid amount back to the Social Security Administration you should negotiate a monthly payment that is as small as possible so that you can pay your ward's ordinary monthly expenses without too much hardship.

Section 5.3h: Arranging For Your Ward's Mail to Be Re-Directed To You

Personal mail can just be forwarded to you but official mail like bills and other statements should be addressed to you "as guardian for [your ward's name]", similar to the title on the guardianship account.

Section 5.3i: Finding Bank Accounts with Help from the IRS

Example: Looking for Bank Accounts

Rudi Johnson received his Commission to act as guardian for his Uncle Jacob a week ago. Since his uncle always was secretive about his finances Rudi has no idea how much money his uncle has and where his bank accounts are located, but he wants to be sure that his uncle's funds are safe from people who have abused Uncle Jacob in the past. The first thing Rudi must do is to find Uncle Jacob's bank accounts and close them so that Uncle Jacob and the people who took advantage of him, no longer have access to the money.

One of the most difficult tasks guardians usually face is to find all the assets and sources of income of their ward. A good source of help for guardians is the **Internal Revenue Service**, which regularly receives information on all tax payers who own bank accounts or who have income from wages, pensions, or investments. If you think your ward may have bank accounts you cannot find, you may fill out IRS Form 4506T (Request for Transcript of a Tax Return). Check item #8 on the Form. After about two months the IRS will send you a report on all banks and other financial institutions that have submitted financial information to the IRS on accounts owned by your ward. There are also private agencies that will do this faster for a fee.

NOTE: IRS forms are available through its website: www.irs.gov, or by calling 1-800-829-3676. Whenever you mail a letter or form to the IRS you should attach a copy of your certified Guardianship Commission and sign your letter or form as “Guardian”.

Section 5.3j: Locating Other Unclaimed Property

In addition to searching for your ward’s active bank accounts, you may want to search for other unclaimed property that is owned by your ward, such as unclaimed tax refunds, insurance reimbursement, and neglected bank accounts. In New York State you may try www.osc.state.ny.us. For property in other states you may try the website of the National Association of Unclaimed Property Administrators, www.naupa.org.

Section 5.3k: Looking For Safe Deposit Boxes

Check with the bank to find out if your ward had a safe deposit box and arrange with the bank to make an inventory of its contents. If the safe deposit box is jointly held with someone else, separate your ward’s valuables from those of the other person and rent a separate box for your ward.

NOTE: You should check your Order and Judgment to see if the judge ordered you to check the contents of a safe deposit box. If it is not in the original Order you may need a special court order to gain access to the safe deposit box.

Section 5.3l: Locating Insurance Policies

Identify all insurance policies; make a list and include the name of the company and the policy number. Policies may include household, valuable items, liability, life, fire, auto, long term care, and medical insurance. Notify the companies of your guardianship appointment and request that all correspondence be re-directed to you.

Section 5.3m: Identifying All Investments

Identify all stocks, bonds, mutual funds, and investment accounts your ward may have established in the past. Make a list of each with the name of the security, policy number, and current value. Notify all companies of your guardianship appointment (send them a copy of your Certified Commission) and request that all correspondence be re-directed to you. If your ward’s assets are complicated, request permission from the judge to hire an investment broker or accountant to manage your ward’s assets.

If stock certificates cannot be located, arrange for an indemnity bond.

Section 5.3n: Identifying Valuable Personal Items

Identify all valuable property at your ward's home: include jewelry, art, fine rugs, coins, stamp collections, silverware, and cash. You should have the items appraised for their estimated value and if they are not insured, you should insure them. Make sure that you make a list of all of the items.

Section 5.3o: Looking For Valuable Documents

Search for important documents among your ward's papers. Look for a will, a health care proxy, a living will, a power of attorney and anything else you think may be important. Put these documents in a safe place.

Section 5.3p: Locating Real Property

Identify any real estate owned by your ward and file a "Statement Identifying Real Property" with the **Property Recording Office of the county where the property is located**. These documents must be signed by you in front of a Notary Public. Real property must be kept in your ward's name. If your ward owns a co-op apartment you must notify the Co-op Board of your appointment and ask to have any mail re-directed to you. (See Attachment Eleven, page 75 for a copy of a Statement Identifying Real Property.)

NOTE: If you wish to sell the property you must first get permission from the judge. Before you sell the property the judge may want it to be appraised by an appraiser who is listed on a court approved list and the judge will establish the fee for the appraiser.

Section 5.3q: Filing Tax Returns

File federal, state and local tax returns before April 15th of each year. If you cannot file your ward's taxes on time you may file for a six months extension, using IRS Form 4868, called an Application for Automatic Extension of Time. Tax returns must be filed in your ward's name and social security number, but they must be signed by you as "**Guardian for [name of your ward], an incapacitated person.**" You should attach a copy of your certified Commission to the tax returns you file for your ward. If your ward missed filing tax returns in previous years the IRS will notify you and demand that these be filed as soon as possible. Request that the IRS waive penalties for late filing and send the IRS a copy of your Certified Commission to show that your ward is an incapacitated person and was incapable of filing taxes previously.

NOTE: If you need help with your ward's taxes you should ask permission from the judge to hire an accountant. If the judge approves your request, the judge will set the accountant's fee which then can be paid out of your ward's assets.

Section 5.3r: Spending Down Your Ward's Assets

As you are spending your ward's assets on his or her care you must make a plan for your ward's future financial needs. This may require you to engage in Medicaid planning if your ward's assets are close to being depleted. You should discuss Medicaid planning with an **elder law attorney** familiar with Medicaid. Medicaid is an important medical insurance program that covers extensive home care and nursing home care for New Yorkers who have depleted their assets and have become indigent. (See Attachment Six on page 47 for more information on Medicaid.)

Chapter 6: The Initial and Annual Reports

All guardians must regularly report to the court. These reports give the court information about your ward and how well you are taking care of your ward's affairs, what your plans are for your ward, how much money your ward has, and anything else that gives the judge a good sense that your ward is well cared for. The reports must be written in a court approved form. Copies of forms are located in Attachment Eleven and additional copies can be obtained from the Guardianship Part or the Court Clerk in your courthouse.

- **The Initial Report** is the first report you must write 90 days after you received your Commission. This report is meant to be a picture or “snapshot” of your ward's situation at the beginning of the guardianship. (See Attachment Eleven, page 78 for a blank copy of an Initial Report.)
- **The Annual Report**, sometimes called the “Annual Accounting” is always due in May and covers the previous calendar year from January 1 through December 31. The period between the Initial Report and the Annual Report is the time in which you continue to care for your ward according to the judge's orders and the plans you outlined in your Initial Report. (See Attachment Eleven, page 92 for a copy of an Annual Report.)

Section 6.1: What Information Must Be Included In The Reports?

The judge will want to know that your ward is in good hands and that you are doing everything for your ward the way the judge had ordered. When you prepare to write your reports, you should first re-read the Order and Judgment so that you know exactly what the judge has given you the power to do and then start filling in the sections listed in the report forms. (This is the time where you will find that you will greatly benefit from having made personal notes and having kept receipts and all statements, invoices and bills.)

NOTE: Most guardians find that some sections of the report forms are not relevant in their particular ward's case. If you don't fill out a section because it does not apply, you should write in that section the words: **NOT APPLICABLE. Never leave a section in the form blank.**

Section 6.2: Asking For Reimbursement of Your “Out-Of-Pocket” Expenses

In your reports you may ask for reimbursement of expenses you have paid out of your own funds on behalf of your ward. Below are some examples of expenses for which you may be reimbursed, **but you can only get reimbursed if you kept the receipts and if your ward has assets.**

- Lost wages while you were taking care of your ward’s affairs
- The fee you paid to attend the required guardianship training
- Taxi fares, gas, mileage, or parking for your car to take your ward to the doctor or any other appointment
- The cost to photocopy papers and have them certified
- The cost of obtaining a bond, if the judge ordered you to get one
- Any payments you have made from your own funds to buy supplies and services for your ward for which you have saved the receipts

Section 6.3: Asking for Changes in the Guardian’s Power

The time to ask for a change in the Order and Judgment is when you submit your Initial or Annual Report. Changes may be needed in the Order and Judgment over time for any number of reasons. For instance a person, who was hurt in an accident may recover and be able to do more things for him or herself. In that case the Guardian’s powers could become less over time. On the other hand, some wards become more frail over time and may be less able to manage some of their affairs - in that case, the Order may be changed to give the guardian additional powers that are needed.

If you have good reasons to ask the judge for a change in your powers and you have a lawyer you should ask him or her to write a request to the judge giving all the reasons why you think the change in the Order and Judgment is needed. But family guardians without a lawyer may write the judge themselves to ask for a change in their powers. Before you write the judge you may want to call the judge’s law clerk and explain what it is you would like to do – law clerks can be very helpful to you since they work closely with the judge and assist the judge with all legal questions and issues. If you don’t have good reasons for the changes you request, or if the judge disagrees with you because he or she feels that your plan is not in the best interest of your ward, the judge will not approve them.

Example: The Judge's refusal to change the Order and Judgment

Three years ago Donald was appointed guardian for Personal Needs and Property Management for his mother, Millie, who lives in her own apartment in Brooklyn. Millie is doing very well, especially now that she has a home attendant three times per week. Two years ago Donald moved with his new wife to Long Island. He now wants to move Millie to an assisted living residence near his home. Having Millie nearby will make it much easier for Donald and his wife to supervise home care aids and to visit his mother frequently. Donald has asked for a change in the Order and Judgment, permitting him to move Millie to Long Island. But there is a big problem: since Millie is very happy in her apartment in which she has lived for many years and because she likes the home attendant, she does not want to move. Because the law requires that wards must be consulted about where they want to live, the judge decides that Millie should not be moved and denies Donald's request to change the Order and Judgment.

Section 6.3a: *Can Guardians Ask For Changes at Any Other Time?*

Yes, most judges will permit guardians who have an emergency to write a letter explaining why the Order needs to be changed and asking for the judge's approval before the reports are due. Before you write the judge you should call the judge's law clerk and ask him or her for guidance.

Example: Changing the Order and Judgment in an Emergency

John is his mother June's guardian for Personal Needs. His mother still lives in her own apartment but she has advanced cancer in addition to her dementia. June's doctor has advised John that his mother must be placed in a nursing home to receive care from nurses and other specialists and have access to medicines to control her pain. The judge's Order and Judgment does not give John the power to place his mother in a nursing home. However, John does not have to wait until the time he has to submit his Annual Report. John can write the judge a letter asking that the judge change the Order now so that June can be admitted to the nursing home immediately.

Section 6.3b: *Who Should Receive My Initial or Annual Reports?*

Once you have finished writing either one of the reports you must sign it in the presence of a Notary Public. The notarized copy must be filed with the office of the county clerk. You should either hand deliver the original report to the county clerk or mail it by certified mail, return receipt requested. You should also mail a photo copy of the report to:

- The court examiner who has been assigned to your ward's case. The court examiner's name is usually located in the Order and Judgment, but if it is not you can contact the county clerk's office to find out who the court examiner is for your ward's case.
- Your ward, unless the judge ordered you not to do so in the Order and Judgment.
- The court evaluator who reported to the court during the hearing (Initial Report only).
- Any attorney who represented your ward at the hearing (Initial Report only).
- The bond company, if you were required to get a bond (Annual Report only).
- If your ward lives in a home for people with disabilities, or another similar type of residence, you must send a copy of the report to the administrator of the residence.
- If your ward lives in a mental health facility, you must send a copy of the report to the Director of Mental Hygiene Legal Services.

In Brooklyn, Queens and Staten Island this person is:

Lesley Magaril De Lia, Director
 Second Judicial Department, Mental Hygiene Legal Services
 170 Old Country Road
 Mineola, NY 11501

In Manhattan and the Bronx this person is:

Marvin Bernstein, Director
 First Judicial Department, Mental Hygiene Legal Services
 60 Madison Avenue, 2nd Floor
 New York, NY 10010

Section 6.3c: What happens to the Reports after I file them?

All reports are reviewed by the court examiner who must make sure that the reports present information on all the tasks that were listed in the original Order and Judgment and that the accounting of how you spent your ward's funds is accurate and acceptable. You may be asked to change the report if the court examiner believes that changes are needed. The court examiner may also call you and ask you questions by phone or ask you to come to his or her office. After the court examiner has approved your report he or she will send a summary to the judge.

Section 6.4: The Initial Report

The Initial Report is also called the “90-day Report” since it must be submitted 90 days after the day that you received your Commission.

All Guardians Must Include The Following Information In The Initial Report:

- What type of guardian you are—for personal needs, property management, or both
- Whether you have completed a guardianship training program (you must attach a copy of the certificate of attendance to your report)
- Your ward’s age and where your ward lives
- The name of the facility or residence where your ward lives, if your ward does not live at home
- How often you have visited your ward during these first 90 days—you must have visited at least once
- A list of important documents you have found that your ward signed in the past, such as power of attorney, a will, a health care proxy, or a living will
- What plans you have to take care of your ward in the immediate future
- Whether there have been changes in your ward’s situation since the hearing

Guardians for Personal Needs Must Provide the Following Information:

- The names and addresses of your ward’s personal doctor and psychiatrist or psychologist
- The doctors’ diagnosis
- A list of other professionals or service agencies that provide services to your ward (home care agencies, meals on wheels, social services). You should list each one with an address and phone number
- A list of day care programs your ward attends regularly with their names and phone numbers
- A list of medications your ward is currently taking

Guardians for Property Management Must Provide Detailed Financial Information on:

- Bank accounts your ward owned at the time of your appointment as guardian (include the name of the bank, the account number and the amount of money in each account)
- Whether you have opened a Guardianship Account
- A list of stocks, bonds, other securities that you have found, and whether you have changed the title of the accounts to your name as guardian
- A list of any other funds you have found, where they were located, what their value is, and what you have done with these funds
- A list of other personal property—such as a car, furniture, jewelry, and artwork—with a description, their location, and their value
- A list of real property your ward owns including the location, the type of property it is, and its value
- A list of the sources of your ward’s monthly income, including the source and the amount each month
- A list of other income, such as interest or dividends
- A list of any debts or unpaid bills, including who needs to be paid and how much
- Any public benefits you have applied for
- Whether you have applied for insurance on behalf of your ward
- Your ward’s insurance policies (medical, longterm care, homeowner’s, auto, valuable items, art work, life insurance)
- Whether your ward has a safe deposit box, including the name of the bank, the address, and whether or not you have been able to see its contents and determine their value

NOTE: When you submit your report you should attach all receipts, invoices and bank statements so that the court examiner can easily review how you have spent your ward’s money.

Section 6.5: The Annual Report

NOTE: The Annual Report is always due in May and covers the previous calendar year (January 1 through December 31). Of course, for your very first Annual Report you are only expected to provide information covering the period starting with the date you received your Commission through December 31.

All Guardians Must Provide The Following Information In The Annual Report:

- The dates (at least four a year) you have visited your ward and where you saw your ward.
- Any big changes you have observed in your ward's situation or condition since the last report.
- When your ward last saw a doctor. Include the reason for the visit and the doctor's diagnosis and treatment plan (if there is one).
- A report on the condition of the ward from a professional (doctor, psychologist, nurse clinician, or social worker) who has examined or evaluated the ward in the three months prior (February, March, or April) to the submission of the Annual Report.
- Facts on which any change in your powers might be based, including ending of the guardianship.

Guardians for Personal Needs Must Also Include:

- A list of medical treatments your ward received since the last report.
- Your plan to take care of your ward's medical, dental, and mental health needs for the next year.
- Information about the social condition of your ward, including what social and personal assistance he or she has received and what your ward's social skills and social needs are.

Guardians for Property Management Must Include:

- A copy of the federal, state, and local tax returns you filed for your ward before April 15 of the same year.
- A detailed accounting of all income received and all expenses paid.
- Whether your ward was employed or whether he or she has earned wages that you have received on behalf of your ward (this applies usually to people with disabilities who are employed in supervised job situations).

- A request for reimbursement for out-of-pocket expenses you have had while taking care of our ward's affairs.
- A request for your compensation or fee, also called "commission", if the judge had ordered it in your Order and Judgment (you are not obligated to get payment but you may accept it if the judge had ordered it).

NOTE: When you write your Annual Report you should make sure that the amounts add up properly so that the court examiners will not find fault with your report. You should attach any vouchers, bank statements, and any other documents that you can provide to show proof of the information you have provided.

Chapter 7: Ending a Guardianship

All guardianships eventually must come to an end. Of course, there are several reasons why guardianships must end. Examples are:

- The ward has died
- The ward no longer needs a guardian
- The guardian has a personal reason (for example, is moving to another state) or is no longer able to perform all the duties that are required
- The judge wants to end the guardianship because he or she is dissatisfied with the guardian

NOTE: Whatever the reason is for ending the guardianship, **you may not just stop on your own.** In order to formally end your responsibilities you must ask the judge to discharge you.

If your ward has died you must send the judge a copy of the Death Certificate. You must also inform all other relevant parties such as: the Social Security Administration or the Veterans Administration, your ward's pension plan, Medicaid if your ward was receiving Medicaid benefits, the executor of your ward's estate or the Public Administrator, if your ward did not have a will, and of course next of kin. All parties should be sent a copy of your ward's Death Certificate.

If you were your ward's **Guardian for Property Management** your obligation to manage your ward's funds is now greatly reduced - from now on you are only allowed to pay some outstanding bills for services rendered while your ward was still alive (for instance homecare expenses), the annual premium for the bond which remains in effect until you are officially discharged, and your ward's funeral bills. All other financial management tasks must be turned over to the executor of your ward's estate or to the Public Administrator, if your ward did not have a will.

Upon the death of the I.P (ward), the guardian must perform specific duties within a certain time frame. This includes:

- Preparing a "Statement of Death" (see explanation below)
- Serving and filing the statement to the court examiner and whoever is responsible for taking care of the deceased estate such as the "personal representative," public administrator or someone else legally responsible. (see explanation below) *This is to be done within 20 days of your ward's death.*
- Preparing a Statement of assets and notice of claim and serving the personal representative or public administrator.

- Turning over all property to the “personal representative” or public administrator except for the property that the guardian needs to retain for known debts and administrative fees. *This is to be done within 150 days of your ward’s death.*
- Completing the necessary steps to file a final account. *This is to be done within 150 days of your ward’s death.*

Statement of Death

A "Statement of Death contains:

- The caption and index number of the guardianship proceeding.
- It also will have the name and address of the last residence of the deceased incapacitated person
- The date and place of death.
- The names and addresses of all the people named in the Order and Judgment
- The name of the “personal representative,” if any.

Personal Representative

"Personal representative" is the person who has been legally authorized to marshal the assets of the deceased person.

Public Administrator or Chief Fiscal Officer of a County

In the event there is no Personal Representative or anyone else named in a will or trust, a public official should receive the Statement of Death and Statement of Assets and Notice of Claim.

Statement of Assets and Notice of Claim

This a written statement under oath containing the caption and index number of the guardianship proceeding, the name and address of the incapacitated person at the time of death, a description of the nature and approximate value of guardianship property at the time of the incapacitated person's death; with the approximate amount of any claims, debts or liens against the guardianship property, including but not limited to Medicaid liens, tax liens and administrative costs, with an itemization and the approximate amount of such costs and claims or liens.

NOTE: Though many of your duties after your appointment as a guardian can be done without hiring a lawyer to assist, you may want to hire one to handle the termination of the guardianship. These steps may be complicated and may require professional assistance.

Section 7.1: The Final Accounting

Guardians for Property Management must file a report which is called a Final Accounting which has to cover financial information covering the period between the end date of your last Annual Report and the date of your ward's death. You should include a request for any reimbursement or payment that is still outstanding. On page 99 is a copy of a Final Accounting form.

Section 7.1a: Who should receive a copy of the Final Accounting?

The original Final Accounting Report is filed with the county clerk and copies of it must be submitted to:

- The court examiner
- Every one that received your Annual Reports
- The executor or administrator of your ward's estate
- The Office of Legal Affairs of the Human Resources Administration if your ward received Medicaid services

After the court examiner has evaluated and approved the Final Accounting, the judge will issue an Order discharging you as guardian. The judge will also decide who will be paid from any funds that remain in your ward's estate.

NOTE: The bond will not be terminated until after the Final Accounting has been filed and the court examiner has approved it. Once the judge has issued an Order discharging you as guardian, you may send the bonding agency a copy of the judge's Order and ask that the bond be terminated.

Attachments

List of County Clerks and Guardianship Office in Metropolitan Area Courts

Bonding Information

Medical Terminology and Abbreviations

Caring for People who are Mentally or Physically Disabled

Medicare

Medicaid in New York State

Resource Directory for Guardians

Mental Illness and Assisted Outpatient Treatment

Explanation of Words Used in Guardianship

Sample Letter to Creditors

Funeral & Burial Arrangements

Report Writing Information

Sample Guardianship Forms

One: List of County Clerks and Guardianship Offices in Metropolitan Area Courts

Brooklyn

KINGS COUNTY SUPREME COURT

360 Adams Street, Brooklyn, NY 11201

County Clerk's Office (347) 404-9818, Room: 122B

To file the Oath and Designation, the bond, get your Guardianship Commission, have copies certified, and file your reports

Guardianship Office, (347) 296-1757, Room 850

To have your bond reviewed and approved, to obtain copies of forms and for general information

Bronx

BRONX COUNTY SUPREME COURT

851 Grand Concourse, Bronx, NY 10451

Guardianship Department (718) 618-1330 Room 221

To get forms, ask questions and file reports

County Clerk's Office, Room 118

For bond approval and filing, to file your Oath and Designation and to get your Guardianship Commission and have it certified

Manhattan

NEW YORK COUNTY SUPREME COURT

60 Centre Street, New York, NY 10007

Guardianship and Fiduciary Support Office (646) 386-3328, Rm. 148

To get copies of forms, file reports, and general information

County Clerk's Office (646) 386-5936, Room 141B

To file the Oath and Designation and the bond, get your Guardianship Commission, and obtain certified copies of it.

Staten Island

RICHMOND COUNTY SUPREME COURT

18 Richmond Terrace, Staten Island, NY 10301

Guardianship Office (718) 675-8586, 25 Hyatt St. 4th Floor

To get forms, ask questions, and file all reports

County Clerk's Office (718) 390-5389

130 Stuyvesant Place, Room 101, Staten Island

Use this office to file Oath and Designation and get your Guardianship Commission

Motion Support Office 130 Stuyvesant Place, Room 302

Use this office to file a Motion

Queens

QUEENS COUNTY SUPREME COURT

88-11 Sutphin Boulevard, Jamaica, NY 11435

Guardianship Office, (718) 298-1040, Room 22A

To pick up forms, file the Oath and Designation and the bond, get your Guardianship Commission and certified copies of the Commission, file reports and ask questions

Two: Bonding

Property guardians are often ordered to obtain a “surety bond” or a “fiduciary bond,” not to be confused with “bail bonds” or investments such as “municipal bonds.”

If you are required to have a bond, you may have to ask a lawyer to help you get the bond. Lay guardians who are not represented by a lawyer may find very difficult to get a bond. Bonding agencies will want to see all the court papers. Guardians will need to complete an application regarding their personal financial information. In order to be issued a bond, guardians need an excellent credit rating. The guardian may also need to provide certified financial statements indicating sufficient net worth to cover the amount of the bond.

Should the guardian wish to try to get a bond without a lawyer, bonding agencies are listed in the Yellow Pages or by searching for names on the internet. Make sure they provide “fiduciary bonds” for lay guardians.

See Manual Section 2.3 for additional discussion on bonds.

Three: Medical Terminology and Abbreviations

NOTE: These terms are useful when you want to read medical charts in hospitals or nursing homes.

<u>TERM</u>	<u>EXPLANATION</u>
AGNOSIA STIMULUS	LOSS OF ABILITY TO INTERPRET SENSORY
ANEURYSM OF	A SAC FORMED BY THE DILATION OF THE WALLS AN ARTERY
APHASIA	LOSS OF LANGUAGE
APRAXIA	LOSS OF MOTOR PLANNING ABILITIES
ATHEROSCLEROSIS	FATTY DEPOSITS ON ARTERY WALLS
CAROTID ARTERY	MAJOR ARTERY IN THE FRONT OF THE NECK PROVIDING BLOOD TO THE BRAIN
DEFICIT	LOSS
DYSARTHRIA	DIFFICULTY IN SPEAKING DUE TO LOSS OF MUSCLE FUNCTION IN MUSCLES INVOLVED IN SPEECH
HEMIPARESIS	WEAKNESS OF ONE SIDE OF THE BODY
HEMIPLEGIA	PARALYSIS OF ONE SIDE OF THE BODY
MONOPLÉGIA	PARALYSIS OF ONE EXTREMITY
MOTOR DEFICITS	LOSS OF MUSCLE CONTROL
PARAPLEGIA	PARALYSIS OF THE LOWER HALF OF THE BODY
QUADRIPLEGIA	PARALYSIS OF ALL FOUR EXTREMITIES
SENSORY DEFICITS	LOSS IN ONE OR MORE OF THE VARIOUS SENSES (SIGHT, TOUCH, HEARING, TASTE & SMELL)
SPINAL TAP (LUMBAR FLUID PUNCTURE)	REMOVAL OF SMALL AMOUNT OF SPINAL FLUID FOR EXAMINATION
STROKE IN EVOLUTION	STROKE OCCURRING SLOWLY WITH DEFICITS
THROMBUS	STATIONARY BLOOD CLOT

MEDICAL ABBREVIATIONS

<u>ABBREVIATION</u>	<u>EXPLANATION</u>
A.B.R.	ABSOLUTE BED REST
A.C.	BEFORE MEALS
ACF	ADULT CARE FACILITY
ADL	ACTIVITIES OF DAILY LIVING
ALC	ALTERNATIVE LEVEL OF CARE
AD LIB	AS DESIRED
B.I.D.	TWICE A DAY
B.P.	BLOOD PRESSURE
C.B.C.	COMPLETE BLOOD COUNT
CHHA	CERTIFIED HOME HEALTH AGENCY
C.N.S.	CENTRAL NERVOUS SYSTEM
CPR	CARDIO-PULMONARY RESUSCITATION
C.V.A.	CEREBROVASCULAR ACCIDENT (STROKE)
CATH	CATHETERIZED
DNR	DO NOT RESUSCITATE
DRG	DIAGNOSTIC RELATED GROUPING
EEG	ELECTROENCEPHALOGRAM
EKG	ELECTROCARDIOGRAM
E.N.T.	EAR, NOSE & THROAT
FX	FRACTURE
H.S.	BEDTIME

MEDICAL ABBREVIATIONS - Continued

<u>ABBREVIATION</u>	<u>EXPLANATION</u>
Hb or Hgb	HEMOGLOBIN
I & O	INTAKE AND OUTPUT
I.C.U.	INTENSIVE CARE UNIT
I.M.	INTRAMUSCULAR
I.V.	INTRAVENOUS
LTHHCP	LONG TERM HOME HEALTH CARE PGM.
N.P.O.	NOTHING BY MOUTH
N.V.D.	NAUSEA, VOMITING AND DIARRHEA
NG	NASO-GASTRIC FEEDING TUBE
OD	DAILY
O.D.	RIGHT EYE
O.S.	LEFT EYE
O.U.	BOTH EYES
OOB	OUT OF BED
OS	MOUTH
OT	OCCUPATIONAL THERAPY
P.C.	AFTER MEALS
P.O.	BY MOUTH
P.R.N.	WHENEVER NECESSARY
PCA	PERSONAL CARE AIDE
PRI	PATIENT REVIEW INSTRUMENT
PT	PHYSICAL THERAPY

MEDICAL ABBREVIATIONS - Continued

<u>ABBREVIATION</u>	<u>EXPLANATION</u>
q.	EVERY
q.2h	EVERY TWO HOURS
q.d.	EVERY DAY
q.h.	EVERY HOUR
q.i.d.	FOUR TIMES DAILY
q.o.d.	EVERY OTHER DAY
ROM	RANGE OF MOTION
\bar{C}	WITH
S, \bar{S} , \dot{S} , \bar{S}	WITHOUT
S.O.B.	SHORTNESS OF BREATH
SNF	SKILLED NURSING FACILITY
STAT	AT ONCE
T.I.A.	TRANSIENT ISCHEMIC ATTACK
T.I.D.	THREE TIMES A DAY
T.P.R.	TEMPERATURE, PULSE, RESPIRATION
UR	UTILIZATION REVIEW
W.N.	WELL NOURISHED
WC	WHEEL CHAIR

Four: Caring for People who are Mentally or Physically Disabled

Communicating

- Address the person by name to get attention
- Maintain eye contact when talking
- Prevent distractions
- Approach the person from the front
- Communicate clearly by using concrete but simple language
- Use repetition
- Give praise for or recognition of accomplishments
- Validate feelings
- Show compassion
- Discuss as few topics at one time as possible
- Simplify difficult tasks and don't do too many at once
- Set limits
- Be consistent
- Ensure predictability (routines are important)
- Maintain a relaxed environment
- Reduce loud extraneous noise
- Keep the environment well lit
- Make sure that light shines on your face

Reducing the Risk of Falls

The bathroom

- Use non-skid rugs
- Use rubber mats in the bathtub
- Install grab bars
- Use a bench in the shower
- Replace a tub with a shower if possible

The kitchen

- Do not use high gloss floor wax
- Keep a clear path

The bedroom

- Keep a night light on
- Avoid small area rugs

The living room

- Keep electrical cords out of the way
- Avoid clutter on the floor
- Ensure adequate lighting

Hallways

- Mark the stairs with contrasting colors

Emergency Response System

People who are at risk of falls may agree to install a lifeline response system, by which a beeper, worn on the person, is connected by remote control to the telephone. If the person falls, he or she can beep for assistance, which activates the phone and alerts a central response system to the need for assistance.

Five: Medicare

Medicare is a national program that is the same throughout the United States. Medicare beneficiaries are usually enrolled in parts A, B, and D of the Medicare Program.

Medicare Part A - The Hospital Insurance Program

Medicare Part A covers substantial hospital care but covers very limited:

- Nursing Home Care
- Home Health Care
- Hospice Care

Medicare Part B – The Medical Insurance Program

Medicare Part B services are primarily provided on an outpatient basis and not in the hospital. Part B services must be medically necessary and reasonable. Services that are not considered medically necessary and reasonable, or that are considered preventive or routine are generally not covered.

Medicare Part B coverage includes:

- a. doctors' services;
- b. therapists' services: physical, occupational, speech pathology;
- c. clinical social worker;
- d. clinical psychologist;
- e. outpatient hospital services;
- f. rural health clinic services;
- g. outpatient rehabilitation facility services;
- h. limited ambulance services;
- i. X-ray treatment;
- j. radiation treatment;
- k. prosthesis;
- l. braces;
- m. medical equipment;
- n. supplies;
- o. home health services;
- p. mammography screening annually for women 40 and older;
- q. one pair of conventional eyeglasses after a cataract surgery;
- r. injectable drugs for bone fracture related to postmenopausal osteoporosis;
- s. flu, pneumococcal and hepatitis B vaccines;
- t. pap smear screenings and pelvic exams;
- u. anti-cancer drugs administered orally;
- v. colorectal, prostate cancer and glaucoma screenings;
- w. bone mass measurement;
- x. diabetes self-management educational and training services and medical nutrition therapy;
- y. blood glucose monitoring and testing strips for all diabetics.

Specific Exclusions are:

- a. dental care
- b. eye examinations
- c. eyeglasses, except for glasses needed after a cataract operation
- d. hearing tests and hearing aids
- e. routine physical examinations
- f. general foot care, except that Medicare will pay for therapeutic shoes and shoe inserts for patients who have severe diabetic foot disease
- g. most care received outside of the United States (Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands and American Samoa or considered the United States)

Medicare Part D – The Prescription Drug Program

Medicare’s Prescription Drug Program began on January 1, 2006. Part D covers outpatient prescriptions through many private insurance companies, each with its own set of drugs it will or will not cover. When choosing or changing a specific drug plan, the beneficiary should look at the plan’s list of covered drugs, also called “formulary” to make sure that the prescriptions needed by the patient are all covered by the plan. You can read more about the various drug plans in New York State by checking www.medicare.gov. You may also want to contact the Health Insurance Information, Counseling, and Assistance Program (HIICAP) for assistance on Medicare and other insurance programs at 1-800-701-0501 or by checking its website: www.aging.ny.gov/healthbenefits.

NOTE: New York State has its own prescription drug plan for New York State residents 65 and older whose annual income is less than \$35,000 for an individual and \$50,000 for a couple. This plan is called **Elderly Pharmaceutical Coverage Insurance** or **EPIC**.

Home Health Care Services

Before a patient can obtain home health care, he or she must meet five qualifying conditions:

- The patient must be “homebound” as defined by Medicare.
- The services are provided under a physician’s plan of care and reviewed every two months.
- The services are provided by a certified home health agency or a long term home health care program.
- The services are “Reasonable and Necessary” for treatment of a patient’s illness or injury.
- The patient needs “intermittent skilled” nursing services or physical therapy, speech therapy or has a continued need for occupational therapy.

NOTE: Non-medical or custodial care is not covered unless the patient also needs skilled care.

When Is a Patient Considered “Homebound” For Medicare’s Purposes?

In order to be considered homebound the patient should generally be confined to the home but the patient does not have to be bedridden. A patient may leave the home and still be considered “homebound” as long as

- 1) Absences are to obtain medical treatment, including attending adult day services; and
- 2) Non-medical absences are infrequent or for a short duration. Non medical absences that will not affect the patient’s homebound status include attending a religious service, family reunion, graduation, and funeral, taking a walk, drive, or trip to get a haircut for instance.

What Kind Of Home Health Services Does Medicare Cover?

Once a beneficiary has met the qualifying conditions listed above, Medicare will cover the following services:

- Part-time or intermittent skilled nursing care and home health aide services;
- Physical, speech and occupational therapy;
- Medical social services; and
- Medical supplies and equipment.

NOTE: Medicare generally does not cover non-skilled care, such as the care provided by a home attendant or housekeeper.

What Is Meant By "Intermittent Skilled Nursing Care"?

Intermittent skilled nursing care is care that is needed less than seven days each week and can be provided safely on a very limited (intermittent) basis. This means that a person who has Alzheimer’s disease and who is otherwise healthy but needs someone to watch him or her constantly, make lunch, give showers, and help in general with the activities of daily living will not be eligible for Medicare-covered home health care.

MEDICARE PART A INTERMEDIARIES

INSURANCE COMPANY	TYPE OF CLAIMS PROCESSED	AREA SERVED
Empire Medicare Services P.O. Box 4846 Syracuse, NY 13221 800-442-8430 www.empiremedicare.com	Most hospital inpatient and outpatient services and all skilled nursing facility (SNF) claims	Most of New York State
United Government Services P.O. Box 2019 Milwaukee, WI 53201 800-531-9695 www.ugsmedicare.com	Home health and hospice claims	Entire New York State

MEDICARE PART B CARRIERS

INSURANCE COMPANY	TYPE OF CLAIMS PROCESSED	COUNTIES SERVED
Empire Medicare Services P.O. Box 2280 Peekskill, NY 10566 800-442-8430 www.empiremedicare.com	Medical services, including doctors and diagnostic tests outside of hospital	New York City (except Queens), counties of Columbia, Delaware, Dutchess, Greene, Nassau, Orange, Putnam, Rockland, Suffolk, Sullivan, Ulster, and Westchester
Group Health, Inc. (GHI) P.O. Box 1608 Ansonia Station New York, NY 10023 800-632-5572 www.ghimedicare.com	Medical services	Queens
Upstate Medicare Division 33 Lewis Road P.O. Box 5200 Binghamton, NY 13902 800-252-6550 www.umd.nycpic.com	Medical Services	Rest of New York State not serviced by Empire and GHI
Health Now NY, Inc. DMERC Division P.O. Box 6800 Wilkes-Barre, PA 18773 800-842-2052 www.umd.nycpic.com	Durable medical equipment (i.e. wheelchair, hospital bed) and related services	Entire New York State

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Six: Medicaid in New York State

The Medicaid program is different for each state. Each Medicaid recipient gets a permanent, plastic identification card that must be presented when services are required. In New York State Medicaid pays doctors, hospitals, nursing homes, home care agencies and other providers directly, provided they have agreed to accept Medicaid clients and Medicaid payment as payment in full. Medicaid will not pay for services of a provider who has not registered in the Medicaid program.

Providers are not required to participate in the Medicaid program. If they do, they must accept all Medicaid recipients as patients. Recipients, therefore, should be sure to find out in advance if a provider accepts Medicaid before obtaining treatment. If the provider does not accept Medicaid, the recipient of services is personally liable for any part of the bill not covered by other insurance.

How to Apply for Medicaid

Medicaid, like all “means-tested” programs where eligibility is based on income and assets, requires extensive documentation to establish eligibility. Proof is required to verify identity, residence, citizenship, disability (if the applicant is under 65 and is claiming to have a disability), marital status, income and resources and, in some cases, other information which may be necessary for an eligibility determination.

Examples of the kinds of documentation that may be submitted to verify the eligibility requirements are:

1) Personal identification

- birth certificate
- baptismal certificate
- hospital certificate of birth
- passport or immigration papers
- current driver's license
- Medicare card

2) Income statements for the last three months

Documentation must be submitted to verify all sources of earned and unearned income. The applicant's total monthly income will be compared against the Medicaid income standard to determine if the applicant has excess income. Applicants with excess income are offered Medicaid under the Surplus Income Program. Examples of documents related to income include:

- award letter from a benefits program
- copy of check from benefits program
- pay stubs showing earnings
- bank statement of interest earned

3) Asset and Resource statements for the last 36 months

Medicaid requires all applicants to open their financial history to a review process. The purpose of this audit is to allow the Medicaid program to see if the applicant has any of unreported income or whether there are any large withdrawals that are not allowed by the Medicaid program. Examples of the types of documentation that must be submitted are:

- savings bank books
- checking statements
- stock and bond certificates
- life insurance policies
- burial fund, burial plot, or funeral agreement deed to real property

4) Missing documentation (collateral investigation)

If the documents requested by the Medicaid agency are not obtainable, the applicant should present any substitute evidence available to establish eligibility. Medicaid is jointly responsible with the applicant for exploring all factors concerning eligibility and should assist the applicant.

5) Verification of financial information

Medicaid can and will attempt to verify all financial information supplied by the Medicaid applicant. The Medicaid program has access to Internal Revenue Service records and will use the applicant's Social Security Number to find any unreported sources of income. If Medicaid uncovers some source of funds, for example a bank account, which was not reported on the Medicaid application, an investigation will be opened. In New York City, the Investigations, Revenue, and Enforcement Administration of the Human Resources Administration handles the verification.

Medicaid Covered Services in New York State

New York State covers a wide range of medical services which can be grouped into three separate categories known as community Medicaid, home care, and institutional care. A partial list of these services is provided below:

1. Community Services

- services of physicians, dentists, nurses, optometrists, and other related professional personnel (podiatry services are available only to those individuals who are enrolled in the Medicare Savings program or who are also receiving Medicare coverage);
- outpatient or clinic services;
- sickroom supplies, eyeglasses, and prosthetic appliances;
- physical therapy;
- laboratory and X-ray services;
- transportation when essential to obtain medical care; and
- prescription drugs

2. Home Care Services

- home health services such as nursing, physical therapy, occupational therapy, and home health aide;
- personal care (home attendant) services; and
- long term home healthcare program (“Lombardi” or “nursing home without walls”)

3. Institutional Services

- care in hospitals, nursing homes, and other medical facilities.

NOTE: Some services and supplies require prior approval for coverage and other services and supplies are covered only under certain conditions or limitations.

Information on Medicaid can be found on the website of the New York State Department of Health www.health.state.ny.us. In New York City information on Medicaid can be obtained by calling (718) 557-1399 or toll free (1-877-472-8411).

Seven: Resource Directory for Guardians

- General Information & Resources-
- Information & Resources Related to Housing
- Services for People over the Age of 60
- Organizations for Specific Diseases and Conditions
- Services for People with Mental Retardation and Developmental Disabilities
- Services for People with Mental Disabilities

General Information & Resources

NYC 311

All calls to 311 are answered by a 311 Call Center Representative, 24 hours a day, 7 days a Week. Assistance is available in over 170 languages.

Within New York City: 311

Outside New York City: (212) NEW-YORK / (212) 639-9675

Article 81

http://www.nycourts.gov/ip/gfs/Article_81_2008.pdf

Centers for Medicare & Medicaid Services

Medicare Service Center: 800-Medicare (800-633-4227)

www.cms.gov

Health Information

The National Institutes of Health (NIH) <http://www.nih.gov>

The Center for Disease Control & Prevention (CDC) <http://www.cdc.gov/>

Kings County Supreme Court Civil Branch

Search for items filed in the County Clerk's Office

<http://iapps.courts.state.ny.us/kcco/>

Legal Assistance

Find free legal aid in New York and information about your legal rights, courts, and more.

www.LawHelp.org/ny

New York State Department of Health Toll-Free Help Lines

Public Health Duty Officer Helpline: 866-881-2809

<http://www.nyhealth.gov/contact/doh800.htm>

New York City Medicaid

Call 311 to be transferred to appropriate department – or call:

HRA: 888-692-6116

www.health.state.ny.us/health_care/medicaid/

New York State Long Term Care Ombudsman

For help on problems related to nursing home care and services

From within New York State: 1-800-342-9871

From outside New York State: 518-474-7329

www.ltombudsman.state.ny.gov

Social Security

www.ssa.gov

800-772-1213

Information & Resources Related to Housing

ACRIS

Property records

<http://www.nyc.gov/html/dof/html/jump/acris.shtml>

NYC Housing Preservation & Development

<http://www.nyc.gov/html/hpd/html/home/home.shtml>

NYC Department of Buildings

<http://a810-bisweb.nyc.gov/bisweb/bispi00.jsp>

SCRIE (Senior Citizens Rent Increase Exemption)

DRIE (Disabled Rent Increase Exemption)

<http://www.nyc.gov/finance/>

Services Specifically for People over the Age Of 60 and/or Persons with Disabilities

New York State Office for the Aging

Hot Line: (800) 342-9871

www.aging.ny.gov

New York City Department for the Aging

Helpline: (212) NEW-YORK (English and Spanish) OR

Dial 311 and ask for social services specialist for the aging.

www.nyc.gov/html/dfta and click on “Benefit Quick Check”

New York State Health Insurance Information, Counseling and Assistance Program (NYSHIICAP) For counseling on Medicare and other health insurance programs

Toll-free Hotline: (800) 342-9871

www.aging.ny.gov/healthbenefits

Medicare Rights Center

For help with Medicare problems

Phone: (800) 333-4114

www.medicarerights.org

En Español: www.medicarerights.org/enespanolframeset.html

Friends and Relatives of the Institutionalized Aged

For information on nursing homes or concerns about a ward’s care in a nursing home

info@fria.org or www.fria.org

National Association of Geriatric Care Managers, Greater New York Chapter

To find social workers in private practice who assist older persons and their families

www.nygcm.org

National Family Caregivers Organization

Toll Free: 1-800-896-3650

www.nfcacares.org

Organizations for Specific Diseases and Conditions

Alcoholism & Substance Abuse

National Institute on Alcohol Abuse and Alcoholism

<http://www.niaaa.nih.gov/>

New York State Office of Alcohol & Substance Abuse Services

HelpLine: (877) 8-HOPENY (877) 846-7369

General Information: (518) 473-3460

<http://www.oasas.state.ny.us/>

Alzheimer's

National Alzheimer's Association

Toll-free 24-hour Helpline: (800) 272-3900

<http://www.alz.org> or Info@alz.org

En Español: <http://www.alz.org/hispanic/overview>

New York City Chapter Alzheimer's Association

24-hour Helpline: (800) 272-3900

[Http://www.alznyc.org](http://www.alznyc.org)

Arthritis & Joint Disease

Arthritis Foundation

(800) 283-7800

<http://www.arthritis.org/>

New York Chapter of the Arthritis Foundation

Phone: (212) 984-8700

<http://www.arthritis.org/chapters/new-york/>

Brain Injury

Brain Injury Association of New York State

Toll-free Family Helpline: (800) 228-8201

<http://www.bianys.org>

Cardiovascular Disease

Cardiovascular Foundation

<http://www.cvdf.org/>

American Heart Association

<http://www.heart.org/HEARTORG/>

Toll-free: (800) AHA-USA1 or (800) 242-8721

American Stroke Association

Toll-free: (800) AHA-USA1 or (800) 242-8721

<http://www.strokeassociation.org>

Cerebral Palsy

United Cerebral Palsy

Toll-free: (800) 448-3827

[Http://www.ucp.org](http://www.ucp.org) or webmaster@ucp.org

United Cerebral Palsy of New York City

Phone: (212) 683-6700

<http://www.ucpnyc.org>

Diabetes

American Diabetes Association

(800) DIABETES

<http://www.diabetes.org/>

Eye Disease

National Eye Institute

<http://www.nei.nih.gov/health/>

Hearing Loss

Hearing Loss Association

<http://www.hearingloss.org/>

Heart Disease

See Cardiovascular Disease

HIV/AIDS

New York State Dept. of Health HIV/AIDS

Toll-free Confidential Hotline: (800) 541-AIDS

<http://www.health.state.ny.us/diseases/aids>

Gay Men's Health Crisis (GMHC) – Help for men and women

Toll-free Confidential Hotline (800) 245-7692 or (212) 267-1000

<http://www.gmhc.org>

En Español: <http://www.gmhc.org/espanol.html>

Multiple Sclerosis

National Multiple Sclerosis Society

Toll-free: (800) 344-4867

<http://www.nationalmssociety.org>

MS Society New York City Chapter Phone: (212) 463-7787

Parkinson's

Parkinson's Disease Foundation

Toll-free: (800) 457-6676

<http://www.pdf.org>

Stroke

See Cardiovascular Disease

Services for People with Mental Retardation and Developmental Disabilities

Association for the Help of Retarded Children

New York City (AHRC-NYC)

Phone: (212) 780-4491 or 4493

<http://www.ahrcnyc.org/> (click on links for many resources, NYC and beyond)

New York State Association for Retarded Children (NYSARC)

Phone: (518) 439-8311

<http://www.nysarc.org/>

New York State Commission on Quality of Care

Toll-free phone: (800) 624-4143 (Voice/TTY/Spanish)

www.cqcapd.state.ny.us

New York State Office of Mental Retardation and Developmental Disabilities (OMRDD)

Albany (statewide) phone: (866) 946-9733

<http://www.omr.state.ny.us/>

New York State Rehabilitation Association

Phone: (518) 449-2976

www.nyrehab.org

YAI Network

YAI Link Services: (212) 273-6182

<http://www.yai.org/>

Vocational and Educational Services for Individuals with Disabilities (VESID)

Phone 800-222-JOBS (5627)

<http://www.vesid.nysed.gov/>

Services for People with Mental Disabilities

Mental Health Association of NYC

Lifenet: New York's Network of Care

(800) LIFENET or (800) 543-3638

<http://newyorkcity.ny.networkofcare.org/mh/home/index.cfm>

Mental Hygiene Legal Service

Manhattan and Bronx: (212) 779-1734

Brooklyn, Staten Island, Queens, and Long Island: (516) 746-4545

<http://www.mhanys.org/publications/factsheets/fscompliant.htm>

National Institute of Mental Health (NIMH)

Phone: (866) 615-6464

<http://www.nimh.nih.gov/index.shtml>

New York City Department of Health & Mental Hygiene (DOHMH)

Phone: **311** or (212) NEW-YORK

<http://home2.nyc.gov/html/doh/html/dmh/dmh.shtml>

New York State Office of Mental Health (OMH)

44 Holland Avenue, Albany, New York 12229

Toll-free phone: (800) 597-8481 (leave name, phone number, and question)

<http://www.omh.state.ny.us/>

National Alliance on Mental Illness (NAMI)

Information Helpline: (800) 950-NAMI (6264)

www.nami.org

New York State Chapter: (800) 950-3228 or (518) 462-2000

<http://www.naminys.org/>

New York City Metro Chapter: Helpline: (212) 684-3264

(Noon to 7PM Monday through Thursday and noon to 6PM on Friday)

<http://www.nami-nyc-metro.org/> or helpline@naminyc.org

Eight: Mental Illness and Assisted Outpatient Treatment

Many mentally ill people do not function at a level that would enable them to live and work independently. Supervised conditions for the chronic or severely incapacitated mentally ill person include an array of services, treatment programs, work and living conditions. Each one of these options is geared towards the person's level of functioning as well as the mental illness itself. The guardian must work together with the ward to assess the ward's living situation, work environment, and treatment program that is appropriate to the functional level of the ward and that addresses the ward's own needs and goals.

Guardians appointed under Article 81 of the Mental Hygiene Law do not have the power to force someone into treatment or to comply with treatment against their wishes. However, another law has recently been passed in New York State, called "The Assisted Outpatient Treatment" — or Kendra's Law—that can be used to address the issue of noncompliance.

Kendra's Law or Assisted Outpatient Treatment provides for assisted outpatient treatment of certain persons with mental illness that, in view of their treatment history and present circumstances are unlikely to survive safely in the community without supervision. Those individuals in the community, or those about to return to the community from correctional facilities or hospitals, who are suffering from mental illness and are unlikely to survive safely without some formal supervision, may be found in need of "assisted outpatient treatment."

Assisted Outpatient Treatment is a general term describing all the types of services that an individual with mental illness may receive in the community, including case management services, medication, drug testing, educational and vocational training, group therapy, substance abuse treatment and counseling, and supervision of living arrangements. Before a court may order assisted outpatient treatment, the judge must be satisfied that assisted outpatient treatment is the least restrictive alternative for the patient.

Eligibility

In order to be found in need of Assisted Outpatient Treatment, an individual must:

- Be at least 18-years-old and have a mental illness;
- Be unlikely to survive safely in the community without supervision, based on a clinical determination;
- Have a history of lack of compliance with treatment that has lead to at least two hospitalizations for mental illness in the preceding 36 months, or resulted in one or more acts of violence toward self or others, or threats of serious physical harm toward self or others, within the preceding 48 months;
- Be unlikely to voluntarily participate in the treatment necessary to allow the person to live safely in the community;
- In view of the person's treatment history and current behavior, he or she is in need of assisted outpatient services to avoid a relapse or deterioration that would likely result in serious harm to the mentally ill person or others; and

- Be likely to benefit from assisted outpatient services.

Process

Every Assisted Outpatient Treatment application has a court hearing. The process begins by the filing of a petition with the court. Family members or guardians can initiate these petitions. However it is best to call the Director of Mental Health Community Services in the county where the ward lives. You can describe your ward's condition and see if the Director feels the ward meets the eligibility criteria. If the court determines the person meets the criteria for assisted outpatient treatment, the initial order will require the person to receive assisted outpatient treatment services for up to six months from the date that the order was signed. The Assisted Outpatient Treatment Order can be extended by a similar process for successive periods of up to one year.

Non-Compliance with an Order of Assisted Outpatient Treatment

If a patient fails to comply with an Assisted Outpatient Treatment Order, his or her treatment team works with the patient to achieve compliance. If a physician determines that the person still has not complied with an Assisted Outpatient Treatment Order and that the patient may be in need of involuntary admission to a hospital, the physician may recommend that the patient be removed from the community for examination and transported to a county hospital, and be retained there for up to 72 hours to determine if he or she is in need of inpatient care and treatment. Any decision to keep the patient beyond the initial 72 hours must be in accordance with the procedures for involuntary admission under the Mental Hygiene Law. The refusal of the patient to take required medication, or the failure of a test to determine such medication compliance or to determine alcohol or drugs use, may be considered by the physician in reaching a clinical determination as to whether removal to a hospital for examination is necessary.

Legal Assistance for Patients

The Mental Hygiene Legal Service provides legal advice and assistance including representation in court hearings, for psychiatric patients who do not have their own lawyer. Mental Hygiene Legal Service is an agency of the New York State Supreme Court, and is not part of the Office of Mental Health or any psychiatric center. The staff of lawyers and social workers help patients understand and protect their rights. Mental Hygiene Legal Service staff can also provide information to family members.

Mental Hygiene Legal Services staff helps patients in several ways, including investigating complaints of patient abuse and mistreatment and representing patients who refuse medication. The lawyers of Mental Hygiene Legal Service will not represent family members of patients.

All patients, their families, and others who work on behalf of patients have the right to communicate freely and privately with Mental Hygiene Legal Services representatives at any time. Their names, office addresses and telephone numbers are posted at each psychiatric center and staff is required to provide this information to patients upon request. In addition, each psychiatric center's switchboard can connect a caller to Mental Hygiene Legal Service or provide the telephone number. All services provided by the Mental Hygiene Legal Service are free.

Nine: Explanation of Words Used in Guardianship

A number of people are involved in guardianship procedures. They all have different roles and are involved at different times in the guardianship process. This list explains who the people are and when they are involved. Also listed are unfamiliar words and concepts that are often used in guardianships.

The process begins with the petitioner who sends a request for the appointment of a guardian to the court. A petition is the written request that states the reasons why a guardian is needed for a vulnerable person.

The Petitioner is the person who starts the guardianship process by asking the court to appoint a guardian for someone else. A petitioner can be a relative or friend of a vulnerable person, or an institution like a hospital, nursing home, or Adult Protective Services.

The petitioner must be able to prove that a guardian is needed. Petitioners often ask a medical expert to offer information that shows the vulnerability of the person who needs a guardian.

A Medical Doctor, Psychologist, or Psychiatrist provides information in which the expert describes the condition of the person who needs a guardian. These experts may be asked to testify at the hearing.

Once the petition has been received by the court, a hearing will be scheduled and a Court Evaluator will be appointed to meet with the person who needs a guardian and to decide if the statements that are written in the petition are true.

The Court Evaluator can be a lawyer, social worker, nurse, or another professional who is familiar with the particular condition of the person who needs a guardian. The Court Evaluator is sometimes called the “eyes and ears” of the judge—his or her job usually ends at the time a guardian is appointed.

The Court Evaluator is appointed to read the petition, interview the “Allegedly Incapacitated Person,” and explain to the person why the court is considering a guardianship for him or her.

The Allegedly Incapacitated Person is the person who the petitioner believes needs a guardian. This person is sometimes called “the AIP” by court personnel. The person is called “allegedly” incapacitated because a judge has not yet decided whether the person really is in need of a guardian.

Because guardianship reduces the freedom of the Allegedly Incapacitated Person, a lawyer can be appointed at his or her request to argue that a guardian is not needed.

The Attorney for the Alleged Incapacitated Person represents the Allegedly Incapacitated Person at the hearing. The lawyer’s job is to tell the judge what the Allegedly Incapacitated Person wants and prove to the judge that a Guardian is not needed or that there are other options to take care of the affairs of the Allegedly Incapacitated Person.

The Hearing is held at the court house so that the judge can hear testimony from the different experts and anyone else asked to provide information about the Allegedly Incapacitated Person. The attorney for the Allegedly Incapacitated Person will represent the wishes of the person and may bring witnesses to provide information that is different from that of the petitioner. The Court Evaluator will make a recommendation to the judge about whether or not a guardian should be appointed. The Allegedly Incapacitated Person is usually present at the hearing and may also be asked questions by the judge. Based on all of this information the judge will decide if the Allegedly Incapacitated Person really needs a guardian or not and who should be the guardian if one is needed.

The Justice of the Supreme Court is the judge who conducts guardianship hearings. Lawyers sometimes refer to the judge as “the court.”

Once the judge has decided to appoint a guardian because the Allegedly Incapacitated Person needs one to take care of his or her affairs, the word “allegedly” is no longer used and from that moment on the person is called the “Incapacitated Person.”

The Incapacitated Person is the person for whom a guardian has been appointed because the judge has decided that he or she is unable to take care of personal needs or financial affairs. Sometimes an Incapacitated Person is called “the IP” by court personnel, and sometimes he or she is called “the ward.”

The Guardian’s job is to care for the Incapacitated Person in just those areas in which the judge has decided the individual needs help. The Guardian may be a relative, friend, or professional, or the guardian may be a public or private organization.

*Generally, a guardian is appointed for **Personal Needs or Property Management**. The judge may appoint the same person for both jobs or two different people to do each one of the jobs. In some situations the judge may also appoint two people as co-guardians who then must work together to manage the affairs of their ward. The judge also has the option to appoint a “standby guardian” to take over automatically if the original guardian can no longer carry out his or her duties or has died.*

The Court Examiner reviews all reports submitted by the guardian. He or she makes sure that the guardian is taking care of the incapacitated person’s affairs, according to the judge’s orders.

The County Clerk keeps all legal files and reports on guardianship cases in the court house. Part of the County Clerk’s office job is also to explain court rules, refer guardians to other offices and people, and provide forms and instructions.

Ten: Sample Letter to Creditors

Guardian's Name
Guardian's Address
Guardian's Town and Zip Code
Guardian's Phone Number

Date

National Express Card Company
Address of Company
Company's Town and Zip Code

RE: Your Ward's Name
Your Ward's Social Security Number

Dear National Express Card Company:

I am the court-appointed Guardian for _____ (write Your Ward's name) and have also been appointed Representative Payee for my Ward's Social Security and/or Supplemental Security Income. Prior to my appointments as Guardian and Representative Payee, my Ward was incapable of managing his financial affairs, resulting in the current debt.

As you are aware, any creditor, regardless of whether it has obtained a court judgment can attach neither Social Security nor Supplemental Security income benefits.

My legal obligation is to use my Ward's monthly income for his current basic needs such as shelter, food and clothing. My ward has no other income or assets and his monthly income barely covers his basic needs. My ward has no available funds to pay your company and since his debt was generated prior to the first month before SSA appointed me Representative Payee for my ward, I am not legally obligated to direct payment to the National Express Card Company.

Sincerely yours,

_____, Guardian for Property Management and Representative Payee
Your name

Eleven: Funeral & Burial Planning Information

A Consumer's Guide to Arranging a Funeral¹

If you are planning a funeral, you have many decisions to make. You may feel overwhelmed or confused. You may have questions. Read this brochure to learn more before you make any commitments or decisions.

Choose a funeral home with which you feel comfortable. You and the funeral director will have an arrangement conference. This could be done at the funeral home, your home or, in some instances, over the telephone. If you meet in person, you will be given a General Price List and shown the merchandise available. When you have made your selections, you will be given an Itemized Statement, which, for most funeral arrangements, will include contractual language which legally obligates you to pay the cost of the funeral. If the arrangements have been made by telephone, you will be given the General Price List when you receive an Itemized Statement.

Following are some definitions, regulations, and commonly asked questions which should help you through this process. As the person paying for the arrangements, you are the customer. You have rights. Don't be afraid to shop around or ask questions!

Important Terms

Arrangement conference: the meeting between you and the funeral director during which you choose the services and merchandise you would like.

Basic arrangements fee: the charge made by the funeral home for making all the arrangements for final disposition of the body. It covers the availability of a funeral director, staff and equipment to respond to a death or inquiry. The fee also includes the arrangement conference and securing necessary authorizations such as filing the death certificate and getting permits. You cannot decline this charge. Note: If you select direct burial or direct cremation, the arrangements fee cannot be added since it is already figured into the prices for these services.

Burial: the most commonly chosen final disposition. Costs associated with burial include such services as grave opening and closing and/or perpetual care (maintenance) of the grave site. You will also be charged by the funeral home for the purchase of a grave site, if you buy it through the home.

Cash advance items: items of service or merchandise for which the funeral home pays directly to a third party, such as fees for the cemetery or crematory, death certificates and clergy. The funeral home cannot profit on these items. Some funeral homes require you to pay for these items before the funeral service. You may be able to pay some of these fees directly, if you choose. (Don't forget to get receipts for any money you spend, whether it's to the funeral home or to third parties.)

Casket price list: a printed or typewritten list which the funeral home presents to you before you discuss or are shown a casket. This list will provide a brief description of each casket and alternative container (such as a cardboard or pressed wood box) regularly offered by the funeral home. It must state the retail price of each item offered.

Cemetery deed: the document from the cemetery which establishes your right to bury the deceased in the plot. If the funeral director has the deed, he or she must return it to you within 7 days of the funeral, unless you have made a different agreement. Put it in a safe place — it is difficult to replace.

Columbarium: a type of vault with spaces for storing urns containing ashes or cremains (see "cremation" below).

Cremation: a process which reduces the body to ashes (cremains). The ashes may be buried, placed in a columbarium, or kept in your home. Some people choose to purchase an urn for the cremains rather than use the container provided by the crematory. There will be charges for the cremation and, if you choose, for an urn and space in a columbarium. You may also dispose of the cremains in any manner that complies with local health department or other regulations.

Custodial care: a fee the funeral home may charge for days that the body is being held and no other services are being provided. This fee must be disclosed and identified as a daily, weekly or one-time fee.

Customer: the person making funeral arrangements. The customer may be a family member, legal representative or a friend legally designated by the decedent. The customer will be legally responsible for the payment of the funeral bill.

Customer's Designation of Intentions: a specific form that the funeral director will complete if you select cremation. It includes a space for "disposal of cremains" (what you plan to do with them). You should be aware that 120 days after the cremation, the funeral home has the right to dispose of the cremains if you do not claim them. This fact, and the manner of disposition, must be clearly stated on the form. You must be given a copy of this form when arrangements are made.

Direct burial: the disposition of human remains by burial without a formal viewing, visitation, or ceremony, except for a graveside service.

Direct cremation: the disposition of human remains by cremation without a formal viewing, visitation, or ceremony.

Entombment: burial in an above-ground crypt in a mausoleum or in a lawn crypt. There will be a charge for the use of the crypt.

General Price List: a form which lists the price (or range of prices) for all of the services and merchandise regularly offered by the funeral home. This form must be given to you to keep, at the beginning of the arrangement conference. You may request a copy from a funeral home when a personal visit is made. You do not need to complete funeral arrangements to receive this form.

Itemized Statement of Services and Merchandise: a detailed outline of the specific goods and services you have chosen, the price of each item, and a total cost. Also included will be an estimate of the cash advance fees to be paid on your behalf to third parties. The Itemized Statement will serve as your contract.

Outer interment receptacle: a container in the ground, in which the casket is placed. Vaults and grave liners are some examples. Some cemeteries require outer interment receptacles to prevent collapse or sinking of the grave. If you do not want to buy one, choose a cemetery that does not require outer interment receptacles.

Outer Interment Receptacle Price List: a printed or typewritten list which the funeral home presents to you before you discuss or are shown an outer interment receptacle. This list will provide a brief description of each outer interment receptacle regularly offered by the funeral home. It must contain the retail price of each item offered.

Refrigeration fee: a fee charged by some funeral homes for cooling the body when embalming is not selected. If such a fee is charged, it must be stated up front, on both the General Price List and the Itemized Statement. This charge can be declined by the customer.

Topical disinfection: external cleansing of the body for which you will be charged. There cannot be an additional charge for this service when embalming is selected, since topical disinfection is part of the embalming process.

Transfer of remains fee: a fee for transportation of the body from the place where death occurred (or from the airport or morgue) to the funeral home.

Some Commonly Asked Questions

Who can make funeral arrangements?

The "customer." It's very important for family members to agree about the type of services and merchandise to be purchased. Ideally, the family should designate one person to make the arrangements and to convey the family decisions to the funeral director. The customer will be responsible for the payment of the bill.

Do I need a funeral director?

Yes. In New York State, only a licensed and registered funeral director may make funeral arrangements for the care, moving, preparation and burial or cremation of a deceased person. At the least, the funeral director will file the death certificate, transfer the body, coordinate with cemetery or crematory representatives, make the necessary preparations, and move the body to the cemetery or crematory.

Does New York State require the use of a casket or outer interment receptacle?

No, but many cemeteries do require the use of a "suitable container." New York State law allows for the use of an unfinished wooden box or an "alternative container" made of cardboard, pressed wood, composition materials, or canvas or other material. Even though burial vaults or grave liners are not required by law, some cemeteries require them to prevent collapse or sinking of the grave. If you do not want to buy a burial vault, choose a cemetery that does not require vaults.

Is embalming required by State law?

No. In fact, a funeral director must obtain specific approval to embalm from the customer. A funeral home may, however, require embalming if certain services, such as a viewing with an open casket, are chosen. Embalming fees must be clearly stated on both the firm's General Price List and on the Itemized Statement of Services and Merchandise Provided.

Can the funeral director refuse to embalm the body?

No. The funeral home may not refuse to embalm or otherwise handle the body, regardless of the cause of death of the deceased. The home also may not

charge extra for preparing or handling the body of a person who has died of an infectious disease, such as AIDS, hepatitis B or tuberculosis.

Can the funeral director refuse to allow me to view the body when visitation has been selected?

No. While the funeral director may advise against a viewing due to the cause of death or condition of the body, the final decision is left to the customer.

Can I see the body for the purposes of identification?

Yes. No matter what the funeral arrangements are, the customer has the right to see the body briefly. If this process is prolonged, the funeral director may consider it a viewing or visitation and a fee will be required.

What will the funeral arrangements cost?

The costs of funeral arrangements vary greatly, depending on the funeral home and on the type of service and merchandise you choose. For example, if the service you select involves viewing the remains, the funeral home may require embalming and preparation of the body, which can be expensive. Also, there is a tremendous range in the price of caskets, depending on style, type of wood, lining, etc. The least expensive type of funeral service is direct burial or direct cremation.

If I choose a direct burial, can the funeral home charge for a graveside service?

A direct burial includes a graveside ceremony if the customer wants it. The price for the ceremony, excluding cash advances, must be included in the fee for a direct burial. However, if the service requires staff in addition to the funeral director supervising the burial, an additional charge may be added. If so, this charge must be clearly listed on both the General Price List and the Itemized Statement of Services.

Does the New York State Department of Health set the charges?

No. While the Department of Health regulates the business and practice of funeral homes, it does not regulate prices.

What can I do if I feel the prices are too high?

You can call several funeral homes and compare prices. (Funeral homes are required to give price information over the telephone.) If you've shopped around and the price is still too high, you may have to reconsider your selections.

Can I rent a casket for a viewing?

Possibly. Casket rentals are not prohibited and some funeral homes offer this option. If a funeral home offers rental caskets, it must be stated on the General Price List. If you rent a casket for a viewing, you can then buy a suitable container for burial, if you choose burial.

Can the funeral director criticize my selections?

No. It is illegal for funeral home staff to state or imply that any merchandise they offer for sale is unsatisfactory in any way.

Are there other actions that are illegal for funeral homes?

Yes. Illegal actions include:

- pressuring the customer to select certain services or merchandise
- charging an additional fee for filing the death certificate or getting it medically certified
- charging a "handling fee" for paying third parties on your behalf
- charging a fee for handling a casket provided by the customer
- charging for any service or merchandise not selected by the customer
- charging interest on an outstanding balance unless this charge is disclosed at the time the funeral arrangements were initially made and is stated in the Itemized Statement
- having persons other than a licensed funeral director make funeral arrangements, prepare the body, or supervise the burial
- misrepresenting laws and regulations relating to funeral directing

Remember:

- You do not have to accept services or merchandise you don't want!
- You must be informed of all charges in advance!
- Always get a receipt!

Do I need more than one copy of the death certificate?

Probably. You will need to give certified copies to insurance companies, banks, etc. The funeral home may obtain them for you. They cannot charge you more than the actual fee, which is up to \$15 in New York City and \$10 (or less) in the rest of New York State. Death certificates are filed by the funeral director with the registrar of Vital Records in the locality where the death occurred.

Can I prepay my funeral?

Yes. Prepayment can lift much of the financial burden from your survivors. It also allows you to select the type of funeral arrangements you want. Pre-need plans are regulated by law. For more information, read the New York State Health Department's publication "Before Prepaying Your Funeral, Know Your Rights."

Can the funeral home change arrangements without my permission?

No. The funeral director must obtain your approval before making any substitutions or changes.

What if the deceased wanted to donate organs?

It is important to honor the wishes of people who want to donate all or part of their bodies upon death. Those who want to be donors should carry organ donor cards, sign the donor space on the back of their licenses, include their wishes in their wills, and inform family members. For more information on organ donation, call 1-800-24-DONOR (1-800-243-6667).

What if I decide to change funeral homes?

You have the right to change funeral homes at any time. You will need to pay for any services that have already been done (for which you had given approval). The funeral home must allow the transfer of the body to another funeral home, even if you haven't paid yet. It may not hold the body in exchange for payment.

How do I complain about a cemetery or crematory?

The New York State Department of Health does not regulate cemeteries or crematories. You can send a complaint to: ***NYS Department of State, Division of Cemeteries, 41 State Street, Albany, NY 12231-0001***

However, if the cemetery is owned by a religious organization or is municipally-owned, it may not be subject to regulation.

Can I complain about how arrangements were handled?

If, after the funeral, you have a serious problem with how the arrangements were handled, you can file a complaint by writing:

***New York State Department of Health, Bureau of Funeral Directing
Hedley Park Place, 433 River Street Suite 303
Troy, New York 12180-2299¹***

¹ Information from website: http://www.health.state.ny.us/professionals/patient_rights/funeral.htm.

Twelve: Report Writing Information

- **Information Needed for Writing an Annual Report**
- **FAQS & Tips for Writing an Annual Report**
- Sample cover letter to Health Care Professionals
- Sample report for Health Care Professionals

Guardian Assistance Network

Information Needed for Writing an Annual Report

ALL GUARDIANS:

- A copy of your initial report or last year's annual report.
- A copy of the signed final order and judgment.
- Additional documents such as power of attorney, insurance papers, bank books, or other legal papers that you have found since your last report.
- The name and address of the court examiner assigned.
- A copy of the annual report form acceptable in the county of guardianship and the specific court examiner.
- If possible, a current picture of your ward.

GUARDIAN FOR PERSONAL NEEDS (OR BOTH PERSONAL NEEDS AND PROPERTY):

- A letter from a professional (doctor, psychologist, nurse, social worker), written within the last three months about your IP's physical and mental condition that indicates if the guardianship should be continued. *This is to be attached to the annual report.*
- *If your IP is in a nursing home or other residence:* name and address of nursing home with the name and phone number of a contact there, probably the social worker.
- *If your IP lives in the community:* names and addresses of the doctor, psychiatrist (if s/he has one), dentist and pharmacy as well as any programs s/he is involved with: a day program, home care agency, Meals on Wheels, as examples.
- List of medications the IP is taking at this time.

GUARDIAN OF PROPERTY (*Transactions are for the previous calendar year, not current year.*)

- Check book for the guardianship account.
- All bank statements for the previous year. *Be sure to have the first statement of the year or the first statement from the opening of the guardianship account(s) and the last one that includes transactions up to the end of the year (December 31).*
- Statements for any investments your IP has in addition to bank accounts.
- The annual benefit statement for Social Security, SSI, Veterans benefits or any other income your ward has received, regularly or irregularly.
- Receipts for items purchased and paid for out of the ward's funds or out of your own money for the ward, including rent, utilities, phone, food and anything else.
- A copy of the ward's tax return for the previous year, if filed.
- Latest bond premium statement, if a bond was required.

FAQs & Tips for Writing an Annual Report
Article 81 of the Mental Hygiene Laws of the State of New York

1. Q. Do I need to read Article 81 in order to do my annual report?
A. Technically, no. But for those who would like to see what the law says, the section that pertains to annual accounts is § 81.31.
2. Q. Do I need to type my annual report?
A. Check with your court examiner. If you write clearly and legibly, most examiners will accept your report. If you expect to submit a handwritten report, it is advisable to make several copies of the form so that you can gather all the information on a draft before preparing a final version.
3. Q. Can I request changes in my powers in my annual report?
A. While you should note requested changes in the annual report, the law in 81.31(e) states that the requests must be made within 10 days of the filing of the report. Since there are specific requirements about who must be informed, and if you do not have a lawyer working with you, you may contact the Guardianship Clerk to see how any proposed change(s) might be handled.
4. Q. What is meant by “filing” the report?
A. When you give your original report to the guardianship office or the clerk’s office they will log it into the system. This is called “filing” your report. Information for your county of guardianship is:
5. Q. I sometimes hear of something called the Annual Account or Annual Accounting. Is that the same as the Annual Report?
A. Yes, they refer to the same thing and can be used interchangeably. Since one of the purposes of the annual report is to account for the money, Court Examiners often refer to it as an Annual Account.
6. Q. Who is to receive a copy of the Annual Report?
A. That information should be in your court order. **The original needs to be filed either with the guardianship or county clerk’s office.** Be sure to have your signature notarized and include the index number on anything that you file. It is very important that you send a copy to the court examiner. If the IP is residing in a nursing home, copies also should go to the Administrator or Director of the facility. If the IP resides in a psychiatric facility, send a copy to Mental Hygiene Legal Services. If there is a Supplemental Needs Trust and the guardianship is from New York City, send a copy to the Human Resources Administration.
7. Q. How do I find out who the court examiner assigned?
A. The name and contact information for the Court Examiner assigned to your case should be in your court order. There is a chance that it has changed. Call the name listed to make sure that it is current. If it has changed, you can check with the Guardianship Office in the country of your appointment for information on the current court examiner.
8. Q. If the court examiner has changed from the time of my appointment, am I required to give the new court examiner all the information that was given to the previous examiner such as the Petition, the Court Evaluator’s report and the signed Order and Judgment?
A. While the court order usually says that the petitioner’s attorney has to send all the documents to the court examiner, the guardian is required to cooperate with the court examiner as well. So you may have to provide some of the documentation.
9. Q. Do I include copies of my bank statements on the annual report?

- A. Do not attach bank statement copies to the original report that you file with the county clerk. Court Examiners will need them but may differ when they want to have them. It is best to check with your particular one. Some like it attached to the report; others want you to wait until you give testimony.
10. Q. What is “testimony?”
A. Testimony is the process, either in person or in writing, by which the court examiners use to confirm that the information that you have given them is correct.
11. Q. How do I know if the Report is approved?
A. You will receive a copy of the Order approving the report. This means that you have 10 days, or until the date shown in the "Notice of Settlement" to object to the proposed Order and Report. If you don't object, then the Judge can sign and approve the Account on that date. Judge cannot sign the Order prior to the return date shown on the Notice of Settlement. This gives you an opportunity to read the papers and respond. Also, when the Order is signed, the Court Examiner will send you a copy. You do not have to go to court on the “Notice of Settlement” date.
12. Q. Does the Court Examiner review the Report every year?
A: If the amount of money – the size of the “estate” - that the guardian is handling is small, the Court Examiners may review your Report every other year. Counties have different rules so please check with the guardianship office.
13. Q. Does that mean that if the amount of money that I handle as guardian is considered to small, I do not have to do an annual account each year?
A. No, you still should file an Annual Report each year and send a copy to the Court Examiner.
14. Q. Who is responsible for paying the Court Examiner and when should s/he be paid?
A. If there are funds in the guardianship account, they can be used to pay the court examiner. However, the amount will be specified in the Order approving the annual accounting.
15. Q. What about my commission (fees) for being a guardian?
A. You need to request your fees in the annual account. Any fees that are awarded will be specified in the Order approving the account. Then and only then can you pay yourself
16. Q. Should co-guardians hand in separate annual report?
A. If it is preferable for co-guardians to hand in one report. However, if you are co- guardian of either person or property and your co-guardian does not seem to be doing his or her report, you should complete and file your report. If co-guardians hand in one report, both will need to have a notarized signature page.
17. Q. The deadline for submitting the report is rapidly approaching (or past) and I do not have all the information that I need. Should I wait until I have everything before filing?
A. We suggest that you file your report by the deadline with as much information as you have. You will be able to file an amended report when you have all the information. That way, you may avoid being called back into Court for failure to comply

*(Please note that this is a **sample letter** with information that you might provide to a doctor, social worker, nurse practitioner, or other health care provider)*

Date

Re: (Name of IP)

Dear Dr. /Mr./Ms. _____:

In (month) of (year) , I was appointed the Article 81 Guardian of (name of IP) in Supreme Court of New York State. At this time every year, I must file a report for the Court. Part of the report is a letter from a doctor or other health care provider about his/her current physical and mental health status.

I enclose an outline of the kind of information that would be helpful to include. Though you can return this form, it would be preferable to respond to the questions on official stationery.

You may contact me at _____ if you wish to discuss this further.

Thank you for your attention to this matter.

Sincerely,

Guardian

Name: _____ **Date:** _____

1. Is he or she in an institution? If so, what kind?
2. How long has s/he been under your care?
3. What is the most recent date you took part in evaluating him/her?
4. What medications at what dosages are currently prescribed for the patient?
5. What is his or her current functional level? (For example: what can s/he do on their own, what must be done for him or her? What kinds of decisions, in your opinion, can s/he make, and what kinds can't s/he make).
6. In your professional opinion, is it necessary to continue guardianship?
7. Anything you wish to add?

Print Name: _____ Phone Number: _____

Professional Affiliation _____ Institution, if applicable: _____

Address: _____

Signature: _____ Date: _____

Please return to _____ **Phone** _____

_____ **Fax** _____

Thirteen: Sample Guardianship Forms

- **Order and Judgment**
- **Commission**
- **Oath and Designation**
- **Statement Identifying Real Property**
- **Initial Report**
- **Guardian's Annual Report or Annual Accounting**
- **Statement of Death**
- **Final Accounting**

NOTE: These forms have been prepared by Guardianship and Fiduciary Services of the New York State Office of Court Administration. Each county may use forms that are slightly different. Please check with the County Clerk in the county where you were appointed to make sure that these forms are acceptable.

The following is a sample of the Order and Judgment

At IAS Part _____ of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse located at 360 Adams Street, Brooklyn, New York, on the ____ day of _____, 200____.

P R E S E N T:

HONORABLE,

Justice.

-----x

In the Matter of the Application of

ORDER, JUDGMENT
AND COMMISSION
APPOINTING GUARDIAN

Petitioner,

Index No. _____

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

_____,

a Person Alleged to be Incapacitated.

-----x

A verified petition dated _____, 2005 having been presented to this Court for the appointment of a Guardian of the person and property of IP pursuant to Article 81 of the Mental Hygiene Law and this Court at the Courthouse, in the County of Kings, City and State of New York having had a hearing as provided by Article 81 of the Mental Hygiene Law on _____, 200 , the Court by Order to Show Cause dated _____, directing that IP and other interested parties show cause why a guardian should not be appointed of the person and property of IP, and other relief should not be granted pursuant to Article 81 of the Mental Hygiene Law; and said Order to Show Cause and verified petition having been duly served upon the interested parties directed to be served in the said Order to Show Cause, as evidenced by the affidavits of service herein filed; and the Court having required notice of this proceeding be given to the distributees and other interested parties of IP, to wit: (NAMES) _____, and the Court having duly appointed (NAME)_____ as Court Evaluator for said IP, and NAME having duly qualified and appeared and having read the warning contained in the Order to Show Cause to IP, and (NAME)_____having appeared for petitioner (NAME) _____, and said questions raised by the petition having come on to be heard before HONORABLE _____, one of the Justices of this Court at IAS Part ____ thereof, and the Court having held a hearing, as provided by Article 81 of the Mental Hygiene Law, and having decided that there is a necessity

for the appointment of a Guardian of the person and property of the above named IP, on the decision of the Court after said hearing, and it appearing to the satisfaction of this Court that a Guardian should be appointed for the person and property of the said IP.

NOW, upon all papers on file herein, and the testimony presented at the hearing before this Court, and upon all proceedings had herein, and due deliberation having been had, I find as follows: that IP has functional limitations due to (Explanation of limitations of IP).

NOW, on the motion of (NAME) _____, attorney for petitioner, it is

ORDERED AND ADJUDGED, that IP be and hereby is determined, to be a person requiring the appointment of Guardian of his Person and Property as the Court has found that IP is incapacitated as defined in subdivision (b) of Mental Hygiene Law §81.02, and that said Incapacitated Person is likely to suffer harm because of his inability to provide for his personal needs and property management or to adequately understand and appreciate the nature and consequences of such inability; and it is further

ORDERED AND ADJUDGED, that (NAME) _____ is hereby the court appointed Guardian of the Person and Property of IP, upon filing with this Court, pursuant to Mental Hygiene Law Section 81.25, a bond in the sum of \$ _____ with sufficient Sureties, conditioned that the said Guardian will in all things faithfully discharge the trust imposed herein, obey all the directions of the Court in respect to the trust, make and render a true and just account of all monies and other properties received pursuant to the authority granted herein and the application thereof, and of all acts performed in the administration of the trust imposed herein whenever so required to do so by the court pursuant to Section 81.30 and 81.31 of the Mental Hygiene Law, and upon filing the oath and designation required by Section 81.26 of the Mental Hygiene Law; and it is further

ORDERED AND ADJUDGED, that pursuant to Section 81.27 of the Mental Hygiene Law, within five (5) days after the filing of such oath and designation as required by statute, the Clerk of this Court shall issue a commission in the due form of law; and it is further

ORDERED AND ADJUDGED, that the authority of the Guardian of the Property, including but not limited to the property listed in **Exhibit "A"** annexed hereto, shall extend to all of the property of the Incapacitated Person, both real and personal; and it is further

ORDERED AND ADJUDGED, that all persons now in possession of the assets of IP are hereby directed and commanded, upon demand and presentation of a certified copy of the Commission to be issued herein, to deliver to the said Guardian all Property of IP of every kind and nature which may be in their possession or under their control; and it is further

ORDERED AND ADJUDGED, that the said Guardian before taking possession of any personal property other than that above mentioned shall file an application to the Court to fix the bond approved by a Justice of this Court pursuant to Article 81 of the Mental Hygiene; and it is further

ORDERED AND ADJUDGED, that the Guardian of the Property may, without prior authorization of the Court, make reasonable expenditures for the purpose of providing the incapacitated Person with necessities or preserving the property of the Incapacitated Person; and it is further

ORDERED AND ADJUDGED, that the duration of the Guardianship shall be indefinite or until further Order of this Court; and it is further

ORDERED AND ADJUDGED, that the petitioner's attorney shall serve upon the Court Examiner and, unless the Guardian is a party to this proceeding, upon the appointed Guardian, by regular mail, a copy of the petition, the report of the Court Evaluator and all other persons submitting to the Court in relation to this proceeding, to date; and it is further

ORDERED AND ADJUDGED, that in the month of May of each year, the Guardian shall file an annual inventory and accounting with the County Clerk of Kings County and shall send a copy of such report to the incapacitated person by mail; and it is further

ORDERED AND ADJUDGED, that if the annual report sets forth any reason for a change in the powers authorized by the Court, that the Guardian shall make application for such relief on notice; and it is further

ORDERED AND ADJUDGED, that within ninety (90) days of its appointment and qualification as Guardian herein, the Guardian to be appointed shall file an initial report, as prescribed in Section 81.30 of the Mental Hygiene Law, detailing the steps taken to fulfill its responsibilities as Guardian; and it is further

ORDERED AND ADJUDGED, that the Guardian of the Property shall have the authority to pre-pay the funeral expenses of the Incapacitated Person or create an irrevocable funeral trust, or alternatively, pay for the reasonable funeral expenses of the Incapacitated Person upon his death; and it is further

ORDERED AND ADJUDGED, that in the event the incapacitated person received financial assistance from the City of New York, then in that event the Guardian shall reimburse the New York City Human Resources Administration Program ("Medicaid") for any and all Medicaid expenses paid on behalf of the incapacitated person out of the excess resources of the incapacitated person; and it is further

ORDERED AND ADJUDGED, that upon the death of the incapacitated person the Guardian of the Property shall have the 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 right to pay such bills; and it is further

ORDERED AND ADJUDGED, that the Guardian fully cooperate with the Court Examiner designated by the Appellate Division to examine the condition, care and finances of the incapacitated person; and it is further

ORDERED AND ADJUDGED, that pursuant to Section 81.20 of Mental Hygiene Law, the Guardian of the Person and Property shall determine whether the Incapacitated Person has a Will, determine the location of any Will, and the appropriate persons to be notified in the event of the death of the Incapacitated Person, and in the event of the death of the Incapacitated Person, notify those persons; and it is further

ORDERED AND ADJUDGED, that pursuant to Section 81.20 of the Mental Hygiene Law the Guardian of the Person and Property shall:

- (a) exercise only those powers that the Guardian is authorized to exercise by Order of the Court;
- (b) exercise the 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) 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; and it is further

ORDERED AND ADJUDGED, that pursuant to Section 81.21 of the Mental Hygiene Law the Guardian shall have the following Property Management Powers:

- a. to take possession and control of all of IP'S resources and income;
- b. to arrange for the payment of the IP's Social Security benefits, including any back payments that may be owed;
- c. to marshal IP'S assets and have authority over all the assets of IP;
- d. to use the Guardianship funds to provide for the needs, maintenance, support, and well being of IP and to pay any debts incurred by IP;
- e. to sign tax returns and file his tax returns and pay the taxes thereon, and to deal with all Federal, State, and local taxing authorities on all claims, litigation, settlements, and other matters related thereto;
- f. to retain an accountant only if necessary, subject to prior approval of the fees by the Court prior to payment of same from guardianship funds;

- g. at the termination of the appointment, to deliver his property to the persons legally entitled to it, pursuant to Court Order;
- h. to prepay funeral and burial plan consistent with the religious customs of the IP;
- i. to establish a burial account and luxury account, if not already established;

and it is further

ORDERED AND ADJUDGED, that pursuant to Section 81.22 of the Mental Hygiene Law the Guardian shall have the following personal needs powers:

- a. to make all residential and care arrangements for IP, with appropriate care;
- b. to apply for Medicaid to pay the cost of his care if appropriate and necessary in the future;
- c. to select caregivers for him;
- d. to determine whether the Incapacitated Person has a Will, determine the location of any Will and to safeguard the Incapacitated Person's Will, if he has a Will, and in the event of the death of the Incapacitated Person, to determine the appropriate persons to be notified, and to notify those persons;
- e. to maintain and support the Incapacitated person;
- f. to have access to or release of the Incapacitated person's personal records;
- g. to consent to or refuse generally accepted routine or major medical or dental treatment;
- h. to do those things reasonable and necessary to manage his affairs, together with the usual powers incident thereto as provided by law;

and it is further

not to exceed three years; and it is further

ORDERED AND ADJUDGED, that for the purpose of second section 9-i of the Banking Law, this order shall be deemed a declaration of incompetence and no banking institution or savings bank shall impose any penalty for the repayment of a time deposit prior to maturity; and it is further

ORDERED AND ADJUDGED, that upon presentation of a certified copy of the Commission to be issued herein, all persons and/or firms, companies, organizations and institutions in which IP owns or has an interest in

ORDERED AND ADJUDGED, that the Guardian files with the recording office of the county wherein the Incapacitated Person is possessed of real property, an acknowledged statement to be recorded and indexed under the name of the Incapacitated Person, identifying the real property possessed by the Incapacitated Person, and the

tax map number of the property, and stating the name, address and telephone number of the Guardian of the Property and the Guardian of the Property's surety; and it is further

ORDERED AND ADJUDGED, that the Guardian may not alienate, mortgage, lease or otherwise dispose of real property without the special direction of the Court obtained upon proceedings taken for that purpose as prescribed in Article 17 of the Real Property Actions and Proceedings law, provided however, that without instituting such proceedings, the Guardian may, without the authorization of the court, lease real property for a term not exceeding five years and may, without further authorization of the Court lease a primary residence for the incapacitated person for a term property, shall pay over and distribute to the Guardian all proceeds and property interests owned by IP together with the proceeds of any other accounts or property of IP, which it has in its hands; and it is further

ORDERED AND ADJUDGED, that the Guardian herein named, pay to (NAME) _____ the sum of \$ _____, as and for his services, and the sum of \$ _____ as and for his disbursements herein as attorney for the petitioner, (NAME) _____ ; and it is further

ORDERED AND ADJUDGED, that the Guardian herein named pay to (NAME) _____ the sum of \$ _____, as and for her services, and the sum of \$ _____ as and for her disbursements herein, (NAME) _____ as Court Evaluator; and it is further

ORDERED AND ADJUDGED, that the Guardian herein named pay to (NAME) Dr. _____ the sum of \$ _____, as and for his services as Medical Evaluator and Expert Witness for IP; and it is further

ORDERED AND ADJUDGED, that pursuant to Section 81.39 of the Mental Hygiene Law, the Guardian shall complete a training program approved by the Chief Administrator of the Courts and obtain proof that the training was completed no later than ninety (90) days after the issuance of a commission to the Guardian; and it is further

ORDERED AND ADJUDGED, that pursuant to 81.16 (C) (3), the persons entitled to notice of all further proceedings herein are: HUMAN RESOURCES ADMINISTRATION—OFFICE OF REVENUE AND INVESTIGATION, (NAME) _____, the Court Examiner, and any other interested party entitled to notice; and it is further

ORDERED AND ADJUDGED, that pursuant to 81.16(e) of MHL, a copy of this Order and Judgment shall be personally served upon and read to the incapacitated person by the Court Evaluator; and it is further

ORDERED AND ADJUDGED, that any appointee herein shall comply with Judiciary Law 35-a and no fee shall be paid to said appointees until such appointees have filed OCA Form 830 with this Court, and it is further

ORDERED AND ADJUDGED, that any safe deposit box owned by the incapacitated person shall be opened and marshaled by the Guardian of the property in the presence of a representative of the surety on the Guardian (unless the surety waives being present in writing) and the Guardian shall promptly file an inventory of the contents of the safe deposit box with the Court subscribed by all present; and it is further

ORDERED AND ADJUDGED, that the Guardian may without prior authorization of the Court maintain its name and official title in any Civil Judicial Proceedings within which the IP might maintain if he were competent.

E N T E R

J.S.C.

The following page is a sample of the Guardianship Commission

COMMISSION TO GUARDIAN

THE PEOPLE OF THE STATE OF NEW YORK, TO ALL TO WHOM THESE PRESENT SHALL COME,
GREETING:

WHEREAS, the above Order has been filed and (1) a bond in the amount of _____ \$
with sufficient sureties was filed on _____; and, (2) a designation of the Clerk to accept service of
process upon such Guardian above appointed was filed on _____;

NOW, THEREFORE, KNOW YE THAT WE HAVE GRANTED, GIVEN AND COMMITTED, AND DO
GIVE, GRANT AND COMMIT UNTO THE ABOVE NAMED GUARDIAN THE POWERS SET FORTH
ABOVE

By this Court this ___ day of
_____, _____.

Clerk of the County of Kings

The following page is a sample of the Oath and Designation

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

-----X

**In the Matter of _____,
Petitioner**

INDEX NO. _____

**OATH AND
DESIGNATION**

**As Guardian of _____,
An Incapacitated Person**

-----X

**STATE OF NEW YORK
COUNTY OF _____**

(1) OATH OF THE GUARDIAN

I, _____, being duly sworn, depose and say:

(a) I am a citizen of the United States and over the age of eighteen (18) years,

(b) I will well, faithfully and honestly discharge the duties as Guardian for
___Personal Needs

___Property Management [check one or both from Court Order] of _____, whom
the Court has found to be incapacitated.

(2) DESIGNATION OF THE CLERK FOR SERVICE OF PROCESS:

I, _____, residing at _____, as Guardian
for _____, who resides at _____, _____County, hereby
designate the Clerk of the Supreme Court, _____ County, and his successor in office as the
person on whom service of any process issuing from said Court in the proceeding, or in any other
proceeding, which shall affect the person or property of _____, the incapacitated
person, 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.

[Signed in front of Notary] _____

[Print name of Guardian] _____

ACKNOWLEDGMENT

**STATE OF NEW YORK :
COUNTY OF _____ :**

On the ___ day of _____, 200_, before me personally appeared _____, to me
known and known to me to be the individual described in and who executed the foregoing Combined Oath
and Designation of Guardian, and [s]he personally acknowledged to me that [s]he executed the same.

NOTARY PUBLIC

The following page is a sample of the Statement Identifying Real Property

STATEMENT IDENTIFYING REAL PROPERTY
Pursuant to Mental Hygiene Law § 81.20 (a)(6)(vi)

Record and Index under:

Incapacitated Person:

_____ Name
_____ Address

Guardian of Property:

_____ Name
_____ Address

(check box if there is/are Co-Guardian(s) of Property and list below)

Name	Address
Name	Address

Adjudication of Incapacity:

Date of Decision/Verdict	Date of Judgment	
Court	County	Index Number

Surety:

_____ Name _____ Bond Number

REAL PROPERTY

Address:

Tax Map Designation/Municipality:

	Block	Lot	Name of Municipality (Check if: <input type="checkbox"/> city <input type="checkbox"/> town <input type="checkbox"/> village)
--	-------	-----	--

Dated:

Signed _____
Name of Guardian OR Co-Guardian of Property

State of New York, County of _____ } ss:
On this ___ day of _____, 200___, before me came _____
Name of Guardian OR Co-Guardian

to me known to be the individual described here in, and who executed, the foregoing instrument, and acknowledged that he/she executed same

Notary

The following is a sample of the Initial Report

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY**

County

-----X

**INITIAL REPORT
INDEX NO. _____**

In the Matter of

Name of Incapacitated Person

-----X

DATE OF ORDER APPOINTING GUARDIAN: _____

APPOINTING JUDGE: _____

FILING STATUS

A. Sole Guardian of Person

D. Co-Guardians of Person

B. Sole Guardian of Property

E. Co-Guardians of Property

C. Sole Guardian of Person and Property

F. Co-Guardians of Person and Property

**YOU MAY ONLY FILE A JOINT REPORT IF YOUR FILING STATUS IS D, E or F.
PERSONS FILING THIS REPORT**

What is the status of your educational requirements under MHL § 81.30?

Waived

Completed

Explanation:

Name of Guardian/Co-Guardian _____

Address _____

Phone _____

Relationship* _____

Name of Guardian/Co-uardian _____

Address _____

Phone _____

Relationship* _____

IP's PERSONAL DATA

1. IP's AGE: _____

2. IP resides in:

a. Community at:

Address _____ Phone _____ Years in residence _____

This address is the IP's own home, which is _____ rented _____ owned.

The IP lives here alone.

The IP lives here with others:

Name _____ Relationship _____

Name _____ Relationship _____

This address is the home of another.

Name _____ Relationship _____

b. Facility:

Facility Name _____

Address _____

Phone _____ FAX _____ Date Admitted _____

Name of Social Worker _____

3. Language of IP: English Spanish Other

4. Citizenship: US Other

PERSONAL NEEDS

(Complete if your filing status is A, C, D or F)

5. Primary Care Physician:

Name _____
Address _____ Phone _____
Frequency of examinations _____ Date of last examination _____
Primary Diagnosis _____

6. Psychiatrist/Psychologist or Other Mental Health Provider:

Name _____
Address _____ Phone _____
Frequency of examinations _____ Date of last examination _____
Primary Diagnosis _____

7. Dentist:

Name _____
Address _____ Phone _____
Frequency of examinations _____ Date of last examination _____

Complete the following ONLY if the IP resides IN THE COMMUNITY.

8. Pharmacy:

Name _____
Address _____ Phone _____

9. List professionals and service agencies (e.g., geriatric care managers, social workers, home healthcare agencies, social service agencies, “meals on wheels”) assisting IP.

Name _____ Address _____ Phone _____
Profession/Service _____
Name _____ Address _____ Phone _____
Profession/Service _____

(Add more pages if required)

10. List Day Care Programs or other regularly attended programs for nutrition, rehabilitation, socialization, etc.

Name _____

Address _____ Phone _____

Frequency of Attendance _____

Name _____

Address _____ Phone _____

Frequency of Attendance _____

(Add more pages if required)

PROPERTY/FINANCIAL MANAGEMENT
(Complete if your filing status is B, C, E or F
and

report all liquid assets, personal property, real property and income
you are AUTHORIZED to take into your possession, management and control, AS GUARDIAN)

11. Liquid Assets: \$ _____

a. Cash Accounts:

Have you changed the title of
accounts
to your name, as *guardian*?

Institution	Acct. Type/Acct. No.	Amount	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Institution	Acct. Type/Acct. No.	Amount	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Institution	Acct. Type/Acct. No.	Amount	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Institution	Acct. Type/Acct. No.	Amount	<input type="checkbox"/> Yes	<input type="checkbox"/> No

TOTAL \$ _____

Remarks

(Accounts in any one institution should not exceed \$100,000 in order to avoid the loss of FDIC coverage.)

b. Mutual Funds, Securities and Brokerage Accounts:

Have you changed the
title of accounts
to your name, as *guardian*?

_____ Yes No

Institution	Acct. Type/Acct. No.	Amount		
_____	_____	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
_____	_____	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
_____	_____	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
_____	_____	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No

TOTAL \$ _____

c. Stocks:

Have you changed the title on certificates to your name, as *guardian*?

_____ Corporation	_____ No. of shares	_____ Value	<input type="checkbox"/> Yes	<input type="checkbox"/> No
_____ Corporation	_____ No. of shares	_____ Value	<input type="checkbox"/> Yes	<input type="checkbox"/> No
_____ Corporation	_____ No. of shares	_____ Value	<input type="checkbox"/> Yes	<input type="checkbox"/> No
_____ Corporation	_____ No. of shares	_____ Value	<input type="checkbox"/> Yes	<input type="checkbox"/> No

TOTAL _____

d. Bonds:

Have you changed the title on bonds to your name, as *guardian*?

_____ Issuing govt./agcy./corp.	_____ Value	<input type="checkbox"/> Yes	<input type="checkbox"/> No
_____ Issuing govt./agcy./corp.	_____ Value	<input type="checkbox"/> Yes	<input type="checkbox"/> No
_____ Issuing govt./agcy./corp.	_____ Value	<input type="checkbox"/> Yes	<input type="checkbox"/> No
_____ Issuing govt./agcy./corp.	_____ Value	<input type="checkbox"/> Yes	<input type="checkbox"/> No

TOTAL \$ _____

e. Other: list any other liquid asset, giving type, location and value. :

Have you changed title to these assets to your name, as *guardian*, or is a change not applicable (N/A)?

_____ Type	_____ Location	_____ Value	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
------------	----------------	-------------	------------------------------	-----------------------------	------------------------------

_____	_____	[] Yes [] No [] N/A
Type	Location	Value
_____	_____	[] Yes [] No [] N/A
Type	Location	Value
_____	_____	[] Yes [] No [] N/A
Type	Location	Value

TOTAL \$ _____

f. TOTAL VALUE OF LIQUID ASSETS: BOX A \$ _____

12. Personal Property (e.g., cars, boats, furniture, jewelry, artwork) :

Description	Location	Value
Description	Location	Value
Description	Location	Value
Description	Location	Value
Description	Location	Value
Description	Location	Value
Description	Location	Value

TOTAL VALUE OF PERSONAL PROPERTY: BOX B \$ _____

13. Real Property (e.g., vacant land, residential [including cooperative apartments and condominiums] commercial or income producing property):

In the letter you received at your appointment, you were instructed about filing the "Statement Identifying Real Property" (Form #3 attached to letter). Attach a copy of form(s) filed for property listed below.

_____	_____	[] sole [] joint [] part (___%)
Location	Property Type	Value**
_____	_____	[] sole [] joint [] part (___%)
Location	Property Type	Value
_____	_____	[] sole [] joint [] part (___%)
Location	Property Type	Value
_____	_____	[] sole [] joint [] part (___%)
Location	Property Type	Value
_____	_____	[] sole [] joint [] part (___%)

c. Trust Income.....\$ _____

d. Other from list on reverse side.....\$ _____

TOTAL OTHER INCOME: \$ _____

17. IP is the beneficiary of the following trusts:

Type	Name of Trustee	Trustee's Address/Phone
------	-----------------	-------------------------

Type	Name of Trustee	Trustee's Address/Phone
------	-----------------	-------------------------

Type	Name of Trustee	Trustee's Address/Phone
------	-----------------	-------------------------

Type	Name of Trustee	Trustee's Address/Phone
------	-----------------	-------------------------

18. Debt (List all debt over \$500):

a. Mortgage(s) (Total balance due on all mortgages).....\$ _____

b. Rent arrears (Total of past due rent).....\$ _____

c. Utilities (Total of past due gas, electric, oil, telephone bills).....\$ _____

d. Real Property Taxes (Total of past due real property tax).....\$ _____

e. Hospital/Medical (Total of past due hospital, doctor, lab bills)...\$ _____

f. Income Taxes (Total of federal/state/local income taxes.....\$ _____

g. Other from list on reverse side.....\$ _____

TOTAL DEBT: \$ _____

19. Application has been made for the following government entitlements:

a. Social Security Retirement

f. STAR (relief from property taxes)

b. Supplemental Security Income (SSI)

g. Other (please explain)

c. Social Security Disability (SSD)

d. Medicaid

e. HEAP (aid for heating costs)

Remarks

20. Are any civil judicial proceedings pending or threatened against the IP (e.g., mortgage foreclosure, eviction, debt collection, divorce, immigration proceeding; please explain):

21. Medical/Hospital insurance has been provided for the IP, as follows (please explain):

22. Homeowner/Renter's insurance has been provided for the IP, as follows (please explain):

23. Auto insurance has been provided for the IP, as follows (please explain):

24. Other insurance has been provided for the IP, as follows (please explain):

25. Safe Deposit Boxes are authorized to be opened and have been located, as follows:

_____ Opened
(inventory attached)
Institution Address/Phone

_____ Opened
(inventory attached)
Institution Address/Phone

_____ Opened
(inventory attached)
Institution Address/Phone

_____ Opened
(inventory attached)
Institution Address/Phone

26. Mail is authorized to be collected and opened and arrangements are, as follows (please explain):

27. Income tax authority has been granted and arrangements to exercise that authority are, as follows

(e.g., tax returns filed previously have been located, accountant previously retained to prepare returns has been contacted, IRS FORM 4506 (Request for Copies of Tax Returns) has been filed, IRS FORM 56 (Notice of Fiduciary Relationship) has been filed, IRS FORM SS-4 (Request for Employer Identification Number, if employing persons to assist IP) has been filed, similar state and local forms have been filed; please explain):

The following must be completed by ALL GUARDIANS

DOCUMENTS

28. The following documents have been found (e.g., power of attorney, health care proxy, will); if any document is inconsistent with the powers granted in the guardianship (e.g., power of attorney grants same property management powers as the guardianship of property or health care proxy grants same medical decision making as guardianship of personal needs), application will be made to the court for further instructions; please mark box if fiduciary (e.g., attorney-in-fact, health care agent, executor/trix) has been given NOTICE of guardianship appointment:

_____			<input type="checkbox"/> <input type="checkbox"/> Application to court required
Document Type	Date	Located	NOTICE
_____			<input type="checkbox"/> <input type="checkbox"/> Application to court required
Document Type	Date	Located	NOTICE
_____			<input type="checkbox"/> <input type="checkbox"/> Application to court required
Document Type	Date	Located	NOTICE
_____			<input type="checkbox"/> <input type="checkbox"/> Application to court required
Document Type	Date	Located	NOTICE
_____			<input type="checkbox"/> <input type="checkbox"/> Application to court required
Document Type	Date	Located	NOTICE
_____			<input type="checkbox"/> <input type="checkbox"/> Application to court required
Document Type	Date	Located	NOTICE

VISITS

29. The frequency of the Guardian/Co-Guardians' visits to the IP and the date of the last visit (Guardians are required to visit at least 4 times per year):

Frequency (e.g., daily, weekly, monthly, 4 Xs per year)

Date of last visit _____

CHANGES AND ADDITIONAL POWERS

30. Please report any changes to the IP's personal care and maintenance or management of his/her financial and property affairs currently needed and planned.

31. Do these changes require additional powers or a modification of the powers granted?

DATED:

STATE OF NEW YORK)
) ss:
COUNTY OF _____)

I, _____, being duly sworn,
say, that I am the Guardian/Co-Guardians for

Name of IP
and have executed this Initial Report, which to the best of my/our knowledge and belief contains true and accurate information regarding the personal needs and/or property of the Incapacitated Person and all of the activities I/we have undertaken on behalf of the Incapacitated Person. I/we verify that all matters reported herein are known to me/us of my/our own knowledge, except those which are stated upon information and belief.

Sign: _____

Sign _____

Print Name of Guardian/Co-Guardian of
[] Person [] Property [] Person & Property

Print Name of Co-Guardian
[] Person [] Property [] Person & Property

Sign: _____

Print Name of Co-Guardian
[] Person [] Property [] Person & Property

FILERS & JOINT FILERS

All filers may only mark one (1) box under their name.

To qualify as joint-filers, the same box must be marked under each joint-filer's name.

The following is a sample of the Guardian's Annual Accounting

GUARDIAN'S ANNUAL ACCOUNTING

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF _____

Annual Account for Calendar
Year 20____

In the Matter of the Inventory and Account of

Index Number

Guardian for

Date:

An Incapacitated Person

I, _____, residing at _____, as
Guardian of the Person and/or Property for the above named person, do hereby make, render, and file
the following annual account and inventory.

On the _____ day of _____, 20____, I was duly appointed Guardian of the Person
and/or Property of the above named person by Order of the Supreme Court of _____ County and
have continued to act as such fiduciary since that date, giving a bond in the original sum of
\$_____, [now in the sum of \$_____, pursuant to subsequent orders,] which is
still in full force and effect with _____, as Surety. There has
been no change in the Surety thereon, and the Surety is in as good financial standing as when the
bond was given (or: There has been no change in the Surety thereon, other than as explained in
Schedule F).

The following is a true and full account of all receipts and disbursements for the calendar year
20_____.

SUMMARY

Schedule A - Principal on hand at date of appointment or last accounting: \$_____

Schedule B - Changes to principal: \$_____

Schedule C - Income Received : \$_____

Sub Total: \$_____

Schedule D - Paid Disbursements: \$ _____

Schedule E-1 - Balance of cash and securities
to be charged to next year's account: \$ _____

Schedule E-2 - Real Estate: \$ _____

Schedule E-3 - All other personal property: \$ _____

Total Estate: \$ _____

ANNUAL ACCOUNT

SCHEDULE A: Principal on Hand

<u>SOURCE:</u> (name and address of financial institution)	<u>AMOUNT:</u> (cash or market value of securities)
_____	\$ _____
_____	\$ _____
TOTAL OF SCHEDULE A:	\$ _____

SCHEDULE B: Increases or Decreases in Principal

List additional property received, gain or loss on sale or liquidation of stocks or bonds, any net receipts from sale of realty, (attach copy of closing statement), etc.

TOTAL OF SCHEDULE B: \$ _____

SCHEDULE C: Received Income and Cash Increases

If any property listed in the last accounting has been converted to cash, list here the amount received from the sale and attach an explanation.

<u>SOURCE</u>	<u>AMOUNT</u>
_____	\$ _____
_____	\$ _____

List income or monies received or earned on behalf of the IP.

<u>SOURCE</u>	<u>AMOUNT</u>
_____	\$ _____

_____ \$ _____

TOTAL OF SCHEDULE C: \$ _____

SCHEDULE D: Paid Disbursements

<u>PAID TO</u>	<u>AMOUNT</u>
_____	\$ _____
_____	\$ _____
 TOTAL OF SCHEDULE D:	 \$ _____

SCHEDULE E-1: Balance on Hand and other Personal and Real Property

<u>BANK ACCOUNTS, BROKERAGE ACCOUNTS, SECURITIES, PERSONAL PROPERTY</u> (List name of joint owners, if any, and their relationship to IP)	<u>INVENTORY VALUE</u>	<u>MARKET VALUE</u>
_____	(List values as of end of accounting period, for securities list both inventory and market values) \$ _____	\$ _____
_____	\$ _____	\$ _____
 TOTAL OF SCHEDULE E-1:	 \$ _____	 \$ _____

SCHEDULE E-2: Real Estate

(List all real estate owned by the IP, either in whole or in part. State location, assessed value, current market value, amount of mortgage (if any), and the weekly or monthly rental. If property is owned jointly, give names of joint owners and their relationship to the IP.)

SCHEDULE E-3: All Other Personal Property

<u>DESCRIPTION</u>	<u>INVENTORY / MARKET VALUE</u>
_____	\$ _____
_____	\$ _____

SCHEDULE F: Name and Address of Surety

(Attach a copy of the latest bond. Also, state and explain any changes in the bond, of the Surety thereon, or in the financial standing of the Surety.)

<u>NAME AND ADDRESS</u>	<u>AMOUNT OF BOND</u>	<u>BOND NUMBER</u>
_____	\$ _____	_____

AS TO THE INCAPACITATED PERSON:

1. State the age, date of birth, Social Security Number and marital status of the Incapacitated Person:

2. List the name and present address of the living spouse, children and siblings, of the Incapacitated Person:

3. State the present residence address and telephone number of the Guardian:

4. State the present address and telephone number of the Incapacitated Person. If the IP is in a facility state the facility's name, address and telephone number and the name of the chief executive officer of the facility or the person otherwise responsible for the care of the IP:

5. State whether there have been any changes in the physical or mental condition of the IP, and any substantial change in medication:

6. State the date and place the IP was last seen by a physician and the purpose of the visit:

7. Attach a statement by a physician, psychologist, nurse clinician or social worker, or other person who has evaluated or examined the IP within the three months prior to the filing of this report, regarding an evaluation of the IP's condition and the current functional level of the IP.

8. If the Guardian has been charged with providing for the personal needs of the IP:

(A) Attach a statement whether the current residential setting is suitable to the current needs of the IP.

(B) Attach a resume of any professional medical treatment given to the IP during the preceding year.

(C) Attach a plan for medical, dental and mental health treatment and related services for the coming year.

(D) Attach a resume of any other information concerning the social condition of the IP, including the social and personal services currently utilized by the IP, the social skills of the IP, and the social needs of the IP.

9. State whether the Guardian has used or employed the services of the IP, or whether moneys have been earned by or received on behalf of such IP. Provide details in Schedule C:

10. Attach a resume of any other pertinent facts relative to the care and maintenance of the IP, including the frequency of your visits; whether the IP has made a Will or executed a Power of Attorney; and any other information necessary for the proper administration of this matter.

STATE OF NEW YORK

ss.:

COUNTY OF _____

_____ (Guardian), being duly sworn says:

I am the Guardian of the Person and / or Property for the above named Incapacitated Person. The foregoing account and inventory contains, to the best of my knowledge and belief, a full and true statement of all my receipts and disbursements on account of said Incapacitated Person; and of all money and other personal property of said person which have come to my hands or have been received by any other persons by my order or authority since my appointment or since filing my last annual account and inventory, and of the value of all such property, together with a full and true statement and account of the manner in which I have disposed of the same and of all property remaining in my hands at the time of filing this account and inventory; also a full and true description of the amount and nature of each investment made by me since my appointment or since the filing of my last account and inventory.

I do not know of any error or omission in the account and inventory to the prejudice of said person.

Guardian

Sworn to before me this

_____ day of _____, 20_____

Notary Public

The following is a sample form of a Statement of Death & Final Accounting

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

-----x

In the Matter of the Final Accounting of

,

STATEMENT OF DEATH
MHL §81.44

Index No.

As the Guardian of Person and Property of

.

A Deceased Incapacitated Person.

-----x

PLEASE TAKE NOTICE that **(GUARDIAN NAME)**, the Guardian of Person and Property of **(Incapacitated Person Name)** hereby informs the necessary parties of the death of the Incapacitated Person, pursuant to MHL § 81.44.

INCAPACITATED PERSON:

LAST KNOWN RESIDENCE:

DATE AND PLACE OF DEATH:

The names and addresses of all parties entitled to notice pursuant to MHL §81.16(c)(3) are as follows:

Mental Hygiene Legal Services

Human Resources Administration

Court Examiner, Esq.

We are contacting you because you are the Administrator of the Estate, you are the court examiner appointed in this matter, or you are a party entitled to notice. If you have any further questions, please do not hesitate to contact me at () .

Respectfully Submitted,

Guardian for

State of New York:

ss.:

County of Kings :

On the day of , 2011, before me personally appeared (Guardian) to me known to be the individual described in and who executed the above statement and acknowledged to me that he/she executed the same.

NOTARY PUBLIC

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF KINGS

In the Matter of the Final Accounting of

INDEX NO.
AFFIDAVIT OF SERVICE

As Guardian of Person and Property of

A Deceased Incapacitated Person.

I _____, being duly sworn, deposes and says that he/she is over the age of
eighteen years. On the _____ day of _____, 2011 I _____ served a true copy of the
Statement of Death upon the following parties by depositing same in an official depository under the
exclusive care and custody of the United States Postal Service within the City and State of _____
by **regular mail**.

The following parties were served by regular mail ONLY:

Dated:

Guardian of Person and Property

ACKNOWLEDGMENT

STATE OF NEW YORK :
COUNTY OF KINGS :

On the day of , 2011, before me personally appeared the Guardian of
, to me known and known to me to be the individual described in and who executed the foregoing
Statement of Death, and he/she personally acknowledged to me that he/she executed the same.

Sworn to before me this day of 2011

NOTARY PUBLIC

SUPREME COURT OF THE STATE OF NEW YORK
 COUNTY OF KINGS

In the Matter of the Final Inventory and Account of

 as Guardian for personal needs and property management
 of

 , An Incapacitated Person

FINAL ACCOUNTING
 Index No.

, residing at hereby files the following final inventory and account.

On , by Order of this Court, I was appointed guardian for personal needs and property management of . The bond was waived. On the court determined that no longer needs a guardian and that is the reason for this final report and account. Permission to file a final accounting was ordered on . The following is a true and full account of all receipts and disbursements.

SUMMARY

Schedule A Money on hand at start of guardianship	\$	-----	.
Schedule B Interest accumulated since then.	\$	_____	
Schedule C Income Received since then	\$		
Sub Total		\$	
Schedule D Money Paid Out For personal needs:		\$	_____
Subtotal of A-C minus Schedule D		\$	
Schedule E-1 Balance of cash and securities remaining	\$		
Schedule E-2 Real Estate	\$	0	0
Schedule E-3 All other personal property	\$	_____	
TOTAL		0	\$ 0

SCHEDULE A: Principal on Hand on Date of Initial Report

SOURCE: Name of bank or financial institution.	AMOUNT
--	--------

\$

SCHEDULE B: Increases or Decreases to Principal

List additional property received, gain or loss on sale or liquidation of stocks or bonds, any net receipts from sale of realty (attach copy of closing statement), etc.

SOURCE	AMOUNT
--------	--------

SCHEDULE C: Received Income and Cash Increases

If any property listed in the last accounting has been converted to cash, list here the amount received from the sale and attach an explanation.

SOURCE	
--------	--

If the Guardian has used or employed the services of the Ward, or if money has been earned by or received on behalf of the Ward, state details and amounts here; (See paragraph 9, infra.)

SCHEDULE D: Paid Disbursements

	AMOUNT
--	--------

\$

TOTAL OF SCHEDULE D

\$

SCHEDULE E-1: Balance on Hand and Other Personal and Real Property

BANK ACCOUNTS, BROKERAGE ACCOUNTS, PERSONAL PROPERTY, SECURITIES	INVENTORY VALUE	MARKET VALUE
<i>(List names of joint owners, if any, and their relationship to the Incapacitated Person.)</i>		

*

SCHEDULE E-2: Real Estate

List all real estate owned by the Incapacitated Person, either in whole or in part. State location, assessed value, current market value, amount of mortgage (if any), and the weekly or monthly rental. If property is owned jointly, give names of joint owners and their relationship to the Incapacitated Person.

DESCRIPTION	INVENTORY VALUE	MARKET VALUE
-------------	-----------------	--------------

NONE

SCHEDULE E-3: All Other Personal Property

DESCRIPTION	INVENTORY VALUE	MARKET VALUE
-------------	-----------------	--------------

NONE

SCHEDULE F: Name and Address of Surety

NAME AND ADDRESS	BOND NUMBER	AMOUNT OF BOND
------------------	-------------	----------------

SUCCESSOR GUARDIAN

STATE OF NEW YORK)
) SS:

COUNTY OF _____)

,being duly sworn, states:

I am the Guardian for personal needs and property management of _____ The foregoing account and inventory contains, to the best of my knowledge and belief, a full and true statement of all my receipts and disbursements on account of said Incapacitated Person; and of all money and other personal property of said person that have come to my hands or have been received by any other persons by my order or authority since my appointment, and of the value of all such property, together with a full and true statement and account of the manner in which I have disposed of the same and of all property remaining in my hands at the time of filing this account and inventory; also a full and true description of the amount and nature of each investment made by me since my appointment or since the filing of my last account and inventory.

I do not know of any error or omission in the account and inventory to the prejudice of.

Guardian

On the _____ day of _____ 2008 _____ before me, the undersigned, personally appeared, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that she executed the same in his capacity, and that by her signature on the instrument, the individual or the person upon behalf of whom the individual acted, executed the instrument.

Notary Public

ⁱ Information from this website: http://www.health.state.ny.us/professionals/patients/patient_rights/funeral.htm. Print has been enlarged.