

**IN THE COURT OF COMMON PLEAS
OF CLARION COUNTY, PENNSYLVANIA**

**NOTICE TO COURT APPOINTED GUARDIANS
FOR INCAPACITATED PERSONS**

After a hearing and careful review by a Judge of this Court, you have been appointed as the guardian of a person that has been declared incapacitated and/or the guardian of the incapacitated person's estate.

As guardian, your powers, duties and liabilities are described in Purdon's Pennsylvania Statutes – they can be found in Title 20, Section 5521 (20 Pa.C.S.A. §5521). Please see attached.

I. Filing Annual Reports

As guardian you are required to file with the court a report of the guardian of the estate and a report of the guardian of the person on an annual basis, beginning one year from the date on the court order appointing you guardian. The reports require the following information:

For Guardian of the Estate:

1. current principal and how it is invested
2. current income
3. expenditures of principal and income since the last report
4. needs of the incapacitated person for which the guardian has provided since the last report

For Guardian of the Person:

1. current address and type of placement of the incapacitated person
2. major medical or mental problems of the incapacitated person
3. a brief description of the incapacitated person's living arrangements and the social, medical, psychological and other support services the incapacitated person is receiving
4. the opinion of the guardian as to whether the guardianship should continue or be terminated or modified and the reasons therefore;
and
5. the number and length of times the guardian visited the person in the past year

If you are the guardian of the person and the guardian of the estate, you must fill out a form for each of those appointments. The form annual reports must be used and can be found on the Unified Judicial System at <http://www.pacourts.us/forms/for-the->

[public/orphans-court-forms](#), and it is strongly encouraged in place of filing hard copies with the Orphan's Court Office that guardians electronically file their reports if they are able. The Orphan's Court Office will be sending you information on how to make an online account for electronic filing of reports.

Within sixty days of the death of the incapacitated person or an adjudication of capacity (meaning that the person has been found to no longer be incapacitated) and modification of existing orders, the guardian must file a final report with the court.

II. Filing an Inventory

If you are appointed as guardian of the estate, you must also file with the Orphan's Court within three months after real or personal estate of the incapacitated person comes into your possession, an inventory and appraisal of any such personal estate, a statement of such real estate, and a statement of any real or personal estate which you expect to acquire. See 20 Pa.C.S.A. §5142. Similarly, you may find the form to be used to file the inventory on the website of the Unified Judicial System.

III. Filing a Notification of Mental Health Commitment

Pursuant to 18 Pa. C.S. § 6111.1(f)(1)(i), any individual adjudicated incapacitated or incompetent must have a Notification of Mental Health Commitment returned to the Orphan's Court on their behalf, so that the Notification can be filed with the Pennsylvania State Police within seven (7) days of the adjudication. The Orphan's Court will provide you with this form and it is your responsibility to return it immediately.

Please note:

The inventory and annual reports may be filed electronically; however, you may also deliver your report(s) in person to the Orphan's Court Office on the first floor of the Clarion County Court House or you may mail them to the Clarion County Orphan's Court Office, 421 Main Street, Suite 24, Clarion, Pennsylvania 16214. You should keep a copy for your records.

It is the guardian's responsibility to update the Orphan's Court Office of any change in their address or other contact information. The Orphan's Court Office will send you a reminder prior to the due date of your report(s). If you then fail to submit your report, you may be summoned to appear before the Judge to explain why you have failed to file the mandated report. The Court may impose sanctions for failure to timely file the report(s).

If you have any questions about these reports you may contact your attorney. Neither the Orphan's Court staff nor court staff can provide you with legal advice.

Thank you for taking on this serious responsibility; hopefully this brief description of your

responsibilities will be helpful to you as you begin your duties.

Effective: December 24, 2018

20 Pa.C.S.A. § 5521

§ 5521. Provisions concerning powers, duties and liabilities

(a) Duty of guardian of the person.--It shall be the duty of the guardian of the person to assert the rights and best interests of the incapacitated person. Expressed wishes and preferences of the incapacitated person shall be respected to the greatest possible extent. Where appropriate, the guardian shall assure and participate in the development of a plan of supportive services to meet the person's needs which explains how services will be obtained. The guardian shall also encourage the incapacitated person to participate to the maximum extent of his abilities in all decisions which affect him, to act on his own behalf whenever he is able to do so and to develop or regain, to the maximum extent possible, his capacity to manage his personal affairs.

(b) Duty of guardian of the estate.--The provisions concerning the powers, duties and liabilities of guardians of incapacitated persons' estates shall be the same as those set forth in the following provisions of this title relating to personal representatives of decedents' estates and guardians of minors' estates:

Section 3313 (relating to liability insurance).

Section 3314 (relating to continuation of business).

Section 3315 (relating to incorporation of estate's business).

Section 3317 (relating to claims against co-fiduciary).

Section 3318 (relating to revival of judgments against personal representative).

Section 3319 (relating to power of attorney; delegation of power over subscription rights and fractional shares; authorized delegations).

Section 3320 (relating to voting stock by proxy).

Section 3321 (relating to nominee registration; corporate fiduciary as agent; deposit of securities in a clearing corporation; book-entry securities).

Section 3322 (relating to acceptance of deed in lieu of foreclosure).

Section 3323 (relating to compromise of controversies).

Section 3324 (relating to death or incapacity of fiduciary).

Section 3327 (relating to surviving or remaining personal representatives).

Section 3328 (relating to disagreement of personal representatives).

Section 3331 (relating to liability of personal representative on contracts).

Section 3332 (relating to inherent powers and duties).

Section 3355 (relating to restraint of sale).

Section 3356 (relating to purchase by personal representative).

Section 3359 (relating to record of proceedings; county where real estate lies).

Section 3360 (relating to contracts, inadequacy of consideration or better offer; brokers' commissions).

Section 3372 (relating to substitution of personal representative in pending action or proceedings).

Section 3374 (relating to death or removal of fiduciary).

Section 3390 (relating to specific performance of contracts).

Section 5141 (relating to possession of real and personal property).

Section 5142 (relating to inventory).

Section 5143 (relating to abandonment of property).

Section 5145 (relating to investments).

Section 5146 (relating to guardian named in conveyance).

Section 5147 (relating to proceedings against guardian).

Section 5151 (relating to power to sell personal property).

Section 5154 (relating to title of purchaser).

Section 5155 (relating to order of court).

(c) Reports.

(1) Each guardian of an incapacitated person shall file with the court appointing him a report, at least once within the first 12 months of his appointment and at least annually thereafter, attesting to the following:

(i) Guardian of the estate:

(A) current principal and how it is invested;

(B) current income;

(C) expenditures of principal and income since the last report; and

(D) needs of the incapacitated person for which the guardian has provided since the last report.

(ii) Guardian of the person:

(A) current address and type of placement of the incapacitated person;

(B) major medical or mental problems of the incapacitated person;

(C) a brief description of the incapacitated person's living arrangements and the social, medical, psychological and other support services he is receiving;

(D) the opinion of the guardian as to whether the guardianship should continue or be terminated or modified and the reasons therefor; and

(E) number and length of times the guardian visited the incapacitated person in the past year.

(2) Within 60 days of the death of the incapacitated person or an adjudication of capacity and modification of existing orders, the guardian shall file a final report with the court.

(3) No less than quarterly, the clerk of the orphans' court shall transmit to the court a list of guardians who are delinquent at least 30 days in filing the reports required under this section. The court shall take appropriate enforcement action against such guardians.

(4) The court shall develop a procedure for the examination of the annual reports to ensure that the guardians are acting in the best interests of the incapacitated persons.

(d) Powers and duties only granted by court.--Unless specifically included in the guardianship order after specific findings of fact or otherwise ordered after a subsequent hearing with specific findings of fact, a guardian or emergency guardian shall not have the power and duty to:

(1) Consent on behalf of the incapacitated person to an abortion, sterilization, psychosurgery, electroconvulsive therapy or removal of a healthy body organ.

(2) Prohibit the marriage or consent to the divorce of the incapacitated person.

(3) Consent on behalf of the incapacitated person to the performance of any experimental biomedical or behavioral medical procedure or participation in any biomedical or behavioral experiment.

(e) Knowledge of objection.--In a hearing to determine whether a guardian shall be ordered to consent to a specific act or omission, if the guardian knows or has reason to know of the incapacitated person's objection to the action or omission, whether such objection had been expressed prior or subsequent to the determination of incapacity, the guardian shall report to the court such knowledge or information.

(f) Powers and duties not granted to guardian.--The court may not grant to a guardian powers controlled by other statute, including, but not limited to, the power:

(1) To admit the incapacitated person to an inpatient psychiatric facility or State center for the mentally retarded.

(2) To consent, on behalf of the incapacitated person, to the relinquishment of the person's parental rights.

(g) Criminal and civil immunity.--In the absence of gross negligence, recklessness or intentional misconduct, a unit of local government, nonprofit corporation or guardianship support agency under Subchapter F (relating to guardianship support) appointed as a guardian shall not be criminally liable or civilly liable for damages for performing duties as a guardian of the person, as authorized under this chapter.