

**First Judicial District of Pennsylvania  
Court of Common Pleas of Philadelphia County  
Orphans' Court Division**



**INCAPACITATED PERSONS  
A GUARDIAN'S MANUAL**

**Honorable Joseph D. O'Keefe**

**Administrative Judge**

**Orphans' Court Division**

**November 2009**

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# **First Judicial District of Pennsylvania Court of Common Pleas of Philadelphia County**

## **Orphans' Court Division**

### **INTRODUCTION**

#### **INCAPACITATED PERSONS A GUARDIAN'S MANUAL**

The goal of the Guardian's Manual which follows is to assist the Court-appointed Guardian of the Person, Guardian of the Estate, or Guardian of both the Person and Estate of an Incapacitated Person to exercise the Guardian's basic duties in connection with the Guardian's appointment.

The Manual describes, in basic terms, the primary duties of the Guardian – depending on the nature of the Guardian's appointment, and identifies the required forms which must be filed: The Inventory and Annual – Final Report (if appointed as Guardian of the Estate of the Incapacitated Person) and the Annual – Final Report (if appointed as Guardian of the Person of the Incapacitated Person). The Emergency Guardian of an Incapacitated Person ordinarily does not need to file either an Inventory or Annual Report.

**This Manual is not designed to provide a comprehensive legal or authoritative guide to Guardians, and is not intended to be taken as legal advice. It is strongly suggested that legal and other assistance be obtained by the Guardian as necessary.**

**Guardians are also requested to not ask Court personnel or employees of the Clerk of the Orphans' Court to give legal advice on specific issues as they are neither permitted nor qualified to do so.**

Finally, while a Final Decree may appoint one individual as guardian of both the person and estate of the Incapacitated Person, the powers and duties of the two different types of Guardianship are addressed separately. A Guardian appointed as both Guardian of the Person and Guardian of the Estate of the Incapacitated Person must comply with both sections and must file the Inventory and Annual – Final Reports for both the Person and Estate of the Incapacitated Person.

November 2009

**Honorable Joseph D. O'Keefe  
Administrative Judge,  
Orphans' Court Division**

# DUTIES OF THE GUARDIAN OF THE ESTATE OF AN INCAPACITATED PERSON

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The Guardian of the Estate must manage the income, investments, real estate, and any other property owned by an Incapacitated Person. The Guardian of the Estate is authorized to spend **income** for the benefit of the incapacitated person. However, the Guardian of the Estate **cannot sell real estate**, or, use any of the principal (funds or assets that belonged to the incapacitated person on the date that the Guardian of the Estate was appointed, including bank accounts, CD's, annuities, and other investments) *for any purpose* unless the Guardian files a Petition and obtains Court approval before doing so.

*As Guardian of the Estate of an Incapacitated Person your duties include:*

## **1. REVIEW FINAL DECREE APPOINTING YOU. POSTING OF SECURITY.**

You must review the Final Decree (Court Order) which appoints you Guardian of the Estate of the Incapacitated Person. The Final Decree describes the extent of your authority: you may either be authorized to exercise certain limited powers or may be appointed "plenary" (general) Guardian of the Estate. If your appointment is subject to limitations, you cannot exceed those limitations. Sample Final Decrees are reproduced below.

If you have been directed to post security (Bond) with a corporate surety, the Bond may be purchased from any approved corporate surety (such as Fidelity and Deposit Company of Maryland, contact Willard MacDonnell Agency, [bonds@wmacdonnell.com](mailto:bonds@wmacdonnell.com), 1319 Land Title Bldg., Philadelphia, PA. Phone: 215-563-1232) and must be filed with the Clerk before the Clerk will issue to you a Guardian's Certificate (\$10 cost) which you need before you can exercise any of your duties. The cost of the Bond can be paid from the assets of the Incapacitated Person.

## **2. INQUIRY AND DISCOVERY OF ASSETS**

You must make reasonable inquiry into the existence and whereabouts of all valuable assets of the Incapacitated Person, including the determination of their fair market value on the date of your appointment, which may require appraisals of real estate and personal property, as well as statements from banks or securities firms as to values of accounts and securities, or appraisals of antiques or jewelry.

## **3. SAFEGUARDING OF ASSETS**

Once the assets have been discovered and values determined, you are under a duty to provide for reasonable safeguarding of the assets to protect them from being dissipated, lost, stolen, or destroyed.

## **4. MANAGEMENT OF ASSETS**

You also must invest and manage the assets as a prudent person would so that they will appreciate in value and/or produce income for the benefit of the Incapacitated Person. However,

be advised that certain investments are not permitted, and, may not be made without a prior Court Decree which Decree must be obtained by filing a Petition.

## 5. PAYMENT OF DEBTS, OBLIGATIONS AND EXPENSES

You are authorized, generally, to use income to pay the reasonable debts, obligations and expenses of the Incapacitated Person, and in particular the support, medical expenses and maintenance of the Incapacitated Person which may include education where appropriate. Principal may not be used for any purpose unless you file a Petition and obtain Court Approval before doing so. You should establish a budget for the Incapacitated Person, and, if it appears that income, alone, will not meet his or her needs, then you must file a Petition seeking Court Approval of necessary expenditures from principal. The Court often approves expenditures from principal for a stated period of time, such one year; two years; etc.

## 6. INVENTORY

You must prepare and file a document known as a **Guardian's Inventory** with the Clerk of Orphans' Court within three (3) months of the date of your appointment. The **Guardian's Inventory** should contain, so far as you have been able to discover using reasonable efforts, a list of all real estate, personal property, bank accounts, securities, and any and all other valuable assets belonging to the Incapacitated Person with values stated as of the date of your appointment. The Guardian's Inventory should also include a statement of any real or personal assets which you reasonably expect to acquire on behalf of the Incapacitated Person after the date of filing of the inventory. The assets which appear on the Guardian's Inventory constitute the principal of the Incapacitated Person's Estate.

The Court approved **Guardian's Inventory Form** is included below, and an electronic version of the form is available on the Court's website at: <http://courts.phila.gov/forms>. The **Guardian's Inventory** must be filed electronically through the Internet at <https://fjdefile.phila.gov>, but a paper copy of the Inventory may be filed in person or by mail with the Office of the Clerk of Orphans' Court, Room 415 City Hall, Philadelphia, PA. A \$20 filing fee must be paid; however, if the Incapacitated Person has no assets and is indigent, you may be able to file the Inventory without paying the filing fee if you also file a *Petition to Proceed in Forma Pauperis*.

If you have any questions regarding the Orphans' Court Electronic Filing System, a User Manual is available at: <https://fjdefile.phila.gov/docs/Elec-Filing-Manual.pdf>, or you may call the Clerk of the Orphans' Court at (215) 686-2230.

## 7. ANNUAL REPORT

In addition to the Inventory, you also are required to file an **Annual Report** on or before the first 12 month anniversary of your appointment describing in detail the current principal of the Estate and how it is invested, the current income of the Estate, the expenditures of principal and/or income since the date of appointment, and the needs of the Incapacitated Person for which you have provided financially since the date of your appointment. You must follow your first Annual Report with succeeding reports on the twelve- (12) month anniversary of your appointment for each year thereafter that you continue to act as Guardian of the Estate of the Incapacitated Person. You also must, within sixty (60) days of the death of the Incapacitated Person, file a Final Report.

The Court approved **Annual Report** form is attached below, and an electronic version of the form is available on the Court's website at: <http://courts.phila.gov/forms>. The **Annual Report** must be filed electronically through the Internet at <https://fjdefile.phila.gov>, but a paper copy of the **Annual Report** may be filed in person or by mail with the Office of the Clerk of Orphans' Court, Room 415 City Hall, Philadelphia, PA. A \$30.00 filing fee must be paid; however, if the Incapacitated Person has no assets and is indigent, you may be able to file the **Annual Report** without paying the filing fee if you also file a *Petition to Proceed in Forma Pauperis*.

## 8. FINAL REPORT

Within sixty (60) days of the death of the Incapacitated Person, you are required to file a **Final Report** with the Court.

The same form which is used to file the Annual Report is used to file the **Final Report**.

The **Final Report** must be filed electronically through the Internet at <https://fjdefile.phila.gov>, but a paper copy of the **Final Report** may be filed in person or by mail with the Office of the Clerk of Orphans' Court, Room 415 City Hall, Philadelphia, PA. A \$30.00 filing fee must be paid, and can be paid from the assets of the Incapacitated Person. If the Incapacitated Person has no assets and is indigent you may be able to file the **Final Report** without paying the filing fee if you file a *Petition to Proceed in Forma Pauperis*.

## 9. FIDUCIARY DUTY GENERALLY

As guardian of the Estate of an Incapacitated Person you are a "fiduciary." Legally you are obligated to exercise prudent judgment in the management of the Estate of the Incapacitated Person for her/his benefit only, and to avoid conflicts of interest or decisions which may benefit yourself. You may not invest the Incapacitated Person's assets in businesses or corporations owned or controlled by you nor may you loan the Incapacitated Person's funds to yourself for such enterprises unless you have filed a petition and an order is issued specifically authorizing you to do so beforehand. However, you also should not allow the Incapacitated Person's assets to remain idle. Any idle assets which fall into your management should, with prudence, be placed into productive form. Two simple examples are that cash in a checking account should be transferred to savings or money market account so that income is produced. Vacant residential or commercial property should be leased to produce income, where practicable, for a term not exceeding 5 years.

As fiduciary you are also authorized, within reason, to hire experts for advice including accountants, investment advisers, and attorneys to assist you in proper management of the assets of the Incapacitated Person. The reasonable fees and commissions for these experts are properly chargeable to the Estate of the Incapacitated Person. Remember, however, that you may **not** expend **principal** unless and until you file a Petition and obtain prior Court Approval to do so.

## 10. ESTATE PLANNING

If the assets of the Incapacitated Person for whom you are Guardian are substantial, you may file a Petition requesting the Court to authorize estate planning on behalf of the Incapacitated Person which may include establishing a trust, making gifts, disclaiming interests in property or powers of appointment, all of which may be needed to manage and properly dispose of the Incapacitated

Person's assets. In such an effort, the advice of a qualified attorney, investment adviser, and/or CPA will be very helpful, if not essential.

#### **11. PARTIAL LIST**

This list of duties and responsibilities is partial and is by no means complete. If you are the individual Guardian of an Incapacitated Person's Estate and there is no institutional or corporate Co-Guardian, it is highly recommended that you consult with a qualified attorney concerning additional duties and responsibilities which cannot, for reasons of space, be set forth here.

#### **12. SAMPLE DECREES AND FORMS**

See the samples of Court Decrees and Forms which are annexed to this Guardian's Manual.

# DUTIES OF THE GUARDIAN OF THE PERSON OF AN INCAPACITATED PERSON

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The Guardian of the Person must make decisions to protect the health, safety, and welfare of the Incapacitated Person. The Guardian of the Person is not responsible for managing the Incapacitated Person's finances and, unless the same individual is also appointed as Guardian of the Estate, *the Guardian of the Person should not have control over the income, property, or finances of the Incapacitated Person.*

*As Guardian of the Person of an Incapacitated Person your duties include:*

## **1. REVIEW FINAL DECREE APPOINTING YOU**

You must review the Final Decree (Court Order) which appoints you Guardian of the Person of the Incapacitated Person. The Final Decree describes the extent of your authority: you may either be authorized to exercise certain limited powers or may be appointed "plenary" (general) Guardian of the Person. If your appointment is subject to limitations, you cannot exceed those limitations. Sample Final Decrees are reproduced after this section.

You must obtain a Guardian's Certificate (\$10 cost) from the Clerk before you may be able to exercise any of your duties.

## **2. GENERAL DUTY OF GUARDIAN OF THE PERSON**

As either limited or "plenary" (general) Guardian of the Person, you have a general responsibility to assert the rights and the best interests of the Incapacitated Person. In doing so, the expressed wishes and preferences of the Incapacitated Person shall be respected to the greatest possible extent. If these expressed wishes and preferences, however, conflict with your independent judgment of what is in the best interests of the Incapacitated Person, then you should follow your independent judgment, but only to the extent necessary to pursue the best interests of the Incapacitated Person.

## **3. PLAN OF SUPPORTIVE SERVICE**

Where appropriate, you should assist in the development of a plan for supportive services for the Incapacitated Person, which will explain how these services will be obtained. This may not be necessary in every case, depending upon the circumstances of the Incapacitated Persons as you find them upon the commencement of your duties.

## **4. ENCOURAGEMENT OF INCAPACITATED PERSON TO PARTICIPATE IN DECISIONS**

You must encourage the Incapacitated Person to participate in making decisions to the maximum extent feasible within the limitations of his or her ability. You should further encourage the Incapacitated Person to act on his or her own behalf whenever he or she may be able to do so.

You should further encourage the Incapacitated Person to develop or regain his or her capacity to manage his or her personal affairs insofar as may be possible under the circumstances.

#### **5. GENERAL CARE, MAINTENANCE and CUSTODY OF THE INCAPACITATED PERSON**

A “plenary” (general) Guardian of the Person has general responsibility for the care, maintenance and custody of the Incapacitated Person. Your attention to these duties may be limited by the terms of the Court Order, however, in exercising these duties you must not exceed that authority. Your primary guiding principle should be to follow what is in the best interests of the Incapacitated Person, even in situations that may conflict with you personal beliefs or your personal interest. If the best interests of the Incapacitated Person conflict irrevocably with your strongly held personal beliefs or personal interests, you may, and should apply to Court for guidance or for relief from your duties and transfer those duties to another person. You must avoid any conflict of interest, or even the appearance of a conflict of interest, in your pursuit of the best interests of the Incapacitated Person.

#### **6. PLACE FOR INCAPACITATED PERSON TO LIVE**

A “plenary” (general) Guardian of the Person is empowered to select a place in which the Incapacitated Person will reside. Again, you must follow the standard of what is in the best interests of the Incapacitated Person, using your own independent judgment. You should attempt to discern the preferences as expressed by the Incapacitated Person and members of his or her family and to accommodate these with respect to the place in which the Incapacitated Person will be living, except in those instances where your independent judgment determines that this would conflict with the best interests of the Incapacitated Person.

#### **7. RESPONSIBILITY FOR TRAINING, EDUCATION, MEDICAL and PSYCHOLOGICAL SERVICES OF INCAPACITATED PERSON**

A “plenary” (general) Guardian of the Person is authorized to assist the Incapacitated Person in the development of maximum self-reliance and independence. You should refer to the Court Decree appointing you to see if the Court has given you specific responsibilities pertaining to training, education, medical and psychological services, or for the social and vocational opportunities to be offered to the Incapacitated Person. Again, your guiding principle should be what is in the best interests of the Incapacitated Person and consideration of expressed wishes of the Incapacitated Person or family members would be appropriate where it does not conflict with this principle.

#### **8. CONSENTS / APPROVALS FOR INCAPACITATED PERSON**

A “plenary” (general) Guardian of the Person is generally authorized to give consents or approvals for various medical, surgical, psychological, or other treatment alternatives which may become available for the Incapacitated Person. **However, please note that no Guardian has the authority or power to admit the Incapacitated Person to an inpatient psychiatric facility or State Center for the mentally retarded, or, to consent to the relinquishment of the rights of the Incapacitated Person as a Parent.** As before, you should endeavor to follow the express wishes of the Incapacitated Person and family members to the extent that these do not conflict with the overriding principle of what is in the best interests of the Incapacitated Person. Your independent judgment on these issues, however, should not be overridden by family wishes.

## 9. ANNUAL REPORT

In addition to the overall duties set forth above, you are required to file an Annual Report on or before the first 12 month anniversary of your appointment and annually thereafter in which you describe the following in detail:

- (A) The current address and type of placement of the Incapacitated Person.
- (B) The major medical or mental problems of the Incapacitated Person.
- (C) A brief description of the Incapacitated Person's living arrangements, social, medical, psychological and other support services he or she is receiving.
- (D) Your opinion as to whether or not the guardianship of the Person should continue, be terminated, or modified, and your reason for this opinion.
- (E) The number and length of times in which you have visited the Incapacitated Person, during the last year.

## 10. FINAL REPORT

Within sixty (60) days of the death of the Incapacitated Person, you are required to file a **Final Report** with the Court.

The same form which is used to file the Annual Report is used to file the **Final Report**.

The **Final Report** must be filed electronically through the Internet at <https://fjdefile.phila.gov>, but a paper copy of the **Final Report** may be filed in person or by mail with the Office of the Clerk of Orphans' Court, Room 415 City Hall, Philadelphia, PA. A \$30.00 filing fee must be paid; however, if the Incapacitated Person has no assets and is indigent you may be able to file the **Final Report** without paying the filing fee if you also file a *Petition to Proceed in Forma Pauperis*.

## 11. POWERS WHICH MAY ONLY BE GRANTED BY COURT

Unless specifically included within your guardianship Order, you **shall not** have power to:

- (A) Consent, on behalf of the Incapacitated Person, to abortion, sterilization, psychosurgery, electroconvulsive therapy, or the removal of a healthy body organ.
- (B) Prohibit the marriage or consent to the divorce of the Incapacitated Person.
- (C) 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.

## 12. PARTIAL LIST

This list of duties and responsibilities is partial and is by no means complete. If you are the individual Guardian of the Person and there is no institutional or corporate Co-Guardian, it is highly recommended that you consult with a qualified attorney concerning additional duties and responsibilities which cannot, for reasons of space, be set forth here.

# DUTIES OF THE EMERGENCY GUARDIAN OF THE PERSON OF AN INCAPACITATED PERSON

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## **REVIEW FINAL DECREE APPOINTING YOU**

You must review the Final Decree (Court Order) which appoints you as Emergency Guardian of the Person of the Incapacitated Person. A Decree appointing an Emergency Guardian is ordinarily entered due to an immediate medical condition of the alleged incapacitated person and the inability to secure required informed consent from the alleged incapacitated person or a member of his or her family. The Final Decree describes in detail the extent of your authority as Emergency Guardian of the Person as well as the duration of the appointment (usually 72 hours or some such limited time-period).

# Sample Decree – Plenary – Estate Only

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## *COURT OF COMMON PLEAS OF PHILADELPHIA*

### *ORPHANS' COURT DIVISION*

O. C. No. xxx of 20\_\_

Control No. \_\_\_\_\_

Estate of ,

An Alleged Incapacitated Person

#### FINAL DECREE

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, upon consideration of the petition and after hearing held following due service of the Citation with Notice and a copy of the petition upon (A), this court finds by clear and convincing evidence that:

1. (A) is (B) years of age and is a domiciliary of the City and County of Philadelphia.

2. (A) suffers from \_\_\_\_\_ which totally impairs her capacity to receive and evaluate information effectively and to make and communicate decisions concerning management of her financial affairs or to meet essential requirements for her physical health and safety.

3. She is totally dependent upon others for assistance in her daily activities.

Accordingly, it is hereby ORDERED and DECREED that (A) is adjudged a totally incapacitated person and that (C) is appointed plenary guardian of the estate (A), an incapacitated person.

The said guardian shall enter security, with corporate surety, in the amount of \$ \_\_\_\_\_.

In the event said incapacitated person has a safe deposit box, an Official Examiner of this court shall be in attendance when said safe deposit box is opened. The Certificate of the Official Examiner of his examination of the assets in such safe deposit box shall be submitted to the court, and, when approved by the hearing judge, shall be filed with the record in this case.

The amount and manner of compensation for these services of the Official Examiner shall be determined by the hearing judge.

The said guardian is directed to file an inventory within ninety (90) days of the date of this Decree in accordance with the provisions of 20 Pa.C.S.A. §5521(b) and §5142.

The said guardian is not permitted to expend the principal of the incapacitated person's estate without permission of the court in accordance with the provisions of 20 Pa.C.S.A. §5536.

Furthermore, the said guardian shall file a Report at least once within the first twelve months of his/her appointment and at least annually thereafter in accordance with the provisions of 20 Pa.C.S.A. §5521(c)(1)(i) and (ii).

Within sixty (60) days after the death of the incapacitated person or an adjudication of capacity, the guardians shall file a Final Report with the court pursuant to 20 Pa.C.S.A. §5521(c)(2).

(A) was not present at the hearing and was not represented by counsel. The court finds from clear and convincing medical evidence that (A)'s physical and mental health would have been harmed by requiring her presence at the hearing. Accordingly, counsel for the petitioner shall cause to be served upon and read to (A) a copy of this Decree and the Statement of Rights, a copy of which is attached to this Decree as Exhibit "A", and file proof of such service with the Clerk of the Orphans' Court within ten (10) days.

Exceptions to this Decree may be filed within twenty (20) days from the entry of the Decree. An appeal from this Decree may be taken to the appropriate appellate court within thirty (30) days from the entry of the Decree. See Phila. O.C. Rule 7.1.A and Pa. O.C. Rule 7.1, as amended, and, Pa. R.A.P. 902 and 903.

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J.

# Sample Decree – Plenary – Person and Estate

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*COURT OF COMMON PLEAS OF PHILADELPHIA*  
*ORPHANS' COURT DIVISION*

O. C. No. xxx of 20\_\_

Control No. \_\_\_\_\_

Estate of ,

An Alleged Incapacitated Person

FINAL DECREE

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, upon consideration of the petition and after hearing held following due service of the Citation with Notice and a copy of the petition upon (A), this court finds by clear and convincing evidence that:

1. (A) is (B) years of age and is a domiciliary of the City and County of Philadelphia.
2. (A) suffers from \_\_\_\_\_ which totally impairs her capacity to receive and evaluate information effectively and to make and communicate decisions concerning management of her financial affairs or to meet essential requirements for her physical health and safety.
3. She is totally dependent upon others for assistance in her daily activities.

Accordingly, it is hereby ORDERED and DECREED that (A) is adjudged a totally incapacitated person and that (C) is appointed plenary guardian of the estate (A), an incapacitated person.

The said guardian shall enter security, with corporate surety, in the amount of \$ \_\_\_\_\_.

In the event said incapacitated person has a safe deposit box, an Official Examiner of this court shall be in attendance when said safe deposit box is opened. The Certificate of the Official Examiner of his examination of the assets in such safe deposit box shall be submitted to the court, and, when approved by the hearing judge, shall be filed with the record in this case.

The amount and manner of compensation for these services of the Official Examiner shall be determined by the hearing judge.

The said guardian is directed to file an inventory within ninety (90) days of the date of this Decree in accordance with the provisions of 20 Pa.C.S.A. §5521(b) and §5142.

The said guardian is not permitted to expend the principal of the incapacitated person's estate without permission of the court in accordance with the provisions of 20 Pa.C.S.A. §5536.

Furthermore, the said guardian shall file a Report at least once within the first twelve months of his/her appointment and at least annually thereafter in accordance with the provisions of 20 Pa.C.S.A. §5521(c)(1)(i) and (ii).

Within sixty (60) days after the death of the incapacitated person or an adjudication of capacity, the guardians shall file a Final Report with the court pursuant to 20 Pa.C.S.A. §5521(c)(2).

(A) was not present at the hearing and was not represented by counsel. The court finds from clear and convincing medical evidence that (A)'s physical and mental health would have been harmed by requiring her presence at the hearing. Accordingly, counsel for the petitioner shall cause to be served upon and read to (A) a copy of this Decree and the Statement of Rights, a copy of which is attached to this Decree as Exhibit "A", and file proof of such service with the Clerk of the Orphans' Court within ten (10) days.

Exceptions to this Decree may be filed within twenty (20) days from the entry of the Decree. An appeal from this Decree may be taken to the appropriate appellate court within thirty (30) days from the entry of the Decree. See Phila. O.C. Rule 7.1.A and Pa. O.C. Rule 7.1, as amended, and, Pa. R.A.P. 902 and 903.

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J.

# Final Decree – Plenary – Person Only

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## *COURT OF COMMON PLEAS OF PHILADELPHIA* *ORPHANS' COURT DIVISION*

O. C. No. xxx of 20\_\_

Control No. \_\_\_\_\_

Estate of ,

An Alleged Incapacitated Person

### FINAL DECREE

AND NOW, this                      day of     , 20     , upon consideration of the petition and after hearing held following due service of the Citation with Notice and a copy of the petition upon (A), this court finds by clear and convincing evidence that:

1.        (A) is (B) years of age and is a domiciliary of the City and County of Philadelphia.

2.        (A) suffers from                      which totally impairs her capacity to receive and evaluate information effectively and to make and communicate decisions concerning management of her financial affairs or to meet essential requirements for her physical health and safety.

3.        She is totally dependent upon others for assistance in her daily activities.

Accordingly, it is hereby ORDERED and DECREED that (A) is adjudged a totally incapacitated person and that (C) is appointed plenary guardian of the person of (A), an incapacitated person.

In the event said incapacitated person has a safe deposit box, an Official Examiner of this court shall be in attendance when said safe deposit box is opened. The Certificate of the Official Examiner of his examination of the assets in such safe deposit box shall be submitted to the court, and, when approved by the hearing judge, shall be filed with the record in this case. The amount and manner of compensation for these services of the Official Examiner shall be determined by the hearing judge.

Furthermore, the said guardian shall file a Report at least once within the first twelve months of his/her appointment and at least annually thereafter in accordance with the provisions of 20 Pa.C.S.A. §5521(c)(1)(i) and (ii).

Within sixty (60) days after the death of the incapacitated person or an adjudication of capacity, the guardians shall file a Final Report with the court pursuant to 20 Pa.C.S.A. §5521(c)(2).

(A) was not present at the hearing and was not represented by counsel. The court finds from clear and convincing medical evidence that (A)'s physical and mental health would have been harmed by requiring her presence at the hearing. Accordingly, counsel for the petitioner shall cause to be served upon and read to (A) a copy of this Decree and the Statement of Rights, a copy of which is attached to this Decree as Exhibit "A", and file proof of such service with the Clerk of the Orphans' Court within ten (10) days.

Exceptions to this Decree may be filed within twenty (20) days from the entry of the Decree. An appeal from this Decree may be taken to the appropriate appellate court within thirty (30) days from the entry of the Decree. See Phila. O.C. Rule 7.1.A and Pa. O.C. Rule 7.1, as amended, and, Pa. R.A.P. 902 and 903.

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J.

# Final Decree – Plenary - Person and Estate

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## *COURT OF COMMON PLEAS OF PHILADELPHIA* *ORPHANS' COURT DIVISION*

O. C. No. xxx of 20\_\_

Control No. \_\_\_\_\_

Estate of ,

An Alleged Incapacitated Person

### FINAL DECREE

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, upon consideration of the petition and after hearing held following due service of the Citation with Notice and a copy of the petition upon (A), this court finds by clear and convincing evidence that:

1. (A) is (B) years of age and is a domiciliary of the City and County of Philadelphia.
2. (A) suffers from \_\_\_\_\_ which totally impairs her capacity to receive and evaluate information effectively and to make and communicate decisions concerning management of her financial affairs or to meet essential requirements for her physical health and safety.
3. She is totally dependent upon others for assistance in her daily activities.

Accordingly, it is hereby ORDERED and DECREED that (A) is adjudged a totally incapacitated person and that (C) is appointed plenary guardian of the person and estate of (A), an incapacitated person.

The said guardian shall enter security, with corporate surety, in the amount of \$ \_\_\_\_\_.

In the event said incapacitated person has a safe deposit box, an Official Examiner of this court shall be in attendance when said safe deposit box is opened. The Certificate of the Official Examiner of his examination of the assets in such safe deposit box shall be submitted to the court, and, when approved by the hearing judge, shall be filed with the record in this case.

The amount and manner of compensation for these services of the Official Examiner shall be determined by the hearing judge.

The said guardian is directed to file an inventory within ninety (90) days of the date of this Decree in accordance with the provisions of 20 Pa.C.S.A. §5521(b) and §5142.

The said guardian is not permitted to expend the principal of the incapacitated person's estate without permission of the court in accordance with the provisions of 20 Pa.C.S.A. §5536.

Furthermore, the said guardian shall file a Report at least once within the first twelve months of his/her appointment and at least annually thereafter in accordance with the provisions of 20 Pa.C.S.A. §5521(c)(1)(i) and (ii).

Within sixty (60) days after the death of the incapacitated person or an adjudication of capacity, the guardians shall file a Final Report with the court pursuant to 20 Pa.C.S.A. §5521(c)(2).

(A) was not present at the hearing and was not represented by counsel. The court finds from clear and convincing medical evidence that (A)'s physical and mental health would have been harmed by requiring her presence at the hearing. Accordingly, counsel for the petitioner shall cause to be served upon and read to (A) a copy of this Decree and the Statement of Rights, a copy of which is attached to this Decree as Exhibit "A", and file proof of such service with the Clerk of the Orphans' Court within ten (10) days.

Exceptions to this Decree may be filed within twenty (20) days from the entry of the Decree. An appeal from this Decree may be taken to the appropriate appellate court within thirty (30) days from the entry of the Decree. See Phila. O.C. Rule 7.1.A and Pa. O.C. Rule 7.1, as amended, and, Pa. R.A.P. 902 and 903.

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J.

# Final Decree – Emergency Guardian

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## *COURT OF COMMON PLEAS OF PHILADELPHIA* *ORPHANS' COURT DIVISION*

O. C. No. xxx of 20\_\_

Control No. \_\_\_\_\_

Estate of ,

An Alleged Incapacitated Person

### FINAL DECREE

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, after hearing held, and, upon consideration of the record in this matter, this Court holds that the petitioner has presented clear and convincing evidence such that it appears that (A) lacks capacity to make and communicate decisions regarding his/her physical health and safety; that (A) is in need of a Guardian of his/her Person; and, that failure to appoint a Guardian will result in irreparable harm to the Person of (A).

ACCORDINGLY, it is hereby ORDERED and DECREED that (B), is appointed Emergency Guardian of the person of (A).

As Emergency Guardian of the person, (A) shall make all decisions regarding the person of (A), including but not limited to decisions regarding where (A) shall reside, and, what medical, psychiatric and psychological treatment or services shall be provided to (A). The term of this appointment is 72 hours. However, the term of this appointment may be extended on further application to this Court if the emergency continues beyond the initial 72 hours.

(A) [was present] [was not present] in court, and [was][was not] represented by counsel.

\_\_\_\_\_  
J

Commonwealth of Pennsylvania  
Court of Common Pleas of Philadelphia County  
Clerk of Orphans' Court

## Certificate of Guardian or Trustee

**I Certify** that on the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2\_\_\_\_\_, upon petition filed, as of No. \_\_\_\_\_ of \_\_\_\_\_, and after required hearings, if any, the Court:

Adjudged \_\_\_\_\_ an incapacitated person, Social Security No. (\_\_\_\_-\_\_\_\_-\_\_\_\_) and appointed \_\_\_\_\_

Limited/Plenary Guardian of \_\_\_\_\_ estate; and that the said Guardian has not since been discharged or the appointment revoked;

**OR**

Appointed \_\_\_\_\_ Guardian of \_\_\_\_\_

minor child \_\_\_\_\_, and that said Guardian has not since been discharged;

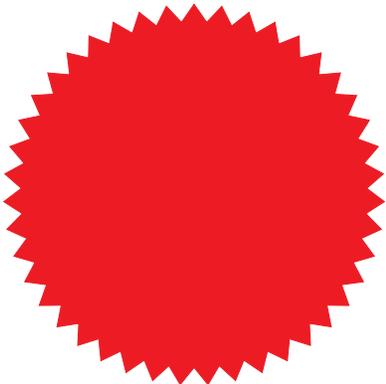
**OR**

Appointed or awarded assets to \_\_\_\_\_

TRUSTEE for \_\_\_\_\_ under the last will and testament of \_\_\_\_\_

and that said trustee(s) has/have not since been discharged.

Bond, in the sum of \$\_\_\_\_\_, was ordered and has been entered.



**Witness** my hand and the seal of the said Court, this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2\_\_\_\_\_.

FOR THE COURT:

\_\_\_\_\_  
*Asst. Clerk of Orphans' Court Division*

\_\_\_\_\_  
*Attorney for Petitioner* Esq.

# GUARDIAN'S INVENTORY

COURT OF COMMON PLEAS OF \_\_\_\_\_ COUNTY, PENNSYLVANIA  
ORPHANS' COURT DIVISION

Estate of \_\_\_\_\_, } an Incapacitated Person  
a Minor  
No. \_\_\_\_\_

**1. Real Estate: (Location, by whom occupied and rental terms, if applicable)**

**Estimated Value:**

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*Sub-Total for Real Estate:*

**2. Personal Property:**

**Estimated Value:**

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**3. Jointly Held Property:**

*(Set forth real and personal property owned by the Incapacitated Person JOINTLY with any other person(s). State whether held as tenants by the entireties; if not, whether the right of survivorship exists.)*

*Jointly Held Property*

**Estimated Value:**

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**ANNUAL REPORT OF  
GUARDIAN OF THE ESTATE**

COURT OF COMMON PLEAS OF  
\_\_\_\_\_ COUNTY, PENNSYLVANIA  
ORPHANS' COURT DIVISION

Estate of \_\_\_\_\_, an Incapacitated Person

No. \_\_\_\_\_

**I. INTRODUCTION**

\_\_\_\_\_, was appointed  
 Plenary  Limited Guardian of the Estate by Decree of \_\_\_\_\_, J.,  
dated \_\_\_\_\_.

A. This is the **Annual Report** for the period from \_\_\_\_\_, \_\_\_\_\_  
to \_\_\_\_\_, \_\_\_\_\_ (the "Report Period"); *or*

B. This is the **Final Report** for the period from \_\_\_\_\_, \_\_\_\_\_  
to \_\_\_\_\_, \_\_\_\_\_ (the "Report Period"), and is filed

for the following reason:

1. The death of the Incapacitated Person. Date of death: \_\_\_\_\_  
Name of Personal Representative: \_\_\_\_\_
2. The Guardianship was terminated by the Court by Decree of  
\_\_\_\_\_ J., dated \_\_\_\_\_

Estate of \_\_\_\_\_, An Incapacitated Person

**II. SUMMARY**

- A. State the value of the estate reported on the Inventory \$ \_\_\_\_\_
- B. State the value(s) of principal assets at the beginning of the Report Period. (Same as Inventory if first Report, otherwise, ending balance from last Report.) \$ \_\_\_\_\_
- C. What is the total amount of income earned during the Report Period? \$ \_\_\_\_\_
- D. What is the total amount of income and principal spent for all purposes during the Report Period? \$ \_\_\_\_\_
- E. What are the balances remaining at the end of the Report Period?
  - 1. Principal \$ \_\_\_\_\_
  - 2. Income \$ \_\_\_\_\_
  - 3. Total of Principal and Income \$ \_\_\_\_\_

**III. ADDITIONAL INFORMATION**

*(If more space is needed, please attach additional pages.)*

**A. Principal**

- 1. How is the principal balance listed above currently invested? (Please specify, e.g., real estate, certificates of deposit, restricted bank accounts, etc.):
  
  
  
  
  
  
  
  
  
  
- 2. Have there been any expenditures from the principal during the Report Period? .....  Yes  No
  
- If yes:
  - a. Have all expenditures from the principal been for the sole benefit of the Incapacitated Person? .....  Yes  No

Estate of \_\_\_\_\_, An Incapacitated Person

b. List purpose and amount of expenditures:

_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

c. Was Court approval received prior to expending the principal? .....  Yes  No

3. Were additional principal assets received during the Report Period which were not included in the Inventory or a prior Report filed for the Estate? .....  Yes  No

If yes:

a. Was Court approval requested prior to receiving the additional principal? .....  Yes  No

b. State the sources and amounts of the additional principal received:

_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

**B. Income**

1. State sources and amounts of income received during the Report Period (e.g., Social Security, pension, rents, etc.):

_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

Total income received during Report Period: \$ \_\_\_\_\_

Estate of \_\_\_\_\_, An Incapacitated Person

2. How is income currently invested? (Please specify, *e.g.*, restricted bank accounts, client care account, etc.):

**C. Expenses for Care and Maintenance**

Specify what expenditures were made from the principal and income for the care and maintenance of the Incapacitated Person (*e.g.*, clothing, nursing home, medicine, support, etc.):

**D. Other Expenditures**

Specify what other expenditures were made during the Report Period. (Do not include any items stated in response to question C above.)

**E. Guardian's Commissions**

List amounts of compensation paid as Guardian's commission and state how amount was determined:

<i>Amount</i>	<i>Method of Determination</i>	<i>Court Approval Obtained</i>
_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No

Estate of \_\_\_\_\_, An Incapacitated Person

**F. Counsel Fee**

List amounts paid as counsel fee, and indicate whether Court approval was obtained.

<i>Amount</i>	<i>Court Approval Obtained</i>
_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	<input type="checkbox"/> Yes <input type="checkbox"/> No

I verify that the foregoing information is correct to the best of my knowledge, information and belief; and that this Verification is subject to the penalties of 18 Pa.C.S. § 4904 relative to unsworn falsification to authorities.

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Signature of Guardian of the Estate*

\_\_\_\_\_  
*Name of Guardian of the Estate (type or print)*

\_\_\_\_\_  
*Address*

\_\_\_\_\_  
*City, State, Zip*

\_\_\_\_\_  
*Telephone*

**ANNUAL REPORT OF  
GUARDIAN OF THE PERSON**

COURT OF COMMON PLEAS OF  
\_\_\_\_\_ COUNTY, PENNSYLVANIA  
ORPHANS' COURT DIVISION

Estate of \_\_\_\_\_, an Incapacitated Person

No. \_\_\_\_\_

**I. INTRODUCTION**

\_\_\_\_\_, was appointed

Plenary Limited Guardian of the Person by Decree of \_\_\_\_\_, J.,  
dated \_\_\_\_\_.

A. This is the **Annual Report** for the period from \_\_\_\_\_,  
to \_\_\_\_\_, \_\_\_\_\_ (the "Report Period"); *or*

B. This is the **Final Report** for the period from \_\_\_\_\_,  
to \_\_\_\_\_, \_\_\_\_\_ (the "Report Period"), and is filed  
for the following reason:

1. The death of the Incapacitated Person. Date of death: \_\_\_\_\_
  
2. The Guardianship was terminated by the Court by Decree of  
\_\_\_\_\_ J., dated \_\_\_\_\_.

***For a Final Report, omit Sections II through IV.***

Estate of \_\_\_\_\_, an Incapacitated Person

**II. PERSONAL DATA**

Age of the Incapacitated Person: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

**III. LIVING ARRANGEMENTS**

A. Current address of the Incapacitated Person:

B. The Incapacitated Person's residence is:

- own home / apartment
- nursing home
- boarding home / personal care home
- Guardian's home / apartment
- hospital or medical facility
- relative's home (name, relationship and address)

other:

C. The Incapacitated Person has been in the present residence since \_\_\_\_\_

\_\_\_\_\_. If the Incapacitated Person has moved within the  
past year, state prior residence and reason(s) for move:

Estate of \_\_\_\_\_, an Incapacitated Person

D. Name and address of the Incapacitated Person's primary caregiver:

#### **IV. MEDICAL INFORMATION**

A. The major medical or mental problems of the Incapacitated Person are as follows:

B. Specify what, if any, social, medical, psychological and support services the Incapacitated Person is receiving:

#### **V. GUARDIAN'S OPINION**

A. It is the opinion of the Guardian of the Person that the guardianship should:

continue

be modified

be terminated

Estate of \_\_\_\_\_, an Incapacitated Person

The reasons for the foregoing opinion are:

B. During the past year, the Guardian of the Person has visited the Incapacitated Person \_\_\_\_\_ times with the average visit lasting \_\_\_\_\_ hours, \_\_\_\_\_ minutes.

*The report of a social service organization employed by the Guardian to oversee and coordinate the care of the Incapacitated Person for the period covered by this Report may be attached to supplement this Report.*

I verify that the foregoing information is correct to the best of my knowledge, information and belief; and that this Verification is subject to the penalties of 18 Pa. C.S.A. § 4904 relative to unsworn falsification to authorities.

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Signature of Guardian of the Person*

\_\_\_\_\_  
*Name of Guardian of the Person (type or print)*

\_\_\_\_\_  
*Address*

\_\_\_\_\_  
*City, State, Zip*

\_\_\_\_\_  
*Telephone*