



How to Apply for Guardianship of the Person and Estate (Property) of an Individual Eligible for Services from the Division of Developmental Disabilities (DDD)

(Title 30 Guardianship)

(Superior Court of New Jersey - Chancery Division - Probate Part)

Who Should Use This Packet?

You may use this packet if you are seeking appointment of a guardian of the person and estate (property) for an individual with a developmental disability who has been determined eligible for services from the Division of Developmental Disabilities (DDD).

You should **only** use this packet if **ALL** of the following statements are true:

- The person alleged to be incapacitated is eligible for and/or receiving services from the DDD;

AND

- You are requesting that the court appoint a guardian of the person and the estate (property), not a guardian of the person only.

You should **NOT** use this packet if you are seeking appointment of a guardian of the person only. If you wish to be guardian of the person only, you should use the packet entitled “[How to Apply for Guardianship of the Person of an Individual Eligible for Services from the Division of Developmental Disabilities \(DDD\)](#).”

Note: These materials have been prepared by the New Jersey Administrative Office of the Courts for use by self-represented litigants. The guides, instructions, and forms will be periodically updated as necessary to reflect current New Jersey statutes and court rules. The most recent version of the [forms](#) will be available at the county Surrogate’s Office or at [njcourts.gov](#). However, you are ultimately responsible for the content of your court papers.

Completed forms are to be submitted to the Surrogate’s Office in the county where you are filing your case. A list of Surrogates’ Offices is provided at [njcourts.gov/guardianship](#).

Things to Think About Before You Represent Yourself in Court

Try to Get a Lawyer

The court system can be confusing and it is a good idea to get a lawyer if you can. The law, the proofs necessary to present your case, and the procedural rules governing cases in the Chancery Division, Probate Part are complex. Since the civil rights, well-being or financial security of an alleged or adjudicated incapacitated person may be at stake, many litigants appearing in the Chancery Division, Probate Part have a lawyer. It is recommended that you make every effort to obtain the assistance of a lawyer. If you cannot afford a lawyer, you may contact the legal services program in your county to see if you qualify for free legal services. Their telephone number can be found online or in your local yellow pages under “Legal Aid” or “Legal Services.”

If you do not qualify for free legal services and need help in locating an attorney, you can contact the bar association in your county. That number can also be found in your local yellow pages. Most county bar associations have a [Lawyer Referral Service](#). The County Bar Lawyer Referral Service can supply you with the names of attorneys in your area willing to handle your particular type of case and will sometimes consult with you at a reduced fee.

There are also organizations of minority lawyers throughout New Jersey, as well as organizations of lawyers who handle specialized types of cases. Ask your county court staff for a list of Lawyer Referral Services that include these organizations.

If you decide to proceed without an attorney, these materials explain the procedures that must be followed to have your papers properly filed and considered by the court. These materials do not provide information nor other procedural and evidentiary rules governing guardianship matters.

What You Should Expect If You Represent Yourself

While you have the right to represent yourself in court, you should not expect special treatment, help or attention from the court. The following is a list of some things court staff can and cannot do for you. Please read it carefully before asking court staff for help.

- We *can* explain and answer questions about how the court works.
- We *can* tell you what the requirements are to have your case considered by the court.
- We *can* give you some information from your case file.
- We *can* provide you with samples of court forms that are available.
- We *can* provide you with guidance on how to fill out forms.
- We *can* usually answer questions about court deadlines.
- We *cannot* give you legal advice. Only your lawyer can give you legal advice.
- We *cannot* tell you whether or not you should bring your case to court.
- We *cannot* give you an opinion about what will happen if you bring your case to court.
- We *cannot* recommend a lawyer, but we can provide you with the telephone number of a local lawyer referral service.
- We *cannot* talk to the judge for you about what will happen in your case.
- We *cannot* let you talk to the judge outside of court.
- We *cannot* change an order issued by a judge.

Keep Copies of All Papers

Make and keep copies of all completed forms and documents related to your case.

Definitions of Words Used in This Packet

Alleged Incapacitated Person (AIP) - The *alleged incapacitated person* (or AIP) is the individual over whom the plaintiff(s) is/are seeking guardianship.

Certification - A *certification* is a statement that certain facts are true to the best of the knowledge of the person making the statement. It is like an affidavit, but it is not sworn before a notary or other authorized person.

County of Settlement - The *county of settlement* is the county responsible for a share of the charge incurred for services provided to persons unable to pay. Typically, this is the AIP's county of residence at the time of application for DDD services. However, it is possible that the county of residence and county of settlement may be different depending on the residential history of the AIP.

County Surrogate – The *county surrogate* is an elected Constitutional Officer who serves as judge of the Surrogate's Court for uncontested probate and estate matters. A Surrogate also serves as Deputy Clerk to the Superior Court for the Probate Part, including guardianships of incapacitated adults, as well as adoptions in the Family Part.

Docket Number - A *docket number* is the number the court assigns to your case so that it may be identified and located easily. Once you have a docket number, you must include it on all your communications with the court.

File - To *file* means to give the appropriate forms and fee to the court to begin the court's handling of your case.

General Guardianship - *general guardianship* is a "complete in every respect" type of guardianship in which the guardian is able to exercise all rights and powers of the incapacitated person in terms of the area of responsibility he or she is granted. Also known as full or plenary guardianship.

Guardian – a *guardian* is an individual appointed by the court with authority over the person and/or the estate of an adjudicated incapacitated person. A guardian may have general or limited authority.

Guardian of the Estate – An individual appointed by the court to handle the financial affairs of another person who has been adjudicated incapacitated. Unlike a guardian of the person, a *guardian of the estate* is not responsible for decisions regarding the personal well-being of the protected person. Rather, the guardian of the estate handles assets, income, expenses and liabilities.

Guardian of the Person - An individual appointed by the court to handle the personal affairs of another person who has been adjudicated incapacitated. Unlike a guardian of the estate, a *guardian of the person* does not manage the financial affairs of the incapacitated person, except that a guardian of the person may serve as representative payee for Social Security benefits.

Guardianship Monitoring Program (GMP) - In New Jersey, the *Guardianship Monitoring Program* is a statewide monitoring program implemented in all 21 counties as of 2014. Through the GMP, trained volunteers review the reports filed by guardians of incapacitated persons and flag issues that require further attention.

Incapacity - Inability to govern oneself and/or to manage one's affairs. *Incapacity* may be general (as to all areas) or limited (as to specific areas only).

Incapacitated Person - An individual adjudicated by the court as unable to govern himself or herself and/or unable to manage his or her affairs. Also known as a protected person or ward. Formerly referred to as an incompetent.

Interested Parties - A person or agency that has an involvement with the incapacitated person who is the subject of the guardianship. *Interested parties* (or parties in interest) are typically the same individuals entitled to notice of the initial application for guardianship – i.e., the incapacitated person's spouse, parent, adult child, county of settlement, DDD.

Judgment - The official decision of a court in a case. For purposes of guardianship, *Judgment* refers to the Judgment of Incapacity and Guardian Appointment, also known as the Judgment of Incapacity and Order Appointing Guardian.

Definitions of Words Used in This Packet (continued)

Letters of Guardianship - *Letters of Guardianship* are documents issued by the County Surrogate upon an individual's qualification as guardian, after the entry of a Judgment by the Superior Court.

Limited Guardianship - A less intrusive, more individualized, type of guardianship in which a guardian is appointed with authority as to some – but not all – areas. A *limited guardianship* is established based upon a court's finding that the person alleged to be incapacitated lacks the capacity to do some, but not all, of the tasks necessary to care for himself or herself.

Proof of Service - *Proof of Service* is documentation showing that parties actually received the papers that you sent to them. Service is established for all parties other than the alleged incapacitated person by a certification that the documents were sent by regular mail and certified mail, and the regular mail was not returned to you. If the signed return receipt (green cards) are received, these may be attached to the certification of service. As to the alleged incapacitated person, you must file a certification stating that he or she was personally served.

Qualification - A process conducted before the County Surrogate, or Surrogate's staff, following entry of a Judgment of Incapacity and Guardian Appointment. As part of *qualification*, the person appointed as guardian affirms his or her willingness to fulfill the duties of a guardian. If a bond is required, the bond must be posted in order for the guardian to qualify and obtain Letters of Guardianship.

Restricted Assets - Assets over which a guardian of the estate does not exercise full control. The most common *restricted asset* is real property. The restriction can be found in the Judgment and sometimes the Letters of Guardianship. It typically provides that the guardian of the estate "cannot sell, transfer, mortgage, or otherwise encumber the real property of the incapacitated person absent court approval."

Service - Delivery of papers in a legally appropriate way. For example, notice of an application for appointment of a guardian is served upon the alleged incapacitated person by *personal service*, meaning that copies of the papers are personally delivered.

Short Certificates - Short forms of the Letters of Guardianship, stating that by judgment of a particular date, the guardian was appointed with authority of the person and/or estate of the named incapacitated person. A *short certificate* will state that as of the date it was issued, the guardianship remains in effect. Additional short certificates may be purchased by a guardian, from the Surrogate, for \$5.00 each as long as the guardianship remains in effect. Unlike the original Letters of Guardianship, short certificates should be provided to doctors, care facilities, and other institutions that require proof of a guardian's authority.

Superior Court Judge - For purposes of guardianships, the judge of the Superior Court, Probate Part, who decides if the alleged incapacitated person is in fact incapacitated and in need of a guardian. The *Superior Court judge* makes the substantive decisions about the guardianship, including the determination of capacity and the choice of guardian. The Superior Court judge conducts any hearing(s) and signs the Judgment of Incapacity and Guardian Appointment.

Surety Bond - A contract between at least three parties: the obligee (the party who is the recipient of an obligation), the principal (the primary party who will perform the contractual obligation) and the *surety* (who assures the obligee that the principal can perform the task). A *bond* functions much like an insurance policy so that if the guardian of the estate steals or misuses the money, or makes some other mistake, the incapacitated person will be protected. The price of that insurance policy (the bond premium) can be paid from the guardianship estate.

Surrogate's Court - A county office headed by the County Surrogate that may be in the same location as the Superior Court or may be in a different location. The *Surrogate's Court* is the filing court for Probate Part actions, including actions to appoint a guardian. It is also where the guardian goes to qualify after entry of the Judgment.

Verified Complaint - A *verified complaint* is a sworn document in which the plaintiff tells the court the facts of the case and states what relief is sought.

Important Information about Guardianship Actions

To apply for guardianship, you must submit several forms to the Superior Court. The forms provided in this packet are for guardianships of persons eligible for and/or receiving services from the Division of Developmental Disabilities (DDD). These actions are typically referred to as Title 30 guardianships because they arise under Title 30 of the New Jersey Statutes Annotated, specifically *N.J.S.A. 30:4-165.1 et seq.*

You will fill out some of the forms, including the Verified Complaint. Other forms must be completed by other people.

Under Title 30, an application for guardianship must be supported by an affidavit or certification of a physician or psychologist who has personally examined the alleged incapacitated person within six (6) months prior to filing. A second document must also be attached to the verified complaint. This second attachment must be one (1) of the following:

- (a) an affidavit from the chief executive officer, medical director or other officer having administrative control over the program from which the alleged incapacitated person is receiving functional or other services provided by the DDD;
- (b) an affidavit from a designee of the DDD having personal knowledge of the functional capacity of the alleged incapacitated person;
- (c) a second affidavit from a physician or psychologist;
- (d) a copy of the Individualized Education Program, including any medical or other reports, for the alleged incapacitated person, which shall have been prepared no more than two (2) years prior to the filing of the verified complaint; or
- (e) an affidavit from a licensed care professional having personal knowledge of the functional capacity of the alleged incapacitated person.

In preparing your application, you should provide the supporting documents – including the certification of physician or psychologist and, if applicable, second supporting certification – to the individuals who will complete them. If you choose to submit an Individualized Education Program (IEP) in support of your application, you should obtain a copy of this document.

Type and Scope of Guardianship

There are different types of guardianships, specifically, guardianship of the person; guardianship of the estate (property); or guardianship of both the person and the estate (property). The type of guardianship that is appropriate in a particular case depends on the needs of the incapacitated person. If an incapacitated person has no assets or income other than Social Security benefits or funds held in trust, then guardianship of the estate is not necessary. However, if an incapacitated person has assets such as a house or car, or receives income, such as wages or a pension, then guardianship of the estate may be necessary.

It is important to determine whether it is actually necessary to seek guardianship of the estate of a developmentally disabled person. This is in part because the court will appoint an attorney to represent the alleged incapacitated person and, if guardianship of the person only is requested, then the court can appoint the Office of the Public Defender - Division of Mental Health and Guardianship Advocacy, free of charge.

If an application seeks guardianship of the estate, then the court will appoint a private attorney who is entitled to charge a fee for services. Although that fee can be paid from the assets of the alleged incapacitated person, when the alleged incapacitated person has no assets the fee is often paid by the individuals seeking guardianship.

In addition to the distinction between guardianship of the person and guardianship of the estate (property), applicants for guardianship must consider whether a full or general guardianship is appropriate, or whether the developmentally disabled person is suitable for a limited guardianship. In a limited guardianship, the incapacitated person retains rights to handle certain areas of their life, depending upon their ability to handle such matters independently.

Procedure

Once the verified complaint and supporting documents are filed with the Surrogate, the documents will be reviewed. If everything is satisfactory, the Order Fixing Hearing Date and Appointing Attorney for Alleged Incapacitated Person will be entered. This Order schedules the hearing date and appoints counsel for the alleged incapacitated person. You must serve the Order and other papers on the alleged incapacitated person, personally, and on the other interested parties, by regular and certified mail. A separate notice must be served on the alleged incapacitated person stating that the alleged incapacitated person may oppose the guardianship.

The court-appointed attorney will conduct an investigation including a meeting with the alleged incapacitated person and the proposed guardian. The attorney will then make a recommendation to the court as to the need for guardianship (including whether a full or limited guardianship is necessary) and the choice of guardian(s). If the court-appointed attorney does not dispute the need for guardianship or the fitness of the proposed guardian, the attorney may recommend that the guardian be appointed without any court hearing. If a court hearing is required, then the alleged incapacitated person, his or her court-appointed attorney, and the individual(s) seeking guardianship must generally participate. Such participation may be in person, meaning that everyone appears in the courtroom in front of a judge, or by another method approved by the court, such as by phone. If the alleged incapacitated person is unable to attend the court hearing, and the court-appointed attorney agrees, then the hearing may proceed without the alleged incapacitated person in attendance.

Judgment and Letters

Entry of the Judgment by the Superior Court judge establishes the guardianship. Until the guardian(s) qualify before the County Surrogate, however, he or she cannot act as guardian. For example, a guardian who has not yet qualified cannot make medical decisions on behalf of the incapacitated person. To qualify, the guardian must sign certain documents reflecting acceptance of the guardianship. Modest fees must be paid to the Surrogate for issuance of Letters of Guardianship. Letters should be kept in a secure location and must not be turned over to any other person or facility. Qualification may occur immediately following the guardianship hearing and must occur as soon thereafter as possible, but not later than 30 days after entry of the Judgment.

At the time of qualification, or at any time during the guardianship, the guardian(s) may apply to the Surrogate for up-to-date short certificates. Short certificates contain the basic information set forth in the Letters of Guardianship, stating that by Judgment of a particular date, the guardian was appointed as guardian of a named incapacitated person. A short certificate will also state that as of the date it was issued, the guardianship remains in effect. A guardian of the person may purchase additional up-to-date short certificates to provide to doctors, care facilities, and other institutions as proof of his or her continuing authority.

The numbered steps listed below tell you what forms you will need to fill out and what to do with them. Each form should be typed or printed clearly on 8 ½ “x 11” white paper only. Forms may not be filed on a different size or color paper.

Steps to Apply for Guardianship of the Person and Estate of an Individual Eligible for Services from the Division of Developmental Disabilities (DDD)

STEP 1: Complete the *Adult Guardianship Case Information Form (CIS) (Form A)*.

The *Adult Guardianship Case Information Statement (CIS)* is a one-page form that provides certain basic information about your application. Complete the CIS by following the instructions for Form A found on page 10.

Note: Failure to file this required document will result in the return of your Verified Complaint.

STEP 2: Complete the *Verified Complaint to Appoint Guardian(s) of the Person and Estate (Property) (Form B)*.

The *Verified Complaint to Appoint Guardian(s) of the Person and Estate* is the document you must file to request that the court appoint a guardian for another person who you believe is incapacitated and unable to govern himself or herself or to manage his or her affairs. Complete the *Verified Complaint to Appoint Guardian(s) of the Person and Estate* by following the instructions for Form B starting on page 12.

STEP 3: Complete the *Certification of Assets (Form C)*.

The *Certification of Assets* describes the assets and income, if any, of the alleged incapacitated person. Complete the *Certification of Assets* by following the instructions for Form C found on page 19.

STEP 4: Have the *Certification of Physician or Psychologist (Form D)* completed by a licensed physician or psychologist.

The *Certification of Physician or Psychologist* is completed by a physician or psychologist who has evaluated the alleged incapacitated person within the past six (6) months. Arrange for a licensed physician or psychologist to examine and evaluate the alleged incapacitated person and complete the form. Follow the instructions for Form D found on page 22.

STEP 5: Complete the *Cover Page - Individualized Education Program (IEP) (Form E-1) OR the Certification in Support of Guardianship (Form E-2)*.

A second document which must be filed in addition to Form D (*Certification of Physician or Psychologist*) regarding the functional capacity of the alleged incapacitated person. There are several options which will satisfy this requirement including:

1. A copy of the Individualized Education Program (IEP) for the alleged incapacitated person; (instructions can be found on page 25) **OR**
2. An affidavit or certification from the chief executive officer (CEO), medical director, or other officer having administrative control over the DDD program from which the alleged incapacitated person is receiving services; **OR**
3. An affidavit or certification from a designee of the DDD having personal knowledge of the functional capacity of the alleged incapacitated person; **OR**
4. A second affidavit or certification of a physician or psychologist; **OR**
5. An affidavit or certification from a licensed care professional having personal knowledge of the functional capacity of the alleged incapacitated person.

If submitting an **IEP**, fill out the *Cover Page (Form E-1)*. If submitting one of the **other documents**, provide the form *Certification in Support of Guardianship (Form E-2)* to the appropriate person for them to complete. Instructions for Forms E-1 and E-2 are found on page 25.

STEP 6: Complete the *Order Fixing Hearing Date and Appointing Attorney for Alleged Incapacitated Person (Form F)*.

The *Order Fixing Hearing Date and Appointing Attorney for Alleged Incapacitated Person* is used by the judge to schedule a hearing and to appoint an attorney for the subject of the guardianship action. The judge handling the case will usually schedule a hearing to evaluate the need for the proposed guardianship. Please complete the information at the top of the form.

Note that there are places on the *Order Fixing Hearing Date* that the court will complete. Instructions for Form F can found on page 29.

STEP 7: Complete the *Judgment of Incapacity and Appointment of Guardian(s) of the Person and Estate (Form G)*.

The *Judgment of Incapacity and Appointment of Guardian(s) of the Person and Estate* is the official document that will be completed and signed by the judge if it is determined that the alleged incapacitated person requires a guardian. Enter the information on the top of the form.

Note that there are places on the *Judgment* that the court will complete. Instructions for Form G are found on page 32.

STEP 8: Attach the Filing Fee.

Make a check or money order payable to the **Surrogate of the county** in which the application is filed in the amount of **\$175**. This is the fee for filing your papers.

STEP 9: Check your completed forms and make copies.

Check your forms and make sure they are complete. Remove all instruction sheets. Make sure you have signed all the forms wherever necessary. All forms must have an **original, ink signature**. You also need to make **several** copies of each form. The original and one (1) copy will be sent to the court. Copies will also need to be provided to anyone who requires notice of the action. Please also retain a copy for your records.

Checklist - In Step 10, you will be directed to mail your documents to the court. The following checklist will help insure your package is complete:

- The original of each of the forms you filled out: *Adult Guardianship Case Information Statement (Form A)*; *Verified Complaint to Appoint Guardian(s) of the Person and Estate (Form B)*; *Certification of Assets (Form C)*; *Certification of Physician or Psychologist (Form D)*; *Cover Page Individualized Education Program OR Certification in Support of Guardianship (Form E-1 or E-2)*; *Order Fixing Hearing Date and Appointing Attorney for Alleged Incapacitated Person (Form F)*; *Judgment of Incapacity and Appointment of Guardian(s) of the Person and Estate (Form G)*.
- one (1) copy of each of the completed forms.
- The filing fee in the amount of \$175. It must be a check or money order payable to the **Surrogate** in the county in which the application is filed.
- A self-addressed stamped envelope so that the court will be able to return the filed forms to you. Be sure to include adequate postage.

STEP 10: Mail or deliver the forms to the court.

You may mail or deliver to the court the original and one copy of all the forms: *Adult Guardianship Case Information Statement (Form A)*; *Verified Complaint to Appoint Guardian(s) of the Person and Estate (Form B)*; *Certification of Assets (Form C)*; *Certification of Physician or Psychologist (Form D)*; *Cover Page Individualized Education Program OR Certification in Support of Guardianship (Form E-1 or E-2)*; *Order Fixing Hearing Date and Appointing Attorney for Alleged Incapacitated Person (Form F)*; *Judgment of Incapacity and Appointment of Guardian(s) of the Person and*

Estate (Form G) along with a self-addressed stamped envelope and the filing fee.

The addresses of the Surrogates' office for each county can be found on the Judiciary's website, njcourts.gov/guardianship.

If you mail the papers, we recommend that you use certified mail, return receipt requested.

STEP 11: Appear in court on the date set by the judge for your hearing.

Keep copies of all papers you provide to the court or any other party. Make and keep for yourself copies of all completed forms and any canceled checks, money orders, receipts, bills, contract estimates, letters, leases, photographs and other important papers that relate to your case.

Instructions for Completing the Adult Guardianship Case Information Statement - Form A

The Adult Guardianship Case Information Statement (CIS) is a one-page form that provides certain basic information about your application. You must complete all of this form except for the area in the upper right corner labeled “For Chambers or Surrogate’s Office Use Only.” Please leave that field blank.

Follow these instructions to complete the CIS:

1. In the boxes under *Plaintiff*, fill in your information as the plaintiff, that is, the party applying to have a guardian appointed. Include your full name, street address, city, state, zip, age, telephone number (including area code), and relationship to the individual for whom guardianship is being sought.
2. In the boxes under *Alleged Incapacitated Person*, fill in **all** information about the person alleged to be incapacitated and in need of a guardian, which includes their full name, street address, city, state, zip, date of birth and social security number.
3. Under *Case Type*, select the check box to indicate the type of guardianship application that is being brought. A Title 30 (DDD) application is one where the alleged incapacitated person is eligible for, or receiving services from, the Division of Developmental Disabilities (“DDD”). This application type is brought under *N.J.S.A. 30:4-165.1, et. seq.* A Title 3B (DD) application is one where the alleged incapacitated person is developmentally disabled, but is not eligible for or receiving services from DDD. This application type is brought under *N.J.S.A. 3B:12-1, et. seq.* For all other applications, select Title 3B (all other).
4. Select the appropriate checkbox as to whether or not you are seeking to be appointed as guardian.
5. Select the appropriate checkbox to indicate if anyone else is proposed to serve as guardian(s).
6. In the section marked *All person(s) proposed as guardian(s)*, print the full name, street address, city, state, zip, age, phone number (including area code), and relationship to the alleged incapacitated person for each person, or entity, who is a proposed guardian of the alleged incapacitated person; including yourself. If necessary, attach additional sheets listing the individuals or entities you seek to have appointed as guardian(s).
7. In the section marked *Other person(s) or entities to be noticed*, fill in all information for any person(s) or entity(ies) to be notified of the guardianship application. This must include the County Adjuster in the county where the alleged incapacitated person has legal settlement. It should also include other relatives of the alleged incapacitated person including spouse, parents, adult children, and persons of the same relationship to the alleged incapacitated person as the plaintiff. For example, if you are a sibling of the alleged incapacitated person, then you should list any other sibling(s). If the application type is Title 30 (DDD), this section must also include the Regional Administrator for the DDD.
8. If either you, any proposed guardian, or the alleged incapacitated person require an interpreter, check “Yes”, otherwise, check “No.” If you check “Yes”, indicate for whom the interpreter is needed, and specify the language.
9. If either you, any proposed guardian, or the alleged incapacitated person are requesting any accommodation for a disability, check “Yes”, otherwise, check “No.” If you check “Yes”, indicate what is needed and by whom.
10. The Adult Guardianship Case Information Statement is not a public document and all information on the form will be kept confidential. Therefore, all requested information, including any requested personal identifying information, such as a Social Security number, must be filled out, if known. However, other documents filed with the court may be public and any confidential personal identifiers should be redacted. The final box of this document contains the statement by which you certify that you will remove any confidential personal identifiers in future court submissions, unless such confidential personal identifiers are required by statute, court rule or court order. It also contains a statement by which you certify that you have completed this form to the best of your knowledge and ability, and that you will supplement the form as may be necessary should additional information become available. Sign below the statement.

Form A



New Jersey Judiciary Adult Guardianship Case Information Statement

Use for initial Chancery Division Probate Part Pleadings under *Rule 4:5-1*
Pleading will be rejected for filing, under *Rule 1:5-6(c)*, if information is not
completed or signature is not affixed

For Chambers or Surrogate's Office Use Only

Date Filed:
Docket Number:
Chambers:
Surrogate's Office:

Plaintiff				Alleged Incapacitated Person (AIP):					
Name (last, first, middle initial)				Name (last, first, middle initial)					
Address: Street				Address: Street					
City			State	Zip		City			
Age	Telephone		Relationship to AIP			Date of Birth		Social Security Number	

Case Type

Title 30 (DDD)
 Title 3B (DD)
 Title 3B (All Others)

Is the Plaintiff the proposed guardian? Yes No

Are any other person(s) proposed guardian(s)? Yes No

All person(s) proposed as guardian(s): (Attach additional sheets if necessary to list all proposed guardian(s))

Name (last, first, middle initial)				Name (last, first, middle initial)					
Address: Street				Address: Street					
City			State	Zip		City			
Age	Telephone		Relationship to AIP			Age		Telephone	

Other person(s) or entities to be noticed: (Attach additional sheets if necessary to list all parties to be noticed, including DDD Administrator and County Adjuster, if applicable)

Name (last, first, middle initial)				Name (last, first, middle initial)					
Address: Street				Address: Street					
City			State	Zip		City			
Age	Telephone		Relationship to AIP			Age		Telephone	

Does any party need an interpreter? If yes, for whom and for what language?

Yes No

Does any party need an accommodation for a disability? If yes, please identify the party and requested accommodation

Yes No

I certify that I have completed this form to the best of my knowledge and ability, and will supplement this form as may be necessary should additional information become available. I further certify that, except as required on this page, confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-7(b)*.

_____ Date _____ Attorney/Plaintiff Signature

Instructions for Verified Complaint to Appoint Guardian(s) of the Person and Estate (Property) - Form B

1. At the top left of the form, enter your name, address, and daytime phone number. If you are not an attorney, leave the *Attorney ID and Law Firm/Agency Name* fields blank.
2. On the line above *Name of Alleged Incapacitated Person (AIP)*, fill in the full legal name of the alleged incapacitated person for whom you are seeking a guardianship.
3. On the line labeled *County*, enter the county in which the alleged incapacitated person resides. This will be the county where the action is filed.
4. Leave *Docket Number* blank. It will be assigned and filled in by the Court upon filing.
5. Fill in the blank spaces in the first paragraph indicating your full legal name, age, residence, county, state, domicile (this may be the same as your residence), and relationship to the alleged incapacitated person.
6. Select the appropriate checkbox indicating whether you are the only person bringing this action **or** whether it is being brought by multiple people. If multiple people are bringing the action, fill in their name, age, and present residence and permanent/legal residence in the space provided.
7. Item #1: Fill in the information for the alleged incapacitated person and their spouse (if applicable).
8. Item #2: If the alleged incapacitated person has been determined eligible for services from the New Jersey Division of Developmental Disabilities (DDD), fill in the alleged incapacitated person's name. If not applicable, check the box for *Not Applicable*. If applicable, indicate when the alleged incapacitated person began receiving services from the New Jersey Division of Developmental Disabilities (DDD) and describe what services the alleged incapacitated person receives. If not applicable, check the box for *Not Applicable*.
9. Item #3: Fill in the requested information. **Reminder:** include a copy of the *Certification of Physician or Psychologist* completed by a licensed physician or psychologist (Form D) with your Verified Complaint.
10. Item #4: Check the appropriate response as to which document will be used to further support your application for the appointment of a guardianship of the person. **Reminder:** include a copy of the chosen document (Form E-1 or Form E-2) with your Verified Complaint.
11. Item #5: This section identifies people who may have an interest in the guardianship proceeding and should receive Notice of the action. Fill in the name, address, relationship to the alleged incapacitated person, and age for all those that should receive notice of this action. List all known persons closely related to the alleged incapacitated person (i.e. parents, children, siblings).

If another individual or institution currently has care and custody of the alleged incapacitated person, please provide their name and address in the appropriate section. If not applicable, check the box for *Not Applicable*.

If the alleged incapacitated person previously lived in an institution, please provide the name of the institution, dates of residency, and identify the authority which permitted or required the commitment. If not applicable, check the box for *Not Applicable*.

If any person has been named as an attorney-in fact in any power of attorney document, health care representative in any health care directive, and/or a trustee in a trust for the benefit of the alleged incapacitated person, please provide the requested information. If not applicable, check the box for *Not Applicable*.
12. Item #6: Provide the name(s), address(es), relationship(s), age(s) and telephone number(s) for the person(s) proposed as guardian(s).
13. Item #7: Include a copy of the *Certification of Assets* (Form C).
14. Item #8: The interests of the alleged incapacitated person must be represented at the guardianship hearing. Select the appropriate option whether you are requesting that the court appoint an attorney from the Office of the Public Defender Division of Mental Health Advocacy for no charge, **or** whether you are requesting that the court appoint a private attorney.

Please note that your hearing date may be delayed if you request an attorney from the Public Defender's office. Please also note that if you are requesting the court appoint a private attorney, the Court may order that the attorney's fees come out of the assets of the incapacitated person. Should the incapacitated person not have available funds to cover these fees, the Court may order that you pay them.

15. Item #9: A guardianship of the person is appropriate where the alleged incapacitated person is unable to make decisions about their personal well-being, such as their residence and/or medical care. A **full guardianship of the person** is appropriate where the alleged incapacitated person is impaired to the point where they are unable to govern themselves in all areas related to their personal well-being. A **limited guardianship of the person** is appropriate where the alleged incapacitated person is able to govern themselves in some areas, but lacks the capacity to make decisions in other areas. (For example, the alleged incapacitated person is able to make decisions regarding their residence, but unable to make decisions regarding their health care.)

- Select *Option 1* if you are seeking a **full guardianship** of the person, and enter the alleged incapacitated person's full name in the two blank areas. Complete the "Wherefore" paragraph by entering the full legal name of the alleged incapacitated person in the first blank space, the full legal name(s) of the proposed guardian(s) in the second blank space, and the full legal name of the alleged incapacitated person in the final blank space.
- Select *Option 2* if you are seeking a **limited guardianship** of the person, and enter the alleged incapacitated person's full name in the three blank areas. **Note:** If selecting this option, check the boxes to show areas where the alleged incapacitated person is able to make their own decisions. Complete the "Wherefore" paragraph by entering the full legal name of the alleged incapacitated person in the first blank space, the full legal name(s) of the proposed guardian(s) in the second blank space, and the full legal name of the alleged incapacitated person in the final blank space.

16. Item #10: A guardianship of the estate is appropriate where the alleged incapacitated person is unable to make decisions about their financial affairs. A **full guardianship of the estate** is appropriate where the alleged incapacitated person is impaired to the point where they are unable to govern themselves in all areas related to their finances. A **limited guardianship of the estate** is appropriate where the alleged incapacitated person is able to govern themselves in some areas, but lacks the capacity to make decisions in other areas. (For example, the alleged incapacitated person is able to make decisions regarding making small monetary gifts to relatives, but unable to make decisions regarding the management of their investment accounts.)

- Select *Option 1* if you are seeking a **full guardianship** of the estate, and enter the alleged incapacitated person's full name in the two blank areas. Complete the "Wherefore" paragraph by entering the full legal name of the alleged incapacitated person in the first blank space, the full legal name(s) of the proposed guardian(s) in the second blank space, and the full legal name of the alleged incapacitated person in the final blank space.
- Select *Option 2* if you are seeking a **limited guardianship** of the estate, and enter the alleged incapacitated person's full name in the three blank areas. **Note:** If selecting this option, describe the areas where the alleged incapacitated person is able to make their own decisions.

Note: For **both** 9 and 10, you must select **either** *Option 1* (General/Full Guardianship) or *Option 2* (Limited Guardianship). However, you do not have to select the same option for both paragraphs. You should select the type of guardianship, Full or Limited, most appropriate for the alleged incapacitated person for both their person (paragraph 9) and their estate (paragraph 10). For example, you may select Option 2 for Paragraph 9 to seek a limited guardianship of the person, but Option 1 for Paragraph 10 to seek a full guardianship of the estate.

Verification: Fill out and sign the verification.

IMPORTANT NOTE: If the complaint or any of the copies of papers that you attach to the complaint contain a Social Security number, driver's license number, vehicle plate number, insurance policy number, active financial account number or active credit card number, you must redact (black out) this information so that it cannot be seen, unless any such personal identifier is required to be included by statute, rule, administrative directive or court order. If an active financial account is the subject of your case and cannot otherwise be identified, you may use the last four digits of the account to identify it. Do not redact (black out) this information in the original papers that you are keeping since you may have to show them to the court at some point.

FORM B

Filing Attorney Information or Pro Se Litigant:

Name _____
NJ Attorney ID Number _____
Law Firm/Agency Name _____
Address _____

Telephone Number _____

In the Matter of,

_____,
Name of Alleged Incapacitated Person (AIP)
an Alleged Incapacitated Person

Superior Court of New Jersey
Chancery Division - Probate Part
County _____
Docket Number _____

Civil Action
Verified Complaint to Appoint
Guardian(s) of the Person and Estate
(Property)

I, _____, by way of verified complaint, say:

I am _____ years of age. I reside at _____, County of _____, and State of _____. I have domicile (permanent/legal residence) at _____. My relationship to the alleged incapacitated person (AIP) is _____. My interest in this action is the welfare of the alleged incapacitated person.

I am (check one)

- the only individual bringing this action for guardianship; **OR**
- one of two or more individuals bringing this action for guardianship. Below is the name, age, present residence, and permanent/legal residence (domicile) of the other applicant(s).

1. The name, age, present address, permanent/legal residence (domicile), and marital status of the alleged incapacitated person are as follows:

Name _____ Age _____
Present Address _____
How long at this address? _____ Marital Status _____
Permanent/Legal Residence (Domicile) _____

Spouse's information, if married:

Name _____ Age _____
Present Address _____
Permanent/Legal Residence (Domicile) _____

If applicable:

Not Applicable

The alleged incapacitated person _____, has been determined eligible for services from the New Jersey Division of Developmental Disabilities (DDD).

If applicable:

Not Applicable

The alleged incapacitated person has been receiving services from the DDD since _____. Currently, these services consist of:

3. The alleged incapacitated person, _____, has been diagnosed as having _____, as set forth by the attached affidavit or certification of _____, (Physician or Psychologist). Because of this condition, _____ lacks sufficient capacity to govern him/herself to the extent set forth below.
4. The functional capacity of the alleged incapacitated person is further detailed by **one** of the following documents, attached to this complaint: (check one)
 - A copy of the Individualized Education Program (IEP) for the alleged incapacitated person; **OR**
 - An affidavit or certification from the chief executive officer, medical director, or other officer having administrative control over the DDD program from which the alleged incapacitated person is receiving services; **OR**
 - An affidavit or certification from a designee of the DDD having personal knowledge of the functional capacity of the AIP; **OR**
 - A second affidavit or certification of a physician or psychologist; **OR**
 - An affidavit or certification from a licensed care professional having personal knowledge of the functional capacity of the alleged incapacitated person.
5. The names, addresses, relationships and ages of the persons most closely related to the alleged incapacitated person (parents, children, siblings) are as follows:

Name	Address	Relationship to AIP	Age
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

If applicable:

Not Applicable

The name and address of the person or institution having the care and custody of the alleged incapacitated person is as follows:

If applicable:

Not Applicable

If the alleged incapacitated person has lived in an institution, the date(s) of any commitment or confinement and by what authority committed or confined, are as follows:

Institution	Period(s) of Residence
_____	_____
_____	_____
_____	_____

If applicable:

Not Applicable

The name(s) and address(es) of any person(s) named as an attorney-in-fact in any power of attorney, and/or any person named as health care representative in any health care directive, and/or any person acting as trustee under a trust for the benefit of the alleged incapacitated person, are as follows:

Name	Role (Attorney-In-Fact, Health Care Representative, Trustee)
_____	_____
_____	_____
_____	_____
_____	_____

6. The name(s), address(es), relationship to the alleged incapacitated person, age and telephone number of the proposed guardian(s) are as follows: (attach additional pages as necessary).

Name _____
 Address _____
 Relationship _____ Age _____ Telephone No. _____

Name _____
 Address _____
 Relationship _____ Age _____ Telephone No. _____

Name _____
 Address _____
 Relationship _____ Age _____ Telephone No. _____

7. Information about the real and personal property and income of the alleged incapacitated person is set forth in the attached Certification of Assets.

8. Guardianship of the person and estate is requested at this time. (check one)

I request that the court appoint the Office of the Public Defender Division of Mental Health Advocacy, *pro bono* (without cost), to represent the alleged incapacitated person. I understand that the guardianship hearing may be scheduled on a later date if the Office of the Public Defender Division of Mental Health Advocacy is appointed as counsel.

OR

I request that the court appoint a private attorney, potentially for cost, to represent the alleged incapacitated person. I understand that if the assets of the alleged incapacitated person are insufficient to cover the fee charged by the court-appointed attorney, then the court may order that I pay that fee.

9. Request for Guardianship of the Person (check one)

Option 1:

Request for General (Full) Guardianship of the Person

The condition of _____ renders him/her without the necessary cognitive capacity to govern himself/herself in **all** areas (including medical, legal, residential, educational, and vocational). _____ requires a general (full) guardian of the person.

WHEREFORE, the plaintiff(s) demand(s) judgment pursuant to *N.J.S.A. 30:4-165.7*, declaring _____ to be suffering from a chronic functional impairment that renders him/her incapable of governing himself/herself in all areas, and appointing _____ as **general (full) guardian(s) of the person** of _____.

OR

Option 2:

Request for Limited Guardianship of the Person

The condition of _____ renders him/her without the necessary cognitive capacity to govern himself/herself in **some** areas. However, _____ retains the necessary cognitive capacity to make some decisions regarding his/her person and requires a limited guardian.

Specifically, _____ retains the capacity to make decisions regarding the following areas: (check all that apply)

- medical decision making legal decision making vocational decision making
- residential decision making educational decision making
- other (voting, driving, etc.) _____

WHEREFORE, the plaintiff(s) demand(s) judgment pursuant to *N.J.S.A. 30:4-165.7*, declaring _____ to be suffering from a chronic functional impairment that renders him/her incapable of governing himself/herself in some areas, and appointing _____ as **limited guardian(s) of the person** of _____.

Date

Signature

Print Name

10. Request for Guardianship of the Estate (check one)

Option 1:

Request for General (Full) Guardianship of the Estate (Property)

The condition of _____ renders him/her without the necessary cognitive capacity to manage his/her affairs in **all** areas. _____ requires a general (full) guardian of the estate.

WHEREFORE, the plaintiff(s) demand(s) judgment pursuant to *N.J.S.A. 30:4-165.7*, declaring _____ to be suffering from a chronic functional impairment that renders him/her incapable of managing his/her affairs in all areas, and appointing _____ as **general (full) guardian(s) of the estate** of _____.

OR

Option 2:

Request for Limited Guardianship of the Estate (Property)

The condition of _____ renders him/her without the necessary cognitive capacity to manage his/her affairs in **some** areas. However, _____ retains the necessary cognitive capacity to make some decisions regarding his/her estate and requires a limited guardian of the estate.

Specifically, _____ retains the capacity to make decisions regarding the following areas: (describe)

WHEREFORE, the plaintiff(s) demand(s) judgment pursuant to *N.J.S.A. 30:4-165.7*, declaring _____ to be suffering from a chronic functional impairment that renders him/her incapable of managing his/her affairs in some areas, and appointing _____ as **limited guardian(s) of the estate** of _____.

Date

Signature

Print Name

Verification

I/We _____ hereby certify and say:

1. I/We am/are the plaintiff(s).
2. The contents of the Verified Complaint for Guardianship are true to the best of my/our knowledge.

Date

Signature

Print Name

Date

Signature

Print Name

Instructions for Completing the Certification of Assets - Form C

1. At the top left of the form, enter your name, address, and daytime phone number. If you are not an attorney, leave the *Attorney ID and Law Firm/Agency Name* fields blank.
2. On the line above *Name of Alleged Incapacitated Person (AIP)*, fill in the full legal name of the alleged incapacitated person for whom you are seeking a guardianship.
3. On the line labeled *County*, enter the county in which the alleged incapacitated person resides. This will be the county where the action is filed.
4. Leave *Docket Number* blank. It will be assigned and filled in by the Court upon filing.
5. Fill in the blank spaces in the first paragraph indicating your full legal name and the full legal name of the alleged incapacitated person.
6. Select the appropriate checkbox as to whether or not the alleged incapacitated person possesses property.
 - If you select the first option (the alleged incapacitated person possesses no property, or possesses only Social Security benefits, etc.), enter the alleged incapacitated person's full legal name on the line. **Note:** If you select this option, be sure to check "None" in Schedules A through G.
 - If you select the second option (the alleged incapacitated person possesses property, or possesses money other than Social Security benefits, a State-funded Personal Needs Allowance, and/or funds held in trust for their benefit), you must provide a complete and accurate statement and valuation of all real and personal property and income of the alleged incapacitated person.
 - A diligent inquiry must be performed to identify the requested information. All Schedules (A through G) must be completed to the best of your ability. The proper entry for any schedule without assets is "None." If you are unsure whether a particular type of asset exists, the proper entry is "Unknown." Should additional information regarding the alleged incapacitated person's assets be discovered, this form should be supplemented.
7. Schedule A: Identify the incapacitated person's interests in real property (i.e. homes or land). This includes land held jointly or in common with other individuals. Provide the most recent municipal tax assessed value and market value for the property. The market value may be estimated rather than based upon a new appraisal.
8. Schedule B: Identify the incapacitated person's interest in stocks, bonds, mutual funds, securities and investment accounts. This includes any interest held jointly or in common with other individuals, or in trust. For Schedule B, you are asked to provide face value, if applicable, and market value. Some assets, like bonds, will have both a face value and a market value. For those assets, list both the face value and market value. Other assets will only have a market value.
9. Schedule C: Identify any checking accounts, savings accounts, certificates of deposit in banks, notes or other indebtedness due the alleged incapacitated person.
10. Schedule D: List any pension or retirement accounts.
11. Schedule E: List any other personal property including, but not limited to, any motor vehicles, recreation vehicles, collections, interests in partnerships/ unincorporated businesses, etc.
12. Schedule F: List any secured debts or encumbrances on the above assets (i.e. mortgage on a home, car loan).
13. Schedule G: List all sources of monthly income.
14. Complete the Certification at the bottom.

Form C

Filing Attorney Information or Pro Se Litigant:

Name _____
 NJ Attorney ID Number _____
 Law Firm/Agency Name _____
 Address _____
 Telephone Number _____

In the Matter of,

_____,
 Name of Alleged Incapacitated Person (AIP)
 an Alleged Incapacitated Person

Superior Court of New Jersey
 Chancery Division - Probate Part
 County _____
 Docket Number _____

Civil Action
Certification of Assets

I, _____, of full age, hereby certify as follows:

This certification is made by me in support of an application for a declaration of incapacity for _____ (Check one)

The alleged incapacitated person, _____, possesses no property, or possesses only Social Security benefits, a **State-funded Personal Needs Allowance**, and/or funds held in trust for his/her benefit. (**Note:** If you select this option, check "None" in the following schedules)

OR

The following schedules contain a complete and accurate statement and valuation of all real and personal property and income of _____, based upon my diligent inquiry.

Schedule A: Real Property

None Unknown

All interests in real property including real property held in common or jointly with other(s) and, if held jointly, describe the interest.

#	Description: Address (include county and state)	Municipal Tax Assessed Value	Market Value
1.		\$	\$
2.		\$	\$
Total Schedule A			\$

Schedule B: Stocks, Bonds, Mutual Funds, Securities and Investment Accounts

None Unknown

Include all interests in stocks, bonds, mutual funds, securities and investment accounts including interests held in common or jointly with other(s) or in trust, and, if held jointly, describe the interest.

#	Description (include name of financial institution, account type, number of shares or last four digits of account and date value fixed)	Face Value	Market Value
1.		\$	\$
2.		\$	\$
Total Schedule B			\$

Schedule C: Money on Hand None Unknown

Checking and savings accounts and certificates of deposit in banks and notes or other indebtedness due the alleged incapacitated person.

#	Description (include name of financial institution, account type, last four digits of account and date value fixed)	Value
1.		\$
2.		\$
Total Schedule C		\$

Schedule D: Pensions, retirement accounts None Unknown

IRA's, 401(k), annuities, profit sharing plans, etc. Include last four digits of account.

#	Description (include name of financial institution, account type, last four digits of account and date value fixed)	Value
1.		\$
2.		\$
Total Schedule D		\$

Schedule E: Miscellaneous Personal Property None Unknown

Tangible personal property, motor vehicles, recreation vehicles, employment bonus or award, interest in a partnership or unincorporated business, articles or collections have either artistic or intrinsic value, etc.

#	Description	Value
1.		\$
2.		\$
Total Schedule E		\$

Schedule F: Liabilities/Encumbrances None Unknown

If any asset listed in this certification has a secured associated debt, such as a mortgage or a car loan, indicate below. List all other debts.

#	Description	Encumbrance Amount
1.		\$
2.		\$
Total Schedule F		\$

Schedule G: Sources of Monthly Income None Unknown

#	Description	Value
1.		\$
2.		\$
Total Schedule G		\$

I hereby certify and say that the foregoing statements made by me are true to the best of my knowledge, and that I will supplement this form as may be necessary should additional information become available. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Date

Signature

Print Name

Instructions for Completing the Certification of Physician or Psychologist - Form D

This is a form certification which should be provided to the physician or psychologist who will be supporting your application for declaration of incapacity. Provide this certification to the physician or psychologist to be filled out. Should additional room be needed, the physician or psychologist may attach a separate report. Remember to include this certification with your Verified Complaint.

1. At the top left of the form, enter your name, address, and daytime phone number. If you are not an attorney, leave the *Attorney ID and Law Firm/Agency Name* fields blank.
2. On the line above *Name of Alleged Incapacitated Person (AIP)*, fill in the full legal name of the alleged incapacitated person for whom you are seeking a guardianship.
3. On the line labeled *County*, enter the county in which the alleged incapacitated person resides. This will be the county where the action is filed.
4. Leave *Docket Number* blank. It will be assigned and filled in by the Court upon filing.
5. The remainder of the form is to be filled out by the certifying physician or psychologist.

Form D

Filing Attorney Information or Pro Se Litigant:

Name _____
NJ Attorney ID Number _____
Law Firm/Agency Name _____
Address _____

Telephone Number _____

In the Matter of,

_____,
Name of Alleged Incapacitated Person (AIP)
an Alleged Incapacitated Person

Superior Court of New Jersey
Chancery Division - Probate Part
County _____
Docket Number _____

Civil Action
Certification of
Physician or Psychologist

I, _____, (check one) M.D., D.O., Ph.D., Psy.D., of full age,
hereby certify as follows:

1. This certification is made by me in support of an application for a declaration of incapacity for _____, an alleged incapacitated person.
2. _____ was born on _____. S/He is ____ years old. S/He weighs _____ pounds and is approximately _____ in height. S/He has _____ hair and _____ eyes.
3. Select one:
 I am a (check one) physician psychologist licensed to practice in the State of _____. I currently maintain an office at _____. I am, and have been, in the actual practice of _____ for ____ years.

OR

- I am an employee of the Division of Developmental Disabilities authorized to conduct psychological evaluations as part of my duties.
4. I earned a degree in _____, from _____. I received my license to practice in the State of _____ in _____. My area of specialty is _____.
5. I examined the alleged incapacitated person on _____. This examination took place at _____.
6. Select one:
 I have been treating the alleged incapacitated person for _____, since _____.

OR

- I am not treating the alleged incapacitated person for _____, but have merely examined her/him for the purpose of evaluating her/his mental capacity.

7. During my examination, I observed that s/he was (describe findings or attach report)

8. As a result of my examination and a review of her/his history, my diagnosis is _____ . The prognosis for recovery is _____ .

9. In my opinion, the alleged incapacitated person is:

unfit and unable to govern herself/himself and to manage her/his affairs in all areas.

OR

unfit and unable to govern herself/himself and to manage her/his affairs in **some** areas but **does have capacity** in the areas listed below (select all that apply):

medical decision making legal decision making residential decision making

educational decision making vocational decision making financial decision making

other (please describe) _____

10. My opinion is based upon the examination of the alleged incapacitated person, and the history of her/his condition. The factual basis for my diagnosis and prognosis, and my opinion as to any areas in which the individual retains capacity, is: (describe or attach report)

11. It is my opinion that the alleged incapacitated person (check one) is is not capable of attending the court hearing in this matter. If the alleged incapacitated person is not capable of attending the court hearing the following are the reasons for the individual's inability:

12. I am not related either through blood or marriage, to the alleged incapacitated person, nor to a proprietor, director or chief executive officer of any institution for the care and treatment of the mentally ill in which the alleged incapacitated person is living or in which it is proposed to place her/him; nor am I professionally employed by the management thereof as a resident physician or psychologist; nor am I financially interested therein.

I hereby certify and say that the foregoing statements made by me are true to the best of my knowledge, and that I will supplement this form as may be necessary should additional information become available. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Date

Signature

Print Name

Instructions for Completing the Cover Page - Individualized Education Program (IEP) - Form E-1

Use this form **only** if providing an Individualized Education Program as a supporting document:

1. At the top left of the form, enter your name, address, and daytime phone number. If you are not an attorney, leave the *Attorney ID and Law Firm/Agency Name* fields blank.
2. On the line above *Name of Alleged Incapacitated Person (AIP)*, fill in the full legal name of the alleged incapacitated person for whom you are seeking a guardianship.
3. On the line labeled *County*, enter the county in which the alleged incapacitated person resides. This will be the county where the action is filed.
4. Leave *Docket Number* blank. It will be assigned and filled in by the Court upon filing.
5. Fill out the requested information including the academic year for which the IEP was developed. Attach a copy of the IEP including all medical and other reports.

Instructions for Completing the Certification in Support of Guardianship - Form E-2

Form E-2 is a form certification which can be provided to the person making the certification or affidavit supporting your application for declaration of incapacity. You may provide this certification to the appropriate person to be filled out, or they may provide their own certification including the same information. Remember to include the original certification or affidavit with your Verified Complaint.

If not providing an Individualized Education Program as a supporting document to your application, one of the following affidavits or certifications must be provided:

- An affidavit or certification from the chief executive officer (CEO), medical director, or other officer having administrative control over the DDD program from which the alleged incapacitated person is receiving services; *OR*
 - An affidavit or certification from a designee of the DDD having personal knowledge of the functional capacity of the alleged incapacitated person; *OR*
 - A second affidavit or certification of a physician or psychologist; *OR*
 - An affidavit or certification from a licensed care professional having personal knowledge of the functional capacity of the alleged incapacitated person.
1. At the top left of the form, enter your name, address, and daytime phone number. If you are not an attorney, leave the *Attorney ID and Law Firm/Agency Name* fields blank.
 2. On the line above *Name of Alleged Incapacitated Person (AIP)*, fill in the full legal name of the alleged incapacitated person for whom you are seeking a guardianship.
 3. On the line labeled *County*, enter the county in which the alleged incapacitated person resides. This will be the county where the action is filed.
 4. Leave *Docket Number* blank. It will be assigned and filled in by the Court upon filing.
 5. The remainder of the form is to be filled out by the certifying person.

Form E-1

Filing Attorney Information or Pro Se Litigant:

Name _____
NJ Attorney ID Number _____
Law Firm/Agency Name _____
Address _____

Telephone Number _____

In the Matter of,

_____,
Name of Alleged Incapacitated Person (AIP)
an Alleged Incapacitated Person

Superior Court of New Jersey
Chancery Division - Probate Part
County _____
Docket Number _____

Civil Action
Cover Page
Individualized Education Program
(IEP)

Attached is a copy of the Individualized Education Program (IEP) for _____.
This IEP was prepared for the 20___/20___ Academic Year.

All medical and other reports included in this IEP are attached.

I hereby certify and say that the foregoing statements made by me are true to the best of my knowledge,
and that I will supplement this form as may be necessary should additional information become
available. I am aware that if any of the foregoing statements made by me are willfully false, I am
subject to punishment.

Date

Signature

Print Name

Filing Attorney Information or Pro Se Litigant:

Name _____
NJ Attorney ID Number _____
Law Firm/Agency Name _____
Address _____

Telephone Number _____

In the Matter of,

Name of Alleged Incapacitated Person (AIP),
an Alleged Incapacitated Person

Superior Court of New Jersey
Chancery Division - Probate Part
County _____
Docket Number _____

Civil Action
Certification in Support of
Guardianship

I, _____, of full age, hereby certify as follows:

I am (check one)

- the chief executive officer, medical director, or other officer having administrative control over the program from which _____ is receiving functional or other services provided by the Division of Developmental Disabilities; **OR**
- a designee of the Division of Developmental Disabilities having personal knowledge of the functional capacity of _____; **OR**
- a licensed physician or psychologist; **OR**
- a licensed care professional having personal knowledge of the functional capacity of _____.

1. This certification is made by me in support of an application for a declaration of incapacity for _____, an alleged incapacitated person.

2. I am personally familiar with the functional capacity of the alleged incapacitated person. My knowledge of his/her functional capacity is based upon:

3. In my opinion, the alleged incapacitated person is:

- unfit and unable to govern herself/himself and to manage her/his affairs in **all** areas.

OR

- unfit and unable to govern herself/himself and to manage her/his affairs in **some** areas but **does have capacity** in the areas listed below (select all that apply):

- medical decision making legal decision making financial decision making
- residential decision making educational decision making vocational decision making
- other (please describe) _____

4. My opinion is based upon:

5. It is my opinion that the alleged incapacitated person (check one) is is not capable of attending the court hearing in this matter. If the alleged incapacitated person is not capable of attending the court hearing the following are the reasons for the individual's inability:

6. I am not related either through blood or marriage, to the alleged incapacitated person, nor to a proprietor, director or chief executive officer of any institution for the care and treatment of the mentally ill in which the alleged incapacitated person is living or in which it is proposed to place her/him; nor am I professionally employed by the management thereof as a resident physician or psychologist; nor am I financially interested therein.

I hereby certify and say that the foregoing statements made by me are true to the best of my knowledge, and that I will supplement this form as may be necessary should additional information become available. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Date

Signature

Print Name

Instructions for Completing the Order Fixing Hearing Date and Appointing Attorney for Alleged Incapacitated Person - Form F

1. At the top left of the form, enter your name, address, and daytime phone number. If you are not an attorney, leave the *Attorney ID and Law Firm/Agency Name* fields blank.
2. On the line above *Name of Alleged Incapacitated Person (AIP)*, fill in the full legal name of the alleged incapacitated person for whom you are seeking a guardianship.
3. On the line labeled *County*, enter the county in which the alleged incapacitated person resides. This will be the county where the action is filed.
4. Leave *Docket Number* blank. It will be assigned and filled in by the Court upon filing.
5. In the first paragraph, fill in your full legal name as the plaintiff. Fill in the alleged incapacitated person's full legal name on the second blank line.
6. Leave the remainder of the document blank. The court will use this document to schedule and order a hearing on the guardianship application as well as appoint an attorney to represent the interests of the alleged incapacitated person.

Form F

Filing Attorney Information or Pro Se Litigant:

Name _____
NJ Attorney ID Number _____
Law Firm/Agency Name _____
Address _____

Telephone Number _____

In the Matter of,

_____,
an Alleged Incapacitated Person

Superior Court of New Jersey
Chancery Division - Probate Part
County _____
Docket Number _____

Civil Action
Order Fixing Guardianship Hearing
Date and Appointing Attorney for
Alleged Incapacitated Person

THIS MATTER having been opened to the court by _____, plaintiff(s), for a judgment declaring _____, an incapacitated person and appointing a guardian of the person and/or estate (property) pursuant to applicable New Jersey statutes and Rules of Court, and for such other relief as the court may deem just, and the court having read and considered the verified complaint, the supporting certifications or affidavits, and all other papers and pleadings filed in this matter, and for good cause shown:

IT IS on this ____ day of _____, 20__, **ORDERED** that:

1. This matter be set down for hearing before this court at the _____ County Courthouse, _____, New Jersey on the ____ day of _____, 20__, at _____ a.m. p.m. or as soon thereafter as plaintiff may be heard, to determine the issues of incapacity of _____ and the appointment of a guardian.

2. A copy of the verified complaint, supporting affidavits or certifications and this Order, shall be served on the alleged incapacitated person, by personally serving the same at least 20 days prior to the date scheduled for the hearing.

3. A separate notice shall be personally served on the alleged incapacitated person stating that if he/she desires to oppose the action he/she may appear either in person or by attorney and may demand a trial by jury.

4. A copy of the verified complaint, supporting affidavits or certifications and this Order shall also be served on all the next-of-kin and other parties-in-interest identified in the verified complaint by certified mail, return receipt requested at least 20 days prior to the date scheduled for the hearing. If applicable, a copy of the verified complaint, supporting affidavits or certifications and this Order shall be served on the County Adjuster and the Regional Administrator for the Division of Developmental Disabilities.

5. _____, Esquire office address _____, telephone number _____, be and hereby is appointed as attorney for the alleged incapacitated person. Said attorney shall personally interview the alleged incapacitated person, examine the medical records, make inquiry of persons having knowledge of the alleged incapacitated person's circumstances, his/her physical and mental state and his/her property, make reasonable inquiries to locate any Will or other testamentary substitutes, powers of attorney or health care directives previously executed by the alleged incapacitated person, or to

discover any interests the alleged incapacitated person may have as a beneficiary of a will or trust. Said attorney shall prepare a written report of findings and recommendations (and, if applicable, an affidavit of services) to be filed with the Court and with the plaintiff(s) and other parties who have filed a written response at least ten (10) days prior to the hearing.

SELECT ONE:

The attorney appointed to represent the alleged incapacitated person is appointed *pro bono* (without cost);

OR

The attorney appointed to represent the alleged incapacitated person is to be paid. Pursuant to R. 4:86-4(d), the court may direct that counsel be paid from the assets of the alleged incapacitated person, or if such assets are insufficient, then from the party seeking guardianship or otherwise.

6. If the alleged incapacitated person obtains counsel other than that appointed by the above paragraph, such counsel shall notify the court and appointed counsel at least ten (10) days prior to the hearing date.

7. A copy of the verified complaint, supporting affidavits or certifications and this Order shall be immediately served on the attorney for the alleged incapacitated person by personal service, certified mail, return receipt requested. If acceptable to the court-appointed attorney, service may be via facsimile, by regular mail, and/or by email.

8. The attorney above appointed to represent the alleged incapacitated person is hereby regarded as a HIPAA (Health Insurance Portability and Accountability Act) representative for the alleged incapacitated person and shall have the right and power to examine complete medical records, including medical and psychiatric records and written charts, pertaining to the alleged incapacitated person, and to visit and confer with the alleged incapacitated person.

9. The attorney above appointed to represent the alleged incapacitated person shall have the right and power to examine financial and legal documents and records pertaining to the alleged incapacitated person.

10. The plaintiff shall file with the County Surrogate a proof of service of the pleadings required by this order to be served on the alleged incapacitated person and the parties in interest no later than ten (10) days before the date this matter is scheduled to be heard.

11. Any next-of-kin and other party-in-interest who wishes to be heard with respect to any of the relief requested in the verified complaint shall file with the Surrogate of _____ County at the following location: _____, together with the applicable filing fee and serve upon the attorney for the plaintiff and the attorney for the alleged incapacitated person at the address set forth above, a written answer, an answering affidavit, a motion returnable on the date this matter is scheduled to be heard or other written response ten (10) days before the date this matter is scheduled to be heard.

12. If applicable, any proposed guardian shall complete guardianship training as promulgated by the Administrative Director of the Courts, by viewing or otherwise reviewing the Court Appointed Guardian Tutorial posted on the Judiciary's website at njcourts.gov/guardianship and receiving copies of the relevant guardianship training guide(s).

J.S.C.

**Instructions for Judgment of Incapacity and Appointment of Guardian(s)
of the Person and Estate - Form G**

1. At the top left of the form, enter your name, address, and daytime phone number. If you are not an attorney, leave the *Attorney ID and Law Firm/Agency Name* fields blank.
2. On the line above *Name of Alleged Incapacitated Person (AIP)*, fill in the full legal name of the alleged incapacitated person for whom you are seeking a guardianship.
3. On the line labeled *County*, enter the county in which the alleged incapacitated person resides. This will be the county where the action is filed.
4. Leave *Docket Number* blank. It will be assigned and filled in by the Court upon filing.
5. Leave the remainder of the document blank. The court will use this document if your application for a guardianship is granted. This document will set the terms for the guardianship.

Form G

Filing Attorney Information or Pro Se Litigant:

Name _____
NJ Attorney ID Number _____
Law Firm/Agency Name _____
Address _____
Telephone Number _____

In the Matter of:

_____,
an Incapacitated Person

Superior Court of New Jersey
Chancery Division - Probate Part
_____ County

Docket No. _____

Civil Action

**Judgment of Incapacity and
Appointment of Guardian(s) of the
Person and Estate**

THIS MATTER being opened to the Court by _____, plaintiff(s), by and through his/her attorney, _____ in the presence of _____, attorney for the then alleged incapacitated person, and _____, the then alleged incapacitated person, and no demand having been made for a jury trial, and the Court sitting without a jury having found from the report of counsel together with the report of the examining physician or psychologist and other supporting document and proofs given that _____ is an incapacitated person who lacks sufficient capacity to govern himself/herself or to manage his/her affairs, and it further appearing that _____, consents to serve as Guardian(s) of the Person and Estate (Property) of _____, and for good cause shown:

IT IS on this _____ day of _____, 20____, *ORDERED AND ADJUDGED* that:

1. GUARDIANSHIP TYPE: _____ is an incapacitated person and is unfit and unable to govern himself/herself and manage his/her affairs. This is a guardianship:

As to the Person General Limited
As to the Estate General Limited

Limited Guardianship: The incapacitated person is able at this time to govern himself/herself and manage his/her own affairs with respect to the following areas:

Check if applicable:

The subject of this guardianship is incapacitated as a result of developmental disability.

Firearms: Pursuant to 18 U.S.C. 922(g)(4), the incapacitated person does not retain the right to possess firearms.

2. GUARDIAN APPOINTMENT: _____ be and hereby is/are appointed Guardian(s) of the Person and Estate of the incapacitated person and that Letters of Guardianship of the Person and Estate be issued upon his/her/their (a) qualifying according to law, (b) acknowledging to the Surrogate completion of guardianship training and receipt of the guardianship training guides, and (c) unless waived for extraordinary reasons, entering into a surety bond unto the Superior Court of New Jersey in the

amount of \$ _____, which bond shall contain the conditions set forth in *N.J.S.A. 3B:15-7* and *R. 1:13-3*. The court shall approve the bond as to form and sufficiency.

3. Upon qualifying, the Surrogate shall issue Letters of Guardianship of the Person and Estate to _____ and thereupon the guardian(s) be and hereby is/are authorized to perform all the functions and duties of a Guardian of the Person and Estate as allowed by law, except as limited herein or in areas where the incapacitated person retains decision making rights.
4. In exercising the authority conferred by this Judgment, the guardian(s) shall:
- Ascertain and consider those characteristics of the incapacitated person which define his/her uniqueness and individuality, including but not limited to likes, dislikes, hopes, aspirations, and fears;
 - Encourage the incapacitated person to express preferences and participate in decision-making;
 - Give appropriate deference to the expressed wishes of the incapacitated person;
 - Protect the incapacitated person from injury, exploitation, undue influence, and abuse;
 - Promote the incapacitated person's right to privacy, dignity, respect, and self-determination; and
 - Make reasonable efforts to maximize opportunities and individual skills to enhance self-direction.
5. **GUARDIAN LIMITATIONS: If applicable**, the authority of the guardian(s) is limited as follows, and all limitations shall be stated in the Letters of Guardianship.
- The Guardian(s) of the Estate may not alienate, mortgage, transfer or otherwise encumber or dispose of real property without court approval.
- _____

6. The guardian(s) appointed hereunder shall be considered the personal representatives under the Standards for Privacy of Individually Identifiable Health Information ("Privacy Rule") issued pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), and shall have full and complete access to all records of the incapacitated person.
7. **INVENTORY:** The Guardian(s) shall file with the Court an inventory of all of the incapacitated person's property and income, along with a Report of Guardian Cover Page, within 90 days. Said inventory shall be available for inspection by any party in interest in this guardianship action, upon request to the Surrogate's Court to review the inventory.
8. **REPORTING AS TO PERSON:**
- _____, as Guardian(s) of the Person, is/are hereby directed to file annually a report of the well-being of the incapacitated person, along with a Report of Guardian Cover Page.
- OR**
- The filing of a report of well-being is hereby waived for the reasons stated on the record.
9. **REPORTING AS TO ESTATE (PROPERTY):**
- _____, as Guardian(s) of the Estate, is/are directed to file annually, along with a Report of Guardian Cover Page..
- Formal accounting (presumptive if guardianship estate valued over \$5,000,000);
 - Comprehensive accounting (presumptive if guardianship estate valued \$1,000,000 - \$5,000,000);
 - EZ accounting (presumptive if guardianship estate valued under \$1,000,000); or

- Copy of the Social Security Representative Payee Report (presumptive if guardian is also representative payee for Social Security benefits and incapacitated person has no other assets or income);

OR

- The filing of a Periodic Accounting is hereby waived for the reasons stated on the record.

If an informal accounting is ordered, said Periodic Accounting does not replace or satisfy the duty to file and bring on for approval a formal accounting as required by law or as ordered by the court.

10. The report(s) indicated in paragraphs 8 and/or 9 above is/are to be filed not later than fourteen (14) days after the anniversary date of this judgment with the County Surrogate. The report(s) to be filed by the guardian(s) shall be filed by the Surrogate and shall be made available by the Surrogate to any party in interest entitled to review pursuant to R. 1:38-3(e), as well as to the following parties or persons: _____, and the reference in this Judgment shall constitute a showing of a special interest as required by R. 1:38-3(e) for the purpose of reviewing such reports.
11. The Guardian(s) of the Person and Estate is/are hereby directed to advise the County Surrogate within ten (10) days of any changes in the address or telephone number of himself or herself or the incapacitated person or within thirty (30) days of the incapacitated person's death or of any major change in status or health. If the incapacitated person dies during the guardianship, the Guardian(s) will notify the Surrogate in writing and forward a copy of the death certificate upon receipt.
12. The Guardian(s) of the Person and Estate is/are agent(s) of the court and shall cooperate fully with any court staff, Surrogate staff, or volunteers until the guardianship is terminated by the death or return to capacity of the incapacitated person, or the Guardian's death, removal or discharge.
13. COUNSEL FOR INCAPACITATED PERSON:
- The court-appointed attorney for the alleged incapacitated person, having reported to the court and advocated on behalf of the incapacitated person, is hereby discharged with the appreciation of the court for his or her *pro bono* services, with no further obligation to act as attorney for the incapacitated person.
- OR**
- The court having reviewed the affidavit or certification of services of _____, Esquire, previously filed with the court, the Guardian of the Estate shall, within ____ days of the date of this Judgment, pay _____, Esquire, court-appointed attorney for the then alleged incapacitated person, a fee of \$_____ for professional services rendered and \$_____ for expenses incurred, which disbursements from the funds of the incapacitated person's estate are hereby approved. Court-appointed counsel, having reported to the court and advocated on behalf of the incapacitated person, be and hereby is discharged with no further obligation to act as attorney for the incapacitated person.
14. Any power of attorney previously executed by the incapacitated person be and hereby is revoked. Any advance directive for healthcare previously executed by the incapacitated person is voided as to proxy designation, but the guardian(s) shall consider the preferences expressed in such advance directive.
15. Plaintiff(s) shall serve a Judgment upon the Guardian(s) and all interested parties and attorneys of record within seven (7) days of receipt.

J.S.C.