



## HOW TO USE THIS ONLINE FORM

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This form can be filled out on screen, saved to your local drive, and printed out on your local printer or it can be printed out on your local printer for completion by hand or typewriter.

**The information you enter is NOT submitted electronically.**



## How to Become the Legal Guardian of a Person Receiving Services From the Division of Developmental Disabilities (Superior Court of New Jersey, Chancery Division, Probate Part)

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### DESCRIPTION OF GUARDIANSHIP ACTION:

Guardianship over an incapacitated person over the age of 18 who is receiving services from the Division of Developmental Disabilities (DDD) can be obtained in one of two ways. The first way is that the Commissioner of the Department of Human Services can initiate proceedings when it is determined that an individual is in need of a guardian. The second method is that a private citizen can petition the court to have a guardian named. This packet contains instructions for a private citizen to follow to obtain the appointment of a legal guardian over an incapacitated person receiving Division of Developmental Disabilities services.

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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 courthouse or on the Judiciary's Internet site ([www.judiciary.state.nj.us](http://www.judiciary.state.nj.us)). However, you are ultimately responsible for the content of your court papers.

[Click Here for the NJ Surrogates Web Page](#)

## 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. 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 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. Their telephone 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 sometimes consult with you at a reduced fee.

There are also a variety of organizations of minority lawyers throughout New Jersey, and also 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.

### WHAT YOU SHOULD EXPECT IF YOU REPRESENT YOURSELF

While you have the right to represent yourself in court, you should not expect any special treatment, help, or attention from the court. You must still comply with the court rules, even if you are not familiar with them. The following is a list of some things the court staff can and cannot do for you. Please read it carefully before asking the 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 for yourself copies of all completed forms and any canceled checks, money orders, sales receipts, bills, contract estimates, letters, leases, photographs, and other important documents that relate to your case.

## DEFINITIONS OF WORDS THAT MAY BE USED IN THIS PACKET

### **Alleged Incapacitated**

**Person:** The individual over whom the plaintiff is seeking a guardian.

**Affidavit:** An *affidavit* is a written statement of facts confirmed by an oath taken before a notary public or other official authorized to administer oaths. See certification.

**Certification:** A *certification* is a written statement of facts confirmed by a certification that under penalty of law all information contained is true to the best of your knowledge and belief. See affidavit.

### **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 alleged incapacitated person's county of residence at the time of application for eligible DDD services. However, it is possible for the county of residence and the county of settlement may be different. It depends on the residential history of the alleged incapacitated person.

**File:** *To file* means to give the appropriate forms and fee to the court to begin the court's consideration of your request.

**Judgment:** A *judgment* is the official decision of a court in a case.

**Order:** An *order* is a signed paper from the judge telling someone they must do something.

### **Interested**

**Party:** An *interested party* is a person or government agency that has an involvement with the incapacitated person that is the subject of the court action. It includes the alleged incapacitated person's next-of-kin who are his closest relatives, the county of settlement (the county adjuster) and the administrator of the Division of Developmental Disabilities program providing services to the alleged incapacitated person.

**Plaintiff:** The *plaintiff* is the party who starts the lawsuit.

### **Proof of**

**Service:** A *proof of service* is a sworn statement that tells the court who was given notice of the complaint and supporting pleadings in your case. It also tells the court how those persons received these documents.

**Return Date:** *Return date* is the date the plaintiff and defendant are told to appear in court.

**Service:** Copies of your papers are personally delivered to the alleged incapacitated person and mailed to the parties in interest and the attorney appointed to represent the alleged incapacitated person.

### **Verified**

**Complaint:** A *verified complaint* is a document in which you briefly tell the court the facts in your case and the relief you want the court to grant. This is filed by the plaintiff.

## **IMPORTANT INFORMATION ON GUARDIANSHIP ACTIONS**

### **EXAMINATION**

The forms provided in this packet are for guardianships being obtained for persons receiving services from the Division of Developmental Disabilities and is often called a Title 30 guardianship.

### **TITLE 30 GUARDIANSHIPS**

Title 30 requires that one medical physician or psychologist examine or evaluate the individual and submit a written report under oath. A second report under oath is submitted by the chief executive officer, medical director or other Division of Developmental Disabilities official having administrative control over the functional program or services. Typically the regional DDD administrator supplies the report. From now on this package calls the report provider the "DDD official." The DDD official must agree that the individual is in need of guardian based on the agency's knowledge of his/her functional level.

### **PLENARY AND LIMITED GUARDIANSHIPS**

It is important to recognize that DDD regulations require that a guardianship recommendation must be founded upon a sound clinic basis and every effort must be made to seek a solution that is the least restrictive and intrusive to the person's life and, thereby, preserve the person's autonomy to the maximum extent possible. Therefore, limited guardianships may be recommended by the DDD official where the alleged incapacitated person can express some, but not all, decisions. A plenary (full) guardianship is appropriate for those persons incapable of making or expressing any decisions.

### **PROCEDURE**

Once the verified complaint, physician or psychologist and the Division of Developmental Disabilities official's affidavits or certifications are filed with the Surrogate, a hearing date is set to determine the need for a legal guardian. The court orders that the next of kin be notified by certified and regular mail of the hearing date and also appoints an attorney for the alleged incapacitated person. The court appointed attorney will conduct an investigation including a meeting with the alleged incapacitated person and the proposed guardian. Based on his/her findings, the court appointed attorney will make a recommendation to the court.

#### **Payment**

for the attorney's services may be paid out of the incapacitated person's Social Security. Personal notice is also given to the alleged incapacitated person stating that the alleged incapacitated person and the court appointed attorney may oppose the request for guardianship.

If the court appointed attorney does not dispute the need for a guardianship or the fitness of the proposed guardian, the appointed attorney may recommend to the court that a hearing is not necessary. If a hearing is required, the court appointed attorney and the proposed guardian must attend. The alleged incapacitated person does not need to attend if the court appointed attorney or the evaluating physician or psychologist recommend that it is not in the best interest of the alleged incapacitated person to attend.

**JUDGMENT AND LETTERS OF  
GUARDIANSHIP**

Once the court enters the judgment, the guardian(s) will be requested to appear in the Surrogate's Court to qualify and sign the necessary papers. Letters of Guardianship will be issued by the Surrogate and mailed to the guardian(s).

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## HOW TO FILE A GUARDIANSHIP ACTION WITH THE COUNTY SURROGATE

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 clearly printed on 8 ½" x 11" white paper only. Forms may not be filed on a different size or color paper. The text must be double spaced.

### STEPS FOR FILING YOUR COMPLAINT FOR GUARDIANSHIP.

#### **STEP 1: Fill out the VERIFIED COMPLAINT TO APPOINT GUARDIAN. (FORM A)**

This complaint must be verified either by an affidavit (oath before a notary public) or certification (shown in Form A).

#### **STEP 2: Have a physician or psychologist complete a certification form. (FORM B or C)**

If you choose to have a physician complete the certification form use FORM B. If you want a psychologist to complete a certification use FORM C. The physician or psychologist who completes these forms must be the person who examined the alleged incapacitated person.

**Note:** The examination of the alleged incapacitated person cannot be more than 30 days prior to the filing of the Complaint.

#### **STEP 3: Obtain a *Certification* from the New Jersey DDD Official**

The DDD official will complete a form verifying that the individual is a current client of the Division of Developmental Disabilities (DDD) and is receiving services.

**This form is not included in this packet.** Contact your county Surrogate for information on how to contact the regional DDD office.

#### **STEP 4: Fill out the *ORDER FOR HEARING* (FORM D)**

This form will allow the court to insert the date and time of hearing and assign an attorney for the alleged incapacitated person. A copy of this order is served on the alleged incapacitated person, the attorney appointed to represent the alleged incapacitated person and the parties-in-interest

(next of kin, county adjuster and regional DDD official).

#### **STEP 5: Complete the top portion of the Judgment Appointing Guardian. (FORM E)**

If the judge grants your request, this is the document that he or she will sign naming you as guardian.

#### **STEP 6: Check your completed forms and Make Copies.**

Check your forms to make sure they are complete. Remove all instruction sheets. Make sure you have signed all the forms whenever necessary. Make at least three copies. One set will be your records.

#### **STEP 7: Pay the Filing Fee.**

The filing fee to file these forms is \$200, payable by check or money order. Make the check payable to the Surrogate of the county in which you are filing.

#### **STEP 8: Deliver or Mail your completed forms (FORMS A, [B or C] and D), along with the Certification of the DDD Official, to the County Surrogate.**

**DO NOT send in Forms F or G at this time. You must wait until you get copies of the SIGNED Order for Hearing (FORM D) from the court before you complete these forms.** You can deliver your completed forms in person or you can mail them. If you mail them, we recommend you mail them certified, return receipt requested. This will provide you with proof that you mailed your forms. Your post office can tell you how to send out mail certified, return receipt requested. The county you mail your papers to is the county where the alleged incapacitated person lives. When you deliver or mail your completed forms to the Surrogate, you must supply the court with a self-addressed stamped envelope so that the court can send you certified copies of the order.

#### **STEP 9: Review copies of the Order for Hearing returned from the court for instructions on how to proceed.**

The court will return copies of the *Order for Hearing* to you. Once you receive these copies, you must follow the court's instructions in the Order for Hearing to complete your paperwork properly.

**STEP 10: Fill out the *NOTICE OF PENDING HEARING*. (FORM F)**

Once you get the signed *Order for Hearing* from the court, complete the *Notice of Pending Hearing*. This will inform the alleged incapacitated person of the time, date and place of the hearing to determine whether they are incapacitated. This form MUST be personally delivered to the alleged incapacitated person at least 20 days prior to the date of the hearing.

**STEP 11: Arrange to serve the Complaint (FORM A), Physician's or Psychologist's Certification (FORM B or C), DDD Official's affidavit or certification and the signed Order for Hearing (FORM D) on the alleged incapacitated person and on the other interested parties.**

Once you get back the *Order for Hearing* signed by the judge, you must personally deliver a copy of the complaint (Form A), physician's or psychologist's certification (FORM B or C), regional director's affidavit or certification and the signed order (Form D) to the alleged incapacitated person. You must deliver copies of the same forms to all other parties by certified mail, return receipt requested, and by regular mail. You must also forward copies of the complaint and order to the court appointed attorney.

**STEP 12: Complete the *PROOF OF SERVICE Form* (FORM G) and the *Judgment* (FORM E).**

After service on the parties-in-interest is accomplished, complete the *Proof of Service* form and the *Judgment* and mail or deliver both forms to the Surrogate to show that the papers have been properly served. This must be filed at least 5 days prior to the hearing. This document lists all the papers that were served personally on the alleged incapacitated person and all papers that were mailed (certified and regular mail) to the next of kin and to the alleged incapacitated person's attorney. Attach photocopies of the return receipt cards returned by the post office.

**STEP 13: Call the Surrogate a few days prior to the date set for the hearing to confirm the hearing will be held.**

If there has been no opposition to the guardianship application, the judge may not require a hearing. However, if a hearing is scheduled, you must attend the hearing. Call to confirm whether a hearing will be held.

**STEP 14: Qualification.** If the court declares the alleged incapacitated person to be incapacitated and appoints a guardian, then the appointed person must appear in the Surrogate to qualify. This involves signing acceptance documents and filing a surety bond, if the court requires the same.

**STEP 15: Legal Fee Payment.** If the court awards the attorney appointed to represent the incapacitated person a fee, arrange to pay the same from the incapacitated person's assets or income.

**DEADLINES YOU NEED TO MEET**

Examinations by the physician or psychologist of the alleged incapacitated person must be made no more than 30 days prior to the filing of the complaint.

The alleged incapacitated person and all interested parties listed in the complaint must have at least 20 days notice of the hearing date.

The *Proof of Service* (FORM F) must be filed with the court at least 5 days prior to the date scheduled for the hearing.

**INTERPRETER OR ACCOMMODATION**

If you need an interpreter or an accommodation for a disability for the hearing, please contact the court before the hearing date.

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## INSTRUCTIONS FOR COMPLETING THE ATTACHED FORMS

### INSTRUCTIONS FOR FORM A - VERIFIED COMPLAINT TO APPOINT GUARDIAN

- A. In paragraph #1 type or print the information about the person over whom you are seeking to be appointed guardian.
- B. In paragraph #2 type or print the name of the person over whom guardianship is sought and the disability that he or she has been diagnosed with. Type or print the name of the physician or psychologist who completed either a physician's or psychologist's certification (FORM B or C) (See step #2 for more information on this.)
- C. In paragraph # 3 type or print the name of the person over whom guardianship is sought and indicate where he/she is receiving services from the New Jersey Division of Developmental Disabilities.
- D. In paragraph # 4 type or print the names of the next of kin of the person over whom a guardian is sought. Insert the name and address of the appropriate county adjuster for the county of settlement and the name and address of the DDD service provider administrator.
- E. In paragraph # 5 insert your personal information
- F. In paragraph #6 indicate whether the person over whom guardianship is sought owns any real or personal property and his or her monthly income, if any. Type or print any employer's name and the salary of any employment by the alleged incapacitated person.
- G. In paragraph #7 type or print any courses of instructions or other training the alleged incapacitated person attends.
- H. In paragraph #9 type or print the name of the person over whom guardianship is sought. Use the first paragraph #9A if a plenary (full) guardianship is requested; use the second paragraph #9B if a limited guardianship is requested.
- I. In the relief demanded use the first letter (A1,B1 and C1) paragraphs, if a plenary (full) guardianship is requested. Use the second letter (A2,B2 and C2) paragraphs, if a limited guardianship is requested.
- J. Sign and date the form where it asks you to do so.

### **INSTRUCTIONS FOR FORM B -- PHYSICIAN CERTIFICATION**

You must have a New Jersey licensed medical physician or psychologist complete a certification attesting to the fact that the alleged incapacitated person is in fact incapacitated. The medical physician or psychologist who completes this form must be the one to examine the alleged incapacitated person.

This form is for medical physicians only If a medical physician is the one who has conducted the evaluation of the alleged incapacitated person, then this form should be used. Inform him/her that you are seeking to be appointed guardian over the alleged incapacitated person and that you need him/her to complete this form.

### **INSTRUCTIONS FOR FORM C -- PSYCHOLOGIST CERTIFICATION**

You must have a New Jersey licensed medical physician or psychologist complete a certification attesting to the fact that the alleged incapacitated person is in fact incapacitated. The medical physician or psychologist who completes this form must be the one to examine the alleged incapacitated person. The examination must take place no more than 30 days before you file this guardianship action.

This form is for psychologists only. If a psychologist is the one who has conducted the evaluation of the alleged incapacitated person, then this form should be used. Inform him/her that you are seeking to be appointed guardian over the alleged incapacitated person and that you need him/her to complete this form.

### **INSTRUCTION FOR FORM D - ORDER FOR HEARING (This form is self explanatory. Fill in only the top portion.)**

Note: The Public Defender, if available, may be appointed if only guardianship of the person is sought. If you seek guardianship of the person and the estate or the public defender is not available, then the court will appoint a private attorney.

### **INSTRUCTIONS FOR FORM E - JUDGMENT APPOINTING GUARDIAN**

Where indicated, type or print your name, the name of the attorney appointed for the alleged incapacitated person, the name of the physician or psychologist and the name of the Division of Developmental Disabilities official who has completed the certification.

**INSTRUCTIONS FOR FORM F - NOTICE OF PENDING HEARING**  
**(Portions that are not self explanatory)**

- A.** Where shown, enter the docket number in this case. You will get this number when the court returns the signed order to you. (FORM D)
- B.** Where it says "TO" type or print the name of the alleged incapacitated person.
- C.** Fill out the date, time, and place of the hearing. You will get this information when the court sends back the signed order for hearing with all of this information on it.
- D.** Type or print the name of the proposed guardian in the last paragraph.

**INSTRUCTIONS FOR FORM G - PROOF OF SERVICE**  
**(Portions that are not self explanatory.)**

- A.** In paragraph #1 type or print the name of the person who handled service of the pleadings.
- B.** In paragraph #2 type or print the date you personally mailed or delivered copies of FORMS A, [B or C] & D to the alleged incapacitated person.
- C.** In paragraph # 4 type or print the date you mailed a copy of FORMS A, [B or C] & D to the next of kin of the alleged incapacitated person and other interested parties.
- D.** Sign and date the form where it asks you to do so.

FORM A -- VERIFIED COMPLAINT TO APPOINT GUARDIAN

Plaintiff(s) Type your name(s)  
Address:

Telephone Number:

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION  
COUNTY  
PROBATE PART

In The Matter of

*TYPE INCAPACITATED PERSON'S NAME*

an Alleged Incapacitated Person

Docket No.

CIVIL ACTION

VERIFIED COMPLAINT TO APPOINT  
GUARDIAN FOR PERSON RECEIVING  
DIVISION OF DEVELOPMENTAL  
DISABILITIES SERVICES

I/ We, the Plaintiff(s),

and

, residing at

, City /Township /Borough

of

, County of

and State of

New Jersey, by way of verified complaint says:

1. The name, age, present resident address, length of time at residence, permanent residence (domicile) and marital status of the alleged incapacitated person are:

A. Name:

B. Age:

C. Present residence:

since

D. Permanent residence:

since

E. Marital status: (Check one)  Married  Never Married  Divorced

F. Children: (Check one)  No Children  Children as listed in Paragraph 4

2. \_\_\_\_\_ has been diagnosed as suffering from \_\_\_\_\_ as shown by the attached affidavit or certification of \_\_\_\_\_ (Medical Physician or Psychologist). Because of this condition, \_\_\_\_\_ lacks sufficient capacity to govern himself/herself and manage his/her affairs.

3. \_\_\_\_\_ has been receiving services from the New Jersey Division of Developmental Disabilities at \_\_\_\_\_ since \_\_\_\_\_. He/She continues to need such services, as shown by the attached affidavit or certification of \_\_\_\_\_, Division of Developmental Disabilities official.

4. The names, residence addresses, and relationships of the spouse, next-of-kin most closely related to the alleged incapacitated person (parents, siblings, *et cetera*) and other persons interested in the status of the alleged incapacitated person (custodian, county adjuster, DDD program administrator) are as follows:

<u>Name</u>	<u>Address</u>	<u>Relationship</u>	<u>Age</u>
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5. The name, address, age, telephone number and relationship to the alleged incapacitated person of the proposed guardian(s) are as follows:

Name:

Address:

Age:

Telephone number

Relationship

6. The character and approximate value of the real and personal property and income of the alleged incapacitated person are as follows:

A. Personal property:

(i) bank accounts	\$	
(ii) stocks, bonds and mutual funds	\$	
(iii) other personal property (specify)	\$	_____
Total personal property value	\$	

B. Real property (describe)

\$  
\$

C. Periodic compensation and income from:

i. real property	\$	/ month
ii personal property	\$	/ month
iii pensions	\$	/ month
iv public assistance benefits	\$	/ month
v social security benefits	\$	/ month
vi trust distributions:	\$	/ month
vii other income sources (specify)	\$	/ month

viii wages (employer:) \$ \_\_\_\_\_ / month

Total monthly income \$ / month

7. (If applicable) \_\_\_\_\_, the alleged incapacitated person, attends classes at \_\_\_\_\_.

8. The alleged incapacitated person does not have an attorney. It is requested that the court appoint an attorney to serve as legal counsel for the alleged incapacitated person.

9A. Because of \_\_\_\_\_'s condition, he/she is without the necessary cognitive capacity to understand personal, financial, health and medical matters that affect his/her well-being and, therefore, he/she lacks the capacity to govern himself /herself in **all** of his/her financial and personal affairs.

**OR**

9B. Because of \_\_\_\_\_'s condition, he/she is without the necessary cognitive capacity to understand **some of the** personal, financial, health and medical matters that affect his/her well-being and, therefore, he/she lacks the capacity to govern himself/herself in the following financial and personal affair areas:

In all other respects, he/she is fully able at this time to govern himself/herself and govern and manage his/her affairs.

WHEREFORE, the plaintiff(s) demand(s) judgment pursuant to *N.J.S.A. 30:4-165.7*:

A1. declaring \_\_\_\_\_ to be suffering from a chronic functional impairment and as a result is incapable and unable to govern himself/herself and manage his/her affairs;

**OR**

A2. declaring \_\_\_\_\_ to be suffering from a chronic functional impairment and as a result is incapable and unable to govern himself/herself and manage his/her affairs with respect to :

;

B1. Appointing the plaintiff(s) the guardian of his/her PERSON and issuing Letters of Guardianship upon qualifying according to law;

**OR**

B2. Appointing the plaintiff(s) the limited guardian of his /her PERSON and issuing Letters of Limited Guardianship upon qualifying according to law;

C1. Appointing the plaintiff(s) the guardian of his/ her ESTATE and issuing Letters of Guardianship upon qualifying according to law.

**OR**

C2. Appointing the plaintiff(s) the limited guardian of his/her ESTATE and issuing Letters of Limited Guardianship upon qualifying according to law.

Date:

\_\_\_\_\_  
SIGNATURE OF PLAINTIFF

TYPE NAME

Date:

\_\_\_\_\_  
SIGNATURE OF PLAINTIFF

TYPE NAME

**VERIFICATION**

I/We, \_\_\_\_\_ and \_\_\_\_\_, hereby certify and say:

1. I/ We are the plaintiff(s).
2. The contents of the complaint are true to my (our) personal knowledge and belief. I (We) hereby certify that the statements made by me are true. I am aware that if any are wilfully false, I am (We are) subject to punishment.

Date:

Date:

\_\_\_\_\_  
Signature of Plaintiff

\_\_\_\_\_  
Signature of Plaintiff

Type Name

Type Name

FORM B -- PHYSICIAN'S CERTIFICATION

Plaintiff(s) TYPE YOUR NAME(s)  
Address:

Telephone Number:

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION  
COUNTY  
PROBATE PART

IN THE MATTER OF

TYPE INCAPACITATED PERSON'S NAME

AN ALLEGED INCAPACITATED  
PERSON

Docket No.

CIVIL ACTION  
CERTIFICATION OF MEDICAL  
PHYSICIAN

TYPE PHYSICIAN'S NAME

I, \_\_\_\_\_, M.D., with offices at \_\_\_\_\_,

being of full age, do hereby certify and say as follows:

1. I am a permanent resident of the State of New Jersey and a physician licensed to practice medicine in the State of New Jersey.

2. I am not a relative, either through blood or marriage, to \_\_\_\_\_ or of the proprietor, director or chief executive of any private institution for the care and treatment of the mentally ill at which he/she is living or at which it is proposed to place him/her, nor am I professionally employed by the management thereof as a resident physician, nor do I have any financial interest therein.

3. I have reviewed the clinical data and history regarding \_\_\_\_\_ and personally examined him/her on \_\_\_\_\_, 20\_\_\_\_.

4. My opinion as to \_\_\_\_\_'s capacity to govern himself/herself and manage his/her affairs is based upon the following:

5. Based upon my personal examination and the aforementioned clinical data and history, it is my conclusion that \_\_\_\_\_ suffers from a significant chronic functional impairment and lacks the cognitive capacity to make decisions for himself/herself or to communicate, in any way, decisions to others. His/Her significant chronic functional impairment includes, but is not limited to, a lack of comprehension of concepts related to personal care, health care or medical treatment and is, therefore, incapable of governing himself/herself or managing his/her personal or financial affairs.

6.<sup>1</sup> It is also my opinion that \_\_\_\_\_ does have sufficient capacity to make limited decisions in the areas of :

The reasons for my opinion that he/she has the ability to make the aforementioned limited decisions are:

7. Based upon my personal examination and aforementioned clinic data and history, it is my conclusion that he/she is (check one) \_\_\_capable \_\_\_incapable of attending the hearing in this matter. If incapable, state reasons:

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Date: \_\_\_\_\_ M.D.

type name

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<sup>1</sup> Note. Complete this paragraph if it is your opinion that the alleged incapacitated person has sufficient capacity in certain areas that he or she should retain decision making rights. This paragraph will set out the basis for the same for the court's consideration. Otherwise cross this paragraph out before signing.

**FORM C -- PSYCHOLOGIST'S CERTIFICATION**

Plaintiff(s) *TYPE YOUR NAME(s)*  
Address:

Telephone Number:

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION  
COUNTY  
PROBATE PART

In the Matter of

*TYPE INCAPACITATED PERSON'S NAME*

An Alleged Incapacitated Person

Docket No.

CIVIL ACTION  
CERTIFICATION OF PSYCHOLOGIST

*TYPE PSYCHOLOGIST'S NAME*

I, \_\_\_\_\_, with offices at \_\_\_\_\_, being of full age,  
do hereby certify and say as follows:

1. I am a permanent resident of the State of New Jersey and a psychologist licensed pursuant to *N.J.S.A. 45:14B-1 et seq.* to practice in the State of New Jersey.

2. I am not a relative, either through blood or marriage, to \_\_\_\_\_ or of the proprietor, director or chief executive of any private institution for the care and treatment of the mentally ill at which \_\_\_\_\_ is living or at which it is proposed to place him/her, nor am I professionally employed by the management thereof as a resident physician, nor do I have any financial interest therein.

3. I have reviewed the clinical data and history regarding \_\_\_\_\_ and personally examined him/her on the \_\_\_\_\_, 20 \_\_\_\_\_.

4. My opinion as to \_\_\_\_\_'s capacity to govern himself/herself and manage his/her affairs is based upon the following:

5. Based upon my personal examination and the aforementioned clinic data and history, it is my conclusion that \_\_\_\_\_ suffers from a significant chronic functional impairment and lacks the cognitive capacity to make decisions for himself/herself or to communicate, in any way, decisions to others. His/Her significant chronic functional impairment includes, but is not limited to, a lack of comprehension of concepts related to personal care, health care or medical treatment and is, therefore, incapable to governing himself/herself or managing his/her personal or financial affairs.

6.<sup>1</sup> It is also my opinion that \_\_\_\_\_ does have sufficient capacity to make limited decisions in the areas of :

The reasons for my opinion that he/she has the ability to make the aforementioned limited decisions are:

7. Based upon my personal examination and aforementioned facts and history, it is my conclusion that he/she is (check one) \_\_\_\_\_ capable \_\_\_\_\_ incapable of attending the hearing in this matter. If incapable, state reasons:

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Date:

\_\_\_\_\_

TYPE PSYCHOLOGIST'S NAME

\_\_\_\_\_

<sup>1</sup> Note. Complete this paragraph if it is your opinion that the alleged incapacitated person has sufficient capacity in certain areas that he or she should retain decision making rights. This paragraph will set out the basis for the same for the court's consideration. Otherwise cross this paragraph out before signing.

FORM D -- ORDER FOR HEARING

Plaintiff(s) TYPE YOUR NAME(S)  
Address:

Telephone Number:

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION  
COUNTY  
PROBATE PART

In the Matter of

*PRINT INCAPACITATED PERSON'S NAME*

an Alleged Incapacitated Person

Docket No.

CIVIL ACTION

ORDER FIXING HEARING DATE AND  
APPOINTING ATTORNEY FOR  
ALLEGED INCAPACITATED PERSON  
RECEIVING DIVISION OF  
DEVELOPMENTAL DISABILITIES  
SERVICES

This matter having been opened to the court on complaint of the plaintiff(s) for an order seeking the appointment of a guardian for \_\_\_\_\_ under R.4:86-10 and for such other relief as the court may deem just, and the court having read and considered the verified complaint, the supporting affidavits or certifications and all other papers and pleadings presented with this application, and for good cause shown:

(Do not write below this line - for court use only - except for the appropriate spaces where the name of the person over whom guardianship is sought should be inserted.)

IT IS on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, ORDERED that:

1. This matter be set down for hearing before this court at the \_\_\_\_\_ County Court House, \_\_\_\_\_, New Jersey, before the Hon. \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, at \_\_\_\_\_ o'clock in the a.m. p.m. or as soon thereafter as plaintiff(s) may be heard, to determine the issue of the legal incapacity of \_\_\_\_\_ and for the determination of the appointment of a guardian; and

2. A copy of the complaint and supporting affidavits along with this order, shall be served on \_\_\_\_\_, the alleged incapacitated person, by personal service at least 20 days prior to the date scheduled for the hearing.

3. A separate notice advising the alleged incapacitated person of his  
her right to a jury trial and to personally, or through legal counsel, appear and oppose the  
application shall be personally served on the alleged incapacitated person at least 20 days  
prior to the date scheduled for the hearing.

4. A copy of the complaint and supporting documents, along with this order, shall  
be served on all the next of kin and other interested parties set out in the complaint by regular  
and certified mail, return receipt requested, at least 20 days prior to the date scheduled for  
the hearing.

5. \_\_\_\_\_, Esquire, whose address is  
\_\_\_\_\_ and telephone is \_\_\_\_\_,  
be and hereby is appointed as counsel for the alleged incapacitated person. Said attorney  
shall be immediately served with copies of the complaint and supporting documents along  
with this order. Said attorney shall personally interview the client, examine the medical  
records, make inquiries of persons having knowledge of the alleged incapacitated person's  
circumstances, make reasonable inquiries to locate any will, powers of attorney or health care  
directive previously executed by the alleged incapacitated person and prepare a written report  
of findings and recommendations to be filed in court and with the plaintiff(s) pursuant to R.  
4:86-10 at least \_\_\_\_ days prior to the hearing.

6. This court may summarily appoint a guardian of the person and estate without  
a hearing if the attorney appointed for \_\_\_\_\_ reports that  
he/she on behalf of the alleged incapacitated person does not dispute either the need for  
the guardianship or the fitness of the proposed guardian and the alleged  
incapacitated person does not request a plenary hearing.

\_\_\_\_\_  
, J.S.C.

**FORM E -- JUDGMENT APPOINTING GUARDIAN**

Plaintiff(s) TYPE YOUR NAME(S)  
Address:

Telephone Number:

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION  
COUNTY  
PROBATE PART

In the Matter of

TYPE INCAPACITATED PERSON'S NAME

An Incapacitated Person

Docket No.

CIVIL ACTION  
JUDGMENT OF LEGAL INCAPACITY  
AND APPOINTING A GUARDIAN OF THE  
PERSON AND ESTATE FOR PERSON  
RECEIVING DIVISION OF  
DEVELOPMENTAL DISABILITIES  
SERVICES

This matter having been opened to the court on the complaint of the plaintiff(s) \_\_\_\_\_, and the court having appointed \_\_\_\_\_ as attorney for \_\_\_\_\_ and the court having reviewed the pleadings and the affidavits or certifications of \_\_\_\_\_, M.D., (or \_\_\_\_\_ licensed psychologist) and \_\_\_\_\_, Division of Developmental Disabilities official, and the report of \_\_\_\_\_, Esq., and it appearing that \_\_\_\_\_ suffers from a chronic functional impairment and that he/she lacks cognitive capacity and as a result is incapable of governing himself/herself and managing his/her affairs.

It is on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ ORDERED and ADJUDGED that:

1. \_\_\_\_\_ is an incapacitated person and is unfit and unable to govern himself/herself and manage his /her affairs because of a significant chronic functional impairment, except, but subject to the right of the guardian(s) herein appointed to seek to have this portion of the judgment vacated or modified for good cause, \_\_\_\_\_ is able at this time to govern himself /herself and manage his/her own affairs with respect to the following areas:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

2: \_\_\_\_\_ be and hereby is/are appointed [Limited] Guardian(s) of the Person and Estate of \_\_\_\_\_ and that Letters of [Limited] Guardianship of the Person and Estate shall be issued upon him/her /them (a) qualifying according to law, (b) acknowledging to the Surrogate of \_\_\_\_\_ County, upon receipt of a copy of the guardian's manual, the receipt of the same and (c) 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. The guardian(s) shall have authority to make any and all medical decisions regarding \_\_\_\_\_ including, but not limited to, the authority to consent or withhold consent to surgical procedures and such other procedures reasonably attendant thereto, and all decisions concerning withdrawal or denial of life support shall be exercised in full compliance with existing statutory and case law.

4. Upon qualifying, the Surrogate of \_\_\_\_\_ County shall issue Letters of Guardianship of the Person and Estate to \_\_\_\_\_ thereupon he/she/they shall then be authorized to perform all the functions and duties of a guardian as allowed by law, except as limited herein or in areas herein above set forth where \_\_\_\_\_ retains decision making rights.

5. The Guardian(s) of the Estate may not alienate, mortgage, transfer or otherwise encumber or dispose of real property without court approval. Said limitation shall be stated in the Letters of Guardianship.

6. The court having reviewed the affidavit or certification of services of \_\_\_\_\_, Esq., previously filed with the court, \_\_\_\_\_ shall pay \_\_\_\_\_, court-appointed attorney for \_\_\_\_\_, a fee of \$ \_\_\_\_\_ for professional services rendered and \$ \_\_\_\_\_ for expenses incurred, which disbursements are hereby approved.

7. \_\_\_\_\_ is hereby directed to advise the Surrogate of \_\_\_\_\_ County within ten (10) days of any changes in the address or telephone number of himself or herself and/or the incapacitated person or of the death of the incapacitated person.

8. \_\_\_\_\_ shall cooperate fully with any court staff or volunteers until the guardianship is terminated by the death or return to competency of \_\_\_\_\_ or the guardian's death, removal or discharge.

9. The plaintiff shall serve a copy of this Judgment upon all interested parties and attorneys of record within seven (7) days from the receipt hereof.

\_\_\_\_\_  
, J.S.C.

**FORM F NOTICE OF PENDING HEARING**

Plaintiff(s)

TYPE YOUR NAME(S)

Address:

Telephone Number:

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION  
COUNTY  
PROBATE PART

In the Matter of

*TYPE INCAPACITATED PERSON'S NAME*

An Alleged Incapacitated Person

Docket No.

CIVIL ACTION  
NOTICE OF PENDING HEARING, RIGHT  
TO APPEAR AND RIGHT TO REQUEST  
A JURY TRIAL

TO:

Be advised that a verified complaint has been filed with the New Jersey Superior Court, Chancery Division, Probate Part seeking to have you declared to be an incapacitated person and have a guardian appointed. If a guardian is appointed, you could lose your individual rights.

The matter has been set down for a hearing on  
at \_\_\_\_\_ a.m./p.m. in the \_\_\_\_\_ County Court House,  
\_\_\_\_\_, New Jersey.

You have the right to be present in court. You have the right to be represented by an attorney of your own choosing. You may appear in person or through legal counsel to oppose the relief sought. You have the right to demand a trial by jury.

If either you or the attorney appointed for you do not dispute the need for a guardianship or the fitness of the proposed guardian, and if you do not request a plenary hearing, the court may summarily appoint as guardian(s) without the necessity of a hearing.

Date:

Date:

\_\_\_\_\_  
Signature of Plaintiff

\_\_\_\_\_  
Signature of Plaintiff

Type Name

Type Name

**FORM G PROOF OF SERVICE**

Pro Se Plaintiff(s) TYPE YOUR NAME(s)  
Address:

Telephone Number:

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION  
COUNTY  
PROBATE PART

In the Matter of

*TYPE INCAPACITATED PERSON'S NAME*

an Alleged Incapacitated Person

Docket No.

CIVIL ACTION  
PROOF OF SERVICE

1. I, \_\_\_\_\_, of full age, hereby certify and say:
2. On \_\_\_\_\_, I personally served \_\_\_\_\_, the alleged incapacitated person, at \_\_\_\_\_ with copies of the following

documents regarding the above captioned matter:

- A. Verified Complaint
- B. Division of Development Disabilities Official's Certification
- C. (Check one) Physician's Certification **or** Psychologist's Certification
- D. Order for Hearing
- E. Notice of Pending Hearing, Right to Appear and Right to Request a Jury Trial.

3. The alleged incapacitated person has been afforded the opportunity to appear personally or through an attorney in this matter, and he/she has been given or afforded assistance to communicate with friends, relatives or attorneys concerning this matter.

4. On \_\_\_\_\_, I served a copy of the Verified Complaint, DDD official's Certification, (check one)  Physician's Certification  or Psychologist's Certification and Order for Hearing by certified mailed, return receipt requested, and regular mail on:

Name

Address

Date Served

5. Copies of all return receipt cards for certified mail are attached.

I hereby certify that the statements made by me are true. I am aware that if any are wilfully false, I am subject to punishment.

Date:

\_\_\_\_\_

signature

type name