

Guardianship of an Individual with Developmental Disability

Filing Procedures

These instructions have been prepared by the Leelanau County Probate Court staff to assist you in correctly completing the guardianship process. **The Probate Court staff will assist you if you have further questions about procedures; however, staff is prohibited from giving legal advice.** If you do not understand these instructions or are not able to fill out the petition and other forms by yourself, you may want to speak to an attorney.

Filing Fee There is no filing fee.

Forms Used

- [PC 658](#), Petition for Appointment of Guardian, Individual with Alleged Developmental Disability
- [PC 659](#), Report to Accompany Petition to Appoint, Modify or Discharge Guardian of Individual with Developmental Disability, if available
- [PC 571](#), Acceptance of Appointment – one for each nominated guardian
- [PC 570](#), Bond of Fiduciary (if ordered)

Hearing Date A date for hearing on the petition will be scheduled within 30 days from the date of filing the petition. The court will generate a Notice of Hearing and enough copies of the Petition and Notice for the Petitioner to serve on all interested persons.

You, the Petitioner, must attend the hearing or your Petition will be dismissed. When you arrive for the hearing please check in at the Probate Court office to make sure the court has received all proofs of service and other documentation required before the hearing is held.

Notice to Interested Persons **It is the Petitioner's responsibility to serve all interested persons with a copy of the Petition and Notice of Hearing and file Proof of Service with the Court.** If you do not complete service, the hearing will need to be rescheduled and re-noticed.

Personal Service means delivering copies to the individual in person.

Service by Mail means mailing copies (only first class mail is required).

Publication is required for persons whose address or whereabouts are unknown. See below.

The minor, if age 14 or older, must be served personally:

- At least 24 hours prior to an emergency hearing for a temporary guardian.
- At least 7 days prior to the regular hearing to appoint a guardian.

Other interested persons must be served:

- At least 14 days prior to the hearing if service is by mail or publication.
- At least 7 days prior to the hearing if served personally.

Interested persons on a Petition for Appointment of Guardian, Individual with Alleged Developmental Disability:

- Individual,
- Individual's attorney,
- Petitioner
- Proposed guardian and standby guardian, if any
- Depending on the facts of the case, there may be additional interested persons.

Government Agencies

When any of the following are parties of interest on your petition, they must be served, either personally or by mail at:

Mr. Dean Slicer, Fiduciary Hub
US Dept. of Veterans Affairs
 575 N. Pennsylvania St.
 Indianapolis, IN 46204

*Serve if individual receives VA benefits

Assistant **Attorney General**
 State Public Administration
 PO Box 30736
 Lansing, MI 48909

*Serve if individual has no presumptive heirs

Social Security Administration
 1329 South Division St.
 Traverse City, MI 49684

*Serve if individual receives Soc. Sec. benefits

Michigan Dept. of Human Services
 701 S. Elmwood, Suite 19
 Traverse City, MI 49684

*Serve if individual receives DHS assistance

Proof of Service

The petitioner must file a Proof of Service ([PC 564](#)) with the Probate Court before the hearing date indicating all the interested parties have received the above documents. No hearing can be held without it. Note the separate sections for "Service by Mail" and "Personal Service" and use them accordingly. See also [Instructions for Proof of Service](#).

Publication

If the address of an interested person is unknown, the Petitioner must file a Declaration of Intent to Give Notice by Publication, ([PC 617](#)) and publish (at your expense) a Publication of Notice of Hearing, ([PC 563](#)). Notice must be published in the county where the court is located one time at least **14 days** before the hearing. The Petitioner must pay the newspaper for this publication in order for the notice to be published in the paper. The newspaper should send us verification of publication; however, it is your responsibility to make sure it is received by the court.

For more information on publication, you may wish to contact:

Leelanau Enterprise
 7200 E. Duck Lake Rd.
 Lake Leelanau, MI 49653
 (231) 256-9827
legals@leelanaunews.com

Attorney for the Individual

The court will appoint an attorney to represent the individual. The attorney will serve the individual with a Notice of Right to Request Dismissal of Guardian or Modification of Guardianship Order ([PC 661](#)). This notice informs the ward about his/her rights regarding future requests for modifications or the dismissal of the guardianship.

Evaluations

If the Report to Accompany Petition to Appoint, Modify or Discharge Guardian of Individual with Developmental Disability does not accompany the petition, the Court will refer the individual to Northern Lakes Community Mental Health for the appropriate evaluations to be performed. Northern Lakes CMH then arranges for and/or conducts the required evaluations of the mental, physical, social, educational, adaptive behavior and social skills of the person and makes recommendations to the court regarding need for guardianship services. Often, the family has had some contact with Community Mental Health and the need for the appointment of a guardian becomes known when the individual nears the age of 18. Their offices are located at 105 Hall St., Traverse City, Michigan, and the telephone number is (231) 922-4850.

After Appointment

To the extent ordered by the Court, the guardian has the following duties:

1. Custody of the ward;
2. Make provisions from the ward's estate or other sources for the ward's care, comfort and maintenance;
3. The duty to make a reasonable effort to secure for the ward training, education, medical and psychological services, and social and vocational opportunities that are appropriate and as will assist the ward in the development of maximum self-reliance and independence;
4. Within 56 days of the appointment, the plenary guardian of the estate must:
 - a) file with the Court a complete Inventory ([PC 674](#)) of the ward's assets; b) provide the ward with a copy of the Inventory; c) provide the ward's presumptive heirs with a copy of the Inventory; and d) provide the parent or guardian with whom the individual resides a copy of the Inventory (MCR 5.409); A Proof of Service ([PC 564](#)) is filed with the court to show this has been done.
5. One year after appointment and each year thereafter, the guardian of the individual, plenary or partial, shall file with the Court a Report of Guardian on Condition of Individual with Developmental Disability ([PC 663](#)). The report shall contain statements about the ward's current mental, physical and social condition, living arrangements, treatment programs, medical, educational, vocational and other professional services given to the ward, and also a list of the guardian's visits with and on behalf of the ward.
6. One year after appointment and each year thereafter, the guardian files an Account of Fiduciary ([PC 584](#)) and Proof of Service ([PC 564](#)) showing service on the Interested Persons. The account lists every expenditure and receipt for the year and assets remaining on hand at the end of the accounting period. As a service, a reminder will be sent to the guardian in advance with the blank form. Failure to file the account may lead to suspension proceedings. See also [Account Sample & Instructions](#).
7. A guardian must notify the court within 14 days of any change in the individual's place of residence or within 7 days of the guardian's place of residence.

Court Contact

Leelanau County Probate Court
8527 E. Government Center Dr., Suite 203
Suttons Bay, MI 49682
(231) 256-9803 PH
(231) 256-9845 FAX
probate-juvenilecourt@co.leelanau.mi.us

Susan L. Richards, Probate Register
srichards@co.leelanau.mi.us

STATE OF MICHIGAN PROBATE COURT COUNTY OF	PETITION FOR APPOINTMENT OF GUARDIAN, INDIVIDUAL WITH ALLEGED DEVELOPMENTAL DISABILITY	FILE NO.
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A In the matter of _____, an individual with an alleged developmental disability

B 1. I, _____, am interested in this matter and make this petition as
Name (type or print)

State your interest/relationship

C 2. An action within the jurisdiction of the family division of circuit court involving the family or family members of the individual has been previously filed in _____ Court, Case Number _____, was assigned to Judge _____, and remains is no longer pending.

D 3. The individual named above, born _____, is a resident of _____, Michigan, and presently lives with/at _____ at
Date County Name of person or center or facility

Address City State Zip Telephone no. **XXX-XX-** Last four digits of SSN

The individual is a citizen of the following foreign country: _____

E 4. His/her presumptive heirs are as follows: (Attach additional page if needed.)

NAME	AGE	RELATIONSHIP	ADDRESS AND TELEPHONE NUMBER			
			Street address			
			City	State	Zip	Telephone no.
			Street address			
			City	State	Zip	Telephone no.

F 5. A report and evaluation required by law accompanies does not accompany the petition.

G 6. The individual has a developmental disability described as a severe, chronic condition that meets all the following: 1) it is attributable to a mental or physical impairment or a combination of mental and physical impairments; 2) it was manifested before the individual was 22 years old; 3) it is likely to continue indefinitely; and 4) it results in substantial functional limitations in major life activities of (A minimum of three of the following options must apply and be checked.)
 self-care, receptive and expressive language, learning, mobility,
 self-direction, capacity for independent living, economic self-sufficiency,
and it reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are lifelong or for an extended duration and are individually planned and coordinated.

H 7. The specific nature and extent of the disability is: _____

(PLEASE SEE OTHER SIDE)

USE NOTE: If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form.

Do not write below this line - For court use only

I 8. A guardian is needed to assist the individual with the following responsibilities and duties: _____

J 9. The estimated value of the individual's estate and income are:

Real estate: \$ _____ Personal property: \$ _____

Yearly income: \$ _____ Source of yearly income: _____

I REQUEST THAT:

10. If a report does not accompany this petition, the court order evaluations to be performed and a report to be prepared.

11. The court determine that the individual requires guardianship as an individual with a developmental disability.

K 12. The court determine and appoint _____ of _____
Name

Address City State Zip Telephone no.

or appoint some other suitable individual or entity as

a. plenary (full) guardian of the individual estate
 b. partial guardian of the individual estate with the following powers: _____

The proposed guardian is a current service provider. No other individual or agency is suitable to serve as guardian.

L 13. The court authorize the guardian to execute an application for admission to _____
Name of facility

_____ located at _____
Address

M 14. Pending the appointment of a guardian, the court appoint a temporary guardian or exercise its emergency powers

because _____
Describe emergency situation

N 15. The court appoint _____ of _____
Name Address

_____ as standby guardian.
City State Zip Telephone no.

I declare under the penalties of perjury that this petition has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

Signature of attorney

Date

Name (type or print) Bar no.

Signature of petitioner

Address

Address

City, state, zip Telephone no.

City, state, zip Telephone no.

INSTRUCTIONS FOR COMPLETING "PETITION FOR APPOINTMENT OF GUARDIAN, INDIVIDUAL WITH ALLEGED DEVELOPMENTAL DISABILITY"

Please type or print neatly using black or blue ink.

Items A through N must be read and filled in (when required) before your petition can be filed with the court. Please read the instruction for each item. Then fill in the correct information for that item on the form.

- A** Enter the name of the individual whom you believe needs a guardian.
- B** Enter your name on the first line and your relationship to the individual (or your interest) on the second line.
- C** Check this box if there is or has been a case in the family division of the circuit court involving the individual in "A." Examples of a family division case are a personal protection, abuse or neglect, adoption, name change, or divorce or support action. If the individual is under the age of 19½, the individual may be the subject of a support order if the parents are divorced or a support order was entered. If you have checked this box, enter the name of the court, the case number of the action, the name of the judge assigned to the case. Place a check in the box indicating whether the case is still pending or not.
- D** Enter the date of birth of the individual on the first line, the name of the county the person resides in on the second line, and the name, address, and telephone number of the person, center or facility where the person is currently located. This address and telephone number may or may not be the home of the individual.
- E** List the presumptive heirs of the individual. If the individual has a spouse or minor or adult children, list those individuals' names, addresses, ages, relationships and current addresses. If the individual does not have a spouse or children, list the parents of the individual and if there are no living parents, then the siblings of the individual, with their ages, relationship and current addresses. If the individual doesn't have any siblings, list any other presumptive heirs. If the individual has no presumptive heirs, you must notify the Attorney General by sending a copy of this form to: Attorney General, Public Administration, PO Box 30755, Lansing, MI 48909.
- F** Indicate whether a report and evaluation required by law accompanies or does not accompany the petition.
- G** Check the appropriate boxes under this item (not less than three).
- H** Indicate the specific nature and extent of the disability.
- I** Explain in detail, giving specific examples why a guardian is needed to assist the individual. For example, the individual is unable to make decisions in all aspects of life, such as residential and medical decisions.
- J** Give an estimated value of the individual's estate and income. If the individual receives social security benefits or some other type of monthly benefit, calculate the yearly amount and indicate the source of the income.
- K** Enter on the first line the name of the person you are requesting be appointed guardian of the individual and the address of that person on the second line.

Check the appropriate box indicating whether you are requesting a plenary (full) guardian or a partial guardian of the individual and/or the estate and list the powers you desire the guardian to have. A full guardian has custody of the individual and will make all decisions regarding the individual's person. A partial guardian does not have custody of the individual, which will allow the individual to make certain decisions on his/her own. Please note that unless the individual owns or has interest in real estate or substantial other personal property or has income from a source other than social security (unless the individual is the beneficiary of a trust), it is generally not necessary to appoint a guardian of the estate.

Check the next box if the proposed guardian is a current service provider. A current service provider includes the owner of an adult foster care home where the individual resides and who is not related to the individual.
- L** Check this box if it is necessary for the guardian to execute an application for admission to place the individual in a facility. Enter the name of the facility on the first line and the address of the facility on the second line.
- M** Check this box if an emergency exists and it is necessary to have a temporary guardian appointed. Indicate in detail the emergency situation on the provided lines.
- N** Check this box to request the appointment of a standby guardian. Enter the name of the person you want to be the standby guardian on the first line and the address of that person on the second line. The standby guardian cannot be the nominated guardian. Generally, a standby guardian should be requested unless the proposed guardian is an agency or corporation. A standby guardian will be able to step in to act as guardian in certain circumstances, such as if the guardian is unable to act or dies.

STATE OF MICHIGAN
PROBATE COURT
COUNTY OF

ACCEPTANCE OF APPOINTMENT

FILE NO.

In the matter of _____

1. I have been appointed _____ of the person/estate.
Type of fiduciary

2. I accept the appointment, submit to personal jurisdiction of the court, and agree to file reports and to perform all required duties.

3. For a period of _____ days from the date of my appointment, I exclude from the scope of my responsibility the
not to exceed 91 days

following real estate or ownership interest in a business entity: _____
Describe real property or business interest

because I reasonably believe the real estate or other property owned by the business entity is or may be contaminated by a hazardous substance, or is or has been used in an activity directly or indirectly involving a hazardous substance that could result in liability to the estate or otherwise impair the value of property held by the estate.

Date

Signature

Attorney name (type or print) Bar no.

Name (type or print)

Attorney address

Address

City, state, zip Telephone no.

City, state, zip Telephone no.

Date of birth

USE NOTE: If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form.

Do not write below this line - For court use only

<p align="center">STATE OF MICHIGAN PROBATE COURT COUNTY CIRCUIT COURT - FAMILY DIVISION</p>	<p align="center">DECLARATION OF INTENT TO GIVE NOTICE BY PUBLICATION</p>	<p>FILE NO.</p>
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In the matter of _____

Service of _____ cannot be made on
specify document(s)

_____ Name	_____ Address
_____ City	_____ State _____ Zip

I intend to publish notice on this individual because his/her address or whereabouts are unknown. I have made the following diligent efforts to ascertain his/her address or whereabouts: _____

I declare under penalties of perjury that this declaration has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

Attorney signature

Date

Name (type or print) Bar no.

Petitioner signature

Address

Address

City, state, zip Telephone no.

City, state, zip Telephone no.

NOTE: Complete a separate form (PC 617) for each person to be notified by publication. When publication is completed, prepare form PC 564 (Proof of Service), and cause an affidavit of publication to be filed with the court.

Do not write below this line - For court use only

STATE OF MICHIGAN PROBATE COURT COUNTY OF	PUBLICATION OF NOTICE OF HEARING	FILE NO.
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In the matter of _____

TO ALL INTERESTED PERSONS including:

whose address(es) is/are unknown and whose interest in the matter may be barred or affected by the following:

TAKE NOTICE: A hearing will be held on _____ at _____
Date Time

at _____ before Judge _____
Location Bar no.

for the following purpose:

_____		_____	
Attorney name (type or print)	Bar no.	Petitioner name (type or print)	
_____		_____	
Address		Address	
_____		_____	
City, state, zip	Telephone no.	City, state, zip	Telephone no.

PUBLISH ABOVE INFORMATION ONLY

Publish _____ time(s) in _____ in _____ County.
Name of publication

Furnish _____ copies to _____.

Furnish affidavit of publication to the court.

Forward statement for publication charges to _____.

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Do not write below this line - For court use only