

NOTICE TO THE BAR

GUARDIANSHIP OF INCAPACITATED ADULTS – NEW AND REVISED MODEL PRACTICE FORMS; KITS FOR SELF-REPRESENTED LITIGANTS SEEKING GUARDIANSHIP OF INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES; GUARDIANSHIP MOTION KIT FOR SELF-REPRESENTED LITIGANTS; FORMS FOR PERIODIC GUARDIAN REPORTING; AND GUARDIAN TRAINING MATERIALS

The Supreme Court has approved a number of materials for use in matters related to guardianship of incapacitated adults. These materials have been created or revised in support of, and as an adjunct to, amendments to the New Jersey Rules of Court related to guardianship of incapacitated adults that became effective on September 1, 2016. Those amended court rules were published in the Court's 2016 Omnibus Rule Amendment Order, which is available on the Judiciary's web site at www.njcourts.gov/notices/2016/n160809a.pdf. The rule amendments and materials seek to ensure statewide consistency in guardianship procedure from the inception of a matter through the entry of judgment, as well as through post-judgment activities, such as guardian qualification and monitoring.

Model Practice Forms

The following model practice forms are available on the Judiciary's web site at www.njcourts.gov/forms.html:

- (1) Adult Guardianship Case Information Statement (new) (forms catalog number 11920);
- (2) Certification of Assets (new) (forms catalog number 12011);
- (3) Certification of Physician or Psychologist (new) (forms catalog number 12012);
- (4) Order Fixing Guardianship Hearing Date and Appointing Attorney for Alleged Incapacitated Person (revised) (forms catalog number 12013);
- (5) Judgment of Incapacity and Appointment of Guardian(s) of the Person and Estate (revised) (forms catalog number 11802); and
- (6) Judgment of Incapacity and Appointment of Guardian(s) of the Person (new) (forms catalog number 11988).

The Adult Guardianship Case Information Statement, Certification of Assets, and Certification of Physician or Psychologist forms have been created in support of the requirements for such to be annexed to a guardianship complaint as set forth in Rule 4:86-2(b). The Order Fixing Guardianship Hearing Date and Appointing Attorney for Alleged Incapacitated Person has been revised in support of Rule 4:86-4. The two

forms of Judgment -- a revised version of the existing model Judgment for use for appointment of guardians of the person and estate, as well as a new version tailored for use for appointment of guardians of the person only -- support the requirements of Rule 4:86-6(d). The forms are designed for clarity and ease of use by litigants, attorneys, and the court.

Kits for Self-Represented Litigants Seeking Guardianship of Individuals with Developmental Disabilities

The following kits for self-represented litigants seeking guardianship of individuals with developmental disabilities are available on the Judiciary's web site at <http://www.njcourts.gov/prose/index.html>:

- (1) How to Apply for Guardianship of the Person and Estate (Property) of an Individual Eligible for Services from the Division of Developmental Disabilities (revised) (forms catalog number 10558); and
- (2) How to Apply for Guardianship of the Person of an Individual Eligible for Services from the Division of Developmental Disabilities (new) (forms catalog number 12009).

The two kits support applications for appointment of a guardian for persons eligible for and/or receiving services from the Division of Developmental Disabilities as governed by N.J.S.A. 30:4-165.7 et seq. and Rule 4:86-10. Specifically, the first kit is designed to be used for applications for appointment of guardians of the person and estate, while the second kit is tailored for use for applications for appointment of guardians of the person only.

Guardianship Motion Kit for Self-Represented Litigants

The following motion kit for self-represented litigants is available on the Judiciary's web site at <http://www.njcourts.gov/prose/index.html>:

- (1) How to File a Motion in a Guardianship Case (new) (forms catalog number 12032).

The guardianship motion kit has been created to support motions to review a guardian's conduct or to review a guardianship pursuant to Rule 4:86-7(c). It may also be used for the filing of motions to modify guardianship protection (for example, to reduce the amount of bond) or to modify guardianship reporting requirements.

Forms for Periodic Guardian Reporting

The following forms for periodic reporting by guardians are available on the Judiciary's web site at www.njcourts.gov/guardianship:

- (1) Report of Guardian Cover Page (revised) (forms catalog number 11797);
- (2) Report of Well Being (revised) (forms catalog number 11798);
- (3) Certification of Examining Professional (new) (forms catalog number 12042);
- (4) Guardian Inventory (revised) (forms catalog number 11799);
- (5) EZ Accounting report (revised) (forms catalog number 11800); and
- (6) Comprehensive Accounting report (revised) (forms catalog number 11801).

The forms for periodic reporting by guardians support the requirement set forth in N.J.S.A. 3B:12-42 and Rule 4:86-6(e)(2)-(4) that, unless expressly waived in the judgment, guardians file with the Surrogate certain periodic reports as to the well-being and estate of the incapacitated person. The reporting forms listed above were initially promulgated in 2014, and replaced a single Annual Report of Guardian form previously in use. The revised forms incorporate minor changes in fields to improve ease of court processing, provide space for guardians to include information not otherwise captured in fields, and include a note directing guardians to the Judiciary's Guardian Support/Guardianship Monitoring Program web page for additional information. The Report of Well Being, EZ Accounting Report, and Comprehensive Accounting report also remove the guardian's certification as to service on interested parties. Except for the Cover Page and Certification of Examining Professional, all forms include a Notice to Interested Parties informing them of their right and responsibility to object to actions taken by a guardian or seek court review of the guardianship. Most significantly, the EZ Accounting report form -- originally intended to capture the income and expenditures of guardianship estates with no assets -- has been revamped to include fields that will allow guardians to report changes in an incapacitated person's ownership interest in assets. This change enables guardians of estates with minimal assets in addition to income to use the EZ form while providing a more accurate depiction of the guardianship estate. Additionally, the Certification of Examining Professional is a new form created to be completed by a medical professional who has performed a recent medical evaluation of the incapacitated person and attached to the Report of Well Being.

Guardian Training Materials

The following guardian training materials are available on the Judiciary's web site at www.njcourts.gov/guardianship and are being provided to the County Surrogates:

- (1) Guardianship of the Person Guide (revised)
- (2) Guardianship of the Estate Guide (revised)
- (3) Guide to Guardianship Reporting Forms (new)
- (4) Court-Appointed Guardian Video Tutorial (new)

The Guardianship of the Person and Guardianship of the Estate Guides set forth the duties and responsibilities of court-appointed guardians of the person and estate of incapacitated individuals. The Guide to Guardianship Reporting Forms provides a clear and comprehensive explanation of the duty of guardians to report to the court periodically in the manner required by the Judgment of Incapacity and Guardian Appointment. The Court-Appointed Guardian Video Tutorial provides an audiovisual overview of the duties and responsibilities of guardianship. Although these materials have been developed as a resource for proposed, newly appointed, and existing guardians, Rules 4:86-4(a)(6), 4:86-5(b), and 4:86-6(e) specify new requirements related to completion of guardian training prior to appointment as guardian. As of the date of this notice, guardian training is comprised of receipt of all applicable guides and viewing or otherwise reviewing the Court-Appointed Guardian Video Tutorial.

Any questions regarding this notice or the materials referenced above may be directed to Kristi Jasberg Robinson, Chief, Civil Practice Liaison, Administrative Office of the Courts, Hughes Justice Complex, P.O. Box 981, Trenton, NJ 08625-0981; telephone: (609) 292-8470; e-mail: kristi.robinson@njcourts.gov.

/s/ Glenn A. Grant

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