

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

Register in Chancery
Kent County
38 The Green, Ste. 208
Dover, DE 19901
302-735-1930

Register in Chancery
New Castle County
500 N. King Street, Ste. 11600
Wilmington, DE 19801
302-255-0544

Register in Chancery
Sussex County
34 The Circle
Georgetown, DE 19947
302-856-5775

Procedures for filing a Petition to Remove a Guardian and Appoint a Successor Guardian of the Person and/or Property of a Person with a Disability

- The petition to remove a guardian and appoint a successor guardian requires the following:
 - A completed petition. The court clerk cannot complete the petition for you. The petitioner's(s') signature(s) must be notarized. If you appear in the Register's Office with identification and the correct paperwork, your signature(s) can be notarized by a court clerk in the Register's Office.
 - The filing fee for the petition is \$60.00 plus a \$2.00 per page scanning fee. Payment must be received at the time of filing, or the petition will not be accepted by our office. We accept cash, check or money order (made payable to the "Register in Chancery").
- It is the petitioner's responsibility to provide the Court with photocopies of all supporting documentation. If the Register in Chancery's office makes photocopies for you, we will charge \$1.50 per page.
- The petitioner(s) is/are responsible for obtaining consents from the interested parties or sending notice of the petition to the interested parties by certified mail. Please review the enclosed instruction sheet for additional instructions on notifying the interested parties.
- Please call the respective county in which you filed the petition should you have any questions.
- There is additional information and forms available on the Court's website at <https://courts.delaware.gov/chancery/guardianship/index.aspx>.

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN THE MATTER OF: _____ :
 :
 : C.M. # _____
A person with a disability :

Petition to Remove a Guardian and Appoint a Successor Guardian of the Person and/or Property of a Person with a Disability

1. Name of petitioner(s): _____
2. Name of current guardian(s): _____
3. Date current guardians(s) was/were appointed: _____
4. Information about the person(s) who wish(es) to be appointed successor

guardian(s):

- a. Current address(es): _____

- b. Telephone Number(s): _____
- c. Relationship(s) to person with a disability: _____
5. Information about the person with a disability:
 - a. Date of birth: _____
 - b. Current address: _____

 - c. Permanent address: _____

7. The petitioner(s) want(s) the current guardian to be removed for the following reason(s):

(Please attach a separate sheet if necessary.)

8. The petitioner(s) wish(es) to be appointed the successor guardian(s) for the following reason(s):

(Please attach a separate sheet if necessary.)

WHEREFORE, Petitioner(s) respectfully requests that this Court:

1) Remove _____ [name of current guardian(s)] as guardian(s) of the person and/or property.

2) Appoint _____, as successor guardian(s) of the person and property.

Signature of Co-Petitioner
(If Applicable)

Signature of Petitioner

Address

Address

Phone number

Phone number

STATE OF _____:

COUNTY OF _____:

This instrument was acknowledged before me on this _____ day of _____, 20____ by _____ [Name of affiant].

Notary Public/Chancery Court Clerk

**COURT OF CHANCERY
PERSONAL INFORMATION SHEET**

Please Note: If there is more than one proposed guardian, each person will need to complete a separate form and use separate contacts on page two of this form.

In the matter of: _____, a person with an alleged disability/minor

Social Security Number: _____ Date of Birth: _____

Date this form is completed: _____

In connection with the above matter, I have applied to the Court of Chancery to be appointed as guardian of the person with an alleged disability/minor named above. I understand that I must complete this form in full or my guardianship petition may be denied. In order to provide the Court with sufficient information to determine my qualification to serve as guardian and to assist the Court in assuring that the Court's staff will always be able to locate and make contact with me, the following information and consent is given:

Proposed Guardian's current full name: _____

Proposed Guardian's physical address: _____

Proposed Guardian's mailing address (if different): _____

Home phone number: _____ Work phone number: _____

Cell phone number: _____ E-mail address: _____

Date of birth: _____ Social Security number: _____

Driver's License number and State: _____

Place of employment and address: _____

Name of supervisor and telephone number: _____

Name/Address/Telephone number of spouse (if not a co-petitioner/co-guardian): _____

Contacts: List the information for two people who should always be able to locate or contact you and do not live at the same address as each other or the petitioner(s). If there is more than one proposed guardian, separate contacts must be listed

1. Name: _____

Address: _____

Phone number: _____ Relationship: _____

2. Name: _____

Address: _____

Phone number: _____ Relationship: _____

I fully understand that it is my duty to keep the Court informed of my whereabouts and to provide the Court with any change in my name, physical address or mailing address. I hereby authorize the staff of this Court to contact any of the persons named above and authorize and direct any of the persons named above and my attorney(s) to provide to the Court any information which might assist the Court in locating or contacting me in the future. I also authorize the court staff to search government or public databases to locate me. I further agree that any federal, state, public, or private agency with information about my whereabouts, or the whereabouts of the person with an alleged disability or minor named above, may release that information to the Court and its staff, and I authorize and direct such persons to release that information. I release the Court and the Court's staff from all liability associated with efforts to determine my whereabouts or the whereabouts of the person with an alleged disability or minor over whom guardianship has been established.

Proposed Guardian's signature

STATE OF _____ :

COUNTY OF _____:

This instrument was acknowledged before me on this _____ day of

_____, 20____ by _____ [Name of affiant].

Notary Public/Chancery Court Clerk

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

A person with an alleged disability/Minor: _____

AFFIDAVIT OF PROPOSED GUARDIAN’S HISTORY

Please Note: If there is more than one proposed guardian, each person will need to complete a separate form.

Proposed Guardian’s Name: _____

1. Have you ever declared bankruptcy? Yes No

If so, when? _____

If so, what type? _____

2. Have you ever been convicted of a misdemeanor? Yes No

If so, describe which misdemeanor, when and in what jurisdiction you were convicted (e.g. State, County and Police Department). _____

3. Have you ever been convicted of a felony? Yes No

If so, describe which felony, when and in what jurisdiction you were convicted (e.g. State, County and Police Department). _____

4. I give the State of Delaware permission to conduct a criminal background check on me at any time during the consideration of my petition for guardianship and, if granted, at any time during the period I am guardian. I solemnly swear and affirm under penalty of law that the statements and answers above are true to the best of my knowledge.

STATE OF _____ :

COUNTY OF _____ :

This instrument was acknowledged before me on this _____ day of _____, 20____ by _____ [Name of affiant].

Notary Public/Chancery Court Clerk

Proposed guardian’s signature

**INSTRUCTIONS FOR NOTIFYING INTERESTED PARTY(IES) OF
PETITION TO REMOVE AND FOR APPOINTMENT OF SUCCESSOR
GUARDIAN**

It is the petitioner's(s') responsibility to notify the interested party(ies) when a petition to remove and for the appointment of a successor guardian is filed with the Court. This includes notifying all of the parties you listed on number six (6) of your petition.

Each interested party may sign and have notarized a copy of the attached "Consent to Petition". If any interested party does not sign the consent form, you must send them via certified mail, return receipt requested, a "notice of petition" and a copy of your petition.

You must file the following documents with the Court:

- a. Any and all notarized consent forms,
- b. The attached "Affidavit of Mailing" for any notices mailed to individuals who did not sign a consent form, and
- c. The certified mail return receipts and/or the green cards that have been returned to you.

Any interested party who has not signed a notarized consent must receive notice of your petition by certified mail at least thirteen (13) days before the Court will consider your petition. This ensures that all interested parties have adequate time to contact the Court with any questions they may have or file any objection to the petition.

If you do not know the address for an interested party, you must make every attempt to locate the address and file the enclosed affidavit of efforts to locate address of interested party with the Register's Office.

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN THE MATTER OF: _____ :
 :
 : C.M. # _____
A person with a disability _____ :

CONSENT TO THE APPOINTMENT OF A SUCCESSOR GUARDIAN(S)

I, _____ [Name of interested party],
whose relationship to the person with a disability is that of
_____ (e.g. mother, brother), hereby consent to the
appointment of _____ as successor guardian(s) of the
(check all that apply) person (to make his/her medical decision) and/or
 property (to make his/her financial decisions) of the person with a disability
without further notice.

Interested Party's signature

Address: _____

Phone Number: _____

STATE OF _____:

COUNTY OF _____:

This instrument was acknowledged before me on this _____ day of
_____, 20____ by _____ [Name of affiant].

Notary Public/Chancery Court Clerk

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302-255-0544

Register in Chancery
Sussex County
34 The Circle
Georgetown, DE 19947
302-856-5775

IN THE MATTER OF: _____ :
 :
 :
 _____, : C.M. # _____
A person with a disability :
 :

**NOTICE OF PETITION FOR THE APPOINTMENT OF SUCCESSOR
GUARDIAN(S) OF THE PERSON AND PROPERTY**

Dear Interested Parties:

This is a notice that I am/we are applying to be appointed successor guardian(s) of the person (to make his/her medical decisions) and/or property (to make his/her financial decisions) of the person with a disability. If you object to the petition, you must immediately contact the Register in Chancery’s Office that has been marked above within thirteen (13) days of the date of this notice.

Petitioner’s Signature

Co-Petitioner’s Signature

Dated: _____

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN THE MATTER OF: _____ :
: _____ :
_____ C.M. # _____ :
A person with a disability _____ :

AFFIDAVIT OF MAILING

The petitioner(s) mailed on this date, _____ a copy of the
(1) Notice of Petition and (2) Petition to Remove the guardian and appoint a
successor guardian to the following interested parties via certified mail:

Name	Address

Petitioner Co- Petitioner

STATE OF _____ :
COUNTY OF _____ :

This instrument was acknowledged before me on this _____ day of
_____, 20____ by _____ [Name of affiant].

Notary Public/Chancery Court Clerk

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN THE MATTER OF:

_____, :
: C.M. # _____
A person with a disability :

**AFFIDAVIT OF EFFORTS TO LOCATE
ADDRESS OF INTERESTED PARTY**

I/We, _____, petitioner(s) in the above matter, hereby confirm that I/We have been unable, after exercising reasonable diligence, to locate an address for interested party,

_____ [Name of interested party or missing person], in order to provide that interested party with notice of the filing of the petition. My efforts have included the following [please check all that apply]:

- performing an internet search for the address of the interested party;
 - asking other interested parties if they know of the missing person's current whereabouts;
 - contacting the United States Postal Service to determine if they have any forwarding address for the interested party;
 - messaging the missing person through electronic means;
 - Other: _____
-

If I subsequently locate the missing interested party, I will notify the Court of his/her address.

Petitioner

Co-Petitioner

STATE OF _____:

COUNTY OF _____:

This instrument was acknowledged before me on this _____ day of _____, 20____ by _____ [Name of affiant].

Notary Public/Chancery Court Clerk

Delaware in the amount of \$_____without surety as a condition for the faithful performance of his/her duties as guardian, and shall be filed within seven (7) days of the date of this Order. No copy of this order will be released until the bond is filed. Any person or entity presented with a valid Order from the Court may use that Order as proof that the bond has been executed and filed.

5. _____, as guardian, shall open one or more bank accounts at _____. All income must be directed to that account as soon as practicable, and all assets must be placed in that account unless the assets are held in a Miller Trust or other similar trust. Bank accounts not held in trust must be closed and the balance of the account transferred to the guardianship account. The account shall be titled, "COURT OF CHANCERY Guardianship Account for _____, _____, Guardian, WITHDRAWALS ONLY BY ORDER OF THE COURT" except that the guardian may withdraw up to \$_____ total per month without further notice of the Court. Otherwise, the guardian may not make any withdraws from the account without first having a Court Order to do so.

6. An inventory is due within thirty (30) days of the date of this Order.

7. The former guardian, _____, shall file a final accounting covering the period from _____ to the date of this Order, within thirty (30) days of the date of this Order.

8. The former guardian, _____, shall turn over any and all records pertaining to _____'s property, both liquid and real, to the successor guardian, _____, within thirty (30) days of the date of this Order.

9. The guardian shall make a just and true accounting of this estate at least once each year. The guardian shall file the first accounting for a period of six (6) months beginning with the date of this order, which accounting is due nine (9) months from the date of this order. Each subsequent accounting shall cover a twelve (12) month period and shall begin on the date following the date the previous accounting ends. The annual accountings are due on or before the first business day of the calendar quarter in which the guardians were appointed and at such times as the Court shall direct. The accountings shall include documentation of the value of each account and receipts for each disbursement.

10. The guardian shall file an annual update and medical statement with the Register in Chancery every year, which is due on or before the first business day of the calendar quarter in which the guardian was appointed. The annual update and medical statement shall include the current mailing address of the Person with a disability and the guardian, and a current medical statement from an approved medical practitioner setting forth the current medical status of the person with a disability and addressing the need for continued guardianship.

11. In the event of the death of the person with a disability, the guardian shall notify the Office of Register in Chancery within ten (10) days.

12. The guardian shall, within thirty (30) days, submit proof to the Register in Chancery that the terms of this Order have been complied with and the bank account(s) provided for in this Order has/have been opened in accordance with the provisions of this Order.

13. The Register in Chancery of this Court is appointed agent of the guardian to accept service of process on behalf of the guardian as to any claim arising out of the guardianship if, by reason of the guardian's absence from this state, he/she cannot be served.

14. If the person with a disability becomes Medicaid qualified, the guardian is required to file proof of that qualification and a copy of any signed trust instrument with the Register in Chancery's Office within thirty (30) days of qualification.

15. An order from the Court of Chancery is required to authorize the opening of any safe deposit box of the Person with a disability and to sell or encumber any real property of the person with a disability.

Chancellor/Vice Chancellor/Master

4. Before entering upon his/her duties as guardian pursuant to this Order, _____ shall execute a bond to be taken in the name of the State of Delaware in the amount of \$_____ without surety as a condition for the faithful performance of his/her duties as guardian, and shall be filed within seven (7) days of the date of this Order. No copy of this order will be released until the bond is filed. Any person or entity presented with a valid Order from the Court may use that Order as proof that the bond has been executed and filed.

5. The former guardian, _____, shall turn over any and all records pertaining to _____'s property, both liquid and real, to the successor guardian, _____, within thirty (30) days of the date of this Order.

6. The guardian shall file an annual update and medical statement with the Register in Chancery every year, which is due on or before the first business day of the calendar quarter in which the guardian was appointed. The annual update and medical statement shall include the current mailing address of the person with a disability and the guardian, and a current medical statement from an approved medical practitioner setting forth the current medical status of the person with a disability and addressing the need for continued guardianship.

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9. If the person with a disability becomes Medicaid qualified, the guardian is required to file proof of that qualification and a copy of any signed trust instrument with the Register in Chancery's Office within thirty (30) days of qualification.

10. An order from the Court of Chancery is required to authorize the opening of any safe deposit box of the person with a disability and to sell or encumber any real property of the Person with a disability.

11. The guardian is relieved of the requirement of opening a guardianship account, filing an inventory and filing annual accountings. However, if the person with a disability earns more than \$1,000.00 in any given month, other than Social Security benefits, the guardian shall report the earnings to the Court within thirty (30) days for further review. If, in the future, the guardian comes into possession of additional funds or property belonging to the person with a disability or the person

with a disability becomes gainfully employed, the guardian shall notify the Court and account for such funds or property as the Court may then direct.

Chancellor/Vice Chancellor/Master