

**Bronx Civil Supreme Court
12th Judicial District
Guardianship & Fiduciary Department
851 Grand Concourse, Room 216
Bronx, NY 10451
718-618-1330**



Guideline For Guardians



I. INTRODUCTION

You have been appointed as Guardian or Co-Guardian of an Incapacitated Person (IP), or of a Person in Need of a Guardian (PING) under the Mental Hygiene Law Article 81 in Bronx County. This guide is intended to familiarize you with your duties and to guide you. This guide is not intended to answer every question that you may have concerning your duties. You are required to take a Guardianship course where your duties will be further explained. Your Attorney (if applicable), the Court, and/or the Court Examiner can address specific questions and issues which may arise of your guardianship.

II. QUALIFYING AS A GUARDIAN

After the Hearing

This guide assumes that a hearing has been held and that the judge has appointed you as a Guardian or co-Guardian in the attached Order and Judgement. You may be the Guardian of the Person, meaning you have the authority to make personal decisions on behalf of the Incapacitated Person, and/or you may be the Guardian of the Property, meaning that you have the authority to manage the finances of the Incapacitated Person. The Order will set forth what powers you, as the Guardian, have, as explained more fully below.

The signed Order and Judgement itself however does not authorize you to act as Guardian. To act as a Guardian, you must receive a Commission to Guardian.

To obtain your Commission, you must fill out and sign your Oath and Designation and file these with the Bronx County Clerk. If you have been appointed as the Guardian of the Property, in most instances, you will also be required to obtain and file a Bond with the County Clerk as well.

Oath and Designation

The Oath and Designation states that you agree to act as the Guardian of the Incapacitated Person, that you will faithfully discharge your duties as Guardian, that you will be careful with your ward's money, and that you will report regularly on what you have done to care for your ward's person and/or property. Moreover, if any issue arises concerning your duties such that you must be served legal papers and if you cannot be found, you agree that the County Clerk may be served these papers instead of you. That means that if you are no longer in the jurisdiction of New York, for the purposes of any action concerning your role as Guardian, legal action can continue as if you were in New York. You must sign the Oath and Designation and you must file it in the county clerk's office.

A fillable Oath and Designation is included with this guide.

Bond

If you have been appointed as a Guardian of the Property, the Order and Judgment appointing you likely set an amount of a Surety Bond or a Fiduciary Bond (not to be confused with bail bond or municipal bond) to be issued, insuring the Incapacitated Person's funds from misuse. This is based upon your ward's income and assets. Prior to issuing a bond, the surety company will require that you complete an application in which you list your own assets and liabilities so that the company can assess your credibility for bonding and decide

whether to issue this bond. If you are approved, the bond will be issued and you must sign the bond before a Notary Public and submit the bond for approval to the Court. If you do not qualify for a bond, the Court may devise an alternative such as appointment of an attorney as co-Guardian. The bond premium will be paid from your ward's assets. Bonding agencies can be found online or listed in the Yellow Pages; call to make sure they provide "fiduciary bonds" for lay guardians.

Commission

The Commission is issued by the County Clerk and states that you are qualified to serve as Guardian by reason of having filed your Oath and Designation and (if applicable) Bond. This Commission will list your duties and powers as delineated in the Order and Judgment appointing you as Guardian. The Commission is signed by the County Clerk and authorizes you to gather all the assets of the Incapacitated Person. If you are a Guardian of the Property, by presenting this Commission, all persons having assets of the Incapacitated Person must deliver these assets to you if the Order lists marshaling all assets as a power. If you are Guardian of the Person, by showing this Commission, you may make decisions concerning the personal needs of the Incapacitated Person within the parameters of the personal needs powers granted in the Order and Judgment. As the Incapacitated Person may have assets in several different financial institutions, you may wish to obtain several Commissions certified by the County Clerk to be true copies of the original. Be aware there are fees associated with obtaining certified copies of documents, including commissions from the County Clerk.

Fillable Commissions for either a sole Guardian or Co-Guardians are included with this guidebook.

III. THE FIRST NINETY DAYS

Regardless of whether you are a guardian for Personal Needs or Property Management, you must:

File your Oath and Designation, obtain a Bond (if ordered) and file your Commission (as explained above).

Attend the guardianship training course, which explains your responsibilities as guardian (details below).

Visit your ward at least once during the first 90 days (per the law, you must visit at least 4 times per year).

See whether you can find a will, living will, health care proxy or other contract created for/by your ward.

Determine what services and programs your ward needs.

Start making a plan for your ward's care.

Set up a system to keep all documents and papers in a safe place.

Keep receipts of all payments you make for your ward. Marshall assets.

At the end of the first 90 days you must submit your Initial Report to the Court and to the Court Examiner.

Guardianship Training Course

All lay Guardians are required to complete an online training course unless the requirement was waived pursuant to the Order and Judgment that appointed you. The course is provided by the Guardian Assistance Network (GAN) and you will need a computer with internet access to take the course. This program is certified to meet the Article 81 statutory training requirements for lay guardians and offers practical advice to assist lay guardians in carrying out their guardianship responsibilities. Instructions are as follows:

1. Log onto the website at <http://nycourts.gov/ip/gan/training.shtml> and follow the instructions to view the video. The video is in three parts, you must view all three parts to complete the training requirement.
2. During each part of the video you will hear a code. There is a different code for each part. Fill in the three codes that you hear during the video and all other required information on the attached Guardian's Affirmation of Viewing (or download it from the website).
3. Print and complete the Affirmation. Don't forget to sign and date the Affirmation! After successfully completing the course you will receive a Certificate of Attendance stating that you have attended this Guardianship class. This Certificate is an important document and should be retained with the other documents concerning this Guardianship, such as the Order and Judgment and a certified copy of the Commission. A copy of the certificate should be included as part of your initial report.

For further assistance you can contact the GAN from the information below:

Guardian Assistance Network (GAN)
King County Supreme Court,
360 Adams Street, Room 723, Brooklyn, NY 11201
Phone: 347-296-1948 / Fax: 212-618-5856
Email: gan@nycourts.gov
Website: www.nycourts.gov/ip/gan/index.shtml

Marshal Assets

As a Guardian, you must gather all of the assets of the Incapacitated Person and establish accounts titled: "YOUR NAME as Guardian of...". As you are not the owner of these accounts, the Social Security number of the Incapacitated Person will be used in establishing these accounts.

The Petition seeking the appointment of a Guardian will list the known assets of the Incapacitated Person. The Court Evaluator will have investigated to ascertain that the assets listed in the Petition are all of the assets that belong to the Incapacitated Person and may list additional assets if known. This is an excellent starting point for you as Guardian.

Full investigation into all of the person's assets should be made. Obtaining tax transcripts from the IRS, speaking with your ward's accountant, and gathering current and past mail may provide additional information.

You must keep the Incapacitated Person's funds separate from yours and never commingle or place your own assets into the Incapacitated person's account or place the Incapacitated Person's assets into your own accounts. The assets of your ward must remain separate from all other accounts without exception.

Supplemental Needs Trusts

The Order and Judgment may have authorized you, as Guardian, to establish a Special Needs or Supplemental Needs Trust for the benefit of the Incapacitated Person so that s/he may continue to receive means-tested government benefits such as Supplemental Security Income (SSI) and Medicaid, without having his/ her own assets disqualify him/her from eligibility. Your attorney will help you to establish this trust, on notice to the appropriate parties and governmental agencies whose benefits you wish to preserve.

The trust assets must be titled into accounts: "YOUR NAME as Trustee of the Supplemental Needs Trust for..." This trust will have its own Tax Identification Number issued by the Internal Revenue Service, upon application. Use this number, rather than the Incapacitated Person's own Social Security Number, in opening these accounts. This number will be used in filing income tax returns for the trust. If your attorney has not already obtained this number for you, then you may request a form, called an SS4, from the Internal Revenue Service. It will then issue the identification number to you.

If there is a structured settlement, or future periodic payments, the Commission and the Order and Judgment should direct that the insurance company make future payments to you as the Trustee of the Supplemental Needs Trust. Either you or your attorney must present the Order authorizing the Supplemental Needs Trust and Commission to the insurance company that owns the annuity to arrange for proper payments. This information may be contained in a Court Order authorizing a lawsuit recovery for the Incapacitated Person.

Types of Accounts

It is important for you to open a checking account in your name as Guardian of..., so that you may make the expenditures authorized in the Order and Judgment and/or which are reasonable and necessary to provide for his/ her needs. Retaining financial records is critical because, without them, filing an annual report would be difficult, if not impossible. By paying all expenditures by check, you will have proper and accurate records for the reports described below. Keep notes and careful records of each and every transaction you make as Guardian. Have receipts, bank statements, and cancelled checks to back up all expenditures.

Securities, Annuities, Insurance Policies

Securities, likewise, will be titled in your name as Guardian of "...". When stocks and bonds are held by a brokerage company or investment house or other financial institution, the brokerage statement will be issued monthly or quarterly. Verify that the account statements are correct, and retain all statements in preparation for your initial and annual reports.

Certificates of Deposit/Savings Accounts

If you wish to retain these accounts, once again you must change the title of these accounts to Your Name as Guardian of "...". Even if a Certificate of Deposit has not yet come due, you must change the title. When done pursuant to a Court order, New York Banking Law §§9-I(2) and 238 preclude a bank from charging a penalty to this transaction. Verify that there is no charge assessed by the bank. Any new accounts or Certificates of Deposit opened should be titled as Your Name as Guardian of "...".

Examining Transactions Occurring Prior to Your Appointment

When marshaling your ward's assets, verify that any recent use of the funds was authorized. If you believe that the Incapacitated Person unknowingly transferred assets or that anyone acting on behalf of the Incapacitated Person made unauthorized use of his/her funds, you may demand their return. The Order and Judgment appointing you as Guardian may highlight unauthorized transactions and may give you a clear mandate to reclaim particular assets wrong- fully transferred from the Incapacitated Person or to pursue a turnover proceeding to have them returned.

Authority to hire counsel and to pursue these claims should be sought from the Court if not contained in the Order appointing you.

Personal Property

Personal property must be inventoried. Valuables should be appraised, insured, and safeguarded.

Joint Accounts

When assets have been jointly held between the Incapacitated Person and another, the Order and Judgment most likely directed the respective percentages owned by the Incapacitated Person and the other individual(s). For example, assets may have another's name for convenience only, and they belong to your ward in full. Those assets belonging to your ward are those that you will marshal in accounts titled: Your Name as Guardian of "...".

If any account(s) you are marshaling has a beneficiary, carry the beneficiary designation into the guardianship account so that at death, the anticipated beneficiary will inherit. Advise the Court in your Initial Report and thereafter in your Annual Reports of the beneficiary designation pre- and post- guardianship. Do not substitute a different beneficiary designation other than the one that preceded the guardianship and do not name a beneficiary if none existed prior to the guardianship. If a named beneficiary is deceased, consider bringing an application to the Court to name an alternate beneficiary in line with your ward's known wishes.

Last Will and Testament

If the Incapacitated Person has executed a Last Will and Testament, locate the original Will. In some counties the Will must be filed with the Surrogate's Court in the county in which the Incapacitated Person resides, while in other counties the original Will is kept with the attorney who drafted the Will. If you file the Will with the Surrogate's Court, you will get a receipt for this filing, which you should retain along with your other documents.

Real Property

If your ward owns real property, the property must be secured, insured, and protected whether or not it is occupied. Consider obtaining an appraisal if needed.

Lis Pendens (Notice of Pendency) Filing

If the Incapacitated Person owns an interest in real property, you must file a form called a Lis Pendens or Notice of Pendency with the County Clerk in the county in which the property is located, stating that a person under guardianship owns an interest in this property. This protects the real property from being conveyed without the approval and protection of the Court. This form is filed with the section, lot and block of the property and is signed by you before a Notary Public. Note this in your Initial and Annual Reports.

Appraisal

Securing a written appraisal of real property owned by the Incapacitated Person assists you in determining whether retaining this real property is in the best interest of the Incapacitated Person and in obtaining adequate insurance.

Insurance

Ascertain that all property is adequately insured and that all insurance premiums are up to date. If there has been a lapse in fire, theft, or liability coverage, have the policies reinstated if possible, or purchase new insurance.

Inventory Safe Deposit Box

If your ward has a safe deposit box, it must be opened in the presence of a bank officer and a representative of the surety unless it is waived in writing for an inventory to be obtained. This inventory should be filed with the Court and listed in your Initial and Annual Reports. The contents of the safe deposit box and key should be secured.

Assessing Personal Needs

The Order and Judgment may set forth a plan that you will undertake in the best interest of your ward. If the Guardian for Personal Needs is different from the Guardian for Property Management, the two Guardians must coordinate efforts to provide for your ward's needs.

The Guardian for Personal Needs must determine if there are any unmet medical, personal care, social, therapeutic, or housing needs. If your ward has been living alone, assess whether home care services are required. Assure that sufficient care is in place to provide for the safety and needs of your ward.

You may also have the authority to choose the place of abode subject to prior Court approval if a move from the community or current living situation is anticipated. Assisted living facilities and skilled nursing facilities are alternatives to living alone in the community, and may be sought if appropriate and required. Prior Court approval is required before your ward can be placed in a long-term health care facility.

Every effort to maintain your ward at home, if this is your ward's desire, and if it can be done safely, should be made. Your convenience as the Guardian should not be a factor when considering what is best for your ward. Preserving your ward's quality of life and independence, and providing the mandated least restrictive environment, must be paramount. The greatest independence and self-determination should be provided to your ward.

Court Examiner

The court will appoint a Court Examiner who will examine your initial and annual reports. This person is different from the Court Evaluator who was present at the hearing that determined that the Incapacitated Person was in need of a Guardian and that you would be suitable to serve. The name, work address, email address and telephone number of the Court Examiner will be included in the Order and Judgment. You should forward to him/her a copy of your Order and Judgment appointing Guardian, Consent and Designation, Bond, and Commission and, if applicable, Supplemental Needs Trust. The Court Examiner must also be served with all future reports, motions, requests, and proceedings.

Initial Report

An initial report is due 90 days after the issuance of your Commission as Guardian. File the original initial report with the Court, and send a copy to your ward and the Court Examiner. A fillable copy of the initial report with instructions is included with this booklet.

Once you start to carry out your duties, it is wise to keep notes of everything you do on behalf of your ward. Many guardians buy a notebook for this purpose in which they write down what they have done for their ward, whom they have spoken with, the names of people and institutions they have contacted and their phone numbers and addresses. A good habit would be to write the date down for each activity you describe in your notebook - such notes to yourself are important reminders that you can use later when you start writing your Initial Report and the Annual Reports you are expected to submit in the following years. When you visit your ward or when you undertake any task on behalf of your ward you should write down what you have done and for what purpose. When you visit your ward you should write some of your observations down. A Guardian for Personal Needs might ask for example:

How well is your ward doing?

Is he or she clean, well groomed, content?

Has he or she been ill?

How well are his or her personal and medical needs addressed?

Are there major changes in his or her condition for better or for worse?

What additional services and medical care does your ward need?

What appointments must be made for your ward.

What questions you may have for your ward's care givers (doctors, nurses, homecare workers, therapists).

The names and contact information of your ward's doctors; social workers; homecare agencies; etc.

A list of all medications your ward is currently taking (prescription and over-the-counter), include how often and how much each medication is taken.

In addition to keeping a notebook you should also get in the habit of keeping all important papers together in one place, starting with your Order and Judgment and everything else that you will receive from the court over time. Other important papers you must save in a safe place are the documents you may find in your ward's home, such as: insurance papers, a will or testament, a health care proxy or living will, tax filings, contracts, and anything else you find among your ward's papers. Some guardians use a large plastic container to keep all their documents in, others designate a drawer in a file cabinet they may have. Guardians for Property Management also must keep all bank statements, invoices and receipts for money they spend either out of their own funds or out of their ward's funds.

IV. POWERS OF THE GUARDIAN FOR PROPERTY MANAGEMENT AND PERSONAL NEEDS

Introduction

Article 81 of the Mental Hygiene Law affords incapacitated persons the opportunity for their previous wishes to be honored and, in the absence of a prior expression of their desires, the wishes of a reasonable person in their circumstance are applied to the incapacitated person's situation. Because the law leaves as much discretion and autonomy with the Incapacitated Person as possible, you have only those powers authorized by the court. In providing for the property management and personal needs of an Incapacitated Person, you must exercise your judgment within the parameters of the court order to provide for the best interests of the Incapacitated Person. The greatest independence and self-determination should be provided to your ward. Preserving your ward's quality of life and independence, and providing the mandated least restrictive environment, must be paramount.

Powers of the Guardian for Property Management

As a Guardian, you are a Fiduciary. As a fiduciary, you have a duty to act in the best interest of the Incapacitated Person and not to benefit personally from the decisions that you make for his/her benefit.

Marshal the Assets and Establish an Accurate Inventory

Develop a Budget for the Needs of Your Ward and, if applicable, for Your Ward's Dependents. The Order and Judgment may have already approved expenditures to be made from the funds of the Incapacitated Person. All expenditures must be for the benefit of the Incapacitated Person, directly or indirectly. In many counties, any large expenditures not previously authorized should receive prior approval of either the Court or the Court Examiner.

Courts differ on what constitutes a large expenditure for which specific Court approval must be sought. In certain counties, individual expenditures above \$5,000.00 must have Court approval if not included in a budget or in the type of expenditures for which you are given discretion to make as Guardian.

For example, in some counties, a Guardian may present a short form Order to the Court, or to the Court Examiner assigned to the case, detailing the expenditures sought. The Court Examiner will then review the proposed expenditure and make a recommendation to the Court, which will then either approve or disapprove the expenditure or request additional information. In some counties a letter written to the Court Examiner will suffice, while other counties do not require court oversight and prior approval for large expenditures. Know the rules of your county and the assigning judge. If you were represented by an attorney in the Guardianship proceeding, your counsel can advise you as to the ongoing reporting responsibilities and need for approval for large purchases.

Keeping in mind that the Court's primary concern is preserving the assets of an Incapacitated Person for his/her own needs, you should review previous patterns of spending when your ward was using his/her own judgment. In preparing a budget, assess the ongoing needs of your ward, the assets available to provide for your ward's needs now and, in the future, your ward's expressed desires, and the cost of maintaining your ward for the remainder of his/her life.

Any previous pattern of gifting may also be continued, subject to the Court's prior approval, and dependent on the available assets for your ward's lifetime use. In assessing whether to gift assets, the tax and government entitlement consequences of the proposed gifting must be analyzed and presented to the Court for the Court's consideration. Absent Court approval, you may not use the assets of the Incapacitated Person for anyone other than the Incapacitated Person. On rare occasions, with the Court's approval, the Guardian will be authorized to provide for the support of those dependent upon the Incapacitated Person, even if the Incapacitated Person is not legally liable for the support of those dependents.

Investing Assets

Pursuant to the prudent investor standard, the Guardian should invest and reinvest the funds according to Estates Powers & Trusts Law 11-2.3. For accounts retained in banks, you must be careful not to retain more than \$250,000 in any single bank, as the accounts may not otherwise be insured by FDIC.

Determining Eligibility for Government and Private Benefits

Examine your ward's finances and entitlements to means-tested and non means-tested public (governmental) and private benefits. Consistent with your fiduciary duty to preserve assets of the Incapacitated Person and consistent with your authority to qualify the Incapacitated Person for government and private benefits, examine whether your ward is entitled to receive private benefits and/or governmental benefits.

The following is a brief overview of the private benefits and government entitlements for which an Incapacitated Person may be eligible and the requirements for those entitlements.

Private Benefits/Pensions

Your ward, or his/her spouse, may have a work history which entitles him/her to a pension benefit which may be actively in place or should be applied for. Contact the plan and/ or employer to ascertain whether your ward is entitled to monthly or lump sum benefits, if not already in place. In addition, if there is a death benefit and no beneficiary has been designated, or if the beneficiary designated is deceased, you may make an application to the Court for the authority to name a beneficiary either consistent with the Incapacitated Person's current wishes or with his/ her past wishes.

Insurance

Insurance may be an employment related benefit or privately obtained. Investigate if your ward has any life insurance policies and if so, evaluate the cost of retaining these policies and effect it may have on current and future means-tested benefits. Arrange to pay any required premiums if retaining the insurance is in the best interest of the Incapacitated Person. If the designated beneficiary on the life insurance policy is deceased, you may make an application to the Court to name a beneficiary either consistent with the Incapacitated Person's current wishes or with his/her past wishes.

Annuities

Annuities may be in payout status or may consist of a lump sum accruing interest which will make distributions in the future. Determine whether an annuity should be annuitized, thereby giving an income stream to your ward. Evaluation must be made on any payout option so as not to jeopardize your ward's current or future eligibility for means-tested benefits (i.e. SSI and/ or Medicaid).

Not all annuities are equal. Non-qualified annuities outside of a qualified retirement account purchased prior to the Deficit Reduction Act require that Medicaid be made the secondary beneficiary for payback of services provided. The rules are technical and should be evaluated carefully.

Disability Benefits

If the Incapacitated Person is a disabled person s/he may have worked and be eligible for private or public disability insurance payments.

Investigate if any disability benefit is due to your ward and if so, file to obtain this benefit.

Long-Term Care Insurance

Determine if your ward has a long-term care insurance policy. If so, file for the appropriate benefit when your ward meets the requirements for obtaining the coverage. Long-term care insurance policies have specific requirements when benefits are sought (i.e. assistance with two or more activities of daily living). Evaluate the policy's requirements carefully and submit supporting medical and other required documentation when filing your claim for benefits on behalf of your ward.

Government Entitlements: Social Security Retirement, SSI, Social Security Disability, Disabled Adult Child Benefits, Medicare, Medicaid

The Social Security Act has different programs which provide either financial payments to recipients or health care coverage. The following is a brief overview of the programs for which your ward may be eligible:

Social Security Retirement Benefits

For workers age 62 and older who have paid into the Social Security System and are now retired, Social Security provides monthly payments based on the earnings and number of quarters worked. Benefits may also be available for the worker's spouse.

Social Security Disability Benefits (SSD)

Workers who have paid into the Social Security system and are no longer able to engage in substantial gainful employment within the national economy because of a total disability may be eligible to receive Social Security Disability payments. Depending on the worker's age, a minimum amount of quarters must have been worked to obtain this benefit.

Supplemental Security Income (SSI)

This is a means-tested benefit which provides financial assistance to the aged (over 65), blind or disabled (unable to engage in gainful employment in the national economy) who have not worked the requisite number of quarters or who have never worked and/or paid into the Social Security system. Applicants may also be eligible for a New York State supplement.

This benefit considers all other sources of income, and will add only what is necessary to bring the aged, blind or disabled person up to these income levels. Benefit rates change annually with a cost of living adjustment. For more information, visit:

<https://www.ssa.gov> or [https://www.otda.ny.gov/ programs/ssp/](https://www.otda.ny.gov/programs/ssp/).

Medicare

For those who have paid into the Social Security System and are 65 years of age or older, the Medicare program provides limited coverage for hospitals, skilled nursing care, physicians' services, and prescription drugs.

Under Part A, for hospital stays, the first 60 days are covered after an initial deductible, while days 60-150 have a copay. For nursing or rehabilitative home stays, the coverage is 100% for days 1-20, providing the patient is receiving skilled care and enters the skilled care facility within 30 days of a three-day minimum hospital stay, not on observation status. After the initial 20 days, if additional skilled care is required, Medicare will pay for up to an additional 80 days, less a deductible.

Under Part B, physicians' charges are covered, less a 20% copay and a deductible. The Part B premium is based in part on income.

Under Part D, Medicare covers a portion of prescription drug costs with co-pays and deductibles. Various prescription drug plans cover different medications. Ask your ward's pharmacist if the plan enrolled in is suitable for your ward, given his/her prescription drug needs/formulary.

Medicare Supplemental Policies, A-J, offer a supplement to these benefits.

Beware of the penalties assessed against your ward if, once eligible for Medicare A, B and D, your ward fails to enroll, unless creditable coverage is in place and provided, with proof provided to Medicare. For more information visit www.medicare.gov.

Medicaid

Medicaid is a means-tested health benefit program under the Social Security Act that provides wide-ranging health care coverage, skilled nursing and rehabilitative care, and custodial care, both at home and in a nursing facility. Asset and income limits apply. Exempt resources, such as a car, a house in which the Medicaid recipient resides, an irrevocable prepaid funeral contract, and qualified retirement accounts in payout status are not countable resources when computing Medicaid eligibility. For more information, visit <https://www.medicare.gov>.

Veterans' Benefits

Inquire with the Veterans' Administration whether your ward is eligible for Veterans' Benefits if your ward performed active military service.

Veterans of any age may be eligible for benefits and services.

Veterans' dependents and survivors may also qualify. If benefits are based on disability, the Veterans' Administration must make the disability determination. Available benefits vary based on income, resources, number of dependents, and disability.

Disability compensation is provided to veterans with service-related disabilities or conditions.

Pension benefits are available to veterans and surviving relatives depending on income and resources.

Medical benefits may include care at VA hospitals, outpatient services, skilled nursing facilities, and at-home care.

Supplemental Needs Trusts

You may be serving both as a Guardian for Property Management and as Trustee of your ward's Supplemental Needs Trust. Supplemental Needs Trusts have strict requirements which must be followed carefully to avoid disqualifying your ward from governmental means-tested benefits.

The trust document will detail the rules concerning disbursements from the trust. All trust funds must be expended solely on your ward. Cash and gifts of any type are not allowed. You must give advance notice to the local Department of Social Services prior to making certain disbursements from the Supplemental Needs Trust. Your attorney will explain the special rules that apply when you are the Trustee as well as the Guardian.

Ensuring Receipt of Court Approval for Any Unusual Expenditures

In many counties, any items not approved in a budget and which are not clearly for the Incapacitated Person must have prior court approval.

Contracts to Sell Real Property

The procedure for selling and purchasing real property varies from county to county. Consult your attorney as to the process in the county where the Guardianship exists.

Prior Court approval is required before entering into any contract to buy or sell real property. The Court will generally require an appraisal and may appoint its own Part 36 appraiser. Any contract to sell must be conditioned upon the Court approving the sale.

For those counties following Article 17 of the Real Property Actions and Proceedings Law (RPAPL § 17), you bring a proceeding by filing a Petition stating why you believe purchasing or selling real property is in the best interest of the Incapacitated Person.

Your attorney will assist you in bringing a Petition seeking the Court's approval for your anticipated purchase or sale. Your attorney will also advise whether or not you may utilize the Incapacitated Person's funds as a down payment prior to Court approval.

Authorizing Access to or Release of Confidential Records

Determine who should receive and review medical and other confidential records of your ward. You may execute authorizations for the release of records as necessary.

Exercising Rights to Elect Options and Change Beneficiaries Under Insurance and Annuity Policies and to Surrender the Policies for Cash Value

The Order and Judgment appointing you the Guardian may direct you to manage the insurance assets and annuity policies of your ward. Options may need to be elected for payout. Surrendering a policy with a cash surrender value which would otherwise render your ward ineligible for means-tested benefits may be required. Beneficiaries may need to be changed if a stated beneficiary is deceased or is him/ herself a recipient of means-tested public benefits. Seek Court approval before changing any beneficiary designation or taking other action which might need specific authorization.

Requesting Court Approval for Retaining Attorneys and Accountants

While the Order and Judgment may authorize you to represent your ward's interests in any state of the United States and New York State, and while the Order and Judgment may authorize you to retain an attorney or accountant, in down- state counties, no fees from the Incapacitated Person may be paid to the attorney or accountant without prior Order of the Court. These fees may be authorized in the annual accounting, or the attorney may make an application to the Court for the approval of attorney's fees. In some counties, the Order and Judgment will provide for reasonable accountant's or attorney's fees for the filing of annual tax returns and/or preparation of the annual accounts, requiring no additional Court order provided the fees do not exceed the limit set by the Order. If a provision for attorney's or accountant's fees is not stated in the Order appointing Guardian, separate Court approval must be sought.

Powers of the Guardian for Personal Needs

The Petition for the Appointment of a Guardian may have sought the Court's approval of a plan for you to provide for your ward's needs. Any plan must provide the least restrictive environment for your ward, respecting any wishes which your ward may communicate or are known, and which leave him/her with the greatest autonomy and independence possible.

Keeping your ward safely in the community should be given the greatest preference when considering placement options. You have the authority and the duty to provide for your ward's needs, including his/her safety, health, social, environmental, and living conditions.

Medical, Dental, and Mental Health Services for Your Ward

Schedule necessary medical, dental, and mental health appointments for your ward as is prudent, necessary and required.

Familiarize yourself with your ward's health care providers and continue using these providers unless a change is warranted.

Make sure your ward's medications are properly managed and that you are aware of all of his/her diagnoses and treatment plans and preferences. Arrange for your ward to have an annual physical, as well as to be followed as required by all specialists. If practical, attend appointments with your ward to familiarize yourself with his/her medical providers.

Applying for Government and Private Benefits

If you are not already the Property Guardian, Work together with him/her to evaluate and obtain government and private medical benefits. See duties of the Guardian for Property Management, above.

Authority to Make Residential Placement

As Guardian, you will need Court approval before placing your ward in a skilled nursing facility or an adult home. If such admission was contemplated at the time of the Petition to Appoint a Guardian, the Court may have already consented to the plan and have authorized you to choose a more restrictive environment for your ward than the one in which your ward was residing prior to your appointment.

Before seeking to place your ward in a long term care facility, consider the existence and availability of family, friends and community services; the care, comfort and maintenance and rehabilitation of the Incapacitated Person; and the needs of anyone your ward resides with. As long as it is reasonable under the circumstances to maintain the Incapacitated Person in the community, residential placement cannot occur without the consent of the Incapacitated Person and/ or of the Court.

When assessing placement in a residential facility, analyze the cost, resources, and benefits available to pay for this placement. If your ward has unlimited resources, the payment source is not a problem. However, this is generally not the case, and careful evaluation as to ongoing payment source or available benefit must be made. In certain adult home and congregate care living arrangements, the SSI program covers room and board provided the resident's income is less than the applicable SSI rate for that type of home. The Medicaid program may not cover room and board at an adult home, for example, but it may cover the care at certain other assisted living facilities, while others are paid for only privately. Analysis as to the ongoing ability to pay or have coverage for the stay at these facilities must be made.

In a skilled nursing facility, the Medicaid program will pay for room, board, therapeutic, skilled care and medical treatment for eligible applicants. For private pay residents, costs vary depending on the county and the facility. The Medicaid program will pay fully for the services if a resident is eligible at the Medicaid rate.

Medicaid will make payment in a nursing home only if the applicant satisfies specified income standards, usually based on federal poverty levels, and if any waiting period caused by any transfer of assets for less than fair market value has passed. Each state has its own guidelines and eligibility requirements. For more New York specific information, visit https://www.health.ny.gov/health_care/medicaid. Your attorney can assist you in determining when and if it is proper for you to apply for Medicaid on behalf of your ward. You should not submit a Medicaid application for long term care in a nursing facility if any transfers were made for less than fair market value within the prior five-year look back period. Seek legal counsel if questions arise.

No Guardian may consent to the voluntary formal or informal admission of the Incapacitated Person to a mental hygiene facility such as a psychiatric hospital or to an alcoholism facility. These admissions are procedurally directed in other parts of the Mental Hygiene Law.

Authority to Make Medical Decisions

Guardians are generally given the authority to consent to or refuse generally accepted routine or major medical or dental treatment. If you have this power, you must make treatment decisions in accordance with the patient's wishes, including his/her religious and moral beliefs, or, if these wishes are not known and cannot be ascertained with reasonable diligence, in accordance with your ward's best interests.

The best interests standard would include: a consideration of the dignity and uniqueness of the Incapacitated Person; the possibility and extent of preserving the Incapacitated Person's life; the preservation, improvement or restoration of the Incapacitated Person's health or functioning; the relief of the Incapacitated Person's suffering; the adverse side effects associated with the treatment; the consideration of any less intrusive alternative treatments; and other concerns and values that a reasonable person in the Incapacitated Person's circumstances would wish to consider.

The Court may have revoked advance directives such as Do Not Resuscitate Orders, Health Care Proxies and Living Wills, if they conflict with the powers given to the Guardian and/or if the person who had been appointed was not fulfilling his duty to the Incapacitated Person.

Depending on how the Order and Judgment is drafted, you may have been granted the specific power to consent to withhold or withdraw life-sustaining treatment, including artificial nutrition and hydration. If the issue arises, and the power is not specifically granted in the Order appointing you, you or should consult your attorney.

V. ANNUAL ACCOUNTS AND REPORTS (ACCOUNT)

Keeping accurate financial records that reflect all income and expenditures is essential and required.

Each year, on or before May 31, you must file your prior calendar year's Annual Account and Report with the Court. Details as to what is required in the Annual Account and Report are provided in the Guardianship training course, and sample forms may be obtained from a Clerk in the Guardianship Department.

The Annual Account must detail the assets marshaled, income received and all expenditures by category made by you on behalf of your ward during the prior calendar

You must keep detailed and accurate records and have bills, receipts, statements and cancelled checks to back up expenditures. Your account should detail the starting balance, the income earned from each account, income from all other sources (pension, SSI, SSD, retirement benefits, annuities, etc.).

Your disbursements should be categorized by the type of Typical categories include health care costs, prescriptions, room and board at a facility, physicians' bills, clothing, rent, utilities, food, insurance, maintenance and repairs, guardianship expenses, prepaid funeral and burial expenses, taxes, etc., with a line total for each category. Backup documentation should be available and complete.

The Court Examiner will want copies of all bank statements, canceled checks, bills to substantiate checks written, proof of income and income tax returns. You may be asked for this documentation years after your final account, so keep all documentation, even for approved accountings, through the time of the approval of the Final Account at the termination of the guardianship, which may be years or even decades after the Annual Account was filed.

The beginning balance, plus the income received, less the disbursements, should equal the balance on hand retained at the end of the year (12/31/20XX).

File the account with the Court accompanied with affidavits of service on the following:

A copy must be sent to the Incapacitated Person, the surety bond company, and the Court Examiner. If the Incapacitated Person resides in a facility, a copy of the report should be sent to the Chief Executive Officer of the facility. If the facility is a mental health facility, the Court will require you to send a copy to the Mental Hygiene Legal Service of the judicial department where your ward resides or where the guardianship is established. If your ward is on Medicaid, you must also send a copy of the accounting to the Commissioner of the Department of Social Services where your ward resides and receives benefits.

You may not take any commissions for your services as Guardian without the Court setting your compensation in the Order approving your Annual Account.

The Court Examiner will review the report and submit an order to the assigned Justice for approval. The resulting Court Order will include the approval of the annual account, compensation (if any) for the guardian and approval of compensation of the Court Examiner. Accountant fees and/or other secondary appointee fees may also be set in this Order.

Attached to this guide is an initial and annual reports overview and a fillable initial report with instructions. Annual reports can be obtained from the clerk's office or online from:

<http://ww2.nycourts.gov/courts/12jd/bronx/civil/guardianship.shtml#guard>

VI. TERMINATION OF GUARDIANSHIP

All guardianships eventually must come to an end. Of course, there are several reasons why guardianships must end. Examples are:

The ward has died.

The ward no longer needs a guardian.

The guardian is no longer able to perform all the duties that are required.

The judge wants to end the guardianship because he or she is dissatisfied with the guardian.

NOTE: Whatever the reason is for ending the guardianship, **you may not just stop on your own.** In order to formally end your responsibilities you **must** ask the judge to discharge you.

Within 20 days of the Incapacitated Person's death, you must file a Statement of Death (with a copy of the certificate of death if available) with the Court and Court Examiner. You should also inform all other relevant parties such as: the Social Security Administration or the Veterans Administration, your ward's pension plan, Medicaid if your ward was receiving Medicaid benefits, the executor of your ward's estate or the Public Administrator, if your ward did not have a will, and of course next of kin.

Within 150 days of the Incapacitated Person's death, you must make a motion by Order to Show Cause to Judicially Settle the Final Account. The Final Accounting, Statement of Assets and Notice of Claims must be part of this motion. You are required to deliver the remaining assets to the Court-appointed estate representatives or public administrator if no representative was appointed. You may retain assets for outstanding or administrative costs as permitted by the Court.

Once the Court has approved your Final Accounting, you or your attorney will submit an Order Settling the Final Account, which will fix commissions and give instructions on how to disburse assets remaining in the Guardianship. Once you have complied with these directives, you or your attorney will submit an Order Discharging you as Guardian and also discharging the surety bond company. This last order officially terminates the Guardianship.

Blank Final Account forms can be obtained online from:
<http://ww2.nycourts.gov/courts/12jd/bronx/civil/guardianship.shtml#guard>

VII. CONCLUSION

While the opportunities for caring for your ward's present and future needs are great, be careful to adhere to the powers the Court has granted. If additional powers are needed as your ward's situation changes, you must seek the Court's approval for expanded intervention, which often decreases your ward's own decision making authority. Seek legal counsel and Court approval as needed. Keep receipts and careful records. Be transparent in your actions and always keep your ward's best interests at the forefront.

Every effort to maintain your ward at home, if this is your ward's desire, and if it can be done safely, should be made. Your convenience as the Guardian should not be a factor when considering what is best for your ward. Preserving your ward's quality of life and independence, and providing the mandated least restrictive environment, must be paramount. The greatest independence and self-determination should be provided to your ward.

Attachments to this guide after this page:

Initial and Annual Report Overview

Blank (Fillable) Oath and Designation

Blank (Fillable) Commission of the Guardian

Blank (Fillable) Initial Report with instructions

Initial & Annual Reports Overview

Guardians must regularly report to the court. These reports give the court information about your ward and how well you are taking care of your ward's affairs, what your plans are for your ward, how much money your ward has, and anything else that gives the judge a good sense that your ward is well cared for. The reports must be written in court approved forms. Blank copies of these forms can be obtained from the Bronx Article 81 Guardianship Department either online at ww2.nycourts.gov/courts/12jd/bronx/civil/guardianship.shtml#guard, or at their office in room 216 of the Bronx Civil Supreme Court building at 851 Grand Concourse, Bronx, NY 10451. Copies may also be emailed as a PDF attachment upon request.

The Initial Report...

Is the first report you must complete 90 days after you have received your Commission. This report is meant to be a picture or "snapshot" of your ward's situation at the beginning of the guardianship.

The Annual Report...

Sometimes also called the "Annual Account" is always due by the end of May and covers the previous calendar year from January 1 through December 31. The period between the Initial Report and the Annual Report is the time in which you continue to care for your ward according to the judge's orders and the plans you outlined in your Initial Report.

What Information Must Be Included In The Reports?

The judge will want to know that your ward is in good hands and that you are doing everything for your ward the way the judge ordered. When you prepare to write your reports, you should first re-read the Order and Judgment so that you know exactly what the judge has given you the power to do and then start filling in the sections listed in the form. (This is the time where you will find that you will greatly benefit from having made personal notes and having kept receipts, statements, invoices and bills.)

NOTE: Most guardians find that some sections of the report forms are not relevant in their particular ward's case. If you don't fill out a section because it does not apply, you should write in that section the words: NOT APPLICABLE. Never leave a section in the form blank.

Asking For Reimbursement of Your "Out-Of-Pocket" Expenses

In your reports you may ask for reimbursement of expenses you have paid out of your own funds on behalf of your ward. Below are some examples of expenses for which you may be reimbursed, **BUT** you can only get reimbursed if you kept the receipts, **AND** if your ward has assets.

Lost wages while you were taking care of your ward's affairs.

The fee you paid to attend the required guardianship training.

Taxi/rideshare fares, gas, mileage, or parking for your car to take your ward to the doctor or any other appointment.

The cost to photocopy papers and have them certified.

The cost of obtaining a bond, if the judge ordered you to get one.

Any payments you have made from your own funds to buy supplies and services for your ward for which you have saved the receipts.

Asking for Changes in the Guardian's Power

The time to ask for a change in the Order and Judgment is when you submit your Initial or Annual Report. Changes may be needed in the Order and Judgment over time for any number of reasons. For instance a person, who was hurt in an accident may recover and be able to do more things for him or herself. In that case the Guardian's powers could become less over time. On the other hand, some wards become more frail over time and may be less able to manage some of their affairs - in that case, the Order may be changed to give the guardian additional powers that are needed. If you have good reasons to ask the judge for a change in your powers and you have a lawyer you should ask him or her to write a request to the judge giving all the reasons why you think the change in the Order and Judgment is needed. But family guardians without a lawyer may write the Judge themselves to ask for a change in their powers. If you don't have good reasons for the changes you request, or if the Judge disagrees with you because he or she feels that your plan is not in the best interest of your ward, the Judge will not approve them.

Can Guardians Ask For Changes at Any Other Time?

Yes, most judges will permit guardians who have an emergency to write a letter explaining why the Order needs to be changed and asking for the Judge's approval before the reports are due.

Who Should Receive My Initial or Annual Reports?

Once you have completed either of the above reports you must file the original report with the Bronx Guardianship Department by mail or in person. Call the Bronx Guardianship Department at 718-618-1330 and enquire if you can email a copy of the report. If your case was filed electronically, you may upload your report to NYCEF.

You must also deliver a copy of the report to:

The **court examiner** who has been assigned to your ward's case (initial and annuals).

Your **ward**, unless the judge ordered you not to do so in the Order and Judgment (initial and annuals).

The **court evaluator** who reported to the court during the hearing (initial only).

Any **attorney** who represented your ward at the hearing (initial only).

The **bond company**, if you were required to get a bond (annuals only).

If your ward lives in a nursing home, rehab facility, assisted living home or another similar type of residence, you must send a copy of the report to the **director/administrator** of the facility (initial and annuals).

If your ward lives in a mental health facility, you must send a copy of the reports (initial and annuals) to the:

Director of Mental Hygiene Legal Services

First Judicial Department

60 Madison Avenue, 2nd Floor

New York, NY 10010

What happens to the Reports after I file them?

All reports are reviewed by the court examiner who must make sure that the reports present information on all the tasks that were listed in the original Order and Judgment and that the accounting of how you spent your ward's funds is accurate and acceptable. You may be asked to change the report if the court examiner believes that changes are needed. The court examiner may also call you and ask you questions by phone or ask you to come to his or her office. After the court examiner has approved your report he or she will send a summary to the judge.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

_____ X
In the Matter of the Application of:

[Your Name]
Petitioner

Oath and Designation

Index No:
_____/202____

For the Appointment of a Guardian of the
Person and/or Property of

[Name of Alleged Incapacitated Person (AIP)]
An Incapacitated Person
Pursuant to Article 81
Of the Mental Hygiene Law,

Respondent
_____ X

TO THE SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF BRONX

_____, being duly sworn, deposes and says:
[Your name]

- OATH OF GUARDIAN:** I am a citizen of the United States, and I am over the age of eighteen years. I will well, faithfully and honestly discharge the trust reposed in me as a guardian for _____, an incapacitated person. I will obey all lawful
[Name of Incapacitated Person]
directions of any court of competent jurisdiction, and I will render a just and true account of all moneys and other property received by me and of my application of the same whenever required to do so by a court of competent jurisdiction pursuant to the aforementioned Order of this court.
- DESIGNATION OF CLERK FOR SERVICE OF PROCESS:** I have been appointed guardian for _____ of _____, New York, an
[Name of Incapacitated Person] *[County]*

incapacitated person, and I do hereby designate the Clerk of the Supreme Court,
_____ County and his or her successor in office, as the person on whom
[County]
service of any process issuing from said court in this proceeding, or in any other
proceeding, which shall affect the estate of _____, may be made
[Name of Incapacitated Person]
in like manner and with like effect as if it were served personally upon me whenever I
cannot be found and served within the State of New York after due diligence is used. I
further advise the said clerk that I am a resident of the State of New York and maintain
my home at _____, as appears in the Court Order
[Your Address]
appointing me guardian.

DATED: _____, New York
[County]

_____/_____/202_____
[Day Month, Year]

Signature

[Print Name of Guardian]

COMMISSION TO GUARDIAN

In the Matter Of The Application Of

INDEX NO. _____ / _____

Petitioner,

For the Appointment Of A Guardian For

An Alleged Incapacitated Person.

TO THE PEOPLE OF THE STATE OF NEW YORK, AND TO ALL WHOM THESE PRESENTS SHALL COME GREETING:

WHEREAS the annexed Order and Judgement of this Court dated _____ / _____ / 202__

appointing _____ Tel # _____ - _____ - _____

residing at _____

as guardian for the () person and/or () property of _____

an incapacitated person, has been entered in this Court on _____ / _____ / 202__.

WHEREAS a bond in the amount of \$ _____, with sufficient sureties was filed in this

Court on _____ / _____ / 202__ (leave blank if bond was waived), and

WHEREAS a designation of the Clerk to accept service of process upon such guardian above appointed

was filed in this Court on _____ / _____ / 202__.

NOW THEREFORE, KNOW YE THAT WE HAVE GRANTED, GIVEN AND COMMITTED AND DO SO GIVE, GRANT, COMMIT UNTO THE ABOVE NAMED GUARDIAN THE POWERS SET FORTH IN THE ANNEXED ORDER AND JUDGEMENT.

ALL TO WHOM THIS COMMISSION IS PRESENTED ARE COMMANDED TO RESPECT AND RECOGNIZE THE POWERS AND AUTHORITY GRANTED TO THE GUARDIAN IN THE ANNEXED ORDER AND JUDGEMENT.

By the Court this _____ day of

_____, 202__

Clerk of the County of the Bronx

The Supreme Court of The State Of New York
County of Bronx

In the Matter Of The Application Of

COMMISSION TO CO-GUARDIAN

Petitioner,

INDEX NO. _____ / _____

For the Appointment Of A Guardian For

An Alleged Incapacitated Person.

TO THE PEOPLE OF THE STATE OF NEW YORK, AND TO ALL WHOM THESE PRESENTS SHALL COME GREETING:

WHEREAS the annexed Order and Judgement of this Court dated _____ / _____ / 202__

appointing _____ Tel # _____ - _____ - _____

residing at _____

as co-guardian for the () person and/or () property of _____

an incapacitated person, has been entered in this Court on _____ / _____ / 202__.

WHEREAS a bond in the amount of \$ _____, with sufficient sureties was filed in this

Court on _____ / _____ / 202__ (leave blank if bond was waived), and

WHEREAS a designation of the Clerk to accept service of process upon such co-guardian above

appointed was filed in this Court on _____ / _____ / 202__.

NOW THEREFORE, KNOW YE THAT WE HAVE GRANTED, GIVEN AND COMMITTED AND DO SO GIVE, GRANT, COMMIT UNTO THE ABOVE NAMED CO-GUARDIAN THE POWERS SET FORTH IN THE ANNEXED ORDER AND JUDGEMENT.

ALL TO WHOM THIS COMMISSION IS PRESENTED ARE COMMANDED TO RESPECT AND RECOGNIZE THE POWERS AND AUTHORITY GRANTED TO THE CO-GUARDIANS IN THE ANNEXED ORDER AND JUDGEMENT.

By the Court this _____ day of

_____, 202__

Clerk of the County of the Bronx

The Initial Report

The attached Initial Report is also called the “90-day Report” since it must be submitted 90 days after the day that you received your Commission. All Guardians Must Include The Following Information In The Initial Report:

What type of guardian you are-for personal needs, property management, or both.

Whether you have completed a guardianship training program (attach a copy of the certificate of completion to your report).

Your ward’s age and where your ward lives.

The name of the facility or residence where your ward lives, if your ward does not live at home.

How often you have visited your ward during these first 90 days-you must have visited at least once.

A list of important documents you have found that your ward signed in the past, such as power of attorney, a will, a health care proxy, or a living will.

What plans you have to take care of your ward in the immediate future.

Whether there have been changes in your ward’s situation since the hearing.

Guardians for Personal Needs Must Provide the Following Information:

The names and addresses of your ward’s personal doctor and psychiatrist or psychologist (and their diagnosis).

A list of other professionals or service agencies that provide services to your ward (home care agencies, meals on wheels, social services). You should list each one with an address and phone number.

A list of day care programs your ward attends regularly with their names and phone numbers.

A list of medications your ward is currently taking.

Guardians for Property Management Must Provide Detailed Financial Information on:

Bank accounts your ward owned at the time of your appointment as guardian (include the name of the bank, the account number and the amount of money in each account).

Whether you have opened a Guardianship Account.

A list of stocks, bonds, other securities that you have found, and whether you have changed the title of the accounts to your name as guardian.

A list of any other funds you have found, where they were located, what their value is, and what you have done with these funds.

A list of other personal property-such as a car, furniture, jewelry, and artwork-with a description, their location, and their value.

A list of real property your ward owns including the location, the type of property it is, and its value.

A list of the sources of your ward’s monthly income, including the source and the amount each month.

A list of other income, such as interest or dividends.

A list of any debts or unpaid bills, including who needs to be paid and how much.

Any public benefits you have applied for.

Whether you have applied for insurance on behalf of your ward.

Your ward’s insurance policies (medical, long term care, homeowner’s, auto, valuable items, art work, life insurance).

Whether your ward has a safe deposit box, including the name of the bank, the address, and whether or not you have been able to see its contents and determine their value.

Even if you are only the guardian of the property, the court and court examiner will still want to know that the IP/PING is being well cared for and will want information on how your ward is doing physically and mentally. If you do not provide that information in your initial and subsequent annual accounts, the court and/or the court examiner will get in touch with you to provide that information.

NOTE: When you submit your report you should attach all receipts, invoices and bank statements so that the court examiner can easily review how you have spent your ward’s money.

New York State Mental Hygiene Law § 81.30 Initial Report.

(a) No later than ninety days after the issuance of the commission to the guardian, the guardian shall file with the court that appointed the guardian a report in a form prescribed by the court stating what steps the guardian has taken to fulfill his or her responsibilities. Proof of completion of the guardian education requirements under section 81.39 of this article must be filed with the initial report.

(b) To the extent that the guardian has been granted powers with respect to property management, the initial report shall contain a verified and complete inventory of the property and financial resources over which the guardian has control, the location of any will executed by the incapacitated person, the guardian's plan, consistent with the court's order of appointment, for the management of such property and financial resources, and any need for any change in the powers authorized by the court.

© To the extent that the guardian has been granted powers regarding personal needs, the initial report shall contain a report of the guardian's personal visits with the incapacitated person, and the steps the guardian has taken, consistent with the court's order, to provide for the personal needs of that person, the guardian's plan, consistent with the court's order of appointment, for providing for the personal needs of the incapacitated person, a copy of any directives in accordance with sections two thousand nine hundred sixty-five and two thousand nine hundred eighty-one of the public health law, any living will, and any other advance directive, and any necessary change in the powers authorized by the court. The plan for providing for the personal needs of the incapacitated person shall include the following information:

1. the medical, dental, mental health, or related services that are to be provided for the welfare of the incapacitated person;
2. the social and personal services that are to be provided for the welfare of the incapacitated person;
3. any physical, dental, and mental health examinations necessary to determine the medical, dental, and mental health treatment needs; and
4. the application of health and accident insurance and any other private or government benefits to which the incapacitated person may be entitled to meet any part of the costs of medical, dental, mental health, or related services provided to the incapacitated person.

(d) If the initial report sets forth any reasons for a change in the powers authorized by the court, the guardian shall make an application within ten days of the filing of the report on notice to the persons entitled to such notice in accordance with paragraph one of subdivision (d) of section 81.07 of this article for such relief. If the initial report sets forth any reasons for a change in the powers authorized by the court and the guardian fails to act under this subdivision, any person entitled to commence a proceeding under this article may petition the court for a change in such powers on notice to the guardian and the persons entitled to such notice in accordance with paragraph one of subdivision (d) of section 81.07 of this article for such relief.

(e) The guardian shall send a copy of the initial report to the incapacitated person by mail unless the court orders otherwise pursuant to paragraph seven of subdivision (b) and paragraph nine of subdivision © of section 81.15 of this article.

(f) The guardian shall send a copy of the initial report to the court evaluator and counsel for the incapacitated person at the time of the guardianship proceeding unless the court orders otherwise pursuant to paragraph seven of subdivision (b) and paragraph nine of subdivision © of section 81.15 of this article.

(g) The guardian shall send a copy of the initial report to the court examiner.

(h) If the incapacitated person resides in a facility, the guardian shall send a duplicate of such report to the chief executive officer of that facility.

(I) If the incapacitated person resides in a mental hygiene facility, the guardian shall send a duplicate of such report to the mental hygiene legal service of the judicial department in which the residence is located.

**SUPREME COURT OF THE STATE OF NEW YORK
BRONX COUNTY**

INITIAL REPORT

-----X
In the Matter of

INDEX NO. _____ / _____

Name of Incapacitated Person
("IP" designates Incapacitated Person in this report)
-----X

Please mark appropriate boxes with [X], and type or print all requested information. For more space, please use reverse side of page of question being answered..

DATE OF ORDER APPOINTING GUARDIAN: _____ / _____ /202_____

APPOINTING JUDGE:HON. _____

PERSON(S) FILING THIS REPORT: _____ , _____

What is the status of your educational requirements under MHL § 81.30?

		Waived	Completed
_____ Name	_____ Address	<input type="checkbox"/>	<input type="checkbox"/>
_____ Phone	_____ Relationship		
_____ Name	_____ Address	<input type="checkbox"/>	<input type="checkbox"/>
_____ Phone	_____ Relationship		
_____ Name	_____ Address	<input type="checkbox"/>	<input type="checkbox"/>
_____ Phone	_____ Relationship		
_____ Name	_____ Address	<input type="checkbox"/>	<input type="checkbox"/>
_____ Phone	_____ Relationship		

FILING STATUS OF PERSON FILING THIS REPORT:

- | | |
|--|---|
| A. <input type="checkbox"/> Sole Guardian of Person | D. <input type="checkbox"/> Co-Guardians of Person |
| B. <input type="checkbox"/> Sole Guardian of Property | E. <input type="checkbox"/> Co-Guardians of Property |
| C. <input type="checkbox"/> Sole Guardian of Person and Property | F. <input type="checkbox"/> Co-Guardians of Person and Property |

INCAPACITATED PERSON'S PERSONAL DATA:

1. IP's Age: _____

2. IP resides in:

a. Community at: _____
Address Phone Years in residence

This address is the IP's own home, which is rented owned.

The IP lives here alone.

The IP lives here with others:

Name Relationship

Name Relationship

This address is the home of another. _____
Name Relationship

b. Facility: _____
Facility Name Address

Phone FAX Date Admitted Name of Social Worker

3. Language of IP: English Spanish Other _____

4. Citizenship: US Other _____

PERSONAL NEEDS
(Complete if your filing status is A, C, D or F)

5. Primary Care Physician: _____
Name Address Phone

Frequency of examinations Date of last examination Primary Diagnosis

6. Psychiatrist/Psychologist or Other Mental Health Provider:

Name Address Phone

Frequency of examinations Date of last examination Primary Diagnosis

7. Dentist: _____
Name Address Phone

Frequency of examinations Date of last examination

Complete the following ONLY if the IP resides IN THE COMMUNITY.

8. Pharmacy: _____
Name Address Phone

9. List professionals and service agencies (e.g., geriatric care managers, social workers, home healthcare agencies, social service agencies, "meals on wheels") assisting IP.

Name	Address	Phone	Profession/Service
Name	Address	Phone	Profession/Service
Name	Address	Phone	Profession/Service
Name	Address	Phone	Profession/Service

10. List Day Care Programs or other regularly attended programs for nutrition, rehabilitation, socialization, etc..

Name	Address	Phone	Frequency of Attendance
Name	Address	Phone	Frequency of Attendance
Name	Address	Phone	Frequency of Attendance
Name	Address	Phone	Frequency of Attendance

PROPERTY/FINANCIAL MANAGEMENT

Complete if your filing status is B, C, E or F.
 Report all liquid assets, personal property, real property and income you are AUTHORIZED to take into your possession, management and control, AS GUARDIAN.

11. Liquid Assets:

a. Cash Accounts:

Have you changed the title of accounts to your name, as guardian?

Institution	Acct. Type/Acct. No.	Amount	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Institution	Acct. Type/Acct. No.	Amount	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Institution	Acct. Type/Acct. No.	Amount	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Institution	Acct. Type/Acct. No.	Amount	<input type="checkbox"/> Yes	<input type="checkbox"/> No

TOTAL

(Accounts in any one institution should not exceed \$100,000 in order to avoid the loss of FDIC coverage.)

b. Mutual Funds, Securities and Brokerage Accounts:

Have you changed the title of accounts to your name, *as guardian*?

_____	_____	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Institution	Acct. Type/Acct. No.	Amount		
_____	_____	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Institution	Acct. Type/Acct. No.	Amount		
_____	_____	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Institution	Acct. Type/Acct. No.	Amount		
_____	_____	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Institution	Acct. Type/Acct. No.	Amount		

TOTAL

c. Stocks

Have you changed the title on certificates to your name, *as guardian*?

_____	_____	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Corporation	No. of shares	Value		
_____	_____	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Corporation	No. of shares	Value		
_____	_____	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Corporation	No. of shares	Value		
_____	_____	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Corporation	No. of shares	Value		

TOTAL

d. Bonds:

Have you changed the title on bonds to your name, *as guardian*?

_____	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Issuing govt./agcy./corp.	Value		
_____	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Issuing govt./agcy./corp.	Value		
_____	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Issuing govt./agcy./corp.	Value		
_____	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Issuing govt./agcy./corp.	Value		

TOTAL

e. Other: list any other liquid asset, giving type, location and value :

Have you changed title to these assets to your name, as *guardian*, or not applicable (N/A)?

_____ [] Yes [] No [] N/A
Type Location Value

_____ [] Yes [] No [] N/A
Type Location Value

_____ [] Yes [] No [] N/A
Type Location Value

_____ [] Yes [] No [] N/A
Type Location Value

TOTAL

f. TOTAL VALUE OF LIQUID ASSETS:

BOX A

12. Personal Property (e.g., cars, boats, furniture, jewelry, artwork) :

_____ Description Location Value

_____ Description Location Value

_____ Description Location Value

_____ Description Location Value

_____ Description Location Value

_____ Description Location Value

_____ Description Location Value

_____ Description Location Value

TOTAL VALUE OF PERSONAL PROPERTY:

BOX B

13. Real Property (e.g., vacant land, residential [including cooperative apartments and condominiums] commercial or income producing property):

In the letter you received at your appointment, you were instructed about filing the "Statement Identifying Real Property" (Form #3 attached to letter). Attach a copy of form(s) filed for property listed below.

_____	_____	_____	[] sole [] joint [] part*** (____%)****
Location	Property Type	Value**	
_____	_____	_____	[] sole [] joint [] part (____%)
Location	Property Type	Value	
_____	_____	_____	[] sole [] joint [] part (____%)
Location	Property Type	Value	
_____	_____	_____	[] sole [] joint [] part (____%)
Location	Property Type	Value	
_____	_____	_____	[] sole [] joint [] part (____%)
Location	Property Type	Value	
_____	_____	_____	[] sole [] joint [] part (____%)
Location	Property Type	Value	

**Only give value of IP's ownership share or mortgage

*** "Part" includes IP's part ownership or mortgage interest. and "%" mortgage interest.

**** "%" includes IP's part ownership or mortgage interest. Mortgage % is proportion of debt to total value.

TOTAL VALUE OF REAL PROPERTY:

BOX C

ESTATE VALUE

14. TOTAL VALUE OF LIQUID ASSETS, PERSONAL AND REAL PROPERTY:

(ADD BOXES A, B and C)

15. Regular Monthly Income

- a. [] Social Security Retirement\$_____per month.
- b. [] Supplemental Security Income (SSI).....\$_____per month.
- c. [] Social Security Disability (SSD).....\$_____per month.
- d. [] Veterans' Benefits (VA).....\$_____per month.
- e. [] Pension/Retirement Benefits.....\$_____per month.
- f. [] Annuity Income.....\$_____per month.
- g. [] Rental Income.....\$_____per month.

- h. Mortgage Interest Income.....\$_____per month.
- i. Other from list on reverse side.....\$_____per month.

TOTAL REGULAR MONTHLY INCOME:

16. Other Income (report approximate amounts on an annual basis):

- a. Interest.....\$_____
- b. Dividends.....\$_____
- c. Trust Income.....\$_____
- d. Other from list on reverse side.....\$_____

TOTAL OTHER INCOME:

17. IP is the beneficiary of the following trusts:

Type	Name of Trustee	Trustee's Address/Phone

18. Debt (List all debt over \$500):

- a. Mortgage(s) (Total balance due on all mortgages).....\$_____
- b. Rent arrears (Total of past du rent).....\$_____
- c. Utilities (Total of past due gas, electric, oil, telephone bills).....\$_____
- d. Real Property Taxes (Total of past due real property tax).....\$_____
- e. Hospital/Medical (Total of past due hospital, doctor, lab bills).....\$_____
- f. Income Taxes (Total of federal/state/local income taxes).....\$_____
- g. Other from list on reverse side.....\$_____

TOTAL DEBT:

19. Application has been made for the following government entitlements:

- a. Social Security Retirement
- b. Supplemental Security Income (SSI)
- c. Social Security Disability (SSD)
- d. Medicaid
- e. HEAP (aid for heating costs)
- f. STAR (relief from property taxes)
- g. Other (please explain)

20. Are any civil judicial proceedings pending or threatened against the IP (e.g., mortgage foreclosure, eviction, debt collection, divorce, immigration proceeding; please explain): _____

21. Medical/Hospital insurance has been provided for the IP, as follows (please explain):

22. Homeowner/Renter's insurance has been provided for the IP, as follows (please explain):

23. Auto insurance has been provided for the IP, as follows (please explain):

24. Other insurance has been provided for the IP, as follows (please explain):

25. Safe Deposit Boxes are authorized to be opened and have been located, as follows:

Institution	Address/Phone	<input type="checkbox"/> Opened (inventory attached)
Institution	Address/Phone	<input type="checkbox"/> Opened (inventory attached)
Institution	Address/Phone	<input type="checkbox"/> Opened (inventory attached)
Institution	Address/Phone	<input type="checkbox"/> Opened (inventory attached)

26. Mail is authorized to be collected and opened and arrangements are, as follows (please explain):

27. Income tax authority has been granted and arrangements to exercise that authority are, as follows (e.g., tax returns filed previously have been located, accountant previously retained to prepare returns has been contacted, IRS FORM 4506 (Request for Copies of Tax Returns) has been filed, IRS FORM 56 (Notice of Fiduciary Relationship) has been filed, IRS FORM SS-4 (Request for Employer Identification Number, if employing persons to assist IP) has been filed, similar state and local forms have been filed; please explain):

The following must be completed by ALL GUARDIANS

DOCUMENTS

28. The following documents have been found (e.g., power of attorney, health care proxy, will); if any document is inconsistent with the powers granted in the guardianship (e.g., power of attorney grants same property management powers as the guardianship of property or health care proxy grants same medical decision making as guardianship of personal needs), application will be made to the court for further instructions; please mark box if fiduciary (e.g., attorney-in-fact, health care agent, executor/trix) has been given NOTICE of guardianship appointment:

Document Type	Date	Located	<input type="checkbox"/> Application to court required
Document Type	Date	Located	<input type="checkbox"/> NOTICE given to fiduciary
Document Type	Date	Located	<input type="checkbox"/> Application to court required
Document Type	Date	Located	<input type="checkbox"/> NOTICE given to fiduciary
Document Type	Date	Located	<input type="checkbox"/> Application to court required
Document Type	Date	Located	<input type="checkbox"/> NOTICE given to fiduciary

VISITS

29. The frequency of the Guardian/Co-Guardians' visits to the IP and the date of the last visit (Guardians are required to visit at least 4 times per year):

_____ (Frequency (e.g., daily, weekly, monthly, 4 Xs per year) Date of last visit)

CHANGES AND ADDITIONAL POWERS

30. Please report any changes to the IP's personal care and maintenance or management of his/her financial and property affairs currently needed and planned.

31. Do these changes require additional powers or a modification of the powers granted?

DATED:

STATE OF NEW YORK)
)
COUNTY OF _____) ss:
 County

I/We, being duly sworn, say, that I am/we are the Guardian/Co-Guardians for _____
Name of IP

and have executed this Initial Report, which to the best of my/our knowledge and belief contains true and accurate information regarding the personal needs and/or property of the Incapacitated Person and all of the activities I/we have undertaken on behalf of the Incapacitated Person. I/we verify that all matters reported herein are known to me/us of my/our own knowledge, except those which are stated upon information and belief.

Sign: _____

Print Name of Guardian/Co-Guardian of
[] Person [] Property [] Person & Property

Sign: _____

Print Name of Co-Guardian
[] Person [] Property [] Person & Property

Sign: _____

Print Name of Co-Guardian
[] Person [] Property [] Person & Property

Sworn to before me

On this _____ day of _____, 202_____

Affidavit of Mailing

FILERS & JOINT FILERS

All filers may only mark one (1) box under their name.
To qualify as joint-filers, the same box must be marked under each joint-filer's name.

I, the undersigned, being sworn, say

On the _____ day of _____, 202_____

I delivered the within Initial Report of Guardian by mailing a true copy to each person named below at the address indicated:

**List parties and their addresses here*

All interested parties named in the Order and Judgment shall be served with a copy of this report and proof of mailing shall be filed with this report.

SIGN NAME

PRINT NAME