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**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF PIERCE**

In the Guardianship of: _____) **Case No.:** _____)
)
) **DECLARATION OF PROPOSED**
) **GUARDIAN (Non-Certified)**
)
)
 _____) **Clerk's code: (DCLR)**
 Incapacitated Person.)
 _____)

1. Personal Information:

Name of Proposed Guardian: _____
Mailing Address of Proposed Guardian: _____
Street Address (if different): _____
City/State/Zip: _____
Telephone Number: _____ Fax Number: _____
Email Address: _____

If proposed Guardian does not reside in Washington, provide name, address, phone and email address for resident agent: _____.

2. Non-Professional Status: I am not charging fees for carrying out the duties of court appointed Guardian of three or more incapacitated persons. I acknowledge that before I may receive fees for serving as a Guardian for three or more persons, I am required to be certified in the State of Washington.

3. Business Form: If appointed, I will serve as a Guardian as an individual person and not as an entity or representative of a business entity, such as a trust company or non-profit corporation.

1 **4. Background and Experience Helpful to Service as Guardian.** I have the following background,
2 education and experience, which may be helpful in my service as Guardian:

3 Education, training and experience: _____

4 **5. Licenses Held:** _____

5 **6. Relationship to Alleged Incapacitated Person.** I have the following relationship to the Alleged
6 Incapacitated Person (*such as family member, friend, etc.*): _____.

7 **7. Prior History as Fiduciary or Guardian.**

8 (a) I have served in a fiduciary capacity (*such as an attorney-in-fact pursuant to power of*
9 *attorney, a trustee, an executor, an administrator, or a Guardian*).

10 Yes No

11 (b) I have been removed as a fiduciary.

12 Yes No

13 If the answer to 6(b) is "Yes," describe the circumstances leading to your removal as a Guardian or as a
14 fiduciary, whether for breach of fiduciary duty or for any other reason:

15 **8. Criminal History.** RCW 11.88.020(3) expressly provides that no person is qualified to serve as a
16 Guardian if he or she has been "convicted of a felony or of a misdemeanor involving moral turpitude," (*a*
17 *crime involving dishonesty, misappropriation of funds, breach of fiduciary duty, or mistreatment of any*
18 *person*).

19 I have been convicted of such a crime Yes No

20 If the answer to the question is "Yes," identify all such convictions and dates, and whether or not your civil
21 rights have restored: _____

22 **9. Civil Proceedings.** Describe any civil or administrative proceedings in which there was a finding that
23 you had engaged in dishonesty, misappropriation of funds, breach of fiduciary duty, or mistreatment of
24 any person. Also identify any civil proceeding(c) where there was a settlement, even if such settlement
25 was without specific findings by the Court: _____

1 **10. Disciplinary Proceedings.** Describe any recorded disciplinary proceedings against you by any
2 applicable disciplinary body or licensing agency that resulted in a finding of misconduct. This would
3 include any proceedings by a professional organization such as a state bar association, a medical
4 disciplinary review board and the like: _____

5 **11. Ability to Secure Bond.** In some cases, it is necessary for the Guardian to secure a bond, which is
6 insurance coverage providing protection to the Incapacitated Person in the event of financial loss or
7 personal harm caused by the negligent or intentional conduct of the proposed Guardian. Is there any
8 reason (*such as bankruptcy or poor credit record*) why you would have difficulty obtaining a Guardian's
9 bond. If yes, please explain: _____

10 **12. Compensation and Reimbursement.** State whether you intend to request hourly compensation for
11 your services and describe expenses for which you expect to be reimbursed.
12 _____

13 **13. Summary of Guardian Duties:** The below signed proposed Guardian understands and agrees that:
14 My duties as Guardian are more fully described in:

- 15 (1) the Court Order that appoints me,
- 16 (2) the statutes of the State of Washington – (for example see the Revised Code of Washington
17 (RCW) at Chapters 11.88 & 11.92 and specifically 11.92.042 and 11.92.043 RCW.)
- 18 (3) the case law.

19 I should consult with my attorney if I have any questions. I am presumed to understand my duties
20 and responsibilities. I can be held personally responsible if I do not properly carry out my duties as
21 Guardian.

22 As Guardian, I act in a fiduciary capacity in my dealings on behalf of the Incapacitated Person.
23 This means that as the Guardian, I am required to put the interests of the Incapacitated Person ahead of
24 my personal interests in all transactions, as well as any transaction in which my interests and the interests
25 of the Incapacitated Person may be in conflict.

Additionally, if I have been appointed Guardian of the Estate, I am charged with the responsibility
of acting as a reasonably prudent person in dealing with the investment and conservation of the assets of
the Incapacitated Person and to avoid self dealing.

For health care decisions, "Before any person authorized to provide informed consent on behalf
of a patient not competent to consent exercises that authority, the person must first determine in good

1 faith that that patient, if competent, would consent to the proposed health care. If such a determination
2 cannot be made, the decision to consent to the proposed health care may be made only after determining
3 that the proposed health care is in the patient's best interests." RCW § 7.70.065(3)

4 If my personal beliefs could be in conflict with the interests of the Alleged Incapacitated Person, I
5 must first do what I believe the Incapacitated Person would do if competent. If that cannot be determined,
6 either because of lack of knowledge or because the Incapacitated Person has always been disabled, I
7 may act in the manner that I believe is in the best interest of the Alleged Incapacitated Person. I
8 understand that at any time I can seek direction from the court if there is any question of what is in the
9 best interest of the Alleged Incapacitated Person.

10 Any attorney that I retain to assist me in this guardianship proceeding will have independent
11 responsibilities and obligations to the Court. The attorney-client privilege may not extend to information
12 regarding misfeasance or malfeasance of a fiduciary. The attorney-client privilege may not extend to
13 information given by me, the Guardian, to my attorney, for any failure to follow the laws of a court-
14 appointed Guardian.

15 **If I am appointed the Guardian of the Person or Guardian of the Estate I must:**

- 16 • file a Designation of Standby Guardian with the Court;
- 17 • keep the Court informed of any change in my name, address, or bonding status; and
- 18 • file a Change of Circumstance Report within thirty (30) days of any change of location,
19 major or permanent changes in health or finances, or of the death of the Incapacitated
20 Person.
- 21 • file a Final Accounting within ninety (90) days after the termination of a guardianship.
22 11.92.053 RCW, see also 11.88.140 RCW

23 **If I am appointed the Guardian of the Estate I must also:**

- 24 • keep the Incapacitated Person's funds separate from my own, in a separate guardianship
25 bank account;
- make all payments in a timely manner and with a method so there is a record of all
transactions that can be verified by the Court at the time of each annual accounting (e.g.
checking account);
- file, within ninety (90) days of my appointment, an Inventory of the assets in the
guardianship estate, and a Budget authorizing disbursements; and
- file, within ninety (90) days of the anniversary date of my appointment (as shown on the
Letters of Guardianship), an Accounting showing the receipts and disbursements made
on behalf of the Incapacitated Person during the previous accounting period.

If I am appointed the Guardian of the Person I must also:

- file, within ninety (90) days of my appointment, a Personal Care Plan describing the care needs of the Incapacitated Person with the court; and
- file, within ninety (90) days of the anniversary date of my appointment, a Status Report describing the care and condition of the Incapacitated Person during the previous accounting period.

If I am appointed the Guardian of the Person or Guardian of the Estate I cannot:

- spend, sell, borrow, loan, invest or give away ANY of the Incapacitated Person's property (including money), without a court order;
- spend, loan, invest, or give away any of the Incapacitated Person's principal or income for any purpose without a court order;
- borrow money on behalf of the Incapacitated Person, without a court order;
- use the Incapacitated Person's money for myself or my needs, without a court order;
- pay myself a fee from the Incapacitated Person's money, without the filing of a verified petition for payment of fees with an Affidavit detailing the time spent, services provided, and compensation requested attached thereto, and a corresponding court order approving said petition; or
- force the Incapacitated Person to live ANYWHERE, including a mental institution or nursing home facility.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

Signed at _____, Washington this _____ day of _____ 20____.

Signature of Proposed Guardian

Printed Name of Proposed Guardian

Address

Telephone/Fax Number

City, State, Zip Code

Email Address