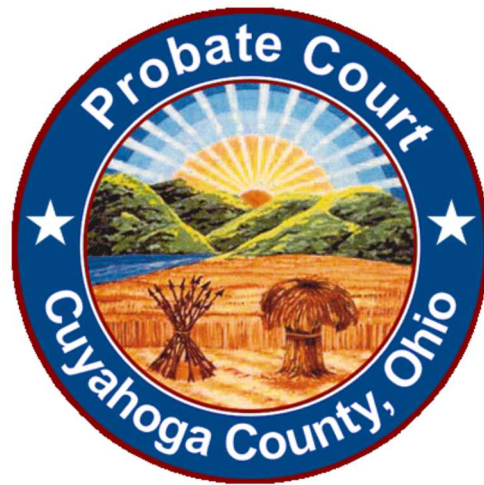


Probate Court of Cuyahoga County

Guardianship Training Handbook



Informational Booklet for Guardians of Adult Incompetents

**PROBATE COURT OF
CUYAHOGA COUNTY, OHIO**

**Anthony J. Russo, Presiding Judge
Laura J. Gallagher, Judge**

Cuyahoga County Probate Court
1 West Lakeside Avenue
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INTRODUCTION TO GUARDIANSHIP

This booklet is meant to provide some basic information to you as you begin a guardianship with the Cuyahoga County Probate Court. This information is given to the public in order to offer a general understanding of the duties and procedures of the Probate Court in reference to guardianships. This information should not be considered as a legal reference. If you have any legal questions when dealing with guardianships, an attorney should be consulted.

The personnel of this Court are not allowed to give you legal advice or assist you in completing documents for filing with the Court. The Court provides blank standard forms. These forms can be found at the Court and on the Court's website. Examples of these forms are found throughout this Handbook.

Please read over the booklet carefully and keep it for future reference.

TYPES OF GUARDIANSHIP

A guardianship is a relationship in which one party, called a guardian, acts for an individual called the ward. The ward is incapable of managing his or her personal needs and/or financial affairs. A guardian is any adult person, association, or corporation appointed by the Probate Court to assume responsibility for the care and management of the person, the estate, or both, of an incompetent person or minor child. A guardian must be at least 18 years of age and a law abiding citizen.

Incompetent • An incompetent is any person who is so mentally impaired as a result of a mental or physical illness or disability, or mental retardation, or as a result of chronic substance abuse, that the person is incapable of taking proper care of the person's self or property or fails to provide for the person's family or other persons for whom the person is charged by law to provide, or any person confined to a correctional institution within this state

Generally, there are two types of guardianships for an adult incompetent: a guardian of the person or guardian of the estate. Under some circumstances Ohio law also allows for the appointment of a limited guardian, emergency guardian, or conservator.

Guardian of the person • A guardian of the person makes decisions involving the personal needs of the ward. In addition to others, these decisions may include medical decisions or decisions as to where the ward will live.

Guardian of the Estate • A guardian of the estate makes decisions for the management of the ward's income and property. In addition to others, these decisions may include the payment or dispute of bills and the investment of any assets.

In some cases, a ward needs both a guardian of the person and a guardian of the estate. The Court does not require the same person to serve both of these roles. One person can serve as guardian of the person, and another person can serve as guardian of the estate. It is often easier if one person serves as both guardian of the ward's person and estate due to the overlapping duties.

Limited Guardian • The Court may appoint a limited guardian to perform specific duties for a definite or indefinite period of time. A limited guardian may only perform those specific duties set forth in the order of guardianship.

The ward retains control over all other aspects of the management of the ward's person and estate.

Conservatorship • In some cases an adult who is physically infirm but mentally competent may select a person (conservator) to handle his/her affairs. The adult selects the conservator because the adult is competent to make his or her own decisions. The adult may terminate the conservatorship with a written notice that is filed with the Court and sent to the conservator.

The powers and duties of the conservator are the same as a guardian unless limited.

Emergency Guardianship • The Court may appoint a guardian in an emergency without notice to the ward or family to protect against injury to the person or estate of a ward. The procedure for emergency guardianship in Cuyahoga County is set forth in Local Rule 66.03(A).

THE APPLICATION PROCESS

Procedure for Appointment of Guardian of an Adult Incompetent

When a family member, friend, or other concerned individual believes that another adult individual is not capable of taking care of himself/herself due to a mental impairment, a guardianship can be sought in the county in which the impaired individual is a resident or has a legal settlement.

The guardianship process is started by filing an *Application for Appointment of Guardian of Alleged Incompetent (Form 17.0)*. This application states that an adult is incompetent and explains the specific reasons why this person should be considered incompetent.

A *Statement of Expert Evaluation (Form 17.1)* accompanies the application. This form is completed by a physician or licensed psychiatrist and supports the claims in the application that this adult is incompetent.

Please note that, pursuant to Ohio Rule of Superintendence 66.08(B), an applicant guardian shall meet with a proposed ward **at least once** prior to appearing before the court for a guardianship appointment.

Application for Appointment of Guardian of Alleged Incompetent (Form 17.0)

Statement of Expert Evaluation (Form 17.1)

A **Next of Kin of Proposed Ward (Form 15.0)** is also filed with the application. This form lists the persons who are most closely related to the alleged incompetent. Next of kin are those persons who would be entitled to inherit from the proposed incompetent adult if the proposed incompetent adult dies without a Will. Generally, these persons may include a spouse, children, parents, and siblings.

The Court requires a **Background Check** on all applicants who wish to be appointed guardian. The Clerk will initiate the Background Check upon the filing of the application.

The Court also requires all applicants for guardian of the estate to post bond upon appointment. Bond is insurance to protect the ward's assets from theft or loss caused by the guardian's failure to properly perform his or her duties. The amount of the bond must be twice the estimated value of the ward's personal assets and annual income. The bond may be obtained from your insurance company. Applicants must complete **Guardian's Bond (Form 15.3)**. The insurance company is likely to conduct a background check before approving an individual for bonding.

Next of Kin of Proposed Ward
(Form 15.0)

PROBATE COURT OF CUYAHOGA COUNTY, OHIO
ANTHONY J. RUSSO, Presiding Judge
LAURA J. GALLAGHER, Judge

IN THE MATTER OF THE GUARDIANSHIP OF _____

CASE NUMBER _____

NEXT OF KIN OF PROPOSED WARD
(R.C. 2111.04)

(NOTE: Specify age and birthdate of each minor child. Use the line containing the minor's name. List the name and address of the minor's parent, guardian, or caretaker on the name and address line following the minor's address.)

Successor Ward	Name	Relationship	Birthdate of Minor
1. <input type="checkbox"/>	Name _____ Address _____ Zip _____	_____	_____
2. <input type="checkbox"/>	Name _____ Address _____ Zip _____	_____	_____
3. <input type="checkbox"/>	Name _____ Address _____ Zip _____	_____	_____
4. <input type="checkbox"/>	Name _____ Address _____ Zip _____	_____	_____
5. <input type="checkbox"/>	Name _____ Address _____ Zip _____	_____	_____
6. <input type="checkbox"/>	Name _____ Address _____ Zip _____	_____	_____
7. <input type="checkbox"/>	Name _____ Address _____ Zip _____	_____	_____
8. <input type="checkbox"/>	Name _____ Address _____ Zip _____	_____	_____
9. <input type="checkbox"/>	Name _____ Address _____ Zip _____	_____	_____
10. <input type="checkbox"/>	Name _____ Address _____ Zip _____	_____	_____

Date

Signature

15.0 - Next of Kin of Proposed Ward

Guardian's Bond (Form 15.3)

PROBATE COURT OF CUYAHOGA COUNTY, OHIO
Anthony J. Russo, Presiding Judge
Laura J. Gallagher, Judge

IN THE MATTER OF _____

CASE NUMBER _____

GUARDIAN'S BOND

Amount of bond \$ _____

The undersigned principal, and sureties if any, are obligated to the State of Ohio in the above amount, for payment of which we bind ourselves and our successors, heirs, executors, and administrators, jointly and severally:

The principal has accepted in writing the duties of fiduciary in ward's estate, including those imposed by law and such additional duties as may be required by the Court.

This obligation is void if the principal performs such duties as required.

This obligation remains in force if the principal fails to perform such duties, or performs them fraudulently, negligently, or improperly, or if the principal misuses or misappropriates estate assets or improperly converts them to his own use or the use of another.

(Check if personal sureties are involved.) The sureties certify that each of them owns real estate in this county, with a reasonable net value as stated below.

Name	Address
Name _____ Address _____ City _____ County or State _____ Signed or Printed Name _____ Address _____	Name _____ Address _____ City _____ County or State _____ Signed or Printed Name _____ Address _____

Net Value of real estate owned in this county \$ _____

Net Value of real estate owned in this county \$ _____

Address _____

Phone _____

Registration Number _____

15.3 GUARDIAN'S BOND

Notice of the Hearing is sent by mail to all Next of Kin who reside in Ohio. No notice is necessary for any adult next of kin of the proposed ward who agrees that the applicant should be appointed guardian, and signs a **Waiver of Notice and Consent (Form 15.1)**.

Notice of the application for guardianship must be served personally upon the proposed ward at least seven (7) days prior to the hearing and cannot be waived. The Probate Court investigator will personally serve notice of the hearing on the proposed incompetent adult. The notice advises the proposed incompetent adult of the right to be present at the hearing to contest the application, the right to be represented by counsel, and all other rights under Ohio law.

The Investigator completes a report and files it with the court. The Investigator will interview the proposed ward to supply the court with additional information concerning the proposed ward's capabilities and the need for a guardian.

A **hearing** before a Judge or Magistrate is usually held within four to six weeks after a completed application is filed. All persons are considered competent until the Court finds them to be incompetent by clear and convincing evidence. At the time of the hearing the Court will hear all evidence to determine if sufficient reasons exist to find the adult incompetent. If the Court finds the adult to be incompetent, the Court will determine whether the applicant is a suitable person to be appointed guardian.

If the court appoints the applicant guardian, the guardian will sign a **Fiduciary's Acceptance (Form 15.2)** explaining the duties and responsibilities of the guardian. Additionally, the guardian will execute and sign before the Court an Oath of Guardian agreeing to faithfully and competently fulfill the necessary guardian responsibilities.

The Probate Court Judge will issue a Court Order appointing the applicant guardian of the

incompetent adult. The Judge will also issue the guardian **Letters of Guardianship** to show that the guardian is authorized to act as the guardian of the person, estate, or both for the ward. Additional copies of the Letters of Guardianship can be obtained from the Clerk of the Court as needed.

Waiver of Notice and Consent (Form 15.1)

Fiduciary's Acceptance Guardian (Form 15.2)

Procedure for Appointment of Emergency Guardian

It is sometimes necessary to appoint a guardian on an emergency basis. This might occur where an adult incompetent has not yet been placed under a guardianship, but an emergency exists and it is reasonably certain that immediate action is required to prevent significant injury to the person or estate of the incompetent.

Applications for emergency guardianship are initiated by filing an [Application for Appointment of Guardian of Alleged Incompetent \(Form 17.0\)](#), and must be accompanied by a completed [Statement of Expert Evaluation \(Form 17.1\)](#) and a completed [Supplement for Emergency Guardian of Person \(Form 17.1A\)](#). Applications should also contain any attachments or exhibits that may assist the Probate Court in determining whether to grant an emergency guardianship.

Once the Application has been filed and the appropriate filing fee paid, the Application and any accompanying materials will be reviewed by the Judge or Guardianship Magistrate. The Judge or Guardianship Magistrate may, but is not required to, meet with the applicant or attorney filing the Application.

Emergency guardianship will be granted only if there is reasonable certainty that immediate action is required to prevent significant injury to the person or estate of the individual. The Probate Court recognizes that emergency guardianship should not be granted where another remedy may be appropriate.

Application for Appointment of Guardian of Alleged Incompetent (Form 17.0)

Supplement for Emergency Guardian of Person (Form 17.1A)

If the Judge or Guardianship Magistrate declines to grant an emergency guardianship, the Probate Court may, in its discretion, schedule the matter on an expedited basis.

If the Judge or Magistrate approves the request for emergency guardianship, the following will occur:

1. A Judgment Entry will issue granting emergency guardianship for a period of seventy-two (72) hours.
2. A hearing will be scheduled within seventy-two (72) hours in order to determine whether to extend the emergency order for up to thirty (30) days.
3. A hearing will be scheduled on the regular guardianship docket for hearing on the Application for Appointment of Guardian.
4. As soon as possible after the issuance of the emergency guardianship order, a Probate Court Investigator will visit with the respondent in order to serve notice of the emergency guardianship proceedings and scheduled Probate Court hearings.

GUARDIANSHIP DUTIES

The Court is the ward's "Superior Guardian." The Court delegates certain powers and duties to the guardian, who is responsible to the Court and must obey all orders of the Court. The Court may remove a guardian who fails to perform satisfactorily the duties of guardian or fails to obey any order of the Court.

Guardian of the Person

A Guardian of the Person is appointed by the Court to make decisions of a personal nature and provide for personal needs of the ward. The following duties and responsibilities apply to all guardians of the person.

General Responsibilities of Guardians

- **Orders, rules, and laws.** A guardian must obey all orders of the Probate Court establishing the guardianship and must perform duties in accordance with local rules and state and federal law governing guardianships. Local Rules of the Probate Court may be found on our website.
- **Pre-appointment meeting.** Unless otherwise determined by the Probate Court, an applicant guardian must meet with a proposed ward at least once prior to appearing before the Court for a guardianship appointment.
- **Reporting abuse, neglect, or exploitation.** The guardian must inform the Court of any major problems with the guardianship, such as abuse of the ward or theft of the ward's property. A guardian must immediately report to the Probate Court and, when applicable, to Adult Protective Services (APS) any appropriate allegations of abuse, neglect, or exploitation of a ward.
- **Limitation or termination of guardianship.** A guardian must seek to limit or terminate the guardianship authority and promptly notify the Probate Court if any of the following occurs:
 - (1) A ward's ability to make decisions and function independently has improved;
 - (2) Less restrictive alternatives are available;
 - (3) An unlimited guardianship is no longer in the best interest of a ward;
 - (4) A ward has died.
- **Change of residence.** A guardian must notify the Probate Court of a ward's change of residence and the reason for the change. Except if impracticable, the guardian must notify the Probate Court no later than ten (10) days prior to the proposed change. A ward's change of residence to a more restrictive setting in or outside of the county of the guardian's appointment must be subject to the Court's approval, unless a delay in authorizing the change of residence would affect the health and safety of the ward. The guardian must also notify the Court if the guardian's address changes.
- **Court approval of legal proceedings.** Because the ward is unable to protect his or her interests the guardian is responsible to make decisions for the ward and to act in the ward's best interest. This includes protecting the ward's interests in legal matters and litigation, either for or against the ward. A guardian must seek approval from the Probate Court before filing a suit for the ward.
- **Annual plan.** A guardian of a person must file with the Probate Court a **guardianship plan once every year**. This plan should be attached to the **Guardian's Report (Form 17.7)**, discussed more fully below. The guardianship plan shall state the guardian's goals for meeting the ward's personal and financial needs.

- **Annual registration.** All guardians appointed by the court who have ten (10) or more wards under their care must annually register with the Probate Court and provide such information as the Court may require, including but not limited to a fee schedule that differentiates guardianship services from legal or other direct services.
- **Limits on guardian's compensation.** A guardian shall not receive incentives or compensation from any direct service provider providing services to a ward. Please refer to Probate Court Local Rule 73 for further information regarding guardian compensation.
- **Conflict of interest.** A guardian must avoid actual or apparent conflicts of interest regarding a ward's personal or business affairs, and must report to the Probate Court all actual or apparent conflicts of interest for review and determination as to whether a waiver of the conflict of interest is in the best interest of the ward.
- **Filing of ward's legal papers.** In addition to filing an inventory, if applicable, within three (3) months after the guardian's appointment, a guardian must file with the Probate Court a list of all of the ward's important legal papers, including but not limited to estate planning documents, advance directives, and powers of attorney, and the location of such legal papers, if known at the time of the filing. If a ward has a Will, the guardian must deposit the original with the Probate Court.
- **Least restrictive alternative.** Unless otherwise approved by the Probate Court, a guardian must make a choice or decision for a ward that best meets the needs of the ward while imposing the least limitations on the ward's rights, freedom, or ability to control the ward's environment. To determine the least restrictive alternative, a guardian may seek and consider an independent assessment of the ward's functional ability, health status, and care needs.
- **Person-centered planning.** A guardian must advocate for services focused on a ward's wishes and needs to reach the ward's full potential. A guardian must strive to balance a ward's maximum independence and self-reliance with the ward's best interest.
- **Ward's support system.** A guardian must strive to foster and preserve positive relationships in the ward's life unless such relationships are substantially harmful to the ward. A guardian must be prepared to explain the reasons a particular relationship is severed and not in the ward's best interest.
- **Communication with the ward.** A guardian must strive to know a ward's preferences and belief system by seeking information from the ward and the ward's family and friends. A guardian must do all of the following:
 - (1) Meet with the ward as needed, but not less than once quarterly or as determined by the Probate Court;
 - (2) Communicate privately with the ward;
 - (3) Assess the ward's physical and mental conditions and limitations;
 - (4) Assess the appropriateness of the ward's current living arrangements;
 - (5) Assess the needs for additional services;
 - (6) Notify the court if the ward's level of care is not being met;
 - (7) Document all complaints made by a ward and assess the need to report the complaints to the court of common pleas.

Responsibilities of a Guardian to a Ward

- **Professionalism, character, and integrity.** A guardian must act in a manner above reproach, including but not limited to avoiding financial exploitation, sexual exploitation, and any other activity that is not in the best interest of the ward.
- **Exercising due diligence.** A guardian must exercise due diligence in making decisions that are in the best interest of a ward, including but not limited to communicating with the ward and being fully informed about the implications of the decisions.

- **Direct services.** Guardians shall not provide any direct services to a ward, unless otherwise approved by the Probate Court.
- **Monitor and coordinate services and benefits.** A guardian must monitor and coordinate all services and benefits provided to a ward, including doing all of the following as necessary to perform those duties:
 - (1) Having regular contact with all service providers;
 - (2) Assessing services to determine they are appropriate and continue to be in the ward's best interest;
 - (3) Maintaining eligibility for all benefits;
 - (4) Where the guardian of the person and guardian of the estate are different individuals, consulting regularly with each other.
- **Extraordinary medical issues.** A guardian must seek ethical, legal, and medical advice, as appropriate, to facilitate decisions involving extraordinary medical issues. A guardian must strive to honor the ward's preferences and belief system concerning extraordinary medical issues.
- **End of life decisions.** A guardian must make every effort to be informed about the ward's preferences and belief system in making end of life decisions on behalf of the ward.
- **Caseload.** A guardian must appropriately manage the guardian's caseload to ensure the guardian is adequately supporting and providing for the best interest of the wards in the guardian's care.
- **Duty of confidentiality.** A guardian must keep the ward's personal and financial information confidential, except when disclosure is in the best interest of the ward or upon order of the Probate Court.

Meet with the Ward

- The guardian of the person should meet with the ward as soon after the appointment as is practicable. Dependent upon the ward's mental capabilities, the guardian should communicate to the ward the role of the guardian; explain the rights of the ward; assess the ward's physical and social situation, including the ward's educational, vocational, and recreational needs; and assess the ward's preferences and the support system available to the ward.
- After meeting with the ward, the guardian should notify relevant agencies and individuals of the appointment of a guardian. These may include doctors, nursing facilities, caregivers, and family members. The guardian should make a list of the key contact information of all service providers, as well as a list of all over-the-counter and prescribed medications the ward is taking, the dosage, the reason it is taken, and the name of the prescribing doctor. The guardian must make sure the ward's medication is timely administered and in the appropriate dosages.
- The guardian must, at a minimum, visit the ward at least once quarterly. At each visit, the guardian should determine the ward's physical appearance and condition and determine the appropriateness of the ward's current living situation and the continuation of existing services and the need for additional services.

Guardian's Report

The guardian must file a **Guardian's Report (Form 17.7)**. The first Guardian's Report is due to be filed two (2) years from the date of the guardian's appointment. Additional Guardian's Reports must be filed every two (2) years after the date of the filing of the last Guardian's Report. The Guardian's Report provides the Court with information on the ward's current condition and verifies that the ward is still incompetent.

Guardian's Report (Form 17.7)

PROBATE COURT OF CUYAHOGA COUNTY, OHIO
Anthony J. Russo, Presiding Judge
Laura J. Gallagher, Judge

IN THE MATTER OF THE GUARDIANSHIP OF _____
CASE NUMBER _____

GUARDIAN'S REPORT
(R.C. 3111.49)

NOTE: If allotted space is inadequate to respond, write "See Exhibit" in the space and add appropriate exhibit letter sequence, then attach exhibit containing information requested for that space.

1. This is the (check one): 1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100. 101. 102. 103. 104. 105. 106. 107. 108. 109. 110. 111. 112. 113. 114. 115. 116. 117. 118. 119. 120. 121. 122. 123. 124. 125. 126. 127. 128. 129. 130. 131. 132. 133. 134. 135. 136. 137. 138. 139. 140. 141. 142. 143. 144. 145. 146. 147. 148. 149. 150. 151. 152. 153. 154. 155. 156. 157. 158. 159. 160. 161. 162. 163. 164. 165. 166. 167. 168. 169. 170. 171. 172. 173. 174. 175. 176. 177. 178. 179. 180. 181. 182. 183. 184. 185. 186. 187. 188. 189. 190. 191. 192. 193. 194. 195. 196. 197. 198. 199. 200. 201. 202. 203. 204. 205. 206. 207. 208. 209. 210. 211. 212. 213. 214. 215. 216. 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Most LTCFs have contracted with beauticians or barbers. You can request to have your ward's hair cut or washed, with the bill being paid out of your ward's Resident Account/Personal Needs Account (PNA), if funds are available.

When the PNA has a value close to \$2,000.00, the funds in that account will need to be brought under \$2,000.00. If they are not spent down, Medicaid eligibility will be lost. You should work with the suitable LTCF staff member to find appropriate ways to help spend your ward's funds.

Health Precautions

Here are some simple health precautions to use when you are visiting your ward or anyone else in a facility:

1. Always check with the charge nurse before entering a resident's room to learn if there are any isolation precautions;
2. Always use isolation precautions when advised by nursing staff, including isolation garments, if needed;
3. Wash your hands after leaving the room or having contact with your ward or any resident/patient; and
4. If your ward has a +PPD (positive TB), learn the policy at your ward's LTCF.

Plan of Care Conferences

LTCFs are required by law to have a Plan of Care Conference for each resident at least once every three (3) months. As guardian, you have a right to be notified, attend, and have input into the Plan of Care for your ward. The Care Conferences include all departments at the LTCF, such as social work, nursing, and dietary. This Conference is an opportunity for you as guardian to hear what each department is planning to best meet the needs of your ward. If you have not been notified, contact the LTCF social worker.

Access to the Resident Chart

As legal guardian, you have the right to see the chart for your ward. The LTCF may require that one of their staff members be with you when you review your ward's chart. This can be helpful, as the staff member may be able to answer questions you might have. The chart is a valuable source of information to you to understand medications, weight gain or loss, nurses' notes, etc. Please note that the LTCF has the legal right to request that the guardian notify it twenty-four (24) hours in advance before viewing the chart.

Code Status

DNR (Do Not Resuscitate) means a medical order given by a physician and written in the medical records that cardiopulmonary resuscitation or CPR is not to be administered. **CPR** means treatment to try to restart your ward's breathing or heartbeat. CPR may be done by breathing into the mouth, pushing on the chest, putting a tube through the mouth or nose into the throat, administering medication, giving electric shock to the chest, or by other means. **Full-Code** means CPR will be administered. **DNRCC** means Do Not Resuscitate Comfort Care.

You will need to review the current code status of your ward. Either the previous guardian or the ward (when they were still competent) had to consider signing a code status upon admission to the LTCF. At this time, DNR orders are either DNRCC or DNRCC-Arrest. If you need clarification of a DNR order, you can contact your ward's physician or a LTCF staff member. When someone does not have a DNR order, they are considered Full-Code. As the new guardian, you must re-evaluate and make your own decision on which DNR order is most appropriate for your ward. The LTCF physician will need to initiate the DNR order, but it is usually the social worker with whom you will work. You must get the DNR form from the social worker, which will be signed by you and the physician, and which will be kept in the ward's chart. If your ward is able to communicate with you, you should discuss their code status order with them.

Medications

Your ward's chart at the LTCF will have a list of all the medications that have been prescribed for them. The chart lists the names of the medications, their strength and dosage. Some general medication terms are:

- "QD" – every day
- "BID" – twice a day
- "TID" – three times a day
- "QID" – four times a day
- "HS" – bed time
- "PO" – by mouth
- "PRN" – as needed

If you have any questions regarding medications, you should ask the charge nurse. If staff is unavailable to help you, you can contact your ward's physician. You can get the physician's name and contact information from the chart or a staff member. It is a good idea to know if any of your ward's medications have adverse or long-term side effects.

Hospice/Palliative Care

The hospice/palliative care concept of compassionate care offers comfort-oriented services to the terminally ill. With the focus on pain management, symptom control and emotional support, hospice care has become one of the fastest growing health care services in this country. When a patient's condition is determined to be terminal, with months rather than years of life expectancy, or your ward has a severe decline in health/cognition, a request for hospice care can be made. The patient's physician continues to assume responsibility for medical care, but the hospice team members will work with the physician, serving as liaisons for patients and families/guardians. If you feel your ward would benefit from services, contact your ward's physician regarding eligibility.

Medicaid

The guardian is responsible for securing and maintaining the ward's Medicaid eligibility. Every year, Medicaid performs a "re-determination" of eligibility to make sure the individual still qualifies. As a LTCF Medicaid resident, your ward is not allowed over \$2,000.00 in their Personal Needs Account. As the guardian, you may receive a notice to do a face-to-face interview at the Medicaid office. With the guardian's permission, the LTCF Social Worker, Medicaid liaison, or another staff member, can take the place of the guardian at face-to-face interviews. If you need assistance with your ward's Medicaid, please consult an attorney.

Personal Needs Account

When a LTCF resident is on Medicaid, they receive a set amount monthly from their income check for their personal needs. If they receive Supplemental Security Income (SSI), they are given \$30.00 monthly. Those on Social Security (SS) receive \$40.00 monthly. Certain Veterans (VA) get \$90.00 monthly. These funds are deposited into your ward's Personal Needs Account (PNA). These funds are for their personal needs, such as haircuts, clothing, outings, candy, cigarettes, etc. You cannot pay your court bill from funds in the PNA. If your ward is not getting their monthly benefit, talk to the LTCF social worker or bookkeeper.

The LTCF, as representative payee, has the responsibility of monitoring your ward's PNA. As guardian of person, you should work with the LTCF in making approved purchases for your ward. Talk with the LTCF's bookkeeper regarding their reimbursement policy prior to purchasing anything for your ward.

As the guardian, you may request the LTCF give you a quarterly accounting of your ward's PNA. This will list all funds deposited and withdrawn from the account. Knowing what funds your ward has available allows you to better oversee your ward's needs. You have the right to question the LTCF's spending of your ward's funds.

Guardian of the Estate

A Guardian of the Estate makes decisions of a financial nature and manages the ward's estate. The ward's estate includes any real and personal property, deposit accounts, or other assets. The following duties apply to all guardians of the estate.

General Responsibilities of Guardians

- **Orders, rules, and laws.** A guardian must obey all orders of the Probate Court establishing the guardianship and must perform duties in accordance with local rules and state and federal law governing guardianships. Local Rules of the Probate Court may be found on our website.
- **Pre-appointment meeting.** Unless otherwise determined by the Probate Court, an applicant guardian must meet with a proposed ward at least once prior to appearing before the Court for a guardianship appointment.
- **Reporting abuse, neglect, or exploitation.** The guardian must inform the Court of any major problems with the guardianship, such as abuse of the ward or theft of the ward's property. A guardian must immediately report to the Probate Court and, when applicable, to Adult Protective Services (APS) any appropriate allegations of abuse, neglect, or exploitation of a ward.
- **Limitation or termination of guardianship.** A guardian must seek to limit or terminate the guardianship authority and promptly notify the Probate Court if any of the following occurs:
 - (1) A ward's ability to make decisions and function independently has improved;
 - (2) Less restrictive alternatives are available;
 - (3) An unlimited guardianship is no longer in the best interest of a ward;
 - (4) A ward has died.
- **Change of residence.** A guardian must notify the Probate Court of a ward's change of residence and the reason for the change. Except if impracticable, the guardian must notify the Probate Court no later than ten (10) days prior to the proposed

change. A ward's change of residence to a more restrictive setting in or outside of the county of the guardian's appointment must be subject to the Court's approval, unless a delay in authorizing the change of residence would affect the health and safety of the ward. The guardian must also notify the Court if the guardian's address changes.

- **Court approval of legal proceedings.** Because the ward is unable to protect his or her interests the guardian is responsible to make decisions for the ward and to act in the ward's best interest. This includes protecting the ward's interests in legal matters and litigation, either for or against the ward. A guardian must seek approval from the Probate Court before filing a suit for the ward.
- **Annual plan.** A guardian of a person must file with the Probate Court a **guardianship plan once every year**. This plan should be attached to the **Guardian's Report (Form 17.7)**, discussed more fully below. The guardianship plan shall state the guardian's goals for meeting the ward's personal and financial needs.
- **Annual registration.** All guardians appointed by the court who have ten (10) or more wards under their care must annually register with the Probate Court and provide such information as the Court may require, including but not limited to a fee schedule that differentiates guardianship services from legal or other direct services.
- **Limits on guardian's compensation.** A guardian shall not receive incentives or compensation from any direct service provider providing services to a ward. Please refer to Probate Court Local Rule 73 for further information regarding guardian compensation.
- **Conflict of interest.** A guardian must avoid actual or apparent conflicts of interest regarding a ward's personal or business affairs. A guardian must report to the Probate Court all actual or apparent conflicts of interest for review and determination as to whether a waiver of the conflict of interest is in the best interest of the ward.

- **Filing of ward’s legal papers.** In addition to filing an inventory, if applicable, within three (3) months after the guardian’s appointment, a guardian must file with the Probate Court a list of all of the ward’s important legal papers, including but not limited to estate planning documents, advance directives, and powers of attorney, and the location of such legal papers, if known at the time of the filing. If a ward has a Will, the guardian must deposit the original with the Probate Court.

Responsibilities of a Guardian to a Ward

- **Professionalism, character, and integrity.** A guardian must act in a manner above reproach, including but not limited to avoiding financial exploitation, sexual exploitation, and any other activity that is not in the best interest of the ward.
- **Exercising due diligence.** A guardian must exercise due diligence in making decisions that are in the best interest of a ward, including but not limited to communicating with the ward and being fully informed about the implications of the decisions.
- **Least restrictive alternative.** Unless otherwise approved by the Probate Court, a guardian must make a choice or decision for a ward that best meets the needs of the ward while imposing the least limitations on the ward’s rights, freedom, or ability to control the ward’s environment. To determine the least restrictive alternative, a guardian may seek and consider an independent assessment of the ward’s functional ability, health status, and care needs.
- **Person-centered planning.** A guardian must advocate for services focused on a ward’s wishes and needs to reach the ward’s full potential. A guardian must strive to balance a ward’s maximum independence and self-reliance with the ward’s best interest.
- **Ward’s support system.** A guardian must strive to foster and preserve positive relationships in the ward’s life unless such relationships are substantially harmful to the ward. A guardian

must be prepared to explain the reasons a particular relationship is severed and not in the ward’s best interest.

- **Communication with the ward.** A guardian must strive to know a ward’s preferences and belief system by seeking information from the ward and the ward’s family and friends. A guardian must do all of the following:
 - (1) Meet with the ward as needed, but not less than once quarterly or as determined by the Probate Court;
 - (2) Communicate privately with the ward;
 - (3) Assess the ward’s physical and mental conditions and limitations;
 - (4) Assess the appropriateness of the ward’s current living arrangements;
 - (5) Assess the needs for additional services;
 - (6) Notify the court if the ward’s level of care is not being met;
 - (7) Document all complaints made by a ward and assess the need to report the complaints to the court of common pleas.
- **Direct services.** Guardians shall not provide any direct services to a ward, unless otherwise approved by the Probate Court.
- **Monitor and coordinate services and benefits.** A guardian must monitor and coordinate all services and benefits provided to a ward, including doing all of the following as necessary to perform those duties:
 - (1) Having regular contact with all service providers;
 - (2) Assessing services to determine they are appropriate and continue to be in the ward’s best interest;
 - (3) Maintaining eligibility for all benefits;
 - (4) Where the guardian of the person and guardian of the estate are different individuals, consulting regularly with each other.

- **Extraordinary medical issues.** A guardian must seek ethical, legal, and medical advice, as appropriate, to facilitate decisions involving extraordinary medical issues. A guardian must strive to honor the ward’s preferences and belief system concerning extraordinary medical issues.
- **End of life decisions.** A guardian must make every effort to be informed about the ward’s preferences and belief system in making end of life decisions on behalf of the ward.
- **Caseload.** A guardian must appropriately manage the guardian’s caseload to ensure the guardian is adequately supporting and providing for the best interest of the wards in the guardian’s care.
- **Duty of confidentiality.** A guardian must keep the ward’s personal and financial information confidential, except when disclosure is in the best interest of the ward or upon order of the Probate Court.

Managing the Ward’s Assets

- The guardian of the estate must take all reasonable steps to collect and preserve the ward’s assets, and maintain them in separate guardian’s bank accounts.
- The guardian must maintain legible, accurate records of all of the ward’s assets which are received and spent. The guardian must have cancelled checks or other receipts to verify all distributions from the ward’s assets.
- The guardian may not use or benefit from the ward’s assets. Any loans to the guardian or the guardian’s family are grounds for removal. The ward’s assets must be kept separate from the guardian’s assets.
- The ward’s assets will only be released to the guardian upon order of the Court.
- The guardian should sign all documents as guardian of the estate to limit personal liability.
- The guardian must file the ward’s income tax returns and pay any tax debts of the ward.
- The guardian may not make any gifts from the ward’s assets without the Court’s prior approval.

Bonding

- Before issuance of Letters of Authority, guardians of estate must apply for and obtain a **Guardian’s Bond (Form 15.3)** from an insurance company.
- Bond amounts are set by the Court at a hearing.
- Bonding companies often conduct a background check and credit check before issuing a bond.
- Many bond companies will require that an applicant be represented by legal counsel.
- The **Guardian’s Bond** will be completed by the bonding company. Completed bonds should be presented to the Clerk’s Office before Letters of Authority will be issued.

Guardian’s Bond (Form 15.3)

PROBATE COURT OF CUYAHOGA COUNTY, OHIO
Anthony J. Russo, Presiding Judge
Laura J. Gallagher, Judge

IN THE MATTER OF _____
CASE NUMBER _____

GUARDIAN'S BOND

Amount of bond \$ _____

The undersigned principal, and sureties if any, are obligated to the State of Ohio in the above amount, for payment of which we bind ourselves and our successors, heirs, executors, and administrators, jointly and severally.

The principal has accepted in writing the duties of fiduciary in ward's estate, including those imposed by law and such additional duties as may be required by the Court.

This obligation is void if the principal performs such duties as required.

This obligation remains in force if the principal fails to perform such duties, or performs them tardily, negligently, or improperly, or if the principal misuses or misappropriates estate assets or improperly converts them to his own use or the use of another.

(Check if personal sureties are involved.) The sureties certify that each of them owns real estate in this county, with a reasonable net value as stated below.

Name _____ County _____ Attorney at Law _____ Typed or Printed Name _____ Address _____	Principal _____ County _____ Attorney at Law _____ Typed or Printed Name _____ Address _____
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Net Value of real estate owned in this county \$ _____

Net Value of real estate owned in this county \$ _____

Attorney _____
 Address _____
 Phone _____
 Registration Number _____

15.3 GUARDIAN'S BOND 828

Inventory

- One of the first duties of the guardian of the estate is to make a diligent search for all assets owned by the ward. The ward's records should be reviewed to locate the ward's assets. The guardian should locate and identify all bank accounts, investment accounts, un-cashed checks, cash, stocks, bonds, notes, life insurance policies, real estate, vehicles, business interests, IRA or retirement accounts, household goods, safety deposit boxes, jewelry, furniture, antiques, any other personal property, and money owed to the ward.
- The guardian should list all of the ward's assets and assign a value to the ward's assets as of the date of the guardian's appointment. This is done by filling out an **Inventory (Form 15.5)** and filing the Inventory with the Court within ninety (90) days from the date of appointment.

Guardian's Inventory (Form 15.5)

PROBATE COURT OF CUYAHOGA COUNTY, OHIO
 Anthony J. Russo, Presiding Judge
 Laura J. Callaghan, Judge

IN THE MATTER OF THE GUARDIANSHIP OF _____
 CASE NUMBER _____

Guardian's Inventory
 (R.C. 2114.14 (A))
 of the real and personal estate of the ward, with its
 value and the value of the yearly rent of the real estate

List any safety deposit boxes and date and location of any Wills. \$ _____

RECAPITULATION

Total Value of Personal Estate	\$ _____
Total Value of Real Estate	\$ _____
Yearly rent of Real Estate	\$ _____
Other annual income	\$ _____
Total	\$ _____

 Guardian

H.M. Goodwin's Secretary 6/99

How to Value Estate Assets for Inventory.

- Assets such as cash, un-cashed checks, bank accounts and investment accounts should be listed at their value on the date of the guardian's appointment. Certain assets may require the assistance of an appraiser to determine the present market value of the assets.
- Stock should be valued as of the date of the guardian's appointment at its closing value on whatever stock exchange the stock is traded.
- Savings bonds should be listed at their face value. The date of issuance should also be listed.
- Life insurance policies should be listed at both their face value and any cash value. Most policies, which have a cash value, contain a chart as part of the policy by which to determine cash value.
- Vehicles should be listed using the Kelley Blue Book value for the vehicle for the month the guardian is appointed.
- The guardian may estimate the value of furniture, but antiques must be appraised by a qualified appraiser on the Court's list. Real estate may be listed at the value on the county property tax records. The guardian can obtain this information from the County Fiscal Officer if a copy of the tax bill cannot be located. (<https://fiscalofficer.cuyahogacounty.us/>) Real estate is not required to be appraised or bonded unless the ward's real estate is to be sold. The legal description and parcel number of all real estate should be included in the Inventory.

Application for authority to release ward's funds

- Before the guardian can obtain any of the ward's monies, the Court must release the ward's funds to the guardian. The ward's monies are frozen by the order of the Court that appoints the guardian. When the guardian is appointed, the Court issues a Letter of Guardianship to show that the guardian has been appointed. Notice that the Letter of Guardianship states that the guardian cannot access the ward's monies until the Court releases the ward's funds. The ward's funds are released by an order from the Court. The guardian applies for this order by completing an **Application to Release Funds to Guardian (Form 15.6)**.

Application to Release Funds to Guardian (Form 15.6)

PROBATE COURT OF CUYAHOGA COUNTY, OHIO
Anthony J. Russo, Presiding Judge
Laura J. Gallagher, Judge

IN THE MATTER OF THE GUARDIANSHIP OF _____
CASE NUMBER _____

APPLICATION TO RELEASE FUNDS TO GUARDIAN

Now comes the guardian of the above-named ward and makes application for authority to secure the release of the following funds of the ward:

The applicant further states that it is for the best interest of the ward that this authority be granted.

Guardian

ORDER AUTHORIZING RELEASE OF FUNDS

This ____ day of _____, 20____, this cause came on to be heard upon the application of the guardian of the above-named ward and the evidence, and the Court being fully advised in the premises, hereby authorizes the release of the above funds to the guardian.

Probate Judge

15.6 - Application to Release Funds to Guardian 6189

- Once the ward's funds are released to the guardian, the guardian must place these funds in a guardianship account at an approved bank or investment institution.

Application for authority to expend funds

- A guardian has the responsibility to pay the ward's bills and collect the ward's income. The guardian MUST obtain the approval of the Court before spending any of the ward's money. After the Inventory is filed, the guardian of the estate may apply for authority to spend the ward's money on things necessary for the ward's well-being. The guardian obtains the approval of the Court by filing an **Application for Authority to Expend Funds (Form 15.7)**.

Application for Authority to Expend Funds (Form 15.7)

PROBATE COURT OF CUYAHOGA COUNTY, OHIO
Anthony J. Russo, Presiding Judge
Laura J. Gallagher, Judge

IN THE MATTER OF THE GUARDIANSHIP OF _____
CASE NUMBER _____

APPLICATION FOR AUTHORITY TO EXPEND FUNDS

Now comes the undersigned, guardian of the estate of the above-named minor incompetent ward, and makes application for authority to expend funds for the best interest of the ward as follows: [State amount requested, nature of expenditures, and the frequency and duration of authority requested. Attach additional explanation, documentation, or estimates as needed.]

ORDER AUTHORIZING EXPENDITURE OF FUNDS

This ____ day of _____, 20____, this cause came on to be heard upon the application of the guardian of the estate of the above-named ward and the evidence, and the Court being fully advised in the premises, hereby authorizes the guardian to expend funds as set forth in the Application.

Probate Judge

Form 15.7 - Application for Authority to Expend Funds 6189

- This **Application for Authority to Expend Funds** form can be used to obtain permission to make a one-time expenditure or to set up monthly or periodic expenditures.
- When a guardian has authority to use some of the ward's funds the guardian should get receipts and/or cancelled checks indicating the amount of funds expended and the purpose of the expenditure. The expenditure needs to match a previously approved request. **The guardian may not access the funds of the ward by means of an automatic teller machine (ATM) card.**

Guardian’s Biannual Account

- As guardian, it is your responsibility to account for all of the ward’s assets. This includes all the income and assets received and all the expenditures made on behalf of the ward. Each month the guardian should review the guardianship bank statements and organize receipts indicating deposits and expenditures.
- Every two (2) years, the guardian must file a **Guardian’s Account (Form 15.8)** with the Court. The guardian’s first account must be filed with the Court two (2) years from the date of the guardian’s appointment. The guardian’s future accounts are due two (2) years from the ending date of the prior account.
- The Guardianship Account starts with a total of the assets from the Inventory and adds all income and other additions to the ward’s funds. From the total of all the ward’s annual assets, the guardian subtracts all the Court-approved expenditures and those expenses taken without Court approval (court costs, taxes, etc.). The balance on the account form lists all the funds and assets remaining at the end of the accounting period. These assets must be verified by bank statements or other documents that are submitted to the court for approval with the Account.
- The guardian’s account must list all assets received and expended during the accounting period. The guardian must list all expenditures made during the accounting period. **The expenditures MUST be verified by cancelled checks or other receipts.** The Court may disallow any expenditure, which cannot be proven by a cancelled check or other receipt, and the guardian may be required to repay these funds.

- The guardian will be ordered to appear before the Court if accounts are not filed on a timely basis. Guardians may be removed or have their guardian’s fees denied or reduced if they do not file an account on time. The guardian must list all assets received and spent from the guardianship estate during the period of the account. All disbursements must be verified by cancelled checks or other receipts.
- The guardian should review the guardian’s bond when the annual account is filed. The bond must be twice the value of personal assets on hand at the end of the accounting period and twice the value of any anticipated annual income. If the bond needs to be increased, the guardian must obtain an additional bond from the guardian’s bonding company and submit it with the account.

Guardian’s Account (Form 15.8)

Sale of the ward's property

- Generally, if the ward's property is being wasted or not used by the ward, and it is in the best interest of the ward, the property may be sold in order to help support the ward. Proceeds from the sale must be deposited in the guardianship account. The guardian of the estate may sell the ward's **personal property** without Court permission for the best obtainable price. The guardian may not sell the ward's **real estate** without the Court's permission. The guardian must file a land sale action to sell the ward's real estate. A land sale action is a complicated legal proceeding, requiring the help of an experienced attorney. The guardian is not allowed to purchase the ward's personal property or real estate.
- If all heirs of a ward consent to the sale of the ward's real estate, a ***Consent to Power to Sell Real Estate*** may be filed instead of a land sale action. For a Consent to Power to Sell Real Estate to be granted, the guardian of estate must obtain an appraisal of the property and list a proposed sale price of at least 80% of the appraised value of the real estate. The anticipated proceeds from the sale must also be included in the application.

Investments

- The guardian is required to invest any surplus guardianship funds. The guardian may only invest the ward's assets in those institutions and investments allowed by law. The fiduciary investment statutes, R.C. 2109.37 and R.C. 2109.371, should be reviewed and followed carefully. This Court does not require prior approval of investments made by the guardian of the estate. This Court will review the investments to determine if they are in compliance with the investment statutes.
- The guardian should review all remaining investments to make sure that they are invested properly.

SPECIAL GUARDIAN ISSUES

Application for Extension of Time to File

The guardian must file a number of documents with the Court at different times. It is a serious matter if a guardian’s account or a guardian’s inventory is not filed when due. The Court will issue a citation to the guardian for overdue filings. The citation is an order of the Court. The Sheriff serves the citation on the guardian. The citation requires the guardian either to file the document by a specific date or to appear before the Court on that date.

The guardian must appear before the Court if the document is not filed. If the guardian fails to appear before the Court, the Court may issue a warrant for the guardian’s arrest. The Court may also remove or fine the guardian. If the guardian needs additional time to file documents with the Court, the guardian can request an extension of time. The request must be filed before the due date of the document. The Court will not grant an extension of time once a citation has been issued.

Guardian of Person: Social Security Income

If the ward has less than \$25,000.00 in assets, and the ward’s only source of income is Social Security, the guardian of person can make a request to be appointed as Representative Payee.

The request must be made in a neighborhood Social Security Office and will often eliminate the need to appoint a guardian of estate.

Guardian of Person: Application to Pay or Deliver Funds

A duly-appointed guardian of person may file in the Probate Court an application to pay or deliver funds of the ward if the total amount of assets does not exceed \$25,000.00. This is done by completing an *Application to Pay or Deliver Estate of an Incompetent Adult without Appointment of a Guardian of Estate*. The guardian must indicate on the Application how the funds are to be spent. Typical expenditures include pre-paid funeral plots, nursing home expenses, medical bills, etc. The Court may schedule a hearing to review expenditures.

[Application to Pay or Deliver Estate of an Incompetent Adult without Appointment of a Guardian of Estate](#)

The form is titled "PROBATE COURT OF CUYAHOGA COUNTY" and lists the judges: Anthony J. Buson, Presiding Judge, and Laura J. Gallagher, Judge. It is for "IN THE MATTER OF THE GUARDIANSHIP OF" and "CASE NUMBER:". The title of the application is "APPLICATION TO PAY OR DELIVER ESTATE OF AN INCOMPETENT ADULT WITHOUT APPOINTMENT OF A GUARDIAN OF ESTATE".

The form contains several paragraphs of text with blank lines for input:

- "Name correct the undersigned and represents that ___he is Guardian of the Person of ___ aged ___ years, who resides at ___ who was on the ___ day of ___, 20___, adjudged an incompetent person by the probate Court of Cuyahoga County. The Guardian of the Person further represents that the above named person is the owner of, or entitled to receive property not exceeding in value the sum of \$25,000.00, described as follows: ___"
- "The Guardian of the Person further represents that the above listed property constitutes the entire estate of the person and that ___he has no legally appointed Guardian of Estate."
- "The Guardian of the Person further represents that the funds or property received will be deposited or used for the benefit of the ward as follows: ___"
- "Funds to be deposited and held in a depository authorized to receive fiduciary funds. Verification of Receipt and Disposit, Form 22.3 shall be filed with the Court within thirty days."
- "Funds to be released to the Guardian of the Person and expended for the benefit of the ward as follows: ___"

At the bottom, there are fields for "Name of Guardian", "Address of Guardian", "City", "State", "Zip", "Telephone Number (include area code)", and "Signature of Guardian".

Guardian of Estate: Guardian Fees and Attorney Fees

Guardian Fees and Attorney Fees

As the guardian of the estate you perform a number of duties for the ward's benefit. Some of these duties involve considerable time and effort on the part of the guardian. The guardian of the estate may be paid compensation for the guardian's time and efforts. The guardian has the option to accept this fee in full, in part, or to decline the fee.

The guardian must report any compensation as income on the guardian's personal income tax return. Compensation is determined by **Local Rule 73**. A guardian's compensation must be included on the guardian's account; attach a copy of the **Computation of Guardian Fees** form to the account.

Attorney fees are allowed for the necessary and reasonable attorney services which are provided to the guardianship. Attorney fees are allowed only after an application for attorney fees has been filed by the attorney with this Court. The application must include an itemized list of services rendered and time spent.

Computation of Guardian Fees

PROBATE COURT OF CUYAHOGA COUNTY, OHIO Anthony J. Russo, Presiding Judge Laura J. Gallagher, Judge		
IN THE MATTER OF THE GUARDIANSHIP OF _____		
CASE NUMBER _____		
COMPUTATION OF GUARDIAN FEES (Local Rule 73.1)		
GUARDIANSHIP ESTATES		
The Account Covers: <input type="checkbox"/> One Year <input type="checkbox"/> One Year		
I. Income received, not including a conversion of assets, covered in this account		
10% of the gross rental income from real estate	Total Income:	FEES:
3% of the remaining income	_____	0.00
	_____	_____
II. Expenditures, not including any guardian's fees or distributions, covered in this account		
2% of the total expenditures where the total expenditures are LESS THAN \$200,000.00	Total Expenditures:	FEES:
	_____	_____
	_____	_____
III. Fair value of the guardianship principal (inventory value or balance on hand from last account)		
\$2.50 per thousand of the total principal + _____ x (4)	Total Principal:	FEES:
	_____	_____
	_____	_____
TOTAL FEES allowable in computations I, II and III above:	TOTAL FEES:	0.00
(The Guardian may charge a maximum fee of \$400.00 per year)		
Revised: Applications Filed After March 1, 2011		

Guardian of Estate: Sanctions

The guardian of the estate has an obligation to follow the orders of the Probate Court and timely perform the responsibilities of guardian. The Court has the authority to reduce or deny guardian fees and attorney fees if a guardian does not file all documents on time.

The Court will issue a citation to the guardian for an overdue filing. The citation is an order of the Court. The citation requires the guardian either to file the document by a specific date or to appear before the Court on that date.

If the guardian needs additional time to file documents with the Court, the guardian can request an extension of time. The request must be filed before the due date of the documents. The Court will not grant an extension of time once a citation has been issued.

The Sheriff serves the citation on the guardian. The guardian must appear before the Court if the document is not filed. If the guardian fails to appear before the Court, the Court may issue a warrant for the guardian's arrest. The Court may also remove or fine the guardian.

APPENDIX

Cuyahoga County Local Rule 73, Guardian's Compensation

***The following Local Rule applies to guardians of estate.**

(A) Unless otherwise provided by law or ordered by the court, a guardian may charge for ordinary services an amount computed in accordance with the following schedule:

(1) During each accounting period required by statute:

(a) 3% of the total income; and 3% of the total expenditures.

(b) 10% of gross rental income from real estate.

(2) An annual fee of \$2.50 per \$1,000.00 of the fair market value of the principal.

(3) Minimum compensation of \$500.00 per year.

(4) Compensation computed on income will not be allowed on balances carried forward from one accounting period to another; nor will an investment of funds of the final distribution of unexpended balances to award at the close of a guardianship be considered as an expenditure.

(B) For the purpose of computing a guardian's compensation as herein provided, the fair market value of the principal shall be determined by the guardian as of the appointment date and as of each anniversary thereafter. The compensation so determined may be charged during the ensuing year. The annual principal valuation shall be adjusted from time to time to reflect additions to and withdrawals from the principal of the estate, and the compensation for the remaining portion of the annual period shall be similarly adjusted to reflect such revised valuation.

(C) Additional compensation, reimbursement for expenses incurred, and fees of a guardian of the person only may be fixed by the court on application. The court may require that applications for fees or compensation be set for hearing and that written notice of the time and place of the hearing and the amount applied for be given to interested parties, as required by the court. A copy of the notice, with certified mail return receipt attached, together with an affidavit of the service of such notice, shall be filed prior to the hearing.

(D) The compensation of co-guardians in the aggregate shall not exceed the compensation which would have been payable if only one guardian had been acting.

(E) A separate schedule of the computation of the guardian's compensation shall be set forth in the guardian's account as a condition of its approval.

(F) Except for good cause shown, neither compensation for a guardian nor fees to the attorney representing the guardian, will be allowed when the guardian is delinquent in filing an account as required by RC 2109.30.

HISTORY: (Amended, Effective 4-3-06; 3-1-11(Effective for applications filed on or after March 1, 2011))

Helpful Resources for Guardians

For Finding Family

www.411.com • Good general site for searching telephone numbers, reverse lookups & addresses.

www.infoplease.com • A more general information search site.

www.msn.com • This website provides white pages & yellow pages.

www.dogpile.com • Does a mega search of 10-15 search engines at one time.

www.odh.state.oh.us • Ohio Department of Health (vital records, birth/death/marriage certificate & divorce records).

www.rootsweb.com • This is a genealogy site. Also has a link to the Social Security Administration's Death Indexes.

www.ancestry.com • This is a genealogy site.

www.ohiohistory.org • This is the Ohio Historical Society website & link to their archives.

For Burial Planning

www.cem.va.gov • This is the Veterans' Administration's site for VA cemeteries. To determine burial eligibility, call 1-800-827-1000.

www.archives.gov • This is the homepage for the national archives.

www.rrb.gov/railroadretirement • This is a website for benefits to Railroad Retirees, including burial benefits.

www.homesteaderslife.com • Homesteaders has burial trusts for 3,000 funeral homes across the country.

www.ofda.org • This is the Ohio Funeral Directors Association. Helpful tips on funeral planning. May also have records of pre-arrangements.

www.ftc.gov/bcp/menus/consumer/shop/funeral.shtm • This is the Federal Trade Commission site which regulates funeral homes.

Other Useful Sites

www.ltco.org • The website for Long Term Care Ombudsman that serves the Ohio counties of Cuyahoga, Geauga, Lake, Lorain, and Medina.

www.211cleveland.org • The website for United Way's 2-1-1 program serving Cuyahoga, Geauga, Medina, Wayne, and Holmes Counties. 2-1-1 is a free community service you can use to get information about social, health and government resources 24 hours a day, every day. Simply dial 2-1-1 or browse the online directory below to find the resources you need.

www.psa10a.org • The website for the Western Reserve Area Agency on Aging which is responsible for planning, coordinating and administering state and federal funded programs and services for older adults. ON this site is a link to the Network of Care, a comprehensive, internet-based resource for seniors and people with disabilities, as well as their caregivers and service providers.

www.adamhsc.org • The website for the Alcohol, Drug and Mental Health Board of Cuyahoga County.

www.sconet.state.oh.us/websit/courts • This is the State of Ohio links to county offices, including all County Recorder's Office links. The recorder's office is useful in looking up property ownership, some POAs and other useful information.

www.naela.org • The website for the National Association of Elder Law Attorneys. Share this site with families and community members seeking attorneys skilled in Elder Law.

www.guardianship.org • The National Guardianship Association website. Download the NGA Standards of Practice, learn about upcoming events and take online guardianship course.

www.guardianshipohio.org • The website of the Ohio Guardianship Association. Learn about OGA's mission, legislative efforts, and upcoming events. Become a member and have access to online discussions on guardianship issues throughout the state.

www.lutheranmetro.org • The website for Lutheran Metropolitan Ministry and the guardianship programs which are listed under Adult Support & Advocacy.

www.agscleveland.org • This is the website specific to Adult Guardianship Services.

www.olrs.ohio.gov • This is the website for Ohio Legal Rights Service.

Forms Checklist

- Application for Appointment of Guardian of Alleged Incompetent (Form 17.0)
- Next of Kin of Proposed Ward (Form 15.0)
- Waiver of Notice and Consent (Form 15.1)
- Statement of Expert Evaluation (Form 17.1)
- Fiduciary's Acceptance Guardian (Form 15.2)
- Guardian's Bond (Form 15.3)
- Guardian's Inventory Form (15.5)
- Guardian's Account (Form 15.8)
- Application to Release Funds to Guardian (Form 15.6)
- Application for Authority to Expend Funds (Form 15.7)
- Guardian's Report (Form 17.7)
- Computation of Guardian Fees
- Application to Pay or Deliver Estate of an Incompetent Adult without Appointment of a Guardian of Estate
- Application to Dispense with Subsequent Statements of Expert Evaluation (Form 17.2)

You may find Court Forms on the Probate Court's website, <http://probate.cuyahogacounty.us/>, under the "Court Forms" tab.