

IN THE MATTER OF

Amended

**Report of
Guardian ad Litem
(Guardianship
Due to Incompetency)**

Case No. _____

Date of Birth _____

I am the court appointed Guardian ad Litem for the above named individual and report to the court that I have completed the following duties **(except as noted in the “Additional Comments” section at the end of this report)** and make the following report and recommendations:

GENERAL DUTIES

1. INTERVIEWED INDIVIDUAL AND ADVISED INDIVIDUAL OF RIGHTS AND PROCEDURE.

On (date) _____ at (place) _____,

I interviewed individual and explained to the individual the contents of the petition, the applicable hearing procedure, the right to counsel, and the right to request or continue a limited guardianship.

I advised individual, both orally and in writing of that person’s right: to be present at the hearing; to counsel, including when a lawyer can be appointed; to an independent medical or psychological examination on the issue of competency (at county expense if the person is indigent); to a jury trial; and to appeal.

2. INTERVIEWED PROPOSED GUARDIAN(S)

I interviewed the proposed guardian, proposed stand-by guardian, if any, and any other person seeking appointment as guardian.

3. REVIEWED ADVANCE PLANNING

I have reviewed any power of attorney for health care under ch.155, any durable financial power of attorney under ch. 243 executed by the individual, any other advance planning for financial and health care decision making in which the individual had engaged.

4. INTERVIEWED AGENT

I have interviewed any agent appointed by the individual under any document specified above.

5. RECEIVED NOTICE OF HEARING AND COPIES OF REPORTS

I have received proper notice of the hearing and copies of the physician’s and/or psychologist’s reports. If protective placement is being requested, I have received a copy of the comprehensive evaluation and, if applicable, the plan for home or community-based care.

6. PROVIDED NOTIFICATIONS

I have notified the petitioner or petitioner’s counsel (if any) of the information contained below. I have also notified the appointed guardian (if any) of the duty to be present at and right to participate in the hearing, to present and cross-examine witnesses, to receive a copy of any comprehensive evaluation, and to secure and present a report on an independent evaluation.

REPORT AND RECOMMENDATIONS

7. OBJECTIONS

The individual:

- | | | |
|-----------------------------------|-------------------------------|--|
| <input type="checkbox"/> does not | <input type="checkbox"/> does | object to a finding of incompetency. |
| <input type="checkbox"/> does not | <input type="checkbox"/> does | object to the proposed or present placement. |
| <input type="checkbox"/> does not | <input type="checkbox"/> does | object to the recommendation of the guardian ad litem. |
| <input type="checkbox"/> is not | <input type="checkbox"/> is | ambiguous on these matters. |

8. ADVERSARY COUNSEL

- | | | | |
|-------------------|---------------------------------|-----------------------------|------------------------------|
| Adversary counsel | <input type="checkbox"/> is not | <input type="checkbox"/> is | requested by the individual. |
| Adversary counsel | <input type="checkbox"/> is not | <input type="checkbox"/> is | recommended. |

9. JURY TRIAL

A jury trial is not demanded. is demanded.

10. INDIVIDUAL'S ATTENDANCE

Regarding the individual's attendance at the hearing:

- it is my opinion that the individual **can attend** the hearing in court.
- I **waive** the individual's presence after considering the ability of the individual to understand and meaningfully participate, the effect of the individual's attendance on his/her physical or psychological health in relation to the importance of the proceedings and the individual's expressed desires. Specify reasons: _____
- the individual is **unable to attend** the hearing in court because of residency in a nursing home or other facility, physical inaccessibility, or a lack of transportation; and the individual, advocate counsel, other interested person, or I request that the court hold the hearing in a place where the individual can attend. Specify location requested: _____

11. ADDITIONAL EVALUATIONS

Additional medical, psychological or other evaluation is not is requested. Specify evaluation requested and reason: _____.

12. ADVANCED PLANNING

My report to the court is that the individual's advance planning is is not adequate to preclude the need for guardianship: _____.

13. BEST INTERESTS OF INDIVIDUAL

Based on my investigation, I recommend that the court find that the individual is substantially:

- capable of caring for himself/herself.
- incapable of caring for himself/herself.
- capable of managing his/her property.
- incapable of managing his/her property.

14. GUARDIAN OF THE PERSON AND EXTENT OF POWERS

I recommend that the court find that it is in the best interest of the individual to appoint a permanent guardian of the person because the individual lacks evaluative capacity in full or in part to exercise specific rights.

A. **Rights to be removed in full.**

If removed, these rights may not be exercised by any person.

I recommend that the court declare the individual has incapacity to exercise one or more of the following rights and remove such right:

- 1. Right to execute a will.
- 2. Right to serve on a jury.
- 3. Right to register to vote or to vote in an election.

B. **Rights to be removed or exercised by individual with consent of Guardian of Person.**

If removed, these rights may not be exercised by any person. If a right is to be affected, the box to the far left must be marked. Marking only box (1) or (2) has no effect and the individual retains the right.

I recommend that the court declare the individual has incapacity to exercise one or more of the following rights and remove such right or order that the individual retain the right to exercise the right only with consent of the guardian of the person.

- a. Right to consent to marriage:
Choose (1) or (2):
 - (1) declare the individual has incapacity to exercise this right.
 - (2) order that the individual retain the right to exercise this right only with consent of the guardian of the person.
- b. Right to apply for an operator's license, a hunting, fishing or other license issued under ch. 29, or a credential as defined in §440.01(2), Wisconsin Statutes: _____
Choose (1) or (2):
 - (1) declare the individual has incapacity to exercise this right.
 - (2) order that the individual retain the right to exercise this right only with consent of the guardian of the person.
- c. Right to consent to sterilization.

Choose (1) or (2):

- (1) declare the individual has incapacity to exercise this right.
- (2) order that the individual retain the right to exercise this right only with consent of the guardian of the person.

- d. Right to consent to organ, tissue, or bone marrow donation.

Choose (1) or (2):

- (1) declare the individual has incapacity to exercise this right.
- (2) order that the individual retain the right to exercise this right only with consent of the guardian of the person.

C. Powers to be transferred to Guardian of the Person in part or in full.

If a power is to be affected, the box to the far left must be marked. Marking only box (1) or (2) has no effect and the individual retains the power.

- 1) I recommend the court appoint a permanent guardian of the person.
- 2) The individual lacks evaluative capacity in part or in full to exercise specific powers requested to be transferred to the guardian as follows:

- ab. Except as otherwise limited by Wisconsin Statute 54.25(2)(d)2.ab., the power to give an informed consent to the voluntary receipt by the guardian's ward of a medical examination, medication, including any appropriate psychotropic medication, and medical treatment that is in the ward's best interest, if the guardian has first made a good-faith attempt to discuss with the ward the voluntary receipt of the examination, medication, or treatment and if the ward does not protest.

Choose (1) or (2):

- (1) Individual retains limited capacity and the power to: _____
Guardian of the person to exercise power not retained by individual.
- (2) Individual lacks evaluative capacity in full. Guardian of the person to exercise full power.

- ac. Except as otherwise limited by Wisconsin Statute 54.25(2)(d)2.ac., the power to give informed consent, if in the ward's best interests, to the involuntary administration of a medical examination, medication other than psychotropic medication, and medical treatment that is in the ward's best interest.

Choose (1) or (2):

- (1) Individual retains limited capacity and the power to: _____
Guardian of the person to exercise power not retained by individual.
- (2) Individual lacks evaluative capacity in full. Guardian of the person to exercise full power.

- b. The power to authorize individual's participation in an accredited or certified research project if the research project might help the individual, or others if minimal risk of harm.

Choose (1) or (2):

- (1) Individual retains limited capacity and the power to: _____
Guardian of the person to exercise power not retained by individual.
- (2) Individual lacks evaluative capacity in full. Guardian of the person to exercise full power.

- c. The power to authorize individual's participation in research that might not help the individual but might help others if greater than minimal risk of harm to the individual but evidence indicates individual would have elected to participate.

Choose (1) or (2):

- (1) Individual retains limited capacity and the power to: _____
Guardian of the person to exercise power not retained by individual.
- (2) Individual lacks evaluative capacity in full. Guardian of the person to exercise full power.

- d. The power to consent to experimental treatment in the individual's best interests.

Choose (1) or (2):

- (1) Individual retains limited capacity and the power to: _____
Guardian of the person to exercise power not retained by individual.
- (2) Individual lacks evaluative capacity in full. Guardian of the person to exercise full power.

- e. The power to give informed consent to receipt by individual of social and supported living services.

Choose (1) or (2):

- (1) Individual retains limited capacity and the power to: _____
Guardian of the person to exercise power not retained by individual.
- (2) Individual lacks evaluative capacity in full. Guardian of the person to exercise full power.

- f. The power to give informed consent to release of confidential records other than court, treatment, and patient health care records and redisclosure as appropriate.
Choose (1) or (2):
 (1) Individual retains limited capacity and the power to: _____
Guardian of the person to exercise power not retained by individual.
 (2) Individual lacks evaluative capacity in full. Guardian of the person to exercise full power.
- g. The power to make decisions related to mobility and travel.
Choose (1) or (2):
 (1) Individual retains limited capacity and the power to: _____
Guardian of the person to exercise power not retained by individual.
 (2) Individual lacks evaluative capacity in full. Guardian of the person to exercise full power.
- h. [Intentionally omitted to correspond with statute.]
- i. The power to choose providers of medical, social, and supported living services.
Choose (1) or (2):
 (1) Individual retains limited capacity and the power to: _____
Guardian of the person to exercise power not retained by individual.
 (2) Individual lacks evaluative capacity in full. Guardian of the person to exercise full power.
- j. The power to make decisions regarding educational and vocational placement and support services or employment.
Choose (1) or (2):
 (1) Individual retains limited capacity and the power to: _____
Guardian of the person to exercise power not retained by individual.
 (2) Individual lacks evaluative capacity in full. Guardian of the person to exercise full power.
- k. The power to make decisions regarding initiating a petition for termination of marriage.
Choose (1) or (2):
 (1) Individual retains limited capacity and the power to: _____
Guardian of the person to exercise power not retained by individual.
 (2) Individual lacks evaluative capacity in full. Guardian of the person to exercise full power.
- l. The power to receive all notices on behalf of individual.
Choose (1) or (2):
 (1) Individual retains limited capacity and the power to: _____
Guardian of the person to exercise power not retained by individual.
 (2) Individual lacks evaluative capacity in full. Guardian of the person to exercise full power.
- m. The power to act in all proceedings as an advocate of the individual, except the power to enter into a contract that binds the individual or the individual's property or to represent the individual in any legal proceedings pertaining to the property, unless the guardian of the person is also the guardian of the estate.
Choose (1) or (2):
 (1) Individual retains limited capacity and the power to: _____
Guardian of the person to exercise power not retained by individual.
 (2) Individual lacks evaluative capacity in full. Guardian of the person to exercise full power.
- n. The power to apply for protective placement or for commitment.
Choose (1) or (2):
 (1) Individual retains limited capacity and the power to: _____
Guardian of the person to exercise power not retained by individual.
 (2) Individual lacks evaluative capacity in full. Guardian of the person to exercise full power.
- o. The power to have custody of the individual, if an adult, and the power to have care, custody, and control of the individual, if a minor.
Choose (1) or (2):
 (1) Individual retains limited capacity and the power to: _____
Guardian of the person to exercise power not retained by individual.
 (2) Individual lacks evaluative capacity in full. Guardian of the person to exercise full power.
- p. other specific powers: _____

See attached

15. **GUARDIAN OF THE ESTATE**

I recommend that the court find that it is in the best interest of the individual to:

A. Appoint and authorize a permanent guardian of the estate of the individual to perform duties and exercise powers as follows:

Choose one:

(1) **Most authority retained by ward, limited authority transferred to guardian:**
Individual retains evaluative capacity except for the ability to perform a duty or exercise a power which is to be transferred to the guardian of the estate as follows: _____.

(2) **Limited authority retained by ward, most authority transferred to guardian:**
Individual retains limited evaluative capacity and should retain the ability to perform a duty or exercise a power as follows: _____.
Guardian of the estate is to perform the duties of a guardian of the estate under §54.19, and exercise the powers that do not require court approval under §54.20(3), except as retained by individual.

(3) **Full authority transferred to guardian:**
Individual lacks evaluative capacity in full. Guardian of the estate is requested to perform the duties of a guardian of the estate under §54.19, and exercise the powers that do not require court approval under §54.20(3).

B. To authorize the guardian of the estate to perform the following **additional powers** (other than to make gifts) that require court approval under §54.20(2): _____.

C. To direct that the guardian of the estate deposit the individual's funds of \$100,000 or less in an insured account of a bank, credit union, savings bank or savings and loan association in the name of the guardian and the ward, payable only upon further order of the court, and waive bond for the guardian of the estate.

16. ALTERNATIVE TO GUARDIANSHIP OF ESTATE FOR SMALL ESTATES

I recommend that the court find that it is in the best interest of the individual to dispense with an appointment of a guardian of the estate and transfer the individual's funds of \$50,000 or less under one of the alternatives for small estates under §54.12(1), Wisconsin Statutes because the individual lacks evaluative capacity in full or in part: _____.

See Attached

17. GUARDIANSHIP, PROTECTIVE PLACEMENT, PROTECTIVE SERVICES

It is my opinion that the court:

- should should not appoint a guardian of the person.
- should should not appoint a guardian of the estate with bond of \$ _____. without bond.
- should should not approve protective placement.
- should should not approve protective services.
- should find that the least restrictive placement consistent with the individual's needs and, if the individual has a developmental disability, the most integrated setting appropriate to the needs of the individual, is a:
 - group home. foster home. community based residential facility. nursing home.
 - intermediate care facility. Other: _____
 - in an unlocked unit. in a locked unit because: _____

See attached

18. SUITABILITY AND FITNESS OF PROPOSED GUARDIAN

My recommendation to the court regarding the fitness, suitability and the statement of acts of the proposed guardian, stand-by guardian, any other person seeking to be appointed as guardian is:

NAME	SUITABILITY & FITNESS	COMMENTS ON STATEMENT OF ACTS	TYPE OF GUARDIAN
	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> person <input type="checkbox"/> co-guardian <input type="checkbox"/> estate <input type="checkbox"/> standby
	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> person <input type="checkbox"/> co-guardian <input type="checkbox"/> estate <input type="checkbox"/> standby
	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> person <input type="checkbox"/> co-guardian <input type="checkbox"/> estate <input type="checkbox"/> standby

19. Additional comments: _____

See attached

DISTRIBUTION:

Original – Court

Copies – Petitioner

Petitioner's Attorney

Signature of Guardian ad Litem

Name Printed or Typed

Date

State Bar Number