GUARDIANSHIP OF ALLEGED INCOMPETENT INSTRUCTIONS

All forms must be typewritten (forms on our website can be filled in before printing)

These forms are being provided as a public service of the Butler County Probate Court, and are intended as a guideline only, not as a comprehensive list of duties.

A person can apply to be Guardian of the Person, Guardian of the Estate, or Guardian of the Person & Estate of an alleged incompetent when the applicant believes that an adult is incompetent. If there are co-applicants (more than one person applying), each applicant must complete their own Application, Statement of Permanent Address, Affidavit of Guardian Applicant, Authorization Form, Fiduciary Acceptance, and Oath of Guardian.

The alleged incompetent person must be a resident of, or have a legal settlement in, Butler County. Sup.R. 8.34(B) advises that the last county of residence in Ohio in which a ward resided prior to losing cognitive ability to choose shall be the ward's county of residence for purposes of establishing the guardianship.

R.C. § 2111.01(D) defines "Incompetent" as "any person who is so mentally impaired, as a result of a mental or physical illness or disability, as a result of intellectual disability, or 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."

The Supreme Court adopted Rules 8.31 through 8.39 of the Ohio Rules of Superintendence which became effective June 1, 2015. These rules, as well as local rules, establish new guidelines for all incompetent guardianships.

Rule 8.35(A)(1) of the Ohio Rules of Superintendence requires that all applicants for appointment of guardian complete a criminal background check. Please complete the "Webcheck Fingerprint Information form. For locations and times to obtain the criminal background check, please visit http://www.ohioattorneygeneral.gov/Business/Services-for-Business/WebCheck/Webcheck-Community-Listing**.**

Rule 8.36 of the Ohio Rules of Superintendence requires that all guardians, prior to their appointment or within six months of the date of appointment, complete at minimum a six-hour guardian fundamentals training course provided by the Supreme Court. Proof of completion of that course must be filed with the Court. Failure to complete the course is grounds for removal as guardian. The classes are free and are offered throughout Ohio, including Butler County or via the Internet. The dates of the classes can be found at website: http://www.sconet.state.oh.us/Boards/judCollege/adultGuardianship/default.asp.

Pursuant to Rule 8.31 of the Ohio Rules of Superintendence, the proposed ward must be examined by a licensed physician or licensed clinical psychologist prior to the guardianship being filed, or a statement that the prospective ward has refused to submit to an examination must be filed. If a statement that the ward refused to be examined is filed, the Court may require an advance deposit to cover the cost of the examination pursuant to R.C. § 2111.031.

The licensed physician or licensed clinical psychologist must examine the proposed ward and complete/sign the Statement of Expert Evaluation (Form 17.1). This examination must take place within three months immediately preceding the filing of the Application for Appointment of Guardian and must be filed at the time of filing the application for appointment of guardian. If more than three months have passed since the date of examination on the expert evaluation,

the application may be set for pretrial, which could delay the hearing on your application, or you may be required to get an updated examination.

The applicant or attorney is responsible for providing the Court with the legal residence of the proposed ward on the Application for Appointment. If the ward is currently residing someplace other than his/her legal residence, such as in the home of another person or in an institution, the Court must be advised so that the proposed ward can be served notice of the hearing and be visited by the Court investigator.

Hearings for the appointment of a guardian are normally scheduled 5-6 weeks from the date of filing the application in order to obtain service on the necessary parties.

A guardian of the estate is not necessary if the only asset is Social Security.

The Entry Appointing Guardian and the Letters of Guardianship will not be issued without the required bond being posted.

A fee of $260.00 (person only) or $280.00 (person & estate or estate only) is required at the time of filing. This is an initial deposit; additional costs will be required as the matter progresses. Please confirm the amount with the guardianship clerk (513/887-3269) prior to filing. This fee must be paid in cash, check, or money order; credit cards are not accepted at this time.

The forms may be obtained by downloading them from the Probate Court's website at: (www.butlercountyprobatecourt.org). **The documents that you file *must* be typewritten, legible, *and* completed in their entirety.** Forms on our website may be filled in prior to printing. Illegible or incomplete documents may be refused for filing, or if filed, could result in the application being denied, delayed, or dismissed. Please do not submit any document to the Court that has been corrected with correction tape or fluid.

LEGAL PRACTICE IN THE PROBATE COURT IS RESTRICTED BY LAW TO ATTORNEYS WHO ARE LICENSED BY THE SUPREME COURT OF OHIO. IF AN INDIVIDUAL WISHES TO HANDLE HIS OR HER OWN CASE, THAT PERSON MAY ATTEMPT TO DO SO, HOWEVER DUE TO THE COMPLEXITY OF THE LAW AND DESIRE TO AVOID COSTLY ERRORS, MOST INDIVIDUALS WHO HAVE MATTERS BEFORE THE COURT ARE REPRESENTED BY AN ATTORNEY.

IF YOU CHOOSE TO REPRESENT YOURSELF AND USE THE COURT'S FORMS, YOU ARE EXPECTED TO BE ABLE TO READ, UNDERSTAND AND FOLLOW THE OHIO REVISED CODE, RULES OF SUPERINTENDENCE, LOCAL RULES OF THIS COURT, AND THE OHIO RULES OF CIVIL PROCEDURE. PLEASE BE ADVISED THAT STATE LAW PROHIBITS THE JUDGE, MAGISTRATE, AND EMPLOYEES OF THE BUTLER COUNTY PROBATE COURT FROM PROVIDING YOU WITH LEGAL ADVICE OR ASSISTING YOU IN THE SELECTION OR PREPARATION OF LEGAL FORMS. IF YOU NEED ADDITIONAL ASSISTANCE, YOU WILL NEED TO CONTACT AN ATTORNEY OF YOUR CHOOSING.

The following forms are required with the initial filing:

Application for Appointment of Guardian of Alleged Incompetent (Form 17.0)
[RC 2111.03]

- The effective date of this form is January 1, 2013.
- Complete application in its entirety and attach any necessary documentation. Failure to do so may result in your application being denied or returned.

Application Addendum (Form 17.0A)

- The effective date of this form is January 1, 2017.
- This form is required with all Applications for Appointment of Guardian of Alleged Incompetent.
- Failure to complete this form could result in your hearing being delayed or canceled.

Next of Kin of Proposed Ward (Form 15.0)
[RC 2111.03]

- The effective date of this form is September 1, 1991.
- List *all* next of kin (those person who are closest blood relatives who would stand to inherit if the alleged incompetent died without leaving a will (intestate)).
- We must have complete address for the next of kin, not P.O. Boxes.
- It is the responsibility of the applicant to keep the Court informed of the next of kin's most current addresses. Please file an amended next of kin (Form 15.0) if any addresses change.

Statement of Expert Evaluation (Form 17.1)
[RC 2111.49, Sup.R. 8.31(A)]

- The effective date of this form is May 9, 2006.
- Applicant must have a Licensed Physician or a Licensed Clinical Psychologist evaluate the alleged incompetent within three (3) months of the date immediately preceding the filing of the application.
- The evaluation form must be typewritten, signed, and completed in its entirety.

Statement of Permanent Address (BCPC 721)
[RC 2109.21(F)]

- The effective date of this form is October 2012.
- It is the responsibility of the applicant to keep the Court informed of his or her current address.

Affidavit of Guardian Applicant (Form 66.05)
[Sup.R. 8.35(A)(2)]

- The effective date of this form is June 1, 2021.
- Applicant must complete form and have notarized.
- Applicant must notify the Court within seventy-two (72) hours of any change in the information on the affidavit.

Authorization to Release Confidential Information (BCPC 500) [BCLR 66(E)]

- The effective date of this form is September 16, 2013.
- Must be completed in its entirety, signed and witnessed by all applicants, and filed at the time of filing the application, except when the applicant is a corporation or an attorney in good standing and authorized to practice law in the State of Ohio.

Waiver of Notice and Consent (Form 15.1)
[RC 2111.04]

- The effective date of this form is September 1, 1991.
- All next of kin listed on Form 15.0 who are over the age of 18, not under disability, and reside within the State of Ohio must sign a Waiver of Notice and Consent or be served notice of hearing by certified mail (see Form 17.4 for notice).

Fiduciary's Acceptance (Form 15.2)
[RC 2109.02, RC 2111.13, and RC 2111.14]

- The effective date of this form is March 15, 2016.
- Complete name of proposed ward, read, sign, and date the form.

Judgment Entry Setting Hearing on Application for Appointment (Form 15.01)
[RC 2111.02(C)]

- The effective date of this form is September 1, 1991.
- The clerk will complete the date and time of the hearing.

Notice to Prospective Ward of Application and Hearing (Form 17.3)
[RC 2111.04 and 2111.041]

- The effective date of this form is September 1, 1991.
- The attorney or applicant is responsible for providing the Court with the daytime address and phone number of the ward.
- The Court investigator will serve notice on the prospective ward and complete an investigator's report.

Notice of Hearing for Appointment of Guardian of Alleged Incompetent (Form 17.4)
[RC 2111.04]

- The effective date of this form is March 15, 2016.
- Notice of hearing must be issued by certified mail, return receipt requested to all next of kin listed on Form 15.0 who have not waived notice of the hearing.

The following documents are required at the hearing:

Criminal Background Check
[Sup.R. 8.35(A)(1)]

- Results of criminal background check required by Sup.R. 66.05(A)(1) are to be filed prior to or at the time of the hearing on the appointment of guardian.
    - A resident of Ohio for five (5) years immediately preceding filing of said application requires an Ohio Bureau of Criminal Identification and Investigation (BCII) background check.
    - A person who has resided outside of Ohio anytime within the last five (5) years immediately preceding the application in addition to the BCII check must also complete a Federal Bureau of Investigation (FBI) background check.

Guardian's Bond (Form 15.3)
[R.C. 2109.04 and BCLR 62.1]

- The effective date of this form is March 15, 2016.
- When applying for guardian of the estate, the applicant must execute and file a bond for double the amount of the personal property and rental income received for real property
- If the only asset is real estate, a $200.00 signature bond is sufficient.
- Bond must be executed by the applicant (principal) and the surety company prior to filing with the Court. A copy of the surety's power of attorney must be attached to the bond form.

Oath of Guardian (Form 15.9)
[RC 2111.02]

- The effective date of this form is March 1, 2008.
- Must be presented at the hearing and sworn to and signed in front of a Judicial Officer.

Judgment Entry B Appointment of Guardian of an Incompetent (Form 17.5)
[RC 2111.02]
- The effective date of this form is March 1, 2017.

Letters of Guardianship (Form 15.4)
[RC 2111.02]
- The effective date of this form is September 1, 1991.
- Complete form in its entirety and present at hearing. A Judicial Officer will sign if guardianship is granted.

NOTE: Letters of Guardianship will not be issued if sufficient bond has not been posted.

Receipt – Guardian's Handbook (Form 27.12)
[RC 2111.011]
- The effective date of this form is March 1, 2017.
- The clerk or bailiff at the time of the appointment of guardian will provide the newly appointed guardian with a written copy of the guardianship guidebook. The guardian will need to sign the receipt (Form 27.12) at that time.

WITHIN THREE (3) MONTHS OF THE HEARING

Notification of Ward's Important Legal Papers (Form 27.11)
[Sup.R. 8.38(L)]
- The effective date of this form is March 1, 2017.
- Within three months after the appointment of the guardian, the guardian must file with the Court a list of all of the ward's important legal documents and their location (not the documents themselves).

Guardian's Inventory (Form 15.5)
[R.C. 2111.14]
- The effective date of this form is September 1, 1991.
- The inventory is due within three (3) months of the date of appointment.
- The inventory must list all real and personal property of the ward, its value, and include any rent received from any real estate.
- Social Security is not an asset and should not be listed.
- If the ward owned real estate you may use the Butler County Auditor's 100% value in lieu of an appraisal.
- Do not include account numbers or other personal identifiers, list these separately using Form 45(D).

Confidential Disclosure of Personal Identifiers (BCPC 45(D))
[Sup.R. 11.13]
- The effective date of this form is September 1, 2011.
- Personal identifiers includes Social Security numbers (except for the last four digits) and all financial account numbers.
- This document, when filed is kept in a separate but related case folder marked confidential and is not viewable by the public.

WITHIN SIX (6) MONTHS OF THE HEARING

Notice of Compliance with Guardian Education Requirements (Form 27.2)
[Sup.R. 8.35(A)(2) and Sup.R. 8.36(A)]
- The effective date of this form is March 1, 2017.

- All Guardians must complete a six-hour Fundamentals of Adult Guardianship Course (Sup.R. 8.36) within six (6) months of being appointed.

Following is a list of documents not a part of the packet but that are available on our website. Some may be required depending on whether you were conferred power over the person, the estate, or both.

Application of Guardian to Provide Direct Services to Ward (BCPC 543)
[Sup.R. 8.30(B), 8.34(D), and Sup.R. 8.39(D)]
- This form is pending approval with the Supreme Court.
- Sup.R. 8.39(G) prohibits direct services by a guardian to a ward unless approved by the Court.

Notice of Compliance with Guardian Education Requirements (Form 27.2)
[Sup.R. 8.35(A)(2) and Sup.R. 8.37]
- The effective date of this form is March 1, 2017.
- All guardians are required to complete three hours of continuing education (Sup.R. 8.37) each year after his or her appointment and submit a Notification of Compliance with Guardian Education Requirements by January 1st of each year.

Notice of/Application for Change of Address (Form 27.3)
[Sup.R. 8.38(E)]
- The effective date of this form is March 1, 2017.
- A guardian is required to notify the Court of a ward's change of address and the reason for that change at least ten (10) days prior to them moving.

Entry on Application for Change of Address of the Ward (Form 27.3B)
[Sup.R. 8.35(E)]
- The effective date of this form is March 1, 2017.
- The Court must preapprove any move of a ward to a more restrictive setting unless the delay would affect the health or safety of the ward.

Guardian's Report (Form 17.7)
[RC 2111.49]
- The effective date of this form is March 1, 2017.
- Guardians conferred power over the person must complete form and file annually
- The Statement of Expert Evaluation (Form 17.1) must be filed at the time of filing the Guardian's Report unless previously dispensed with.

Expert Evaluation (Form 17.1)
[RC 2111.49, Sup.R. 8.31(A)]
- The effective date of this form is May 9, 2006.
- Applicant must have a Licensed Physician, Licensed Clinical Psychologist, Licensed Independent Social Worker, Licensed Professional Clinical Counselor complete the expert evaluation form. The evaluation must take place within three months prior to the date of the guardians report.
- The evaluation form must be typewritten, signed, and completed in its entirety.
- The evaluation form must be filed with the Guardian's Report (Form 17.7) unless previously dispensed with by Court order.

Annual Guardianship Plan – Person (Form 27.7)
[Sup.R. 8.38(G)]
- The effective date of this form is May 1, 2021.
- The guardian of the person must file an annual plan with each Guardian's Report (Form 17.7).
- The annual plan must state the guardian's goals for meeting the personal needs of the ward such as personal care services, medication issues, socialization programs, etc.

Annual Guardianship Plan – Estate (Form 27.8)
[Sup.R. 8.38(G)]

- The effective date of this form is March 1, 2017.
- The guardian of the estate must file an annual plan identifying goals for the ward and their plan to meet those goals

Annual Registration – Guardian with Ten or More Wards (Form 27.5)
[Sup.R. 8.35(B)(1) and Sup.R. 8.38(H)]

- The effective date of this form is March 1, 2017.
- Every guardian with ten or more wards must file this form annually.

Guardian with Ten or More Wards – Annual Fee Schedule (Form 27.6) [Sup.R. 8.35(B)(3)]

- The effective date of this form is March 1, 2017.
- Every guardian with ten or more wards must file this form annually.

Application to Transfer Funds (BCPC 501)

- The effective date of this form is April 1, 2004.
- This form is used to transfer funds out of the wards name into a guardian's account.
- Funds shall not be released except upon order of the Court.

Application to Release Funds to Guardian (Form 15.6)

- The effective date of this form is September 1, 1991.
- This form is normally used when it is necessary to cash in funds such as insurance or securities and put them into the guardian's account.
- Funds shall not be released except upon order of the Court.

Application for Authority to Expend Funds (Form 15.7)

- The effective date of this form is September 1, 1991.
- You must receive prior approval to expend the ward's funds for any reason, including payment of bills.
- An expenditure of funds will not be approved until an inventory has been filed or if an account is delinquent pursuant to Sup.R. 8.31(B) and BCLR 66(G).
- The first expenditure should cover the ward's budget and include ongoing items such as nursing home, utilities, taxes, prescriptions, home maintenance, etc. This is called a blanket expenditure. Blanket expenditures should be updated periodically.
- A one-time expenditure is used for such things as household repairs, attorney fees, etc. It must list who is to be paid, the purpose, and amount of the expenditure. Attorney fees may not be paid by the guardian until they have been approved by the Court. The Court will issue an entry ordering payment of the fees. It is the responsibility of the attorney to seek Court approval of their fees prior to submitting a bill to the guardian of the estate.
- Funds shall not be released except upon order of the Court.
- None of the ward's assets may be accessed through an automated teller machine or debit card.

Guardian's Account (Form 15.8)
[RC 2109.302]

- The effective date of this form is March 1, 1996.
- The guardian of the estate is responsible for the filing of an annual account showing all receipts and disbursements made during the accounting period.
- On page one of the account, state the beginning and ending dates of the accounting period.
- The first account must specifically list all of the ward's assets as shown on the inventory. Subsequent accounts must begin with the ending balance of the previous accounting and list any interest earned and disbursements made.

- Canceled checks and bank statements are required at the time of filing the account (these will be returned to you).
- A Bank Certificate (Form 15.81) must be filed with each account showing the balance on the ending date of the accounting period. A bank certificate is required for all accounts belonging to the guardianship.

Bank Certificate (BCPC 15.81)
[RC 2109.302]

- The effective date of this form is April 1, 2004.
- The bank certificate needs to be signed by a representative of each bank where the ward's funds are being held. Each bank must list the accounts individually and the balance on deposit on the ending date of the accounting period.

Notification of Guardian's Receipt of Fees Other than through Guardianship (Form 27.10) [Sup.R. 8.38(J)(2)]

- The effective date of this form is March 1, 2017.
- A guardian who receives fees other than through the guardianship shall report those fees to the Court and include the source of the payment, as well as the entity that provided those fees.

Application to Terminate Guardianship (Form 27.9)
[Sup.R. 8.38(D)]

- The effective date of this form is March 1, 2017.
- The guardian shall apply to terminate or limit the guardianship if the ward's ability to make decisions and function independently has improved, a less restrictive alternative is available, the guardianship is no longer in the ward's best interest, or if the ward has died.

PLEASE NOTE: THESE INSTRUCTIONS ARE BEING PROVIDED AS A PUBLIC SERVICE OF THE COURT AND ARE NOT A COMPREHENSIVE LIST OF DUTIES. ADDITIONAL FORMS OR REQUIREMENTS MAY BE NECESSARY DEPENDING ON YOUR INDIVIDUAL CIRCUMSTANCES. IF YOU HAVE ANY QUESTIONS OR NEED ADDITIONAL ASSISTANCE, IT IS RECOMMENDED THAT YOU CONSULT WITH AN ATTORNEY OF YOUR CHOOSING.