

Tips for completing the Missouri Department of Mental Health Guardianship Packet

- ✓ All forms should be typed. Many of the forms will be attached as an exhibit to the petition for guardianship and filed with the court. Legibility is critical. If for some unavoidable reason the form must be hand written, please make sure that the hand writing is clear and legible.
- ✓ Completed packets must be sent to the Department of Mental Health (DMH), Office of General Counsel (OGC), 1706 East Elm, Jefferson City, MO 65102. **Do not send directly to the Attorney General's Office.** Please send original documents to the OGC.
- ✓ If the guardianship packet is being completed by a community provider, the completed packet must be forwarded to the Regional Office or appropriate DMH Division designee, who will then be responsible for submitting the packet to the OGC.
- ✓ If you believe that an emergency guardianship may be necessary, please contact the DMH General Counsel at 573-751-8091 to discuss the case prior to submitting the packet.
- ✓ As you are completing the packet, if you have questions, please contact the Assistant General Counsel assigned to your facility/office or the General Counsel. Community providers should consult with their agency's private attorney or may contact the Regional Office or appropriate DMH Division designee.
- ✓ Always consider a limited guardianship. It is critical that you look at each essential requirement (i.e. food, clothing, shelter, safety, medical) and identify whether the individual can meet each need through examples that have been personally observed or assessed. The case manager/social worker will be asked about each of these areas during the hearing and needs to be very familiar with the abilities and limitations of the individual.
- ✓ The doctor's interrogatories need to have been completed within 6 months of the last doctor visit. Be sure the consumer's name is included on the interrogatories, they are signed and dated, notarized, and that the doctor has actually seen the client within the last few months.
- ✓ The case manager's/social worker's statement should be no more than 6 months old.
- ✓ The guardianship coordinator for each facility/office should review the checklist against the packet before submitting to the OGC to make sure everything is included. Please look for obvious errors/omissions such as incorrect consumer name, incomplete forms and interrogatories that are not notarized.
- ✓ If the individual has been found permanently incompetent to proceed on criminal charges, please include a copy of the court order with the packet.
- ✓ When completing the case manager's/social worker's statement, please list up front in the History section the charges for which the individual was found permanently incompetent to proceed.

Proposed Ward: _____

Case Manager/Social Worker: _____
Name and Telephone Number

Has the client been found Permanently Incompetent to Proceed to Trial? _____

GUARDIANSHIP PACKET CHECKLIST

- _____ 1. Doctor's Interrogatories
- _____ 2. Case Manager/Social Worker's Guardianship/Conservatorship Stmt
- _____ 3. Financial Statement
- _____ 4. List of Relatives
- _____ 5. List of Steps Taken to Locate Relatives
- _____ 6. Information for Family Guardians or Conservators (do not include if proposed guardian is the Public Administrator)
- _____ 7. Consent to Appointment (do not include if proposed guardian is the Public Administrator)
- _____ 8. Designation of Resident Agent (include only if proposed guardian resides out-of-state)
- _____ 9. Domicile Statement
- _____ 10. Information Needed for Confidential Filing Information Sheet
- _____ 11. Statement Regarding Proposed Guardian
- _____ 12. List of Prospective Witnesses
- _____ 13. Copy of Court Order finding client permanently incompetent to proceed (if applicable)
- _____ 14. Statement Regarding Pending Criminal Charges
- _____ 15. Cover Letter to General Counsel's Office

In the Matter of:)
)
)
_____,)
An alleged incapacitated and disabled person,)
)
Respondent)

DEPOSITION OF _____

On this ____ day of _____, 20____, before me, _____,
a Notary Public within and for the State of Missouri, personally appeared _____
_____, who, after being first duly sworn, testified as follows:

INTERROGATORIES

1. Q. State your name, age and address.
A.

2. Q. What is your occupation, business or profession?
A.

3. Q. Are you licensed to practice in the State of Missouri?
A.

4. Q. If your answer to Interrogatory number 3 above is affirmative, is your license subject to any restrictions imposed by the State of Missouri?

A.

5. Q. If in your practice you specialize in some particular field, please specify same.

A.

6. Q. Are you self-employed? If not, where are you employed and in what capacity?

A.

7. Q. Are your duties such as will prevent your attendance in court as a witness in this cause?

A.

8. Q. Are you acquainted with _____?

A.

9. Q. Have you had occasion to examine, observe and treat _____?

A.

10. Q. What was the date of such examination, or between what dates has _____ been under your observation?

A.

11. Q. Give the symptomatology which you observed and both the neurological and mental diagnoses which you have made, based upon your examination and observation of _____.

Please provide **detailed** facts upon which your diagnostic conclusions are based.

A.

12. Q. Do you consider _____, to be “incapacitated”, that is unable by reason of any physical or mental condition to receive and evaluate information or to communicate decisions to such an extent that he/she lacks ability to meet his/her essential requirements for food, clothing, shelter, safety, or medical care such that serious physical injury, illness, or disease is likely to occur were a guardian not appointed for him/her?

A.

13. Q. Please describe the cognitive or behavioral deficits upon which your answer to Interrogatory 12 is based. (Include examples of tasks/activities that the individual is unable to perform due to the incapacity)

A.

14. Q. Do you consider _____, to be "disabled", that is, unable by reason of any physical or mental condition, to receive and evaluate information or to communicate decisions to such an extent that he/she lacks ability to manage his/her financial affairs?

A.

15. Q. Please describe the cognitive or behavioral deficits upon which your answer to Interrogatory 14 is based. (Include examples of tasks/activities that the individual is unable to perform due to the disability)

A.

16. Q. Do you consider it for _____'s best interest to bring about the appointment of a guardian to protect his/her person?

A.

17. Q. Do you consider it in _____'s best interest to bring about the appointment of a conservator to manage his/her resources?

A.

18. Q. State anything further you may have to say regarding the alleged disability or incapacity of _____.

A.

DEPONENT

KNOW ALL MEN BY THESE PRESENTS, that I, the undersigned Notary Public, hereby certify that the above-named deponent was first duly sworn by me to make true answers to the foregoing interrogatories, that said interrogatories were read by me to deponent, that the answers thereto are correctly recorded as hereinabove set forth, that this deposition was subscribed to by the deponent and witness in my presence.

NOTARY PUBLIC

My Commission Expires:

**CASE MANAGER'S/SOCIAL WORKER'S
GUARDIANSHIP/CONSERVATORSHIP STATEMENT**

Case Manger's/Social Worker's Name: _____

Address: _____

Telephone Number: _____

Proposed Ward's Name: _____

Address: _____

Telephone Number: _____

Date of Birth: _____

Admission Status: _____

1. Please list your place of employment and your position.

2. Please describe your educational background.

3. Please describe your contact with the proposed ward.

4. Who currently has custody of the proposed ward?

10. List the specific factual reasons for this opinion. (Please include functional limitations you have personally observed/assessed and include examples of tasks/activities that the individual is unable to perform due to the incapacity)

11. Do you have a recommendation as to whether the proposed ward is a disabled person in that, if left unsupervised, s/he could not manage his or her financial resources?

12. List the specific factual reasons for this opinion. (Please include functional limitations you have personally observed/assessed and include examples of tasks/activities that the individual is unable to perform due to the incapacity.)

13. Who are you recommending to serve as guardian of the proposed ward and/or conservator of the proposed ward's estate?

14. Has the person listed in number 13 above (unless the person listed is the public administrator) ever been appointed as guardian of the person or conservator of the estate of any other person?

If so, please list the names and addresses of such wards or disabled persons.

15. Does the proposed ward have a guardian appointed in this or any other state? If so, please provide the name and address of the guardian and the state where the guardianship was obtained.

16. Has the proposed ward ever executed a will or power of attorney? If so, please attach a copy of the document.

The foregoing is made under oath or affirmation and its representations are true and correct to the best knowledge and belief of the undersigned subject to the penalties of making false affidavit or declaration.

Signature

State of Missouri)
) ss
County of _____)

On _____, 201_, the above witness personally appeared before me, and after being duly sworn, stated on oath that the answers written above were the witness's true answer to the questions. I certify that the witness signed and swore to this statement in my presence on the date stated above. In testimony whereof, I have set my hand and official seal at my office in _____ County, Missouri, on the date above written.

Notary Public

(SEAL)
My Commission Expires: _____

FINANCIAL STATEMENT

PERSONAL PROPERTY:

Checking Accounts

_____ Bank \$ _____

_____ Bank \$ _____

_____ Bank \$ _____

Savings Accounts

_____ Bank \$ _____

_____ Bank \$ _____

_____ Bank \$ _____

Stocks and Bonds

_____ Value \$ _____

Vehicle

_____ Value \$ _____
Year, Make and Model

_____ Value \$ _____
Year, Make and Model

Other

_____ \$ _____

_____ \$ _____

TOTAL PERSONAL PROPERTY

\$ _____

MONTHLY INCOME:

Social Security

Payee _____ \$ _____

SSI

Payee _____ \$ _____

Veterans Administration Benefits

\$ _____

Pension:

Source _____ \$ _____

Interest:

Source _____ \$ _____

*Trust income:

Source _____ \$ _____

Other:

Source _____ \$ _____

TOTAL MONTHLY INCOME:

REAL PROPERTY: (List Location and Value, including property outside Missouri)

_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

***If the client is the grantor, a qualified beneficiary, or a trustee or co-trustee of a trust, please provide the name and address of the presently acting trustees of such trust and the purpose of the trust as well as a copy of the trust.**

LIST OF RELATIVES

PARENTS:

Mother:
Address:

Father:
Address:

SPOUSE:

Spouse:
Address:

CHILDREN:

Daughter:
Address:

Age:

Daughter:
Address:

Age:

Son:
Address:

Age:

Son:
Address:

Age:

SIBLINGS:

Brother:
Address:

Age:

Brother:
Address:

Age:

Sister:
Address:

Age:

Sister:
Address:

Age:

**OTHER CLOSE
RELATIVES:**

Name:
Address:

Relationship:

Name:
Address:

Relationship:

**OTHER ADULTS
LIVING W/ INDIVIDUAL:**

Name:
Address:

Relationship:

Name:
Address:

Relationship:

*****If there is no known spouse, adult child, or parent, then you must include the names and addresses of the siblings and children of deceased siblings of the alleged incapacitated person.**

LIST OF STEPS TAKEN TO LOCATE RELATIVES

1. Were you able to locate an address for the proposed ward's mother and father?

2. Were you able to locate an address for all of the proposed ward's brothers and sisters?

3. Were you able to locate an address for all of the proposed ward's children?

4. Were you able to locate an address for the proposed ward's spouse?

5. If you answered no to any of the foregoing questions, **you will need to conduct a due and diligent search for these family members.** Please take the following steps and initial on the line after you completed this step.

- _____ I searched the client's entire DMH file;
- _____ I asked family members and the client about the missing person's whereabouts;
- _____ I checked telephone directories and information in the county of the last known address of the missing person;
- _____ I conducted an Internet search for the missing person;
- _____ I sent a certified letter to the last known address of the person.

6. How long has it been since the missing person had any contact with the proposed ward?

INFORMATION FOR GUARDIANS AND CONSERVATORS

To help you perform your duties properly, described below are the general duties and obligation of a guardian and conservator.

1. A guardian or conservator is appointed upon the adjudication of an individual (respondent) as incapacitated (guardian) or disabled (conservator). If you have been appointed guardian, the respondent is known as a "ward." If you have been appointed conservator, the respondent is known as a "protectee." If you have been appointed both guardian and conservator, the respondent is known as both a "ward and protectee."
2. An incapacitated person lacks the legal ability to make medical or psychiatric treatment decisions, to make placement decisions, to vote, to drive an automobile. A disabled person lacks the legal ability to handle his or her own financial resources. If the respondent is adjudicated to be only partially incapacitated or disabled, the extent to which the respondent's rights are limited will be specified by court order. It is the guardian's and conservator's duty to prevent the ward or protectee from exercising rights limited or rescinded by adjudication.
3. As guardian, you have the duty to take charge of the person of the ward and to provide for the ward's care, treatment, habilitation, education, support and maintenance; and the powers and duties shall include (a) assuring that the ward resided in the best and least restrictive setting reasonably available; (b) assuring that the ward receives medical care and other services that are needed; (c) promoting and protecting the care, comfort, safety, health, and welfare of the ward; and (d) providing required consents on behalf of the ward. You will be required to file a personal status report annually concerning the care, welfare, and placement of your ward.
4. As conservator, you must take possession of your protectee's property to the extent authorized by the court. The property, income, and bank accounts must be kept separate from your own funds in your name as conservator for the protectee. You must invest the protectee's funds according to law and you are personally liable for imprudent or unauthorized investments. You may apply for an order of continuing support and maintenance authorizing you to spend a budgeted sum each month for the protectee. You will be required to file an annual accounting (called a settlement) showing in detail all receipts and expenditures occurring during the preceding year. Each entry must be explained and each expenditure must be authorized by statute or court order. You may not sell, trade, lease, mortgage, transfer, or discard your protectee's property without court approval, even though the protectee is your child or other relative.

5. Your authority as guardian and conservator (described in paragraphs 3 and 4 above) may be limited by the order appointing you. **Consult your attorney as to legal limitations resulting from your ward's or protectee's adjudication and as to the extent of your authority.**
6. In the event the ward or protectee dies or you or the ward or protectee move from one address to another, you have a duty to notify the court in writing of such death or new address as soon as possible.
7. You are under a duty, at all times, to act in the best interests of your ward-protectee and to avoid conflicts of interest that will impair your ability so to act. If you fail to perform any of your duties as guardian or conservator, you are liable to be removed from office and may be held personally liable for any loss or damage sustained by the ward or protectee by reason of your failure.
8. In certain cases, expenses of bond and other costs may be saved by placing funds in restricted deposits and/or securing waiver of filing the annual settlement. Consult your attorney.
9. **Under Missouri law, a conservator who is not a licensed attorney cannot represent the protectee's estate in connection with court proceedings, whether appearing in court or preparing pleadings to be filed with the court.** You must retain an attorney to perform those legal services required of you. On order of the court, the attorney may be compensated for services reasonably necessary from the protectee's estate. If only limited funds or public assistance (SSI) is available, you may qualify for free legal aid.

Date

Signature of proposed Guardian/Conservator

CONSENT TO APPOINTMENT

Pursuant to the provisions of Section 475.055(2), RSMo, the undersigned,
_____, hereby consents to act as guardian and/or
conservator of the estate of _____, and states as follows:

1. I am over the age of eighteen (18).
2. I have never pled guilty to nor been convicted of a felony.
3. I reside at: _____
City: _____ State: _____ Zip: _____
4. The name and address of my employer is as follows:

5. I have not been adjudicated incapacitated or disabled.
6. I understand the duties of a guardian and/or conservator.
7. I will visit the ward at least once a year.
8. I understand that I must file an annual report with the court.
9. I **have/have not** been appointed by a court to serve as guardian of the person and/or conservator of the estate of another person. If so, the name and address of the ward/protectee is as follows: _____

10. I will keep the court informed of my current address and telephone number.

I swear that the matters set forth are true and correct to the best of my knowledge and belief, subject to the penalties of making a false affidavit or declaration.

Dated: _____

Proposed Guardian/Conservator

Street Address

City State Zip

Telephone Number with Area Code

DESIGNATION OF AGENT FOR SERVICE OF PROCESS
AND RECEIPT OF NOTICE

Come(s) now _____, a non-resident of the State of Missouri, and designates the following resident of the State of Missouri as Agent for the service of all process on and the receipt of notice by such non-resident, and further states that the following is the name, address and signature of the Agent:

Name of Agent

Residence

City, State and Zip Code

Residence

Signature of Agent

The foregoing is made under oath or affirmation and its representations are true and correct to the best knowledge and belief of the undersigned, subject to the penalties of making a false affidavit or declaration.

Dated this _____ day of _____, 20__

Signature of Non-Resident

DOMICILE STATEMENT

1. Name of Client/patient: _____

2. Where does the client currently reside?

Street _____

City: _____ State: _____ Zip: _____

County: _____

Length of time at this address: _____

With whom does s/he reside? _____

Is this a placement or natural home? _____

3. Prior to this residence, where did the client reside? *****You must include the prior residences, up to three, for the three years prior to filing for guardianship. If unknown, you must explain what you did to try to identify and locate prior residences. When listing addresses, please include those addresses where the client lived by choice (i.e., do not list correctional institutions, hospitals or DMH inpatient facilities).**

Street _____

City: _____ State: _____ Zip: _____

County: _____

Dates and length of time at this address: _____

With whom did s/he reside? _____

Was this a placement or natural home? _____

If unknown, what efforts were made to locate prior residence?

Street _____

City: _____ State: _____ Zip: _____

County: _____

Dates and length of time at this address: _____

With whom did s/he reside? _____

Was this a placement or natural home? _____

If unknown, what efforts were made to locate prior residence?

Street _____

City: _____ State: _____ Zip: _____

County: _____

Dates and length of time at this address: _____

With whom did s/he reside? _____

Was this a placement or natural home? _____

If unknown, what efforts were made to locate prior residence?

4. Does the patient own property in this or any other county in Missouri?
 Yes No

If yes, briefly describe the property and state the location of the property.

5. Does the patient own property in any other state?

Yes No

If yes, briefly describe the property and the location of the property.

6. Date when (s)he first entered the mental health system either as an inpatient or a placement made by the department: _____

a. Age at the time: _____

b. Complete address at that time: _____

c. Length of time at this address: _____

INFORMATION NEEDED FOR CONFIDENTIAL FILING
INFORMATION SHEET

1. Proposed Ward's Full Name:

First Middle Last

2. Proposed Ward's Social Security Number:

3. Proposed Guardian's Name:

First Middle Last

4. Proposed Guardian's Social Security Number (not needed for Public Administrator):

5. Proposed Guardian's Date of Birth (not needed for Public Administrator):

6. Proposed Guardian's Full Address (not needed for Public Administrator):

7. Proposed Guardian's Telephone Number (not needed for Public Administrator):

STATEMENT REGARDING PROPOSED GUARDIAN

1. Who did you consider to serve as guardian and/or conservator?

Name	Relationship to Client

2. Who are you recommending serve as guardian and/or conservator?

3. Why are you recommending this person?

4. Does this person understand the client's disability as well as all of his/her needs, including medical and placement needs?

LIST OF PROSPECTIVE WITNESSES

Name (Physician or Licensed
Psychologist)

Address

City, State, and Zip Code

Name (Social Worker or Service
Coordinator)

Address

City, State, and Zip Code

Name (Proposed Guardian)

Address

City, State, and Zip Code

Name

Address

City, State, and Zip Code

Statement Regarding Pending Criminal Charges

Proposed Ward: _____

Proposed Ward's Date of Birth: _____

1. Are there currently any criminal charges pending against the client? _____

If so, please complete the following:

A. Charge Pending: _____

B. Court Where Pending: _____

C. Cause Number: _____

D. Brief description of the alleged conduct that is the basis for the charge.

E. Has the person been found by the court to be permanently incompetent to proceed on the pending charge? _____

If so, please attach a copy of the court order.

If this is the only charge pending, please go to question 2.

If there are other pending charges, please complete the following:

A. Charge Pending: _____

B. Court Where Pending: _____

C. Cause Number: _____

D. Brief description of the alleged conduct that is the basis for the charge.

F. Has the person been found by the court to be permanently incompetent to proceed on the pending charge? _____

If so, please attach a copy of the court order.

If other charges are pending, please attach a separate sheet and include the information requested above.

2. Does the client have any other criminal history of which you are aware?

If so, briefly describe his or her criminal history:

Proposed Ward:

Case Manager/Social Worker: _____

Name and Telephone Number

Successor Guardianship Checklist

- _____ 1. Certified Copy of Death Certificate of Guardian or Resignation of Guardian
- _____ 2. Copy of Letters of Guardianship
- _____ 3. Social Worker's Statement
- _____ 4. List of Relatives
- _____ 5. List of Steps Taken to Locate Relatives
- _____ 6. Information for Family Guardians or Conservators (do not include if proposed guardian is the Public Administrator)
- _____ 7. Consent to Appointment signed by Proposed Successor Guardian (do not include if proposed guardian is the Public Administrator)
- _____ 8. Signed statement signed by each close relative stating his or her name, address, and relationship to the ward and whether he or she has an objection to the appointment of the proposed successor guardian
- _____ 9. Designation of Resident Agent (include only if proposed guardian resides out-of-state)
- _____ 10. Information Needed for Confidential Filing Information Sheet
- _____ 11. Statement Regarding Proposed Guardian
- _____ 12. Cover Letter to General Counsel's Office