



**LINCOLN COUNTY
REGISTER IN PROBATE & JUVENILE COURT**

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**Temporary Guardianship
Guidelines**

NOTE: This guideline is provided only as a public service and is not meant to be legal advice. The Register in Probate office cannot give legal advice; please contact an attorney if you have legal questions.

At the time a *Petition for Guardianship* is filed, the petitioner is required to pay a \$200 deposit for Guardian ad Litem Fees to the Register in Probate.

There are 5 Phases to the Temporary Guardianship Action. They are as follows:

Phase I: Filing the Action

► Petition for Temporary Guardianship/Permanent Guardianship Due to Incompetency (Form GN-3100)

The petition shall be based on personal knowledge of the petitioner and state with particularity the factual basis for the allegations contained in it.

The petition shall be completely filled out prior to filing. Any petition that is incomplete or does not contain all of the information requested will not be accepted for filing.

► Order Appointing Guardian Ad Litem (Form GF-131A)

A guardian ad litem is required in both temporary and permanent guardianship actions.

The petitioner shall complete the *Order Appointing Guardian Ad Litem* form, leaving the attorney information section blank, as the Register in Probate will assign the guardian ad litem and complete that section of the form. The *Order Appointing Guardian Ad Litem* will be submitted to the assigned judge for his signature. A copy of the signed order will then be provided to the petitioner.

► Order and Notice of Hearing (Form GN-3110, 2 pages)

Upon the filing of a *Petition for Temporary Guardianship*, the Register in Probate will provide the petitioner with a hearing date and time to insert in the *Order and Notice of Hearing*.

The hearing on a *Petition for Temporary Guardianship* may be held no earlier than 48 hours after the filing of a petition unless good cause is shown.

Once the petitioner has completed the *Order and Notice of Hearing* the Register in Probate will submit it to the assigned judge for his signature. A copy of the signed order will then be provided to the petitioner.

Phase II: Notifying the Parties

► Affidavit of Service (Guardianship, Protective Placement or Protective Services) (Form GN-3120)

The petitioner shall serve a copy of the *Petition for Temporary Guardianship, Order Appointing Guardian ad Litem, and Order and Notice of Hearing* upon the proposed ward before or at the time the petition is filed or as soon thereafter as possible, but no later than three (3) days after the hearing.

If the petitioner serves notice after the hearing is conducted and the court has entered an order, the petitioner shall include the court's order with the notice of the order for hearing.

The person serving the notice shall inform the proposed ward of the complete contents of the notice and return an *Affidavit of Service* to the Court verifying that such notice has been given.

The petitioner must also serve all of the interested parties with a copy of the *Petition for Temporary Guardianship, Order Appointing Guardian ad Litem, and Order and Notice of Hearing.*

Phase III: Preparing for the Hearing

The petitioner shall ensure the proposed ward's attendance at all hearings unless the guardian ad litem waives the right of the proposed ward to attend.

► Consent to Serve as Temporary Guardian (Form GN-3230)

The proposed guardian shall complete and submit to the court prior to the hearing the *Consent to Serve as Temporary Guardian.*

► Per Wis. Stats. Sec. 54.50(3)(c) At the hearing, the petitioner shall provide a report or testimony from a physician or psychologist that indicates that there is a reasonable likelihood that the proposed ward is incompetent.

If you will be having the doctor testify at the hearing rather than offering his or her report as evidence, you must make all necessary arrangements with the doctor and the court for such testimony to be given. The court will allow telephone testimony, but again, arrangements must be made in advance.

► Order on Petition for Temporary Guardianship (Form GN-3250)

► Letters of Temporary Guardianship of the Person (Form GN-3260)

► Letters of Temporary Guardianship of the Estate) (Form GN-3265)

When preparing for a hearing on temporary guardianship, the petitioner shall complete *Determination and Order on Petition for Temporary Guardianship*, *Letters of Temporary Guardianship of the Person*, and *Letters of Temporary Guardianship of the Estate* and bring them to the hearing for presentation to and signature by the judge.

The judge will not sign an incomplete *Determination and Order on Petition for Temporary Guardianship*, *Letters of Temporary Guardianship of the Person*, or *Letters of Temporary Guardianship of the Estate*, so it is important that you have these documents prepared prior to the hearing.

Phase IV: The Hearing

The petitioner must attend all hearings. If the petitioner cannot attend a hearing in person, arrangements may be made to appear by telephone by contacting the Register in Probate at least 48 hours prior to the hearing. The Register in Probate can be reached at (715)536-0342.

If your petition is granted, the judge will sign the appropriate orders and letters of guardianship.

The Register in Probate will mail you a copy of the *Determination and Order on Petition for Temporary Guardianship* and certified copies of *Letters of Temporary Guardianship* within a few days of the hearing.

Phase V: Post-Appointment Requirements

Upon receipt of your copy of *Determination and Order on Petition for Temporary Guardianship* you shall provide a copy of the same to your ward, the guardian ad litem, the facility at which your ward is placed, and the agency providing services to your ward.

Your appointment as Temporary Guardian is valid for 60 days from the date of appointment. The court may extend this period for good cause shown for one additional 60-day period. The court may impose no further temporary guardianship on the ward for at least 90 days after the expiration of the temporary guardianship and extension.

If you need to request an extension of the temporary guardianship you should contact the Register in Probate Office at least two weeks prior to the expiration of the Letters of Temporary Guardianship.

All of the forms referenced in this *Guideline* can be found on the Wisconsin Court System Website: www.wicourts.gov The Register in Probate DOES NOT provide forms to the public.

IMPORTANT NOTICE TO TEMPORARY GUARDIAN

Be advised that an order of the Court in a temporary guardianship proceeding is temporary. Without further court-filings by you or an attorney retained by you, the *Order on Petition for Temporary Guardianship* will expire in sixty (60) days.

If you anticipate that your ward will remain incapacitated beyond this sixty day period and will continue to need someone else to make decisions for him or her, it is essential you or some other interested family member or friend seek legal advice and take immediate steps to make this guardianship and/or protective placement permanent.

If your ward is eligible for or is receiving medical assistance, we encourage you to contact the North Central Community Services Program Adult Protective Services Coordinator for assistance. You may call (715)848-4475 and make an appointment to have your ward's case evaluated for services. If eligibility standards are met, this could also result in a referral for county legal services.

Once again, I reiterate that if you do nothing more, your powers as a temporary guardian will expire sixty (60) days from the date of the *Order on Petition for Temporary Guardianship* and your ward's placement in a nursing home or group home may be