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# *Cross-State Guardianship Issues*

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## Introduction

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### Guardianships Generally

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Guardianships of the person and of the estate are important tools to protect the rights of an incapacitated or financially incapable person. They can be used either separately or in tandem to protect a person's personal and financial affairs.

A guardianship of the person is appropriate to protect an incapacitated person. Under Washington law "a person may be deemed incapacitated as to person when the superior court determines the individual has a significant risk of personal harm based upon a demonstrated inability to adequately provide for nutrition, health, housing, or physical safety." RCW 11.88.010(1)(a). Conversely a guardianship of the estate is appropriate when a person is incapacitated in the managing of their finances. Under Washington law "a person may be deemed incapacitated as to the person's estate when the superior court determines the individual is at significant risk of financial harm based upon a demonstrated inability to adequately manage property or financial affairs." RCW 11.88.010(1)(b).

Washington courts recognize that "[i]ncapacity' is not lightly declared nor is guardianship casually conferred." *State v. Simms*, 95 Wash. App. 910, 917, 977 P.2d 647, 651 (1999). The Washington legislature has indicated that an incapacitated person's liberty and autonomy should only be restricted through the least restrictive means possible. Other less restrictive means could include a durable power of attorney, a trust, or a new informal living arrangement. These less restrictive means can also be memorialized in a non-judicial binding agreement between the incapacitated person and interested parties.

However, if a person has become completely unable to manage his or her affairs, a guardianship can be very helpful to them, as well as to their family, and property interests.

### Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (UAGPPJA)

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The UAGPPJA addresses interstate issues with regard to guardianships of the person and of the estate. According to the Uniform Law Commission, UAGPPJA clarifies state jurisdiction issues, facilitates the transfer of guardianships, enhances recognition and enforcement of guardianship orders, simplifies communication and cooperation between courts, and addresses emergency situations. 37 states have enacted UAGPPJA, including Washington, Oregon, Idaho, Alaska, and Nevada.

**Note:** Because filings are required in the current state of residence of the incapacitated person, it may be necessary to associate with a licensed attorney in the other jurisdiction(s) involved in order to complete the transfer or registration process.

### Case Study One: Transferring a Guardianship

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We will examine these transfer issue in the context of a hypothetical. An attorney in another state represents a client who is both guardian of the estate and of the person (or that state's equivalent) for an incapacitated relative. The incapacitated person has made a permanent move from Oregon to Washington and the attorney needs your help to facilitate the transfer of both the guardianship of the estate and of the person. What steps will you need to take to effectively transfer this protective proceeding to Washington?

We will look at two scenarios: 1) A move from Oregon to Washington, both of which have enacted UAGPPJA, and 2) A move from California, which has not enacted UAGPPJA, to Washington.

### Moving from Oregon to Washington

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The benefit of the UAGPPJA is that it makes transfer between states fairly straightforward, particularly if the move is uncontested. Transferring the existing guardianship of the estate and of the person is simpler and less costly than initiating new proceedings in the new resident state. Please note that in Oregon a “guardianship of the person” is referred to as a “guardianship” and a “guardianship of the estate” is referred to as a “conservatorship.”

There are six steps necessary to transfer from Oregon to Washington: 1) petition for transfer in Oregon, 2) provisional order granting transfer in Oregon, 3) petition for acceptance in Washington, 4) provisional order in Washington, 5) final order in Oregon, and 6) final order in Washington.

**Note:** The protected person does not have to live in Washington for a minimum number of days to transfer the guardianship/ conservatorship. It is only necessary that the protected person either resides in Washington currently or is reasonably expected to permanently move to Washington in order to begin proceedings to transfer. ORS 125.837(4).

#### 1) Petition for Transfer in Oregon

- A. ORS 125.837 allows a guardian or conservator appointed in Oregon to petition the court to transfer the guardianship/ conservatorship to another state.
- B. Notice of the petition must be sent to all persons who would be entitled to notice, were the petition for appointment of a guardian or conservator. ORS 125.837(2). This includes:
  - a. The protected person, if he or she is over the age of 14;
  - b. The spouse, parents, and adult children of the protected person;
  - c. If there is no spouse, parents, or adult children, the persons most closely related to the protected person;
  - d. Any person cohabiting with the protected person; and
  - e. Other persons listed in ORS 125.060(2)(e)—(m).
- C. See Appendix A for the form of the Petition.

#### 2) Provisional Order in Oregon

- A. On its own motion or on the request of the guardian or conservator, the protected person, or other person required to receive notice of the petition, the court shall hold a hearing on the petition. ORS 125.837(3)
- B. For a guardianship: The court shall issue a provisional order to transfer the guardianship and direct the guardian to petition in Washington if the court is satisfied the transfer will be accepted and the court finds:
  - a. The incapacitated person is physically present in or reasonably expected to move permanently to Washington;

- b. There was no objection to the transfer, or if there was, the person making the objection did not establish that transfer would be contrary to the interests of the incapacitated person; and
  - c. Plans for the care and services for the incapacitated person in the other state are reasonable and sufficient. ORS 125.837(4).
- C. **For a conservatorship:** The court shall issue a provisional order to transfer the conservatorship and direct the conservator to petition in Washington if the court is satisfied the transfer will be accepted and the court finds:
- a. The protected person is physically present in or reasonably expected to move permanently to Washington;
  - b. There was no objection to the transfer, or if there was, the person making the objection did not establish that transfer would be contrary to the interests of the protected person; and
  - c. Adequate arrangements will be made for the management of the protected person's property. ORS 125.837(5).

### ***3) Petition for Acceptance in Washington***

- A. To confirm a transfer of a guardianship or conservatorship to Washington you must petition the court to accept the guardianship or conservatorship. RCW 11.90.410(1).
- B. The petition must include a certified copy of Oregon's provisional order. RCW 11.90.410(1).
- C. Notice of the petition must be sent to all persons who would be entitled to notice, were the petition for appointment of a guardian or conservator. RCW 11.90.410(2). This includes:
  - a. The protected person, if he or she is over the age of 14;
  - b. A parent, if the protected person is a minor, all known children not residing with a notified person, and the spouse or domestic partner of the protected person if any; and
  - c. Other persons listed in RCW 11.88.040.
- D. If the protected person does not live in Washington when the petition is filed then notice must also be given to all persons who are required to receive notice in Oregon. RCW 11.90.270. See (1)(B) of this outline.
- E. See Appendix B for form of Petition.

### ***4) Provisional Order in Washington***

- A. On its own motion or on the request of the guardian or conservator, the protected person, or other person required to receive notice of the petition, the court shall hold a hearing on the petition. RCW 11.90.410(3).  
**Note:** Many Washington courts require that the petition be noted on the hearing docket, so it may be helpful to check with your local court rules or clerk.
- B. The court shall issue a provisional order unless:
  - a. An objection is made and the objector establishes that transfer would be contrary to the interests of the protected or incapacitated person; or

- b. The guardian or conservator is ineligible for appointment in Washington. RCW 11.90.410(4).

### **5) Final Order in Oregon**

- A. The court shall issue a final order confirming the transfer and terminating the guardianship/ conservatorship in Oregon, on its receipt of:
  - a. The provisional order from Washington, and
  - b. The necessary documents to terminate a guardianship/ conservatorship in Oregon. ORS 125.837(6).
- B. The necessary documents to terminate a guardianship/ conservatorship:
  - a. Motion to Terminate. See Appendix C for the form of the motion.
  - b. General Judgment of Termination. ORS 125.090(3). See Appendix D for form of the Judgment.

### **6) Final Order in Washington**

- A. The court shall issue a final order accepting transfer and appointing the guardian and conservator on its receipt from the final order from Oregon. RCW 11.90.410(5).
- B. Not later than 90 days after the issuance of the final order accepting transfer, the court will determine whether the guardianship/ conservatorship must be modified to conform with Washington law. RCW 11.90.410(6).  
Example: Washington specifically requires a listing of the rights restricted by the guardianship, whereas Oregon does not. Conformance to Washington law could require the listing of these rights.
- C. See Appendix E for form of the Order.

**NOTE:** Denial of a petition to accept transfer does not disqualify a guardian/ conservator from seeking appointment in Washington in a new proceeding. RCW 11.90.410(8).

### **Moving from California to Washington**

California has not yet passed UAGPPJA, although legislation has been introduced this year to do so.<sup>2</sup> Because of this, it is more involved and expensive to transfer a conservatorship from California to Washington. It is also important to note that California's terminology is different in this area of law. In California "guardianships" are only for minors. For adults California uses the terms "conservatorship of the person," "conservatorship of the estate," and "conservatorship of the person and the estate."

Because RCW 11.90.837 only applies to transfers that are made under provisions similar to the UAGPPJA, you cannot use these procedures when a protected person moves from California. Instead you must 1) initiate proceedings in Washington and then 2) have the guardianship/ conservatorship terminated in California. In order for this to be effective the protected person should already be a resident of Washington or have a significant property interest in Washington. See RCW 11.90.220, 11.88.010.

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<sup>2</sup> See S.B. 940, Cal. Leg., 2013—14 Reg. Sess. (2014).

### *1) Appointment of a Guardian in Washington*

- A. Any person may petition for the appointment of a qualified person, certified professional guardian, or financial institution authorized by law, as the guardian of an incapacitated person. RCW 11.88.030.

A qualified person must:

- a. Be over the age of 18;
- b. Be of sound mind;
- c. Not have been convicted of a crime involving moral turpitude;
- d. If a nonresident, have appointed a resident agent to accept service;
- e. Not be a corporation not authorized under RCW 11.88.020;
- f. Be found suitable by the court.

- B. The petition must contain:

- a. The name, age, residence, and post office address of the alleged incapacitated person;
- b. The nature of the alleged incapacity in accordance with RCW 11.88.010;
- c. The approximate value and description of property, including any compensation, pension, insurance, or allowance, to which the alleged incapacitated person may be entitled;
- d. Information on the conservatorship proceedings in California;
- e. The residence and post office address of the person whom petitioner asks to be appointed guardian or limited guardian;
- f. The names and addresses, and nature of the relationship, so far as known or can be reasonably ascertained, of the persons most closely related by blood, marriage, or state registered domestic partnership to the alleged incapacitated person;
- g. The name and address of the person or facility having the care and custody of the alleged incapacitated person;
- h. The reason why the appointment of a guardian or limited guardian is sought and the interest of the petitioner in the appointment, and whether the appointment is sought as guardian or limited guardian of the person, the estate, or both;
- i. A description of any alternate arrangements previously made by the alleged incapacitated person, such as trusts or powers of attorney, including identifying any guardianship nominations contained in a power of attorney, and why a guardianship is nevertheless necessary;
- j. The nature and degree of the alleged incapacity and the specific areas of protection and assistance requested and the limitation of rights requested to be included in the court's order of appointment;
- k. The requested term of the limited guardianship to be included in the court's order of appointment; and

- I. Whether the petitioner is proposing a specific individual to act as guardian ad litem and, if so, the individual's knowledge of or relationship to any of the parties, and why the individual is proposed.
    - m. See Appendix F for form of Petition.
- C. Notice must be served on the following people, in the manner provided for in RCW 11.88.030:
  - a. The protected person, if he or she is over the age of 14;
  - b. A parent, if the protected person is a minor, all known children not residing with a notified person, and the spouse or domestic partner of the protected person if any; and
  - c. Other persons listed in RCW 11.88.040.
- D. The court must hold a hearing on the petition within 60 days. RCW 11.88.030(6). The protected person must be present at this hearing unless good cause, other than mere convenience, is shown and a guardian ad litem is present. RCW 11.88.040.
- E. A court shall make an order based on findings as to the capacities, condition, and needs of the capacitated person. The order must also contain:
  - a. The amount of the bond, if any;
  - b. The date the account or report shall be filed, which must be within 90 days of appointment;
  - c. A date for the court to review the account or report and enter its order;
  - d. A directive to the clerk of court to issue letters of guardianship as specified in RCW 11.88.127;
  - e. Whether the guardian ad litem shall continue acting as guardian ad litem;
  - f. Whether a review hearing shall be required upon the filing of the inventory;
  - g. Whether a review hearing is required upon filing the initial personal care plan;
  - h. The authority of the guardian, if any, for investment and expenditure of the protected person's estate;
  - i. Names and addresses of those persons described in RCW 11.88.090(5)(d), if any, whom the court believes should receive copies of further pleadings filed by the guardian with respect to the guardianship; and
  - j. A guardianship summary. 11.88.095.

## *2) Termination of the Conservatorship in California*

- A. A petition for the termination of a conservatorship may be filed by:
  - a. The conservator.
  - b. The conservatee.
  - c. The spouse, or domestic partner, or any relative or friend of the conservatee or other interested person. Cal. Prob. Code 1861(a).
- B. The petition must set out facts showing that the conservatorship is no longer required. Cal. Prob. Code 1861(b).
- C. Notice must be given to those who would be required notice for appointment of a conservator. See Cal. Prob. Code 1460 et seq.



- D. If the court determines that the conservatorship is no longer required or that grounds for establishment of a conservatorship of the person or estate, or both, no longer exist, the court shall make this finding and shall enter judgment terminating the conservatorship accordingly. Cal. Prob. Code 1863.

### **Case Study Two: Selling Property over State Lines**

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Another context in which interstate issues arise is when a protected person has property in another state. Another hypothetical is useful here. Imagine a client of yours is the guardian of the estate of a Washington resident. However, this person has property in Oregon that the guardian of the estate would like to sell. The guardian of the estate cannot sell the Oregon property, because the title company does not recognize them as a guardian of the estate/conservator in Oregon.

In order to give the guardian of the estate power over the property in Oregon it is necessary to register the Washington guardianship in Oregon. There are two steps to registration: 1) giving notice to the Washington of intent to register, and 2) filing as a foreign judgment in the court where the property is located.

**Note:** Remember that in Oregon a “guardianship of the estate” is called a “conservatorship,” while a “guardianship of the person” is simply called a “guardianship.”

#### ***1) Notice of Intent to Register***

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- A. Must be filed in the court in which the guardian was appointed. ORS 125.845, RCW 11.90.420.
- B. See Appendix G for the form of the notice.

#### ***2) Filing as a Foreign Judgment***

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- A. Must file in the county where the property is located. ORS 125.845, RCW 11.90.420.
- B. Need to file certified copies of the order and letters of office, as well as information on any bond. ORS 125.845, RCW 11.90.420.
- C. Must pay a filing fee of \$111, under ORS 21.145.
- D. See Appendix H for the form of the registration.

**Note:** Registering an out of state guardian can also be valuable if the protected person temporarily moves to another state. For example, a protected person who has a Washington guardianship of the person is temporarily receiving care in a hospital in Portland, Oregon. Registering the Washington guardianship in Oregon will enable the guardian to make care decisions for the protected person, as well as allow them to overcome potential interference from other family members. Interstate family conflicts can often cause uncertainties in the care of the protected person, registering the out of state guardianship can help quell these disputes.



**APPENDIX A**

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IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF \_\_\_\_\_  
Probate Department

In the Matter of ) Case No. \_\_\_\_\_  
the [Guardianship / )  
Conservatorship] of )  
\_\_\_\_\_ ) PETITION TO TRANSFER  
 ) PROCEEDINGS TO  
 ) WASHINGTON  
 )  
[Respondent / )  
Protected Person]. )

The petitioner states:

1.

I am the [guardian/conservator] in the above proceedings and petition the court for a provisional order transferring this [guardianship / conservatorship] to the State of Washington, and directing the filing in Washington of a petition for [guardianship / conservatorship].

2.

I have contacted a lawyer practicing in Washington and have confirmed that it is likely that Washington will accept the transfer. I further state that:

- (a) The protected person is permanently relocating to Washington;
- (b) To my knowledge, no one objects to the transfer of these proceedings, and I believe that the transfer is consistent with the interests of the protected person; and
- (c) We have reasonable and sufficient plans for [care and services for the protected person / management of the protected person's property]. Those plans consist of [*describe plans*].

3.

Notice of this petition will be given to all persons entitled to notice of the filing of a petition to appoint a [guardian / conservator] and in the manner required by Oregon law.

4.

If no objections are filed to this petition, or after hearing on any objections, the petitioner prays as follows:

(a) For the court to issue a provisional order transferring these proceedings to the State of Washington and directing that a petition be filed in Washington seeking the appointment of the petitioner as [guardian / conservator];

(b) For the court to issue a final order confirming the transfer and terminating the [guardianship / conservatorship] in Oregon upon the filing of a provisional order from Washington accepting the transfer and the filing of an appropriate motion terminating the above-entitled protective proceeding.

DATED: \_\_\_\_\_, 20\_\_\_\_.

/s/  
\_\_\_\_\_  
[petitioner's name]  
Petitioner

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

/s/  
\_\_\_\_\_  
[petitioner's name]  
Petitioner



**APPENDIX B**

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR THE COUNTY OF \_\_\_\_\_  
Probate Department

In the Matter of \_\_\_\_\_ ) Case No. \_\_\_\_\_  
the Guardianship [of the person/ of the )  
estate] of \_\_\_\_\_ ) PETITION TO ACCEPT  
 ) PROCEEDINGS FROM OREGON  
 )  
 )  
 [Respondent / )  
 Protected Person]. )

The petitioner states:

1.

I am the guardian in guardianship [of the person/ of the estate] proceedings pending in the State of Oregon and petition the court for a provisional order accepting the transfer of this guardianship [of the person/ of the estate] from Oregon to Washington.

2.

Attached is a certified copy of the provisional order from the State of Oregon, transferring the proceedings to Washington]. I further state:

- (a) I am eligible for appointment as guardian [of the person/ of the estate] in Washington; and
- (b) I believe that the transfer is consistent with the interests of the protected person.

3.

Notice of this petition will be given to all persons entitled to notice of the filing of a petition to appoint a guardian [of the person/ of the estate] by Washington and Oregon laws, and shall be delivered in the manner prescribed by Washington law.

4.

If no objections are filed to this petition, or after hearing on any objections, petitioner prays as follows:

(a) For the court to issue a provisional order accepting the transfer of these proceedings to Washington.

(b) For the court to issue a final order approving the transfer upon the filing of a final order from Oregon transferring the proceedings to Washington.

DATED: \_\_\_\_\_, 20\_\_\_\_.

/s/ \_\_\_\_\_  
[petitioner's name]  
Petitioner

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

/s/ \_\_\_\_\_  
[petitioner's name]  
Petitioner





**APPENDIX C**

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IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF \_\_\_\_\_  
Probate Department

In the Matter of  
the [Guardianship /  
Conservatorship] of

\_\_\_\_\_

Protected Person.

) Case No. \_\_\_\_\_  
)  
) MOTION TO TERMINATE  
) GUARDIANSHIP /  
) CONSERVATORSHIP AND  
) DISCHARGING FIDUCIARY  
)

1.

\_\_\_\_\_ moves the court for an order terminating the above-entitled protective proceedings for the following reasons: The [guardianship/ conservatorship] has been transferred to Washington and the best interests of the protected person would be served by termination of the proceedings.

2.

If objections to this motion are filed, a visitor should be appointed if required by statute or the court.

3.

The [guardian / conservator] should also be discharged because the [report of the guardian / accounting of the conservator] [should be / has been] approved, and any surety [has been / should be] released.

Respectfully submitted on \_\_\_\_\_, 20\_\_\_\_.

/s/ \_\_\_\_\_  
[lawyer's name]  
[OSB no.]  
[address]  
[telephone no.]  
[fax no.]

[*e-mail address*]  
Attorney for \_\_\_\_\_

[Guardian / Conservator]:  
[*name*]  
[*address*]  
[*telephone no.*]



**APPENDIX D**

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IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF \_\_\_\_\_  
Probate Department

In the Matter of	)	Case No. _____
the [Guardianship /	)	
Conservatorship] of	)	GENERAL JUDGMENT
	)	TERMINATING
_____,	)	[GUARDIANSHIP /
	)	CONSERVATORSHIP],
Respondent.	)	DISCHARGING
	)	FIDUCIARY, AND
	)	RELEASING SURETY

The motion of \_\_\_\_\_ for an order terminating this protective proceeding and discharging the [guardian / conservator] having come before the court and it appearing that the [guardianship/ conservatorship] has been transferred to Washington and the best interests of the protected person would be served by termination of the proceedings.

It further appearing that appropriate notice has been made, that no objections were submitted within the required time, and that the [report of the guardian / accounting of the conservator] has been submitted to the court,

IT IS ORDERED and ADJUDGED that:

- (1) The above-entitled [guardianship / conservatorship] is terminated.
- (2) The [report of the guardian / final accounting of the conservator] is approved.
- [(3) The guardian is discharged and the surety is released.]

[*or*]

[(3) The conservator shall immediately deliver all assets of the conservatorship estate to the protected person, and, on that delivery, the conservator is discharged and the surety is released.]

DATED: \_\_\_\_\_, 20\_\_\_\_.

/s/ \_\_\_\_\_

[*judge's name*]  
Judge

Submitted by:

[*lawyer's name*]

[*OSB no.*]

[*address*]

[*telephone no.*]

[*fax no.*]

[*e-mail address*]

Attorney for \_\_\_\_\_



IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

FOR THE COUNTY OF \_\_\_\_\_

In the Matter of the Guardianship of:

\_\_\_\_\_

An Incapacitated Person.

)  
)  
)  
)  
)  
)  
)

NO. \_\_\_\_\_

FINAL ORDER ACCEPTING  
TRANSFER OF OREGON  
GUARDIANSHIP PROCEEDING  
AND APPOINTING FULL  
GUARDIAN OF [THE PERSON/  
THE ESTATE]

RCW 11.90.410

THIS MATTER having come before the court upon the Petition of \_\_\_\_\_, Oregon [Guardian/ Conservator] for \_\_\_\_\_, and the court being fully advised, and good cause having been found and the *General Judgment Transferring Guardianship and Terminating Oregon Protective Proceeding* (Circuit Court of Oregon for \_\_\_\_\_ County, case no. \_\_\_\_\_) having been filed herein, the court makes the following Findings of Fact and Conclusions of Law:

**I. Findings of Fact**

1.1 All notices required by law have been given and proof of service as required by statute is on file.

1.2 The facts set forth in the Petition and Orders filed herein are true and correct, and the court has jurisdiction over [incapacitated person's name]'s [person/ estate].

1.3 A guardianship over [incapacitated person's name]'s [person/estate] was previously established in the State of Oregon. As a result of that proceeding, the protected person was not derived of the right to vote in the State of Oregon.

1.4 The Guardian has petitioned to transfer the Oregon guardianship to the State of

Washington and the Oregon court has entered a *Provisional Order Granting Petition to Transfer Proceedings*. This court previously entered a *Provisional Order Accepting the Transfer of Oregon Guardianship* on \_\_\_\_\_. This court recognizes the *General Judgment Transferring Guardianship and Terminating Oregon Protective Proceeding* issued by the Circuit Court of Oregon for \_\_\_\_\_ County, including the determination of [incapacitated person's name]'s incapacity and the appointment of the guardian of the [person/ estate] for [incapacitated person's name].

1.5 This court waives any requirement for the appointment of a Guardian ad Litem for [incapacitated person's name], as appointment is not required pursuant to RCW 11.90.

1.6 [Name of guardian] was the Oregon Guardian for [incapacitated person's name] and is the proposed Guardian for [incapacitated person's name] in this matter. [Name of guardian]'s contact information is as follows:

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1.7 Pursuant to RCW 11.90.410(6), this court shall determine whether the guardianship of the [person/estate] needs to be modified to conform with the laws of this state within ninety (90) days of the entry of this order.

## II. Conclusions of Law

2.1 [Name of incapacitated person] is an incapacitated within the meaning of RCW 11.88 and a Guardian of her [person/ estate] should be appointed. [Name of guardian] is a fit and proper person as required by RCW 11.88.020 to be appointed as Guardian of the [person/estate] for [Name of incapacitated person].

2.2 The following limitations and restrictions should be placed on [Name of incapacitated person] as follows:

- To vote or hold an elected office.
- To marry, divorce, or enter into or end a state registered domestic partnership.
- To make or revoke a will.



- To enter into a contract.
- To appoint someone to act on his or her behalf.
- To sue and be sued other than through a guardian.
- To possess a license to drive.
- To buy, sell, own, mortgage, or lease property.
- To consent to or refuse medical treatment.
- To decide who shall provide care and assistance.
- To make decisions regarding social aspects of his or her life.

2.3 **The guardian of the [person/estate], upon the issuance of letters, shall have the following authority and responsibilities:**

[List of powers of Guardian of the estate/ Guardian of the person]

### III. Order

All of the findings of fact and conclusions of law above are hereby ordered by the court; and the court also orders as follows:

3.1 Appointment of Guardian of [Person/ Estate]. [Name of guardian] is appointed Full Guardian of the [person/ estate] of [Name of incapacitated person]. The prior order appointing guardian, signed by Circuit Court of Oregon for \_\_\_\_\_ County dated \_\_\_\_\_ is incorporated herein by reference and remains in effect.

3.2 Letters of Guardianship. The clerk of the Court shall issue Letters of Full Guardianship of the Person to [Name of guardian], upon the filing of an Oath.

3.3 Substantial Change in Condition or Residence. The Guardian of the [person/ estate] shall report to the court within thirty (30) days of any substantial change in [Name of incapacitated person]'s condition or residence.

3.4 Guardianship Review. A review Hearing shall be set for \_\_\_\_\_ (no later than ninety (90) days after the date of Appointment) to determine whether modification for this proceeding is required, pursuant to RCW 11.90.410(6).

3.5 Designation of Standby Guardian. Within three (3) months after appointment the Guardian shall file a written designation of a Standby Guardian that complies with the requirements of RCW 11.88.125.

3.6 Duration of Guardianship. This Guardianship shall continue in effect until terminated pursuant to RCW 11.88.140.

3.7 Notice of Right to Receive Pleadings. The following persons are described in RCW 11.88.090(5)(d), and the Guardian shall notify them of their right to file with the court and serve upon the Guardian, the Guardian's attorney, a request to receive copies of pleadings filed by the Guardian with respect to the Guardianship:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3.8 Guardian's fees. The Guardian shall petition the court for approval of fees.

3.9 Legal fees. The legal fees and costs of [Guardian's attorney], for the representation of the Petitioner in the amount of \_\_\_\_\_, are just and reasonable and should be paid from the assets of \_\_\_\_\_.

3.10 Mandatory Lay Guardian Training. The Guardian has completed the mandatory lay guardian training and the *Declaration of Completion of Guardian Training* is filed herein.

Dated \_\_\_\_\_.

\_\_\_\_\_  
Judge



**APPENDIX F**

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR THE COUNTY OF \_\_\_\_\_

In the Guardianship of:

NO. \_\_\_\_\_

\_\_\_\_\_  
An Alleged Incapacitated Person )  
)  
)  
)

PETITION FOR GUARDIANSHIP  
OF PERSON and/or ESTATE  
  
(RCW 11.88.030)

I ask the court to appoint a guardian or limited guardian for \_\_\_\_\_ (name), who is an alleged incapacitated person. The court should consider the following information.

**1. Information about the Alleged Incapacitated Person**

Name: \_\_\_\_\_  
Age: \_\_\_\_\_  
Residence: \_\_\_\_\_  
Post Office Address: \_\_\_\_\_  
\_\_\_\_\_

**2. Nature of the Alleged Incapacity**

The individual is incapacitated because:

- He or she is unable to adequately provide for nutrition, health, housing, or physical safety and is at significant risk of personal harm. He or she needs a guardian of the person.
- He or she is unable to adequately manage property or financial affairs and is at significant risk of financial harm. He or she needs a guardian of the estate.

and/or

The individual is also incapacitated because:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**3. Financial Information**

The approximate value and the description of the property owned by the alleged incapacitated person are:

**A. Assets:**

- 1. Real Property: \$ \_\_\_\_\_
- 2. Stocks, Mutual Funds, & Bonds: \$ \_\_\_\_\_
- 3. Mortgages and Notes: \$ \_\_\_\_\_
- 4. Bank Accounts: \$ \_\_\_\_\_
- 5. Other Property: \$ \_\_\_\_\_

Description of other property:

\_\_\_\_\_  
\_\_\_\_\_

**The total approximate value of assets is:** \$ \_\_\_\_\_

The alleged incapacitated person receives compensation, pension, insurance, and allowances as follows:

**B. Income:**

- 1. Social Security Benefits: \$ \_\_\_\_\_ per month
- 2. Veterans' Benefits : \$ \_\_\_\_\_ per month
- 3. Washington State Assistance: \$ \_\_\_\_\_ per month
- 4. Retirement Income: \$ \_\_\_\_\_ per month
- 5. \_\_\_\_\_: \$ \_\_\_\_\_ per month
- 6. \_\_\_\_\_: \$ \_\_\_\_\_ per month
- 7. \_\_\_\_\_: \$ \_\_\_\_\_ per month

**The total approximate income is:** \$ \_\_\_\_\_ per month

**4. Waiver of Filing Fee**

I do not ask the court to waive the filing fee.

I ask the court to waive the filing fee because:

The alleged incapacitated person has total assets of a value of less than \$3,000.

Payment of the filing fee would impose a hardship upon the incapacitated person because:

\_\_\_\_\_  
\_\_\_\_\_

**5. Existing or Pending Guardianships**

There is no guardian, limited guardian, or pending guardianship action in any state for the person or estate of the alleged incapacitated person.

There is a guardian, limited guardian, or pending guardianship action in any state for the person or estate of the alleged incapacitated person:

Where is the case filed? California

Was a Guardian appointed?  yes  no

If yes:

Name of guardian: \_\_\_\_\_

Date of appointment: \_\_\_\_\_

Type of guardianship: \_\_\_\_\_

**6. Reason to Appoint Guardian**

A guardian should be appointed because:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**7. Petitioner's Interest in Appointment**

My interest in the court appointing a guardian is:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**8. Protection and Assistance for the Alleged Incapacitated Person**

The person is incapacitated to this nature and degree:

\_\_\_\_\_

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The alleged incapacitated person needs these specific areas of protection and assistance:

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**9. Limits on the Alleged Incapacitated Person's Rights**

If the court grants the petition, the court should limit the following rights:

- The following rights should be revoked:
  - To vote or hold an elected office.
  - To marry, divorce, or enter into or end a state registered domestic partnership.
  - To make or revoke a will.
  - To enter into a contract.
  - To appoint someone to act on his or her behalf.
  - To sue and be sued other than through a guardian.
  - To possess a license to drive.
  - To buy, sell, own, mortgage, or lease property.
  - To consent to or refuse medical treatment.
  - To decide who shall provide care and assistance.
  - To make decisions regarding social aspects of his or her life.
  
- Other limitations and restrictions:

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**10. Type of Guardianship Sought**

I seek the following type of guardianship:

- Guardianship of the person:  full or  limited

**and/or**

- Guardianship of the estate:  full or  limited

**11. Duration of Guardianship**

I request that the Guardianship exist:

- Until it is terminated pursuant to RCW 11.88.140;

- Indefinitely until the court orders that it is modified or terminated;
- Until the incapacitated person, who is a minor, turns 18 years old; **or**
- Other: \_\_\_\_\_

**12. Alternatives to Guardianship**

- The alleged incapacitated person **did not** previously make any alternative arrangements to guardianship, such as a trust or power of attorney.
- The alleged incapacitated person **did** previously make alternative arrangements to guardianship, such as a trust or power of attorney, as follows:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Even though the alleged incapacitated person made alternative arrangements, I believe a guardianship is still necessary because:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

The alleged incapacitated person  did  did not nominate a guardian in a power of attorney or other document. The nominated guardian, if any, is (name) \_\_\_\_\_

**13. Nomination of Guardian**

- I am not asking the court to appoint a specific person as guardian or limited guardian.
- I am asking the court to appoint (name(s)) \_\_\_\_\_ as guardian or limited guardian.

The proposed **guardian of the person's** residence and post office address are:

Residence: \_\_\_\_\_

Post Office Address: \_\_\_\_\_

The proposed **guardian of the estate's** residence and post office address are:

Residence: \_\_\_\_\_

Post Office Address: \_\_\_\_\_



**14. Lay Guardian Training**

The proposed guardian, (name) \_\_\_\_\_ has already completed lay guardian training. Evidence that he or she successfully completed the training is attached to the petition or filed separately.

I am requesting a quick (expedited) appointment of a guardian because of urgent circumstances. I request an extension of up to 90 days after appointment for the guardian to complete and file proof of completion of the training because:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(If the court grants your request, evidence of successful completion of the lay guardian training will not be required until later.)

The proposed guardian, (name) \_\_\_\_\_, is not required to complete lay guardian training because he or she is:

a certified professional guardian,

a financial institution subject to the jurisdiction of the department of financial institutions and authorized to exercise trust powers, or

a federally chartered financial institution authorized to serve as a guardian of the estate.

**15. Relatives**

As far as I know or can reasonably ascertain, the following people are most closely related by blood, marriage, or state registered domestic partnership to the alleged incapacitated person:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Nature of Relationship: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Nature of Relationship: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Nature of Relationship: \_\_\_\_\_

(Attach more sheets if you need to.)

**16. Custodian of Alleged Incapacitated Person**

The alleged incapacitated person is in the care and custody of this person or facility:

Name of Person or Facility: \_\_\_\_\_

Address: \_\_\_\_\_

**17. Nomination of Guardian ad Litem**

I am not proposing that a specific individual act as guardian ad litem.

I am proposing that a specific individual, (name) \_\_\_\_\_ act as guardian ad litem (GAL).

The proposed guardian ad litem  does  does not have knowledge of or a relationship to any of the parties. Explain:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I nominate this person as guardian ad litem because:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**18. Summary of Requests**

I ask the court to take the following action:

- waive the filing fee;
- appoint (name) \_\_\_\_\_ as
  - guardian of the person:  full or  limited  
and/or
  - guardianship of the estate:  full or  limited;
- appointing a guardian ad litem for the alleged incapacitated person;
- extend the time for the guardian to complete lay guardian training;
- grant other requests: (explain below)

\_\_\_\_\_  
\_\_\_\_\_

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at (city) \_\_\_\_\_ ( state) \_\_\_\_\_ on (date) \_\_\_\_\_.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
\*Telephone/Fax Number

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Email Address

**Presented by:**

\_\_\_\_\_  
Signature of Petitioner/Attorney

\_\_\_\_\_  
Printed Name of Petitioner/Attorney,  
WSBA or CPG no. \_\_\_\_\_

\_\_\_\_\_  
Address

\_\_\_\_\_  
\*Telephone/Fax Number

\_\_\_\_\_  
E-mail Address

Ruled lines for text entry.

**APPENDIX G**

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR THE COUNTY OF \_\_\_\_\_

In the Matter of Guardianship of

NO. \_\_\_\_\_

\_\_\_\_\_

An Incapacitated Person.

)  
)  
)  
)

NOTICE OF INTENT TO  
REGISTER GUARDIANSHIP  
ORDERS IN OREGON

NOTICE IS HEREBY GIVEN that \_\_\_\_\_, Guardian of \_\_\_\_\_, intends to register this Guardianship in \_\_\_\_\_ County, Oregon in order to obtain the necessary authority to sell the Incapacitated Person's real property located in Oregon. This notice of intent to register is being made pursuant to: **ORS 125.845 Registration of conservatorship orders; fee which provides:**

If a conservator has been appointed in another state and a petition for a conservatorship order is not pending in this state, the conservator appointed in the other state, after giving notice to the appointing court of an intent to register, may register the conservatorship order in this state by filing as a foreign judgment in a court of this state, in any county in which property belonging to the protected person is located, certified copies of the order and letters of office and of any bond. The person registering the order, and any other person making an appearance in the proceeding, must pay the filing fee established under ORS 21.145.

Dated this \_\_\_ day of \_\_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
ATTORNEY

Lined writing area consisting of 25 horizontal lines.

**APPENDIX H**

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IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF \_\_\_\_\_

In the matter of the Guardianship of

\_\_\_\_\_

An Incapacitated Person

NO. \_\_\_\_\_

REGISTRATION OF ORDER  
APPOINTING FULL GUARDIAN  
OF THE ESTATE; ORDER  
APPROVING SALE OF REAL  
PROPERTY AND SALE OR  
DISTRIBUTION OF PERSONAL  
PROPERTY OF GUARDIANSHIP  
ESTATE; LETTERS OF FULL  
GUARDIANSHIP OF ESTATE;  
AND BOND OF GUARDIAN

Attached for registration in the above-named matter are the following certified pleadings and documents from \_\_\_\_\_ County, Washington:

1. Order Appointing Full Guardian of the Estate;
2. Order Approving Sale of Real Property and Sale or Distribution of Personal Property of Guardianship Estate;
3. Letters of Full Guardianship of Estate; and
4. Bond of Guardian.

The title company has requested that these pleadings and documents be registered in \_\_\_\_\_ County, Oregon due to the pending sale of real property in \_\_\_\_\_ County, scheduled to close on \_\_\_\_\_.

///

///

///

Therefore, we request that the above documents be registered with the court.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
Attorney for Guardian



