

## **SUBSTITUTE GUARDIAN CHECKLIST**

A PARTY MAY FILE TO SUBSTITUTE A DECEASED, ILL, AGING, OR INACTIVE GUARDIAN.  
Please do not request the addition of *more than one* guardian until you discuss with the Surrogate's Court.

<b>COMPLETE THE SUBSTITUTE GUARDIAN FILLABLE FORMS.</b>	
<b>HERE ARE SOME TIPS &amp; REMINDERS:</b>	
<ul style="list-style-type: none"> <li>• Type your information wherever there is a <i>blue box</i>.</li> <li>• If you see a blank line, leave it blank, unless it is your own signature line.</li> <li>• Be sure to include and label any Exhibits mentioned in your Complaint. If you cannot find the original Letters of Guardianship, contact the Surrogate's Court and we can help.</li> <li>• You must apply for the <i>same type of Guardianship</i> that was already in place.</li> <li>• Questions? Contact the Surrogate's Court at 908-788-1156</li> </ul>	
<b>1. SUBMIT AN ORIGINAL and A COPY OF THE FOLLOWING DOCUMENTS TO THE SURROGATE'S COURT: (<i>Don't forget to date and sign!</i>)</b>	
	Verified Complaint ( <i>attach labeled exhibits – label in bottom right corner as A, B, C, etc.</i> )
	Certification of Criminal and Civil Judgment History
	Order Fixing Hearing Date
	Proposed Order Appointing Substitute Guardian(s)
	\$175 filing fee payable to Hunterdon County Surrogate
<b>2. WHEN SIGNED ORDER OF HEARING IS RETURNED TO YOU ALONG WITH YOUR FILED DOCUMENTS:</b>	
	Serve a Set of Your Filed Documents via Certified Mail (Green Return Receipt Requested) to: Living Existing Guardians Next of Kin equal to you (if applicable) <i>You may hand-serve a party if they share your address.</i>
	Complete your Proof of Service and attach GREEN return receipts as they come back to you.
	<i>If applicable</i> , a representative will be in touch with you about setting up your fingerprinting and background searches.
	<i>If applicable (see the last paragraph of the signed Order for Hearing)</i> , submit a \$12.00 fee, payable to Charles Jones, LLC, to the Surrogate's Court.
<b>3. 1 WEEK BEFORE YOUR HEARING DATE:</b>	
	FILE your 1) Background Screening Policy Acknowledgment with your representative ( <i>not</i> the Surrogate) <b>and</b> 2) Proof of Service with the Surrogate's Court 7 days before the hearing.
<b>4. THE WEEK OF YOUR HEARING DATE:</b>	
	Call or Email the Surrogate's Court to confirm whether an appearance at the hearing is necessary If this is an unopposed application, you probably will <i>not</i> need to appear
<b>5. AFTER YOUR HEARING DATE:</b>	
	Within 14 days of the hearing date, you must qualify with the Surrogate's Court to accept your role as Guardian. Your guardianship is not official until you do so. Contact Eugene Bartell at 908-788-1157 to arrange your qualification.  There will be a \$50.00 fee for this process, which will include 1 Guardianship Certificate. Extra certificates are \$5.00 each. Payable via cash, check, or card.

**NOTE: Adding co-guardians will trigger annual reporting requirements for all guardians and may require background searches for the added co-guardian(s).**

SUPERIOR COURT OF NEW JERSEY  
 CHANCERY DIVISION – PROBATE PART  
 HUNTERDON COUNTY

Docket No. \_\_\_\_\_

In the Matter of \_\_\_\_\_ )  
 \_\_\_\_\_ )  
*an incapacitated person* )

**VERIFIED COMPLAINT TO APPOINT  
 SUBSTITUTE GUARDIAN(S)**

\_\_\_\_\_, plaintiff(s) and proposed substitute guardian(s), by way of verified complaint, say:

1. My/Our interest in this action is the welfare of the incapacitated person. I/We have full knowledge of the facts stated herein.
2. My/Our information is as follows:

Name:	Age:	Relation to IP:
Full Current Address:		
Telephone:	Email:	

Name:	Age:	Relation to IP:
Full Current Address:		
Telephone:	Email:	

*Attach additional page if necessary*

3. Letters of Guardianship of the \_\_\_\_\_ of the incapacitated person were previously granted in Hunterdon County, as evidenced by Exhibit A.
4. The current guardian information is as follows:

Name	Deceased?	Being Discharged?
	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>

*If this application is due to the death of a guardian or guardians, I/we have attached the death certificate(s) as exhibits.*

5. I/we wish to be appointed as substitute guardian(s) because \_\_\_\_\_  
 \_\_\_\_\_.
6. I am/we are already involved in the incapacitated person’s life and activities and, as such, am/are best situated to assume such a role and responsibility.
7. I am/we are intimately familiar with the incapacitated person’s needs and abilities.

8. I /we will make decisions in the best interest of the incapacitated person.
9. I/we shall complete guardianship training as promulgated by the Administrative Director of the Courts, by viewing or otherwise reviewing the Court Appointed Guardian Tutorial posted on the Judiciary’s website at [njcourts.gov/courts/civil/guardianship.html](http://njcourts.gov/courts/civil/guardianship.html) and receiving copies of the relevant guardianship training guide(s).
10. I/we shall comply with any background screening policy for proposed guardians of incapacitated adults promulgated by the Administrative Director of the Courts and provided with this Order, including but not limited to fingerprinting.

WHEREFORE, the plaintiff(s) demand(s) an Order appointing \_\_\_\_\_  
as general (full) substitute guardian(s) of the \_\_\_\_\_ of  
\_\_\_\_\_.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**VERIFICATION**

I/we, hereby certify and say:

1. I am / we are the plaintiff(s) in this matter.
2. The contents of the Verified Complaint for Guardianship are true to the best of my/our knowledge.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

*EACH proposed guardian must complete this form.*

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION – PROBATE PART  
HUNTERDON COUNTY

Docket No. \_\_\_\_\_

In the Matter of \_\_\_\_\_ )

**CERTIFICATION OF CRIMINAL  
AND CIVIL JUDGMENT HISTORY**

\_\_\_\_\_,  
*an incapacitated person* )

\_\_\_\_\_, date of birth \_\_\_\_\_ hereby certify as follows:

This certification is made by me in support of an application for a declaration of incapacity and appointment of guardian for \_\_\_\_\_, the incapacitated person. I am seeking appointment by the court as guardian for the incapacitated person.

I have never been convicted of a crime other than a traffic violation, and no civil judgments (including bankruptcy) have ever been entered against me.

**OR**

I have been convicted of a crime other than a traffic violation, and/or have criminal charges pending against me, and/or a civil judgment (including bankruptcy) has been entered against me, as listed below:

Charge/Conviction/Civil Judgment	Date	Location

*Attach additional page if necessary.*

I understand that a criminal charge/conviction or civil judgment will not automatically disqualify me from appointment as guardian. Rather, the court will consider whether the charge/conviction or judgment adversely affects my ability to perform duties and responsibilities in the best interests of the incapacitated person or estate.

The history listed above (if any) does not adversely affect my ability to perform the duties and responsibilities of guardianship in the best interests of the incapacitated person because: \_\_\_\_\_

I hereby certify and say that the foregoing statements made by me are true to the best of my knowledge, and that I will supplement this form as may be necessary should additional information become available. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

\_\_\_\_\_  
Date

\_\_\_\_\_

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION – PROBATE PART  
HUNTERDON COUNTY

Docket No. \_\_\_\_\_

In the Matter of \_\_\_\_\_ )  
  
\_\_\_\_\_ )  
*an incapacitated person* )

**ORDER FIXING SUBSTITUTE  
GUARDIANSHIP HEARING DATE**

**THIS MATTER** having been opened to the Court by plaintiff, for an order appointing substitute guardian(s) of the \_\_\_\_\_ of \_\_\_\_\_, pursuant to applicable New Jersey statutes and Rules of Court, and for such other relief as the court may deem just, and the court having read and considered the verified complaint, the supporting certifications or affidavits, and all other papers and pleadings filed in this matter, and for good cause shown:

IT IS on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, ORDERED that:

1. This matter be set down for hearing before this court at the Hunterdon County Courthouse at 65 Park Avenue, Flemington, New Jersey, on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ *at a time to be determined* or as soon thereafter as plaintiff may be heard, to appoint a substitute-guardian for \_\_\_\_\_.
2. A copy of the verified complaint, supporting affidavits or certifications and this Order shall also be served on all the next-of-kin and other parties-in-interest identified in the verified complaint by certified mail, return receipt requested at least 20 days prior to the date scheduled for the hearing.
3. The plaintiff shall file with the County Surrogate a proof of service of the pleadings required by this order to be served on the incapacitated person and the parties in interest no later than 7 days before the date this matter is scheduled to be hearing.
4. Any next-of-kin and other party-in-interest who wishes to be heard with respect to any of the relief requested in the verified complaint shall file with the Surrogate of Hunterdon County at 65 Park Avenue, PO Box 2900, Flemington, NJ 08822, together with the applicable filing fee and serve upon the attorney for the plaintiff and the attorney for the incapacitated person at the address set forth above, a written answer, an answering affidavit, a motion returnable on the date this matter is scheduled to be heard or other written response 10 days before the date this matter is scheduled to be heard.
5. If applicable, any proposed guardian shall complete guardianship training as promulgated by the Administrative Director of the Courts, by viewing or otherwise reviewing the Court Appointed Guardian Tutorial posted on the Judiciary's website at [njcourts.gov/courts/civil/guardianship.html](http://njcourts.gov/courts/civil/guardianship.html) and receiving copies of the relevant guardianship training guide(s).

6. If applicable, any proposed guardian shall comply with any background screening policy for proposed guardians of incapacitated adults promulgated by the Administrative Director of the Courts and provided with this Order, including but not limited to fingerprinting.

**JUDGE TO SELECT ONE:**

Based on the value of the guardianship estate, the background screening shall include a Charles Jones search, with costs to be paid by the proposed guardian.

**OR**

Based on the value of the guardianship estate, a Charles Jones search is not required.

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J.S.C.

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION – PROBATE PART  
HUNTERDON COUNTY

Docket No. \_\_\_\_\_

In the Matter of \_\_\_\_\_ )  
\_\_\_\_\_, )  
*an incapacitated person* )

**ORDER APPOINTING  
SUBSTITUTE GUARDIAN(S)**

THIS MATTER being opened to the Court by way of Verified Complaint filed by \_\_\_\_\_, *pro se* plaintiff(s), and no demand having been made for a jury trial, and the Court sitting without a jury having found from the pleadings and proofs given, that \_\_\_\_\_ consent(s) to serve as Substitute Guardian(s) of the incapacitated person, and for good cause shown:

**IT IS on this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, ORDERED AND ADJUDGED that:**

1. \_\_\_\_\_ is previously adjudicated an incapacitated person on \_\_\_\_\_ and is unfit and unable to govern himself/herself and manage his/her affairs.
2. Former Guardian(s) \_\_\_\_\_ is/are deceased hereby discharged.
3. \_\_\_\_\_ is/are hereby appointed to serve as Substitute Guardian(s) of the \_\_\_\_\_ of \_\_\_\_\_.
4. GUARDIANSHIP TYPE: This is a substitute guardianship:  
As to the Person:  General  Limited  
As to the Estate:  General  Limited

*Firearms:* Pursuant to 18 U.S.C. 922(g)(4), the incapacitated person does not retain the right to possess firearms.

**Limited Guardianship:** The incapacitated person is able at this time to govern himself/herself and manage his/her own affairs with respect to the following areas:

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5. GUARDIAN APPOINTMENT: \_\_\_\_\_ be and hereby is/are appointed Substitute Guardian(s) of the incapacitated person and Letters of Substitute Guardianship shall be issued upon his/her/their (a) qualifying according to law not later than 14 days after the date of this order, (b) acknowledging to the Surrogate completion of guardianship training and receipt of the guardianship training guides, (c) acknowledging compliance with any background screening policy for proposed guardians promulgated by the Administrative Director of the Courts, and (d) unless waived for extraordinary reasons, entering into a surety bond unto the Superior Court of New Jersey in the amount of \$\_\_\_\_\_, which bond shall contain the conditions set forth in *N.J.S.A. 3B:15-7* and *R. 1:13-3*. The court shall approve the bond as to form and sufficiency.
6. Upon qualifying, the Surrogate shall issue Letters of Substitute Guardianship to the Substitute Guardian(s), and thereupon the Substitute Guardian(s) be and hereby is/are authorized to perform all the functions and duties of a Substitute Guardian as allowed by law, except as limited herein or in areas where the incapacitated person retains decision making rights.
7. In exercising the authority conferred by this Order, the guardian(s) shall:
- Ascertain and consider those characteristics of the incapacitated person which define his/her uniqueness and individuality, including but not limited to likes, dislikes, hopes, aspirations, and fears;
  - Encourage the incapacitated person to express preferences and participate in decision-making;
  - Give appropriate deference to the expressed wishes of the incapacitated person;
  - Protect the incapacitated person from injury, exploitation, undue influence, and abuse;
  - Promote the incapacitated person's right to privacy, dignity, respect, and self-determination; and
  - Make reasonable efforts to maximize opportunities and individual skills to enhance self-direction.
8. GUARDIAN LIMITATIONS: *If applicable*, the authority of the guardian(s) is limited as follows, and all limitations shall be stated in Letters of Guardianship:
- The Substitute Guardian(s) of the Estate may not alienate, mortgage, transfer or otherwise encumber or dispose of real property without court approval.
- The Substitute Guardian(s) of the Estate may not exercise authority over any property or income of the incapacitated person in excess of \$\_\_\_\_\_ without court approval.
- \_\_\_\_\_.
9. No guardian(s) shall duplicate commissions or fees for services.
10. The Substitute Guardian(s) appointed hereunder shall be considered the personal representatives under the Standards for Privacy of Individually Identifiable Health Information ("Privacy Rule") issued pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPPA"), and shall have full and complete access to all records of the incapacitated person.

11. The Substitute Guardian(s) shall have an ongoing duty to comply with any background screening policy promulgated by the Administrative Director of the Courts by disclosing any changes to their criminal or civil judgment history on the Report of Guardian Cover Page filed with the report(s) required in paragraphs 12-14 below.

**12. INVENTORY:**

The Substitute Guardian(s) shall file with the Court an inventory of all of the incapacitated person's property and income, within 90 days. This will be due by \_\_\_\_\_.

Said inventory shall be available for inspection by any party in interest in this guardianship action, upon request to the Surrogate's Court to review the inventory.

**OR**

The requirement to file an inventory is hereby waived.

**13. REPORTING AS TO THE PERSON:** Substitute Guardian(s) of the Person shall file annually a Report of Well-Being, which is to include a Guardian Cover Page and Certification of Examining Professional.

**14. REPORTING AS TO THE ESTATE (PROPERTY):** Substitute Guardian(s) of the Estate shall file annually, along with a Guardian Cover Page, the following:

Formal Accounting (presumptive if guardianship estate valued over \$5,000,000) - *If an informal accounting is ordered, it does not replace or satisfy the duty to file and bring on for approval a formal accounting as required by law or as ordered by the court;*

Comprehensive Accounting (presumptive if guardianship estate valued \$1,000,000-\$5,000,000);

EZ Accounting (presumptive if guardianship estate valued under \$1,000,000);

Copy of the Social Security Representative Payee Report (presumptive if guardian is also representative payee for Social Security benefits and incapacitated person has no other assets or income, except where guardian is exempt from filing pursuant to 42 U.S.C. 405(j)(3)(D));

**OR**

The filing of Periodic Accounting is hereby waived due to lack of assets to report.

15. The Annual Reports are to be filed with the County Surrogate by \_\_\_\_\_ and every \_\_\_\_\_ thereafter. The report(s) shall be made available to any party in interest entitled to review pursuant to R. 1:38-3(e)

16. The Substitute Guardian(s) is/are hereby directed to advise the County Surrogate within ten (10) days of any changes in the address, telephone number, or email address of himself/herself or the incapacitated or within thirty (30) days of the incapacitated person's death or any major change in status or health. If the incapacitated person dies during the guardianship, the Guardian(s) shall notify the Surrogate in writing and forward a copy of the death certificate upon receipt, along with any outstanding or final accountings as applicable.

17. The Substitute Guardian(s) is/are agent(s) of the court and shall cooperate fully with any court staff, Surrogate staff, or volunteers until the guardianship is terminated by the death or return to capacity of the incapacitated person, or the Guardians' death, removal or discharge.
18. Any advance directive for healthcare previously executed by the incapacitated person is voided as to proxy designation, but the Substitute Guardian shall consider the preferences expressed in such advance directive.
19. This Order shall be served upon the Substitute Guardian(s) and all interested parties and within seven (7) days of receipt.

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J.S.C.

SUPERIOR COURT OF NEW JERSEY  
 CHANCERY DIVISION – PROBATE PART  
 HUNTERDON COUNTY

Docket No. \_\_\_\_\_

In the Matter of \_\_\_\_\_ )  
 \_\_\_\_\_ )  
*an incapacitated person* )

**PROOF OF SERVICE**

I, \_\_\_\_\_, of full age, hereby certify and say:

1. On \_\_\_\_\_, I served the adult next of kin, existing guardians, and/or proposed co-guardian(s) *via certified mail* (or hand-service) with the following documents:
  - Verified Complaint with any attachments
  - Certification of Criminal and Civil Judgment History
  - Order for Hearing

*fill in by hand*

Name	Relationship	Address	Date Served	Service Type

2. Copies of all (green) return receipt cards for certified mail are attached hereto.

I hereby certify that the statements made by me in this document are true. I am aware that if any are willfully false, I am subject to punishment.

Date: \_\_\_\_\_