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## WHAT IS A GUARDIAN?

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### A. MANAGING THE PERSON

A guardian is a person, institution, or agency appointed by a court to manage the affairs of another, called a Ward. The guardian may manage the person and/or the estate matters. Each state has specific laws which govern guardianship proceedings and the guardian's activities. The following is a summary of the duties of a guardian of the person.

The Guardian of the Person is responsible for the Ward's:

- Living arrangements (housing)
- Education
- Health care
- General welfare

The Guardian must file a report on the condition of the Ward *each year*.

The Guardian of the Person must obtain written permission from the Court **BEFORE** doing any of the following:

1. Moving the Ward outside Clark County, Nevada;
2. Authorizing Termination of Life Support for the Ward; or
3. Any other major life decision for the Ward.

When you have been appointed by the Court as the Guardian of a Ward's estate, you become an officer of the Court and assume certain duties and obligations. You should clearly understand the following:

### B. MANAGING THE ESTATE'S ASSETS

#### **1. Keep Estate Assets Separate.**

You must keep the money and property in the Ward's estate separate from anyone else's, **including your own**. When you open a bank account for the estate, the account name must indicate that it is an estate or guardianship account and not your personal account. Never deposit estate funds in your personal account or otherwise commingle them with anyone else's property. Securities in the estate must also be held in a name that shows they are estate property and not your personal property.

#### **2. Prudent Investments.**

You must manage the estate assets with the care of a prudent person dealing with someone else's property. This means you must be cautious and you may not make any

speculative investments. You must use your best abilities to preserve the estate's assets from waste or unreasonable decrease in value.

**3. Other Restrictions.**

There are many other restrictions on your authority to deal with estate property. **You should not spend any of the estate's money unless you have received permission from the Court, need to spend the money for the care and maintenance of the Ward, or have been advised to do so by this office.** If you do not obtain the Court's permission when it is required, you may be removed as Guardian of the Estate of the Ward, you may be required to reimburse the estate from your own personal funds, or both.

**C. INVENTORY OF ESTATE PROPERTY**

**1. Locate the Property of the Estate.**

You must attempt to locate and take possession of all the Ward's real and personal property.

**2. Determine the Value of the Property.**

You must have all real property appraised and determine a value of all other property, either by appraisal or by estimation.

**3. File an Inventory and Appraisal**

Within three months after your appointment as Guardian, you must file with the court an inventory and appraisal of all the assets in the estate.

**D. DEBTS & TAXES**

**1. Payment of Debts.**

Costs of administering the estate, the Ward's care and maintenance, and costs necessary to preserve the assets of the estate (i.e. insurance, mortgage payments, etc.) are eligible expenses under the Guardianship.

**2. Credit Cards.**

Any credit cards held by the Ward must not be used after the date of the establishment of the Guardianship. The credit card company needs to be informed of the Guardianship immediately and the account should be closed.

**E. RECORD KEEPING**

**1. Keep Bank Statements and Accounts.**

You must keep complete and accurate records of each financial transaction, both receipts and disbursements, affecting the estate. You will have to prepare an account of all money and property you have received, what you have spent, and the date of each transaction. You must describe in detail what you have left after the payment of expenses.

## **2. Court Review.**

Your accounting will be reviewed on an annual basis by the Court. We can assist you with the preparation of this accounting for submission to the Court. This accounting is due annually, within 60 days of the anniversary of your appointment as Guardian for the Ward. Save all of the receipts throughout the guardianship, because the Court may ask to review them. If you do not file your accounting as required, the Court will order you to do so. You may be removed as Guardian if you fail to comply.

## **F. REAL PROPERTY**

If there is real property owned by the Ward's estate (i.e. house, condominium, commercial property, undeveloped land, etc.) and you, as the Guardian, decide to sell the property, please contact this office and advise us of the name, address and telephone number of the real estate agent. Additionally, please give your real estate agent the name, address and telephone number of this office. Inform your real estate agent that this is a guardianship sale and subject to court approval. This office must have a copy of the purchase agreement as soon as possible after the agreement has been signed. Close of Escrow cannot occur until the sale has been approved by the Court. If, for any reason, the required information is not provided to this office in a timely manner, it could delay the close of escrow and possibly result in extraordinary attorney's fees.

## **CONCLUSION**

While this information is intended to give you an overview of the responsibilities of being a Guardian, it is important that you consult a qualified Elder Law Attorney for complete information regarding the guardianship process, types of guardianship, and other responsibilities that may be unique to a Ward's needs. At the Law Offices of Lee A. Drizin, Chtd., we offer services in all forms of guardianship and have private, professional, registered guardians that can help you if you are out of state, or in the event you feel more confident with a professional in charge. Please call us at (702) 798-4955 for a free consultation.

**The information presented herein is general information only and should not be considered legal advice nor should you rely solely upon this information in taking any actions regarding your matter. While no attorney-client relationship is formed by supplying this information, please do not hesitate to contact us at (702) 798-4955 to schedule a time to discuss your particular circumstances.**