
GUARDIANSHIP OF ESTATE

EAU CLAIRE COUNTY
REGISTER IN PROBATE OFFICE
721 OXFORD AVENUE
EAU CLAIRE, WI 54703

HOURS:
MONDAY – FRIDAY
8:00 AM – 4:30 PM

PHONE: 715-839-4823

NOTE: This guideline is provided only as a public service and is not meant to be used as legal authority. The Register in Probate personnel cannot complete forms or give legal advice. We suggest you contact your attorney for legal advice.

I. LETTERS OF GUARDIANSHIP

- A. Certified copies of the letters of guardianship may be purchased from the Register in Probate office.

II. INVENTORY

- A. The guardian of a person's estate shall take possession of the ward's property and provide an accounting ("inventory") to the Court. The inventory lists the property value as of the date the Court appointed the guardian. The inventory shall provide all of the following information with respect to each asset:
1. How the asset is held or titled.
 2. The name and relationship to the ward of any co-owner.
 3. The marital property classification of the property and, for any property that is marital property, the spouse who has management and control rights with respect to the property.
- B. Inventory must be filed with the Court within 30 days of the guardian's appointment, which is 30 days after the letters of guardianship are signed by the Court. The inventory becomes the starting point of the accounting process. A copy of the inventory form for filing accompanies this form. Duplicate inventory forms can be found at: www.wicourts.gov , Form No. GN-3440.
- C. A filing fee of the value of the estate must be paid at the time the inventory is filed. If the value of the property, less encumbrances, liens, or charges, is \$50,000 or less, the fee is \$20. If the value of the property, less encumbrances, liens, or charges, is more than \$50,000, the fee is 0.2 percent (2/10th of 1.0%) of the value of the property, less encumbrances, liens, or charges owed. This amount shall be paid from the ward's income and assets. Please make your check payable to the "Register in Probate."
- D. Failure to file inventory:
1. The Court shall order guardian to file the inventory.
 2. The Court may adjudge the costs of the action against the guardian.

III. GUARDIANSHIP PROPERTY

- A. Title to the assets and income of the ward remains in the ward's name.
- B. The guardian of the ward's estate only has possession of property and the right to exercise control over it, subject to the orders of the Court.

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IV. **DUTIES and POWERS OF GUARDIAN OF THE ESTATE**

A. See brochure – Guardian of the Estate: Duties and Powers

1. Notify the Court of any change of address of the guardian or ward. It is your responsibility to keep the Register in Probate office informed of current mailing addresses of both you and your ward. File the attached form: GN-3520 Notice of Change of Address, with the Register in Probate office. You may also call (715) 839-4823 to report any address changes.
2. A form is available to request expenditures through the Court. To request a form: send a letter of request along with a self-addressed stamped envelope for return to the Register in Probate office.

V. **IS A GUARDIAN ENTITLED TO COMPENSATION FOR SERVICES?**

- A. The Court can authorize compensation and/or reimbursement for the guardian in an amount the Court deems “just and reasonable.”
- B. Any reimbursement and/or compensation must be specifically authorized by the Court before payment is made.
- C. The guardian must sign a “Payment of Fees and Compensation of Guardians of the Estate or Trustee from the Ward’s Estate or Trust Fund” and file it with the Register in Probate office.
- D. That form is available from the Register in Probate.

VI. **ANNUAL ACCOUNT**

- A. Every year, each guardian of the estate shall file an account, under oath, of his/her handling of the estate for the prior calendar year.
- B. The annual account has four basic sections: the beginning balance (inventory), additions during the year (income, interest, etc), disbursements made during the year for expenses, and the ending value of the assets at the end of the accounting period.
- C. Annual account forms are sent to the guardian by the Court at the end of each year.
- D. Guardian must be prepared to display to the Court evidence of assets (such as bank statements, CDs, etc.) reported by the guardian.
- E. From the moment the guardian is appointed, it is important that he or she keep a written record of all receipts and expenses. The guardian must be able at all times to account for every penny of the ward’s assets.

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- F. Probate Court staff **cannot** complete the annual account for the guardian. The Register in Probate office has samples for filling out the annual accounting form available in the office.

VII. IF A GUARDIAN DOES NOT FILE THE ACCOUNT

- A. The Court can remove the guardian.
- B. The Court can issue an Order to be served by the Sheriff on the guardian to show cause why the guardian should not immediately make and file the accounting.
- C. If the guardian fails to do so or respond, the Court may issue a warrant directed to the Sheriff ordering that the guardian be brought before the Court to show cause why the guardian should not be punished for contempt.

VIII. HOW IS A GUARDIANSHIP TERMINATED

- A. Guardianship of the estate terminates:
1. When a minor becomes 18.
 2. When a minor lawfully marries and the Court approves the termination.
 3. When the ward changes residence from this state to another state and a guardian is appointed in the new state of residence.
 4. When the Court adjudicates a former incompetent to be competent.
 5. When the ward dies, except: If the estate can be settled by Summary Settlement under section 867.01, Wis. Stats., the Court may approve a Summary Settlement petition filed by the guardian.
- B. Guardian's responsibilities upon death of ward.
1. Guardian of the estate must file a final accounting from the time of the last accounting to the date of death and transfer the property to the personal representative or other person(s) entitled to receive it.
- C. Guardian may resign from position.
1. Guardian must continue in role until a successor is appointed; must file a final account and deliver the property to the successor guardian.
 2. Guardian is discharged from responsibility when the Court appoints a successor guardian, the final account is filed, and the property is transferred to the new guardian.

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✓	Form No.	Checklist of forms required for filing
	GN-3440	Inventory (filed with Register of Probate within 30 days of appointment)
	GN-3450	Statement of Wards Real Property (filed with Register of Deeds of county in which property is located.
	GN-3520	Notice of Change of Address (file with Register in Probate when address changes of ward or guardian.

IX. EXPENDITURES OF \$500 OR MORE

Single-item expenditures from the ward's funds that cost \$500 or more need prior Court approval. Court approval is not necessary for medical or cost-of-care expenses for the benefit of the ward. The Eau Claire County Request for Expenditure form is available at the Register in Probate office, or by downloading the form at:

<http://www.co.eau-claire.wi.us/departments/departments-l-z/register-in-probate/documents> (click on "Guardianship Documents.")

X. ADDITIONAL INFORMATION

The Wisconsin Guardianship Association has developed Standards of Practice: Best Practices for Wisconsin Independent and Corporate Guardians manual. This manual may be found at the following website:

<http://www.wisconsin-guardianship-association.com/> (scroll down to "Information and Training.")