
GUARDIANSHIP OF ESTATE OF MINOR

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 legal advice. The Register in Probate office cannot give legal advice; please contact an attorney if you have legal questions.

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.
- B. Inventory must be filed with the Court within 30 days of the guardian's appointment. 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' 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 OF GUARDIAN OF THE ESTATE

A. General duties and limitations (not all inclusive):

1. Exercise care, diligence, and good faith when acting on behalf of the ward.
2. Notify the Court of any change of address for the guardian or ward. It is your responsibility to keep the Register in Probate office informed of current mailing addresses. 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.

B. Guardian duties:

1. Take possession of the ward's real and personal property.
2. Retain and invest the ward's property.
3. Prepare and file an annual account to the Court.
4. At the termination of the guardianship, deliver the ward's assets to the ward.
5. Pay any legally enforceable debts (claims) of the ward, including filing tax returns and paying taxes.
6. Apply to be the ward's representative payee, if receiving governmental benefits and there is no current representative payee, or ensure that one is appointed.
7. Perform any other duty required by court order.

C. Guardian shall NOT:

1. Lend funds of the ward to himself or herself;
2. Lend funds of the ward to another individual or entity, unless the Court approves and orders;
3. Purchase property of the ward, unless Court approves and orders.

V. POWERS OF GUARDIAN OF THE ESTATE

A. General (not all inclusive):

1. Use judgment and care in management of the ward's funds;
2. Any expenditure of the ward's funds **must have prior approval of the Court.**

B. Requiring approval of the Court, the guardian of the estate may do any of the following only with the Court's prior written approval following a petition which can be secured in the Register in Probate office and any notice and hearing the Court requires:

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1. Petition the Court to make gifts of the ward's funds.
2. Make purchases for the ward out of the ward's estate.
3. Purchase a vehicle, car repairs, car insurance, attend camps, vacation monies, major medical procedures, and orthodontia services.
4. Transfer assets to an existing revocable living trust.
5. Establish and transfer assets into a trust.
6. Purchase an annuity or insurance contract; change beneficiaries under insurance and annuity policies; and surrender policies for their cash value.
7. Release or disclaim any interest of the ward that is received by will, intestate succession, nontestamentary transfer at death, or other transfer.
8. Provide support for an individual whom the ward is not legally obligated to support.

VI. 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.
- D. That form is available from the Register in Probate office.

VII. 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.
- F. Register in Probate staff **cannot** complete the annual account for the guardian.

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VIII. 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.

IX. 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.
- B. Guardian may resign from position.
 - 1. Guardian must continue in role until a successor is appointed.
 - 2. Guardian is discharged from responsibility when the Court receives the final account and the property is transferred to the new guardian.

X. 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.")

XI. 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.")