

Dear Guardian:

You have been appointed as a Guardian to an incapacitated adult. I wish to commend you upon this very honorable undertaking, the purpose of which is to provide for another person's welfare. As Guardian, you are responsible for the personal affairs of that person, including making decisions regarding the person's support, care, health, safety, habilitation, education, therapeutic treatment, and, unless the court order specifies otherwise, the person's residence.

The order, which appointed you Guardian, may limit your powers, depending on the ability of the incapacitated adult to care for some of his/her own personal needs. The court's order appointing you Guardian will:

- state the nature and extent of the person's incapacity;
- define your powers, as Guardian, so that the incapacitated person may care for him/herself to the extent he/she is capable;
- specify whether your appointment as Guardian is limited to a specified length of time;
- specify legal disabilities, if any, of the incapacitated person in connection with the finding of incapacity; and
- include any limitations to your authority deemed appropriate.

As Guardian for an incapacitated person, you stand in a fiduciary relationship to that person and may be held personally liable for a breach of any fiduciary duty to the incapacitated person. You are not liable for the acts of the incapacitated person, unless you are personally negligent. You are not required to expend your own personal funds on behalf of the incapacitated person.

If the incapacitated person for whom you are appointed Guardian has a valid advance directive or a durable power-of-attorney, your duties and authority as Guardian will not include decisions already addressed in those documents. As Guardian, you may, with cause, seek court authorization to revoke, suspend, or modify a durable power-of-attorney or modify the designation of an agent under an advance directive. Any modification will not in any way affect the incapacitated person's directives in the document concerning the provision or refusal of specific medical treatments or procedures.

As Guardian, you are required to maintain sufficient contact with the incapacitated person to know of his/her capabilities, limitations, needs, and opportunities. You are expected to visit the incapacitated person as often as necessary to meet this requirement.

Unless the order specifically states otherwise, you have the power to determine where, within the Commonwealth of Virginia, the incapacitated person will live. This is a serious responsibility, and you should keep in mind that the least restrictive living arrangements are usually the best. Depending of course, upon the condition of the incapacitated person, his/her own home is usually preferable to other living arrangements. You must first get the permission of the court if you plan to change the incapacitated person's residence to another state. You must also get permission of the court before terminating or consenting to a termination of the person's parental rights or to initiate a change in the person's marital status.

To the extent that it is feasible, you, as Guardian, are expected to encourage the incapacitated person to participate in decisions, to act on his/her own behalf, and to develop or regain capacity to manage his/her own personal affairs. When you make decisions for the

(over)

incapacitated person, you are expected to consider the expressed desires and personal values of the incapacitated person to the extent known. You are expected always to act in the incapacitated person's best interest and exercise reasonable care, diligence and prudence.

You are required by § 64.2-2020 of the *Code of Virginia*, to file guardianship reports on the status of the incapacitated person. The report shall be filed with the local department of family services for the jurisdiction in which you are appointed. The first report is due within six months from the date of the guardian's qualification and covers the activity performed on behalf of the incapacitated person during the first four months of the guardianship. After the first report is filed, reports are due annually. Each report covers a twelve-month period and is due within four months from the last day of the twelve-month period, beginning on the last day of the preceding reporting period. The enclosed "*Instructions to Newly Appointed Guardians*" addresses issues and requirements related to the annual reporting.

Thank you for your willingness to assume this responsibility for another person. We are confident that you will not only perform an invaluable service, but will also receive great satisfaction from the performance of your duties.

Sincerely,

Loudoun County Department of Family Services