

In the Matter of the Application of

PETITION

(NAME OF PETITIONER), Petitioner,
Pursuant to Article 81 of the Mental
Hygiene Law for the Appointment of a
Guardian of the Person and Property of

Index No.:

RJI No.:

Judge Assigned:

(NAME OF ALLEGED INCAPACITATED PERSON),
an Alleged Incapacitated Person .

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TO THE SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF :

The petition of **(NAME OF PETITIONER)** respectfully states and alleges:

PETITIONER

1. That your petitioner is **(NAME OF PETITIONER)** and resides at
_____ (Telephone number _____.)

2. I am the **A** of **(NAME OF ALLEGED INCAPACITATED PERSON)**
("Respondent").

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ALLEGED INCAPACITATED PERSON

3. Respondent is _____ years of age having been born on _____
and currently resides at _____.

The telephone number is _____ . Respondent's attending physician is _____ .

4. Functional limitations: (NOTE: State specific factual allegations as to the personal actions and/or financial transactions or other actual occurrences involving the AIP which are claimed to demonstrate that the AIP is likely to suffer harm because (he/she) cannot adequately understand and appreciate the nature and consequences of (his/her) inability to provide for personal needs and/or property management.)

NEED FOR PROPERTY MANAGEMENT AND PERSONAL NEEDS POWERS

5. Because of the aforementioned functional limitations, Respondent has been unable to manage (his/her) personal and property needs.

Petitioner submits that Respondent is likely to suffer harm because (he/she) cannot adequately understand and appreciate the nature and consequences of (his/her) inability to provide for (his/her) personal needs and property management. The appointment of a Guardian of (his/her) Personal and Property Needs will ensure the preservation, maintenance and care of (him/her) and (his/her) financial affairs.

6. As a result of the foregoing, Petitioner submits that Respondent's incapacities as described above require that a guardian be appointed.

POWERS BEING SOUGHT UNDER MHL §81.21(a) and 81.22(a)

7. The powers being sought on behalf of Respondent pursuant to Mental Hygiene Law Sections 81.21(a) and 81.22(a), respectively, are as follows:

(CHOOSE POWERS FROM SAMPLE "GUARDIAN'S POWERS UNDER ARTICLE 81" AND ADD SUCH ADDITIONAL POWERS FROM MHL §81.21 AND §81.22 AS MAY BE NECESSARY, AS WELL AS ANY OTHER POWERS WHICH MAY BE APPLICABLE IN THE PARTICULAR SITUATION)

COURT AUTHORIZATION TO RETAIN PROFESSIONALS

8. **(IF APPLICABLE)** Court authorization is requested to retain _____ as _____ (attorney, accountant, auctioneer, appraiser, property manager, real estate broker).

DURATION OF THE POWERS BEING SOUGHT

9. The Respondent's medical condition is irreversible and (he/she) will never be able to make any decision regarding (his/her) personal care or property management. Accordingly, Petitioner requests that the duration of the Guardianship be for an indefinite period.

FINANCIAL RESOURCES

10. To the best of the Petitioner's knowledge, the Respondent's assets consist of the following:

(NOTE: LIST EACH ASSET WITH CURRENT VALUE)

11. Upon information and belief, the Respondent receives the following monthly income:

Social Security: \$ _____

_____ Pension: \$ _____

Other: \$ _____ *(NOTE: LIST ALL INCOME RECEIVED)*

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12. The nature and amount of all claims, debts or obligations of Respondent known to Petitioner are:

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|-----------------|------------------------|
| <u>Creditor</u> | <u>Amount of Claim</u> |
|-----------------|------------------------|

13. To the best of Petitioner's knowledge, Respondent (does not/does) have a safe deposit box. *(NOTE: BANK BOX AND #)*

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14. On _____, Respondent executed a Will, which was drawn by _____ . The original Will is now located at the offices of _____ at _____

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AVAILABLE RESOURCES

15. To the best of Petitioner's knowledge, there are no Powers of Attorney, Health Care Proxies, Do Not Resuscitate Orders or other available resources which would sufficiently and reliably provide for Respondent's personal and property management needs, except

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(LIST ANY SUCH AVAILABLE RESOURCES)

INTERESTED PARTIES

16. The names, addresses, telephone numbers and relationships of the interested parties are:

Name _____ Address _____ Telephone No. _____ Relationship _____

[NOTE: LIST ALL DISTRIBUTEES, AS WELL AS ANY OTHER INTERESTED PARTIES AS SET FORTH IN MHL 81.07(g)]

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PROPOSED GUARDIAN

17. The name, address, telephone number and relationship of the proposed Guardian are:

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_____ Name _____ Address _____ Telephone No. _____ Relationship _____

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18. The reasons why the proposed guardian is suitable to exercise the powers necessary to assist the Respondent are that the proposed Guardian, **(NAME OF PROPOSED GUARDIAN)** is the Respondent's _____ and has (his/her) best interests at heart.

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PROPOSED STANDBY GUARDIAN

19. The Petitioner hereby requests that the Court appoint **(NAME OF PROPOSED STANDBY GUARDIAN)** of _____, the Respondent's _____, as a Standby Guardian of the Respondent in the event that the appointed Guardian shall resign, die, be removed, discharged, suspended or become incapacitated.

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ADDITIONAL POWERS SOUGHT UNDER MHL §81.21 (b)

20. a) *(List any other powers sought - ex: power to transfer assets)*

Note: If requesting power to transfer assets to or for the benefit of another person, must include information set forth in MHL § 81 (21) (b).

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b) The Respondent's only financial obligation is *(ex: Medicaid)*
(Example: The Petitioner also respectfully submits that the reason why the requested transfer should be permitted is that the Petitioner believes that if the Respondent were competent, the Respondent would desire to gift to (his/her) children as much of the assets as possible without jeopardizing (his/her) entitlement to Medicaid.)

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OTHER INFORMATION

21. *(Example: The Respondent's presence at the hearing on this matter will be physically impossible due to the Respondent's medical condition. The Petitioner further submits that the Respondent would not be able to participate in the proceedings in any meaningful manner as the Respondent is not able to communicate and does not possess the cognitive ability to understand the nature of these proceedings.)*

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22. The Respondent (receives/does not receive) public assistance or protective services under article nine-B of the social services law.

23. No previous application has ever been made for the relief sought herein to this Court or any other Court of competent jurisdiction.

WHEREFORE, the Petitioner requests:

1. That the annexed Order to Show Cause be signed by this Court;

2. That in the discretion of the Court, some proper person(s) be appointed as Court Evaluator and/or Counsel for the Respondent, an Alleged Incapacitated Person, to protect (his/her) interest in this proceeding;

3. That a Guardian of the person and property of (NAME OF ALLEGED INCAPACITATED PERSON), the Alleged Incapacitated Person, be appointed;

4. That the Petitioner have such other, further or different relief as the court deems just and proper.

Dated: _____

Petitioner

COURT USE ONLY

THIS FORM MUST BE FILED WITH THE PETITION FOR GUARDIANSHIP

The name, address, date of birth and social security number of the proposed Guardian(s), Standby Guardian(s), and Alternate Standby Guardian(s) are as follows:

Name _____

Address _____

Date of Birth _____ Social Security No. _____

Name _____

Address _____

Date of Birth _____ Social Security No. _____

Name _____

Address _____

Date of Birth _____ Social Security No. _____

Name _____

Address _____

Date of Birth _____ Social Security No. _____

Name _____

Address _____

Date of Birth _____ Social Security No. _____