

STATE OF NORTH CAROLINA

File No.

_____ County

In The General Court Of Justice
Superior Court Division
Before The Clerk

NOTE TO PETITIONER: If you are petitioning the court to accept guardianship on transfer from another state, this is not an appropriate form to use.

IN THE MATTER OF

PETITION FOR ADJUDICATION OF INCOMPETENCE AND APPLICATION FOR APPOINTMENT OF GUARDIAN OR LIMITED GUARDIAN

Full Name Of Respondent

Telephone No. Of Respondent

Address Of Respondent

County Of Residence Of Respondent

Date Of Birth

Race*

Sex*

*Race and sex are collected so that this information may be transmitted to NICS in the event of a qualifying adjudication under G.S. 14-409.43(a)(6).

G.S. 35A-1105, -1112, -1210; 35B-17, -18

Name And Address Of Attorney For Petitioner

Respondent Indigent

Respondent's Drivers License No.

State

Name And Address Of Petitioner

Telephone No. Of Petitioner's Attorney

State Bar No.

Name And Address Of Treatment Facility If Respondent Is An Inpatient

County Of Residence Of Petitioner

Telephone No. Of Petitioner

Petitioner's Relationship To Respondent Or Interest In Proceeding

Spoken Language Court Interpreter Needed For Any Party, Victim, Or Witness? (If Yes, identify person(s) and language(s). Interpreters provided for all court proceedings at no cost.)

No Yes: (explain)

The undersigned, being duly sworn, requests that the Court, after notice and hearing, adjudicate the respondent above to be incompetent, and also applies for the appointment of the person(s) named below to serve, in the capacity indicated, as guardian(s) of the respondent.

In support of this Petition, the undersigned states:

1. During the past twelve (12) months, the above-named respondent was physically present as follows:

Period of Physical Presence <small>(include up to the 12 months prior to the filing date of the petition; do not list periods of temporary absence)</small>		Address
From	To	
	Present	

2. (check a. or check and complete b.) (NOTE: In both a. and b., "state" includes a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States.)

- a. There is no other past or pending incompetence proceeding involving the respondent in any court or agency of a state or foreign country.
- b. There is a past and/or pending incompetence proceeding(s) involving the respondent in the court or agency of a state or foreign country, as set forth below:

Location (County, State, and Country)	Type of Proceeding (and indicate Past or Pending)	File Number

If past incompetence proceeding(s), provide facts regarding those proceedings and the outcome(s):

3. A North Carolina court has jurisdiction to rule on this petition and application.
4. The respondent is
- a resident of this county.
 - domiciled in this county.
 - an inpatient in the facility named above.
 - present in this county, it being impossible to determine his/her county of residence or domicile.
5. The respondent is incompetent in that he/she lacks sufficient capacity to manage his/her own affairs or to make or communicate important decisions concerning his/her person, family, or property, as shown by the following facts: *(Set forth the facts which tend to show that the respondent is incompetent. Include cause of incompetence, which may be mental illness, intellectual disability, epilepsy, cerebral palsy, autism, inebriety, senility, disease, injury, or other cause and give facts demonstrating lack of capacity. Be specific.)*

6. I considered the following less restrictive alternatives prior to seeking an adjudication of incompetence: *(see Notes To Petitioner below and list the less restrictive alternatives that were considered)*

7. The less restrictive alternatives listed above are insufficient to meet the needs of the respondent because: *(explain why these less restrictive alternatives are insufficient to meet the needs of the respondent)*

NOTES TO PETITIONER: *A less restrictive alternative is defined as an arrangement enabling a respondent to manage his or her affairs or to make or communicate important decisions concerning his or her person, property, and family that restricts fewer rights of the respondent than would the adjudication of incompetency and appointment of a guardian. This term includes supported decision making, appropriate and available technological assistance, appointment of a representative payee, and appointment of an agent by the respondent, including appointment under a power of attorney for health care or power of attorney for finances. G.S. 35A-1101(11a).*

An adult, emancipated minor, or incompetent child does not lack capacity if, by means of a less restrictive alternative, he or she is able to sufficiently (i) manage his or her affairs and (ii) communicate important decisions concerning his or her person, family, and property. G.S. 35A-1101(7) and (8).

For adults, guardianship should always be a last resort and should only be imposed after less restrictive alternatives have been considered and found to be insufficient to meet the adult's needs. G.S. 35A-1201(7).

IN THE MATTER OF

File No.

Name Of Respondent

8. The respondent's next of kin, if any, and other persons known to have an interest in this proceeding are:

Name And Address		Name And Address	
County Of Residence	Telephone No.	County Of Residence	Telephone No.
Relationship To Respondent Or Interest In Proceeding		Relationship To Respondent Or Interest In Proceeding	
Name And Address		Name And Address	
County Of Residence	Telephone No.	County Of Residence	Telephone No.
Relationship To Respondent Or Interest In Proceeding		Relationship To Respondent Or Interest In Proceeding	

9. General statement of respondent's assets and liabilities, including any income and receivables to which he/she is entitled:

<u>Assets</u>	<u>Liabilities</u>	<u>Income and Receivables</u>
Real Property \$ _____	Mortgage Loans \$ _____	Wages & Salaries \$ _____
Tangible Personal Property \$ _____	Other Secured Loans \$ _____	Rents \$ _____
Other Personal Property \$ _____	Unsecured Loans \$ _____	Pensions \$ _____
		Allowances \$ _____
There is a representative payee for government benefits. <input type="checkbox"/> Yes <input type="checkbox"/> No		Insurance & Compensation \$ _____
There is a Durable Power of Attorney in place. <input type="checkbox"/> Yes <input type="checkbox"/> No		Other (including SSI/SSDI) \$ _____
There is a Healthcare Power of Attorney in place. <input type="checkbox"/> Yes <input type="checkbox"/> No		
There is a special needs or other trust in place. <input type="checkbox"/> Yes <input type="checkbox"/> No		
The respondent has health insurance through Medicaid, Medicare, or a private insurer. <input type="checkbox"/> Yes <input type="checkbox"/> No		

10. CAPACITY INFORMATION

Check here if in a coma, persistent vegetative state, or non-responsive and move on to Item 11.

A. **Language and Communication** (understands/participates in conversations, can read and write, understands signs such as "keep out," "men," "women")

has capacity. lacks capacity. Comment: _____

B. **Nutrition** (makes independent decisions re: eating, prepares food, purchases food)

has capacity. lacks capacity. Comment: _____

C. **Personal Hygiene** (bathes, brushes teeth, uses proper hygiene when using the restroom)

has capacity. lacks capacity. Comment: _____

D. **Health Care** (makes and communicates choices re: medical treatment/caregivers, notifies others of illness, follows medication instructions, reaches emergency health care)

has capacity. lacks capacity. Comment: _____

(Over)

10. CAPACITY INFORMATION, continued

E. **Personal Safety** (recognizes danger and seeks assistance as needed, protects self from exploitation/personal harm)

has capacity. lacks capacity. Comment: _____

F. **Residential** (makes and communicates decisions re: residence/roommates, maintains safe shelter)

has capacity. lacks capacity. Comment: _____

G. **Employment** (makes and communicates decisions re: employment, demonstrates vocational skills such as neatness and punctuality, writes or dictates application form)

has capacity. lacks capacity. Comment: _____

H. **Independent Living** (follows a daily schedule, conducts housekeeping chores, uses community resources such as bank, store, post office)

has capacity. lacks capacity. Comment: _____

I. **Civil** (knows to contact advocate if being exploited, understands consequences of committing a crime, registers to vote)

has capacity. lacks capacity. Comment: _____

J. **Financial**

1. Makes and communicates decisions about paying bills and spending discretionary money, and makes change for \$1, \$5, and \$20

has capacity. lacks capacity. Comment: _____

2. Makes and communicates decisions regarding management of a personal bank account, savings, investments, real estate, and other substantial assets

has capacity. lacks capacity. Comment: _____

3. Can resist attempts at financial exploitation by others

has capacity. lacks capacity. Comment: _____

11. RECOMMENDED GUARDIAN(S)

Name And Address Of Recommended Guardian

Name And Address Of Recommended Guardian

Of The Estate Of The Person General Guardian

Of The Estate Of The Person General Guardian

NOTE: In certain circumstances, an interim guardian may be needed to intervene on a respondent's behalf prior to an adjudication hearing. To request that the Court appoint an interim guardian for the respondent, complete and file with the Court form AOC-SP-198, Motion For Appointment Of Interim Guardian.

VERIFICATION

I, the undersigned petitioner, have read this Petition and state that its contents are true to my own knowledge except those matters stated on information and belief, which I believe are true.

SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME

Date

Date

Signature Of Person Authorized To Administer Oaths

Signature Of Petitioner

Deputy CSC Assistant CSC Clerk Of Superior Court

Notary

Date My Commission Expires

SEAL

County Where Notarized