



## **EMERGENCY GUARDIANSHIPS**

**JUDGE JAMES W. PETERS**  
**MONROE COUNTY COURT OF COMMON PLEAS**  
**PROBATE DIVISION**  
**101 North Main Street**  
**Woodsfield OH 43793**  
**Tel: (740) 472-1654 or (740) 472-5790**  
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## INSTRUCTIONS FOR FILING AN EMERGENCY GUARDIANSHIP

These instructions are intended as a guideline only and should not be relied upon as a comprehensive list of duties in an emergency guardianship.

A person can apply to be Emergency Guardian of the Person only, Estate only or Person & Estate of an alleged incompetent when the applicant believes that an adult is mentally incompetent and the situation is life threatening. The application will usually be heard ex-parte before the Judge.

If the emergency guardian is appointed, the appointment is valid for 72 hours. At the hearing the Court will set a date and time within the 72 hours to have a further hearing to determine whether the emergency guardianship should continue for 30 more days. Notice of this hearing will be given to the ward.

It will usually be necessary to apply for full guardianship prior to the expiration of the 30-day emergency guardianship.

A filing fee of \$200.00 is required at the time of filing. Please confirm the amount with the Clerk since filing fees may have changed subsequent to the publication of this instruction sheet. This fee may be paid in cash, check, money order, credit or debit card. If using a credit or debit card, additional processing fees apply.

The necessary forms may be obtained from the Clerk on the 3<sup>rd</sup> floor of the Courthouse, 101 North Main Street, Room 39, Woodfield, Ohio.

### PROCEDURAL STEPS:

#### STEP 1: COMPLETE THE FOLLOWING FORMS FOR THE INITIAL FILING - WHEN TO FILE

Application for Appointment and Affidavit in Support of Emergency Guardianship Complete form	Prior to hearing
Entry Setting Hearing Complete form Judge will issue the date and time for hearing	Prior to hearing
Authorization to Release Confidential Information Complete form, sign in presence of a witness And have witness sign	At time of initial filing

**Next of Kin of Proposed Ward**

List all **next of kin** (those who are closest blood relatives) of the alleged incompetent

Be sure to specify **complete** addresses of all those listed

At time of initial filing

**Judgment Entry Appointing Emergency Guardian**

Complete form except for new hearing date & time

At the hearing if appointment is granted, Judge will set another date and time to continue the appointment for 30 days

Prior to hearing

**Judgment Entry Continuing Appointment**

Complete form

Judge will issue another date for appointment to be continued to

The date will be within 30 days and will allow you to file for full guardianship and have hearing before emergency appointment terminates.

Bring to Court day of hearing set on form

**STEP 2: ASSIGNING OF JUDGE, REVIEWING OF FORMS, & SETTING HEARING DATE**

When all forms have been completed, present them to the Clerk at the information desk in Probate Court on the third floor of the Courthouse. All forms are then taken to the Judge for review and setting of hearing date.

**STEP 3: THE HEARING**

At the hearing, the doctor must appear and provide testimony that the situation is life threatening or a Statement of Expert Evaluation must be filed to show that an emergency guardian should be appointed. If you are applying to be guardian of the estate, you must have a bond in place to be appointed.

The Clerk will give you a copy of the Entry.

You must provide a copy of this Entry to the ward before the next hearing.

You may also be preparing the papers for a full guardianship in the meantime so the hearing can be set and service made.

**IN THE COURT OF COMMON PLEAS OF MONROE COUNTY, OHIO  
PROBATE AND JUVENILE DIVISION**

**IN THE MATTER OF THE GUARDIANSHIP OF:** \_\_\_\_\_

**CASE NO.** \_\_\_\_\_

**APPLICATION FOR APPOINTMENT OF  
EMERGENCY GUARDIAN  
[R.C. 2111.02(B)(3)]**

Applicant moves this Court for appointment of an Emergency Guardian for \_\_\_\_\_, an alleged incompetent.

Applicant states:

that an emergency exists because the alleged incompetent suffers from the following medical problem(s). (Specify) \_\_\_\_\_

that immediate action is required to prevent significant injury or harm to the alleged incompetent by reason of \_\_\_\_\_

that the alleged incompetent is unable to make informed decisions regarding medical care or treatment.

Therefore applicant prays for an order of the Court appointing \_\_\_\_\_ as an emergency guardian of the person (and estate) of the alleged incompetent.

\_\_\_\_\_  
Attorney for applicant

\_\_\_\_\_  
Applicant

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
City                      State                      Zip

\_\_\_\_\_  
City                      State                      Zip

\_\_\_\_\_  
Phone number (include area code)

\_\_\_\_\_  
Phone number (include area code)

\_\_\_\_\_  
Supreme Court Registration Number

IN THE COURT OF COMMON PLEAS  
MONROE COUNTY, OHIO  
PROBATE DIVISION

IN THE MATTER OF THE EMERGENCY GUARDIANSHIP OF:

Case No.

AFFIDAVIT IN SUPPORT OF EMERGENCY APPLICATION

The undersigned Applicant, after being duly sworn, states the following:

1. The imminent risk of significant injury to the person or property of \_\_\_\_\_  
is as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
2. The nature or type of significant injuries that might result without court order are:  
\_\_\_\_\_  
\_\_\_\_\_
3. The property and location of such that might suffer significant injury is described as  
follows: \_\_\_\_\_  
\_\_\_\_\_
4. The date that imminent risk was discovered by applicant: \_\_\_\_\_
5. Reasonable efforts that applicant has taken to otherwise prevent significant injury  
without court order \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Applicant

Sworn to and subscribed in my presence this \_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Notary Public/Deputy Clerk

PROBATE COURT OF \_\_\_\_\_ COUNTY, OHIO

IN THE MATTER OF THE GUARDIANSHIP OF \_\_\_\_\_

Case No. \_\_\_\_\_ Docket \_\_\_\_\_ Page \_\_\_\_\_

### NEXT OF KIN OF PROPOSED WARD

(R.C. 2111.04)

(NOTE: Specify age and birthdate of each minor under 16 on the line containing the minor's name. List the name and address of the minor's parent, guardian or custodian on the name and address lines following the minor's address.)

Service  
Waived

Relationship  
Birthdate  
Of Minor

- 1.  Name \_\_\_\_\_  
Address \_\_\_\_\_ Zip \_\_\_\_\_
- 2.  Name \_\_\_\_\_  
Address \_\_\_\_\_ Zip \_\_\_\_\_
- 3.  Name \_\_\_\_\_  
Address \_\_\_\_\_ Zip \_\_\_\_\_
- 4.  Name \_\_\_\_\_  
Address \_\_\_\_\_ Zip \_\_\_\_\_
- 5.  Name \_\_\_\_\_  
Address \_\_\_\_\_ Zip \_\_\_\_\_
- 6.  Name \_\_\_\_\_  
Address \_\_\_\_\_ Zip \_\_\_\_\_
- 7.  Name \_\_\_\_\_  
Address \_\_\_\_\_ Zip \_\_\_\_\_
- 8.  Name \_\_\_\_\_  
Address \_\_\_\_\_ Zip \_\_\_\_\_
- 9.  Name \_\_\_\_\_  
Address \_\_\_\_\_ Zip \_\_\_\_\_
- 10.  Name \_\_\_\_\_  
Address \_\_\_\_\_ Zip \_\_\_\_\_

\_\_\_\_\_ Date

\_\_\_\_\_ Applicant

PROBATE COURT OF \_\_\_\_\_ COUNTY, OHIO

IN THE MATTER OF THE GUARDIANSHIP OF \_\_\_\_\_

Case No. \_\_\_\_\_ Docket \_\_\_\_\_ Page \_\_\_\_\_

## WAIVER OF NOTICE AND CONSENT

We, the undersigned, do each of us hereby waive the issuing and service of notice, and voluntarily enter our appearance herein.

We do hereby consent to the appointment of \_\_\_\_\_

or some suitable person as guardian of \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**IN THE COURT OF COMMON PLEAS OF MONROE COUNTY, OHIO  
PROBATE AND JUVENILE DIVISION**

**IN THE MATTER OF THE GUARDIANSHIP OF:** \_\_\_\_\_

**CASE NO.** \_\_\_\_\_

**ENTRY SETTING HEARING**

The Application/Motion \_\_\_\_\_  
filed by \_\_\_\_\_, by and through counsel, is  
hereby set for hearing on \_\_\_\_\_ at \_\_\_\_\_  
\_\_\_\_\_ M. before Judge James W. Peters, Monroe County Probate  
Court, Room 39, 3<sup>rd</sup> Floor, 101 North Main Street, Woodsfield Ohio 43793. The  
Court orders that notice of the hearing be given, as provided by law and the rules  
of civil procedure, to those persons entitled to notice who have not waived  
notice.

\_\_\_\_\_  
James W. Peters, Probate Judge

\_\_\_\_\_  
Attorney

**IN THE COURT OF COMMON PLEAS OF MONROE COUNTY, OHIO  
PROBATE AND JUVENILE DIVISION**

**IN THE MATTER OF THE GUARDIANSHIP OF:** \_\_\_\_\_

**CASE NO.** \_\_\_\_\_

**JUDGMENT ENTRY APPOINTING EMERGENCY GUARDIAN AND  
SETTING HEARING ON CONTINUATION OF EMERGENCY GUARDIANSHIP  
FOR INCOMPETENT PERSON**

This matter came on for hearing on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ on an application for appointment of an emergency guardianship.

Based upon the medical testimony of \_\_\_\_\_ the Court finds that the ward is an incompetent person in need of an emergency guardianship and that immediate action is required to prevent significant injury or harm to the person (and estate) of the incompetent.

The Court hereby appoints \_\_\_\_\_ as the emergency guardian of the person (and estate) of the ward with the authority to make decisions for the best interests of the ward regarding medical care and treatment.

This order shall remain in effect for a period of seventy-two hours. The Court hereby sets this matter for hearing whether to extend the emergency order on the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M before \_\_\_\_\_.

It is further ordered that a copy of this order be served upon the ward and interested parties forthwith.

This order has been granted ex parte for the reasons that a medical emergency exists, that the ward is unable to make his/her own decisions regarding medical care and treatment, and that immediate action is required at this time to prevent significant injury or harm to the ward.

- Notice was given to ward's next of kin by telephone, fax, or other means.
- Notice was not given to ward's next of kin because next of kin could not be reached.
- The next of kin were unknown or could not be ascertained prior to the hearing.
- Other: \_\_\_\_\_

\_\_\_\_\_  
James W. Peters, Probate Judge

**IN THE COURT OF COMMON PLEAS OF MONROE COUNTY, OHIO  
PROBATE AND JUVENILE DIVISION**

**IN THE MATTER OF THE GUARDIANSHIP OF:** \_\_\_\_\_

**CASE NO.** \_\_\_\_\_

**JUDGMENT ENTRY CONTINUING APPOINTMENT OF  
EMERGENCY GUARDIAN FOR INCOMPETENT PERSON**

This matter came on for hearing on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
on a motion to extend the emergency guardianship order for \_\_\_\_\_  
\_\_\_\_\_ an incompetent person, pursuant to Ohio Revised Code  
§2111.02(13)(3).

A copy of the Judgment Entry Appointing Emergency Guardian for Incompetent Person  
and Setting Hearing on Continuation of Emergency Guardianship was served upon the ward and  
interested parties on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, as set forth in  
the Affidavit of Service.

The ward continues to suffer from mental impairment and requires an emergency  
guardianship for purpose of medical decisions to prevent significant injury or harm to the  
person of the ward.

For good cause shown, the Court hereby grants the motion to extend the emergency  
guardianship until \_\_\_\_\_ subject to  
further order of the Court.

It is further ordered that a copy of this entry shall be served on the ward and interested  
parties forthwith.

\_\_\_\_\_  
James W. Peters, Probate Judge



PROBATE COURT OF \_\_\_\_\_ COUNTY, OHIO

IN THE MATTER OF THE GUARDIANSHIP OF \_\_\_\_\_

CASE NO. \_\_\_\_\_

STATEMENT OF EXPERT EVALUATION

Definition of incompetent [ O.R.C. 2111.01 (D)]: "Incompetent means any person who is so mentally impaired as a result of a mental or physical illness or disability, or mental retardation, or as a result of chronic substance abuse, that the person is incapable of taking proper care of the person's self or property or fails to provide for the person's family or other persons for whom the person is charged by law to provide , or any person confined to a correctional institution within this State."

The Statement of Evaluation does not declare the prospective ward competent or incompetent, but is evidence to be considered by the Court.

The fee for completing this evaluation WILL NOT be paid by the Court. Each evaluator should secure payment from the Applicant.

- 1. This Statement of Evaluation is for:
\_\_\_\_\_ Guardianship Application. (To be completed by a Licensed Physician, or Licensed Clinical Psychologist, and attached to the Application).
\_\_\_\_\_ Guardian's Report. (Evaluation and Statement by a Licensed Physician, Licensed Clinical Psychologist, Licensed Social Worker, or Mental Retardation Team to be completed within three months of date of the report. R.C. 2111.49(A)(1)(i).)
2. Statement completed by: (please type or print)

Name: \_\_\_\_\_

Address: \_\_\_\_\_ Phone \_\_\_\_\_

Who is a:

\_\_\_\_\_ Licensed Physician \_\_\_\_\_ Licensed Clinical Psychologist

\_\_\_\_\_ Licensed Social Worker \_\_\_\_\_ Mental Retardation Team

- 3. Following is my diagnosis/assessment of the mental and physical capacity, and the functioning level of the prospective ward.

\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_

CASE NO. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

4. Is the prospective ward mentally impaired? Yes \_\_\_\_\_ No \_\_\_\_\_

5. A. Is there observed or reported evidence of mental impairment?  
Yes \_\_\_\_\_ No \_\_\_\_\_ Describe: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

B. If reported, name source: \_\_\_\_\_

6. If the prospective ward is mentally impaired, what is the cause? \_\_\_\_\_

7. A. Is there observed or reported evidence of physical impairment?  
Yes \_\_\_\_\_ No \_\_\_\_\_ Describe: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

B. If reported, name source: \_\_\_\_\_

8. Can the prospective ward conduct business affairs without the aid of a guardian?  
Yes \_\_\_\_\_ No \_\_\_\_\_ Comments: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

9. Can the prospective ward properly care for himself without the aid of a guardian?  
Yes \_\_\_\_\_ No \_\_\_\_\_ Comments: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

10. (TO BE COMPLETED IF SUBMITTED WITH A GUARDIAN'S REPORT) In my opinion, the guardianship should be: Continued \_\_\_\_\_ Terminated \_\_\_\_\_

11. (TO BE COMPLETED IF SUBMITTED WITH AN APPLICATION FOR GUARDIANSHIP) In my opinion, the application for guardianship: Should be granted \_\_\_\_\_ Should not be granted \_\_\_\_\_.

ADDITIONAL COMMENTS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I certify that I have evaluated \_\_\_\_\_ for the purpose of guardianship.

Date of Evaluation \_\_\_\_\_

\_\_\_\_\_  
Evaluator