

# **V I R G I N I A:**

IN THE CIRCUIT COURT FOR [juris]

[pet]

Vs

[Respondent]

## **ORDER FOR APPOINTMENT OF GUARDIAN & CONSERVATOR**

THIS proceeding came to be heard on [hrgdate] upon the petition of the [petitioner], by counsel, for appointment of a guardian and conservator for [respondent] pursuant to 37.2-1000 *et seq* of the Code of Virginia. Preliminarily, the Court finds:

- Timely service of the Petition and Notice was served on [respondent] in person.
- All Notices required by law have been given in the appropriate format.
- [GAL], the Guardian *ad litem* previously appointed, has investigated this matter, filed his answer to the Petition, and appeared at the hearing.
- Also appearing at the hearing were [person1], daughter of [respondent], [person2], a caseworker with [local] Adult Protective Services, and [person3], Director of Social Services of [nursinghome].

After such preliminary findings, the Court heard evidence ore tenus and reviewed the evaluation of [respondent] prepared by [doctor], MD following an examination.

Upon such evidence and review, the Court finds:

1. [respondent] is presently a resident of [nursinghome], a skilled care nursing facility in the [locality], and prior thereto resided at [home].
2. [respondent], SSN XXX-XX-####, is an adult born [dob].
3. The native language of [respondent] is English.

4. [person2] testified that there had been problems getting appropriate medical attention for [respondent], and that there was emergency intervention by [locality] Adult Protective Services which led to [respondent] being hospitalized and then placed at [nursinghome].

5. [respondent] owns and/or receives the following:

TYPE PROPERTY	DESCRIPTION/LOCATION	VALUE
Real Estate	14.56 acres of land in County	\$50,300.00
Checking Account	Big Impersonal Bank ###	\$4114.93
Soc. Sec. Monthly		\$775.00

6. [respondent] has as next of kin the following persons:

<i>Relationship</i>	<i>Name</i>	<i>Address</i>
Nephew	John Doe	1234 Main Street Rural Retreat, VA, 24445

(other relation) (name) (address)

NO OTHER RELATIVES OR PERSONS ENTITLED TO NOTICE UNDER  
37.2-1002-B-2

7. [person1], daughter of [respondent], appeared at the hearing and stated she had a power of attorney for [respondent], but was unable to produce it. From the bench, the Court terminated the power of attorney.

8. [doctor], MD, a physician duly licensed in the Commonwealth of Virginia, stated in a report that she has examined [respondent] and determined that he:

- Suffers from dementia exacerbated by elevated blood sugar levels
- Suffers from diabetes mellitus, type I/insulin dependent.
- Suffers from colostomy due to ruptured diverticulitis,
- Suffers from glaucoma, macular degeneration, and osteoarthritis
- Has very poor long term and short term memory

- has limited awareness of her condition and is unable to take care of any personal or business needs.
  - The conditions are persistent and cannot improve.
9. [GAL], Esq., the Guardian *ad litem* herein, has reported to the Court that
- ◆ The resident chart at [nursinghome] contains notes from Dr. [Doc1] and Dr. [doc2], both physicians licensed in the Commonwealth of Virginia, confirming the report of [doctor].
  - ◆ [respondent] needs assistance to take her medication and ensure she is adequately feed, and that she cannot handle necessary daily business and personal matters and requires a guardian and conservator be appointed to assume those functions.

Based on the foregoing, the Court finds by clear and convincing evidence that [respondent] is incapable of handling her personal and business affairs and a Guardian and Conservator are both necessary for her welfare. It is accordingly

**ORDERED**

- A. That [gdn/cons] is hereby appointed Guardian of the person of [respondent] pursuant to 37.2-1000 of the Code of Virginia, however before exercising any powers as guardian, shall qualify and post bond before the Clerk of this Court in the amount of \$5000.00, without surety, to secure the faithful performance of those duties.
- B. The Guardian shall have full and complete power over the person of [RESPONDENT], including but not limited to the following powers, on her behalf,
1. To consent to the performance, withholding or withdrawal of medical procedures for [RESPONDENT], at the discretion of the guardian after consultation with the appropriate health care providers.
  2. Contract for care and education of [RESPONDENT], as appropriate.

3. Apply for benefits available for [RESPONDENT]
  4. Cause her to be admitted and discharged from any health care facility.
- C. That [gdn/cons] is hereby appointed Conservator of the Estate of [respondent] pursuant to 37.2-1000 *et seq.* of the Code of Virginia however before exercising any powers as Conservator, shall qualify and post bond before the Clerk of this Court in the amount of \$\_\_\_\_\_ with ..... surety, to secure the faithful performance of those duties and the Clerk shall deliver a "Certificate of Qualification" confirming same.
- D. The Conservator shall have control over all assets of [RESPONDENT], including all the powers as set forth in Sections 37.2-1022 & 1023 of the Code of Virginia, as amended, excluding, however, the power to convey or encumber real estate except upon further Order of this Court (which may be by summary motion) prior to so doing.
- E. The Duties of the Successor Conservator include, but are not limited to, receiving taking control of the income and assets of [RESPONDENT] and, from those assets:
1. Fund, in full, a funeral/burial plan (including cemetery charges) appropriate for station in life.
  2. Pay for the care of [RESPONDENT], including expenses for care and treatment accrued prior to this proceeding;
  3. Pay himself such sum not to exceed five (5%) percent of the assets as payment in full for all future services as guardian and successor conservator and plus any other fees or costs as may be approved by this Court or by the Commissioner of Accounts of this Court;
- F. Due to her incapacity, [RESPONDENT] cannot:
1. enter into contracts of any nature;
  2. convey or encumber real estate;
  3. own, possess or transport a firearm;

- 4. drive;
  - 5. vote;
  - 6. make a will;
  - 7. admit or discharge herself from any health care facility;
  - 8. make health care decisions for herself.
- G. All powers of attorney previously made or granted by [respondent] are revoked.
- H. The Court has considered the fees and costs due to the petitioner and to the guardian *ad litem*, and determined reasonable and appropriate fees and costs. The conservator appointed herein shall pay to [GAL], Guardian *ad litem* \$\_\_\_\_\_ fees and costs as soon as practical, and shall pay [pet atty] \$\_\_\_\_\_ fees and costs.
- I. The duties of the Guardian *ad litem* having been ably completed, [GAL] is discharged from further duties in this matter.
- J. The Clerk shall provide a copy of this Order to the [petitioner] Attorney, to [gdn/cons], appointed Guardian and Conservator herein, and to [GAL], Guardian *ad litem* and to such agencies as required by law.
- K. And this cause is continued OR closed and stricken from the docket. (*if further issues are to be brought up, continue; if nothing, then strike*)

Enter: \_\_\_\_\_

I ask for this  
 [Petitioner Atty]  
*Counsel for Petitioner*

\_\_\_\_\_  
 Judge

SEEN and recommended:  
 [GAL]  
*Guardian ad Litem*