

## OUTAGAMIE COUNTY CIRCUIT COURT GUARDIANSHIP AND CONSERVATORSHIP RULES

Beginning January 1, 2025, the following procedures/rules were adopted for all guardians and conservators appointed or currently acting in Outagamie County

### 1. Eligibility Requirements to Serve as Guardian or Conservator

- a. All proposed guardians/proposed conservators shall file a Wisconsin Department of Justice criminal history check and a caregiver background check prior to their appointment as guardian/conservator.
- b. The proposed guardian of the estate/proposed conservator shall file a full credit history report prior to their appointment as guardian of estate/conservator.
- c. All proposed guardians/proposed conservators who are non-residents of the state of Wisconsin, or have not resided in the state of Wisconsin for at least 6 months prior to filing the petition to appoint a guardian/conservator, shall file a criminal background check and caregiver background check from the proposed guardian's/conservator's current state of residence, or most recent state of residence prior to moving to the state of Wisconsin.
- d. All proposed guardians of estate/proposed conservators who are not a resident of the state of Wisconsin shall file a \$250.00 cash bond with the Register in Probate Office before their appointment as guardian of estate/conservator.
- e. The guardian of estate and social security representative payee cannot be two (2) different individuals or entities, unless otherwise approved by the Court.

### 2. Access to Confidential Court File

- a. After the guardianship or conservatorship has been ordered, access to the Court record is limited to the guardian/conservator, the ward/conservatee, the ward's/conservatee's attorney (with a notice of retainer on file), the court appointed guardian ad litem, the currently-assigned social worker, and the Corporation Counsel office.
- b. All individuals or entities not included in (2)(a) may obtain access by Court approval only upon submission of a written request indicating the name and address of the individual making the request and the legal basis for the release of information requested.

### 3. Guardianship Fees, Caregiver Fees, and Reimbursement

- a. A guardian of estate/conservator, who is not a corporate guardian/conservator, shall be entitled a maximum fee of \$50 per month payable only with prior court approval.
- b. A guardian of person, who is not a corporate guardian, shall be entitled a maximum fee of \$50 per month payable only with prior court approval.
- c. A guardian cannot be paid out of the ward's funds for providing cares to the ward, unless specifically approved by the Court. For purposes of this rule, a "ward's funds" do not include funding derived through the Family Care and IRIS programs.
- d. Neither a guardian of person nor a guardian of estate shall be entitled to mileage reimbursement without prior court approval. All requests for mileage reimbursement

must be presented to the Court pursuant to Wisconsin state statutes. If approved, reimbursement shall be at the Volunteer IRS rate of 14 cents per mile. However, any guardian of the person or guardian of the estate already approved for fees under Sections (3)(a) and/or (3)(b) are not eligible for reimbursement under the provision.

- e. A guardian of estate/conservator shall petition the Court to reimburse the guardian, conservator, or any third party for expenses incurred on behalf of the ward prior to making payment to the guardian, conservator, or third party.

4. Monthly Budget Expense Breakdown

- a. The guardian of the estate shall provide a Monthly Budget Expense Breakdown prior to appointment for any ward who will be residing with a guardian, a relative of the ward, or in any residence owned by the guardian or a relative of the ward.
- b. Any existing guardian of estate shall complete and file a Monthly Budget Expense Breakdown form at the request of the Register in Probate.
- c. If the proposed ward is not receiving Social Security benefits at the time the Monthly Budget Expense Breakdown is submitted, the guardian of estate shall provide proof of the ward's monthly benefit amount within 14 days of receiving the same from the Social Security office.

5. Management of a Ward's Assets

- a. A guardian of estate/conservator shall not comingle any of the ward's assets with assets belonging to the guardian of the estate, the guardian of the person, the conservator, or any other third party.
- b. A guardian of estate/conservator shall not use cash for primary expenses. All expenses must be incurred through the guardianship or conservatorship account by check or debit card. This rule does not apply to payment of court approved room board expenses under Section 4, court approved fees under Section 3, or for a reasonable amount given to the ward as an allowance each month.
- c. A guardian or conservator shall obtain Court approval for all purchases exceeding \$500.00 prior to making said purchase. This requirement shall not apply to the following expenses:
  - i. Room and board, mortgage, rent, cost of care in a facility, utilities, non-elective medical procedures, non-elective dental procedures, and clothing;
  - ii. Expenses paid for by assets held in a Wispact Trust account; and
  - iii. Contributions made to a burial trust that does not exceed the amount set forth in (5)(e).
- d. The guardian of estate/conservator shall not make a voluntary repayment to the Estate Recovery Program without prior Court approval.
- e. A guardian of estate/conservator shall reimburse their ward for all bank overdraft fees charged to the guardianship or conservator bank account within 14 days the charge is incurred.

- f. A guardian of estate shall not purchase gifts for the guardian, a relative of the ward, or any third party without prior court approval.
- g. A guardian of estate/conservator shall not fund a ward's burial trust assets (i.e. funeral services, cemetery plot, and headstone) in an amount exceeding \$12,000.00 without prior court approval.
- h. A guardian of estate/conservator shall not change the beneficiary designation on an existing life insurance policy owned by the ward without prior court approval.

6. Annual Accounting and Annual Reports

- a. Annual Reports on Condition of the Ward are required in all cases where a guardian of person has been appointed.
- b. Annual Accounts are required in all cases where a guardian of estate or a conservator has been appointed unless waived by the Court under Section 7.
- b. Annual Accounts and Annual Reports on Condition of the Ward are due to the Outagamie County Register in Probate Office each year by 4:30 p.m. on April 15<sup>th</sup>. If April 15<sup>th</sup> is on a weekend or holiday, annual accounts and annual reports are due the following business day at 4:30 p.m. No extensions to file an annual account will be granted by the Court.
- c. In cases where co-guardians/co-conservators have been appointed, both co-guardians/co-conservators shall sign all annual accountings and annual reports on condition of the ward regardless whether the co-guardian's have been given authority to act independent of one another by the Court.
- d. The guardian of estate/conservator shall provide completed itemized ledgers of all income and expenses for their ward for the entire year.
- e. The guardian of the estate/conservator shall provide a copy of the bank statements and any financial statements for every asset listed in Schedule C of the annual accounting for the entire accounting period.

7. Request to Waive Annual Accounting

- a. A guardian of estate, who is not a corporate guardian, may request that a ward's accounting be waived only if each of the following criteria are met as of December 31<sup>st</sup> of the year for which a waiver is sought:
  - i. The guardian of estate/conservator has been appointed for 12 months or more and submitted an annual accounting for a full calendar year on at least once occasion;
  - ii. The ward's income for the year is less than 150% of annual poverty earnings for one person as set by the US Department of Health and Human Services;
  - iii. The ward's total assets do not exceed \$2,000.00. Under this provision, a ward's "assets" do not include the following:
    - 1. Burial trusts;
    - 2. Wispact trusts;

3. A second social security deposit made in December of the year for which a waiver is requested that is intended to be social security income for January of the following year.
- iv. Each guardian of estate/conservator signs a sworn statement indicating that the ward's income and assets were used only for the ward's benefit during the accounting period for which the waiver is requested.

- b. All account waivers must be requested on the designated Register in Probate Office Court Form and include the following attachments:
  - i. Proof of the ward's total income for the year the waiver request is submitted for;
  - ii. A bank statement for the month of December for the year the waiver is being requested for each account holding the ward's assets. These statements must contain the year-end balance for each asset owned by the Ward.
- c. Any waiver received by the Outagamie County Probate Office after February 15<sup>th</sup> (or the next business day if February 15 is on a weekend/holiday) will be denied and the guardian of estate will be required to prepare a full accounting of their ward's income and expenses.
- d. The Court shall have the discretion to deny any waiver it deems inappropriate for any reason.

## 8. Audit Procedure

- a. The guardian of estate/conservator shall retain all income receipts, disbursement receipts, and financial statements of the ward for a period of seven (7) years.
- b. The Outagamie County Register in Probate office may complete a full audit of any accounting submitted by the guardian of estate by requiring submission of all income receipts, disbursement receipts, and copies of all cancelled checks for the year.
- c. Any waiver granted under Section 7 of these rules does not prohibit the Register in Probate Office from requesting account statements and receipts associated with a ward's assets and expenses to complete a review of a guardian of estate's or conservator's conduct or failure to comply with Wisconsin statutes and/or local court rules.

## 9. Fines and Penalties

- a. Failure to follow any of the rules set forth above could result in the following penalties:
  - i. Reimbursement to the ward for the expense incurred without Court approval.
  - ii. For each infraction, a fine not to exceed \$250.00.
  - iii. Payment of guardian ad litem fees.
  - iv. Removal of the guardian.

b. For each Order to Show issued to a guardian, the Court shall impose the following penalties:

- i. Reimbursement of any costs or service fees incurred by the Register in Probate Office;
- ii. A fine not to exceed \$75.00.

Approved:

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