

Table of Contents

CHAPTER 1 OVERVIEW

- I. Scope of Book [§ 1.1]**
- II. Overview of Guardianship [§ 1.2]**
 - A. Statutory Authority [§ 1.3]
 - B. Purpose [§ 1.4]
 - C. Incompetency Standard [§ 1.5]
 - D. Types of Guardianships [§ 1.6]
- III. Overview of Protective Service System [§ 1.7]**
 - A. Statutory Authority [§ 1.8]
 - B. Purpose [§ 1.9]
 - C. Qualification for Protective Services or Placement [§ 1.10]

CHAPTER 2 CHOOSING THE PROPER PROCEDURE

- I. Scope of Chapter [§ 2.1]**
- II. Types of Guardianships [§ 2.2]**
 - A. In General [§ 2.3]
 - B. Guardianship of the Estate [§ 2.4]
 - C. Guardianship of the Person [§ 2.5]
- III. Types of Protective Services and Placement [§ 2.6]**
 - A. In General [§ 2.7]
 - B. Protective Services [§ 2.8]
 - 1. Voluntary Services [§ 2.9]
 - 2. Involuntary Services [§ 2.10]
 - C. Involuntary Protective Placement [§ 2.11]
 - 1. In General [§ 2.12]
 - 2. Legal Requirements [§ 2.13]
 - 3. Placement Decision [§ 2.14]

- 4. Mental Health Treatment [§ 2.15]
- 5. Placement Considerations and Least Restrictive Setting [§ 2.16]

IV. Choice of Procedure [§ 2.17]

- A. Guardianship [§ 2.18]
- B. Protective Services or Placement [§ 2.19]
- C. Concurrent Guardianship and Protective Services or Placement [§ 2.20]

CHAPTER 3

CHOOSING A GUARDIAN

I. Scope of Chapter [§ 3.1]

II. Selecting the Guardian [§ 3.2]

- A. Anticipatory Nomination [§ 3.3]
- B. Court Selection [§ 3.4]

III. Potential for Abuse [§ 3.5]

- A. In General [§ 3.6]
- B. Wisconsin's Reporting System [§ 3.7]
- C. Indicators of Abuse (ELD-0067) [§ 3.8]

IV. Individual Versus Corporate Guardian [§ 3.9]

- A. In General [§ 3.10]
- B. Individual Guardian [§ 3.11]
- C. Corporate Guardian [§ 3.12]
 - 1. Bank [§ 3.13]
 - 2. Other Entities [§ 3.14]

CHAPTER 4

ROLE OF THE PETITIONER'S ATTORNEY

I. Scope of Chapter [§ 4.1]

II. Ethical Issues in Representing the Petitioner [§ 4.2]

III. Initial Documents [§ 4.3]

- A. In General [§ 4.4]
- B. Petition [§ 4.5]
 - 1. Who May File [§ 4.6]
 - 2. Contents (ELD-0068) [§ 4.7]
 - 3. Where Filed [§ 4.8]
 - 4. Foreign Guardianship Matters [§ 4.9]
- C. Order Appointing Guardian ad Litem [§ 4.10]
- D. Order and Notice for Hearing [§ 4.11]
- E. Order for Comprehensive Evaluation [§ 4.12]
- F. Order Appointing Physician or Psychologist [§ 4.13]
- G. Certificate of Service [§ 4.14]

IV. Case Preparation [§ 4.15]

- A. Execution of Documents [§ 4.16]
- B. Filing the Action [§ 4.17]
- C. Service [§ 4.18]
 - 1. On the Proposed Ward [§ 4.19]
 - 2. On Interested Persons [§ 4.20]
- D. Report of Physician or Psychologist [§ 4.21]
- E. Comprehensive Evaluation [§ 4.22]
- F. Report of Guardian ad Litem [§ 4.23]

V. Hearing [§ 4.24]

- A. In General [§ 4.25]
- B. Uncontested Hearing [§ 4.26]
 - 1. Proposed Ward's Attendance [§ 4.27]
 - 2. Bond [§ 4.28]
 - 3. Witnesses [§ 4.29]
 - 4. Determination and Order [§ 4.30]
 - 5. Letters of Guardianship [§ 4.31]
 - 6. Statement of Acts and Consent to Serve [§ 4.32]
 - 7. Hearing Procedure [§ 4.33]
- C. Contested Hearing [§ 4.34]
 - 1. General Procedures [§ 4.35]
 - 2. Objections from Interested Persons [§ 4.36]
 - 3. Preparation for Hearing [§ 4.37]

VI. Checklist (ELD-0064) [§ 4.38]

CHAPTER 5

Role of the Guardian ad Litem and Advocacy Counsel

I. Scope of Chapter [§ 5.1]

II. Role of Guardian ad Litem [§ 5.2]

- A. In General [§ 5.3]
- B. Initial Considerations [§ 5.4]
- C. Interviewing Proposed Ward and Current, Proposed, and Potential Guardians [§ 5.5]
 - 1. Proposed Ward [§ 5.6]
 - 2. Proposed Guardian [§ 5.7]
 - 3. Current Guardian [§ 5.8]
- D. Assessing Powers of Attorney and Agents [§ 5.9]
- E. Reviewing Records [§ 5.10]
- F. Making Requests to Court [§ 5.11]
 - 1. Independent Medical or Psychological Evaluation [§ 5.12]
 - 2. Appointment of Advocacy Counsel [§ 5.13]
- G. Anticipating Transportation and Attendance Issues [§ 5.14]
- H. Considering the Type and Extent of Guardianship [§ 5.15]
 - 1. Type of Guardianship [§ 5.16]
 - 2. Need for Guardianship and Protective Placement [§ 5.17]
- I. Report to Court [§ 5.18]
- J. Representing Proposed Ward at Hearing [§ 5.19]
 - 1. In General [§ 5.20]
 - 2. Uncontested Hearing [§ 5.21]
 - a. Preparation [§ 5.22]
 - b. Participation in Hearing [§ 5.23]
 - 3. Contested Hearing [§ 5.24]
 - a. Preparation [§ 5.25]
 - b. Participation [§ 5.26]
- K. Checklist (ELD-0065) [§ 5.27]

III. Role of Advocacy Counsel [§ 5.28]

IV. Appeals [§ 5.29]

CHAPTER 6

ROLE OF THE GUARDIAN

I. Scope of Chapter [§ 6.1]

II. Guardian of the Person [§ 6.2]

- A. Statutory Authority [§ 6.3]
- B. Duties and Powers [§ 6.4]
 - 1. In General [§ 6.5]
 - 2. Consent to Medical Treatment [§ 6.6]
- C. Other Responsibilities [§ 6.7]
 - 1. Secure Care and Services [§ 6.8]
 - 2. Act in Good Faith [§ 6.9]
 - 3. Submit Annual Report [§ 6.10]

III. Guardian of the Estate [§ 6.11]

- A. Statutory Authority [§ 6.12]
- B. Duties and Powers [§ 6.13]
 - 1. In General [§ 6.14]
 - 2. Estate of Married Ward [§ 6.15]
- C. Other Responsibilities [§ 6.16]

CHAPTER 7

SAFEGUARDS UNDER THE PROTECTIVE SERVICE SYSTEM

I. Scope of Chapter [§ 7.1]

II. Restrictions on Transfer of Protective Placement [§ 7.2]

- A. In General [§ 7.3]
- B. Transfer to a Different Placement [§ 7.4]
- C. Modification of Protective Placement [§ 7.5]
- D. Transfer to Psychiatric Facility [§ 7.6]

III. Annual Review of Protective Placement [§ 7.7]

- A. In General [§ 7.8]
- B. Agency Review [§ 7.9]
- C. Court Review [§ 7.10]
 - 1. In General [§ 7.11]
 - 2. Guardian ad Litem's Initial Duties (ELD-0066) [§ 7.12]

3. Guardian ad Litem's Report to Court [§ 7.13]
4. Hearing [§ 7.14]

CHAPTER 8

TERMINATION OR MODIFICATION OF A GUARDIANSHIP OR PROTECTIVE PLACEMENT

- I. Scope of Chapter [§ 8.1]**
- II. Termination of Guardianship or Protective Placement [§ 8.2]**
 - A. Guardianship [§ 8.3]
 - B. Protective Placement [§ 8.4]
- III. Modification of Guardianship or Protective Placement [§ 8.5]**
 - A. In General [§ 8.6]
 - B. Change of Venue [§ 8.7]
 - C. Change of Guardian [§ 8.8]

CHAPTER 9

EMERGENCY PROCEDURES

- I. Scope of Chapter [§ 9.1]**
- II. Temporary Guardianship [§ 9.2]**
 - A. In General [§ 9.3]
 - B. Procedure [§ 9.4]
 1. Initial Documents [§ 9.5]
 2. Service [§ 9.6]
 3. Guardian ad Litem Appointment and Responsibilities [§ 9.7]
 4. Hearing [§ 9.8]
 - C. Limitations [§ 9.9]
 1. In General [§ 9.10]
 2. Nursing Home Placement [§ 9.11]
 3. Duration [§ 9.12]
- III. Emergency and Temporary Protective Placement or Emergency Protective Services [§ 9.13]**
 - A. Emergency Protective Services [§ 9.14]

- B. Respite Placement [§ 9.15]
- C. Emergency Placement Following Hospitalization [§ 9.16]
- D. Emergency and Temporary Protective Placement [§ 9.17]
 - 1. In General [§ 9.18]
 - 2. Procedure [§ 9.19]
 - 3. Limitations [§ 9.20]

**IV. Temporary Protective Placement Under Wis. Stat. § 51.67
[§ 9.21]**

- A. In General [§ 9.22]
- B. Procedure [§ 9.23]

APPENDICES

Appendix A Additional Resources

Appendix B Miscellaneous Sample Forms (Nonmandatory)

- Order for Comprehensive Evaluation and Release of Information (ELD-0063)
- Order Appointing Physician or Psychologist (ELD-0062)
- Certificate of Service (ELD-0060)
- Letter Notice of Proposed Adult Ward's Rights (ELD-0043)
- Letter Notice of Proposed Adult Ward's Rights (Alternate Form) (ELD-0044)
- Report of the Guardian ad Litem (Temporary Guardianship) (ELD-0046)
- Flow Chart for Temporary Guardianship GAL

INDEX

