

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF _____

-----X

In the Matter of the Proceedings of _____,

Index No. _____

Guardian of the Person and Property of _____,

INITIAL REPORT

(For IP in Nursing Home)

An Incapacitated Person.

-----X

TO THE SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF _____:

I, _____, an attorney at law duly admitted to practice before the Courts of the state of New York, maintain offices for the said practice at [Address], telephone (____)_____. I am Guardian of the person and property of _____, the incapacitated person herein, and do hereby respectfully report as follows:

FIRST: That I was duly appointed Guardian of the person and property of _____ by an Order granted the ___ day of _____, _____, by Mr. Justice _____. Annexed hereto and made part hereof is a copy of said Order, marked Exhibit A.

SECOND: That I thereafter duly qualified as such Guardian by filing in the Clerk's office of the County of _____ a bond in the sum of \$_____ pursuant to the aforesaid Order of this Court, and the commission to Guardian was issued on [date]. A copy of the said commission is annexed hereto and made part hereof, marked Exhibit B.

THIRD: That to the best of my ability I have acquainted myself with the incapacitated person, her needs and her stated desires; and, pursuant to section 81.30 of Mental Hygiene Law, I make this Initial Report to the Court.

FOURTH: That I have fully complied with the education requirements for Guardians set forth at section 81.39 of the Mental Hygiene Law by my attendance at the _____ program in respect of Article 81 of Mental Hygiene Law held at [location] on [date]. A copy of the certificate I received upon completion of the training is annexed hereto and made part hereof, marked Exhibit C.

FIFTH: Regarding my duties as Guardian of the person of _____, I respectfully submit to the Court that I have taken the following actions with regard to the discharge of my said duties and responsibilities. The history of the incapacitated person's medical condition is as follows: _____ was a patient at _____ Hospital in _____, New York

from [date] until [date], whereupon she was admitted to the _____ Nursing Home located at [Address], with a diagnosis of dementia and a history of delusional disorder. Before her admission to _____ Hospital, _____ resided at [Address]. Medically, _____ is sound and stable; she is independently ambulatory and is able to communicate her basic needs. She is, however, severely impaired in decision making and has an extremely impaired memory.

SIXTH: On [date], a petition for the appointment of a guardian of _____ pursuant to Article 81 of the Mental Hygiene Law was brought by the Vice President and Executive director of _____ Nursing Home. The said application was returnable before the Court on [date]. The aforesaid Order of [date] provided, *inter alia*, that the Guardian “shall maintain the incapacitated person at _____ Nursing Home or some other suitable residential health care facility.”

SEVENTH: On [date], I visited with _____ at the _____ Nursing Home, [Address], telephone (____)_____. She is a completely delightful, attractive, tiny woman with white hair and a cheerful demeanor. She is maintained in a semi-private room. I introduced myself to her and explained the nature of my relationship to her and she exhibited pleasure and comfort that “a lawyer” was taking care of her money. I engaged her in a conversation regarding her entire situation. She is confused and is not aware of where she is or the circumstances surrounding her admission to the nursing facility. She did not remember anything about her apartment and was unable to give me any information regarding her assets or income. She exhibited frustration at the care she was receiving at the facility and stated that the people there “treat me like they treat everyone else.” When I inquired if she was unhappy or if anyone was treating her poorly, she said no. She also stated that she was of the observant orthodox Jewish faith. It is respectfully submitted to the Court that since _____ is not happy at the said facility, I plan to make inquiry to other nursing facilities, and specifically facilities which provide a more orthodox observance and transfer her to such a facility. In addition thereto, _____ expressed distress at being unable to go outside since her coat was missing. I am of the opinion that a facility with grounds would be more suitable to her since she is independently ambulatory and I believe she would enjoy being outdoors during good weather.

EIGHTH: According to the interdisciplinary comprehensive care plan, prepared by _____’s attending physician, _____, M.D., _____ is suffering from Alzheimer’s dementia resulting in a severely impaired memory and decision-making capabilities. As a result, _____ has great difficulty with the activities of daily living without assistance and is generally confused with regard to time and place. The doctor recommends that she be maintained in a safe and structured environment where her activities of daily living can be assisted; however, she also recommends that she be slowly trained to be somewhat more independent in accordance with her limited abilities. This relative degree of independence can be achieved, according to the doctor, through daily reminders to _____ of the time and date and encouragement by the staff for _____’s participation in her grooming and dressing. A photocopy of _____, M.D.’s interdisciplinary comprehensive care plan is annexed hereto and made a part hereof as Exhibit D.

NINTH: According to the progress notes recorded by the nurses of _____, she has an extremely impaired short-term memory which manifests itself with her ambulating to the

nurses' station and asking the nurses the same questions repeatedly during the course of an average day. Examples of _____'s repeated questions are "What time is it?" "When are they picking me up for therapy?" and "When is it meal time?" The nurses have also reported that on occasion _____ often becomes quite agitated and acts in an aggressive manner. She has also recently refused to take her paraffin baths that were prescribed to alleviate the arthritis pain in her hands. A photocopy of the nurses' progress notes for the period [date] through [date] is annexed hereto and made a part here as Exhibit E.

TENTH: According to the progress notes and summary sheet of _____, M.D., _____'s physician at _____ Nursing Home, _____ was admitted to the nursing home on [date] with the diagnosis of delusional disorder, post-left eye surgery in [year], decreased vision in left eye, status post ulcer in the left tibia and fibula and status post left leg cellulitis. She currently suffers from bilateral hearing loss, decreased vision in the left eye and arthritis in both hands. The doctor also noted _____'s extremely poor short- and long-term memory. _____ was referred to an audiology specialist to evaluate her for a hearing aid; however, according to Dr. _____'s notes for [date], _____ would not benefit from the same. _____ was also examined by an ophthalmologist to treat her vision difficulties. The said physician prescribed Lacril Sol, which is an artificial tear solution that is administered to _____ four times daily in both eyes. Photocopies of Dr. _____'s summary and progress notes, the findings and recommendations from the audiology department and the findings and recommendations from the ophthalmologist are annexed hereto and made a part hereof as Exhibit F.

ELEVENTH: _____ is presently taking the following medications: Haldol .5mg once daily, Hxavitamin once daily, Lacril Sol one drop in each eye four times daily and Ensure 240cc three times daily for supplement. These medications do not have any unnecessary side effects.

TWELFTH: _____ started receiving dental treatment by _____, D.D.S., on [date], and her treatment continues to date. The said dentist will continue to provide dental services to the incapacitated person at the nursing home. Annexed hereto and made a part hereof are the dental forms and dentist's progress notes marked Exhibit G.

THIRTEENTH: _____ is receiving occupational therapy at the nursing home from occupational therapist _____, P.T.A. According to his report, _____ receives therapy five times per week for arthritis in both hands. To supplement the therapy, paraffin baths have been prescribed for _____; however, as previously noted, the nurses have stated in their notes that she often refuses to take said baths. Mr. _____ states in his progress notes that _____ has recently improved her upper extremity strength through the use of one pound weights, and will continue the restorative, occupational therapy using paraffin baths in conjunction with the free weight exercises. Copies of the physical therapist's progress notes are annexed hereto and made part hereof marked Exhibit H.

FOURTEENTH: During the last few months, _____ has attended art workshops, birthday parties and holiday parties. She receives kosher meals, is involved with the institution's Jewish programs and observes her religious holidays. She also enjoys participating in group games with the other residents. However, as noted in the Psycho-Social Evaluation and

Assessment report prepared by _____, C.P.W., _____ has demonstrated difficulty socializing with her peers and frequently experiences periods of agitation in social settings. Mr. _____'s progress notes are annexed hereto and made a part hereof as Exhibit I.

FIFTEENTH: The name of the nursing care coordinator assigned to provide services to _____ at the _____ Nursing Home is _____, telephone (____)_____. The name of her attending physician is _____, M.D., telephone (____)_____.

SIXTEENTH: Upon information and belief, _____ has not granted any power of attorney to any person or entity, nor has she executed a health care proxy, a Do-Not-Resuscitate order, living will, organ donation document, or any other advance directive. The said information was gleaned from a search of _____'s belongings, a conversation with _____ and the staff at the nursing home.

SEVENTEENTH: Pursuant to the aforesaid Order Appointing Guardian, I plan to maintain _____ in a suitable residential health care facility; however, in the opinion of the undersigned, _____'s needs would be better served in a facility other than the _____ Nursing Home. As aforesaid, during the undersigned's visit with _____, she indicated that she was not happy at the said facility; in my opinion, her spiritual needs would be better met in a Jewish nursing facility. _____'s need of 24-hour care is best met in an extended care facility.

EIGHTEENTH: On [date], the undersigned was telephoned by one _____, Esq., of the law firm of _____, who claimed to represent the management company for _____'s apartment located at _____. I was informed by Mr. _____ that _____ had not been lawfully evicted from her apartment as set forth in the Report of _____, Esq., the Court Evaluator during the guardianship proceeding, but rather her apartment was left unoccupied from the time she was admitted to _____ Hospital on [date] to the present.

NINETEENTH: On [date], I went to _____'s apartment in the company of a security guard employed by the management of the building who was in possession of the keys to _____'s apartment. The inside of _____'s apartment was a complete shambles; live and dead vermin were everywhere and papers and clothing were strewn about. I found no usable clothes for _____ in her apartment, nor did I locate any bankbooks or stock certificates belonging to _____. The furnishings in the apartment were extremely dilapidated and none of _____'s personal belongings had any apparent value. In order to preserve the extremely limited assets of this estate and, given the obvious worthlessness of _____'s personal property, I dispensed with the obtaining of an appraisal of _____'s personal property and negotiated with the building's superintendent to remove and dispose of the contents of _____'s apartment as he saw fit, provided he waive any applicable fee for said removal.

TWENTIETH: By correspondence dated _____, _____, this office informed the attorneys for _____'s cooperative apartment, _____, that as of [date], the undersigned as guardian of _____ was surrendering her apartment. _____, Esq., an attorney with _____, acknowledged receipt of the above-referenced letter by phone on [date], and faxed to this office

on the same day a copy of the letter he forwarded to the building manager, instructing the same to take possession of _____'s apartment and issue to this office a statement regarding _____'s equity in her apartment. Annexed hereto and made a part hereof as Exhibit J are copies of the correspondence from my office to _____, Esq., the letter Mr. _____ forwarded to _____'s building manager and a letter from the building management company stating _____'s equity in her apartment.

TWENTY-FIRST: Upon the foregoing, it is respectfully submitted to the Court that the plan of the undersigned with respect to the care and maintenance of _____ is to continue her confinement at the _____ Nursing Home until such time as she can be transferred to a Jewish facility that would provide _____ with the care she requires. She is currently receiving adequate therapy and assistance to aid her with the activities of daily living. She is presently improving strength due to the occupational therapy she receives at the nursing home. Although she is alert and responsive, she still requires assistance with all activities of daily living. It is the opinion of the undersigned that it is in _____'s best interests that she remain in an extended care facility which offers her supervision and encouragement from the staff and provides for her religious needs as well. Presently, there are no services that are necessary that have not been conducted. Any future services that are deemed currently necessary will be provided for by the _____ Nursing Home since her reevaluation there is continual and the same will be supplemented by visits by the undersigned and her office staff. In addition, Medicare is _____'s primary medical insurance. It is anticipated by the undersigned that once the assets of _____ are marshaled, and her administrative expenses and outstanding debts are paid, she will be eligible for Medicaid since she is, at the present, *de facto* indigent. _____ currently owes the _____ Nursing Home in excess of \$_____ and there are insufficient assets in her estate to pay the accrued debt. By letter dated _____, _____, the undersigned informed the _____ Nursing Home of the anticipated insufficiency of _____'s assets to cover her outstanding debt and advised the same to commence a Medicaid application on behalf of _____. Annexed hereto and made a part hereof, as Exhibit K, is a photocopy of the letter to the _____ Nursing Home.

TWENTY-SECOND: Included in the cost of the _____ Nursing Home, as is typical with most nursing facilities in the _____ area, are room, board including all meals and laundry services, medical equipment and supplies, medications, 24-hour nursing care, assistance and supervision with the activities of daily living, materials for personal hygiene, use of supportive equipment, leisure time activities, social services and all therapy sessions. Moreover, a physician will visit and examine _____ at least once every 30 days. The nursing home does not provide clothing, hairdresser services, newspapers, or other physician's services.

TWENTY-THIRD: Consistent with the aforesaid Order of the Court, I have marshaled the incapacitated person's assets, and have deposited the cash in Guardian accounts at _____ Bank and the securities in a Guardian account at _____. The value and description of such known financial resources of _____ are as follows:

| ASSET | VALUE |
|---|----------|
| 1. _____ Bank Account Nos. _____ and _____ | \$ _____ |

2. _____ Savings Bank
Account No. _____ \$ _____
 3. _____ Stock - Office of State
Comptroller - Unclaimed Funds \$ _____
 4. _____ Stock - ___ Common Shares \$ _____
 5. _____ Company - ___ Common Shares \$ _____
 6. _____, Inc. - ___ Common Shares u/k
 7. _____ Limited - ___ Depository Units \$ _____
- TOTAL ASSETS** \$ _____

| MONTHLY INCOME | AMOUNT |
|-----------------------------|-----------------|
| Social Security Benefits | \$ _____ |
| TOTAL MONTHLY INCOME | \$ _____ |

TWENTY-FOURTH: Initial disbursements made on behalf of _____ to date are as follows:

| DESCRIPTION | AMOUNT |
|---|-----------------|
| 1. _____, Esq. - Fee per Court Order granted [date] | \$ _____ |
| 2. The _____ Nursing Home - Fee per Court Order granted [date] | \$ _____ |
| 3. _____ Bond Company, Inc. - Statement Bond premium [date] | \$ _____ |
| 4. _____, Bond Company, Inc. - Statement Bond premium [date] - _____ - lost stock certificates | \$ _____ |
| TOTAL PRIMARY DISBURSEMENTS | \$ _____ |

TWENTY-FIFTH: The undersigned is currently receiving Social Security pension benefits as _____'s representative payee after having interposed an application to the said payor.

TWENTY-SIXTH: Upon information and belief, _____ does not have a Last Will and Testament. In the opinion of the undersigned, _____ does not possess testamentary capacity at this time and I have had no discussion with her regarding the making of a Will.

TWENTY-SEVENTH: It is respectfully submitted to the Court that no changes in the powers authorized by the Court in its aforesaid [date] Order are required at this time.

Dated: _____, New York
_____, _____

Respectfully submitted,

s/ _____
[Name of Petitioner]

s/ _____
[Signing Attorney's Name]
[Certification pursuant to
22 N.Y.C.R.R. § 130-1.1a(a).]

Sample

Sample

STATE OF NEW YORK)
) ss.:
COUNTY OF _____)

_____, being duly sworn, deposes and says:

That I am the Petitioner in the within proceeding; that I have read the foregoing INITIAL REPORT and the contents thereof; the same is true to my own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters I believe them to be true.

s/ _____
[Signature of Petitioner]

Sworn to before me this
____ day of _____,

Notary Public

s/ _____
[Signing Attorney's Name]
[Certification pursuant to
22 N.Y.C.R.R. § 130-1.1a(a).]