In re:	:	IN THE COURT OF COMMON PLEAS
	:	OF ERIE COUNTY, PENNSYLVANIA
_____	:	ORPHANS' COURT DIVISION
an alleged incapacitated person	:	
	:	No. 20____ - _____

PETITION FOR ADJUDICATION OF INCAPACITY AND APPOINTMENT OF PLENARY GUARDIAN OF THE PERSON AND/OR ESTATE

AND NOW, this _____ day of _____, 20____, comes Petitioner, _____, who submits the within Petition for Adjudication of Incapacity and Appointment of Guardian of the Person and/or Estate of an Incapacitated Person, and states in support thereof herein:

1. The following are pertinent facts as to the **Petitioner**:
   a. Name: _____
   b. Age: _____ Date of Birth: _____
   c. Address: _____
   d. Mailing address, if different: _____
   e. Relationship to the alleged incapacitated person ("AIP"):
   _____

To be completed if there is more than one Petitioner. If there is only one Petitioner, skip to question 3

2. The following are pertinent facts as to the **Petitioner**:
   a. Name: _____
   b. Age: _____ Date of Birth: _____
   c. Address: _____
   d. Mailing address, if different: _____
   e. Relationship to the alleged incapacitated person:
   _____

3. The following are pertinent facts as to the **Alleged Incapacitated Person ("AIP")**:
   a. Name: _____
   b. Age: _____ Date of Birth: _____
   c. Residence: _____
   d. Mailing address, if different: _____
   e. Address where service of this Petition should be made:
   _____

4. The following pertinent facts as to the spouse, parents, and presumptive intestate heirs of the AIP and whether they are *sui juris* (18 years or older with full legal capacity) (attach additional sheets as necessary):

    a. Name of **Spouse**: _____
    Address: _____
    Sui juris: Yes or No

    b. Name of **Father**: _____
    Address: _____
    Sui juris: Yes or No

    c. Name of **Mother**: _____
    Address: _____
    Sui juris: Yes or No

    d. Name of **Presumptive Intestate Heir**: _____
    Address: _____
    Sui juris: Yes or No

    e. Name of **Presumptive Intestate Heir**: _____
    Address: _____
    Sui juris: Yes or No

    f. Name of **Presumptive Intestate Heir**:_____
    Address: _____
    Sui juris: Yes or No

5. The name and address of the person or institution providing residential services (e.g. in-home caregiver, hospital, nursing home, group home, etc.) to the AIP are:

    Name:_____
    Address: _____

6. Name and address of other service providers and nature of the services being provided:

    Name: _____
    Address: _____
    Nature of service(s) being provided:_____
    _____
    _____

Name: _____
Address: _____
Nature of service(s) being provided:_____
_____
_____

Name: _____
Address: _____
Nature of service(s) being provided:_____
_____
_____

7. Is there an executed **health care power of attorney** or **advance health care directive** pursuant to Title 20, Chapter 54?

   If so, the person designated in the writing to act as the agent is:
   Name: _____
   Address: _____

8. Is there an executed **power of attorney** pursuant to Title 20, Chapter 56?

   If so, the person designated in the writing to act as the agent is:
   Name: _____
   Address: _____

9. Is there any other writing by the AIP pursuant to Title 20, Chapters 54 or 58 authorizing another to act on behalf of the AIP, and if so, the name and address of the person designated:
   Name: _____
   Address: _____

10. Does the AIP have a **representative payee** (sometimes called a "rep payee")?
    - ☐ Unknown
    - ☐ No
    - ☐ Yes:

      Name: _____
      Address: _____

11. Is the AIP represented by **legal counsel**?
    - ☐ Unknown
    - ☐ No
    - ☐ Yes:

Attorney's Name: _____
Address: _____

12. As a result of the AIP's mental and/or physical condition, the AIP is (i.e. the reason why guardianship is sought) (check all that apply):

- ☐ Unable to make responsible decisions concerning his or her person, health, welfare and safety;
- ☐ Unable to communicate his or her needs concerning his or her health, welfare or safety;
- ☐ Unable to reside alone;
- ☐ Unable to provide for his or her personal safety;
- ☐ Unable to care for his or her residence;
- ☐ Unable to keep himself or herself properly nourished and hydrated;
- ☐ Unable to tend to his or her own personal hygiene;
- ☐ Unable to dress himself or herself;
- ☐ Unable to medicate himself or herself;
- ☐ Unable to make responsible decisions with regard to his or her medical care, including, but not limited to, obtaining health care services and admitting himself or herself into a hospital, convalescent home, skilled care facility, residential care facility, or similar situation;
- ☐ Unable to manage his or her financial affairs;
- ☐ Unable to make and communicate responsible decisions relating to his or her financial affairs;
- ☐ Other _____

13. If plenary guardianship is not sought, then specific areas of incapacity over which it is requested that the guardian be assigned powers: _____
_____
_____

14. The probability that the physical condition and mental condition of the AIP will improve: _____

15. Has there been a prior incapacity proceeding concerning the AIP? _____
If so, state the following:
    a. Court: _____
    b. Docket number: _____
    c. Date(s) of hearing(s), if any: _____
    d. Determination of capacity, if any: _____

16. Steps taken to find a less restrictive alternative than a guardianship, if any, are as follows:

a. Appropriate technological assistance; explain: _____

_____

_____

Was the use of technological assistance attempted?

☐ Yes:

How long was technological assistance attempted _____

_____

Why wasn't the use of technological assistance sufficient to meet the AIP's needs? _____

_____

or

☐ No:

The use of technological assistance was not attempted because:

_____

_____

b. Supported decision making; describe: _____

_____

_____

Was the use of supported decision making attempted?

☐ Yes:

How long was supported decision making attempted_____

_____

Why wasn't the use of supported decision making sufficient to meet the AIP's needs? _____

_____

or

☐ No:

The use of supported decision making was not attempted because:

_____

_____

c. Community or residential services, describe: _____

_____

_____

Was the use of community or residential services attempted?

☐ Yes:

How long were community or residential services attempted?_____

_____

Why wasn't the use of community or residential services sufficient to meet the AIP's needs? _____

_____

or

☐ No:
The use of community or residential services were not attempted because: _____

_____

d. Appointment of a health care agent; describe: _____

_____

_____

Was the use of an appointed health care agent attempted?

☐ Yes:
How long was the use of an appointed health care agent attempted?

_____

_____

Why wasn't the use of an appointed health care agent sufficient to meet the AIP's needs? _____

_____

or

☐ No:
The use of an appointed health care agent was not attempted because: _____

_____

e. Representative payee (also called "rep payee"), describe: _____

_____

_____

Was the use of a representative payee attempted?

☐ Yes:
How long was the use of a representative payee attempted _____

_____

Why wasn't the use of a representative payee sufficient to meet the AIP's needs? _____

_____

or

☐ No:
The use of a representative payee was not attempted because:

_____

_____

f. Trusts; describe: _____

_____

_____

Was the use of trusts assistance attempted?

☐ Yes:

How long was the use of trusts assistance attempted _____

_____

Why wasn't the use of trusts sufficient to meet the AIP's needs?

_____

_____

or

☐ No:
The use of trusts was not attempted because: _____

_____

g. Banking or bill-paying assistance; describe: _____

_____

_____

Was the use of banking or bill-paying assistance attempted?

☐ Yes:
How long was the use of banking or bill-paying assistance attempted?

_____

_____

Why wasn't the use of banking or bill-paying assistance sufficient to meet the AIP's needs? _____

_____

or

☐ No:
The use of banking or bill-paying assistance was not attempted because: _____

_____

h. Appointment of power of attorney; describe: _____

_____

_____

Was the use of appointed power of attorney attempted?

☐ Yes:
How long was the use of an appointed power of attorney attempted?

_____

_____

Why wasn't the use of an appointed power of attorney sufficient to meet the AIP's needs? _____

_____

or

☐ No:
The use of an appointed power of attorney not attempted because:

_____

_____

i. Other less restrictive means considered or attempted:

Type of less restrictive means considered or attempted: _____

_____

Why wasn't this sufficient to meet the AIP's needs? _____

_____

Type of less restrictive means considered or attempted: _____

_____

Why wasn't this sufficient to meet the AIP's needs? _____

_____

Type of less restrictive means considered or attempted: _____

_____

Why wasn't this sufficient to meet the AIP's needs? _____

_____

17. Is the AIP a veteran of the United States Armed Services? _____

18. Is the AIP receiving benefits from the United States Veterans' Administration on behalf of himself of herself or through a spouse? _____

19. Individual(s) whom the Petitioner proposes should receive notice of the filing of the inventory and guardianship reports, pursuant to Rule 14.8(b), if any, are:

a. Name: _____
Address: _____

b. Name: _____
Address: _____

c. Name: _____
Address: _____

d. Name: _____
Address: _____

e. Name: _____
Address: _____

20. If guardian of the estate is sought, give details about the AIP's assets and income (write "none" if AIP does not own a particular asset or have that type of income)

Asset or Income	Value or Amount	Details
Real property		
Other real estate		
Money (cash on hand or in accounts)		
Investments		
Personal property		
Insurance		
Pension or retirement		
Stocks or bonds		
Burial account		
Income		
Other		
Other		
Other		

***If additional space is needed, please attach additional sheets.*

21. Petitioner requests the following person(s) or entity be named as ____ Guardian of the Person _____ Guardian of the Estate or _____ Guardian of the Person and Estate of the AIP. If the proposed Guardian(s) is an entity, list the name of the person(s) to have direct responsibility for the AIP and the name of the principal of that entity.
    a. Name: _____
    Address: _____
    Mailing address, if different: _____
    Relationship, if any, to the AIP: _____

    b. Name: _____
    Address: _____
    Mailing address, if different: _____
    Relationship, if any, to the AIP: _____

    c. If proposed guardian is an entity:
    Name of person or persons to have direct responsibility for the AIP:
    _____

    Name of the principal of that entity: _____

22. Does the proposed guardian have any adverse interest to that of the AIP?
    a. Yes, please describe _____
    b. No.

23. Is the proposed guardian available and able to visit or confer with the AIP?
    a. Yes.

b. No, please explain _____

24. Has the proposed guardian completed any guardianship training?
    a. Yes, please describe _____
    b. No.

25. Does the proposed guardian have any guardianship certification?
    a. Yes. Is the guardianship certification current? _____
    b. No.

26. Does the proposed guardian have any disciplinary action related to the certification?
    a. Yes, please explain _____
    b. No.

27. Is the proposed guardian a guardian for any other incapacitated persons?
    a. Yes. Please state the number of *active* guardianship cases. _____
    b. No.

28. If Petitioner is seeking the appointment of an emergency guardian, the following states the facts giving rise to the emergent circumstances and why the failure to make such an appointment will result in irreparable harm to the person or estate of the AIP: _____
_____
_____
_____

29. The following documents shall be/must be attached to this Petition. (Please check all that are attached).

- ☐ An executed health care power of attorney or advance health care directive if you answered "yes" to question 7.
- ☐ All powers of attorney executed by the AIP if you answered "yes" to question 8.
- ☐ Any writing by the AIP authorizing another to act on behalf of the AIP if you answered "yes" to question 9.
- ☐ A certified response to Pennsylvania State Police criminal record check for each proposed guardian, *issued not more than six (6) months before the filing of the within Petition*:
    - Did the proposed guardian reside outside of Pennsylvania within the previous five-year period and was 18 years of age of older at the time during such period? ____ No ____ Yes. If you answered "yes", a criminal record check shall be obtained from the statewide database, or its equivalent, in each state in which the proposed guardian has resided within the previous five-year period.

- Is the proposed guardian an entity? ___ No ____ Yes If you answered "yes", a criminal record check of the person(s) who will have direct responsibility for the AIP and the principal of the entity must be attached.

☐ Any consent of the proposed guardian to serve as guardian of the AIP;

☐ Certification. If the proposed guardian is an individual required to be certified pursuant to 20 Pa C.S. §5511(f)(2); and

☐ A Proposed Order, as required by Rule 3.4(b) of the Pennsylvania Rules of Orphans' Court.

WHEREFORE, Petitioner respectfully requests this Honorable Court to issue a Citation, directed to _____, the Alleged Incapacitated Person, to demonstrate whether or not he/she should be adjudged to be a totally incapacitated person and have a plenary guardian appointed and whether _____ should be appointed Plenary Permanent Guardian of his/her Person and/or Estate.

Respectfully submitted,

Dated: _____

_____
Signature of Petitioner or Attorney
Name:
Address:

Telephone number:
Email address:

_____
Signature of Petitioner or Attorney
Name:
Address:

Telephone number:
Email address:

In re:	:	IN THE COURT OF COMMON PLEAS
	:	OF ERIE COUNTY, PENNSYLVANIA
_____	:	ORPHANS' COURT DIVISION
an alleged incapacitated person	:	
	:	No. 20____ - _____

VERIFICATION

I / we, _____ verify that the statements made in this petition are true and correct to the best of my / our knowledge, information and belief. I / we understand that false statements herein are made subject to the penalties of 18 Pa C.S.A. § 4904, relating to unsworn falsification to authorities.

Date: _____

_____
Signature of Petitioner or Attorney
Name:

_____
Signature of Petitioner or Attorney
Name:

In re:	:	IN THE COURT OF COMMON PLEAS
	:	OF ERIE COUNTY, PENNSYLVANIA
_____	:	ORPHANS' COURT DIVISION
an alleged incapacitated person	:	
	:	No. 20____ - _____

CERTIFICATION

I / we, _____, certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

See: http://www.pacourts.us/public-records/public-records-policies.

Date _____

_____
Signature of Petitioner
Name:

_____
Signature of Petitioner
Name:

In re:	:	IN THE COURT OF COMMON PLEAS
	:	OF ERIE COUNTY, PENNSYLVANIA
_____	:	ORPHANS' COURT DIVISION
an alleged incapacitated person	:	
	:	No. 20____ - _____

CONSENT OF PROPOSED GUARDIAN

The undersigned hereby consents to his/her appointment as Guardian of the Person/Estate for the alleged incapacitated person.

The address of the undersigned is: _____

The occupation of the undersigned is: _____

The undersigned speaks, reads, and writes the English language.

The undersigned does not have any interest adverse to the alleged incapacitated person.

(For individuals) The undersigned is not a fiduciary, or an officer or employee of a corporate fiduciary, of an estate in which the alleged incapacitated person has an interest; and is not the surety, or an officer or employee of a corporate surety of such a fiduciary.

(For corporations) The proposed guardian is not the fiduciary of an estate in which the alleged incapacitated person holds an interest, nor the surety of such a fiduciary, and has no interest adverse to the alleged incapacitated person.

Date: _____

_____
(Signature)

Printed name: _____

Title: _____

In re:	:	IN THE COURT OF COMMON PLEAS
	:	OF ERIE COUNTY, PENNSYLVANIA
_____	:	ORPHANS' COURT DIVISION
an alleged incapacitated person	:	
	:	No. 20____ - _____

PRELIMINARY ORDER

AND NOW, to wit, this _____ day of _____, 20____, upon consideration of the annexed and foregoing Petition for Appointment of Guardian of the Person and/or Estate of _____, an alleged incapacitated person, it is hereby ORDERED, ADJUDGED & DECREED that a hearing on this matter shall be held on the _____ day of _____, 20___ at _____AM / PM before the Honorable _____ in Courtroom _____ at the Erie County Courthouse, Erie, PA. Notice of the date, time and place of the hearing shall be made by personal service on _____ _____ by the Court Investigator. In addition, notice of the petition and hearing shall be given by first class mail to all persons residing within the Commonwealth who are sui juris and would be entitled to share in the estate of _____ if he/she died intestate.

BY THE COURT:

_____

J.

AMERICANS WITH DISABILITIES ACT OF 1990- The Court of Common Pleas of Erie County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the court, please contact the Court's ADA Coordinator at the Erie County Court of Common Pleas, 140 West Sixth Street, Room 205, Erie, PA 16501, Phone (814) 451-6308, TDD (814) 451-6237, E-mail: courtadacoordinator@eriecountypa.gov. Requests should be made as soon as possible or at least three business days prior to any hearing or business of the court.