

# **Handbook for Court Appointed Visitors**



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**This Handbook is intended for general training purposes only. Do not use the information provided as legal advice for yourself or others. Any person who has a legal question or issue should seek the advice and representation of an attorney. It is NOT the role of the visitor to give legal advice.**

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## Introduction

Thank you in your interest in the court visitor program.

Guardianships and conservatorships are protective proceedings governed by the Oregon law. A court visitor acts as a disinterested third party that provides important information to the court by conducting an independent investigation and filing a report with the court. A court visitor is appointed to investigate a case and write a report that includes a recommendation whether the respondent is incapacitated and whether the proposed guardian should be appointed by the court. A visitor can be appointed to investigate a case involving either an adult or minor. The proceedings can be for an indefinite period of time or temporary appointment in emergency situations.

In order to provide the best information possible to the court it is important that court visitors understand the law and procedures as well as their role in the process. This handbook is designed to help ensure that visitors' reports not only meet the statutory requirements but also provide vital information to the court in protective proceedings.

This handbook is to be used in conjunction with the OJD training video: "What You Need to Know as a Court Visitor" (Published on Aug 1, 2017). Video Presenters: Hon. Claudia Burton, Judge, Marion County Circuit Court; Hon. Rita Batz Cobb, Senior Judge; Hon. Lauren Holland, Judge, Lane County Circuit Court; Mary Sherriffs, Court Visitor, Lane County

## Definitions

- **Parties**

- Respondent
  - The person for whom the appointment of a fiduciary is sought in a petition filed with the court.
- Protected Person
  - The person for whom a protective order has been entered.
- Fiduciary
  - Means a guardian or conservator who has been appointed by the court.
- Petitioner
  - The person that filed the Petition requesting the appointment of a guardian or conservator.
- Guardian
  - A person appointed by the court who has been given authority to make decisions regarding the physical welfare, the residence, the care and comfort of the protected person. The statute requires the court to find that the Respondent is ***incapacitated*** before a guardian can be appointed.
  - ***Incapacitated***
    - A condition in which effects the Respondent's present ability to receive and evaluate information effectively or their ability to communicate decisions is impaired to such an extent that the person presently lacks the capacity to meet the essential requirements for the person's physical health or safety. "Meeting the essential requirements for physical health and safety" means those actions necessary to provide the health care, food, shelter, clothing, personal hygiene and other care without which serious physical injury or illness is likely to occur.
- Conservator
  - A person appointed by the court who has been authorized to make decisions regarding the protected person's assets and financial matters. The statute requires the court to find that the Respondent is ***financially incapable before a conservator can be appointed***.
  - ***Financially Incapable***
    - A condition that makes a Respondent unable to manage their financial resources effectively for reasons including, but not limited to, mental illness, mental retardation, physical illness or disability, chronic use of drugs or controlled substances, chronic intoxication, confinement detention by a foreign power or disappearance. "Manage financial resources" means those actions necessary to obtain, administer and dispose of real and personal property, intangible property, business property, benefits and income.

- **Protective Proceeding**
  - A guardianship or conservatorship proceeding. A Petition for guardianship should be filed in the county where the respondent resides or is present. In addition, a petition for conservatorship should be filed in the county where the respondent owns property.
  
- **Protective Order**
  - An order of a court appointing a guardian or conservator. A Protective Order may also include any other order of the court entered for the purpose of protecting the person or estate of a respondent or protected person.

## Contents of a Petition

The statute requires specific information to be included in every petition for guardianship:

- Designate the type of fiduciary to be appointed (Indefinite Guardian and/or Conservator or Temporary Guardian and/or Conservator).
- If the petition requests the appointment of a professional fiduciary, additional information is required.
- Name, age and residence of the respondent and current location.
- The interest of the petitioner (example: son, daughter, spouse, neighbor).
- Name, age and address of petitioner.
- Name, age and address of any person nominated to be appointed as a fiduciary in the petition.
- The relationship of the person nominated to serve as fiduciary for the respondent.
- Whether the person nominated to be fiduciary has been convicted of a crime, filed for bankruptcy, had a license revoked by any state for the practice of a profession or occupation. The petition also must include an explanation of the circumstances.
- If the person is not the petitioner, a statement that the person nominated is willing and able to serve as a fiduciary.
- Name and address of respondent's treating physician.
- Factual information that supports the request for appointment of a guardian or conservator.
  - Additional allegations are required when the petition requests the appointment of an emergency temporary fiduciary.
- What other alternatives have been considered and why the alternatives are inadequate to address the needs of the respondent.
- Names and addresses of all persons who have information regarding the respondent and whether the respondent is incapacitated or financially incapable.
- A statement whether the respondent is to be placed in a mental health treatment facility, a nursing home or other residential facility.
- Description of the estate of the Respondent and sources and amounts of income.
- A statement indicating whether the person nominated is a provider of services or an employee of a public or private agency that provides services to the respondent.
- A statement setting out the specific authority to be granted by the court.
- If the petition only requests the appointment of a guardian, an additional statement must be included whether the proposed guardian intends to exercise control of any of the respondent's finances, and if so, additional information that includes the monthly income, sources and how much the guardian will be controlling at the time of appointment.

### Professional Fiduciary

- A petition may request the appointment of a person identified as a professional fiduciary. This designation indicates the person is making decisions or managing assets for three or more persons. A professional fiduciary must file proof of their certification and criminal background check. The petition must also include information regarding their background, education, staff and fees among other information.

After appointment, the court visitor should first review the petition. While the entire petition is important, special attention should be paid to the following:

- Factual information that supports the request for appointment of a guardian or conservator.  
The visitor must verify the facts alleged in the petition that the respondent is incapacitated. Specific facts should be included in the petition, only general statements (“old age”, “dementia”, “mentally ill”, “blind”), without supporting facts should be viewed with caution. It is important to understand the respondent must presently lack capacity.
- What other alternatives have been considered and why the alternatives are inadequate. The petition should provide specific information as to the other options that have been considered or attempted and why those were not sufficient to address the needs of the respondent. At times the need for a guardian may appear obvious; however, reviewing the alternatives and options can provide important information about the actual needs of the respondent and help determine the best way to meet those needs.
- A statement setting out the specific authority to be granted by the court.  
A visitor should keep in mind that Oregon law requires the guardianship to be as least restrictive as possible. Information regarding alternatives and/or limitations to the guardianship is important for the court to consider the most appropriate authority to grant the guardian.
- Whether the person nominated to be fiduciary has been convicted of a crime, filed for bankruptcy, had a license revoked by any state for the practice of a profession or occupation. If any of the above applies to the proposed fiduciary, the petition must include an explanation of the circumstances surrounding the event(s).  
Discovery of any undisclosed information that the petitioner has a criminal history is important to be included in your report to the court. The information is important for the court to consider when determining the suitability of the proposed fiduciary and it also may disqualify the person nominated from serving at all.

## **Notice to Parties**

- Oregon law has very specific requirements regarding who receives notice, the contents of the notice and the manner of giving notice. It is important to know that the respondent must be personally served with documents which include a copy of the petition, a form of notice required by statute as well as a blue form titled Respondent’s Objection (See Appendix of Forms).

## THE GUARDIANSHIP PROCESS

The court must appoint a court visitor when a Petition is filed that seeks a guardianship for an adult or if there is an objection filed to a motion to terminate an existing guardianship. In addition, a court visitor may also be appointed in minor guardianships, conservatorships or any time after the appointment of a fiduciary.

The statute prohibits the visitor from having any personal, pecuniary or financial interest in the proceedings if those interests could compromise or otherwise affect the recommendations of the visitor. As the court visitor you should immediately inform the court and decline any appointment in a case where you know any of the parties. If you are uncertain whether you should serve as visitor, inform the court of the possible conflict *before* you accept an appointment. If you are appointed as visitor and subsequently discover information that could be a conflict, inform the court and allow the court to decide whether you should proceed as the visitor in the case.

The duties of a court visitor are set by statute. As the court visitor, you are required to interview the respondent and the proposed guardian. You must interview them personally at the place where the respondent is located (example: hospital, nursing home, residence). If an interview cannot be conducted in person, you should contact the court to obtain specific authority to conduct the interview elsewhere (see visitor affidavit form). In addition, you should interview anyone you determine may have relevant information regarding the allegations in the petition.

If a petition is filed for *both* guardian and conservator, in addition to your inquiry regarding incapacity, you must also investigate whether the respondent is financially incapable. If the proposed conservator is different from the proposed guardian, a personal interview is not required.

At the conclusion of your investigation you must file a report with the court within 15 calendar days from the date of appointment. There may be circumstances that would prevent you from filing a report within the 15-day period. In that case, the court may grant additional time for filing the report upon showing necessity and good cause (see Request for Extension in appendix of forms).

If the court holds a hearing regarding an objection filed to the petition, as the court visitor, you must be present to testify at that hearing. The court is required to notify you of the date and time of the hearing. Check with the court to determine the local procedure.

At the conclusion of the hearing, the judge will determine whether:

- the respondent is incapacitated,
- a guardianship is necessary and
- the proposed guardian is qualified, suitable and willing to serve.

If these findings are made by the judge, the court will enter a limited judgment appointing a guardian.

If a guardian is appointed, the court will indicate what authority the guardian will exercise over the protected person. The statutes require that a guardianship shall be as least restrictive as possible. If the guardianship is granted, letters of guardianship are issued to the guardian and the guardian will have the statutory authorities and obligations set out in the Limited Judgment.



## THE CONSERVATORSHIP PROCESS

The statute requires the same information as guardianship to be included in a Petition for Conservatorship. Just as in a guardianship proceeding, a conservatorship can be for temporary or indefinite appointment. In addition, the requirements for who to interview, the notice requirements, time lines, report form and duty of the visitor to appear at hearing are identical to the requirements in a guardianship proceeding.

Unlike a guardianship, a visitor is not required but may be appointed by the court. In a conservatorship the visitor must investigate and report to the court:

- Whether the respondent is financially incapable (see definition).
- Whether the proposed conservator is qualified, suitable and willing to serve.

As distinct from the guardianship the investigation in a conservatorship should focus on the respondent's financial awareness and understanding.

For example:

- Do they know their income sources and amounts?
- Do they know what bills they have?
- Can they show you their checkbook?
- Is there unopened mail? (bills, sweepstakes, donation requests or collection notices)
- Have they had unusual bank withdrawals?
- Have they had their utilities shut off or services canceled due to lack of payment?
- Has someone (family or others) taken financial advantage of the Respondent?
- Have they fallen victim to fraud or other scams?

## TEMPORARY PROTECTIVE PROCEEDINGS PROCESS

If there is an emergency, a petition may be filed for a temporary guardianship and/or conservatorship. In addition to the requirements for a petition for an indefinite guardian or conservator, a temporary petition must include evidence that there is an *immediate and serious danger* to the life or health of the respondent, and that the welfare of the respondent requires *immediate* action. A temporary fiduciary can only be appointed for a specific purpose and for a specific amount of time, not to exceed 30 days.

A visitor must be appointed if the petition seeks a temporary guardianship and may be appointed if the petition only seeks a temporary conservatorship. If the petition seeks both a guardianship and conservatorship, a visitor must be appointed.

Notice requirements in an emergency differ from the standard in an indefinite proceeding. The respondent must be personally served with notice and be given time to object 2 days prior to the court ruling on the petition. However, if the court finds there is an immediate and serious danger to the respondent that requires immediate appointment, the petitioner can request to waive the 2-day notice. If the court has ordered the temporary guardianship without prior notice, the respondent then must be served with the notice within 2 days of the temporary appointment.

The visitor investigation and reporting requirements also change with a temporary petition. The respondent must be interviewed within *3 calendar days* after the appointment of the temporary fiduciary. The report must be filed with the court *within 5 calendar days* after the appointment of the temporary fiduciary.

The report for temporary guardianship is separate and distinct from an indefinite guardianship report. The statute requires the temporary report specifically address whether the conditions alleged in the petition that immediate and serious danger exists requiring an immediate appointment of the temporary fiduciary. The temporary report should also address what authority the proposed temporary guardian requires, what are the immediate needs of the respondent and the temporary guardian's specific plan to address those immediate needs.

If an objection is filed to the temporary protective proceeding the court must set a hearing within 2 judicial days. Therefore, if you are contacted to be appointed for a temporary proceeding, be sure that you can accommodate the accelerated time requirements for the interviews, filing the report and that you will be available to appear for any potential hearing.

## INTERVIEW PROCESS

In the role as Court Visitor, maintaining your neutrality is crucial. The court relies on independent information provided in a visitor report. Once your report is filed, your appointment is complete unless you have received notice of a hearing or are reappointed by the court. You are not obligated to speak with the attorneys in the case, be careful to remain impartial in any contact with the attorneys. Having further contact with attorneys or parties may illicit information not filed in your report.

A respondent can object to the proceeding either orally, or by handing you the blue objection form that they received in the paperwork when they were served with notice of the proceeding. If they present you with an oral objection, it must be noted in the visitor report along with a narrative as to why they object. If you are handed the blue objection form it is your responsibility to deliver it to the court on behalf of the respondent. The respondent can also choose to mail the form to the court.

### **Interviewing the Respondent**

The statute requires the court visitor to interview the respondent in person where he or she is located. If the situation is dangerous or threatening in some way during your interview, you should immediately leave and call your contact at the court, the police non-emergency number or 911. DO NOT place yourself in danger. If you see conditions that are dangerous for the respondent and the petition is not requesting an emergency temporary guardian, you should immediately follow your local court process for reporting emergency information.

It's important to meet with the respondent alone, even if it's for a short time, to ensure that the respondent is not being influenced by anyone else present. Even if the respondent is unable to participate in the interview (the respondent is in a coma), observing and noting their condition is relevant to ensure the allegations in the petition are accurate.

The court must determine whether the respondent is incapacitated according to the statute. Your report must verify whether the factual information in the petition is correct. The visitor's statutory role is to verify the facts set out in the petition, not to create a basis for a guardianship that has not been already alleged in the petition. A narrative of your observations provides relevant information to all interested parties and allows the court to make an accurate finding of the capacity and needs of the respondent.

The visitor report should address the facts set out in the petition and describe any condition of the respondent that would prevent them from meeting the essential requirements for their physical health and safety.

Some Examples:

- Orientation to time and place
- Current understanding of close family and friends
- Clean and safe home with basic utilities (water, electric, functioning bathroom)
- Appropriate personal hygiene
- Sufficient and appropriate food on hand or a reasonable plan to obtain food
- An understanding about what they would do in an emergency (ie fire, medical emergency)
- An understanding of their medical needs and medications.

The respondent's values and preferences may factor into their current situation. Some examples include: The respondent may have a long-standing religious preference against taking medications which would explain their refusal to take them. The respondent has had a dispute with family for a long time, providing a reasonable explanation for his objection to his son serving as guardian. The respondent has been financially generous with a friend or organization for years, the generosity may be a continuation of the respondent's intentions.

The statute requires a guardianship to be as least restrictive as possible. Therefore, the report should include a narrative of the less restrictive alternatives that have been considered and why those alternatives are inadequate. For example, are there any additional supports available to the respondent that could help them retain their independence and are those supports attainable, such as meals on wheels or in-home assistance.

### **Interviewing the Proposed Guardian**

The statute requires the visitor to interview the proposed guardian in person at the location of the respondent. The interview must provide information for the court to make a finding that the individual is qualified, suitable and willing to serve as guardian for the respondent.

- The proposed guardian should be able to discuss their understanding of their responsibilities and duties as a guardian.
- They should be familiar with the needs and preferences of the respondent as well as be able to tell you their plan to appropriately address those needs.
- Whether there are any issues that may affect their ability to act in the protected person's best interest, including any family conflicts, co-mingling of assets or any financial dependency on the respondent.
- Explaining any information required to be disclosed in the petition (criminal convictions, bankruptcy, license revocation).
- Intention of proposed guardian regarding limiting any individuals contact with the respondent.
- Whether the proposed guardian intends to delegate any of their authority to some other person (ex. the proposed guardian travels for business and wants to delegate his authority to his brother when he is out of the country).

### **Other Interviews**

A court visitor has discretion to include any relevant information from other sources in their report. You may decide to interview other people who have relevant information regarding either the respondent or the proposed guardian. Possible sources of information can be family members, friends, caregivers or neighbors. Physicians and health care providers can also provide input however, HIPAA regulations may prevent them from discussing the respondent. A court visitor is not exempt from the protections afforded to the respondent by HIPAA and therefore cannot require the physician violate the patient confidentiality.

**You may be asked for legal advice, remember, it is not the court visitor's role to give legal advice. A person who has a legal question should seek the advice and representation of an attorney. You can also direct the party to contact the court which maintains a list of approved legal resources available upon request.**

## **Appointment**

There may be circumstances that the court will appoint (or re-appoint) a court visitor after the guardianship has already been established. The court can order the visitor to perform any of the duties that are required in the original petition for guardianship. Those duties may include interviewing relevant persons, reviewing records, filing a visitor report and appearing at hearing.

Note that the procedures for appointment as court visitor can be different depending on the individual court's procedure. Please refer to the Local Court Process section of this handbook for the procedure in the county of your appointment.

## **The Report**

As the court visitor, you are appointed as a disinterested third party to independently investigate and report neutral and unbiased information to the court. The form of visitor report is provided by the court where your appointment has been made. It is important that your report provides a narrative of the relevant facts and circumstances you have seen and heard that support the recommendations from your investigation. The court as well as the parties involved will want to know what information you have relied on to provide the basis for your determinations in the case. Your report should discuss any information you were unable to obtain but believe important and relevant for the court to consider in the case.

For an indefinite guardianship, your report must be filed within 15 calendar days from the date of your appointment. When you are appointed for a temporary case, the report must be filed within 5 judicial days. Upon request, the court can grant an extension of time to file the report. (See Appendix of Forms). Anyone requesting copies of the report may do so through the court.

A visitor report that contains confidential information from the Department of Human Services (DHS), including adult protective services, is subject to limited inspection. Statutes and Court Rules restrict access to the report by the public as well as parties and their attorneys. Court rules require an order to be submitted when filing a report with this confidential information (see Appendix of Forms). The court rule also requires that the order be served on the parties of the case. Check with the court to determine the process in order to comply with the statute and court rules.

If an objection or cross petition is filed before your report is finished the court will let you know and may furnish a copy of the pleadings to you. You may need additional time to investigate the allegations in the latest pleadings.

## **Court Visitor Compensation**

The statute provides a court visitor may be paid for conducting interviews, preparing reports and attending hearings. Refer to the Local Court Process section of this handbook or check with the court where you are appointed as to the requirements for payment.

## Hearings

There are no jury trials in protective proceedings, all hearings are conducted by a judge. The court visitor is required to appear at a hearing on any objections filed to the appointment of a fiduciary.

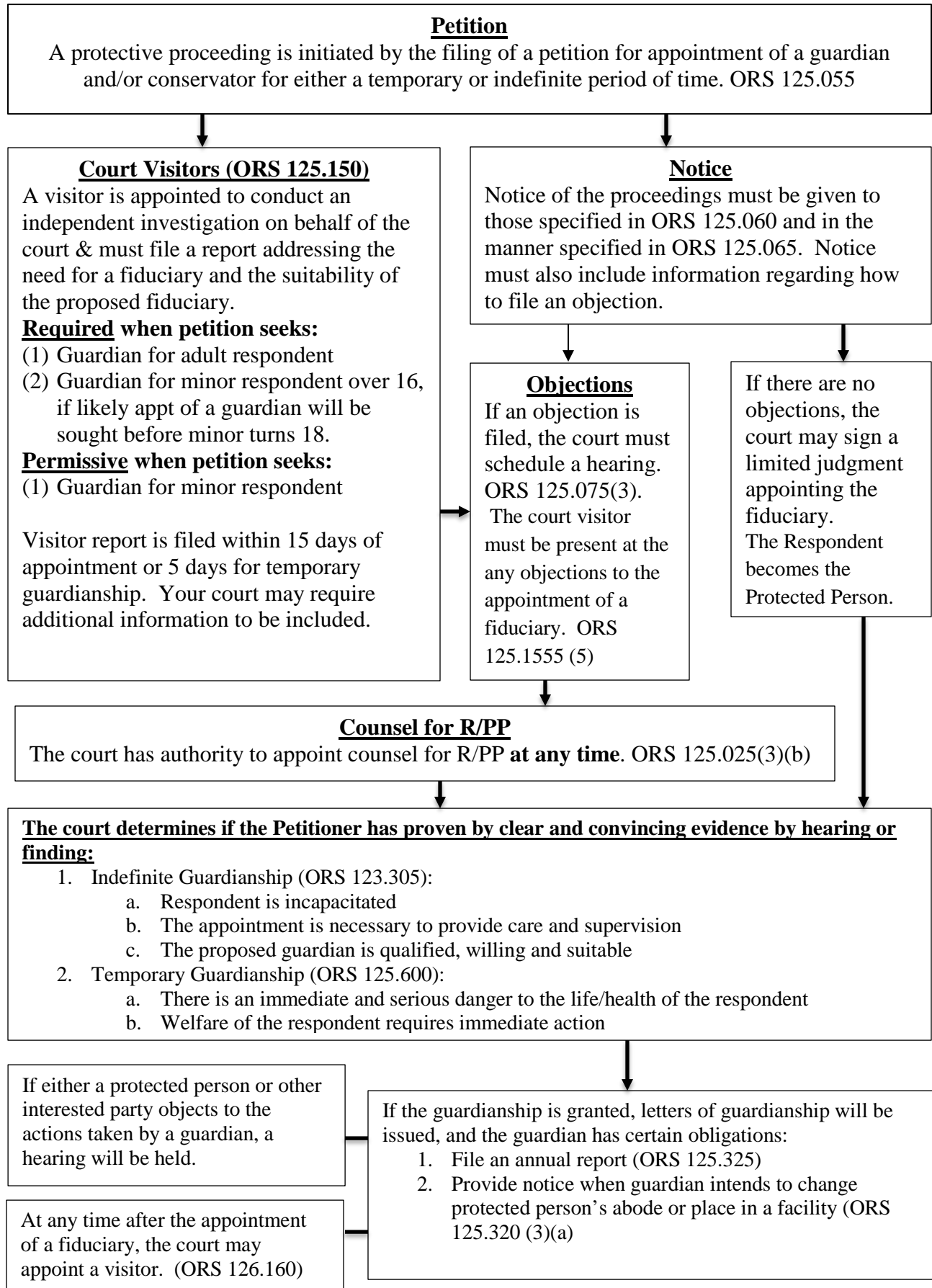
Prior to the hearing, you should review the report you filed with the court and any notes you may have taken that would help you refresh your memory. For ease of reference, bring a copy of your report to the hearing. When called to testify, attorneys representing both the petitioner and objector will have the opportunity to ask you questions.

Listen carefully to the questions, if you don't understand the question, ask for clarification. Be as accurate as possible when testifying; if you don't know or cannot recall the answer, you may say so. When you testify, an objection may be raised by one of the parties. If there is an objection, do not answer the question until the judge has ruled on the issue. If the judge "sustains" the objection, you may not answer the question. If the judge "overrules" the objection, you are allowed to answer the question. If the objection is overruled, you may ask to have the question repeated before you answer.

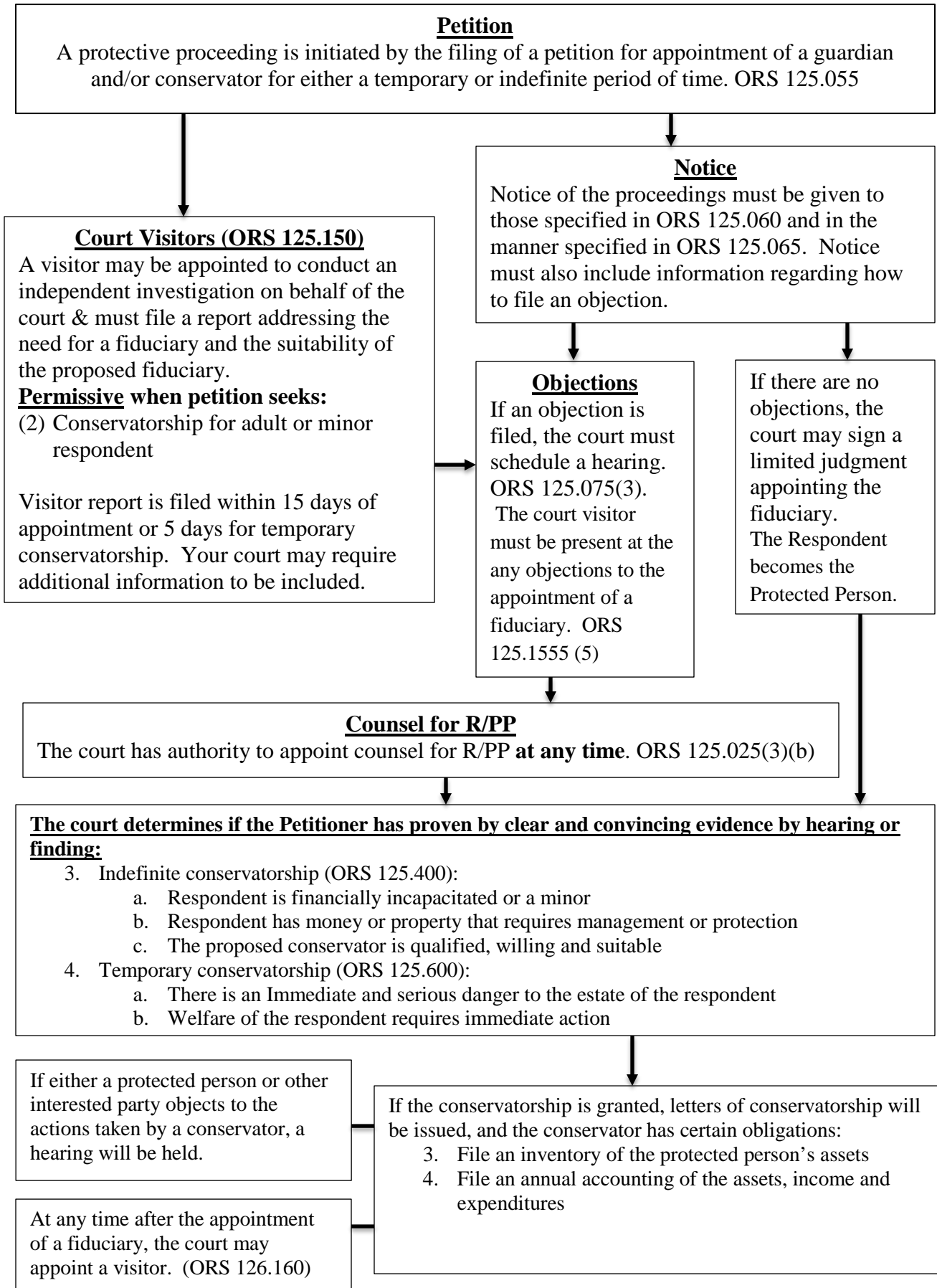
When the parties have finished asking you questions, the judge may also have some questions for you. At the conclusion of your testimony, the judge will either dismiss you or ask you to stay so you can be recalled to testify at some time later in the hearing.

At the hearing, the judge may be presented with additional facts and information that causes the judge to not follow your recommendations. Remember, the court visitor testifies to the facts discovered in their investigation and makes recommendations to the court based on those facts. It is the judge who has the ultimate responsibility to decide if a protective proceeding is ordered and who, if anyone, is appointed as guardian.

# Guardianship Flow Chart



# Conservatorship Flow Chart





# Local Court Process

(in progress)

## (EXAMPLE)

### WASHINGTON COUNTY LOCAL COURT PROCESS

#### Appointment of Court Visitor

- Court selection of Court Visitor
- Contact from court (who)
- Documents received from the court(how)

#### Filing report

- Form of report
- Copies of report provided (or not)

#### Payment of Court Visitor

Washington County requires funds to be paid into the court by the petitioner before a visitor will be appointed in a case. The visitor must keep track of their time and inform the court staff if it appears to exceed the 6-hour average. The number of hours of visitor time will be reported at the end of the visitor report. After the report is filed, the court will order the payment of the court visitor.

#### Court Hearing

- Notification
- Payment

#### Emergency contact information (from page 10)

# Appendix of Forms

(in progress)

1. Presiding judge's order
2. Court visitor report form
3. Court visitor extension form
4. Order Appointing Court Visitor (statewide form)
5. ORS 125.012 Form of Confidentiality
6. Visitor General Purpose Affidavit
7. Visitor Affidavit of Appearance at Hearing
8. Payment for Court Visitor (appearance at Hearing)
9. Interim Report
10. Notice Form
11. Respondent's Objection



1 3. A court visitor shall file a report under ORS 125.155 as prescribed in the general order  
2 regarding court visitor report.

3 4. A court visitor may charge an hourly rate as prescribed in the general order regarding  
4 visitor fees for conducting interviews, preparing visitor reports and statutory attendance  
5 at hearings.

6 This order supersedes all prior Presiding Judge Orders regarding Court Visitor Qualifications  
7 and Standards.

8 Dated this 27 day of May, 2015.

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12 \_\_\_\_\_  
13 D. Charles Bailey  
14 Presiding Judge  
15 Washington County Circuit Court  
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IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF WASHINGTON  
Probate Department

In the Matter of the Guardianship of \_\_\_\_\_, ) Case No \_\_\_\_\_  
 )  
 )  
 ) COURT VISITOR'S REPORT  
\_\_\_\_\_, )  TEMPORARY GUARDIANSHIP  
Respondent. )  GUARDIANSHIP INDEFINITE PERIOD

\_\_\_\_\_  
(Successor, Cross-Petition, Co-Guardian, etc. – if necessary)

I, \_\_\_\_\_, have been appointed as court visitor in the above-mentioned proceeding.

**I. CAPACITY**

A. The Respondent's condition or impairments which might impact their ability to provide for their needs with respect to physical health, food/clothing, shelter and their ability to resist fraud or undue influence:

	YES	NO
B. Are these findings as indicated above part of an overall pattern of incapacity? Please describe:	<input type="checkbox"/>	<input type="checkbox"/>

**II. EVALUATION OF RESIDENCE, HEALTH CARE, AND SOCIAL SERVICES RECEIVED IN PAST YEAR**

Describe the Respondent's relevant living situations, health and social services or alternatives to guardianship that have been provided to the Respondent during the year preceding the filing of the petition.

**III. EXPRESS WISHES OF RESPONDENT / PROCEDURAL RIGHTS**

Describe any observations or expressed communication of Respondent that relates to the protective proceeding, the proposed fiduciary(ies) or other matters relevant to this proceeding.

**IV. FINDINGS REGARDING THE PROPOSED FIDUCIARY**

Discuss any information based on interviews regarding the proposed guardian's qualifications, willingness and suitability to serve.

**V. FINANCIAL**

Describe any information regarding the financial circumstances which could impact the proceeding.

	YES	NO
Is the petitioner expecting payment for service as a fiduciary	<input type="checkbox"/>	<input type="checkbox"/>
If yes, explain.		

**VI. ADDITIONAL COMMENTS**

**VII. FINDINGS AND RECOMMENDATIONS**

Based upon the interviews I have conducted and information contained in the narrative as set out above, I find:

	YES	NO
The facts stated in the petition are substantially correct	<input type="checkbox"/>	<input type="checkbox"/>
The Respondent is so impaired that he/she is unable to make reasoned decisions about his / her safety?	<input type="checkbox"/>	<input type="checkbox"/>
The appointment of a fiduciary is necessary	<input type="checkbox"/>	<input type="checkbox"/>
It is appropriate to limit the scope of the fiduciary's appointment	<input type="checkbox"/>	<input type="checkbox"/>

I have determined the fiduciary is

- |                       | YES                      | NO                       |
|-----------------------|--------------------------|--------------------------|
| 1. Qualified to Serve | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Suitable to Serve  | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Willing to Serve   | <input type="checkbox"/> | <input type="checkbox"/> |

**VIII. ALL OF THE PEOPLE INTERVIEWED BY THE VISITOR WHILE  
COMPILING THIS REPORT ARE LISTED AS FOLLOWS:**

<b>Name</b>	<b>Address &amp; Phone</b>	<b>Relationship</b>	<b>Date Interviewed</b>

As the Visitor appointed by the Court in the above cited case, I have spent \_\_\_\_\_ hours interviewing and preparing this report to the Court.

I hereby declare that the above statement is true to the best of my knowledge and belief and that I understand it is made for use as evidence in court and is subject to penalty of perjury.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Signature of Court Visitor

\_\_\_\_\_  
Print Name





IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF \_\_\_\_\_

**In the Matter of:**

**Case No:**

\_\_\_\_\_

**ORDER APPOINTING  
COURT VISITOR**

This matter having come before the court on the petition for appointment of a guardian for the above name Respondent. The court finds that \_\_\_\_\_ is qualified and willing to serve as Court Visitor in this matter under ORS 125.150.

It is hereby ORDERED that \_\_\_\_\_ is appointed Court Visitor in this proceeding. The visitor shall:

1. Investigate and report to the court, as specified by applicable statutes and rules;
2. Interview persons with significant information about Respondent's functional ability and alleged incapacity, including but not limited to physicians and psychologists who have examined or treated Respondent;
3. Obtain and review records that pertain to the Respondent's functional ability and alleged incapacity, including but not limited to medical and mental health records of physicians and psychologists prepared and relied on in reaching their opinions or treatment plans about the Respondent.

\_\_\_\_\_  
Date

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Judge

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IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF WASHINGTON

In the Matter of the Guardianship ) Case No.:  
 )  
 of ) INFORMATION REGARDING COMPLIANCE WITH  
 ) ORS 125.155 VISITORS REPORT TO THE  
 \_\_\_\_\_, ) COURT  
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 Respondent. )  
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 \_\_\_\_\_ )

- 1. The Visitor Report was filed/submitted with the Court on \_\_\_\_\_.
- 2. The attached document is a portion of the Visitor Report. It is intended as a part of the Visitor Report on file and has been sealed in compliance with the requirements of ORS 125.012.

Date: \_\_\_\_\_

\_\_\_\_\_  
Court Visitor

INSPECTION OF THE REPORT AS REQUIRED BY ORS 125.012,  
PLEASE REFER TO PROTECTIVE ORDER IN THIS PROCEEDING.

1  
2 **IN THE CIRCUIT COURT OF THE STATE OF OREGON**  
3 **FOR THE COUNTY OF WASHINGTON**

4 In the Matter of the Guardianship ) Case No.:  
5 )  
6 of ) INFORMATION REGARDING COMPLIANCE WITH  
7 ) ORS 125.155 VISITORS REPORT TO THE  
8 ) COURT  
9 )  
10 Respondent. )  
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1. The Visitor Report was filed/submitted with the Court on \_\_\_\_\_.

2. The Visitors Report finds the allegations of the Petition correct/incorrect and the appointment of a Guardian is/is not necessary.

3. The Visitor finds the Proposed Guardian is:  
\_\_\_\_ qualified, \_\_\_\_ suitable and \_\_\_\_ willing to serve as Guardian in the above cited matter.

4. The Report further found the Respondent is/is not incapacitated as defined by ORS 125.005(5).

5. Other: \_\_\_\_\_  
\_\_\_\_\_

22 Date: \_\_\_\_\_

23  
24 \_\_\_\_\_  
Court Visitor

25 **TO ARRANGE INSPECTION OF THE REPORT BY THE PARTIES OR THEIR ATTORNEYS AS REQUIRED BY ORS 125.012, PLEASE CONTACT THE COURT.**



**IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF WASHINGTON  
In Probate**

In the Matter of the Guardianship

No.

of

AFFIDAVIT OF COURT APPOINTED  
VISITOR'S APPEARANCE

\_\_\_\_\_

I, \_\_\_\_\_, Court Appointed Visitor in

the above cited case, being sworn, say as follows:

I appeared at the hearing in the above cited case as required by

ORS 125.155(5). I spent \_\_\_\_\_ number of hours with regard to said hearing.

STATE OF OREGON     )  
  ) ss.  
County of Washington     )

I, hereby declare that the above statement is true to the best of my knowledge and belief and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Court Visitor

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IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF \_\_\_\_\_

In Probate

In Re the Temporary (if applicable) Guardianship No. Case No.

of

ORDER APPROVING  
PAYMENT OF COURT VISITOR

Case Name

The above entitled matter came before the Court at hearing on the ***Type of hearing (Petition/Cross-Petition, Objection, etc*** for appointment of a ***temporary (if applicable)*** guardian for the above name Respondent. Pursuant to the provisions of ORS 125.155(5), ***Court Visitor Name*** has appeared at hearing according to the affidavit filed herein.

Therefore, it is hereby ORDERED that the clerk shall disburse to the visitor ***\$Payment Amount; ie: 390.00*** as payment for services in the above cited guardianship. The balance of funds, if any, shall be ***refunded to <who?> by the Clerk of the Court or retained until further order of this Court.***

DATED this \_\_\_\_\_ day of Month & Year.

\_\_\_\_\_

1 IN THE CIRCUIT COURT OF THE STATE OF OREGON  
2 FOR THE COUNTY OF WASHINGTON

3 In Probate

4 In the Matter of the Guardianship )  
 )  
5 of ) Case No. :  
 )  
6 ) INTERIM VISITOR REPORT  
 )  
7 \_\_\_\_\_ )  
 )  
8 \_\_\_\_\_ )

9 Comes now the Court Visitor, \_\_\_\_\_,

10 To report to the Court: \_\_\_\_\_  
11 \_\_\_\_\_  
12 \_\_\_\_\_  
13 \_\_\_\_\_  
14 \_\_\_\_\_  
15 \_\_\_\_\_  
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17 \_\_\_\_\_

18 STATE OF OREGON )  
 )  
19 ) SS.  
20 County of Washington )

21 I hereby declare that the above statement is true to the best of my  
22 knowledge and belief, and that I understand it is made for use as evidence in  
court and is subject to penalty for perjury.

23 DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

24 \_\_\_\_\_  
25 Court Visitor



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IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF \_\_\_\_\_

In the Matter of:

No.



NOTICE TO ADULT  
RESPONDENT OF TIME FOR  
FILING OBJECTIONS TO  
APPOINTMENT OF GUARDIAN

NOTICE is hereby given that the attached Petition has been filed in the above-entitled Court for the appointment of \_\_\_\_\_ as your Guardian.

You have 15 days from the date you receive this Notice to file any objections with the Court to the appointment of a Guardian for you. If the fifteenth day for filing your objections is a Saturday, Sunday, legal holiday, or any other day the Court is not open, then your objections may be filed on the next day the Court is open.

Your objections must be made or filed at the \_\_\_\_\_ County Courthouse, \_\_\_\_\_ (address) \_\_\_\_\_.

Objections may be made in writing or orally. If you wish to make an oral objection, go to the Courthouse so that the Clerk of the Court can assist you. A copy of the Objection must be mailed to the attorney for the Petitioner, whose name and address are listed at the end of this Notice.

The Petitioner's name, address, and telephone number are \_\_\_\_\_ . The Petitioner's relationship to you is \_\_\_\_\_ .

**NOTICE TO RESPONDENT**

TO: \_\_\_\_\_, **Respondent**

\_\_\_\_\_, Petitioner, who is your \_\_\_\_\_, has asked a court for the power to make decisions for you. The Judge has been asked to give this person the authority to make the following decisions for you (the appropriate spaces are marked):

\_\_\_\_\_ Medical and health care decisions, including decisions on which doctors you will see and what medications and treatments you will receive.

\_\_\_\_\_ Residential decisions, including decisions on whether you can stay where you are currently living or be moved to another place.

\_\_\_\_\_ Financial decisions, including decisions on paying your bills and decisions about how your money is spent.

\_\_\_\_\_ Other decisions: Mental health care decisions, including decisions on which doctors you will see, what medications and treatments you receive, and whether and where you are to be hospitalized.

YOUR MONEY MAY BE USED IF THE JUDGE APPOINTS A GUARDIAN FOR YOU. YOU MAY BE ASKED TO PAY FOR THE TIME AND EXPENSES OF THE GUARDIAN, THE TIME AND EXPENSES OF THE PETITIONER'S ATTORNEY, THE TIME AND EXPENSES OF YOUR ATTORNEY, FILING FEES. AND OTHER COSTS.

YOU MUST TELL SOMEONE WITHIN 15 DAYS OF YOUR RECEIPT OF THIS NOTICE IF YOU OPPOSE HAVING SOMEONE ELSE MAKE THESE DECISIONS FOR YOU.

You can tell the Visitor if you do not want someone else making decisions for you when the Visitor comes to talk with you about this matter.

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2 You can write to the Judge if you do not want someone else making decisions  
3 for you. The Judge's address is:

4 Probate Department \_\_\_\_  
5 \_\_\_\_\_ County Courthouse  
6 \_\_\_\_\_  
7 \_\_\_\_\_

8 **OBJECTIONS:** You have the right to object to the appointment of a Guardian  
9 by saying you want to continue to make your own decisions. If you do not want  
10 another person, agency, or business making decisions for you, you can object. If you  
11 do not want \_\_\_\_\_ to make these decisions for you, you can object. If  
12 you do not want your money to be used to pay for these expenses, you can object.  
13 You can object any time after the Judge has appointed a Guardian. You can ask the  
14 Judge at any time to limit the kinds of decisions that the Guardian makes for you so  
15 that you can make more decisions for yourself. You can also ask the Judge at any  
16 time to end the Guardianship.

17 **THE HEARING:** The Judge will hold a hearing if you do not want a Guardian,  
18 do not want this particular person to act as your Guardian, or do not want your money  
19 used this way. At the hearing, the Judge will listen to what you and others have to say  
20 about whether you need someone else to make decisions for you, who that person or  
21 entity should be, and whether your money should be spent on these things. You can  
22 have your witnesses tell the Judge why you do not need a Guardian, and you can bring  
23 in records and other information about why you think that you do not need a  
24 Guardian. You can ask your witnesses questions and other witnesses questions.

25 **THE COURT VISITOR:** The Judge will appoint someone to investigate  
26 whether you need a Guardian to make decisions for you. This person is called a  
"Visitor." The Visitor works for the Judge and does not work for you, for the person  
who filed the Petition asking the Judge to appoint a Guardian for you, or for any other

2 party. The Visitor will come and talk to you about the guardianship process, about  
3 whether you think that you need a Guardian, and about who you would want to be  
4 your Guardian if the Judge decides that you need a Guardian. The Visitor will talk  
5 to other people who have information about whether you need a Guardian. The  
6 Visitor will make a report to the Judge about whether what the Petition says is true,  
7 whether the Visitor thinks that you need a Guardian, whether the person proposed as  
8 your Guardian is able and willing to be your Guardian, who would be the best  
9 Guardian for you, and what decisions the Guardian should make for you. If there is  
10 a hearing about whether to appoint a Guardian for you, the Visitor will be in court to  
11 testify.

12 You can tell the Visitor if you do not want someone else making decisions for  
13 you when the Visitor comes to talk with you about this matter.

14 **LEGAL SERVICES:** You can call a lawyer if you do not want someone else  
15 making decisions for you. If you do not have a lawyer, you can ask the Judge whether  
16 an attorney can be appointed for you. There may be free or low-cost legal services or  
17 other relevant services in your local area that may be helpful to you in the  
18 guardianship proceeding. For information about these services, you can call the  
19 following telephone numbers, Oregon State Bar Attorney Referral Service from 9 AM  
20 to 5PM on weekdays at 503-684-3763 or 1-800-452-7636, and ask to talk to people  
21 who can help you find legal services or other types of services. A list of low cost  
22 legal services is also attached.

23 ///  
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OBJECTION FORM: You can mark the blue sheet (RESPONDENT'S OBJECTION) that is attached to this form if you do not want someone else to make your decisions for you. You can give the blue sheet to the Visitor when the Visitor comes to talk with you about this, you can show it to your attorney, or you can mail it to the Judge.

DATED: \_\_\_\_\_

**Free or Low Cost Legal Services  
For Adult Respondents in  
Guardianship, Conservatorship or Protective Proceedings Cases**

*Free to seniors who meet  
federal poverty guidelines:*

Senior Law Project  
Multnomah County Legal Aid Service, Inc.  
700 SW Taylor, Suite 300  
Portland, OR 97205  
Phone: (503)224-4086

*Free to any adult respondent who  
meets federal poverty guidelines:*

Multnomah County Legal Aid Service,  
700 SW Taylor, Suite 300  
Portland, OR 97205  
Phone: (503)224-4086

*Free to any adult respondent who meets  
federal poverty guidelines:*

Oregon Law Center  
813 SW Alder, Suite 500  
Portland, OR 97205  
Phone: (503)295-2760  
Toll free: 1-800-898-5594

*Free to disabled persons (issue must  
relate to disability; other limits apply):*

Disability Rights of Oregon  
610 SW Broadway, Suite 200  
Portland, OR 97205-3403  
[www.disabilityrightsoregon.org](http://www.disabilityrightsoregon.org)  
Phone: (503)243-2081 or 1-800-452-1694  
TTY: (503)323-9161 or 1-800-556-5351

*Assistance in finding an attorney  
(not necessarily low cost):*

Oregon State Bar  
Lawyer Referral Service  
Phoning from Portland:  
(503)684-3763  
Phoning from Oregon:  
1 (800)452-7636

*Assistance in finding an attorney who  
will charge a maximum of \$60 per hour:*

Oregon State Bar  
Modest Means Program  
Phoning from Portland:  
(503)684-3763  
Phoning from Oregon:  
1(800)452-8260

Initial consultation is \$35.  
Fees for subsequent services are arranged  
between lawyer and client  
at the first interview.

The Lawyer Referral Service  
Website explaining program:  
does not set a limit on the  
fees attorneys charge beyond  
the initial consultation.

Website explaining program:  
[http://www.osbar.org/Public/  
HowToGetLegalHelp/HiringALawyer/  
ChoosingALawyer.html](http://www.osbar.org/Public/HowToGetLegalHelp/HiringALawyer/ChoosingALawyer.html)

Initial consultation is \$35.  
No more than \$60 per hour for any  
subsequent services.  
Up front retainer (deposit against fees)  
must be paid.  
See [http://www.osbar.org/Public/HowTo  
GetLegalHelp/FreeandLowCost/ModestMeans.  
html](http://www.osbar.org/Public/HowToGetLegalHelp/FreeandLowCost/ModestMeans.html)  
NOTE: Adult Guardianship/conservatorship  
cases are not commonly dealt with through  
Modest Means Program. One or more  
Portland attorneys participate in the program  
for this type of case.

In Washington County:  
Legal Aid Services of Oregon  
Hillsboro Regional Office  
230 NE 2nd Ave, Suite A  
Hillsboro, OR 97124  
(503)648-7163

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR \_\_\_\_\_ COUNTY

In the Matter of the Guardianship of

Respondent.

) No. \_\_\_\_\_

) RESPONDENT'S OBJECTION

I object to the Petition for the following reasons:

- \_\_\_ I do not want anyone making any of my decisions for me.
- \_\_\_ I do not want \_\_\_\_\_ making any decisions for me.
- \_\_\_ I want to appear before the Court at a time to be set when I can speak to the Judge about my objections.
- \_\_\_ I do not want \_\_\_\_\_ to make the following decisions for me:  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(Signature of Respondent)

Date: \_\_\_\_\_

**GIVE TO THE VISITOR OR MAIL TO:**

Probate Court Clerk

\_\_\_\_\_ County Courthouse

RESPONDENT'S OBJECTION