

Marion County Probate Department
Instructions for Court Visitor Report Templates

This packet includes two templates for visitor's reports: one template for the temporary guardianship and one for a regular guardianship (sometimes called a permanent guardianship).

The instructions on the forms are in italics. After following the instructions on the form, delete the italics and any options not selected or other extraneous text.

To check a box, right click on the box you wish to check, select "properties," and change the "default value" to "checked." Make sure a box is checked for every question.

The large boxes after questions are for comments or to include narrative information the question requests. They have no limits for the length of text they can include, so give complete answers.

Some of the questions have "Unk" as a possible response. This is short for "unknown." Use this answer when the Respondent is unable to respond or responds inconsistently. Also use this response for questions the Visitor is unable to answer. For example, the Visitor may not be able to determine whether the Respondent is able to attend a hearing (Question 1(g) of the regular guardianship template).

Some of the questions have "N/A" as a possible response. That means that the question is not applicable to the situation. For example, Question 1(e) of the regular guardianship template begins with, "If the Respondent does not plan to retain counsel . . ." If the Respondent *does* plan to retain counsel, N/A is the appropriate response.

Another example of when N/A is an appropriate response is for statutory options that are not requested in the Petition. For example, the Petition may request a regular guardianship alone, or may also request a temporary guardianship or a conservatorship, both. If the Petition only requests a regular guardianship, check N/A for Questions 5(c), 5(d), 5(e), 5(f), and 5(g). If the Petition requests a regular guardianship and either a conservatorship or a temporary guardianship, check N/A as appropriate. Likewise, in a temporary guardianship proceeding, if a temporary conservatorship is not requested, check N/A for Questions 3(e), 3(f), and 3(g).

Please note that the position of the "Yes/No" boxes changes, depending on the question. A box that is checked in the far right position indicates that special attention may be required by the Court. For example, if Questions 1(d) or 1(e) are checked "Yes", the Court may need to appoint an attorney for the Respondent.

IN THE CIRCUIT COURT OF THE STATE OF OREGON
MARION COUNTY
Probate Department

[Insert caption from Petition]

Case No. [Insert case number from
Petition]

COURT VISITOR'S REPORT

TEMPORARY FIDUCIARY

The undersigned, [insert Visitor's name], was appointed as Court Visitor on [insert date of order appointing visitor] in the above-named proceeding to evaluate the need for a temporary guardian. *Select one of the following options:*

Option A: The Visitor does not recommend that a temporary fiduciary be appointed for the Respondent.

Option B: The Visitor recommends that [insert names of all persons nominated in Petition] be appointed as [insert titles of all temporary fiduciaries requested in Petition] for the Respondent, as proposed in the Petition.

Option C: The Visitor recommends that a [insert titles of all temporary fiduciaries the Visitor recommends to be appointed] for the Respondent, but does not recommend the appointment of [insert names of persons nominated in the Petition] as proposed in the Petition.

Option D: [Describe other recommendations besides those listed, as appropriate.]

1. EXPRESS WISHES OF RESPONDENT AND PROCEDURAL RIGHTS

For each question in this section, fully describe any express communication made by the Respondent. Also include observations about the communication.

1(a) Does the Respondent object to the appointment of a fiduciary? Unk* No Yes

1(b) Does the Respondent object to any nominated fiduciary? Unk* No Yes

*Unk—Respondent is unable to respond, or response is inconsistent, so the answer is unknown.

1(c) Does the Respondent prefer that another person act as fiduciary?

Unk* No Yes

Provide below the name, address, telephone number, and proposed role of any person preferred by the Respondent.

1(d) Does the Respondent wish to be represented by counsel? Unk* No Yes

If the Respondent wishes to be represented by counsel, give the name of any attorney the Respondent has retained, or the Respondent wishes to retain.

If the Respondent has not retained counsel, describe whether the Respondent desires the Court to appoint counsel.

1(e) If the Respondent does not plan to retain counsel and has not requested the appointment of counsel by the Court, does the Visitor believe that appointment of counsel (1) would help to resolve the matter or (2) is necessary to protect the interests of the Respondent?

N/A No Yes

If the answer is yes, explain.

1(f) If the Respondent objects to the appointment of a fiduciary, does the Respondent understand that a hearing will be held? Unk* N/A Yes No

1(g) Is the Respondent able to attend a hearing? Unk* No Yes

If the answer is no, explain.

If the Respondent is able, is the Respondent willing to attend a hearing?

Unk* Yes No

If the Respondent is unable or unwilling to attend a hearing, is the Respondent able and willing to talk to the Judge by telephone during the hearing? Unk* Yes No

1(h) State below the Visitor's comments, observations, concerns, and suggestions regarding the above questions. Note any needed accommodations or security concerns that may be an issue if a hearing occurs.

2. BACKGROUND AND INTERVIEWS WITH RESPONDENT AND INTERESTED PERSONS

2(a) **Brief legal history.** Provide name of Petitioner, name and date of appointment of any court-appointed fiduciary.

2(b) **Chronological summary.** Provide a brief chronological summary of the circumstances leading up to the alleged need for appointment of a fiduciary. Identify the individuals contacted to date, including any interested persons, the Petitioner, and each nominated fiduciary.

2(c) **Summary of impressions.** Provide a summary of the Visitor's impressions from the interview with the Respondent. Include the setting and who was present, and identify any tools used in the assessment. Give the date of the interview of the Respondent and how many judicial days that was following the appointment as Visitor.

3. FINDINGS AND RECOMMENDATIONS

3(a) Are the allegations stated in the Petition substantially correct? Yes No

If the answer is no, explain.

3(b) **Incapacity.** Is the Respondent's ability to receive and evaluate information effectively or to communicate decisions impaired to such an extent that the Respondent presently lacks the capacity to meet the essential requirements for the Respondent'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.) Yes No

If the answer is yes, describe (1) the impairment and its likely cause, and (2) the actions the Respondent is unable to take to provide for his or her health care, food, shelter, clothing, personal hygiene, and other care.

3(c) **Immediate and serious danger.** Is there an immediate and serious danger to the life or health of the Respondent, and does the welfare of the Respondent require immediate action?

Yes No

If the answer is yes, describe (1) the immediate and serious danger, and (2) why the Respondent's welfare requires immediate action.

If the answer is no, explain why.

3(d) **Purpose and duration of temporary guardianship.** Describe below the specific purpose for the appointment of the temporary guardian and the recommended duration of the appointment (not to exceed 30 days).

3(e) **Financial incapability (for temporary conservatorship).** Is the Respondent unable to manage his or her 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.)

N/A Yes No

If the answer is yes, describe (1) the reason why the Respondent is unable to manage financial resources, and (2) the financial management actions the Respondent is unable to take.

If the answer is no, explain why.

3(f) **Immediate and serious danger to estate (for temporary conservatorship).** In addition to answering "yes" to the previous question, is there an immediate and serious danger to the estate of the Respondent, and does the welfare of the Respondent require immediate action?

N/A Yes No

If the answer is yes, describe (1) the immediate and serious danger to the Respondent's estate, and (2) why the Respondent's welfare requires immediate action.

If the answer is no, explain why.

3(g) **Purpose and duration of temporary conservatorship.** Describe below the specific purpose for the appointment of the temporary conservator and the recommended duration of the appointment (not to exceed 30 days). N/A

3(h) Is each nominated fiduciary suitable, qualified, and willing to serve?

Yes No

If the answer is no, explain why.

3(i) If the Visitor has identified anyone else the Visitor believes is more appropriate for appointment as a fiduciary than any person nominated in the Petition, provide the name and reasons for the conclusion.

3(j) State below additional comments that might assist the Court and persons interested in this matter.

3(k) **Future action by Visitor.** (Select the appropriate option.)

This concludes the Visitor's responsibilities in this proceeding.

The Visitor was also appointed as the Visitor in the permanent guardianship *[add if appropriate: and conservatorship]* proceeding for the Respondent and will submit a more detailed report to the Court at a later date.

4. SOURCES OF INFORMATION

4(a) All of the people the Visitor interviewed while compiling this report are listed below.

Name of Respondent	
Address	
Phone Number	
Relationship to Respondent	Self
Date Interviewed	

Name of Petitioner	
Address	
Phone Number	
Relationship to Respondent	
Date Interviewed	

Name of Nominated Temporary Guardian	
Address	
Phone Number	
Relationship to Respondent	
Date Interviewed	

Name of Nominated Temporary Conservator (if any)	
Address	
Phone Number	
Relationship to Respondent	
Date Interviewed	

Name	
Address	
Phone Number	
Relationship to Respondent	
Date Interviewed	

Name	
Address	
Phone Number	
Relationship to Respondent	
Date Interviewed	

4(b) The Visitor also reviewed the documents or records described below.

STATE OF OREGON)
) ss.
County of Marion)

Affirmation pursuant to UTCR 2.120

I am the Court Visitor in the above entitled matter. I declare that the foregoing Court Visitor's Report is true and accurate to the best of my knowledge and belief and I understand that it is made for use as evidence in court and is subject to penalty for perjury.

DATED this _____ day of _____, 2009.

Court Visitor

cc:

IN THE CIRCUIT COURT OF THE STATE OF OREGON
MARION COUNTY
Probate Department

[Insert caption from Petition]

Case No. [Insert case number from
Petition]

COURT VISITOR'S REPORT

The undersigned, [insert Visitor's name], was appointed as Court Visitor on [insert date of order appointing visitor] in the above-named proceeding. *Select one of the following options:*

Option A: The Visitor does not recommend that a fiduciary be appointed for the Respondent.

Option B: The Visitor recommends that [insert names of all persons nominated in Petition] be appointed as [insert titles of all fiduciaries requested in Petition] for the Respondent, as proposed in the Petition.

Option C: The Visitor recommends that a [insert titles of all fiduciaries the Visitor recommends to be appointed] be appointed for the Respondent, but does not recommend the appointment of [insert names of persons nominated in the Petition] as proposed in the Petition.

Option D: [Describe other recommendations besides those listed, as appropriate.]

1. EXPRESS WISHES OF RESPONDENT AND PROCEDURAL RIGHTS

For each question in this section, fully describe any express communication made by the Respondent. Also include observations about the communication.

1(a) Does the Respondent object to the appointment of a fiduciary? Unk* No Yes

1(b) Does the Respondent object to any nominated fiduciary? Unk* No Yes

1(c) Does the Respondent prefer that another person act as fiduciary?

*Unk—Respondent is unable to respond, or response is inconsistent, so the answer is unknown.

Unk* No Yes

Provide below the name, address, telephone number, and proposed role of any person preferred by the Respondent.

1(d) Does the Respondent wish to be represented by counsel? Unk* No Yes

If the Respondent wishes to be represented by counsel, give the name of any attorney the Respondent has retained, or the Respondent wishes to retain.

If the Respondent has not retained counsel, describe whether the Respondent desires the Court to appoint counsel.

1(e) If the Respondent does not plan to retain counsel and has not requested the appointment of counsel by the Court, does the Visitor believe that appointment of counsel (1) would help to resolve the matter or (2) is necessary to protect the interests of the Respondent?

N/A No Yes

If the answer is yes, explain.

1(f) If the Respondent objects to the appointment of a fiduciary, does the Respondent understand that a hearing will be held? Unk * N/A Yes No

1(g) Is the Respondent able to attend a hearing? Unk * Yes No

If the answer is no, explain.

If the Respondent is able, is the Respondent willing to attend a hearing?

Unk * Yes No

If the Respondent is unable or unwilling to attend a hearing, is the Respondent able and willing to talk to the Judge by telephone during the hearing? Unk * Yes No

*Unk—Respondent is unable to respond, or response is inconsistent, so the answer is unknown.

1(h) State below the Visitor's comments, observations, concerns, and suggestions regarding the above questions. Note any needed accommodations or security concerns that may be an issue if a hearing occurs.

2. BACKGROUND AND INTERVIEWS WITH INTERESTED PERSONS

2(a) **Brief social history.** Provide Respondent's age and date of birth, and a brief history of Respondent's education, work experience, locations, marriages, children, family, and so on.

2(b) **Brief legal history.** Provide name of Petitioner, name and date of appointment of any court-appointed fiduciary, and name of each fiduciary nominated in the Petition.

2(c) **Background of nominated fiduciary.**

- (1) Has any person nominated to be a fiduciary been convicted of a crime?
No Yes
- (2) Has any person nominated to be a fiduciary filed for or received protection under the bankruptcy laws?
No Yes
- (3) Has any person nominated to be a fiduciary had a license revoked or canceled that was required by the laws of any state for the practice of a profession or occupation?
No Yes

If the answer to any question is yes, explain.

Describe below the age, employment, and recent interaction with Respondent for each nominated fiduciary.

2(d) **Chronological summary.** Provide a chronological summary of the circumstances leading up to the alleged need for the appointment of a fiduciary. The summary should include a description of interviews with interested persons, including the Petitioner and each nominated fiduciary.

*Unk—Respondent is unable to respond, or response is inconsistent, so the answer is unknown.

3. CAPACITY

3(a) Describe the interview with the Respondent. Include the setting, who was present, and the Respondent's physical appearance and demeanor. Identify and describe any tools used in the assessment.

3(b) Provide a summary of the Visitor's impressions from the interview that are not described elsewhere.

3(c) Describe any inability of the Respondent to provide for his or her needs with respect to physical health, food, clothing, and shelter.

3(d) Describe any inability of the Respondent to resist fraud or undue influence.

3(e) Is the Respondent's inability to provide for his or her needs an isolated incident of negligence or improvidence? No Yes

Does a pattern exist regarding Respondent's inability to provide for his or her needs? Yes No

Explain the answers.

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

4(a) Describe the residence where the Respondent has lived most recently and how long the Respondent has lived there. Also provide available information about any other residence where

the Respondent lived during the year preceding the filing of the Petition and how long the Respondent had lived there.

4(b) Is the Respondent able to live at the current residence while under guardianship?

Yes No

Comments:

4(c) Describe the Respondent's current location, if different from the answer given in 4(a) about Respondent's current residence. N/A

4(d) Describe the health or social services provided to the Respondent during the year preceding the filing of the Petition (if the Petitioner or others have information as to those services).

4(e) Describe the alternatives to guardianship considered by the Petitioner for the Respondent, and the reasons why those alternatives are not available.

4(f) State below the Visitor's comments, observations, concerns, and suggestions regarding the place of residence and health or social services.

5. FINDINGS AND RECOMMENDATIONS

5(a) Are the allegations stated in the Petition substantially correct?

Yes No

If the answer is no, explain.

5(b) **Incapacity.** Is the Respondent’s ability to receive and evaluate information effectively or to communicate decisions impaired to such an extent that the Respondent presently lacks the capacity to meet the essential requirements for the Respondent’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.) Yes No

If the answer is yes, describe (1) the impairment and its likely cause, and (2) the actions the Respondent is unable to take to provide for his or her health care, food, shelter, clothing, personal hygiene, and other care.

5(c) **For temporary guardianship (immediate and serious danger).** In addition to answering “yes” to the previous question, is there an immediate and serious danger to the life or health of the Respondent, and does the welfare of the Respondent require immediate action?

N/A Yes No

If the answer is yes, describe (1) the immediate and serious danger, and (2) why the Respondent’s welfare requires immediate action.

If the answer is no, explain why.

5(d) **For temporary guardianship (purpose and duration).** Describe below the specific purpose for the appointment of the temporary guardian and the recommended duration of the appointment (not to exceed 30 days). N/A

5(e) **For conservatorship (financial incapability).** Is the Respondent unable to manage his or her 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.)

N/A Yes No

If the answer is yes, describe (1) the reason why the Respondent is unable to manage financial resources, and (2) the financial management actions the Respondent is unable to take.

If the answer is no, explain why.

5(f) **For temporary conservatorship (immediate and serious danger).** In addition to answering “yes” to the previous question, is there an immediate and serious danger to the estate of the Respondent, and does the welfare of the Respondent require immediate action?

N/A Yes No

If the answer is yes, describe (1) the immediate and serious danger to the Respondent’s estate, and (2) why the Respondent’s welfare requires immediate action.

If the answer is no, explain why.

5(g) **For temporary conservatorship (purpose and duration).** Describe below the specific purpose for the appointment of the temporary conservator and the recommended duration of the appointment (not to exceed 30 days). N/A

5(h) **Necessary.** Is the appointment of a fiduciary necessary as a means of providing continuing care and supervision of the Respondent? Yes No

If the answer is no, explain why.

5(i) **Suitability of fiduciary.** Is each nominated fiduciary suitable, qualified, and willing to serve? Yes No

If the answer is no, explain why.

5(j) If the Visitor is aware of an Objection to the Petition filed by parties other than the Respondent, describe the issues, if known to the Visitor.

5(k) If the Visitor has identified anyone else the Visitor believes is more appropriate for appointment as a fiduciary than any person nominated in the Petition, provide the name and reasons for the conclusion.

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5(l) Regarding the requirement that the guardianship order be no more restrictive upon the liberty of the protected person than is reasonably necessary to protect the person, does the Visitor recommend any limitations to the scope or duration of the authority of any proposed fiduciary?

N/A No Yes

If the answer is yes, explain why and describe the recommended limitations.

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5(m) Is there any need for further evaluation? No Yes

If the answer is yes, explain why and recommend the scope and timing of future evaluation.

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5(n) State below additional comments that might assist the Court and persons interested in this matter.

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6. SOURCES OF INFORMATION

6(a) All of the people the Visitor interviewed while compiling this report are listed below.

Name of Respondent	
Address	
Phone Number	
Relationship to Respondent	Self
Date Interviewed	

Name of Petitioner	
Address	
Phone Number	
Relationship to Respondent	
Date Interviewed	

Name of Nominated Guardian	
Address	
Phone Number	
Relationship to Respondent	
Date Interviewed	

Name of Nominated Conservator (if any)	
Address	
Phone Number	
Relationship to Respondent	
Date Interviewed	

Name	
Address	
Phone Number	
Relationship to Respondent	
Date Interviewed	

Name	
Address	
Phone Number	
Relationship to Respondent	
Date Interviewed	

6(b) The Visitor also reviewed the documents or records described below.

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STATE OF OREGON)
) ss.
 County of Marion)

Affirmation pursuant to UTCR 2.120

I am the Court Visitor in the above entitled matter. I declare that the foregoing Court Visitor’s Report is true and accurate to the best of my knowledge and belief and I understand that it is made for use as evidence in court and is subject to penalty for perjury.

DATED this _____ day of _____, 2009.

Court Visitor

cc: