

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
AT _____

In the Matter of the Protective Proceeding of _____)
)
)
)
)
)
 Respondent (person who needs a guardian))
)
)

CASE NO. _____

**ORDER APPOINTING
PARTIAL GUARDIAN**

A hearing in this matter was held on _____ before Judge/Master _____
Respondent was present. not present for the reasons stated on the record.

Also present were:

- Respondent's Attorney Court Visitor Petitioner Guardian Ad Litem
- Expert(s): _____
- Others: _____

The court has reviewed the petition, the visitor's report, the expert's report,
 the master's findings and recommendations, and any objections from the parties.

FINDINGS

The court finds that:

1. Notice of the Hearing.
 - a. The court gave notice of the hearing to the petitioner.
 - b. The visitor gave notice of the hearing to the respondent. AS 13.26.296(a)(1).
 - c. The petitioner served notice of the hearing on
 - the persons listed in AS 13.26.296 (for the **guardianship** powers).
 - the persons listed in AS 13.26.420 (for the **conservatorship** powers).

2. Subject Matter Jurisdiction. The court has jurisdiction under AS 13.27.110, because
 - Alaska is the respondent's home state as defined in AS 13.27.180.
 - the requirements of the following statute have been met:
 - AS 13.27.110(2) AS 13.27.110(3) AS 13.27.110(4)

3. Venue.
 - This judicial district is the proper location for the **guardianship**, because the respondent lives here. is present here. was admitted to an institution by order of a court in this judicial district.
AS 13.26.216 and Probate Rule 14(g)(1)(B).
 - This judicial district is the proper location for **granting the powers of a conservator** because the respondent lives here. does not live in Alaska, but has property in this judicial district.
AS 13.26.411 and Probate Rule 14(g)(1)(C).

4. Incapacity.

It has been shown by clear and convincing evidence that the respondent is incapacitated as defined in AS 13.26.005(5). *[Someone is incapacitated if the person's ability to receive and evaluate information or to communicate decisions is so impaired that the person cannot provide for the person's own physical health or safety without court-ordered help (including healthcare, food, shelter, clothing, personal hygiene, and protection).]* AS 13.26.251(b).

The respondent agrees to the finding of incapacity as defined above. AS 13.26.251(b).

Partial Guardian. The respondent is able to perform some, but not all, of the functions necessary to care for the respondent's self, and alternatives to partial guardianship are not feasible or adequate to meet the respondent's needs. Therefore, the court will appoint a **partial guardian**. AS 13.26.251(e).

The respondent lacks the ability to provide for the respondent's self in the following areas:

- (1) Medical care.
- (2) Mental health treatment (if any is required).
- (3) Housing.
- (4) Personal care, educational, and vocational services necessary for the physical and mental welfare of the respondent, and if possible, to enable the respondent to develop or return to full capacity.
- (5) Application for health and accident insurance and any other private or governmental benefits to which the respondent may be entitled.
- (6) Physical and mental examinations necessary to determine the respondent's medical and mental health treatment needs.
- (7) Control and management of the respondent's property and financial affairs in order to pay for the cost of services of (1) – (6).

AS 13.26.266(a)(2) & (b).

Powers of a Conservator. The partial guardian should have the powers of a conservator, because it has been established that the respondent:

- (1) is unable to effectively manage the respondent's property and financial affairs, and
- (2) has property that will be wasted or used up unless someone manages it, or has funds that are needed for the support, care, and welfare of the respondent or those entitled to be supported by the respondent.
AS 13.26.430(c) and AS 13.26.401(2).

As required by AS 13.26.430(d), the court has investigated the alternatives to appointing a conservator, including the services of a special conservator, and concludes that the powers of a full conservator should be given to the partial guardian, because the alternatives under AS 13.26.440 are not adequate to protect the respondent's estate.

5. _____ is/are suitable, under AS 13.26.311, to act as the respondent's **partial guardian or co-guardians**, and
- has priority for appointment under AS 13.26.311(d).
 - is best qualified among those having equal priority for appointment.
 - does not have priority for appointment, but this appointment is in the respondent's best interest
 - because _____
 - _____
 - _____
 - for the reasons stated in the attached written findings. AS 13.26.311(f).

This person or entity is also competent to act as the respondent's **conservator**, and

- Not applicable.** The partial guardian does not have conservator powers.
- has priority for appointment under AS 13.26.465(d).
- is best qualified among those having equal priority for appointment.
- does not have priority for appointment, but this appointment is in the respondent's best interest
 - because _____
 - _____
 - _____
- for the reasons stated in the attached written findings. AS 13.26.465(f).

6. Consideration of the Respondent's Preference.

- a. Pursuant to the AS 13.26.251(g) requirement that the court consider the respondent's preference in selecting a **partial guardian**, the court
 - has considered the respondent's preference.
 - has not considered the respondent's preference in guardians for the reasons stated on the record. in the attached findings.
- b. Pursuant to the AS 13.26.430(d) requirement that the court, to the maximum extent possible, consult with the respondent in determining what action should be taken with respect to appointment of a **conservator**, the court
 - has consulted with the respondent about whether the guardian should be given the powers of a conservator.
 - has not consulted with the respondent concerning the conservator issue for the reasons stated on the record. in the attached findings.

7. License. The partial guardian

- has the required professional license under AS 08.26.
 - is the Public Guardian.
 - is exempt from the license requirement under AS 08.26.180, because the individual is employed by a regulated financial institution and will provide these guardian services in the course of this employment.
 - is not required to be licensed, because the partial guardian is not engaged in the business of providing guardian or conservator services. The partial guardian
 - has has not satisfied the one-hour mandatory education requirement on the basics of guardianship and conservatorship.
- AS 13.26.311(c) and 13.26.465(g).

8. Personal Contact.
- The respondent appeared for court either in person or by video connection.
 - The respondent did not appear in court, but the court visitor had personal or video contact with the respondent.
 - The court visitor shall have personal or video contact with the respondent within the next one year and shall file notice with the court that the contact occurred.
 - The court finds good cause to waive the requirement for personal contact.

ORDER

IT IS ORDERED:

1. _____ is/are appointed to be the respondent’s partial guardian or co-guardians.
 - Each co-guardian has individual signature authority—it is **not** required that all co-guardians sign a document on behalf of the respondent for it to be effective.
2. Powers and Duties. The guardian has the powers and duties of a **partial guardian** as set forth in AS 13.26.316, and specific authority and responsibility to arrange for the respondent’s:
 - (1) Medical care.
 - (2) Any mental health treatment that is necessary.
 - (3) Housing. Limitations:
 - The guardian cannot move the respondent out of the respondent’s current home without written permission from the court.
 - _____
 - (4) Personal care, educational, and vocational services necessary for the physical and mental welfare of the respondent, and if possible, to enable the respondent to develop or return to full capacity.
 - (5) Application for health and accident insurance and any other private or governmental benefits to which the respondent may be entitled.¹
 - (6) Physical and mental examinations necessary to determine the respondent’s medical and mental health treatment needs.
 - (7) Asset and income management. **The partial guardian will have the powers and duties of a conservator under AS 13.26.500 - .575, except:**
 - the guardian cannot sell, transfer, destroy, or otherwise dispose of the following accounts, items, or property without the court’s written permission: _____
 - _____
 - _____

In exercising these conservator powers, the guardian must act as a fiduciary and must observe the standards of care applicable to trustees under AS 13.36.225 - .290. AS 13.26.500.

¹ This includes, but is not limited to, obtaining any and all information and documentation about the respondent from the Social Security Administration, Veteran’s Administration, state and federal agencies, and the federal civil service (as well as tax information from the Internal Revenue Service), unless the court order states otherwise.

- (8) The guardian is approved to be a paid provider of Medicaid Services, if otherwise qualified.
- (9) Large Expenditures.
- The guardian may manage the respondent's estate to benefit the respondent without getting court approval for large expenditures. However, the guardian must report annually on all expenses paid for the respondent's best interest.
- Other than payments for the respondent's medical and mental health treatment needs, the guardian may not use the respondent's funds for any non-budgeted expense greater than \$_____ without first getting the court's permission.
- (10) Regardless of any particular area of authority granted above, the guardian **does not** have the authority to make decisions reserved to the respondent under AS 13.26.316(e). These include decisions on placement in an institution for the mentally ill (without specific court order), registering to vote and voting, marrying and divorcing, terminating parental rights, obtaining a driver's license, and consenting to or withholding certain medical procedures.
3. Mandatory Education for Non-Professional Guardians. If the guardian is not engaged in the business of providing guardian services, the guardian must complete one hour of mandatory education on the basics of guardianship (and conservatorship, if applicable), and file proof of completion with the court within 30 days after this appointment order is distributed. (Use the [PG-120 Affirmation](#) form.) AS 13.26.311(c) and 13.26.465(g). *[Some ways to satisfy this requirement are explained at: <http://courts.alaska.gov/shc/guardian-conservator/index.htm>.]*
4. Bond. AS 13.26.470 - .475. The guardian
- must post a bond in the amount of \$ _____ by _____.
- is not required to post a bond for the reasons stated
- on the record in the attached findings.
5. Reporting Requirements. The guardian must file the following reports with the court:
- a. *Guardianship Plan* (form [PG-401](#)) **within 30 days** after the court distributes this appointment order. Probate Rule 16(g)(1).
- The Guardianship Plan must describe how the guardian plans to care for the respondent. The Plan must (1) encourage the respondent to participate in all decisions affecting the respondent to the maximum extent possible, and (2) not restrict the respondent's liberty more than is reasonably necessary to protect the respondent and to provide for the respondent's needs. AS 13.26.266(c).
- Specific Due Date: _____
- b. *Guardianship Implementation Report and Inventory* (form [PG-205](#)) **within 90 days** after the court distributes this appointment order. AS 13.26.271 & .505 and Probate Rules 16(g)(1)(A) & 17(g)(1).
- Specific Due Date: _____

- c. Budget.
- The guardian shall create a budget for the respondent. The budget shall be filed with the court no later than
- this date: _____
- the date of filing the *Guardianship Implementation Report and Inventory* (see section b above).
- The court finds good cause to allow the guardian to not create a budget.
- d. *Guardianship Annual Report* (form [PG-210](#)) **each year** until the guardianship ends. The report must cover the 12-month period beginning the 1st of the month in which this appointment order is signed and ending 12 months later, unless different specific dates are set below. The report is due 30 days after the end of the reporting period. *[For example, if the order is signed anytime in January, the reporting period will be January 1 to December 31; and a report will be due each January 31.]*
AS 13.26.276 and Probate Rule 16(g)(1)(B).
- Specific Dates.
Reporting Period: From _____ to _____ each year.
Report is due 30 days after end of reporting period: _____
- e. *Final Guardianship Report* (form [PG-215](#)) **within 90 days of when the guardianship ends, when the guardian is replaced, or when the respondent dies.** Probate Rule 16(g)(1)(C).

6. **If the respondent or the guardian changes name or contact information, the guardian must immediately provide written notice to the court and all parties.** *[Include your case number. You can find a "Change of Contact Information" (form [PG-195](#)) and court addresses on the court system website: www.courts.alaska.gov.]*

7. Term of Guardianship. Unless previously terminated by the court, the guardianship will end upon the respondent's death or _____.

Once the guardian knows that the respondent has died, the guardian has no further authority over the respondent's affairs and estate except to:

- a. preserve, account for, and transfer control of assets to a court-appointed personal representative, a special administrator under AS 12.65.110, a temporary property custodian under AS 12.65.105, or someone authorized to take custody of personal property by affidavit under AS 13.16.680; and
- b. arrange for the respondent's body to be transported to a funeral home and make funeral and burial arrangements, if the respondent does not have a living family member or someone available to do these tasks. The guardian may also apply for assistance with burial expenses from the state or a municipality if the respondent's estate does not have enough money to pay for burial; and
- c. because the partial guardian has the powers of a conservator, the guardian may also pay reasonable burial expenses from the estate.

AS 13.26.281(b) & .545(e) and Probate Rules 16(h) & 17(j).

8. The appointments of the respondent’s attorney, the court visitor, and any guardian ad litem end:
- on the date this order is signed.
 - 30 days after the guardianship implementation report is filed, so that the attorney, visitor, and guardian ad litem can review the report and file objections or other responses if appropriate.
 - _____.

9. The respondent’s attorney in the guardianship proceedings will be paid by
- the Office of Public Advocacy, because the respondent cannot afford an attorney. AS 13.26.226(b), AS 13.26.291(c), AS 44.21.410(a)(4), and Administrative Rule 12(c)(2).
 - the respondent.

10. Compensation or Reimbursement of the Guardian.
- The guardian is entitled to fees for the guardian’s services. However, the guardian may not pay herself/himself more than the following amounts from the respondent’s assets without a written court order approving such additional fees:
 - a fee for guardian and conservator services of \$_____ per hour, which cannot be more than \$_____ per month.
 - reimbursement of the case filing fee in the amount of \$_____.
 - a fee to manage the respondent’s property of \$_____ per month.
 - the monthly fees, case filing fee, property management fees, and other fees that the Office of Public Advocacy (OPA) is required to charge by 2 AAC 60.080.
 - payment or reimbursement for room and board not more than \$_____ per month without further written court order.
 - The guardian is not authorized to charge any fees.
AS 13.26.316(c)(6), AS 08.26.110, and Probate Rules 16(f) & 17(f).

11. Financial Abuse Protective Orders. Financial Abuse Case No. _____
- Ex Parte Order of Protection. Per AS 13.26.450(c), this appointment of a partial guardian with conservator powers dissolves any ex parte financial abuse protective orders in the above case(s).
 - Long-Term Order of Protection. If there is a long-term order of protection or a petition for a long-term order in the above case(s), the clerk must route a copy of this partial guardianship order to the judge in the financial abuse case(s).

12. Powers of Attorney.
- The power of attorney dated _____ and currently held by _____ is cancelled changed as follows:

13. Other Orders.

14. Additional Persons Who Must Be Served with Documents.

In addition to the parties in this case, the guardian must provide the following persons with copies of all pleadings, reports, and notices of hearing until further court order:

- 1. Name: _____ Email: _____
Mailing Address: _____ Phone: _____
- 2. Name: _____ Email: _____
Mailing Address: _____ Phone: _____
- 3. Name: _____ Email: _____
Mailing Address: _____ Phone: _____

AS 13.26.425 and Probate Rule 14(h).

Recommended for Approval by

Standing Master on _____

Superior Court Judge _____ Date

Type or Print Judge's Name

Clerk's Certificate of Distribution

I certify that on _____
a copy of this order was sent to:

- petitioner respondent visitor guardian respondent's attorney
- conservator (if separate one is appointed) _____
- financial abuse protective order case file listed in paragraph 11 (with [PG-815](#))
- judge in case listed in paragraph 11 (with [PG-844](#) Routing Sheet and [PG-845](#) Order)

Clerk: _____

**Notice to Respondent:
Right to Request Changes in This Order**

AS 13.26.251(h)

At any time in the future, you may ask the court to dismiss your guardian or change this guardianship order. You may use court form [PG-190](#) to ask the court to do this, or you may write a letter to the court. Form [PG-190](#) is available in paper copy at any state court and online at the court system's website: <http://www.courts.alaska.gov/forms/index.htm#pg>.