

STATE OF MAINE

_____ COUNTY PROBATE COURT

DOCKET NO. _____

In Re: _____
Respondent

APPOINTMENT OF SUCCESSOR
GUARDIAN AND/OR
SUCCESSOR CONSERVATOR

On petition for the appointment of a successor Guardian for the above-named Respondent,¹ or other communication to the Court that supports a reasonable belief that removal of the Guardian and appointment of a successor may be appropriate,² and after hearing, the Court finds that (1) venue for this proceeding is proper; (2) the Respondent was given proper notice of the hearing;³ (3) all other notices were properly given or waived;⁴ (4) this appointment is necessary or desirable as a means of providing continuing care and supervision of the Respondent; and (5) the Court found that clear and convincing evidence established that the basis for an appointment of Guardian for the Respondent as required under 18-C M.R.S. § 5-301(1) was met in its Order dated _____ and such finding is confirmed.

1. The Court hereby appoints the following person(s) as successor Guardian for the Respondent. Co-Guardians shall each serve immediately and shall make decisions jointly unless otherwise specified below:⁵

The person(s) hereby appointed has/have priority to serve, or the Court otherwise finds that such person(s) is/are best qualified to serve as Guardian or appointment of such person(s) is in the Respondent's best interest.⁶

2. The Guardian hereby appointed shall succeed to the predecessor Guardian's powers as provided in the original Order of Appointment dated _____ and any subsequent modifications thereto in orders dated _____,⁷
OR the Guardian's powers shall be as provided in Paragraphs 3 and 4 below.⁸

3. The Court hereby establishes a:

a. **Full Guardianship.** The Guardian has all powers available under the Maine Uniform Guardianship, Conservatorship and Protective Proceedings Act.⁹ The basis for granting a full guardianship and the specific findings that support the conclusion that a limited guardianship would not meet the functional needs of the adult subject to guardianship are as follows:¹⁰

b. **Limited Guardianship.** The powers granted to the Guardian are as follows:¹¹

4. Unless otherwise provided below or by subsequent order of the Court, the Guardian may not (a) consent to the adoption of the Respondent;¹² (b) consent or withhold consent to the marriage of the Respondent if the Respondent's right to marry has been removed or made subject to conditions under Paragraph 5 of this Order;¹³ (c) petition for divorce, dissolution or annulment of marriage of the Respondent or for a declaration of invalidity of the Respondent's marriage;¹⁴ (d) support or oppose a petition for divorce, dissolution or annulment of marriage of the Respondent or for a declaration of invalidity of the Respondent's marriage;¹⁵ (e) unless generally set forth in the Guardian's Plan or unless the Guardian complies with the notice provisions of 18-C M.R.S. § 5-314(5)(D)(3), move the permanent place of dwelling of the Respondent to a nursing home, mental health facility or other facility that places restrictions on the individual's ability to leave or have visitors;¹⁶ (f) establish or move the place of dwelling of the Respondent outside this State;¹⁷ (g) unless generally set forth in the Guardian's Plan or the Guardian gives notice of the action in accordance with 18-C M.R.S. § 5-314(5)(F), take action that would result in the sale of or surrender the lease to the primary dwelling of the Respondent;¹⁸ (h) revoke or amend a power of attorney for health care or an advance health care directive or power of attorney for finances executed by the Respondent;¹⁹ (i) initiate the commitment of the Respondent to a mental health facility except in accordance with the State's

procedure for involuntary civil commitment under Title 34-B, chapter 3, subchapter 4, article 3;²⁰ (j) restrict the ability of the Respondent to communicate, visit or interact with others, including receiving visitors or making or receiving telephone calls, personal mail or electronic communications, including through social media, or participating in social activities, unless a protective order or a protective arrangement instead of guardianship is in effect that limits contact between the Respondent and a person, or the Guardian has good cause to believe restriction is necessary because interaction with the person poses a risk of significant physical, psychological or financial harm to the Respondent and the Guardian complies with the notice requirements of 18-C M.R.S. § 5-315(3)(C):²¹

5. The Court hereby appoints the following person(s) as successor Guardian to the Guardian(s) named in Paragraph 1 above:²²

The successor Guardian shall serve upon the following future event:²³

The successor Guardian hereby appointed shall succeed to the predecessor Guardian's powers as provided in Paragraphs 2 to 4 above OR the successor Guardian's powers shall be modified from those provided in Paragraphs 2 to 4 above as follows:²⁴

6. The Guardian's Plan previously filed with and approved by the Court shall remain in effect. The Guardian shall file a revised Plan for the care of the Respondent with the Court whenever there is a subsequent change in circumstances, or the Guardian seeks to deviate significantly from the Plan previously approved.²⁵ The Guardian shall provide notice of the filing of any such revised Plan to the individual subject to guardianship and in accordance with 18-C M.R.S. § 5-316(2).

7. The Guardian shall at least annually submit to the Court a Report in a record regarding the condition of the Respondent and accounting for money and other property in the Guardian's possession or subject to the guardian's control.²⁶

Further, on petition for the appointment of a successor Conservator for the above-named Respondent,²⁷ or other communication to the Court that supports a reasonable belief that removal of the Conservator and appointment of a successor may be appropriate,²⁸ the Court finds that (1) venue for this proceeding is proper; (2) the Respondent was given proper notice of the hearing on the petition;²⁹ (3) all other notices were properly given or waived; (4) that the Respondent has assets requiring continued protection; and (5) the Court found that clear and convincing evidence established that the basis for an appointment of Conservator for the Respondent as required under 18-C M.R.S. § 5-401(2) was met in its Order dated _____ and such finding is confirmed.

8. The Court hereby appoints the following person(s) as Conservator for the property and financial affairs of Respondent. Co-Conservators shall each serve immediately and shall make decisions jointly unless otherwise specified below:³⁰

The person(s) hereby appointed has/have priority to serve, or the Court otherwise finds that such person(s) is/are best qualified to serve as Conservator or appointment of such person(s) is in the Respondent's best interest.³¹

9. The Conservator hereby appointed shall succeed to the predecessor Conservator's powers as provided in the original Order of Appointment dated _____ and any subsequent modifications thereto in order(s) dated _____,³² OR the Conservator's powers shall be as provided in Paragraph 11 and 12 below.³³

10. The Court hereby establishes a:

a. **Full Conservatorship.** The Conservator has all powers available under the Maine Uniform Guardianship, Conservatorship and Protective Proceedings Act.³⁴ The basis for granting a full conservatorship and the specific findings that support the Court's conclusion that a limited conservatorship would not meet the functional needs of the Respondent are as follows:³⁵

Limited Conservatorship. The property placed under the control of the Conservator and the powers granted to the Conservator are as follows:³⁶

11. Unless otherwise ordered below, the Conservator must give notice to persons entitled to notice under 18-C M.R.S. § 5-403(4) and receive specific authorization by the Court before the Conservator may exercise with respect to the conservatorship the power to: (a) make gifts, except gifts of *de minimus value* and as provided in 18-C M.R.S. § 5-421(2)(Y), (b) sell, encumber an interest in or surrender a lease to the primary dwelling of the Respondent; (c) convey, release or disclaim contingent or expectant interests in property, including marital property and any right of survivorship incident to joint tenancy; (d) exercise or release a power of appointment; (e) create a revocable or irrevocable trust of property of the conservatorship estate, whether or not the trust extends beyond the duration of the conservatorship, or revoke or amend a trust revocable by the Respondent; (f) exercise a right to elect an option or change a beneficiary under an insurance policy or annuity or surrender the policy or annuity for its cash value; (g) exercise a right to an elective share in the estate of a deceased spouse or domestic partner of the Respondent or to renounce or disclaim a property interest; (h) grant a creditor a priority for payment over creditors of the same or higher class if the creditor is providing property or services used to meet the basic living and care needs of the Respondent and preferential treatment otherwise would be impermissible under 18-C M.R.S. § 5-428(5); and (i) make, modify, amend or revoke the will of the individual subject to conservatorship:³⁷

12. The Court hereby appoints the following person(s) as successor Conservator to the Conservator(s) named in Paragraph 11 above:³⁸

The successor Conservator shall serve upon the following future event:³⁹

The successor Conservator hereby appointed succeeds to the predecessor Conservator's powers as provided in Paragraphs 10 to 12 above OR the Successor Conservator's powers shall be modified from those provided in Paragraphs 10 to 12 above as follows:⁴⁰

13. The Conservator shall furnish a bond with a personal/corporate surety in the amount of \$ _____ and/or an alternative asset-protection arrangement as follows:⁴¹

OR

No bond or alternative asset-protection arrangement is required because:

The estate is valued at less than \$50,000 and the Court does not otherwise find that a bond is required;⁴²

Conservator is a regulated financial service institution qualified to do trust business in this state;⁴³

Conservator is Respondent's spouse and the Court, in its discretion, waives the requirement of a bond or alternative asset-protection arrangement;⁴⁴ or

A bond or other asset-protection arrangement is not necessary to protect the interests of the Respondent for the following reason(s):⁴⁵

14. The Conservator shall file an Inventory with the Court within 90 days according to law.⁴⁶

15. The Conservator shall file a Report in a record with the Court regarding the administration of the conservatorship estate annually, on resignation or removal, on termination of the conservatorship, and/or as follows:⁴⁷

16. The Court shall give a copy of this Order to the Respondent and to all other persons given notice under 18-C M.R.S. §§ 5-310(5) and 5-411(5) not later than 30 days after the date of this Order.⁴⁸

Pursuant to M.R.Prob.P. 79(a) and at the specific direction of the Court, the Register shall enter on the docket that this Order is incorporated by reference.

Dated: _____

Judge of Probate

¹ 18-C M.R.S. §§ 5-111(2), 5-318.

² 18-C M.R.S. § 5-318(2)(B).

³ 18-C M.R.S. §§ 5-318(3).

⁴ 18-C M.R.S. §§ 5-318.

⁵ Insert name and address of each guardian hereby appointed. The Court may appoint a co-guardian to serve immediately or when a designated future event occurs. 18-C M.R.S. § 5-110(1).

⁶ 18-C M.R.S. § 5-309(1)-(3).

⁷ 18-C M.R.S. § 5-111(4).

⁸ 18-C M.R.S. § 5-111(4).

⁹ 18-C M.R.S. §§ 5-102(9), 5-314(1).

¹⁰ 18-C M.R.S. § 5-310(3).

¹¹ 18-C M.R.S. § 5-310(4).

¹² 18-C M.R.S. § 5-314(2).

¹³ 18-C M.R.S. § 5-314(3)(A).

¹⁴ 18-C M.R.S. § 5-314(3)(B).

¹⁵ 18-C M.R.S. § 5-314(3)(C).

¹⁶ 18-C M.R.S. § 5-314(5)(D).

¹⁷ 18-C M.R.S. § 5-314(5)(E). The move or establishment must also be consistent with the guardian's plan.

¹⁸ 18-C M.R.S. § 5-314(5)(F).

¹⁹ 18-C M.R.S. § 5-315(1). If a power of attorney for health care or an advance health care directive is in effect, unless the Court orders to the contrary, a health care decision of an agent takes precedence over that of the guardian and the guardian shall cooperate with the agent to the extent feasible. If a power of attorney for finances is in effect, unless the Court orders to the contrary, a decision by the agent that the agent is authorized to make under the power of attorney for finances takes precedence over that of the guardian and the guardian shall cooperate with the agent to the extent feasible.

²⁰ 18-C M.R.S. § 5-315(2).

²¹ 18-C M.R.S. § 5-315(3).

²² 18-C M.R.S. § 5-111.

²³ 18-C M.R.S. § 5-111(3).

²⁴ 18-C M.R.S. § 5-111(4).

²⁵ 18-C M.R.S. § 5-316(1).

²⁶ 18-C M.R.S. § 5-317.

²⁷ 18-C M.R.S. §§ 5-111(2), 5-430; 5-415(4).

²⁸ 18-C M.R.S. § 5-430(2)(B).

²⁹ 18-C M.R.S. § 5-430(3).

³⁰ Insert name and address of each conservator hereby appointed. The Court may appoint a co-conservator to serve immediately or when a designated future event occurs. 18-C M.R.S. § 5-110(1).

³¹ 18-C M.R.S. § 5-410(1)-(3).

³² 18-C M.R.S. § 5-111(4).

- ³³ 18-C M.R.S. § 5-111(4).
- ³⁴ 18-C M.R.S. § 5-102(8); 5-421.
- ³⁵ 18-C M.R.S. § 5-411(3).
- ³⁶ 18-C M.R.S. § 5-411(4).
- ³⁷ 18-C M.R.S. § 5-414.
- ³⁸ 18-C M.R.S. § 5-111.
- ³⁹ 18-C M.R.S. § 5-111(3).
- ⁴⁰ 18-C M.R.S. § 5-111(4).
- ⁴¹ 18-C M.R.S. § 5-416.
- ⁴² 18-C M.R.S. § 5-416(1).
- ⁴³ 18-C M.R.S. § 5-416(3).
- ⁴⁴ 18-C M.R.S. § 5-416(4).
- ⁴⁵ 18-C M.R.S. § 5-416(1).
- ⁴⁶ 18-C M.R.S. § 5-420.
- ⁴⁷ 18-C M.R.S. § 5-423.
- ⁴⁸ 18-C M.R.S. § 5-318(6); 5-430(6).

MARP