

A photograph of an elderly couple walking outdoors. The woman on the left has short white hair and is wearing a brown quilted jacket over a dark red sweater. The man on the right is wearing a brown suede jacket over a plaid shirt and a grey flat cap. They are both smiling and looking towards each other. The background is a blurred green landscape.

Law Office of Christopher Mays, PLC

Estate Planning | Elder Law

Quick Guide to Virginia Guardianship and Conservatorship

**A Guide to Understanding the Process and
How It Impacts Your Family**

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Quick Guide to

**VIRGINIA GUARDIANSHIP
AND CONSERVATORSHIP**

For Families

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About the Author

Chris focuses his practice on helping individuals and families navigate some of the most important legal issues they may ever face. His practice includes working with clients in matters related to: estate planning and administration; guardianship and conservatorship; probate issues; Medicaid planning; as well as preparation of premarital and marital agreements. In addition, Chris serves as a guardian *ad litem* for incapacitated adults and represents clients in involuntary hospital commitment hearings.



Chris has received various awards for his work as an attorney, including recognition as a "Top Lawyer" by Northern Virginia Magazine and Super Lawyers. Chris has also received Avvo's highest rating for attorneys and the Martindale Client Service Award for client satisfaction.

Chris has also lectured at Continuing Legal Education seminars for the Virginia Trial Lawyers Association and local bar associations in Northern Virginia. He has also written for the Journal of the Virginia Trial Lawyers Association and co-authored written materials for Virginia CLE (Continuing Legal Education). Chris received his BS from Virginia Tech and JD from the George Washington University Law School.

Chris is a member of the National Academy of Elder Law Attorneys and is admitted to practice before the Virginia Supreme Court and the United States District Court for the Eastern District of Virginia.

I. WHAT IS GUARDIANSHIP AND CONSERVATORSHIP?

A. Guardianship

A guardianship is a court ordered arrangement that puts one person in charge of the care of another (the person being cared for is often referred to as the “ward”). This means that, for there to be a guardianship, you have to go to Court and it has to be ordered by a judge. In Virginia, “Guardianship” is defined by Virginia Code Section 64.2-2000 as someone who is “responsible for managing the personal affairs of an incapacitated person... .” But this small phrase can cover a lot of ground, so let’s break it down.

First, let’s talk about what we mean when we say an “incapacitated person.” This is important because the court will only order a guardianship if it determines that a person is “incapacitated.”

The Virginia Code defines an “incapacitated person” as, essentially, one who is unable to “meet the essential requirements” to manage his or her care. Additionally, it can be someone who is not able to “manage property or financial affairs to provide for his [or her] support... .”

As a practical matter, we typically see court-ordered guardianship and conservator arrangements for people in the following circumstances:

- Older adults who are not able to care for themselves adequately due to issues like cognitive decline, dementia, or serious physical ailments.
- Older adults who are victims of financial abuse or who are otherwise unable to manage their finances.
- Young adults with physical or mental issues that limit their ability to care for themselves or live independently.

Keep in mind that the issues of guardianship are dealt with under state law, not federal. Therefore, each state will have its own unique rules. Many states may have different names, such as “guardian of the person” or “guardian of the estate.” In Virginia we simply use the term “guardian” to refer to a person responsible for managing the care of a person. We use the term “conservator” to refer to a person appointed to manage the finances of another.

B. Conservatorship

The role of a “conservator” in Virginia is to manage the finances of a ward. The same person can be appointed as both guardian and conservator. In other cases, one person may be named as guardian and another named as conservator. It is even possible to have “co-guardians” and “co-conservators” such that multiple people serve in the role of guardian and conservator for a single ward.

The Virginia Code simply states that a conservator “shall take care of and preserve the estate of the incapacitated person and manage it to the best advantage.”¹ As we will see later, there are a number of ‘best practices’ that may be mandated or recommended by courts in carrying out the duties of a conservator.

In a general sense, the conservator will typically:

- Receive any income that the ward is entitled to, such as social security, pension or other retirement benefits.
- Use the income and assets of the ward to pay the ward’s regular bills and other expenses (like medical expenses).
- The conservator can sell or liquidate the wards assets in order to pay for the ward’s expenses. In some cases, sale of an asset (like real estate) may require additional court proceedings in order to approve the sale.

¹ See Virginia Code Section 64.2-2021(B).

- Keep detailed records of the ward's finances, the transactions relating to the ward's estate, and expenses paid on the ward's behalf.

In Virginia, the conservator will be required to file regular reports with a person appointed by the courts called the "Commissioner of Accounts." These reports include an initial "inventory" of the ward's assets and subsequent "accountings" that show all transactions relating to the ward's estate. These reports are filed with the Commissioner's office and then must be approved by the Commissioner. The Commissioner is a "quasi-judicial" official who has the power to review these reports, then take action with regard to any discrepancies or irregularities in the reports. This helps ensure that a ward's finances are not misused or misappropriated.

C. Are there alternatives to Guardianship and Conservatorship?

The short answer is 'yes...maybe.' In many cases there are steps that can be taken as part of an estate plan that will help prevent the need for appointment of a guardian and conservator. Often a person can do this by creating powers of attorney that appoint another person to manage healthcare or finances. In this way, the power of attorney gives the 'agent' (person named to manage one's affairs in the power of attorney) the ability to do most of the things that a guardian or conservator would ordinarily be able to do.

In a majority of cases, this may be sufficient. However there may be circumstances where executing a power of attorney is not sufficient.

For starters, the person executing a power of attorney will need to have the mental capacity to sign such a document. If a person did not execute powers of attorney before experiencing cognitive decline or a serious health issue, then he or she may be unable to execute a valid power of attorney once these health issues set in.

Secondly, there may be circumstances that come in to play which make relying on the power of attorney problematic.

It is possible that the persons named in the power of attorney are either unwilling or unable to take on the duties of serving as an agent under a power of attorney. This can be because the proposed agent simply does not feel comfortable taking on these duties (which can involve a good amount of complicated work). In other cases it can be because there is a dispute involving the person proposed as the agent under a power of attorney (e.g. there is concern that the agent is not doing his or her job appropriately).

Finally, there is one key difference between an agent acting under a power of attorney and a situation where a person is appointed as guardian or conservator. The difference is that a power of attorney does not *take away* the principal's (the person making the power of attorney) ability to make healthcare decisions or manage finances for himself or herself. However, because a guardianship and conservatorship *does* involve a finding that the ward is not "mentally competent" – the ward's no longer has the ability to manage these things.

Consider the case of an older person who is the victim of financial abuse or scams. In such a case, the victim may insist on doing things like withdrawing large sums of money to give to the scammers. In other cases, the ward may refuse to move into an assisted living or nursing home arrangement despite the fact that continuing to live alone presents a very serious threat to his or her health and safety.

In cases like this, the ward can be actively engaged in making decisions that are actively harmful. In such cases, it may be necessary to prohibit the ward's ability to make such decisions. As a result, a court ordered guardianship or conservatorship may be necessary to protect the ward.

II. OVERVIEW OF THE COURT PROCESS FOR GUARDIANSHIP AND CONSERVATORSHIP

A. Filing for Guardianship and Conservatorship

A case to appoint a guardian or conservator is started by filing a petition with the Circuit Court “of the county or city in which the respondent is a resident or is located or in which the respondent resided immediately prior to becoming a patient...in a hospital.”²

The petition lays out the basic facts of the case, such as who the person is, how old they are and why they might need a guardian.

Upon filing of every petition, a guardian *ad litem* is appointed automatically by the Court.³

The role of the guardian *ad litem* (often referred to as “GAL”) is to conduct an independent investigation into the need for a guardian and the appropriateness of the proposed guardians. The GAL can also recommend the appointment of independent legal counsel for the respondent for the purpose of opposing the petition. Ultimately the GAL will make recommendations to the Court regarding the need for a guardianship and how it should be implemented. These recommendations are not binding on the Court. However it is common for the Court to give a significant amount of weight to the GAL’s findings and recommendations.

Typically there will be medical input, in the form of an evaluation report, from a licensed healthcare professional regarding the need for a guardian or conservator.

Ultimately, there will be a hearing on the petition where a judge with either order the guardianship/conservatorship, or deny the request.

² See Virginia Code Section 64.2-2001(A).

³ See Virginia Code Section 64.2-2003(A).

While there has been much concern expressed in public discourse about how these hearings are conducted (e.g. The 2020 Netflix Movie *I Care a Lot* and the case involving Brittney Spears), fortunately Virginia has built in a number of protections to its guardianship laws to ensure that abuse of guardianship and conservatorships is minimized as much as possible.

The first major concern with guardianship and conservatorship cases is what lawyers and judges will refer to as “notice.” Notice is a legal concept that deals with ensuring that people who are the subject of lawsuits are properly notified of the fact that there is a lawsuit pending. If you have ever heard of people being “served” or the phrase “service of process,” this is what we are talking about.

Service is the formal notification to a defendant or respondent that someone has filed a lawsuit involving them. Because guardianship and conservatorship involve the possibility of the potential ward losing a number of important (and Constitutionally protected) rights, there are special rules involving notice that apply to Virginia guardianships and conservatorships.

Just as with any lawsuit, the respondent in a guardianship or conservatorship case must be ‘served’ with the petition. The respondent must also be served with a “notice” of any hearing dates regarding the petition and the order appointing a guardian *ad litem*.

Virginia also requires certain family members, like a spouse, adult children or adult siblings receive notice of the petition being filed. Specifically, it is required that “three such persons” be identified and given notice unless the Petitioner certifies that no such persons can be found.⁴

Additionally, the Virginia Code requires that special “notice language” be included in the notices given to the respondent which warn of the potential for losing important rights relating to healthcare and finances. These warnings must be in “conspicuous, bold print” along with a statement in “14-point type” (large enough to hopefully ensure that seniors with vision

⁴ See Virginia Code Section 64.2-2002.

issues will not miss it) that the respondent has the right to be represented by an attorney.⁵

In many cases, the hearing where a guardian is appointed will be “uncontested.” This means that the ward will either agree with the appointment of a guardian, or that the ward is not in a position to contest the appointment of a guardian. In these cases, the court will conduct a review of the evidence and, if appropriate, enter the Order appointing a guardian or conservator. These hearings tend to be short and relatively uneventful.

It is possible for guardianships to be “contested.” In such cases, the respondent is actively fighting to prevent a guardianship from being ordered. As noted, previously it may be possible for the respondent to have an attorney appointed by the Court to defend him or her against the request for a guardianship. The respondent may also hire ‘independent’ legal counsel of his or her choosing.

In contested cases, the court would conduct a full trial, hearing evidence from both sides. Ultimately the decision can be made by the judge, alone (referred to as a “bench trial”) or the respondent can even request a trial by jury.⁶

B. The Evaluation

As noted above, typically a written evaluation report will be provided with the petition. This evaluation, while filed with the Court, is kept under seal so that it is not generally available to the public. However, in some cases the report may be delayed.

The evaluation can be performed by a physician, psychologist or any “licensed professional skilled in the assessment and treatment of the physical or mental conditions of the respondent as alleged in the petition.” As such, the evaluation can also be performed by professionals such as Licensed Clinical Social Workers (LCSW) or other qualified healthcare providers.

⁵ See Virginia Code Section 64.2-2004.

⁶ See Virginia Code Section 64.2-2007(B)

The information required in the evaluation is set out in Virginia Code Section 64.2-2005, but includes specific information such as:

- The nature and extent of the alleged incapacity
- A diagnosis or assessment of the respondents mental and physical condition
- The dates the examinations or evaluations were performed and the nature of the evaluator's professional license and qualifications

In some cases, healthcare providers (or even attorneys) may have a standard evaluation form that is used for the purpose of evaluating the capacity of an individual.

C. The Guardian *ad litem*

GALs are always attorneys who have been certified by the Supreme Court of Virginia to serve as court appointed guardians ad litem for petitions seeking guardianship or conservatorship of an adult. They are required to take a certification course that is approved by the Virginia Supreme Court and earn a certain amount of continuing legal education (CLE) credit on an annual basis in order to maintain this certification.

The duties of the GAL and the information required to be set forth in the GAL's report to the Court is contained in Virginia Code Section 64.2-2003. But essentially the GAL will:

- Investigate the evidence cited to support the need for a guardianship or conservatorship, including medical and non-medical evidence
- Investigate the "propriety and suitability" of the person proposed to be the guardian and conservator

- Make recommendations as to the extent of the duties and powers granted to the proposed guardian and conservator or determine if a limited guardianship is appropriate.

In conducting this investigation, the GAL will have access to the respondent's medical and school records as necessary.

In some cases, the GAL may recommend a "less restrictive alternative to guardianship or conservatorship." This can include, for example, a formal recommendation that a respondent does have capacity to execute a power of attorney.

Another important duty of the GAL is to ensure that the respondent has the opportunity to present legal challenges to the guardianship. Remember, much of the procedure behind guardianships is created to ensure that we are not 'rubber stamping' orders that take away an adult's fundamental rights unnecessarily.

One of the 'checks and balances' to protect against this is giving the respondent every opportunity to defend against the imposition of the guardianship. Realizing this, if the respondent expresses a desire to fight the guardianship, chances are the GAL will ask the Court to appoint counsel.

Another issue that comes up in the context of the GAL is the fee of the GAL. While the GAL is appointed by the Court, this does not necessarily mean that the GAL's fees will be paid by the Court.

Depending on the circumstances, the Court has the ability to order that different individuals involved in the case bear the responsibility for the GAL's fees. Keep in mind that the GAL is an attorney. So he or she will be billing hourly, just like an attorney in any other circumstance.

Ultimately, if the petition is granted and a guardian or conservator is appointed, then the Court has the ability to order that the GAL's fees be paid out of the respondent's estate or assets.⁷

However, if a guardian is *not* ultimately appointed (i.e. the case is dismissed or "nonsuited"), the Court has the ability to order that the Petitioner pay the GAL's fee, but can also order GAL

⁷ See Virginia Code Section 64.2-2008(A)

fees to be paid by the respondent if the petition was brought “in good faith.”⁸

In either case, whether a guardian is appointed or not, depending on the circumstances, it may also be possible for the GAL fees to be paid by the state, as well.

D. Contested or Uncontested?

As a practical matter, the majority of cases in which a guardianship is ordered tend to be uncontested. This means that, essentially, no objection was made to entry of the guardianship order. In these types of cases, a judge will still review all of the evidence, recommendations, etc. However, because there is no objection, a formal trial will not be held.

A relatively simple uncontested guardianship can likely be completed from start to finish in a few weeks, depending on several factors. Contested guardianships, however, can be a very different thing.

There are a number of reasons that a guardianship or conservatorship may be contested. These include circumstances like the following.

The Respondent Objects: In these cases, the person for whom the guardian is being appointed does not agree to the Court ordering one. Often this can involve seniors in cases where it is a close call as to whether a guardian is actually needed. In other cases, it can be clear that a guardian is needed, but the respondent is capable of making an objection – and the Court gives the respondent his or her ‘day in court.’

Problematic Family Dynamics: In these cases, there may be less of a disagreement about the *need* for a guardian (though not always). Rather the dispute becomes *who should serve as guardian*? As noted previously, the Virginia Code requires that a number of family members receive notice of the guardianship proceedings. At that point, disputes can arise about who should serve as guardian. Competing family members can ‘intervene’ in

⁸ See Virginia Code Section 64.2-2008(A) and 64.2-2003(A)

the case to argue for different candidates to serve as guardian or conservator.

E. Qualifying with the Clerk's Office

Once the Court enters an order appointing a guardian or conservator, that person will then need to “qualify” with the Clerk’s Office. Essentially the guardian or conservator ‘swears in’ in front of the clerk – and the clerk will issue what is called a “Letter of Qualification” or “Certificate of Qualification.”

The letter or certificate of qualification is a document with a raised seal stamp. It is the document that the guardian or conservator will provide to third parties (e.g. healthcare provider or financial institution) that establishes the guardian or conservator’s legal authority to either make care decisions for the ward or access the ward’s finances.

In some jurisdictions this swearing in can take place right after the hearing in which the judge signs the order appointing the guardian or conservator. In others, you may need to make a separate appointment to ‘qualify.’

III. REQUIRED REPORTING FOR GUARDIANS AND CONSERVATORS IN VIRGINIA

A. Guardianship Report

Guardians must file regular reports with the local department of social services for the jurisdiction where the ward lives. These reports are prepared on Virginia Supreme Court Form CC-1644 (see Appendix A).

The reports provide certain basic information about the ward and the ward’s condition. These reports must be filed at the first four months following qualification, then annually thereafter.

There is a five dollar filing fee that must be paid when each report is filed.

B. The Inventory

Conservators must file an Inventory that identifies all assets, and certain types of income that the ward receives. The Virginia Supreme Court uses form CC-1671 for this purpose (see Appendix B).

The inventory is filed with the Commissioner of Accounts for the jurisdiction where the guardian was appointed. The Commissioner is an attorney appointed by the Court to serve as a “quasi-judicial” official who supervises the conservatorship and the funds being managed by the Conservator.

The inventory must be accompanied by supporting documents (e.g. account statements, tax assessments for real estate, etc.) establishing the value of the ward’s assets on the date of qualification. This value will be the ‘starting point’ from which the Commissioner will oversee all transactions relating to the Ward’s estate.

C. Accountings

Accountings are reports that show all transactions regarding the ward’s estate along with documentation of the same (in the form of account statements, cancelled checks, etc.). Additionally, copies of invoices are provided to verify that the expenses paid on behalf of the ward are appropriate. Virginia Supreme Court form CC-1682 is provided for this purpose.

The first accounting is due six months after the date of qualification and should cover the first four months of the conservatorship after the date of qualification. Subsequent accountings are filed annually and each must be approved by the Commissioner of Accounts.

D. What Happens When the Guardianship or Conservatorship Ends?

The authority of the guardian or conservator will generally end upon the death of the ward. In some cases the guardianship order will give the guardian “the right, but not the responsibility” to make arrangements for the ward’s burial or funeral arrangements.

An probate estate case can be opened if the ward has sufficient assets to warrant doing so. In cases where the estate of the ward is \$25,000 or less, Virginia Code Section 64.2-2026 provides that the estate of the ward can be surrendered to the “distributees of the incapacitated person, or other persons entitled thereto” without having to go through probate.

The conservator must then file a “final accounting” with the Commissioner that reflects a “zero balance” of funds remaining in the conservatorship.

IV. SO YOU’RE GUARDIAN/CONSERVATOR - NOW WHAT?

Once a guardian or conservator has authority to make decisions for a ward, what does he or she do with that authority?

A. Assisted Living or Nursing Home Placement

In many instances, part of the need for a guardianship may involve a senior or loved one who is not capable of living by himself or herself. In these instances, it may be necessary to find either in home care, assisted living or even nursing home placement. As a general principle, the authority granted to a guardian will permit the guardian to coordinate such services or admit the ward into such a placement.

B. Managing a Ward's Finances

If a conservator is appointed, that person will have the responsibility for managing the ward's finances. The conservator has a "fiduciary duty" to the ward. A fiduciary duty is a duty to act in the best interests of the ward and to use the assets of the ward for the ward's benefits only. Using the ward's funds for inappropriate expenses (such as the personal expenses of the conservator) is considered a 'breach' of this fiduciary duty for which the conservator is personally liable.

Typically when the conservator is appointed, he or she will be required to obtain a "bond." This is essentially an insurance policy that is paid for out of the ward's estate. The insurance policy is in an amount related to the total value of the ward's estate and protects against the conservator's mismanagement of the ward's funds.

The conservator will need to qualify for this bond. As a general principle, this qualification process will include a credit check and criminal records check. Credit problems, such as a history of bankruptcy, or a record of certain types of criminal offenses may make it such that an insurance company is not willing to insure the conservator and provide the bond. This can result in a person appointed as conservator being unable to serve – even if he or she was appointed by the court.

Generally the conservator will open an account under the ward's name, but to which only the conservator (not the ward) has access. This "conservatorship account" is where the ward's assets will be transferred and income deposited. Most Commissioners of Accounts will tell conservators to use checks to pay expenses of the ward, and set up the account in such a way that copies of cancelled checks are provided as part of the monthly statements.

These statements, along with copies of cancelled checks written for expenses, and invoices provided from vendors and third parties are then compiled into the regular accounting reports that are required to be filed with the Commissioner.

C. "Safe Discharge"

Persons serving as guardians should generally be aware of the rules regarding "safe discharge" from healthcare facilities such as hospitals, nursing homes, etc. As a general rule, such facilities must provide discharge planning services to patients and cannot discharge a patient into a situation that is unsafe or presents a danger to the patient.

Since the individual circumstances of each patient are different, it can be difficult to pin down exactly what does or does not constitute a "safe" or "unsafe" discharge.

The most common scenario in the context of elder care is a scenario where a senior who has been living largely independently experiences a medical event that requires inpatient care in a facility. For example, a senior who suffers a stroke or cardiac event who is then admitted to the hospital.

As an acute care facility, it is the hospital's role to provide immediate treatment of the medical condition. However once this care has been provided – what if the patient is without capacity to understand his or her care needs and does not have the ability to care for himself or herself at home as was the case prior to the hospitalization?

In such a scenario, the hospital will seek to work with a decisionmaker for the patient to provide a safe discharge plan. This decisionmaker can be a family member or person permitted under law to make decisions for the patient⁹, an agent under a healthcare power of attorney, or a court appointed guardian.

Under these circumstances, it will often be the role of the patient's decisionmaker to ensure that the discharge plan and services being provided after discharge are adequate to the patient's needs.

⁹ Virginia Code Section 54.1-2986 references procedures for allowing a third party to make healthcare decisions for a person who has not appointed a healthcare agent as part of an advance directive or power of attorney. Court appointed guardians preempt all other legal authority. However, without a guardian or healthcare agent, Virginia law provides that a spouse, adult child of the patient, parent and then other family may make healthcare decisions if a patient is incapable of doing so.

Additionally, it may be necessary for the decisionmaker to object to the proposed discharge if the proposed plan is not reasonable safe for the patient.

D. The Elder Care Coordinator

Caring for an older loved one can involve working with a number of professionals across a spectrum of complicated fields. At various times it may be necessary to employ social workers, doctors, nurse practitioners, nurses, home health aides, occupational therapists as well as others. Even for the professionals providing these services, no single person is an expert in each of these fields. So assembling the right healthcare team – and coordinating and managing such a team can be a full time job.

For families with no experience in such matters, and who are also dealing with the emotional impact of the decline of a loved one, taking on such a task can be overwhelming. Fortunately there are professionals who make it their job to do this – the professional care manager or care coordinator. For families dealing with seniors in difficult circumstances, often the services of an elder care coordinator can improve outcomes for everyone involved.

Appendix A - Guardianship Report

This appendix contains a copy of the Virginia Supreme Court Form CC-1644, the Report of Guardian. This form must be for the period of four months after the date of qualification and annually thereafter. The form is filed with the Department of Social Services for the county or city where the ward resides. There is a \$5.00 filing fee that must be paid for each report filed.

Clear All Data

REPORT OF GUARDIAN FOR AN INCAPACITATED PERSON

COMMONWEALTH OF VIRGINIA

VA. CODE § 64.2-2020

Name of Incapacitated Person:			
Address of Incapacitated Person:			
Circuit Court where Guardian appointed:		Age:	
Circuit Court Case No.:			
Date of Order of Appointment:		Date Qualified by Clerk:	
Guardian's Name:			
Address:			
Telephone Number:			
Conservator's Name:			
Address:			
<input type="checkbox"/> Same as Guardian			
Telephone Number:			

☐ Initial four-month report ☐ Annual report ☐ Final report

REASON FOR FILING FINAL REPORT

The period covered by this report is: _____ to _____

Please make all responses as detailed as possible.

1. Describe the incapacitated person's living arrangements, including a specific assessment of the adequacy of such living arrangement:

.....

2. Describe the current mental, physical and social condition of the incapacitated person (attach additional pages if necessary):

Mental:

Physical:

Social:

State any changes in the condition of the incapacitated person in the past year:

.....

3. Describe all medical, educational, vocational, social, recreational and any professional services and activities provided to the incapacitated person for the period covered by this report, and state your opinion of the adequacy of the care received by the incapacitated person. The information required by this subdivision shall include (i) the specific frequency or number of times the incapacitated person was seen by such providers; (ii) the date and location of and reason for any

hospitalization of such incapacitated person; and (iii) a description of the educational, vocational, social, and recreational activities in which such incapacitated person participated:

4. State whether or not you agree with the current treatment or care plan:

5. State your recommendation as to the need for continued guardianship and any recommended changes in the scope of the guardianship, and the steps to be taken to make those changes:

6. If you incurred expenses in exercising your duties as guardian and if you requested reimbursement or compensation for those expenses, itemize the expenses and list the person(s) from whom you requested reimbursement or compensation:

7. State the name of any persons whose access to communicate, visit, or interact with the incapacitated person has been restricted and the reasons for such restriction:

8. Provide a self-assessment as to whether you feel you can continue to carry out the powers and duties imposed upon you by Virginia Code § 64.2-2019 and as specified in the court's order of appointment pursuant to Virginia Code § 64.2-2009:

9. Unless the incapacitated person resides with you, provide a statement of the frequency and nature of any (i) in-person visits from you with the incapacitated person over the course of the previous year and (ii) visits over the course of the previous year from a designee performing such visit. If any visit described in this section is made virtually, please specify. If no visit was made within a six-month period, describe any challenges or limitations in completing such visit. If the incapacitated person resides with you, state as such:

10. Provide a general description of the activities taken on by you for the benefit of the incapacitated person during the past year:

11. Provide a statement of whether the incapacitated person has been an alleged victim in a report of abuse, neglect, or exploitation made pursuant to Article 2 (§ 63.2-1603 et seq.) of Chapter 16 of Title 63.2, to the extent known, and whether there are any other indications of abuse, neglect, or exploitation of such incapacitated person:

12. Provide any other information useful in your opinion:

I certify that the information contained in this Annual Report is true and correct to the best of my knowledge.

.....
DATE

.....
SIGNATURE OF GUARDIAN

DSS Use Only:

Date Received: Date Reviewed:

.....
REVIEWER'S SIGNATURE AND TITLE

Court Use Only:

Date Received:

.....
Clerk

Appendix B - The Inventory

This appendix contains the Inventory form that is used for reporting the estate of the ward. The Inventory is filed with the Commissioner of Accounts for the jurisdiction where the conservator was appointed.

The purpose of the inventory is to identify all assets and property held by the ward on the date of qualification. It will be the starting point for the subsequent accountings, which show the disposition and handling of the ward's property. Each entry in the Inventory should be supported by an account statement or other document establishing the value of each asset on the date the conservator qualified.

Clear All Data

COMMONWEALTH OF VIRGINIA
VA. CODE §§ 64.2-1300, 64.2-1308

Court File No. _____

Circuit Court of _____

Decedent's name

Fiduciary(ies) name(s).....

Date of fiduciary(s) qualification Date of decedent's death

This is ☐ the first inventory ☐ an inventory showing after discovered assets ☐ an amended inventory restating all assets.
The fiduciary filing this inventory is ☐ an administrator ☐ an executor ☐ a curator.

Total value of assets listed in Parts 1 and 3 (estate for bond) \$ 0.00

Total value of assets listed in Parts 1, 3, and 4 (estate for probate tax) \$ 0.00

ATTACH ADDITIONAL SHEETS IF NEEDED

Part 1. The decedent's personal estate under your supervision and control, valued at the date of death.

DESCRIPTION OF PROPERTY	VALUE
TOTAL VALUE OF PART 1:	0.00

Part 2. The decedent's interest in multiple party accounts and multiple party certificates of deposit in banks and credit unions, valued at the date of death.

DESCRIPTION OF PROPERTY	VALUE
TOTAL VALUE OF PART 2:	0.00

Part 3. The decedent's real estate in Virginia over which you have a power of sale, valued at the date of death.

DESCRIPTION OF PROPERTY	VALUE
TOTAL VALUE OF PART 3:	0.00

Part 4. The decedent's other real estate in Virginia, valued at the date of death.

DESCRIPTION OF PROPERTY	VALUE
TOTAL VALUE OF PART 4:	0.00

Part 5. The decedent's non-Virginia real estate, valued at the date of death.

DESCRIPTION OF PROPERTY	VALUE
TOTAL VALUE OF PART 5:	0.00

CERTIFICATE OF ACCURACY, COMPLETENESS, AND MAILING

[Must be signed by each fiduciary.]

- I (we) hereby certify and affirm under penalty of law, that to be best of my (our) knowledge and belief this is an accurate and complete inventory of this estate made in accordance with my (our) responsibilities under Virginia law.
- I (we) hereby also certify and affirm that (**choose one**):
 - ☐ On or before the date of filing this Inventory with the Commissioner of Accounts, I (we) sent a copy of it by first class mail to every person entitled to a copy, pursuant to Va. Code Section 64.2-1303, who made a written request therefore. The names and addresses of the persons to whom copies were sent and the dates they were mailed are shown on page 4.
 - or**
 - ☐ No person entitled to a copy of this Inventory pursuant to Virginia Code Section 64.2-1303 made a written request therefore.

Date

SIGNATURE OF FIDUCIARY

Address

Telephone No.

Date

SIGNATURE OF FIDUCIARY

Address:

Telephone No.

Date

SIGNATURE OF FIDUCIARY

Address

Telephone No.

CERTIFICATE OF COMMISSIONER

The Commissioner of Accounts has not independently verified the value of the items on the inventory, or the fact that they are the only assets of the estate.

Inspected, found to be in proper form, and approved on

COMMISSIONER OF ACCOUNTS

Received in the Clerk's Office and admitted to record on

[] CLERK [] DEPUTY CLERK

Certificate of Mailing

I, the undersigned, do hereby certify that I have mailed a copy of the foregoing INVENTORY FOR DECEDENT'S ESTATE to the following individuals on this the _____ day of _____, 20 _____.

EXECUTOR/ADMINISTRATOR

EXECUTOR/ADMINISTRATOR

EXECUTOR/ADMINISTRATOR

Name of Recipient		
Address		
City	State	ZIP

Name of Recipient		
Address		
City	State	ZIP

Name of Recipient		
Address		
City	State	ZIP

Name of Recipient		
Address		
City	State	ZIP

Name of Recipient		
Address		
City	State	ZIP

Name of Recipient		
Address		
City	State	ZIP

Appendix C - The Accounting

This appendix contains a sample accounting of the ward's estate. The accounting summarizes all transactions that the conservator has made of behalf of the ward. Documentation of the transactions to include statements from the conservatorship account, copies of cancelled checks, and invoices are provided with the accounting.

The accounting is filed with the Commissioner of Accounts for the jurisdiction where the conservator was appointed. The first accounting will cover the first four months from the date of qualification and is due six months after the date of qualification. Subsequent accountings are filed annually thereafter.

SAMPLE ACCOUNT FOR INCAPACITATED ADULT
COMMONWEALTH OF VIRGINIA

Court File No.

Circuit Court of

Estate of, an incapacitated adult

Residence of incapacitated person:

Type of Fiduciary: ☐ Conservator ☐ Guardian ☐ Committee
☐ Trustee for ex-service person ☐ Limited Conservator

Name of fiduciary Day telephone

Mailing address

Name of other fiduciary Day telephone

Mailing address

This is account number ☐ one ☐ two ☐ three ☐ Is this a final account? ☐ yes ☐ no.

From (date of qualification or end of last account) to (end of this account)

ACCOUNT SUMMARY

1. Beginning Assets (from Parts 1, 2 and 5 of the inventory or from the prior account)	\$	102,306.65
2. Receipts*	\$	37,328.08
3. Gains on Asset Sales (attach itemized list)	\$	1,125.00
4. Adjustments (attach itemized list)	\$	4,375.00
5. Total of 1, 2, 3 and 4 (must equal Total on Line 10)		<u>\$ 145,134.73</u>
6. Disbursements (attach itemized list)	\$	34,085.00
7. Losses on Asset Sales (attach itemized list)	\$	0.00
8. Distributions (final account only) (attach itemized list)	\$	0.00
9. Assets on Hand (attach itemized list) (carrying value)	\$	111,049.73
10. Total of 6, 7, 8 and 9 (must equal Total on Line 5)		<u>\$ 145,134.73</u>

* Any amounts received as Designed Representative but not included
in 2 above. (See Va. Code Section 26-17.10; Instruction III.A.) \$ 3,000.00

** Market Value of Assets on Hand (See Instruction IX.D.) \$ 111,799.73

I (We) certify that this is a true and accurate accounting of the assets of this estate for the period described and that to the best of
my/our knowledge all taxes have been paid or provided for.

Date Fiduciary's signature

Date Fiduciary's signature

NOTE: Virginia law requires that every account be signed by all fiduciaries.

RECEIPTS:

LMN Bank interest

6/25/06	53.51
7/25/06	54.17
8/25/06	55.73
9/25/06	56.59
10/25/06	56.82
11/25/06	57.80
12/25/06	58.99
1/25/07	59.40
2/25/07	60.10
3/25/07	60.95
4/25/07	61.44
5/25/07	62.30

STU Corporation, dividends

6/30/06	50.00
9/30/06	50.00
12/31/06	65.00
3/31/07	65.00

Employer's disability payments –	10 months @ \$490	4,900.00	
	2 months @ \$510	1,020.00	5,920.00
CDO Annuity – 12 months @ \$2,400			28,800.00

ABC Bank, interest

6/30/06	415.10
9/30/06	418.55
12/31/06	420.92
3/31/07	<u>425.71</u>

TOTAL RECEIPTS

37,328.08

GAINS ON ASSET SALES:

6/14/06 Net Proceeds of sale of 80 shares of NOP Company	5,125.00
less carrying value of	<u>4,000.00</u>
TOTAL GAINS	1,125.00

ADJUSTMENTS:

Correct 500 shares of STU Corp. from
\$119.75 per share on Inventory to
true Inventory value of \$128.50/share
TOTAL ADJUSTMENTS:

59,875.00
64,250.00
4,375.00

DISBURSEMENTS:

Check #

#008 ABC Agency, bond premium
Sunshine Nursing Home
6/06-5/07, 12 months @ \$2,785/month
#009 Dr. John Doe
#015 Dr. John Doe
#024 Dr. Mary Roe

490.00
33,420.00
50.00
50.00
75.00

TOTAL DISBURSEMENTS:

34,085.00

LOSSES ON ASSET SALES – none

0.00

DISTRIBUTIONS – none

0.00

ASSETS ON HAND:

Fifth National Bank,
Money Market Acct. #123789
500 shares of STU Corp. at carrying
value of \$128.50/share (5/31/07 market
value of \$130/share = \$65,000)
Third National Bank, Savings Acct.
TOTAL ASSETS ON HAND

20,907.73
64,250.00
25,892.00

111,049.73