_____
Name (and if attorney, Attorney's Number)

_____
Address

_____
City, State, Zip Code

_____
Telephone Number
☐ Attorney for ☐ Petitioner

IN THE FAMILY COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

In the Matter of the Guardianship of	)	FC-G No._____
	)	
	)	ORDER APPOINTING GUARDIAN
	)	WITH ☐ LIMITED ☐ UNLIMITED
_____,	)	AUTHORITY; EXHIBIT A
(Full Legal Name)	)	
	)	Hearing Date: _____
An Incapacitated Person.	)	
_____	)	Judge: _____

ORDER APPOINTING GUARDIAN WITH
☐ LIMITED ☐ UNLIMITED AUTHORITY

This matter came on for hearing on the above-mentioned date before the Honorable

_____, Judge of the Family Court, First Circuit.
(Full Name of Judge)

Following that hearing and after full consideration of all of the evidence, the Court finds that:

1. This Court has jurisdiction and is the proper venue in this matter;
2. The material allegations of the *Petition for the Appointment of a Guardian of an Incapacitated Person* are true;

In accordance with the Americans with Disabilities Act, as amended, and other applicable state and federal laws, if you require a reasonable accommodation for a disability, please contact the ADA Coordinator at the First Circuit Family Court office by telephone at 954-8200, fax 954-8308, or via email at adarequest@courts.hawaii.gov at least ten (10) working days prior to your hearing or appointment date.

*Please call the Family Court Service Center at **954-8290** if you have any questions regarding forms or procedures.*

RESET FORM

3. It has been proven by clear and convincing evidence that:

   a. _____ is an incapacitated person as
   (Name of Respondent)
   defined in section 560:5-102 of the Hawai‘i Revised Statutes (HRS).

   b. The Incapacitated Person’s identified needs cannot be met by less restrictive means including the use of appropriate and reasonably available technological assistance.

4. Appointment of a Guardian is necessary in order to provide continuing care and supervision of said Incapacitated Person;

5. The Incapacitated Person was properly served with a notice which complies with the provisions in HRS § 560:5-309(a);

6. _____ is a fit and proper person and
   (Name of Proposed Guardian)
   the best qualified to serve as Guardian;

☐ 7. The Guardian shall have unlimited authority because:

_____

_____

_____

_____

_____

☐ The Guardian shall have limited authority because:

_____

_____

_____

_____

_____

NOW, THEREFOR,

IT IS HEREBY ORDERED that _____
(Name of Proposed Guardian)

be and is hereby appointed Guardian of _____
(Name of Incapacitated Person)

to make decisions regarding the Incapacitated Person's support, care, education, health and welfare, subject to the provisions in HRS §§ 560:5-314, 560:5-315, and 560:5-316. The Guardian shall exercise authority only as needed due to the incapacitated person's limitations and if possible, shall encourage his/her participation in decisions regarding his/her personal affairs, acting on his/her own behalf, and developing or regaining the capacity to manage his/her personal affairs. The Guardian shall consider the expressed desires and personal values of the Incapacitated Person to the extent known to the Guardian. At all times, the Guardian shall act in the Incapacitated Person's best interests and exercise reasonable care, diligence, and prudence.

IT IS HEREBY ORDERED THAT that the Guardian shall have the following duties:

1. to become and remain personally acquainted with the Incapacitated Person and maintain sufficient contact with the person to know the person's capacities, limitations, needs, opportunities, and physical and mental health;
2. take resonable care of the Incapacitated Person's personal effects and bring protective proceedings if necessary to protect the Incapacitated Person's property;
3. expend any monies of the Incapacitated Person, received by the Guardian, for the Incapacitated Person's current needs for support, care, education, health, and welfare;
4. conserve any excess money of the Incapacitated Person for that person's future needs; provided that if a conservator has been appointed for the Incapacitated Person's estate, the Guardian shall pay the money to the conservator, at least quarterly, to be conserved for the Incapacitated Person's future needs;
5. immediately notify the court if the Incapacitated Person's condition has changed so that

the person is capable of exercising rights previously removed; and

6. inform the court of any change in the Incapacitated Person's custodial dwelling or address;

IT IS HEREBY ORDERED THAT THE GUARDIAN SHALL HAVE:

☐ **limited** authority as provided below:

_____

_____

_____

_____

_____

☐ **unlimited** authority

to make these decisions including, but not limited to, the authority to:

1. apply for and receive money payable to the Incapacitated Person, Guardian, or custodian for the Incapacitated Person's support under the terms of any statutory system of benefits for insurance or any private contract, devise, trust, conservatorship, or custodianship;
2. if consistent with any court orders relating to custody, take custody of the Incapacitated Person and establish that person's residence, provided that prior court approval is needed if the Incapacitated Person is to live or be moved to a location outside of Hawai‘i;
3. if there is no conservator, then the Guardian may initiate an action to compel a person to support the Incapacitated Person or pay money for that person's benefit;
4. consent to medical or other care, treatment, or service for the Incapacitated Person;
5. consent to the marriage or divorce of the Incapacitated Person; and
6. if reasonable under all of the circumstances, delegate to the Incapacitated Person certain responsibilities for decisions affecting that person's well being.

IT IS HEREBY FURTHER ORDERED that the Guardian may not revoke any health care directions as set forth in any medical directive or health care power of attorney, without

authorization of the Court. However, appointment of this guardianship automatically terminates the authority of any agent designated in the medical directive or health care power of attorney.

IT IS HEREBY FURTHER ORDERED that if the Public Guardian is appointed guardian, the Public Guardian is appointed guardian, the Public Guardian shall have authority to delegate the responsibilities and duties of the Public Guardian to a professional member of the Public Guardian's staff.

IT IS HEREBY FURTHER ORDERED that the Guardian shall provide a written report to the Court of the condition of the Incapacitated Person, account for money and other assets in the Guardian's possession or control, and such other matters as the Court may direct within thirty days of the filing of this Order and at least annually thereafter by _____ of _____, and whenever ordered by the Court, and shall give
(day) (month)

notice, within fourteen days of the filing of this report, together with a copy of the report to the Incapacitated Person ☐ and (state name and address):

_____

_____.

IT IS HEREBY FURTHER ORDERED that the Guardian shall serve without bond and, with prior court approval, is entitled to reasonable compensation from the Incapacitated Person's estate for services as Guardian and to reimbursement for room, board, and clothing provided to the Incapacitated Person. *See* Exhibit A.

IT IS HEREBY FURTHER ORDERED that the Guardian shall be discharged upon the death of the Incapacitated Person or upon further order of the Court, but termination does not affect the liability of the Guardian for prior acts, nor the Guardian's obligation to account for funds and assets of the Incapacitated Person.

IT IS HEREBY FURTHER ORDERED that, within fourteen days of the filing of this Order, the Guardian shall send or deliver a copy of this Order to the Incapacitated Person and all other persons noticed of the hearing on this petition, together with notice of the right to request termination or modification of this Order.

DATED: Kapolei, Hawai‘i, _____.

_____
JUDGE OF THE ABOVE-ENTITLED COURT

§ 560:5-314. Duties of guardian.

(a) Except as otherwise limited by the court, a guardian shall make decisions regarding the ward's support, care, education, health, and welfare. A guardian shall exercise authority only as necessitated by the ward's limitations and, to the extent possible, shall encourage the ward to participate in decisions, act on the ward's own behalf, and develop or regain the capacity to manage the ward's personal affairs. A guardian, in making decisions, shall consider the expressed desires and personal values of the ward to the extent known to the guardian. A guardian at all times shall act in the ward's best interest and exercise reasonable care, diligence, and prudence.

(b) A guardian shall:
   (1) Become or remain personally acquainted with the ward and maintain sufficient contact with the ward to know of the ward's capacities, limitations, needs, opportunities, and physical and mental health;
   (2) Take reasonable care of the ward's personal effects and bring protective proceedings if necessary to protect the property of the ward;
   (3) Expend money of the ward that has been received by the guardian, for the ward's current needs for support, care, education, health, and welfare;
   (4) Conserve any excess money of the ward for the ward's future needs; provided that if a conservator has been appointed for the estate of the ward, the guardian shall pay the money to the conservator, at least quarterly, to be conserved for the ward's future needs;
   (5) Immediately notify the court if the ward's condition has changed so that the ward is capable of exercising rights previously removed; and
   (6) Inform the court of any change in the ward's custodial dwelling or address.

§ 560:5-315. Powers of guardian.

(a) Except as otherwise limited by the court, a guardian may:
   (1) Apply for and receive money payable to the ward or the ward's guardian or custodian for the support of the ward under the terms of any statutory system of benefits or insurance or any private contract, devise, trust, conservatorship, or custodianship;
   (2) If otherwise consistent with the terms of any order by a court of competent jurisdiction relating to custody of the ward, take custody of the ward and establish the ward's place of custodial dwelling; provided that a guardian may only establish or move the ward's place of dwelling outside this State upon express authorization of the court;
   (3) If a conservator for the estate of the ward has not been appointed with existing authority, commence a proceeding, including an administrative proceeding, or take other appropriate action to compel a person to support the ward or to pay money for the benefit of the ward;
   (4) Consent to medical or other care, treatment, or service for the ward;
   (5) Consent to the marriage or divorce of the ward; and

EXHIBIT A

(6) If reasonable under all of the circumstances, delegate to the ward certain responsibilities for decisions affecting the ward's well being.

(b) The court may specifically authorize the guardian to consent to the adoption of the ward.

§ 560:5-315. Powers of guardian.

(a) Except as otherwise limited by the court, a guardian may:

(1) Apply for and receive money payable to the ward or the ward's guardian or custodian for the support of the ward under the terms of any statutory system of benefits or insurance or any private contract, devise, trust, conservatorship, or custodianship;

(2) If otherwise consistent with the terms of any order by a court of competent jurisdiction relating to custody of the ward, take custody of the ward and establish the ward's place of custodial dwelling; provided that a guardian may only establish or move the ward's place of dwelling outside this State upon express authorization of the court;

(3) If a conservator for the estate of the ward has not been appointed with existing authority, commence a proceeding, including an administrative proceeding, or take other appropriate action to compel a person to support the ward or to pay money for the benefit of the ward;

(4) Consent to medical or other care, treatment, or service for the ward;

(5) Consent to the marriage or divorce of the ward; and

(6) If reasonable under all of the circumstances, delegate to the ward certain responsibilities for decisions affecting the ward's well being.

(b) The court may specifically authorize the guardian to consent to the adoption of the ward.

§ 560:5-316. Rights and immunities of guardian; limitations.

(a) A guardian shall be entitled to such reasonable compensation from the ward's estate for services as guardian and to reimbursement for room, board, and clothing provided to the ward, as is approved by order of the court.

(b) A guardian is not:

(1) Legally obligated to use the guardian's personal funds for the ward's expenses;

(2) Unless otherwise provided in the contract, individually liable on a contract properly entered into in the guardian's representative capacity in the exercise of the duties and powers as guardian unless the guardian fails to reveal the guardian's capacity and the identity of the ward in the contract;

(3) Personally liable to a third person for acts of the ward solely by reason of the relationship; and

(4) Liable for injury to the ward resulting from the wrongful conduct of a third party that provides medical or other care, treatment, or service to the ward, if the guardian exercised reasonable care in choosing the third party.

(c) A guardian, without authorization of the court, may not revoke any health care

directions set forth in any medical directive or health care power of attorney of which the ward is the principal. However, the appointment of a guardian automatically terminates the authority of any agent designated in the medical directive or health care power of attorney.

(d) A guardian shall not initiate the commitment of a ward to a mental health-care institution except in accordance with the State's procedure for involuntary civil commitment.