
Name (and if appropriate, Attorney No.)

Address

City, State, Zip Code

Telephone No.

E-Mail Address

☐ Self-Represented Petitioners

☐ Attorney for Petitioners

IN THE FAMILY COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

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

ORDER APPOINTING CO-GUARDIANS WITH
☐ LIMITED ☐ UNLIMITED AUTHORITY

This matter came on for hearing on the above-mentioned date before the Honorable
_____, Judge of the Family Court of the First Circuit.

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 Co-Guardians of an Incapacitated Person* are true;
3. It has been proven by a clear and convincing evidence that:
 - a. _____ is an incapacitated person as
(Name of Incapacitated Person)
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,
the use of appropriate and reasonably available technological assistance.
4. Appointment of the Co-Guardians is necessary in order to provide continuing care and supervision of the Incapacitated Person.
5. The Incapacitated Person was properly served with a notice, which complies with the provisions of HRS § 560:5-309(a);
6. _____ are fit and proper persons and best qualified to serve as Guardians;
7. ☐ a. The Guardians shall have limited authority because:

- ☐ b. The Guardians shall have unlimited authority because:

NOW, THEREFOR,

IT IS HEREBY ORDERED that _____

(Name of Proposed Guardians)

_____ be and are hereby appointed Co-Guardians of
(Name of Proposed Guardians)

_____ to make decisions regarding the
(Name of Incapacitated Person)

Incapacitated Person's support, care, education, health, and welfare, subject to the provisions in HRS §§ 560:5-314, 560:5-315, 560:5-316, and 560:5-317. The Guardians shall exercise the 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 Guardians shall consider the expressed desires and personal values of the Incapacitated Person to the extent known to the Guardians. At all times, the Guardians shall act in the Incapacitated Person's best interests and exercise reasonable care, diligence, and prudence.

IT IS HEREBY ORDERED THAT the Guardians 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 reasonable 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 Guardians, for the Incapacitated Person's current needs for support, care, education, health, and welfare;
4. conserve any excess money of the Incapacitated Person for his/her future needs, provided that if a conservator has been appointed for the Incapacitated Person's estate, the Guardians 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 GUARDIANS SHALL HAVE:

☐ **limited** authority as provided below:

☐ **unlimited** authority as provided below:

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

1. apply for and receive money payable to the Incapacitated Person, Guardians, or the 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 his/her 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, the Guardians may initiate an action to compel a person to support the Incapacitated Person or pay money for the Incapacitated 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 the Incapacitated Person's well-being.

IT IS HEREBY FURTHER ORDERED that the Guardians 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 ORDERED that if 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 Guardians shall provide a written

report to the Court of the condition of the Incapacitated Person, account for money and other assets in the either 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 the _____ of _____, and whenever ordered by the Court, and shall give notice, within (day) (month) 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 Guardians 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 Guardians 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 Guardians for prior acts, nor the Guardians' 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 Guardians shall send or deliver a copy of this Order to the Incapacitated Person and all other person noticed of the hearing on this petition, together with a notice of the right to request termination or modification of this Order.

DATED: Kapolei, Hawai'i, _____.

JUDGE OF THE ABOVE-ENTITLED COURT

Print Judge's Name: _____



If you need an accommodation for a disability when participating in a court program, service, or activity, please contact the ADA Coordinator as far in advance as possible to allow time to provide an accommodation: Call the ADA Coordinator of the First Circuit Family Court Office at 954-8200, fax 954-8308, or send an e-mail to adarequest@courts.hawaii.gov. The ADA Coordinator will work to provide, but cannot guarantee your requested auxiliary aid, service, or accommodation.

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

EXHIBIT A:
Hawai'i Revised Statutes

§ 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

- (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, shall not:
 - (1) Revoke any health care directions set forth in any medical directive or health care power of attorney of which the ward is the principal; provided that the appointment of a guardian shall automatically terminate the authority of any agent designated in the medical directive or health care power of attorney; or
 - (2) Restrict the personal communication rights of the ward, including the right to receive visitors, telephone calls, and personal mail, unless deemed by the guardian to pose a risk to the safety or well-being of the ward.
- (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.