

Guardianship Information

At age 18, individuals are granted the rights and responsibilities of adulthood under state and federal law, with the assumption that these individuals are capable of managing the rights and responsibilities of adulthood. In instances where a person is unable to assume responsibility for him or herself, even with supports, other arrangements must be made. Guardianship is one option. The process of obtaining guardianship can begin 6 months prior to the person's 18th birthday.

All forms listed below are notated in **bold and underlined**. These forms can be found on The Hope Center's website under guardianship.

1st Step Fill out the **“Guardianship Capacity Questionnaire”** this form will help you as a family to decide whether guardianship is necessary and what type of guardianship is needed. If you feel guardianship is needed go on to step 3.

2nd Step Before going to the Clerk of Superior Court Office in your county fill the following forms out to take along with the Guardianship capacity Questionnaire you have already completed and get an original copy of your child's last Psychological Assessment.

- 1. Petition for Adjudication of Incompetence Form**
- 2. Notice of Hearing on Incompetence and Motion in the cause and order appointing Guardian Ad Litem Form**

3rd Step Take 5 copies of each of the 3 forms above and the Psychological Assessment to your county Clerk of Superior Court office. A fee of approximately **\$89.00 will be charged**. Payment is expected when you file the paper work. (If amount of payment is a concern, please discuss this issue with the Clerk of Superior Court Staff.)

4th Step The court will appoint a guardian ad litem attorney who will call you to set a time to visit your loved one, as soon as possible. The clerk will then issue a written notice of the date, time, and place for the guardianship hearing within five days of the petition being filed.

5th Step Once the notice is issued, the sheriff's office will serve copies of the petition and the initial notice of hearing on your loved one and his or her guardian ad litem attorney. (If there is a concern about how your loved one will react to a uniformed police officer, discuss this with the Clerk of Superior Court, as it is possible to have your son or daughter meet the officer at the court house of Sheriff's Department).

6th Step Mail a copy of the petition and notice of hearing to all next of kin. This includes all siblings age 18 and up, plus both the mother and father of your loved one, even if parents are divorced or an absent parent. There needs to be proof that an attempt has been made to contact them.

7th Step Before going to the hearing, fill out the following forms to take: Take **5** copies of each form.

Certificate of Service
Order on Application for Appointment of Guardian
Order on Petition for Adjudication of Incompetence

8th Step Qualifying as Guardian is the next step. You will need to call the Estates Division to make an appointment (see bottom of page for contact numbers). Once again there is an additional **\$89.00 fee** for this step.

9th Step Before going to the Estates Division appointment, fill out the following forms to take.

- 1. Application for Letters for an Incompetent Person**
- 2. Oath/Affirmation Form**
- 3. Order Authorizing Issuance of Letters**
- 4. Letters of Appointment Guardian of the Person**
- 5. Estates Action Cover Sheet**

For More Information:

North Carolina Guardianship Association

NC Guardianship Website

Phone: 919-266-9204

Fax: 919-266-9207

Email: ncguardian@aol.com

Mailing Address: P.O. Box 17673, Raleigh, NC 27619

Clerk of Superior Court's Office by County

Henderson County: (828)694-4100

Buncombe County: (828)259-3400

Madison County: (828)649-2531

Transylvania County: (828)884-3120

Estates Division Office by County

Henderson County: (828)694-4100

Buncombe County: (828)259-3404

Madison County: (828)649-2531

Transylvania County: (828)884-3120