

STATE OF NORTH CAROLINA

File No.

In The General Court Of Justice  
Superior Court Division  
Before The Clerk

County

IN THE MATTER OF

Name And Address Where Respondent Is Located

if different from  
PETITIONER

County

Name And Address Of Attorney Guardian Ad Litem

NOTICE OF HEARING ON  
INCOMPETENCE AND ORDER APPOINTING  
GUARDIAN AD LITEM

G.S. 35A-1107, -1108, -1109, -1112

State Bar No.

NOTE: Form AOC-E-211 is available to be used as a Notice of Hearing form for a hearing on a motion to modify guardianship.

NOTICE

You are notified to appear before the Clerk of Superior Court on the date and at the time and place specified below for a hearing on the attached Petition/Motion. You may file a written response in the office of the Clerk on or before the time set for the hearing.

A petition has been filed alleging that the respondent is incompetent and requesting that a guardian be appointed.

If, at the hearing, the Court finds by clear, cogent and convincing evidence that the respondent is incompetent, an adjudication of incompetence will be entered and a guardian of the person or a guardian of the estate or a general guardian or a limited guardian may be appointed.

Date Of Hearing Time  AM  PM Place To Appear

A motion for the appointment of an interim guardian has also been made (applies only for incompetence hearings).

You are further notified to appear before the Clerk on the earlier date and at the time and place specified below for a hearing on the motion for the appointment of an interim guardian contained in the attached petition. (Disregard if box above is not checked.)

Date Of Hearing On Interim Guardian Time  AM  PM Place To Appear

ORDER APPOINTING GUARDIAN AD LITEM

It is ORDERED that the attorney named above be and hereby is appointed as guardian ad litem to represent the respondent at all stages of this proceeding. The respondent has the right to retain his/her own attorney, at his/her own expense, and if he/she does so, the Court may discharge the guardian ad litem.

Date Time  AM  PM Signature  Assistant CSC  Clerk Of Superior Court

INSTRUCTIONS TO PETITIONER:

This Notice and a copy of the petition must be personally served on the respondent and must be served on the guardian ad litem by any method that complies with Rule 4 of the Rules of Civil Procedure. In addition, within five (5) days after filing the petition, you must mail this Notice and a copy of the petition, by first-class mail, to the respondent's next of kin named on the petition and any other person(s) the clerk may designate (except those person(s) who have accepted notice) and file with the Clerk an affidavit of that mailing or a certificate of acceptance of notice.

(Over)

**RETURN OF SERVICE**

I certify that this Notice and a copy of the Petition were received and served as follows:

**RESPONDENT**

<i>Date Served</i>	<i>Time Served</i>	<input type="checkbox"/> AM <input type="checkbox"/> PM	<i>Name Of Respondent</i>
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By delivering to the respondent named above a copy of the Notice and Petition.

*Address Where Respondent Served*

Respondent WAS NOT served for the following reason:

**GUARDIAN AD LITEM**

<i>Date Served</i>	<i>Time Served</i>	<input type="checkbox"/> AM <input type="checkbox"/> PM	<i>Name Of Guardian Ad Litem</i>
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Service accepted by guardian ad litem.

<i>Date Accepted</i>	<i>Signature Of Guardian Ad Litem</i>
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By delivering to the guardian ad litem named above personally a copy of the Notice and Petition.

By leaving a copy of the Notice and Petition at the guardian ad litem's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.

<i>Name Of Person With Whom Copies Left</i>	<i>Address Where Copies Delivered Or Left</i>
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Other manner of service: *(specify)*

Guardian ad litem WAS NOT served for the following reason:

<i>Date Received</i>	<i>Signature Of Deputy Sheriff Making Return</i>
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<i>Date Of Return</i>	<i>Name Of Deputy Sheriff (type or print)</i>
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<i>County Of Sheriff</i>
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STATE OF NORTH CAROLINA

File No.

County

NOTE TO PETITIONER: If you are petitioning the court to accept guardianship on transfer from another state, this is not an appropriate form to use.

In The General Court Of Justice
Superior Court Division
Before The Clerk

IN THE MATTER OF

Full Name Of Respondent

Telephone No. Of Respondent

Address Of Respondent

County Of Residence Of Respondent

Date Of Birth

Race\*

Sex\*

\*Race and sex are collected so that this information may be transmitted to NICS in the event of a qualifying adjudication under G.S. 14-409.43(a)(6).

Respondent Indigent

Respondent's Drivers License No.

State

Name And Address Of Petitioner

County Of Residence Of Petitioner

Telephone No. Of Petitioner

Petitioner's Relationship To Respondent Or Interest In Proceeding

PETITION FOR ADJUDICATION OF INCOMPETENCE AND APPLICATION FOR APPOINTMENT OF GUARDIAN OR LIMITED GUARDIAN AND MOTION FOR APPOINTMENT OF INTERIM GUARDIAN (AOC-SP-198)

G.S. 35A-1105, -1112, -1114, -1210; 35B-17, -18

Name And Address Of Attorney For Petitioner

Telephone No. Of Petitioner's Attorney

State Bar No.

Name And Address Of Treatment Facility If Respondent Is An Inpatient

The undersigned, being duly sworn, requests that the Court, after notice and hearing, adjudicate the respondent above to be incompetent, and also applies for the appointment of the person(s) named below to serve, in the capacity indicated, as guardian(s) of the respondent.

In support of this Petition, the undersigned states:

- 1. During the past twelve (12) months, the above-named respondent was physically present as follows:

Table with 3 columns: Period of Physical Presence (From, To), Address. Includes a row with 'Present' in the To column.

- 2. (check a. or check and complete b.) (NOTE: In both a. and b., "state" includes a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States.)

- a. There is no other pending proceeding involving the respondent in any court or agency of a state or foreign country.
b. There is a pending proceeding(s) involving the respondent in the court or agency of a state or foreign country, as set forth below:

Table with 3 columns: Location (County, State, and Country), Type of Proceeding, File Number.

- 3. A North Carolina court has jurisdiction to rule on this petition and application.

- 4. The respondent is

- a resident of this county.
domiciled in this county.
an inpatient in the facility named above.
present in this county, it being impossible to determine his/her county of residence or domicile.

(Over)

5. The respondent is incompetent in that he/she lacks sufficient capacity to manage his/her own affairs or to make or communicate important decisions concerning his/her person, family, or property, as shown by the following facts: *(Set forth the facts which tend to show that the respondent is incompetent. Include cause of incompetence, which may be mental illness, intellectual disability, epilepsy, cerebral palsy, autism, inebriety, senility, disease, injury, or other cause and give facts demonstrating lack of capacity. Be specific.)*

[REDACTED]

6. The respondent's next of kin, if any, and other persons known to have an interest in this proceeding are:

Name And Address [REDACTED]		Name And Address [REDACTED]	
County Of Residence [REDACTED]	Telephone No. [REDACTED]	County Of Residence [REDACTED]	Telephone No. [REDACTED]
Relationship To Respondent Or Interest In Proceeding [REDACTED]		Relationship To Respondent Or Interest In Proceeding [REDACTED]	
Name And Address		Name And Address	
County Of Residence	Telephone No.	County Of Residence	Telephone No.
Relationship To Respondent Or Interest In Proceeding		Relationship To Respondent Or Interest In Proceeding	

7. General statement of respondent's assets and liabilities, including any income and receivables to which he/she is entitled:

<u>Assets</u>		<u>Liabilities</u>		<u>Income and Receivables</u>	
Real Property	\$ _____	Mortgage Loans	\$ _____	Wages & Salaries	\$ _____
Tangible Personal Property	\$ _____	Other Secured Loans	\$ _____	Rents	\$ _____
Other Personal Property	\$ _____	Unsecured Loans	\$ _____	Pensions	\$ _____
				Allowances	\$ _____
There is a representative payee for government benefits.	<input type="checkbox"/> Yes <input type="checkbox"/> No			Insurance & Compensation	\$ _____
There is a Durable Power of Attorney in place.	<input type="checkbox"/> Yes <input type="checkbox"/> No			Other (including SSI/SSDI)	\$ _____
There is a Healthcare Power of Attorney in place.	<input type="checkbox"/> Yes <input type="checkbox"/> No				
There is a special needs or other trust in place.	<input type="checkbox"/> Yes <input type="checkbox"/> No				
The respondent has health insurance through Medicaid, Medicare, or a private insurer.	<input type="checkbox"/> Yes <input type="checkbox"/> No				

(Over)

Name Of Respondent

8. CAPACITY INFORMATION

Check here if in a coma, persistent vegetative state, or non-responsive and move on to Item 9.

A. Language and Communication (understands/participates in conversations, can read and write, understands signs such as "keep out," "men," "women")

has capacity. lacks capacity. Comment:

B. Nutrition (makes independent decisions re: eating, prepares food, purchases food)

has capacity. lacks capacity. Comment:

C. Personal Hygiene (bathes, brushes teeth, uses proper hygiene when using the restroom)

has capacity. lacks capacity. Comment:

D. Health Care (makes and communicates choices re: medical treatment/caregivers, notifies others of illness, follows medication instructions, reaches emergency health care)

has capacity. lacks capacity. Comment:

E. Personal Safety (recognizes danger and seeks assistance as needed, protects self from exploitation/personal harm)

has capacity. lacks capacity. Comment:

F. Residential (makes and communicates decisions re: residence/roommates, maintains safe shelter)

has capacity. lacks capacity. Comment:

G. Employment (makes and communicates decisions re: employment, demonstrates vocational skills such as neatness and punctuality, writes or dictates application form)

has capacity. lacks capacity. Comment:

H. Independent Living (follows a daily schedule, conducts housekeeping chores, uses community resources such as bank, store, post office)

has capacity. lacks capacity. Comment:

I. Civil (knows to contact advocate if being exploited, understands consequences of committing a crime, registers to vote)

has capacity. lacks capacity. Comment:

J. Financial

1. Makes and communicates decisions about paying bills and spending discretionary money, and makes change for \$1, \$5, and \$20

has capacity. lacks capacity. Comment:

2. Makes and communicates decisions regarding management of a personal bank account, savings, investments, real estate, and other substantial assets

has capacity. lacks capacity. Comment:

3. Can resist attempts at financial exploitation by others

has capacity. lacks capacity. Comment:

(Over)

**9. RECOMMENDED GUARDIAN(S)**

Name And Address Of Recommended Guardian

[Redacted]

Of The Estate     Of The Person     General Guardian

Name And Address Of Recommended Guardian

Of The Estate     Of The Person     General Guardian

**10. MOTION FOR APPOINTMENT OF INTERIM GUARDIAN**

**NOTE:** In certain circumstances, an interim guardian may be needed to intervene on a respondent's behalf prior to an adjudication hearing. To request that the Court appoint an interim guardian for the respondent, complete and attach form AOC-SP-198, Motion For Appointment Of Interim Guardian.

**VERIFICATION**

I, the undersigned petitioner, have read this Petition and state that its contents are true to my own knowledge except those matters stated on information and belief, which I believe are true.

**SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME**

Date

[Redacted]

Date

Signature Of Person Authorized To Administer Oaths

Signature Of Petitioner

[Redacted]

Deputy CSC     Assistant CSC     Clerk Of Superior Court

Notary

Date My Commission Expires

**SEAL**

County Where Notarized

**STATE OF NORTH CAROLINA**

File No.

\_\_\_\_\_ County

In The General Court Of Justice  
Superior Court Division  
Before The Clerk

**IN THE MATTER OF:**

Name Of Respondent

**CERTIFICATE OF SERVICE  
(INCOMPETENT PROCEEDING)**

G.S. 35A-1109

I, the undersigned, certify that I mailed by first class mail a copy of the Notice Of Hearing On Incompetence And Order Appointing Guardian Ad Litem (AOC-SP-201) and a copy of the Petition For Adjudication Of Incompetence And Application For Appointment Of Guardian (AOC-SP-200) to the respondent's next of kin named in the Petition and to other persons designated by the Clerk, at the addresses listed below. This Notice was mailed within five (5) days after the Petition was filed as required by law. The address given below is the last known address of the person listed.

Name And Address Of Person 1

Name And Address Of Person 2

Name And Address Of Person 3

Name And Address Of Person 4

Name And Address Of Person 5

Name And Address Of Person 6

Name And Address Of Person 7

Name And Address Of Person 8

**SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME**

Date

Date

Signature Of Petitioner Or Attorney

Signature

Name Of Petitioner Or Attorney (Type Or Print)

Deputy CSC     Assistant CSC     Clerk Of Superior Court

**SEAL**     Notary

Date My Commission Expires

## GUARDIANSHIP CAPACITY QUESTIONNAIRE

*There is no need to complete this questionnaire if the respondent is in a coma, persistent vegetative state, or is not responsive.*

*The questionnaire is designed to help all parties in an incompetency proceeding gather information that will assist the Clerk of Court in determining what if any rights, powers and privileges the respondent can retain under guardianship or limited guardianship. The form may also assist the parties in determining whether alternatives to guardianship such as a representative payee for government benefits, a power of attorney, or a special needs trust might solve a problem thereby avoiding the need for incompetency hearing.*

*This form can be used by the petitioner, the respondent, or any other person who has information that is useful to the court such as family or friends of the respondent or staff of a facility who knows the respondent well. It should be used by the Guardian Ad Litem to both gather the respondent's answers if the respondent cannot fill it out for him/herself and for the GAL's own opinion.*

Name Of Respondent [REDACTED]		Date Of Birth [REDACTED]
Address [REDACTED]		Telephone No. [REDACTED]
Nature Of Impairment [REDACTED]		County Of Residence [REDACTED]
Is there a representative payee for governmental benefits? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, Name of Payee	Are there any Powers of Attorney in place? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> General/Durable <input type="checkbox"/> Health Care If Yes, Who has the POA?  If Recorded, What County(ies)?	Are there any trusts in place? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If Yes, Name of Trustee and location of trust

Name And Address Of Person Completing This Form [REDACTED]	Telephone No. [REDACTED]	Has Known Respondent (years/months) [REDACTED]
Relationship to the Respondent [REDACTED]		

A. LANGUAGE AND COMMUNICATION	B. NUTRITION
1. Does the person understand and participate in social conversation in his/her primary language (including such topics as sports, family, activities)? <input type="checkbox"/> Yes <input type="checkbox"/> No	1. Does the person make reasonable decisions regarding eating (e.g. when, where, and what to eat)? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> With assistance
2. Does the person communicate independently with acquaintances in the community? <input type="checkbox"/> Yes <input type="checkbox"/> No	2. Is the person able to eat and drink independently? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> With assistance
3. Can the person understand and respond to verbal communications? <input type="checkbox"/> Yes <input type="checkbox"/> No	3. Is the person able to prepare food that requires cooking and mixing? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> With assistance
4. Can the person read and write? <input type="checkbox"/> Yes <input type="checkbox"/> No	4. Is the person able to prepare food that does not require cooking and mixing? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> With assistance
5. Can the person understand various signs (e.g. keep out, stop, men, women, poison)? <input type="checkbox"/> Yes <input type="checkbox"/> No	5. Does the person know which foods, if any, he or she is unable to tolerate? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> With assistance
	6. If the person has a health condition such as diabetes, is he or she able to follow a prescribed diet? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> With assistance



**C. PERSONAL HYGIENE**

1. Does the person bathe and maintain personal hygiene?  
 Yes  No  With assistance
2. Does the person brush teeth daily and maintain adequate dental care?  
 Yes  No  With assistance
3. Does the person control toilet functions during the day?  
 Yes  No  With assistance
4. When toileting, does the person use proper hygiene?  
 Yes  No  With assistance
5. Is the person able to fully and properly dress and undress himself or herself?  
 Yes  No  With assistance
6. Does the person wear clothing appropriate to the weather and/or occasion?  
 Yes  No  With assistance

**D. HEALTH CARE**

1. Can the person make and communicate choices in regard to medical treatment?  
 Yes  No  With assistance
2. Can the person make and communicate choices in regard to caregivers and assistants?  
 Yes  No  With assistance
3. Does the person know whom to notify of symptoms of illness?  
 Yes  No  With assistance
4. Is the person able to take care of minor health problems such as colds, cuts, etc.?  
 Yes  No  With assistance
5. Is the person able to follow proper instructions in taking prescribed medicine?  
 Yes  No  With assistance
6. Can the person communicate medication problems or needs?  
 Yes  No  With assistance
7. Does the person understand the consequences of not accepting medical treatment?  
 Yes  No  With assistance
8. Can the person reach emergency health care (e.g. calling an ambulance)?  
 Yes  No  With assistance

**E. PERSONAL SAFETY**

1. Can the person identify physical or sexual abuse and protect him or herself from personal harm by others?  
 Yes  No
2. Can the person identify neglect and know what to do if neglected?  
 Yes  No
3. Does the person avoid common environmental dangers, such as oncoming traffic, sharp objects, a hot stove, and poisonous products?  
 Yes  No

**E. PERSONAL SAFETY Cont.**

4. Can the person be left alone for periods up to 24 hours without being at risk?  
 Yes  No
5. Can the person use a telephone to contact help in an emergency?  
 Yes  No
6. In what areas, if any, might the person be especially vulnerable and need protection?

**F. RESIDENTIAL**

1. Can the person make and communicate choices in regard to residence and roommates?  
 Yes  No
2. Is the person able to maintain shelter that is safe/adequately heated and ventilated?  
 Yes  No  With assistance
3. Can the person evacuate the premises in the case of fire or other danger?  
 Yes  No  With assistance

**G. EMPLOYMENT**

1. Can the person make and communicate choices in regard to employment?  
 Yes  No
2. Does the person express knowledge of or demonstrate skills required at job sites (neatness, punctuality, getting along with others)?  
 Yes  No
3. Is the person able to use several approaches to finding a job (e.g. going to an employment agency, responding to ads, and using contacts)?  
 Yes  No  With assistance
4. Does the person have a job?  
 Yes  No
5. Does the person interact appropriately with co-workers and authority figures?  
 Yes  No

**H. INDEPENDENT LIVING**

1. Can the person initiate and follow a daily schedule of activities (e.g. when to get up, what to do, and when to go to bed)?  
 Yes  No
2. Does the person acquire and retain new skills and readily apply them?  
 Yes  No
3. Can the person utilize familiar community resources (e.g. post office, stores, bus, bank)?  
 Yes  No
4. Can the person avoid common dangers when traveling in the community?  
 Yes  No
5. Can the person identify his or her address and return home or seek assistance if lost or stranded?  
 Yes  No

Name Of Respondent

[REDACTED]

**H. INDEPENDENT LIVING cont.**

**ADDITIONAL COMMENTS**

- 6. Does the person establish and maintain personal relationships with friends, relatives, co-workers?  
 Yes  No
- 7. Can the person determine his or her degree of participation in religious activities?  
 Yes  No
- 8. Does the person make and communicate choices in regard to leisure activities?  
 Yes  No
- 9. Can the person drive a car?  
 Yes  No
- 10. Does the person exercise reasonably good judgment most of the time?  
 Yes  No

[REDACTED]

**I. CIVIL**

- 1. Does the person know whom to contact if he or she is being exploited or treated unfairly (e.g. police, DSS, Arc, lawyer, etc.)  
 Yes  No
- 2. Does the person understand how to obtain legal counsel or advocacy services?  
 Yes  No
- 3. Is the person able to communicate wishes regarding legal documents or services?  
 Yes  No
- 4. Does the person understand the consequences of being charged and convicted of a crime?  
 Yes  No
- 5. Does the person demonstrate a willingness to vote?  
 Yes  No

**J. FINANCIAL**

- 1. Can the person make and communicate decisions to manage a budget?  
 Yes  No  With assistance
- 2. Does the person know the source and amounts of monetary benefits he or she receives on a weekly, monthly or annual basis?  
 Yes  No  With assistance
- 3. Does the person identify and make change for \$1, \$5, and \$20?  
 Yes  No
- 4. Can the person adequately maintain a bank account?  
 Yes  No  With assistance
- 5. Can the person protect and spend small amounts of money?  
 Yes  No  With assistance
- 6. Does the person understand the concept of a debt?  
 Yes  No  With assistance
- 7. Can the person identify and resist financial exploitation?  
 Yes  No