

*In the Chancery Court for Hancock County, Tennessee*

***Information for Guardians and/or Conservators***

To help you perform your fiduciary duties properly, as a guardian or conservator, below is a listing of general duties and obligations. This document is not intended to be an exhaustive list of possible requirement or situations that you might encounter. Please consult your attorney for details.

1. If you fail to meet your obligations as a fiduciary, under the law, you may be personally liable. If in doubt, consult your attorney.
2. Your appointment as a guardian or conservator becomes effective upon the entry of an order appointing you in addition to the posting of any required bond. The only effective evidence of your appointment are letters of guardianship or conservatorship duly issued by the Clerk and Master (§TCA 34-1-109).
3. Checking accounts, savings accounts and certificates of deposit should be in your name as guardian or conservator for your ward (the person for whom you are the guardian or conservator). **All of your ward's funds must be kept separate and apart from your own.**
4. Within sixty (60) days after your appointment as guardian or conservator, you must file a sworn inventory containing a list of the property of the minor or disabled person, together with the approximate fair market value of each property and a list of the source, amount and frequency of each item of income, pension, social security benefits, or the revenue. If the required information was included in the petition but not separately stated as an inventory, the inventory shall repeat the information provided in the petition and add any later discovered property or income sources.
5. You must take possession of all the ward's assets and determine which should be retained and which should be disposed of. The ward's funds should be invested to earn income, but may be invested only according to law. **Losses from unauthorized or imprudent investments may render you personally liable** (TCA §34-1-115).
6. As guardian or conservator, you may not spend the ward's money (other than basic necessities), even for the benefit of the ward, without Court approval. This applies even if your ward is your child or other relative. Court approval may be on a continuing basis allowing you to spend a budgeted sum each month (TCA §34-1-122).
7. Complete and accurate records must be kept of all money or other assets received and disbursed by you as guardian or conservator. A running list of receipts and expenses is very helpful. (TCA §34-1-111 and §34-1-122).
8. **Each year you will be required to file an accounting showing in detail all the receipts and expenditures during the preceding year.** Each item must

be explained and accountings must be accompanied by verifications of banks or depositories confirming the assets on hand. Failure to file accountings in a timely manner could result in removal of a guardian or conservator. The accounting must be provided within sixty (60) days after each anniversary date of your appointment or any other end of an accounting period selected by the fiduciary not to exceed twelve (12) months.

9. You may not sell, trade, lease, mortgage, transfer or discard your ward's property without Court approval, even though the ward is your child or other relative (TCA §34-1-116).
10. In the event the ward dies or you or your ward move from one address to another, **you have a duty to notify the Court in writing of such death or new address as soon as possible.** (TCA §34-3-108).
11. If you are a guardian or conservator for more than one ward, be sure to keep separate accounts for each ward. If a disbursement is permitted on behalf of, it should be charged against each ward's account, pro rata.
12. Bond premiums may be paid out of the estate. You may reduce the costs by placing excess funds in restricted deposits subject to withdrawal only on Court order or at the Court's discretion. Bond arrangements must be reported to the Clerk & Master (TCA §34-1-108).
13. In certain cases when assets will not be needed for the ward's support, they may be restricted and no annual accounting may then be required until the guardianship or conservatorship is terminated. In this instance, the guardian or conservator will still file an annual Statement of Fiduciary report to the Court reporting on the well-being of the ward and the need to continue the guardianship or conservatorship.
14. If you are a guardian or conservator for an incompetent person, a most important duty will be to place your ward where he or she will receive care and treatment appropriate to his or her condition and in the least restrictive environment. A Court order may be required. (TCA §34-1-127).
15. You may use your ward's funds to pay for your attorney's services after obtaining Court approval. If your ward has only very limited funds and/or receives public assistance you may qualify for free legal aid.
16. You may receive compensation for your services as a guardian or conservator. However, the Court shall set the actual compensation to be paid and no compensation shall be paid without prior Court approval (TCA §34-1-112).
17. The guardian or conservator is entitled to pay, from the property of the minor or disabled person, the costs of any required medical examination, the guardian ad litem fee, bond premium, court costs, attorney's fees, fees for income tax preparation and court accountings, investment management fees, taxes or governmental charges for which the minor or disabled person is

obligated and such other expenses as the Court determines are necessary for the fiduciary. The fiduciary shall not pay any attorney's fees, guardian ad litem fee, fees for income tax preparation and court accountings or investment management fees until the next amount of such fees is approved by the Court. (TCA §34-1-113).

18. A management plan must be approved by the Court. A guardian or conservator is limited in its investments to the investments permitted by law. All funds held by a fiduciary shall be invested within forty-five (45) days of receipt of the funds unless otherwise allowed by the Court. The proposed guardian or conservator must present an outline of the proposed management plan for the ward's property prior to appointment. If the proposed property management plan cannot be presented at the appointment hearing, the guardian or conservator shall submit the proposed property management plan to the Court for approval before any property is invested. Court permission must be obtained before changing the guardian or conservator's investments. This does not mean if the change in the investment is of the same type such as changing from one certificate of deposit to another but changing the type of investment such as from a certificate of deposit to a savings bond. (TCA §34-1-115).
19. Once a guardian or conservator has been appointed, he or she serves until relieved by order of the Court. Death or reaching of the majority by the ward **DOES NOT** automatically terminate the guardianship or conservatorship. (TCA §34-2-108 and §34-3-108).

**IF THERE ARE QUESTIONS REGARDING ANY OF THE FOREMENTIONED ITEMS PLEASE CONSULT YOUR ATTORNEY OR FIDUCIARY CLERK, MICHELE GREEN AT 423-586-9112.**