

FOREST COUNTY POTAWATOMI COMMUNITY

Duties, Powers and Rights of Guardian for Incapacitated Person

DUTIES OF GUARDIAN.

- (a) Except as otherwise limited by the Tribal 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 but, 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 Tribal Court if the ward's condition has changed so that the ward is capable of exercising rights previously removed; and
 - (6) inform the Tribal Court of any change in the ward's custodial dwelling or address.

POWERS OF GUARDIAN.

- (a) Except as otherwise limited by the Tribal 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, but may only establish or move the ward's place of dwelling outside this Reservation or State upon express authorization of the Tribal 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 Tribal Court may specifically authorize the guardian to consent to the adoption of the ward.

RIGHTS AND IMMUNITIES OF GUARDIAN; LIMITATIONS.

- (a) A guardian is entitled to reasonable compensation for services as guardian and to reimbursement for expenditures made on behalf of the ward, but only as approved by order of the Tribal Court. If a conservator, other than the guardian or one who is affiliated with the guardian, has been appointed for the estate of the ward, reasonable compensation and reimbursement to the guardian may be approved and paid by the conservator without order of the Tribal Court.
- (b) A guardian need not use the guardian's funds for the ward's expenses. A guardian is not liable to a third person for acts of the ward solely by reason of the relationship. A guardian who exercises reasonable care in choosing a third person providing medical or other care, treatment, or service for the ward is not liable for injury to the ward resulting from the wrongful conduct of the third person.
- (c) A guardian, without authorization of the Tribal Court, may revoke the appointment of an agent of a power of attorney for health care of which the ward is the principal, but the guardian may not, absent a Tribal Court order, revoke the power of attorney for health care itself. If a power of attorney for health care is in effect, absent an order of the Tribal Court to the contrary, a health care decision of the guardian takes precedence over that of an agent.

- (d) A guardian may not initiate the commitment of a ward to an institution except in accordance with this Ordinance or State statutory procedures for involuntary civil commitment.

REPORTS; MONITORING OF GUARDIANSHIP.

- (a) A guardian shall report to the court in writing on the condition of the ward at least annually and whenever ordered by the Tribal Court. A report must state or contain:
 - (1) the current mental, physical and social condition of the ward;
 - (2) the living arrangements for all addresses of the ward during the reporting period;
 - (3) the medical, educational, vocational and other services provided to the ward and the guardian's opinion as to the adequacy of the ward's care;
 - (4) a summary of the guardian's visits with the ward and activities on the ward's behalf and the extent to which the ward has participated in decision-making;
 - (5) if the ward is institutionalized, whether the guardian considers the current plan for care, treatment or habilitation to be in the ward's best interest;
 - (6) plans for future care; and
 - (7) a recommendation as to the need for continued guardianship and any recommended changes in the scope of the guardianship.
- (b) The Tribal Court may appoint a guardian ad litem to review a report, interview the ward or guardian, and make any other investigation the Tribal Court directs.
- (c) The Tribal Court shall establish a system for monitoring guardianships, including the filing and review of annual reports.