

State of Minnesota

District Court
Probate Division

County of _____

Judicial District: _____

Court File No. _____

Case Type: Guardianship / Conservatorship

In Re: Emergency Guardianship of
 Conservatorship of

Order Appointing
 Emergency Guardian
 Emergency Conservator

This matter came on for hearing before the district court on a petition seeking an emergency appointment of a Guardian a Conservator for the Respondent named above. The matter, having been considered by the Court and the Court being duly advised in the premises now makes the following:

FINDINGS OF FACT

1. A petition for appointment of a general guardian for Respondent has been filed, or will be filed in the immediate future with this court.
2. Compliance with the procedures for appointment of a general guardian will likely result in substantial harm to the Respondent’s health, safety, or welfare, and no other person appears to have the authority and the willingness to act on Respondent’s behalf.
3. Respondent’s needs for health, safety, or welfare are at risk because: (Describe behavior and circumstances supporting this allegation): _____

_____.
4. A petition for appointment of a general conservator of the estate for Respondent has been filed, or will be filed in the immediate future with this court.
5. Compliance with the procedures for appointment of a general conservator will likely result in the immediate loss, waste, or dissipation of Respondent’s assets or income unless management is provided, or money is needed for support, care, education, health, and welfare of the Respondent or for individuals who are entitled to the support of Respondent and that protection is necessary or desirable to obtain or provide money, and no other person appears to have the authority and the willingness to act on Respondent’s behalf.
6. The Respondent’s needs for health, safety, or welfare are at risk, or the Respondent’s assets must be immediately preserved, because: (Describe behavior and circumstances supporting this allegation): _____

_____.
7. No alternative less restrictive of civil rights and liberties exists, including the use of appropriate technological assistance.

8. The Court finds that the Guardian is the most suitable and best qualified among those available and willing to discharge the trust and is not excluded from appointment pursuant to Minn. Stat. § 524.5-309(c) or such Guardian has been approved by prior Order of a court pursuant to Minn. Stat. § 524.5-302(d).
9. The Court finds that the Conservator is the most suitable and best qualified among those available and willing to discharge the trust and is not excluded from appointment pursuant to Minn. Stat. § 524.5-413(d).

CONCLUSIONS OF LAW

1. The Respondent will likely suffer from substantial harm if an emergency guardian is not appointed.
2. The Respondent's assets
 - require an order of this Court need to be preserved;
 - property is needed for the support of the Respondent or for individuals who are in fact dependent upon the Respondent for support.

ORDER

NOW, THEREFORE, IT IS ORDERED:

1. That: _____, is hereby appointed Guardian of Respondent; and _____, is hereby appointed Conservator of Respondent.
2. That: letters of Emergency Guardianship shall issue to _____, upon the filing of an acceptance of appointment; and letters of Emergency Conservatorship shall issue to _____, upon the filing of an acceptance of appointment; and such letters shall reflect the expiration date for said appointment.
3. Appointment of powers and duties:

The Guardian shall have the power and duty to:

- Exercise all of the rights and powers on behalf of the person subject to guardianship under Minn. Stat. § 524.5-313(c) paragraphs 1, 2, 3, 4, 5, 6, 7, 9, and 10.
(If the Guardian is granted limited powers and duties, specify which powers and duties are vested in the Guardian by this Order.)
- Have custody of the person subject to guardianship and establish the place of abode for the person subject to guardianship within or without the State, Minn. Stat. § 524.5-313(c)(1);
- Provide for the care, comfort and maintenance needs of the person subject to guardianship, Minn. Stat. § 524.5-313(c)(2);
- Take reasonable care of the clothing, furniture, vehicles and other personal effects of the person subject to conservatorship, Minn. Stat. § 524.5-313(c)(3);
- Give any necessary consent to enable, or to withhold consent for, the person subject to guardianship to receive necessary medical or other professional care, counsel, treatment or service, Minn. Stat. § 524.5-313(c)(4);

- Approve or withhold approval of any contract, except for necessities, which the person subject to guardianship may make or wish to make (*only given if no conservator is appointed*), Minn. Stat. § 524.5-313(c)(5);
- Exercise supervision authority over the person subject to guardianship, but may not restrict the ability of the person subject to guardianship to visit, or interact with others, including receiving visitors or making or receiving telephone calls, personal mail, or electronic communications including through social media, or participating in social activities, unless good cause is shown by the guardian that the restriction is necessary due to risk of significant physical, psychological, or financial harm to the person subject to guardianship and there is no other means to avoid such significant harm, Minn. Stat. § 524.5-313(c)(6);
- Apply on behalf of the person subject to guardianship for any assistance, services, or benefits available to the person subject to guardianship through any unit of government, Minn. Stat. § 524.5-313(c)(7);
- Establish an Achieving a Better Life Experience Act of 2014 account under section 529A of the Internal Revenue Code (known as an ABLE account) for the person subject to guardianship, Minn. Stat. § 524.5-313(c)(9);
- Commence legal proceedings on behalf of and represent the person subject to guardianship in all civil court proceedings (*only given if no conservator is appointed*), Minn. Stat. § 524.5-313(c)(10);
- (other) _____;
To exercise all other powers, duties and responsibilities conferred on the Guardian under applicable law.

The Conservator shall have the power and duty to:

- Exercise all of the rights and powers under Minn. Stat. § 524.5-417(c) paragraphs 1, 2, 3, 4, 5, 6, and 7.
- (If the Conservator is granted limited powers and duties, specify which powers and duties are vested in the Conservator by this Order.)*
- Pay reasonable charges for the support, maintenance, and education of the person subject to conservatorship in a manner suitable to their station in life and the value of their estate, Minn. Stat. § 524.5-417(c)(1);
 - Pay out of the estate of the person subject to conservatorship all lawful debts of the person subject to conservatorship, Minn. Stat. § 524.5-417(c)(2);
 - Possess and manage the estate of the person subject to conservatorship, collect all debts and claims in favor of the person subject to conservatorship, or with the approval of the court compromise them, institute suit on behalf of and represent the person subject to conservatorship in court proceedings, and invest all funds not currently needed for debts, charges, and management of the estate in accordance with the provisions of sections 48A.07, subd. 6, 501C.0901, and 524.5-423, Minn. Stat. § 524.5-417(c)(3);
 - Exchange or sell an undivided interest in real property, Minn. Stat. § 524.5-417(c)(4);
 - Approve or withhold approval of any contract, except for necessities, which the person subject to conservatorship may make or wish to make, Minn. Stat. § 524.5-417(c)(5);

- Apply on behalf of the person subject to conservatorship for any assistance, services, or benefits available to the person subject to conservatorship through any unit of government, Minn. Stat. § 524.5-417(c)(6); and
 - Establish and exercise all powers over an Achieving a Better Life Experience Act of 2014 account under section 529A of the Internal Revenue Code (known as an ABLÉ account) for the person subject to conservatorship, Minn. Stat. § 524.5-417(c)(7);
 - (other) _____;
To exercise all other powers, duties and responsibilities conferred on the Conservator under applicable law.
4. The conservator shall file a bond in the amount of \$_____.
 5. Any wages and salary earned by the person subject to conservatorship through employment shall shall not be a part of the conservatorship estate, Minn. Stat. § 524.5-417(c)(7)
 6. The appointment under this Order shall terminate:
 - 60 days after the date of this Order;
 - 90 days after the date of this Order (for appointments made pursuant to a county petition under Minn. Stat. § 626.557, subd. 10.)
 7. That the court appointed attorney for the person subject to guardianship and person subject to conservatorship, is hereby discharged.

Date

Judge of the District Court