

Instructions for Petition for Termination of Guardianship and Discharge of Guardian Due to the Death of the Ward

IMPORTANT! READ BEFORE USING THESE FORMS AND INSTRUCTIONS

ND Legal Self Help Center staff and court employees can't help you fill out forms.

If you're unsure how to proceed, or need legal advice or legal representation, consult a lawyer licensed to practice in North Dakota.

To protect your rights, carefully read this information and any instructions to which you're referred.

When you represent yourself, you're expected to know and follow the law, including:

- State or federal laws that apply to your case;
- Case law, also called court opinions, that applies to your case; and
- Court rules that apply to your case, which may include:
 - North Dakota Rules of Civil Procedure;
 - North Dakota Rules of Court;
 - North Dakota Rules of Evidence;
 - North Dakota Administrative Rules and Orders; and
 - Any local court rules.

Links to the state laws, case law, and court rules can be found at ndcourts.gov.

When you represent yourself, you're held to the same requirements and responsibilities as a lawyer, even if you don't understand the rules or procedures. If you're unsure if these forms and instructions suit your circumstances, consult a lawyer.

- If you'd like to learn more about finding a lawyer to represent you, go to ndcourts.gov/legal-self-help/finding-a-lawyer.

A glossary with definitions of legal terms is available at ndcourts.gov/legal-self-help.

These instructions and forms aren't a complete statement of the law. They cover the basic procedure for asking a North Dakota state district court to end the guardianship and discharge the guardian because the ward died. There's no guarantee that all judges and courts will accept forms available through the ND Legal Self Help Center. The Center isn't responsible for any consequences that may result from the forms or information provided.

Use at your own risk.

Don't include these instructions when you serve or file the completed forms.

Purpose

These forms may be used by a Guardian to ask the North Dakota State District Court to end the guardianship and discharge the Guardian due to the death of the Ward.

[North Dakota Century Code Section 30.1-28-06](#) relates to terminating a guardianship for an adult when the ward dies.

Forms

The forms in the Petition for Termination of Guardianship and Discharge of Guardian Due to the Death of the Ward include:

- Notice of Petition;
- Petition for Termination of Guardianship and Discharge of Guardian/Co-Guardians – Death of Ward;
- (Proposed) Order Confirming Termination of Guardianship and Discharging of Guardian/Co-Guardians – Death of Ward;
- Affidavit of Serve by Mail; and
- Affidavit of Service by Hand Delivery.

The Current Guardian/Co-Guardian Complete the Forms

The current Guardian/Co-Guardians complete and sign the Petition for Termination of Guardianship and Discharge of Guardian Due to the Death of the Ward forms.

If you're unsure how to proceed or unsure if these forms are suitable for your situation, consult an attorney who can agree to represent you.

Mail or Hand-Deliver Copies of the Completed Forms

The Ward's living spouse (if any), the Ward's living parents (if any), and all interested persons designated in the order appointing you as Guardian must receive a copy of each of the completed Petition for Termination of Guardianship and Discharge of Guardian Due to the Death of the Ward forms.

Copies may be mailed by first class, postage prepaid, **or** hand-delivered.

The North Dakota State District Court will require proof that each person received a copy of the completed forms. An Affidavit of Service is your proof.

STEP ONE: COMPLETE THE FORMS

Notice of Petition

- **Top of Form (Caption)**
 - Enter the county and judicial district court names of the guardianship case.
 - Fill in legal name of the ward.
 - Enter the case number from your Letters of Guardianship.
 - Fill in your name as Guardian.
 - If the court appointed a co-guardian, fill in the co-guardian's name, too.
 - Fill in your address, city, state, zip code, and phone number(s).
- **Date and Signature**
 - Date and sign the form and complete the lines following the signature line.

Petition for Termination of Guardianship and Discharge of Guardian/Co-Guardians – Death of Ward

- **Top of Form (Caption)**
 - Fill out exactly as you filled out the Caption of the Notice of Petition.
- **Paragraphs 1-5:**
 - Read the paragraphs carefully. Fill in any required information.
- **Paragraphs 6-18:**
 - This is the financial accounting.
 - Fill in the reporting period date. If you filed an annual report, you may start the financial accounting period with the end date of your most recent annual report.
- **Paragraphs 19-21:**
 - Read the paragraphs carefully.
- **Date and Sign this Form**
 - Indicate the county, state, and country where you sign the form.
 - Print the date you sign the form.
 - Sign the document.
 - Print your name, address, telephone number, and email address.

(Proposed) Order Confirming Termination of Guardianship and Discharging of Guardian/Co-Guardians – Death of Ward

This is your proposed order for the court to sign.

- **Top of Form (Caption)**
 - Enter the county and judicial district court names of the guardianship case.
 - Fill in legal name of the ward.
 - Enter the case number from your Letters of Guardianship.
 - Fill in your name as Guardian. If a co-guardian was appointed by the court, fill in the co-guardian's name, too.
- **Leave the rest of the form blank.**

STEP TWO: SERVE COPIES OF THE COMPLETED FORMS

Make Copies of Completed and Signed Forms

Make a copy of the following completed and signed forms for the Ward's living spouse (if any), Ward's living parents (if any), and each interested person designated in the Court's order establishing the guardianship:

- Notice of Petition;
- Petition for Termination of Guardianship and Discharge of Guardian/Co-Guardians – Death of Ward;
- (Proposed) Order Confirming Termination of Guardianship and Discharging of Guardian/Co-Guardians – Death of Ward; and
- Any additional documents you plan to file with the court along with your petition documents. (*You may not have any additional documents.*)

Arrange to Serve Copies of the Completed Forms

You must serve a copy of the completed forms on the Ward's living spouse (if any), Ward's living parents (if any), and each interested person designated in the Court's order establishing the guardianship.

The North Dakota State District Court will require proof that the Ward's living spouse (if any), Ward's living parents (if any), and each interested person received a copy of the completed forms. An Affidavit of Service is your proof.

If you arrange to have copies of the completed forms hand delivered:

- The person who hand delivers the copies **must be** 18 years old or older, and **can't** be a party or interested in the guardianship case.
- The person who hand delivered the copies completes and signs the Affidavit of Service by Hand Delivery form.
- Make a copy for your records. The original(s) will be filed with the Clerk of Court.

If you arrange to have copies of the completed forms mailed:

- The person who takes the envelope(s) containing the copies to the U.S. Post Office and pays the postage **must be** 18 years old or older.
- The person who took the envelope(s) containing the copies to the U.S. Post Office and paid the postage completes and signs the Affidavit of Service by Mail form.
- Make a copy for your records. The original(s) will be filed with the Clerk of Court.

STEP THREE: FILE ORIGINALS OF THE COMPLETED FORMS

File the Original, Completed Forms with the Clerk of Court

File the following original, completed forms with the Clerk of Court of the North Dakota State District Court that has jurisdiction of the guardianship:

- Notice of Petition;
- Petition for Termination of Guardianship and Discharge of Guardian/Co-Guardians – Death of Ward;
- (Proposed) Order Confirming Termination of Guardianship and Discharging of Guardian/Co-Guardians – Death of Ward;
- Any additional documents you plan to file with the court along with your petition documents. (*You may not have any additional documents.*); and
- Affidavit of Service forms showing service on the Ward and each interested person.

You may be required to pay a filing fee. Contact the Clerk of Court for the amount, if any.

Contact information for Clerks of Court by North Dakota county is available at ndcourts.gov/court-locations.

After the Original, Completed Forms are Filed

The people who received copies of the completed forms have 14 days to serve and file a response or objection to your request to end the guardianship due to the death of the Ward.

You'll be notified if a hearing on your request is scheduled, or if the court requires you to do something before the court will make a decision.

Don't include these instructions when you mail or file the completed forms.

STATE OF NORTH DAKOTA
COUNTY OF _____

IN DISTRICT COURT
_____ JUDICIAL DISTRICT

IN THE MATTER OF THE GUARDIANSHIP OF

_____,
AN INCAPACITATED INDIVIDUAL

Case No. _____

NOTICE OF PETITION TO TERMINATE GUARDIANSHIP AND DISCHARGE GUARDIAN/CO-GUARDIANS – DEATH OF WARD

1. The attached Petition to Terminate Guardianship and Discharge Guardian/Co-Guardians – Death of Ward is brought in accordance with North Dakota Century Code Chapter 30.1-28 and Rule 3.2, North Dakota Rules of Court. Upon service of this petition, any interested person has fourteen (14) days within which to serve and file a response or objection to the Court granting the attached petition.

2. Upon expiration of the time for filing a response or objection, the petition is deemed submitted to the court, unless a party or interested person timely requests a hearing. A request for hearing must not be made later than seven (7) days after expiration of the time for filing a response or objection. The party or interested person requesting oral argument shall secure a time for the hearing and shall serve notice of the time for hearing upon all other parties and interested persons.

Dated this _____ day of _____, 20_____.

(Signature of Guardian)

(Printed Name of Guardian)

(Address)

(City, State, Zip Code)

Telephone Number: _____

Email: _____

STATE OF NORTH DAKOTA
COUNTY OF _____

IN DISTRICT COURT
_____ JUDICIAL DISTRICT

IN THE MATTER OF THE GUARDIANSHIP OF

_____,
AN INCAPACITATED INDIVIDUAL

Case No. _____

**PETITION FOR TERMINATION OF GUARDIANSHIP AND DISCHARGE OF GUARDIAN/CO-
GUARDIANS - DEATH OF WARD**

Name of guardian/co-guardians:

Address:

City:

State:

Zip:

Phone:

1. I/We was/were appointed guardian/co-guardians by Order of this Court dated _____, _____.
_____.
2. The guardianship has terminated because the ward died on _____, _____. A copy of the death certificate is attached to this Petition.
3. I/we have performed all duties and responsibilities required by this Court's Order of Appointment.
4. I/we seeks/seek discharge from the obligations as guardian/co-guardians.
5. Following is a complete account of the financial matters I/we have handled for the ward or in connection with the guardianship since the date of my/our last guardian's report to the date of the Ward's death.

FINANCIAL ACCOUNTING

Report for the period from _____ to _____

6. **Ward's beginning checking account(s) balance:** \$ _____

Income and deposits:

Wages/salary \$ _____

Social Security \$ _____

Pensions/annuities \$ _____

Investments \$ _____

Other, please describe:

_____ \$ _____

_____ \$ _____

Add total of all deposits \$ _____

Expenses and withdrawals:

Rent/mortgage \$ _____

Utilities \$ _____

Groceries/food \$ _____

Phone \$ _____

Cable TV/internet \$ _____

Medical \$ _____

Personal needs \$ _____

Guardian/conservator fees \$ _____

Legal/professional fees \$ _____

Other, please describe:

_____ \$ _____

_____ \$ _____

_____ \$ _____

_____ \$ _____

Subtract total of all expenses/withdrawals \$ _____

Ward's ending checking account(s) balance: \$ _____

ENDING INVENTORY

7. **Cash, checking accounts** (attach additional pages as needed):

Description	Value or Balance	Location

8. **Savings accounts, other bank accounts, and investments** (attach additional pages as needed):

Description	Value or Balance	Location

9. **Real estate and physical assets** (attach additional pages as needed):

Description	Value	Location

10. **Personal property** (attach additional pages as needed):

Description	Value	Location
Household goods and personal property		
Other (describe):		

11. **Other Assets** (attach additional pages as needed):

Description	Value or Balance	Location

Total of all assets (also enter on paragraph 14): \$ _____

12. **Mortgages, loans, and liens on property** (attach additional pages as needed):

Description	Value or Balance	Location

13. **Other creditors, debt and unpaid bills** (attach additional pages as needed):

Description	Value or Balance	Location

Total of debt/liabilities (also enter on paragraph 15): \$ _____

14. Total of all assets: \$ _____

15. Subtract the total of all debt: \$ _____

16. **Equals the total estate value:** \$ _____

17. **Assets disposed of since my last report to the court** (*attach additional pages as needed*):

Asset Description and reason for disposal	Date of Disposal	Amount Received

18. **Comments** on the ward's estate: include reasons why assets were disposed of, or why new assets were received, and explain new debt (*attach additional pages as needed*):

19. Petitioner/Petitioners requests/request an Order of this Court confirming the termination of the guardianship and discharging the guardian/co-guardians.

20. Petitioner/Petitioners will surrender titles, invoices, receipts, insurance policies, bank and financial statements, and all other papers and assets in this ward's estate as the court directs.

21. I/we declare, under penalty of perjury under the law of North Dakota, that everything I/we stated in this Petition is true and correct.

STATE OF _____)
COUNTY OF _____) ss.
COUNTRY OF _____)

Signed on this _____ day of _____, 20_____.

(Signature of Guardian)

(Printed Name of Guardian)

(Address)

(City, State, Zip Code)

Telephone Number: _____

Email Address: _____

(Use for co-guardian. If no co-guardian, leave blank)

STATE OF _____)
COUNTY OF _____) ss.
COUNTRY OF _____)

Signed on this _____ day of _____, 20_____.

(Signature of Co-Guardian)

(Printed Name of Co-Guardian)

(Address)

(City, State, Zip Code)

Telephone Number: _____

Email Address: _____

STATE OF NORTH DAKOTA
COUNTY OF _____

IN DISTRICT COURT
_____ JUDICIAL DISTRICT

IN THE MATTER OF THE GUARDIANSHIP OF

AN INCAPACITATED INDIVIDUAL

Case No. _____

AFFIDAVIT OF SERVICE BY HAND DELIVERY

(A separate affidavit is required for each person served.)

The person serving court documents by hand delivery states:

1. My name is: _____ *(person who hand delivered documents).*

2. I am at least 18 years of age. I am **not a party or interested in the above named civil matter.**

3. **List of Court Documents Served (List of Court Documents Served (checkmark (✓) the box of each item served. If you have additional documents, checkmark the box and list the document):**

Notice of Petition to Terminate Guardianship and Discharge Guardian/Co-Guardians – Death of Ward

Petition to Terminate Guardianship and Discharge Guardian/Co-Guardians – Death of Ward

4. **Date, Time, and Address of Service by Hand Delivery:**

Date: _____ Time: _____ a.m. (or) p.m.

Address:

(street address)

(city)

(zip code)

5. **Service by Hand Delivery:**

As required by Rule 5(b)(3) of the North Dakota Rules of Civil Procedure, I served a true and correct copy of each of the court documents listed in Paragraph 3 to _____
_____ (*name of person served*) at the date, time and address listed in Paragraph 4 by handing the court documents directly to them. I know the person I served is the person intended to be served because (*explain how you identified the person*): _____

6. I declare, under penalty of perjury under the law of North Dakota, that everything I stated in this Affidavit of Hand Delivery is true and correct.

STATE OF _____)
COUNTY OF _____) ss.
COUNTRY OF _____)

Signed on this _____ day of _____, 20_____.

(Signature)

(Printed Name)

(Address)

(City, State, Zip Code)

Telephone Number: _____

Email: _____

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

IN THE MATTER OF THE GUARDIANSHIP OF

_____,
AN INCAPACITATED INDIVIDUAL

Case No. _____

AFFIDAVIT OF SERVICE BY MAIL

(May serve multiple persons ONLY IF envelopes are mailed same day from same Post Office.)

The person serving court documents by mail states:

1. My name is _____ *(person who mailed documents)*. I am at least 18 years of age.

2. **List of Court Documents Served:** *(Checkmark (✓) the box of each item served. If you have additional documents, checkmark the box and list the document).*

Notice of Petition to Terminate of Guardianship and Discharge Guardian/Co-Guardians – Death of Ward

Petition to Terminate of Guardianship and Discharge Guardian/Co-Guardians – Death of Ward

3. **Service by Mail:**

I served a true and correct copy of each of the court documents listed in Paragraph 2 by mailing them, enclosed in an envelope, by Certified Mail (OR) First-Class mail *(choose one)*, postage prepaid, and by depositing them in the United States Mail, directed to each person listed in Paragraph 5.

4. **Date and Post Office Location of Service by Mail:**

Date Court Documents Were Served by Mail: _____

United States Post Office Location:
_____ (city), _____ County, _____ (state).

5. **Person or Persons Served by Mail:**

1. Name of Person Served: _____
Mailing Address: _____
City, State, Zip Code: _____
2. Name of Person Served: _____
Mailing Address: _____
City, State, Zip Code: _____
3. Name of Person Served: _____
Mailing Address: _____
City, State, Zip Code: _____
4. Name of Person Served: _____
Mailing Address: _____
City, State, Zip Code: _____

6. I declare, under penalty of perjury under the law of North Dakota, that everything I stated in this Affidavit of Service by Mail is true and correct.

STATE OF _____)
COUNTY OF _____) ss
COUNTRY OF _____)

Signed on this _____ day of _____, 20_____.

(Signature)

(Printed Name)

(Address)

(City, State, Zip Code)

Telephone Number: _____

Email: _____