

Instructions – Petition to Resign as Guardian without Successor Guardian (GAC1202-Inst)

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Legal Terms

You can find more definitions in [Minn. Stat. § 524.5-102](http://revisor.mn.gov/statutes/cite/524.5-102) (revisor.mn.gov/statutes/cite/524.5-102).

Guardian

Appointed by the court to make personal decisions for the person subject to guardianship, such as where to live, medical decisions, training, and education, etc.

Interested Person

An “interested person” includes a spouse, person who lived with the Respondent for 6 months or more, parents, adult siblings, adult children (including adult stepchildren of a living spouse), and other next of kin. See [Minn. Stat. § 524.5-102, subd. 7](#), for a complete list (revisor.mn.gov/statutes/cite/524.5-102).

Person Subject to Guardianship

A “person subject to guardianship” is a minor or incapacitated adult who has a court-appointed guardian because they lack sufficient understanding or are unable to make or communicate responsible personal decisions and have an inability to meet personal needs for medical care, nutrition, clothing, shelter, or safety. When the case is first initiated, this person is a “Respondent.” They become the “Person Subject to Guardianship” once the court appoints a guardian.

Successor Guardian

A “successor guardian” is someone appointed by the court to succeed (to come after) a previously appointed guardian.

Steps to Follow – Asking the Court to Allow You to Resign as Guardian without a Successor Guardian

One:

Try to Find a Successor Guardian.

In the form that you will fill out (the *Petition to Resign as Guardian...*), you are asked to describe all the things you have done to try to find a person to take your place as guardian.

If you are able to find someone willing to serve as the Successor Guardian in this case, you can use the packet of forms asking the court to appoint a Successor Guardian instead of the *Petition to Resign as Guardian without a Successor Guardian*. The Successor Guardian forms (starting with GAC401) are found on the Minnesota Judicial Branch website at <https://mncourts.gov/GetForms.aspx?c=21#subcat141>.

Two:

Fill Out and File the Petition with Court Administration.

The documents listed below are available on the [Minnesota Judicial Branch website](#) in the “Guardianship and Conservatorship” category of forms (mncourts.gov/GetForms.aspx?c=21&p=159).

You will need to file the forms with court administration in the county where the Guardianship case is filed. **Before you file, be sure to make copies of the forms.** You will need copies for yourself, the Respondent, and any interested persons that need to be served.



Required forms:

- *Petition to Resign as Guardian without Successor Guardian* (GAC1202);
- **After service is completed:** *Affidavit of Service* (GAC 2-U) (see “[Three: Serve Copies and File Affidavits of Service](#)” below).

Three:

Serve Copies and File *Affidavits of Service*

Serving Interested Persons and the Person Subject to Guardianship

- You must serve (provide a copy of) the *Petition to Resign as Guardian without Successor Guardian* on the Person Subject to Guardianship and on all interested persons, including the head of the facility if the Person Subject to Guardianship is a patient of a state hospital, regional center, or any state operated service.



These documents must be personally served at least 14 days before the hearing, or mailed by first class mail at least 17 days before the hearing.

NOTE: papers *cannot* be served on a legal holiday as defined in Minn. Stat. § 645.44, subd. 5

(<https://www.revisor.mn.gov/statutes/cite/645.44#stat.645.44.5>).

- An interested person may give up their right to receive any notices if they fill out the *Waiver of Notices and Reports* (GAC110).
- **After** you serve all the interested persons, fill out the *Affidavit of Service* form (GAC 2-U). The *Affidavit of Service* **must** identify:
 - Each person who was served;
 - How the person was served (mail or hand-delivered);
 - Where the person was served;
 - When the person was served (the date of service); and
 - What was served (must identify each form that was served).

Note: You cannot be the one to personally serve the Respondent!

- The person who hand-delivers the papers will need to fill out the *Affidavit of Service* (GAC 2-U).
- File the completed *Affidavit of Service* with court administration.

Four:

Appear at any Hearing that May Be Scheduled.

Look for the *Notice of Hearing* or other document you will receive from court administration that will contain important hearing information.

Five:

Helpful Resources

Court-Based Self-Help Centers

There is a virtual Statewide Self-Help Center, and some districts have local Self-Help Centers. See <https://mncourts.gov/Help-Topics/Self-Help-Centers.aspx>.

Law Library

The Minnesota State Law Library has an “Ask a Librarian” service. You can reach law library staff by phone or email. See <https://mncourts.gov/Help-Topics/Law-Libraries.aspx>.

Guardianship Help Topic

Visit the Guardianship Help Topic on the Minnesota Judicial Branch website at <https://mncourts.gov/Help-Topics/Guardianship.aspx>.