

# **INSTRUCTIONS and DUTIES of a GUARDIAN**

**Prepared By:**

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**IT IS IMPORTANT THAT YOU READ THIS INSTRUCTION PACKET IN ITS  
ENTIRETY BEFORE YOU BEGIN ADMINISTERING THE GUARDIANSHIP**

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## OVERVIEW

**THESE INSTRUCTIONS AND DUTIES OF A GUARDIAN** were prepared by the Commissioner of Accounts of Prince William County to assist you in performing the general duties you have undertaken as a Guardian of a Guardianship estate. It is the duty of a Guardian to be in full compliance with the legal requirements of all sections of the Code Virginia that pertains to a Guardian. These instructions address only the most commonly asked procedural questions.

Please be advised that the Commissioner of Accounts is not an employee of the Commonwealth of Virginia or Prince William County, but rather is appointed by the Judges of the Circuit Court of Prince William County. **The Commissioner of Accounts cannot give you legal advice and these instructions are not to be considered as advice as to all laws and your duties as a Guardian.** Although many personal representatives properly fulfill their duties without the assistance of an attorney, you may determine it is appropriate to consult with an attorney experienced in administering a Guardianship estate to assist you and to avoid liability you may incur for improper administration.

**It is important that you are aware of the following information and principles to avoid your incurring personal liability in your role as Guardian and to fulfill the requirements of filing the proper documentation with the Commissioner of Accounts and the Circuit Court of Prince William County:**

### **1. GUARDIANSHIP WHERE THE MINOR HAS A LIVING PARENT.**

**If you are the Guardian of a minor child with a living parent, you are not permitted to disburse any of the minor's assets – income or principal – for any reason without the prior approval of the Commissioner of Accounts (Code of Virginia §64.2-1802 up to \$5,000.00) or the Court (Code of Virginia §64.2-1801) except to pay normal administrative expenses such as surety bond premiums, costs for filings with the Commissioner of Accounts and Guardian commission. See the explanation and instructions below on Page 8. Contact the Commissioner of Accounts if you have any questions concerning this statutory restriction on your administration of the Guardianship estate.**

### **2. KEEP ALL GUARDIANSHIP ASSETS AND MONEY SEPARATE.**

This is not your money. Do not deposit any guardianship money in to your personal account or use this money for any of your bills or personal finances or you will be subject to

court sanctions and you could be subject to criminal prosecution. A guardianship account should be opened to receive all guardianship funds.

### **3. CANCELLED CHECKS AND RECEIPTS ARE REQUIRED.**

When you file an Accounting with the Commissioner of Accounts you will have to prove that any disbursements of money to a minor or for expenses of administering the guardianship were in fact received. Open the account for the guardianship at a bank which returns cancelled checks or provides a photocopy of the check which, together with the bank statements, itemizes that check.

### **4. RECORD KEEPING.**

It is your obligation to maintain an accurate record of all guardianship assets, receipts and disbursements you have made from guardianship funds. These records will be required in support of the documentation you are required to file with the Commissioner of Accounts during your administration of the guardianship. Upon reaching majority, the minor for whom you have been appointed may also want to review these records.

### **5. IMPORTANT DEADLINES TO REMEMBER.**

The following are important deadlines to meet your filing requirements with the Clerk of the Circuit Court and the Commissioner of Accounts:

**4 months from the date of qualification:** (*Virginia Code §64.2-1300*) Send the Inventory to the Commissioner of Accounts Office with the appropriate fees (See fee schedule).

**6 months from date of qualification:** (*Virginia Code §64.2-1305*) Send the First Accounting to the Commissioner of Accounts Office covering the initial 4 month period of administration with the appropriate fees (See fee schedule).

**Second and subsequent Accountings** are due to the Commissioner of Accounts with the appropriate fees within 16 months from the end date of the prior account and should cover each 12-month period subsequent to the first Accounting. (*Virginia Code §64.2-1305*)

**Final Accounting** is due within 4 months of the ending date of the period covered, which may not necessarily cover a 12-month period. **All assets must be distributed to the**

minor (or if deceased to the minor's estate in accordance with statutory requirements or Court Order). The account may not reflect any remaining assets on hand.

Failure to comply with these deadlines or to submit additional documentation requested by the Commissioner of Accounts may result in:

1. Delinquency fees imposed by the Commissioner of Accounts you are required to pay from your personal funds. (See the fee schedule for the various delinquency fees that may be imposed).
2. A summons being issued by the Commissioner of Accounts to file any delinquent documentation.
3. Forfeiture of your commission for your services as Guardian.
4. A summons being issued by a Judge of the Circuit Court of Prince William County to appear before the Circuit Court to answer for your delinquency which can result in your being fined and/or imprisoned.
5. Removal of your appointment as Guardian together with being held personally liable for any losses incurred by the Guardianship estate which includes, but is not limited to, costs to investigate your administration and to qualify a substitute personal representative to administer the estate.

### **TAKING POSSESSION OF ASSETS**

After determining what assets will be under the control and supervision of the Guardian, the Guardian should take possession of those assets.

1. Your Certificate of Qualification from the Clerk of the Circuit Court is your authority to take possession of Guardianship assets.
2. You need to obtain the value of all assets as of the date of the Court Order appointing you Guardian in order to prepare the Inventory for the Guardianship and for the Commissioner of Accounts to determine the sufficiency of the bond of the Guardian.
3. You need to open a separate Guardian bank account and possibly other Guardianship accounts depending on the assets over which you have supervision (for instance, a Guardianship brokerage account) or future investments. It is recommended that the Guardian use Virginia

banks for Guardianship accounts to avoid delays in final distribution to the minor upon the minor reaching majority or upon the death or removal of the Guardian. **USE THE MINOR'S SOCIAL SECURITY NUMBER ON EACH ACCOUNT.**

4. All of the minor's assets should be properly titled with Guardian's name followed by "Guardian for" the minor's name. Example: John Smith, Guardian for Justin Smith. No assets may be held jointly nor may they be held under the Uniform Transfers to Minors Act. If more than one Guardian has been appointed, the assets must be titled in the name of all Guardians.

5. You are not permitted to commingle Guardianship funds with funds belonging to you personally or with funds of any other person or entity, including the minor's non-Guardianship assets.

### **Record Keeping/Supporting Documentation:**

As Personal Representative, you have an obligation to maintain a record of all receipts and disbursements of the Guardianship funds. Be prepared to present supporting documentation to the Commissioner of Accounts during your administration of the Guardianship. Below is a list which provides you with some of the records you should retain:

- All original invoices of bills paid
- Original banking and brokerage statements
- Cancelled checks or copy of front of check with a signed invoice or receipt
- Signed (and preferably notarized) receipts from the minor for each asset distributed to the minor upon termination of the Guardianship.

As stated above, you should use a bank that returns cancelled checks. We will accept a photocopy of the check (individual copy or a copy obtained through a bank's on-line banking services) together with the bank statement that itemizes that check. You need to maintain an accurate record of all guardianship assets, and all documents (cancelled checks, bank/investment statements, receipts from the distribution of cash or personal items) that exhibit receipts (interest income, dividends or receipts of any kind) and disbursements you have made from guardianship funds.

### **INVESTMENT OF GUARDIAN FUNDS**

1. **Time Requirement:** Principal funds must be invested **within four (4) months** from the time such funds come under the control of the Guardian. (Virginia Code § 64.2-1501)
2. **Acceptable Securities:** Funds may be invested in acceptable securities as set forth in Virginia Code § 2.2-4519 and 64.2-1502, or as permitted by the Court Order.
3. **Standard of Care for Investments:** The standard of care for investments is set out in **Virginia Code, Article 9 Uniform Prudent Investor Act, § 64.2-780 et seq.**, and is referred to as the **"prudent investor"** rule.

4. **Loss in Value of Assets:** The Guardian is responsible for the care, preservation, and management of the minor's assets.
5. A Guardian may not lend money to himself/herself or invest in unsecured notes or purchase real estate.

**NOTE:** If there is a loss in the value of Guardianship assets due to the negligence or improper conduct of the Guardian, the Guardian is charged with the lost principal, and interest thereon. (Virginia Code § 64.2-1415)

### **Document Filing Dates**

- A. **Within four (4) months after your date of qualification:** Mail or hand deliver your completed "**Inventory For Estate Of A Minor**" form to the Commissioner of Accounts Office in accordance with the instructions below.
- B. **Within six (6) months after date of qualification:** Mail or hand deliver your completed first "**Account for Minor**" form to the Commissioner of Accounts Office in accordance with the instructions below.
- C. **Second and subsequent accountings are due sixteen (16) months after the ending date of the prior account and should cover a twelve (12) month period:** Mail your completed "**Account for Minor**" form to the Commissioner of Accounts Office in accordance with the instructions below.

### **RESTRICTIONS ON DISTRIBUTIONS FOR THE CARE OF THE MINOR**

**DEPENDING ON THE TYPE OF GUARDIANSHIP, THERE ARE DIFFERENT RULES REGARDING ALLOWABLE EXPENDITURES. YOU SHOULD CONTACT THE COMMISSIONER OF ACCOUNTS OFFICE BEFORE SPENDING ANY GUARDIANSHIP FUNDS OTHER THAN FOR COSTS OF ADMINISTRATION.**

#### **GUARDIANSHIP WHERE MINOR HAS NO LIVING PARENT:**

The Court Order appointing you Guardian should set the allowable expenditures. If it does not, Virginia law states the Guardian shall provide for the minor's health, education, maintenance and support after **FIRST** taking into account the minor's other sources of income, support rights and other reasonably available resources of which the Guardian is aware (Code of Virginia § 64.2-1800).

**Exceptions:** Costs of administration, i.e., bond premium, filing fees and Guardianship compensation.

## **GUARDIANSHIP WHERE MINOR HAS A LIVING PARENT:**

You may not spend any of the minor's assets – income or principal – for any reason, including for the health, education, maintenance, or support of the minor, without the prior approval of the Commissioner of Accounts (up to \$5,000.00 per year-Code of Virginia § 64.2-1802) or the Court (Code of Virginia § 64.2-1801), except that you may use the minor's assets to pay the normal administrative expenses, i.e., surety bonds premiums, court approved costs for filings and recordings and Guardian commission/compensation.

**TO OBTAIN APPROVAL FOR EXPENDITURES OF GUARDIANSHIP ASSETS OF UP TO \$5,000 IN ANY CALENDAR YEAR, YOU MUST WRITE A LETTER TO THE COMMISSIONER OF ACCOUNTS OUTLINING THE NEED AND REQUESTING A HEARING DATE. IF THE MINOR IS FOURTEEN YEARS OF AGE OR OLDER, HE/SHE WILL BE GIVEN WRITTEN NOTICE OF THE HEARING FIVE DAYS BEFORE THE SCHEDULED DATE. AT THE HEARING, YOU MUST PROVIDE INFORMATION TO SUPPORT AND PROVE ONE OF THE FOLLOWING:**

1. The parent is unable to completely fulfill the parental duty of supporting the minor.
2. The parent cannot, for some reason, be required to provide such support.
3. The proposed expenditure is beyond the scope of parental duty of support in the circumstances of a specific case. This usually means that the expenditure or distribution is for a non-necessity that a parent has no duty to provide.

**TO OBTAIN AUTHORITY FOR EXPENDITURES IN EXCESS OF \$5,000.00 TO OR ON BEHALF OF A MINOR, WHO HAS A LIVING PARENT, YOU MUST FILE A PETITION WITH THE CIRCUIT COURT.**

### **DOCUMENTS REQUIRED TO BE FILED**

**IN GUARDIANSHIPS INVOLVING MORE THAN ONE CHILD, YOU MUST FILE A SEPARATE INVENTORY AND ACCOUNTING(S) FOR EACH MINOR.**

#### **I. INVENTORY FOR ESTATE OF A MINOR**

##### **General Information**

**When to File:** The Guardian is required by law to file an Inventory with the Commissioner of Accounts within four (4) months after the date of your qualification listing all assets under your supervision and control as Guardian. (Virginia Code

§64.2-1300)

Example: Date of qualification -June 1, 2019  
Inventory Filing Due Date -October 1, 2019

**The Guardian must report on the "Inventory For Estate Of A Minor" form, the exact value of assets as they existed on the date of qualification.**

The Guardian may be required to provide documentation to support the value of the guardianship assets set forth in the Inventory.

- A. Use the “**Inventory For Estate Of A Minor**” form (CC-1672), provided to you by the Probate Clerk at the time of your qualification. This form may also be obtained from the Virginia Supreme Court website at <http://courts.state.va.us/forms/circuit/fiduciary.html>.
- B. The Inventory must be signed by each Guardian. The inventory must also be **typed or computer generated**, and an **original and one copy must be submitted** to the Commissioner of Accounts Office along with the appropriate filing fee. The filing fees can be found in the Fee Schedule you were provided when you qualified.

### **Valuation of Assets**

- A. **Personal Property:** Use the fair market value of personal property as of the date of qualification, not the value of the assets when the Inventory is prepared.
- B. **Real Property:** Use the local real estate assessed value or appraised value. (Do not reduce gross value by outstanding mortgage, loan, lien, or other claim against the property).

### **Preparing the "Inventory For Estate Of A Minor" Form (CC-1672)**

#### **A. Part 1. List the personal estate; tangible and intangible.**

1. These assets may include bank checking and savings accounts, certificates of deposit, investment accounts, automobiles, jewelry, household furnishings, interest in a business entity, etc.
2. Where applicable, describe the source of the personal property, for example: \$20,000 received from Joseph Smith’s life insurance.

**B. Part 2. List the Minor’s real estate over which you have a power of sale.**

1. List the Minor’s real estate over which you have a power of sale.
2. **Appointment by Court Order:** If your appointment was by Court Order, you only have a power of sale if the Court Order of your appointment as Guardian does not have any restrictions stated as to your power over the real estate.  
**PLEASE NOTE:** You are advised to confer with the Commissioner of Accounts prior to any sale of real estate as the Commissioner of Accounts will impose requirements to be satisfied by the Guardian prior to any such sale as authorized by the Code of Virginia. (Virginia Code § 64.2-1805.)
3. **Appointment by the Clerk:** If your appointment was by the Clerk of the Circuit Court, the Commissioner of Accounts will inform you of the requirements for approval of any sale of real estate.

**C. Part 3. List the Minor’s real estate over which you do not have a power of sale.**

**D. Part 4. List the minor’s non-Virginia real estate.**

**E. Part 5. List the minor’s ownership interest in assets passing to another at the minor’s death by survivorship; a pay on death(POD) or transfer on death(TOD) account, or the minor’s interest in a trust fund that will pass to others upon the minor’s death.**

**F. Part 6. List all regular or periodic payments from government agencies.**

Example: Social Security \$400.00 monthly.....\$4,800.00 per annum

**G. Part 7. List all regular, periodic payments from any source.**

Example: Interest on XYZ Bank certificate of deposit.....\$250.00 per annum

Legal settlement: \$500 per quarter.....\$2,000.00 per annum

Retirement benefits from father.....\$3,000.00 per annum

**Filing the Inventory**

**A. Documentation Required:** You must submit an original and one copy of the Inventory signed by each Guardian. Along with the Inventory, you must submit a check payable to the Commissioner of Accounts for the filing fee. The fees can be found in the Fee Schedule you were provided when you qualified.

- B. HOW TO FILE:** Inventories may be filed by mail or in person at the Commissioner of Accounts Office.
- C. CHANGES/ADDITIONS:** If additional assets are discovered after you have filed the Inventory, or if you discover you filed an incorrect Inventory, you must file an Amended Inventory with the Commissioner of Accounts office. Submit an original and one copy of the Amended Inventory, together with a check for filing fees payable to the Commissioner of Accounts.

## **II. ACCOUNT FOR MINOR**

### **General Information**

- A.** The accounting is a document that details what has happened to the assets you listed on the Inventory over a certain period of time. The Account must contain all receipts/income received, all disbursements or distributions made over the accounting period together with a list of all assets remaining at the end of the accounting period.
- B.** Receipts/income items include interest income, dividends, short-term and long-term gains, and assets discovered after the filing of the inventory.
- C. Note:** Transferring an asset from one account to another, e.g., from a savings account to a checking account, should not be shown as a receipt or disbursement.
- D.** Use the “**Account For Minor**” form (CC-1683), provided to you by the Probate Clerk at the time of your qualification. This form may also be obtained from the Virginia Supreme Court website at <http://courts.state.va.us/forms/circuit/fiduciary.html>.

### **WHEN TO FILE:**

- A. The first accounting** is due within six (6) months of the date of qualification and must cover the first four months of the Guardianship (Code of Virginia §64.2-1305).
- B. Second and subsequent accounts** are due within 16 months from the ending date of the prior report and should cover a 12-month period. A final accounting may cover less than 12 months.

Example:

If you were appointed June 30, 2019, the first accounting would be due by December 30, 2019, and would cover the period from June 30, 2019 to October 30, 2019.

The second accounting would be due by February 30, 2021 and cover the period October 30, 2019 to October 30, 2020.

The third and subsequent accountings would be due by each February 30 thereafter covering successive periods of October 30 to October 30 of the next year.

**C. The Final Account:** is due within 4 months of the ending date of the period covered, which may not necessarily cover a 12-month period. Upon reaching the age of majority (18 years), **all assets (after providing for final expenses of administration) must be distributed to the minor and a receipt (or proof any assets have been re-titled in the minor's name) must be provided to the Commissioner of Accounts.** If the Guardianship is terminated for other reasons, all assets must be distributed in compliance with statutory authority or Court Order.

### **The Final Account must show a zero balance on hand**

## **Preparing the "Account For Minor" Form (CC-1683)**

**A. Line 1 “Beginning Assets”:** If filing a FIRST account, itemize the beginning assets from Part 1 and Part 2 of the Inventory For Estate Of A Minor form (or from any subsequent Amended Inventory) that you previously filed. The TOTAL of the beginning assets must be entered on line number '1' on the Account for Minor Form.

**B. Line 2 “Receipts”:** Itemize chronologically all interest, dividends, gross rental income, refunds, and any other income received during the accounting period by account. List each item separately; for example, show each quarterly dividend from XYZ Stock rather than a lump sum for the year.

You do not have to itemize federal benefits (for example Social Security benefits) if these benefits are (1) paid to you as a designated representative, and (2) you are required to report to a federal agency for the use of these benefits, and (3) the benefits are kept in a separate account and not comingled with other guardianship assets. In the event these requirements are complied with, report such income at the bottom of the first page where the line marked \* appears. Otherwise report such income as a Receipt under Line 2.

**C. Line 3 “Gain on Assets Sales”:** **For Securities sold** by a broker, show the date of the sale, the name of security, the total number of shares, the total number of shares sold, the total carrying value, the gross sales price and the net gain. **For real property sold**, show the date of the sale, property description, to whom sold, total carrying value, gross sales price, and the net gain. Itemize the cost of sale from the settlement statement under disbursements. (i.e. recording fees, taxes, title, etc.).

**D. Line 4 “Adjustments”:** Adjustments typically consist of after discovered assets

(unless the Commissioner of Accounts has required the Guardian file an Amended Inventory), corrections to assets previously reported (such as an asset's value incorrectly reported on the Inventory, not a change in current value), changes in stock and securities (resulting from mergers and stock splits where there are changes in the number of shares and the name of the security), and shares acquired from reinvested dividends that changes the number of shares held. Adjustments also reflect any new asset coming into the Guardianship during administration.

- E. Line 5 “Disbursements for Administration Expenses”:** Itemize costs of administration such as the bond premium, filing costs for the Inventory and Accounts paid to the Commissioner of Accounts.
- F. Line 6 “Disbursements For The Care Of The Minor”:** Distributions made to or for the care of the minor **IF approved by the Commissioner of Accounts or the Circuit Court in accordance with Virginia Code prior to distribution as explained above in the RESTRICTIONS ON DISTRIBUTIONS FOR THE CARE OF THE MINOR section of these instructions, if the minor has a living parent.** If the minor does not have a living parent, see **RESTRICTIONS ON DISTRIBUTIONS FOR THE CARE OF THE MINOR** section of these instructions for an explanation of allowable distributions.
- G. Line 7 “Losses On Asset Sales”:** **For Securities sold:** show the date of sale, the name of security, the total number of shares, the total number of shares sold, the total carrying value, the gross sales price, and the net loss. **For real property sold:** show the date of the sale, the property description, to whom sold, the total carrying value, the contract/gross sales price, and the net loss. **For miscellaneous items sold:** show the date of sale, the description, to whom sold, the total carrying value, the gross sales price, and the net gain.
- H. Line 8 “Distributions”:** Upon reaching the age of majority (18 years), all remaining Guardianship assets must be distributed to the minor and a receipt (or proof any assets have been re-titled in the minor's name) must be provided as evidence that the minor has received such assets. If the Guardianship is terminated for other reasons, all assets must be distributed in compliance with statutory authority or Court Order and a receipt or voucher must be provided that the recipient has received the Guardianship assets. All final expenses must be paid or provided for prior to making any final distribution of the remaining Guardianship assets.
- I. Line 9 “Assets On Hand”:** On each Account you must itemize each asset in the Guardianship as of the end of the accounting period together with each asset's carrying value. In the event the carrying value is not equal to the asset's market value you must show the asset's market value. Market value is relevant for Guardian compensation, filing fees and bond amount purposes.

Example: 100 shares XYZ stock: \$5,000.00 (\$6,250.00 market value)

### **Documentation Required To Be Filed With Each Account:**

1. **Account:** You must submit an original and one copy of the accounting signed by each Guardian. Accountings must be typewritten and the pages must be numbered in sequential order.
  
2. **ACCOMPANYING DOCUMENTS:** Along with the accounting, you must submit:
  - a) A check payable to the Commissioner of Accounts for the filing fees set forth in the Schedule of Fees for the Commissioner of Accounts provided you when you qualified at the Clerk's Office.
  - b) An original cancelled check for each disbursement shown on the accounting. These will be returned to you. If you prefer, you may submit photocopies of the front and back of the original cancelled checks. These will not be returned. Canceled checks must be organized in the same order as they appear on the accounting.
  - c) Copy of signed HUD-1 (settlement sheet) for any sale of real estate and brokerage statements to support the sale of stocks, bonds or other securities.
  - d) Documentation that shows the value of each asset remaining on hand. All accountings, other than the final accounting, must contain an itemized list of the assets remaining in the hands of the Guardian at the end of the accounting period.
  - e) Bank statements for checking and savings accounts covering the accounting period must be provided. The final statement's balance must agree with the final balance shown on your accounting.
  - f) Brokerage account statements or statements for stocks, bonds, and other securities or funds held, covering the entire accounting period. If you hold the original securities, you must exhibit the original certificates to the Commissioner of Accounts or provide a statement from a bank officer certifying the original certificates of each security listed were exhibited to the bank officer on or after the ending date of the account.
  - g) Titles for cars, boats, etc.
  - h) Original notes unless a bank or other agency is handling the collection of the notes. In these instances, a statement from the bank or other agency certifying the identity of the holder and the principal balance as of the ending date of the accounting will be accepted.
  
3. **HOW TO FILE:** Accountings may be filed by mail or in person at the Commissioner of Accounts Office.

**4. CHANGES/ADDITIONS:** If additional assets are discovered after you have filed the Accounting, or if you discover you filed an incorrect Accounting, you should contact the Commissioner of Accounts office.

## **GUARDIANSHIP COMPENSATION**

A Guardian is entitled to "*reasonable*" compensation for administering a guardianship estate. (Virginia Code § 64.2-1208)

You should contact the Commissioner of Accounts if you have any questions with regards to your compensation as Guardian **BEFORE** you take a fee.

The Guardian's compensation is for the **complete** administration of the guardianship estate.

### **Compensation Guidelines**

The Compensation Guidelines that follow are based on the "Guidelines for Fiduciary Compensation" adopted by the Judicial Counsel of Virginia and this jurisdiction. The following Fee Schedule is a guideline and the Commissioner of Accounts may increase or decrease the Guardian's compensation to achieve "reasonable compensation" for the services provided by the Guardian.

Principal Fee (taken annually)

1% of the first \$500,000.00 (.01)

¾ of 1% of next \$500,000 (.0075)

½ of 1% over \$1,000,000 (.005)

Over \$10,000,000.00 -by agreement with the Commissioner (consultation required)

AND

Income (taken annually)

5% of all non-investment income receipts (periodic payments such as retirement, social security, etc.) realized during the accounting period. This does not include investment income such as interest, dividends, capital gain distributions and gains on sales.

**A.** Compensation is allowed on an annual basis, based on fair market value of the guardianship assets (i.e., principal and undistributed income) at the beginning of the accounting period. Where the required accounting is for a period of less than one full year, the compensation should be pro-rated.

**B.** The Commissioner will also allow a deviation from the above fee schedule if the will or court order clearly sets out the Guardianship compensation in a specific dollar amount or percentage.

**C.** Fees paid to an attorney or accountant employed to perform duties that could be performed by the Guardian, will be deducted from the compensation due to the Guardian. "Reasonable

fees” paid to attorneys or accountants for tax work or litigation or other professional services reasonably necessary for the orderly administration of the estate need not be deducted from the Guardian’s compensation.

## **SUCCESSOR GUARDIANS**

Where a Guardian is succeeded by another, the annual fees shall be pro-rated. More than one full fee may be allowed, but only if the Commissioner of Accounts or the court determines this to be appropriate.

## **CO-GUARDIANS**

One fee will be divided equally among the Co-Guardians. The Co-Guardians may agree among themselves on a different division.

## **BOND AND CORPORATE SURETY**

- A. GENERAL:** Your bond is your guarantee that you will perform your Guardian duties as required by law. The Court Order of Appointment will set the amount of the Guardian’s bond and govern whether the bond is with or without surety. The Commissioner of Accounts examines and reports to the Court on the sufficiency of bond of the Guardian. (Virginia Code §64.2-1204)
- B. SURETY:** A surety bond is a guarantee by a third party (usually an insurance or bonding company) that a Guardian will properly account for all money and property owned by the minor and that the Guardian will discharge his/her Guardian duties as required by law.
- C. BOND INCREASE:** If there is an increase in the value of the assets under your control and the dollar value of the assets become greater than the dollar amount set on your bond at the time of your qualification, a new bond will be required by statute. You will receive notification from the Clerk and the Commissioner of Accounts if applicable during your administration. You must appear before the Clerk to execute the new bond and bring your surety Bond Company with you if the bond is with corporate surety. If you do not sign a new bond by the deadline given in your notice, your powers of appointment may be revoked due to an insufficient bond.
- D. BOND REDUCTION:** If there is a decrease in the value of the assets under your control and the dollar values of the assets become less than the dollar amount set on your bond at

the time of your qualification, you can request a reduction in the amount of the bond. A bond reduction request can only be considered after an inventory or accounting has been approved by the Commissioner of Accounts showing that the assets on hand, plus anticipated income, are less than the current bond amount. You would have to appear before the Clerk to sign a new bond with a reduced dollar amount. If your bond was with corporate surety the surety bond company would have to appear with you.

### **NOTICE REGARDING CHANGE OF RESIDENCY**

Every qualified Guardian who moves from Virginia and becomes a resident of another State shall inform the Clerk of the Circuit Court (Probate Department) and the Commissioner of Accounts of his/her new address and phone number within thirty (30) days of the date of the change in residency. Any person who fails to so inform the Clerk and the Commissioner of Accounts shall be subject to a **civil penalty of \$50.00.** (Virginia Code §64.2-1409)

### **TAX RETURNS AND TAXES GENERALLY**

The Guardian has the responsibility to file (or confirm the filing of) all federal and state income tax returns for the minor and to pay any local government taxes on real and personal Guardianship property.