

SURROGATE'S COURT OF THE STATE OF NEW YORK  
COUNTY OF \_\_\_\_\_

Filing Fee Paid \$ \_\_\_\_\_  
\_\_\_\_\_ Certs \$ \_\_\_\_\_  
\_\_\_\_\_ Certs \$ \_\_\_\_\_  
\$ \_\_\_\_\_ Bond, Fee \$ \_\_\_\_\_  
Receipt No: \_\_\_\_\_ No: \_\_\_\_\_

-----X  
Proceeding for the Appointment of a  
Guardian for

**PETITION FOR  
APPOINTMENT OF GUARDIAN OF**  
 **PERSON**  
 **PROPERTY**  
 **PERSON AND PROPERTY**  
 **LIMITED GUARDIAN OF THE PROPERTY**

\_\_\_\_\_  
Pursuant to SCPA Article 17-A  
-----X

File No. \_\_\_\_\_

TO THE SURROGATE'S COURT OF THE COUNTY OF \_\_\_\_\_

It is respectfully alleged:

1. The name, permanent address, date of birth and telephone number of the petitioner(s), and the petitioner's(s') relationship to the  mentally retarded  developmentally disabled person (hereafter known as respondent) is as follows:

Name: \_\_\_\_\_ Telephone Number: \_\_\_\_\_

Permanent Address or Corporate Office: \_\_\_\_\_  
(Street and Number)  
\_\_\_\_\_  
(City, Village, Town) (State) (Zip Code)

Mailing Address: \_\_\_\_\_  
(If different from permanent address)

Date of Birth: \_\_\_\_\_ Interest/Relationship to Respondent: \_\_\_\_\_

Name: \_\_\_\_\_ Telephone Number: \_\_\_\_\_

Permanent Address or Corporate Office: \_\_\_\_\_  
(Street and Number)  
\_\_\_\_\_  
(City, Village, Town) (State) (Zip Code)

Mailing Address: \_\_\_\_\_  
(If different from permanent address)

Date of Birth: \_\_\_\_\_ Interest/Relationship to Respondent: \_\_\_\_\_

2(a). The name, permanent address, date of birth and marital status of the respondent of this proceeding is as follows:

Name: \_\_\_\_\_

Permanent Address: \_\_\_\_\_  
(Street and Number)  
\_\_\_\_\_  
(City, Village, Town) (State) (Zip Code)

Mailing Address: \_\_\_\_\_  
(If different from permanent address)

Date of Birth: \_\_\_\_\_ Marital Status: \_\_\_\_\_  
[Attach certified copy of birth certificate.]

2(b). [ ] The alleged respondent is not admitted to a group home or facility as defined in Section 1.03 and/or Article 15 of the Mental Hygiene Law.

[ ] The alleged respondent has been admitted to a group home or facility as defined in Section 1.03 and/or Article 15 of the Mental Hygiene Law.

\_\_\_\_\_, Name of group home or facility  
\_\_\_\_\_, Address of group home or facility  
\_\_\_\_\_, Name of Director of group home or facility  
\_\_\_\_\_, Address of Director of group home or facility  
\_\_\_\_\_, Name of the Director of the Mental Hygiene Legal Service  
\_\_\_\_\_, Address of the Director of the Mental Hygiene Legal Service

3. The names and permanent addresses of the parents of the respondent and, if the respondent is married, the respondent's spouse are: **[If deceased give date of death and complete Number 6]**

Name of Father: \_\_\_\_\_ Date of Birth: \_\_\_\_\_ Date of Death: \_\_\_\_\_

Permanent Address: \_\_\_\_\_  
(Street and Number)

(City, Village, Town) (State) (Zip Code)  
Mailing Address: \_\_\_\_\_  
(If different from permanent address)

Name of Mother: \_\_\_\_\_ Date of Birth: \_\_\_\_\_ Date of Death: \_\_\_\_\_

Permanent Address: \_\_\_\_\_  
(Street and Number)

(City, Village, Town) (State) (Zip Code)  
Mailing Address: \_\_\_\_\_  
(If different from permanent address)

Name of Spouse: \_\_\_\_\_ Date of Birth: \_\_\_\_\_ Date of Death: \_\_\_\_\_

Permanent Address: \_\_\_\_\_  
(Street and Number)

(City, Village, Town) (State) (Zip Code)  
Mailing Address: \_\_\_\_\_  
(If different from permanent address)

4. The names of the adult children and adult siblings, eighteen (18) years of age or older, of the respondent are as follows: **[Add rider if necessary.]**

Name: \_\_\_\_\_ Relationship to Respondent: \_\_\_\_\_

Permanent Address: \_\_\_\_\_  
(Street and Number)

(City, Village, Town) (State) (Zip Code)  
Mailing Address: \_\_\_\_\_  
(If different from permanent address)

Name: \_\_\_\_\_ Relationship to Respondent: \_\_\_\_\_

Permanent Address: \_\_\_\_\_  
(Street and Number)

\_\_\_\_\_  
(City, Village, Town) (State) (Zip Code)

Mailing Address: \_\_\_\_\_  
(If different from permanent address)

Name: \_\_\_\_\_ Relationship to Respondent: \_\_\_\_\_

Permanent Address: \_\_\_\_\_  
(Street and Number)

\_\_\_\_\_  
(City, Village, Town) (State) (Zip Code)

Mailing Address: \_\_\_\_\_  
(If different from permanent address)

Name: \_\_\_\_\_ Relationship to Respondent: \_\_\_\_\_

Permanent Address: \_\_\_\_\_  
(Street and Number)

\_\_\_\_\_  
(City, Village, Town) (State) (Zip Code)

Mailing Address: \_\_\_\_\_  
(If different from permanent address)

5. The name and address of the primary care physician if other than a physician having submitted a certification with the petition:

Name of primary care physician: \_\_\_\_\_

Post Office Address: \_\_\_\_\_  
(Street and Number)

\_\_\_\_\_  
(City, Village, Town) (State) (Zip Code)

6. If the father and mother are deceased, list the names and addresses of the nearest distributees of full age who live within the State of New York. **[If not applicable, so state.]**

Name	Permanent Address	Relationship
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

7. The name and address of the person(s) with whom the respondent resides and/or the person(s) charged with his/her care and custody, if other than the parents or spouse:

Name	Permanent Address	Relationship
_____	_____	_____
_____	_____	_____
_____	_____	_____

8. If respondent's parents, spouse, adult children or adult siblings are living but not proposed to be appointed guardian, standby guardian or alternate standby guardian, explain why below.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

9. The persons proposed to be appointed guardian(s), standby guardian or alternate standby guardian are of sound mind, adult and competent.

10. **[Please check (a) and (b) for guardian of the respondent's person and property; check (a) for guardianship of the respondent's person only; or (b) for the guardianship of the respondent's property only.]**

(a)  Petitioner(s) (is/are) requesting appointment of a guardian(s) of the respondent's person and allege(s) the petitioner(s) (is/are) motivated solely by the best interest of the respondent for the reasons set forth below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(b)  Petitioner(s) (is/are) requesting appointment of a guardian(s) of the respondent's property and allege(s) that the estimated value of all REAL and PERSONAL property to which the respondent is entitled is:

\$ \_\_\_\_\_

**[Answer question 11 only if requesting guardianship of the property.]**

11. (a) **PERSONAL PROPERTY [State exact title of all bank accounts with account number and balance; any insurance policies by company, policy number, amount insured, name of insured and relationship to respondent; the name, number of shares and value of all stocks, bonds, and any other personal property including all causes of action the respondent may have.]**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(b) **REAL PROPERTY [State whether real property is mortgaged or under a lien and the amount thereof. Indicate whether property is to be occupied as a residence by the respondent. If not, indicate rental income or whether a sale of the property is contemplated.]**

Location of Property \_\_\_\_\_

Gross Value \$ \_\_\_\_\_

Respondent's Interest \_\_\_\_\_

Annual Income \$ \_\_\_\_\_

Mortgaged or  Under a Lien \$ \_\_\_\_\_

Rental Income \$ \_\_\_\_\_

Residence to be occupied by respondent  yes  no

Sale of Property contemplated  yes  no

(c) ANNUAL INCOME OF RESPONDENT FROM ALL SOURCES:

- (1) Wages to be received from: \_\_\_\_\_ \$ \_\_\_\_\_
- (2) Pension to be received from: \_\_\_\_\_ \$ \_\_\_\_\_
- (3) Income from Trust: \_\_\_\_\_ \$ \_\_\_\_\_
- (4) Governmental entitlements from: \_\_\_\_\_ \$ \_\_\_\_\_
- (5) Other Income: \_\_\_\_\_ \$ \_\_\_\_\_

(d) STATE SOURCE OF ALL PROPERTY listed above. [If any property is derived from an estate or as a result of the death of any person, name the decedent; his or her date of death and relationship to the respondent; whether a fiduciary has been appointed; court name; file number; and type of letters. Provide a copy of any will or decree directing payment. List names and addresses of all banks, insurance companies and persons from whom payment is expected.]

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

12. Respondent has been duly certified as a person incapable of managing himself/herself and/or his/ her affairs by reason of [ ] mental retardation [ ] developmental disability, and such condition is permanent in nature or likely to continue indefinitely, as shown by the certification of:

\_\_\_\_\_ Physician dated: \_\_\_\_\_ and

\_\_\_\_\_ Physician/Licensed Psychologist dated: \_\_\_\_\_

Said certifications shall be attached hereto and made part of the petition. [Where certifications of two licensed physicians are used, at least one certification must evidence special qualifications to make the certification as set forth in SCPA Section 1750 or Section 1750-a. At least one certification must evidence that the physician is familiar with or has professional knowledge in the care and treatment of persons with mental retardation or developmental disabilities, as appropriate.]

13. [If application for a limited guardian of the property] Respondent is over the age of 18 years and is employed by

\_\_\_\_\_, located at \_\_\_\_\_

\_\_\_\_\_  
(Street/Number) (City, Village/Town) (State) (Zip Code)

and is wholly or substantially self supporting by means of his/her wages or earnings from employment.

14. The names, permanent addresses, dates of birth and relationship of the guardian(s) is/are:

(a) Name of Guardian, if other than Petitioner: \_\_\_\_\_

Permanent Address: \_\_\_\_\_  
(Street and Number)

\_\_\_\_\_  
(City, Village, Town) (State) (Zip Code)

Date of Birth: \_\_\_\_\_ Interest/Relationship to Respondent: \_\_\_\_\_

Education: \_\_\_\_\_ Qualifications: \_\_\_\_\_

- to be appointed Guardian of the [ ] person  
 [ ] property  
 [ ] person and property  
 [ ] limited guardian of the property

(a) Name of Guardian, if other than Petitioner: \_\_\_\_\_

Permanent Address: \_\_\_\_\_  
(Street and Number)

\_\_\_\_\_  
(City, Village, Town) (State) (Zip Code)

Date of Birth: \_\_\_\_\_ Interest/Relationship to Respondent: \_\_\_\_\_

Education: \_\_\_\_\_ Qualifications: \_\_\_\_\_

- to be appointed Guardian of the [ ] person  
[ ] property  
[ ] person and property  
[ ] limited guardian of the property

(b) Name of the Standby Guardian: \_\_\_\_\_

Permanent Address: \_\_\_\_\_  
(Street and Number)

\_\_\_\_\_  
(City, Village, Town) (State) (Zip Code)

Date of Birth: \_\_\_\_\_ Interest/Relationship to Respondent: \_\_\_\_\_

Education: \_\_\_\_\_ Qualifications: \_\_\_\_\_

- to be appointed Standby Guardian of the [ ] person  
[ ] property  
[ ] person and property  
[ ] limited guardian of the property

(c) Name of the First Alternate Standby Guardian:

Permanent Address: \_\_\_\_\_  
(Street and Number)

\_\_\_\_\_  
(City, Village, Town) (State) (Zip Code)

Date of Birth: \_\_\_\_\_ Interest/Relationship to Respondent: \_\_\_\_\_

Education: \_\_\_\_\_ Qualifications: \_\_\_\_\_

- to be appointed First Alternate Standby Guardian of the [ ] person  
[ ] property  
[ ] person and property  
[ ] limited guardian of the property

(d) Name of the Second Alternate Standby Guardian:

Permanent Address: \_\_\_\_\_  
(Street and Number)

\_\_\_\_\_  
(City, Village, Town) (State) (Zip Code)

Date of Birth: \_\_\_\_\_ Interest/Relationship to Respondent: \_\_\_\_\_

Education: \_\_\_\_\_ Qualifications: \_\_\_\_\_

- to be appointed Second Alternate Standby Guardian of the [ ] person  
[ ] property  
[ ] person and property  
[ ] limited guardian of the property

15. **[Check appropriate box]:**

- (a) Respondent is able to attend the hearing to be scheduled by the court.
- (b) Respondent's presence at the hearing should be dispensed with because respondent is medically incapable of being present to the extent that attendance is likely to result in physical harm to respondent.  
**[Certification of certifying physician must so attest]**
- (c) Respondent's presence at the hearing should be dispensed with because **[Specify other circumstances enabling the court to determine that respondent's presence at the hearing would not be in his/her best interest, attach rider if necessary.]** \_\_\_\_\_

- (d) Respondent is less than 18 years of age, and petitioner(s) request(s) that a hearing be dispensed with.

16. Respondent never has had a guardian appointed by will or deed or an acting guardian in socage, or a guardian of the person appointed pursuant to Section 384 or 384-b of the Social Services Law.

17. Petitioner(s)  has/have  does/do not have knowledge that a person nominated to be a guardian, or any individual eighteen years of age or over who resides in the home of the proposed guardian:

- a. Is the subject of a report filed with the Statewide Central Register of Child Abuse and Maltreatment pursuant to the rules of Child Protective Services, following an investigation which determines that some credible evidence of alleged abuse or maltreatment exists, and/or
- b. Has been the subject of or the respondent in a Child Protective Proceeding commenced pursuant to law, which proceeding resulted in an order finding that the respondent is an abused or neglected individual.

**[If petitioner has such knowledge, attach an affidavit explaining in detail.]**

18. Petitioner(s) has/have completed and submitted to the court the Request For Information Guardianship Form (OCFS 3909) required to be submitted to the New York State Central Register of Child Abuse and Maltreatment.

19. **[If the respondent is under the age of 18 years complete the following]:**

The respondent  is  is not a Native American child under the Indian Child Welfare Act of 1978 (25 U.S.C. Sections 1901 - 1963).

20. There are no other persons interested in this proceeding upon whom process is required to be served other than those listed above.

21. No prior application has been made to any court for the relief requested herein, except: **[Enter "NONE" or specify]**

WHEREFORE, your petitioner(s) respectfully request(s) that: **[Check and complete all relief requested]**

(a) Letters of Guardianship of the

- person
  - property
  - person and property
  - limited guardianship of the property
- of the respondent be granted to \_\_\_\_\_

(b) Appointment of \_\_\_\_\_ as Standby Guardian of the

- person
  - property
  - person and property
  - limited guardianship of the property
- of the respondent

(c) Appointment of \_\_\_\_\_ as First Alternate Standby Guardian of the

- person
  - property
  - person and property
  - limited guardianship of the property
- of the respondent

(d) Appointment of \_\_\_\_\_ as Second Alternate Standby Guardian of the

- person
  - property
  - person and property
  - limited guardianship of the property
- of the respondent

be granted, or to such other person or corporation as may be entitled thereto and that process issue to all interested persons who have not waived the issuance of same requiring them to show cause why such relief should not be granted.

- (e) The appearance of the respondent  should be  should not be required at any hearing.
- (f) The guardian(s) of the person be authorized and empowered to make all decisions with respect to the medical and dental needs of the respondent and to render consent to any medical procedures which are necessary to the health and welfare of the respondent unless the court directs otherwise. A health care decision may include a decision to withhold or withdraw life-sustaining treatment as defined in subdivision (j) of 81.03 of the Mental Hygiene Law.
- (g) The guardian(s) of the property be directed to collect and receive all moneys and other property of the respondent jointly with a clerk of the Surrogate's Court, or depository subject to the provisions of SCPA 1708, and shall deposit same in the name of the guardian(s), subject to order of the court with either:

1. \_\_\_\_\_  
Name of Bank/Depository Branch Address
2. \_\_\_\_\_  
Name of Bank/Depository Branch Address

**[List two Banks/Depositories in \_\_\_\_\_ County.]**

(h) The bond of the guardian(s) be dispensed with.

(I) Additional relief requested \_\_\_\_\_  
\_\_\_\_\_

Dated: \_\_\_\_\_

1. \_\_\_\_\_  
(Signature of Petitioner)

\_\_\_\_\_  
(Print Name)

2. \_\_\_\_\_  
(Signature of Petitioner)

\_\_\_\_\_  
(Print Name)

3. \_\_\_\_\_  
(Name of Corporate Petitioner)

\_\_\_\_\_  
(Signature of Officer)

\_\_\_\_\_  
(Print Name and Title of Officer)

STATE OF NEW YORK )  
COUNTY OF \_\_\_\_\_ ) ss.:

\_\_\_\_\_, being duly sworn deposes and says that I am/we are the petitioner(s) above named. I/we have read the foregoing petition and the same is true of my own knowledge except as to matters therein stated to be alleged upon information and belief and as to those matters I/we believe them to be true.

\_\_\_\_\_  
(Signature of Petitioner)

\_\_\_\_\_  
(Signature of Petitioner)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Name of Corporate Petitioner)

\_\_\_\_\_  
(Signature of Officer)

\_\_\_\_\_  
(Print Name and Title of Officer)

Sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_,

Notary Public

Commission Expires:

(Affix Notary Stamp or Seal)

Signature of Attorney: \_\_\_\_\_

Print Name: \_\_\_\_\_

Firm Name: \_\_\_\_\_ Telephone Number: \_\_\_\_\_

Address of Attorney: \_\_\_\_\_





SURROGATE'S COURT OF THE STATE OF NEW YORK  
COUNTY OF \_\_\_\_\_

-----X  
Proceeding for the Appointment of a  
Guardian for

\_\_\_\_\_

**AFFIDAVIT OF PROPOSED  
GUARDIAN OF THE**

- PERSON
- PROPERTY
- PERSON AND PROPERTY
- LIMITED GUARDIAN OF THE PROPERTY

Pursuant to SCPA Article 17-A

-----X  
STATE OF NEW YORK            )  
COUNTY OF \_\_\_\_\_) ss.:

File No. \_\_\_\_\_

To the Surrogate's Court, County of \_\_\_\_\_

The undersigned \_\_\_\_\_, being duly sworn, deposes and says:

1. I am a competent person over the age of eighteen (18) years, and I submit this affidavit in support of my petition to be appointed guardian of a  mentally retarded  developmentally disabled person.

2. I have known the subject respondent since \_\_\_\_\_ by reason of the following: **[State relationship if any.]**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. I reside at \_\_\_\_\_, and the other resident members of the household are: **[Include all persons residing there and their dates of birth.]**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. My educational background is as follows:

\_\_\_\_\_

5. Not including minor traffic offenses and adjudications as a youthful offender or juvenile delinquent,

(a) I have never been convicted of an offense against the law, except \_\_\_\_\_

\_\_\_\_\_

(b) I have never forfeited bail or other collateral, except \_\_\_\_\_

\_\_\_\_\_

(c) I do not have any criminal charges pending against me, except \_\_\_\_\_

\_\_\_\_\_

6. I have no physical or mental impairment, or medical condition, which would interfere with my ability to perform the duties of guardian of the [ ] mentally retarded [ ] developmentally disabled person, except

\_\_\_\_\_

\_\_\_\_\_

7. I am not addicted to narcotics or to alcohol.

8. I am willing and able to undertake care, custody and control of the respondent until the court determines otherwise.

9. I believe that my appointment as guardian would be in the best interests of the respondent for the following reasons:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(Signature of Proposed Guardian)

\_\_\_\_\_  
(Print Name)

Sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_

Notary Public  
Commission Expires:  
(Affix Notary Stamp or Seal)

SURROGATE'S COURT OF THE STATE OF NEW YORK  
COUNTY OF \_\_\_\_\_

-----X

Proceeding for the Appointment of a  
Guardian for

**AFFIDAVIT (CERTIFICATION) OF EXAMINING  
PHYSICIAN OR LICENSED PSYCHOLOGIST**

File No. \_\_\_\_\_

Pursuant to SCPA Article 17-A

-----X

STATE OF NEW YORK            )  
COUNTY OF \_\_\_\_\_) ss.:

I, \_\_\_\_\_, [ ] Physician [ ] Licensed Psychologist,  
being duly sworn, deposes and says:

**[PLEASE ANSWER ALL QUESTIONS]**

1. My license number is : \_\_\_\_\_

2. My offices are located at: \_\_\_\_\_

3. My professional knowledge and/or background in the care and treatment of persons with [ ] mental retardation  
[ ] developmental disabilities is as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4(a). I have examined the respondent on: **[Set forth date(s).]**

\_\_\_\_\_

(b). **[Check appropriate box(es) and explain where requested]:**

[ ] I have performed the following tests or evaluations of the respondent. **[Set forth in detail the names of tests and/or evaluations, dates performed and results.]**

\_\_\_\_\_  
\_\_\_\_\_

[ ] I have reviewed the following tests or evaluations performed on respondent. **[Set forth in detail the names of tests and/or evaluations, dates performed, results and names of doctors who performed the tests and/or evaluations.]**

\_\_\_\_\_  
\_\_\_\_\_

5. The mental and physical condition of the respondent is as follows: **[Describe in detail.]**

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6. **[Check appropriate box(es)]:**

**MENTALLY RETARDED**

- Based upon the foregoing, it is my conclusion the respondent is mentally retarded and in my opinion incapable of managing himself/herself and/or his/her affairs by reason of mental retardation. The nature and degree of the mental retardation is as follows:

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**DEVELOPMENTALLY DISABLED**

- Based upon the foregoing, it is my conclusion that the respondent is developmentally disabled and in my opinion he/she has an impaired ability to understand and appreciate the nature and consequences of decisions, which results in respondent being incapable of managing himself/herself and/or his/her affairs by reason of developmental disability, and whose disability is attributable to:

- (a) Cerebral palsy, which originated before the respondent attained the age of twenty-two. **[Describe, in detail, the nature, degree and origin of the disability.]**

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- (b) Epilepsy, which originated before the respondent attained the age of twenty-two. **[Describe, in detail, the nature, degree and origin of the disability.]**

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- (c) Neurological impairment, which originated before the respondent attained the age of twenty-two. **[Describe, in detail, the nature, degree and origin of the disability.]**

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(d) Autism, which originated before the respondent attained the age of twenty-two. **[Describe, in detail, the nature, degree and origin of the disability.]**

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(e) Traumatic head injury. **[Describe, in detail, the nature, degree and origin of the disability.]**

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(f) A condition, which originated before the respondent attained the age of twenty-two, found to be closely related to mental retardation, because such condition results in similar impairment of general intellectual functioning or adaptive behavior to that of mentally retarded persons. **[Describe in detail the condition, and the nature, degree and origin of the disability.]**

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(g) Dyslexia resulting from a disability described in subdivision (a) through (f) or mental retardation which condition originated before the respondent attained the age of twenty-two. **[Describe in detail the nature, degree and origin of the disability or mental retardation.]**

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7. **[Check appropriate box]:**

- The condition of the respondent is permanent in nature or likely to continue indefinitely.
- The condition of the respondent is not permanent in nature nor likely to continue indefinitely.

8. **[Check appropriate box]:**

- There are no circumstances warranting respondent's nonappearance at the hearing required by the court.
- Respondent's presence at the hearing should be dispensed with because he/she is medically incapable of being present to the extent that attendance is likely to result in physical harm to the respondent. **[Explain in detail.]**

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- Respondent's presence at the hearing should be dispensed with for the following reasons: **[Set forth facts and circumstances which would result in the court finding that the respondent's presence at the hearing would not be in his/her best interest.]**

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9. **[Check appropriate box for mentally retarded person]:**

- Based upon the foregoing, it is my conclusion that the respondent **is not capable** of understanding and appreciating the nature and consequences of health care decisions, including the benefits and risks of and alternatives to any proposed health care, and of reaching an informed decision in order to promote his/her own well being. A health care decision **may include** a decision to withhold or withdraw life-sustaining treatment as defined in subdivision (e) of Section 81.29 of the Mental Hygiene Law.
- Based upon the foregoing, it is my conclusion that the respondent **is capable** of understanding and appreciating the nature and consequences of health care decisions, including the benefits and risks of and alternatives to any proposed health care, and of reaching an informed decision in order to promote his/her own well being. A health care decision **may include** a decision to withhold or withdraw life-sustaining treatment as defined in subdivision (e) of Section 81.29 of the Mental Hygiene Law.

10. **[Check appropriate box for developmentally disabled person]:**

- Based upon the foregoing, it is my conclusion that the respondent has a developmental disability, as defined in Section 1.03 of the Mental Hygiene Law, which includes mental retardation, or results in a similar impairment of general intellectual functioning or adaptive behavior so that such person is incapable of managing himself or herself, and/or his or her affairs by reason of such developmental disability, and that the respondent **is not capable** of understanding and appreciating the nature and consequences of health care decisions, including the benefits and risks of and alternatives to any proposed health care, and of reaching an informed decision in order to promote his/her own well being. A health care decision **may include** a decision to withhold or withdraw life-sustaining treatment as defined in subdivision (e) of Section 81.29 of the Mental Hygiene Law.
- Based upon the foregoing, it is my conclusion that the respondent **is capable** of understanding and appreciating the nature and consequences of health care decisions, including the benefits and risks of and alternatives to any proposed health care, and of reaching an informed decision in order to promote his/her own well being. A health care decision **may include** a decision to withhold or withdraw life-sustaining treatment as defined in subdivision (e) of Section 81.29 of the Mental Hygiene Law.

\_\_\_\_\_  
Signature of Physician/Licensed Psychologist

\_\_\_\_\_  
Print Name

Sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Notary Public  
Commission Expires:  
(Affix Notary Stamp or Seal)

SURROGATE'S COURT OF THE STATE OF NEW YORK  
COUNTY OF \_\_\_\_\_

-----X  
Proceeding for the Appointment of a  
Guardian for

**AFFIRMATION (CERTIFICATION)  
OF EXAMINING PHYSICIAN**

\_\_\_\_\_  
Pursuant to SCPA Article 17-A

File No. \_\_\_\_\_

-----X  
STATE OF NEW YORK )  
COUNTY OF \_\_\_\_\_ ) ss.:

I, \_\_\_\_\_, a physician duly licensed to practice  
medicine in the State of New York, under penalty of perjury affirms as follows:

**[PLEASE ANSWER ALL QUESTIONS]**

1. My license number is : \_\_\_\_\_

2. My offices are located at: \_\_\_\_\_  
\_\_\_\_\_

3. My professional knowledge and/or background in the care and treatment of persons with [ ] mental retardation  
[ ] developmental disabilities is as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4(a). I have examined the respondent on: **[Set forth date(s).]**

\_\_\_\_\_

(b). **[Check appropriate box(es) and explain where requested]:**

[ ] I have performed the following tests or evaluations of the respondent. **[Set forth in detail the names of tests and/or evaluations, dates performed and results.]**

\_\_\_\_\_  
\_\_\_\_\_

[ ] I have reviewed the following tests or evaluations performed on respondent. **[Set forth in detail the names of tests and/or evaluations, dates performed, results and names of doctors who performed the tests and/or evaluations.]**

\_\_\_\_\_  
\_\_\_\_\_

5. The mental and physical condition of the respondent is as follows: **[Describe in detail.]**

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6. **[Check appropriate box(es)]:**

**MENTALLY RETARDED**

- Based upon the foregoing, it is my conclusion the respondent is mentally retarded and in my opinion incapable of managing himself/herself and/or his/her affairs by reason of mental retardation. The nature and degree of the mental retardation is as follows:

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**DEVELOPMENTALLY DISABLED**

- Based upon the foregoing, it is my conclusion that the respondent is developmentally disabled and in my opinion he/she has an impaired ability to understand and appreciate the nature and consequences of decisions, which results in respondent being incapable of managing himself/herself and/or his/her affairs by reason of developmental disability, and whose disability is attributable to:

- (a) Cerebral palsy, which originated before the respondent attained the age of twenty-two. **[Describe, in detail, the nature, degree and origin of the disability.]**

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- (b) Epilepsy, which originated before the respondent attained the age of twenty-two. **[Describe, in detail, the nature, degree and origin of the disability.]**

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- (c) Neurological impairment, which originated before the respondent attained the age of twenty-two. **[Describe, in detail, the nature, degree and origin of the disability.]**

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(d) Autism, which originated before the respondent attained the age of twenty-two. **[Describe, in detail, the nature, degree and origin of the disability.]**

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(e) Traumatic head injury. **[Describe, in detail, the nature, degree and origin of the disability.]**

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(f) A condition, which originated before the respondent attained the age of twenty-two, found to be closely related to mental retardation, because such condition results in similar impairment of general intellectual functioning or adaptive behavior to that of mentally retarded persons. **[Describe in detail the condition, and the nature, degree and origin of the disability.]**

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(g) Dyslexia resulting from a disability described in subdivision (a) through (f) or mental retardation which condition originated before the respondent attained the age of twenty-two. **[Describe in detail the nature, degree and origin of the disability or mental retardation.]**

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**7. [Check appropriate box]:**

- The condition of the respondent is permanent in nature or likely to continue indefinitely.
- The condition of the respondent is not permanent in nature nor likely to continue indefinitely.

**8. [Check appropriate box]:**

- There are no circumstances warranting respondent's nonappearance at the hearing required by the court.
- Respondent's presence at the hearing should be dispensed with because he/she is medically incapable of being present to the extent that attendance is likely to result in physical harm to the respondent. **[Explain in detail.]**

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- Respondent's presence at the hearing should be dispensed with for the following reasons: **[Set forth facts and circumstances which would result in the court finding that the respondent's presence at the hearing would not be in his/her best interest.]**

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9. **[Check appropriate box for mentally retarded person]:**

- Based upon the foregoing, it is my conclusion that the respondent **is not capable** of understanding and appreciating the nature and consequences of health care decisions, including the benefits and risks of and alternatives to any proposed health care, and of reaching an informed decision in order to promote his/her own well being. A health care decision **may include** a decision to withhold or withdraw life-sustaining treatment as defined in subdivision (e) of Section 81.29 of the Mental Hygiene Law.
- Based upon the foregoing, it is my conclusion that the respondent **is capable** of understanding and appreciating the nature and consequences of health care decisions, including the benefits and risks of and alternatives to any proposed health care, and of reaching an informed decision in order to promote his/her own well being. A health care decision **may include** a decision to withhold or withdraw life-sustaining treatment as defined in subdivision (e) of Section 81.29 of the Mental Hygiene Law.

10. **[Check appropriate box for developmentally disabled person]:**

- Based upon the foregoing, it is my conclusion that the respondent has a developmental disability, as defined in Section 1.03 of the Mental Hygiene Law, which includes mental retardation, or results in a similar impairment of general intellectual functioning or adaptive behavior so that such person is incapable of managing himself or herself, and/or his or her affairs by reason of such developmental disability, and that the respondent **is not capable** of understanding and appreciating the nature and consequences of health care decisions, including the benefits and risks of and alternatives to any proposed health care, and of reaching an informed decision in order to promote his/her own well being. A health care decision **may include** a decision to withhold or withdraw life-sustaining treatment as defined in subdivision (e) of Section 81.29 of the Mental Hygiene Law.
- Based upon the foregoing, it is my conclusion that the respondent **is capable** of understanding and appreciating the nature and consequences of health care decisions, including the benefits and risks of and alternatives to any proposed health care, and of reaching an informed decision in order to promote his/her own well being. A health care decision **may include** a decision to withhold or withdraw life-sustaining treatment as defined in subdivision (e) of Section 81.29 of the Mental Hygiene Law.

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Signature of Physician

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Print Name

Dated: \_\_\_\_\_

SURROGATE'S COURT OF THE STATE OF NEW YORK  
COUNTY OF \_\_\_\_\_

-----X  
Proceeding for the Appointment of a  
Guardian for

**WAIVER OF PROCESS  
RENUNCIATION AND CONSENT  
TO APPOINTMENT OF A GUARDIAN**

File No. \_\_\_\_\_

Pursuant to SCPA Article 17-A  
-----X

The undersigned \_\_\_\_\_, whose permanent address is

\_\_\_\_\_  
(Street and Number)

\_\_\_\_\_  
(City, Village, Town)

\_\_\_\_\_  
(State)

\_\_\_\_\_  
(Zip Code)

and who is a competent person over the age of eighteen (18) years and whose interest in the above-named proceeding is as follows:

**[Check appropriate interest]**

Parent of the above-named alleged  mentally retarded  developmentally disabled person.

Spouse of the above-named alleged  mentally retarded  developmentally disabled person.

An adult child of the above-named alleged  mentally retarded  developmentally disabled person.

An adult brother/sister of the above-named alleged  mentally retarded  developmentally disabled person.

Other **[Specify]** \_\_\_\_\_

hereby personally appears in this proceeding and

1. renounces all right to apply as a guardian under Article 17-A of the SCPA

2. waives the issuance and service of process in this matter, and

3. consents that \_\_\_\_\_ be named the Guardian(s) of the

person

property

person and property

limited guardianship of the property

and that \_\_\_\_\_ be named the Standby  
Guardian of the

person

property

person and property

limited guardianship of the property

and that \_\_\_\_\_ be named the First Alternate Standby Guardian of the

- person
- property
- person and property
- limited guardianship of the property

and that \_\_\_\_\_ be named the Second Alternate Standby Guardian of the

- person
- property
- person and property
- limited guardianship of the property

and that such letters may be granted to said person(s) or to any other person(s) entitled thereto without notice to the undersigned.

Date: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

STATE OF \_\_\_\_\_ ) ss.:  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, \_\_\_\_\_, before me personally came

\_\_\_\_\_ to me known to be the person described in and who executed the foregoing instrument. Such person duly swore to such instrument before me and duly acknowledged that he/she executed the same.

\_\_\_\_\_  
Notary Public  
Commission Expires:  
(Affix Notary Stamp or Seal)

SURROGATE'S COURT OF THE STATE OF NEW YORK  
COUNTY OF \_\_\_\_\_

-----X

Proceeding for the Appointment of a  
Guardian for

**CONSENT, OATH AND  
DESIGNATION**

File No. \_\_\_\_\_

Pursuant to SCPA Article 17-A

-----X

STATE OF NEW YORK            )  
COUNTY OF \_\_\_\_\_) ss.:

\_\_\_\_\_, being duly sworn, deposes and says:

I am an adult competent person and I do hereby consent to the relief requested in the petition and my appointment as  
 standby guardian    first alternate standby guardian    second alternate standby guardian  
of the    person  
           property  
           person and property  
           limited guardianship of the property

of the above-named respondent and I waive the issuance and service of process upon me herein. I will make an application for confirmation in accordance with SCPA §1757 and will be subject to a formal hearing if the respondent is eighteen years of age or over. I agree that upon the death, incapacity, renunciation or removal of the last guardian who has been designated to serve prior to me, I will immediately assume the duties of guardian

of the    person  
           property  
           person and property  
           limited guardianship of the property

and will seek to have this Court confirm my appointment within (180) days of my assumption of duties.

1. OATH OF  STANDBY GUARDIAN    FIRST ALTERNATE STANDBY GUARDIAN    SECOND ALTERNATE STANDBY GUARDIAN: I am over eighteen (18) years of age and a citizen of the United States; that I will well, faithfully and honestly discharge the duties of

standby guardian    first alternate standby guardian    second alternate standby guardian  
of the    person  
           property  
           person and property  
           limited guardianship of the property

of the above named respondent, that I am acquainted with the estate of the respondent; and that I am not ineligible to receive letters.

2. DESIGNATION OF CLERK FOR SERVICE OF PROCESS: I do hereby designate the Clerk of the Surrogate's Court of \_\_\_\_\_ County, and his/her successor in office, as a person on whom service of any process issuing from such Surrogate's Court may be made, in like manner and with like effect as if it were served personally upon me whenever I cannot be found and served within the State of New York after due diligence used.

My permanent address is : \_\_\_\_\_  
(Street Address) (City/Town/Village) (State) (Zip)

\_\_\_\_\_  
(Signature of Proposed Guardian)

\_\_\_\_\_  
(Print Name)

On \_\_\_\_\_, \_\_\_\_\_, before me personally came

\_\_\_\_\_ to me known to be the person described in and who executed the foregoing instrument. Such person duly swore to such instrument before me and duly acknowledged that he/she executed the same.

\_\_\_\_\_  
Notary Public  
Commission Expires:  
(Affix Notary Stamp or Seal)

SURROGATE'S COURT OF THE STATE OF NEW YORK  
COUNTY OF \_\_\_\_\_

-----X  
Proceeding for the Appointment of a  
Guardian for

**NOTICE OF PETITION  
SCPA §1753 (2)**

File No. \_\_\_\_\_

Pursuant to SCPA Article 17-A

-----X  
Notice is hereby given that:

1. On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, \_\_\_\_\_,  
(Name of Petitioner(s))  
whose address is/are \_\_\_\_\_,

filed a petition with the Surrogate's Court, County of \_\_\_\_\_, which is returnable on  
\_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon of that day for the appointment of

- [ ] \_\_\_\_\_, guardian(s)  
(Name(s))
- [ ] \_\_\_\_\_, standby guardian  
(Name)
- [ ] \_\_\_\_\_, first alternate standby guardian  
(Name)
- [ ] \_\_\_\_\_, second alternate standby guardian  
(Name)

of the [ ] person  
[ ] property  
[ ] person and property  
[ ] limited guardianship of the property.

2. The name and post office address of each person entitled to notice of the petition who has not been served or has not appeared, or waived service of process, with a statement with regard to such person's relationship, if any, to the mentally retarded or developmentally disabled person, is as follows:

NAME	MAILING ADDRESS	RELATIONSHIP
_____	_____	_____
_____	_____	_____
_____	_____	_____

(USE ADDITIONAL SHEETS IF NECESSARY)

Date: \_\_\_\_\_, \_\_\_\_\_

Attorney for Petitioner(s) \_\_\_\_\_ Telephone Number: \_\_\_\_\_

Address of Attorney: \_\_\_\_\_

AFFIDAVIT OF MAILING NOTICE OF PETITION

STATE OF NEW YORK )  
COUNTY OF \_\_\_\_\_ ) ss.:

\_\_\_\_\_, residing at \_\_\_\_\_  
being duly sworn, deposes and says that he/she is over the age of 18 years, that on the \_\_\_\_\_ day of \_\_\_\_\_, he/she mailed, by certified mail, a copy of the foregoing Notice of Petition contained in a securely closed, postpaid wrapper directed to each of the persons named in said notice at the places set opposite their respective names.

Sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
Notary Public  
Commission Expires:  
(Affix Notary Stamp or Seal)

Attorney for Petitioner(s): \_\_\_\_\_ Telephone Number: \_\_\_\_\_

Address of Attorney: \_\_\_\_\_

SURROGATE'S COURT- \_\_\_\_\_ COUNTY

17-A GUARDIANSHIP CITATION

THE PEOPLE OF THE STATE OF NEW YORK  
By the Grace of God Free and Independent

TO: \_\_\_\_\_

A petition having been filed by \_\_\_\_\_, who is/are domiciled at \_\_\_\_\_

YOU ARE HEREBY CITED TO SHOW CAUSE before the Surrogate's Court, \_\_\_\_\_ County, at \_\_\_\_\_, New York, on \_\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon of that day, why letters of guardianship of the

person  
 property  
 person and property  
 limited guardianship of the property  
of \_\_\_\_\_ should not be granted to \_\_\_\_\_;

why the appointment of \_\_\_\_\_ as Standby Guardian of the  
 person  
 property  
 person and property  
 limited guardianship of the property  
of \_\_\_\_\_ should not be granted;

why the appointment of \_\_\_\_\_ as First Alternate Standby Guardian of the  
 person  
 property  
 person and property  
 limited guardianship of the property  
of \_\_\_\_\_ should not be granted;

why the appointment of \_\_\_\_\_ as Second Alternate Standby Guardian of the  
 person  
 property  
 person and property  
 limited guardianship of the property  
of \_\_\_\_\_ should not be granted;

and why a hearing  should be held  should not be held;  
and why the appearance of respondent  should be  should not be required at the hearing;  
and why the guardian(s) of the person should not be authorized and empowered to make all decisions with respect to the medical and dental needs of the respondent and to render consent to any medical procedures which are necessary to the health and welfare of the respondent, unless the court directs otherwise. A health care decision may include a decision to withhold or withdraw life-sustaining treatment as defined in subdivision (j) of 81.03 of the Mental Hygiene Law.

**[State further relief requested]**

\_\_\_\_\_  
Dated, Attested and Sealed,  
\_\_\_\_\_  
(Seal)

\_\_\_\_\_  
HON. \_\_\_\_\_  
Surrogate  
\_\_\_\_\_  
\_\_\_\_\_, Chief Clerk

Attorney for Petitioner(s): \_\_\_\_\_ Telephone Number: \_\_\_\_\_  
Address of Attorney: \_\_\_\_\_

[Note: This citation is served upon you as required by law. You are not required to appear. If you fail to appear it will be assumed you do not object to the relief requested. You have a right to have an attorney appear for you.]