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# Recent Amendments to New York's Standby Guardian Law



Thursday, September 20, 2018  
9:30 AM – 11:30 AM

New York State CLE Credit Hours Available:  
Areas of Professional Practice: 2.00

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## **Recent Amendments to New York's Standby Guardian Law**

Norton Rose Fulbright • September 20, 2018 • 9:30 am - 11:30 am

At this training, we will explore:

- The Recent Statutory Amendments
- Advising Immigrants At Risk of Immigration Enforcement About Creating a Plan for Their Families
- How Immigrants Can Create a Standby Guardianship

### **Faculty:**

#### **Cathy Bowman – Director, LGBTQ/HIV Advocacy Project, Brooklyn Legal Services**

Cathy Bowman is the Director of LGBTQ/HIV Advocacy Unit at Brooklyn Legal Services, where she has practiced since 1997. She represents and advocates for clients in a variety of areas, including public benefits, Social Security benefits, family law, and discrimination. An AIDS advocate since 1989, she previously worked at the HIV Law Project and, before law school, at the Brooklyn AIDS Task Force and DAS.

**CLE Credits:** Areas of Professional Practice: 2.00

### **Timed Agenda:**

9:30 am - 9:40 am	Introduction/Overview
9:40 am - 10:00 am	General Considerations When Planning For Your Children
10:00 am - 10:50 am	Standby Guardianship
10:50 am - 11:10 am	Designation of Person in Parental Relation
11:10 am - 11:15 am	Consent for Minor Children to Travel
11:15 am - 11:30 am	Power of Attorney

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# Recent Amendments to NY's Standby Guardian Law: Advising At-Risk Immigrants Planning for Their Families

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September 20, 2018

## Plan in Advance

- Advance planning gives parents the most control over the future of their children and increases the chances of their wishes becoming reality.
- Advance planning minimizes the trauma to children and reduces the chances of them being placed in foster care.
- The plan should be realistic. A plan that won't work is the same as no plan.
- Communication is essential. Encourage people to talk with proposed caretakers and their children (when age appropriate) about their plans.
- These documents become more relevant as a parent's likelihood of being detained increases.

## Parents can plan for the future care of a child's "person" or property

### Planning for the care of a child

- Standby Guardianship
- Designation of Person in Parental Relation
- Waiver of Process, Renunciation, or Consent to Guardianship

### Planning for management of a child's property

- Standby Guardianship (Surrogate's Court only)
- NYS Power of Attorney
- Designation of Custodian pursuant to the NY Uniform Transfers to Minors Act

- This training will focus on the physical care of children, particularly how to utilize New York's recently amended standby guardian law.
- We will not cover how the standby guardian law can be used for parents who are chronically or terminally ill.

## First question:

### What about the other parent?

- Parents are presumed to have equal rights to their children unless a court has made an order stating otherwise.
- If a parent decides to fight for the right to custody of the children in court, the parent will win unless the proposed guardian can show some type of “extraordinary circumstance,” including abandonment, abuse, or substance abuse.
- The other parent can agree to the appointment of another person as guardian.

## Who do you want to care for your child(ren)?

- **Identify a caretaker**
  - Stable/safe?
  - Any felony convictions or history of allegations of child abuse or neglect?
  - What do the children want (depending on age)?
- **Talk to the identified caregiver!**
  - Are they willing to care for the children?
  - Share important information about the children and your wishes with the caregiver.

## Guardianship of the Person

- Only a Family Court or Surrogate's Court can appoint a guardian of a child's person.
- The court determines whether a person should be appointed guardian based on the "best interests" of a child. The court can consider any issues that affect the well-being of a child.
- The other parent has the right to care for the child unless a proposed guardian can prove that "extraordinary circumstances" exist that merit the appointment of the proposed guardian.
- The documents discussed below may eventually be used as evidence in a future guardianship proceeding.

## What is Standby Guardianship?

- NYS standby guardianship law (SCPA §1726) allows parents and caretakers to designate or seek court appointment of a guardian who will only assume guardianship if a particular event ("triggering event") occurs.
- The law was initially designed for parents with a progressively chronic illness or irreversibly fatal illness. The triggering events included the death of the parent, the incapacity of the parent, or the physical debilitation and concurrent consent of the parent.
- On June 28, 2018, the law was amended to include immigrants at risk of being separated from their children. The triggering event is an "administrative separation" and the parent's consent.



## Who can appoint a standby guardian?

- parents
- legal guardians
- legal custodians
- primary caretakers

who are in danger of “administrative separation” from their children

- For the sake of clarity, during this section of the training, “parent” shall include a parent, a court-appointed guardian of an infant’s person or property, a legal custodian, or a primary caretaker.

## Benefits of Standby Guardianship

- Parent does not give up their own rights, even when the guardian's authority has commenced. The parent maintains concurrent authority with the standby guardian.
- Guardianship goes into effect only when parent is actually unable to care for children.
- Plans can be made in advance rather than in time of emergency.
- Gives opportunity to deal with potential legal issues, such as an unfit noncustodial parent, while parent is available to participate.

- The standby guardian does not have any legal decision-making power over the children until the triggering event—in this case the administrative separation—has occurred. Until then, the parent retains full decision-making power.
- As the name suggests, the proposed guardian is “standing by” until they are needed.

- The triggering event for immigration-related standby guardianship is “administrative separation” **and** parental consent.

## **Administrative Separation Defined**

- “Administrative separation” means a parent, legal guardian, legal custodian or primary caretaker’s (i) in connection with a federal immigration matter: arrest, detention, incarceration, removal and/or deportation; or (ii) receipt of official communication by federal, state, or local authorities regarding immigration enforcement which gives reasonable notice that care and supervision of the child by the parent, legal guardian, legal custodian, or primary caretaker will be interrupted or cannot be provided. SCPA §1726(1)(f)

## **Documentation of Administrative Separation**

- an administrative order, judicial order, affidavit or affirmation indicating the parent's administrative separation as defined in this section
- accompanied by written consent of the parent, signed by the parent in the presence of two witnesses at least eighteen years of age, other than the standby guardian. Consent contained in the formal petition for appointment of a standby guardian or the written designation shall be sufficient to satisfy the requirement for consent set forth in this subdivision.

## **Two ways to appoint a standby guardian:**

- By written designation
- Petitioning for court appointment

## Designation

- A form that enables parents to name a standby guardian and an alternate standby guardian to care for their child(ren) in the event that the parent is separated from them for immigration-related reasons.

## Designation

- Will be filed with any future Petition for Guardianship by the standby guardian
- Expresses parent's wishes to the court
- Conveys information about why it is in the child's best interest for this person to be appointed guardian
- Explains why the other parent should not (or cannot) be guardian
- Sets forth special needs of the children

## Triggering of the Guardianship By Designation

- The guardianship automatically goes into effect when the standby guardian when an administrative separation occurs. (The Designation is proof of parental consent.)
- The guardian must go to court (Family or Surrogate's Court) within 60 days of that time with documentation of the administrative separation and petition for guardianship.
- Only a court can appoint a permanent guardian.

## Benefits of Designation

- ❖ The child automatically has a guardian for 60 days after the administrative separation.
- ❖ There does not have to be an existing administrative action to complete a designation.
- ❖ Easy to execute: requires only parent's signature in front of two witnesses.

## **Designation of Standby**

### **Guardianship can be revoked by:**

- executing a subsequent designation of guardianship
- notifying the standby guardian verbally or in writing or by any other act evidencing a specific intent to revoke the standby guardianship prior to the filing of a petition.

## **Court-appointed Standby Guardian**

- By filing a standby guardianship petition in Family Court or Surrogate's Court, parents who know that they are likely to be separated from their children can obtain court approval of the future guardian of their children.
- Having the guardian "pre-approved" by the court in this way may be advisable if parent expects a dispute (by the other parent, for example).

## Triggering of Court-Appointed Standby Guardian

- If the court has pre-approved the standby guardian, the guardianship goes into effect upon the standby guardian's receipt of documentation of the parent's administrative separation **plus** receipt of parent's consent to commencement of the guardian's authority. The parent's petition is considered proof of consent.
- Within 60 days of the guardianship taking effect, the standby guardian must go back to the court that issued the Order of Standby Guardianship and file the documentation of administrative separation and parental consent in order to obtain a permanent Guardianship Order. If not, the standby guardian's authority may be rescinded by the court.

## Considerations re: petitioning for appointment of standby guardian

- It's a proceeding in court. While specifically for people with immigration issues and unlikely to get a reaction from judges, it means going to court. ICE has been present in some NYS courts.
- The court will request a report from the State Central Registry (SCR) in Albany to see if any allegations of child abuse or neglect were ever made and substantiated against the proposed guardian or any of the adults living in the guardian's household. The court will usually have an Administration for Children's Services (ACS) worker visit the proposed guardian's home, interview the proposed guardian, and write a report to the court (called a "court-ordered investigation" or "COI").



## Considerations, cont'd

- A person who has been convicted of a felony cannot usually be appointed guardian or standby guardian. However, the person can sometimes get a "certificate of rehabilitation" if the conviction was not recent and was not for a serious or violent crime. Consult a lawyer.
- If the other parent is alive, s/he must consent to the proposed guardian or standby guardian or be given notice of the court proceeding and an opportunity to object, unless the other parent has abandoned the child, s/he is incompetent (permanently unable to care for child due to medical condition or insanity), or his or her whereabouts are unknown.

## Considerations, cont'd

- Other adults living with the proposed guardian or standby guardian may also have to consent.
- If the child is 14 or older, s/he must also consent to the guardianship or standby guardianship, or be given notice of the proceeding.

## Benefits of Court-Appointed Standby Guardianship

- ❖ Court proceedings will take place when the parent is available to testify. They are generally the person with the most relevant information and knowledge.
- ❖ Parent is in best position to assess what is in the children's best interest.
- ❖ Advance approval of future guardian reduces burden on caretaker.

## Revocation of Court Appointed Standby Guardianship

- A parent may revoke a standby guardianship by executing a written revocations and filing it with the court that issued the order, and notifying the standby guardian of the revocation.

## Designation of Person in Parental Relation

- Authorized by New York General Obligations Law §§ 5-1551 – 5-1555
- Parent can grant another person any or all of the parental powers set forth in NYS Public Health Law §§ 2164 (immunizations) and 2504 (medical, dental, health, and hospital services) and NYS Educational Law §§ 2 and 3212 (educational matters).

## Designation Can Specify:

- The treatment , diagnosis, or activities for which consent is authorized;
- The treatment , diagnosis, or activities for which consent is NOT authorized; or
- Any other specific limitations.

“A designation shall not cause a change in the school district of residence of the child for purposes of the education law, and during the period that the designation is valid, the child shall be presumed to be a resident of the school district in which the parent resided at the time the designation was made.”

### **Who must sign the Designation?**

- The signature of both parents is only required if there is an existing order of joint custody.

## Executing the Designation

- Parent must sign and date the Designation in front of a notary.
- The designated person must also sign and date before a notary.

## Duration of Designation

- Maximum duration is six months from triggering event, which can be a set date or a potential future occurrence (e.g., if the parent is detained).
- Designation can be renewed indefinitely, assuming you can get the document signed and notarized.
- Parent can revoke the Designation any time.

## What if the six months is ending and the parent is not accessible?

- The designee/caretaker may need to go to Family Court and petition for guardianship if the parent is indefinitely detained or deported.

## Events that Revoke Designation

1. Parent notifies, either orally or in writing, the designee or a school, health care provider, or health plan to which the Designation has been presented;
2. Any act evidencing a specific intent to revoke the designation;
3. Execution of a subsequent designation;
4. Incapacity of parent; or
5. Death of Parent

## Limits on Designation

- Any decision of a designee is superseded by a contravening decision of a parent.
- A Designation does not prevent the other parent, or anyone else, from seeking custody or guardianship.
- Cannot be used to authorize travel.
- Cannot consent to (a) “major medical treatment;” (b) electroconvulsive therapy; or (c) the withdrawal or discontinuance of medical treatment which is sustaining life functions.

## Definition of “Major Medical Treatment”

- “Major medical treatment” means a medical, surgical or diagnostic intervention or procedures where a general anesthetic is used or which involves any significant risk or any significant invasion of bodily integrity requiring an incision or producing substantial pain, discomfort, debilitation or having a significant recovery period.
- Such term does not include: any routine diagnosis or treatment such as the administration of medications other than chemotherapy for non-psychiatric conditions or nutrition or the extraction of bodily fluids for analysis; electroconvulsive therapy; dental care performed with a local anesthetic; any procedures which are provided under emergency circumstances, pursuant to section twenty-five hundred four of the public health law; the withdrawal or discontinuance of medical treatment which is sustaining life functions; or sterilization or the termination of a pregnancy.
- N.Y. Mental Hygiene Law § 80.03(a)

## Waiver of Process, Renunciation, and Consent to Guardianship

- To be filed with a future Petition for Guardianship
- Parent agrees that s/he doesn't have to be served with guardianship petition;
- Parent renounces her/his own guardianship; and
- Parent consents to the appointment of the chosen person as guardian.

## Consent for Minor Child(ren) to Travel

- Some noncitizen parents, fearful of being detained and deported without their minor children, sign a travel permission so that another adult can travel with their child to bring the child to the home country, often to live with a relative such as a grandparent (if in anticipation of the parent's deportation) or to travel with the child later, to join a parent whose deportation has at last come to pass.



## Planning for management of a child's property

- NYS Power of Attorney
- Designation of Custodian pursuant to the NY Uniform Transfers to Minors Act

## NYS Power of Attorney

- New York General Obligations Law §§ 5-1501 – 5-1514
- NY requires the use of the statutory form.
- A Power of Attorney is a legal document used to delegate legal authority to another person.
- Authority can be narrow or broad.
- Can confer access to all financial resources. Must be very careful to choose someone trustworthy.

- Principal: the person who signs (executes) a Power of Attorney
- Agent or Attorney-in-Fact: the person given legal authority to make property, financial and other legal decisions for the Principal

Principal can appoint multiple agents, who can be required to act together or allowed to act separately.

**Unless you specify otherwise, the POA goes into effect when the agent’s signature is notarized.**

- Springing power can be included in section (g) modifications, making the POA effective at a future time or upon the occurrence of a specified contingency
- E.g., “This power of attorney shall take effect upon the occasion of the signing of a written statement by the person(s) named below:

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

(Insert full name and address of certifying person(s) certifying that the following specified event has occurred:

\_\_\_\_\_

- Unless modified, the NYS power of attorney form is “durable,” which means that the powers continue in the event that the principal becomes incapacitated.
- Powers of attorney end upon the death of the principal.

- Principal must initial any specific powers s/he wishes to grant to the agent, or can bestow all of the listed powers by initialing by letter “P.”

## Revocation of POA

Powers of Attorney can be revoked at any time. A principal may revoke a power of attorney:


- (a) in accordance with the terms of the power of attorney; or
- (b) by delivering a revocation of the power of attorney to the agent in person or by sending a signed and dated revocation by mail, courier, electronic transmission or facsimile to the agent's last known address.

Request the return of all copies of the Power of Attorney.

The execution of a new power of attorney does not revoke any power of attorney previously executed by the principal. Two different POA can remain in effect.

## Designation of a Custodian Pursuant to NY Uniform Transfers to Minors Act

- This is not a specific form.
- Property is owned by the child. Custodian is managing the property until the child turns 21 (or 18 if specified).
- A custodian can be named on a designation of beneficiary form or other money payable to the child, on a bank account, on a real property deed, or any document related to the ownership of property. The document must be executed as required by law, usually by signature before a notary.

 KeyCite Yellow Flag - Negative Treatment  
Proposed Legislation

[McKinney's Consolidated Laws of New York Annotated](#)

[Surrogate's Court Procedure Act \(Refs & Annos\)](#)

[Chapter 59-a. Of the Consolidated Laws \(Refs & Annos\)](#)

[Article 17. Guardians and Custodians \(Refs & Annos\)](#)

McKinney's SCPA § 1726

§ 1726. Standby guardians

Effective: June 27, 2018

1. For the purpose of this section:

(a) "Standby guardian" means (i) a person judicially appointed pursuant to subdivision three of this section as standby guardian of the person and/or property of an infant whose authority becomes effective upon the incapacity, administrative separation, or death of the infant's parent, legal guardian, legal custodian or primary caretaker or upon the consent of the parent, legal guardian, legal custodian or primary caretaker; and (ii) a person designated pursuant to subdivision four of this section as standby guardian whose authority becomes effective upon the death, administrative separation, or incapacity of the infant's parent, legal guardian, legal custodian or primary caretaker or upon the debilitation and consent of the parent, legal guardian, legal custodian or primary caretaker.

(b) "Legal guardian" means the court-appointed guardian of the infant's person and/or property.

(c) "Attending physician" means the physician who has primary responsibility for the treatment and care of the infant's parent, legal guardian, legal custodian or primary caretaker. Where more than one physician shares such responsibility, or where a physician is acting on the attending physician's behalf, any such physician may act as the attending physician pursuant to this section. Where no physician has such responsibility, any physician who is familiar with the parent's, legal guardian's, legal custodian's or primary caretaker's medical condition may act as the attending physician pursuant to this section.

(d) "Debilitation" means a chronic and substantial inability to care for one's dependent infant, as a result of (i) a progressively chronic or irreversibly fatal illness, or (ii) a physically debilitating illness, disease or injury. "Debilitated" means the state of having a debilitation.

(e) "Incapacity" means a chronic and substantial inability, as a result of mental impairment, to understand the nature and consequences of decisions concerning the care of one's dependent infant, and a consequent inability to care for such infant. "Incapacitated" means the state of having an incapacity.

(f) "Administrative separation" means a parent, legal guardian, legal custodian or primary caretaker's (i) in connection with a federal immigration matter: arrest, detention, incarceration, removal and/or deportation; or (ii) receipt of official communication by federal, state, or local authorities regarding immigration enforcement which gives reasonable notice that care and supervision of the child by the parent, legal guardian, legal custodian, or primary caretaker will be interrupted or cannot be provided.

2. The provisions of this article relating to guardians shall apply to standby guardians, except insofar as this section provides otherwise.

3. (a) A petition for the judicial appointment of a standby guardian of the person and/or property of an infant pursuant to this subdivision may be made only by a parent, a legal guardian of the infant or a legal custodian of the infant; or where the infant is not residing with a parent, legal guardian or legal custodian and, to the satisfaction of the court, such parent, legal guardian or legal custodian cannot be located with due diligence, the primary caretaker of such infant may petition for a judicial appointment of such standby guardian. Application for standing to petition as a primary caretaker shall be upon motion to the court upon notice to such parties as the court may direct.

(b) A petition for the judicial appointment of a standby guardian of an infant shall, in addition to meeting the requirements of [section seventeen hundred four](#) of this article:

(i) State whether the authority of the standby guardian is to become effective upon the petitioner's incapacity, upon the petitioner's death, upon the petitioner's consent, or upon the petitioner's administrative separation accompanied by his or her consent required pursuant to the provisions of subdivision seven of this section, or upon whichever occurs first;

(ii) State that the petitioner suffers from (A) a progressively chronic illness; (B) an irreversibly fatal illness and the basis for such statement, such as the date and source of a medical diagnosis, without requiring the identification of the illness in question, or (C) state that the petitioner may become subject to administrative separation and the basis for such statement.

(c) Upon a petition for the judicial appointment of a standby guardian of an infant pursuant to paragraph (a) of this subdivision or for the judicial appointment of a guardian pursuant to paragraph (d) of subdivision four of this section, the court shall conduct a hearing. The court may in its discretion dispense with a hearing for the appointment of a standby guardian, and may in its discretion appoint a guardian ad litem or an attorney for the infant to recommend whether the appointment of a standby guardian as proposed in the application is in the best interest of the infant.

(d)(i) If the court finds that the petitioner suffers from a progressively chronic illness or an irreversibly fatal illness, or finds that the petitioner may become subject to administrative separation, and that the interests of the infant will be promoted by the appointment of a standby guardian of the person and/or property it must make a decree accordingly.

(ii) Such decree shall specify whether the authority of the standby guardian is effective upon the receipt of a determination of the petitioner's incapacity, upon the receipt of the certificate of the petitioner's death, or other such evidence of death that may be satisfactory to the court, or upon the receipt of documentation of the petitioner's administrative separation, and receipt of the petitioner's consent to the commencement of the standby guardian's authority required pursuant to the provisions of subdivision seven of this section, or upon whichever occurs first. The decree shall also provide that the authority of the standby guardian may earlier become effective upon written consent of the parent pursuant to subparagraph (iv) of paragraph (e) of this subdivision.

(iii) If at any time prior to the commencement of the authority of the standby guardian the court finds that the requirements of subparagraph (i) of this paragraph are no longer satisfied, it may rescind such decree.

(e)(i) Where the decree provides that the authority of the standby guardian is effective upon receipt of a determination of the petitioner's incapacity, the standby guardian's authority shall commence upon the standby guardian's receipt of a copy of a determination of incapacity made pursuant to subdivision six of this section. The standby guardian shall file a copy of the determination of incapacity with the court that issued the decree within ninety days of the date of receipt of such determination or the standby guardian's authority may be rescinded by the court.

(ii) Where the decree provides that the authority of the standby guardian is effective upon receipt of a certificate of the petitioner's death, or other such evidence of death that may be satisfactory to the court, the standby guardian's authority shall commence upon the standby guardian's receipt of a certificate of death, or other such evidence of death as may be specified in the decree. The standby guardian shall file the certificate of death, or other such evidence of death, with the court that issued the decree within ninety days of the date of the petitioner's death or the standby guardian's authority may be rescinded by the court.

(iii) Where the decree provides that the authority of the standby guardian is effective upon the standby guardian's receipt of documentation of the petitioner's administrative separation, the standby guardian's authority shall commence upon the standby guardian's receipt of documentation of the petitioner's administrative separation pursuant to subdivision seven of this section, and receipt of the petitioner's consent to the commencement of the standby guardian's authority as required pursuant to the provisions of subdivision seven of this section. The standby guardian shall file the documentation of administrative separation with the court that issued the decree within sixty days of the date of the standby guardian's receipt of documentation of the petitioner's administrative separation or the standby guardian's authority may be rescinded by the court.

(iv) Notwithstanding subparagraphs (i) and (ii) of this paragraph, a standby guardian's authority shall commence upon the standby guardian's receipt of the petitioner's written consent to such commencement, signed by the petitioner in the presence of two witnesses at least eighteen years of age, other than the standby guardian, who shall also sign the writing. Another person may sign the written consent on the petitioner's behalf and at the petitioner's direction if the petitioner is physically unable to do so, provided such consent is signed in the presence of the petitioner and the witnesses. The standby guardian shall file the written consent with the court that issued the decree within ninety days of the date of receipt of such written consent or the standby guardian's authority may be rescinded by the court.

(f) The petitioner may revoke a standby guardianship created under this subdivision by executing a written revocation, filing it with the court that issued the decree, and promptly notifying the standby guardian of the revocation.

(g) A person judicially appointed standby guardian pursuant to this subdivision may at any time before the commencement of his or her authority renounce the appointment by executing a written renunciation and filing it with the court that issued the decree, and promptly notifying the petitioner of the revocation.

4. (a) A parent, a legal guardian, a legal custodian, or primary caretaker under the circumstances described in paragraph (a) of subdivision three of this section or under circumstances described in subparagraph (i) of paragraph (b) of this subdivision may designate a standby guardian by means of a written designation, signed by the parent, legal guardian, legal custodian or primary caretaker in the presence of two witnesses at least eighteen years of age, other than the standby guardian, who shall also sign the writing. Another person may sign the written designation on the parent's, legal guardian's, legal custodian's or primary caretaker's behalf and at the parent's, legal guardian's, legal custodian's or primary caretaker's direction if the parent, legal guardian, legal custodian or primary caretaker is physically unable to do so, provided the designation is signed in the presence of the parent, legal guardian, legal custodian or primary caretaker and the witnesses.

(b)(i) A designation of a standby guardian shall identify the parent, legal guardian, legal custodian or primary caretaker, the infant and the person designated to be the standby guardian, and shall indicate that the parent, legal guardian, legal custodian or primary caretaker intends for the standby guardian to become the infant's guardian in the event the parent, legal guardian, legal custodian or primary caretaker either: (A) becomes incapacitated; (B) becomes debilitated and consents to the commencement of the standby guardian's authority; (C) becomes subject to an administrative separation and consents to the commencement of the standby guardian's authority as required pursuant to the provisions of subdivision seven of this section; or (D) dies prior to the commencement of a judicial proceeding to appoint a guardian of the person and/or property of an infant.

(ii) A parent, legal guardian, legal custodian or primary caretaker may designate an alternate standby guardian in the same writing, and by the same manner, as the designation of a standby guardian.

(iii) A designation may, but need not, be in the following form:

Designation of Standby Guardian

(NOTE: As used in this form, the term “parent” shall include a parent, a court-appointed guardian of an infant’s person or property, a legal custodian, or a primary caretaker, and the term “child(ren)” shall include the dependant<sup>1</sup> infant of a parent, court-appointed guardian, legal custodian or primary caretaker

I (name of parent) hereby designate (name, home address and telephone number of standby guardian) as standby guardian of the person and property of my child(ren) (name of child(ren)).

(You may, if you wish, provide that the standby guardian’s authority shall extend only to the person, or only to the property, of your child, by crossing out “person” or “property”, whichever is inapplicable, above.)

The appointment of \_\_\_\_\_ as the standby guardian of the person and property of my child(ren) would be in the best interests of my child(ren) because: (Insert justification for appointment of this person as the standby guardian)

.....  
.....

The standby guardian’s authority shall take effect: (1) if my doctor concludes in writing that I am mentally incapacitated, and thus unable to care for my child(ren); (2) if my doctor concludes in writing that I am physically debilitated, and thus unable to care for my child(ren) and I consent in writing, before two witnesses, to the standby guardian’s authority taking effect; (3) If I become subject to an administrative separation such that care and supervision of the child will be interrupted or cannot be provided; or (4) upon my death.

In the event the person I designate above is unable or unwilling to act as guardian for my child(ren), I hereby designate (name, home address and telephone number of alternate standby guardian), as standby guardian of my child(ren).

I also understand that my standby guardian’s authority will cease sixty days after commencing unless by such date he or she petitions the court for appointment as guardian.

I understand that I retain full parental, guardianship, custodial or caretaker rights even after the commencement of the standby guardian’s authority, and may revoke the standby guardianship at any time.

Signature: .....

Address: .....

Date: .....

I declare that the person whose name appears above signed this document in my presence, or was physically unable to sign and asked another to sign this document, who did so in my presence. I further declare that I am at least eighteen years old and am not the person designated as standby guardian.

Witness’ Signature: .....

Address: .....



Date: .....

Witness' Signature: .....

Address: .....

Date: .....

(iv) Notwithstanding paragraphs (a) and (b) of this subdivision, a designation of standby guardian shall be effective as if made in accordance with the requirements of this subdivision if it was validly made: (a) where the parent, legal guardian, legal custodian or primary caretaker was domiciled at the time it was executed; (b) in the jurisdiction where it was executed or (c) where the parent, legal guardian, legal custodian or primary caretaker is domiciled at the time the designation becomes effective.

(c) The authority of the standby guardian under a designation shall commence upon either: (i) the standby guardian's receipt of a copy of a determination of incapacity made pursuant to subdivision six of this section; (ii) the standby guardian's receipt of (A) a copy of a determination of debilitation made pursuant to subdivision six of this section and (B) a copy of the parent's, legal guardian's, legal custodian's or primary caretaker's written consent to such commencement, signed by the parent, legal guardian, legal custodian or primary caretaker in the presence of two witnesses at least eighteen years of age, other than the standby guardian, who shall also sign the writing. Another person may sign the written consent on the parent's, legal guardian's, legal custodian's or primary caretaker's behalf and at the parent's, legal guardian's, legal custodian's or primary caretaker's direction if the parent, legal guardian, legal custodian or primary caretaker is physically unable to do so, provided such consent is signed in the presence of the parent, legal guardian, legal custodian or primary caretaker and the witnesses; (iii) an administrative separation and consent as required pursuant to the provisions of subdivision seven of this section or (iv) the standby guardian's receipt of a certificate of death, funeral home receipt or other such document indicating that the parent, legal guardian, legal custodian or primary caretaker has died. The standby guardian shall file a petition pursuant to paragraph (d) of this subdivision within sixty days of the date of its commencement pursuant to this paragraph or such standby guardian's authority shall cease after such date, but shall recommence upon such filing.

(d) The standby guardian may file a petition for appointment as guardian after receipt of either: (i) a copy of a determination of incapacity made pursuant to subdivision six of this section; or (ii) (A) a copy of a determination of debilitation made pursuant to subdivision six of this section and (B) a copy of the parent's, legal guardian's, legal custodian's or primary caretaker's written consent, pursuant to paragraph (c) of this subdivision; (iii) documentation of an administrative separation and consent as required pursuant to the provisions of subdivision seven of this section; or (iv) a certificate of death, or other such evidence of death that may be satisfactory to the court. Such petition must, in addition to meeting the requirements of [section seventeen hundred four](#) of this article:

(i) append the written designation of such person as standby guardian; and

(ii) append a copy of: (A) the determination of incapacity of the parent, legal guardian, legal custodian or primary caretaker; or (B) the determination of debilitation and the parental, guardian's, custodian's or caretaker's consent; (C) documentation of an administrative separation and consent as required pursuant to the provisions of subdivision seven of this section; or (D) a copy of the parent's, legal guardian's, legal custodian's or primary caretaker's death certificate, or other such evidence of death that may be satisfactory to the court; and

(iii) if the petition is by a person designated as alternate standby guardian, state that the person designated as standby guardian is unwilling or unable to act as standby guardian, and the basis for such statement.

(e) Subject to the provisions of paragraph (c) of subdivision three of this section, if the court finds that the petitioner was duly designated as standby guardian, that the parent, legal guardian, legal custodian or primary caretaker of the infant is (i)

incapacitated, (ii) debilitated and consents, (iii) has become subject to an administrative separation and consents as required pursuant to the provisions of subdivision seven of this section, or (iv) has died, as established by a copy of a death certificate or other such evidence of death as may be satisfactory to the court, that the interests of the infant will be promoted by the appointment of a standby guardian of the person and/or property, and that, if the petition is by a person designated as alternate standby guardian, the person designated as standby guardian is unwilling or unable to act as standby guardian, it must make a decree accordingly. Prior to making its finding, the court may, in its discretion, appoint an attorney for the infant to recommend whether the appointment of the standby guardian as proposed in the petition is in the best interests of the infant.

(f) The parent, legal guardian, legal custodian or primary caretaker may revoke a standby guardianship created under this subdivision: (i) by executing a subsequent designation of guardianship pursuant to paragraphs (a) and (b) of this subdivision, or (ii) notwithstanding the provisions of [sections seventeen hundred ten](#) and [seventeen hundred eleven](#) of this article, in the case of a standby guardian whose authority becomes effective upon the death of the parent, legal guardian, legal custodian or primary caretaker of the infant, by a subsequent designation of standby guardian set forth in a will of the parent, legal guardian, legal custodian or primary caretaker, or (iii) by notifying the standby guardian verbally or in writing or by any other act evidencing a specific intent to revoke the standby guardianship prior to the filing of a petition. Where the petition has already been filed, by executing a written revocation, filing it with the court where the petition was filed, and promptly notifying the standby guardian of the revocation.

5. The standby guardian may also file a petition for appointment as guardian in any other manner permitted by this article or article six of the family court act, on notice to the parent, legal guardian, legal custodian or primary caretaker and may append a designation of standby guardian to the petition for consideration by the court in the determination of such petition.

6. (a) A determination of incapacity or debilitation must: (i) be made by the attending physician to a reasonable degree of medical certainty; (ii) be in writing; and (iii) contain the attending physician's opinion regarding the cause and nature of the parent's, legal guardian's, legal custodian's or primary caretaker's incapacity or debilitation as well as its extent and probable duration. The attending physician shall provide a copy of the determination of incapacity or debilitation to the standby guardian, if the standby guardian's identity is known to the physician.

(b) If requested by the standby guardian, an attending physician shall make a determination regarding the parent's, legal guardian's, legal custodian's or primary caretaker's incapacity or debilitation for purposes of this section.

(c) The standby guardian shall ensure that the parent, legal guardian, legal custodian or primary caretaker is informed of the commencement of the standby guardian's authority as a result of a determination of incapacity and of the parent's, legal guardian's, legal custodian's or primary caretaker's right to revoke such authority promptly after receipt of the determination of incapacity, provided there is any indication of the person's ability to comprehend such information.

7. Documentation of an administrative separation (a) shall consist of an administrative order, judicial order, affidavit or affirmation indicating the parent, legal guardian, legal custodian or primary caretaker's administrative separation as defined in this section and (b) shall be accompanied by written consent of the parent, legal guardian, legal custodian, or primary caretaker, signed by the parent, legal guardian, legal custodian, or primary caretaker in the presence of two witnesses at least eighteen years of age, other than the standby guardian, who shall also sign the writing. Consent contained in the formal petition submitted pursuant to subdivision three of this section or the written designation made pursuant to subdivision four of this section shall be sufficient to satisfy the requirement for consent set forth in this subdivision.

8. The commencement of the standby guardian's authority pursuant to a determination of incapacity, determination of debilitation, administrative separation, or consent shall not, itself, divest the parent, legal guardian, legal custodian or primary caretaker of any parental, guardianship, custodial or caretaker rights, but shall confer upon the standby guardian concurrent authority with respect to the infant.

9. (a) The clerk of any county upon being paid the fees allowed therefor by law shall receive for filing any instrument appointing or designating a standby guardian pursuant to this section made by a domiciliary of the county, and shall give a written receipt therefor to the person delivering it. The filing of an appointment or designation of standby guardian shall be for the sole purpose of safekeeping and shall not affect the validity of the appointment or designation.

(b) The appointment or designation shall be delivered only to: (i) the parent, legal guardian, legal custodian or primary caretaker who appointed or designated the standby guardian; (ii) the standby guardian or alternate standby guardian; (iii) the person designated as standby guardian or alternate standby guardian; or (iv) any other person directed by the court.

## Credits

(Added L.1992, c. 290, § 1. Amended L.1994, c. 478, § 1; L.2000, c. 477, §§ 6 to 9, eff. Nov. 19, 2000; L.2003, c. 632, § 1, eff. Jan. 1, 2004; L.2007, c. 71, §§ 1, 2, eff. June 4, 2007; L.2018, c. 79, § 1, eff. June 27, 2018.)

## Editors' Notes

### PRACTICE COMMENTARIES

by Margaret Valentine Turano

#### 2011

The legislature added this section by L.1992, c. 290 to allow for the nomination of standby guardians for minors to take effect upon the incapacity or death of a parent or guardian. In New York, a person may designate others to make health-care decisions for her; she can manage her financial affairs by writing a will, making trusts, and giving powers of attorney; and she can nominate a guardian by will. Dom. Rel. L. § 81. Before the enactment of this section, however, a parent could not satisfactorily provide for her child's guardianship in case she became disabled. Most parents did not want to appoint a guardian during their lifetimes, because it meant relinquishing their parental authority. This statute fills a very important gap, therefore: the care of a person's minor children during her lifetime if she can no longer care for them.

Subparagraph (1)(a) provides that when the parent has capacity, she can nominate a standby guardian to step in as her child's guardian when she becomes incapacitated, dies, or consents. The petition may seek appointment of a standby guardian of the child's person, of her property, or of both (subparagraph (1)(a), and *passim*).

The statute has evolved. Initially, only a parent could petition for a standby guardian. In 1994, the legislature amended the statute to allow the child's legal guardian to petition. L.1994, c. 478 § 1. In 2000 it amended the statute again to permit the child's legal custodian to petition or, if no parent, legal guardian or legal custodian can be found, the child's primary caretaker can petition, and the court will decide who has to receive process. Under the current law, therefore, the child's "parent, legal guardian, legal custodian or primary caretaker" can petition (subparagraph (1)(a); and *passim*). In this Commentary I will say "parent" but mean "parent, legal guardian, legal custodian, or primary caretaker."

The parent, in her petition, must show "a progressively chronic illness" or "an irreversibly fatal disease" (subparagraph (3)(b)(ii)). The statute as originally enacted in 1992 required the parent to show that she was likely to become incapacitated or to die within two years. The legislature eliminated that requirement by L.1994, c. 478 to "conform the law to the functional definition of disability...." New York State Assembly, *Memorandum in Support of Legislation 1*. The petition must also say whether the standby guardian's authority begins when the parent dies, becomes incapacitated, or consents (subparagraph (3)(b)(i)).

Alternatively, a parent who fears that she does not have time for the more formal judicial appointment can designate a standby guardian and alternate standby guardian by a written instrument signed by the parent and two

witnesses (subparagraph (4)). If the parent cannot sign on her own, another may sign for her in her presence and the witnesses' presence. This standby guardian's authority begins when the parent becomes incapacitated (discussed below), but the guardian must file a petition for judicial appointment within sixty days of that determination, or the court can terminate her authority (subparagraph (4)(c)). If she later files, her authority is restored.

The petitioner must include with her petition a copy of the instrument designating her as guardian (or alternate guardian, as the case may be) and a copy of the document proving that the parent is dead, incapacitated or debilitated, or a copy of the parent's consent (subparagraph (4)(d)). The court then has to determine whether the appointment serves the child's best interests and, if it does, grant letters to the standby guardian (subparagraph (4)(e)). Subparagraph (4)(b)(iii) contains the form of designation, a boon to the practitioner.

The standby guardian's authority commences upon receipt of a copy either of the attending physician's determination of incapacity, the attending physician's determination of debilitation, or the parent's consent, which must be signed by the parent and two witnesses (subparagraph(4)(c)). Subparagraph (1)(c) defines attending physician, and subparagraphs (1)(d) and (e) define debilitation and incapacity, which are modeled after Public Health Law Art. 29-C (the health-care proxy law). Like the original designation of standby guardian, the consent can also be signed by another person in the presence of the parent and the witnesses (subparagraph (4)(c)). The parent may always revoke her designation of standby guardian (subparagraph (4)(f)).

If the parent designates two different persons as standby guardian in wills or lifetime instruments, the court will give effect to the most recent (subparagraph (4)(f), added by L.2003, c. 632).

The standby guardian may also petition for appointment, attaching a copy of her designation to serve (subparagraph (5)).

This statute does not address the status of the other parent who is not the petitioner and does not appear in the proceeding. Certainly that person is entitled to receive process (*see* [SCPA § 1705](#)). If he does not, the decree appointing a guardian would not affect his rights. If he does receive process but does not appear, arguably he should not be heard to complain about the court's appointment of a guardian, except that anyone can petition at any time for relief that would be in the child's best interests.

The other provisions of Article 17 apply to this section unless it specifies otherwise (subparagraph (2)). Thus, [SCPA § 1704](#) sets forth the requirements of guardianship petitions; [SCPA § 1705](#) gives the notice requirements; [SCPA § 1702](#) outlines the Surrogate's jurisdiction; and [SCPA § 1706](#) and [1707](#) require a check into whether the guardian has ever been the subject of a child-abuse report. Guardians must also be eligible under [SCPA § 707](#).

Even when the standby guardian is authorized to act, the parent retains her authority as well (subparagraph (7)).

Since a 2007 amendment, the court has discretion to dispense with a hearing before appointing a standby guardian (subparagraphs (3)(c), (4)(e)). L.2007, c. 71. The statute was not always so clear. The original statute did not mandate a hearing, but its language was ambiguous: for the petition for a standby guardian under subparagraph (3)(c), it dispensed with the parent's appearance in court if she was "medically unable to appear," except for good cause (former subparagraph (3)(c)). The necessary implication was that the statute contemplated a hearing at which a parent had to appear if she was medically able or, even if she was not, if good cause were shown for her appearance. *See Matter of F.H.*, 166 Misc.2d 253, 632 N.Y.S.2d 777 (Surrogate's Court, New York County 1995) (subparagraph (3)(c) "clearly assume[d] the necessity of a hearing"). For the written designation of a standby guardian under subparagraph (4)(e), on the other hand, the statute did not require a hearing. The 2007 amendment clarified the matter.

In guardianship proceedings for infants, the hearing is discretionary, *see* [SCPA § 1706](#), but in practice the court always holds a hearing if it has any doubts about the child's best interests. In guardianships for mentally retarded

and developmentally disabled persons, the statute requires a hearing but the court has discretion to dispense with it. See [SCPA § 1754](#).

The 2007 amendment allows the court to dispense with the hearing and to dispense with the parent's appearance at it. L.2007, c. 71. Its rationale was that SCPA § 1726's purpose is to facilitate the child's transfer of custody when her parent has a terminal disease. The amendment made standby guardianships consistent with those of minors and mentally retarded persons, and it made subparagraphs (3)(c) and (4)(e) consistent with each other. The statute now thus "streamline[s] the process of arranging for the care and custody of children where a parent is terminally ill or in danger of becoming chronically incapacitated...." Memorandum in Support of New York State Senate Bill S4036, in the Governor's Bill Jacket to L.2007, c. 71.

The court must make the decree if it is convinced that the petitioner has the progressive fatal illness the statute describes (subparagraph (3)(d)(i)), and the decree must state when the standby guardian's authority begins and that the standby guardian's authority may become effective earlier if the parent consents (subparagraph (3)(d)(ii)). If the parent gets well, the court may rescind the decree (subparagraph (3)(d)(iii)). Where the standby guardian's authority commences upon the parent's incapacity, the attending physician, defined in subparagraph (1)(c) as the parent's actual doctor or one who knows her medical condition, must determine the parent's incapacity, its cause and nature, its extent and its probable duration. The attending physician must give a copy of the determination to the standby guardian if the doctor knows her identity; if the standby guardian requests a determination of the parent's capacity or incapacity, the attending physician must make it (subparagraph (6)(b)). If the parent has the capacity to understand it, the standby guardian has to tell the parent that her authority has commenced (subparagraph (6)(c)).

The court clerk can file for safekeeping an instrument appointing or designating a standby guardian, but the filing does not affect the validity of the appointment or designation (subparagraph (8)). That paper can then be released only to the parent or the standby guardian or another person if the court directs.

Although the standard for appointment of a guardian, or removal of a guardian, is always the child's best interests, when a competent parent designates a guardian, the person seeking to overturn that choice has the burden of proving that it does not serve the child's best interests. See *Matter of Ammon*, N.Y.L.J., March 10, 2004, at 29, col. 1 (Surrogate's Court, Suffolk County) (objectant had to overcome strong presumption in favor of mother's choice of guardian).

To cover the situation where a parent designated a standby guardian in another state, in 2003 the legislature added subparagraph (4)(b)(iv), which makes the designation effective if it was properly made (a) in the parent's domicile at the time she executed it, or (b) in the jurisdiction where she executed it, or (c) in the jurisdiction where the parent is domiciled when the designation becomes effective. L.2003, c. 632. This provision mirrors [EPTL 3-5.1\(c\)](#), which permits the Surrogate to probate wills in the same way.

## Notes of Decisions (2)

### Footnotes

1

So in original.

McKinney's S. C. P. A. § 1726, NY SURR CT PRO § 1726

Current through L.2018, chapters 1 to 263.

DESIGNATION OF STANDBY GUARDIAN (SCPA 1726 (3))

I \_\_\_\_\_, hereby designate \_\_\_\_\_,  
(Name of Parent) (Name of Designee)

\_\_\_\_\_ and \_\_\_\_\_  
(Address) (Telephone No.)

as standby guardian of the  person,  property or  person and property of my child(ren), namely

\_\_\_\_\_  
(Name of child(ren))

The appointment of \_\_\_\_\_, as standby guardian of the  
(Name of Designee/Standby Guardian)

person and/or property of my children would be in their best interests because \_\_\_\_\_

The standby guardian's authority shall take effect: (1) if my doctor concludes in writing that I am mentally incapacitated, and thus unable to care for my child(ren); (2) if my doctor concludes in writing that I am physically debilitated, and thus unable to care for my child(ren) and I consent in writing, before two witnesses, to the standby guardian's authority taking effect; (3) If I become subject to an administrative separation such that care and supervision of the child will be interrupted or cannot be provided; or (4) upon my death.

In the event the person I designate above is unable or unwilling to act as guardian for my child(ren), I hereby designate \_\_\_\_\_,

(Name) (Address)

\_\_\_\_\_ as standby guardian of my child(ren).

(Telephone No.)

I also understand that my standby guardian's authority will cease sixty days after commencing unless by such date he or she petitions the court for appointment as guardian.

I understand that I retain full parental, guardianship, custodial or caretaker rights even after the commencement of the standby guardian's authority, and may revoke the standby guardianship at any time.

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

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

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

I declare that the person whose name appears above signed this document in my presence, or was physically unable to sign and asked another to sign this document, who did so in my presence. I further declare that I am at least eighteen years old and am not the person designated as standby guardian.

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

\_\_\_\_\_  
Witness's Signature

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
Witness's Signature

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

FAMILY COURT OF THE STATE OF NEW YORK  
COUNTY OF

Proceeding for the Appointment of a  
Standby Guardian of the Person

Docket No.

of

PETITION  
(Appointment of  
Standby Guardian)

\_\_\_\_\_, a Minor

TO THE FAMILY COURT:

The Petitioner respectfully alleges to this Court that:

1. The name and domicile of the Petitioner and relationship of the Petitioner to the child who is the subject of this proceeding, are as follows:

Name:

Relationship to child [check applicable box]:

mother  father  guardian  legal custodian  primary caretaker  other [specify]:

Address [Include street, city, village or town, county and state]:

2. The name, date of birth and domicile of the child who is the subject of this proceeding are as follows:

Name:

Date of Birth:

Address: [Including street, city, village or town, county and state]

3. The subject child  is  is not a Native American child subject to the Indian Child Welfare Act of 1978 (25 U.S.C. §§ 1901-1963).

4. The residence of the child and name and relationship of the person(s) with whom the child resides are as follows:

Person with whom child resides [specify name]:

Relationship to child [check applicable box]:

mother  father  guardian  legal custodian  primary caretaker  other [specify]:

Address [Include street, city, village or town, county and state]:

5. This petition seeks appointment of a Standby Guardian of the person of the child who is the subject of this proceeding, to become effective, pursuant to S.C.P.A. § 1726(3), upon the Petitioner's [check applicable box]:



S.C.P.A. § 1726(3) incapacity  death  incapacity or death, whichever occurs first  administrative separation.

6. a. On information and belief, Petitioner [check applicable box]:  
 suffers from a progressively chronic or fatal illness;  may be subject to an administrative separation.

b. The source of information and basis for belief are:

7. The names, relationship and post office addresses of the child's parent(s), the name and address of the person(s) with whom the child resides, if other than the parent(s), to whom process should issue; and such other persons concerning whom the court is required to have information, are as follows [Note: if a parent is deceased, so allege].

<u>Relationship</u>	<u>Name</u>	<u>Post Office Address</u>
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Mother:

Father:

Person with whom  
 Child resides, if  
 other than parents:

Other:<sup>1</sup>

8. To protect and preserve the legal rights of the child, it is necessary that some proper person be duly appointed the Standby Guardian of his or her person, because:

9. Upon information and belief, no Guardian pursuant to Section 383-c, 384 or 384-b of the Social Services Law, or Standby Guardian pursuant to section 1726 of the Surrogate's Court Procedure Act, has been previously appointed for the child except [specify]:

10. [check applicable boxes]

(a). Petitioner:  has  does not have knowledge of whether the person nominated to be a Standby Guardian herein has been the subject of an indicated report, as such term is defined in Section 412 of the Social Services Law, filed with the statewide register of child abuse and maltreatment pursuant to Title Six of Article Six of the Social Services Law. If the Petitioner has knowledge of such a report, specify the date, status and circumstances to the extent known:

---

<sup>1</sup> Include Mental Hygiene Legal Services if the child is an intellectually or developmentally disabled child who has been admitted to a facility.

(b). Petitioner  has  does not have knowledge of whether the person nominated to be a Standby Guardian herein is the subject of, or the respondent in, a child protective proceeding commenced under Article 10 of the Family Court Act. If Petitioner has knowledge that the prospective Standby Guardian has been involved in an Article 10 proceeding, specify whether he or she was the subject or respondent and specify whether the proceeding resulted in an order finding that the child is an abused or neglected child, date and status to the extent known:

(c). Petitioner  has  does not have knowledge of whether an Order of Protection or Temporary Order of Protection has been issued against the person nominated to be a Standby Guardian herein in any criminal, matrimonial or Family Court proceeding(s). If Petitioner has knowledge that such an order has been issued, specify the court, docket or index number, date of order, expiration date or order, next court date and status of case to the extent known:

11 (a). The following adults aged 18 or older reside with the proposed guardian:

<u>Name</u>	<u>Relationship, if any, to Child</u>	<u>Date of Birth</u>
-------------	---------------------------------------	----------------------

(b). Upon information and belief, none of the above adults the following adult(s)[specify]: \_\_\_\_\_ (is)(are) the subject of an indicated report, as such term is defined in Section 412 of the Social Services Law, filed with the statewide register of child abuse and maltreatment pursuant to Title Six of Article Six of the Social Services Law. If so, specify date, status and circumstances to the extent known:

(c). Upon information and belief,  none of the above adults the following adult(s)[specify]: \_\_\_\_\_ ) ( has ) (have) been the subject of or the respondent in a child protective proceeding commenced under Article 10 of the Family Court Act. If so, specify whether proceeding resulted in an order finding that the child is an abused or neglected child, date and status to the extent known:

(d). Upon information and belief, an Order of Protection or Temporary Order of Protection (has)(has not) been issued against any of the above adults in any criminal, matrimonial or Family Court proceeding(s). If such an order has been issued, specify the adult against whom the order was issued, the court that issued the order, docket number, date of order, expiration date of order, next court date and status of case to the extent known:

12. \_\_\_\_\_, residing at \_\_\_\_\_, would be a suitable and proper person to be appointed Standby Guardian of the person of the Child, in that [specify]:

13. Attached hereto is the consent of the proposed Standby Guardian to being appointed Standby Guardian of the person of the child.

14. [Delete if inapplicable and skip to ¶15]: The parent(s) of the child, although living, should not be appointed Standby Guardian of the person of the child because:

15. There are no persons interested in this proceeding other than those mentioned above.

16. No prior application has been made to any court for the relief herein requested.

WHEREFORE, Petitioner respectfully requests that an order be entered appointing [specify]: \_\_\_\_\_ as Standby Guardian of the person of the child to become effective upon the Petitioner's [check applicable box]:

incapacity  death  incapacity or death, whichever occurs first  administrative separation.

Dated:

\_\_\_\_\_  
Signature of Petitioner

\_\_\_\_\_  
Print or type name

\_\_\_\_\_  
Signature of Attorney, if any

\_\_\_\_\_  
Attorney's Name (Print or Type)

\_\_\_\_\_  
Attorney's Address and Telephone Number

VERIFICATION

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

\_\_\_\_\_, being duly sworn, says that b(s)he is the Petitioner in the above-named proceeding and that the foregoing petition is true to (his)(her) own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (s)he believes it to be true.

\_\_\_\_\_  
Petitioner

Sworn to before me this \_\_\_\_\_  
day of \_\_\_\_\_, \_\_\_\_\_.

(Deputy) Clerk of the court  
Notary Public

For Office Use Only  
(Filing Fee Paid \$ \_\_\_\_\_)  
(Receipt No: \_\_\_\_\_ No: \_\_\_\_\_)

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

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

PETITION FOR APPOINTMENT OF  
A STANDBY GUARDIAN  
(SCPA 1726 (3))

An Infant.

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

-----X  
TO THE SURROGATE'S COURT, COUNTY OF \_\_\_\_\_,

It is respectfully alleged:

1. The name, relationship, domicile, and telephone number of the petitioner are as follows: [Petitioner must be a parent, legal guardian or legal custodian of the infant. If legal guardian or legal custodian submit a copy of the order of appointment.]

Name: \_\_\_\_\_  Mother  Father  Legal Guardian  Legal Custodian

Domicile: \_\_\_\_\_  
(Street Address) (City/Town/Village)  
\_\_\_\_\_  
(County) (State) (Zip) (Telephone Number)

Mailing address: \_\_\_\_\_  
(If different from domicile)

2. The name, domicile, date of birth and marital status of the infant are as follows: [Birth Certificate Must be filed with this petition]

Name: \_\_\_\_\_  
(Date of Birth)

Domicile: \_\_\_\_\_  
(Street Address) (City/Town/Village)  
\_\_\_\_\_  
(County) (State) (Zip)

Mailing address: \_\_\_\_\_  
(If different from domicile)

Marital Status: \_\_\_\_\_

3. The names and addresses of the adult persons with whom the infant resides are : [If same as above so state]

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

Domicile: \_\_\_\_\_  
(Street Address) (City/Town/Village)  
\_\_\_\_\_  
(County) (State) (Zip)

Mailing address: \_\_\_\_\_  
(If different from domicile)

4. The name and domicile of the proposed standby guardian(s) are as follows:

Name: \_\_\_\_\_  
(Relationship, if any, to infant)

Domicile: \_\_\_\_\_  
(Street Address) (City/Town/Village)  
\_\_\_\_\_  
(County) (State) (Zip)

Mailing address: \_\_\_\_\_  
(If different from domicile)

5. The name and domicile, of the other parent of the infant and, if the infant is married, the infant's spouse, or if the other parent is deceased and there is no spouse, the grandparents residing within the county, are as follows:

Father/Mother: \_\_\_\_\_

Domicile: \_\_\_\_\_

Spouse: \_\_\_\_\_  
(Date of Birth)

Domicile: \_\_\_\_\_

Maternal Grandparents: \_\_\_\_\_

Domicile: \_\_\_\_\_

Paternal Grandparents: \_\_\_\_\_

Domicile: \_\_\_\_\_

The foregoing persons are adult and competent, except: [If any of the above is an infant attach a Schedule containing the name of the infant, with whom he or she resides, whether he or she has a court-appointed guardian, and if so, provide the name and address of the guardian. If disability is other than infancy, fill out and attach Schedule A.]

6. No other persons or agencies are interested in this proceeding other than those mentioned above, except:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7a. No guardian or standby guardian ever has been appointed for the infant except as follows: [See SCPA Section 1704 (3)]  
\_\_\_\_\_  
\_\_\_\_\_

7b. Custody of the infant never has been surrendered by a person lawfully charged therewith, nor has custody of the infant been the subject of any court order, except as hereinafter listed: [So specify and attach copies of all surrenders, court orders, or divorce decrees]

8. [If you seek the appointment of a Standby Guardian of the **person only**, DO NOT complete this paragraph]. The estimated value of all real and personal property owned by the infant and the infant's resources are as follows:

a. PERSONAL PROPERTY [State exact title of all bank accounts with account number and balance. List insurance policies by Company, policy number, amount insured, name of insured and relationship to infant. List the value of infant's interest.]

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The personal property of the infant is not subject to the control of the infant's spouse under the laws of a jurisdiction other than New York. [If property is so subject, so state]

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

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

Gross Value \$ \_\_\_\_\_ Less Mortgage or Lien \$ \_\_\_\_\_ = Net value \$ \_\_\_\_\_

Infant's interest \_\_\_\_\_ Annual Income \$ \_\_\_\_\_

c. ANNUAL INCOME OF INFANT FROM ALL SOURCES:

(1) Compensation or pension to be received from : \_\_\_\_\_ \$ \_\_\_\_\_

(2) Income from Trusts \_\_\_\_\_ \$ \_\_\_\_\_

(3) Income from Real Property \_\_\_\_\_ \$ \_\_\_\_\_

(4) Other Income \_\_\_\_\_ \$ \_\_\_\_\_

9. The authority of the standby guardian is to become effective upon the petitioner's [Check as many boxes as are appropriate:]

a.  incapacity

b.  death

c.  administrative separation with consent

d.  consent

10. Petitioner:

suffers from a progressively chronic illness

suffers from an irreversible fatal illness

may become subject to an administrative separation

[State the basis for the above statement, such as the date and source of the medical diagnosis. You need not identify the illness.]

11. If administrative separation [Check appropriate box]
- a.  Petitioner has a basis to believe that she/he may be the subject of a federal immigration matter because \_\_\_\_\_  
[See SCPA 1726 (3)(b)(iii)(C)]
  - b.  Petitioner is in receipt of official communication regarding immigration enforcement.
12. The infant  is  is not a Native American Child subject to the Indian Child Welfare Act of 1978 (25 USC Section 1901-1963).
13. Petitioner (has) (does not have) knowledge that the person nominated to be Standby Guardian has ever been named as a subject of an indicated report filed pursuant to Title 6 of Article 6 of the Social Services Law, or has been the subject of or the respondent in a child protective proceeding commenced under Article 10 of the Family Court Act, which proceeding resulted in an order finding that the child is an abused or neglected child. [If the petitioner has such knowledge, attach an affidavit explaining in detail].
14. Completed and annexed hereto is the Request for Information Guardianship Form required to be submitted to the New York Central Register of Child Abuse and Maltreatment.
15. [Check appropriate box]:
- a.  The petitioner is able to attend any hearing to be scheduled by the court.
  - b.  The petitioner is medically unable to appear and asks that the court dispense with his/her appearance.
  - c.  The petitioner may not be available to attend any court scheduled hearing due to administrative separation.
16. No prior application has been made to any Court for the relief requested herein.

WHEREFORE, your petitioner respectfully prays that: [Check and complete all relief requested].

(a) Letters of Standby Guardianship of the

- Person only
- Property only
- Person and Property

be granted to \_\_\_\_\_

or such other person or corporation as may be entitled thereto upon petitioner's  death

incapacity  administrative separation  consent [Check appropriate boxes] 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.

(b) The standby guardian of the property be prohibited from collecting or receiving any money or property of the infant until he or she qualifies and complies with the provisions of SCPA 1708.

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

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

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

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

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

Sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_ 20\_\_

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

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

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

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

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

Firm Name: \_\_\_\_\_ Tel.No.: \_\_\_\_\_

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



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

Proceeding for the Appointment  
of a Standby Guardian for

An Infant.  
-----X

SCHEDULE A  
PERSONS UNDER DISABILITY  
OTHER THAN INFANTS

[use additional sheets if more than one]

1. Name: \_\_\_\_\_ Relationship: \_\_\_\_\_

Residence: \_\_\_\_\_

With whom does this person reside? \_\_\_\_\_

If this person is in prison, name of prison: \_\_\_\_\_

Does this person have a court-appointed fiduciary? Yes  No

If yes, give name, title and address: \_\_\_\_\_

If no, describe nature of disability: \_\_\_\_\_

If no, give name and address of relative or friend interested in his or her welfare:  
\_\_\_\_\_

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

-----x

Proceeding for the Appointment  
of a Standby Guardian for

PHYSICIAN'S OPINION  
OF PROGRESSIVELY  
CHRONIC OR FATAL ILLNESS

An Infant.

-----x

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

I, \_\_\_\_\_, am a physician duly licensed to practice medicine in the State of New York.

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

2. My office is located at: \_\_\_\_\_

3. [Check appropriate box]:

I am the physician who has primary responsibility for the treatment and care of the petitioner, or

I am physician who is acting on behalf of \_\_\_\_\_, the physician who has primary responsibility for the treatment and care of the petitioner, or

I am a physician who is familiar with the petitioner's medical condition.

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

[ i ] I have performed tests or evaluations of the petitioner. [Set forth the dates performed.]

[ ii ] I have reviewed the tests or evaluations performed on petitioner.  
[Set forth the dates performed, and the names of the doctors who performed the tests and/or evaluations.]

5. [Check appropriate box]:

Based upon the foregoing tests or evaluations of the petitioner, it is my opinion, with a reasonable degree of medical certainty, that the petitioner

has an irreversible fatal illness

has a progressively chronic illness

may become incapacitated by reason of a chronic and substantial inability, as a result of mental impairment, to understand the nature and consequences of decisions concerning the care of the petitioner's dependent infant or ward and a consequent inability by petitioner to care for said infant or ward.

6. Petitioner is  medically capable,  medically incapable, of appearing at the hearing. [If medically incapable of appearing, explain]

7. I am not a party to this proceeding and affirm the foregoing opinion to be true under the penalties of perjury.

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

\_\_\_\_\_  
Signature of Physician

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

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

WAIVER OF CITATION  
RENUNCIATION AND CONSENT  
TO APPOINTMENT OF STANDBY GUARDIAN  
(SCPA 1726 (3))

An Infant.

-----X

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

I, \_\_\_\_\_ whose domicile is:

\_\_\_\_\_  
(Street Address) (City/Town/Village)  
\_\_\_\_\_  
(County) (State) (Zip)

am a competent person over the age of eighteen years. My interest in the above entitled proceeding is as follows:

[Check appropriate interest]

- Parent of the above named infant
- Grandparent of the above named infant
- Other (Specify) \_\_\_\_\_

I hereby personally appear and waive the issuance and service of a citation in this matter and

(1) Consent that \_\_\_\_\_ be appointed the standby guardian of the

- a.  Person only
- b.  Property only
- c.  Person and Property

(2) Renounce all right to letters of Guardianship which may hereafter be issued by the Court upon the qualification of the Standby Guardian.

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

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

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

STATE OF NEW YORK )  
COUNTY OF ) ss.:

On \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_ to be the same person described in and who executed the foregoing instrument. Such person duly swore such instrument and duly acknowledge that he/she executed the same.

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

\_\_\_\_\_  
Name of Attorney

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone Number

STANDBY GUARDIANSHIP CITATION

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

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

CITATION

THE PEOPLE OF THE STATE OF NEW YORK

TO

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

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

YOU ARE HEREBY CITED TO SHOW CAUSE before the Surrogate's Court, \_\_\_\_\_ County, at \_\_\_\_\_, New York, on \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock of that day why an order should not be granted pursuant to SCPA 1726 appointing \_\_\_\_\_ as Standby Guardian (s) of \_\_\_\_\_, an infant.

(State any further relief requested)

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

HON. \_\_\_\_\_  
Surrogate

Dated, Attested and Sealed,

\_\_\_\_\_, 20 \_\_\_\_\_

\_\_\_\_\_  
Chief Clerk

(Seal)

Name of Attorney for Petitioner \_\_\_\_\_ Tel. No. \_\_\_\_\_

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 that you do not object to the relief requested. You have the right to have an attorney-at-law appear for you.

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

----- X

Proceeding for the Appointment  
of a Standby Guardian for

AFFIDAVIT AND CONSENT  
OF PROPOSED STANDBY  
GUARDIAN PURSUANT TO  
SCPA (1726) (3)

An Infant.

----- X

STATE OF NEW YORK

)

) ss.:

COUNTY OF

)

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

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

1. I am a competent person over the age of eighteen years, and I submit this affidavit in support of the petition to have me appointed standby guardian of the  person only,  property only, or  person and property of the above named infant. [Check one]

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

3. I reside at \_\_\_\_\_ and the other resident members of my household are [Include all persons residing there and their respective ages]:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Except for minor traffic offenses and adjudications as a youthful offender or juvenile delinquent:

- (a) Have you ever been convicted of a crime?  yes  no
- (b) Have you ever forfeited bail or other collateral?  yes  no
- (c) Do you have criminal charges pending against you?  yes  no
- (d) Do you have a physical impairment or mental or medical condition that would interfere with your ability to perform the duties of guardian of the infant?  yes  no
- (e) Have you ever used controlled substances or narcotics or been addicted to alcohol?  yes  no

[If you have answered “yes” to any of the questions set forth in (a) - (e), set forth details in space provided].

5. I am willing and able to undertake the care, custody and control of the infant until the infant attains the age of eighteen or until the court determines otherwise.

6. Upon the petitioner’s  incapacity,  death,  administrative separation or upon written consent, I agree to file all necessary documentation with the court within 90 days of the receipt of the determination of the incapacity, death, or 60 days of the date of the standby guardian’s receipt of documentation of the petitioner’s administrative separation and written consent.

\_\_\_\_\_  
Signature of the Proposed Standby Guardian

Sworn to before me this  
day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
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 Standby Guardian for

CONSENT OF PETITIONER  
FOR STANDBY GUARDIAN  
(Pursuant to SCPA 1726 (3)(e)(iv))

An Infant.

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

-----X

I \_\_\_\_\_, state that:

1. I am the petitioner in the proceeding for the appointment of a Standby Guardian of my minor child.
2. A decree was signed on \_\_\_\_\_ appointing \_\_\_\_\_ standby guardian effective upon the execution of this consent.
3. Notwithstanding the request in the petition that the Standby Guardian's authority be effective upon my  incapacity  death  administrative separation, [Delete inapplicable provision] I hereby consent to commencement of the Standby Guardian's authority upon (his) (her) receipt of this written consent executed in accordance with the provisions of Section 1726 (3)(e)(iv) of the Surrogate's Court Procedure Act.
4. I am physically unable to sign this written consent and have directed \_\_\_\_\_ (Name of person other than Standby Guardian) to sign on my behalf in my presence and in the presence of two witnesses whose signatures are set forth below. [Delete if inapplicable]

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

\_\_\_\_\_  
Petitioner's Signature

\_\_\_\_\_  
Signature of Person other than Petitioner

I declare that the person whose name appears above (signed this consent in my presence) (was physically unable to sign and asked another to sign this document, who did so in my presence). I further declare that I am at least eighteen years old and am not the person designated as standby guardian.

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

Witness: \_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Address

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

Witness: \_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Address

I \_\_\_\_\_ appointed or designated as  
(Name of Standby Guardian)  
such by \_\_\_\_\_ hereby acknowledge that I have  
received the foregoing consent of the following date \_\_\_\_\_.

\_\_\_\_\_  
Signature

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

[Note: The Standby Guardian must file this written consent with the Court within 90 days of receipt of the written consent. Failure to file may result in the guardian's authority being rescinded by the Court.]

Name of Attorney: \_\_\_\_\_ Tel No. \_\_\_\_\_

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



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

-----X

Proceeding for the Appointment  
of a Standby Guardian for

CONSENT OF INFANT OVER 14

An Infant.

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

-----X

I, the infant herein, being over 14 years of age, join in the foregoing petition and consent that  
\_\_\_\_\_ be appointed standby guardian of my

- person only
- property only
- person and property

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

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

STATE OF NEW YORK            )  
  )    SS.:  
COUNTY OF                    )

On \_\_\_\_\_ 20 \_\_\_\_\_, before me personally came \_\_\_\_\_  
to me known and the person described in and who executed the foregoing instrument. Such person swore such  
instrument before me and duly acknowledged to me that she/he executed the same.

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

Name of Attorney: \_\_\_\_\_ Tel No. \_\_\_\_\_

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

SG-7 (7/2018)

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

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

DECREE APPOINTING  
A STANDBY GUARDIAN  
(SCPA 1726 (3))

An Infant.

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

----- X

A petition having been filed by \_\_\_\_\_, praying for the appointment of a Standby Guardian for the above named infant, and it appearing that the petitioner suffers from a progressively chronic or irreversible fatal illness or has been administratively separated from their infant child and that the interests of the infant will be promoted by the appointment of a Standby Guardian of the infant's person and/or property; and that \_\_\_\_\_ is in all respects competent to act as such Standby Guardian; it is hereby

ORDERED, ADJUDGED AND DECREED, that \_\_\_\_\_ be and is hereby appointed Standby Guardian of the person and/or property of the infant, whose authority shall be effective upon the receipt by the standby guardian of

- a determination of the petitioner's incapacity
- a certificate of petitioner's death
- evidence of death that may satisfy the court
- documentation of petitioner's administrative separation

The authority of the Standby Guardian shall also be effective upon the petitioner's written consent pursuant to Section 1726 (3)(e)(iv) of the Surrogate's Court Procedure Act; and it is further

ORDERED, ADJUDGED AND DECREED, that the Standby Guardian of the infant shall file a copy of a determination of incapacity or certificate of death or other such evidence of death that may satisfy the court of the petitioner with this court within 90 days or his or her authority may be rescinded by the court or the standby guardian shall file a copy of documentation of the administrative separation within 60 days of the date of the standby guardian's receipt of documentation of the petitioner's administrative separation or his or her authority may be rescinded by the court; and it is further

ORDERED, ADJUDGED AND DECREED, that letters of Guardianship shall be issued to the Standby Guardian upon his or her filing the Confirmation Affidavit of Standby Guardian, qualifying pursuant to SCPA Section 708, and complying with the provisions of SCPA Section 1708, if applicable.

\_\_\_\_\_  
, Surrogate

Dated: \_\_\_\_\_, 20



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

On \_\_\_\_\_, 20\_\_\_\_\_, before me personally appeared \_\_\_\_\_ to me known and known to me to be the person described in and who executed the foregoing instrument, and duly acknowledged to me that \_\_\_\_\_ he executed the same.

Sworn to before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

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

\_\_\_\_\_  
Name of Attorney

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone Number

NEW YORK STATE  
OFFICE OF CHILDREN AND FAMILY SERVICES  
**DESIGNATION OF PERSON IN PARENTAL RELATIONSHIP**

Pursuant to section 5-1551 of the New York State General Obligations Law.

1. I, \_\_\_\_\_, hereby state that I am the parent of the child/children/incapacitated person(s) named below and there are no Court Orders now in effect in any jurisdiction that would prohibit me from exercising the power that I now seek to authorize.

2. The address and telephone number(s) where I can be reached while this designation is in effect is:

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone: Home ( ) \_\_\_\_\_; Work ( ) \_\_\_\_\_

Other ( ) \_\_\_\_\_

3. I am temporarily entrusting \_\_\_\_\_, a person over the age of eighteen who resides at \_\_\_\_\_, \_\_\_\_\_, New York, telephone number ( ) \_\_\_\_\_, the care of the following child/children/incapacitated person(s):

- \_\_\_\_\_ {NAME} date of birth \_\_\_\_\_
- \_\_\_\_\_ {NAME} date of birth \_\_\_\_\_
- \_\_\_\_\_ {NAME} date of birth \_\_\_\_\_
- \_\_\_\_\_ {NAME} date of birth \_\_\_\_\_

4. Any authority granted to the person in parental relationship pursuant to this form shall be valid (check appropriate box and initial):

a. for six months days from the date of signature of this designation, or until the date of revocation, whichever occurs first (must include all parties addresses and telephone numbers and be signed by all parties in the presence of a notary public), or

b. for thirty days from the date of signature of this designation, or until the date of revocation, whichever occurs first, or

c. from \_\_\_\_\_ (date) until and including \_\_\_\_\_ (date), or until the date of revocation, whichever occurs first; or

d. commencing upon \_\_\_\_\_ (state event) and continuing until \_\_\_\_\_, or until the date of revocation, whichever occurs first.

5. As to the above named child/children/incapacitated person(s), the person in parental relationship named above is authorized to:  
(cross out and initial any that do not apply)

- a. review school records;
- b. enroll in school;
- c. excuse absences from school;
- d. consent to participation in school program and/or school-sponsored activity;
- e. consent to school-related medical care;\*
- f. enroll in health plans;
- g. consent to immunizations;\*
- h. consent to general health care;\*
- i. consent to medical procedures;\*
- j. consent to dental care;
- k. consent to developmental screening; and/or
- l. consent to mental health examination and/or treatment.

\* Except as prohibited by Section 2504 of the Public Health Law

Any of the above authorizations may be further limited by conditions defined by the parent, and, if limited, the limitations are written below (e.g., the parent may grant the authority to consent to a mental health examination, subject to the condition that they cannot be reached by telephone or other electronic means).

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6. I further authorize the person in parental relationship to request, receive and review, and be granted full and unlimited access to, and obtain complete unredacted copies of any and all of health, medical, financial information and/or any information and/or records as defined in 45 CFR. §164.501 and regulated by the Standards for Privacy of Individually Identifiable Health Information found in 65 Fed. Reg. 82462 as protected private records or otherwise covered under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, for each child/incapacitated person listed in paragraph 3 above. I understand that the information contained in such health and medical records may include information relating to sexually transmitted diseases, acquired immunodeficiency syndrome (AIDS), AIDS-related complex (ARC) and human immunodeficiency virus (HIV), behavioral or mental health services, treatment for alcohol and/or drug abuse and/or addiction. I further understand that I may have access to and/or receive an accounting of the information to be used or disclosed as provided in 45 CFR §164.524, et seq. I further understand that authorizing the disclosure of this health information is voluntary; that I can refuse to sign this authorization. I further understand that any disclosure of this information carries with it the potential for an unauthorized further disclosure of this information by third parties and that such further disclosure may not be protected under HIPAA. In order to induce the disclosing party to disclose the aforesaid private and/or protected confidential information, I forever release and hold harmless said disclosing party who relies upon this instrument from any liability under confidentiality rules arising under HIPAA as a consequence of said disclosure

7. NOTICE TO PARENTS AND PERSONS IN PARENTAL RELATION: Authorization pursuant to this form is valid until the earlier of revocation by a parent or the date specified in paragraph 4 above. Any parent having signed this designation may revoke such authorization at will, and may notify relevant schools and health care providers of such revocation. A person in parental relation who receives notification from a parent of such revocation, shall forthwith notify any school, health care provider or health plan to which an authorization pursuant to this subdivision has been presented. Failure by the person in parental relation to notify recipients of the authorization or the revocation shall not make notification of revocation by the parent ineffective.

This authorization is temporary, but may be renewed by the parent(s). However, parents and persons in parental relation involved in a long-term care giving arrangement may seek a more permanent legal arrangement by commencing a judicial proceeding to appoint legal guardianship or to determine custody.

Note: All signatures below must be notarized if authorization is for a period exceeding 30 days

Dated:

(Parent signature) \_\_\_\_\_

Sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

\_\_\_\_\_

Notary Public

8. I, \_\_\_\_\_, am also the parent of the child/children/incapacitated person(s) named herein, there is a Court Order directing that both parents must agree on education and/or health decisions concerning such child/children/incapacitated person(s), and I hereby consent to this designation by my signature below.

The address and telephone number(s) where I can be reached while this designation is in effect is:

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: Home ( ) \_\_\_\_\_; Work ( ) \_\_\_\_\_

Other ( ) \_\_\_\_\_.

Dated:

(Parent signature) \_\_\_\_\_

Sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

\_\_\_\_\_

Notary Public



9. I, \_\_\_\_\_, the person designated in parental relationship for the child/children/incapacitated person(s) named herein, hereby consent to this designation by my signature below.

Dated:

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

Sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

Instructions for DESIGNATION OF PERSON IN PARENTAL RELATIONSHIP, pursuant to section 5-1551 of the New York State General Obligations Law.

**PURPOSE OF THIS FORM:**

This form will allow you to designate another person to make medical and educational decisions for your child(ren) or incapacitated person(s) in your care if you can't do so yourself for a specific period of time. This authorization can only be used for a period of up to six months. If you will need to have your child(ren)/incapacitated person(s) in the care of someone else for more than six months, you may wish to consider other options.

If there is a Court order that requires both parents to agree on education and/or health decisions regarding the child(ren), then both parents must sign the form. If not, only one parent's signature is required.

You keep all of your parental rights with this authorization and can cancel (revoke) this authorization at any time. The person you designate will be able to talk with your child(ren)'s school, teachers and medical providers, and will be able to make routine decisions. The person you designate will not be able to give consent for surgery or other major medical procedures but will be able give consent for routine medical matters. If you do not want the person you designate to be able to make certain decisions, such as decisions concerning immunizations, you can specify that with this form. If the person you designate makes a decision concerning your child(ren)/incapacitated person(s) that you do not agree with, you can override that decision.

The person designated must agree to be "a person in parental authority," and will not be required to assume responsibility for financial support of the child(ren)/incapacitated person(s). Your child(ren) will not have to change their school district if that person resides in another school district. In the event of your death or incapacitation, this designation automatically terminates.

**INSTRUCTIONS FOR USING THIS FORM:**

**Paragraph 1:** Fill in your full legal name in the space provided. If there is a Court order in effect that requires both parents to sign, the other parent will fill in their name in the space provided in Paragraph 7.

**Paragraph 2:** Fill in your address and telephone number(s). If this information is not included, the authorization will not be valid for more than thirty days. Use the address where you will be staying during the period this authorization is in effect, even if it is not your legal residence. For example, if this authorization is to be used while you are hospitalized, you would use the hospital's address.

**Paragraph 3:** Fill in the name, address, and telephone number of the person whom you wish to designate as able to make educational and/or health decisions for your child(ren)/incapacitated person(s). Fill in the name(s) and date(s) of birth for EACH child/incapacitated person.

**Paragraph 4:** Specify how long you wish this authorization to be in effect by checking the appropriate box and initialing next to it. Remember, you can always revoke (cancel) this designation sooner if you wish. Information about how to do that is included toward the end of these instructions.

- **Use (a)** if you want this designation to be valid for six months. If you choose this option, you must provide the address and telephone number for the parent(s) and the other person, and all the signatures must be notarized.

- **Use (b)** if you want this designation to be valid for thirty days. You do not have to include addresses and telephone numbers with this choice, but it is suggested that you do so in the event that medical or educational care providers need to contact you.

- **Use (c)** if you want to use specific dates, for a period of less than or more than thirty days. Remember, this designation cannot be used for more than six months, and you must include addresses, telephone numbers, and notarized signatures if you want it to be good for more than thirty days.

- **Use (d)** if you want this designation to begin when something specific, such as in the event you are hospitalized. For this, you write the specific event in the first space provided (example: “When I am admitted to a hospital”) and write the date or the event upon which the designation should expire in the second space (example: “thirty days later” or “when I am released from the hospital”). Again, you must include addresses, telephone numbers, and notarized signatures if you want it to be good for more than thirty days.

**Paragraph 5:** List each of the things you wish the person you designate to be able to do. Cross out and initial EACH item that you do NOT wish to allow the person you designate to perform. If there are other things you want to prevent the person from doing, use the blank lines below the list to write those down. For example, if you want to be contacted before any mental health examination is performed, you can write that in the space provided.

**Paragraph 6:** This paragraph allows the person you designated to have access to your child(ren)’s/incapacitated person(s)’ medical records and medical information.

**Paragraph 7:** This provides some information regarding this form. The parent whose name appears in Paragraph 1 then signs and dates the form. If this authorization is to be in effect for a period of more than thirty days, the signature must be notarized. In this case, you need to take the form to a notary public before you sign it, and sign the form in front of that notary public, who will then also sign the form to indicate that they witnessed your signature. If don’t do this, the authorization will automatically expire after thirty days.

**Paragraph 8:** If there is a Court order in effect that requires both parents to agree on education and/or health decisions regarding the child(ren), then the other parent will fill in their full legal name, address, and telephone number in the spaces provided. As with the first parent, they do not have to provide their address and telephone number if the authorization is for a period of thirty days or less, but may wish to. They must provide this information, and sign the form in front of a notary public, if the authorization is to be good for more than thirty days. If there is no Court order in effect that requires both parents to agree, you can leave this paragraph blank.

**Paragraph 9:** Fill in the full legal name of the person to be designated “in parental relationship” to the child(ren)/incapacitated person(s). They then sign and date the form, to show that they agree to be a person in parental relationship. If this authorization is to be good for more than thirty days, they will also need to sign the form in front of a notary public.

**OTHER INFORMATION:**

- Major medical treatment: The person you designate **CANNOT** give consent for "major medical treatment" which is any medical, surgical, or diagnostic intervention or procedure where a general anesthetic is used or which involves any significant risk or any significant invasion of bodily integrity requiring an incision or producing substantial pain, discomfort, debilitation, or having a significant recovery period. This does not include: any routine diagnosis or treatment such as the administration of medications other than chemotherapy for non-psychiatric conditions or nutrition or the extraction of bodily fluids for analysis; electroconvulsive therapy; dental care performed with a local anesthetic; any procedures which are provided under emergency circumstances, pursuant to section twenty-five hundred four of the public health law; the withdrawal or discontinuance of medical treatment which is sustaining life functions; or sterilization or the termination of a pregnancy.

For example, the person designated can give consent for a child/incapacitated person to have standard dental procedures, such as fillings, but not dental surgery where they would be unconscious during the procedure, such as having their wisdom teeth extracted. A parent's consent will still be required for major medical procedures.

- Revoking this designation: In order to revoke (cancel) the authorization, you simply have to tell the person you designated that you wish to do so, and they are required to notify the appropriate education and medical providers that the authorization has been terminated. While the parent is not required to do this in writing, or to notify the child(ren)/incapacitated person(s) education and medical providers that they have revoked the authorization, they may want to, so that there is no confusion. If two parents signed the form, either parent can cancel the designation by themselves, you do not need both parents.

NEW YORK STATE  
OFFICE OF CHILDREN AND FAMILY SERVICES

**DESIGNACIÓN DE UNA PERSONA EN UNA RELACIÓN PATERNAL/MATERNAL**

De acuerdo con la Sección 5-1551 de la Ley de Obligaciones Generales del Estado de Nueva York  
(*New York State General Obligations Law*)

1. Yo, \_\_\_\_\_, por la presente declaro que soy el padre/madre del niño(a)/niños(as)/persona(s) discapacitada(s) mencionada(s) a continuación y que no existe hasta la fecha una Orden Judicial en vigencia en ninguna jurisdicción que me prohíba ejercer la autoridad que ahora exijo ejercer.

2. El domicilio y el/los número(s) de teléfono(s) donde se me puede ubicar mientras esta designación esté en vigencia es/son:

Domicilio: \_\_\_\_\_  
\_\_\_\_\_

Teléfono: Particular ( ) \_\_\_\_\_; Trabajo ( ) \_\_\_\_\_  
(Otro) \_\_\_\_\_

3. Temporalmente otorgo a \_\_\_\_\_, persona mayor de dieciocho años de edad que reside en \_\_\_\_\_, \_\_\_\_\_, Nueva York, número de teléfono ( ) \_\_\_\_\_, el cuidado del siguiente niño(a)/niños(as)/persona(s) discapacitada(s):

\_\_\_\_\_ {NOMBRE} fecha de nacimiento \_\_\_\_\_

\_\_\_\_\_ {NOMBRE} fecha de nacimiento \_\_\_\_\_

\_\_\_\_\_ {NOMBRE} fecha de nacimiento \_\_\_\_\_

\_\_\_\_\_ {NOMBRE} fecha de nacimiento \_\_\_\_\_

4. Toda autoridad otorgada a la persona en una relación paternal/maternal en virtud de este formulario tendrá validez (marque la casilla apropiada y coloque sus iniciales):

\_\_\_\_\_ a. durante seis meses desde la fecha de la firma de esta designación o hasta la fecha de la revocación, lo que ocurra primero (debe incluir los domicilios y los números de teléfono de todas las partes, y todas las partes deben firmar ante la presencia de un notario público); o

\_\_\_\_\_ b. durante treinta días desde la fecha de la firma de esta designación o hasta la fecha de la revocación, lo que ocurra primero; o

\_\_\_\_\_ c. desde \_\_\_\_\_ (fecha) hasta e inclusive \_\_\_\_\_ (fecha) o hasta la fecha de la revocación, lo que ocurra primero; o

\_\_\_\_\_ d. a partir de \_\_\_\_\_

(indique el evento) y continuará hasta \_\_\_\_\_ o hasta la fecha de la revocación, lo que ocurra primero.

5. En lo que respecta al niño(a)/niños(s)/persona(s) discapacitada(s) mencionada(s) previamente, la persona designada en una relación paternal/maternal tiene la autoridad para: (tache y coloque sus iniciales en cualquier apartado que no corresponda)

- a. revisar los registros escolares;
- b. realizar inscripciones en la escuela;
- c. excusar inasistencias escolares;
- d. autorizar la participación en programas escolares y/o actividades patrocinadas por la escuela;
- e. autorizar la atención médica relacionada con la escuela\*;
- f. realizar inscripciones en planes médicos;
- g. autorizar inmunizaciones\*;
- h. autorizar la atención médica general\*;
- i. autorizar procedimientos médicos\*;
- j. autorizar la atención dental;
- k. autorizar evaluaciones de desarrollo; y/o
- l. autorizar un examen de salud mental y/o tratamiento

\*Excepto lo que se prohíba de acuerdo con la Sección 2504 de la Ley de Salud Pública.

Cualquiera de las autorizaciones previas puede estar sujeta a limitaciones adicionales, conforme a condiciones estipuladas por el padre/madre, y, en caso de limitarse la autoridad, las limitaciones se indicarán a continuación (por ej. el padre/madre puede otorgar la autorización para un examen de salud mental, sujeto a la condición de que no se le contacte por teléfono o por otros medios electrónicos).

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6. Además, yo autorizo a la persona en una relación paternal/maternal a solicitar, recibir y revisar, y a tener acceso pleno e ilimitado, y a obtener copias completas no redactadas de todo y cualesquiera información de salud, médica, financiera y/o cualesquiera información y/o registros según se define en 45 CFR. § 164.501 y regulado por los Estándares de Privacidad de la Información Médica Identificable Individualmente (*Standards for Privacy of Individually Identifiable Health Information*) que aparece en la Reg. Fed. 65 82462 como registros privados protegidos o de otro modo cubiertos bajo la Ley de Portabilidad y Responsabilidad de Seguro Médico de 1996 (*Health Insurance Portability and Accountability Act—HIPAA*), Ley Pública 104-191, por cada niño(a)/persona discapacitada enumerada en el párrafo 3 precedente. Entiendo que la información que aparece en dichos registros médicos y de salud puede incluir información pertinente a enfermedades de transmisión sexual, síndrome de inmunodeficiencia adquirida (SIDA), complejo relacionado con el SIDA (ARC) y el virus de inmunodeficiencia humano (VIH), servicios por trastornos de conducta o salud mental, tratamiento por alcoholismo y/o abuso de drogas y/o adicción. Asimismo entiendo que puedo tener acceso a y/o recibir una reseña de la información a ser utilizada o divulgada según se dispone en 45 CFR § 164.524, et seq. Asimismo entiendo que autorizar la divulgación de esta información médica es un acto voluntario, y que puedo rehusarme a firmar esta autorización. Asimismo entiendo que cualquier divulgación de esta información conlleva el potencial de una divulgación no autorizada de esta información por parte de terceros, y que dicha divulgación puede no estar protegida bajo la HIPAA. A fin de inducir a la parte reveladora a divulgar la información privada y/o confidencial previamente mencionada, eximo o excuso para siempre a dicha parte reveladora, quien se basa en este instrumento, de cualesquiera responsabilidad u obligación que pudiera surgir en virtud del reglamento de confidencialidad conforme a la HIPAA a causa de dicha divulgación.

7. NOTIFICACIÓN A LOS PADRES Y PERSONAS EN UNA RELACIÓN PATERNAL/MATERNAL: La autorización de acuerdo con este formulario es válida hasta lo que ocurra primero: la revocación por parte del padre/madre o la fecha especificada en el párrafo 4 precedente. El padre/madre que firmó esta designación podrá revocarla a voluntad, y podrá notificar a las escuelas pertinentes y a los proveedores de atención médica sobre dicha revocación. Una persona en una relación paternal/maternal que reciba notificación de un padre/madre sobre tal revocación deberá notificar a las escuelas, a los proveedores de atención médica o a los planes médicos ante quienes se presentó una autorización en virtud de esta subdivisión. En la eventualidad de que la persona en una relación paternal/maternal no notifique a los destinatarios sobre la autorización o la revocación, esto no anulará la efectividad de la notificación de revocación por parte de los padres.

Esta autorización es temporal, pero puede ser renovada por los padres. No obstante, los padres y las personas en una relación paternal/maternal involucrados en un acuerdo de cuidado a largo plazo pueden procurar un acuerdo legal más permanente iniciando un procedimiento judicial para designar un tutor(a) legal o determinar la custodia.

Nota: Todas las firmas a continuación se deben autenticar si la autorización es por un período que excede los 30 días

Fecha:

(Firma del padre/madre) \_\_\_\_\_

Juramentado ante mí este

\_\_\_ día de \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
Notario Público

8. Yo, \_\_\_\_\_, soy también el padre/madre del niño(a)/niños(as)/persona(s) discapacitada(s) mencionada(s) en la presente, reconozco que existe también una Orden Judicial que indica que ambos padres deben estar de acuerdo con las decisiones sobre la educación y/o la salud relacionadas con dicho niño(s)/niños(as)/persona(s) discapacitada(s) y por la presente acepto esta designación mediante mi firma que estampo a continuación.

El domicilio y el/los número(s) de teléfono(s) en los que se me puede ubicar mientras esta designación esté en vigencia es/son:

Domicilio: \_\_\_\_\_  
\_\_\_\_\_

Teléfono: Particular ( ) \_\_\_\_\_; Trabajo ( ) \_\_\_\_\_

Otro ( ) \_\_\_\_\_

Fecha:

(Firma del padre/madre) \_\_\_\_\_

Juramentado ante mí este

\_\_\_ día de \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
Notario Público



9. Yo, \_\_\_\_\_, la persona designada en una relación paternal/maternal para el niño(a)/niños(as)/persona(s) discapacitada(s) mencionadas en el presente formulario, acepto esta designación mediante mi firma que estampo a continuación.

Fechado:

(Firma) \_\_\_\_\_

Juramentado ante mí

\_\_\_ día de \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
Notario Público

Instrucciones para la DESIGNACIÓN DE UNA PERSONA EN UNA RELACIÓN PATERNAL/MATERNAL, de acuerdo con la Sección 5-1551 de la Ley de Obligaciones Generales del Estado de Nueva York (*New York State General Obligations Law*).

### **OBJETIVO DE ESTE FORMULARIO:**

Este formulario le permite designar a otra persona para que tome decisiones médicas y educacionales para su hijo(a)/hijos(as) o persona(s) discapacitada(s) bajo su cuidado si usted no puede hacerlo por sí mismo(a) durante un período de tiempo específico. Esta autorización sólo se puede usar por un período de hasta seis meses. Si usted necesita que su hijo(a)/hijos(as)/persona(s) discapacitada(s) estén bajo el cuidado de otra persona durante más de seis meses, quizás desee considerar otras opciones.

Si existe una Orden Judicial que exija que ambos padres estén de acuerdo con respecto a las decisiones sobre educación y/o salud de sus hijos, entonces ambos padres deben firmar este formulario. En caso contrario, sólo se requiere la firma del padre/madre.

Usted conserva todos sus derechos paternos/maternos con esta autorización, y puede cancelar (revocar) esta autorización en cualquier momento. La persona que usted designe tendrá la autoridad para hablar con el personal de la escuela que atienda a su(s) hijo(s), maestros y proveedores de atención médica y podrá tomar decisiones de rutina. La persona que usted designe no podrá autorizar una cirugía u otro procedimiento médico importante, pero podrá autorizar asuntos médicos de rutina. Si usted no quiere que la persona que designe esté autorizada para tomar ciertas decisiones, como por ejemplo decisiones sobre vacunación, puede especificarlo en el formulario. Si la persona que usted designe toma una decisión con respecto a su hijo(a)/hijos(as)/persona(s) discapacitada(s) con la que usted no está de acuerdo, puede anular dicha decisión.

La persona que usted designe debe aceptar ser una "persona con autoridad paternal/maternal", y no estará obligada a asumir responsabilidad por la manutención financiera del niño(a)/niños(as)/persona(s) discapacitada(s). Su hijo(a)/hijos(as) no tendrá(n) que cambiar de distrito escolar si esa persona reside en otro distrito escolar. En la eventualidad de su muerte o discapacidad, esta designación terminará automáticamente.

### **INSTRUCCIONES PARA EL USO DE ESTE FORMULARIO:**

**Párrafo 1:** Escriba su nombre legal completo en el espacio provisto. Si existe una Orden Judicial en vigencia que exige que ambos padres firmen, el otro padre/madre escribirá su nombre en el espacio provisto en el Párrafo 7.

**Párrafo 2:** Escriba su domicilio y número(s) de teléfono. En caso de no incluirse esta información, la autorización no tendrá validez por más de treinta días. Escriba el domicilio donde vivirá durante el período en que esté vigente esta autorización, aunque no sea su domicilio legal. Por ejemplo, si esta autorización se utilizará durante su hospitalización, debe escribir el domicilio del hospital.

**Párrafo 3:** Escriba el nombre, el domicilio y el número de teléfono de la persona a quien desea designar para que tome decisiones educacionales y/o de salud para su hijo(s)/persona(s) discapacitada(s). Escriba el/los nombre(s) y la(s) fecha(s) de nacimiento para CADA niño(a)/persona discapacitada.

**Párrafo 4:** Especifique durante cuánto tiempo quiere que esta autorización esté en vigencia marcando la casilla correspondiente y colocando sus iniciales al lado. Recuerde, puede revocar (cancelar) esta designación antes de esa fecha si así lo desea. Al final de estas instrucciones se incluye información sobre cómo hacerlo.

- **Use (a)** si quiere que esta designación tenga validez por seis meses. Si elige esta opción, debe indicar el domicilio y el número de teléfono del padre/madre y la otra persona, y todas las firmas deben estar autenticadas.

- **Use (b)** si quiere que esta designación tenga validez por treinta días. No es necesario que incluya los domicilios y los números de teléfono con esta opción, pero le sugerimos que lo haga en caso de que los proveedores médicos o educacionales necesiten ponerse en contacto con usted.

- **Use (c)** si quiere usar fechas específicas, por un período de menos o más de treinta días. Recuerde, esta designación no se puede usar por más de seis meses, y debe incluir los domicilios, los números de teléfono y las firmas autenticadas si quiere que tenga validez por más de treinta días.

- **Use (d)** si quiere que esta designación comience con un evento específico, como por ejemplo si usted es hospitalizado(a). En tal caso, debe escribir el evento específico en el espacio en blanco provisto (ejemplo: "Cuando sea admitido(a) en un hospital") y escribir la fecha o el evento cuando venza la designación en el segundo espacio (ejemplo: "treinta días más tarde" o "cuando sea dado(a) de alta del hospital"). Nuevamente, debe incluir los domicilios, los números de teléfono y las firmas autenticadas si quiere que la designación tenga validez por más de treinta días.

**Párrafo 5:** Enumere las cosas que desea que la persona que usted designe tenga autoridad para hacer. Tache y coloque sus iniciales en CADA inciso para indicar que la persona designada NO tiene autoridad para hacerlo. Si hay otras cosas que quiere impedir que la persona haga, enumérelas en los renglones en blanco que aparecen debajo de la lista. Por ejemplo, si quiere que se comuniquen con usted antes de la realización de cualquier examen de salud mental, puede especificarlo en el espacio provisto.

**Párrafo 6:** Este párrafo permite que la persona que usted designe tenga acceso al historial clínico e información médica de su hijo(a)/hijos(as)/persona(s) discapacitada(s).

**Párrafo 7:** Aquí encontrará cierta información sobre este formulario. El padre/madre cuyo nombre aparece en el Párrafo 1 luego firma y fecha el formulario. Si esta autorización estará en vigencia por un período de más de treinta días, la firma debe ser autenticada. En este caso, debe llevar el formulario a un notario público antes de firmarlo, y firmar el formulario ante ese notario público, que a su vez también firmará el formulario para indicar que ha sido testigo de su firma. Si no lo hace, esta autorización vencerá automáticamente en treinta días.

**Párrafo 8:** Si existe una Orden Judicial en vigencia que exige que ambos padres estén de acuerdo con respecto a las decisiones sobre la educación y/o la salud de sus hijos, entonces el otro padre/madre escribirá su nombre legal completo, domicilio y número de teléfono en los espacios provistos. Al igual que el primer padre/madre, no es necesario que indique su domicilio y número de teléfono si la autorización es por un período de treinta días o menos, pero quizás desee hacerlo. Se debe proporcionar esta información y firmar el formulario ante un notario público, si la autorización estará en vigencia por más de treinta días. Si no existe una Orden Judicial en vigencia que exija que ambos padres estén de acuerdo, puede dejar este párrafo en blanco.

**Párrafo 9:** Escriba el nombre legal completo de la persona que será designada "en una relación paternal/maternal" con el niño(a)/niños(as)/persona(s) discapacitada(s). Luego la persona debe firmar y fechar el formulario, para mostrar que acepta ser una persona en una relación paternal/maternal. Si esta autorización estará vigente por más de treinta días, también se tendrá que firmar ante un notario público.

## **OTRA INFORMACIÓN:**

- Tratamiento médico importante: La persona que usted designe **NO PUEDE** autorizar un "Tratamiento médico importante", lo que se refiere a cualquier intervención o procedimiento médico, quirúrgico o de diagnóstico en el que se utilice anestesia general o que conlleve un riesgo significativo o cualquier invasión considerable de la integridad corporal que requiera una incisión o produzca dolor significativo, molestias, debilitamiento o tenga un período de recuperación prolongado. Esto no incluye: cualquier diagnóstico o tratamiento de rutina como por ejemplo la administración de medicamentos a excepción de quimioterapia para condiciones no psiquiátricas o nutrición o la extracción de fluidos corporales para ser analizados; terapia electro-convulsiva; atención dental con anestesia local; cualquier procedimiento que se realice a causa de una emergencia, en virtud de la sección dos mil quinientos cuatro de la ley de salud pública; la cancelación o interrupción de un tratamiento médico que mantiene las funciones vitales; o la esterilización o la terminación de un embarazo.

Por ejemplo, la persona designada puede autorizar que un niño(a)/persona discapacitada reciba un tratamiento dental estándar, como por ejemplo el empaste de caries, pero no una cirugía dental en la que la persona estará inconsciente durante el procedimiento, tal como en una extracción de la muela de juicio. Se requerirá el consentimiento del padre/madre para los procedimientos médicos importantes.

- Revocación de esta designación: A fin de revocar (cancelar) esta autorización, sólo tiene que informarle a la persona que designó que desea hacerlo, y él/ella debería notificar a los proveedores educacionales y médicos correspondientes que la autorización ha sido cancelada. Si bien no es necesario que el padre/madre haga la revocación por escrito, o notifique a los proveedores médicos y educacionales del niño(s)/persona(s) discapacitada(s) que ha revocado la autorización, quizás prefiera hacerlo para evitar cualquier tipo de confusión. Si ambos padres firmaron el formulario, tanto el padre como la madre puede cancelar la designación; es decir, no es necesario que ambos padres lo hagan.

FAMILY COURT OF THE STATE OF NEW YORK  
COUNTY OF

Proceedings for the Appointment of a  
 Guardian  Standby Guardian of the Person

Docket No.

of  
  
a Minor

WAIVER OF PROCESS,  
RENUNCIATION OR  
CONSENT TO  
 GUARDIANSHIP  
 STANDBY GUARDIANSHIP

.....  
The undersigned \_\_\_\_\_, who resides at [specify  
address]:<sup>1</sup>

and whose interest in the above-entitled proceeding is as follows [check applicable box]:

- Parent of the above-named Minor.
- Grandparent of the above-named Minor.
- Other [specify]:

personally appears in the \_\_\_\_\_ Court of \_\_\_\_\_ County and [check  
applicable box(es)]:

- renounces all rights to Letters of Guardianship of the person of the Minor; and
- waives the issuance and service of process in this matter; and
- consents that [specify proposed guardian or standby guardian]: \_\_\_\_\_ be

appointed the  Guardian  Standby Guardian of the person of the Minor; and that Letters of Guardianship  
may be granted to the above-named person or to any other person entitled to such appointment without notice  
to the undersigned.

\_\_\_\_\_  
Signature)  
Print or Type Name  
Signature of Attorney, if any  
\_\_\_\_\_  
Attorney's Name (Print or Type)  
\_\_\_\_\_

Attorney's Address and Telephone Number

Sworn to before me this \_\_\_\_\_  
day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
(Deputy)Clerk of the Court  
Notary Public

<sup>1</sup> Unless ordered confidential pursuant to Family Court Act §154-b.

**CONSENT FOR MINOR CHILD(REN) TO TRAVEL**

State of New York \_\_\_\_\_ )

County of \_\_\_\_\_ ) ss.

I, \_\_\_\_\_, currently residing at \_\_\_\_\_  
\_\_\_\_\_, hereby affirm under penalty of perjury:

I am the  mother  father of the following child(ren):

Child's Full Name <i>(as written in passport)</i>	Date of Birth	Passport Country	Passport Number
--	---------------	------------------	-----------------

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

The child(ren) listed above is(are) traveling to \_\_\_\_\_  
for the purpose of \_\_\_\_\_ between the dates of  
\_\_\_\_\_ and \_\_\_\_\_.

*Check one:*

My child(ren) is(are) traveling with:

Caretaker's Name <i>(as written in passport)</i>	Passport Country	Passport Number
---	------------------	-----------------

_____	_____	_____
-------	-------	-------

Caretaker's Address

\_\_\_\_\_

Caretaker's Phone

\_\_\_\_\_

Caretaker's Email

\_\_\_\_\_

Parent's initials: \_\_\_\_\_

- My child(ren) are traveling alone, under the airline's unaccompanied minor's program and with this document giving my consent.

My child(ren) is(are) making this journey with my full knowledge and consent.

I have verified the destination country's requirements for unaccompanied minor children, and taken the necessary steps for my child(ren) to travel alone.

*Check one:*

- The other parent's has also granted his/her consent; see attached.
- The other parent's consent is not required because:
- s/he is deceased; see attached copy of death certificate.
  - I have been granted a court order allowing my child(ren) to travel outside the U.S.; see attached copy of the order.
  - Other: \_\_\_\_\_  
\_\_\_\_\_

*Check one:*

- The authority granted pursuant to this form shall be valid for \_\_\_\_\_ (*number up to 12*) months from the date of signature of this designation, or until the date of revocation, whichever occurs first.
- The authority granted pursuant to this form shall be valid for \_\_\_\_\_ (*number up to 365*) days from the date of signature of this designation, or until the date of revocation, whichever occurs first.
- The authority granted pursuant to this form shall be valid from \_\_\_\_\_ (*date*) until and including \_\_\_\_\_ (*date up to one year*), or until the date of revocation, whichever occurs first.

Parent's initials: \_\_\_\_\_

In the event of any questions regarding this consent, I may be contacted at:

Address: \_\_\_\_\_

Home Phone: \_\_\_\_\_ Mobile Phone: \_\_\_\_\_

Email: \_\_\_\_\_

\_\_\_\_\_  
Signature of Parent

\_\_\_\_\_  
Printed Name of Parent

Sworn to before me this  
\_\_\_\_\_ day of \_\_\_\_\_, 201\_\_.

\_\_\_\_\_  
Notary Public

List of Attachments, as applicable (copies only):

- Birth certificate of each child
- Passport biographic page of each child
- Passport biographic page of parent
- Passport biographic page of custodian / guardian / caretaker
- Consent of other parent
- Death certificate of other parent
- Custody / Guardianship Court Order
- Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_







If you designate more than one agent above, they must act together unless you initial the statement below.

( ) My agents may act SEPARATELY.

**(c) DESIGNATION OF SUCCESSOR AGENT(S): (OPTIONAL)**

If any agent designated above is unable or unwilling to serve, I appoint as my successor agent(s):

\_\_\_\_\_  
*(name of successor agent)*

\_\_\_\_\_  
*(address of successor agent)*

\_\_\_\_\_  
*(name of second successor agent),*

\_\_\_\_\_  
*(address of second successor agent)*

Successor agents designated above must act together unless you initial the statement below.

( ) My successor agents may act SEPARATELY.

You may provide for specific succession rules in this section. Insert specific succession provisions here:

**(d) This POWER OF ATTORNEY shall not be affected by my subsequent incapacity unless I have stated otherwise below, under "Modifications".**

**(e) This POWER OF ATTORNEY DOES NOT REVOKE any Powers of Attorney previously executed by me unless I have stated otherwise below, under "Modifications".**

If you do NOT intend to revoke your prior Powers of Attorney, and if you have granted the same authority in this Power of Attorney as you granted to another agent in a prior Power of Attorney, each agent can act separately unless you indicate under "Modifications" that the agents with the same authority are to act together.

**(f) GRANT OF AUTHORITY:**

To grant your agent some or all of the authority below, either

- (1) Initial the bracket at each authority you grant, or
- (2) Write or type the letters for each authority you grant on the blank line at (P), and initial the bracket at (P). If you initial (P), you do not need to initial the other lines.

I grant authority to my agent(s) with respect to the following subjects as defined in sections 5-1502A through 5-1502N of the New York General Obligations Law:

( ) (A) real estate transactions;

( ) (B) chattel and goods transactions;

( ) (C) bond, share, and commodity transactions;

( ) (D) banking transactions;

( ) (E) business operating transactions;

( ) (F) insurance transactions;



- (G) estate transactions;
- (H) claims and litigation;
- (I) personal and family maintenance: If you grant your agent this authority, it will allow the agent to make gifts that you customarily have made to individuals, including the agent, and charitable organizations. The total amount of all such gifts in any one calendar year cannot exceed five hundred dollars;
- (J) benefits from governmental programs or civil or military service;
- (K) health care billing and payment matters; records, reports, and statements;
- (L) retirement benefit transactions;
- (M) tax matters;
- (N) all other matters;
- (O) full and unqualified authority to my agent(s) to delegate any or all of the foregoing powers to any person or persons whom my agent(s) select;
- (P) EACH of the matters identified by the following letters: a,b,c,d,e,f,g,h,i,j,k,l,m,n and o.

You need not initial the other lines if you initial line (P).

**(g) MODIFICATIONS: (OPTIONAL)**

In this section, you may make additional provisions, including language to limit or supplement authority granted to your agent. However, you cannot use this Modifications section to grant your agent authority to make gifts or changes to interests in your property. If you wish to grant your agent such authority, you MUST complete the Statutory Gifts Rider.

**(h) CERTAIN GIFT TRANSACTIONS: STATUTORY GIFTS RIDER (OPTIONAL)**

In order to authorize your agent to make gifts in excess of an annual total of \$500 for all gifts described in (I) of the grant of authority section of this document (under personal and family maintenance), you must initial the statement below and execute a Statutory Gifts Rider at the same time as this instrument. Initialing the statement below by itself does not authorize your agent to make gifts. The preparation of the Statutory Gifts Rider should be supervised by a lawyer.

(SGR) I grant my agent authority to make gifts in accordance with the terms and conditions of the Statutory Gifts Rider that supplements this Statutory Power of Attorney.

**(i) DESIGNATION OF MONITOR(S): (OPTIONAL)**

If you wish to appoint monitor(s), initial and fill in the section below:

I wish to designate \_\_\_\_\_, whose address(es) is (are) \_\_\_\_\_, as monitor(s). Upon the request of the monitor(s), my agent(s) must provide the monitor(s) with a copy of the power of attorney and a record of all transactions done or made on my behalf. Third parties holding records of such transactions shall provide the records to the monitor(s) upon request.

**(j) COMPENSATION OF AGENT(S): (OPTIONAL)**

Your agent is entitled to be reimbursed from your assets for reasonable expenses incurred on your



behalf. If you ALSO wish your agent(s) to be compensated from your assets for services rendered on your behalf, initial the statement below. If you wish to define "reasonable compensation", you may do so above, under "Modifications".

(\_\_\_\_) My agent(s) shall be entitled to reasonable compensation for services rendered.

**(k) ACCEPTANCE BY THIRD PARTIES:**

I agree to indemnify the third party for any claims that may arise against the third party because of reliance on this Power of Attorney. I understand that any termination of this Power of Attorney, whether the result of my revocation of the Power of Attorney or otherwise, is not effective as to a third party until the third party has actual notice or knowledge of the termination.

**(l) TERMINATION:**

This Power of Attorney continues until I revoke it or it is terminated by my death or other event described in section 5-1511 of the General Obligations Law.

Section 5-1511 of the General Obligations Law describes the manner in which you may revoke your Power of Attorney, and the events which terminate the Power of Attorney.

**(m) SIGNATURE AND ACKNOWLEDGMENT:**

In Witness Whereof I have hereunto signed my name on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_

PRINCIPAL signs here: =====> \_\_\_\_\_

STATE OF NEW YORK     )  
  )     ss:  
COUNTY OF KINGS     )

On the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

**(n) IMPORTANT INFORMATION FOR THE AGENT:**

When you accept the authority granted under this Power of Attorney, a special legal relationship is created between you and the principal. This relationship imposes on you legal responsibilities that continue until you resign or the Power of Attorney is terminated or revoked. You must:

- (1) act according to any instructions from the principal, or, where there are no instructions, in the principal's best interest;
- (2) avoid conflicts that would impair your ability to act in the principal's best interest;
- (3) keep the principal's property separate and distinct from any assets you own or control, unless otherwise permitted by law;
- (4) keep a record or all receipts, payments, and transactions conducted for the principal; and





**(p) SUCCESSOR AGENT’S SIGNATURE AND ACKNOWLEDGMENT OF APPOINTMENT:**

It is not required that the principal and the SUCCESSOR agent(s), if any, sign at the same time, nor that multiple SUCCESSOR agents sign at the same time. Furthermore, successor agents can not use this power of attorney unless the agent(s) designated above is/are unable or unwilling to serve.

I/we, \_\_\_\_\_, have read the foregoing Power of Attorney. I am/we are the person(s) identified therein as SUCCESSOR agent(s) for the principal named therein.

Successor Agent(s) sign(s) here: ==> \_\_\_\_\_

==> \_\_\_\_\_

STATE OF NEW YORK )

) ss:

COUNTY OF KINGS )

On the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

## Notes