

CHAPTER.....

AN ACT relating to fiduciaries; revising provisions governing guardianship proceedings; revising provisions governing the appointment and the powers and duties of guardians; revising provisions governing powers of attorney; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a petition for the appointment of a guardian to include certain documentation demonstrating the need for a guardianship, including, without limitation, a certificate signed by a physician, a letter signed by any governmental agency in this State which conducts investigations or a certificate signed by any other person whom the court finds qualified to execute a certificate, stating certain information concerning the condition of the proposed ward. (NRS 159.044) **Section 7** of this bill provides that this certificate or letter is only required if the proposed ward is an adult. **Section 7** further requires the petition to include: (1) a written consent to the appointment of a special guardian if the proposed ward has the limited capacity to consent to such an appointment; and (2) statements setting forth whether the proposed guardian is a party to a civil or criminal proceeding and whether the proposed guardian has filed for or received bankruptcy protection within the immediately preceding 7 years.

Under existing law, if a petition for the appointment of a guardian is filed, a citation setting forth a time and place for the hearing and directing certain persons to appear and show cause why a guardian should not be appointed must be served on certain persons. (NRS 159.047, 159.0475) Under **section 6** of this bill, if service is made by publication, the court may allow fewer publications to be made and extend or shorten the time in which the publications must be made. **Section 8** of this bill amends the list of persons upon whom the citation must be served.

Under existing law, at the first hearing for the appointment of a guardian for a proposed adult ward, the court must advise the proposed adult ward of his or her right to counsel and determine whether the proposed adult ward wishes to be represented by counsel. (NRS 159.0485) If the proposed adult ward is not in attendance and is not appearing by videoconference, the proposed adult ward must be notified of his or her rights by the physician or other person who signed the certificate excusing the proposed ward from attendance. (NRS 159.0485, 159.0535) **Sections 10 and 14** of this bill authorize the court to allow any other person found qualified by the court to notify the proposed adult ward of his or her rights. In addition, **section 10** revises provisions concerning the compensation of an attorney for a proposed adult ward or adult ward.

Existing law authorizes the appointment of a temporary guardian under certain circumstances. (NRS 159.052, 159.0523, 159.0525) **Sections 11, 12 and 13** of this bill: (1) revise provisions governing the information which must be provided in a petition for the appointment of a temporary guardian; and (2) require the determination of whether a temporary guardian is necessary for a minor to be based on the age of the minor and other factors deemed relevant by the court rather than on certain information provided by a physician.

Existing law requires a person who files a petition in a guardianship proceeding to notify certain persons of the time and place of the hearing on the petition. (NRS 159.034) **Sections 5 and 19** of this bill clarify that this notice is required for any



petition in a guardianship proceeding and specifically states the persons who must be provided this notice.

Existing law sets forth the powers and duties of a person appointed by the court as the guardian of a ward. (Chapter 159 of NRS) **Section 2** of this bill authorizes the court to require a guardian to complete any available training concerning guardianships as a condition of appointment as a guardian. **Section 3** of this bill: (1) requires a bank or financial institution to allow a guardian access to the account or other assets of the ward if the guardian provides a copy of the court order appointing the guardian and letters of guardianship; and (2) provides that the bank or financial institution is not entitled to a copy of any competency evaluation of the ward or medical information concerning the ward or any inventory or accounting of the estate of the ward. **Sections 16 and 18** of this bill specify that a guardian of the person rather than a guardian of the estate must file a petition with the court before placing a ward in a secured residential long-term care facility. **Section 17** of this bill specifies the circumstances under which a guardian of the estate of a ward is not required to represent the ward in an action, suit or proceeding.

Existing law provides that if, at a hearing to confirm a sale of a ward's real property, a higher offer or bid is received by the court, the court may: (1) accept the offer or bid if the written offer is lawful and exceeds the original bid by a certain amount; or (2) continue the hearing if the court determines that the person who made the original offer or bid was not notified of the hearing and may wish to increase his or her offer or bid. (NRS 159.146) **Section 20** of this bill provides that if the court does not accept a higher offer or bid received during the hearing to confirm the sale, any successive offer or bid must exceed the preceding bid by a certain amount.

Existing law sets forth the circumstances under which a court may remove a guardian and authorizes certain persons to petition the court for the removal of the guardian. (NRS 159.185, 159.1853) **Section 4** of this bill requires a guardian to notify the court of certain circumstances relating to the qualifications of the guardian to serve as the guardian of a ward. Upon receipt of such notice, the court may remove the guardian and appoint a successor guardian unless the court finds that it is in the best interest of the ward to allow the guardian to continue the appointment.

Existing law sets forth the circumstances under which a guardianship is terminated and provides that a guardianship of the person of a ward is terminated by the death of the ward. (NRS 159.191) **Section 21** of this bill: (1) specifies that guardianship of the estate of a ward is also terminated by the death of the ward, subject to the guardian's power to wind up the affairs of the estate under existing law; and (2) requires a guardian to notify the court and certain other persons of the death of the ward within 30 days of the death. **Section 15** of this bill requires the acknowledgment filed by a guardian before entering upon his or her duties as a guardian to set forth the duty to notify the court and certain other persons of the death of the ward.

Existing law sets forth the circumstances under which and the length of time for which the guardian of the estate of the ward may possess the ward's property for the purpose of winding up the affairs of the guardianship after the death of the ward. (NRS 159.193) **Section 22** of this bill revises the length of time for which the guardian of the estate may possess the deceased ward's property. **Section 22** further authorizes the guardian of the estate to retain sufficient assets to pay any anticipated taxes and expenses of the guardianship estate under certain circumstances.

Existing law sets forth the manner in which an adult may execute a power of attorney enabling an agent to make health care decisions for him or her if he or she becomes incapable of giving informed consent. (NRS 162A.790) **Section 28** of this



bill provides that a certification of competency from a physician, psychologist or psychiatrist must be attached to the power of attorney if the adult resides in certain medical facilities at the time the power of attorney for health care is executed. Under **section 29** of this bill, a power of attorney for health care is not required to be in the form provided by existing law, but it may be in that form. **Section 23** of this bill provides that a physician, health care facility or other provider of health care may act in reliance on an acknowledged power of attorney for health care if the physician, health care facility or other provider of health care acts in good faith and without knowledge of certain information affecting the validity of the power of attorney.

Existing law provides that a certification of competency from a physician, psychologist or psychiatrist must be attached to the financial power of attorney if the person executing it resides in certain medical facilities at the time the power of attorney is executed. (NRS 162A.220) **Section 24** of this bill corrects references to such medical facilities and expands the types of medical facilities to which this requirement applies.

Under existing law, a financial power of attorney is terminated if, after its execution, a court appoints a guardian of the estate for the principal. (NRS 162A.250) **Section 25** of this bill authorizes the court to allow the agent under the financial power of attorney to retain such powers conferred by the power of attorney as the court specifies. Under **section 25**, if the court allows the agent to retain specific powers, the agent must file an accounting with the court and the guardian on a quarterly basis or such other period designated by the court.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 159 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *As a condition of the appointment of a guardian, the court may require the guardian to complete any available training concerning guardianships that the court determines appropriate.*

Sec. 3. 1. *A guardian shall present a copy of the court order appointing the guardian and letters of guardianship to a bank or other financial institution that holds any account or other assets of the ward before the guardian may access the account or other assets.*

2. The bank or other financial institution shall accept the copy of the court order appointing the guardian and letters of guardianship as proof of guardianship and allow the guardian access to the account or other assets of the ward, subject to any limitations set forth in the court order.

3. Unless the bank or other financial institution is a party to the guardianship proceeding, the bank or other financial institution is not entitled to a copy of any:



(a) Competency evaluation of the ward or any other confidential information concerning the medical condition or the placement of the ward; or

(b) Inventory or accounting of the estate of the ward.

Sec. 4. *A guardian who, after appointment:*

1. Is convicted of a gross misdemeanor or felony in any state;

2. Files for or receives protection as an individual or as a principal of any entity under the federal bankruptcy laws;

3. Has a driver's license suspended, revoked or cancelled for nonpayment of child support;

4. Is suspended for misconduct or disbarred from:

(a) The practice of law;

(b) The practice of accounting; or

(c) Any other profession which:

(1) Involves or may involve the management or sale of money, investments, securities or real property; or

(2) Requires licensure in this State or any other state; or

5. Has a judgment entered against him or her for misappropriation of funds or assets from any person or entity in any state,

↪ shall immediately inform the court of the circumstances of those events. The court may remove the guardian and appoint a successor guardian, unless the court finds that it is in the best interest of the ward to allow the guardian to continue in his or her appointment.

Sec. 5. NRS 159.034 is hereby amended to read as follows:

159.034 1. Except as otherwise provided in this section, by specific statute or as ordered by the court, a petitioner in a guardianship proceeding shall give notice of the time and place of the hearing on ~~the~~ *any* petition *filed in the guardianship proceeding* to:

~~(a) Each interested person or the attorney of the interested person;~~ *Any minor ward who is 14 years of age or older.*

~~(b) Any person entitled to notice pursuant to this chapter or the person's attorney;~~ *The parent or legal guardian of any minor ward who is less than 14 years of age.*

(c) The spouse of the ward and all other known relatives of the ward who are within the second degree of consanguinity.

(d) Any other interested person or the person's attorney who has filed a request for notice in the guardianship proceedings ~~and~~ and has served a copy of the request upon the guardian. The request for notice must state the interest of the person filing the



request and the person's name and address, or that of his or her attorney.

~~[(d)]~~ (e) The ~~proposed~~ guardian, if the petitioner is not the ~~proposed~~ guardian. ~~[- and~~

~~-(e)]~~ (f) *Any person or care provider who is providing care for the ward, except that if the person or care provider is not related to the ward, such person or care provider must not receive copies of any inventory or accounting.*

(g) *Any office of the Department of Veterans Affairs in this State if the ward is receiving any payments or benefits through the Department of Veterans Affairs.*

(h) *The Director of the Department of Health and Human Services if the ward has received or is receiving benefits from Medicaid.*

(i) Those persons entitled to notice if a proceeding were brought in the ~~proposed~~ ward's home state.

2. The petitioner shall give notice not later than 10 days before the date set for the hearing:

(a) By mailing a copy of the notice by certified, registered or ordinary first-class mail to the residence, office or post office address of each person required to be notified pursuant to this section;

(b) By personal service; or

(c) In any other manner ordered by the court, upon a showing of good cause.

3. ~~[(f)]~~ *Except as otherwise provided in this subsection, if none of the ~~address or identity of a person required~~ persons entitled to ~~be notified~~ notice of a hearing on a petition pursuant to this section ~~is not known and cannot be ascertained with reasonable~~ can, after due diligence, be served by certified mail or personal service and this fact is proven by affidavit to the satisfaction of the court, service of the notice must be ~~given~~:*

~~-(a) By publishing a copy of the notice in a newspaper of general circulation in the county where the hearing is to be held at least once every 7 days for 21 consecutive days, the last~~ *made by publication [of which must occur] in the manner provided by N.R.C.P. 4(e). In all such cases, the notice must be published* not later than 10 days before the date set for the hearing. ~~[- or~~

~~-(b) In any other manner ordered by the court, upon a showing of good cause.]~~ *If, after the appointment of a guardian, a search for relatives of the ward listed in paragraph (c) of subsection 1 fails to find any such relative, the court may waive the notice by publication required by this subsection.*



4. For good cause shown, the court may waive the requirement of giving notice.

5. A person entitled to notice pursuant to this section may waive such notice. Such a waiver must be in writing and filed with the court.

6. On or before the date set for the hearing, the petitioner shall file with the court proof of giving notice to each person entitled to notice pursuant to this section.

Sec. 6. NRS 159.0345 is hereby amended to read as follows:

159.0345 If publication of a notice *or citation* is required pursuant to this chapter, the court may, for good cause shown:

1. Allow fewer publications to be made within the time for publication; and

2. Extend or shorten the time in which the publications must be made.

Sec. 7. NRS 159.044 is hereby amended to read as follows:

159.044 1. Except as otherwise provided in NRS 127.045, a proposed ward, a governmental agency, a nonprofit corporation or any interested person may petition the court for the appointment of a guardian.

2. To the extent the petitioner knows or reasonably may ascertain or obtain, the petition must include, without limitation:

(a) The name and address of the petitioner.

(b) The name, date of birth and current address of the proposed ward.

(c) A copy of one of the following forms of identification of the proposed ward which must be placed in the records relating to the guardianship proceeding and, except as otherwise provided in NRS 239.0115 or as otherwise required to carry out a specific statute, maintained in a confidential manner:

(1) A social security number;

(2) A taxpayer identification number;

(3) A valid driver's license number;

(4) A valid identification card number; or

(5) A valid passport number.

↪ If the information required pursuant to this paragraph is not included with the petition, the information must be provided to the court not later than 120 days after the appointment of a guardian or as otherwise ordered by the court.

(d) If the proposed ward is a minor, the date on which the proposed ward will attain the age of majority and:

(1) Whether there is a current order concerning custody and, if so, the state in which the order was issued; and



(2) Whether the petitioner anticipates that the proposed ward will need guardianship after attaining the age of majority.

(e) Whether the proposed ward is a resident or nonresident of this State.

(f) The names and addresses of the spouse of the proposed ward and the relatives of the proposed ward who are within the second degree of consanguinity.

(g) The name, date of birth and current address of the proposed guardian. If the proposed guardian is a private professional guardian, the petition must include proof that the guardian meets the requirements of NRS 159.0595. If the proposed guardian is not a private professional guardian, the petition must include a statement that the guardian currently is not receiving compensation for services as a guardian to more than one ward who is not related to the person by blood or marriage.

(h) A copy of one of the following forms of identification of the proposed guardian which must be placed in the records relating to the guardianship proceeding and, except as otherwise provided in NRS 239.0115 or as otherwise required to carry out a specific statute, maintained in a confidential manner:

- (1) A social security number;
- (2) A taxpayer identification number;
- (3) A valid driver's license number;
- (4) A valid identification card number; or
- (5) A valid passport number.

(i) Whether the proposed guardian has ever been convicted of a felony and, if so, information concerning the crime for which the proposed guardian was convicted and whether the proposed guardian was placed on probation or parole.

(j) A summary of the reasons why a guardian is needed and recent documentation demonstrating the need for a guardianship. ~~The~~ *If the proposed ward is an adult, the* documentation must include, without limitation:

(1) A certificate signed by a physician who is licensed to practice medicine in this State or who is employed by the Department of Veterans Affairs , *a letter signed by any governmental agency in this State which conducts investigations or a certificate signed by any other person whom the court finds qualified to execute a certificate,* stating:

(I) The need for a guardian;

(II) Whether the proposed ward presents a danger to himself or herself or others;



(III) Whether the proposed ward's attendance at a hearing would be detrimental to the proposed ward;

(IV) Whether the proposed ward would comprehend the reason for a hearing or contribute to the proceeding; and

(V) Whether the proposed ward is capable of living independently with or without assistance; *and*

(2) ~~[A letter signed by any governmental agency in this State which conducts investigations stating:~~

~~— (I) The need for a guardian;~~

~~— (II) Whether the proposed ward presents a danger to himself or herself or others;~~

~~— (III) Whether the proposed ward's attendance at a hearing would be detrimental to the proposed ward;~~

~~— (IV) Whether the proposed ward would comprehend the reason for a hearing or contribute to the proceeding; and~~

~~— (V) Whether the proposed ward is capable of living independently with or without assistance; or~~

~~(3) A certificate signed by any other person whom the court finds qualified to execute a certificate stating:~~

~~— (I) The need for a guardian;~~

~~— (II) Whether the proposed ward presents a danger to himself or herself or others;~~

~~— (III) Whether the proposed ward's attendance at a hearing would be detrimental to the proposed ward;~~

~~— (IV) Whether the proposed ward would comprehend the reason for a hearing or contribute to the proceeding; and~~

~~— (V) Whether the proposed ward is capable of living independently with or without assistance.]~~

If the proposed ward is determined to have the limited capacity to consent to the appointment of a special guardian, a written consent to the appointment of a special guardian from the ward.

(k) Whether the appointment of a general or a special guardian is sought.

(l) A general description and the probable value of the property of the proposed ward and any income to which the proposed ward is or will be entitled, if the petition is for the appointment of a guardian of the estate or a special guardian. If any money is paid or is payable to the proposed ward by the United States through the Department of Veterans Affairs, the petition must so state.

(m) The name and address of any person or care provider having the care, custody or control of the proposed ward.



(n) If the petitioner is not the spouse or natural child of the proposed ward, a declaration explaining the relationship of the petitioner to the proposed ward or to the proposed ward's family or friends, if any, and the interest, if any, of the petitioner in the appointment.

(o) Requests for any of the specific powers set forth in NRS 159.117 to 159.175, inclusive, necessary to enable the guardian to carry out the duties of the guardianship.

(p) If the guardianship is sought as the result of an investigation of a report of abuse, neglect or exploitation of the proposed ward, whether the referral was from a law enforcement agency or a state or county agency.

(q) Whether the proposed ward *or the proposed guardian* is a party to any pending criminal or civil litigation.

(r) Whether the guardianship is sought for the purpose of initiating litigation.


(s) Whether the proposed ward has executed a durable power of attorney for health care, a durable power of attorney for financial matters or a written nomination of guardian and, if so, who the named agents are for each document.

(t) Whether the proposed guardian has filed for or received protection under the federal bankruptcy laws within the immediately preceding 7 years.

3. Before the court makes a finding pursuant to NRS 159.054, a petitioner seeking a guardian for a proposed adult ward must provide the court with an assessment of the needs of the proposed adult ward completed by a licensed physician which identifies the limitations of capacity of the proposed adult ward and how such limitations affect the ability of the proposed adult ward to maintain his or her safety and basic needs. The court may prescribe the form in which the assessment of the needs of the proposed adult ward must be filed.

Sec. 8. NRS 159.047 is hereby amended to read as follows:

159.047 1. Except as otherwise provided in NRS 159.0475 and 159.049 to 159.0525, inclusive, upon the filing of a petition under NRS 159.044, the clerk shall issue a citation setting forth a time and place for the hearing and directing the persons or care provider referred to in subsection 2 to appear and show cause why a guardian should not be appointed for the proposed ward.

2. A citation issued under subsection 1 must be served *upon:* 



- (a) ~~Upon a~~ *A* proposed ward who is 14 years of age or older;
- (b) ~~Upon the~~ *The* spouse of the proposed ward and all other known relatives of the proposed ward who are:
 - (1) Fourteen years of age or older; and
 - (2) Within the second degree of consanguinity;
- (c) ~~Upon the parent or legal guardian of all known relatives of the proposed ward who are:~~
 - ~~—— (1) Less than 14 years of age; and~~
 - ~~—— (2) Within the second degree of consanguinity;~~ *The parents and custodian of the proposed ward;*
- (d) ~~If there is no spouse of the proposed ward and there are no known relatives of the proposed ward who are within the second degree of consanguinity to the proposed ward, upon the office of the public guardian of the county where the proposed ward resides; and~~
- ~~(e) Upon any~~ *Any* person or officer of a care provider having the care, custody or control of the proposed ward ~~H~~ ;
- (e) The proposed guardian, if the petitioner is not the proposed guardian;*
- (f) Any office of the Department of Veterans Affairs in this State if the proposed ward is receiving any payments or benefits through the Department of Veterans Affairs; and*
- (g) The Director of the Department of Health and Human Services if the proposed ward has received or is receiving any benefits from Medicaid.*

Sec. 9. NRS 159.0475 is hereby amended to read as follows:

159.0475 1. A copy of the citation issued pursuant to NRS 159.047 must be served by:

(a) Certified mail, with a return receipt requested, on each person required to be served pursuant to NRS 159.047 at least 20 days before the hearing; or

(b) Personal service in the manner provided pursuant to N.R.C.P. 4(d) at least 10 days before the date set for the hearing on each person required to be served pursuant to NRS 159.047.

2. If none of the persons on whom the citation is to be served can, after due diligence, be served by certified mail or personal service and this fact is proven, by affidavit, to the satisfaction of the court, service of the citation must be made by publication in the manner provided by N.R.C.P. 4(e). In all such cases, the citation must be published at least 20 days before the date set for the hearing.

3. A citation need not be served on a person or an officer of the care provider who has signed the petition or a written waiver of service of citation or who makes a general appearance.



4. ~~If the proposed ward is receiving money paid or payable by the United States through the Department of Veterans Affairs, a copy of the citation must be mailed to any office of the Department of Veterans Affairs in this State, unless the Department of Veterans Affairs has executed a written waiver of service of citation.~~

~~—5.†~~ The court may find that notice is sufficient if:

(a) The citation has been served by certified mail, with a return receipt requested, or by personal service on the proposed ward, care provider or public guardian required to be served pursuant to NRS 159.047; and

(b) At least one relative of the proposed ward who is required to be served pursuant to NRS 159.047 has been served, as evidenced by the return receipt or the certificate of service. If the court finds that at least one relative of the proposed ward has not received notice that is sufficient, the court will require the citation to be published pursuant to subsection 2.

Sec. 10. NRS 159.0485 is hereby amended to read as follows:

159.0485 1. At the first hearing for the appointment of a guardian for a proposed adult ward, the court shall advise the proposed adult ward who is in attendance at the hearing or who is appearing by videoconference at the hearing of his or her right to counsel and determine whether the proposed adult ward wishes to be represented by counsel in the guardianship proceeding. If the proposed adult ward is not in attendance at the hearing because the proposed adult ward has been excused pursuant to NRS 159.0535 and is not appearing by videoconference at the hearing, the ~~†person who signs the certificate pursuant to NRS 159.0535 to excuse the†~~ proposed adult ward ~~†from attending the hearing shall advise the proposed adult ward†~~ *must be advised* of his or her right to counsel ~~†and determine whether the proposed adult ward wishes to be represented by counsel in the guardianship proceeding.†~~ *pursuant to subsection 2 of NRS 159.0535.*

2. If an adult ward or proposed adult ward is unable to retain legal counsel and requests the appointment of counsel ~~†~~ at any stage in a guardianship proceeding and whether or not the adult ward or proposed adult ward lacks or appears to lack capacity, the court shall, at or before the time of the next hearing, appoint an attorney who works for legal aid services, if available, or a private attorney to represent the adult ward or proposed adult ward. The appointed attorney ~~†must†~~ *shall* represent the adult ward or proposed adult ward until relieved of the duty by court order.



3. Subject to the discretion and approval of the court, the attorney for the adult ward or proposed adult ward is entitled to reasonable compensation ~~[which must be paid from the estate of the adult ward or proposed adult ward.]~~ and expenses. *Unless the court determines that the adult ward or proposed adult ward does not have the ability to pay such compensation and expenses or the court shifts the responsibility of payment to a third party, the compensation and expenses must be paid from the estate of the adult ward or proposed adult ward, unless the compensation and expenses are provided for or paid by another person or entity.* If the court finds that a person has unnecessarily or unreasonably caused the appointment of an attorney, the court may order the person to pay to the estate of the adult ward or proposed adult ward all or part of the expenses associated with the appointment of the attorney.

Sec. 11. NRS 159.052 is hereby amended to read as follows:

159.052 1. A petitioner may request the court to appoint a temporary guardian for a ward who is a minor and who is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention. To support the request, the petitioner must set forth in a petition and present to the court under oath:

(a) Documentation which shows that the proposed ward faces a substantial and immediate risk of physical harm or needs immediate medical attention and lacks capacity to respond to the risk of harm or obtain the necessary medical attention. Such documentation must include, without limitation ~~[, a certificate signed by a physician who is licensed to practice medicine in this State or who is employed by the Department of Veterans Affairs or a letter signed by any governmental agency in this State which conducts investigations indicating:~~

~~—— (1) That the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention;~~

~~—— (2) Whether:] :~~

(1) A copy of the birth certificate of the proposed ward or other documentation verifying the age of the proposed ward; and

(2) A letter signed by any governmental agency in this State which conducts investigations or a police report indicating whether the proposed ward presents a danger to himself or herself or others, ~~]; and~~

~~—— (3) Whether] or whether~~ the proposed ward is or has been subjected to abuse, neglect or exploitation; and



(b) Facts which show that:

(1) The petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 by telephone or in writing before the filing of the petition;

(2) The proposed ward would be exposed to an immediate risk of physical harm if the petitioner were to provide notice to the persons entitled to notice pursuant to NRS 159.047 before the court determines whether to appoint a temporary guardian; or

(3) Giving notice to the persons entitled to notice pursuant to NRS 159.047 is not feasible under the circumstances.

2. The court may appoint a temporary guardian to serve for 10 days if the court:

(a) Finds reasonable cause to believe that the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention ~~and~~ *based on the age of the proposed ward and other factors deemed relevant by the court;* and

(b) Is satisfied that the petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 or that giving notice to those persons is not feasible under the circumstances, or determines that such notice is not required pursuant to subparagraph (2) of paragraph (b) of subsection 1.

3. Except as otherwise provided in subsection 4, after the appointment of a temporary guardian, the petitioner shall attempt in good faith to notify the persons entitled to notice pursuant to NRS 159.047, including, without limitation, notice of any hearing to extend the temporary guardianship. If the petitioner fails to make such an effort, the court may terminate the temporary guardianship.

4. If, before the appointment of a temporary guardian, the court determined that advance notice was not required pursuant to subparagraph (2) of paragraph (b) of subsection 1, the petitioner shall notify the persons entitled to notice pursuant to NRS 159.047 without undue delay, but not later than 48 hours after the appointment of the temporary guardian or not later than 48 hours after the petitioner discovers the existence, identity and location of the persons entitled to notice pursuant to that section. If the petitioner fails to provide such notice, the court may terminate the temporary guardianship.

5. Not later than 10 days after the date of the appointment of a temporary guardian pursuant to subsection 2, the court shall hold a hearing to determine the need to extend the temporary guardianship. Except as otherwise provided in subsection 7, if the court finds by



clear and convincing evidence that the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention, the court may extend the temporary guardianship until a general or special guardian is appointed pursuant to subsection 8.

6. If the court appoints a temporary guardian or extends the temporary guardianship pursuant to this section, the court shall limit the powers of the temporary guardian to those necessary to respond to the substantial and immediate risk of physical harm or to a need for immediate medical attention.

7. The court may not extend a temporary guardianship pursuant to subsection 5 beyond the initial period of 10 days unless the petitioner demonstrates that:

(a) The provisions of NRS 159.0475 have been satisfied; or

(b) Notice by publication pursuant to N.R.C.P. 4(e) is currently being undertaken.

8. The court may extend the temporary guardianship, for good cause shown, for not more than two successive 60-day periods, except that the court shall not cause the temporary guardianship to continue longer than 5 months unless extraordinary circumstances are shown.

Sec. 12. NRS 159.0523 is hereby amended to read as follows:

159.0523 1. A petitioner may request the court to appoint a temporary guardian for a ward who is an adult and who is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention. To support the request, the petitioner must set forth in a petition and present to the court under oath:

(a) Documentation which shows the proposed ward faces a substantial and immediate risk of physical harm or needs immediate medical attention and lacks capacity to respond to the risk of harm or obtain the necessary medical attention. Such documentation must include, without limitation, a certificate signed by a physician who is licensed to practice medicine in this State or who is employed by the Department of Veterans Affairs , ~~for~~ a letter signed by any governmental agency in this State which conducts investigations *or a police report* indicating:

(1) That the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention;

(2) Whether the proposed ward presents a danger to himself or herself or others; and



(3) Whether the proposed ward is or has been subjected to abuse, neglect or exploitation; and

(b) Facts which show that:

(1) The petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 by telephone or in writing before the filing of the petition;

(2) The proposed ward would be exposed to an immediate risk of physical harm if the petitioner were to provide notice to the persons entitled to notice pursuant to NRS 159.047 before the court determines whether to appoint a temporary guardian; or

(3) Giving notice to the persons entitled to notice pursuant to NRS 159.047 is not feasible under the circumstances.

2. The court may appoint a temporary guardian to serve for 10 days if the court:

(a) Finds reasonable cause to believe that the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention; and

(b) Is satisfied that the petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 or that giving notice to those persons is not feasible under the circumstances, or determines that such notice is not required pursuant to subparagraph (2) of paragraph (b) of subsection 1.

3. Except as otherwise provided in subsection 4, after the appointment of a temporary guardian, the petitioner shall attempt in good faith to notify the persons entitled to notice pursuant to NRS 159.047, including, without limitation, notice of any hearing to extend the temporary guardianship. If the petitioner fails to make such an effort, the court may terminate the temporary guardianship.

4. If, before the appointment of a temporary guardian, the court determined that advance notice was not required pursuant to subparagraph (2) of paragraph (b) of subsection 1, the petitioner shall notify the persons entitled to notice pursuant to NRS 159.047 without undue delay, but not later than 48 hours after the appointment of the temporary guardian or not later than 48 hours after the petitioner discovers the existence, identity and location of the persons entitled to notice pursuant to that section. If the petitioner fails to provide such notice, the court may terminate the temporary guardianship.

5. Not later than 10 days after the date of the appointment of a temporary guardian pursuant to subsection 2, the court shall hold a hearing to determine the need to extend the temporary guardianship. Except as otherwise provided in subsection 7, the court may extend



the temporary guardianship until a general or special guardian is appointed pursuant to subsection 8 if:

(a) The court finds by clear and convincing evidence that the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention; and

(b) The extension of the temporary guardianship is necessary and in the best interests of the proposed ward.

6. If the court appoints a temporary guardian or extends the temporary guardianship pursuant to this section, the court shall limit the powers of the temporary guardian to those necessary to respond to the substantial and immediate risk of physical harm or to a need for immediate medical attention.

7. The court may not extend a temporary guardianship pursuant to subsection 5 beyond the initial period of 10 days unless the petitioner demonstrates that:

(a) The provisions of NRS 159.0475 have been satisfied; or

(b) Notice by publication pursuant to N.R.C.P. 4(e) is currently being undertaken.

8. The court may extend the temporary guardianship, for good cause shown, for not more than two successive 60-day periods, except that the court shall not cause the temporary guardianship to continue longer than 5 months unless extraordinary circumstances are shown.

Sec. 13. NRS 159.0525 is hereby amended to read as follows:

159.0525 1. A petitioner may request the court to appoint a temporary guardian for a ward who is unable to respond to a substantial and immediate risk of financial loss. To support the request, the petitioner must set forth in a petition and present to the court under oath:

(a) Documentation which shows that the proposed ward faces a substantial and immediate risk of financial loss and lacks capacity to respond to the risk of loss. Such documentation must include, without limitation, a certificate signed by a physician who is licensed to practice medicine in this State or who is employed by the Department of Veterans Affairs , ~~to~~ a letter signed by any governmental agency in this State which conducts investigations *or a police report* indicating:

(1) That the proposed ward is unable to respond to a substantial and immediate risk of financial loss;

(2) Whether the proposed ward can live independently with or without assistance or services; and



(3) Whether the proposed ward is or has been subjected to abuse, neglect or exploitation;

(b) A detailed explanation of what risks the proposed ward faces, including, without limitation, termination of utilities or other services because of nonpayment, initiation of eviction or foreclosure proceedings, exploitation or loss of assets as the result of fraud, coercion or undue influence; and

(c) Facts which show that:

(1) The petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 by telephone or in writing before the filing of the petition;

(2) The proposed ward would be exposed to an immediate risk of financial loss if the petitioner were to provide notice to the persons entitled to notice pursuant to NRS 159.047 before the court determines whether to appoint a temporary guardian; or

(3) Giving notice to the persons entitled to notice pursuant to NRS 159.047 is not feasible under the circumstances.

2. The court may appoint a temporary guardian to serve for 10 days if the court:

(a) Finds reasonable cause to believe that the proposed ward is unable to respond to a substantial and immediate risk of financial loss; and

(b) Is satisfied that the petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 or that giving notice to those persons is not feasible under the circumstances, or determines that such notice is not required pursuant to subparagraph (2) of paragraph (c) of subsection 1.

3. Except as otherwise provided in subsection 4, after the appointment of a temporary guardian, the petitioner shall attempt in good faith to notify the persons entitled to notice pursuant to NRS 159.047, including, without limitation, notice of any hearing to extend the temporary guardianship. If the petitioner fails to make such an effort, the court may terminate the temporary guardianship.

4. If, before the appointment of a temporary guardian, the court determined that advance notice was not required pursuant to subparagraph (2) of paragraph (c) of subsection 1, the petitioner shall notify the persons entitled to notice pursuant to NRS 159.047 without undue delay, but not later than 48 hours after the appointment of the temporary guardian or not later than 48 hours after the petitioner discovers the existence, identity and location of the persons entitled to notice pursuant to that section. If the petitioner fails to provide such notice, the court may terminate the temporary guardianship.



5. Not later than 10 days after the date of the appointment of a temporary guardian pursuant to subsection 2, the court shall hold a hearing to determine the need to extend the temporary guardianship. Except as otherwise provided in subsection 7, the court may extend the temporary guardianship until a general or special guardian is appointed pursuant to subsection 8 if:

(a) The court finds by clear and convincing evidence that the proposed ward is unable to respond to a substantial and immediate risk of financial loss; and

(b) The extension of the temporary guardianship is necessary and in the best interests of the proposed ward.

6. If the court appoints a temporary guardian or extends the temporary guardianship pursuant to this section, the court shall limit the powers of the temporary guardian to those necessary to respond to the substantial and immediate risk of financial loss, specifically limiting the temporary guardian's authority to take possession of, close or have access to any accounts of the ward or to sell or dispose of tangible personal property of the ward to only that authority as needed to provide for the ward's basic living expenses until a general or special guardian can be appointed. The court may freeze any or all of the ward's accounts to protect such accounts from loss.

7. The court may not extend a temporary guardianship pursuant to subsection 5 beyond the initial period of 10 days unless the petitioner demonstrates that:

(a) The provisions of NRS 159.0475 have been satisfied; or

(b) Notice by publication pursuant to N.R.C.P. 4(e) is currently being undertaken.

8. The court may extend the temporary guardianship, for good cause shown, for not more than two successive 60-day periods, except that the court shall not cause the temporary guardianship to continue longer than 5 months unless extraordinary circumstances are shown.

Sec. 14. NRS 159.0535 is hereby amended to read as follows:

159.0535 1. A proposed ward who is found in this State must attend the hearing for the appointment of a guardian unless:

(a) A certificate signed by a physician *or psychiatrist* who is licensed to practice in this State *or who is employed by the Department of Veterans Affairs* specifically states the condition of the proposed ward, the reasons why the proposed ward is unable to appear in court and whether the proposed ward's attendance at the hearing would be detrimental to the physical *or mental* health of the proposed ward; or



(b) A certificate signed by any other person the court finds qualified to execute a certificate states the condition of the proposed ward, the reasons why the proposed ward is unable to appear in court and whether the proposed ward's attendance at the hearing would be detrimental to the physical *or mental* health of the proposed ward.

2. A proposed ward found in this State who cannot attend the hearing for the appointment of a general or special guardian as set forth in a certificate pursuant to subsection 1 may appear by videoconference. If the proposed ward is an adult and cannot attend by videoconference, the person who signs the certificate described in subsection 1 *or any other person the court finds qualified* shall:

(a) Inform the proposed adult ward that the petitioner is requesting that the court appoint a guardian for the proposed adult ward;

(b) Ask the proposed adult ward for a response to the guardianship petition;

(c) Inform the proposed adult ward of his or her right to counsel and ask whether the proposed adult ward wishes to be represented by counsel in the guardianship proceeding; and

(d) Ask the preferences of the proposed adult ward for the appointment of a particular person as the guardian of the proposed adult ward.

3. If the proposed ward is an adult, the person who ~~signs the certificate described in subsection 1~~ *informs the proposed adult ward of the rights of the proposed adult ward pursuant to subsection 2* shall state in ~~the~~ a certificate ~~signed by that person~~:

(a) That the proposed adult ward has been advised of his or her right to counsel and asked whether he or she wishes to be represented by counsel in the guardianship proceeding;

(b) The responses of the proposed adult ward to the questions asked pursuant to subsection 2; and

(c) Any conditions that the person believes may have limited the responses by the proposed adult ward.

4. The court may prescribe the form in which ~~the~~ a certificate *required by this section* must be filed. If the certificate consists of separate parts, each part must be signed by ~~the~~ the person ~~identified in subsection 1~~ *who is required to sign the certificate*.

5. If the proposed ward is not in this State, the proposed ward must attend the hearing only if the court determines that the attendance of the proposed ward is necessary in the interests of justice.



Sec. 15. NRS 159.073 is hereby amended to read as follows:

159.073 1. Every guardian, before entering upon his or her duties as guardian and before letters of guardianship may issue, shall:

(a) Take and subscribe the official oath which must:

(1) Be endorsed on the letters of guardianship; and

(2) State that the guardian will well and faithfully perform the duties of guardian according to law.

(b) File in the proceeding the appropriate documents which include, without limitation, the full legal name of the guardian and the residence and post office addresses of the guardian.

(c) Except as otherwise required in subsection 2, make and file in the proceeding a verified acknowledgment of the duties and responsibilities of a guardian. The acknowledgment must set forth:

(1) A summary of the duties, functions and responsibilities of a guardian, including, without limitation, the duty to:

(I) Act in the best interest of the ward at all times.

(II) Provide the ward with medical, surgical, dental, psychiatric, psychological, hygienic or other care and treatment as needed, with adequate food and clothing and with safe and appropriate housing.

(III) Protect, preserve and manage the income, assets and estate of the ward and utilize the income, assets and estate of the ward solely for the benefit of the ward.

(IV) Maintain the assets of the ward in the name of the ward or the name of the guardianship. Except when the spouse of the ward is also his or her guardian, the assets of the ward must not be commingled with the assets of any third party.

(V) Notify the court, all interested parties, the trustee, and named executor or appointed personal representative of the estate of the ward of the death of the ward within 30 days after the death.

(2) A summary of the statutes, regulations, rules and standards governing the duties of a guardian.

(3) A list of actions regarding the ward that require the prior approval of the court.

(4) A statement of the need for accurate recordkeeping and the filing of annual reports with the court regarding the finances and well-being of the ward.

2. The court may exempt a public guardian or private professional guardian from filing an acknowledgment in each case and, in lieu thereof, require the public guardian or private



professional guardian to file a general acknowledgment covering all guardianships to which the guardian may be appointed by the court.

Sec. 16. NRS 159.079 is hereby amended to read as follows:

159.079 1. Except as otherwise ordered by the court, a guardian of the person has the care, custody and control of the person of the ward, and has the authority and, subject to subsection 2, shall perform the duties necessary for the proper care, maintenance, education and support of the ward, including, without limitation, the following:

(a) Supplying the ward with food, clothing, shelter and all incidental necessities, including locating an appropriate residence for the ward.

(b) Authorizing medical, surgical, dental, psychiatric, psychological, hygienic or other remedial care and treatment for the ward.

(c) Seeing that the ward is properly trained and educated and that the ward has the opportunity to learn a trade, occupation or profession.

2. In the performance of the duties enumerated in subsection 1 by a guardian of the person, due regard must be given to the extent of the estate of the ward. A guardian of the person is not required to incur expenses on behalf of the ward except to the extent that the estate of the ward is sufficient to reimburse the guardian.

3. A guardian of the person is the ward's personal representative for purposes of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and any applicable regulations. The guardian of the person has authority to obtain information from any government agency, medical provider, business, creditor or third party who may have information pertaining to the ward's health care or health insurance.

4. ~~1A1~~ *Except as otherwise provided in subsection 6, a* guardian of the person may establish and change the residence of the ward at any place within this State without the permission of the court. The guardian shall select the least restrictive appropriate residence which is available and necessary to meet the needs of the ward and which is financially feasible.

5. ~~1A1~~ *Except as otherwise provided in subsection 6, a* guardian of the person shall petition the court for an order authorizing the guardian to change the residence of the ward to a location outside of this State. The guardian must show that the placement outside of this State is in the best interest of the ward or that there is no appropriate residence available for the ward in this State. The court shall retain jurisdiction over the guardianship unless



the guardian files for termination of the guardianship pursuant to NRS 159.1905 or 159.191 or the jurisdiction of the guardianship is transferred to the other state.

6. *A guardian of the person must file a petition with the court requesting authorization to move or place a ward in a secured residential long-term care facility unless:*

(a) *The court has previously granted the guardian authority to move or place the ward in such a facility based on findings made when the court appointed the guardian; or*

(b) *The move or placement is made pursuant to a written recommendation by a licensed physician, a physician employed by the Department of Veterans Affairs, a licensed social worker or an employee of a county or state office for protective services.*

7. This section does not relieve a parent or other person of any duty required by law to provide for the care, support and maintenance of any dependent.

8. *As used in this section "protective services" has the meaning ascribed to it in NRS 200.5092.*

Sec. 17. NRS 159.095 is hereby amended to read as follows:

159.095 1. A guardian of the estate shall appear for and represent the ward in all actions, suits or proceedings to which the ward is a party, unless *the court finds that the interests of the guardian conflict with the interests of the ward or it is otherwise appropriate to appoint* a guardian ad litem ~~is appointed~~ in the action, suit or proceeding. ~~If a guardian ad litem is appointed in the action, suit or proceeding, the guardian of the estate shall notify the court that the guardian ad litem has been appointed in the action, suit or proceeding.~~

2. Upon final resolution of the action, suit or proceeding, the guardian of the estate *or the guardian ad litem* shall notify the court of the outcome of the action, suit or proceeding.

3. If the person of the ward would be affected by the outcome of any action, suit or proceeding, the guardian of the person, if any, should be joined to represent the ward in the action, suit or proceeding.

Sec. 18. NRS 159.113 is hereby amended to read as follows:

159.113 1. Before taking any of the following actions, the guardian of the estate shall petition the court for an order authorizing the guardian to:

(a) Invest the property of the ward pursuant to NRS 159.117.

(b) Continue the business of the ward pursuant to NRS 159.119.

(c) Borrow money for the ward pursuant to NRS 159.121.



(d) Except as otherwise provided in NRS 159.079, enter into contracts for the ward or complete the performance of contracts of the ward pursuant to NRS 159.123.

(e) Make gifts from the ward's estate or make expenditures for the ward's relatives pursuant to NRS 159.125.

(f) Sell, lease or place in trust any property of the ward pursuant to NRS 159.127.

(g) Exchange or partition the ward's property pursuant to NRS 159.175.

(h) Release the power of the ward as trustee, personal representative or custodian for a minor or guardian.

(i) Exercise or release the power of the ward as a donee of a power of appointment.

(j) Exercise the right of the ward to take under or against a will.

(k) Transfer to a trust created by the ward any property unintentionally omitted from the trust.

(l) Submit a revocable trust to the jurisdiction of the court if:

(1) The ward or the spouse of the ward, or both, are the grantors and sole beneficiaries of the income of the trust; or

(2) The trust was created by the court.

(m) Pay any claim by the Department of Health and Human Services to recover benefits for Medicaid correctly paid to or on behalf of the ward.

(n) Transfer money in a minor ward's blocked account to the Nevada Higher Education Prepaid Tuition Trust Fund created pursuant to NRS 353B.140.

~~[(c) Except as otherwise provided in subsection 6, move the ward into a secured residential long-term care facility.]~~

2. Before taking any of the following actions, unless the guardian has been otherwise ordered by the court to petition the court for permission to take specified actions or make specified decisions in addition to those described in subsection 1, the guardian may petition the court for an order authorizing the guardian to:

(a) Obtain advice, instructions and approval of any other proposed act of the guardian relating to the ward's property.

(b) Take any other action which the guardian deems would be in the best interests of the ward.

3. The petition must be signed by the guardian and contain:

(a) The name, age, residence and address of the ward.

(b) A concise statement as to the condition of the ward's estate.

(c) A concise statement as to the advantage to the ward of or the necessity for the proposed action.



(d) The terms and conditions of any proposed sale, lease, partition, trust, exchange or investment, and a specific description of any property involved.

4. Any of the matters set forth in subsection 1 may be consolidated in one petition, and the court may enter one order authorizing or directing the guardian to do one or more of those acts.

5. A petition filed pursuant to paragraphs (b) and (d) of subsection 1 may be consolidated in and filed with the petition for the appointment of the guardian, and if the guardian is appointed, the court may enter additional orders authorizing the guardian to continue the business of the ward, enter contracts for the ward or complete contracts of the ward.

~~6. Without filing a petition pursuant to paragraph (e) of subsection 1, a guardian may move a ward into a secured residential long term care facility if:~~

~~—(a) The court has previously granted the guardian authority to move the ward to such a facility based on findings made when the court appointed the general or special guardian; or~~

~~—(b) The transfer is made pursuant to a written recommendation by a licensed physician, a physician employed by the Department of Veterans Affairs, a licensed social worker or an employee of a county's office for protective services.~~

~~7. As used in this section, "protective services" has the meaning ascribed to it in NRS 200.5092.]~~

Sec. 19. NRS 159.115 is hereby amended to read as follows:

159.115 1. Upon the filing of any petition under NRS 159.078 or 159.113, or any account, notice must be given ~~to~~:

~~—(a) At least 10 days before the date set for the hearing, by mailing a copy of the notice by regular mail to the residence, office or post office address of each person required to be notified pursuant to subsection 3;~~

~~—(b) At least 10 days before the date set for the hearing, by personal service;~~

~~—(c) If the address or identity of the person is not known and cannot be ascertained with reasonable diligence, by publishing a copy of the notice in a newspaper of general circulation in the county where the hearing is to be held, the last publication of which must be published at least 10 days before the date set for the hearing; or~~

~~—(d) In any other manner ordered by the court, for good cause shown.]~~ **in the manner prescribed by NRS 159.034.**

2. The notice must:

(a) Give the name of the ward.



- (b) Give the name of the petitioner.
- (c) Give the date, time and place of the hearing.
- (d) State the nature of the petition.
- (e) Refer to the petition for further particulars, and notify all persons interested to appear at the time and place mentioned in the notice and show cause why the court order should not be made.

~~13. At least 10 days before the date set for the hearing, the petitioner shall cause a copy of the notice to be mailed to the following:~~

~~—(a) Any minor ward who is 14 years of age or older or the parent or legal guardian of any minor ward who is less than 14 years of age.~~

~~—(b) The spouse of the ward and other heirs of the ward who are related within the second degree of consanguinity so far as known to the petitioner.~~

~~—(c) The guardian of the person of the ward, if the guardian is not the petitioner.~~

~~—(d) Any person or care provider who is providing care for the ward, except that if the person or care provider is not related to the ward, such person or provider must not be given copies of any inventory or accounting.~~

~~—(e) Any office of the Department of Veterans Affairs in this State if the ward is receiving any payments or benefits through the Department of Veterans Affairs.~~

~~—(f) The Director of the Department of Health and Human Services if the ward has received or is receiving any benefits from Medicaid.~~

~~—(g) Any other interested person or the person's attorney who has filed a request for notice in the guardianship proceeding and served a copy of the request upon the guardian. The request for notice must state the interest of the person filing the request, and the person's name and address, or that of his or her attorney. If the notice so requests, copies of all petitions and accounts must be mailed to the interested person or the person's attorney.~~

~~4. An interested person who is entitled to notice pursuant to subsection 3 may, in writing, waive notice of the hearing of a petition.~~

~~5. Proof of giving notice must be:~~

~~—(a) Made on or before the date set for the hearing; and~~

~~—(b) Filed in the guardianship proceeding.]~~

Sec. 20. NRS 159.146 is hereby amended to read as follows:

159.146 1. At the hearing to confirm the sale of real property, the court shall:



(a) Consider whether the sale is necessary or in the best interest of the estate of the ward; and

(b) Examine the return on the investment and the evidence submitted in relation to the sale.

2. The court shall confirm the sale and order conveyances to be executed if it appears to the court that:

(a) Good reason existed for the sale;

(b) The sale was conducted in a legal and fair manner;

(c) The amount of the offer or bid is not disproportionate to the value of the property; and

(d) It is unlikely that an offer or bid would be made which exceeds the original offer or bid:

(1) By at least 5 percent if the offer or bid is less than \$100,000; or

(2) By at least \$5,000 if the offer or bid is \$100,000 or more.

3. The court shall not confirm the sale if the conditions in this section are not satisfied.

4. If the court does not confirm the sale, the court:

(a) May order a new sale;

(b) May conduct a public auction in open court; or

(c) May accept a written offer or bid from a responsible person and confirm the sale to the person if the written offer complies with the laws of this state and exceeds the original bid:

(1) By at least 5 percent if the bid is less than \$100,000; or

(2) By at least \$5,000 if the bid is \$100,000 or more.

5. If the court does not confirm the sale and orders a new sale:

(a) Notice must be given in the manner set forth in NRS 159.1425; and

(b) The sale must be conducted in all other respects as though no previous sale has taken place.

6. If a higher offer or bid is received by the court during the hearing to confirm the sale, the court may continue the hearing rather than accept the offer or bid as set forth in paragraph (c) of subsection 4 if the court determines that the person who made the original offer or bid was not notified of the hearing and that the person who made the original offer or bid may wish to increase his or her bid. This subsection does not grant a right to a person to have a continuance granted and may not be used as a ground to set aside an order confirming a sale.

7. Except as otherwise provided in this subsection, if a higher offer or bid is received by the court during the hearing to confirm the sale and the court does not accept that offer or bid, each successive bid must be for not less than:



(a) An additional \$5,000, if the original offer is for \$100,000 or more; or

(b) An additional \$250 if the original offer is less than \$100,000.

↳ Upon the request of the guardian during the hearing to confirm the sale, the court may set other incremental bid amounts.

Sec. 21. NRS 159.191 is hereby amended to read as follows:

159.191 1. A guardianship of the person is terminated:

(a) By the death of the ward;

(b) Upon the ward's change of domicile to a place outside this state and the transfer of jurisdiction to the court having jurisdiction in the new domicile;

(c) Upon order of the court, if the court determines that the guardianship no longer is necessary; or

(d) If the ward is a minor:

(1) On the date on which the ward reaches 18 years of age; or

(2) On the date on which the ward graduates from high school or becomes 19 years of age, whichever occurs sooner, if:

(I) The ward will be older than 18 years of age upon graduation from high school; and

(II) The ward and the guardian consent to continue the guardianship and the consent is filed with the court at least 14 days before the date on which the ward will become 18 years of age.

2. A guardianship of the estate is terminated : ~~if the court:~~

(a) ~~Removes~~ *If the court removes* the guardian or accepts the resignation of the guardian and does not appoint a successor guardian; ~~for~~

(b) ~~Determines~~ *If the court determines* that the guardianship is not necessary and orders the guardianship terminated ~~+~~ ; or

(c) By the death of the ward, subject to the provisions of NRS 159.193.

3. If the guardianship is of the person and estate, the court may order the guardianship terminated as to the person, the estate, or the person and estate.

4. The guardian shall notify the court, all interested parties, the trustee, and the named executor or appointed personal representative of the estate of the ward of the death of the ward within 30 days after the death.

5. Immediately upon the death of the ward:

(a) The guardian of the estate shall have no authority to act for the ward except to wind up the affairs of the guardianship pursuant to NRS 159.193, and to distribute the property of the ward as provided in NRS 159.195 and 159.197; and



(b) No person has standing to file a petition pursuant to NRS 159.078.

Sec. 22. NRS 159.193 is hereby amended to read as follows:

159.193 1. The guardian of the estate is entitled to *retain* possession of the ward's property *already in the control of the guardian* and is authorized to perform the duties of the guardian to wind up the affairs of the guardianship:

(a) *Except as otherwise provided in paragraph (b), (c) or (d), for not more than 180 days or a period that is reasonable and necessary as determined by the court* after the termination of the guardianship;

(b) Except as otherwise provided in paragraph ~~[(e)]~~ (d), for not more than ~~180~~ 90 days after the date of the appointment of a personal representative of the estate of a deceased ward; ~~for~~

(c) *Except as otherwise provided in paragraph (d), for not more than 90 days after the date of the appointment of a successor trustee of a trust of the deceased ward and upon request by the trustee; or*

(d) Upon approval of the court, for more than 180 *days or 90, as applicable*, if the guardian is awaiting certification from the appropriate authority acknowledging that the guardian has no further liability for taxes on the estate.

2. To wind up the affairs of the guardianship, the guardian shall:

(a) Pay all expenses of administration of the guardianship estate, including those incurred in winding up the affairs of the guardianship.

(b) Complete the performance of any contractual obligations incurred by the guardianship estate.

(c) With prior approval of the court, continue any activity that:

(1) The guardian believes is appropriate and necessary; or

(2) Was commenced before the termination of the guardianship.

(d) If the guardianship is terminated for a reason other than the death of the ward, examine and allow and pay, or reject, all claims presented to the guardian prior to the termination of the guardianship for obligations incurred prior to the termination.

3. If the assets are transferred to a personal representative or a successor trustee as provided for in paragraphs (b) and (c) of subsection 1, the court may authorize the guardian to retain sufficient assets to pay any anticipated expenses and taxes of the guardianship estate.



Sec. 23. Chapter 162A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A physician, health care facility or other provider of health care that in good faith accepts an acknowledged power of attorney for health care without actual knowledge that the signature is not genuine may rely upon the presumption that the signature is genuine.

2. A physician, health care facility or other provider of health care that in good faith accepts an acknowledged power of attorney for health care without actual knowledge that the power of attorney for health care is void, invalid or terminated, or that the purported agent's authority is void, invalid or terminated, may rely upon the power of attorney for health care as if the power of attorney for health care were genuine, valid and still in effect, and the agent's authority was genuine, valid and still in effect.

3. A physician, health care facility or other provider of health care that in good faith accepts an acknowledged power of attorney for health care is not subject to civil or criminal liability or discipline for unprofessional conduct for giving effect to a declaration contained within the power of attorney for health care or for following the direction of an agent named in the power of attorney for health care.

Sec. 24. NRS 162A.220 is hereby amended to read as follows:

162A.220 1. A power of attorney must be signed by the principal or, in the principal's conscious presence, by another individual directed by the principal to sign the principal's name on the power of attorney. A signature on a power of attorney is presumed to be genuine if the principal acknowledges the signature before a notary public or other individual authorized by law to take acknowledgments.

2. If the principal resides in a hospital, ~~assisted living facility~~ ~~or~~ *residential facility for groups*, facility for skilled nursing *or home for individual residential care*, at the time of execution of the power of attorney, a certification of competency of the principal from a physician, psychologist or psychiatrist must be attached to the power of attorney.

3. If the principal resides or is about to reside in a hospital, assisted living facility or facility for skilled nursing at the time of execution of the power of attorney, in addition to the prohibition set forth in NRS 162A.840 and except as otherwise provided in subsection 4, the principal may not name as agent in any power of attorney for any purpose:



(a) The hospital, assisted living facility or facility for skilled nursing;

(b) An owner or operator of the hospital, assisted living facility or facility for skilled nursing; or

(c) An employee of the hospital, assisted living facility or facility for skilled nursing.

4. The principal may name as agent any person identified in subsection 3 if that person is:

(a) The spouse, legal guardian or next of kin of the principal; or

(b) Named only for the purpose of assisting the principal to establish eligibility for Medicaid and the power of attorney complies with the provisions of subsection 5.

5. A person may be named as agent pursuant to paragraph (b) of subsection 4 only if:

(a) A valid financial power of attorney for the principal does not exist;

(b) The agent has made a good faith effort to contact each family member of the principal identified in the records of the hospital, assisted living facility or facility for skilled nursing, as applicable, to request that the family member establish a financial power of attorney for the principal and has documented his or her effort;

(c) The power of attorney specifies that the agent is only authorized to access financial documents of the principal which are necessary to prove eligibility of the principal for Medicaid as described in the application for Medicaid and specifies that any request for such documentation must be accompanied by a copy of the application for Medicaid or by other proof that the document is necessary to prove eligibility for Medicaid;

(d) The power of attorney specifies that the agent does not have authority to access money or any other asset of the principal for any purpose; and

(e) The power of attorney specifies that the power of attorney is only valid until eligibility of the principal for Medicaid is determined or 6 months after the power of attorney is signed, whichever is sooner.

6. A person who is named as agent pursuant to paragraph (b) of subsection 4 shall not use the power of attorney for any purpose other than to assist the principal to establish eligibility for Medicaid and shall not use the power of attorney in a manner inconsistent with the provisions of subsection 5. A person who violates the



provisions of this subsection is guilty of a category C felony and shall be punished as provided in NRS 193.130.

7. As used in this section:

(a) “Assisted living facility” has the meaning ascribed to it in NRS 422.2708.

(b) “Facility for skilled nursing” has the meaning ascribed to it in NRS 449.0039.

(c) *“Home for individual residential care” has the meaning ascribed to it in NRS 449.0105.*

(d) “Hospital” has the meaning ascribed to it in NRS 449.012.

(e) *“Residential facility for groups” has the meaning ascribed to it in NRS 449.017.*

Sec. 25. NRS 162A.250 is hereby amended to read as follows:

162A.250 1. In a power of attorney, a principal may nominate a guardian of the principal’s estate for consideration by the court if guardianship proceedings for the principal’s estate or person are begun after the principal executes the power of attorney.

2. If, after a principal executes a power of attorney, a court appoints a guardian of the principal’s estate, the power of attorney is terminated ~~H~~, *unless the court allows the agent to retain specific powers conferred by the power of attorney. In the event the court allows the agent to retain specific powers, the agent shall file an accounting with the court and the guardian on a quarterly basis or such other period as the court may designate.*

Sec. 26. NRS 162A.700 is hereby amended to read as follows:

162A.700 NRS 162A.700 to 162A.860, inclusive, *and section 23 of this act* apply to any power of attorney containing the authority to make health care decisions.

Sec. 27. NRS 162A.710 is hereby amended to read as follows:

162A.710 As used in NRS 162A.700 to 162A.860, inclusive, *and section 23 of this act*, unless the context otherwise requires, the words and terms defined in NRS 162A.720 to 162A.780, inclusive, have the meanings ascribed to them in those sections.

Sec. 28. NRS 162A.790 is hereby amended to read as follows:

162A.790 1. Any adult person may execute a power of attorney enabling the agent named in the power of attorney to make decisions concerning health care for the principal if that principal becomes incapable of giving informed consent concerning such decisions.

2. A power of attorney for health care must be signed by the principal. The principal’s signature on the power of attorney for health care must be:



- (a) Acknowledged before a notary public; or
- (b) Witnessed by two adult witnesses who know the principal personally.

3. Neither of the witnesses to a principal's signature may be:

- (a) A provider of health care;
- (b) An employee of a provider of health care;
- (c) An operator of a health care facility;
- (d) An employee of a health care facility; or
- (e) The agent.

4. At least one of the witnesses to a principal's signature must be a person who is:

- (a) Not related to the principal by blood, marriage or adoption; and
- (b) To the best of the witnesses' knowledge, not entitled to any part of the estate of the principal upon the death of the principal.

5. If the principal resides in a hospital, residential facility for groups, facility for skilled nursing or home for individual residential care, at the time of the execution of the power of attorney, a certification of competency of the principal from a physician, psychologist or psychiatrist must be attached to the power of attorney.

6. A power of attorney executed in a jurisdiction outside of this State is valid in this State if, when the power of attorney was executed, the execution complied with the laws of that jurisdiction or the requirements for a military power of attorney pursuant to 10 U.S.C. § 1044b.

7. As used in this section:

(a) "Facility for skilled nursing" has the meaning ascribed to it in NRS 449.0039.

(b) "Home for individual residential care" has the meaning ascribed to it in NRS 449.0105.

(c) "Hospital" has the meaning ascribed to it in NRS 449.012.

(d) "Residential facility for groups" has the meaning ascribed to it in NRS 449.017.

Sec. 29. NRS 162A.860 is hereby amended to read as follows:

162A.860 The form of a power of attorney for health care ~~must~~ may be substantially ~~as follows:~~ in the following form, and must be witnessed or executed in the same manner as the following form:



**DURABLE POWER OF ATTORNEY
FOR HEALTH CARE DECISIONS**

WARNING TO PERSON EXECUTING THIS DOCUMENT

THIS IS AN IMPORTANT LEGAL DOCUMENT. IT CREATES A DURABLE POWER OF ATTORNEY FOR HEALTH CARE. BEFORE EXECUTING THIS DOCUMENT, YOU SHOULD KNOW THESE IMPORTANT FACTS:

1. THIS DOCUMENT GIVES THE PERSON YOU DESIGNATE AS YOUR AGENT THE POWER TO MAKE HEALTH CARE DECISIONS FOR YOU. THIS POWER IS SUBJECT TO ANY LIMITATIONS OR STATEMENT OF YOUR DESIRES THAT YOU INCLUDE IN THIS DOCUMENT. THE POWER TO MAKE HEALTH CARE DECISIONS FOR YOU MAY INCLUDE CONSENT, REFUSAL OF CONSENT OR WITHDRAWAL OF CONSENT TO ANY CARE, TREATMENT, SERVICE OR PROCEDURE TO MAINTAIN, DIAGNOSE OR TREAT A PHYSICAL OR MENTAL CONDITION. YOU MAY STATE IN THIS DOCUMENT ANY TYPES OF TREATMENT OR PLACEMENTS THAT YOU DO NOT DESIRE.

2. THE PERSON YOU DESIGNATE IN THIS DOCUMENT HAS A DUTY TO ACT CONSISTENT WITH YOUR DESIRES AS STATED IN THIS DOCUMENT OR OTHERWISE MADE KNOWN OR, IF YOUR DESIRES ARE UNKNOWN, TO ACT IN YOUR BEST INTERESTS.

3. EXCEPT AS YOU OTHERWISE SPECIFY IN THIS DOCUMENT, THE POWER OF THE PERSON YOU DESIGNATE TO MAKE HEALTH CARE DECISIONS FOR YOU MAY INCLUDE THE POWER TO CONSENT TO YOUR DOCTOR NOT GIVING TREATMENT OR STOPPING TREATMENT WHICH WOULD KEEP YOU ALIVE.

4. UNLESS YOU SPECIFY A SHORTER PERIOD IN THIS DOCUMENT, THIS POWER WILL EXIST INDEFINITELY FROM THE DATE YOU EXECUTE THIS DOCUMENT AND, IF YOU ARE UNABLE TO MAKE HEALTH CARE DECISIONS FOR YOURSELF, THIS POWER WILL CONTINUE TO EXIST UNTIL THE TIME



WHEN YOU BECOME ABLE TO MAKE HEALTH CARE DECISIONS FOR YOURSELF.

5. NOTWITHSTANDING THIS DOCUMENT, YOU HAVE THE RIGHT TO MAKE MEDICAL AND OTHER HEALTH CARE DECISIONS FOR YOURSELF SO LONG AS YOU CAN GIVE INFORMED CONSENT WITH RESPECT TO THE PARTICULAR DECISION. IN ADDITION, NO TREATMENT MAY BE GIVEN TO YOU OVER YOUR OBJECTION, AND HEALTH CARE NECESSARY TO KEEP YOU ALIVE MAY NOT BE STOPPED IF YOU OBJECT.

6. YOU HAVE THE RIGHT TO REVOKE THE APPOINTMENT OF THE PERSON DESIGNATED IN THIS DOCUMENT TO MAKE HEALTH CARE DECISIONS FOR YOU BY NOTIFYING THAT PERSON OF THE REVOCATION ORALLY OR IN WRITING.

7. YOU HAVE THE RIGHT TO REVOKE THE AUTHORITY GRANTED TO THE PERSON DESIGNATED IN THIS DOCUMENT TO MAKE HEALTH CARE DECISIONS FOR YOU BY NOTIFYING THE TREATING PHYSICIAN, HOSPITAL OR OTHER PROVIDER OF HEALTH CARE ORALLY OR IN WRITING.

8. THE PERSON DESIGNATED IN THIS DOCUMENT TO MAKE HEALTH CARE DECISIONS FOR YOU HAS THE RIGHT TO EXAMINE YOUR MEDICAL RECORDS AND TO CONSENT TO THEIR DISCLOSURE UNLESS YOU LIMIT THIS RIGHT IN THIS DOCUMENT.

9. THIS DOCUMENT REVOKES ANY PRIOR DURABLE POWER OF ATTORNEY FOR HEALTH CARE.

10. IF THERE IS ANYTHING IN THIS DOCUMENT THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER TO EXPLAIN IT TO YOU.

1. DESIGNATION OF HEALTH CARE AGENT.

I,
(insert your name) do hereby designate and appoint:

Name:

Address:

Telephone Number:



as my agent to make health care decisions for me as authorized in this document.

(Insert the name and address of the person you wish to designate as your agent to make health care decisions for you. Unless the person is also your spouse, legal guardian or the person most closely related to you by blood, none of the following may be designated as your agent: (1) your treating provider of health care; (2) an employee of your treating provider of health care; (3) an operator of a health care facility; or (4) an employee of an operator of a health care facility.)

2. CREATION OF DURABLE POWER OF ATTORNEY FOR HEALTH CARE.

By this document I intend to create a durable power of attorney by appointing the person designated above to make health care decisions for me. This power of attorney shall not be affected by my subsequent incapacity.

3. GENERAL STATEMENT OF AUTHORITY GRANTED.

In the event that I am incapable of giving informed consent with respect to health care decisions, I hereby grant to the agent named above full power and authority: to make health care decisions for me before or after my death, including consent, refusal of consent or withdrawal of consent to any care, treatment, service or procedure to maintain, diagnose or treat a physical or mental condition; to request, review and receive any information, verbal or written, regarding my physical or mental health, including, without limitation, medical and hospital records; to execute on my behalf any releases or other documents that may be required to obtain medical care and/or medical and hospital records, EXCEPT any power to enter into any arbitration agreements or execute any arbitration clauses in connection with admission to any health care facility including any skilled nursing facility; and subject only to the limitations and special provisions, if any, set forth in paragraph 4 or 6.

4. SPECIAL PROVISIONS AND LIMITATIONS.

(Your agent is not permitted to consent to any of the following: commitment to or placement in a mental health treatment facility, convulsive treatment, psychosurgery, sterilization or abortion. If there are any other types of



treatment or placement that you do not want your agent's authority to give consent for or other restrictions you wish to place on his or her agent's authority, you should list them in the space below. If you do not write any limitations, your agent will have the broad powers to make health care decisions on your behalf which are set forth in paragraph 3, except to the extent that there are limits provided by law.)

In exercising the authority under this durable power of attorney for health care, the authority of my agent is subject to the following special provisions and limitations:

.....
.....
.....
.....

5. DURATION.

I understand that this power of attorney will exist indefinitely from the date I execute this document unless I establish a shorter time. If I am unable to make health care decisions for myself when this power of attorney expires, the authority I have granted my agent will continue to exist until the time when I become able to make health care decisions for myself.

(IF APPLICABLE)

I wish to have this power of attorney end on the following date:

6. STATEMENT OF DESIRES.

(With respect to decisions to withhold or withdraw life-sustaining treatment, your agent must make health care decisions that are consistent with your known desires. You can, but are not required to, indicate your desires below. If your desires are unknown, your agent has the duty to act in your best interests; and, under some circumstances, a judicial proceeding may be necessary so that a court can determine the health care decision that is in your best interests. If you wish to indicate your desires, you may INITIAL the statement or statements that reflect your desires and/or write your own statements in the space below.)



(If the statement
reflects your desires,
initial the box next to
the statement.)

1. I desire that my life be prolonged to the greatest extent possible, without regard to my condition, the chances I have for recovery or long-term survival, or the cost of the procedures.

[.....]

2. If I am in a coma which my doctors have reasonably concluded is irreversible, I desire that life-sustaining or prolonging treatments not be used. (Also should utilize provisions of NRS 449.535 to 449.690, inclusive, if this subparagraph is initialed.)

[.....]

3. If I have an incurable or terminal condition or illness and no reasonable hope of long-term recovery or survival, I desire that life-sustaining or prolonging treatments not be used. (Also should utilize provisions of NRS 449.535 to 449.690, inclusive, if this subparagraph is initialed.)

[.....]

4. Withholding or withdrawal of artificial nutrition and hydration may result in death by starvation or dehydration. I want to receive or continue receiving artificial nutrition and hydration by way of the gastrointestinal tract after all other treatment is withheld.

[.....]



5. I do not desire treatment to be provided and/or continued if the burdens of the treatment outweigh the expected benefits. My agent is to consider the relief of suffering, the preservation or restoration of functioning, and the quality as well as the extent of the possible extension of my life. [.....]

(If you wish to change your answer, you may do so by drawing an "X" through the answer you do not want, and circling the answer you prefer.)

Other or Additional Statements of Desires:

.....
.....
.....
.....
.....

7. DESIGNATION OF ALTERNATE AGENT.

(You are not required to designate any alternative agent but you may do so. Any alternative agent you designate will be able to make the same health care decisions as the agent designated in paragraph 1, page 2, in the event that he or she is unable or unwilling to act as your agent. Also, if the agent designated in paragraph 1 is your spouse, his or her designation as your agent is automatically revoked by law if your marriage is dissolved.)

If the person designated in paragraph 1 as my agent is unable to make health care decisions for me, then I designate the following persons to serve as my agent to make health care decisions for me as authorized in this document, such persons to serve in the order listed below:

A. First Alternative Agent

Name:

Address:

Telephone Number:



B. Second Alternative Agent

Name:

Address:

Telephone Number:

8. PRIOR DESIGNATIONS REVOKED.

I revoke any prior durable power of attorney for health care.

9. WAIVER OF CONFLICT OF INTEREST.

If my designated agent is my spouse or is one of my children, then I waive any conflict of interest in carrying out the provisions of this Durable Power of Attorney for Health Care that said spouse or child may have by reason of the fact that he or she may be a beneficiary of my estate.

10. CHALLENGES.

If the legality of any provision of this Durable Power of Attorney for Health Care is questioned by my physician, my agent or a third party, then my agent is authorized to commence an action for declaratory judgment as to the legality of the provision in question. The cost of any such action is to be paid from my estate. This Durable Power of Attorney for Health Care must be construed and interpreted in accordance with the laws of the State of Nevada.

11. NOMINATION OF GUARDIAN.

If, after execution of this Durable Power of Attorney for Health Care, incompetency proceedings are initiated either for my estate or my person, I hereby nominate as my guardian or conservator for consideration by the court my agent herein named, in the order named.

12. RELEASE OF INFORMATION.

I agree to, authorize and allow full release of information by any government agency, medical provider, business, creditor or third party who may have information pertaining to my health care, to my agent named herein, pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended, and applicable regulations.





STATEMENT OF WITNESSES

(You should carefully read and follow this witnessing procedure. This document will not be valid unless you comply with the witnessing procedure. If you elect to use witnesses instead of having this document notarized, you must use two qualified adult witnesses. None of the following may be used as a witness: (1) a person you designate as the agent; (2) a provider of health care; (3) an employee of a provider of health care; (4) the operator of a health care facility; or (5) an employee of an operator of a health care facility. At least one of the witnesses must make the additional declaration set out following the place where the witnesses sign.)

I declare under penalty of perjury that the principal is personally known to me, that the principal signed or acknowledged this durable power of attorney in my presence, that the principal appears to be of sound mind and under no duress, fraud or undue influence, that I am not the person appointed as agent by this document and that I am not a provider of health care, an employee of a provider of health care, the operator of a community care facility or an employee of an operator of a health care facility.

Signature: Residence Address:
Print Name:
Date:

Signature: Residence Address:
Print Name:
Date:

(AT LEAST ONE OF THE ABOVE WITNESSES MUST ALSO SIGN THE FOLLOWING DECLARATION.)

I declare under penalty of perjury that I am not related to the principal by blood, marriage or adoption and that to the best of my knowledge, I am not entitled to any part of the estate of the principal upon the death of the principal under a will now existing or by operation of law.



Signature:

Signature:

Names: Address:
Print Name:
Date:
.....

COPIES: You should retain an executed copy of this document and give one to your agent. The power of attorney should be available so a copy may be given to your providers of health care.

