

1 **4-999. Notice of hearing and rights.**

2
3 **STATE OF NEW MEXICO**
4 **COUNTY OF _____**
5 **_____ JUDICIAL DISTRICT**

6
7 **In the matter of _____.** **No. _____**
8
9

10 **NOTICE OF HEARING AND RIGHTS**

11
12 **TO:** _____ *(name and address of alleged*
13 _____ *incapacitated person)*
14 _____
15 _____
16

17 A hearing will be held at the following date, time, and location on the Petition to
18 Appoint a Guardian and/or Conservator for _____ *(alleged incapacitated*
19 *person)*:

20
21 Date: _____
22 Time: _____
23 Judicial District: _____
24 Courthouse: _____
25 Address: _____
26 Judge: _____
27

28 The purpose of the hearing will be to determine whether protection is needed for
29 _____ *(alleged incapacitated person)* and _____
30 *(alleged incapacitated person)*'s property.
31

32 Before the hearing, the Court will appoint a visitor, a qualified health care
33 professional, and if necessary, a guardian *ad litem* to advise the Court about
34 _____ *(alleged incapacitated person)*'s capacity and whether a
35 guardian and/or conservator should be appointed.
36

37 If the Court appoints a guardian and/or a conservator, the guardian and/or
38 conservator,

39 (1) will have authority to make decisions over some or all of
40 _____ *(alleged incapacitated person)*'s personal and/or financial affairs;

41 (2) must use their decision-making authority only when necessary to promote
42 and protect the well being and/or financial interests of _____ *(alleged*
43 *incapacitated person)*; and

1 (3) must use their decision-making authority in a manner that encourages the
2 development of maximum self-reliance and independence of _____
3 (*alleged incapacitated person*).

4
5 If the Court appoints a guardian and/or conservator, _____
6 (*alleged incapacitated person*) retains all legal and civil rights except those which have
7 been expressly limited by court order or have been specifically granted to the guardian
8 and/or conservator by the Court.

9
10
11 **NOTICE OF RIGHTS**

12
13 _____ (*alleged incapacitated person*) has the following rights
14 under Sections 45-5-309(B) and 45-5-303 and/or 45-5-405(B) and 45-5-407 NMSA 1978:

15
16 1. The right to obtain an attorney of _____ (*alleged*
17 *incapacitated person*)’s choice;

18
19 2. The right to object to the individuals appointed as visitor, qualified health
20 care professional, and guardian *ad litem*;

21
22 3. The right to attend the hearing. If _____ (*alleged*
23 *incapacitated person*) is unable to be present in court, the Court upon request or its own
24 motion may conduct hearings at _____ (*alleged incapacitated*
25 *person*)’s location;

26
27 4. ~~[The right to respond to any statements made by any person at the hearing~~
28 ~~and to object to any part of this proceeding; and]~~ The right to present evidence at the
29 hearing and to subpoena witnesses and documents;

30
31 5. The right to examine witnesses at the hearing, including a court-appointed
32 guardian *ad litem*, qualified health care professional, and visitor;

33
34 6. The right to otherwise participate in the hearing; and

35
36 ~~[5-]~~7. The right to be personally served with a copy of this notice and of the
37 petition filed in this proceeding.

38
39 **THE COURT SHALL NOT GRANT THE PETITION IF THE PETITION**
40 **AND THIS NOTICE OF HEARING AND RIGHTS IS NOT PERSONALLY**
41 **SERVED ON _____ (ALLEGED INCAPACITATED PERSON).**

42
43 BY: _____
44 TCAA for Judge
45

1 A copy of this Notice of Hearing and Rights is being provided as required under
2 Sections 45-5-309(C) and/or 45-5-405(C) NMSA 1978 to the following interested persons
3 who are identified in the information sheet submitted with the Petition under Rule 1-003.2
4 NMRA:

5
6 *(list names and addresses of all persons identified on the information sheet and of the*
7 *guardian ad litem, visitor, and qualified health care professional appointed by the court)*

8 _____
9 _____
10 _____
11 _____
12 _____

13
14 **USE NOTE**

15
16 This Notice of Hearing and Rights must be used in cases filed on or after October
17 15, 2018. In a case filed after July 1, 2018 but before October 15, 2018, the alleged
18 incapacitated person must receive notice that substantially complies with the notice-of-
19 rights requirements set forth in NMSA 1978, §§ 45-5-309(B) and 45-5-405(B).

20
21 [Provisionally approved by Supreme Court Order No. 18-8300-007, effective for all cases
22 filed on or after October 15, 2018; approved as amended by Supreme Court Order No. 19-
23 8300-001, effective January 14, 2019; as amended by Supreme Court Order No. 19-8300-
24 019, effective December 1, 2019.]