

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

2

3 **STATE OF NEW MEXICO**

4 **COUNTY OF \_\_\_\_\_**

5 **\_\_\_\_\_ JUDICIAL DISTRICT**

6 **In the matter of \_\_\_\_\_.** **No. \_\_\_\_\_**

7

**NOTICE OF HEARING AND RIGHTS**

8 TO: \_\_\_\_\_ (*name and address of alleged*  
9 \_\_\_\_\_ *incapacitated person*)  
10 \_\_\_\_\_  
11 \_\_\_\_\_

12 A hearing will be held at the following date, time, and location on the  
13 Petition to Appoint a Guardian and/or Conservator for \_\_\_\_\_  
14 (*alleged incapacitated person*):

15 Date: \_\_\_\_\_  
16 Time: \_\_\_\_\_  
17 Judicial District: \_\_\_\_\_  
18 Courthouse: \_\_\_\_\_  
19 Address: \_\_\_\_\_  
20 Judge: \_\_\_\_\_

21 The purpose of the hearing will be to determine whether protection is  
22 needed for \_\_\_\_\_ (*alleged incapacitated person*) and  
23 \_\_\_\_\_ (*alleged incapacitated person*)'s property.

24 Before the hearing, the Court will appoint a visitor, a qualified health  
25 care professional, and if necessary, a guardian *ad litem* to advise the Court  
26 about \_\_\_\_\_ (*alleged incapacitated person*)'s capacity  
27 and whether a guardian and/or conservator should be appointed.

1 If the Court appoints a guardian and/or a conservator, the guardian  
2 and/or conservator,

- 3 (1) will have authority to make decisions over some or all of  
4 \_\_\_\_\_ (*alleged incapacitated person*)’s personal  
5 and/or financial affairs;  
6 (2) must use their decision-making authority only when necessary to  
7 promote and protect the well being and/or financial interests of  
8 \_\_\_\_\_ (*alleged incapacitated person*); and  
9 (3) must use their decision-making authority in a manner that  
10 encourages the development of maximum self-reliance and  
11 independence of \_\_\_\_\_ (*alleged incapacitated*  
12 *person*).

13 If the Court appoints a guardian and/or conservator,  
14 \_\_\_\_\_ (*alleged incapacitated person*) retains all legal and  
15 civil rights except those which have been expressly limited by court order or  
16 have been specifically granted to the guardian and/or conservator by the Court.

17 **NOTICE OF RIGHTS**

18 \_\_\_\_\_ (*alleged incapacitated person*) has the  
19 following rights under Sections 45-5-309(B) and 45-5-303 and/or 45-5-405(B)  
20 and 45-5-407 NMSA 1978:

- 21 1. The right to obtain an attorney of \_\_\_\_\_  
22 (*alleged incapacitated person*)’s choice;
- 23 2. The right to object to the individuals appointed as visitor,  
24 qualified health care professional, and guardian *ad litem*;
- 25 3. The right to attend the hearing. If \_\_\_\_\_  
26 (*alleged incapacitated person*) is unable to be present in court,  
27 the Court upon request or its own motion may conduct hearings  
28 at \_\_\_\_\_ (*alleged incapacitated person*)’s  
29 location;



- 1 [Provisionally approved by Supreme Court Order No. 18-8300-007, effective
- 2 for all cases filed on or after October 15, 2018; approved as amended by
- 3 Supreme Court Order No. 19-8300-001, effective January 14, 2019.]