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**CNMI SUPREME COURT**  
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Case No.: ADM-2023  
NoraV Borja

IN THE  
SUPREME COURT  
OF THE  
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

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IN RE ADOPTION OF THE  
RULES OF GUARDIANSHIP PROCEDURE

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ADMINISTRATIVE ORDER 2023-ADM-0008-RUL

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**ORDER ADOPTING RULES OF GUARDIANSHIP PROCEDURE**

¶ 1 On January 24, 2023, the proposed *NMI Rules of Guardianship Procedure* were submitted to the Twenty-Third Northern Marianas Commonwealth Legislature for approval. On March 9, 2023, the House of Representatives adopted the proposed rules. Sixty days have passed since the rules were submitted, and the Senate has not disapproved of the rules.

¶ 2 IT IS HEREBY ORDERED that the *NMI Rules of Guardianship Procedure* are adopted pursuant to Article IV, § 9 of the NMI Constitution. These rules supersede any previous conflicting court rules and became effective on March 25, 2023.

SO ORDERED this 28th day of March, 2023.

/s/  
\_\_\_\_\_  
ALEXANDRO C. CASTRO  
Chief Justice

/s/  
\_\_\_\_\_  
JOHN A. MANGLONA  
Associate Justice

/s/  
\_\_\_\_\_  
PERRY B. INOS  
Associate Justice



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# **NORTHERN MARIANA ISLANDS**

## **RULES OF GUARDIANSHIP PROCEDURE**

*Effective March 25, 2023*

### **EXHIBIT A**

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**Rule 1. Title, Scope, and Authority.**

- (a) **Title.** These rules shall be known as the Northern Mariana Islands Rules of Guardianship Procedure and shall be cited as “NMI R. GUARD. P.”
- (b) **Scope.** These rules govern the procedure in all guardianship proceedings in the Superior Court.
- (c) **Authority.** These rules are promulgated pursuant to Article IV, Section 9 of the Constitution of the Northern Mariana Islands.

**Rule 2. Petition or Motion for Appointment.**

- (a) **Appointment by Petition.** A verified petition to appoint a general guardian for a minor shall be filed with the Clerk of the Commonwealth Superior Court and shall contain all information required by law.
- (b) **Appointment by Motion.** In an existing civil or probate matter, a party, or the court on its own motion, may move for the appointment of a guardian for any minor party. Such motion shall contain all information required by 1 CMC § 1421 and any other applicable law.

**Rule 3. Definitions.**

- (a) **Hearing.** Within five days after the petition or motion described in Rule 1 is filed, the clerk of court shall set the same for hearing.
- (b) **Notice of Hearing.** The petitioner shall thereafter cause to be issued the order prescribing notice which shall contain all information required by law and be served and published in a manner consistent with law, including online publication in a newspaper of general circulation in the Commonwealth.

**Rule 4. Hearing on Petition.**

- (a) **Best Interest.** At the hearing, the court will be guided by what appears to be the best interest of the child. If the child is of sufficient age to form an intelligent preference, the court may consider that preference in determining the question.
- (b) **Bond or Other Protection.** Bond or other protection for the minor may be set if the court deems it necessary.
- (c) **Other Orders.** The court shall make such orders as are necessary under the circumstances to carry out the purposes of the guardianship.

**Rule 5. Appointment of Guardian for Insane or Incompetent Person.**

- (a) **Appointment by Petition or Motion.** Any relative or friend may file a verified petition, or, in an existing civil or probate matter, a motion alleging that a person is insane or incompetent and that a guardian of the estate, of the person, or both, should be appointed. The petition or motion shall:
- (1) Set forth the name and addresses, as far as they are known to the petitioner, of the spouse, parents, and children of the alleged insane or incompetent person residing in the Commonwealth. If none of those persons are alive, then the petition shall set forth the name and addresses of the adult siblings of the alleged insane or incompetent person;
  - (2) Specify the need for the guardianship as well as a general statement of the assets, and nature of the same, belonging to the proposed ward;
  - (3) State the relationship or connection of the petitioner to the proposed ward;
  - (4) State such other information as will assist the court in making its determination.
- (b) **Hearing.** Within five days after the petition or motion is filed, the clerk of court shall set the same for hearing.
- (c) **Notice of Hearing.** The petitioner shall thereafter cause to be issued a Notice of Hearing which shall specify the time and place of the hearing and the nature of proceedings and which shall be personally served or mailed at least ten days before such hearing date to each of such relatives as indicated above of the alleged insane or incompetent person.
- (d) **Opposition.** Any relative or friend of the alleged insane or incompetent person may appear and oppose the petition.
- (e) **Attendance at Hearing.** The alleged insane or incompetent person must be produced at the hearing unless satisfactory proof by affidavit or testimony of a duly licensed physician, surgeon, or medical officer shows that he is unable to attend because of physical inability. If the alleged insane or incompetent person is a patient at a hospital in the Commonwealth, an affidavit of the medical director of the hospital to the effect that such patient is unable to attend, shall be prima facie evidence of that fact.
- (f) **Order Determining Insanity or Incompetence.** No guardian shall be appointed pursuant to Rule 6 of these rules without a court order determining the insanity or incompetence of the

proposed ward, which shall be supported by satisfactory proof by affidavit or testimony of a duly licensed physician, surgeon, or medical officer that the proposed ward is incapable of managing his or her own affairs by reason of insanity or incompetence.

**Rule 6. Order of Appointment.**

- (a) **Order.** At the conclusion of a hearing to appoint a guardian, the court shall issue an Order of Guardianship and a Findings of Fact and Conclusions of Law regarding the guardianship matters raised in the petition or and proceedings.
- (b) **Order of Review.** The court may, in its discretion, order that a guardianship be reviewed periodically on a schedule set by the court.
- (c) **Order to Report.** The court may, in its discretion, order the guardian to file reports on the status of the guardianship on a schedule set by the court.

**Rule 7. Appointment of Emergency Guardian.**

- (a) **Petition or Motion.** Any adult interested in the welfare of a minor or an alleged insane or incompetent person may petition, or, in an existing civil or probate case, may move, for the appointment of an emergency guardian for that minor or alleged insane or incompetent person.
- (b) **Appointment.** Upon a petition or motion to appoint a guardian, or upon its own motion, the court may appoint an emergency temporary guardian for a minor or an insane or incompetent person if the court finds that there is an imminent danger that:
  - (1) the physical or mental health or safety of the person will be seriously impaired; or
  - (2) the property of the minor or an insane or incompetent person will be wasted, misappropriated, or lost unless immediate action is taken.
- (c) **Notice of Hearing.** Notice of a hearing on appointment must be served on the proposed ward's attorney, if one exists, or on the proposed ward at least 24 hours before the hearing on the petition is commenced, unless the petitioner demonstrates that substantial harm to the alleged incapacitated person would occur if the 24-hour notice is given.
- (d) **Expiration of Authority.** The authority of an emergency temporary guardian expires 90 days after the date of appointment but may be extended for an additional 90 days upon a showing of necessity.

**Rule 8. Termination of Guardianship.**

- (a) **By Court.** The Superior Court may terminate a guardianship of a minor if, upon review, it finds that the guardianship is no longer in the best interests of the minor child.
- (b) **By Law.** A guardianship of a minor shall terminate upon:
  - (1) The minor reaching 18 years of age;
  - (2) The minor being emancipated pursuant to law; or
  - (3) The minor's death.

**Rule 9. Removal of Guardian; Modification of Guardianship.**

- (a) **Petition.** A ward subject to guardianship or a person interested in the welfare of a ward may petition the court to terminate the guardianship, modify the guardianship, or remove the guardian and appoint a successor guardian.
- (b) **Notice of Hearing.** If a hearing on the petition is set by the court, a petitioner shall give notice of the hearing on the petition to the ward, if the ward is 12 years of age or older and is not the petitioner, the guardian, and any other person the court determines.
- (c) **Best Interest.** The court shall be order removal of a guardian or modification of a guardianship as necessary to protect the best interests of the ward.

**Rule 10. Guardian and Attorney Fees and Expenses.**

- (a) **When Permitted.** A guardian, or an attorney who has rendered services to the ward or to the guardian on the ward's behalf, is entitled to a reasonable fee for services rendered and reimbursement for costs incurred on behalf of the ward.
- (b) **Considerations.** When fees for a guardian or an attorney are submitted to the court for determination, the court shall consider the following criteria:
  - (1) The time and labor required;
  - (2) The novelty and difficulty of the questions involved and the skill required to perform the services properly;
  - (3) The fee customarily charged in the Commonwealth for similar services;
  - (4) The nature and value of the ward's property, the amount of income earned by the estate, and the responsibilities and potential liabilities assumed by the guardian or attorney;
  - (5) The results of the services rendered;



- (6) The time limits imposed by the circumstances;
  - (7) The nature and length of the relationship with the ward; and
  - (8) The experience, reputation, diligence, and ability of the person performing the service.
- (c) **Conflicts of Interest.** In awarding fees, the court must clearly determine that no conflict of interest exists.
- (d) **Legal Assistants.** Fees for legal services may include customary and reasonable charges for work performed by legal assistants employed by and working under the direction of the attorney.
- (e) **Itemized Description.** All petitions for guardian and attorney fees and expenses must be accompanied by an itemized description of the services performed for the fees and expenses sought to be recovered.
- (f) **Amount Included.** A petition for fees shall include the period covered and the total amount of all prior fees paid or costs awarded to the petitioner in the guardianship proceeding currently before the court.
- (g) **Paid from Estate.** When court proceedings are instituted to review or determine fees of a guardian or an attorney, such proceedings are part of the guardianship administration process and the costs, including costs and attorney fees for the guardian's attorney, or an attorney who has rendered services to the ward, shall be determined by the court and paid from the assets of the guardianship estate unless the court finds the requested compensation to be substantially unreasonable.

**Rule 11. Forms.**

- (a) Unless otherwise noted, any forms contained in the Appendix of Forms are maintained by the court and may be modified by the court at any time without notice.
- (b) Use of the prescribed forms is not required. But if another document is used in place of a form contained in the Appendix of Forms, the document must clearly indicate what it purports to be and must convey the information requested by the corresponding form contained in the Appendix of Forms.