

4-999. Notice of hearing and rights.

STATE OF NEW MEXICO
COUNTY OF _____
_____ JUDICIAL DISTRICT

In the matter of _____. **No. _____**

NOTICE OF HEARING AND RIGHTS

TO: _____ (*name and address of alleged
incapacitated person*)

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

Date: _____
Time: _____
Judicial District: _____
Courthouse: _____
Address: _____
Judge: _____

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

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

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

- (1) will have authority to make decisions over some or all of _____ (*alleged incapacitated person*)'s personal and/or financial affairs;
- (2) must use their decision-making authority only when necessary to promote and protect the well being and/or financial interests of _____ (*alleged incapacitated person*); and
- (3) must use their decision-making authority in a manner that encourages the development of maximum self-reliance and independence of _____ (*alleged incapacitated person*).

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

NOTICE OF RIGHTS

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

1. The right to obtain an attorney of _____ (*alleged incapacitated person*)'s choice;
2. The right to object to the individuals appointed as visitor, qualified health care professional, and guardian *ad litem*;
3. The right to attend the hearing. If _____ (*alleged incapacitated person*) is unable to be present in court, the Court upon request or its own motion may conduct hearings at _____ (*alleged incapacitated person*)'s location;
4. The right to present evidence at the hearing and to subpoena witnesses and documents;
5. The right to examine witnesses at the hearing, including a court-appointed guardian *ad litem*, qualified health care professional, and visitor;
6. The right to otherwise participate in the hearing; and
7. The right to be personally served with a copy of this notice and of the petition filed in this proceeding.

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

BY: _____
TCAA for Judge

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

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

USE NOTE

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

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