**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**

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| --- | --- | --- |
| TO: | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | (*name and address of allegedincapacitated 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*)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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USE NOTES

 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.]