

**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: \_\_\_\_\_  
Courtthouse: \_\_\_\_\_  
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.]