

SUPREME COURT OF NEW JERSEY

NOTICE TO THE BAR

RE: MODEL GUARDIANSHIP JUDGMENT -- CLARIFICATION

This is a clarification of my August 24, 2000 Notice to the Bar, published on September 25, 2000 in the New Jersey Law Journal, 161 N.J.L.J. 1401, and on October 2, 2000 in the New Jersey Lawyer, 9 N.J.L. 1962, announcing the approval of a model incapacitated person guardianship judgment. Based on comments received subsequent to that Notice, the Judiciary-Surrogates Liaison Committee prepared a statement clarifying the intended use of that model judgment, which clarification has been approved by the Judicial Council.

Pursuant to that clarification, the provisions of the model judgment are intended to protect incapacitated persons by ensuring that the court consider specific relevant issues at the time of making an adjudication of incapacitation. The model judgment sets out the range of issues that a court should weigh. Whether to incorporate any particular provision in the final judgment, however, remains in the sole discretion of the court. In other words, the model judgment mandates attention by the court, attorneys, and guardians to relevant guardianship aspects at the time the court enters judgment, but leaves to the court's discretion how the incapacitated person's person and property will be administered, including whether the court-appointed attorney should receive and review the guardian's annual report and the scope of continuing duties that the court-appointed attorney will be called upon to fulfill.

Further, it is not intended that the model judgment supplant the judgment forms used by the Office of the Public Guardian for Elderly Adults or those used in guardianships involving the Division of Developmental Disabilities.

Richard J. Williams, J.A.D.
Administrative Director of the Courts
Dated: May 14, 2001

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