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GIFT GIVING AND DONATING UNDER GUARDIANSHIP

Wisconsin Law does not allow a guardian to make gifts or religious donations on behalf of the ward because the ward is legally incompetent to formulate the intent necessary to make the gift or donation. The only exception to this rule is when a ward is able to understand and appreciate the giving of a gift or donation and clearly gets personal enjoyment and satisfaction from knowing it is done. However, for any guardian to do so, the guardian must first get Court approval. The Court will allow such giving when the following circumstances are met:

1. It can be shown that the ward is aware of the gift or donation, is aware of to whom it is given, and gets personal enjoyment and satisfaction from such giving.
2. The gift or donation is limited to amounts that are consistent with the preservation of the ward's estate such that the estate is sufficient to provide for the ward's basic needs and care, maintenance and/or education.

The above considerations do not limit the Court to consider other factors the Court considers relevant such as whether there is already an established pattern of gift-giving and donating.

The procedure that is to be used in obtaining Court approval is to submit a giving plan to the Court in writing, preferably at the time the guardianship is established. Prior to setting a hearing, the Court may give preliminary approval to the giving plan, with some alteration, and then submit a copy of the plan to the interested parties advising them that if they object to the implementation of the giving plan they must request a hearing on the plan. The Court reserves the right to require a hearing even though the interested parties have no objection.

The guardian will be under a continuing duty to advise the court if the ward's mental capacity deteriorates to the point where the prerequisites for the giving are no longer in existence, that is, the mental ability to enjoy and appreciate the giving.

Sincerely

A handwritten signature in cursive script that reads "Lisa Crouse".

Lisa Crouse
Register in Probate