§ 81.36 Discharge or modification of powers of guardian.

(a) The court appointing the guardian shall discharge such guardian, or modify the powers of the guardian where appropriate, if it appears to the satisfaction of the court that:

1. the incapacitated person has become able to exercise some or all of the powers necessary to provide for personal needs or property management which the guardian is authorized to exercise;

2. the incapacitated person has become unable to exercise powers necessary to provide for personal needs or property management which the guardian is not authorized to exercise;

3. the incapacitated person has died; or

4. for some other reason, the appointment of the guardian is no longer necessary for the incapacitated person, or the powers of the guardian should be modified based upon changes in the circumstances of the incapacitated person.

(b) The application for relief under this section may be made by the guardian, the incapacitated person, or any person entitled to commence a proceeding under this article.

(c) There shall be a hearing on notice to the persons entitled to notice pursuant to paragraph three of subdivision (c) of section 81.16 of this article. The court may for good cause shown dispense with the hearing provided that an order of modification increasing the powers of the guardian shall set forth the factual basis for dispensing with the hearing. If the incapacitated person or his or her counsel raises an issue of fact as to the ability of the incapacitated person to provide for his or her personal needs or property management and demands a jury trial of such issue, the court shall order a trial by jury thereof.

(d) To the extent that relief sought under this section would terminate the guardianship or restore certain powers to the incapacitated person, the burden of proof shall be on the person objecting to such relief. To the extent that relief sought under this section would further limit the powers of the incapacitated person, the burden shall be on the person seeking such relief.

(e) If the guardian is discharged because the incapacitated person becomes fully able to care for his or her property, the court shall order that there be restored to such person the property remaining in the hands of the guardian. If the incapacitated person dies, the guardian shall provide for such person's burial or other disposition the cost of which shall be borne by the estate of the incapacitated person.