



## RICHLAND COUNTY PROBATE COURT

### **Adult Conservatorship and Adult Guardianship**

Richland County Probate Court is not qualified to give legal advice, nor can our staff assist you with completing the forms pertaining to this action. Should you need assistance, you may contact SC Legal Services at 803-799-9668 or the SC Bar Referral Service at 803-799-7100.

The following documents and information are required:

- \_\_\_\_\_ Summons and Dual Petition for Protective Order or Appointment of Conservator and Appointment of Guardian (enclosed)
- \_\_\_\_\_ Filing Fee of \$150.00
- \_\_\_\_\_ Notice of Right to Counsel
- \_\_\_\_\_ Examiner's Report and Affidavit Regarding Capacity (enclosed)
- \_\_\_\_\_ Acceptance of Service; Renunciation/Nomination (if applicable-enclosed)
- \_\_\_\_\_ SLED background check or criminal background check from your state of residence (Instructions enclosed)
- \_\_\_\_\_ Credit Report for proposed Conservator (Instructions enclosed)
- \_\_\_\_\_ Copies of Proposed Conservator's Driver's License/ID and social security card
- \_\_\_\_\_ Copies of alleged incapacitated adult's Driver's License/ID and social security card
- \_\_\_\_\_ Current Picture of the Alleged Incapacitated Individual

All interested parties are required to be served with this action; therefore, Proof of Service should be perfected by way of the following methods:

- Acceptance of Service Renunciation/Nomination (enclosed)
- Certified mail (green card with interested parties signature)
- Personal Service (performed by a Process Server or you may contact Richland County Civil Process Division to have a Richland County Deputy serve such documents)

**IF THE A. I. I. DOES NOT have their own attorney the Law requires the Probate Court to appoint one on their behalf. The Law also requires our office to appoint a GAL for A. I. I. for these matters. The Petitioner is responsible for payment for these two individuals.**

Richland County Probate Court charges for copies at \$.50 per page. Should you need copies of the above forms, please include with the original forms. Once they are filed, we will return your copies to you. Should you have procedural questions, please contact the Richland County Probate Guardianship/Conservatorship Division at 803-576-1962.

# HOW TO OBTAIN A SOUTH CAROLINA LAW ENFORCEMENT DIVISION (SLED) CRIMINAL HISTORY REPORT

## REQUEST METHOD

To obtain a SLED Report, you must submit a request to the South Carolina Law Enforcement Division by using one of the following methods:

Telephone Request: (803) 737-9000  
Mail: South Carolina Law Enforcement Division  
P.O. Box 21398  
Columbia, SC 29221-1398  
Web: [www.sled.sc.gov](http://www.sled.sc.gov)

## INFORMATION NEEDED

According to South Carolina State Law, the following information is necessary to process a criminal history search for the Richland County Probate Court:

1. FULL name (including middle initial and suffixes as well as maiden and other names used)
2. Current mailing address
3. Current home phone number with area code
4. Social Security Number (individual must agree to the use of their social security number for name search)
5. Driver's License Number and the State where it was issued
6. Date of Birth

**You must enclose a self-addressed stamped envelope with your request.**

- **COST**

There is a **\$25.00** fee per name, excluding maiden and alias names. The payment must be in the form of a money order, cashier's check or certified check, **personal checks are not accepted.**

# INFORMATION FOR SLED CHECK

Name

---

Address

---

Phone #

---

Social Security

---

Driver's License  
(Please list state)

---

Date of Birth

---

*By my signature, I acknowledge that the above information is required for a SLED background check and I am consenting to the use of the above information for purposes of a criminal background check for the Richland County Probate Court.*

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

# HOW TO OBTAIN A CREDIT REPORT

## REQUEST METHODS

To receive your credit report, you may submit requests to the following agencies by the using one of the following methods:

### **EXPERIAN (formerly TRW)**

Telephone: 1-888-Experian (1-888-397-3742)

Mail: Experian  
P.O. Box 949  
Allen, TX 75013-0949

Web: [www.experian.com](http://www.experian.com)

### **EQUIFAX**

Telephone: 1-800-997-2493

Mail: Equifax  
P.O. Box 105851  
Atlanta, GA 30348

Web: [www.equifax.com](http://www.equifax.com)

### **TRANS UNION CORP.**

Telephone: 1-800-888-4213

Mail: Trans Union Corp.  
P.O. Box 1000  
Chester, PA 19022

Web: [www.tuc.com](http://www.tuc.com)

## **INFORMATION NEEDED**

1. FULL name (including middle initial and suffixes)
2. Spouse's FULL name (if applicable)
3. Address for the last five years, including current address and phone number
4. Social Security number
5. Date of Birth
6. Name and address of your current employer

**If you are making the request by mail, you must sign the request and provide a copy of a utility bill in your name and your driver's license to allow verification of your current address.**

## **COST**

The charge will be **\$8.00** for Experian and **\$10.00** for Equifax and Trans Union Corp.

A credit report will be provided for free if you have been denied credit, insurance or employment based on your credit report, within the last sixty (60) days.

## **TIME**

You should receive your credit report in five (5) to ten (10) days after the submission of your request.

# **WRITTEN REQUEST TO OBTAIN MY CREDIT HISTORY REPORT**

## **PLEASE PRINT**

**Name:**

LAST NAME FIRST NAME INITIAL SUFFIX (Sr, Jr, etc.)

**Current Address:**

STREET ADDRESS APT. CITY PROVINCE POSTAL CODE

## **PREVIOUS ADDRESS(ES) (within last 5 years)**

**Previous Address:**

STREET ADDRESS APT. CITY PROVINCE POSTAL CODE

STREET ADDRESS APT. CITY PROVINCE POSTAL CODE

**Date of Birth:**

MONTH DAY YEAR

**Social Security Number:**

( OPTIONAL)

**The name and last 4 digits of a major credit card:**

**WERE YOU DENIED CREDIT? NO [ ] YES [ ] BY WHICH INSTITUTION?**  
WHEN?

- =====
- **Required are two (2) pieces of personal identification to process your request. (Example: driver's license, bank account statement, gas, phone, electricity or cable bill).**  
*If your current address has changed within the last ninety (90) days, a confirmation of address must be attached with your request in order to be processed. (Example: gas, phone, electricity or cable bill, bank account statement, driver's license).*
  - **You can expect to receive a copy of your personal credit report via regular mail within five (5) to ten (10) days. If you have any further inquiries about delivery, please contact us using the toll-free number of the company you chose.**
  - **Please note that if any corrections are necessary, you must complete the credit report update form enclosed with the credit report sent to you. This form - Consumer Credit Report Update Form – can also be found on-line at any of the web address given to you previously, by the Court.**

Page 1 of 11

**INSTRUCTION SHEET FOR FORM #520GC  
DUAL PETITION FOR APPOINTMENT OF CONSERVATOR (OR OTHER PROTECTIVE ORDER) AND GUARDIAN  
(FOR ADULT)**

This petition is intended to be used when a Petitioner is seeking the appointment of both a Guardian and Conservator (or the issuance of another protective order) for an alleged incapacitated individual (A.I.I.). The following actions may be requested and considered with the filing of the attached Petition:

- **Finding of Incapacity**

- The Petitioner may seek to have the A.I.I. found to be incapacitated for the purpose of appointment of a Conservator or the issuance of another protective order and appointment of a Guardian (or ratification of a healthcare power of attorney). Incapacity is determined by the court based on a medical examination and report and other relevant evidence. Generally, if there is no finding of incapacity, the court will not be able to proceed with any other action regarding the person who is alleged to be incapacitated.
- A finding of incapacity may be made by the court because of the A.I.I.'s inability to meet the essential requirements for his or her physical health, safety, or self-care and/or the inability to manage his or her property or financial affairs or provide for his or her support or for that of his or her legal dependents. This could be because of allegations of incapacity that are based on, but not limited to, mental illness, significant intellectual disability, physical illness or disability, brain injury, a cognitive impairment such as dementia, chronic use of and/or addiction to illicit or prescription drugs, or chronic intoxication and/or addiction to alcohol. The presence of one or more of these conditions does not automatically prove incapacity, but it may be what prompts the filing of the petition.

- **If authority is needed to manage financial affairs and/or assets, please read below for available options and check the appropriate box(es) in the Petition:**

- **APPOINTMENT OF CONSERVATOR (including appointment on an EMERGENCY or TEMPORARY basis; see Forms 512GC and 513GC)** - Can be used to request permanent appointment of an individual or professional fiduciary and, if needed, appointment of a Conservator on a temporary basis before the permanent appointment can be made.
- **PROTECTIVE ORDER** - Can be used to establish incapacity, assist in establishing a Special Needs Trust, or to ratify (confirm) a durable power of attorney for business and/or financial affairs.
- **APPOINTMENT OF SPECIAL CONSERVATOR** - Can be used to request appointment of an individual or professional fiduciary to complete specific tasks within a specific period of time.
- **APPOINTMENT OF SUCCESSOR CONSERVATOR** - Can be used to request appointment of a successor to the previously appointed permanent Conservator.
- **EFFECT OF EXISTING POWER OF ATTORNEY (POA) FOR FINANCES AND BUSINESS AFFAIRS** - An existing, valid Durable General POA creates the presumption that there is a "support and assistance" (see Section 62-5-101(23)) that would eliminate the need for a conservatorship. If the Petitioner wants to have the court confirm or ratify the POA, he or she may request a protective order. Otherwise, the Petitioner must show by clear and convincing evidence why that document is not valid, is not sufficient to meet the needs of the A.I.I., or present other issues that would support voiding that document if the appointment of a Conservator is requested.

- **If authority is needed to make decisions regarding the physical person of an individual and his/her health care, please read below for applicable situations and check the appropriate box(es) in the Petition:**

- **APPOINTMENT OF GUARDIAN (including appointment on an EMERGENCY or TEMPORARY basis; see Forms 512GC and 513GC)** - Can be used to request permanent appointment of an individual or professional guardian and, if needed, appointment of a guardian on a temporary basis before the permanent appointment can be made.
- **APPOINTMENT OF SUCCESSOR GUARDIAN** - Can be used to request appointment of a successor to the previously appointed permanent guardian.
- **IF NOMINATED TO SERVE IN A WILL** - Based on the facts of the case and the filings of the parties, pursuant to S.C. Code Ann. § 62-1-100, it is within the court's discretion to determine whether a testamentary guardian designation in the Will of a parent or spouse prior to January 1, 2019, the effective date of the revisions to Article 5 of the S.C.

Probate Code, will fall under the processes and procedures of the 1987 Code or under the processes and procedures enacted by the 2017 amendments. (See S.C. Code Ann. § 62-5-301 of the 1987 Code versus the changes to S.C. Code Ann. § 62-5-301 enacted by the 2017 amendments.)

- **RATIFICATION OF EXISTING HEALTH CARE POWER OF ATTORNEY (HCPOA)** - An existing, valid HCPOA creates the presumption that there is a "support and assistance" (see Section 62-5-101(23)) in place that would eliminate the need for guardianship. The Petitioner may seek an order ratifying (confirming) the HCPOA. Otherwise, the Petitioner must show by clear and convincing evidence why that document is not valid, is not sufficient to meet the needs of the A.I.I., or present other issues that would support voiding that document if the appointment of a Guardian is requested.
- **RIGHTS AND POWERS OF THE ALLEGED INCAPACITATED INDIVIDUAL**
  - S.C. Code Ann. §§ 62-5-303(B)(7) and 62-5-403(B)(7) require that the Petitioner must indicate in this Petition what rights the court is being asked to remove from the A.I.I. Those rights are stated in S.C. Code Ann. §§ 62-5-304A and 62-5-407(B). The burden of proof will be on the Petitioner to show why certain rights should be removed.
  - If the A.I.I. is found to be incapacitated based on mental illness, "mental deficiency," "mental defect," or an impairment other than **solely** a physical impairment or disability, the probate court is required to report the name of the incapacitated individual to the S.C. State Law Enforcement Division (SLED), pursuant to S.C. Code Ann. § 23-31-1020. **He or she will not be allowed to purchase, possess, or have access to firearms or ammunition, pursuant to S.C. Code Ann. § 23-31-1040(A).**





3. Existing legal documents and/or legal appointments relating to the A.I.I.:

To my knowledge, the A.I.I.:

<input type="checkbox"/>	Does have	<input type="checkbox"/>	Does <u>not</u> have a Will
<input type="checkbox"/>	Does have	<input type="checkbox"/>	Does <u>not</u> have a General Durable Power of Attorney (POA)
<input type="checkbox"/>	Does have	<input type="checkbox"/>	Does <u>not</u> have a Health Care POA
<input type="checkbox"/>	Does have	<input type="checkbox"/>	Does <u>not</u> have a Living Will
<input type="checkbox"/>	Does have	<input type="checkbox"/>	Does <u>not</u> have a Guardian
<input type="checkbox"/>	Does have	<input type="checkbox"/>	Does <u>not</u> have a Conservator or Trustee

If the A.I.I. does have any of the above-named documents, copies must be provided with this Petition or an explanation provided as to why the document is not available. If a guardianship or conservatorship is requested, the Petitioner has the burden of showing why a guardianship or conservatorship is needed if the A.I.I. has a POA.

4. Jurisdiction:

☐ The A.I.I. has been physically present in South Carolina for the six (6) month period immediately preceding the filing of this Petition or for at least six (6) consecutive months ending within the six (6) month period immediately preceding the filing of this Petition.

If the A.I.I. has not been physically present in South Carolina for the period of time described above, explain what connections the A.I.I. has to South Carolina. Please refer to S.C. Code Ann. §§ 62-5-700 through 62-5-711.

5. Venue. Venue for this proceeding is proper in this county because the A.I.I. (*check all that apply*):

- ☐ resides in this county and has resided in this county for more than six (6) months;
- ☐ resides in this county (this is his/her county of residence);
- ☐ is physically present in this county at this time;
- ☐ is admitted to an institution in this county pursuant to an order of a court of competent jurisdiction, but this is not the county of residence;
- ☐ does not reside in this state but owns real or personal property in this county; or
- ☐ does not reside in this state but has the right to take legal action in this county (a copy of the pleadings will be required).

If the A.I.I. has not resided in this county for the six (6) months preceding this action, state the address where the A.I.I. did reside or where he/she is currently residing:

\_\_\_\_\_

6. Information about family of the A.I.I. – You must provide information about the spouse and any children of the A.I.I.; if there is no spouse or adult children, then list his/her parents. If no parents are living, then list the closest adult relative(s).

Spouse\*\*:

Address:

Year of Birth:

\*\*If deceased, a certified death certificate is required.

Children of A.I.I.:

Full Legal Name

Year of Birth

Full Address

_____	_____	_____
_____	_____	_____
_____	_____	_____

☐ See attached for additional children (check if applicable).

**(IF REQUIRED) Living Parents of A.I.I.:**

Full Legal Name

Year of Birth

Full Address


**(IF REQUIRED) Closest Living Adult Relative(s) of A.I.I. – use additional paper if needed:**

Name:

Address:

Relationship to A.I.I.:


7. Information about any other interested parties such as a Guardian, Conservator, Trustee, representative payee, agent under a general durable power of attorney, or a health care agent under a health care power of attorney.

Name

Relation to A.I.I.

Full Address


8. **Rights and Powers of the A.I.I.** (See S.C. Code Ann. §§ 62-5-304A and 62-5-407(B).) (If you are the A.I.I. in this matter, you should be prepared to defend the assertion that any of the following rights should be removed; however, the burden is on the Petitioner to show why.):

Do you believe the A.I.I. should **retain** the following rights to:

- |   |                              |                             |
|---|------------------------------|-----------------------------|
| A. Buy, sell, or transfer real property?  | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| B. Buy, sell, or transfer personal property?  | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| C. Make, modify, or terminate contracts relating to obligations of A.I.I.?                            | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| D. Make significant purchases?  | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| E. Transact business of any type?   | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| F. Bring or defend a lawsuit?   | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| G. Pay his or her bills?  | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| H. Make gifts?  | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| I. Make decisions about health care and medical treatment, including consents?                        | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| J. Choose a physician?  | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| K. Make end-of-life decisions?  | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| L. Consent to or refuse hospitalization, discharge, or transfer to residential, group home, or other? | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| M. Authorize disclosure of confidential health or medical information?                                | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| N. Choose where to live?  | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| O. Participate in social, religious, and political activities?  | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| P. Consent to visitation with family, friends, others?  | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| Q. Consent to or refuse educational services?   | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| R. Make, modify, or terminate contracts having to do with duties of the guardian?                     | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| S. Contract for marriage (i.e., get married)?   | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| T. File for divorce?  | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| U. Travel independently?  | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| V. Be employed without guardian consent?  | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| W. Operate a vehicle?   | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| X. Vote?  | <input type="checkbox"/> YES | <input type="checkbox"/> NO |

If you answered NO to any of the rights listed in Question 8, please explain:

\_\_\_\_\_

9. Any other rights and powers not specifically stated here that the Court should address:

\_\_\_\_\_

10. List any of the rights in Question 8 you believe should be given to the Guardian or Conservator (*vested in the Guardian or Conservator*) to exercise on behalf of the A.I.I. and/or for which the written consent of the Guardian or Conservator should be obtained prior to exercising such right. Some rights, such as voting, cannot be given to the Guardian or Conservator.

\_\_\_\_\_

**11. THE AUTHORITY TO MANAGE FINANCIAL AFFAIRS OF THE A.I.I.**

A. Why do you believe the A.I.I. needs a Conservator or protective order? Provide a brief description of the nature and extent of the alleged incapacity. (See S.C. Code Ann. § 62-5-403(B)(6)).

\_\_\_\_\_

B. Is there a less restrictive alternative? If so, please explain.

\_\_\_\_\_

C. In what ways is the A.I.I. able to provide for health, education, maintenance, and support for himself/herself and his/her dependents?

\_\_\_\_\_

D. Is any type of emergency or temporary proceeding needed to protect the funds, assets, or business affairs of the A.I.I.? (If temporary or emergency relief is sought, use Form #512GC or Form #513GC.)

☐ No. ☐ Yes. If yes, please explain:

\_\_\_\_\_

E. Has the A.I.I. been rated incapable of handling his/her estate and monies after examination by the Department of Veterans Affairs (VA)? (See S.C. Code Ann. § 62-5-403(B)(9)).

☐ No. ☐ Yes. If yes, please explain:

\_\_\_\_\_

F. The following is a list of the real and personal property owned by the A.I.I., business affairs of the A.I.I., funds available to the A.I.I., or legal action necessary for the benefit of the A.I.I. and an estimate of the value: (*An Inventory & Appraisal, Form #550GC, shall be completed and filed with the Court within thirty (30) days of the date of appointment.*)

Description

Value

G. I request the appointment of (if other than *Petitioner*) to serve as Conservator:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Preferred Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Relationship to A.I.I.: \_\_\_\_\_

H. Priority of appointment for the proposed appointee (*Petitioner or person listed in 5G., above*) to serve as Conservator:

- ☐ Previously appointed Conservator/Guardian of Property by a Court of another county or state;
- ☐ Individual nominated by the A.I.I., who is deemed mentally capable of making such choice;
- ☐ Agent designated in power of attorney relating to the management of A.I.I.'s property, financial affairs, or assets;
- ☐ Spouse of A.I.I.;
- ☐ Adult Child of A.I.I.;
- ☐ Parent of the A.I.I.;
- ☐ Closest Adult Relative (*specify relationship*): \_\_\_\_\_;
- ☐ Person with whom the A.I.I. resides (*specify relationship*): \_\_\_\_\_;
- ☐ Nominee of any of the above (*specify who made nomination*): \_\_\_\_\_;
- ☐ Other (specify): \_\_\_\_\_.

I. Does the proposed Conservator plan on receiving any fees for serving as Conservator?

☐ No ☐ Yes If Yes, indicate the hourly rate or desired compensation amount: \$ \_\_\_\_\_

Occupation of proposed Conservator: \_\_\_\_\_

**12. AUTHORITY TO MAKE DECISIONS ABOUT HEALTH CARE OR MEDICAL TREATMENT, AND PLACEMENT FOR THE A.I.I.**

A. Why do you believe the A.I.I. needs a Guardian/Successor Guardian to provide continuing care and supervision? Provide a brief description of the nature and extent of the alleged incapacity. (See S.C. Code Ann. § 62-5-403(B)(6)).

\_\_\_\_\_

B. In your opinion, are less restrictive options than Guardianship available or appropriate?

☐ No ☐ Yes Please explain:

\_\_\_\_\_

C. In what ways is the A.I.I. able to provide for health, education, maintenance, and support for himself/herself and his or her dependents?

\_\_\_\_\_

D. Is any type of temporary or emergency proceeding needed to protect the physical person of the A.I.I. or to make emergency health care decisions for the A.I.I.? (If temporary or emergency relief is sought, use Form #512GC or Form #513GC.)

☐ No ☐ Yes If yes, please explain:

\_\_\_\_\_

\_\_\_\_\_

E. Despite his/her alleged incapacity, can the A.I.I., with assistance, guide or direct decisions about his/her physical person, health care, and medical treatment?

☐ No ☐ Yes Please explain:

\_\_\_\_\_

F. To what extent should the Guardian be permitted to give consents or approvals that may be necessary to enable the A.I.I. to receive medical or other professional care, counsel, medical treatment, or services?

\_\_\_\_\_

G. Are you aware of a Will that nominates a Guardian?

☐ No ☐ Yes If yes, please explain and provide a copy of the Will:

\_\_\_\_\_

H. I request the appointment of (if someone other than Petitioner) to serve as Guardian:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Preferred Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Relationship to A.I.I.: \_\_\_\_\_

I. Priority of appointment for the proposed appointee (Petitioner or person listed in 6H., above) to serve as Guardian is:

- ☐ Previously appointed Guardian, Guardian of the Person, Conservator (of the person) appointed by a Court of another County or State;
- ☐ Individual nominated by the A.I.I., who is deemed mentally capable of making such choice;
- ☐ Agent designated in a power of attorney by A.I.I., whose authority includes powers relating to the care of the individual;
- ☐ Spouse of A.I.I.;
- ☐ Adult Child of A.I.I.;
- ☐ Parent of A.I.I. or person nominated as testamentary Guardian in the probated will of the parent or his/her nominee;
- ☐ Closest Adult Relative (specify relationship): \_\_\_\_\_;

- ☐ Person with whom the A.I.I. resides (*specify relationship*): \_\_\_\_\_;  
☐ Nominee of any of the above (*specify who made nomination*): \_\_\_\_\_;  
☐ Other (*specify*): \_\_\_\_\_.

**13. ALL PETITIONERS MUST COMPLETE THIS SECTION** (*Check all that apply*).

- A. ☐ I request that the Court set a date, time, and place for a hearing on this Petition and that the Court find whether the A.I.I. is incapacitated.
- B. ☐ I believe that this is an uncontested matter and request that the Court consider making an appointment without a holding a formal hearing or that it consider holding an informal proceeding.
- C. ☐ I request that if the Court finds that the A.I.I. is incapacitated, that a determination be made of what rights should be retained and what rights should be removed as a result of the finding of incapacity and, further, what rights should be vested in a Guardian or Conservator, as appropriate.
- D. ☐ I request that if the Court finds that the need for appointment of a Conservator, Special Conservator, or Temporary Conservator is proper; that the Court appoint \_\_\_\_\_ as fiduciary; that letters of Conservatorship, Special Conservatorship, or Temporary Conservatorship be issued, along with a protective order.
- E. ☐ I request that if the Court finds that the need for appointment of a Guardian(s) or Temporary Guardian is proper, that the Court appoint \_\_\_\_\_ as the Guardian(s) or Temporary Guardian and that letters of Guardianship or Co-Guardianship be issued.

**VERIFICATION**

The Petitioner(s), being sworn, states that: The facts set forth in the foregoing Petition are true to the best of the Petitioner's knowledge, information, and belief.

SWORN to me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Signature of Petitioner: \_\_\_\_\_

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name of Notary: \_\_\_\_\_

Preferred Telephone: \_\_\_\_\_

Secondary Telephone: \_\_\_\_\_

Notary Public for State of: \_\_\_\_\_

My commission expires: \_\_\_\_\_

Email: \_\_\_\_\_

SWORN to me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Signature of Co-Petitioner: \_\_\_\_\_

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name of Notary: \_\_\_\_\_

Preferred Telephone: \_\_\_\_\_

Secondary Telephone: \_\_\_\_\_

Notary Public for State of: \_\_\_\_\_

My commission expires: \_\_\_\_\_

Email: \_\_\_\_\_

**This section is to be signed by the individual(s) nominated to serve as fiduciary in connection with this Petition**  
**QUALIFICATION AND STATEMENT OF ACCEPTANCE**

I agree to serve as appointed and to perform the duties and discharge the trust of the office of fiduciary as set forth herein.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Requesting Appointment as: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Requesting Appointment as: \_\_\_\_\_

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF Richland )  
 )  
IN THE MATTER OF: )  
\_\_\_\_\_, )  
An alleged incapacitated individual. )  
 )  
\_\_\_\_\_, )  
 )  
Petitioner(s), )  
vs. )  
\_\_\_\_\_, )  
Respondent(s). )

▲ PROBATE COURT USE ONLY ▲  
IN THE PROBATE COURT  
CASE NUMBER \_\_\_\_-GC-\_\_\_\_-\_\_\_\_  
NOTICE OF RIGHT TO COUNSEL

You, the alleged incapacitated individual, have the right to choose your own attorney to represent you in the above matter.

If a notice of appearance by your own attorney has not been received by the Court within fifteen (15) days from the filing of the proof of service in this matter, the court will appoint an attorney for you.

Executed this \_\_\_\_ day of \_\_\_\_, 20\_\_.

Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Address: \_\_\_\_\_

Preferred Telephone: \_\_\_\_\_  
Secondary Telephone: \_\_\_\_\_  
Email: \_\_\_\_\_

Attorney Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Firm Name: \_\_\_\_\_  
Bar Number: \_\_\_\_\_  
Address: \_\_\_\_\_

Telephone: \_\_\_\_\_  
Email: \_\_\_\_\_  
Attorney for: \_\_\_\_\_

**Note: This form must be served on the Alleged Incapacitated Individual, along with your Summons and Petition.**





STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE MATTER OF:

\_\_\_\_\_  
an alleged incapacitated individual.

▲	PROBATE COURT USE ONLY
IN THE PROBATE COURT	
CASE NUMBER _____	
EXAMINER REPORT AND AFFIDAVIT	
REGARDING CAPACITY	

Please answer the following questions concerning the alleged incapacitated individual (hereinafter, "patient") and provide explanations or additional comments and details at the end of this form or on an attached sheet of paper.

1. Patient's name:
2. Have you treated the patient previously? Yes ☐ No ☐  
If yes, how long?
3.
  - a) Date(s) and place(s) of all examination(s) within previous ninety (90) days:
  - b) Date(s) and place(s) of all examination(s) relied upon in making this report:
4. Please provide a diagnosis and assessment of the patient's mental and physical condition, including whether he/she is taking any medications that may affect his/her actions:

Are additional tests or assessments, such as lab tests, neuroimaging/MRI, neuropsychological testing, or other tests needed in order to give a more definitive diagnosis? If so, what further tests or examinations are needed?

5. Please specify which diagnoses and/or condition(s) are progressive, permanent, or temporary.

Progressive:

Permanent:

Temporary:

6. Please describe the nature and extent of any incapacity, including specific impairments:

7. Please describe the nature and extent of the patient's abilities, including those that would allow him/her to accomplish certain tasks with reasonably available "supports and assistance"<sup>1</sup>:
8. Does the patient have the capacity to retain the following rights (If you cannot attest to yes or no, please explain what additional test/s can be done to achieve that information):
- a) Marry or divorce? Yes ☐ No ☐ Unknown ☐
  - b) Reside in a place of his/her choosing, and consent or withhold consent to any residential or custodial placement? Yes ☐ No ☐ Unknown ☐
  - c) Travel without the consent of a guardian? Yes ☐ No ☐ Unknown ☐
  - d) Give, withhold, or withdraw consent and make other informed decisions relative to medical, mental, and physical examinations, care, treatment, and therapies? Yes ☐ No ☐ Unknown ☐
  - e) Make end-of-life decisions including, but not limited to, a "do not resuscitate" order or the application of any medical procedures intended solely to sustain life, and consent or withhold consent to artificial nutrition and hydration? Yes ☐ No ☐ Unknown ☐
  - f) Consent or refuse consent to hospitalization and discharge or transfer to a residential setting, group home, or other facility for additional care and treatment? Yes ☐ No ☐ Unknown ☐
  - g) Authorize disclosures of confidential information? Yes ☐ No ☐ Unknown ☐
  - h) Operate a vehicle\*? Yes ☐ No ☐ Unknown ☐
  - i) Vote? Yes ☐ No ☐ Unknown ☐
  - j) Be employed without the consent of a guardian? Yes ☐ No ☐ Unknown ☐
  - k) Consent to or refuse educational services? Yes ☐ No ☐ Unknown ☐
  - l) Participate in social, religious or political activities? Yes ☐ No ☐ Unknown ☐
  - m) Buy, sell, or transfer real or personal property or transact business of any type? Yes ☐ No ☐ Unknown ☐
  - n) Make, modify, or terminate contracts? Yes ☐ No ☐ Unknown ☐
  - o) Bring or defend any action at law or equity? Yes ☐ No ☐ Unknown ☐
  - p) Any other rights and powers? Please list.

COMPLETE EXPLANATION(S) FOR QUESTIONS a) through p) HERE.

If more space is required, use additional sheets and attach.

(\*If you answered "yes" to h), please state below whether a full driving evaluation has been conducted.)

<sup>1</sup> As defined in S.C. Code Ann. § 62-5-101(23), "Supports and assistance" includes:

(a) systems in place for the alleged incapacitated individual to make decisions in advance or to have another person to act on his behalf, including, but not limited to, having an agent under a durable power of attorney, a health care power of attorney, a trustee under a trust, a representative payee to manage social security funds, a Declaration of Desire for Natural Death (living will), a designated health care decision maker under Section 44-66-30, or an educational representative designated under Section 59-33-310 to Section 59-33-370; and

(b) reasonable accommodations that enable the alleged incapacitated individual to act as the principal decision maker, including, but not limited to, using technology and devices; receiving assistance with communication; having additional time and focused discussion to process information; providing tailored information oriented to the comprehension level of the alleged incapacitated individual; and accessing services from community organizations and governmental agencies.

9. Would the patient benefit from:

- a) Therapy or treatment?
- b) Medical aids or equipment?
- c) An operation or medical procedure(s)?
- d) Psychiatric treatment?

Yes ☐ No ☐  
Yes ☐ No ☐  
Yes ☐ No ☐  
Yes ☐ No ☐

10. Has the patient had in the last six months:

- a) Hospitalization(s)?
- b) Therapy or treatment?
- c) Inpatient or outpatient surgery?
- d) Major medical test(s)?
- e) Psychological or psychiatric testing?

Yes ☐ No ☐  
Yes ☐ No ☐  
Yes ☐ No ☐  
Yes ☐ No ☐  
Yes ☐ No ☐

11. In your opinion, does the patient have the ability to:

- a) effectively manage his/her property or individual financial affairs, provide for his/her support, or for the support of his/her legal dependents? Yes ☐ No ☐

If yes, is the ability limited in any way? Please explain:

- b) meet the essential requirements for his/her physical health, safety, or self-care. Yes ☐ No ☐

If yes, is the ability limited in any way? Please explain:

12. The patient continues to perform the following activities of daily living:

13. Does the patient have:

- a) A power of attorney?
- b) A healthcare power of attorney?
- c) A "living will"?

Yes ☐ No ☐ Unknown ☐  
Yes ☐ No ☐ Unknown ☐  
Yes ☐ No ☐ Unknown ☐

14. Does the patient have any of the following coverages?

- a) Health insurance?
- b) Medicare?
- c) Medicaid?
- d) Veteran's health care?

Yes ☐ No ☐ Unknown ☐  
Yes ☐ No ☐ Unknown ☐  
Yes ☐ No ☐ Unknown ☐  
Yes ☐ No ☐ Unknown ☐

15. Does the patient have a primary caregiver?

Yes ☐ No ☐

If yes, provide caregiver's name, address, and relationship to the patient.

16. Please identify the persons with whom you met or consulted regarding the patient's mental or physical condition:

**17. BASED UPON MY EVALUATION OF THIS PATIENT:**

- a. ☐ I **DO NOT** BELIEVE THIS PATIENT IS "INCAPACITATED."<sup>2</sup> I do not find that he/she lacks the ability to effectively receive, evaluate, and respond to information or make or communicate decisions such that a person, even with appropriate, reasonably available support and assistance cannot:
- a) meet the essential requirements for his/her physical health, safety, or self-care, necessitating the need for a guardian; or
  - b) manage his/her property or financial affairs or provide for his/her support of for the support of his/her legal dependents, necessitating the need for a protective order.
- b. ☐ I **DO** BELIEVE THIS PATIENT IS "INCAPACITATED" to such an extent, that he/she lacks the ability to effectively receive, evaluate, and respond to information or make or communicate decisions such that a person, even with appropriate, reasonably available support and assistance cannot:
- a) meet the essential requirements for his/her physical health, safety, or self-care, necessitating the need for a guardian; or
  - b) manage his/her property or financial affairs or provide for his/her support of for the support of his/her legal dependents, necessitating the need for a protective order.

Use this space to provide explanations or additional comments.

SWORN to before me  
this

day of

Examiner's Signature:

20

Print Name: \_\_\_\_\_

Credentials: \_\_\_\_\_

(e.g., M.D., Ph.D., D.O., R.N.)

Print

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Notary Public for: \_\_\_\_\_

(State)

Telephone: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

(Date)

<sup>2</sup>As defined in S.C. Code Ann. § 62-5-101(13), "Incapacity" means the inability to effectively receive, evaluate, and respond to information or make or communicate decisions such that a person, even with appropriate, reasonably available support and assistance cannot:

a) meet the essential requirements for his/her physical health, safety, or self-care, necessitating the need for a guardian; or

b) manage his property or financial affairs or provide for his support of for the support of his legal dependents, necessitating the need for a protective order.