

RICHLAND COUNTY PROBATE COURT

Adult Conservatorship

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 Petition for Protective Order or Appointment of Conservator (enclosed)
- ___ Filing Fee of \$150.00 OR a Motion and Affidavit to Proceed *In Forma Pauperis*
(Available upon request)
- ___ 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 for SC Residents)
- ___ 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 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 (if applicable-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 the A. I. I. for these matters. The Petitioner is responsible for payment for these two individuals, as stated in Section 62-5-105(C) of the Probate Code.

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.

OPENING ADULT CONSERVATORSHIPS

****Please note- PRIOR TO THE APPOINTMENT OF A CONSERVATOR AND/OR PROTECTIVE PROCEEDINGS, PROOF OF SERVICE MUST BE ACCOMPLISHED AND FILED WITH THE COURT. IN ADDITION, A HEARING IS REQUIRED BY STATUTE.**

1. Q: What is a Conservator?

A: A Conservator is a court appointed individual or entity that handles the management of financial affairs or property.

2. Q: What individuals need a Conservator?

A: There are two main categories of conservatorships. First, minors receiving funds exceeding \$15,000 from an inheritance, insurance proceeds or other beneficiary designated funds, personal injury settlements, or sale of real estate. Second, individuals over the age of eighteen that suffer from a mental or physical illness or disability; mental deficiency; advanced age; chronic use of drugs or alcohol; or any other cause to the extent that the individual lacks sufficient understanding, insight or capacity to make responsible decisions concerning their financial affairs and have not executed the proper legal documents to name an agent to make decisions for them. (ie.) Durable Power of Attorney.

3. Q: Who would be an Appropriate Conservator?

A: An immediate family member, such as spouse, adult child, parent or adult sibling, would be an ideal conservator. If there are no immediate family members then the Court will look to other relatives or interested individuals, such as a neighbor or friend of the incapacitated adult or minor. The need for financial or legal expertise may lead the Court to look for corporate entities, accountants or lawyers to serve in this capacity.

4. Q: What must be filed to begin a Conservatorship proceeding for a minor?

A: A Summons; Petition for Appointment of Conservator; \$150.00 filing fee; Proposed Guardian ad Litem/Counsel Order (minor 14 and older must consent to the proposed counsel) ***; certified copy of the birth certificate for the minor; SLED report and Credit report for the proposed Petitioner, a copy of the proposed conservators driver's license, and a copy of the proposed conservators social security card.

5. Q: What must be filed to begin a Conservatorship proceeding for an adult?

A: A Summons; Petition for Appointment of Conservator; \$150.00 filing fee; Petition to Appoint Two Designated Examiners and Proposed Order ; Proposed Guardian ad Litem/Counsel Order ; SLED report and Credit report for the proposed Petitioner, a copy of the proposed conservators driver's license, and a copy of the proposed conservators social security card.

6. Q: What is the court's involvement once the Conservator is appointed?

A: The Conservator is required to file an Inventory and Appraisal within thirty day of being appointed and the Conservator must annually report to the Court the income and approved disbursements along with the account statements and receipts of expenditures. The Court approves expenditures from the restricted accounts once the Conservator has filed the appropriate Petitions for Expenditures and supporting documentation. The Conservator should also inform the Court as to the whereabouts of the incapacitated adult or minor. The Court has the authority to appoint visitors and guardian ad litem to check on the incapacitated adult or minor because it is the Court's responsibility to make certain that the conservatorship is functioning in the best interest of the protected person. Letters of conservatorship, and orders terminating conservatorships, shall be filed

and recorded in the office where conveyances of real estate are recorded for the county in which the protected person resides and in the other counties where the protected person owns real estate.

7. Q: Do I need an attorney to petition to be a Conservator?

A: Due to the legal complexity of the Summons and Petition, the requirements of proper legal service on all interested parties including proper service on the alleged incapacitated adult, and the need for proper notice of the hearing to all interested parties, the Court recommends that the proposed Petitioner have an attorney.

8. Q: Why is an attorney appointed as the Guardian Ad Litem and why is one needed in this proceeding?

A: Due to a recent policy change, this Court now selects the Guardian ad Litem for all incoming cases from a rotating list of attorneys in good standing with the South Carolina Bar that are willing to serve in this capacity. Due to the complex nature of the proceedings and the allegations that the adult is incapacitated and cannot handle their financial affairs, the Probate Court appoints an attorney for the alleged incapacitated adult. It is optional whether an attorney is appointed to represent the interest of a minor. When an attorney is appointed, he or she acts in a dual capacity as Guardian ad Litem and Counsel for the incapacitated adult or minor and investigates the need for the Conservatorship as well as the proposed Conservator's ability to serve the protected person's best interests.

9. Q: Will a surety bond be required for the appointment of a Conservator?

A: A surety bond is similar to an insurance policy for the minor or incapacitated person conditioned on the conservator carrying out his or her duties faithfully and appropriately. For adults with ongoing monthly expenditures, a surety bond is almost always required. To alleviate the annual expense of the bond, the Richland County Probate Court allows the Conservator to open a restricted brokerage account. The financial institution that accepts the conservatorship funds in a restricted account executes a Restricted Account Agreement with the Court. The Agreement states that funds will not be disbursed and assets will not be sold without an Order from the Court. Both the Conservator and the financial institution agree to the terms set forth in the Agreement.

10. Q: How do I obtain a SLED Report?

A: You make a written request for the criminal report from SLED, P. O. Box 21398, Columbia, SC 29221-1398. Provide the following information about the Proposed Conservator to SLED: full name including maiden and alias names; date of birth; sex; race; and social security number. You must include \$25.00 (business check, certified check, money order, or cashier's check) per search and a self-addressed envelope. You may also make an internet request at www.sled.state.sc.us and you may pay for the search with a credit card.

11. Q: How do I obtain a credit report?

A: Fill out the credit history report written request. You may obtain a credit report from the following agencies: Equifax, P. O. Box 105252, Atlanta, GA 30348-5252. Equifax's phone number is (800) 685- 1111. Equifax also has an emergency fax request line (770) 375-3150. Internet access: www.equifax.com TransUnion, P. O. Box 1000, Chester, PA 19022 (800) 888-4213. Internet access: www.transunion.com You will need to provide the agency with driver's license number, social security number and date of birth for the proposed Conservator.

12. Q: How do I know if Richland County is the appropriate place to file the petition?

A: The law specifies where the proceedings are to take place and this is called venue. Venue for conservatorship proceedings is in the county where the incapacitated person resides if the person resides in the state or if the person does not reside in the state venue can be any county where the out of state resident owns property.

13. Q: How does the Conservatorship terminate?

A: If the minor reaches majority, if the capacity of the adult changes or if the incapacitated person passes away, the Conservator should file a Final report of Conservator form of the assets and Application for Discharge . If death is the reason for termination then a death certificate should be provided along with proof that a Personal Representative has been appointed. The Court will issue an Order for the transfer of assets to the minor that has reached majority or to the individual that is no longer incapacitated or to the Personal Representative of the decedent's estate. A Receipt and Release shall be filed within ten (10) days of the release of assets. A hearing may be held before the assets of the estate are distributed. Letters of conservatorship, and orders terminating conservatorships, shall be filed and recorded in the office where conveyances of real estate are recorded for the county in which the protected person resides and in the other counties where the protected person owns real estate.

OVERVIEW OF DUTIES OF A CONSERVATOR

1. INVENTORY AND APPRAISEMENT (Form 550GC)

Within thirty (30) days of the official court appointment of the Conservator, the Conservator must file an Inventory and Appraisal (Form 550PC). Documentation showing that the Conservatorship account has been established must accompany the Inventory and Appraisal.

Fees are calculated and assessed based on the value of the assets.

2. APPLICATION FOR EXPENDITURE (Form 552GC)

The Application for Expenditure is necessary when the Conservator wishes to withdraw money from the minor's account(s). The request must be filed with the Court, along with a \$15.00 filing fee, listing the specific items requested for the minor, the amount of the purchase, and the reason for the purchase. The court also requires that proper documentation for purchases be provided with the expenditure. For example, if the minor needs a new computer, then the Conservator must complete the Application for Expenditure, provide the filing fee, and provide documentation showing how much the computer costs. This documentation should be a quote directly from the place where the item will be purchased from.

3. ANNUAL REPORT OF CONSERVATOR (Form

Six months after appointment, an interim accounting (Form 562PC) is required showing all receipts and disbursements during that period of time. Thereafter, all accountings will be required on a yearly basis. All cancelled checks and bank statements must accompany the accountings when filed. There is a \$10.00 filing fee for all accountings. It is the duty of the Conservator to complete the accounting and pay the filing fee.

4. CLOSING

If the minor reaches the age of eighteen (18) or dies, the Conservator must file a Application for Discharge and a Final report of Conservator listing all remaining assets. In the event that the minor has reached the age of eighteen (18), an Order for Release of Funds is then issued, which the minor and the Conservator must take to the financial institution(s) to close the Conservatorship account(s). The Receipt and Release is then signed by the minor and witnessed by a representative from the financial institution indicating that the minor has received his or her assets from said financial institution. The executed Receipt and Release must then be filed with the court to allow the Conservatorship to terminate. Therefore, the Conservator and the minor are responsible for ensuring that the court receives the document. The court will review the file and proceed to close the file. At that time, a Termination of Appointment will be issued relieving the Conservator of his or her duties.

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

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

EQUIFAX

Telephone: 1-800-997-2493

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

Web: 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

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.

STATE OF SOUTH CAROLINA

COUNTY OF Richland

IN THE MATTER OF:

☐ Decedent ☐ Alleged Incapacitated Individual
☐ Minor ☐ Other: _____

▲ PROBATE COURT USE ONLY ▲

IN THE PROBATE COURT

CASE NUMBER -GC- -

SUMMONS

Petitioner(s),
vs.

Respondent(s).*

*For Guardianship/Conservatorship matters, you must include the alleged incapacitated individual as a Respondent.

TO THE RESPONDENT(S) LISTED ABOVE:

YOU ARE HEREBY SUMMONED and required to Answer the Petition in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer upon the Petitioner(s) listed above at the following address(es):

Please Type or Print.

(Name of Petitioner/Attorney for Petitioner)

(Street Address or Mailing Address)

(City, State, and Zip Code)

Your Answer must be served on the Petitioner at the above address within **thirty (30) days** after the service of this Summons and Petition upon you, exclusive of the day of such service; and if you fail to answer the Petition within that time, judgment by default will be rendered against you for the relief demanded in the Petition.

Signature of Petitioner(s)/Attorney for Petitioner(s)

Date: _____

**INSTRUCTION SHEET FOR FORM #540GC
PETITION FOR FINDING OF INCAPACITY, PROTECTIVE PROCEEDING,
APPOINTMENT OF CONSERVATOR FOR AN ADULT**

This petition is intended to be used when a petitioner is seeking the appointment of a Conservator for an alleged incapacitated individual (A.I.I.). It can also be used when a petitioner seeks to have an A.I.I. found to be incapacitated for one of the other reasons stated below. The following actions may be requested with the filing of the attached petition:

• **FINDING OF INCAPACITY**

- The Petitioner may seek to have the A.I.I. found to be an incapacitated for the purpose of appointing a Conservator or the issuance of another protective order. 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.
- **RIGHTS AND POWERS OF THE ALLEGED INCAPACITATED INDIVIDUAL**
 - S.C. Code Ann. § 62-5-403(B)(7) requires the petitioner to indicate in the petition what rights the Court is being asked to remove from the A.I.I. For protective proceedings, those rights are stated in S.C. Code Ann. § 62-5-407(B). The burden of proof will be on the petitioner to show why certain rights should be removed. Rights not asked to be removed or not stated as being removed in the court order will be retained.
 - 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 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).**

Page 3 of 8

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. The Petitioner has the burden of showing why a conservatorship is needed if the A.I.I. has a Durable General 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** (check all that apply):

Venue for this proceeding is proper in this county because the A.I.I.:

- ☐ 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;
☐ 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 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. § 62-5-407(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? | <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. | Vote? | <input type="checkbox"/> YES | <input type="checkbox"/> NO |

If you answered NO to any of the above-listed rights, please explain:

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

10. Please note any of the rights in Question 8 you believe should be given to the Conservator (*vested in the Conservator*) to exercise on behalf of the incapacitated person. (*Some rights, such as voting, cannot be given to a Conservator.*):

11. **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 or 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 seeking emergency or temporary relief, use Forms #512GC or #513GC.) ☐ No. ☐ Yes. If yes, please explain:

- E. Has the A.I.I. been rated incapable of handling his 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 filed with the Court within thirty (30) days of the date of appointment.)

Description

Value

- G. I request the appointment of (if someone other than Petitioner):

Name:

Address:

Preferred Phone:

Email:

Relationship to A.I.I.:

H. **Priority for the requested appointee(s)** (either the Petitioner(s) or person(s) named in 11G., above) is:

- ☐ Previously appointed Conservator, Guardian of property, or Guardian of assets 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 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 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): _____; or
- ☐ 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: _____

VERIFICATION

The Petitioner, 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: _____

Printed Name of Notary: _____

Notary Public for State of: _____

My commission expires: _____

Signature of Petitioner: _____

Print Name: _____

Address: _____

Preferred Telephone: _____

Secondary Telephone: _____

Email: _____

SWORN to me this _____ day of _____, 20____

Signature: _____

Printed Name of Notary: _____

Notary Public for State of: _____

My commission expires: _____

Signature of Co-Petitioner: _____

Print Name: _____

Address: _____

Preferred Telephone: _____

Secondary Telephone: _____

Email: _____

This section is to be signed by the individual(s) nominated to serve in one of the roles listed below.

QUALIFICATION AND STATEMENT OF ACCEPTANCE

I agree to serve as appointed and to perform the duties and discharge the trust of the office of (check the applicable choices): ☐ Conservator(s) ☐ Special Conservator(s) ☐ Successor Conservator(s) ☐ Temporary Conservator(s) ☐ Limited Conservator(s).

Executed this _____ day of _____, 20____.

Signature: _____

Printed Name: _____

Signature: _____

Printed Name: _____

STATE OF SOUTH CAROLINA)
COUNTY OF Richland)
IN THE MATTER OF:)
_____,)
An alleged incapacitated individual.)
_____,)
vs.)
_____,)
Petitioner(s),)
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 -GC- -

**ACCEPTANCE OF SERVICE;
RENUNCIATION/NOMINATION**

ACCEPTANCE OF SERVICE

- ☐ I accept service of a copy of the Summons and Petition in this matter pursuant to Rule 4(j), SCRPC at the following location: _____ on the following date: _____; and/or

RENUNCIATION/NOMINATION FOR CONSERVATORSHIP

(Check only one of the following two boxes):

- ☐ I renounce my right to be considered for appointment as conservator; OR
☐ I renounce my right to be considered for appointment as conservator and nominate the following person:

Name: _____
Address: _____

Preferred Telephone: _____
Secondary Telephone: _____

Email: _____

Relationship to alleged incapacitated individual: _____

RENUNCIATION/NOMINATION FOR GUARDIANSHIP

(Check only one of the following two boxes):

- ☐ I renounce my right to be considered for appointment as guardian; OR
☐ I renounce my right to be considered for appointment as guardian and nominate the following person:

Name: _____
Address: _____

Preferred Telephone: _____
Secondary Telephone: _____

Email: _____

Relationship to alleged incapacitated individual: _____

SWORN to before me this _____ day of _____, 20____.

Signature: _____

Print Name: _____

Notary Public for: _____
(State)

My Commission Expires: _____
(Date)

Signature: _____

Print Name: _____

Address: _____



Preferred Telephone: _____

Secondary Telephone: _____

Email: _____

Relationship to the alleged incapacitated individual: _____

an alleged incapacitated individual


PROBATE COURT USE ONLY


IN THE PROBATE COURT
 CASE NUMBER -GC- -

**PROBATE COURT GUIDELINES FOR
 REPORTS BY APPOINTED EXAMINER**

☐ GUARDIANSHIP☐ CONSERVATORSHIP☐ PROTECTIVE PROCEEDING

A petition has been filed with the Probate Court for appointment of a guardian, conservator, or the issuance of a protective order. The person nominated in the petition is seeking appointment in order to assist the alleged incapacitated individual (A.I.I.).

Your role as an examiner is to help the Court determine whether and to what degree the A.I.I. is incapacitated and to assist the Court in the appointment of a guardian or conservator, or issuance of a protective order. You have been appointed because you have knowledge of the individual from a past professional relationship, you possess expertise in a desired area, or both.

Please review the definitions of "incapacity," "incapacitated individual," "guardian," and "conservator," which are defined in the Order Appointing Examiner (Form #533GC). In reviewing the definitions, please note that the standard is incapacity, and not incompetency. S.C. Code Ann. § 62-5-407(A) of the conservatorship statutes provides: "The court shall exercise its authority to encourage maximum self-reliance and independence of the protected person and issue orders only to the extent necessitated by the protected person's mental and adaptive limitations." S.C. Code Ann. § 62-5-304(A) of the guardianship statutes provides: "The court shall exercise its authority to encourage maximum self-reliance and independence of the incapacitated individual and issue orders only to the extent necessitated by the incapacity of the individual." Degrees of incapacity may exist, and the Court must adjudicate to what extent the A.I.I. should continue to possess certain rights.

After you conduct the examinations, interviews, or tests that are appropriate, submit your report to the Probate Court in written form unless directed by the Court otherwise. Please give a factual basis for your conclusions. Give any general background information, specific concerns or findings, and a prognosis where possible. You are encouraged, but not required, to attach a narrative report to your Examiner Report and Affidavit Regarding Capacity (Form #539GC).

an alleged incapacitated individual.

PROBATE COURT USE ONLY

IN THE PROBATE COURT
CASE NUMBER -GC- -

**EXAMINER REPORT AND AFFIDAVIT
REGARDING CAPACITY**

Page 1 of 4

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"¹:
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. Yes ☐ No ☐ Unknown ☐

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.)

¹ 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."² 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

20

Examiner's Signature:

Print Name: _____

Credentials: _____

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

Address: _____

Telephone: _____

Print

Name: _____

Notary Public for: _____

(State)

My Commission Expires: _____

(Date)

²As 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.