

STATE OF SOUTH CAROLINA

COUNTY OF _____

IN THE MATTER OF:

_____,
an alleged incapacitated
individual.

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 of Appointment (S.C. Code Ann. § 62-5-101). 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. If you have a narrative report, you may attach it to your Examiner Report and Affidavit Regarding Capacity (Form #539GC).