

**Re: Petition for the Appointment of an Emergency Guardian for an Alleged Gravely Incapacitated Adult**

**INSTRUCTIONS**

**I. Specific Instructions**

1. This form is to be used for filing a Petition for the Appointment of an Emergency Guardian for an Alleged Gravely Incapacitated Adult pursuant to O.C.G.A. §29-5-8.
2. The following form does not request that an emergency guardian be appointed at the time the petition is filed, to serve until the emergency hearing (which would be held no sooner than 3 nor later than 5 days). It also does not request that the proposed ward's bank or savings accounts be frozen immediately. If the petitioner desires to request any of the foregoing relief, then the prayers on page 4 of the attached petition, and the affidavit on page 6, must be modified as necessary to comply with the statutory provisions quoted immediately below.
3. O.C.G.A. §29-5-8(d)(4) and (5) provide as follows:

“(4) If the threatened risk is so immediate and irreparable that any delay is unreasonable and the existence of such a threatened risk is certified by the affidavit of a physician licensed to practice medicine under Chapter 34 of Title 43 or of a psychologist licensed to practice under Chapter 39 of Title 43, [the court] shall appoint an emergency guardian to serve until the emergency hearing;

“(5) In its discretion, [the court] may order that, pending the emergency hearing, no withdrawals may be made from any account on the authority of the proposed ward's signature without prior approval from the court, if there is a substantial risk of dissipation of any bank or savings and loan account in which the proposed ward has an interest and if the risk is so immediate and the potential harm so irreparable that any further delay would be unreasonable; ...”
4. If any of the relief described above is granted, the court order on page 9 of the form must be modified by adding the appropriate material. Further, if an emergency guardian is appointed to serve until the emergency hearing, then such guardian would have to take an oath, post any required bond, and have appropriate letters of emergency guardianship pending emergency hearing issued.
5. Note that the burden of proof at the emergency hearing is upon the petitioner, and the standard is clear and convincing evidence.
6. In any case involving the creation of a guardianship over property where the ward owns real property, the attached certificate will be completed by the clerk of the probate court and filed with the clerk of the superior court of each county of this state in which the ward owns real property within 30 days of the date of such order.
7. This form consists of 15 pages.

**II. General Instructions**

General instructions applicable to all Georgia probate court standard forms appear in Volume 255 of the Georgia Reports and are available in each probate court.

**PETITION FOR THE APPOINTMENT OF AN EMERGENCY  
GUARDIAN FOR AN ALLEGED GRAVELY INCAPACITATED ADULT**

GEORGIA, \_\_\_\_\_ COUNTY

TO THE HONORABLE JUDGE OF THE PROBATE COURT:

IN RE:

\_\_\_\_\_,  
ALLEGED GRAVELY INCAPACITATED ADULT, PROPOSED WARD

**[NOTE: Unless there are two or more petitioners, the affidavit on page 6 must be completed by a physician or psychologist, based upon an examination within 10 days prior to the filing of this petition.]**

1.

\_\_\_\_\_, whose residence address and telephone  
Name of first petitioner  
number are \_\_\_\_\_, and who is the  
\_\_\_\_\_ (relationship) of the proposed ward, is a resident of  
\_\_\_\_\_ County, \_\_\_\_\_, and

**(Complete either a. or b. below):**

\_\_\_\_\_ a. \_\_\_\_\_, whose residence address and  
Name of second petitioner, if any  
telephone number are \_\_\_\_\_  
\_\_\_\_\_, and who is the \_\_\_\_\_  
(relationship) of the proposed ward, is a resident of \_\_\_\_\_  
County, \_\_\_\_\_.

or

\_\_\_\_\_ b. attached hereto as page 6 and made a part of this petition is the completed affidavit of  
\_\_\_\_\_, a physician or psychologist licensed to  
practice in Georgia, who has examined the proposed ward within ten days prior to the  
filing of this petition.

2.

The proposed ward, age \_\_\_\_\_ (date of birth \_\_\_\_\_), social security no.  
\_\_\_\_\_, is a resident of \_\_\_\_\_ County, \_\_\_\_\_, has a residence  
address of \_\_\_\_\_, and is presently located at  
\_\_\_\_\_.



4.

The law requires notice to be given to the spouse, if any, and to all living adult children, if any, whose addresses are known. If there is no spouse and no living adult child or children whose addresses are known, then two living adult next of kin whose addresses are known must be notified, or if there is only one living adult next of kin whose address is known, that person must be given notice. If there are no adult living next of kin whose addresses are known, then two adult friends must be notified. (In determining the persons to whom notice is required to be given according to the foregoing rules, the petitioner(s) should not be counted as persons receiving notice.) Therefore, the names, addresses, telephone numbers and relationships of the persons to be notified are as follows:

NAME	ADDRESS	TELEPHONE	RELATIONSHIP
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

5.

The names and addresses of the proposed ward's representatives appointed under a prior proceeding pursuant to Official Code of Georgia Annotated Chapters 37-7, 37-3 or 37-4 are:

_____ (name)	_____ (address)
_____ (name)	_____ (address)

6.

All known income and assets of the proposed ward are shown on page 7 attached hereto.

7.

**[NOTE: If nominations of a person or persons to act as guardian have been made by more than one of the following methods, indicate all nominees and methods. Attach a separate sheet if necessary.]**

\_\_\_\_\_ whose address(es) is/are \_\_\_\_\_  
\_\_\_\_\_ is/are nominated as guardian(s) of the (person)(and)(property) (respectively) by virtue of:

- \_\_\_\_\_ a. nomination by the petitioner(s);
- \_\_\_\_\_ b. selection by the proposed ward in writing, attested by at least two witnesses, prior to the filing of the petition;
- \_\_\_\_\_ c. selection by will or other writing signed by a deceased parent and attested by at least two witnesses.

The nominated guardian(s) will consent to serve, or has/have consented to serve as shown by the consent on page 5 attached hereto.

WHEREFORE, the petitioner(s) pray(s):

- (a) that service be perfected as required by law;
- (b) that the court appoint an emergency guardianship evaluation physician or psychologist as provided in Section 29-5-8 of the Official Code of Georgia Annotated;
- (c) that the court order an emergency hearing to be conducted not sooner than 3 days nor later than 5 days after the filing of this petition; and
- (d) that an emergency guardian of the person and/or property be appointed for the alleged gravely incapacitated adult.

\_\_\_\_\_  
Signature of second petitioner  
(if any and if pro se)

\_\_\_\_\_  
Signature of Attorney  
(or first petitioner if pro se)

Typed/printed name of Attorney: \_\_\_\_\_

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

\_\_\_\_\_

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

\_\_\_\_\_

**VERIFICATION**

GEORGIA, \_\_\_\_\_ COUNTY

Personally appeared before me the undersigned petitioner who on oath states that the facts set forth in the foregoing petition are true.

\_\_\_\_\_  
Signature of second petitioner, if any

\_\_\_\_\_  
Signature of first petitioner

Sworn to and subscribed before me, this  
\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Sworn to and subscribed before me, this  
\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Clerk, Probate Court/Notary Public

\_\_\_\_\_  
Clerk, Probate Court/Notary Public

**CONSENT TO SERVE AS GUARDIAN**

RE: Petition for the appointment of an emergency guardian for \_\_\_\_\_  
\_\_\_\_\_, an alleged gravely incapacitated adult.

I, \_\_\_\_\_, having been nominated as guardian of the (person)(and)(property) of the above-named alleged gravely incapacitated adult, do hereby consent to serve as such.

\_\_\_\_\_  
Proposed Guardian

**AFFIDAVIT OF PHYSICIAN OR PSYCHOLOGIST**

STATE OF GEORGIA  
COUNTY OF \_\_\_\_\_

PROBATE COURT OF \_\_\_\_\_ COUNTY

RE: Petition for appointment of an emergency guardian for \_\_\_\_\_,  
an alleged gravely incapacitated adult.

I, being first duly sworn, depose and say that I am a physician licensed to practice under Chapter 34 of Title 43 of the Official Code of Georgia Annotated or a psychologist licensed to practice under Chapter 39 of Title 43 of the Official Code of Georgia Annotated, that my office address is \_\_\_\_\_, Georgia, that I have examined the above-named alleged gravely incapacitated adult on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and that I have found him/her to be gravely incapacitated by reason of:

- |                                       |    |                    |    |                                 |
|---------------------------------------|----|--------------------|----|---------------------------------|
| <b>Circle the specific incapacity</b> | 1. | Mental illness     | 4. | Physical illness or disability  |
|                                       | 2. | Mental retardation | 5. | Chronic use of drugs or alcohol |
|                                       | 3. | Mental disability  | 6. | Other cause: _____              |

to the extent that said alleged gravely incapacitated adult:

- Circle A or B or both**
- A. (re guardianship of person:) lacks sufficient understanding or capacity to make significant responsible decisions concerning his/her person or is incapable of communicating such decisions, and there is an immediate, clear, and substantial risk of death or serious physical injury, illness, or disease unless an emergency guardian is appointed.
  - 2. (re guardianship of property:) is incapable of managing his/her estate, and there is an immediate, substantial risk of irreparable waste or dissipation of the estate of the proposed ward unless an emergency guardian is appointed.

The following facts support said diagnosis: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The foreseeable limits on the duration of such incapacity are:

WITNESS MY HAND AND SEAL this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public  
My commission expires on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
(NOTARIAL SEAL AFFIXED)

\_\_\_\_\_  
Signature of (Physician)(Psychologist)  
Typed Name \_\_\_\_\_

**NOTE: The examination on which this affidavit is based must occur WITHIN TEN DAYS prior to the filing of the petition.**



**ORDER FOR DISMISSAL BEFORE EVALUATION**

STATE OF GEORGIA

COUNTY OF \_\_\_\_\_

PROBATE COURT OF \_\_\_\_\_ COUNTY     ESTATE NUMBER: \_\_\_\_\_

Re:     Petition for the appointment of an emergency guardian for \_\_\_\_\_  
\_\_\_\_\_, an alleged gravely incapacitated adult.

The above and foregoing petition having been read and considered pursuant to Section 29-5-8 of the Official Code of Georgia Annotated, and it appearing that there is not probable cause to believe that the proposed ward is gravely incapacitated and in need of an emergency guardian, it is hereby ordered that the petition be, and hereby is, dismissed.

Ordered further that a copy of the petition and this order be served on the proposed ward by first-class mail, and a copy of this order be served in the same manner upon the petitioner(s).

So ordered this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
JUDGE OF THE PROBATE COURT

**CERTIFICATE OF MAILING**

This is to certify that I have this day served the proposed ward with a copy of this petition and order for dismissal by placing a copy of same in an envelope addressed to the proposed ward and depositing same in the U.S. Mail, first-class, with adequate postage thereon. I have also served a copy of the above order upon the petitioner(s) in the same manner.

This \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
CLERK OF THE PROBATE COURT







The following are my findings as to the needs of the proposed ward and their foreseeable duration:

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I find the proposed ward to be incapacitated by reason of:

- |                                       |    |                    |    |                                 |
|---------------------------------------|----|--------------------|----|---------------------------------|
| <b>Circle the Specific incapacity</b> | 1. | Mental illness     | 4. | Physical illness or disability  |
|                                       | 2. | Mental retardation | 5. | Chronic use of drugs or alcohol |
|                                       | 3. | Mental disability  | 6. | Other cause:_____               |

to the extent that said alleged incapacitated adult:

- Circle A or B or both or C**
- A. (re guardianship of person:) lacks sufficient understanding or capacity to make significant responsible decisions concerning his/her person or is incapable of communicating such decisions, and there is an immediate, clear, and substantial risk of death or serious physical injury, illness, or disease unless an emergency guardian is appointed.
  - 2. (re guardianship of property:) is incapable of managing his/her estate, and there is an immediate, substantial risk of irreparable waste or dissipation of the estate of the proposed ward unless an emergency guardian is appointed.
  - C. I do not find that the proposed ward meets the standards for emergency guardianship set out in either A or B above.

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Physician licensed under Chapter 34 of Title 43 of the Official Code of Georgia Annotated  
or  
Psychologist licensed under Chapter 39 of Title 43 of the Official Code of Georgia Annotated

Sworn to and subscribed before me  
this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public/Clerk, Probate Court

**NOTE: This report must be filed with the Probate Court no later than 72 hours after the filing of the petition.**

**STIPULATION AND WAIVER BY PROPOSED WARD'S ATTORNEY**

GEORGIA, \_\_\_\_\_ COUNTY

TO THE PROBATE COURT OF SAID STATE AND COUNTY

IN RE: PETITION FOR THE APPOINTMENT OF AN EMERGENCY GUARDIAN FOR \_\_\_\_\_, ALLEGED  
GRAVELY INCAPACITATED ADULT

The undersigned, as the attorney representing the above-named alleged gravely incapacitated adult in these proceedings, does hereby stipulate into evidence the affidavit(s) of \_\_\_\_\_

Name of Affiant

\_\_\_\_\_, which is the evaluation report Ordered by the Court in this matter (, and \_\_\_\_\_, being the affidavit referred to

Name of Affiant

in Paragraph 1(b) of the petition). I hereby waive the appearance of such affiant(s) at any hearing concerning the said petition.

I further waive the appearance of my client (the proposed ward) at said hearing for the following reason(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attorney

**[NOTE: If a guardian ad litem is appointed by the Court to represent the proposed ward, then the above or a similar Stipulation and Waiver should be signed by the guardian ad litem if such guardian ad litem agrees with the substance of such document.]**

PROBATE COURT OF \_\_\_\_\_ COUNTY  
STATE OF GEORGIA

IN THE MATTER OF \_\_\_\_\_ ) ESTATE NUMBER \_\_\_\_\_  
)  
\_\_\_\_\_, ) RE: PETITION FOR APPOINTMENT OF  
ALLEGED GRAVELY ) AN EMERGENCY GUARDIAN FOR AN  
INCAPACITATED ADULT ) ALLEGED \_GRAVELY\_ INCAPACITATED  
) ADULT

**FINAL ORDER**

A hearing was held on the above-referenced petition on \_\_\_\_\_, \_\_\_\_\_, and after considering the pleadings, the evaluation report and the evidence taken at the hearing, the Court makes the following:

**FINDINGS OF FACT**

1.

All procedural requirements of §29-5-6 and §29-5-8 of the Official Code of Georgia Annotated have been met.

2.

The above-named alleged gravely incapacitated adult (hereinafter referred to as "the ward") is incapacitated by reason of \_\_\_\_\_ to the extent that the ward lacks sufficient understanding or capacity to make significant responsible decisions concerning his/her person or is incapable of communicating them and there is an immediate, clear and substantial risk of death or serious physical injury, illness, or disease, and is incapable of managing his/her estate and there is an immediate, substantial risk of irreparable waste or dissipation of the estate, unless an emergency guardian of the person and property is appointed.

3.

The current value of the personal property of the ward is approximately \$ \_\_\_\_\_. The ward has an interest in real property in \_\_\_\_\_ County(ies), \_\_\_\_\_.

4.

\_\_\_\_\_ should be appointed emergency guardian of the person and \_\_\_\_\_ should be appointed emergency guardian of the property because \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

**CONCLUSIONS OF LAW**

The duration of the guardianship is for 45 days or until a hearing concerning the permanent guardianship is held, whichever occurs first. \_\_\_\_\_ should be, and hereby is, appointed emergency guardian of the person and \_\_\_\_\_ should be, and hereby is, appointed emergency guardian of the property of the ward. Letters of emergency guardianship of the person and of the property shall issue to such guardian(s) upon taking the required oath and upon the guardian of the property's posting bond in the amount of \$ \_\_\_\_\_. The powers and duties of such emergency guardian(s) are limited to those specified in the letters of emergency guardianship which will be issued in connection with this matter.

\_\_\_\_\_  
Date Judge/Hearing Officer

**CERTIFICATE OF MAILING**

I have this date mailed (or handed) a copy of the above Order to the ward, his/her attorney, (his/her guardian ad litem), (his/her representatives,) the guardian(s), and the (petitioner(s)) (petitioner's attorney).

\_\_\_\_\_  
Date Clerk, Probate Court

Certified copy of order delivered to \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.

**CERTIFICATE OF CREATION OF EMERGENCY GUARDIANSHIP**

(Pursuant to O.C.G.A. §29-5-6(f)(4))

GEORGIA, \_\_\_\_\_ County

DATE ORDER ISSUED: \_\_\_\_\_

GRANTOR: (NAME OF GRAVELY INCAPACITATED ADULT) \_\_\_\_\_  
\_\_\_\_\_

GRANTEE: (NAME OF EMERGENCY GUARDIAN OF PROPERTY OF ABOVE GRAVELY  
INCAPACITATED ADULT) \_\_\_\_\_  
\_\_\_\_\_

Emergency guardianship of the property has been created for the above-named gravely incapacitated adult. Said emergency guardianship expires 45 days from \_\_\_\_\_ or whenever an order is entered on a permanent guardianship, whichever first occurs.

Original Certificate delivered or mailed to Clerk of Superior Court of \_\_\_\_\_  
\_\_\_\_\_ Count(y)(ies) on \_\_\_\_\_, \_\_\_\_\_.

I do hereby certify that the above information is true and correct.

JUDGE OF THE PROBATE COURT

By: \_\_\_\_\_  
Clerk, Probate Court of \_\_\_\_\_ County

**CERTIFICATE IN ACCORDANCE WITH  
UNIFORM PROBATE COURT RULE 21(F)**

I certify that the content of the foregoing is identical in all material respects with Georgia probate court standard form entitled **Petition for the Appointment of an Emergency Guardian for an Alleged Gravely Incapacitated Adult**, except for additions or deletions indicated as required by the Uniform Probate Court Rules.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Attorney  
Address:

Telephone Number:  
State Bar#: