

EVALUATION REPORT OF LICENSED PHYSICIAN/PSYCHOLOGIST

INSTRUCTIONS FOR COMPLETION OF REPORT

- A. This form is required submission under *West Virginia Code § 44A-2-3* in a case seeking the court appointment of a guardian and/or conservator for an alleged “protected person” and must be completed by a licensed physician or psychologist. Since the law requires that this report address certain matters contained in the Petition seeking such appointment, it will be necessary for you to have a true copy of the completed Petition before you complete this form. Please insure that the Petitioner has provided you with a copy of the Petition intended to be filed.
- B. All information provided in this report must be printed or typed and be clearly readable.
- C. All information requested *MUST* be provided, if known. If unknown, you must state it is unknown.
- D. Please be sure you read and answer all questions carefully and in as much detail as possible.
- E. Answers to some questions may require more space than provided. If so, attach additional pages as needed and label each response on such page(s) with the number of the applicable question.

I, _____, a licensed [check category] physician
psychologist, in the State of _____, license number _____, hereby
certify that I have examined and/or evaluated the condition of *[insert name of alleged protected person here]*
_____, and that the examination(s) or assessment(s)
performed which form the basis of this report were conducted on the following date(s): _____
_____, and hereby submit this report and evaluation with the following findings:

1. *West Virginia Code § 44A-1-4(13)* defines a “protected person” as an adult individual, eighteen years of age or older, who has been found by a court, because of mental impairment, to be unable to:
 - a. Receive and evaluate information effectively, ***OR***
 - b. Respond to people, events and environments to such extent that the individual lacks the capacity to ***either:***
 - i. Meet the essential requirements for his or her health, care, safety, habitation, or therapeutic needs without the assistance or protection of a ***guardian, OR***
 - ii. Manage property or financial affairs or provide for his or her support or for the support of legal dependents with the assistance or protection of a ***conservator.***

This same section also provides that even if the Court determines that the person displays poor judgment, this finding *alone* is not sufficient evidence to determine that the person is a “protected person” as defined above. CONSIDERING THIS DEFINITION, IN MY OPINION, I FIND THE ALLEGED PROTECTED PERSON
[initial appropriate finding]:

_____ ***IS NOT*** INCAPACITATED *[If you have initialed this finding, go to Question 2]*

_____ ***LACKS*** CAPACITY *[If you have initialed this finding, complete Question 1a and 1b below]*

1a. DESCRIBE THE NATURE, TYPE, AND EXTENT OF THE PERSONS INCAPACITY:

1b. THE PERSON'S SPECIFIC COGNITIVE AND FUNCTIONAL LIMITATIONS ARE:

2. MY EVALUATION OF THE PERSON'S MENTAL AND PHYSICAL CONDITION IS AS FOLLOWS [*Where appropriate, include an evaluation of the Person's educational condition, adaptive behavior and social skills*]

3. IS THE PERSON UNABLE TO HANDLE HIS OR HER OWN AFFIARS DUE TO MENTAL ILLNESS OR INSANITY? [*initial appropriate response*] _____ YES _____ NO

If "Yes", what is the mental illness or insanity diagnosis?

If the person is unable to handle his or her own affairs due to mental illness or insanity, please provide the following:

3a. The gender of the respondent is [*initial one*] _____ male or _____ female.

7. IF THE PETITION STATES THAT THE PERSON'S INCAPACITY WILL PREVENT THE PERSON'S ATTENDANCE AT THE HEARING [SEE Petition for Appointment of Guardian/Conservator, Page 4, Question 16]. IT IS MY OPINION THAT SUCH ATTENDANCE AT THE HEARING [initial appropriate finding]:

_____ WOULD BE DETRIMENTAL TO THE PERSON'S HEALTH, CARE AND/OR SAFETY.

_____ WOULD NOT DETRIMENTAL TO THE PERSON'S HEALTH, CARE AND/OR SAFETY.

[IMPORTANT NOTE: If a protected person is unable to appear at the hearing, the requires that one of the following be submitted to the Court at the beginning of the hearing: (1) a physician's affidavit (GC Form 5), (2) a qualified expert testimony, or (3) evidence that the person refuses to appear. SEE: West Virginia Code § 44A-2-9(c). This Evaluation Report is NOT the required physician's affidavit. The affidavit is a separate form which may only be completed by a physician.

8. IF IT APPEARS THE PERSON WILL ATTEND THE HEARING, IS THE PERSON ON ANY MEDICATION(S) THAT MAY AFFECT THE PERSON'S ACTIONS, DEMEANOR, AND PARTICIPATION AT THE HEARING?

_____ YES _____ NO [If "YES", describe the medication and the affect(s) such medication(s) may have]

I, the undersigned evaluating physician/psychologist named on page 1 of this Report, do hereby certify that the foregoing report is complete and accurate to the best of my information and belief. I further certify that other individuals [initial appropriate category] _____ DID _____ DID NOT

Perform, supervise or review the assessment(s) or examination(s) upon which this Report is based, or otherwise made substantial contributions towards this Report's preparation. [If you initials "DID", see note below and secure the signatures of all such individuals on page 5].

Given under my hand this _____ day of _____ [month], _____ [year].

EVALUATING PHYSICIAN/PSYCHOLOGIST

[West Virginia Code § 44A-2-3(7) also requires the signatures of "...any other individuals who performed, supervised, or reviewed the assessments or examinations upon which the report is based..." or of any other person who made substantial contributions towards the reports preparation.]

We, the undersigned individuals, hereby certify that each individual signatory executing this Report below performed, supervised and/or reviewed the assessment(s) and/or examination(s) upon which the foregoing report is based, or made a substantial contribution toward the preparation of this Report, and that by signing below, each individual further certifies that to the best of his or her information and belief, the information contained in the foregoing report is complete and accurate.

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