

**Petition for the Appointment of an Emergency Guardian and/or Conservator for a Proposed Ward**

**INSTRUCTIONS**

I. Specific Instructions

1. This form is to be used for filing a Petition for the Appointment of an Emergency Guardian and/or Conservator for a Proposed Ward pursuant to O.C.G.A. §29-4-14 and/or §29-5-14.
2. Regarding the need for the pre-hearing appointment of an Emergency Guardian and/or Conservator, O.C.G.A. §29-4-15(c)(5) and §29-5-15 (c)(5) provide as follows: If the court determines that there is probable cause to believe that the proposed ward is in immediate need of an emergency guardian, the court shall appoint an emergency guardian to serve until the emergency hearing, with or without prior notice to the proposed ward, but only if the threatened risk is so immediate and the potential harm so irreparable that any delay is unreasonable and the existence of the threatened risk and potential for irreparable harm is certified by the affidavit of a physician licensed to practice medicine under Chapter 34 of Title 43, a psychologist licensed to practice under Chapter 39 of Title 43, or a licensed clinical social worker.

If the court determines that there is probable cause to believe that the proposed ward is in immediate need of an emergency conservator, the court shall appoint an emergency conservator to serve until the emergency hearing, with or without prior notice to the proposed ward, but only if the threatened risk is so immediate and the potential harm so irreparable that any delay is unreasonable and the existence of the threatened risk and potential for irreparable harm is certified by the affidavit of a physician licensed to practice medicine under Chapter 34 of Title 43, a psychologist licensed to practice under Chapter 39 of Title 43, or licensed clinical social worker; provided, however, that, pending the emergency hearing, the court shall order that no withdrawals may be made from any account on the authority of the proposed ward's signature without the court's prior approval and that the emergency conservator shall not expend any funds of the proposed ward without prior court approval.

3. Further, if a pre-hearing emergency guardian and/or conservator is appointed to serve until the emergency hearing, then such guardian and/or conservator shall, prior to the issuance of Letters of Emergency Guardianship and/or Conservatorship, take an oath and post such bond as the court may require.

4. The burden of proof is on the petitioner to prove by clear and convincing evidence that the proposed ward lacks sufficient capacity to make or communicate significant responsible decisions concerning his/her health or safety and is in need of a guardian **AND** there is an immediate, clear, and substantial risk of death or serious physical injury, illness, or disease unless an emergency guardian is appointed and/or that the proposed ward lacks sufficient capacity to make or communicate significant responsible decisions concerning the management of his/her property and is in need of a conservator **AND** there is an immediate, substantial risk of irreparable waste or dissipation of the estate unless an emergency conservator is appointed.
5. In any case involving the appointment of a conservator when the proposed ward owns real property in Georgia, a certificate of creation of conservatorship will be completed by the clerk of the probate court and filed with the clerk of the superior court of each county in which the proposed ward owns real property.
6. According to Probate Court Rule 5.6 (A), unless the court specifically assumes the responsibility, it is the responsibility of the moving party to prepare the proper citation and deliver it properly so it can be served according to law. Pages after 13 which are labeled "Court" are to be completed by the moving party, unless otherwise directed by the court.

## II. General Instructions

General instructions applicable to all Georgia probate court standard forms are available in each probate court.

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

STATE OF GEORGIA

IN RE:	)	ESTATE NO. _____
	)	
_____ ,	)	<b>PETITION FOR APPOINTMENT OF</b>
<b>PROPOSED WARD</b>	)	<b>AN EMERGENCY GUARDIAN AND/OR</b>
	)	<b>EMERGENCY CONSERVATOR FOR A</b>
	)	<b>PROPOSED WARD</b>

TO THE HONORABLE JUDGE OF THE PROBATE COURT:

[NOTE: Unless there are two or more petitioners, the affidavit on page 8 must be completed by a physician, psychologist, or licensed clinical social worker based upon an examination within 15 days prior to the filing of this petition.]

1.

Petitioner, \_\_\_\_\_, is the  
 (relationship) \_\_\_\_\_ of the proposed ward,  
 and is domiciled at (address) \_\_\_\_\_  
 \_\_\_\_\_ County of \_\_\_\_\_  
 \_\_\_\_\_, State of \_\_\_\_\_, telephone number  
 \_\_\_\_\_, and

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

\_\_\_\_ a. (Second Petitioner, if any) \_\_\_\_\_, is  
 the (relationship) \_\_\_\_\_ of the proposed ward, and is domiciled at  
 (address) \_\_\_\_\_  
 \_\_\_\_\_ County of \_\_\_\_\_, State of  
 \_\_\_\_\_, telephone number \_\_\_\_\_, show  
 that:

**or**

\_\_\_\_ b. attached hereto as page 8 and made a part of this petition is the completed affidavit of  
 \_\_\_\_\_, a  
 physician, psychologist or licensed clinical social worker licensed to practice in Georgia,  
 who has examined the proposed ward within fifteen days prior to the filing of this  
 petition, show that:

2.

The proposed ward, age \_\_\_\_\_, date of birth \_\_\_\_\_, social security no. \_\_\_\_\_, is domiciled at (address) \_\_\_\_\_  
\_\_\_\_\_ County, State of \_\_\_\_\_, and is presently located at \_\_\_\_\_, which is a (type of facility, if applicable) \_\_\_\_\_ and can be contacted at (telephone number): \_\_\_\_\_.

(initial if applicable)

\_\_\_\_\_ It is anticipated that the proposed ward will be moved within the next 3 days to the following address: \_\_\_\_\_, telephone number \_\_\_\_\_.

\_\_\_\_\_ The proposed ward is a citizen of a foreign country, being \_\_\_\_\_  
(if an emergency guardianship or conservatorship is granted, pursuant to The Vienna Convention, the Probate Court must notify the consul).

3.

The proposed ward is in need of an emergency guardian and/or conservator by reason of the following incapacity: \_\_\_\_\_  
\_\_\_\_\_ to the extent that the proposed ward: (initial all applicable)

\_\_\_\_\_ a. (for emergency guardianship:) lacks sufficient capacity to make or communicate significant responsible decisions concerning his/her health or safety, and there is an immediate, and substantial risk of death or serious physical injury, illness, or disease unless an emergency guardian is appointed,

\_\_\_\_\_ b. (for emergency conservatorship:) lacks sufficient capacity to make or communicate significant responsible decisions concerning the management of his/her property and there is an immediate, substantial risk of irreparable waste or dissipation of the estate unless an emergency conservator is appointed.

The facts which support the claim of the need for an emergency guardian and/or conservator are as follows:

(NOTE: pursuant to O.C.G.A. §29-4-15(b) and §29-5-14(b), the Court shall dismiss the petition if the petitioner does not allege facts which cause the Court to believe that the proposed ward is in need of an emergency guardian and/or conservator as stated above. The Petition cannot be granted unless sufficient facts are presented which support the claim for the need for the appointment of an emergency guardian and/or conservator. While an attached physician's/psychologist's/social worker's affidavit is permissible, the Petitioner(s) MUST specifically allege sufficient facts to support the granting of this Petition.)

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

4.

It is in the best interest of the proposed ward that \_\_\_\_\_  
\_\_\_\_\_ be appointed emergency guardian and \_\_\_\_\_  
\_\_\_\_\_ appointed emergency conservator.

5.

(Initial if applicable)

\_\_\_\_\_ a. In addition to the appointment of an emergency guardian after notice and a hearing, the Court immediately should appoint a pre-hearing emergency guardian for the following reasons: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Note: the court cannot appoint a pre-hearing emergency guardian unless the petition alleges sufficient specific facts showing that any delay is unreasonable and the existence of the threatened risk and potential for irreparable harm is certified by an affidavit of a physician, psychologist, or social worker.

and, the pre-hearing guardian should be granted the following specific powers and duties which do not exceed those absolutely necessary to respond to the immediate threatened risk(s) described above: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ b. In addition to the appointment of an emergency conservator after notice and a hearing, the Court immediately should appoint a pre-hearing emergency conservator for the following reasons: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Note: the court cannot appoint a pre-hearing emergency conservator unless the petition alleges sufficient specific facts showing that any delay is unreasonable and the existence of the threatened risk and potential for irreparable harm is certified by an affidavit of a physician, psychologist, or social worker.

and, the pre-hearing conservator should be granted the following specific powers and duties which do not exceed those absolutely necessary to respond to the immediate threatened risk(s) described above: \_\_\_\_\_  
\_\_\_\_\_

6.

The reason(s) why the procedures for the appointment of a non-emergency (permanent) guardianship and/or conservatorship are inadequate to protect the proposed ward and/or his/her property is/are: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(initial applicable)

\_\_\_\_\_ A Petition for permanent guardianship/conservatorship was/is being/will be filed in conjunction with this Petition.

\_\_\_\_\_ No Petition for permanent guardianship/conservatorship has been/will be filed, and a summary description of all known assets, income, other sources of funds, liabilities, and expenses of the proposed ward is shown on page 10.

7.

The foreseeable duration of the proposed ward's incapacity will be: \_\_\_\_\_ and the Court should grant the emergency guardian/conservator the following powers and duties which do not exceed those absolutely necessary to respond to the immediate threatened risk(s) described above:  
\_\_\_\_\_  
\_\_\_\_\_.

8.

(initial one:)

\_\_\_\_\_ a. No other person has authority to act in the circumstances, whether under a power of attorney, trust, or otherwise.

\_\_\_\_\_ b. The following individual(s) with the authority to act under a power of attorney, trust, or otherwise, appear(s) unwilling or unable to act: (name, address, and telephone number): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

9.

Additional Data: Where full particulars are lacking, state here the reasons for any such omission.

WHEREFORE, petitioner(s) pray(s):

1. that service be perfected as required by law;
2. that the court appoint legal counsel and an evaluator for the proposed ward and order an evaluation as required by law;
3. 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;
4. that an emergency guardian and/or conservator be appointed for the proposed ward; and
5. that, if requested, the Court immediately appoint a pre-hearing emergency guardian and/or conservator with such powers and duties as the Court shall direct.

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

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

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

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

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Telephone Number

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

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

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

Telephone: \_\_\_\_\_ State Bar # \_\_\_\_\_

**VERIFICATION**

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

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

Sworn to and subscribed before  
me this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
First Petitioner

\_\_\_\_\_  
NOTARY/CLERK OF PROBATE COURT  
My Commission Expires \_\_\_\_\_

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

-----  
Sworn to and subscribed before  
me this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Second Petitioner, if any

\_\_\_\_\_  
NOTARY/CLERK OF PROBATE COURT

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

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

**CONSENT TO SERVE AS EMERGENCY GUARDIAN AND/OR CONSERVATOR**

RE: Petition for the appointment of an emergency guardian and/or conservator for \_\_\_\_\_, a proposed ward.

I/We, \_\_\_\_\_, having been nominated as emergency guardian(s) and I/we, \_\_\_\_\_, having been nominated as emergency conservator(s) of the above-named proposed ward, do hereby consent to serve as emergency guardian(s)/conservator(s) and pre-hearing emergency guardian(s)/conservator(s) if so appointed.

\_\_\_\_\_  
Proposed Emergency Guardian/Conservator

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

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Proposed Emergency Guardian/Conservator

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

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Proposed Emergency Guardian/Conservator

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

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone

STATE OF GEORGIA

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

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

RE: Petition for appointment of an emergency guardian and/or conservator for  
\_\_\_\_\_.

**AFFIDAVIT OF PHYSICIAN, PSYCHOLOGIST, OR CLINICAL SOCIAL WORKER  
FOR EMERGENCY GUARDIANSHIP/CONSERVATORSHIP**

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, or a licensed clinical social worker; that my office address is \_\_\_\_\_

\_\_\_\_\_, Georgia, and that I have examined the above-named proposed ward on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_. **NOTE: The examination on which this affidavit is based must occur WITHIN FIFTEEN DAYS prior to the filing of the petition.** I found him/her to be incapacitated by reason of : \_\_\_\_\_  
to the extent that said proposed ward (initial all applicable):

\_\_\_\_\_ a. (re: emergency guardianship:) lacks sufficient capacity to make or communicate significant responsible decisions concerning his/her health or safety and there is an immediate and substantial risk of death or serious physical injury, illness, or disease unless an emergency guardian is appointed, and (if applicable)

\_\_\_\_\_ i. **the threatened risk is so immediate and the potential harm so irreparable that any delay is unreasonable and a pre-hearing guardian should be appointed.**

\_\_\_\_\_ b. (re: emergency conservatorship:) lacks sufficient capacity to make or communicate significant, responsible decisions concerning the management of his/her property and there is an immediate, substantial risk of irreparable waste or dissipation of the estate unless an emergency conservator is appointed, and (if applicable)

\_\_\_\_\_ i. **the threatened risk is so immediate and the potential harm so irreparable that any delay is unreasonable and a pre-hearing conservator should be appointed.**

The following facts support my opinion of incapacity and the existence of immediate threat(s) or risk(s) to the proposed ward:

The foreseeable limits on the duration of such incapacity are:

Based on available data, the proposed ward should retain the following rights which would be lost with the appointment of a guardian/conservator: (initial all applicable)

- \_\_\_\_\_ a. contract marriage
- \_\_\_\_\_ b. make, modify, or terminate other contracts
- \_\_\_\_\_ c. consent to medical treatment
- \_\_\_\_\_ d. establish a residence or dwelling place
- \_\_\_\_\_ e. change domicile
- \_\_\_\_\_ f. revoke a revocable trust established by the ward
- \_\_\_\_\_ g. bring or defend any action at law or equity, except an action relating to the guardianship/conservatorship
- \_\_\_\_\_ h. buy sell, or otherwise dispose of or encumber property
- \_\_\_\_\_ i. enter into or conduct other business or commercial transactions
- \_\_\_\_\_ j. none of the above

Optional: Affiant's opinions as to any other limitations on the emergency guardianship/conservatorship are:

WITNESS MY HAND AND SEAL this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Sworn to and subscribed before me this  
me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Signature of Physician/Psychologist/Social Worker

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Printed Name of Evaluator

My commission expires on the \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_\_.  
(NOTARIAL SEAL AFFIXED)

**NOTE: If the appointment of an emergency conservator is sought and no petition for permanent conservatorship is being filed simultaneously, this form must be completed**

**ASSETS, INCOME, OTHER SOURCES OF FUNDS, LIABILITIES, AND EXPENSES OF PROPOSED WARD**

PROPOSED WARD: \_\_\_\_\_

**REAL PROPERTY**

**(Indicate if property is jointly owned and with whom)**

Description	County	State	Approximate equity
Parcel 1 _____			\$ _____
Parcel 2 _____			\$ _____
Parcel 3 _____			\$ _____

**INCOME FROM ALL SOURCES**

	Yearly Total
Social Security per year	\$ _____
SSI (Supplemental Security Income) per year	\$ _____
Retirement benefits per year	\$ _____
VA benefits per year	\$ _____
Other income per year, including, e.g., alimony, annuity, or trust distributions	\$ _____
Interest, dividend, or investment income	\$ _____
<b>YEARLY TOTAL OF ALL INCOME</b>	<b>\$ _____</b>

**PERSONAL AND INTANGIBLE PROPERTY**

**(Indicate if property is jointly owned and with whom)**

**Approximate Current Value**

**1. Checking/Savings/Money Market/Certificates of Deposit/Liquid Accounts:**

Bank/Financial Institution/Broker	Acct. No.	Joint Owner (if any)	
_____			\$ _____
_____			\$ _____
_____			\$ _____

\_\_\_\_\_ \$ \_\_\_\_\_

2. Stocks/Bonds/Investments (including retirement and profit-sharing accounts):

a. Held by brokers:

Brokerage Firm or Institution	Acct. No.	Joint Owner (if any)	
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____

b. Privately held:

Company/Issuer	No. of Shares	Joint Owner (if any)	
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____

3. Automobiles:

Year/Make/Model	V.I.N.	Joint owner (if any)	
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____

4. Other assets of significant value:

Description	Joint owner (if any)	
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____

**TOTAL VALUE OF PERSONAL AND INTANGIBLE PROPERTY** \$ \_\_\_\_\_

**DEBTS AND OTHER LIABILITIES**

The proposed ward owes the following debts/liabilities:

1. Secured debts:

Obligor/Payee	Collateral	Solely/Jointly Owed	Approx. Current Balance
_____			\$ _____
_____			\$ _____
_____			\$ _____

2. Unsecured debts:

Obligor/Payee	Acct. No.	Solely/Jointly Owed	Approx. Current Balance
_____			\$ _____
_____			\$ _____
_____			\$ _____
<b>TOTAL DEBTS AND OTHER LIABILITIES OF PROPOSED WARD</b>			<b>\$ _____</b>

**AVERAGE MONTHLY LIABILITIES AND EXPENSES**

Household:

Care Facility/Rent/Mortgage payments:	\$ _____
Property taxes/Insurance	\$ _____
Utilities/Lawn Care/Pest Control	\$ _____
Miscellaneous household food	\$ _____
Total credit account and other debt payments	\$ _____
Other (specify)	\$ _____

Automotive/Transportation

Fuel and Repairs	\$ _____
Tags and license fees, Insurance	\$ _____
Bus/Train/Taxi fares	\$ _____

Minors or Other Dependents of the Proposed Ward

Child Care	\$ _____
School Tuition/Supplies/Expenses/Lunches	\$ _____
Clothing/Diapers /Grooming/Hygiene	\$ _____
Medical/Dental/Prescription	\$ _____

Entertainment/Activities \$ \_\_\_\_\_

Other Insurance

Health \$ \_\_\_\_\_

Life/Disability \$ \_\_\_\_\_

Other (specify) \$ \_\_\_\_\_

Proposed Ward's Other Expenses

Laundry/Clothing/Grooming/Hygiene \$ \_\_\_\_\_

Medical/Dental/Prescriptions/Medications \$ \_\_\_\_\_

Entertainment/Vacations/Subscriptions/Dues \$ \_\_\_\_\_

Personal Caretakers/Cleaning personnel \$ \_\_\_\_\_

Other (specify) \$ \_\_\_\_\_

Total Expenses \$ \_\_\_\_\_

Payments to Creditors:

Is the proposed ward behind in any debt payments? (yes) (no)

If so, payee and amount: \_\_\_\_\_

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**SUMMARY**

1. Average Monthly Income \$ \_\_\_\_\_

2. Average Monthly Expenses <\$ \_\_\_\_\_>

**Petition for the Appointment of an Emergency Guardian and/or Conservator for a Proposed Ward**

**NOTICE:**

**THE FOLLOWING PAGES ARE TO BE COMPLETED BY THE PETITIONER (MOVING PARTY) UNLESS OTHERWISE DIRECTED BY THE COURT. SEE PROBATE COURT RULE 5.6 (A).**

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

STATE OF GEORGIA

IN RE: \_\_\_\_\_ ) ESTATE NUMBER \_\_\_\_\_  
 )  
 \_\_\_\_\_, )  
**PROPOSED WARD** ) **PETITION FOR APPOINTMENT OF**  
 ) **AN EMERGENCY GUARDIAN AND/OR**  
 ) **CONSERVATOR FOR A**  
 ) **PROPOSED WARD**

**ORDER FOR EVALUATION, APPOINTMENT OF COUNSEL, APPOINTMENT OF SPECIAL  
PROCESS SERVER, AND NOTICE OF HEARING**

The above petition having been read and considered, and it appearing that there is probable cause to believe that the proposed ward is in need of an emergency guardian and/or emergency conservator within the meaning of O.C.G.A. §29-4-14 and/or §29-5-14, it is hereby ordered that \_\_\_\_\_, (physician) (psychologist) (licensed clinical social worker), is appointed to evaluate the above-named proposed ward at \_\_\_\_\_ o'clock \_\_\_\_ .M., on \_\_\_\_\_ at (location) \_\_\_\_\_, telephone number \_\_\_\_\_. In compliance with Georgia law and federal law, including HIPAA, healthcare providers shall permit the above evaluator to have access to the proposed ward's medical records.

IT IS FURTHER ORDERED that \_\_\_\_\_ is hereby appointed special agent to serve \_\_\_\_\_, proposed ward, with a copy of the petition for appointment of emergency guardian and/or conservator and this Order/Notice.

IT IS FURTHER ORDERED that the above-named proposed ward shall submit to an evaluation at the time and place stated above and that a written report shall be furnished to the Court and made available to the parties within 72 hours after this order being issued;

IT IS FURTHER ORDERED that an emergency hearing shall be conducted (in the Probate Court of \_\_\_\_\_ County, courtroom \_\_\_\_\_, (address) \_\_\_\_\_, Georgia) (at the following location: \_\_\_\_\_) at \_\_\_\_\_ o'clock \_\_\_\_\_.M., on \_\_\_\_\_ (which is not sooner than three days nor later than five days after the filing of the petition);

IT IS FURTHER ORDERED that the evaluator shall explain the purpose of the evaluation to the proposed ward;

IT IS FURTHER ORDERED that \_\_\_\_\_, attorney at law, telephone number \_\_\_\_\_ is hereby appointed to represent the proposed ward;

IT IS FURTHER ORDERED that the Clerk /Deputy Clerk shall mail by first-class mail copies of the petition and this order to all interested individuals identified in paragraph 8 of the Petition, if any.

\_\_\_\_\_ a. IT IS FURTHER ORDERED that, based on the affidavit filed with the Petition, it appears that the threatened risk of death or serious physical injury, illness, or disease of the proposed ward is so immediate and the potential harm so irreparable that any delay is unreasonable, and \_\_\_\_\_ is named as pre-hearing emergency guardian of the proposed ward, to serve pending the hearing as scheduled above. Emergency Letters of Guardianship shall issued upon said emergency guardian taking the oath.

\_\_\_\_\_ b. IT IS FURTHER ORDERED that, based on the affidavit filed with the Petition, it appears that the threatened risk of waste or dissipation of the proposed ward's property is so immediate and the potential harm so irreparable that any delay is unreasonable, and \_\_\_\_\_ is named as pre-hearing emergency conservator of the proposed ward, to serve pending the hearing as scheduled above. Emergency Letters of Conservatorship shall issued upon said emergency conservator posting a surety bond in the amount of \$\_\_\_\_\_ and taking the oath.

(initial if applicable)

\_\_\_\_\_ (i) IT IS FURTHER ORDERED THAT, pending the emergency hearing, the court hereby orders that no withdrawals may be made from any account on the authority of the proposed ward's signature without the court's prior approval and that the emergency conservator shall not expend any funds of the proposed ward without prior court approval.

**NOTICE TO PROPOSED WARD:**

This is to notify you of a proceeding initiated in this court by \_\_\_\_\_  
\_\_\_\_\_ seeking to appoint (initial one or both)

- a. \_\_\_\_\_ an emergency guardian for your person
- b. \_\_\_\_\_ an emergency conservator for your property

BY THIS ORDER, THE COURT HAS APPOINTED AN ATTORNEY TO REPRESENT YOU AND HAS SCHEDULED A HEARING. YOU AND YOUR ATTORNEY HAVE THE RIGHT TO ATTEND ANY HEARING HELD ON THIS MATTER.

IF A GUARDIAN IS APPOINTED FOR YOU, YOU MAY LOSE IMPORTANT RIGHTS TO CONTROL AND MANAGE YOUR PERSON.

IF A CONSERVATOR IS APPOINTED FOR YOU, YOU MAY LOSE IMPORTANT RIGHTS TO CONTROL AND MANAGE YOUR PROPERTY.

ALTHOUGH YOU MUST ATTEND THE EVALUATION, YOU DO NOT HAVE TO RESPOND TO QUESTIONS.

So ordered this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Probate Judge

**CERTIFICATE OF MAILING OF ORDER FOR EVALUATION; APPOINTMENT OF COUNSEL; APPOINTMENT OF SPECIAL PROCESS SERVER; AND NOTICE OF HEARING**

ESTATE NO. \_\_\_\_\_

This is to certify that I have this day served the persons named in paragraph 8 of the petition, who were ordered to be served by first-class mail, with a copy of the foregoing petition and order, by placing a copy of same in an envelope addressed to each and depositing same in the U.S. Mail, first-class, with adequate postage thereon.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
PROBATE CLERK/DEPUTY CLERK

**CERTIFICATE OF MAILING OF ORDER OF DISMISSAL**

ESTATE NO. \_\_\_\_\_

This is to certify that I have this day served the proposed ward with a copy of the (petition, the medical affidavit, 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 order for dismissal in the same manner upon the persons required in said order to be so served.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
PROBATE CLERK/DEPUTY CLERK

\* not necessary if dismissal is after evaluation.

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

STATE OF GEORGIA

IN RE:	)	ESTATE NO. _____
	)	
_____,	)	<b>PETITION FOR APPOINTMENT OF</b>
<b>PROPOSED WARD</b>	)	<b>AN EMERGENCY GUARDIAN AND/OR</b>
	)	<b>CONSERVATOR FOR A</b>
	)	<b>PROPOSED WARD</b>

ORDER FOR DISMISSAL

The above and foregoing petition having been read and considered pursuant to O.C.G.A. §29-4-15 and/or O.C.G.A. §29-5-15, and based on the petition and prior to the court-ordered evaluation, it appears that there is not probable cause to believe that the proposed ward is in need of an emergency guardian and/or conservator, therefore, it is hereby

ORDERED that the petition is dismissed.

IT IS FURTHER ORDERED that a copy of the Petition, the affidavit, if any, 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) or his/her/their attorney, if any.

SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Probate Judge

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

STATE OF GEORGIA

IN RE:	)	ESTATE NUMBER _____
	)	
_____,	)	PETITION FOR APPOINTMENT OF
<b>PROPOSED WARD</b>	)	<b>AN EMERGENCY GUARDIAN AND/OR</b>
	)	<b>CONSERVATOR FOR A</b>
	)	<b>PROPOSED WARD</b>

RETURN OF SHERIFF/SPECIAL AGENT

I have this day served the proposed ward, \_\_\_\_\_, personally with a copy of the petition for appointment of emergency guardian and/or conservator and Order for Evaluation, Appointment of Counsel, Appointment of Special Process Server, and Notice of Hearing.

This \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
Deputy Sheriff \_\_\_\_\_ County, Georgia

\_\_\_\_\_  
Special Agent

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

(If return is by special agent:)  
Sworn to and subscribed before me, this  
\_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
Notary Public/Clerk, Probate Court  
My commission expires \_\_\_\_\_.

**EVALUATOR'S REPORT AND RETURN OF SPECIAL AGENT, IF APPLICABLE**

**EMERGENCY GUARDIANSHIP AND/OR CONSERVATORSHIP PROCEEDINGS**

ESTATE NO. \_\_\_\_\_

PETITIONER(S) \_\_\_\_\_

\_\_\_\_\_

PROPOSED WARD \_\_\_\_\_

In compliance with the Order of the Probate Court of \_\_\_\_\_  
County dated \_\_\_\_\_ 20\_\_\_\_\_, I performed an evaluation of the above-named  
proposed ward on \_\_\_\_\_ 20\_\_\_\_\_. This evaluation took place at \_\_\_\_\_  
\_\_\_\_\_ beginning at  
\_\_\_\_\_. The evaluation continued for \_\_\_\_\_ minutes. I explained the purpose of  
the evaluation to the proposed ward.

The following questions and tests were utilized in the evaluation:

Below is a list of all persons and other sources of information consulted in evaluating the proposed ward:

The following is a description of the proposed ward's mental and physical state and condition, including all observed facts considered by me:

The following is a description of the overall social condition of the proposed ward, including support, care, education, and well-being, and the functional capabilities of the proposed ward, if determined by the evaluator:

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

(initial all applicable)

\_\_\_\_\_ a. I find the proposed ward to be incapacitated by reason of \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

to the extent that said proposed ward (initial all applicable):

- \_\_\_\_\_ (i) (for emergency guardianship:) lacks sufficient capacity to make or communicate significant responsible decisions concerning his/her health or safety and there is an immediate, clear, and substantial risk of death or serious physical injury, illness, or disease unless an emergency guardian is appointed,
- \_\_\_\_\_ (ii) (for emergency conservatorship:) lacks sufficient capacity to make or communicate significant responsible decisions concerning the management of his/her property and there is an immediate, substantial risk of irreparable waste or dissipation of the proposed ward's estate unless an emergency conservator is appointed,

\_\_\_\_\_ b. I do not find that the proposed ward meets the standards for emergency guardianship set out in a. (i) above.

\_\_\_\_\_ c. I do not find that the proposed ward meets the standards for emergency conservator set out in a. (ii) above.

\_\_\_\_\_  
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 or  
Licensed Clinical Social Worker

Sworn to and subscribed before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public/Clerk, Probate Court  
My Commission Expires \_\_\_\_\_

**NOTE: This report must be filed with the Probate Court no later than 72 hours after this order being issued.**

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

GEORGIA, \_\_\_\_\_ COUNTY      ESTATE NO. \_\_\_\_\_

TO THE PROBATE COURT OF SAID STATE AND COUNTY

IN RE: PETITION FOR THE APPOINTMENT OF AN EMERGENCY GUARDIAN AND/OR  
CONSERVATOR FOR \_\_\_\_\_, PROPOSED  
WARD

The undersigned, as the attorney representing the above-named proposed ward in these proceedings, (initial all applicable:)

- \_\_\_\_\_ a.      does hereby stipulate into evidence the affidavit prepared by (name of affiant evaluator) \_\_\_\_\_, being the evaluation report Ordered by the Court in this matter, and hereby waives the appearance of such affiant at any hearing concerning the said petition
  
- \_\_\_\_\_ b.      does hereby stipulate into evidence the affidavit(s) prepared by (name of affiant evaluator) \_\_\_\_\_, which is the affidavit referred to in Paragraph 1(b) of the petition, and hereby waives the appearance of such affiant at any hearing concerning the said petition.
  
- \_\_\_\_\_ c.      does further waive the appearance of my client the proposed ward at said hearing.

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Attorney

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

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

\_\_\_\_\_

Telephone: \_\_\_\_\_ State Bar # \_\_\_\_\_

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

STATE OF GEORGIA

IN RE: \_\_\_\_\_ ) ESTATE NO. \_\_\_\_\_
)
)
PROPOSED WARD ) PETITION FOR APPOINTMENT
) OF AN EMERGENCY GUARDIAN
) AND/OR CONSERVATOR FOR A
) PROPOSED WARD

FINAL ORDER

A hearing was held on the above-referenced petition on \_\_\_\_\_ 20\_\_\_\_,
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 O.C.G.A. §29-4-14 and/or O.C.G.A. §29-5-15 have been met.

2.

The above-named proposed ward is in need of an emergency guardian/conservator by reason of
\_\_\_\_\_. Such need appears to be limited to the following number of days: \_\_\_\_\_).

3.

The current value of the personal property of the proposed ward is approximately
\$\_\_\_\_\_. The proposed ward has an interest in real property in the following locations:

- a. \_\_\_\_\_ County, (state) \_\_\_\_\_;
b. \_\_\_\_\_ County, (state) \_\_\_\_\_;
c. \_\_\_\_\_ County, (state) \_\_\_\_\_.

The proposed ward has outstanding debts of \$\_\_\_\_\_ and average expenditures of
\$\_\_\_\_\_ per month.

4.

Petitioner(s) moved the Court to appoint \_\_\_\_\_ as emergency guardian and \_\_\_\_\_ as emergency conservator asserting those individual(s) should serve because \_\_\_\_\_

(initial if applicable:)

\_\_\_\_\_ a. Another individual, being \_\_\_\_\_ was nominated/designated by the proposed ward to serve as guardian, \_\_\_\_\_ (i) and no good cause was shown to override such preference. \_\_\_\_\_ (ii) but good cause was shown not to appoint said individual, being: \_\_\_\_\_

\_\_\_\_\_ b. Another individual with higher preference, being \_\_\_\_\_ was nominated/designated to serve as guardian by someone other than the proposed ward, and/but it (is) (is not) in the best interest of the proposed ward to appoint him/her guardian because \_\_\_\_\_

\_\_\_\_\_ c. Another individual, being \_\_\_\_\_ was nominated/designated by the proposed ward to serve as conservator, \_\_\_\_\_ (i) and no good cause was shown to override such preference. \_\_\_\_\_ (ii) but good cause was shown not to appoint said individual, being: \_\_\_\_\_

\_\_\_\_\_ d. Another individual with higher preference, being \_\_\_\_\_ was nominated/designated to serve as conservator by someone other than the proposed ward, and/but it (is) (is not) in the best interest of the proposed ward to appoint him/her conservator because \_\_\_\_\_

The Petitioner asserted that the following additional powers pursuant to O.C.G.A. §29-4-23 (b) and O.C.G.A. §29-5-23(c) were absolutely necessary to respond to the immediate and threatened risks alleged in the petition: for the emergency guardian: \_\_\_\_\_

\_\_\_\_\_ for the emergency conservator: \_\_\_\_\_

**CONCLUSIONS OF LAW**

The Court finds, by clear and convincing evidence, that the above-named proposed ward (hereinafter referred to as "the ward") is in need of:

- \_\_\_\_\_ a. an emergency guardian because the ward lacks sufficient capacity to make or communicate significant responsible decisions concerning his/her health or safety and there is an immediate and substantial risk of death or serious physical injury, illness, or disease unless an emergency guardian is appointed .
- \_\_\_\_\_ b. an emergency conservator because the ward lacks sufficient capacity to make or communicate significant responsible decisions concerning the management of his/her property and there is an immediate, substantial risk of irreparable waste or dissipation of the ward’s property unless an emergency conservator is appointed.

The duration of the emergency guardianship/ conservatorship is for: (initial one)

- \_\_\_\_\_ a. 60 days, or until the effective date of the appointment of permanent guardianship/conservatorship, or until the emergency guardian(s) and/or conservator(s) are removed, or the dismissal of a petition for the appointment of a guardian and/or conservator, whichever occurs first.
- \_\_\_\_\_ b. a date certain prior to the time identified in (a) above, being \_\_\_\_\_, 20 \_\_\_\_\_.

Therefore it is

ORDERED that \_\_\_\_\_ should be, and hereby is/are, appointed emergency guardian(s) and \_\_\_\_\_ should be, and hereby is/are, appointed emergency conservator(s) of the ward. Letters of emergency guardianship and/or emergency conservatorship shall

issue to such guardian(s) and/or conservator(s) upon taking the required oath and upon the emergency conservator's(s') posting bond in the amount of \$\_\_\_\_\_. **The appointed emergency guardian(s)/conservator(s) shall have no authority to act on behalf of the ward until Letters of Emergency Guardianship/Conservatorship have issued.**

IT IS FURTHER ORDERED that the emergency guardian(s) shall have only the following powers and duties determined by the Court to be absolutely necessary to respond to the immediate threatened risk:

---

IT IS FURTHER ORDERED that the emergency conservator(s) shall have only the following powers and duties determined by the Court to be absolutely necessary to respond to the immediate threatened risk: \_\_\_\_\_

---

IT IS FURTHER ORDERED that the emergency guardian(s) shall file the following reports with the Court: \_\_\_\_\_

---

IT IS FURTHER ORDERED that the emergency conservator(s) shall file the following reports with the Court: \_\_\_\_\_

---

IT IS FURTHER ORDERED that a copy of this Order shall be hand delivered or mailed by first class mail to the ward, the ward's attorney; the guardian ad litem, if any; the guardian and/or conservator, the petitioner(s), and his/her/their attorney(s), if any.

IT IS FURTHER ORDERED that the ward's legal counsel shall make reasonable efforts to explain to the ward this Order and the ward's rights under this Order.

IT IS FURTHER ORDERED that, within 30 days of the date hereof, the clerk/deputy clerk shall file the certificate of creation of conservatorship in accordance with O.C.G.A. §29-5-13(d) with the Clerk of Superior Court of each county in this state in which the ward owns real property.

SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

---

Probate Judge/Hearing Officer exercising the jurisdiction of the Probate Court pursuant to O.C.G.A. §29-4-12(d)(7) and/or §29-5-12(d)(7)

**CERTIFICATE OF MAILING OF FINAL ORDER**

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

---

DATE

---

PROBATE CLERK /DEPUTY CLERK

**CERTIFICATE OF FILING CERTIFICATE OF CREATION OF CONSERVATORSHIP**

ESTATE NO. \_\_\_\_\_

I have this date hand-delivered and/or mailed for filing a Certificate of Creation of Conservatorship to the Clerk of the Superior Court of each of the following counties, together with payment of any recording costs: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

DATE

\_\_\_\_\_

PROBATE CLERK/DEPUTY CLERK

\_\_\_\_\_

ADDRESS

\_\_\_\_\_

TELEPHONE

Probate Court Return Mailing Address:

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

**CERTIFICATE OF CREATION OF EMERGENCY CONSERVATORSHIP**

(Pursuant to O.C.G.A. § 29-5-13(d))

GEORGIA, \_\_\_\_\_ County  
PROBATE ESTATE NO. \_\_\_\_\_

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

GRANTOR: (NAME OF WARD) \_\_\_\_\_

GRANTEE: (NAME OF EMERGENCY CONSERVATOR(S) OF ABOVE WARD)  
\_\_\_\_\_  
\_\_\_\_\_

An Emergency conservatorship of the property has been created for the above-named ward. Said emergency conservatorship expires (initial)

\_\_\_\_\_ a. in 60 days, or on the effective date of the appointment of a permanent conservator, or when the emergency conservator(s) is/are removed, or the dismissal of a petition for the appointment of a conservator, whichever occurs first.

\_\_\_\_\_ b. on a date certain, being \_\_\_\_\_, 20\_\_\_\_\_.

Original Certificate delivered or mailed to Clerk of Superior Court of \_\_\_\_\_  
County on \_\_\_\_\_, 20\_\_\_\_\_.

I do hereby certify that the above information is based on the Order of the Probate Court issued on the date set out above and that the above information is true and correct.

By: \_\_\_\_\_  
PROBATE CLERK /DEPUTY CLERK

STATE OF GEORGIA

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

ESTATE NO. \_\_\_\_\_

**LETTERS OF EMERGENCY GUARDIANSHIP OF ADULT WARD**

From the Judge of the Probate Court of said County.

Date of Birth \_\_\_\_\_

TO: \_\_\_\_\_, Guardian(s)

RE: \_\_\_\_\_, Adult Ward

This Court has found that the above-named ward is in need of an emergency guardian and has designated you as such guardian, and you have taken your oath. Your powers and duties as such emergency guardian which were declared by the Court to be those absolutely necessary to respond to the immediate threatened risk are \_\_\_\_\_

These letters expire

- \_\_\_\_\_ a. in 60 days, or on the effective date of the appointment of a permanent guardian, or when the emergency guardian(s) is/are removed, or upon the dismissal of a petition for the appointment of a permanent guardian, whichever occurs first.
- \_\_\_\_\_ b. on a date certain, being \_\_\_\_\_, 20\_\_\_\_\_.

Given under my hand and official seal, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Probate Judge

NOTE: The following must be signed if the judge does not sign the original of this document:

Issued by:

\_\_\_\_\_  
PROBATE CLERK /DEPUTY CLERK (Seal)

STATE OF GEORGIA

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

ESTATE NO. \_\_\_\_\_

**LETTERS OF EMERGENCY CONSERVATORSHIP OF ADULT WARD**

From the Judge of the Probate Court of said County.

Date of Birth \_\_\_\_\_

TO: \_\_\_\_\_, Conservator(s)

RE: \_\_\_\_\_, Adult Ward

This Court has found that the above-named ward is in need of an emergency conservator and has designated you as such conservator, and you have posted bond and taken your oath. Your powers and duties as such emergency conservator which were declared by the Court to be those absolutely necessary to respond to the immediate threatened risk are \_\_\_\_\_

These letters expire (initial)

\_\_\_\_\_ a. in 60 days, or on the effective date of the appointment of a permanent conservator, or when the emergency conservator(s) is/are removed, or upon the dismissal of a petition for the appointment of a permanent guardian, whichever occurs first.

\_\_\_\_\_ b. on a date certain, being \_\_\_\_\_, 20\_\_\_\_\_. Given under my hand and official seal, the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Probate Judge

NOTE: The following must be signed if the judge does not sign the original of this document:

Issued by:

\_\_\_\_\_  
PROBATE CLERK /DEPUTY CLERK (Seal)

STATE OF GEORGIA

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

ESTATE NO. \_\_\_\_\_

**LETTERS OF EMERGENCY GUARDIANSHIP AND CONSERVATORSHIP OF ADULT WARD**

From the Judge of the Probate Court of said County.

Date of Birth \_\_\_\_\_

TO: \_\_\_\_\_, Guardian(s) and Conservator(s)

RE: \_\_\_\_\_, Adult Ward,

This Court has found that the above-named ward is in need of an emergency guardian and conservator and has designated you as such guardian and conservator, and you have posted bond and taken your oath. Your powers and duties as such emergency guardian and conservator which were declared by the Court to be those absolutely necessary to respond to the immediate threatened risk are \_\_\_\_\_

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

\_\_\_\_\_ These letters expire (initial)

\_\_\_\_\_ a. in 60 days, or on the effective date of the appointment of a permanent guardian and conservator, or when the emergency guardian(s) and conservator(s) is/are removed, or upon the dismissal of a petition for the appointment of a permanent guardian, whichever occurs first.

\_\_\_\_\_ b. on a date certain, being \_\_\_\_\_, 20 \_\_\_\_\_. Given under my hand and official seal, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Probate Judge

NOTE: The following must be signed if the judge does not sign the original of this document.

Issued by:

\_\_\_\_\_ (Seal)  
PROBATE CLERK /DEPUTY CLERK