



The Mississippi Supreme Court
Commission on
Guardianships
and
Conservatorships

GAP Act Highlights

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GENERAL PROVISIONS *definitions*

Section 102. Definitions. In this act:

(a) "Adult" means an individual at least twenty-one (21) years of age or an emancipated individual under twenty-one (21) years of age.

(b) "Claim" includes a claim in a conservatorship estate, whether or not the claimant is a conservator, or otherwise.

(c) "Conservator" means a person appointed by the court to make decisions with respect to the personal affairs of a ward. The term

(d) "Conservatorship estate" means the property subject to conservatorship under this act.

(e) "Full conservatorship" means a conservatorship that grants the conservator all powers available under this act.

(f) "Full guardianship" means a guardianship that grants the guardian all powers available under this act.

(g) "Guardian" means a person appointed by the court to make decisions with respect to the personal affairs of the ward. The term includes a co-guardian but does not include a guardian ad litem.



GENERAL PROVISIONS

letters of guardianship and conservatorship

Section 108. Letters of guardianship or conservatorship.

(1) The clerk must issue letters of guardianship to a guardian who takes the proper oath, posts bond if required, and submits a certificate of attorney and certificate of appraisal, unless waived by the court.

(2) The clerk must issue letters of conservatorship to a conservator who takes the proper oath, posts bond if required, and submits a certificate of attorney and certificate of appraisal, unless waived by the court or unless another asset-protection arrangement is approved by the court.

(3) The court in its initial order of appointment or at any subsequent time may limit the powers conferred on a guardian or conservator. The court shall direct the clerk to issue new letters of guardianship or conservatorship that reflect the limitation. The court shall direct the clerk to give notice of the limitation by service of a copy of the court's order on the guardian or conservator, the ward, and any other person the court determines.

(4) Limitations on the powers of a guardian or conservator or on the property subject to conservatorship must be stated in the letters of guardianship or conservatorship.



CERTIFICATE OF ATTORNEY

I, _____, attorney for fiduciary _____,
in this cause, do certify as an officer of this Court and member in good standing with the
Mississippi State Bar Association, that I have explained the duties and obligations as set forth in
the Certificate of Fiduciary required of my client(s) as fiduciary in this action.

Respectfully Submitted,

Signature of Attorney:

Printed Name of Attorney:

Bar No.: _____



CERTIFICATE OF FIDUCIARY

I, _____, fiduciary in this cause, have hereby read, understand, and agree to the following:

1. I understand that I, as fiduciary, am required to not receive any personal benefit and to protect and preserve the funds owned by the Ward/Estate/Decedent, who is the person over whom I have charge.
2. I will not use any funds or make expenditures of the Ward's/Estate's/Decedent's funds without prior Court approval except as otherwise provided by law or Court approval.
3. I understand that the Court can and will find me in contempt if it is proven that I have violated any of this Court's order(s) and that appropriate sanctions will be levied by the Court for any violations.
4. I agree and understand that I must consult with my attorney on any extraordinary expenditure prior to making said expenditure in order to gain appropriate legal advice and court approval regarding those transactions.
5. I understand that unless waived by the Court in advance, I will be required to submit formal, annual accountings and reports to the Court reflecting the well-being and/or expenditures of the Ward's/Estate's/Decedent's funds as required by law in acting as guardian/conservator.
6. My current address and phone numbers are as follows, and I understand that in the event this information changes, I must provide that information to the Clerk of this Court in writing.

NAME: _____

ADDRESS: _____

CITY, STATE, ZIP: _____

PHONE NO.: _____

EMAIL ADDRESS: _____

7. I have discussed with my attorney the duties and responsibilities required of my office as fiduciary and as set forth in this document, and I hereby agree to be bound by them.

Respectfully Submitted,

FIDUCIARY

GENERAL PROVISIONS *transition provisions*

Section 125. Transition provisions. Except as otherwise provided in this chapter:

(a) This chapter applies to all guardianship and conservatorship proceedings commenced on or after January 1, 2020;

(b) This chapter applies to all guardianship and conservatorship proceedings commenced before January 1, 2020, unless the court finds that application of a particular provision of this chapter would substantially interfere with the effective conduct of the proceedings or prejudice the rights of the parties, in which case the particular provision of this chapter does not apply and the superseded law applies; and

(c) An act done before January 1, 2020, is not affected by this act.



Basis, Petition, Notice

Section 201. Basis for appointment of guardian for minor.

(1) A person by the court.
(2) The not have a guardian of the minor's best interest.
(a) informed of the hearing.
(b) parent of the minor.
(c) court is granted

Section 202. Petition for appointment of guardian for minor.

(1) A person interested in the minor, may petition for appointment of guardian for the minor.
(2) A petition under such requirements for an affidavit of jurisdiction and enforcement of the Mississippi Code of 1972) and
(a) The name and address of the parents of the minor;
(b) The reason guardian is sought in the best interest of the minor.

Section 203. Notice of hearing for appointment of guardian for minor.

(1) If a petition is filed under Section 202, the court must set a date, time and place for a hearing, and the petitioner must serve not less than seven (7) days' notice of the hearing, together with a copy of the petition, on each of the following who is not the petitioner:
(a) The minor, if the minor will be fourteen (14) years of age or older at the time of the hearing;
(b) Each parent of the minor who can be found with reasonable diligence or, if there is none, the adult nearest in kinship who can be found with reasonable diligence;
(c) Any adult with whom the minor resides;
(d) Each individual who had primary care or custody of the minor for at least sixty (60) days during the six (6) months immediately before the filing of the petition; and



Duties and Powers of Guardian/Conservator

Section 312. Duties of guardian for adult. (1) A guardian for an adult is a fiduciary. Except as otherwise limited by the court, a guardian for an adult shall make decisions regarding the support, care, education, health, and welfare of the ward to the extent necessitated by the adult's limitations.

Section 313. Powers of guardian for adult. (1) Except as limited by court order, a guardian for an adult may:

(a) Apply for and receive funds and benefits for the support of the adult, unless a conservator is appointed for the adult and the application or receipt is within the powers of the conservator;

(b) Unless inconsistent with a court order, establish the adult's place of dwelling;

(c) Consent to health or other care, treatment, or service for the adult;

(d) If a conservator for the adult has not been appointed, commence a proceeding, including an administrative

Section 414. Powers of conservator requiring court approval.

(1) Except as otherwise ordered by the court, a conservator must give notice to persons entitled to notice under Section 411(5) and receive specific authorization by the court before the conservator may exercise with respect to the conservatorship the power to:

Section 421. Administrative powers of conservator not requiring court approval. (1) Except as otherwise provided in Section 414 or qualified or limited in the court's order of appointment and stated in the letters of conservatorship, a conservator has all powers granted in this section and any additional power granted to a trustee by law of this state other than this act.



Emergency Situation

Section 311. Emergency guardian for adult. (1) On a petition by a person interested in an adult's welfare or a petition filed under Section 302, the court may appoint an emergency guardian for the adult if the court finds:

(a) Appointment of an emergency guardian is likely to prevent substantial harm to the adult's physical health, safety, or welfare;

(b) No other person appears to have authority and willingness to act in the circumstances; and

(c) There is reason to believe that a basis for appointment of a guardian under Section 301 exists.

(2) The duration of authority of an emergency guardian for an adult may not exceed sixty (60) days, and the emergency guardian may exercise only the powers specified in the order of appointment. The emergency guardian's authority may be extended once for not more than sixty (60) days if the court finds that the conditions for appointment of an emergency guardian in subsection (1) continue.

(3) Except as otherwise provided in subsection (4), reasonable notice of the date, time, and place of a hearing on the petition must be given to the respondent, the respondent's attorney, and any other person the court determines.

(4) The court may appoint an emergency guardian for an adult without notice to the adult and any attorney for the adult only if the court finds from an affidavit or testimony that the respondent's physical health, safety, or welfare will be substantially harmed before a hearing with notice on the appointment can be held. If the court appoints an emergency guardian without giving notice under subsection (3), the court must give notice of the appointment not later than forty-eight (48) hours after the appointment to:

(a) The respondent;

(b) The respondent's attorney;

(c) Any other person the court determines; and

(d) Hold a hearing on the appropriateness of the appointment not later than five (5) days after the appointment.

(5) Appointment of an emergency guardian under this section is not a final determination that a basis exists for appointment of a guardian under Section 301.

(6) The court may remove an emergency guardian appointed under this section at any time. The emergency guardian must make any report the court requires.



Confidentiality

Section 307. Confidentiality of records. (1) An adult

subject to a proceeding for a guardianship, an attorney designated by the adult, and a person entitled to notice either under Section 309(4) or a court order may access court records of the proceeding and resulting guardianship, including the guardian's plan under Section 315 and guardian's well-being report under Section 316, but a person not otherwise entitled to notice under this section may not access such records.

(2) A report under Section 304 of a guardian's professional evaluation under Section 305 made in connection with the guardianship is confidential and may be sealed on filing when

found to be in the best interest of the ward by the court. If the court finds the file should be sealed, the

file will remain available to:

the court and does not extend to the respondent or ward.

(a) The court;

(b) The individual who is the subject of the report or evaluation, without limitation as to use;

(c) The petitioner, guardian ad litem, and petitioner's and respondent's attorneys, for purposes of the proceeding;

(d) Unless the court orders otherwise, an agent appointed under a power of attorney for health care or power of attorney for finances in which the respondent is the principal; and

(e) Any other person if it is in the public interest or for a purpose the court orders for good cause.



Guardian/Conservator's Plan

Section 315. Guardian's plan. (1) If required by the court, a guardian must file with the court a plan for the care of the adult no later than ninety (90) days after the court's order of appointment or order to file a plan. If a plan is required and there is a significant change in circumstances, or if the guardian seeks to deviate significantly from the guardian's plan, a guardian must file with the court a revised plan no later than ninety (90) days after the change in circumstances or decision to deviate from the plan. Every plan must be based on the needs of the adult and take into account the best interest of the adult as well as the adult's preferences, values, and prior directions, to the extent known to or reasonably ascertainable by the guardian. Along with other items determined necessary by the court, the guardian's plan must include:

- (a) The living arrangement, services, and supports the guardian expects to arrange, facilitate, or continue for the adult;
- (b) Social and educational activities the guardian expects to facilitate on behalf of the adult;

Section 419. Conservator's plan. (1) If required by the court, a conservator must file with the court a plan for investing, protecting, managing, expending, and distributing the assets of the conservatorship estate no later than ninety (90) days after the court's order of appointment or order to file a plan. If a plan is required and there is a significant change in circumstances, or if the conservator seeks to deviate significantly from the conservator's plan, a conservator must file with the court a revised plan no later than ninety (90) days after the change in circumstances or decision to deviate from the plan. Every plan must be based on the needs of the ward and take into account the best interest of the ward as well as the ward's preferences, values, and prior directions, to the extent known to or reasonably ascertainable by the conservator. Along with other items determined necessary by the court, the conservator's plan must include:



Guardian's well-being report

Section 316. Guardian's well-being report; monitoring of guardianship. (1) If there is a significant change in circumstances, or if the guardian seeks to deviate significantly from the guardian's plan, a guardian must file with the court a report in a record regarding the condition of the adult and accounting for funds and other property in the guardian's possession or subject to the guardian's control within ninety (90) days after being so ordered by the court.

- (2) A report under subsection (1) must state:
- (a) The mental, physical, and social condition of the adult;
 - (b) The living arrangements of the adult during the reporting period;
 - (c) A summary of any technological assistance, medical services, educational and vocational services, and other supports and services provided to the adult and the guardian's opinion as to the adequacy of the adult's care;
 - (d) A summary of the guardian's visits with the adult, including the dates of the visits;
 - (e) Action taken on behalf of the adult;
 - (f) The extent to which the adult has participated in decision-making;
 - (g) If the adult is living in a mental health facility or living in a facility that provides the adult with health-care or other personal services, whether the guardian considers the



CONSERVATORSHIP OF THE ESTATE *bond*

Section 416. Bond; oath; waiver; financial institutions; alternative asset-protection arrangement. (1) Except as otherwise provided in subsection (3), the court shall require a conservator to furnish a bond with a surety the court specifies, or require an alternative asset-protection arrangement, conditioned on faithful discharge of all duties of the conservator. The court may waive or partially waive the requirement if:

(7) ACKNOWLEDGMENT OF RECEIPT OF ORDER FOR DEPOSIT
AND RECEIPT OF CASH FUNDS

The Chancery Court of _____ County, Mississippi, having rendered its order in the above-entitled and numbered cause on the ____ day of _____, _____, designating a banking institution insured by the Federal Deposit Insurance Corporation as the depository of the funds of _____, by and through _____, as conservator, and the conservator, having elected to use _____ (Name of Financial Institution) as the aforesaid depository, I, acting pursuant to my authority in and for said bank, do hereby acknowledge that I have received a copy of the order of the chancery court, duly certified as true and correct by the chancery clerk of _____

Section 417. Terms and requirements of bond. (1) The following rules apply to the bond required under Section 416:

(a) Except as otherwise provided by the bond, the surety and the conservator are jointly and severally liable.

(b) By executing a bond provided by a conservator, the surety submits to the personal jurisdiction of the court that issued letters of office to the conservator in a proceeding relating to the duties of the conservator in which the surety is named as a party. Notice of the proceeding must be given to the surety at the address shown in the records of the court in which the bond is filed and any other address of the surety then known to the person required to provide the notice.

(c) On petition of a successor conservator or person affected by a breach of the obligation of the bond, a proceeding may be brought against the surety for breach of the obligation of the bond.

(d) A proceeding against the bond may be brought until liability under the bond is exhausted.

(2) A proceeding may not be brought under this section against a surety of a bond on a matter as to which a proceeding against the conservator is barred.

(3) If a bond under Section 416 is not renewed by the conservator, the surety or sureties immediately must give notice to the court and the attorney for the conservatorship.



Proposed Uniform Chancery Court Rule 6.01

Attorney Must Be Retained.

A) Every fiduciary must, unless licensed to practice law in Mississippi, retain an attorney or firm of attorneys to provide representation, advice and assistance during the entire term of the fiduciary's appointment.

(B) Compensation for the attorney shall be fixed and approved by the Chancellor.

(C) Once an attorney has entered an appearance for a fiduciary, in any respect, the attorney shall be permitted to withdraw only with the consent of the Chancellor, with notice to the client and any adverse party as required by UCCR 1.08.

(D) An attorney who is negligent or unfaithful in any respect may be discharged by order of the court on motion of the fiduciary or on motion of the court.

(E) The practice of employing different attorneys at the will of the fiduciary will not be tolerated.

(F) The chancellor may relieve a fiduciary of the obligation to retain an attorney in matters involving guardianship (of the person) only, and in cases where the court, in its discretion, finds that it will impose an undue or unnecessary financial burden on the ward's estate. All other duties of a fiduciary remain the same with or without representation.



Proposed Uniform Chancery Court Rule 6.02

RULE 6.02 FIDUCIARIES AND ATTORNEY MUST BE DILIGENT

Every fiduciary and his attorney must be diligent in the performance of his duties. They must see to it that publication for creditors is promptly made, that inventories, appraisements, accounts and all other reports and proceedings are made, done, filed and presented within the time required by law, and that the estates of decedents are completed and assets distributed as speedily as may be reasonably possible. In guardianships and conservatorships an attorney must be faithful to both fiduciary and the ward and if it appears to the attorney that the fiduciary is not properly performing duties required by the law then he shall promptly notify the Court in which the estate is being administered. Failure to observe this rule without just cause shall constitute contempt for which the Chancellor will impose appropriate penalties.

RULE 6.02 FIDUCIARIES AND ATTORNEY MUST BE DILIGENT

(A) Every fiduciary and attorney must be diligent in the performance of their duties. They must see to it that publication for creditors is promptly made, that inventories, appraisements, accounts and all other reports and proceedings are made, done, filed and presented within the time required by law, and that the estates of decedents are completed and assets distributed in a timely manner.

(B) In guardianships and conservatorships an attorney must be faithful to both fiduciary and ward. If it appears to the attorney that the fiduciary is not properly performing duties required by the law then the attorney shall promptly notify the Court in which the estate is being administered.

(C) Until relieved of fiduciary duties by court order, every fiduciary shall notify the Chancery Clerk in writing of every change of address not later than five days after such change. The notice shall include the civil action number and the name of the fiduciary.

(D) Failure to observe this rule, unless just cause exists, shall constitute contempt for which the Chancellor will impose appropriate penalties.



Proposed Uniform Chancery Court Rule 6.03

Statement Appended to Annual Accounts.

(A) Every fiduciary shall attach to each annual account a list or statement of all assets, real and personal, of the estate.

(B) If the annual account consists of money, bonds or other securities negotiable by delivery, then the statement shall also show the name of the bank where the same is deposited or kept.

(C) Verification of account balances in the form of statements issued by the depository showing the balance at the beginning of the accounting period, and the most recent statement for the end of the accounting period shall be attached.

(D) If the assets consist of loans made by the fiduciary or the predecessor in the fiduciary office, then the statement shall show to whom and when the loan was made, the amount remaining unpaid, how secured, whether all taxes have been paid on the property mortgaged or pledged as security for the loan, and whether or not the security is sufficient.



Accounting and Inventory

Section 420. Inventory; records. (1) Unless the inventory requirement has been waived, not later than ninety (90) days after appointment, a conservator must prepare and file with the appointing court a detailed inventory of the conservatorship estate, together with an oath or affirmation that the inventory is believed to be complete and accurate as far as information permits.

(2) A conservator must give reasonable notice of the filing of an inventory to the ward, a person entitled to notice under Section 411(5) or a court order, and any other person the court determines. The notice must be given not later than fourteen (14) days after the filing.

(3) A conservator must keep records of the administration of the conservatorship estate and make them available for examination on reasonable request of the ward, a guardian for the ward, or any other person the conservator or the court determines.

Section 423. Conservator's report and accounting; monitoring. (1) Except as otherwise provided under subsection (11), a conservator must file a report in a record regarding the administration of the conservatorship estate with the court annually unless the court otherwise directs, if provided by will, or made necessary by resignation or removal, or termination of the conservatorship. A conservator must petition the court for approval of a report filed under this section. The court, after review, may approve the report.

(2) A report under subsection (1) must state or contain:

(a) An accounting that lists property included in the conservatorship estate and the receipts, disbursements, liabilities, and distributions during the period for which the report is made;

(b) A list of the services provided to the ward;

(c) A statement whether the conservator has deviated from the plan and, if so, how the conservator has deviated and why;

(d) A recommendation as to the need for continued conservatorship and any recommended change in the scope of the conservatorship;



Order of Appointment

- Order appointing guardian/conservator must include findings to support appointment.
- If full guardianship/conservatorship, order must explain why limited guardianship/conservatorship is not sufficient.
- If limited, specific powers granted to guardian/conservator must be detailed.
- Court order for guardian/conservator of an adult must give name and contact information of any person entitled to:
 - notice of ward's rights
 - ward's change in residence
 - ward's death or condition
 - copy of the guardian/conservator plans
 - access to court records
 - court limitation on powers
 - removal of guardian/conservator.



IN THE CHANCERY COURT OF _____ COUNTY, MISSISSIPPI
_____ JUDICIAL DISTRICT

IN THE MATTER OF THE
GUARDIANSHIP/CONSERVATORSHIP OF

NO. _____

_____,
AN ADULT

_____, HEARING DATE: _____
PETITIONER

**ORDER OF APPOINTMENT OF
GUARDIAN(S) / CONSERVATOR(S) OF AN ADULT**

THE COURT, having considered the sworn Petition for Appointment of

Limited **General**
 Guardian **Conservator** **Both**

of an Adult, filed by Petitioner(s) _____, the
written certificates of two (2) medical examiners under §§ 305 or 407,

_____ [Examiner One]

_____ [Examiner Two]

and the testimony and other evidence presented at a hearing held regarding the Petition,

THE COURT FINDS:

- A. Petitioner(s) is/are entitled to file the Petition under §§ 302 or 402;
- B. Petitioner(s) has/have given Notice of Hearing to all interested parties as required by law except those interested parties who signed a Waiver of Notice of Hearing and any Waivers have been filed with this Court;
- C. Venue in this county is proper;
- D. The above captioned person is an adult born on _____;
- E. The Court is satisfied by clear and convincing evidence that the ward, _____, is a person incapable of managing his or her person or financial affairs under §§ 301 or 401, and that the appointment of a guardian/conservator is necessary to provide for the person's demonstrated needs;
- F. The Court is satisfied by clear and convincing evidence that the above named ward's limitations are primarily **Physical** **Mental** **Both**

- G. Pursuant to §§ 308 and 410, _____ is qualified to serve as the
 Limited **General**
 Guardian **Conservator** **Both**
- H. Based on the current mental and physical condition of the ward, said person's right to retain or obtain a driver's license **Should** **Should Not** be affected by the appointment of a Guardian or Conservator of said person.

1. APPOINTMENT OF Guardian(s) / Conservator(s)

The Court appoints _____ as

- Limited General
- Guardian Conservator Both

of the adult named in the caption above, with the powers indicated below:

(If General is indicated above, move to (2).)

- | | |
|---|--|
| <input type="checkbox"/> Execute Contracts | <input type="checkbox"/> Apply for Government Benefits |
| <input type="checkbox"/> Manage Assets | <input type="checkbox"/> Consent for Medical Counseling |
| <input type="checkbox"/> Manage Property | <input type="checkbox"/> Consent for Medical Treatment |
| <input type="checkbox"/> Travel Decisions | <input type="checkbox"/> Lending Money |
| <input type="checkbox"/> Borrowing Money | <input type="checkbox"/> Paying Bills / Collecting Debts |
| <input type="checkbox"/> Manage a Business | <input type="checkbox"/> Making Educational Decisions |
| <input type="checkbox"/> Determine Daily Dress / Routine | <input type="checkbox"/> Shop for Food |
| <input type="checkbox"/> Shop for Necessities | <input type="checkbox"/> Maintain Credit Card |
| <input type="checkbox"/> Convey Property | <input type="checkbox"/> Surrender / Purchase Insurance |
| <input type="checkbox"/> Revoke POA, DNR, or other Directives | <input type="checkbox"/> Create / Amend a Will or Trust |
- Provide Financial Support To: _____

OTHER: _____

2. **BOND (Conservator only):** The Conservator(s) will furnish bond with a surety specified by the court in the amount of _____, or other asset-protection arrangement as provided for under § 416, subject to the recitation of the Conservator's oath, upon his/her acceptance of the appointment. (The court may waive the requirement if the court finds that a bond or other asset-protection arrangement is not necessary to protect the interests of the ward.)
3. **RESTRICTED APPOINTMENT:** Upon entrance of this Order, letters of Guardianship/Conservatorship of an Adult shall be issued by the Clerk of the Chancery Court, **SUBJECT TO THE FOLLOWING RESTRICTIONS:**

4. **ACCEPTANCE OF APPOINTMENT:** The petitioner(s) accept his/her appointment upon his/her taking of the Oath as prescribed by law and the Court's entrance of this Order.
5. **ANNUAL REPORT OF GUARDIAN(S) / CONSERVATOR(S):** The Guardian(s)/Conservator(s) shall report _____ to the Court on the status of the Adult and the need to continue the appointment on the anniversary of appointment, as required by § 423, by filing the required form with the Clerk of Court.
6. **DRIVER'S LICENSE:** The right of the ward to retain or obtain a driver's license [] is [] is **not** suspended by the appointment of a Guardian/Conservator.
7. **OTHER DUTIES UNDER THE LAW:** The duties of the Guardian(s)/Conservator(s) as required by §§ 312 and 418 and as set forth in this Order shall continue until the Guardian(s)/Conservator(s) is/are discharged from these duties by order of this Court.
8. **NOTICE:** The following individuals are entitled to notice of this order and any attachments under §§ 309 and 411:

9. **POST-APPOINTMENT REVIEW:** This matter is set for hearing on _____ at _____ to determine compliance by the person(s) appointed by this Order.

10. OTHER:

SO ORDERED AND ADJUDGED, in open court, this the _____ day
 of _____, _____.

 Chancellor
 Chancery Court of _____ County,
 Mississippi

Medical Affidavit

Sections 305 and 407 Professional evaluation.

(1) The chancery court must conduct a hearing to determine whether a guardian/conservator is needed for the respondent. Before the hearing, the court, in its discretion, may appoint a guardian ad litem to look after the interest of the person in question; the guardian ad litem must be present at the hearing and present the interests of the respondent for whose person a guardian/conservator is to be appointed.

(2) The chancery judge shall be the judge of the number and character of the witnesses and proof to be presented, except that the proof must include certificates made after a personal examination of the respondent by the following professionals, each of whom shall make in writing a certificate of the result of that examination to be filed with the clerk of the court and become a part of the record of the case

(a) Two (2) licensed physicians; or

(b) One (1) licensed physician and either one (1) licensed psychologist, nurse practitioner, or physician's assistant.

(3) The personal examination may occur face-to-face or via telemedicine, but any telemedicine examination must be made using an audio-visual connection by a physician licensed in this state and as defined in Section 83–9–351. A nurse practitioner or physician assistant conducting an examination shall not also be in a collaborative or supervisory relationship, as the law may otherwise require, with the physician conducting the examination. A professional conducting an examination under this section may also be called to testify at the hearing.

Medical Affidavit

Sections 301 Basis for appointment of a guardian.

(1) The court may appoint a guardian for an adult when the respondent lacks the ability to meet essential requirements for physical health, safety or self-care because:

(a) The adult is unable to receive and evaluate information or make or communicate decisions, even with appropriate supportive services or technological assistance; or

(b) The adult is found to be a person with mental illness or a person with an intellectual disability as defined in Section 41–21–61 who is also incapable of taking care of his or her person.

(2) The court shall grant to a guardian appointed under subsection (1) only those powers necessitated by the limitations and demonstrated needs of the ward and must enter orders that will encourage the development of the ward's maximum self-determination and independence. The court must consider any less restrictive alternative that would meet the needs of the ward.



Medical Affidavit

Section 401 Basis for appointment of a conservator.

(1) The court may appoint a conservator for the property or financial affairs of an adult if the court finds by clear and convincing evidence that:

(a) The adult is unable to manage property or financial affairs because:

(i) Of a limitation in the adult's ability to receive and evaluate information or make or communicate decisions, even with the use of appropriate supportive services or technological assistance;

(ii) The adult is missing, detained, incarcerated, or unable to return to the United States;

(b) Appointment is necessary to:

(i) Avoid harm to the adult or significant dissipation of the property of the adult; or

(ii) Obtain or provide funds or other property needed for the support, care, education, health, or welfare of the adult or of an individual entitled to the adult's support; and

(c) The respondent's identified needs cannot be met by a less restrictive alternative.

(3) The court shall grant a conservator only those powers necessitated by demonstrated limitations and needs of the respondent and issue orders that will encourage development of the respondent's maximum self-determination and independence. The court may not establish a full conservatorship if a limited conservatorship or other less restrictive alternative would meet the needs of the respondent.

Medical Affidavit

Sections 305 and 407 Professional evaluation.

Please complete this form to the best of your knowledge and ability.

Today's Date:		Referring Court:		
EXAMINER INFORMATION				
Examiner's Last Name:		First:	Middle:	Specialty:
Hospital / Medical Group Affiliation:		Years Practicing:	State of Licensure:	
Address:		Designation: M.D. <input type="checkbox"/> D.O. <input type="checkbox"/> N.P. <input type="checkbox"/> P.A. <input type="checkbox"/>		Ph.D. <input type="checkbox"/>

R 305 & 407

SUMMARY / RECOMMENDATION			
This Evaluation was Conducted (Check all that Apply):	<input type="checkbox"/> In Person <input type="checkbox"/> Via Audiovisual Telemedicine <input type="checkbox"/> At Hospital / Medical Office <input type="checkbox"/> At the Patient's Residence		
	<input type="checkbox"/> Other: _____		
	If via Telemedicine, who assisted you with the evaluation? (Name, Designation)		Your Mississippi License Number:
Diagnosis	Did you perform a physical exam on the patient? <input type="checkbox"/> Yes <input type="checkbox"/> No	Did any concerns result from the physical exam? <input type="checkbox"/> Yes: _____ <input type="checkbox"/> No <input type="checkbox"/> N/A	
	Based on the foregoing evaluation:	<input checked="" type="checkbox"/> I DO	believe this patient is a person incapable of managing his / her own person under Section 301 or financial affairs under Section 401, and is in need of a Guardian and / or Conservator (check all that apply): <input type="checkbox"/> Guardian (Person) <input type="checkbox"/> Conservator (Financial Affairs) <input type="checkbox"/> Both
		<input type="checkbox"/> I DO NOT	
		I find that the patient is in need of treatment <input type="checkbox"/> Temporarily <input type="checkbox"/> Permanently <input type="checkbox"/> Other: _____	
I recommend the Court require re-evaluation in:	<input type="checkbox"/> 60 days <input type="checkbox"/> 6 months <input type="checkbox"/> 1 year <input type="checkbox"/> N/A <input type="checkbox"/> Other: _____		
Summary of Diagnosis:			

Other Forms specific to Minors:

[GAP Act: Petition for Appointment of Guardian for a MINOR under Section 202](#)

[GAP Act: Order for Appointment of Guardian for a MINOR under Section 202](#)

[GAP Act: Parental Waiver for Guardianship of a MINOR](#)

[GAP Act: Nomination of Guardian of a MINOR \(for Minors age 14 or older\)](#)

[GAP Act: Well-Being Report for Guardianship of a MINOR](#)

[GAP Act: Oath of Guardian of a MINOR](#)





QUESTION?
COMMENTS?