

## **WRITTEN DEPOSITION REGARDING AN ALLEGED INCAPACITATED**

### **Court Disclaimer:**

Use of this form may not be appropriate in all instances. If extra space is required for any answers, please provide extra answer sheets. Please staple any additional answer sheets or supplemental materials directly to this written deposition.

### **Probate Section Comment:**

The Court has agreed to allow written depositions in the posted form in lieu of live medical testimony in guardianship proceedings when the issue of capacity is uncontested. Despite authorization to use this form, counsel are cautioned to exercise judgment in determining whether the written deposition is appropriate and/or adequate in a particular case, where additional testimony may be warranted by the facts involved. A written deposition is not generally appropriate for emergency guardianships, because of the need for additional testimony about the emergency medical treatment needed and the alternatives to treatment.

In addition, the Court should not be expected to review handwritten answers; as a courtesy, counsel should have the deposition answers typed and then returned to the physician for signature and notarization.

Deposition may be submitted in the form of sworn written interrogatories.

### **20 Pa.C.S.**

#### **§5518. Evidence of Incapacity**

To establish incapacity, the petitioner must present testimony, in person or by deposition from individuals qualified by training and experience in evaluating individuals with incapacities of the type alleged by the petitioner, which establishes the nature and extent of the alleged incapacities and disabilities and the person's mental, emotional and physical condition, adaptive behavior and social skills. The petition must also present evidence regarding the services being utilized to meet essential requirements for the alleged incapacitated person's physical health and safety, to manage the person's financial resources or to develop or regain the person's abilities; evidence regarding the types of assistance required by the person and as to why no less restrictive alternatives would be appropriate; and evidence regarding the probability that the extent of the person's incapacities may significantly lessen or change.

#### **§5518.1. Cross-examination of witnesses**

Testimony as to the capacity of the alleged incapacitated person shall be subject to cross-examination by counsel for the alleged incapacitated person.

**IN THE COURT OF COMMON PLEAS OF BUCKS COUNTY, PENNSYLVANIA  
ORPHANS' COURT DIVISION**

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

RE: ESTATE OF \_\_\_\_\_, AN ALLEGED INCAPACITATED  
PERSON

WRITTEN DEPOSITION PURSUANT TO 20 PA.C.S. § 5518

Written Deposition of Dr. \_\_\_\_\_

Q. Please state your name and your office address.

A.

Q. Please state your educational background including the schools you have attended, the academic and professional degrees you have received and the dates you received these degrees.

A.

Q. What is your current position?

A.

Q. How long have you practiced your profession and how long have you held your current position?

A.

Q. State the names of the Pennsylvania professional licensing agencies that have issued licenses to you? Include the date of such licenses and whether they are still current. (In conjunction with this question, please attach a copy of your curriculum vitae.)

A.

Q. Have you ever testified as a witness in a court proceeding, either in person or by deposition?

A.

Q. What is the age of the alleged incapacitated person?

A.

Q. Have you ever examined, interviewed or tested the alleged incapacitated person?

A.

Q. Was a mini-mental status test performed, and if so, what was the result?

A.

Q. If so, on what dates did you have the opportunity to examine, interview or test the alleged incapacitated person?

A.

Q. Please explain the nature of the examinations referred to in the previous three questions. You may attach any written reports if necessary.

A.

Q. Have you regularly treated the alleged incapacitated person, and if so, for how long?

A.

Q. Please state your diagnosis of the patient, including the nature and extent of the subject's incapacities and disabilities and his/her mental, emotional and physical condition.

A.

Q. Please explain how these incapacities and/or disabilities manifest themselves in the subject's adaptive behavior and social skills?

A.

Q. In your opinion, is the alleged incapacitated person's ability to receive and evaluate information effectively and communicate decisions in any way significantly impaired?

A.

Q. If you answered yes to the previous question, does the impairment render the alleged incapacitated person partially or totally unable to manage his/her financial resources or to meet essential requirements for his/her physical health and safety?

A.

Q. What services are being utilized to meet the essential requirements for the subject's physical health and safety?

A.

Q. What services are being utilized to manage the subject's financial resources?

A.

Q. Which methods/techniques, if any are being utilized to help develop and/or regain the alleged incapacitated person's abilities?

A.

Q. What kind of assistance does the subject require?

A.

Q. Are there any appropriate less restrictive alternatives? If so, please elaborate. If not, please explain why.

A.

Q. What is the probability that the extent of his/her incapacities may significantly increase or decrease? Please include an explanation.

A.

Q. Would the alleged incapacitated person's physical or mental condition be harmed by the subject's presence at the hearing on the subject's alleged incapacity? If so, please include an explanation.

A.

Q. Is there any other information relevant to your diagnosis that could assist the Court in its determination of capacity?

A.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
PHONE

**COMMONWEALTH OF PENNSYLVANIA** :

**COUNTY OF BUCKS** : **SS**  
:

\_\_\_\_\_, being duly sworn according to law, deposes and says that the answers set forth in this forgoing deposition are true and correct to the best of his/her knowledge, information or belief.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE

**SWORN TO AND SUBSCRIBED**

Before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

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