

STATE OF SOUTH CAROLINA)
)
 COUNTY OF _____)
)
 IN THE MATTER OF:)
)
 _____,)
 an alleged incapacitated individual.)
)
)
)
)
)
)

▲ PROBATE COURT USE ONLY ▲

IN THE PROBATE COURT
 CASE NUMBER _____-GC-_____-_____

**PROBATE COURT INSTRUCTIONS
 FOR MOTION FOR EMERGENCY RELIEF
 AND HEARING PURSUANT TO
 S.C. CODE ANN. § 62-5-108**

1. This Motion is to be used only where immediate and irreparable injury or damage to the health, safety, or welfare of an alleged incapacitated individual (A.I.I.), or substantial economic loss to the A.I.I., **is likely and imminent before a temporary or permanent hearing may be scheduled.** If this is not an emergency as described below, but there is a need for action to be taken before a permanent hearing may be scheduled, please use Form #513GC and follow the Instructions on page 1 of that form.

2. The emergency Motion must be filed at the same time as a (a) Summons and Petition, (b) Motion and Order for Appointment of an Attorney if none retained, and (c) Motion and Order for Appointment of Guardian *ad Litem* (GAL) if none previously appointed. Examples of emergencies for which the court may accept a motion for emergency relief are as follows:

- a. A.I.I.'s imminent loss of federal or state assistance such as Medicaid, Medicare, Social Security income, Supplemental Security Income, VA benefits.
- b. Kidnapping or false imprisonment of A.I.I., or transport of A.I.I. out of the state of South Carolina.
- c. Inability or refusal of A.I.I. to give informed consent to emergency medical procedures.
- d. A.I.I.'s inability to provide for own mental and physical needs which requires a guardian to seek immediate treatment.
- e. Need for or loss of housing or nursing home care for A.I.I.; provided, however, homelessness by itself is not an emergency.
- f. Unauthorized transfer of assets of A.I.I. including unauthorized transfer by agent pursuant to power of attorney.
- g. Inability of A.I.I. to take immediate action necessary to preserve assets.
- h. Inability of A.I.I. to prosecute or defend legal actions, or execute legal documents.
- i. A.I.I.'s imminent marriage.

3. Evidence of the suitability and creditworthiness of the proposed guardian, conservator, or other fiduciary must be provided in a written credit report and criminal background check from the state of residence of the proposed guardian, conservator, or other fiduciary, and must be submitted with the Motion.

4. If the Motion includes a request for the freezing or restriction of assets, information as to specific bank accounts of the A.I.I. must be provided.

5. An emergency hearing must be scheduled within ten (10) days of the issuance of the Ex Parte Order or as otherwise ordered by the court.

I HAVE READ AND UNDERSTAND THESE INSTRUCTIONS:
 Executed this _____ day of _____, 20_____. _____
Petitioner/Movant

STATE OF SOUTH CAROLINA)
)
 COUNTY OF _____)
)
 IN THE MATTER OF:)
)
 _____,)
 an alleged incapacitated individual.)
)
)
 _____,)
 Petitioner(s),)
 vs.)
 _____,)
 Respondent(s).)

▲ PROBATE COURT USE ONLY ▲

IN THE PROBATE COURT
 CASE NUMBER _____-GC-_____-_____

**NOTICE OF AND MOTION FOR
 EMERGENCY RELIEF AND HEARING**

I move for emergency relief to protect the welfare or assets of _____, an alleged incapacitated individual (A.I.I.), and request a hearing on _____, 20____, at ____ a.m./p.m., or at such date and time as the Court orders, for:

- Appointment of emergency guardian, conservator, or other fiduciary.
- Removal of existing guardian, conservator, or other fiduciary, and appointment of a successor.
- Appointment or removal of Guardian *ad Litem*.
- An emergency protective order.

Immediate and irreparable injury, loss, or damage will result before notice can be served on adverse parties and a hearing held pursuant to S.C. Code Ann. § 62-5-108(B) as shown by the following facts: _____

If an emergency guardianship or protective order related to the welfare of the A.I.I. is requested, a physician's affidavit dated within the last thirty (30) days is attached.

Executed this _____ day of _____, 20_____.

Signature: _____
 Print Name: _____
 Address: _____

 Preferred Telephone: _____
 Secondary Telephone: _____
 Email: _____
 Relationship to the
 alleged incapacitated individual: _____

Attorney Signature: _____
 Print Name: _____
 Firm Name: _____
 Bar Number: _____
 Address: _____

 Telephone: _____
 Email: _____
 Attorney for: _____

STATE OF SOUTH CAROLINA)
COUNTY OF _____)

IN THE MATTER OF:)
_____,)
an alleged incapacitated individual.)

_____,)
Petitioner(s),)
vs.)
_____,)
Respondent(s).)

▲ PROBATE COURT USE ONLY ▲

IN THE PROBATE COURT
CASE NUMBER _____-GC-_____-_____

**EX PARTE ORDER FOR
EMERGENCY RELIEF AND
NOTICE OF HEARING**

The Court has jurisdiction over the parties and subject matter, and venue is proper. Based on the physician's affidavit filed with the Court and the factual allegations made, the request for emergency order and hearing is granted; denied. If granted, **pending the emergency hearing IT IS ORDERED:**

1. The physical welfare of the alleged incapacitated individual (A.I.I.) requires emergency relief as follows:
 _____ is appointed Guardian with all of the rights and duties in S.C. Code Ann. § 62-5-304A(B);
 _____ is appointed Limited Guardian to make decisions about the A.I.I.'s custody and residence; consent to medical or other professional care, counsel, treatment, or service, access medical records; and/or other: _____.
2. The assets of the A.I.I. require emergency protection as follows:
 _____ is appointed Conservator with all of the rights and duties in S.C. Code Ann. § 62-5-422(A);
 _____ is appointed Limited Conservator to have access to the A.I.I.'s financial records, provided, however, if this box is checked no disbursements may be made without written court approval; apply for, receive and manage money and property with the exception of _____; institute and maintain proceedings to protect money and property; other: _____.
3. _____ is appointed Guardian *ad Litem* with all of the rights and duties in S.C. Code Ann. § 62-5-106.
4. a Protective Order is entered as follows:

5. A fiduciary bond in the amount of \$ _____ is required.

NOTICE OF EMERGENCY HEARING

Date: _____
Time: _____
Place: _____

Petitioner shall serve this Order and Notice of Emergency Hearing on the A.I.I., the attorney and GAL for the A.I.I., and adverse parties immediately after issuance.

_____, Judge of Probate

Executed this _____ day of _____, 20_____.
_____, South Carolina