

Clinical Evaluation Report Instructions

Explanation of the Form

- The model clinical evaluation form provides a framework for summarizing a clinical evaluation for the purposes of guardianship.
- This form was **based on**:
 - The 1997 Uniform Guardianship and Protective Proceedings Act.
 - Existing model forms in guardianship across the United States.
 - Review of drafts by physicians, psychiatrists, psychologists, and social workers.
- There were **several challenges** in developing this form:
 - To be appropriate across the range of severity – e.g., from the person in a coma to the person with mild impairment and mixed strength and weakness.
 - To accommodate the wide variation in approaches to clinical assessment used by different health care professionals.
- As a result, this form:
 - Uses legal language which may be atypical for some clinicians (e.g., “mental condition” instead of “DSM diagnosis”).
 - Follows the “six pillar” format presented in the judge’s book.
 - Offers major headings of assessment, leaving subheadings to clinicians’ discretion.
- Note that:
 - Additional information in complex cases can be provided in expandable text boxes or attached to the form (using supplemental form pages if desired).
 - Can be adapted and modified at will to clinical or jurisdictional needs.

General Provisions for Clinical Evaluation

- A capacity evaluation is considered expert testimony, and should therefore meet standards of admissibility as applied within the clinician’s jurisdiction (referred to as “Daubert” standards in some jurisdictions). As such, clinicians may wish to indicate the evidence for each decision made or basis for the judgment made.
- An effort should be made to obtain **informed consent** or assent to the evaluation. A warning of the potential risks of participating in the evaluation should be provided, namely, that information will not remain confidential. Note that under the Health Insurance Portability and Accountability Act protected information can be provided to courts for guardianship proceedings. HIPAA protects the privacy of health information, but it cannot be used as a barrier to providing required information to a court. For information about HIPAA, see <http://www.hhs.gov/ocr/hipaa>
- The number of examination sessions required for the evaluation will vary based on the complexity of the evaluation. For complex cases, examination on **more than one**

occasion is preferable to allow for assessment of potential variability in functioning from day to day.

- For situations where a clinical team is not required, input from multiple disciplines is still encouraged (e.g., occupational therapist assessment, social service evaluation). If used, those individual's names should be listed on the signature page and associated reports may be attached.
- Note that the ultimate decision about the client's capacities is a legal judgment.

1. Mental and Physical Condition

Complete the categories noted. Information on prognosis and history is often left out clinical evaluations for guardianship purposes, but is key for the judge in determining any time limitations on orders. Also note that delirium can be confused with dementia, therefore describe whether potentially reversible causes of cognitive impairment have been considered.

2. Cognitive Limitations

Describe the individual's level of alertness or arousal, cognitive functioning, and emotional or psychiatric functioning.

- Cognitive skills can be assessed with screening tools or more in-depth neuropsychological assessment.
- Supplemental pages may be used to provide more information on specific cognitive skills or affective symptoms.

3. Functional Limitations

- To support limited orders when appropriate, provide detailed information about the individual's functional abilities. Emphasize strengths and retained abilities—even if small in scope—that the judge may reserve as a right to the individual.
- The specific functional abilities should be assessed through direct observation, reports of caregivers (professional or family), direct functional assessment, and/or direct interviewing of testing of specific abilities.
- In describing decision-making abilities within functional domains, consider whether the individual can: express a choice regarding a given situation and do so consistently; re-state basic information about the decision, risks and benefits, and the effects of these on every day life; justify decisions based on risks and benefits; reason consistently with his or her lifestyle and values. Remember eccentric or risky choices in and of themselves are not grounds for guardianship.
- Supplemental pages may be used to provide more information on specific functional abilities.

4. Values and Preferences

- Assessments that focus purely on the technical aspects of decision making miss the larger context of individual values.
- Views on what defines quality of life, how decisions are made, and values most crucial in weighing options, vary widely between individuals. A person's age, cohort, and ethnicity may strongly impact preferences, and these factors and related values often differ from those of evaluators, investigators, and judges.
- Interview the individual, and if appropriate, others who have known the individual over time, to determine the values and preferences regarding the matters under consideration.
- Evaluating the consistency of a choice with such long-held values and perspectives is one important indicator of capacity. In addition, such information is useful to the judge and guardian in planning for the individual's care under guardianship.
- Supplemental pages on values may be used to provide categories of values questions, and more detailed lists are also available.

5. Risk and Level of Supervision

- The clinician should provide a professional opinion about the least restrictive level of supervision needed to address the impairments noted, given the person's current circumstances.
- A clinical assessment is incomplete if it does not match an individual's cognitive and functional strengths and weaknesses to the person's social situation and environment. This contextual or interactive component of a clinical assessment balances the diagnostic, cognitive, and functional findings with the resources available to the individual, risks of the specific situation, and the person's values and preferences.
- The outcome of a clinical evaluation of capacity is, thus, never merely a diagnostic statement or report of test results, but an integration of these findings with the particulars of the client's life and situation, and the level of risk given those factors.

6. Treatments

- Describe any resources, treatments, or accommodations that will enhance the individual's functioning.
- Sometimes a treatment may abrogate the need for a guardian as capacity is restored. If so, indicate when capacity should be re-evaluated.
- Other times, a treatment may maximize the individual's functioning and well-being while under guardianship and, thus, needs to be considered in the ongoing care plan.

- In many states, a proposed guardian is required to state whether guardianship will be used for nursing home placement, thus, a clinical opinion about the appropriate living situation is useful.

7. Hearing

- Individuals subject to guardianship petitions may be required or encouraged to attend the hearing under state law. Since the individual stands to lose many critical rights, efforts should be made to have the individual attend the hearing, if the individual wants to do so, and his or her mental status permits useful participation.
- Judges often desire a clinical opinion on whether the individual can attend the hearing, and if they can, how to best accommodate the individual's needs.