

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Probate Division - Office of the Register of Wills
515 5th Street NW, Building A
Washington, D.C. 20001

The Council of the District of Columbia passed the Guardianship Amendment Act of 2014 that made four primary changes to the way guardianship cases are handled in the District of Columbia. These changes included the introduction of a mandatory periodic review of all guardianships in the District. The Guardianship Amendment Act mandates a supplemental review process for all guardianship appointments within 3 years and every 3 year period thereafter.

Under the Act, each supplemental review must be detailed in a case reviewer's report that includes:

- An updated medical or psychological report or statement by a licensed professional that addresses the current capacity of the ward and,
- A statement setting forth the ward's expressed preferences regarding the continued scope and duration of the guardianship and,
- Any statements made by a ward or any other interested party requesting termination, modification, or continuation of the guardianship and,
- The case reviewer's opinion as to whether the operative guardianship order is the least restrictive appropriate for the ward and the basis for that opinion.

The initial case review process will begin with a request by the Probate Division for the guardian to submit an updated report that addresses the current capacity of the ward. The guardian may submit an updated capacity assessment that has been completed within the past 12 months. If an updated capacity assessment is not available, the guardian can arrange to have an assessment completed by a *licensed* physician, psychologist, psychologist or clinical social worker.

A *Capacity Assessment Summary Report* template is available for use by the appropriate licensed professional. While it is not mandatory to use the Court's template, it is important that an updated capacity assessment addresses the areas of capacity required for consideration by the guardianship review process.

For additional help with the *Capacity Assessment Summary Report* or any other aspect of the Guardianship Assistance Program, please see the D.C. Courts website: <https://www.dccourts.gov/services/probate-matters/intervention-proceedings-int-idd> or contact the Guardianship Assistance Program at 202-879-9460.

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PROBATE DIVISION

CAPACITY ASSESSMENT SUMMARY REPORT

The District of Columbia Code (§ 21–2045.01) establishes a mandatory court review of guardianships and requires an updated medical or psychological report or statement by a licensed professional that addresses the current capacity of the ward (the person assessed).

Please complete this Capacity Assessment Summary Report for submission to the Court.

Identification

Name of Practitioner: _____

Address: _____

eMail: _____

Telephone Number: () _____

Person Assessed:
(Print) _____

Requested By: Superior Court of the District of Columbia – Probate Division

Declaration

I have completed this assessment in accordance with the usual and customary standards and practices of my profession.

I am of the opinion that _____ is:
(full name of person assessed)

- | | | |
|----------------------------------|------------------------------------|---|
| <input type="checkbox"/> capable | <input type="checkbox"/> incapable | of managing routine financial matters. |
| <input type="checkbox"/> capable | <input type="checkbox"/> incapable | of managing personal care expenses/incidentals. |
| <input type="checkbox"/> capable | <input type="checkbox"/> incapable | of managing housing/shelter. |
| <input type="checkbox"/> capable | <input type="checkbox"/> incapable | of managing health care. |
| <input type="checkbox"/> capable | <input type="checkbox"/> incapable | of managing personal care. |
| <input type="checkbox"/> capable | <input type="checkbox"/> incapable | of managing safety. |
| <input type="checkbox"/> capable | <input type="checkbox"/> incapable | of selecting a surrogate decision-maker. |

I am of the opinion that it is necessary for decisions to be made on behalf of

(full name of person assessed)

In the following areas:

Financial Matters Personal Care Expenses Housing /Residence Health Care Personal Care Safety

I am of the opinion that _____ needs assistance
(full name of person assessed)
available through _____ and if that assistance is
made available, does not need a guardian.

I am *not* of the opinion that it is necessary for decisions to be made on behalf of

(full name of person assessed)

Additional Comments (optional):

I have included (optional) attachments to this summary report. This report was completed on

the ____ day of _____, 20__ by _____
(print name of practitioner)

(License No.)

(signature of practitioner)

Filing Instructions:

This Capacity Assessment Summary Report must be filed with the Court in accordance with the Superior Court of the District of Columbia *Administrative Order 13-15 eFiling in the Probate Division*. Mandatory efilers include: attorneys, whether appearing as counsel, fiduciary, or otherwise as well as members of the Fiduciary Panel, Examiner Panel, and Visitor Panel, and Non-Lawyer Guardianship Pilot Project participants. All others may optionally eFile this form or submit by mail, or in person, to:

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Capacity Assessment – FAQs/DRAFT

1. What is a capacity assessment?

A capacity assessment is an evaluation performed by a professional (physician, psychiatrist, clinical social worker, etc.) to determine a person's ability to engage in the decision-making process. Specifically, it measures whether the person has the ability to receive information, understand and assess the information, appreciate how that information applies in his or her situation and then communicate a decision.

2. What is in a capacity assessment?

It will vary depending upon the licensed professional performing the assessment. The capacity assessment may address the ward's ability to make functional decisions in the areas of health care and maintenance, safety, housing, and personal care. It may include tests of the ward's memory, attention, and language. It should include an interview with the ward and if possible the ward's client history.

3. Who can perform a capacity assessment?

For purposes of the mandatory review, a capacity assessment can be performed by a licensed professional, such as a physician, psychiatrist, or clinical social worker or other licensed professional qualified by training or experience in the diagnosis, care or treatment of the causes and conditions of incapacity.

4. Why is a capacity assessment being requested now?

The guardianship law was amended in 2015, which affects all cases in which a new or successor guardian was appointed on or after January 1, 2015. This change in the law requires the Court to conduct a review of the guardianship every three years. The mandatory review must include an updated capacity assessment. The guardianship cases from January 1, 2015, to March 31, 2015, are approaching the end of this statutory three year review cycle.

5. What is a Notice of Request for Capacity Assessment?

The Notice of Request for Capacity Assessment may be sent by the Court to remind a guardian of the upcoming expiration of the three year mandatory review cycle. If the Guardian has not already

arranged for an updated capacity assessment to be filed, the Notice of Request for Capacity Assessment will serve to alert the guardian that the statutory time for filing an updated capacity assessment is about to expire.

6. What if I received a Notice of Request for Capacity Assessment but need more time to file?

An updated capacity assessment is due every three years from the date of appointment if a guardian or successor was appointed in the case on or after January 1, 2015. As the three year anniversary approaches, the guardian should anticipate the need to file an updated capacity assessment for the ward. Notice may also be provided by the Court asking for submission of the capacity assessment within a time certain. If additional time is needed, the guardian should file a motion requesting additional time, advising the Court as to the anticipated date an updated capacity assessment will be filed.

7. How do I obtain a capacity assessment?

You may wish to start with the ward's primary medical care provider or by contacting the Medical Director if the ward resides in a nursing home, community residence facility, or assisted living facility.

8. What if there are co-guardians? Which guardian is responsible for obtaining a capacity assessment?

Both guardians are responsible for obtaining a capacity assessment of the ward, but only one assessment needs to be submitted to the Court. If you are a co-guardian, please consult with your co-guardian to make these arrangements and ensure that a capacity assessment is filed with the Court.