

Instructions to Attorneys for Guardianships under Section 62-5-301

(Please read Section 44-66-10 (Adult Health Care Consent Act) prior to petitioning for appointment of a Guardian. In many cases, this statute will negate the necessity of a court-appointed Guardian if all family members are in agreement.)

1. File a [Civil Summons](#) and [Petition \(Form 530GC\)](#) and pay the Filing Fee of \$150.00 in Suite 5600 of the Probate Court. The Protective Proceedings Clerk will assign a case number when the documents are filed.
2. Serve the Summons and Petition on all required parties as provided by Rule 4 of the SC Rules of Civil Procedure. An Affidavit of Service must be filed for all Respondents, including the proposed ward.
3. The Petitioner must designate two Examiners (one of whom must be a physician) on an [Order Appointing Physician/Examiner \(Form 533GC\)](#) for appointment by the Court. The Physician/Examiners are not required to testify at the hearing (unless subpoenaed by a party or the court); however, their testimony must be filed prior to the hearing in affidavit form on [Doctor's Affidavit Regarding Capacity \(Form 541GC\)](#), and their examination of the proposed ward should have been within 6 months. The Form 541 should include a detailed description of the incapacity, as well as the mental/physical restrictions or limitations.
4. The Court will appoint a Visitor who must visit the proposed ward and file a [Visitor's Report \(Form 531GC\)](#) prior to the hearing; any party may call the Visitor to testify at the hearing.
5. The Court will choose and appoint an attorney to serve as Counsel for the proposed ward if the ward does not have their own attorney.
6. The Petitioner must complete the Greenville County Probate Court [Information On Proposed Guardian\(s\) and/or Conservator\(s\)](#) form.
7. Have the proposed Guardian view the Guardianship video at [Guardianship Video](#). This video can be found on the Probate Court Website under the Education Heading ([greenvillecounty.org/Probate Court](http://greenvillecounty.org/Probate%20Court)).
8. Contact the Protective Proceedings Clerk at 864-467-7404 to request a hearing. Give timely notice of the hearing to all required persons.
9. After the hearing, if a Guardian is appointed, the Judge will instruct one of the attorneys to prepare an Order Appointing Guardian. When the Order has been signed, Certificates of Appointment will be issued to the Guardian.
10. Each year on the anniversary of appointment, the Guardian must file an [Annual Report of Guardian \(Form 534GC\)](#) along with a current photograph of the ward.