

**IN THE CIRCUIT COURT OF THE JUDICIAL CIRCUIT
IN AND FOR COUNTY, STATE OF FLORIDA
PROBATE, GUARDIANSHIP, TRUST AND MENTAL HEALTH DIVISION**

IN RE: **JANE DOE**

Case No.:

Division:

**EXAMINING COMMITTEE REPORT FOLLOWING
PETITION ALLEGING INCAPACITY OR FOLLOWING SUGGESTION OF CAPACITY**

EXAMINEE'S NAME: Jane doe

AGE: 78 or 80

D.O.B.: N/A

PERMANENT ADDRESS:
condo in South Tampa

CURRENT LOCATION OF EXAMINEE:
hospital

PRIMARY LANGUAGE OF EXAMINEE: English

Examiner is a:

- ☐ Physician
- ☐ Psychologist
- ☐ Gerontologist
- ☐ Registered Nurse
- ☐ Nurse Practitioner
- ☐ Licensed Social Worker or Mental Health Counselor
- ☒ Other: counselor

Date Interview Conducted 9/30/2021:

Interview Start Time: mid- afternoon **P.M.**

Interview End Time: same **P.M.**

Location of Interview:

porch

Others present during interview:

nurse, family members and friend

If anyone other than the examinee answers questions, identify the other persons providing the answers here, and also note accordingly within your report:

family & friends; nurse answered all medical history questions

A. RELEVANT HISTORY:

1. Social History (Educational, Family, Vocational):

Jane is too old work

2. Medical History (including dates of recent hospitalizations and reports of attending physicians):

takes multiple medications. She is in the hospital now

3. Mental Health & Substance Use Histories:

Family says all reports of alcohol abuse by Jane are lies

4. Personal history provided by the examinee:

a. Length of time in Pinellas County:

unknown

b. Relatives residing in area:

family present at interview

c. Relatives out of area:

unknown

B. COMPREHENSIVE EXAMINATION RESULTS:

1. Physical examination:

a. Diagnoses:

shuffling gait, weeak, drowsy

b. Prognoses:

poor

c. Current treatment, including medications:

multiple medications

d. Additional recommended treatment:

fair

2. Mental health examination:

a. Diagnoses:

impairment with impaired memory, recall, confusion, disorientation and impaired comprehension

b. Prognoses:

poor

c. Current treatment, including medication:

N/A

d. Additional recommended treatment:

needs therapy; family present says the petitioner is lying when they wrote Jane was treated for alcohol abuse in the past; Jane could be at risk if she consumes alcohol.

i. Is the condition reversible? ☐ YES ☐ NO **Maybe**

ii. Is the condition stabilized? ☐ YES ☐ NO **Maybe**

iii. If mental health examination was not completed please explain:

N/A

3. Functional assessment:

Findings:

b. Physical appearance of the examinee:

white, female

c. Living situation of the examinee:

i. Examinee currently lives in:

- ☐ Home/Apartment Independently
☐ Assisted Living Facility or Nursing Home
☐ Home/Apartment with Live In Assistance
☒ Other (Explain Below):

currently in a hospital – but family says she has her own condominium

ii. If the examinee is living in own home:

Is the current placement appropriate? ☒ YES (**Hospital**) ☐ NO

If the examinee receives in home services is the level of services sufficient? ☐ YES ☐ NO

Explain: **Family member says Jane can live alone and does not need any help at home; recommend safe and loving environment**

d. Activities of Daily Living: **did not assess because Jane is in a hospital; but family member says she can do all of these alone**

i. Bathing:

☐ Independent ☐ Needs some assistance ☒ Incapable

ii. Dressing:

☐ Independent ☐ Needs some assistance ☐ Incapable

iii. Toileting:

☐ Independent ☐ Needs some assistance ☒ Incapable

iv. Feeding self: **Current diet may not be adequate**

☐ Independent ☐ Needs some assistance ☐ Incapable

v. Mobility/Walking:

☐ Independent ☐ Needs some assistance ☒ Incapable

vi. Preparing own meals:

☐ Independent ☐ Needs some assistance ☐ Incapable

- vii. Using the telephone:
☐Independent ☐Needs some assistance ☐Incapable
- viii. Maintain the residence including housework, laundry and cleaning:
☒Independent ☐Needs some assistance ☐Incapable
- ix. Managing Finances:
☐Independent ☐Needs some assistance ☐Incapable
☒ Writing checks and paying bills on time
- x. Travel:
☐Independent ☐Needs some assistance ☐Incapable
☒Travel alone on public transportation
☐Initiate doctor appointments and follow through with visits –
Currently refusing to go to doctor
- xi. Medication management:
☐Independent ☐Needs some assistance ☐Incapable
☐ Can fill prescriptions as needed?
☒ Knows names of medications and purpose? **Nurse provided information**
☐ Can accurately self-medicate?
☐ Responds appropriately to emergency medical situations?
(i.e. can dial 911) **Not relevant, Jane is in the hospital**

C. COGNITIVE ASSESSMENT:

List any tests administered and describe results:

Low score

If none, explain: N/A

1. Memory:
POOR

a. Short term:
Fair to Poor

b. Remote:
POOR

2. Orientation to time, place and person:

Disoriented

3. Confusion:

Some

4. Insight and judgment:

Family Member says Jame knows what is happening and has good judgement; family member says the person who filed the petition for incapacity is lying

5. Risk for being exploited:

Family & Nurse say Jane is not at risk

6. Are there physical impairments that interfered with the cognitive assessment?

☒ YES

☒ Impaired hearing

☒ Impaired vision

☒ Impaired ability to communicate (describe below):

N/A

7. Decision making ability

a. Simple:

Jane says she can do simple tasks

b. Complex:

Jane is in the hospital and retired and not required to make complex decisions

8. Communication skills

a. Verbal:

mumbled

c. Written:

Did not ask Jane to write anything; Family member says her writing is good

9. Comprehension

d. Knowledge of financial affairs:

☒ Knows name and location of bank(s):

Friend says she takes Jane to the Bank and helps her withdraw cash every week to pay her bills

☒ Knows nature and amount(s) of asset(s):
this information is not relevant and it not any of my business

☒ Source(s) and amount of income:
Jane says she has plenty of income to pay bills. Did not ask for source or amount of income

10. Recommendations to improve the functional capacity of the examinee:
allow friends and family to continue to help Jane

11. Was there consultation with the family physician as required by F.S. 744.331(3)(a)?
☐ YES ☒ NO

If no, please explain:
not listed on hospital chart

12. Were clinical history and treatment records considered?
☐ YES ☒ NO

If yes, please provide relevant information:
not listed in the hospital chart

13. Were prior psychological/social records or reports considered?
☐ YES ☒ NO

If yes, provide relevant information:
family and friend report no history

14. Other persons interviewed and their relationship to the examinee:
examiner had a long conversation with the Petitioner's attorney

**D. FUNCTIONAL EVALUATION OF THE PERSON'S ABILITY TO EXERCISE
EACH OF THE FOLLOWING CIVIL RIGHTS:**

1. MARRY (The examinee's knowledge of marital status, understanding of the significance of marriage, divorce or remarriage with respect to financial and other legal issues, vulnerability to manipulation in this context.)

- a. Does the examinee have sufficient capacity to exercise this right? ☒YES ☐NO
b. Describe the nature and extent of incapacity (if any):

AIP states she would like to marry and that she has goals to maintain employment first to be able to provide for a husband

- c. The factual basis for determining that this person lacks the capacity to exercise the right listed above is:

AIP should be allowed to marry with approval of the court

2. VOTE (The examinee's knowledge of the political process and resistance to pressure to vote a particular way.)

- a. Does the examinee have sufficient capacity to exercise this right? ☐YES ☒NO
b. Describe the nature and extent of incapacity (if any):

AIP does not like politics

- c. The factual basis for determining that this person lacks the capacity to exercise the right listed above is:

Fair

3. HAVE A DRIVER'S LICENSE (The examinee's understanding of any physical limitations, i.e. impaired mobility, impaired vision or hearing, delayed reaction time, or cognitive limitations, i.e. poor memory, confusion, impaired attention, that might impair driving abilities. The examinee's recent driving experiences and intentions with respect to the future driving.)

- a. Does the examinee have sufficient capacity to exercise this right? ☐YES ☒NO
b. Describe the nature and extent of incapacity (if any):

Arthritis

- c. The factual basis for determining that this person lacks the capacity to exercise the right listed above is:

If right is retained, Jane should have a caregiver present to prevent wandering

4. PERSONALLY APPLY FOR GOVERNMENT BENEFITS (The examinee's knowledge of benefits to which he/she may be entitled, e.g. Medicare/Medicaid, Social Security, Social Security Disability/Supplemental Disability Income, Aid to Families with Dependent

Children, food stamps, housing allowance.)

- a. Does the examinee have sufficient capacity to exercise this right? ☒ YES ☐ NO
b. Describe the nature and extent of incapacity (if any):

AIP said she does not want to complete paperwork or applications

- c. The factual basis for determining that this person lacks the capacity to exercise the right listed above is:

Fair; family present said all the allegations that Jane's social security and pension income were stolen are lies

5. TO TRAVEL (The examinee's understanding of physical and/or limitations that might affect the ability to plan and carry out trips without risking safety or being taken advantage of by others)

- a. Does the examinee have sufficient capacity to exercise this right? ☒ YES ☐ NO
b. Describe the nature and extent of incapacity (if any):

Travel only with consent of Guardian

- d. The factual basis for determining that this person lacks the capacity to exercise the right listed above is:

Needs a caregiver present to prevent wandering

6. TO SEEK OR RETAIN EMPLOYMENT (The examinee's understanding of any physical or cognitive limitations that affects his/her the ability to seek or retain employment. The person's understanding of the job market and ability to appraise the value of work that he or she might perform without being taken advantage of by others. Ability to recall instructions, maintain attention and concentration.)

- a. Does the examinee have sufficient capacity to exercise this right? ☒ YES ☐ NO
b. Describe the nature and extent of incapacity (if any):

AIP expressed an interest in working again

- c. The factual basis for determining that this person lacks the capacity to exercise the right listed above is:

same as above

7. TO CONTRACT *(The examinee's understanding of the legally binding and potentially adversarial nature of contracts and other, less formal agreements such as basic purchases.)*

a. Does the examinee have sufficient capacity to exercise this right? ☐ YES ☒ NO

b. Describe the nature and extent of incapacity (if any):

AIP said she does not want to read documents

c. The factual basis for determining that this person lacks the capacity to exercise the right listed above is:

Family member says AIP could read a contract if she had to and says all allegations Jane was tricked into co-signing a loan are false

8. TO SUE AND DEFEND A LAWSUIT *(The examinee's understanding of how the civil, non-criminal justice legal system operates, and his/her rights, privileges and responsibilities. The examinee's knowledge and understanding of any current or pending litigation, and ability to communicate and work with an attorney.)*

a. Does the examinee have sufficient capacity to exercise this right? ☐ YES ☒ NO

b. Describe the nature and extent of incapacity (if any):

Same Answer as #7

c. The factual basis for determining that this person lacks the capacity to exercise the right listed above is:

Same Answer as #7

9. TO MANAGE PROPERTY OR TO MAKE ANY GIFT OR DISPOSITION OF *(The examinee's knowledge of possessions, e.g. car, personal belongings, home, assets, stocks, retirement accounts, cash, savings account, and knowledge of sources of income, e.g. pension, social security income, annuities. The examinee's understanding of obvious or natural heirs, e.g. spouse, children, and relatives, and vulnerability of being taken advantage of by others. The examinee's knowledge of regular expenses or bills and ability to respond accordingly - e.g. mortgage payments, utility payments, insurance payments, etc.)*

a. Does the examinee have sufficient capacity to exercise this right? ☒ YES ☐ NO

b. Describe the nature and extent of incapacity (if any):

AIP wants to control her income and pay her own bills

c. The factual basis for determining that this person lacks the capacity to exercise the right listed above is:

N/A

10. TO DETERMINE RESIDENCE *(The examinee's knowledge of current physical or cognitive limitations and the implications of this for making decisions about where and with whom to live.)*

a. Does the examinee have sufficient capacity to exercise this right? ☐ YES ☒ NO

b. Describe the nature and extent of incapacity (if any):

Jane is in the hospital and discharge will be determined by her physician

c. The factual basis for determining that this person lacks the capacity to exercise the right listed above is:

N/A

11. TO CONSENT TO MEDICAL TREATMENT *(The examinee's knowledge of current physical and mental health problems and current or recommended treatments. The examinee's ability to weigh and consider various treatment options that may be presented to him or her currently or in the future.)*

a. Does the examinee have sufficient capacity to exercise this right? ☒ YES ☒ NO

b. Describe the nature and extent of incapacity (if any):

due to Jane's unpredictability, it is recommended AIP consult family

c. The factual basis for determining that this person lacks the capacity to exercise the right listed above is:

Memory is poor sometimes

12. TO MAKE DECISIONS ABOUT SOCIAL ENVIRONMENT OR OTHER SOCIAL ASPECTS OF LIFE *(The examinee's ability to identify persons who may take advantage of him or her; the examinee's judgment with respect to getting into situations that may place him or her at increased risk for harm or undue influence.)*

a. Does the examinee have sufficient capacity to exercise this right? ☒ YES ☐ NO

b. Describe the nature and extent of incapacity:

she suffers from some impairments and may have a history of alcohol abuse. She is a fall risk and needs family supervision.

c. The factual basis for determining that this person lacks the capacity to exercise the right listed above is:

: Jane has sporadic memory issues and she is impatient. She compulsively picks her skin and asked examiner to take her for a drink. Jane asked a family member to answer most of the questions and tried to give the examiner her credit card.

As a member of the examining committee I have assessed the examinee and recommend the following:

☐ A plenary guardianship – The examinee’s capacity to exercise **all** rights is significantly impaired.

☒ A limited guardianship – The examinee’s capacity to exercise **certain** rights is significantly impaired, as identified in section “D.” above.

☐ A guardianship should not be instituted – The examinee’s capacity to exercise his or her rights is not incapacitated.

E. Other comments, observations, and recommendations not included above:
Additional narrative may be attached.

None

Date: _____

Committee Member’s Printed Name: XXX

Committee Member’s Signature _____

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- Mental health diagnosis are the most difficult cases to evaluate due to the variability and compliance with treatment. Statute and case law requires a factual basis to determine a person lacks basic safety and self-care abilities. In those cases, it is important to seek information of the examinee’s history of hospitalizations and compliance with medications and treatment. Mere speculation on the possible dangers a person may face when in an un-medicated state of their illness may not be sufficient. Please provide any specific examples of self-neglect, risk of harm to themselves or others and any impairments which interferes in a person’s ability to meet the ordinary demands of living. Possible expected behavior should not be the only reason to remove a right.*