Please read every question carefully and review this instruction sheet

 **COUNTY COMPREHENSIVE EVALUATION INSTRUCTIONS**

# You are the comprehensive evaluator

* As the comprehensive evaluator, you are responsible for utilizing available multidisciplinary resources in the community to determine the need and availability for protective placement
* Your evaluation is a formal submission to the court and is distributed to the legal parties
* Compliance with Wis. Stat. §55.11 is a requirement of the county department and with any agency that the county department contracts with under Wis. Stat. § 55.02(1)
* You may be required to appear in court and testify regarding the contents of your report
* If you are required to appear in court, review your evaluation before coming to court

# INSTRUCTIONS:

1. Do not fill out the instruction sheet – it is a guide only
2. Use a blank word document to use grammar and spell check, and then copy-paste into the comprehensive evaluation form
3. No fill in section should remain in grey – it should be zeroed out (enter a space in the grey area) or fill in n/a for not applicable.
4. Refer to Wis. Stat. § 55.11 for further explanation of this evaluation’s requirements
5. Below are further instructions for specific information that is being requested

# Current Address and Care Providers:

All wards should be interviewed personally. However, wards have the right to refuse to participate in the evaluation. If the ward refuses to participate in the evaluation, explain what happened and if an explanation was offered by the ward.

When confronted with an uncooperative individual, engage in an independent review of all records that are available. Due process prevents the examining professional (you) from regurgitating or reiterating the opinion of others without independently confirming the facts those opinions are based upon.

# Current Services Provided:

Current Services

The statute requires noting all treatment and services that are being provided to the ward in connection with the problem creating the need for protective placement. You need to review the petition and determine what is the root cause that lead of the filing of the petition.

One common example is lack of services in the home. It may be that the ward had no services in place at the time of the filing, that no decision-maker is in place at this time, and therefore no services are being provided. In that instance,

you would not fill out any services in the table \*and\* note under “services that are targeting the specific concerns that lead to the filing of the petition” that no services are in place, which is the reason the petition was filed.

In the table, you must list all services that the ward is currently enrolled in, how the ward got enrolled in the service (i.e.: DSD / DOA, Long-Term Funded Card, or Self / Family), and was this service in place before the filing of the petition.

In the next part “services that are targeting the specific concerns that lead to the filing of the petition,” that is where you bring in what services are addressing the root causes for filing the petition.

For example, perhaps the proposed ward was in the hospital and needed a decision-maker immediately for discharge planning purposes and medical consent, so a temporary guardian was appointed. In between the temporary guardian being appointed and the permanent hearing, the temporary guardian also enrolled the individual in DVR training, in- home care, and transportation. The in-home care and transportation likely target the root causes for filing the guardianship, but the DVR training likely does not target the root cause. All three services would be listed in the table, but only the in-home care and transportation would target the specific concerns, so those would be listed at the bottom as well as in the table.

# Review of Records:

Medical History: consult any and all medical records as available and necessary to complete this evaluation

Psychological History: consult any and all psychological records as available and necessary to complete this evaluation.

Basis for the Guardianship: you can typically find this in the psychological exam, GN-3130, generally filed with the petition.

Social History: consult any and all records or sources of information to establish a social history for the ward, including collateral interviews.

Other areas of support: may include close friends or organizations like religious services (like the actual religious community: i.e. ward attends 5th Street Church) in the area.

Other considerations: include language, religious (overall religious observations like Christian or Jewish), or cultural information that may affect the current considerations. An example is that you may not want to place a Spanish-speaking individual raised on the south side of Milwaukee in an adult family home with only English speakers on the north side of Milwaukee.

Vocation History: consult any and all records or sources of information to establish a vocational history for the ward, including collateral interviews.

Educational History: consult any and all records or sources of information to establish a educational history for the ward, including collateral interviews.

Retention of Rights Under §54.25(2):

Review the Guardianship Psychological Evaluation – GN-3130. This should be available prior to completing this form. If it is not, consult your petitioner, or under “do you support the

examiner’s recommendations / if no, why not:” fill in that you have not had access to the GN- 3130.

If you disagree with the psychologist / psychiatrist / doctor regarding which rights should the ward retain, you need to explain why. The rights are outlined on the Comprehensive Evaluation.

# Least Restrictive Environment:

Protective Placement vs. Protective Services:

|  |  |
| --- | --- |
| **Protective Placement** | **Protective Services** |
| Statutory Definition: |
| 55.01(6) “Protective placement" means a placement that is made to provide for the care and custody of an individual.(6m) “Protective placement facility" means a facility to which a court may under s. 55.12 order an individual to be provided protective placement for the **primary purpose of residential care and custody**.55.01(6p)(6p) “Protective placement unit" means a ward, wing, or other designated part of a protective placement facility. | 55.01(6r)(6r) “Protective services" includes any of the following:1. Outreach.
2. Identification of individuals in need of services.
3. Counseling and referral for services.
4. Coordination of services for individuals.
5. Tracking and follow-up.
6. Social services.
7. Case management.
8. Legal counseling or referral.
9. Guardianship referral.
10. Diagnostic evaluation.
11. Any services that, when provided to an individual with developmental disabilities, degenerative brain disorder, serious and persistent mental illness, or other like incapacity, keep the individual safe from abuse, financial exploitation, neglect, or self- neglect or prevent the individual from experiencing deterioration or from inflicting harm on himself or herself or another person.
 |
| Statutory Standard: |
| 55.08(1) Protective placement. A court may under s. 55.12 order protective placement for an individual who meets all of the following standards:1. The individual has a primary need for residential care and custody.
2. The individual is a minor who is not alleged to have a developmental disability and on whose behalf a petition for guardianship has
 | 55.08(2) Protective services. A court may under s. 55.12 order protective services for an individual who meets all of the following standards:(a) The individual has been determined to be incompetent by a circuit court or is a minor who is alleged to have a developmental disability and on whose behalf a petition for a guardianship has been submitted. |

|  |  |
| --- | --- |
| been submitted, or is an adult who has been determined to be incompetent by a circuit court.1. As a result of developmental disability, degenerative brain disorder, serious and persistent mental illness, or other like incapacities, **the individual is so totally incapable of providing for his or her own care or custody as to create a substantial risk of serious harm to himself or herself or others. Serious harm may be evidenced by overt acts or acts of omission**.
2. The individual has a disability that is permanent or likely to be permanent
 | (b) As a result of developmental disability, degenerative brain disorder, serious and persistent mental illness, or other like incapacities, **the individual will incur a substantial risk of physical harm or deterioration or will present a substantial risk of physical harm to others** if protective services are not provided. |
| The doctor in the psychological examination (Form GN-3130) addresses whether or not he or she believes the individual requires protective services, protective placement, or neither. |
| Key Takeaways: |
| * Focus is on care and custody
 | * Focus is on services \*only\*
 |
| * Annual Review by Court
 | * No Annual Review by Court
 |
| * Can change type of placements within the protective placement order
* Ward can have services with a protective placement, but cannot have only protective services and a placement requirement.
* If a person is under guardianship (therefore a ward), and needs to be in a facility with 16 or more beds, a protective placement is required.
 | * Does not have an effect on placement.

For instance, if individual is in need of 24/7 supervision, it is likely that this individual will require placement at a facility, and therefore protective services are not sufficient. Another example is if a proposed ward can remain in home if sufficient services are provided, the question becomes what happens if sufficient services cannot be provided? Then, the only reasonable alternative is to have the protective placement in place, allow the individual to attempt to remain in home, and then if necessary, the protective placement can allow the guardian to move the individual to a facility. |

1. If you believe that Protective Services \*only\* are sufficient to meet the wards needs, you will need to explain why. If the doctor is recommending Protective Placement but you disagree with this, you will need to explain why you disagree with the doctor and also likely be prepared to testify as to this professional disagreement.
2. If you are not recommending Protective Placement, explain why not.

If you are recommending Protective Placement, you need to explain:

1. how the ward has a primary need for care and custody, and
2. as a result of their impairment, how is the ward so totally incapable of providing for his or her own care or custody as to create a substantial risk of serious harm to self or others if not protectively

placed. Serious harm may be either overt acts or omissions of care. It is helpful to explain what exactly the ward needs assistance with (for instance, stating “total care” or “needs assistance with ADLs” may not provide enough information to the court). The courts, and often times the attorneys, do not know what an ADL or IDAL is, none the less the difference between the two, so explanation of what specifically the ward needs assistance with is helpful. This area can also include considerations for mobility, particularly if it effects the ward’s ability to care for him or herself, or if mobility challenges changes the type of residence that is appropriate.

“Care and custody” is not defined by the statute. Caselaw has determined that Chapter 55 covers “habilitative services” which “are those ‘which assist an impaired person's ability to live in the community.’” *In Matter of Athans*, 107 Wis. 2d 331, 336 (Wis. Ct. App. 1982).

Therefore, the level of placement alone does not control whether a person qualifies for a protective placement. You can have someone in supported apartment environment but still needs services to assist the individual to live in the community and that target their care (for instance, meal delivery and medication monitoring) and custody (i.e., you do not want the individual to be able to leave the supported apartment and move on his or her own).

1. You can, and should, check more than one type of residence, when appropriate.

For instance, a rehabilitation facility may be appropriate in the immediate future, but after that, CBRF would be appropriate.

1. Check all requirements that you believe are necessary when it comes to the care and custody of the individual. The doctor’s report (Form GN-3130) does make some recommendations to this effect as well, and these may also be noted in the petition. Your opinion may differ of those that are already recommended. Either way, whatever recommendations you make, you must include your reasoning for making such recommendation.
2. “Is the current placement the least restrictive environment and in the least restrictive manner consistent with the needs of the individual” asks, right now, is the ward in an appropriate placement and with the appropriate care being provided? If yes, then check yes. If no, then check no.
3. If your answer in **(e)** is no, then explain what is at issue – does the person need a more or less restrictive placement, and why? You can include in here a consideration of the resources of the county department, if applicable. If you are going to do that, you should consult with the county department first.

# Factors Considered

The statute requires that **all** these factors be considered. Some of these may be not applicable or repeat information from above. For example, the summary of medical history from Section III may be able to be copy-pasted or altered slightly to answer the statute’s question of considerations of the “health needs of the individual.”

For reasonableness of the placement given the costs and actual benefits in the level of functioning to be realized by the individual, you may need to consult with the funding source for the individual. For example, the ward may want to stay home and requires 24/7 supervision, but does not have assets and is in long- term care. The placement of the ward at his or her own home given this circumstance may not be reasonable given the costs and actual benefits to the ward.

For limits of available state and federal funds and of county funds required to be appropriate to match state funds and reasonableness of the protective placement given the number of individuals,

or projected individuals, who will need protective placement given the limited funds available may be a question you need to consult with the county department on or have a common understanding or response to. This will be up to the contracted agencies and county departments to come up with a response.

# Special Considerations of Developmental Disabilities

If the ward has developmental disabilities, and the placement being considered is a center for the developmentally disabled, you must complete the “Special Considerations of Developmental Disabilities Attachment.”

A center for the developmentally disabled is: The Northern Center for Developmentally Disabled, Central Center for Developmentally Disabled, and Southern Center for Developmentally Disabled. Wis. Stat. § 51.06(1).

The purpose of the northern center for developmentally disabled, central center for developmentally disabled and southern center for developmentally disabled is to provide services needed by developmentally disabled citizens of this state that are otherwise unavailable to them, and to return those persons to the community when their needs can be met at the local level.

If you are considering placement in one of these three locations, you must describe the appropriateness of the individual’s needs for the Center by considering:

**(1m)** Services.

Services to be provided by the department at centers for the developmentally disabled shall include:

* + 1. Education within the requirements of sub. [(2),](https://docs.legis.wisconsin.gov/document/statutes/51.06%282%29) training, habilitative and rehabilitative services to those persons placed in its custody.
		2. Development-evaluation services to citizens through county departments under ss. [51.42](https://docs.legis.wisconsin.gov/document/statutes/51.42) and [51.437](https://docs.legis.wisconsin.gov/document/statutes/51.437).
		3. Assistance to such community boards in meeting the needs of developmentally disabled citizens.
		4. Services for individuals with developmental disability who are also diagnosed as mentally ill or who exhibit extremely aggressive and challenging behaviors.

**(1r)** Alternative services.

1. In addition to services provided under sub. [(1m)](https://docs.legis.wisconsin.gov/document/statutes/51.06%281m%29), the department may, when the department determines that community services need to be supplemented, authorize a center for the developmentally disabled to offer short-term residential services, dental and mental health services, therapy services, psychiatric and psychological services, general medical services, pharmacy services, and orthotics.
2. Services under this subsection may be provided only under contract between the department and a county department under s. [46.215](https://docs.legis.wisconsin.gov/document/statutes/46.215), [46.22](https://docs.legis.wisconsin.gov/document/statutes/46.22), [46.23](https://docs.legis.wisconsin.gov/document/statutes/46.23), [51.42](https://docs.legis.wisconsin.gov/document/statutes/51.42), or [51.437](https://docs.legis.wisconsin.gov/document/statutes/51.437), a school district, or another public or private entity within the state to persons referred from those entities, at the discretion of the department. The department shall charge the referring entity all costs associated with providing the services. Unless a referral is made, the department may not offer services under this subsection to the person who is to receive the services or to his or her family. The department may not impose a charge for services under this subsection upon the person receiving the services or upon his or her family. Any

revenues received under this subsection shall be credited to the appropriation account under s. [20.435 (2) (g).](https://docs.legis.wisconsin.gov/document/statutes/20.435%282%29%28g%29)

1. School activities.

If an individual over the age of 2 years and under the age of 22 years and eligible for special education and related services under subch. [V of ch. 115](https://docs.legis.wisconsin.gov/document/statutes/subch.%20V%20of%20ch.%20115) is admitted to, is placed in or is a resident of a center, the individual shall attend a school program operated by the center or a school outside the center which is approved by the department of public instruction. A school program operated by the center shall be under the supervision of the department of public instruction and shall meet standards prescribed by that agency.

1. Admission.
	1. Subject to par. [(b),](https://docs.legis.wisconsin.gov/document/statutes/51.06%283%29%28b%29) individuals under the age of 22 years shall be placed only at the central center for the developmentally disabled unless the department authorizes the placement of the individual at the northern or southern center for the developmentally disabled.
	2. An individual may be placed at or transferred to a center for the developmentally disabled for services under sub. [(1m) (d)](https://docs.legis.wisconsin.gov/document/statutes/51.06%281m%29%28d%29) only after all of the following conditions are met:
		1. The department determines that a licensed bed and other necessary resources are available to provide services to the individual.
		2. The department and the county of residence of the individual agree on a maximum discharge date for the individual.

If placement in an intermediate or nursing facility is being considered,

Does the individual reside in a county with a population of less than 100,000? If so, this is may not be our resident. Discuss with the county department.

If it’s a county population more than 100,000 (i.e. Milwaukee County), can the ward’s needs be met in a noninstitutional setting? This means you need to explain why an intermediate or nursing facility should be considered and why other settings are inappropriate. You can also take your previous answers and modify it to answer this question.