

PRINCIPAL SURROGATE'S COURT CLERK SAMPLE QUESTIONS

The question shown below is for illustrative purposes only. See the Associate Surrogate's Court Clerk section for additional sample questions. They are examples of the different question types and formats that candidates may encounter on the multiple-choice examination. Questions that appear on the actual examination vary in difficulty and may be easier or more difficult than the questions illustrated below.

Which of the following statements is/are true regarding the appointment of a guardian for personal needs or property management pursuant to Article 81 of the Mental Hygiene Law?

1. The Surrogate's Court has concurrent jurisdiction with Family Court regarding the appointment of an Article 81 guardian;
2. The Surrogate's Court has concurrent jurisdiction with Supreme Court over all matters pertaining to the appointment of an Article 81 guardian;
3. The Surrogate's Court can only appoint an Article 81 guardian if it is referred to by Supreme Court;
4. The Surrogate's Court can only appoint a guardian for personal needs or property management under the provisions of Article 81 when the person interested in an estate, in a proceeding in the Surrogate's Court, is entitled to money or property as a beneficiary of the estate.

- A. 1 only, but not 2, 3 or 4
- B. 4 only, but not 1, 2 or 3
- C. 2 and 3, but not 1 or 4
- D. None of the above

The best answer to this sample question is D. According to MHL [81.04](#), "when it appears in any proceeding in the surrogate's court that a person interested in an estate is entitled to money or property as a beneficiary of the estate, or entitled to the proceeds of any action as provided in section 5-4.1 of the estates, powers and trusts law , or to the proceeds of a settlement of a cause of action brought on behalf of an infant for personal injuries, and that the interested person is a resident of, is physically present, or has any property in, the county in which the proceeding is pending and is allegedly incapacitated with respect to property management under the provisions of this article, and the surrogate's court is satisfied after a hearing or trial in accordance with the provisions of this article that the interested person is incapacitated with respect to property management, the surrogate's court shall have the power to order relief for that person with respect to property management in accordance with the provisions of this article."

Links to Reference/Study Materials:

- A. **Surrogate's Court Procedure Act:**
<https://codes.findlaw.com/ny/surrogates-court-procedure-act/>
<https://www.nysenate.gov/legislation/laws/SCP>
- B. **Estates, Powers and Trusts Law:**
<https://codes.findlaw.com/ny/estates-powers-and-trusts-law/>
<https://www.nysenate.gov/legislation/laws/EPT>
- C. **Domestic Relations Law:**
<https://codes.findlaw.com/ny/domestic-relations-law/>
<https://www.nysenate.gov/legislation/laws/DOM>
- D. **Social Services Law:**
<https://codes.findlaw.com/ny/social-services-law/>
<https://www.nysenate.gov/legislation/laws/SOS>
- E. **New York State Tax Law:**
<https://codes.findlaw.com/ny/tax-law/tax-sect-971.html>
<https://codes.findlaw.com/ny/tax-law/tax-sect-981.html>
<https://codes.findlaw.com/ny/tax-law/tax-sect-994.html>
- F. **Mental Hygiene Law:**
<https://codes.findlaw.com/ny/mental-hygiene-law/>
<https://www.nysenate.gov/legislation/laws/MHY>
- G. **Rules of the Chief Administrator of the Courts:**
<http://ww2.nycourts.gov/rules/chiefadmin/130.shtml>
<http://ww2.nycourts.gov/rules/trialcourts/207.shtml>
- H. **Rules of the Chief Judge:**
<http://ww2.nycourts.gov/rules/chiefjudge/36.shtml>