

**IN THE TENTH JUDICIAL CIRCUIT
IN AND FOR HARDEE, HIGHLANDS,
AND POLK COUNTIES, FLORIDA**

ADMINISTRATIVE ORDER 4-3.2

IN RE: GUARDIANSHIP PROCEDURES IN THE TENTH CIRCUIT

WHEREAS the judges of the Tenth Circuit have determined it would promote the efficient and consistent administration of the guardianship activities within the Probate Division to have an updated set of guidelines available for guardians, attorneys, staff, and the public to reference when considering or dealing with guardianships and guardianship-related matters; and

WHEREAS the chief judge of the circuit has the authority to enter administrative orders pursuant to article V, §2(d), of the Florida Constitution; §43.26, Florida Statutes; and Rule 2.215(b)(2) of the Florida Rules of General Practice and Judicial Administration; it is therefore

ORDERED:

1. **DEFINITIONS:** The following terms shall have the following meanings in this Administrative Order:

“**Clerk**” means the Clerk of the Circuit Court in and for Polk, Hardee and Highlands Counties, Florida;

“**Florida Guardianship Law**” means chapters 393 and 744, Florida Statutes;

“**Florida Probate Rules**” means Rule 5.010 through Rule 5.900; and

“***Pro Se***” means not represented by an attorney.

2. **APPLICABILITY OF THIS ADMINISTRATIVE ORDER:** Unless otherwise provided in chapters 393 and 744, Florida Statutes, or in the applicable Florida Probate Rules, this Administrative Order applies to all guardianship proceedings in the Tenth Judicial Circuit in and for Polk, Hardee and Highlands Counties, Florida. This Administrative Order does not apply to a guardian advocate as defined by chapter 394, Florida Statutes.
3. **APPLICATION FOR APPOINTMENT AS GUARDIAN:** Except for the public guardian for the circuit, every proposed guardian seeking appointment by the Court shall file an application as guardian that is signed by the proposed guardian under penalties of perjury, as required by §744.3125, Florida Statutes, and Rule 5.590, Florida Probate Rules.
4. **REQUIREMENTS FOR APPOINTMENT OF GUARDIAN (OTHER THAN THE PUBLIC GUARDIAN):**

- A. Credit and Criminal Investigations (Background Screening):

Except as provided in §744.309(4), Florida Statutes, all proposed guardians must undergo a level 1 or level 2 background screening, fingerprinting, and credit check, as set forth in §744.3135, Florida Statutes. In accordance with §744.3135, Florida Statutes, the Clerk will maintain a separate file on each guardian appointed by the Court and will retain documentation in the guardian's file of the results of any investigation conducted pursuant to §744.3135, Florida Statutes.

Additional information regarding the background screening, application documents, and the process, may be obtained on the Guardianship section of the Polk County Clerk's website, www.polkcountyclerk.net.

B. Educational Requirement for Non-Professional Guardians:

All non-professional guardians must complete an education requirement in accordance with §744.3145, Florida Statutes, and Rule 5.625, Florida Probate Rules. Additional information regarding the educational requirement may be obtained on the Guardianship section of the Polk County Clerk's website, www.polkcountyclerk.net.

C. Additional Requirements for Professional Guardians:

Professional guardians (including for-profit corporate guardians) seeking appointment by the Court must establish a professional guardian file with the Clerk and submit documentation demonstrating that the requirements of §744.2002, §744.2003, and §744.3135, Florida Statutes, have been satisfied.

In addition to the credit and criminal history investigation documentation contained within a professional guardian's file maintained by the Clerk under §744.3135, Florida Statutes, professional guardians must also submit the following items, which the Clerk will maintain in their professional guardian file:

- (i) Proof of blanket fiduciary bond. See Fla. Stat. §744.2003(2);
- (ii) Evidence of completion of instruction and training, including continuing education. See Fla. Stat. §744.2003(3);
- (iii) Proof of registration with the Office of Public and Professional Guardians. See Fla. Stat. §744.2002; and
- (iv) Evidence of receiving a passing score on a guardianship examination approved by the Department of Elder Affairs. See Fla. Stat. §744.2003(6).

Further, each professional guardian is responsible for maintaining individual records of attendance at continuing education programs or maintaining records on CE Broker provided to professional guardians by the Office of Public and Professional Guardians. The records must include the date, hours, title, location and sponsor of the course. At least 16 hours of continuing education every 2 calendar

years is required by §744.2003(3), Florida Statutes, and the education must be approved by the Office of Public and Professional Guardians. Verification of continuing education course attendance must be filed in the professional guardian's file.

5. PETITIONS FOR APPOINTMENT OF GUARDIAN ADVOCATE:

A. Persons with Developmental Disabilities:

A petition for the appointment of a guardian advocate for a person with developmental disabilities must strictly comply with the statutory requirements pursuant to §393.12, Florida Statutes, and Rule 5.649, Florida Probate Rules. The petition should be accompanied by an Application for Determination of Indigent Status if the Petitioner believes that the person with developmental disabilities is indigent. Further, the petition should be accompanied by a Notice of Filing of Report of Attending Physician, and a proposed order appointing an attorney for the person with developmental disabilities. The appointment of an attorney for the person with developmental disabilities shall be accomplished within the timeframes and pursuant to the procedures set forth in §393.12(5) and §393.12(12)(a), Florida Statutes, and Rule 5.649, Florida Probate Rules. The name and address of the attorney to be appointed should be left blank, as the Court must make the appointment on a rotating basis as required by law. The attorney may, if desired, insert the name and address after contacting the judge's office to receive the name and address of the attorney to be appointed.

In the event that the person with developmental disabilities desires to substitute her or his own attorney for the attorney appointed by the Court, a proper motion must be filed for the Court to make a determination. Any hearings concerning the substitution of counsel should be completed in advance of the final hearing on the Petition.

The petitioner or the petitioner's counsel should be aware at the hearing that if the Court grants the petition, the order must contain findings of fact and conclusions of law required by Rule 5.649, Florida Probate Rules.

B. Not Applicable to Drug-Dependent Newborns, Mentally Ill Persons, or Substance Abuse Impaired Persons:

The appointment of a guardian advocate for a drug dependent newborn or for a mentally ill person, or a substance abuse-impaired person who is the subject of proceedings under the Baker Act or the Marchman Act, under §39.823, §394.4598, §397.6818, and §394.6957, Florida Statutes, is beyond the scope of this Administrative Order.

6. APPOINTMENT OF ATTORNEY/ELISOR AND SUBSTITUTION OF COUNSEL:

The appointment of an attorney for an alleged incapacitated person or for an alleged person

with developmental disabilities shall be accomplished within the timeframes and pursuant to the procedures set forth in §393.12(5), §744.331(2), and §744.464 (2)(e), Florida Statutes.

The attorney for the petitioner in an action initiated by the filing of a Petition to Determine Incapacity or by the filing of a Petition for Guardian Advocate shall be responsible for preparing the proposed Order Appointing Attorney and Elisor. The petition should be accompanied by an Application for Determination of Indigent Status if the petitioner believes the alleged incapacitated person or alleged person with developmental disabilities is indigent. The name and address of the attorney to be appointed should be left blank as the Court must make the appointment on a rotating basis as required by law. The petitioning attorney may, if desired, insert the name and address of the attorney to be appointed after contacting the judge's office to receive the name and address of the next attorney in the rotation. Please note that the rotating system requires that the judicial assistant have a case number before generating the name of the attorney to be appointed.

The attorney that is appointed must have met the qualifications as set forth in §744.331(2)(d), Florida Statutes. An attorney seeking to be appointed should submit a separate statement with their application stating as follows:

I HEREBY CERTIFY THAT I HAVE COMPLETED THE STATUTORY
EDUCATION AND TRAINING REQUIREMENTS TO BE
CONSIDERED FOR APPOINTMENT IN AN INCAPACITY OR
GUARDIANSHIP PROCEEDING.

In the event that the attorney wishes to request that the Court waive the training requirements, the attorney should provide a detailed basis for requesting such a waiver.

Attorneys seeking to be appointed for guardianship cases in Polk, Hardee, or Highlands Counties must maintain a principal office in the Tenth Judicial Circuit. Attorneys who do not maintain a principal office as required must seek approval of the Chief Judge of the Tenth Judicial Circuit before submitting their application.

After the Court has appointed an attorney, the alleged incapacitated person may desire to substitute her or his own attorney for the attorney appointed by the Court. In that event, a proper motion must be filed for the Court to make a determination. Any hearings concerning the substitution of counsel should be scheduled in advance of the adjudicatory hearing.

7. SERVICE OF PROCESS AND NOTICE:

The notice requirements in the Florida Probate Rules must be complied with at all times in accordance with Rule 5.041, Florida Probate Rules. Florida law requires that next of kin be identified in the petition to determine incapacity and that these individuals, along with other interested persons, be served with the petition for appointment of guardian. Any constructive service shall be conducted in compliance with Chapter 49, Florida Statutes, and an Affidavit of Diligent Search and Inquiry, preferably as set forth in Form 1.942, Florida Rules of Civil Procedure, shall be filed with the Clerk. Petitioners are cautioned that service and notice are primarily governed by Rules 5.040 – 5.042, of the Florida Probate Rules, particularly the requirements for service within a reasonable time before scheduling a hearing.

8. REFERRAL TO GENERAL MAGISTRATE:

Procedures for any referrals to a general magistrate are set forth in separate Administrative Orders of this Court.

9. HEARINGS:

A. Scheduling of Hearings:

All hearings must be scheduled with the probate judge's judicial assistant. Counsel and *pro se* parties will make a good faith attempt to agree upon a hearing date, time, and hearing duration before placing the hearing on the judge's calendar and filing the Notice of Hearing. In the event such agreement cannot be achieved, the noticing party shall include a statement on the Notice of Hearing that a good faith attempt was made to coordinate the hearing with the opposing counsel or *pro se* party.

B. Noticing of Hearings:

All hearings must be noticed to all counsel, parties and interested persons by filing a Notice of Hearing that sets forth the date, time, location and duration of the hearing, and states with particularity the matters to be brought before the Court during the hearing. A notice that a hearing is "on all pending motions" is insufficient and will not be accepted. Other parties may schedule additional motions during the same hearing time but only upon securing the consent of the Court and opposing counsel, and serving a Notice of Hearing listing the additional motions to be heard and stating that such consent was given.

C. Filings Required Before Hearings:

When any petition, pleading, motion or other document is to be brought before the Court at a hearing, counsel and *pro se* parties shall endeavor to file the same with the Clerk before scheduling the hearing. Likewise, except in extraordinary circumstances, counsel and *pro se* parties are expected to file any memoranda of law at least three (3) business days before any hearing, or alternatively provide a courtesy copy to opposing counsel, *pro se* parties and the Court during the same timeframe.

D. Cancelling a Hearing:

If a hearing must be cancelled, the attorney noticing the hearing shall promptly notify the judge's judicial assistant, shall file a Notice of Cancellation of Hearing setting forth the date, time and matters previously noticed that are being cancelled, and shall promptly provide a courtesy copy of such Notice of Cancellation to the judge's judicial assistant and all parties previously noticed of the hearing.

10. COURT REPORTERS:

The Court will not provide Court reporters for hearings unless required to do so by Rule 5.541, Florida Probate Rules, or any rule or statute issued subsequent to January 1, 2016. If any attorney or *pro se* party wishes to have a Court reporter present during any hearing, it is that attorney or *pro se* person's responsibility to make arrangements with a Court reporter (at such attorney or *pro se* person's cost and expense) for attendance at the hearing.

11. EXAMINING COMMITTEES FOR THE DETERMINATION OF INCAPACITY:

A. Appointment of Examining Committee

The appointment of an examining committee shall be accomplished within the timeframe and pursuant to the procedure set forth in §744.331(3), Florida Statutes. The attorney for the petitioner in an action initiated by the filing of a Petition to Determine Incapacity shall be responsible for preparing the proposed Order Appointing Examining Committee. The attorney should be careful to ensure that one member of the examining committee is a physician as the law requires.

B. Payment of Examining Committee Members

If the petition to determine incapacity is dismissed or denied, the fees for the examining committee are paid as expert witness fees in accordance with §29.004(6) and §744.331(7)(c), Florida Statutes.

The fees for the examining committee should be addressed at the adjudicatory hearing. In some instances, the petitioner will have personally satisfied the fees for the examining committee prior to the adjudicatory hearing. In that event, the petitioner may, if desired, file the documentation to establish the satisfaction. In the event that the petitioner has failed to pay the invoices submitted by the examining committee members prior to the adjudicatory hearing, the attorney for the petitioner will be responsible for preparing an order compensating the examining committee. In the event that such an order is required and a guardianship exists, the statutory language set forth below should be included in the order: "The fees of the examining committee shall be paid by the guardian from the property of the ward or, if the ward is indigent, by the state." Fla. Stat. §744.331(7)(b). The Order shall state that the Ward is indigent, if the Ward is indeed indigent or if there has been a finding of indigency. Counsel for the petitioner must attach copies of the invoices to the proposed Order Compensating Examining Committee.

If the petitioner or guardian fails to pay the fees for the examining committee, the examining committee member may file a motion to compel payment of the fee, using the case style and case number as set forth on the Order Compensating Examining Committee. The examining committee member shall send a copy of the motion to the petitioner, guardian and counsel. The original motion should be sent to the Clerk of Court. The examining committee member may set a hearing on the motion and shall be permitted to attend the hearing telephonically.

12. SUGGESTION OF CAPACITY:

A Suggestion of Capacity may be filed by the Ward or any interested person as defined by the Florida law and the Florida Probate Code. A Suggestion of Capacity is to be filed in the same circuit in which the guardianship is pending. All parties should keep in mind that only limited documents filed in a guardianship case are confidential. See Fla. R. J. Admin. 2.420(d)(1)(B)(xv). The remainder of filings in a guardianship case are not confidential. Accordingly, all filings related to the Ward's capacity should be filed in the same case in which incapacity was determined.

In the event that the guardianship case was transferred from another county or state, such that the petition to determine incapacity was not determined in this circuit, the Suggestion of Capacity must be filed in this circuit's guardianship case file. In that event, any documents that are filed in the guardianship case that include confidential information, as described in Rule 2.420, Florida Rules of General Practice and Judicial Administration, must be accompanied by a Notice of Confidential Information.

The contents of a Suggestion of Capacity must comply with the Florida law and with the Florida Probate Code, specifically including Rule 5.681, Florida Probate Rules, and §744.464, Florida Statutes. Oftentimes, the Ward or interested person will hire a psychologist or physician to prepare a report to accompany the Suggestion of Capacity. This report may not satisfy the statutory requirement for the Court to appoint a physician. The Court will appoint an examining physician even if the interested person has hired an expert.

13. SETTLEMENT OF CLAIMS OF MINORS AND RELATED GUARDIANSHIPS OF MINORS:

Settlements of claims of minors are governed by §744.3025, Florida Statutes, and Rule 5.636, Florida Probate Rules.

A. Where to File a Petition for Approval of Settlement of a Minor's Claim:

If a civil action has been filed, the petition for approval of a settlement of a claim of a minor should be filed in that civil action. If no civil action has been filed, it is appropriate to file the petition in the guardianship division. A proposed settlement of a minor's claim that involves the use of a structured settlement, annuities, or any distribution to the minor over a period of time may require the creation of a guardianship, specifically a guardianship of the property of a minor.

B. Procedures Regarding the Appointment of a Guardian Ad Litem:

The settlement of some cases requires the appointment of a guardian ad litem pursuant to §744.3025, Florida Statutes. In such cases, the petitioner may select the guardian ad litem to propose to the Court and may submit a proposed order with a motion without the necessity of a hearing. The guardian ad litem proposed should be an attorney with knowledge of the area of law that is relevant to the claim of the minor. The petitioner's selection of the guardian ad litem will be subject to the Court's approval. The procedure of the petitioner selecting the guardian ad litem may change in the event the local bar and the Court generate a working list of

qualified attorneys who may be appointed.

C. Guardian Ad Litem's Analysis and Report to the Court:

The report generated by the appointed guardian ad litem shall be filed in advance of the hearing to approve the settlement, and the report should address liability, damages, potential additional tortfeasors, insurance policy limits, if applicable, and the reasons the proposed settlement is in the best interests of the minor. While the areas of analysis in the report are not required to be a specific length, the analysis is expected to set forth a basis for the Court to conclude that the guardian ad litem has conducted a meaningful analysis that is consistent with Rule 5.636(f), Florida Probate Rules. Most of the time, it will be permitted for the attorney appointed as guardian ad litem to appear by telephone at the hearing on the petition for approval of the settlement.

D. Termination of Guardianship of Minors:

On the termination of minor guardianships, petitions and orders for fees are required to be filed with the Clerk prior to terminating the minor guardianship. Filed receipts for assets received by the minor at the close of the guardianship are also required.

14. EMERGENCY TEMPORARY GUARDIANSHIP:

Petitions for appointment of an emergency temporary guardian must comply with §744.3031, Florida Statutes, and Rule 5.648, Florida Probate Rules. The petition should specifically detail the emergency, as the term emergency is statutorily defined. The petition must be filed with the Clerk and a courtesy copy promptly provided to the probate judge. If the probate judge is not available, then the chief judge may hear the petition or assign another judge to make the determination in the absence of the probate judge.

The petition must be made either under oath or with the following statement contained in the petition: "Under penalties of perjury, I declare that I have read the foregoing, and the facts alleged are true, to the best of my knowledge and belief."

An emergency temporary guardian order entered without notice to all other interested persons will be granted only if the facts alleged and sworn to demonstrate a true emergency to the health or safety of the ward or alleged incapacitated person, or demonstrate that the ward or alleged incapacitated person is unable to pay their necessary expenses or that their assets are otherwise subject to imminent loss, theft, damage or destruction.

15. ADVERSARY PROCEEDINGS:

Adversary proceedings shall be governed by Rule 5.025, Florida Probate Rules.

16. ORDERS:

Proposed orders should be submitted to the Court within ten (10) days of the Court directing the preparation of the order. In the event that the attorney who has been directed to prepare the order is aware that a party objects to the language of the order, the attorney should submit the proposed order with a cover letter advising the Court that there is an objection and further assuring the Court that the interested parties have been sent a copy of the cover letter and proposed order at the same time. The Court will hold the proposed order for five days to give any party opposing the proposed order an opportunity to submit an objection that specifically sets forth the grounds upon which the objection is based. The objection should be accompanied by an alternate proposed order that accurately reflects the ruling of the Court. The objection and alternate proposed order must be submitted within five days of receiving the original proposed order.

In the event that a party requests that the Court enter an order without a hearing, the petition or motion upon which the order is based must include a statement as to the consent of all interested parties. The order should reference the record that establishes the consent of the parties.

The title of any proposed order submitted to the Court should refer to the petition, motion or pleading of which the order is disposing. If the order contains findings of fact announced at a hearing, the content of the order should include an introductory paragraph reciting the date on which the hearing was held, the parties who were present, and the petition, motion or pleading of which the order is disposing and the date on which said motion or petition was filed. The findings of fact and conclusions of law announced by the Court should be set forth after the introductory paragraph, and thereafter, the ruling announced by the Court should be set forth as directed.

The Court cautions all parties to avoid *ex parte* communication with the Court. To avoid this, submission of orders (and other documents) must comply with rules 2.516 and 2.525, Florida Rules of General Practice and Judicial Administration, and all other applicable rules of court. Additionally, the attorney who submits an order is responsible for providing a sufficient number of hard copies of the proposed order along with envelopes that have been correctly addressed and stamped. Attorneys are further advised that the Florida E-filing Portal is being upgraded to allow for submission of proposed orders through the E-filing Portal. At such time as Polk, Hardee or Highlands County institutes use of the portal for submission of proposed orders, that procedure will supersede the process outlined herein for mailing or emailing proposed orders to the Court for that county.

17. SUBSTITUTION OF COUNSEL AND RESIDENT AGENT:

Any stipulation for the substitution of counsel for a guardian must be signed by the attorneys involved and by the guardian. If the former attorney is the designated resident agent for the guardian, then the former attorney should resign that position and a new resident agent be designated.

18. INITIAL AND ANNUAL GUARDIANSHIP REPORTS:

Except in the case of registered professional guardians, all guardianship reports must include the guardian's signature, current address, current telephone number with area code, and

email address. In the case of registered professional guardians, this information is already in the Clerk's file and only the guardian's signature is therefore necessary.

With the exception of reports from guardian advocates, all reports should include the signature of the attorney of record, the attorney's current address, current telephone number with area code, e-mail address and Florida Bar number. If any report cannot be filed in accordance within the applicable statutory deadline, a motion for extension of time stating good cause for an extension must be filed before the report becomes overdue.

A. Initial Plan:

As required by §744.362 and §744.363, Florida Statutes, and Rule 5.690, Florida Probate Rules, every Guardian of the person must file an Initial Plan within 60 days after the Letters of Guardianship are signed. The reporting period for the Initial Plan begins with the date the Letters of Guardianship were signed and ends the following year on the last day of the anniversary month in which the Letters of Guardianship were signed.

B. Annual Guardianship Plan

As required by §744.367 and §744.3675, Florida Statutes, and Rule 5.695, Florida Probate Rules, every guardian of the person must file an Annual Plan at least 60 days and no more than 90 days before the end of the current plan's reporting period. The reporting period of all Annual Plans ends each year on the last day of the anniversary month in which the Letters of Guardianship were signed. The reporting period for the first Annual Accounting begins with the date that the Letters of Guardianship were signed, while all subsequent Annual Plans will begin on the first day of the first month following the anniversary month in which the Letters of Guardianship were signed. The plan must be prospective, covering the ward's anticipated needs in the upcoming year and must accurately indicate the time period covered so that no lapse exists between annual reporting periods. Florida law requires that an assessment from the Ward's physician accompany the Annual Plan.

C. Verified Inventory:

In accordance with §744.362 and §744.365, Florida Statutes, and Rule 5.690, Florida Probate Rules, every Guardian of the property must file a Verified Inventory within 60 days after the Letters of Guardianship are signed. The Verified Inventory shall indicate all of the ward's sources of income and shall include descriptions of and values for all real and personal property of the ward that has come into the guardian's possession or knowledge. A Verified Inventory is required regardless of the amount and the nature of the Ward's assets. There is no provision in the law to waive a Verified Inventory.

D. Approval of Plans, Inventories and Accountings:

Orders approving all plans, inventories and accountings must be prepared by the

Guardian's counsel and submitted to the Clerk's office when each report is filed.

E. Annual Accounting:

- (i) In accordance with §744.367 and §744.3678, Florida Statutes, and Rules 5.695 and 5.696, Florida Probate Rules, unless otherwise ordered by the Court, every Guardian of the property must file an Annual Accounting no more than 90 days after the end of a reporting period. The reporting period of all Annual Accountings ends each year on the last day of the anniversary month in which the Letters of Guardianship were signed. The reporting period for the first Annual Accounting begins with the date that the Letters of Guardianship were signed, while all subsequent Annual Accountings will begin on the first day of the first month following the anniversary month in which the Letters of Guardianship were signed. Annual Accountings must include all property interests of the Ward regardless of how the property is titled unless specifically exempt under §744.3678, Florida Statutes.
- (ii) Under certain circumstances, a guardian of the property may use the simplified accounting procedures defined in §744.3679, Florida Statutes. Guardians who are not registered professional guardians are cautioned that the simplified accounting procedure requires an original or certified statement from the financial institution holding the assets.
- (iii) Highlands County Audit Documentation Requirements: For guardianship cases filed in or transferred to Highlands County, Florida, the following enhanced audit requirements shall apply:
 - a. Upon filing the Annual Accounting, the guardian shall provide a copy of the annual or year-end third party (financial institution holding ward's funds) statement for all bank and investment accounts. An annual or year-end statement is defined as a statement ending at the end of the fiscal year which is being reported and which contains all transactions for that fiscal year. If there is no single statement that covers all the transactions for the fiscal year, then the guardian shall provide all the statements (each month or quarter) for the fiscal year in question.

Guardians shall also provide copies of all canceled checks, receipts for all expenditures, documentation of all deposits and withdrawals, evidence of all investment transactions, and evidence of valuation and/or sale of assets, upon request, including but not limited to real estate, vehicles and like property.
 - b. All required documentation must be submitted with the annual accounting. If documentation is incomplete, the clerk may: note deficiencies in the audit report, request additional documentation, and/or recommend the court require production of missing

documents.

- c. Guardians shall: maintain organized records throughout the accounting period, preserve all financial records for 3 years after discharge, and promptly respond to requests for additional documentation within ten (10) business days.
- d. Counsel for guardians shall: review documentation for completeness before filing, ensure clients understand documentation requirements, and assist in obtaining missing documentation when requested.
- e. This section provides guidance to ensure efficient audits and compliance with Florida law. Failure to provide required documentation may result in disapproval of the accounting.

F. Audit Fees:

Audit fees must be paid to the Clerk in accordance with §744.365 and §744.3678, Florida Statutes. A fee schedule for Polk County cases is available on the Polk County Clerk's website, www.polkcountyclerk.net. Should circumstances require a request to waive the audit fee, the request must be filed anew each year.

19. GUARDIAN'S FEES:

A. Court Order Required:

No payment of guardian fees and expenses will be made without the entry of a Court order approving the fees and expenses. Fees will be awarded by the Court after applying the analysis specified in §744.108(2), Florida Statutes. Failure to comply with statutory, administrative, or Court-ordered requirements may delay the approval of a guardian's fee or cost petition. See Fla. Stat. §744.108(2)(i).

B. Billing Period:

Each petition for guardian's fees or costs must state the billing time period covered by the current petition and must also set forth the amount of all prior fees or costs paid to the guardian. It is preferred that the time period covered in the petition not exceed a billing time period of more than one year or less than intervals of six months. Absent special circumstances, petitions for guardian's fees or costs will not be approved if statutorily-required reports are delinquent (unless a motion for extension is pending).

C. First Petition for Payments of Fees or Costs: Inventory Required

The guardian's first petition for payment of fees or costs will not be approved until an inventory has been filed by the guardian (*see* section 18.C. of this Order).

D. Justifying Fees and Costs: Required Itemizations

- (i) **Payment of Guardian's Fees:** Each petition for payment of a guardian's fees must be accompanied by an itemized list of the services provided by the guardian or the guardian's staff for which compensation is sought, listed in chronological order and line-item format, with each line-item containing a specific description of the services rendered or expense incurred, the duration of time expended on each service in one-tenth-of-an-hour (0.10) increments, the hourly rate charged for each service, and the total charge requested for that line-item. For example:

Date	Initials	Service	Dur.	Rate	Charge
10/30/15	MGG	Processing Ward's mail	0.2	\$	\$
10/30/15	ALT	Writing checks for Wards's bills	0.3	\$	\$
11/02/15	ALT	Call from Ward's physician	0.2	\$	\$
11/02/15	MGG	Checking on Ward	0.4	\$	\$

Total ALT: 0.5 hours x (rate) = (total charge)

Total MGG: 0.6 hours x (rate) = (total charge)

- (ii) **Reimbursement of Guardian's Incurred Costs:** Each petition for payment of costs incurred by a guardian must include an itemized list of the expenses for which compensation is sought, listed in chronological order and line-item format, with each line-item containing a specific description of the expense, any applicable quantity, any applicable rate, and the total charge requested for that line item. For example:

Date	Initials	Cost	Qty	Rate	Charge
10/30/15	MGG	Stamps	3	\$	\$
11/02/15	ALT	Mileage	6	\$	\$
11/02/15	MGG	Mileage	6	\$	\$

20. ATTORNEY'S FEES

The attorney for a guardian may petition the Court for approval of attorney's fees without hearing at any time if the guardian has executed a written consent or has joined in the petition. The attorney for the Ward may petition the Court for approval of attorney's fees without hearing after notice to the guardian and interested persons. If the attorney and the guardian cannot agree upon a fee or if an objection to the attorney's fees is made by an interested person, a hearing must be set before the Court.

Any petition for attorney's fees must contain an itemized billing statement for the attorney's service with the amount of time expended on each service in one-tenth (0.10) of an hour increments. Any written consent of the guardian to the requested fees should be filed contemporaneously with the fee petition or motion. If attorney's fees are paid to the guardian's attorney by the guardian without prior Court approval, the guardian must attach an itemized billing statement for the fees to the annual accounting in which the disbursement for the attorney's fees

is documented, in accordance with the provisions of §744.444(16) and 744.108, Florida Statutes.

21. CONTACT INFORMATION:

All parties must promptly advise the Court, via written notice filed with the Clerk, of any change of that party's name, address, telephone number, or e-mail address.

22. CHANGE OF WARD'S RESIDENCE:

If the ward's residence changes to an adjacent county, the guardian must promptly inform the Court, in writing, in accordance with §744.1098(2), Florida Statutes. Pursuant to §744.1098(1), Florida Statutes, a guardian may not, without the Court's prior approval, change the residence of the ward to a non-adjacent county or to another state. If the ward's permanent residence is changed to any county other than Polk County, the guardian of the person or the guardian advocate must file all appropriate pleadings and proposed orders to have venue of the guardianship case transferred to the Court in the appropriate county in accordance with §744.1097(3), Florida Statutes, and Rule 5.050, Florida Probate Rules.

23. DEATH OF WARD:

Within thirty (30) days after the Ward's death, the guardian must file a suggestion of death with the clerk. A certified copy of the Ward's death certificate must be applied for within 15 days of the ward's death and filed with the clerk upon receipt.

The guardian of the property must file a final report in compliance with §744.527, Florida Statutes, and Rule 5.680, Florida Probate Rules, unless waived by all necessary interested persons, and a petition for discharge, unless extended by Court order. Any objections to the final accounting or discharge are required to be filed in accordance with Rule 5.680, Florida Probate Rules.

24. MOTIONS TO WITHDRAW BY GUARDIAN'S ATTORNEY:

Any motion to withdraw as the attorney for the guardian should state in the motion the reasons withdrawal is requested. The attorney's statement that professional considerations require termination of the representation ordinarily should be accepted as sufficient. Any motion to withdraw as attorney for a guardian must include the name, address and telephone number of the guardian.

Attorneys should be mindful of their obligations to both clients and the Court under rules 4-1.6 and 4-3.3, of the Rules Regulating the Florida Bar and termination of representation must comply with Rule 4-1.16 and all other Rules Regulating the Florida Bar.

25. PROFESSIONAL CONDUCT AND COURTROOM DECORUM:

All persons appearing before the Court should at all times be mindful of the 10th Judicial Circuit's motto: "Where Professionalism is a Priority." The circuit has previously adopted Standards of Professional Courtesy as set forth in Administrative Order No. 7-6.0 found at <http://www.jud10.flcourts.org/sites/all/files/docs/7-6.0.pdf>. While those Standards are stated in

terms of “attorneys,” all persons appearing before the Court are expected to conduct themselves consistent with these minimum standards.

26. EFFECTIVE DATE: This Administrative Order **VACATES** and **SUPERSEDES** Administrative Order 4-3.1, entered on December 30, 2016, and is effective upon signing.

DONE AND ORDERED on this 5th day of March, 2025.

s/JAMES A. YANCEY, Chief Judge

Original:
Polk County Clerk of Court

Copies:
All judges
Hardee County Clerk of Court
Highlands County Clerk of Court
Polk County Clerk of Court
Electronic Bar Mailing