

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN RE: AMENDMENT TO COURT OF CHANCERY RULES, SECTION XVII, RULE 175

This 15th day of Decmeber 2014, IT IS HEREBY ORDERED that Court of Chancery Rules, Section XVII, Rule 175 shall be amended effective January 1st, 2015.

Rule 175 shall be amended as follows:

Rule 175. Petition for ~~appointment~~Appointment of ~~guardian~~Guardian for Adult Allegedly Disabled Person

~~(a) Filing petition.—The~~Form of Petition. A petition for the appointment of a guardian for the person or property, or both, of aan adult disabled person, as defined in 12 Del.-C. ~~†.§~~ 3901(a)(2)-(3), shall be ~~filed~~verified. ~~The information in the Court of Chancery:~~
~~(b) Proposed order annexed.—A form of preliminary order setting the matter down for hearing and providing for the giving of the required notice petition shall be filed with~~provided to the best of petitioner’s knowledge. If the petitioner cannot ascertain particular information after exercising due diligence, the petition:
~~(c) Contents of petition.— shall state that fact.~~
The petition ~~for the appointment of a guardian shall be verified and shall set forth:~~contain at a minimum the following items of information:

(1) The name of the ~~person alleged to be~~allegedly disabled person, the name and address of petitioner and the relationship of the petitioner to the ~~person alleged to be~~allegedly disabled; person or, if not related, the nature of the petitioner's interest in the person or property of the allegedly disabled person.

(2) The age, marital status, domicile and place of present residence of the ~~person alleged to be~~allegedly disabled person; whether such person is a patient or otherwise a resident of any hospital or institution of any type whatsoever; and, if so, the name and address of such institution and the date and circumstances surrounding the admission or entry into such institution of the ~~person alleged to be~~allegedly disabled person.

(3) The names and addresses of any potentially interested party. If the potentially interested party is a minor, the petition shall state the minor’s approximate age. If the interested party is an institution, such as an acute or long term care facility where the person has received care, then the petition shall identify an administrator or other appropriate individual to contact. The term “interested party” shall include:

(A) The spouse, if any, and the next of kin of the ~~person alleged to be~~allegedly disabled. If any such next person. Next of kin are minors, their approximate ages shall be given if known. If, after exercising due diligence, the petitioner cannot ascertain the name or address of a spouse or next of kin, if any, means those individuals who would be

entitled to inherit through the estate of the allegedly disabled person if that fact shall be stated.~~person died intestate.~~

(B) Any person acting for or named by the allegedly disabled person as a fiduciary, executor, or beneficiary in a power of attorney or testamentary instrument, or named as an agent in an advanced health care agreement or other health care proxy.

(C) Any person primarily responsible in the past six months for the care of the person or finances of the allegedly disabled person and any long term care facility where the person has received care during that time.

(4) Any information ~~known to petitioner~~ concerning the existence and location of any will of the ~~person alleged to be allegedly~~ disabled ~~and person or~~ any power of attorney executed by the ~~person alleged to be allegedly~~ disabled. ~~The person and the~~ identity of any attorney-in-fact named in such power of attorney ~~shall be stated.~~

(5) A ~~list~~listing of the assets of the ~~person alleged to be allegedly~~ disabled, ~~insofar as known to petitioner, person and~~ the probable value thereof, the estimated ~~rental value of any real estate; the estimated~~ income that the allegedly disabled person receives from ~~other all~~ sources; ~~such person's known, the~~ obligations and liabilities; of the allegedly disabled person, and any information ~~known~~ concerning ~~the other~~ arrangement for paying the expenses of ~~such person.~~ (6) ~~If the petitioner desires authority as guardian to expend principal of the disabled person's estate for reasons other than clothing, support, care, protection, welfare and rehabilitation of the disabled person, to borrow money for the benefit of the disabled person, or to prepay burial expenses, application for such authority may be set forth in the petition. The form of application shall follow the form set forth in Rule 178 so far as applicable.~~ allegedly disabled person.

(7)

(6) Whether the ~~person alleged to be allegedly~~ disabled person was ever a member of the armed services of the United States.

(8)

(7) Whether, ~~to the best knowledge of petitioner, the person alleged to be allegedly~~ disabled person has been represented by a Delaware attorney within the past two years and, if so, the name of such attorney.

(9)

(8) A general allegation that the ~~person alleged to be allegedly~~ disabled person is under the age of 18 or is unable properly to manage his or her person, ~~his or her estate, or both, property~~ because of a disability, and as a consequence is in danger of dissipating his or her ~~estate property~~ or becoming the victim of designing persons and, ~~whereif~~ an interim guardian is sought, specific allegations demonstrating that the ~~person alleged to be allegedly~~ disabled person is in danger of incurring imminent serious physical harm or substantial economic loss or expense, which may occur before a hearing for the appointment of a guardian may be held;

(10) ~~That~~

(9) Whether the ~~person alleged to be~~allegedly disabled ~~person~~ has ~~no~~ a guardian to take charge of and manage his or her person or ~~estate, or both~~property;

~~(11)~~

(10) Whether, in the opinion of petitioner, the giving of notice pursuant to Rule 176 is likely to result in any harm to the ~~person alleged to be~~allegedly disabled ~~person~~; and

~~(12)~~

(11) A prayer that the Court appoint a guardian, and an interim guardian where necessary, to take charge of and manage the person or property, or both, of the disabled person.

~~(d) Annexed medical report.—There shall be annexed~~

(b) Request for Specific Authority. If the petitioner seeks specific authority as guardian to use the allegedly disabled person's property for reasons other than the support, care, protection, welfare, and rehabilitation of the disabled person, to borrow money for the benefit of the disabled person, or to prepay burial expenses, then the petition ~~for the appointment of~~shall specify the nature of the authority requested and why the petitioner believes the expenditure would be in the best interests of the allegedly disabled person. The form of such request shall follow Rule 178 so far as applicable.

(c) Exhibits to the Petition. The petition shall attach the following items as exhibits:

(1) A form of preliminary order setting the matter down for hearing and providing for the giving of the required notice shall be filed with the petition.

(2) A form of final order that includes, as applicable:

(A) A paragraph stating that an order from the Court of Chancery is required to authorize the opening of any safe deposit box of the disabled person and to sell or encumber any real property of the disabled person.

(B) If an attorney ad litem or guardian ad litem was appointed, a ~~guardian of~~paragraph discharging the attorney ad litem or guardian ad litem from further service on behalf of the disabled person.

(C) If an attorney filed the petition on behalf of the guardian, a ~~person who is alleged to be mentally or physically disabled~~paragraph stating that the attorney is responsible for ensuring that any guardianship bank account required by the final order is properly opened and that the proof of compliance and inventory are filed within 30 days.

(D) If bond is required, a ~~verified medical report which~~paragraph stating that the bond shall be ~~made~~executed, notarized, and filed within seven (7) days of the entry of the order and that no copy of the final order, whether certified or not, will be released until the bond is filed.

(3) An affidavit filed by the attorney stating that he has explained to the guardian the fiduciary duties and responsibilities of a guardian. This requirement shall not apply

where the proposed guardian is a fee-for-service guardian or the Office of the Public Guardian.

(4) A physician's affidavit, executed by a medical or osteopathic doctor authorized to practice. ~~The report shall give~~ medicine, that (i) gives particulars as to the allegedly disabled person's alleged disabilities ~~and shall state, (ii) states~~ the date of the last examination by the doctor of the ~~person alleged to be~~ allegedly disabled. ~~It shall also state person, (iii) states~~ whether in the doctor's opinion it would be meaningless or detrimental to the health of the ~~person alleged to be~~ allegedly disabled person to serve notice of the hearing upon ~~such~~ the allegedly disabled person, and (iv) if the ~~opinion is that such~~ doctor believes service would be detrimental, the ~~report shall set forth with particularity~~ the particularized facts which led to that conclusion.

(5) An affidavit detailing the proposed guardian's history and personal information in the form provided for in these Rules.

(d) Withdrawal by Attorney of Record. An attorney of record who has appeared in connection with a petition to appoint a guardian may withdraw without filing a formal motion to withdraw if (1) the form of final order appointing a guardian states the attorney shall be discharged upon the entry of the order and filing of any bond or proof of compliance and inventory required by the order and (2) the attorney files a notice of withdrawal that includes a notarized consent to the withdrawal executed by the guardian or petitioner.