

Attorney ad litem checklist

- Visit person with an alleged disability (“PWAD”) at least once in their home setting or facility where they are living either in person or remotely through audiovisual technology.
- Unless PWAD is unconscious:
 - inform PWAD of contents of the petition;
 - advise PWAD of the guardianship process and the date of the guardianship hearing, and that a guardianship is being sought for them;
 - explain what guardianship means to the PWAD (review Matter of JTM, 2014 WL 7455749 (Del. Ch. Dec. 31, 2014));
 - if the physician’s affidavit indicates that the PWAD can consent to the guardianship, then (1) make sure that the PWAD receives a copy of the petition, and (2) indicate the PWAD’s position regarding the guardianship in your report.
- Investigate PWAD’s circumstances (*e.g.*, names and relationships of other persons living in the home, PWAD’s work situation, social life).
- Review physician’s affidavit and consider talking to medical professionals and reviewing medical history.
- Contact Adult Protective Services (“APS”) to discern if there are any outstanding cases involving the PWAD or the prospective guardian, by emailing DOJ.Guardianships@delaware.gov with your appointment order and the names and dates of birth for the PWAD and prospective guardian. The AAL shall confirm that they contacted APS and whether any outstanding cases were reported; the AAL should not, however, include any information from the confidential APS reports in the AAL’s report and shall instead suggest the Court issue a court order to APS to obtain the records if the AAL believes the Court should review the records.
- If you contacted the Office of the Public Guardian, disclose in your report the reason you contacted them and the outcome.

- If the PWAD is residing in a facility, such as a hospital, skilled nursing facility, rehabilitation center, or group home, inform the facility about the petition for guardianship and invite the facility to disclose any objection or concerns; confirm such notification and any response in your report.
- Interview prospective guardian(s) and other interested parties.
- Advocate for best interests (including whether PWAD needs a guardian, whether a limited guardianship is more appropriate and what rights PWAD should retain, and whether the prospective guardian(s) is/are appropriate).
- Advise the Court as soon as possible verbally, and in your report, if you determine the wishes of the PWAD diverge from his/her best interests and the Court may appoint a second Attorney *ad litem* for the PWAD.
- File your report with the Court by the noon deadline and serve a copy of your report on the petitioner(s) and any cross-petitioners. Include in your report your fee request and attach to your report (1) a fee affidavit per Rule 88 and (2) a certificate of service.