



BYLAWS OF THE ADULT PUBLIC GUARDIANSHIP REVIEW BOARD OF ST MARY'S COUNTY

ARTICLE I

Name

The name of this Committee shall be the Adult Public Guardianship Review Board.

ARTICLE II

Purpose

The purpose of this Committee shall be to review and make recommendations to the court regarding the continuation, modification or termination of public guardianship of disabled adults.

ARTICLE III

Membership

Section 1

The Review Board shall consist of eleven members to include the following:

- a. two shall be physicians, one of whom should be a psychiatrist from the local department of health which employs psychiatrists;
- b. one shall be a professional representative of a local nonprofit social service organization;
- c. one shall be an attorney;
- d. two shall be citizen representatives from the local community (lay individuals);
- e. one shall be a professional in the field of disabilities; and
- f. one shall be a person with a physical disability

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- a. one shall be a professional representative of the local social service;
- b. one shall be a representative of a local commission or department on aging; and
- c. one shall be a public health nurse.

Section 2

All Board members will be appointed by the St. Mary's County Commissioners.

Section 3

Each member of the Review Board shall serve 2 (two) consecutive staggered three-year terms and until his successor is appointed and qualifies. At the inception of a new Review Board, of the original appointees, two shall serve one-year terms and two shall serve two-year terms. A member appointed to fill a vacancy serves for the remainder of the unexpired term and would be eligible for two consecutive full terms.

Section 4

Members of the Board may not receive compensation, but shall receive - reimbursement for expenses incurred in the performance of his/her duties, in accordance with the uniform travel regulations of the state.

Section 5

Any member desiring to resign from serving on the Committee shall submit his resignation in writing to the Board Chairperson, the Appointments Secretary and the County Administrator. The County Administrator shall present it to the Board of County Commissioners.

Section 6

Three consecutive unexcused absences at Commission meetings will result in consideration of a member's replacement on the Board.

ARTICLE IV

Confidentiality and Security of Review Board Documents

Section 1

It is essential that all Board members keep information about guardianship clients in the strictest confidence.

Section 2

All materials disseminated to Review Board members for their study prior to and during board hearings should be recovered by the Review Board's secretary upon the completion of the hearing. Each Review Board member may keep a personal file of Review Board business minutes, hearing minutes, correspondence and guardianship reports, but all materials and documents must be returned to the Review Board after termination of his/her ;~ appointment. All information in the possession of a Review Board member is to be kept confidential, The copying of all material by Review Board members, sharing information received in their capacity as board members with any person not on the Review Board, with the exception of the disabled person or his/her attorney, and the guardian or his/her designee, should be prohibited (see Family Law Article, Section 14-404(d)). No other person should be allowed access to those files without a Court Order.

ARTICLE V

Meetings: Purpose, Scope and Procedures

Section 1

The regular meetings of the Board shall be held in accordance with the Open Meetings Act. However, when specific guardianship clients are discussed, the meetings will be closed. The Annotated Code of Maryland, Family Law Article, Section 14-404 states that all records reviewed by the Adult Public Guardianship Board are confidential.

Section 2

Adult Public Guardianship Review Boards were created by state law, in each political jurisdiction (where public guardianship is held), to provide for the impartial oversight of public guardianship cases, and to ensure that disabled persons receive the services and treatment which have been ordered by the Court.

Currently, the guardianships reviewed by the Review Board are public guardianships of the person, as guardianship of the property does not come under the preview of the Review Board. Nevertheless, there may be some extenuating circumstances or conditions about the ~ property which may be considered if they affect the guardianship of the person and the welfare c and rights of the disabled person.

Section 3

A mandatory review of public guardianship cases must be performed annually, semi-annually or more frequently under the two provisions of the Annotated Code of Maryland, Family Law Article, Section 14-404, as amended.

Section 4

Review boards should perform full reviews if there is any indication that the case is in flux or that some conditions may need monitoring.

Section 5

When a file review is conducted, the guardian or the guardian's representative may attend and are required to submit a written report. It is not mandatory that disabled persons and/or their attorneys attend file reviews.

Section 6

In each Review Board full review meeting, the disabled person shall appear if able, and shall be represented by an attorney of his/her choice. If such choice is not feasible, an attorney shall be appointed by the Court (Family Law Article, Section 14-404). If the disabled person is unable to attend the hearing, the attorney should state that he/she has waived the disabled person's right to be present and specify the reason for the disabled person's absence. It is the responsibility of the guardian to arrange transportation and any other necessary arrangements that may be required if the disabled person desires to appear before the Review Board.

Section 7

The Chairperson and Vice Chairperson, Adult Public Guardianship Review Board, shall be selected by Board members. The Chairperson and Vice Chairperson shall serve two year terms and may be reselected.

Section 8

Review board hearings should be chaired by the Review Board's chairperson or vice-chairperson, or a member designated by the chairperson. Although the law does not require a quorum, the St. Mary's County Adult Public Guardianship Review Board does require that at least five members be present in order to conduct official business.

Section 9

A notice of a Review Board meeting should be sent to the guardian, the disabled person and the attorney for the disabled person at least 45 days prior to the scheduled meeting.

Section 10

Board meetings may be conducted in an informal manner by the Chairperson or his/her designee. The purpose of the Board meeting is stated to the disabled person and/or his/her attorney.

Section 11

The guardian or his/her representative should present a brief oral report concerning the guardianship and his/her recommendation concerning continuance, modification, or termination of the guardianship. The disabled person, if present, and/or his/her attorney, are - given the opportunity to question or comment about the guardian, to address the Review Board, or to ask the Review Board or any of its members questions concerning the guardianship any may recommend continuance, modification, or termination of the guardianship.

Section 12

After these presentations, the members of the Review Board may question either the guardian, the disabled person, or the attorney representing the disabled person. The Review Board's recommendation (to terminate, continue or modify the guardianship) should be made after all statements and inquiries have been made.

Section 13

Following the hearings, the recording secretary of the Review Board should compose the minutes listing the members present and summarize what was discussed during the meeting to include any administrative discussion at the hearings. The minutes should be reviewed by the chairperson or designated member of the Review Board for approval and copies forwarded to each member. A copy of the Board Minutes pertaining to a particular case should be placed in each disabled person's master file.

ARTICLE VI

Report of the Guardian

Section 1

The law requires the guardian's report to the Court to include:

- a. present place of residence;
- b. health status of the ward;
- c. the guardian's service plan;
- d. recommendations to continue, modify, or terminate the guardianship; and
- e. the most recent dates of visits by the guardian or his/her designee

Section 2

In addition, it is also useful for the guardian to provide some or all of the following information, as appropriate:

- a. a background case history of the disabled person (at least initially and as altered);
- b. a copy of the Court order for guardianship (initially and as altered);
- c. any changes in the disabled person's living arrangement, and a description of the current living arrangement;
- d. current evaluation of the disabled person's disability, and an assessment of the disabled person's progress since the appointment of a guardian, or since the last review;
- e. medical information;
- f. financial information;
- g. prognosis for the disabled person; and
- h. the report should be signed by the guardian or the designee assigned to the case of the disabled person.

Section 3

Each member of the Review Board should receive a copy of the guardianship report. In addition, one copy of the report should be distributed to the attorney- representing the disabled person. If a specific case is unusually complex, the Chairperson may distribute this report 20 days prior to the scheduled hearing to allow all parties ample time to review the documents. Notice of the hearing will be sent out to all parties 20 days in advance.

ARTICLE VII

The Review Board's Deliberation of the Guardianship

Section 1

It is suggested that only those persons directly concerned with the guardianship under consideration should be present during the hearing process. However, it is at the discretion of the chairperson of the Review Board to determine whether the guardian, the disabled person, or the attorney should remain to facilitate the Review Board's deliberation.

Section 2

The following items are suggested aspects for discussion in preparation for the Review Board's report to the Court; deliberations need not be limited to these items:

- a. Does the need for guardianship still exist?
- b. Has the disabled person's capacity changed so the guardianship order should be modified to grant the guardian more powers or to remove some of the powers originally granted?
- c. Is the present service plan appropriate for the current needs of the disabled person?
- d. Is the Service plan being followed effectively?
- e. Should additional and/or different services be offered?

Section 3

The Court is not obliged to follow the Review Board's recommendation. For example, the Review Board may recommend termination of a guardianship; however, the Court may determine that the guardianship be continued. The Court considers the recommendation of the Review Board, but may make an independent and opposing ruling.

AR11CLE VIII

Report to the Court

Section 1

After a case is reviewed by the Board, the Board's recommendation should be typed and forwarded to the Court. Copies of the Review Board's recommendation should be sent to the guardian, disabled person, the disabled person's attorney, and be placed in each disabled persons master file.

Section 2

When a Review Board is uncertain as to what recommendation to make in a specific case, it may recommend continuation of the guardianship and recommend that the Court hold a hearing. However, the Review Board should specify its areas of uncertainty and concern in its Report to the Court.

Section 3

Any member or members of the Review Board may disagree with a majority opinion of the Review Board. A dissenting opinion may be submitted to the Chairperson of the Review Board which must be forwarded to the Court with the majority recommendation. - The Review Board's recommendation does not affect, in any way, the right of the disabled person to seek the Courts

review of the guardianship. The disabled person may petition the Court for continuation, termination, or modification of the guardianship regardless of the Review Board's action.

AR11CLE IX

Rights of the Disabled Person

The disabled person has the following rights:

- a. To be part of the decision making process as far as the person is functionally able to do.
- b. To appear before the Review Board.
- c. To be represented by an attorney.
- d. To request the attendance of interested parties on the disabled person's behalf.
- e. To present information on his/her own behalf.
- f. To have the Review Board provide an impartial recommendation.

AR11CLE X

Annual Report

At the end of each calendar year, the Board will submit a statistical report to the Court and the Board of County Commissioners, indicating the number of clients under public guardianship during the year and the characteristics (age and nature of disability) of each client.

ARTICLE XI

Parliamentary Authority

The rules contained in the current edition of Robert's Rules of Order Newly revised shall govern the Committee in all cases to which they are applicable and in which they are not inconsistent with these bylaws and any special rules of order the Committee may adopt.

AR11CLE XII

Amendment of Bylaws

Subject to the final approval by the Board of County Commissioners, these by-laws may be altered, amended, or repealed and new by-laws may be adopted by a vote of a majority of all members of the Board, at any monthly meeting or at any special meeting when the proposed amendment has been sent out in the notice of such meeting.