

'A BETTER WAY'

New guardianship rules attempt to standardize, clarify process

By **HEATHER COBUN**
HCobun@TheDailyRecord.com

Changes to Maryland's guardianship rules that went into effect on Jan. 1 are aimed at standardizing forms and procedures throughout the state as well as making the process more clear for laypeople and practitioners alike.

The changes include new certification requirements to be completed by doctors and social workers; new training and eligibility requirements for attorneys appointed to represent subjects of guardianship proceedings; and new orientation and training requirements for guardians, according to the Maryland judiciary. The changes, adopted in a rules order in October, were amended to clarify they apply to guardianships of minors created in circuit and orphans' courts.

"I think that they're going to go so far in helping practitioners represent their clients," said Angela B. Grau, a member of a workgroup formed in 2015 to propose changes to the guardianship rules. "The real goal is to help self-represented litigants and self-represented guardians to do their job better."

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Columbia lawyer Angela B. Grau was part of a workgroup that created new guardianship rules in Maryland that went into effect Jan. 1. 'I think that they're going to go so far helping practitioners represent their clients,' she says.

Guardianship >> Prospective guardians must watch 9-minute orientation video

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The work group was tasked with ensuring best practices were followed by guardians, and it issued a report in May 2016.

"There's always been a form guardianship petition included within the rules, but this work group has published many more guardianship forms that a layperson could utilize in any phase of the guardianship process," said Grau, of Davis, Agnor, Rapaport & Skalny LLC in Columbia.

Elder law attorney Jason A. Frank said the new rules are appropriate and clear up uncertainty.

"They didn't change the law, this is just a better way to implement the law," said Frank, of Frank, Frank & Scherr LLC in Lutherville. "It answers a lot of

questions in terms of what people were not certain of before."

Certain Maryland State Bar Association's Elder Law and Disability Rights Section will discuss the new rules in a continuing legal education course on guardianship on May 9.

Training required

All prospective guardians now have to watch a nine-minute orientation video before being appointed and then receive training within 120 days of appointment for guardians of individuals and 60 days for guardians of property. The training programs are offered online and in person through some courts. Not all jurisdictions previously had training for guardians, Grau said.

"There are innumerable instances of misappropriation by guardians, but

there is (also) unintended squandering and unintended consequences because the guardians weren't sure what they weren't supposed to do," she said.

Attorneys appointed as guardians of minors or disabled people must also watch an additional video about ethical considerations if they have no prior relationship to the individual. The video focuses on the ethics rules pertaining to clients with diminished capacity, which requires assessing the person's limitations and ability to give informed consent.

Frank said it's important for everyone involved in a guardianship to understand their role and its importance.

"This is not just a casual arrangement," he said. "People have to know what their responsibilities are and be trained for it."



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'They didn't change the law, this is just a better way to implement the law,' Lutherville elder law attorney Jason A. Frank says of new guardianship rules. 'It answers a lot of questions in terms of what people were not certain of before.'