

**RULE 5.905. FORM FOR PETITION; NOTICE; AND ORDER FOR APPOINTMENT OF GUARDIAN ADVOCATE OF THE PERSON**

**(a) Petition.**

FORM FOR USE IN PETITION FOR APPOINTMENT OF GUARDIAN ADVOCATE OF THE PERSON UNDER FLORIDA PROBATE RULE 5.649

In the Circuit Court of the \_\_\_\_\_ Judicial Circuit, in and for \_\_\_\_\_ County, Florida  
Probate Division  
Case No. \_\_\_\_\_

In Re: Guardianship Advocacy of

\_\_\_\_\_  
Respondent's Name  
Person with Developmental Disability  
\_\_\_\_\_

PETITION FOR APPOINTMENT OF GUARDIAN ADVOCATE OF THE PERSON

Petitioner, \_\_\_\_\_, files this petition under section 393.12, Florida Statutes, and Florida Probate Rule 5.649 and alleges that:

1. The petitioner, proposed guardian advocate .....(name)....., is \_\_\_\_\_ years of age, whose residential address is \_\_\_\_\_ and post office address is \_\_\_\_\_. The relationship of the petitioner to the respondent is \_\_\_\_\_.

2. ....(Respondent's name)..... is a person with a developmental disability who was born on \_\_\_\_\_ and who is \_\_\_\_\_ years of age, who resides in \_\_\_\_\_ County, Florida. The residential address of the

respondent is \_\_\_\_\_  
and the post office address is \_\_\_\_\_  
\_\_\_\_\_.

3. The petitioner believes that respondent needs a guardian advocate:

a. due to the following developmental disability:

- i. intellectual disability;
- ii. cerebral palsy;
- iii. autism;
- iv. spina bifida;
- v. Down syndrome;
- vi. Phelan-McDermid syndrome; or
- vii. Prader-Willi syndrome,

which manifested before the age of 18.

b. The developmental disability has resulted in the following substantial handicaps: \_\_\_\_\_  
\_\_\_\_\_

4. The exact areas in which the person with the developmental disability lacks the ability to make informed decisions about the person's care and treatment services or to meet the essential requirements for the person's physical health or safety are as follows:

- a. to apply for government benefits;
- b. to determine residency;
- c. to consent to medical and mental health treatment;
- d. to make decisions about social environment/social aspects of life;
- e. to make decisions regarding education; and

( ) f. to bring an independent action for support.

5. There are no alternatives to guardian advocacy, such as trust agreements, powers of attorney, designation of health care surrogate, or other advanced directive, known to petitioner that would sufficiently address the problems of the respondent in whole or in part. Thus, it is necessary that a guardian advocate be appointed to exercise some but not all of the rights of respondent.

6. The names and addresses of the next of kin of the respondent are:

Name	Address	Relationship

7. The proposed guardian advocate .....(name)....., whose residence address is \_\_\_\_\_ and whose post office address is \_\_\_\_\_; is over the age of 18 and otherwise qualified under the laws of the State of Florida to act as guardian advocate of the person of respondent. The proposed guardian advocate is not a professional guardian. The relationship of the proposed guardian advocate with the providers of health care services, residential services, or other services to the respondent is (if none, indicate: NONE): \_\_\_\_\_

8. The petitioner(s) allege(s) that to their knowledge, information, and belief, respondent \_\_\_\_\_ has or \_\_\_\_\_ has NOT executed an advance directive under chapter 765, Florida Statutes, (designated health care surrogate or other advance directive) or a durable power of attorney under chapter 709, Florida Statutes.

9. *(If a Co-Guardian Advocate sought, complete this paragraph.)*  
Petitioner requests that \_\_\_\_\_ be appointed co-guardian advocate of the person of respondent. The proposed co-guardian advocate .....(name)....., who is \_\_\_\_\_ years of age, whose residence is \_\_\_\_\_; whose post office address is \_\_\_\_\_; is over the age of 18 and otherwise qualified under the laws of the State of Florida to act as guardian advocate of the person of respondent. The proposed co-guardian advocate is not a professional guardian. The relationship of the

proposed co-guardian advocate with the providers of health care services, residential services, or other services to the respondent is (if none, indicate: NONE): \_\_\_\_\_

The relationship and previous association of the proposed co-guardian advocate to the respondent is \_\_\_\_\_. The proposed co-guardian advocate should be appointed because: \_\_\_\_\_

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.

Signed .....(date).....

Signature: \_\_\_\_\_

Proposed Guardian Advocate

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Signature: \_\_\_\_\_

Proposed Co-Guardian Advocate

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

**(b) Notice.** The notice of the filing of the petition for the appointment of guardian advocate of the person and notice of hearing must be served with the petition for appointment of guardian advocate of the person under subdivision (a) of this rule.

FORM FOR NOTICE OF FILING OF A PETITION FOR  
APPOINTMENT OF GUARDIAN ADVOCATE OF THE PERSON  
UNDER SECTION 393.12(4), FLORIDA STATUTES,  
AND NOTICE OF HEARING

In the Circuit Court of the  
\_\_\_\_\_ Judicial  
Circuit,  
in and for \_\_\_\_\_  
County, Florida

Probate Division  
Case No. \_\_\_\_\_

In Re: Guardian Advocacy of

\_\_\_\_\_  
Respondent's Name  
Person with Developmental Disability

\_\_\_\_\_

NOTICE OF FILING OF A PETITION FOR  
APPOINTMENT OF GUARDIAN ADVOCATE  
AND NOTICE OF HEARING

TO: .....(Respondent)....., .....(attorney for respondent)....., .....(next of kin)....., .....(healthcare surrogate)....., and .....(agent under durable power of attorney).....

YOU ARE NOTIFIED that a petition for appointment of guardian advocate of the person has been filed. A copy of the petition for appointment of guardian advocate of the person is attached to this notice. There will be a hearing on the petition as follows:

You are to appear before the Honorable ....., Judge, at .....(time)....., on .....(date)....., at the county courthouse of ..... County, in ....., Florida for the hearing of this petition.

The reason for this hearing is to inquire into the capacity of the respondent, the person with a developmental disability, to exercise the rights enumerated in the petition. (See § 744.102(12)(b), Fla. Stat.)

The respondent has the right to be represented by counsel of the respondent's own choice and the court has initially appointed the following attorney to represent the respondent:

Attorney for the respondent: .....(name)....., .....(address)....., .....(phone)....., .....(e-mail).....

Respondent has the right to substitute an attorney of the respondent's own choice in place of the attorney appointed by the court.

Signed .....(date).....

Signature: \_\_\_\_\_

Proposed Guardian Advocate

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Signature: \_\_\_\_\_

Proposed Co-Guardian Advocate  
(if any)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

#### CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing notice of filing petition to appoint guardian advocate and notice of hearing and a copy of the petition for appointment of guardian advocate of the person was served on all persons indicated above, including on the attorney for the respondent, on .....(date).....

Signature: \_\_\_\_\_

Proposed Guardian Advocate

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Signature: \_\_\_\_\_

Proposed Co-Guardian Advocate  
(if any)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_  
Phone Number: \_\_\_\_\_  
E-mail Address: \_\_\_\_\_

\_\_\_\_\_  
Phone Number: \_\_\_\_\_  
E-mail Address: \_\_\_\_\_

**If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact [identify applicable court personnel by name, address, and telephone number] at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.**

**(c) Order.**

In the Circuit Court of the  
\_\_\_\_\_ Judicial  
Circuit,  
in and for \_\_\_\_\_  
County, Florida

Probate Division  
Case No. \_\_\_\_\_

In Re: Guardianship of

\_\_\_\_\_  
Respondent's Name  
Person with Developmental Disability  
\_\_\_\_\_

**ORDER APPOINTING GUARDIAN ADVOCATE**

On consideration of the petition for the appointment of guardian advocate of the person, the court finds that .....(respondent's name)..... has a developmental disability of a nature that requires the appointment of guardian advocate of the person based on the following findings of fact and conclusions of law:

1. The nature and scope of the person's lack of decision-making ability are: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. The exact areas in which the person lacks decision-making ability to make informed decisions about care and treatment services or to meet the essential requirements for the respondent's health and safety are specified in number 4.

3. The specific legal disabilities to which the person with a developmental disability is subject to are: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. The powers and duties delegated to the guardian advocate are:



- ( ) a. to apply for government benefits;
- ( ) b. to determine residency;
- ( ) c. to consent to medical and mental health treatment;
- ( ) d. to make decisions about social environment/social aspects of life;
- ( ) e. to make decisions regarding education; and
- ( ) f. to bring an independent action for support.

5. There are no alternatives to guardian advocacy, such as trust agreements, powers of attorney, designation of health care surrogate, or other advanced directive, known to petitioner that would sufficiently address the problems of the respondent in whole or in part. Thus, it is necessary that a guardian advocate be appointed to exercise some but not all of the rights of respondent.

6. Without first obtaining specific authority from the court, as stated in section 744.3725, Florida Statutes, the guardian advocate may not exercise any authority over any health care surrogate appointed by any valid advance directive executed by the disabled person, under Chapter 765, Florida Statutes, except on further order of this Court.

ORDERED AND ADJUDGED:

1. ....(Name)..... is qualified to serve as guardian advocate and is hereby appointed as guardian advocate of the person of ....(respondent's name).....

2. The guardian advocate will exercise only the rights that the court has found the disabled person incapable of exercising on the disabled person's own behalf, as outlined herein above. Said rights are specifically delegated to the guardian advocate.

ORDERED this ....(date).....

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Judge