

Guardianship Examining Committee – Thirteenth Judicial Circuit

Within five days after a petition to determine incapacity has been filed, the court must appoint an examining committee. *F.S. 744.331(3)(a)*. The committee established for a case consists of three members of the Court's Guardianship Examining Committee, one of whom must be a **psychiatrist** or other **physician**. The remaining members must be either

a **psychologist**,
a **gerontologist**,
another psychiatrist or other physician,
a **registered nurse** or **nurse practitioner**,
a **licensed social worker**,
person with an advanced degree in gerontology from an accredited institution of higher education, or
another **person who by knowledge, skill, experience, training, or education may, in the courts discretion, advise the court in the form of an expert opinion.**

Unless good cause is shown, the attending or family physician for the alleged incapacitated person may not be appointed to the committee, but the committee must consult with that physician, if available. Members of the examining committee may not be related to or associated with one another, with the petitioner, with counsel for the petitioner or the proposed guardian, or with the alleged incapacitated person. Also, members may not be employed by an agency that has custody of or provides services or subsidies to the alleged incapacitated person or his or her family. Nor may the petitioner serve as a member of the examining committee.

Appointments are made on a rotational basis from the Court's master list. The number of appointments that a member receives in a year will vary, depending on the number of new incapacity petitions filed and the committee member's availability at the time a new case is being assigned. Members of the examining committee must also be able to communicate, either directly or through an interpreter, in the language that the alleged incapacitated person speaks or to communicate in a medium understandable to the alleged incapacitated person, assuming the alleged incapacitated person is able to communicate. The Clerk of Court sends notice to each person appointed no later than three days after appointment. Members of the examining committee cannot be appointed to serve as guardians for persons they have examined.

Persons appointed to an examining committee must file affidavits with the court stating that they have completed the required initial training course or will do so now within four months of appointment. Appointments are made in each judicial circuit through the Chief Judge's issuance of a list of members for that year. The initial training is required to be at least 4 hours and must be approved for credit by the Statewide Public Guardianship Office. It is offered in different locations throughout the state, and a 6-hour version of the training is available on DVD, at no cost to new members however, we would request that all DVD's be returned to us.

Each member of the examining committee must examine the alleged incapacitated person and submit a report within 15 days after appointment. Most often the committee member must come to where the subject is residing (which will always be within Hillsborough County), due to the subject's physical or health limitations. The examination must include a comprehensive examination of the alleged incapacitated person, including a physical examination, a mental health examination, and a functional assessment. If any of those is not appropriate in a particular case or cannot be accomplished for any reason, the written report must explain why that aspect of the examination was omitted. The committees written report must also include, to the extent possible, a diagnosis, prognosis, and recommended course of treatment, an evaluation of the alleged incapacitated person's ability to retain his or her rights, the results of the comprehensive examination, any information provided by the family physician, a description of the extent of the person's incapacity, if any, to exercise the rights enumerated in *F.S. 744.3215*, the names of persons present during the examination, and the member's signature.

Two refusals of a case, without good cause (such as being unavailable to complete the evaluation & report within the statutory timeframe due to vacation, attending a continuing education course, or sickness) may result in the member being removed from the committee. Refusals due to where the subject resides or the subject not being able to come to the committee member's office are **not** considered good cause refusals.