

2025 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,
- a 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 court's 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 appropriate 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 notifies 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 an affidavit 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 Office of Public and Professional Guardians. It is offered in different locations throughout the state, and a 6-hour version of the training is available via an online video in this Circuit at no cost to new members.

Each member of the examining committee must examine the alleged incapacitated person and electronically file a report with the Clerk of Court within 15 days after appointment. Members most often go to where the subject is residing (which will always be within Hillsborough County), due to the subject's physical or health limitations. However, if the subject is being quarantined due to COVID-19 or some other health concern, the use of audio-visual conferencing (Zoom, FaceTime, Skype, etc.) to facilitate the evaluations will be allowed or the Court can grant an extension, if requested and necessary, due to such encountered delays. 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 committee member's 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.

Members are paid a flat fee, per case, for this service. If the person examined is indigent, or if no guardianship is established, the fee is paid by the State and the amounts are determined by the Administrative Order of the Court. Effective December 1, 2024, the fees paid by the State are \$350 for physicians, psychologists and other doctorate level members, and \$175 for all lay person members. When a guardianship is established and the Ward is not indigent, the Court determines the amount on a case-by-case basis. Fees in those cases can be expected to be in the range of \$350-\$500 for physicians, psychologists and other doctorate level members (most frequently \$500 for M.D. & D.O. members, and \$400 for doctorate-level members), and \$175-\$325 for all lay person members (most frequently \$250). Fees include testifying, if necessary, which is uncommon.