

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT

ADMINISTRATIVE ORDER NO. A-2018-71

**ADMINISTRATIVE ORDER REQUIRING ELDERCARE COORDINATION
EDUCATION FOR PROFESSIONAL GUARDIANS, PUBLIC GUARDIANS, AND
COURT-APPOINTED LAWYERS**

WHEREAS, the Legislature enacted section 27.40 (2), Florida Statutes (2016), allowing for the appointment of private counsel in those cases in which provision is made for court-appointed counsel; and,

WHEREAS, section 744.331 (2) (b) Florida Statutes (2016), requires the Court to appoint counsel for each person alleged to be incapacitated in all cases involving a petition for adjudication of incapacity; and

WHEREAS, attorneys appointed by the Court must be either from the Office of Criminal Conflict and Civil Regional Counsel, or from the attorney registry compiled pursuant to section 27.40; and

WHEREAS, section 27.40 (3) (a) 1., empowers the Chief Judge to establish minimum requirements for court appointment of attorneys on the circuit's registry; and

WHEREAS, there are cases where a professional or public guardian is appointed to serve an incapacitated person; and

WHEREAS, section 744.312 (4) (a) implies that the Court shall use a rotation system for appointment of professional guardians; and

WHEREAS, the Legislature has enacted section 744.2003, Florida Statutes (2016), setting forth minimum education requirements for professional guardians; and

WHEREAS, the Legislature, pursuant to section 744.102 (17), Florida Statutes (2014), has defined a professional guardian as any guardian who has at any time rendered services to three or more wards as their guardian. A person serving as a guardian for two or more relatives as defined in section 744.309(2) is not considered a professional guardian. A public guardian shall be considered a professional guardian for purposes of regulation, education, and registration; and

WHEREAS, the Legislature, pursuant to section 744.2003(3), Florida Statutes (2016), exempted the education requirements for any attorney who is licensed to practice law in this state, or an institution acting as guardian under section 744.2002(7), Florida Statutes; and

WHEREAS, the Fifth Judicial Circuit is a pilot project site for eldercare coordination, an alternative dispute resolution process intended for use in cases involving high family conflict that poses a risk to the health, care and/or safety of aging, incapacitated persons; and

WHEREAS, it is incumbent upon the professionals working with incapacitated persons and their families to be informed about processes that enable families of incapacitated persons to work more effectively with professionals who are also involved in incapacity and guardianship cases.

It is therefore

ORDERED:

1. Each lawyer who wishes to be included on the appointment registry for incapacity cases in the Fifth Judicial Circuit shall, within six months of being added to the Fifth Judicial Circuit's registry of Chapter 744 attorneys, or within six months of the effective date of this Order, whichever is later, complete at least one hour of training on eldercaring coordination.

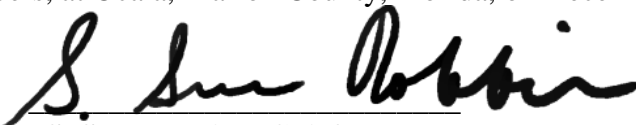
2. Each professional guardian defined in section 744.102(17) and public guardians who seek court appointment to guardianship cases in the Fifth Judicial Circuit must receive a minimum of one hour of instruction and training in eldercaring coordination within six months of being added to the rotation list, or six months of the effective date of this Order, whichever is later.

3. The instruction and education must be completed through a course approved or offered by the Office of Public and Professional Guardians; the ElderCaring Coordination Program offered through the Fifth Judicial Circuit; Florida Chapter of the Association of Family and Conciliation Courts; Florida Supreme Court Dispute Resolution Center; or any other qualified provider.

4. The expenses incurred to satisfy the educational requirements prescribed in this section may not be paid with the assets of any ward.

5. The above requirement is in addition to those requirements imposed by the Florida Bar and the Department of Elderly Affairs unless otherwise indicated by the respective agency.

DONE AND ORDERED in Chambers, at Ocala, Marion County, Florida, on December 31, 2018.


S. Sue Robbins, Chief Judge