

IN THE CIRCUIT COURT OF THE SEVENTEENTH
JUDICIAL CIRCUIT IN AND FOR BROWARD COUNTY, FLORIDA

Administrative Order 2020-56-PRC

**GOVERNING COURT APPOINTED GUARDIANS AND
DO NOT RESUSCITATE AND CREMATION DECISIONS**

- (a) Pursuant to Article V, section 2(d) of the Florida Constitution, and section 43.26, Florida Statutes, the chief judge of each judicial circuit is charged with the authority and the power to do everything necessary to promote the prompt and efficient administration of justice.
- (b) Florida Rule of Judicial Administration 2.215(b)(3) states the chief judge “shall, considering available resources, ensure the efficient and proper administration of all courts within [this] circuit.”
- (c) Professional guardians are regulated by the Office of Public and Professional Guardians and, in addition to applicable provisions of Chapter 744, Florida Statutes, are subject to the Standards of Practice contained within Florida Administrative Code, 58M-2.009. The Standards of Practice identify the standards professional guardians shall comply with when rendering decisions concerning the medical treatment for wards, including the withholding and withdrawal of medical treatment. The Seventeenth Judicial Circuit recognizes these Standards of Practice as minimum standards that professional guardians must meet.
- (d) Guardians, both professional and non-professional, stand in a fiduciary relationship with an incapacitated person, and must act within the scope of authority granted by the court and otherwise provided by law, including exercising only those rights that have been removed from the ward and delegated to the guardian. Consistent with these fiduciary obligations, guardians may not act in a manner contrary to a ward’s best interests, or contrary to a ward’s pre-incapacity wishes, if known.
- (e) The judges and general magistrates assigned to the Probate Divisions of the Seventeenth Judicial Circuit are required to ensure that the rights and best interests of those individuals who are incapable of protecting themselves and who are subject to its jurisdiction are being protected. Consistent with this obligation, the Circuit

has determined that the following requirements are necessary to assist the Court with fulfilling its duties.

(f) On June 18, 2020, Governor DeSantis approved Senate Bill 994, which requires, *inter alia*, court appointed guardians to obtain court approval prior to signing a do not resuscitate order on behalf of an incapacitated individual.

(g) In accordance with the authority vested in the chief judge by Article V, section 2(d) of the Florida Constitution, section 43.26, Florida Statutes, and Florida Rule of Judicial Administration 2.215, it is hereby **ORDERED, effective immediately:**

I. DO NOT RESUSCITATE ORDERS

(1) Guardians wishing to sign a do not resuscitate order on behalf of an individual determined incapacity must comply with section 744.441, Florida Statutes (2020).

(2) If any guardian appointed by the court has previously executed a DNR on behalf of an individual determined incapacitated and such DNR has not been approved by the court, the court appointed guardian should bring such DNR to the attention of the court by filing a copy of the DNR in the court file and scheduling a hearing before the assigned division judge. A courtesy copy of the DNR shall be provided to the assigned division judge prior to the hearing. Notice of such hearing shall be given to all interested parties, including any next-of-kin of the ward.

II. CREMATION OF A DECEASED INCAPACITATED INDIVIDUAL

(1) Any guardian appointed by the court may authorize the cremation of a deceased incapacitated individual only if no family member exists or is available, and only as permitted by Florida laws governing the cremation of human remains and consistent with any pre-capacity wishes of the ward. The guardian shall conduct a diligent search and inquiry to determine the existence of any family members, including those listed in section 497.005(43), Florida Statutes. If, after conducting such diligent search and inquiry, guardian appointed by the court is unsure whether a family member, or other legally authorized person, as defined in section 497.005(43), Florida Statutes, exists or is available, he or she may file an appropriate application with the court to determine such issues. The motion shall be determined by the Court expeditiously and with notice to all interested parties.

This Administrative Order supersedes and vacates Administrative Order 2019-61-PRC.

DONE AND ORDERED in Chambers, Fort Lauderdale, Broward County, Florida, this 1st day of July, 2020.

/s/ Jack Tuter
Jack Tuter, Chief Judge