

RULE 10-201. PETITION FOR APPOINTMENT OF A..., MD R GUARD AND...

West's Annotated Code of Maryland
Maryland Rules
Title 10. Guardians and Other Fiduciaries
Chapter 200. Guardian of Person

MD Rules, Rule 10-201

RULE 10-201. PETITION FOR APPOINTMENT OF A GUARDIAN OF THE PERSON

Effective: July 1, 2024

[Currentness](#)

(a) Who May File. An interested person may file a petition requesting a court to appoint a guardian of a minor or alleged disabled person.

(b) Form of Petition. The petition for a guardianship of the person of a minor shall be filed in substantially the form set forth in Rule 10-111. The petition for a guardianship of the person of an alleged disabled person shall be filed in substantially the form set forth in Rule 10-112. If an expedited hearing on a petition for guardianship of an alleged disabled person pursuant to Code, [Estates and Trusts Article, § 13-705 \(f\)](#) is requested, the request shall be made in accordance with section (f) of this Rule.

Committee note: Examples of circumstances that may require the hearing on a petition for guardianship of the person of an alleged disabled person to be heard on an expedited basis pursuant to Code, [Estates and Trusts Article, § 13-705 \(f\)](#) include threats to the physical or mental health of an alleged disabled person associated with delaying the appointment of a guardian to make a decision about the starting or stopping of treatment or discharge from a health care facility that, although not posing an imminent risk of harm, compromises the medical well-being of the alleged disabled person.

(c) Venue.

(1) *Resident.* If the minor or alleged disabled person is a resident of Maryland, the petition shall be filed in the county where (A) the minor or alleged disabled person resides or (B) the person has been admitted for the purpose of medical care or treatment to either a general or a special hospital which is not a State facility as defined in Code, [Health-General Article, § 10-406](#) or a licensed private facility as defined in Code, [Health-General Article, §§ 10-501 to 10-511](#).

(2) *Nonresident.* If the minor or alleged disabled person does not reside in this State, a petition for guardianship of the person may be filed in any county in which the person is physically present.

(d) Attorney's Fees. If a petition for attorney's fees is filed by an interested person or an attorney employed by the interested person, the court may order reasonable and necessary attorney's fees incurred in bringing a petition for the appointment of a guardian of the person of a disabled person to be paid from the estate of the disabled person. The court shall consider the financial resources and needs of the disabled person and whether there was substantial justification for the filing of the petition for guardianship. The court may not award attorney's fees if the petition for guardianship is brought by (1) a government agency

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paying benefits to the disabled person, (2) a local department of Social Services, or (3) an agency eligible to serve as the guardian of the disabled person under Code, [Estates and Trusts Article, § 13-707](#).

Cross reference: Code, [Estates and Trusts Article, § 13-704](#).

(e) Designation of a Guardian of the Person by a Minor. After a minor's 14th birthday, a minor may designate a guardian of the minor's person substantially in the following form:

[CAPTION]

DESIGNATION OF A GUARDIAN OF THE PERSON BY A MINOR

I, _____, a minor child, having attained my 14th birthday, declare:

1. I am aware of the Petition of.....

(petitioner's name)

to become the guardian of my person.

2. I hereby designate _____ as the Guardian of my person.

3. I understand that I have the right to revoke this designation at any time up to the granting of the guardianship.

I solemnly affirm under the penalties of perjury that the contents of this document are true based upon my personal knowledge.

Signature of Minor

Date

(f) Request for Expedited Hearing in Connection with Medical Treatment.

(1) *Contents.* A request for an expedited hearing in connection with medical treatment pursuant to Code, [Estates and Trust Article, § 13-705 \(f\)](#) shall be verified and filed with the petition for guardianship of the person of an alleged disabled person. The request shall contain the following information:

(A) the reason for seeking an expedited hearing;

(B) a description of the proposed change in the alleged disabled person's medical treatment;

(C) a statement of how the alleged disabled person's medical circumstances will be harmed if the proceeding is not expedited;

(D) a description of all efforts made to notify interested persons and any person nominated as guardian of person about the request for an expedited hearing; and

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(E) whether the alleged disabled person lacks sufficient understanding or capacity to make or communicate a responsible decision to consent or to refuse consent, the basis for that belief, and an explanation of steps taken to obtain consent to the proposed medical treatment through other means.

Committee note: Examples of consent “through other means” include consent obtained or ascertained through a valid advance directive, consent by an individual pursuant to an applicable Power of Attorney that specifically authorizes health care decision-making, and consent by a surrogate authorized under Code, Health General Article, Title 5, Subtitle 6, Part I (Health Care Decisions Act).

(2) *Factors for Court to Consider.* In determining whether to expedite the hearing in connection with medical treatment, the court shall consider:

(A) the degree to which the alleged disabled person's current circumstances are not meeting the alleged disabled person's medical needs in the most appropriate manner;

(B) the degree to which alternative arrangements are or can be made available;

(C) the urgency, necessity, and gravity of the proposed medical treatment and any medical risks to the alleged disabled person if the proceedings are not expedited;

(D) the ability of the alleged disabled person or other legally authorized individual to provide necessary consents for services; and

(E) any other factor that the court considers relevant.

(3) *Scheduling of an Expedited Hearing.* If the court makes a determination to expedite a hearing because of the need for medical treatment, the hearing shall be scheduled as soon as practicable, taking into account:

(A) the ability of the petitioner to properly serve or notify interested persons on an expedited basis;

(B) the ability of the attorney for the alleged disabled person, government agencies, and court-appointed investigators to perform necessary investigations on an expedited basis; and

(C) any other circumstances that the court considers relevant.

Committee note: The procedure set forth in section (f) of this Rule is not a substitute for a petition for emergency services under Rule 10-210, nor is it intended to affect the court's discretion to schedule expedited hearings, generally. If the petition is

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also for the appointment of a guardian of the property, the court may hear and rule on that part of the petition on an expedited basis as well.

Cross reference: See Code, [Estates and Trusts Article](#), §§ 13-702 and 13-705 (f), Rule 10-205 (b), and [In re: Sonny E. Lee](#), 132 Md. App. 696 (2000).

Source: This Rule is derived as follows:

Section (a) is derived from former Rule R71 a.

Section (b) is new.

Section (c) is derived from former Rule R72 a and b.

Section (d) is new.

Section (e) is new.

Section (f) is new.

Credits

[Adopted June 5, 1996, eff. Jan. 1, 1997. Amended Nov. 21, 2013, eff. Jan. 1, 2014; Sept. 17, 2015, eff. Jan. 1, 2016; Dec. 4, 2018, eff. Jan. 1, 2019; March 1, 2024, eff. July 1, 2024.]

[Notes of Decisions \(2\)](#)

MD Rules, Rule 10-201, MD R GUARD AND FIDUCIARIES Rule 10-201

Current with amendments received through May 1, 2024. Some sections may be more current, see credits for details.

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