

**REQUIREMENTS FOR FILING INCAPACITY/GUARDIANSHIP CASES
(NON-ETG CASES) IN CHARLOTTE COUNTY**
(effective November 13, 2018)

1. Petitioner E-files through the E-filing Portal a petition to determine incapacity and petition for appointment of guardian.
2. When the Clerk receives the petitions the Clerk will promptly send an E-mail to the Court's Judicial Assistant ("J.A.") providing the case numbers of the incapacity case and the guardianship case along with the next three names on the examining committee list and the next name of an attorney/elisor on the court appointed attorney list. The Clerk's E-mail should be sent to: cha-guardianship@ca.cjis20.org.
3. Upon receipt of the Clerk's E-mail the J.A. will send to the petitioner's counsel via E-mail the names and E-mail addresses of the three examining committee members and the name and E-mail address of the attorney/elisor for the alleged incapacitated person. The petitioner's counsel will prepare the orders appointing the examining committee members¹ and the order appointing attorney/elisor and submit same to the Court in time for the Court to E-sign and E-file the orders within five (5) days of the filing of the petition for determination of incapacity².
4. Within two (2) days of the petitioner's counsel receipt of the E-mail notice of the E-filing of the order appointing examining committee members and order appointing attorney/elisor, the Petitioner's counsel will do the following:
 - a. Upon being notified of the name of the attorney/elisor the attorney for the petitioner should contact the attorney/elisor and both should agree on a hearing date between 25 and 45 days after the date of filing the Order Appointing Examining Committee Members using as a guide to available hearing time the Court's calendar which is available on the Internet at: <https://www.ca.cjis20.org/schedules/docketjacsoptcha.asp?filterName=Judge%20P%20Alessandroni&type=1>.

When the attorneys have agreed on a tentative date and time the petitioner's

¹ The Order Appointing Examining Committee Members will contain language directing any member who cannot abide by the terms of the contract by which they are appointed to immediately notify the Court by E-mail to patriciat@ca.cjis20.org so that the Court may consider promptly issuing an amended order replacing that member.

² §744.331(3), F.S.

counsel will contact the Court's Judicial Assistant via E-mail to patriciat@ca.cjis20.org , copying counsel for the A.I.P. to confirm the availability of the date and time with the Court. **NOTE: Failure to confirm the date with the Court will result in the hearing not being docketed on the Court's docket.**

b. Petitioner's counsel will receive confirmation via E-mail from the J.A. regarding the hearing date and time.

c. *Upon receipt of confirmation Petitioner's counsel from the J.A.* Petitioner's counsel will prepare a Notice of Petition to Determine Incapacity³ and Petition For the Appointment of Guardian using the agreed date and time for the hearings. The notice and copies of the petitions should be electronically served on the attorney/elisor and served upon all next of kin identified in the petition.

d. After E-filing the Notice, petitioner's counsel will E-mail a copy of it to the J.A. at patriciat@ca.cjis20.org so that she can confirm the date and time on the Court's calendar/JACS. **DO NOT omit this step.**

6. After the attorney/elisor receives the order of appointment and the notice and a copy of the petition to determine incapacity the attorney/elisor shall read the notice to the alleged incapacitated person, but need not read the petition. The attorney/elisor shall file a return of service certifying that the notice and petition have been served on and the notice read to the alleged incapacitated person.

7. The Clerk will continue to serve upon the examining committee members by U.S. Mail a certified copy of their orders of appointment within three (3) days of their appointment. The Court grants the petitioner's counsel permission to forward to the examining committee members by U.S. Mail or E-mail a copy of the Petition to Determine Incapacity so that the members will be made aware of the location of the alleged incapacitated person and the identity of the petitioner's attorney to contact if the members should have any issues or questions.

³ §744.331, F.S., "Notice of the filing of a petition to determine incapacity and a petition for the appointment of a guardian if any and copies of the petitions must be served on and read to the alleged incapacitated person. The notice and copies of the petitions must also be given to the attorney for the alleged incapacitated person, and served upon all next of kin identified in the petition. The notice must state the time and place of the hearing to inquire into the capacity of the alleged incapacitated person and that an attorney has been appointed to represent the person and that, if she or he is determined to be incapable of exercising certain rights, a guardian will be appointed to exercise those rights on her or his behalf."

**PROPOSED ORDERS FOLLOWING INCAPACITY/GUARDIANSHIP, EMERGENCY
TEMPORARY GUARDIAN, GUARDIAN ADVOCATE AND MINOR GUARDIAN
HEARINGS IN CHARLOTTE COUNTY**

1. Proposed orders that are entered after the incapacity and guardianship hearings including orders determining incapacity, orders appointing guardians, and other related orders and letters, may no longer be handed in hard copy form to the Court or Clerk at the time of the hearing. These proposed orders must be submitted electronically to the Court with copies via E-mail to counsel for the A.I.P. at least 24 hours prior to the hearing as provided for the following instructions at the Court's web page here:

https://www.ca.cjis20.org/pdf/Charlotte/ElectronicSubmissionOrders_GeneralProbateGuardianshipProcedures.pdf

2. Counsel shall ensure that the subject line of the E-mail is flagged so that the Court's Judicial Assistant can bring the proposed order(s) to the Court's attention prior to the hearing. Use all caps language and include the date and time of the upcoming hearing such as "****UPCOMING HEARING ON XX/XX/XXXX at YYYY a.m./p.m.****". Also include the normal case description that must be placed in the subject line of the E-mail. ***The proposed orders should be sent to both of the following E-mail addresses:***

cha-guardianship@ca.cjis20.org

patriciat@ca.cjis20.org

Following the hearing the Court will promptly E-sign and E-file the orders after making any edits required as a result of the hearing.