

Supreme Court of Florida

No. SC2025-2011

IN RE: AMENDMENTS TO FLORIDA PROBATE RULES 5.015, 5.630, AND 5.648.

October 1, 2026

PER CURIAM.

The Florida Bar’s Probate Rules Committee proposes amending Florida Probate Rules 5.015 (General Definitions), 5.630 (Petition for Approval of Acts), and 5.648 (Emergency Temporary Guardian).¹ The Committee published the proposal for comment in *The Florida Bar News*; no comments were received by the Committee. The Court published the Committee’s proposal in the March 1, 2026, issue of *The Florida Bar News*; one comment was received by the Court and the Committee made minor modifications to the proposal to amend rule 5.630.

1. We have jurisdiction. Art. V, § 2(a), Fla. Const.; *see also* Fla. R. Gen. Prac. & Jud. Admin. 2.140(b).

After considering the Committee's proposal, the comment, and the Committee's response, we amend the Florida Probate Rules as revised by the Committee after comment. We discuss some of the more specific rule amendments below.

Rule 5.015 is amended to add a definition for the term "elisor," as it is not defined by statute but is used in Florida Probate Rule 5.550 (Petition to Determine Incapacity) and is also added as a term to be used in rule 5.648. An "elisor" is defined as "a person, other than an interested person in the guardianship proceeding, who is designated by the court to provide notice to the alleged incapacitated person and who may be the court-appointed attorney."

Rule 5.630(a)(3) is amended to add "support for the price and terms" to the requirement that the price and terms of any sale, mortgage, or other contract be included in the petition for approval of acts. Additionally, two new subdivisions are added to rule 5.630(a), one requiring the petition to include whether the guardian or any person having any personal or professional relationship with the guardian or ward has any interest in the action, and the other requiring the petition to include whether the action requested may

be a conflict of interest or prohibited activity under section 744.446, Florida Statutes (Conflicts of interest; prohibited activities; court approval; breach of fiduciary duty). Subdivision (c) is also amended to require that the order state why an action is in the best interests of the ward when an action is found to be a conflict of interest or prohibited activity.

Lastly, rule 5.648 is amended to require service of the petition for appointment of emergency temporary guardian by the elisor and to require the elisor to read the notice and petition to the alleged incapacitated person.

Accordingly, we amend the Florida Probate Rules as reflected in the appendix to this opinion. New language is underscored; deleted language is stricken. The amendments shall become effective on January 1, 2027, at 12:01 a.m.

It is so ordered.

COURIEL, C.J., and LABARGA, MUÑIZ, GROSSHANS, FRANCIS, BARRIOS, and TANENBAUM, JJ., concur.

THE FILING OF A MOTION FOR REHEARING SHALL NOT ALTER THE EFFECTIVE DATE OF THESE AMENDMENTS.

Original Proceeding – Florida Probate Rules

J. Allison Archbold, Co-Chair, Probate Rules Committee, Sarasota, Florida, Marve Ann M. Alaimo, Co-Chair, Probate Rules Committee, Naples, Florida, Michael A. Sneeringer, Past Chair, Probate Rules Committee, Bonita Springs, Florida, Joshua E. Doyle, Executive Director, The Florida Bar, Tallahassee, Florida, and Heather Savage Telfer, Staff Liaison, The Florida Bar, Tallahassee, Florida,

for Petitioner

Jeffrey A. Eisel of Baskin Eisel Rightmyer, Clearwater, Florida,

Responding with comments

APPENDIX

RULE 5.015. GENERAL DEFINITIONS

(a) General. The definitions and rules of construction stated or referred to in sections 1.01 and 393.12, Florida Statutes, and chapters 731, 732, 733, 734, 735, 736, 738, 739, and 744, Florida Statutes, as amended from time to time, ~~shall~~ apply to these rules, unless otherwise defined in these rules.

(b) Specific Definitions. When used in these rules:

(1)-(4) [No Change]

(5) “guardian advocate” means a person appointed for a person with a developmental disability ~~pursuant to~~ under section 393.12, Florida Statutes;

(6) “guardian” means a person appointed ~~pursuant to~~ under chapter 744, Florida Statutes, or a guardian advocate unless a rule indicates otherwise;

(7) “ward” means an individual for whom a guardian is appointed;

(8) “elisor” means a person, other than an interested person in the guardianship proceeding, who is designated by the court to provide notice to the alleged incapacitated person and who may be the court-appointed attorney.

Committee Notes

Rule History

1977 Revision – 2020 Revision [No Change]

2026 Revision: Adopts new definition of “elisor” in subdivision (b). Committee notes revised.

Statutory References [No Change]

RULE 5.630. PETITION FOR APPROVAL OF ACTS

(a) Contents. When authorization or confirmation of any act of the guardian is required under sections 744.422 or 744.441, Florida Statutes, application must be made by verified petition stating the facts showing:

(1)-(2) [No Change]

(3) the price and terms of any sale, mortgage, or other contract, and support for the price and terms;

(4) [No Change]

(5) whether the action requested conforms to the guardianship plan; ~~and~~

(6) the basis for the relief sought;

(7) whether the guardian, the guardian's spouse, the guardian's lineal descendants, the guardian's collateral kindred, or any person having any personal or professional relationship with the guardian or the ward has any interest, financial or otherwise, direct or indirect, in the action; and

(8) whether the action requested may be a conflict of interest or prohibited activity under section 744.446, Florida Statutes.

(b) [No Change]

(c) Order.

(1)-(3) [No Change]

(4) If the court finds that the action authorized or confirmed is a conflict of interest or prohibited activity, the order must specify why the action is in the best interests of the ward.

Committee Notes

For examples of cases involving conflict of interest between guardian and ward, see *Waldon v. Waldon*, 305 So. 3d 634 (Fla. 3d DCA 2020); *Sun Bank & Tr. Co. v. Jones*, 645 So. 2d 1008 (Fla. 5th DCA 1994); *A.J. v. State, Dept. of Health and Rehab. Services*, 630 So. 2d 1187 (Fla. 2d DCA 1994); *Goeke v. Goeke*, 613 So. 2d 1345 (Fla. 2d DCA 1993); *Glatthar v. Hoequist*, 600 So. 2d 1205 (Fla. 5th DCA 1992); *Webster & Moorhead, P.A. v. City Nat. Bank of Miami*, 453 So. 2d 441 (Fla. 3d DCA 1984).

Rule History

1975 Revision – 2023 Revision [No Change]

2026 Revision: Adopts subdivisions (a)(7) and (a)(8) to require the petition include whether the guardian, the guardian’s spouse, the guardian’s lineal descendants, the guardian’s collateral kindred, or any person having any personal or professional relationship with the guardian or the ward has any interest, financial or otherwise, direct or indirect, in the action. Adopts subdivision (c)(4) to require that the court’s order specify why an action authorized or confirmed is in the best interests of the ward, if that authorized or confirmed action is a conflict of interest or prohibited activity. Committee notes revised.

Statutory References

§ 393.12, Fla. Stat. - § 744.3215, Fla. Stat. [No Change]

§ 744.361, Fla. Stat. Powers and duties of guardian.

§ 744.422, Fla. Stat. - § 744.441, Fla. Stat. [No Change]

§ 744.446, Fla. Stat. Conflicts of interest; prohibited activities; court approval; breach of fiduciary duty.

§ 744.447, Fla. Stat. - § 744.451, Fla. Stat. [No Change]

Rule References

Fla. Prob. R. 5.015 General definitions.

Fla. Prob. R. 5.020 - Fla. Prob. R. 5.649 [No Change]

Fla. R. Gen. Prac. & Jud. Admin. 2.516 Service of pleadings and documents.

RULE 5.648. EMERGENCY TEMPORARY GUARDIAN

(a) Petition for Appointment of Emergency Temporary Guardian. ~~Prior to~~Before the appointment of a guardian but after a petition for determination of incapacity has been filed, the alleged incapacitated person or any adult interested in the welfare of that person may petition for the appointment of an emergency temporary guardian of the person or property. The petition ~~shall~~must be verified and ~~shall~~must state:

(1)-(8) [No Change]

(b) Notice. Notice of filing of the petition for appointment of an emergency temporary guardian and hearing on the petition must be served by the elisor on the alleged incapacitated person and on the alleged incapacitated person's attorney, if not serving as the elisor, at least 24 hours before the hearing on the petition is commenced, unless the petitioner demonstrates that substantial harm to the alleged incapacitated person would occur if the 24-hour notice is given. The elisor must read the notice and the petition to the alleged incapacitated person.

(c) Service on Public Guardian. If the petitioner requests appointment of the public guardian as emergency temporary guardian, ~~a copy of the petition and notice shall~~must be served on the public guardian.

(d) Order. The order appointing the emergency temporary guardian ~~shall~~must specify the powers and duties of the emergency temporary guardian.

(e) Extension of Authority. ~~Prior to~~Before the expiration of the authority of the emergency temporary guardian, any interested person may file a verified petition for extension of authority of the emergency temporary guardian. The petition must show that the conditions that warranted the initial appointment of the emergency

temporary guardian still exist. The petition ~~shall~~must be served on the ward's attorney and on the emergency temporary guardian.

(f) Final Report. An emergency temporary guardian ~~shall~~must file a final report no later than 30 days after the expiration of the emergency temporary guardianship. ~~A copy of t~~The final report ~~shall~~must be served on the successor guardian, if any, the ward, and the ward's attorney. With approval of the court, service on the ward may be accomplished by serving the attorney for the ward.

(1) If the emergency temporary guardian is a guardian of the property, the final report ~~shall consist of~~must include a verified inventory of the ward's property as of the date letters of emergency temporary guardianship were issued, a final accounting that gives a full and correct account of the receipts and disbursements of all the ward's property over which the guardian had control, and a statement of the property on hand at the end of the emergency temporary guardianship.

(2) If the emergency temporary guardian is a guardian of the person, the final report ~~shall~~must summarize the activities of the guardian with regard to residential placement, medical condition, mental health and rehabilitative services, and the social condition of the ward to the extent of the authority granted to the emergency temporary guardian.

(3) If the emergency temporary guardian becomes the successor guardian of the property or person of the ward, the final report must satisfy the requirements of, and ~~shall~~will serve as, the initial report of the guardian of the property or person of the ward, as the case may be, as set forth in rule 5.690.

Committee Notes

Rule History

2007 Revision – 2016 Revision [No Change]

2026 Revision: Amended subdivision (b) to make it clear that the elisor has the responsibility to serve the notice and the petition on the alleged incapacitated person. Committee notes revised.

Statutory References [No Change]

Rule References

Fla. Prob. R. 5.015 General definitions.

Fla. Prob. R. 5.600 - Fla. Prob. R. 5.690 [No Change]