

SIXTH CIRCUIT PROCESSING OF GUARDIAN FEE PETITIONS
PASCO

In an effort to streamline the review of petitions for professional guardian fees, below are “guidelines” that will expedite the review of fee petitions, however judicial discretion will always apply:

CERTIFICATE OF SERVICE
See Statute 744.108(6) and See Also Probate Rules 5.040 and 5.041

The following persons, if applicable should be included on the certificate of service (COS)

- Co-Guardian if pro se or Co-Guardian attorney
 - Court Appointed Attorney, (only if the initial fee petition including ETG)
 - Ward, if limited guardianship (cannot be sent via the guardian)
 - Ward, if voluntary Guardianship (cannot be sent via the guardian)
 - Minor Ward over the age of 14 (cannot be sent via the guardian)
 - Any person previously sent a COS or previously provided notice/pleadings (if omitted, provide written explanation) or consents to a prior petition
 - All next of kin as defined by Florida Statute, sec. 744.102(14) and/or designated by court order
 - If ward is deceased, notice to Personal Representative (unless PR is also the Guardian; if no estate or no PR appointed, send to next of kin)
 - Interested Persons who have filed requests for notice and copies with the court.
 - If it is not in the ward’s best interest to send a COS to any of the above, please provide a written explanation in the pleading or COS.
- 1) All Petitions should include a certificate of service and/or consent/waiver, for the following:
- a. Co-Guardian, if self-represented, or Co-Guardian attorney.
 - b. Court Appointed Attorney (only if the initial fee petition, including emergency temporary guardianship).
 - c. Ward, if limited guardianship (cannot be sent via the guardian)
 - d. Minor Ward over the age of 14 (cannot be sent via the guardian).
 - e. Ward, if voluntary Guardianship (cannot be sent via the guardian).
 - f. Any person listed on a previously filed certificate of service (unless explanation provided why omitted).
 - g. If ward is deceased, notice to Personal Representative (if estate is open, personal representative may also be Guardian *or* Next of kin if no personal representative appointed. (Must include next of kin listed in Petition, unless explanation provided for omission); *see* Florida Statute, sec. 744.102(14) for definition.
 - h. Interested Persons: *see* Florida Statute, sec. 731.201(23) and Fla. Prob. R. 5.060 for definitions.
- 2) A Petition, Proposed Order with blanks inserted for the Court to enter amounts, and a detailed List of Services (or activity log) *must* be filed. The guardian *must include start and stop times for all services billed*. The detailed list must include sufficient information for the Court to determine the benefit to the ward. For example, “t/c with ward or email to facility” is NOT sufficient whereas “t/c with ward regarding need for additional

personal items and email facility to add ward to next shopping transport to Walmart” is acceptable. The Court will not expend time to justify a fee charged if the guardian has not done so herself/himself.

- 3) The time logs should be maintained contemporaneously with the service provided. Unit billing or blanket billing listed as “monthly file audit,” “filing” or “file update” is not acceptable. The Court will not pay “agency fees,” or other similar items. The guardian may not bill for mileage costs in addition to travel time.
- 4) Professional Guardians may not employ their friends or family to provide services for a profit or fee unless no alternative is available and the Professional Guardian discloses this arrangement to the court and the services are provided at the going market rate. (See OPPG Standards of Practice, <https://www.floridaguardians.com/oppg-rule-standards-of-practice-for-professional-guardians/>)
- 5) If the time periods, billable hours and total amounts do not match, the petition may be denied without prejudice or an order on review may be issued.
- 6) If there is an outstanding order to file, order disapproving, order checklist, order to produce or order to show cause or any other substantive discrepancy, the fee petition may not be reviewed and the petition may be denied until all discrepancies are corrected.
- 7) If the Petition requests payments for services which exceed the below monthly amounts, include a written explanation of the extraordinary circumstances justifying the additional time. The amounts below are guidelines only and do not authorize the guardian to bill for the maximum time if less time is required. Judicial discretion still applies:
 - a. Bill paying activity which exceeds 2 hours per month.
 - b. Non-substantive Clerical duties (faxing, scanning, accessing the docket, filing, completing data sheets, non-substantive letters, photocopies) which exceeds 2 hours per month.
 - c. The guardian should not bill more than .5 hour within a 6 month period for reviewing billing for sending to attorney to prepare the petition, and for payment upon receipt of the order approving fees.
 - d. More than 4 hours annually to complete an initial or annual report

Per Florida Statute, sec. 744.108(9) and Fla. Admin. Code R58M-2.001 (22)

- 8) All fees related to the duties of the guardianship, which include work performed by the guardian, guardian’s staff or volunteers, must be reviewed and approved by the court. The Guardian is required to report all work performed by the Guardian, Guardian’s staff or volunteers in the Guardian Fee Petition and the fee petition must clearly and accurately state the date and time of the work performed, time spent on the task and expenses incurred.
- 9) The Guardian is required to report all work performed by service providers, independent contractors or third party providers in the annual accountings and shall provide clear and accurate invoices and receipts for all work performed, including date and time spent on the task, duty performed and hourly rate billed.
- 10) The Guardian is required to disclose to court all staff or agents hired or assigned to

perform tasks or duties on an active guardianship. It is the Guardian's responsibility to clearly and accurately describe whether the person performing the work is the guardian's staff, volunteer, third party provider or independent contractor.

Please Note: If a guardian fee or attorney fee petition fails to comply with Florida Statutes, deficiencies may result in an order reducing fees, additional hearings and/or costs to the guardian, which may not be charged to the guardianship assets.