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§13–705.

(a) On petition and after any notice or hearing prescribed by law or the Maryland Rules, a court may appoint a guardian of the person of a disabled person.

(b) A guardian of the person shall be appointed if the court determines from clear and convincing evidence that:

(1) A person lacks sufficient understanding or capacity to make or communicate responsible personal decisions, including provisions for health care, food, clothing, or shelter, because of any mental disability, disease, habitual drunkenness, or addiction to drugs; and

(2) No less restrictive form of intervention is available that is consistent with the person's welfare and safety.

(c) (1) Procedures and venue in these cases shall be as described by Title 10, Chapters 100 and 200 of the Maryland Rules.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, a petition for guardianship of a disabled person shall include signed and verified certificates of competency from the following health care professionals who have examined or evaluated the disabled person:

(i) Two licensed physicians; or

(ii) 1. One licensed physician; and

2. A. One licensed psychologist;

B. One licensed certified social worker–clinical; or

C. One nurse practitioner.

(3) An examination or evaluation by at least one of the health care professionals under paragraph (2) of this subsection shall occur within 21 days before filing a petition for guardianship of a disabled person.

(d) (1) (i) Subject to paragraph (2) of this subsection, unless the alleged disabled person has counsel of the person's own choice, the court shall appoint

an attorney to represent the person in the proceeding and may require the deposit of an appropriate sum into the court registry or the appointed attorney's escrow account within 30 days after the order of appointment has been entered, subject to further order of the court.

(ii) If the person is indigent, the State shall pay a reasonable attorney's fee.

(iii) The court may not require the deposit of an appropriate sum into the court registry or the appointed attorney's escrow account under subparagraph (i) of this paragraph if payment for the services of the court–appointed attorney for the alleged disabled person is the responsibility of:

1. A government agency 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 § 13–707 of this subtitle.

(2) In any action in which payment for the services of a court–appointed attorney for the alleged disabled person is the responsibility of the local department of social services, unless the court finds that it would not be in the best interests of the alleged disabled person, the court shall:

(i) Appoint an attorney who has contracted with the Department of Human Services to provide those services, in accordance with the terms of the contract; and

(ii) In an action in which an attorney has previously been appointed, strike the appearance of the attorney previously appointed and appoint the attorney who is currently under contract with the Department of Human Services, in accordance with the terms of the contract.

(e) (1) (i) The person alleged to be disabled is entitled to be present at the hearing unless the person has knowingly and voluntarily waived the right to be present or cannot be present because of physical or mental incapacity.

(ii) Waiver or incapacity may not be presumed from nonappearance but shall be determined on the basis of factual information supplied to the court by counsel or a representative appointed by the court.

(2) The person alleged to be disabled is also entitled to present evidence and to cross–examine witnesses.

(3) The issue may be determined at a closed hearing without a jury if the person alleged to be disabled or the person's counsel so requests and all hearings herein shall be confidential and sealed unless otherwise ordered by a court of competent jurisdiction for good cause shown.

(f) The court shall hear and rule on a petition seeking appointment of a guardian of the person of a disabled person in connection with medical treatment on an expedited basis.

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