

Insights

A Dangerous Curve Ahead: Access to Florida Guardianship Proceedings at Risk

Article

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Yesterday, the *Orlando Sentinel* reported that The Florida Bar Board of Governors, at the recommendation of The Real Property Probate and Trust Law Section of The Florida Bar, is considering a proposal to change Florida's guardianship law to further reduce and limit the information available to family members regarding their loved ones involved in guardianship proceedings. In addition to limitations on family members, the media and other groups would also be barred from accessing guardianship records if the new proposal is adopted and ultimately ends up in the legislature.

For a lawyer who frequently represents the family members of wards involved in Florida guardianship proceedings, this recommendation is extremely concerning since it would further limit information available to the families who are looking out for the best interests of their loved ones. If the new proposal becomes law, family members would be left in the dark when, for example, a guardian moves to sell a ward's home and would be unable to receive and object to filings related to things such as the payment of fees for guardians or their lawyers – essentially giving carte blanche to utilize a ward's assets to benefit the guardian and the lawyers who represent the guardian without appropriate checks and balances to protect the ward.

As we have repeatedly seen with the Rebecca Fierle professional guardian scandal, which resulted in the untimely death of at least one ward, family members play a vital role in keeping their loved ones safe. Sometimes guardianship proceedings are commenced without notice or an opportunity for family members to be heard at the initial hearing. When family members are not involved at the onset (and adequately represented by their own counsel), there is a higher likelihood for abuse, exploitation, and neglect of the ward and the ward's express wishes. Pursuant to Florida law, the ward will be assigned a lawyer who is charged with representing the ward's express wishes, not what the lawyer deems to be in the ward's best interest. Nevertheless, left unchecked, the attorney for the ward has wide latitude and power to make significant changes affecting the ward's life and livelihood and may not be arguing what is in

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the ward's express interest.

It is extremely important for families to be represented and engaged in the guardianship process to protect their loved ones, even in cases when a professional guardian is appointed. Denying access to family members or other interested persons would further jeopardize the transparency and accountability of the guardianship system which may result in higher incidents of fraud, abuse, and neglect of Florida's most vulnerable population.

If someone you love is involved in a guardianship proceeding, please contact **Melody Lynch** to find out how Lowndes can assist you in the process.