

**PROCEDURES AND BYLAWS
FOR
COURT APPOINTMENTS IN MENTAL HEALTH PROCEEDINGS,
EXTRAORDINARY GUARDIANSHIP ISSUES, AND OTHER
MATTERS VIA REGISTRY (JAC)**

**ELEVENTH JUDICIAL CIRCUIT
MIAMI-DADE COUNTY, FLORIDA**

Prepared by: Registry Screening Committee established pursuant to
Administrative Order No. 12- 03 A1, dated October 1, 2020 (“Committee”).

I. SCREENING COMMITTEE MEMBERS

- A. Giovanna Abreu O’Connor, Esq. (Chair)
- B. Edward Golden, Esq. (Vice-Chair)
- C. Jose I. Leon, Esq.
- D. Antonio J. Soto IV, Esq.
- E. Pilar Villaverde Vazquez, Esq.
- F. Director of Probate Operations (nonvoting except as tiebreaker)

II. COMMITTEE STANDARDS

- A. **COMMITTEE MEMBERS-** The Committee shall consist of a minimum of six (6) and a maximum of nine (9) members.
- B. **MEETINGS-** There shall be a minimum of two committee meetings per year (one in August and one in February), and attendance of all Committee members is mandatory at those two meetings. Failure to attend one of the two annual meetings may subject the Committee member to removal from the Committee. Removal will be subject to a vote of a majority of the remaining Committee members and the approval of the Chief Judge. Committee meeting dates will be published on the Eleventh Judicial Circuit website. Meetings can be held in person or via teleconference/video conference.
- C. **QUORUM-** Two-thirds (2/3) of the Committee members constitute a Quorum. A Quorum is required whenever a vote of the committee is called for.
- D. **VOTING-** All votes, unless otherwise designated, shall require a majority vote in favor of the pending issue for passage. The Director of Probate shall be the tiebreaker in case of a tie.
- E. **COMMITTEE CONFLICTS OF INTEREST-** In the event that a Registry applicant or Court Appointed Counsel (“CAC”) has a professional or personal relationship with a Committee Member, the Committee Member shall recuse themselves from any vote related to that applicant or CAC.
- F. **APPROVAL AND AMENDMENT OF BYLAWS-** The Committee shall review these bylaws, adopt them, and recommend necessary changes every two years. Proposed changes to the bylaws shall be submitted by the Committee to the Chief Judge or to the Chief Judge’s designee for approval.

- G. **RECORDS**- The Committee shall maintain applications, correspondence addressed to and received by the Committee, and complaints regarding CACs, for ten (10) years. The Director of Probate shall be responsible for maintaining the records.
- H. **SCREENING COMMITTEE**- The Screening Committee is established for the Probate and Guardianship Registry. The Committee shall answer to the Chief Judge of the Eleventh Judicial Circuit of Florida and shall operate pursuant to the powers granted by the Chief Judge, as described in the applicable Administrative Order(s), statutes, and the laws of Florida.

III. **DEFINITIONS**

- A. **CERTIFICATION**- a finding by the Committee that an applicant has complied with the duties and requirements of section VI. E. below and may be recommended to the Chief Judge for appointment to the Registry.
- B. **CLE REQUIREMENT**- Florida Bar approved continuing legal education in relevant areas. See section VI. D. below.
- C. **EXPULSION**- a finding by the Committee that a CAC is no longer in compliance with the duties and requirements of section VI. E. and should be recommended to the Chief Judge for removal from the Registry. Attorneys who have been removed from the Registry as a result of expulsion may not apply for reinstatement for one (1) year following the date of removal.
- D. **RECERTIFICATION**- a finding by the committee, following biennial review, that a CAC currently on the Registry remains in compliance with the duties and requirements of section VI. E. and should be recommended to the Chief Judge for an additional two-year term of appointment to the Registry.
- E. **REGISTRY**- the list of attorneys approved by the Chief Judge upon the recommendation of the Committee and qualified to receive Court appointments on matters identified in Section IV.
- F. **REMOVAL**- is the removal of an attorney's name from the Registry list maintained by the Clerk of Court.
- G. **REINSTATEMENT**- is the addition of an attorney's name to the Registry list maintained by the Clerk of Court after removal from the list.

IV. **STATUTORY SCOPE OF REGISTRY**

- A. Adult Protective Services Proceedings- Florida Statutes, Chapter 415
- B. Emergency Temporary Guardian Proceedings and Other Extraordinary Guardianship Proceedings- Florida Statutes, Chapter 744
- C. Incapacity and Restoration Proceedings- Florida Statutes, Chapter 744
- D. Developmentally Disabled Proceedings- Florida Statutes, Chapter 393
- E. Court Appointed Conflict Counsel in Marchman Act Proceedings- Florida Statutes, Chapter 397
- F. Court Appointed Conflict Counsel in Baker Act Proceedings- Florida Statutes, Chapter 394
- G. Court Appointed Conflict Counsel in Tuberculosis Control Act Proceedings- Florida Statutes, Chapter 392

V. SEEKING APPOINTMENT TO THE REGISTRY

- A. **APPLICATION-** To be considered for placement on the Court’s Registry, an attorney must be a member in good standing of The Florida Bar and submit a completed *Application to Receive Court Appointed Cases Regarding Mental Health Proceedings, Extraordinary Guardianship Issues, and Other Matters* (available on the Eleventh Judicial Circuit’s website) to the Director of Probate via email. At any time, the Chief Judge may limit the number of attorneys who can be appointed to a specific Registry. Applicants may be denied for not having necessary qualifications, having sustained Florida Bar complaints, or due to any other fact(s) that may affect the applicant’s fitness or ability to serve.
- B. **JAC CONTRACT-** Pursuant to § 27.40, Fla. Stat., Registry members must enter into a contract with the Justice Administrative Commission (“JAC”) to be included on an Eleventh Circuit Registry for appointment as private court-appointed counsel. The JAC contracts expire at the conclusion of the State Fiscal Year (June 30) and must be renewed annually by July 1.
- C. **APPLICATION PERIOD-** There will be one annual open-enrollment period, from January 1 through April 30, for attorneys seeking admission to the Eleventh Judicial Circuit Court’s Registry. Applications for the Registry will be accepted by Court Administration only during the open enrollment period. The application and instructions for applying shall be posted on the Eleventh Judicial Circuit Court’s website.
- D. **CERTIFICATION-** The Committee shall review each application received during the open enrollment period and vote to recommend approval or rejection of the application. If the Committee recommends approval of an applicant, their information will be provided to JAC to prepare a contract. Once an applicant has completed their JAC contract, the Probate Director will forward the Committee’s recommendation to the Chief Judge for final approval. Upon approval by the Chief Judge, the candidate will be appointed to the Registry.
- E. **TERM OF APPOINTMENT-** The term of appointment to the Registry shall be two (2) years. Upon expiration of the two-year term, appointees must apply for recertification to remain on the Registry.
- F. **ACCEPTANCE/REJECTION-** The Committee shall meet between May 1 and May 31 and send a notice of recommendation to the Chief Judge for appointment or rejection of each applicant. The applicant shall be notified by the Chair of the Committee within five (5) days of the Chief Judge’s appointment or rejection of that applicant.

VI. ATTORNEY QUALIFICATIONS

- A. **OVERVIEW-** The first and foremost objective of the Committee is to ensure that each attorney appointed under this system is competent to handle their assigned case. The Committee recognizes the inherent drawbacks in creating specific objective guidelines in evaluating legal ability; this paradigm has been designed with the intent that exceptional circumstances will result in the exercise of discretion by the Committee in the application of these rules, both for and against recommendation of an attorney as a CAC. Generally, a lawyer whose principal office is located in Miami-Dade County, Broward County, Palm Beach County, and Monroe County, Florida, who is a member in good standing of The Florida Bar, and who meets the standards prescribed below, including the statutory requirements contained in section VI.D CAC, may be certified as eligible for appointments under the system as a CAC in the Eleventh Judicial Circuit, Probate Division.

B. MONITORING- The Committee shall establish a system for monitoring the performance of the attorneys handling CAC cases. This system shall consider input from all persons knowledgeable about attorney performance, including but not limited to judges, private attorneys, and Regional Counsel attorneys. The standard against which CACs are to be measured shall be that of a reasonable, skilled, knowledgeable, and conscientious attorney. The Committee shall publicize the criteria used in monitoring and shall inform the particular attorney of any decision or refusal to certify or re-certify, as well as any decision to remove or expel. The Committee shall have the power, by a three-fourths (3/4) vote of the voting members at a scheduled meeting of the Committee, to impose penalties for failure to abide by the rules promulgated by the Committee.

C. PENALTIES- Penalties shall range from a reprimand, to a recommendation to the Chief Judge that a CAC be removed or expelled from the Registry. If the Chief Judge agrees with the recommendation of removal or expulsion, the Chief Judge should promptly inform the Administrative Judge of Probate, Director of Probate, the Chair of the Committee, and the Clerk of Court of the decision. The Clerk of Court shall then immediately send written notice to the CAC and JAC.

D. CAC STATUTORY REQUIREMENTS

Type of Case	Statutory Provision	Requirement
<p>Adult Protective Services Proceedings Pursuant to Florida Statutes, Chapter 415</p> <p>And</p> <p>Emergency Temporary Guardian Proceedings and Other Extraordinary Guardianship Proceedings, Pursuant to Florida Statutes, Chapter 744</p> <p>And</p> <p>Incapacity and Restoration Proceedings Pursuant to Florida Statutes, Chapter 744</p>	<p>Fla. Stat. § 744.331</p>	<p>An attorney seeking to be appointed by a court for incapacity and guardianship proceedings must have completed a minimum of 8 hours of education in guardianship. A court may waive the initial training requirement for an attorney who has served as a court-appointed attorney in incapacity proceedings or as an attorney of record for guardians for not less than 3 years. § 744.331 Fla. Stat.</p>

<p>Developmental Disability Proceedings Pursuant to Florida Statute 393</p>	<p>Fla. Stat. § 393.12(5)(a)</p>	<p>“The court shall initially appoint a private attorney who shall be selected from the attorney Registry compiled pursuant to s. 27.40. Such attorney must have completed a minimum of 8 hours of education in guardianship. The court may waive this requirement for an attorney who has served as a court-appointed attorney in guardian advocate proceedings or as an attorney of record for guardian advocates for at least 3 years.”</p>
<p>Court Appointed Conflict Counsel in</p> <p>Marchman Act Proceedings Pursuant to Florida Statute 397</p> <p>And</p> <p>Tuberculosis Control Act Proceedings Pursuant to Florida Statutes Chapter 392</p>	<p>Fla. Stat. § 27.511(6)(a); § 27.40(2)-(4)</p>	<p>27.511(6)(a): “The office of criminal conflict and civil regional counsel has primary responsibility for representing persons entitled to court- appointed counsel under the Federal or State Constitution or as authorized by general law in civil proceedings, including, but not limited to, proceedings under s. . . . 397...”</p> <p>27.40(2)-(4) “(2)(a) Private counsel shall be appointed to represent persons in those cases in which provision is made for court-appointed counsel but the office of criminal conflict and civil regional counsel is unable to provide representation due to a conflict of interest.</p> <p>(b) Private counsel appointed by the court to provide representation shall be selected from a registry of individual attorneys maintained under this section. . . . To be included on a registry, an attorney must certify that he or she:</p> <ol style="list-style-type: none"> 1. Meets any minimum requirements established by the chief judge and by general law for court appointment; 2. Is available to represent indigent defendants in cases requiring court appointment of private counsel; and 3. Is willing to abide by the terms of the contract for services. <p>To be included on a registry, an attorney must enter into a contract for services with the Justice Administrative Commission. . . .</p> <p>(4) To be eligible for court appointment, an attorney must be a member in good standing of The Florida Bar in addition to any other qualifications specified by general law and any requirements set by the chief judge of the circuit.”</p>

<p>Court Appointed Conflict Counsel in</p> <p>Baker Act Pursuant to Florida Statute 394</p>	<p>Fla. Stat. § 394.916(3); § 27.40(2)-(4)</p>	<p>§394.916(3) “At all adversarial proceedings under this act, the person subject to this act is entitled to the assistance of counsel, and, if the person is indigent, the court shall appoint the public defender or, if a conflict exists, other counsel to assist the person.”</p> <p>27.40(2)-(4) “(2)(a) Private counsel shall be appointed to represent persons in those cases in which provision is made for court-appointed counsel but the office of criminal conflict and civil regional counsel is unable to provide representation due to a conflict of interest.</p> <p>(b) Private counsel appointed by the court to provide representation shall be selected from a registry of individual attorneys maintained under this section.</p> <p>. . . To be included on a registry, an attorney must certify that he or she:</p> <ol style="list-style-type: none"> 1. Meets any minimum requirements established by the chief judge and by general law for court appointment; 2. Is available to represent indigent defendants in cases requiring court appointment of private counsel; and 3. Is willing to abide by the terms of the contract for services. <p>To be included on a registry, an attorney must enter into a contract for services with the Justice Administrative Commission.</p> <p>(4) To be eligible for court appointment, an attorney must be a member in good standing of The Florida Bar in addition to any other qualifications specified by general law and any requirements set by the chief judge of the circuit.”</p>
--	--	---

E. CAC DUTIES AND REQUIREMENTS- All Registry attorneys must:

- a. Meet any minimum requirements established in these bylaws and general law for court appointments;
- b. Professionally and zealously represent the individuals that they are appointed to represent;
- c. Maintain a valid email address for communication with the Director of Probate, the Committee, and the Court, as designated in their application;
- d. Appear timely and professionally at all court proceedings on the appointed case;
- e. Abide by the terms of their contract for services with JAC;
- f. Abide by the terms of these bylaws;
- g. Immediately notify the Clerk of Court, JAC, and the Director of Probate of any changes to their contact information and compliance with these bylaws;

- h. Immediately inform the Director of Probate and the Committee of any reprimand by The Florida Bar against them; any non-confidential consent agreements entered into between the CAC and The Florida Bar; and any claim of ineffective assistance of counsel brought against them that has been set for a hearing before a judge or magistrate.
- i. Accept the appointments made by the Court, unless the CAC has a conflict of interest;
- j. Immediately inform the Court of any potential conflict of interest related to an individual appointment or service on the Registry as a whole;
- k. Meet with their court-appointed clients either in person, on the telephone, or via video conferencing, as the circumstances may allow;
- l. Personally attend (whether in person, on the telephone, or via video conferencing, as the circumstances may allow) any hearings arising out of or related to the Court-appointment; and
- m. Oversee and supervise any and all work related to a court appointment that the CAC has delegated to other members of their firm. The CAC shall not reassign or subcontract any appointed case or portion thereof to another attorney or bill for work performed by another attorney, nor shall the CAC bill for work performed by a paralegal, secretary (or other similar clerical office support), legal assistant, administrative assistant or other employee of the CAC's law practice.
- n. Upon selection of a CAC from the Registry, the Clerk of Court shall contact the CAC to notify them of their appointment. Upon being contacted by the Clerk of Court, the CAC shall have twenty-four (24) hours to contact the Clerk of Court to accept the appointment, otherwise another attorney shall be selected from the Registry.

VII. ATTORNEY'S FEES

- A. Attorneys shall be compensated in accordance with the schedule of fees prescribed by Florida Statutes and the General Appropriations Act in effect at the time of attorney's date of appointment.
- B. Attorneys seeking compensation for extraordinary and unusual effort must comply with § 27.5304(12), Fla. Stat. and AO 12-21 as amended and the latest amendment thereto.

VIII. REMOVAL FROM THE REGISTRY

- A. **AUTOMATIC REMOVAL-** A CAC shall immediately be removed from the Registry without further process if they:
 - 1. Resign from the Registry.
An attorney may resign from the Registry upon written notification to the Chief Judge, Committee Chair, Clerk of Court, and JAC. The notice shall state whether the attorney is resigning from all or only some of the categories to which the attorney is currently appointed. The attorney remains responsible for all cases assigned prior to the resignation date until completed or until further court order.
 - 2. Fail to renew or maintain their JAC contract, including entering into addenda or amendments, as may be required by JAC by the annual deadline as set by the JAC. The annual deadline for renewal of the JAC Contract is currently July 1 but that is subject to change by JAC.

3. Fail to enter into any and all other agreement(s) and addendums to agreement(s) as required by JAC within thirty (30) days of a request by the JAC.
4. Terminate their contract with JAC or have their contract terminated by JAC.
5. Are convicted of a felony or of abuse, neglect, or exploitation of an elderly person or a disabled adult, as those terms are defined in section 825.101, Florida Statutes.
6. Are adjudicated incapacitated under Fla Stat. 744.
7. Are suspended, disbarred, or surrender of their Florida Bar license.

If at any point a CAC is not a member in good standing with The Florida Bar, the attorney must promptly notify the Chief Judge in writing. The Chief Judge has the authority to remove an attorney from the Registry who is disbarred, suspended, surrendered his or her license, or not in good standing with The Florida Bar even if the attorney fails to provide notice. An attorney removed for any reason set forth in this paragraph, upon reinstatement to The Florida Bar, will be required to file a new application to be considered by the Screening Committee and approved by the Chief Judge for reinstatement to the Registry.

B. COMMITTEE REMOVAL- The Committee may recommend that the Chief Judge remove a CAC from the Registry if they:

1. Fail to comply with the terms of their contract with the JAC.
2. Fail to notify the Chief Judge, Screening Committee, Clerk, and JAC of any change in status. The removal may be temporary until such time as the attorney notifies the Chief Judge, Screening Committee, Clerk, and JAC, or may be permanent, in the discretion of the Chief Judge, based upon the nature of the change of status.
3. Fail to maintain a valid email address for communication with the Chief Judge, Director of Probate, the Committee, and the Court, as designated in their application.
4. Fail to immediately notify the Clerk of Court, JAC, and the Director of Probate of any changes to their contact information or compliance with these bylaws.
5. Reassign or subcontract an assigned case to another attorney without court approval.
6. Have more than two (2) Rule to Show Cause orders or two (2) sua sponte notices or order to progress case entered against a client they represent in a calendar year.
7. Decline more than two (2) court appointments in the course of any twelve (12) month period for any reason other than conflict of interest.

Any declination of Court appointments shall result in the CAC being placed at the bottom of the Registry. Upon the third declination, the CAC shall be recommended for expulsion and may seek reinstatement after twelve (12) months by submitting a new application to the Committee, along with a statement as to why the Committee should consider recertification. Recertification shall require approval by a majority of the Committee.

8. Has circumstances that have affected their quality of representation, as ultimately determined by the Chief Judge after the procedures set forth below in section XI, "Complaints," have been followed. Such circumstances include, but are not limited to, matters set forth in Section 27.40(9).

If the committee becomes aware of circumstances suggesting an attorney has met any of the criteria for removal described in section VIII(B), the committee shall contact the attorney and afford them an opportunity to respond.

- I. If the attorney does not dispute that they meet at least one of the criteria for removal, or fails to respond within twenty (20) days, the committee shall decide by majority vote whether to afford the attorney an opportunity to cure the violation or to recommend to the Chief Judge that the attorney be removed from the Registry immediately. The vote may be taken either at a meeting of the committee or by email correspondence.
- II. If the attorney denies that they meet at least one of the criteria for removal or requests an opportunity to be heard on the matter, then the committee shall initiate the complaints procedure described in section IX by submitting a written complaint to the Chief Judge outlining the alleged violation.

C. **EXPULSION**

1. Once the committee has determined that an attorney meets the qualifications for removal from the Registry for any reason, the committee may elect to further consider whether the attorney's conduct warrants expulsion from the Registry.
2. The decision to expel an attorney from the Registry must be adopted by a two-thirds (2/3) vote of the committee taken at a public meeting.
3. An attorney that has been expelled from the Registry may not seek reinstatement for twelve (12) months from the date of expulsion. Once the twelve (12) months has expired, the attorney may apply for reinstatement by submitting a new application to the Committee during the annual open enrollment period, along with a statement as to why the committee should consider reinstatement. Reinstatement shall require approval by a majority of the Committee. Any time an attorney is removed from the Registry and later reinstated; the attorney will be placed at the bottom of the Registry for rotation to receive appointments.

CI. **REINSTATEMENT**- An attorney who has been removed from the Registry may seek reinstatement by curing the deficiency that caused their removal from the Registry and submitting a new application to the Committee during the next enrollment period. Any time an attorney is removed from the Registry and later reinstated; the attorney will be placed at the bottom of the Registry for rotation to receive appointments.

IX. **COMPLAINTS PROCEDURES**

- A. **SUBMISSION**- Complaints by any interested party about a Registry attorney shall be in writing, addressed and delivered to the Chief Judge, with a copy to the Administrative Judge of Probate, Director of Probate, and Screening Committee Chair.
- B. **NOTICE**- The Director of Probate will immediately forward a copy of the written complaint to the attorney, via email, and notice the matter for a public meeting.
- C. **RESPONSE**- If the attorney chooses to respond to the complaint, a written response may be delivered to the Chief Judge, with a copy to the Administrative Judge of Probate, Director of Probate, and Screening Committee Chair, prior to the public meeting.
- D. **REVIEW**- The Committee shall hold a public meeting where the subject attorney shall have the opportunity to be present and heard on the matter.
- E. **RECOMMENDATION**- After the meeting, the Committee shall vote on whether to recommend that the Chief Judge reprimand or remove the attorney. A recommendation of removal shall require approval by a majority of the committee as a whole.
- F. **DETERMINATION**- The Chief Judge shall make the final determination as to what action, if any, should be taken regarding the attorney's status on the Registry.

- G. **NOTIFICATION-** The Chief Judge should promptly inform the Administrative Judge of Probate, Director of Probate, the Chair of the Committee, and the Clerk of Court, of their decision. The Clerk of Court shall immediately send written notice of the Chief Judge's decision to the CAC. The Clerk of Court should also send written notification to the JAC, if the CAC is to be removed or suspended from the Registry.
- H. **OPEN CASES RELATED TO COMPLAINT-** If the complaint pertains to an active/open case, the complaint will be referred to the section Judge for any action. If appropriate, the section Judge may refer the complaint to the Chief Judge and recommend sanction.