

524.5-310 FINDINGS; ORDER OF APPOINTMENT.

(a) The court may appoint a limited or unlimited guardian for a respondent only if it finds by clear and convincing evidence that:

(1) the respondent is an incapacitated person; and

(2) the respondent's identified needs cannot be met by less restrictive means, including use of appropriate technological assistance.

(b) Alternatively, the court, with appropriate findings, may treat the petition as one for a protective order under section 524.5-401, enter any other appropriate order, or dismiss the proceeding.

(c) The court shall grant to a guardian only those powers necessitated by the ward's limitations and demonstrated needs and, whenever feasible, make appointive and other orders that will encourage the development of the ward's maximum self-reliance and independence. Any power not specifically granted to the guardian, following a written finding by the court of a demonstrated need for that power, is retained by the ward.

(d) If the court grants the guardian any of the powers or duties under section 524.5-313, paragraph (c), clause (1), (2), or (4), the authority of a previously appointed health care agent to make health care decisions, as defined in section 145C.01, subdivision 5, is suspended until further order of the court or as otherwise provided by this section. The court may declare a health care directive unenforceable as provided in section 145C.09, subdivision 3. The court may declare that a health care directive has been revoked by the ward if the court finds, by clear and convincing evidence, that the ward has revoked the health care directive as provided in section 145C.09, subdivision 1.

(e) A health care agent or other person legally appointed by the ward to control final disposition of the ward's remains under section 145C.05, subdivision 2, clause (7), or 149A.80, or a health care agent authorized to make organ or tissue donations under section 525A.04 or 525A.09, may make health care decisions as defined in section 145C.01, subdivision 5, on behalf of the ward for the purpose of preparing the ward's body for organ or tissue donation or final disposition of the ward's remains, as applicable.

(f) Within 14 days after an appointment, a guardian shall send or deliver to the ward, and counsel if represented at the hearing, a copy of the order of appointment accompanied by a notice which advises the ward of the right to appeal the guardianship appointment in the time and manner provided by the Rules of Appellate Procedure.

(g) Each year, within 30 days after the anniversary date of an appointment, a guardian shall send or deliver to the ward and to interested persons of record with the court a notice of the right to request termination or modification of the guardianship or to request an order that is in the best interests of the ward or for other appropriate relief, and notice of the status of the ward's right to vote.

History: 2003 c 12 art 1 s 34; 2005 c 156 art 6 s 67; 2009 c 150 s 8; 2010 c 254 s 6