

GUARDIANSHIP RULES
RULE 1-143
[NEW MATERIAL]

Supreme Court Approved
June 24, 2019

1 **1-143. Guardianship and conservatorship proceedings; appointment of visitor,**
2 **qualified health care professional, and guardian *ad litem*; timing and review of**
3 **reports.**

4 **A. Scope; computation of time.** This rule governs the appointment of and
5 filing of reports by a visitor, qualified health care professional, and guardian *ad litem* in a
6 guardianship or conservatorship proceeding under Chapter 45, Article 5, Parts 3 and 4
7 NMSA 1978. All time periods set forth in this rule, regardless of length, shall be computed
8 using calendar days as provided in Rule 1-006(A)(1) NMRA.

9 **B. Appointment.** Upon the filing of a petition for the appointment of a
10 guardian or conservator, the court shall appoint a qualified health care professional, visitor,
11 and if necessary, a guardian *ad litem*.

12 **C. Timing of reports.** An order of appointment under Paragraph B of this rule
13 shall require the appointee to file a report as follows.

14 **(1) Qualified health care professional.** A qualified health care
15 professional shall file the report required under Section 45-5-303(E) or 45-5-407(C)
16 NMSA 1978 no later than fourteen (14) days before the hearing on a petition to appoint a
17 guardian or conservator.

18 **(2) Visitor.** A visitor shall file the report required under Section 45-5-
19 303(F) or 45-5-407(D) NMSA 1978 no later than eleven (11) days before the hearing on a
20 petition to appoint a guardian or conservator.

21 **(3) Guardian ad litem.** A guardian *ad litem* shall file the report

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1 required under Section 45-5-303.1(A)(6) or 45-5-404.1(A)(6) NMSA 1978 no later than
2 seven (7) days before the hearing on a petition to appoint a guardian or conservator.

3 **D. Provision of reports.** Within three (3) days of the filing of a report
4 required under Paragraph C of this rule, the petitioner shall provide a copy of the report to
5 the alleged incapacitated person, the visitor, the guardian *ad litem*, any attorney of record,
6 any agent under a power of attorney unless the court orders otherwise, and any other person
7 the court determines under Rule 1-079.1(B)(4) or (C)(4) NMRA. The report may be
8 provided to such persons in any manner reasonably calculated to afford a meaningful
9 opportunity to review the report before the hearing on the petition to appoint a guardian or
10 conservator.

11 **E. Review.** Prior to the hearing, the guardian *ad litem* shall review the reports
12 with the alleged incapacitated person by making the alleged incapacitated person aware of
13 the contents of the reports and their significance.

14 [Approved by Supreme Court Order No. 19-8300-005, effective July 1, 2019.]

15 **Committee commentary.** — The time limits and review requirements set forth in
16 this rule are intended to provide an opportunity for meaningful communication about the
17 content and recommendations contained in the reports before the hearing on the petition
18 for the alleged incapacitated person and any other person entitled to access the reports
19 under Rule 1-079.1 NMRA.

20 [Approved by Supreme Court Order No. 19-8300-005, effective July 1, 2019.]