

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

**IN RE: AMENDMENTS TO RULES 178A AND 180-B OF THE COURT OF
CHANCERY RULES, TITLE XVII**

This 21st day of May 2026, IT IS HEREBY ORDERED that the Court of Chancery Rules, Title XVII, are revised to amend Rules 178A and 180-B, as follows, effective June 1, 2026.

Rule 178A is amended as follows:

**TITLE XVII. GUARDIANS FOR PERSONS WITH
DISABILITIES**

**Rule 178A. Petition for Order Permitting Action
Contrary to Advance Health-Care Directive Under
16 Del. C. § 2522(a)**

**(a) Petition for Change in Advance Health-Care
Directive.**

(1) *Petition Required Under 16 Del. C. § 2522(a)*. If a guardian for the person of a person with a disability desires to refuse to comply with a provision of, or to revoke, the person with a disability's advance health-care directive, then the guardian must first petition the court for and obtain an order expressly permitting the acts taken by the guardian.

(2) *Contents of Petition*. To obtain an order under this rule, a guardian must file a verified petition that includes:

- (A) the information required by Rule 178(b);
- (B) a copy of the advance health-care directive;
- (C) a statement of the facts and circumstances concerning the request to refuse to comply with a provision of, or to revoke, the advance health-care directive;
- (D) two physicians' affidavits outlining the medical requirements and needs supporting the requested relief;

(E) a description of any efforts to obtain physicians' affidavits relating to the subject matter of the petition that the petitioner did not provide under paragraph (a)(2)(D) of this rule; and

(F) a form of order implementing the requested relief.

(3) *Notice.*

(A) *Interested Parties.* The guardian must provide notice of the petition to interested parties as defined in Rule 175(b)(3).

(B) *Means of Notice.* Notice must be given by: certified mail, return receipt requested; FedEx; United Parcel Service; or any courier service that provides real-time tracking of delivery.

(C) *Notice Period.* Unless otherwise ordered by the court, the court will hold the petition for a period of at least 13 days to allow interested parties to respond. If no responsive pleading is received within that time, the court may act on the petition without further proceedings.

(D) *Proof of Service and Notice.* The party giving notice must file proof that notice was timely served.

(4) *Objections.* Any objection or response must be filed in writing with the court within 13 days of the date of the petition unless the court orders an expedited response deadline.

(5) *Expedited Cases.* For good cause, the court may expedite consideration of any petition filed under this rule, including by waiving the notice requirements of paragraph (a)(3). Petitions filed under this rule will be heard in the first instance by the Chancellor or a Vice Chancellor.

Comment

In 2026, Rule 178A was revised to resolve a conflict with 16 *Del. C.* § 2522(a), which was discussed in a March 24, 2026, letter decision authored by Vice Chancellor Paul A. Fioravanti, Jr., in *In re J.L.S.*, C.M. No. 20912-K-PAF.

Revised Rule 178A clarifies the required contents of petitions filed under the rule—which must be verified—including “a description of any efforts to obtain physicians’

affidavits relating to the subject matter of the petition that the petitioner did not provide under paragraph (a)(2)(D) of this rule.”

The revised rule shortens the deadline for responses to petitions under the rule from 20 days to 13 days and specifically requires the noticing party to file proof that notice was timely served.

Revised Rule 178A states that the Court may waive the notice requirements for good cause and clarifies that petitions under the rule will be heard in the first instance by the Chancellor or a Vice Chancellor.

Rule 180-B is amended as follows:

Rule 180-B. Powers and Duties of Guardian

(a) Guardian Defined. All references to guardians in these Rules shall be applicable to interim guardians and guardians for persons with disabilities appointed under 12 *Del. C.* Chapter 39 after July 8, 1993, or under 12 *Del. C.* Chapter 39A, and to trustees and guardians appointed under former statutes 12 *Del. C.* Chapter 37 and Chapter 39.

(b) Annual Status Report.

(1) *Due Date.* All guardians of the person and/or property of any person with a disability shall file a status report with the Register in Chancery each year no later than the first business day of the quarter in which the guardian was appointed.

(2) *Filing Requirement.* The status report shall inform the Court of the current mailing address of both the person with a disability and the guardian, and shall provide to the Court a current medical statement from an approved medical practitioner setting forth the current medical status of the person with a disability and addressing the need for a continued guardianship.

(3) *Exception.* The status report shall be in the form provided by the Court, except the Office of the Public Guardian may provide its own review form, subject to the Court’s approval.

Comment

In 2026, Rule 180-B was revised to clarify that references to guardians throughout the rules are applicable to guardians for persons with disabilities appointed under 12 *Del. C.* Chapter 39A, in addition to guardians appointed under 12 *Del. C.* Chapter 39 after July 8, 1993, and to trustees and guardians appointed under former statutes 12 *Del. C.* Chapter 37 and Chapter 39.

The rule also was revised to change the term “ward” to “person with a disability,” to align more closely with other rules.

/s/ Kathaleen St. J. McCormick
Kathaleen St. J. McCormick
Chancellor