

reasonable and sufficient; and . . . believe[d] that the guardianship [would] be accepted by” this Court;⁴

WHEREAS, when the Petition was filed, the person with a disability was no longer residing in Delaware and, rather, was residing at Indigo Hall Assisted Living and Memory Care in South Carolina (“Indigo Hall”);⁵ she moved to Indigo Hall on December 20, 2021, previously residing at Laurelwood Healthcare Center, in Maryland, from February 25, 2021 to September 16, 2021, Foulk Manor South, in Delaware, from September 16, 2021 to December 17, 2021, and with H.M.G., at her home in South Carolina, from December 17, 2021 to December 20, 2021;⁶ before these placements, the person with a disability lived in her longtime home in Wilmington, Delaware;⁷

WHEREAS, the Petition was heard on April 28, 2022, at which time I raised concerns about this Court’s jurisdiction;⁸ the Petitioners were directed to file a supplemental brief addressing jurisdiction, which was submitted on May 25, 2022;⁹

WHEREAS, under the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (the “Uniform Act”), this Court “has jurisdiction to appoint a guardian . . . if: 1. This State is the [person with a disability]’s home state;

⁴ D.I. 1, Ex. D.

⁵ D.I. 1 ¶3.

⁶ D.I. 1 ¶4.

⁷ D.I. 1 ¶3.

⁸ D.I. 3.

⁹ D.I. 4.

[or] 2. On the date the petition is filed, this State is a significant-connection state and: . . . [t]he [person with a disability] does not have a home state or a court of the [person with a disability]’s home state has declined to exercise jurisdiction because this State is a more appropriate forum;”¹⁰

WHEREAS, a “home state” is “the state in which the [person with a disability] was physically present, including any period of temporary absence, for at least 6 consecutive months immediately before the filing of a petition for a protective order or the appointment of a guardian; or if none, the state in which the [person with a disability] was physically present, including any period of temporary absence, for at least 6 consecutive months ending within the 6 months prior to the filing of the petition[;]”¹¹

WHEREAS, a “significant-connection state” is “a state, other than the home state, with which a [person with a disability] has a significant connection other than mere physical presence and in which substantial evidence concerning the [person with a disability] is available[;]”¹² to determine whether Delaware is a significant-connection state, this Court considers the following factors: “a. The location of the [person with a disability]’s family and other persons required to be notified of the guardianship or protective proceeding; b. The length of time the [person with a

¹⁰ 12 *Del. C.* § 39A-201.

¹¹ 12 *Del. C.* § 39A-101(8).

¹² 12 *Del. C.* § 39A-101(17).

disability] at any time was physically present in the state and the duration of any absence; c. The location of the [person with a disability]’s property; and d. The extent to which the [person with a disability] has ties to the state such as voting registration, state or local tax return filing, vehicle registration, driver’s license, social relationship, and receipt of services[;]”¹³

IT IS HEREBY ORDERED, this 14th day of June, 2022, as follows:

1. The Petition is GRANTED.
2. Under the Uniform Act, the person with a disability’s home state is Maryland. Although the person with a disability was not physically present in one State for the six (6) months prior to the filing of the Petition (August 2021 through February 2022), she was physically present in Maryland for more than six (6) consecutive months, ending within that six (6) month period (February 2021 through September 2021).
3. Because Maryland is the person with a disability’s home state, this Court may only exercise jurisdiction if Maryland has declined to exercise jurisdiction in favor of Delaware and Delaware is a significant-connection state. Both factors are met. Maryland declined to continue exercising jurisdiction, in favor of Delaware, in its provisional transfer order and Delaware is a significant-

¹³ 12 *Del. C.* § 39A-101(17).

connection state based on the person with a disability's longtime residence and significant ties to the State.

4. The transfer to Delaware is provisionally accepted.

5. Once the Maryland Court grants a final order transferring jurisdiction of the above-referenced guardianship, the Petitioners shall file a copy of that order with this Court.

6. After all the requirements in 12 *Del. C.* § 39A-302(e) are satisfied, the Court may issue a final order confirming the transfer of the guardianship to the State of Delaware.

7. The Petitioners shall file a written status update every sixty (60) days from the date of this order until the guardianship is transferred to the State of Delaware.

/s/ Selena E. Molina
Selena E. Molina
Magistrate in Chancery