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STATE OF MICHIGAN

COURT OF APPEALS

In re Guardianship of EJ.

GUARDIAN CARE, INC.,

Appellant,

v

INFINITY GUARDIANSHIP, INC., Guardian of EJ, a legally incapacitated individual,

Appellee.

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September 14, 2026
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No. 379323
Oakland Probate Court
LC No. 2020-392886-GA

In re Conservatorship of EJ.

GUARDIAN CARE, INC.,

Appellant,

v

INFINITY GUARDIANSHIP, INC., Conservator of EJ, a legally incapacitated individual,

Appellee.

No. 379324
Oakland Probate Court
LC No. 2010-329859-CA

Before: BAZZI, P.J., and PATEL and ACKERMAN, JJ.

PER CURIAM.

These consolidated appeals arise from the guardianship and conservatorship of EJ, a legally incapacitated person.[1] In Docket No. 379323, appellant, Guardian Care, Inc. (Guardian Care), appeals as of right the order removing it as guardian for EJ. In Docket No. 379324, Guardian Care appeals as of right the order removing it as conservator for EJ. For the reasons set forth in this opinion, we reverse and remand in both Docket Nos. 379323 and 379324.

I. BASIC FACTS AND PROCEDURAL HISTORY

EJ suffered a closed head injury as a result of a car accident, leading to a traumatic brain injury and other serious complications. According to Guardian Care, it served as EJ's guardian for over 15 years. Guardian Care was subsequently appointed as EJ's conservator on December 11, 2019. On August 4, 2023, Guardian Care filed a change of address with the court, indicating that EJ relocated from Oakland County to Macomb County.

On November 6, 2025, Guardian Care moved to change the venue of both the guardianship and conservatorship matters to the Macomb Probate Court "for the convenience of the parties, witnesses, or attorney[s]" as EJ resided in Macomb County. On December 15, 2025, the probate court moved sua sponte to determine whether modifications of the guardianship and conservatorship were appropriate. The court ordered Guardian Care to serve notice to all interested parties, and Guardian Care then notified EJ and two of her siblings. The probate court further ordered Guardian Care to provide a list of all its wards whose matters were before the Oakland Probate Court, and include the following details: (1) which judge oversaw each matter; (2) the county in which each ward resided; and (3) whether Guardian Care filed a petition to change venue for each ward located outside of Oakland County. The court's orders indicated that it requested the information to determine whether Guardian Care was forum-shopping. The produced list revealed that Guardian Care had filed petitions to change venue for 11 cases overseen by Oakland County Probate Court Judge Traci L. Richards in which the wards resided outside of Oakland County. Guardian Care had filed no such petitions for matters pending before the other three Oakland County Probate Court judges.

Guardian Care subsequently objected to the modification of EJ's guardianship and conservatorship. Guardian Care contended that it served as EJ's guardian for a substantial period of time and that removing Guardian Care as guardian "would disrupt Ms. EJ's life without providing any benefit." Guardian Care further asserted that it was still willing and suitable to serve as EJ's guardian, and that there was no indication that Guardian Care breached any fiduciary duty owed to EJ. Guardian Care additionally argued that the probate court improperly determined that Guardian Care's motion to change venue was untimely, that Guardian Care was forum-shopping, and that the appointment of a guardian ad litem for EJ was unnecessary.

On December 30, 2025, the probate court held an eight-minute hearing on its own motions to modify the guardianship and conservatorship of EJ, in addition to Guardian Care's petition to

[1] The appeals were consolidated by this Court to advance the efficient administration of the appellate process. *In re Guardianship of EJ*, unpublished order of the Court of Appeals, entered February 11, 2026 (Docket Nos. 379323 and 379324).

change venue.[2] Guardian Care attempted to withdraw its venue petition and objected to the court's motions. Guardian Care asserted that it had operated as EJ's fiduciary for more than 15 years, that it maintained a "good relationship" with EJ, and requested an adjournment to allow EJ "to have the opportunity to speak to the court." Guardian Care further shared its concerns regarding the "continuity of care" for EJ, the absence of a guardian ad litem for EJ, and whether "somebody could serve her best interest[s]." Guardian Care additionally contended that its petition did not constitute forum-shopping, and that it had "no authority to determine which Judge would receive this." Guardian Care also accused the probate court of exhibiting a bias against it "and other At Large Guardians."

The probate court responded that "there is no right to a Guardian Ad Litem in this case," because the court was not a party to the underlying action. The court further opined that "with respect to forum[-]shopping, it's clear that the chart that you prepared shows that with respect to all of the Judges in Oakland County, the only Judge which you filed over ten Petitions for Change of Venue is before this Judge, that's it." The probate court additionally stated:

> And it also should be noted that previously, Guardian Care has been either removed or resigned, based on the Court's knowledge of facts regarding Guardian Care, breaching their duty. And with respect to breach of duty here, as I've explained before, Guardian Care has a duty to report the condition of the Ward, as well as to alert the Court to the present living arrangements and changing the Ward's living situation. And that was not done in a timely fashion.

The court denied Guardian Care's request to withdraw its motion to change venue and noted that Guardian's Care withdrawal attempt "shows even further that you are only looking after Guardian Care, as opposed to the Ward." The probate court characterized Guardian Care as "unethical," concluded Guardian Care breached its duty to EJ, and barred Guardian Care from "bill[ing] regarding this matter" because it did not want Guardian Care "to benefit as a result of this stunt."

On January 27, 2026, the probate court issued an opinion and order granting Guardian Care's motion for a change of venue and removing Guardian Care as the guardian for EJ. The court opined:

> Guardian Care is not fulfilling its duties properly; and is unsuitable due to misconduct and neglect by moving the ward to another county and maintaining venue in Oakland County. Based on the evidence, including the list prepared by Guardian Care, the Court made a finding that Guardian Care filed the instant petition for an improper purpose. The Court took judicial notice of Guardian Care's various removals and resignations due to the Court's dissatisfaction with Guardian Care's performance of its duties and responsibilities. As further corroboration of Guardian Care's forum[-]shopping, despite having wards on the list who reside in

[2] While the probate court solely mentioned its motion to modify the guardianship during the hearing, the probate court's December 15, 2025 order of adjournment provided that it also was "setting this matter for a review to determine whether modification of the conservatorship is appropriate."

> other counties for the three other Oakland County Probate Judges, Guardian Care only filed to change the venue of all out of county cases pending before Judge Traci Richards . . . .

The probate court further asserted, "Forum shopping fosters gamesmanship and judge-shopping which is detrimental to the administration of justice and in this matter, the welfare of the wards." On January 28, 2026, the court issued orders removing Guardian Care as EJ's guardian and conservator, and appointing appellee, Infinity Guardianship, Inc. (Infinity Guardianship), as the successor guardian and conservator. This appeal ensued.

II. STANDARDS OF REVIEW

A probate court's removal of a fiduciary is reviewed for abuse of discretion, which "occurs when the court's decision falls outside the range of reasonable and principled outcomes." *In re Conservatorship of Bittner*, 312 Mich App 227, 235; 879 NW2d 269 (2015). "The trial court necessarily abuses its discretion when it makes an error of law." *In re Nikooyi*, 341 Mich App 490, 494; 991 NW2d 619 (2022) (quotation marks and citation omitted). "A trial court may also abuse its discretion by failing to operate within the correct legal framework." *In re Estate of Vansach*, 324 Mich App 371, 385; 922 NW2d 136 (2018). The court's factual findings, on the other hand, are reviewed for clear error, *Bittner*, 312 Mich App at 235, and "[a] finding is clearly erroneous when a reviewing court is left with a definite and firm conviction that a mistake has been made, even if there is evidence to support the finding," *id*. at 236 (quotation marks and citation omitted).

Issues of statutory interpretation are reviewed de novo. *Id*. at 235. "The rules of statutory construction require the courts to give effect to the Legislature's intent." *Universal Underwriters Ins Group v Auto Club Ins Ass'n*, 256 Mich App 541, 544; 666 NW2d 294 (2003). "This Court should first look to the specific statutory language to determine the intent of the Legislature, which is presumed to intend the meaning that the statute plainly expresses." *Id*. (quotation marks and citation omitted). "If the language is clear and unambiguous, the plain meaning of the statute reflects the legislative intent and judicial construction is not permitted." *Id*. (quotation marks and citation omitted). Further, "[a] court must not read into a statute anything that is not within the manifest intent of the Legislature as gathered from the act itself." *Id*. (quotation marks and citation omitted).

III. REMOVAL OF GUARDIAN

Guardian Care argues that the probate court violated the procedures laid out in the Estates and Protected Individuals Code (EPIC), MCL 700.1101 *et seq*., by sua sponte removing it as guardian rather than in response to a petition seeking such relief. We agree.

"In Michigan, laws concerning the affairs of protected individuals and legally incapacitated individuals are set forth in EPIC." *Vansach*, 324 Mich App at 382. Pursuant to MCL 700.5306(1), "The court may appoint a guardian if the court finds by clear and convincing evidence both that the individual for whom a guardian is sought is an incapacitated individual and that the appointment is necessary as a means of providing continuing care and supervision of the

incapacitated individual . . . ." As to the resignation or removal of a guardian under EPIC, MCL 700.5310 provides:

> (1) On petition of the guardian and subject to the filing and approval of a report prepared as required by section 5314, the court shall accept the guardian's resignation and make any other order that is appropriate.
>
> (2) The ward[3], a person appointed guardian in a will or other writing by a parent or spouse under section 5301, or any other person interested in the ward's welfare may petition for an order removing the guardian, changing the designated standby guardian, appointing a successor guardian, modifying the guardianship's terms, or terminating the guardianship. A request for this order may be made by informal letter to the court or judge. If a request under this subsection is made by the person appointed by will or other writing under section 5301, the person shall also present proof of the person's appointment by will or other writing. A person who knowingly interferes with the transmission of this kind of request to the court or judge is subject to a finding of contempt of court.
>
> (3) Except as otherwise provided in the order finding incapacity, on receiving a petition or request under this section, the court shall set a date for a hearing to be held within 28 days after the receipt of the petition or request. An order finding incapacity may specify a minimum period, not exceeding 182 days, during which a petition or request for a finding that a ward is no longer an incapacitated individual, or for an order removing the guardian, modifying the guardianship's terms, or terminating the guardianship, must not be filed without special leave of the court.
>
> (4) Before removing a guardian, appointing a successor guardian, changing the designated standby guardian, modifying the guardianship's terms, or terminating a guardianship, and following the same procedures to safeguard the ward's rights as apply to a petition for a guardian's appointment, the court may send a visitor[4] to the present guardian's residence and to the place where the ward resides or is detained to observe conditions and report in writing to the court.

In *In re Guardianship of Redd*, 321 Mich App 398, 405-407, 410; 909 NW2d 289 (2017), this Court clarified the standard for removal of a guardian of a legally incapacitated individual under EPIC, holding that "the probate court must find that the guardian is no longer suitable or willing to serve" by a preponderance of the evidence. To determine whether an existing guardian remains "suitable," the "particularly relevant evidence would include evidence on whether the

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[3] " 'Ward' means an individual for whom a guardian is appointed." MCL 700.1108(a).

[4] MCL 700.5101(d) defines "visitor" as "an individual appointed in a guardianship or protective proceeding who is trained in law, nursing, or social work, is an officer, employee, or special appointee of the court, and has no personal interest in the proceeding."

guardian was still qualified and able, and (2) evidence on whether the guardian did, in fact, satisfactorily provide for the ward's care, custody, and control in the past." *Id*. at 408.

Given the procedures outlined by EPIC for the resignation and removal of a guardian, the probate court abused its discretion by sua sponte removing Guardian Care without the filing of a petition. As Guardian Care suggested, the probate court could have appointed a guardian ad litem to evaluate the matter and, if warranted, have the guardian ad litem file a petition seeking Guardian Care's removal as a "person interested in the ward's welfare" under MCL 700.5310(2), rather than initiating removal proceedings sua sponte in response to Guardian Care's motion for a change of venue. This Court has expressed similar concerns regarding a trial court's sua sponte conduct, albeit in the context of a guardian's removal under the Mental Health Code (MHC), MCL 330.1001 *et seq*. See *In re Guardianship of IS*, unpublished per curiam opinion of the Court of Appeals, issued January 25, 2024 (Docket No. 367266), pp 5-6 ("Considering the sensitive interests involved in a guardianship proceeding, we decline to overlook the enumerated removal procedures in the MHC and endorse a view of the statute that would allow the probate court to remove a guardian on its own initiative.").[5]

Moreover, had the Legislature intended to authorize probate courts to remove guardians on their own initiative, it could have expressly provided for such authority, as it has done elsewhere in EPIC. See MCL 700.1308(2) ("In response to an interested person's petition or *on its own motion*, the court may at any time order a fiduciary of an estate under its jurisdiction to file an accounting.") (emphasis added); MCL 700.7706(1) ("The settlor, a cotrustee, or a qualified trust beneficiary may request the court to remove a trustee, or a trustee may be removed by the court *on its own initiative*.") (emphasis added). Thus, the language of MCL 700.5310 limiting the avenue for removal of a guardian to petitions filed by specified parties should be construed as deliberate. See *Botany Worsted Mills v United States*, 278 US 282, 289; 49 S Ct 129; 73 L Ed 379 (1929) ("When a statute limits a thing to be done in a particular mode, it includes the negative of any other mode."); *Farrington v Total Petroleum, Inc*, 442 Mich 201, 210; 501 NW2d 76 (1993) ("Courts cannot assume that the Legislature inadvertently omitted from one statute the language that it placed in another statute, and then, on the basis of that assumption, apply what is not there.").

Further, although the probate court concluded that the preponderance of the evidence warranted Guardian Care's removal, its decision did not appear to be supported by proof or account for the overarching purpose of the statutory scheme governing guardianships. See *In re Guardianship of Malloy*, 513 Mich 148, 156; 15 NW3d 142 (2024) ("Broadly stated, a guardianship is one available legal mechanism for ensuring the safety and well-being of individuals who are not capable of independently making decisions and caring for themselves."); *Redd*, 321 Mich App at 406-407 ("[T]he purpose of this part of EPIC is to protect incapacitated individuals with guardians who have the skills and willingness to act in the best interests of those individuals."). The probate court declined to adjourn the hearing to permit EJ to participate in the removal decision or express her views. Nor did the court have a successor guardian in mind when

[5] "Unpublished opinions are [] not binding authority but may be persuasive or instructive." *Haydaw v Farm Bureau Ins Co*, 332 Mich App 719, 727 n 5; 957 NW2d 858 (2020).

it ordered the removal of EJ's long-term guardian,[6] or consider whether Infinity Guardianship was a "suitable and willing" guardian as delineated under MCL 700.5313.

Even assuming that Guardian Care engaged in forum-shopping, it is unclear how that conduct demonstrated that Guardian Care did not satisfactorily provide for the care, custody, and control of EJ. *Redd*, 321 Mich App at 408. Additionally, although the probate court relied on "Guardian Care's [prior] various removals and resignations due to the Court's dissatisfaction with Guardian Care's performance of its duties and responsibilities" to justify removal,[7] it failed to adequately explain how Guardian Care's conduct in *this case* warranted Guardian Care's removal as guardian. While Guardian Care did not timely move to change venue after EJ relocated to Macomb County, it promptly filed a change of address with the court. Moreover, despite the probate court stating that Guardian Care neglected to file punctual reports regarding EJ's condition, the record indicates that Guardian Care filed its required annual reports as recently as December 8, 2020, December 20, 2021, December 5, 2022, November 28, 2023, November 20, 2024, and November 21, 2025, before the January 10 due date. Ultimately, because the probate court legally erred by sua sponte removing Guardian Care, the court necessarily abused its discretion.

IV. REMOVAL OF CONSERVATOR

Guardian Care argues that the probate court lacked good cause for Guardian Care's removal as conservator. We agree.

Under EPIC, a conservator is a fiduciary. MCL 700.1104(e). In their fiduciary capacities, conservators must observe the standard of care applicable to trustees. MCL 700.5416.

> A fiduciary stands in a position of confidence and trust with respect to each heir, devisee, beneficiary, protected individual, or ward for whom the person is a fiduciary. A fiduciary shall observe the standard of care described in section 7803 and shall discharge all of the duties and obligations of a confidential and fiduciary relationship, including the duties of undivided loyalty; impartiality between heirs, devisees, and beneficiaries; care and prudence in actions; and segregation of assets

[6] The probate court opined that the appointment of a guardian ad litem was not warranted because the court was not a party to the proceeding. However, MCL 700.5306a(1)(x) provides that a ward is entitled "[t]o the same rights on a petition for modification or termination of the guardianship including the appointment of a visitor as apply to a petition for appointment of a guardian, as provided in [MCL 700.5310]." Thus, because MCL 700.5303(3) and MCL 700.5306a(1)(e) instruct that the court *must* appoint a guardian ad litem to represent the "allegedly incapacitated individual" unless that individual has legal counsel, it follows that the probate court was required to do so here, when there was no indication that EJ maintained representation.

[7] We note that no evidence was presented establishing the circumstances of these alleged removals and resignations.

> held in the fiduciary capacity. With respect to investments, a fiduciary shall conform to the Michigan prudent investor rule. [MCL 700.1212(1).]

Pursuant to MCL 700.5414, a probate court "may remove a conservator for good cause, upon notice and hearing, or accept a conservator's resignation."[8]

Because the statute does not define "good cause," this Court may turn to the dictionary. See *Sullivan v Michigan*, 328 Mich App 74, 80-81; 935 NW2d 413 (2019) ("Undefined statutory terms must be given their plain and ordinary meanings, and it is proper to consult a dictionary for definitions.") (quotation marks and citation omitted). *Black's Law Dictionary* (12th ed) defines the term as "[a] legally sufficient reason." *Merriam-Webster's Collegiate Dictionary* (12th ed) defines "good cause" as "a substantial reason put forth in good faith that is not unreasonable, arbitrary, or irrational and that is sufficient to create an excuse for an act under the law." Accordingly, a probate court may remove a conservator if there is a legally sufficient or substantial reason to do so.

In the present case, the probate court omitted any discussion of the conservatorship or "good cause" standard, both during the subject hearing and in its subsequently issued opinion and order. Instead, the court addressed only the issue of guardianship. The probate court did not explain how Guardian Care failed to adequately perform its duties as a conservator, or otherwise act in EJ's best interests, such that there existed a legally compelling or substantial reason for its removal. See *In re Conservatorship of Jaye*, unpublished per curiam opinion of the Court of Appeals, issued January 24, 2019 (Docket No. 342195), p 7 (holding that the probate court properly determined no good cause existed to remove conservator when the record indicated that she "substantially complied with her duties"). But see *In re Conservatorship of IL*, unpublished per curiam opinion of the Court of Appeals, issued May 20, 2026 (Docket No. 371470), p 5 (ruling that because the conservator "violated his fiduciary duty to manage [the ward's] finances prudently," the probate court had good cause to remove him); *In re Conservatorship of Montgomery*, unpublished per curiam opinion of the Court of Appeals, issued August 22, 2017 (Docket No. 332507), p 4 (opining that good cause existed when the conservator "was unsuitable to be conservator because her strong emotional connection to her mother interfered with her ability to act in her mother's best interest[s]."). And even considering the rationale the probate court provided for Guardian Care's removal as guardian, the same concerns apply here: the record contains no meaningful evidence of problematic conduct by Guardian Care, nor does the court explain how alleged forum-shopping constitutes a breach of Guardian Care's fiduciary duties. Further, the record indicates that Guardian Care consistently filed inventories and accounts, with

[8] Under MCL 700.5415(1)(d), "a person interested in the welfare of an individual for whom a conservator is appointed may file a petition in the appointing court for an order to . . . remove the conservator and appoint a temporary or successor conservator." Guardian Care argues on appeal that the probate court impermissibly removed Guardian Care as conservator without the filing of a petition. While this subsection allows an interested person to petition for removal, this does not mean that an interested person *must* file a petition in order for the probate court to act. There is no language in MCL 700.5414 that limits a probate court's removal authority in such a way, unlike MCL 700.5310, which pertains to removal of a guardian.

the probate court approving Guardian Care's fifth annual account less than two months before removing Guardian Care as conservator and *after* Guardian Care sought to transfer the case. In light of the foregoing, the probate court abused its discretion in removing Guardian Care as conservator.[9]

V. CONCLUSION

In Docket Nos. 379323 and 379324, we reverse and remand for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Mariam S. Bazzi
/s/ Sima G. Patel
/s/ Matthew S. Ackerman

[9] While Guardian Care asks this Court to remand the matter to a different judge, Guardian Care omits any briefing of this issue. See *Cheesman v Williams*, 311 Mich App 147, 161; 874 NW2d 385 (2015) ("An appellant may not merely announce a position then leave it to this Court to discover and rationalize the basis for the appellant's claims; nor may an appellant give an issue only cursory treatment with little or no citation of authority."). Further, because the probate court granted Guardian Care's motion to change venue to Macomb County, it is likely a different judge will oversee the matter regardless. We further decline to address Guardian Care's remaining arguments on appeal because we have already determined that it is entitled to relief in both matters.