

## **ADMONITION NO. 25-24**

### **CLASSIFICATIONS:**

Handling Legal Matter without Adequate Preparation [Mass. R. Prof. C. 1.1]

Failing to Act Diligently [Mass. R. Prof. C. 1.3]

Failing to Communicate with Client for Client Decisions [Mass. R. Prof. C. 1.4(a)(2)]

### **SUMMARY:**

In February 2023, the Massachusetts Department of Developmental Services (the “Department”) filed a Petition for Appointment of Guardian for an Incapacitated Person in a Probate and Family Court. The Court appointed the respondent as counsel for the incapacitated person (the “client”). In May 2023, the Court appointed a guardian.

In October 2024, the Department filed a Petition to Expand the Powers of a Guardian. The petition sought the Court’s permission for the guardian to consent to the administration of antipsychotic medication, which the client was already accepting, in accordance with a treatment plan proposed by a clinician. The Court scheduled a hearing on the petition for February 11, 2025, and entered an order appointing the respondent to represent the client at that hearing.

The respondent neglected to arrange to meet with or speak to the client before the hearing to ascertain his position on the treatment plan. The respondent attended the February 11, 2025 hearing, but the client did not. When the judge asked the respondent for his position on the pending petition, the respondent stated: “I have no objection your honor.” The judge then asked the respondent if he had met with his client. The respondent informed the judge that he had not been in contact with the client since April 2024. The judge inquired as to the basis of the respondent’s lack of an objection. The respondent answered that, based on the clinician’s report submitted with the petition, his client was accepting the medication identified in the treatment plan and it appeared to be helping the client. The court did not rule on the pending petition that day.

On February 12, 2025, the respondent visited the client and confirmed that he did not object to the treatment plan. The respondent submitted an affidavit reporting this to the Court. On February 13, 2025, the judge issued an order vacating the appointment of the respondent as counsel. The Court appointed new counsel for the client and held another hearing in March 2025, after which the Court granted the Petition to Expand the Powers of a Guardian.

By failing to communicate with the client prior to the hearing in order to ascertain his position on the pending petition, the respondent violated Mass. R. Prof. 1.1, 1.3, and 1.4(a)(2). He has no disciplinary history. The respondent received an admonition for his misconduct.