§ 1750. Guardianship of persons who are intellectually disabled

When it shall appear to the satisfaction of the court that a person is a person who is intellectually disabled, the court is authorized to appoint a guardian of the person or of the property or of both if such appointment of a guardian or guardians is in the best interest of the person who is intellectually disabled. Such appointment shall be made pursuant to the provisions of this article, provided however that the provisions of section seventeen hundred fifty-a of this article shall not apply to the appointment of a guardian or guardians of a person who is intellectually disabled.

1. For the purposes of this article, a person who is intellectually disabled is a person who has been certified by one licensed physician and one licensed psychologist, or by two licensed physicians at least one of whom is familiar with or has professional knowledge in the care and treatment of persons with an intellectual disability, having qualifications to make such certification, as being incapable to manage him or herself and/or his or her affairs by reason of intellectual disability and that such condition is permanent in nature or likely to continue indefinitely.

2. Every such certification pursuant to subdivision one of this section, made on or after the effective date of this subdivision, shall include a specific determination by such physician and psychologist, or by such physicians, as to whether the person who is intellectually disabled has the capacity to make health care decisions, as defined by subdivision three of section twenty-nine hundred eighty of the public health law, for himself or herself. A determination that the person who is intellectually disabled has the capacity to make health care decisions shall not preclude the appointment of a guardian pursuant to this section to make other decisions on behalf of the person who is intellectually disabled. The absence of this determination in the case of guardians appointed prior to the effective date of this subdivision shall not preclude such guardians from making health care decisions.