

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART II. ORPHANS' COURT RULES

[231 PA. CODE PART II]

Order Amending Rules 1.8, 2.4, 14.2, 14.3, 14.4, 14.6, 14.7, 14.8, 14.9, and 14.14 of the Pennsylvania Rules of Orphans' Court Procedure, Rescinding and Replacing Form G-01, Rescinding Forms G-02, G-03, and G-05, and Amending the Index to the Appendix of Orphans' Court Forms; No. 1002 Supreme Court Rules Docket

Order

Per Curiam

And Now, this 18th day of December, 2024, upon the recommendation of the Orphans' Court Procedural Rules Committee; the proposal having been published for public comment at 54 Pa.B. 1654 (March 30, 2024):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that:

(1) Pennsylvania Rules of Orphans' Court Procedure 1.8, 2.4, 14.2, 14.3, 14.4, 14.6, 14.7, 14.8, 14.9, and 14.14 are amended;

(2) Form G-01 is rescinded and replaced;

(3) Forms G-02, G-03, and G-05 are rescinded; and

(4) the Index to the Appendix of Orphans' Court Forms is amended;

in the attached form. This Order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be immediately effective.

Additions to the rules are shown in bold and are underlined.

Deletions from the rules are shown in bold and brackets.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART II. ORPHANS' COURT RULES

CHAPTER I. PRELIMINARY RULES

Rule 1.8. Forms.

(a) The forms approved by the Supreme Court for statewide practice and procedure before the Registers and courts shall be used exclusively and accepted for filing by all Registers and clerks; provided, however, versions of a Supreme Court-approved form shall be acceptable for filing if identical in content and sequential ordering.

(b) The forms approved by the Supreme Court for statewide practice are set forth in an Appendix to these [**Rules**] **rules**. The forms may be revised and supplemented from time to time. The forms shall also be maintained for public access at the official website of the Administrative Office of Pennsylvania Courts.

(c) **The Court Administrator of Pennsylvania, in consultation with the Orphans' Court Procedural Rules Committee and the Advisory Council on Elder Justice in the Courts, shall prescribe forms necessary to implement Pa.R.O.C.P. 14.8(a).**

(d) A court may require a legal paper to be accompanied by a cover sheet or checklist. A court that imposes such requirements must promulgate a local rule, numbered [**Local Rule 1.8(c)**] **Local Rule 1.8(d)**, stating the requirements and setting forth the form of the cover sheet or checklist.

[**Note:** Rule 1.8 is substantively similar to former Rule 1.3, but with some modifications.]

[**Explanatory**] Comment:

Pa.R.O.C.P. 1.8 is substantively similar to former Pa.R.O.C.P. 1.3, but with some modifications. The statewide forms are set forth in the Appendix [**attached hereto**] **to these rules**. The current website for electronic access to the forms is found at [**www.pacourts.us/forms under the For-the-Public category**] **https://www.pacourts.us/forms/for-the-public/orphans-court-forms**. The forms posted on the website are capable of on-line completion.

In 2019, [**Rule 1.8**] **Pa.R.O.C.P. 1.8** was revised to permit versions of Supreme Court forms to be accepted for filing, provided the replication was identical in content. This revision was intended to permit forms to differ stylistically as to format if content requirements do not differ. This revision was not intended to permit the re-ordering of content required by a form.

CHAPTER II. ACCOUNTS, OBJECTIONS AND DISTRIBUTIONS

Rule 2.4. Petition for Adjudication/Statement of Proposed Distribution; Virtual Representation.

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[**Note**] **Comment:**

Although substantially modified, [**Rule 2.4**] **Pa.R.O.C.P. 2.4** is derived from former [**Rule 6.9**] **Pa.R.O.C.P. 6.9**. One modification is to require averments for virtual representation under 20 Pa.C.S. § 751(6) generally and representation in "trust matters" pursuant to 20 Pa.C.S. §§ 7721 *et seq.* Another substantial modification is the addition of [**subparagraph (e)**] **subdivision (e)** that requires counsel to sign the petition for adjudication/statement of distribution attesting that the submitted petition for adjudication/statement of distribution accurately replicates the Model Form and subjects counsel to rules and sanctions as provided in [**Pa.R.C.P. Nos. 1023.1 through 1023.4**] **Pa.R.Civ.P. 1023.1—1023.4**. (See [**Rule 3.12**] **Pa.R.O.C.P. 3.12**.)

See [**Rule 5.50**] **Pa.R.O.C.P. 5.50** for procedures governing petitions for the settlement of small estates filed pursuant to 20 Pa.C.S. § 3102.

The filings required by this rule are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*. See [**Rule 1.99**] **Pa.R.O.C.P. 1.99**.

[**Explanatory Comment:**] The Supreme Court has adopted form petitions for adjudication/statements of proposed distribution of a decedent's estate, trust, guardian of an incapacitated person's estate, guardian of a minor's estate, and the estate of a principal stated by an agent under a power of attorney. These form petitions for adjudication/statements of proposed distribution are the exclusive forms for adjudicating an Account, and conse-

quently, the local court and clerk must accept these statewide forms and may not accept or allow any other forms previously permitted under local rules. The exclusive statewide form petitions for adjudication/statements of proposed distribution appear in the Appendix **to these rules** and are available electronically at **[www.pacourts.us/forms under the For-the-Public category] <https://www.pacourts.us/forms/for-the-public/orphans-court-forms>.**

Cover sheets or checklists may be required by local rule as permitted by **[Rule 1.8(c)] Pa.R.O.C.P. 1.8(d)**.

CHAPTER XIV. GUARDIANSHIP OF INCAPACITATED PERSONS

Rule 14.2. Petition for Adjudication of Incapacity and Appointment of a Guardian of the Person or Estate of an Incapacitated Person.

(a) *Petition Contents.* A petition to adjudicate an individual as an incapacitated person and appoint a guardian shall state in plain language:

(1) Name, age, address, and mailing address, if different, of the petitioner and the petitioner's relationship to the alleged incapacitated person;

(2) Name, date of birth, residence, and mailing address, if different, of the alleged incapacitated person;

(3) Names and addresses of the spouse, parents, and presumptive intestate heirs of the alleged incapacitated person and whether they are *sui juris* or non *sui juris*;

(4) Name and address of the person or institution providing residential services to the alleged incapacitated person;

(5) Names and addresses of other service providers and nature of services being provided;

(6) Whether there is an executed health care power of attorney or advance health care directive pursuant to Title 20, Chapter 54, and if so, the name and address of the person designated in the writing to act as the agent;

[Note: See 20 Pa.C.S. §§ 5421 et seq. for health care power of attorney and advance health care directive (combination of a living will and health care power of attorney).]

(7) Whether there is an executed power of attorney pursuant to Title 20, Chapter 56, and if so, the name and address of the person designated in the writing to act as the agent;

[Note: See 20 Pa.C.S. §§ 5601 et seq. for power of attorney.]

(8) Whether there is any other writing by the alleged incapacitated person pursuant to Title 20, Chapters 54 or 58 authorizing another to act on behalf of the alleged incapacitated person, and if so, the name and address of the person designated;

[Note: See 20 Pa.C.S. §§ 5441–5447 for Living Will Act; 20 Pa.C.S. §§ 5451–5465 for Health Care Agents and Representatives Act; 20 Pa.C.S. §§ 5821–5826 for Advance Directive for Mental Health Act; 20 Pa.C.S. §§ 5831–5845 for Mental Health Care Agents Act.]

(9) **Whether the alleged incapacitated person is represented by counsel and, if so, the name and address of counsel;**

(10) Reason(s) why guardianship is sought, including a description of functional limitations and the physical and mental condition of the alleged incapacitated person;

[(10)] (11) If not plenary, then specific areas of incapacity over which it is requested that the guardian be assigned powers;

[(11)] (12) The probability of whether the physical condition and mental condition of the alleged incapacitated person will improve;

[(12)] (13) Whether there has been a prior incapacity hearing concerning the alleged incapacitated person, and if so, the name of the court, the date of the hearing, and the determination of capacity;

[(13)] (14) [Steps taken to find a less restrictive alternative than a guardianship] What less restrictive alternatives to a guardianship were considered or tried, and why the alternatives are unavailable or insufficient;

[(14)] (15) If a guardian of the estate is sought:

(i) the gross value of the estate and net income from all sources, to the extent known; and

(ii) whether there is a prepaid burial account, to the extent known;

[(15)] (16) Whether the alleged incapacitated person is a veteran of the United States Armed Services **or the spouse or dependent of a veteran of the United States Armed Services**, and whether the alleged incapacitated person is receiving benefits from the United States **[Veterans' Administration] Department of Veterans Affairs** on behalf of himself or herself or through **another person, including** a spouse; and

[(16)] (17) Name and address, if available, of any person that the petitioner proposes should receive notice of the filing of guardianship reports pursuant to **[Rule 14.8(b)] Pa.R.O.C.P. 14.8(b)**, which may include any person identified in **[paragraphs (a)(3)—(a)(8)] subdivisions (a)(3)—(a)(9)**.

(b) *Nomination of Guardian.* The petition shall also include:

(1) The name, address, and mailing address, if different, of the proposed guardian whom the petitioner nominates to be appointed guardian and the nominee's relationship, if any, to the alleged incapacitated person. If the proposed guardian is an entity, then the name of the person or persons to have direct responsibility for the alleged incapacitated person and the name of the principal of the entity;

(2) Whether the proposed guardian has any adverse interest to the alleged incapacitated person;

(3) Whether the proposed guardian is available and able to visit or confer with the alleged incapacitated person;

(4) Whether the proposed guardian has completed any guardianship training, including the name of the training program, length of the training, and date of completion;

(5) Whether the proposed guardian has any guardianship certification, the current status of the certification, and any disciplinary action related to the certification;

(6) Whether the proposed guardian is, **[or] was, or seeks to be a guardian in any other matters and, if so, the number of active matters and the judicial districts where the active matters were filed; [and]**

(7) If the proposed guardian is an individual seeking to serve in a third active guardianship and is not currently certified by a national certification organization as defined in 20 Pa.C.S. § 5511(f)(2)(ii)(B)(III), then how the proposed

guardian intends to satisfy the certification requirement prescribed in Pa.R.O.C.P. 14.6(c); and

(8) If the petition nominates a different proposed guardian of the estate from the proposed guardian of the person, then the information required in [**subparagraphs (b)(1)—(b)(6)**] **subdivisions (b)(1)—(b)(7)** as to each nominee.

(c) *Exhibits*. The following exhibits shall be appended to the petition:

(1) All writings referenced in [**paragraphs (a)(6)—(a)(8)**] **subdivisions (a)(6)—(a)(8)**, if available;

(2) The certified response to a Pennsylvania State Police criminal record check, with Social Security Number redacted, for each proposed guardian issued within six months of the filing of the petition;

(i) If any proposed guardian has resided outside the Commonwealth within the previous five-year period and was 18 years of age or older at any time during that period, then the petition shall include a criminal record check obtained from the statewide database, or its equivalent, in each state in which such proposed guardian has resided within the previous five-year period.

(ii) [**When**] **If** any proposed guardian is an entity, the person or persons to have direct responsibility for the alleged incapacitated person and the principal of the entity shall comply with the requirements of [**subparagraph (c)(2)**] **subdivision (c)(2)**.

[**Note: For information on requesting a criminal record check from the Pennsylvania State Police, see <http://www.psp.pa.gov/Pages/Request-a-Criminal-History-Record.aspx>.**]

(3) Any proposed orders as required by [**Rule 3.4(b)**] **Pa.R.O.C.P. 3.4(b)**; [**and**]

(4) Any consent or acknowledgement of a proposed guardian to serve[.]; **and**

(5) **Certification. If the proposed guardian is an individual required to be certified pursuant to 20 Pa.C.S. § 5511(f)(2) because he or she is seeking appointment to a third active guardianship, then either:**

(i) **proof of a currently valid national certification pursuant to Pa.R.O.C.P. 14.6(c)(2); or**

(ii) **a concurrent petition for waiver of the certification requirement pursuant to Pa.R.O.C.P. 14.6(c)(3) accompanied by written proof of equivalent licenses or certifications to ensure the capability of the proposed guardian.**

(d) *Emergency Guardian*. A petition seeking the appointment of an emergency guardian shall aver with specificity the facts giving rise to the emergent circumstances and why the failure to make such an appointment will result in irreparable harm to the person or estate of the alleged incapacitated person.

[**Note: Limitations on emergency guardianships are prescribed by statute. See 20 Pa.C.S. § 5513.**]

(e) *Separate Petitions*. Separate petitions shall be filed for each alleged incapacitated person.

(f) *Citation with Notice*. A citation with notice using the form provided in the Appendix to these [**Rules**] **rules** shall be attached to and served with the petition and any preliminary order as follows:

(1) By personal service upon the alleged incapacitated person no less than 20 days prior to the hearing.

Additionally, the content and terms of the petition shall be explained to the maximum extent possible in language and terms the alleged incapacitated person is most likely to understand.

(2) In a manner permitted by [**Rule 4.3**] **Pa.R.O.C.P. 4.3** no less than 20 days prior to the hearing upon:

(i) All persons *sui juris* who would be entitled to an intestate share in the estate of the alleged incapacitated person;

(ii) The person or institution providing residential services to the alleged incapacitated person;

(iii) Any person named in [**paragraphs (a)(6)—(a)(8)**] **subdivisions (a)(6)—(a)(9)**; and

(iv) Such other entities and persons as the court may direct, including service providers.

[**Note: For notice to the United States Veterans' Bureau, see 20 Pa.C.S. § 8411.**]

(3) For a petition seeking the appointment of an emergency guardian, the court may direct the manner of service as emergent circumstances warrant. Thereafter, notice shall be served in accordance with [**Rule 14.2(f)(2)**] **Pa.R.O.C.P. 14.2(f)(2)**.

[**Explanatory**] Comment:

See 20 Pa.C.S. §§ 5421 et seq. for health care power of attorney and advance health care directive, which includes a combination of a living will and a health care power of attorney. See 20 Pa.C.S. § 5601 et seq. for power of attorney. See 20 Pa.C.S. §§ 5441—5447 for Living Will Act; 20 Pa.C.S. §§ 5451—5465 for Health Care Agents and Representatives Act; 20 Pa.C.S. §§ 5821—5826 for Advance Directive for Mental Health Act; 20 Pa.C.S. §§ 5831—5845 for Mental Health Care Agents Act.

See 20 Pa.C.S. § 5511(a.1)(1) pertaining to the petitioner's obligation to inform the court if the petitioner learns the alleged incapacitated person is represented by counsel.

As used in subdivision (a)(14), less restrictive alternatives to a guardianship include, but are not limited to, an advance directive, such as a durable power of attorney or trust, a living will, a health care power of attorney, a health care representative, a financial power of attorney, trusts, including special needs trusts, representative payees for individuals receiving Social Security benefits, and mental health advance directives. See 20 Pa.C.S. § 5512.1(a)(3).

Petitioner's counsel should consider the Rules of Professional Conduct pertaining to confidentiality and conflicts if he or she has consulted with the alleged incapacitated person regarding the less restrictive alternatives to guardianship set forth in 20 Pa.C.S. § 5512.1(a)(3). See Pa.R.P.C. 1.6 and 1.7; see also Pa.R.P.C. 1.14.

Concerning the requirement of a criminal record check set forth in [**paragraph (c)(2)**] **subdivision (c)(2)**, the Pennsylvania State Police has created the Pennsylvania Access to Criminal History ("PATCH") System to enable the public to obtain criminal history record checks via Internet request. **For information on requesting a criminal record check from the Pennsylvania State Police, see <https://epatch.pa.gov/home>.** The certified response from the Pennsylvania State Police criminal history record check need not be notarized to comply with

the requirements of this rule. Any response other than “no record” may require supplementation at the discretion of the court.

An individual seeking appointment to a third active guardianship must be certified pursuant to Pa.R.O.C.P. 14.6(c) prior to the third guardianship appointment. See also 20 Pa.C.S. § 5511(f).

Limitations on emergency guardianships are prescribed by statute. See 20 Pa.C.S. § 5513.

For notice to the United States Department of Veterans Affairs, see 20 Pa.C.S. § 8411.

Rule 14.3. Alternative Proof of Incapacity: Expert Report in Lieu of In-Person or Deposition Testimony of Expert.

(a) A petitioner may seek to offer into evidence an expert report for the determination of incapacity in lieu of testimony, in-person or by deposition, of an expert using the form provided in the Appendix to these rules. In an emergency guardianship proceeding, an expert report may be offered into evidence if specifically authorized by the court.

(b) *Notice.*

(1) If a petitioner seeks to offer an expert report permitted under [**paragraph (a)**] **subdivision (a)**, the petitioner shall serve a copy of the completed report upon the alleged incapacitated person’s counsel and all other counsel of record pursuant to [**Rule 4.3 or, if unrepresented, upon the alleged incapacitated person, pursuant to Pa.R.C.P. No. 402(a) by a competent adult**] **Pa.R.O.C.P. 4.3** no later than ten days prior to the hearing on the petition.

(2) If a petitioner seeks to offer an expert report, as permitted under [**paragraph (a)**] **subdivision (a)**, the petitioner shall serve pursuant to [**Rule 4.3**] **Pa.R.O.C.P. 4.3** a notice of that fact upon those entitled to notice of the petition and hearing no later than ten days prior to the hearing on the petition.

(3) The petitioner shall file a certificate of service with the court as to [**paragraphs (b)(1) and (b)(2)**] **subdivisions (b)(1) and (b)(2)**.

(c) *Demand.*

(1) Within five days of service of the completed report provided in [**paragraph (b)(1)**] **subdivision (b)(1)**, the alleged incapacitated person’s counsel [**or, if unrepresented, the alleged incapacitated person,**] may file with the court and serve upon the petitioner pursuant to [**Rule 4.3**] **Pa.R.O.C.P. 4.3** a demand for the testimony of the expert.

(2) If a demand for testimony is filed and served as provided herein, then the expert report may not be admitted and an expert must provide testimony at the hearing, whether in-person or by deposition.

(d) Unless otherwise demanded pursuant to [**paragraph (c)(2)**] **subdivision (c)(2)**, in the sole discretion of the court, incapacity may be established through the admission of an expert report prepared in compliance with the form provided in the Appendix to these rules. The expert must be qualified by training and experience in evaluating individuals with incapacities of the type alleged in the petition. The expert must sign, date, and verify the completed expert report.

(e) In the interest of justice, the court may excuse the notice and demand requirements set forth in [**paragraphs (b) and (c)**] **subdivisions (b) and (c)**.

[**Explanatory**] **Comment:**

This [**Rule**] **rule** is intended to permit the alleged incapacitated person to exercise the right to cross-examine testimony as to the capacity of the alleged incapacitated person. See 20 Pa.C.S. § 5518.1. Permitting the use of an expert report in compliance with this [**Rule**] **rule** replaces the requirement of testimony, in-person or by deposition, of an expert. See 20 Pa.C.S. § 5518. “Deposition,” as used in this [**Rule**] **rule**, is intended to be a deposition conducted in accordance with the Pennsylvania Rules of Civil Procedure. The [**Rule**] **rule** is permissive; whether an expert report is admitted in lieu of testimony is in the sole discretion of the court. Nothing in this [**Rule**] **rule** is intended to preclude the court from requiring testimony from the expert or otherwise requiring supplementation.

Rule 14.4. Counsel.

(a) *Retention of Counsel.* [**If counsel for the alleged incapacitated person has not been retained, the petitioner shall notify the court in writing at least seven days prior to the adjudicatory hearing that the alleged incapacitated person is unrepresented and also indicate whether the alleged incapacitated person has requested counsel.**]

(1) **Except as provided in subdivision (a)(3) and if not set forth in the petition filed pursuant to Pa.R.O.C.P. 14.2 or 14.9(c), the petitioner shall file a written notice with the court containing the name and contact information of retained counsel as soon as the petitioner becomes aware that the alleged incapacitated person has retained counsel.**

(2) **The notice shall include the name and contact information of retained counsel.**

(3) **If retained counsel has filed an entry of appearance pursuant to Pa.R.O.C.P. 1.7(a), the petitioner is not required to file the notice in subdivision (a)(1).**

(b) *Private Counsel.* If the alleged incapacitated person has retained private counsel, counsel shall prepare a comprehensive engagement letter for the alleged incapacitated person to sign, setting forth when and how counsel was retained, the scope of counsel’s services, whether those services include pursuing any appeal, if necessary, how counsel will bill for legal services and costs and the hourly rate, if applicable, who will be the party considered responsible for payment, whether any retainer is required, and if so, the amount of the retainer. Counsel shall provide a copy of the signed engagement letter to the court upon request.

(c) *Appointed Counsel.* [**The court may appoint counsel if deemed appropriate in the particular case. Any such order appointing counsel shall delineate the scope of counsel’s services and whether those services include pursuing any appeal, if necessary.**]

(1) **Generally. If the alleged incapacitated person has not retained counsel, the court shall appoint counsel to represent the alleged incapacitated person in any matter initiated by a petition filed pursuant to Pa.R.O.C.P. 14.2 and in any proceeding to review, modify, or terminate a guardianship. The appointment required by this subdivision shall be made without regard to the ability of the alleged incapacitated person to pay.**

(2) **Qualifications of Appointed Counsel. Prior to appointing counsel to represent an alleged inca-**

pacitated person, the court shall inquire as to the experience and training of counsel to ensure adequate representation of the alleged incapacitated person.

(3) Initial Meeting; Certification by Counsel.

(i) Appointed counsel shall meet with the alleged incapacitated person as soon as reasonably possible after the appointment.

(ii) Within five days of the initial meeting between appointed counsel and the alleged incapacitated person, appointed counsel shall file a certification with the court setting forth the time and place of the meeting.

(d) Other Counsel. Counsel for any other party shall enter an appearance in accordance with [**Rule 1.7(a)**] **Pa.R.O.C.P. 1.7(a).**

[Explanatory] Comment:

Reasonable counsel fees, when appropriate, should be paid from the estate of the alleged incapacitated person whenever possible. If the alleged incapacitated person is unable to pay for counsel, then the court may order counsel fees and costs to be paid by the county. See 20 Pa.C.S. § 5511(c). Any fee dispute should be resolved in a timely and efficient manner to preserve resources in order to maintain the best possible quality of life for the incapacitated person.

An order adjudicating incapacity and appointing a guardian will identify the scope of representation of court-appointed counsel. See Pa.R.O.C.P. 14.7(a)(1)(v).

See Pa.R.P.C. 1.14 pertaining to the responsibilities of counsel to a client with diminished capacity.

Rule 14.6. Determination of Incapacity and the Need for Guardianship; Selection of Guardian; Certification of Certain Guardians.

(a) Determination of Incapacity. The procedure for determining incapacity and for appointment of a guardian shall meet all requirements set forth at 20 Pa.C.S. §§ 5511, 5512, and 5512.1. In addition, the petitioner shall present the citation and proof of service at the hearing.

[Note: See *In re Peery*, 727 A.2d 539 (Pa. 1999) (holding a person does not require a guardian if there is no need for guardianship services).]

(b) Selection of Guardian. If guardianship services are needed, then the court shall appoint the person nominated as such in a power of attorney, a health care power of attorney, an advance health care directive, a mental health care declaration, or mental health power of attorney, except for good cause shown or disqualification. Otherwise, the court shall consider the eligibility of one or more persons to serve as guardian in the following order:

(1) Guardian of the Person:

- (i) The guardian of the estate;
- (ii) The spouse, unless estranged or an action for divorce is pending;
- (iii) An adult child;
- (iv) A parent;
- (v) The nominee of a deceased or living parent of an unmarried alleged incapacitated person;
- (vi) An adult sibling;
- (vii) An adult grandchild;
- (viii) Other adult family member;

(ix) An adult who has knowledge of the alleged incapacitated person's preferences and values, including, but not limited to religious and moral beliefs, and would be able to assess how the alleged incapacitated person would make decisions; or

(x) Other qualified proposed guardian, including [**a professional guardian**] **an entity as provided in 20 Pa.C.S. § 5511(f)(1).**

(2) Guardian of the Estate. [**When**] **If** the estate of the incapacitated person consists of minimal assets or [**where**] the proposed guardian possesses the skills and experience necessary to manage the finances of the estate:

- (i) The guardian of the person;
- (ii) The spouse unless estranged or an action for divorce is pending;
- (iii) An adult child;
- (iv) A parent;
- (v) The nominee of a deceased or living parent of an unmarried alleged incapacitated person;
- (vi) An adult sibling;
- (vii) An adult grandchild;
- (viii) Other adult family member; [**or**]

(ix) An adult who has knowledge of the alleged incapacitated person's preferences and values, including, but not limited to religious and moral beliefs, and would be able to assess how the alleged incapacitated person would make decisions[.]; **or**

(x) [Where] If no individual listed in [**subparagraphs (i)—(ix) of paragraph (b)(2)**] **subdivisions (b)(2)(i)—(b)(2)(ix)** possesses the skills and experience necessary to manage the finances of the estate, **then** the guardian of the estate may be any qualified proposed guardian, including [**a professional guardian or corporate fiduciary**] **an entity as provided in 20 Pa.C.S. § 5511(f)(1).**

(c) Certification.

(1) Generally. **An individual shall be certified or receive waiver of certification pursuant to this subdivision prior to appointment to a third active guardianship.**

(2) Certification by a National Organization.

(i) An individual seeking to serve as a guardian in a third active guardianship shall satisfy the certification requirement in 20 Pa.C.S. § 5511(f)(2) by being certified by a national nonprofit organization that provides a comprehensive certification program for guardians that:

(A) requires submission of education and employment history;

(B) requires submission of Federal and State criminal history record information;

(C) requires passage of a certification exam; and

(D) administers and monitors a compliance and decertification process for certified guardians.

(ii) Continuing duty. **A guardian certified by a national organization defined in subdivision (c)(2)(i) shall:**

(A) maintain the certification in good standing; and

(B) file with the court:

(I) proof of recertification prior to the expiration date of the current certification; and

(II) written notice of any certification lapse, suspension, termination, or disciplinary action within seven days of such action.

(3) *Petition for Waiver of Certification.*

(i) *Generally.*

(A) The certification required by subdivision (c)(2) may be waived by the court in an individual court case following the grant of a petition demonstrating that a proposed guardian has such equivalent licenses or certifications as are necessary to ensure that the proposed guardian is capable of fully, faithfully, and competently performing the obligations of a guardian.

(B) The equivalent licenses or certifications shall be relevant to the form of guardianship sought in the petition.

(C) The petition shall include an averment identifying each judicial district where he or she has been granted a certification waiver and the number of active waivers.

(ii) *Prohibition.* A license to practice law alone is not an equivalent license or certification for purposes of subdivision (c)(3)(i).

[Explanatory] Comment:

The procedure for determining incapacity and for appointment of a guardian includes, among other things, the consideration of and factual findings as to the insufficiency of supports and less restrictive alternatives to guardianship. See 20 Pa.C.S. § 5512.1(a)(3); see also *In re Peery*, 727 A.2d 539 (Pa. 1999) (holding a person does not require a guardian if there is no need for guardianship services). Less restrictive alternatives include, but are not limited to, an advance directive, such as a durable power of attorney or trust, a living will, a health care power of attorney, a health care representative, a financial power of attorney, trusts, including special needs trusts, representative payees for individuals receiving Social Security benefits, and mental health advance directives. See 20 Pa.C.S. § 5512.1(a)(3). The findings of fact required by § 5512.1(a)(3) are not publicly available unless included in the order adjudicating a person as incapacitated. See *Case Records Public Access Policy of the United Judicial System of Pennsylvania*, § 9.0B, 204 Pa. Code § 213.81.

If the alleged incapacitated person has requested a jury trial pursuant to 20 Pa.C.S. § 777(b), then the findings of fact required by 20 Pa.C.S. § 5512.1(a) shall be made by the jury.

If a principal nominates a guardian pursuant to a power of attorney, a health care power of attorney, an advance health care directive, which [is] includes a combination of a living will and a health care power of attorney, a mental health care declaration, or mental health power of attorney, then the court must appoint that person as guardian except for good cause or disqualification. See 20 Pa.C.S. § 5604(c)(2) (power of attorney); 20 Pa.C.S. § 5460(b) (health care power of attorney); 20 Pa.C.S. § 5422 (defining “advance health care directive”); 20 Pa.C.S. § 5823 (mental health declaration); 20 Pa.C.S. § 5841(c) (mental health power of attorney); see also 20 Pa.C.S. § 5511(f) (who may be appointed guardian).

For guardianship certification and waiver pursuant to subdivision (c), see 20 Pa.C.S. § 5511(f). The Center for Guardianship Certification is an example of an organization that meets the criteria of § 5511(f).

See Pa.R.O.C.P. 14.2(c)(5) pertaining to exhibits to the petition for appointment of guardian to demonstrate compliance with subdivision (c) and 20 Pa.C.S. § 5511(f).

Examples of relevant licenses or certifications for a proposed guardian of the person may include, but are not limited to, health care, nursing, social work, psychology, or care management. Examples of relevant licenses or certifications for a proposed guardian of the estate may include, but are not limited to, accounting, financial management, or retirement income planning.

A license to practice law alone is not an equivalent license or certification for purposes of seeking waiver of certification. 20 Pa.C.S. § 5511(f)(3).

Rule 14.7. Order and Certificate.

(a) *Order Adjudicating Incapacity and Appointing Guardian.*

(1) An order adjudicating incapacity and appointing a guardian shall address:

(i) the type of guardianship being ordered and any limits, if applicable;

(ii) the continued effectiveness of any previously executed powers of attorney or health care powers of attorney and the authority of such agent to act under the document;

(iii) the necessity of filing reports pursuant to [Rule 14.8(a)] Pa.R.O.C.P. 14.8(a); [and]

(iv) the person or persons entitled to receive notice of the filing of such reports, pursuant to [Rule 14.8(b)] Pa.R.O.C.P. 14.8(b); and

(v) the continued scope of representation of court-appointed counsel.

(2) An order adjudicating incapacity and appointing a guardian shall contain a provision substantially in the following form:

[Incapacitated person] is hereby notified of the right to seek reconsideration of this Order pursuant to [Rule 8.2] Pa.R.O.C.P. 8.2 and the right to appeal this Order within 30 days from the date of this Order by filing a Notice of Appeal with the Clerk of the Orphans’ Court. [Incapacitated person] may also petition the court at any time to review, modify, or terminate the guardianship due to a change in circumstances. [Incapacitated person] has a right to be represented by [an attorney] counsel to file a motion for reconsideration, an appeal, or to seek modification or termination of this guardianship. [If the assistance of counsel is needed and [incapacitated person] cannot afford an attorney, an attorney will be appointed to represent [incapacitated person] free of charge.] If he or she is unrepresented, the court will appoint counsel to represent [incapacitated person]. The court may order that the representation is free of charge if it is determined that [incapacitated person] cannot afford to pay for counsel.

(3) *Scheduled Review Hearing.* If the court finds that evidence presented during the guardianship proceeding indicates that the circumstances of the incapacitated person’s incapacity may change, the order shall include the date for a review hearing no later than one year from the date of the order establishing the guardianship.

(b) *Order Adjudicating Incapacity and Appointing Guardian of Estate.*

(1) In addition to the requirements set forth in [**paragraph (a)(1)**] **subdivision (a)(1)**, an order adjudicating incapacity and appointing a guardian of the estate shall address:

- (i) whether a bond is required and when the bond is to be filed; and
- (ii) whether the guardian can spend principal without prior court approval.

(2) In addition to the requirement set forth in [**paragraph (a)(2)**] **subdivision (a)(2)**, an order adjudicating incapacity and appointing a guardian of the estate shall contain a provision [**substantially in the following form**] **reflecting the authority of the guardian:**

(i) Plenary Guardian. An order appointing a plenary guardian shall contain a provision in substantially the following form:

All financial institutions, including without limitation, banks, savings and loans, credit unions, and brokerages, shall grant to the guardian of [incapacitated person]’s estate access to any and all assets, records, and accounts maintained for the benefit of [incapacitated person], and the guardian of [incapacitated person]’s estate shall be entitled to transfer, retitle, withdraw, or otherwise exercise dominion and control over any and all said assets, records, and accounts. The failure of any financial institution to honor this order may lead to contempt proceedings and the imposition of sanctions.

(ii) Limited Guardian. An order appointing a limited guardian shall specify the portion of assets or income over which the guardian of the estate is assigned powers and duties.

(c) *Certificate of Guardianship of Estate.*

(1) Certificate of Plenary Guardianship of Estate. Upon the request of the **plenary** guardian of the estate, the clerk shall issue a certificate substantially in the following form:

(Caption)

I CERTIFY that on _____, [**after giving full consideration to the factors set forth in Chapter 55 of the Probate, Estates, and Fiduciaries Code, 20 Pa.C.S. §§ 5501 et seq., in the above-captioned matter,**] the Court adjudged _____ an incapacitated person and appointed _____ as plenary guardian of the estate. **At the time of this certification, there is no record of modification of the appointment order on the docket.**

FURTHER, I CERTIFY the Court, *inter alia*, ordered that:

All financial institutions, including without limitation, banks, savings and loans, credit unions, and brokerages shall grant to the guardian of [incapacitated person]’s estate access to any and all assets, records, and accounts maintained for the benefit of [incapacitated person], and the guardian of [incapacitated person]’s estate shall be entitled to transfer, retitle, withdraw, or otherwise exercise dominion and control over any and all said assets, records, and accounts. The failure of any financial institution to honor this order may lead to contempt proceedings and the imposition of sanctions.

Witness my hand and seal of said Court this ____ day of _____, _____.

[seal]

CLERK OF ORPHANS’ COURT

(2) Certificate of Limited Guardianship of Estate. Upon the request of the limited guardian of the estate, the clerk shall issue a certificate substantially in the following form:

(Caption)

I CERTIFY that on _____, the Court adjudged _____ an incapacitated person and appointed _____ as limited guardian of the estate. **At the time of this certification, there is no record of modification of the appointment order on the docket.**

This is a limited certification of guardianship. The order appointing the limited guardian shall determine the extent of the guardian’s authority.

Witness my hand and seal of said Court this day of _____, _____.

[seal]

CLERK OF ORPHANS’ COURT

(d) Order Adjudicating Incapacity and Denying Appointment of a Guardian in Whole or in Part. An order denying the appointment of a guardian in whole or in part shall identify the less restrictive alternatives that are available and sufficient to enable the alleged incapacitated person to manage personal financial resources or to meet essential requirements of personal physical health and safety.

[Explanatory] Comment:

The requirements of [**paragraph (a)**] **subdivision (a)** are intended to apply to all guardianship orders.

See 20 Pa.C.S. § 5512.2(a) and Pa.R.O.C.P. 14.9 pertaining to grounds and procedures for scheduled review hearings, respectively.

The items addressed and contained in the order, as set forth in [**paragraphs (a) and (b)**] **subdivisions (a) and (b)**, are not exhaustive. The court may fashion a guardianship of a person order to inform health care providers of the guardian’s authority, including the authority to give informed consent to proposed treatment, to share information, and to make decisions for the incapacitated person. *See also In re DLH*, 2 A.3d 505 (Pa. 2010) (discussing whether guardian has authority concerning life-preserving care); 20 Pa.C.S. § 5460(a) (requiring the court to determine the extent of agent’s authority under a health care power of attorney); 20 Pa.C.S. § 5604(c)(3) (requiring the court to determine the extent of agent’s authority under a durable power of attorney).

The incapacitated person and any substitute decision maker may be assisted by the information in subdivision (d) to communicate instructions to third parties. See 20 Pa.C.S. § 5512.1(a)(6)(iv).

Rule 14.8. Guardianship Reporting, Monitoring, Review, and Compliance.

(a) *Reporting.* A guardian shall file the following reports with the clerk:

- (1) An inventory by the guardian of the estate within 90 days of such guardian’s appointment;
- (2) An annual report by the guardian of the estate of an incapacitated person one year after appointment and annually thereafter;

(3) An annual report by the guardian of the person one year after appointment and annually thereafter;

(4) A final report by the guardian of the person and the guardian of the estate within 60 days of the death of the incapacitated person, an adjudication of capacity, a change of guardian, or the expiration of an order of limited duration; and

(5) A final report from the guardian of the person and the guardian of the estate upon receipt of the provisional order from another state's court accepting transfer of a guardianship.

(b) *Notice of Filing.* If, pursuant to [**Rule 14.7(a)(1)(iv)**] **Pa.R.O.C.P. 14.7(a)(1)(iv)**, the order appointing the guardian identifies the person or persons entitled to receive notice of the filing of any report set forth in subdivision (a), the guardian shall serve a notice of filing within ten days after filing a report using the form provided in the Appendix to these Rules. Service shall be in accordance with [**Rule 4.3**] **Pa.R.O.C.P. 4.3**.

(c) [**Design of Forms. The Court Administrator of Pennsylvania, in consultation with the Orphans' Court Procedural Rules Committee and the Advisory Council on Elder Justice in the Courts, shall design and publish forms necessary for the reporting requirements set forth in subdivision (a).**] **{Rescinded}**.

(d) *Monitoring.* The clerk or the court's designee shall monitor the guardianship docket to confirm the guardian's compliance with the reporting requirements set forth in subdivision (a).

(e) *Review.* The court or its designee shall review the filed reports.

(f) *Compliance.* To ensure compliance with these reporting requirements:

(1) If any report is deemed incomplete or is more than 20 days delinquent, then the clerk or the court's designee shall serve notice on the guardian directing compliance within 20 days, with a copy of the notice sent to the court and the guardian's counsel, if represented.

(2) If the guardian fails to comply with the reporting requirements within 20 days of service of the notice, then the clerk or the court's designee shall file and transmit a notice of deficiency to the adjudicating judge and serve a notice of deficiency on those persons named in the court's order pursuant to [**Rule 14.7(a)(1)(iv)**] **Pa.R.O.C.P. 14.7(a)(1)(iv)** as being entitled to receive a notice of filing.

(3) The court may thereafter take such enforcement procedures as are necessary to ensure compliance.

(4) After reasonable enforcement procedures by the court have been unsuccessful, the court shall enter an order that:

(i) includes an explanation of the actions taken by the court to attempt enforcement of the filing requirements;

(ii) includes clearly enumerated reasons why the guardian or former guardian has not been compelled to comply with any filing requirements; and either

(A) directs that a successor guardian or designee of the court file the delinquent filing with the clerk and it shall be docketed as such by the clerk; or

(B) directs the order issued by the court to be docketed by the clerk in lieu of the delinquent filing.

Comment:

See Pa.R.J.A. 510 governing the filing of inventories and annual reports online using the Guardianship Tracking System.

Provisions of former subdivision (c), pertaining to reporting forms, were moved to Pa.R.O.C.P. 1.8(c).

The reporting forms are available at [<http://www.pacourts.us/forms/for-the-public/orphans-court-forms>] <https://www.pacourts.us/forms/for-the-public/orphans-court-forms>. This [**Rule**] **rule** is silent as to the manner of proceeding when reports are deficient or warrant further investigation, or when the guardian is recalcitrant after being given notice by the clerk or the court's designee. In its discretion, the court may order further documentation, conduct a review hearing, or take further action as may be deemed necessary, including, but not limited to, removal of the guardian or contempt proceedings. If those efforts are unsuccessful, the court shall proceed as set forth in subdivision (f)(4).

As used in subdivision (f)(4)(ii)(A), a "designee of the court" is an individual who is: (1) knowledgeable about the incapacitated person and the contents of the report; and (2) appointed by the court for the sole purpose of filing the delinquent report that the guardian or successor guardian is unable or unwilling to file. An attorney, accountant, or agent of the guardian or former guardian may have the requisite knowledge to serve in this capacity.

Rule 14.9. Review Hearing.

(a) *Initiation.* A review hearing may be requested by petition [**or**], ordered by the court **upon its own initiative, or set forth in the order adjudicating incapacity and appointing a guardian. The procedure for conducting a review hearing shall meet all requirements set forth at 20 Pa.C.S. § 5512.2.**

(b) *Counsel.* **If an incapacitated person is unrepresented by counsel prior to the review hearing, then the court shall appoint counsel to represent the incapacitated person prior to the review hearing. An order ruling on the merits of the review hearing shall address the continued scope of representation of court-appointed counsel.**

(c) *Petition.*

(1) A petition for a review hearing shall set forth:

[(1)] (i) the name, age, address, and mailing address, if different, of the petitioner and the petitioner's relationship to the incapacitated person;

[(2)] (ii) the date of the adjudication of incapacity;

[(3)] (iii) the names and addresses of all guardians;

[(4)] (iv) if the incapacitated person has been a patient in a mental health facility, the name of such facility, the date of admission, and the date of discharge;

[(5)] (v) the present address of the incapacitated person, and the name of the person with whom the incapacitated person is living;

[(6)] (vi) the names and addresses of the presumptive intestate heirs of the incapacitated person and whether they are *sui juris* or non *sui juris*; [**and**]

[(7)] (vii) **whether the incapacitated person is represented by counsel and, if so, the name and address of counsel; and**

(viii) [**an averment that:**

(i) **there has been significant change in the incapacitated person's capacity and the nature of that change;**

(ii) **there has been a change in the need for guardianship services and the nature of that change; or**

(iii) the guardian has failed to perform duties in accordance with the law or act in the best interest of the incapacitated person, and details as to the duties that the guardian has failed to perform or has performed but are allegedly not in the best interests of the incapacitated person.]

averments setting forth why the guardianship should be terminated or modified, including averments pertaining to the findings required by 20 Pa.C.S. § 5512.1(a)(1)—(a)(4).

[(c)] (2) *Service.* The petition shall be served in accordance with [Rule 4.3] Pa.R.O.C.P. 4.3 upon the incapacitated person, his or her counsel, and those entitled to notice pursuant to [Rule 14.2(f)(2)] Pa.R.O.C.P. 14.2(f)(2).

[(d)] (3) *Hearing.* The review hearing shall be conducted promptly after the filing of the petition with notice of the hearing served upon those served with the petition pursuant to [paragraph (b)(2)] subdivision (c)(2).

(d) Scheduled Review Hearing. If the court orders a review hearing on its own initiative or in the order establishing the guardianship pursuant to Pa.R.O.C.P. 14.7(a)(3), then:

(1) the court shall give notice of the hearing to the incapacitated person, his or her counsel, and those entitled to notice pursuant to Pa.R.O.C.P. 14.2(f)(2) at least 20 days prior to the date of the hearing; and

(2) the hearing notice shall be served in compliance with Pa.R.O.C.P. 4.3.

[Explanatory] Comment:

Nothing in this [Rule] rule is intended to preclude the court from scheduling a review hearing upon its own initiative or in the order adjudicating incapacity and appointing a guardian. For the court's disposition [of a petition for] of a review hearing and evidentiary burden of proof, see 20 Pa.C.S. § 5512.2.

See Pa.R.O.C.P. 14.4(c) pertaining to responsibilities of appointed counsel.

Rule 14.14. Forms.

The following forms located in the Appendix to these rules shall be used exclusively:

- (a) Important Notice—Citation with Notice (G-01);
- (b) [Report of Guardian of the Estate (G-02)] **Rescinded**;
- (c) [Report of Guardian of the Person (G-03)] **Rescinded**;
- (d) Guardian's Inventory for a Minor (G-04);
- (e) [Guardian's Inventory for an Incapacitated Person (G-05)] **Rescinded**;
- (f) Guardianship of Incapacitated Person: Petition for Adjudication/Statement of Proposed Distribution Pursuant to [Pa. O.C. Rule 2.4 (OC-03)] Pa.R.O.C.P. 2.4 (OC-03);
- (g) Guardianship of Minor: Petition for Adjudication/Statement of Proposed Distribution Pursuant to [Pa. O.C. Rule 2.4 (OC-04)] Pa.R.O.C.P. 2.4 (OC-04);
- (h) Expert Report (G-06); and
- (i) Notice of Filing (G-07).

[Explanatory] Comment:

In accordance with [Rule 1.8] Pa.R.O.C.P. 1.8, these forms [must] **shall** be used exclusively and cannot be replaced or supplanted by a local form.

Subdivisions (b), (c), and (e), pertaining to reports required by Pa.R.O.C.P 14.8, were rescinded. Although rescinded from the Appendix to these rules, the reporting forms are available at <https://www.pacourts.us/forms/for-the-public/orphans-court-forms> and shall be used exclusively. See Pa.R.O.C.P. 14.8(a) and 1.8(c).

INDEX TO APPENDIX

ORPHANS' COURT AND REGISTER OF WILLS FORMS

ADOPTED BY SUPREME COURT

PURSUANT TO [Pa. O.C. Rule 1.8] Pa.R.O.C.P. 1.8

Available as Fill-in Forms on Website

of Administrative Office of Pennsylvania Courts
[<http://www.pacourts.us/forms/for-the-public/orphans-court-forms>]

<https://www.pacourts.us/forms/for-the-public/orphans-court-forms>

Orphans' Court and Administration Forms

* * * * *

B. *Guardianship Forms*

- 1. Important Notice—Citation with Notice [(Pa. O.C. Rule 14.2)] (Pa.R.O.C.P 14.2) G-01
- 2. [Report of Guardian of the Estate ..G-02] **{Rescinded}**.
- 3. [Report of Guardian of the Person G-03] **{Rescinded}**.
- 4. Guardian's Inventory for a Minor G-04
- 5. [Guardian's Inventory for an Incapacitated Person G-05] **{Rescinded}**.
- 6. Guardianship of Incapacitated Person: Petition for Adjudication/Statement of Proposed Distribution Pursuant to [Pa. O.C. Rule 2.4] Pa.R.O.C.P. 2.4 OC-03¹
- 7. Guardianship of Minor: Petition for Adjudication/Statement of Proposed Distribution Pursuant to [Pa. O.C. Rule 2.4] Pa.R.O.C.P. 2.4 OC-04**²
- 8. Expert Report G-06
- 9. Notice of Filing G-07

* * * * *

(Editor's Note: The following form is new and replaces the form that appears at serial pages (396104) and (412293).)

¹ Form OC-3 is not reprinted here and is located under Audit and Administration Forms at No. 3.
²**Form OC-4 is not reprinted here and is located under Audit and Administration Forms at No. 4.

COURT OF COMMON PLEAS OF ORPHANS' COURT DIVISION

To: _____

IMPORTANT NOTICE CITATION WITH NOTICE

A Petition has been filed with this Court to have you declared an Incapacitated Person. If the Court finds you to be an Incapacitated Person, your rights will be affected, including your right to manage money and property and to make decisions. A copy of the Petition which has been filed by _____ is attached.

You are hereby ordered to appear at a hearing to be held in Courtroom No. _____, _____, Pennsylvania on _____, 20____ at _____ m. to tell the Court why it should not find you to be an Incapacitated Person and appoint a Guardian to act on your behalf.

To be an Incapacitated Person means that you are not able to receive and effectively evaluate information and communicate decisions and that you are unable to manage your money and/or other property, or to make necessary decisions about where you will live, what medical care you will get, or how your money will be spent.

At the hearing, you have the right to appear, to be represented by an attorney, and to request a jury trial. You have the right to hire and pay for an attorney of your own choosing. If you are not represented, the Court will appoint an attorney to represent you. You have the right to have the attorney's fees paid for you if it is determined that you cannot afford to pay them yourself. You also have the right to request that the Court order that an independent evaluation be conducted as to your alleged incapacity.

Representation Status (check one)

- Attorney Retained: The attached Petition states that you are represented by an attorney, _____. If this is not correct, contact the court immediately at _____.
Attorney Appointed: The attached Petition does not state that you have retained an attorney or are otherwise represented by an attorney. The Court has appointed an attorney, _____, to represent you in this matter. The appointed attorney will contact you directly.

If the Court decides that you are an Incapacitated Person, the Court may appoint a Guardian for you, based on the nature of any condition or disability and your capacity to make and communicate decisions. The Guardian will be of your person and/or your money and other property and will have either limited or full powers to act for you.

Form G-01 Effective 12/18/2024

Page 1 of 2

To: _____ :

If the Court finds you are totally incapacitated, your legal rights will be affected and you will not be able to make a contract or gift of your money or other property. If the Court finds that you are partially incapacitated, your legal rights will also be limited as directed by the Court.

If you do not appear at the hearing (either in person or by an attorney representing you), the Court will still hold the hearing in your absence and may appoint the Guardian requested.

By: _____
Orphans' Court Clerk

Form G-01 Effective 12/18/2024

Page 2 of 2

ORPHANS' COURT PROCEDURAL RULES COMMITTEE ADOPTION REPORT

Amendment of Pa.R.O.C.P. 1.8, 2.4, 14.2, 14.3, 14.4, 14.6, 14.7, 14.8, 14.9, and 14.14; Rescission and Replacement of Form G-01; Rescission of Forms G-02, G-03, and G-05; and Amendment of the Index to the Appendix of Orphans' Court Forms

On December 18, 2024, the Supreme Court of Pennsylvania: (1) amended Pa.R.O.C.P. 1.8, 2.4, 14.2, 14.3 14.4, 14.6, 14.7, 14.8, 14.9, and 14.14; (2) rescinded and replaced Form G-01; (3) rescinded Forms G-02, G-03, and G-05; and (4) amended the Index to the Appendix of Orphans' Court Forms. These changes update procedural rules and forms in guardianship matters pursuant to the Act of December 14, 2023, P.L. 446, No. 61 ("Act 61"). The Orphans' Court Procedural Rules Committee has prepared this Adoption Report describing the rulemaking process. An Adoption Report should not be confused with

Comments to the rules. See Pa.R.J.A. 103, cmt. The statements contained herein are those of the Committee, not the Court.

By way of background, Act 61 included guardianship reforms in the areas of certification of guardians, mandatory appointment of counsel, consideration of less restrictive alternatives before appointing a guardian, and scheduling review hearings within one year if there may be a change in capacity. While Act 61 largely contained substantive matters that were self-executing, amendment of the procedural rules governing guardianship proceedings was deemed necessary. The Committee published for public comment a proposal intended to address the requirements of Act 61. See 54 Pa.B. 1654 (March 30, 2024).

Certification of Guardians

Act 61 added a new certification requirement for "individuals" proposed as guardians prior to appointment to a third active guardianship. See 20 Pa.C.S. § 5511(f)(2). Use solely of the term "individual" in § 5511(f)(2) is in

contrast with the more fulsome list of potential appointees referenced in § 5511(f)(1), which includes “individuals,” as well as a corporate fiduciary, a nonprofit corporation, a guardianship support agency under Subchapter F (relating to guardianship support), or a county agency. *Id.* § 5511(f)(1). A threshold question for the Committee was determining who is required to obtain a certification prior to appointment as a guardian given the statutory language found in § 5511(f)(1) and (f)(2). The Committee relied on the plain language of § 5511(f)(2) to recommend that the certification requirement for an “individual” was clear and unambiguous.

Per Act 61, the certification must require, at a minimum, submission of education and employment history, submission of federal and state criminal history information, and passage of a certification exam administered by a national nonprofit guardianship certification organization. *See* 20 Pa.C.S. § 5511(f)(2)(ii)(B). The “national nonprofit guardianship certification organization” must provide a “comprehensive certification program for guardians, including supervising a national certification process, developing certification exam content and maintaining a decertification process.” *Id.* At this time, the Center for Guardianship Certification (“CGC”) appears to meet the statutory requirement for a national nonprofit guardianship certification organization. It is unknown to the Committee whether there are other organizations that satisfy the requirements of § 5511(f)(2)(ii)(B) or whether such other organization may be formed in the future.

Act 61 also permits the court to waive the certification requirement upon a petition “demonstrating that a proposed guardian has such equivalent licenses or certifications as are necessary” to ensure the guardian is capable of performing the obligations of a guardian. *See* 20 Pa.C.S. § 5511(f)(3). Notably, a law license alone is not an equivalent license or certification for purposes of waiver. *Id.*

Rule Changes Pertaining to Certification

The Act 61 certification requirements necessitated changes to the guardianship petition. Averments were added to the petition to advise the court whether the proposed guardian is required to be certified. Pa.R.O.C.P. 14.2(b)(6) requires an averment whether the proposed guardian is, was, or is seeking to be a guardian in any other matters, as well as the number of active guardianships. Similarly, the required averment in subdivision (b)(7) is intended to inform the court how the proposed guardian will satisfy the certification requirement, if required. Current subdivision (b) relates to any completed guardianship training and certifications that the proposed guardian holds. *See* Pa.R.O.C.P. 14.2(b)(4)-(b)(5). With respect to petition exhibits, Pa.R.O.C.P. 14.2(c)(5) requires attachment of proof of a guardianship certification or a copy of a concurrently filed petition for waiver of the certification. *See* Pa.R.O.C.P. 14.2(c)(5).

Pa.R.O.C.P. 14.6 generally addresses appointment preferences and eligibility to serve as a guardian. It was amended to reflect the certification requirement for an individual seeking appointment as a guardian prior to a third active guardianship. *See* Pa.R.O.C.P. 14.6(c)(1).

Pa.R.O.C.P. 14.6(c)(2) addresses certification by a national organization and tracks the express language of § 5511(f)(2). A guardian required to be certified has a continuing duty to maintain the certification in good standing, to file with the court proof of recertification prior to the expiration of the current certification, and to file with the court of any negative actions against the certification within seven days of such action. *See* Pa.R.O.C.P. 14.6(c)(2)(ii).

Act 61 permits waiver of the certification requirement upon a petition demonstrating that a proposed guardian has “such equivalent licenses or certifications as are necessary” to ensure the suitability of the proposed guardian. 20 Pa.C.S. § 5511(f)(3). The procedure for waiver of the certification is incorporated in Pa.R.O.C.P. 14.6(c)(3)(i). The equivalent licenses or certifications must be relevant to the type of guardianship that is established. *See id.* Examples of relevant equivalencies are included in the commentary to Pa.R.O.C.P. 14.6. As provided in § 5511(f)(3), Pa.R.O.C.P. 14.6(c)(3)(iii) reflects that a law license is not an equivalent license or certification for waiver purposes. *See id.*

Post-publication, Pa.R.O.C.P. 14.2(b)(6), pertaining to petition averments for the nomination of the guardian, was further revised to require identification of all judicial districts where the proposed guardian is actively serving in other guardianships. The change is intended to assist the jurist in assessing the scope of the proposed guardian’s experience and existing obligations.

The Committee also deleted a proposed requirement in Pa.R.O.C.P. 14.6(c)(2) that a national certification entity provide guardianship training. Subdivision (c)(2) now tracks the statute more closely and does not impose certification requirements beyond those set forth in Act 61.

Mandatory Appointment of Counsel

Prior to the enactment of Act 61, appointment of counsel in a guardianship case was at the discretion of the court. *See* 20 Pa.C.S. § 5511(a) (effective through June 10, 2024). Act 61 eliminated the court’s discretionary appointment power and made appointment of counsel mandatory in all circumstances when the alleged incapacitated person has not retained counsel. “[T]he court shall appoint counsel to represent the alleged incapacitated person in any matter for which counsel has not been retained by the alleged incapacitated person, including in [a guardianship proceeding] and in any subsequent proceedings to consider, modify or terminate a guardianship.” 20 Pa.C.S. § 5511(a.1)(2) (effective June 11, 2024). The appointment is to be made without regard to the alleged incapacitated person’s ability to pay. *See id.* New § 5511(a.1)(2) also provides that “[a]ppointed counsel shall be qualified by experience or training and shall act without delay under the circumstances.” *Id.*

In order to facilitate appointment of counsel, the petitioner is required to notify the court if he or she knows that the alleged incapacitated person is represented by counsel. *See* 20 Pa.C.S. § 5511(a.1)(1). The petitioner must include an averment in the petition or file notice with the court as soon as possible if the petitioner becomes aware of the representation. *See id.*

Section 5511(a.1) also contains statutory directives pertaining to the relationship between appointed counsel and the alleged incapacitated person. Appointed counsel for the alleged incapacitated person is required to “maintain a normal client-attorney relationship with the client,” “advocate for the client’s expressed wishes and consistent with the client’s instructions” to the extent possible, and “comply with the Rules of Professional Conduct governing the attorney-client relationship.” 20 Pa.C.S. § 5511(a.1)(3). New § 5511(a.1)(3) also requires appointed counsel to “meet with the incapacitated person as soon as reasonably possible after the appointment” and to file a certification of the meeting with the court within five days. *Id.*

Rule Changes Pertaining to Appointment of Counsel

Incorporating the mandatory appointment requirements necessitated amendments to Pa.R.O.C.P. 14.2, 14.3,

14.4, and 14.7. A new petition averment will enable the petitioner to notify the court if the alleged incapacitated person is represented by counsel and counsel's name and address if known. *See* Pa.R.O.C.P. 14.2(a)(9). If counsel for the alleged incapacitated person is identified in the petition, Pa.R.O.C.P. 14.2(f)(2)(iii) requires the petitioner to serve the petition on retained counsel identified in Pa.R.O.C.P. 14.2(a)(9).

Pa.R.O.C.P. 14.3 relates to proof of incapacity and the use of expert reports. Subdivision (b)(1) was amended to delete a reference to an alleged incapacitated person "unrepresented by counsel," insofar as all incapacitated persons will now be represented by retained or appointed counsel pursuant to § 5511(a.1)(2). Post-publication, a similar change was made to Pa.R.O.C.P. 14.3(c)(1).

Pa.R.O.C.P. 14.4 governs retention and appointment of counsel. Pa.R.O.C.P. 14.4(a)(1) requires the petitioner to file notice with the court as soon as the petitioner becomes aware that counsel has been retained if not indicated in the petition at the time of filing. The Committee considered timing issues relating to appointment of counsel. The Committee anticipates that many courts will appoint counsel at the time the petition is filed if retained counsel has not been identified. On the other hand, there may be overlap between appointed and retained counsel if the alleged incapacitated person retains counsel upon or following receipt of the petition for adjudication but before the appointment of counsel. The Committee foresees that courts will navigate these timing issues as they arise.

Pa.R.O.C.P. 14.4(c) sets forth the new requirements for appointed counsel. Subdivision (c)(1) addresses the general requirement that the court shall appoint counsel to represent the alleged incapacitated person in any matter for which counsel has not been retained. To the extent the statute limits court-appointed counsel to the alleged incapacitated person, subdivision (c)(1) will eliminate any ambiguity as to whether counsel can be appointed for the petitioner.

Pa.R.O.C.P. 14.4(c)(2) addresses qualifications of appointed counsel. As previously discussed, appointed counsel is required to be "qualified by experience or training." 20 Pa.C.S. § 5511(a.1)(2). The Committee believes the judge making the appointment is best suited to ensure qualified representation of an alleged incapacitated person.

Pa.R.O.C.P. 14.4(c)(3) addresses the new statutory requirement that appointed counsel meet with the alleged incapacitated person "as soon as reasonably possible" after the appointment and file a certification with the court relating the time and place the meeting occurred within five days of the meeting. *See* 20 Pa.C.S. § 5511(a.1)(3).

The commentary to Pa.R.O.C.P. 14.4 was revised to cross-reference Pa.R.O.C.P. 14.7(a)(1)(v), concerning a requirement that the guardianship order identify the scope of representation of court-appointed counsel in order to eliminate uncertainty and the need for counsel to file a withdrawal petition if scope is not defined at the commencement of representation.

Pa.R.O.C.P. 14.7(a)(1)(v) requires the order adjudicating incapacity and appointing a guardian to address the scope of representation of court-appointed counsel. This should provide the court with flexibility to determine whether the incapacitated person requires ongoing representation or if representation may be terminated until the commencement of a future proceeding. Similarly, post-publication changes were made to the notice to the incapacitated person set forth in Pa.R.O.C.P. 14.7(a)(2).

Post-publication, changes were made to the proposal concerning the attorney-client relationship. The authority of the Court to regulate the conduct comprising the practice of law is well established. "There can be no question the authority to supervise the practice of law in this Commonwealth lies in this Court's constitutional province, and we affirm the command in Article V, Section 10(c) that 'all laws shall be suspended to the extent' they are inconsistent with our Rules." *Yocum v. Commonwealth Pennsylvania Gaming Control Bd.*, 161 A.3d 228, 247 (Pa. 2017). With regard to the new statutory provisions relating to the relationship between appointed counsel and an alleged incapacitated person, the Committee observes that all counsel are bound by the Pennsylvania Rules of Professional Conduct, including Pa.R.P.C. 1.14 (responsibilities of counsel to a client with diminished capacity). Therefore, the proposed cross-reference to § 5511(a.1)(3), pertaining to the attorney-client relationship, in the commentary to Pa.R.O.C.P. 14.4 was deleted. A cross-reference to Pa.R.P.C. 1.14, concerning the conduct of counsel representing a client with diminished capacity, was retained in the commentary to Pa.R.O.C.P. 14.4.

Similarly, Act 61 provides that "[r]etained or appointed counsel may not act as guardian *ad litem* for the alleged incapacitated person." 20 Pa.C.S. § 5511(a.1)(3). Post-publication, a proposed cross-reference pertaining to the prohibition on appointed counsel serving as guardian *ad litem*, was deleted from the commentary to Pa.R.O.C.P. 14.4 and is undergoing further review by the Committee.

Less Restrictive Alternatives

Act 61 added a requirement to § 5512.1(a) that the court consider and make findings of fact regarding less restrictive alternatives to a guardianship prior to appointing a guardian. These less restrictive alternatives include, but are not limited to, advance directives, living wills, powers of attorney, trusts, health care representatives, and representative payees for social security benefits. 20 Pa.C.S. § 5512.1(a)(3). Likewise, § 5511(e), pertaining to the petition, was amended to require specific factual averments in the petition "demonstrating that less restrictive alternatives were considered or tried and why the alternatives are unavailable or insufficient." 20 Pa.C.S. § 5511(e).

A new requirement concerning identification of less restrictive alternatives in an order denying a petition for guardianship in whole or in part was also added to § 5512.1(a). If the court enters such an order, the court must identify "the less restrictive alternatives that are available and sufficient to enable the alleged incapacitated person to manage personal financial resources or to meet essential requirements of personal physical health and safety." 20 Pa.C.S. § 5512.1(a)(6)(iv). It appears that including the less restrictive alternatives in a partial order was intended to "assist the respondent and any supportive and substitute decision makers involved to effectuate the respondent's decisions with third parties." *Id.*

Rule Changes Pertaining to Less Restrictive Alternatives

Pa.R.O.C.P. 14.2(a)(14) was amended to include the statutory requirement that the petition identify what less restrictive alternatives to a guardianship were considered or tried, and why the alternatives are unavailable or insufficient. *See* 20 Pa.C.S. § 5511(e). Because Pa.R.O.C.P. 14.6(a), pertaining to the procedure for determining incapacity and appointing a guardian, already cross-references § 5512.1, it was not necessary to incorporate detailed language regarding consideration of less

restrictive alternatives to guardianship in the rule text. Instead, the commentary to Pa.R.O.C.P. 14.6 provides more detailed information regarding less restrictive alternatives and a cross-reference to § 5512.1(a)(3).

Post-publication, the Committee considered efforts by petitioner's counsel to pursue less restrictive alternatives to guardianship with the alleged incapacitated person, *e.g.*, drafting pre-need documents. To the extent that such efforts could implicate ethical considerations relating to confidentiality and conflicts, cross-references to Pa.R.P.C. 1.6, 1.7, and 1.14 were added to the commentary to Pa.R.O.C.P. 14.2.

Scheduled Review Hearing

Section 5512.2(a) adds new requirements relating to review hearings. It introduced a new concept, "automatic review hearings." Specifically, "if the evidence presented during the guardianship proceeding indicates that the circumstances of the person's incapacity may change, the court shall hold a review hearing to determine whether the guardianship continues to be necessary." 20 Pa.C.S. § 5512.2(a). The court is required to set a hearing date in the order to be held no later than one year from the date of the order. *Id.*

Rule Changes Pertaining to Scheduled Review Hearing

Pa.R.O.C.P. 14.9 was amended to incorporate these new review hearings. However, the hearings are "scheduled" rather than "automatic," insofar as they are scheduled as the result of judicial action. Pa.R.O.C.P. 14.7(a)(3) requires the court to include in the adjudication order a date for a scheduled review hearing, if warranted. Additional provisions relating to scheduled review hearings were added to Pa.R.O.C.P. 14.9(c). Persons to be served notice of the review hearing are the same persons entitled to notice of the petition filing, *i.e.*, Pa.R.O.C.P. 14.2(f)(2).

Post-publication, further revisions were made to Pa.R.O.C.P. 14.9(b) to require the appointment of counsel for a review hearing if the person is unrepresented. Additionally, Pa.R.O.C.P. 14.9(b) was revised to require that an order ruling on the merits of a review hearing shall address the continued scope of representation of court-appointed counsel. This is similar to the requirement in Pa.R.O.C.P. 14.7(a)(1)(v), which requires an order adjudicating incapacity and appointing a guardian to set forth the continued scope of representation of court-appointed counsel. Pa.R.O.C.P. 14.9(c)(1)(viii) was also revised post-publication to delete the prior petition averments and instead require averments setting forth the need for termination or modification of the guardianship as well as averments relating to the findings required by § 5512.1(a)(1)—(a)(4).

Form G-01 (Citation and Notice)

The Committee received a comment in response to the Notice of Proposed Rulemaking suggesting the deletion of a provision in Form G-01 concerning an alleged incapacitated person's right to request that the court appoint counsel to represent them. Because all alleged incapacitated persons are now entitled to representation, the provision is obsolete. The form has been rescinded and replaced with corrective language.

Guardianship Tracking System Reporting Forms

Post-publication, the Committee recommended that the Court rescind the three Guardianship Tracking System ("GTS") reporting forms, G-02 (Report of Guardian of the Estate), G-03 (Report of Guardian of the Person), and G-05 (Guardian's Inventory for an Incapacitated Person), from the Appendix to the rules. In lieu of maintaining the reporting forms in the rules, the Committee recommended

relocating the forms to the GTS and the Unified Judicial System website in the manner of numerous other forms used by participants. The Committee believes this change will enable the Advisory Council on Elder Justice in the Courts, the Administrative Office of Pennsylvania Courts ("AOPC"), and the Committee to revise the reporting forms more timely outside of the rulemaking process. The Committee further believes that this change will give AOPC greater flexibility in coordinating changes to the GTS and its reporting forms.

Rescinding the GTS reporting forms from the Appendix to the rules required further amendments to Pa.R.O.C.P. 1.8, 2.4, 14.8, and 14.14 and the Index to the Appendix of Orphans' Court Forms. Pa.R.O.C.P. 1.8 was revised to add a new provision relating to the reporting forms required by Pa.R.O.C.P. 14.8 and an updated website address. Second, the Committee revised Pa.R.O.C.P. 14.8 to provide that the Court Administrator of Pennsylvania, in consultation with the Committee and Advisory Council, shall prescribe the forms necessary for filing reports. The phrasing is intended to reflect that the forms are not adopted by the Court but required by the rules. *See, e.g.*, Pa.R.Civ.P.M.D.J. 350(c)(1) and 1002. Third, the Committee revised Pa.R.O.C.P. 14.14 to rescind Forms G-02, G-03, and G-05 from the Appendix. The commentary to Rule 14.14 was amended to explain this change and provide an updated website address. Fourth, the Committee revised the Index to the Appendix of Orphans' Court Forms to the rules to reflect the rescission of the referenced forms. Finally, corollary revisions were made to the Comment to Pa.R.O.C.P. 2.4 to reflect the renumbering of Pa.R.O.C.P. 1.8.

Other Rule Changes

In addition to the previously discussed rule changes, the proposal was modified in a number of areas both within and beyond the scope of Act 61. Some of the changes were the result of public comments received in response to the Notice of Proposed Rulemaking, while others were made in the interest of avoiding serial recommendations to the guardianship rules.

Pa.R.O.C.P. 14.2(a)(16) and its commentary reference the United States Veterans' Administration and the United States Veterans' Bureau, respectively. These references are made in the context of fulfilling 20 Pa.C.S. § 8411, which requires notice to the United States Veterans' Bureau or its successor when a petition for a guardian is filed with respect to veterans or their dependents who receive veterans' benefits. The rule and its commentary were revised to reflect the successor entity of the United States Veterans' Administration and the United States Veterans' Bureau, the Department of Veterans Affairs.

Former Pa.R.O.C.P. 14.6(b)(1)(x) and (b)(2) referenced a "professional guardian" as being eligible to serve as the guardian of an incapacitated person. Post-publication, those references to a "professional guardian" were deleted to reflect that neither Title 20, Chapter 55, nor the rules address or define "professional guardians." A cross-reference to § 5511(f)(1), which, among other things, identifies those entities eligible to serve as a guardian, was substituted for the deleted term.

The Committee also published proposed revisions relating to the pre-existing "Certificate of Guardianship of the Estate" ("Certificate") in the Notice of Proposed Rulemaking. Prior to the adoption of Act 61, the Committee received a request to review Pa.R.O.C.P. 14.7(c). It was suggested that the rule requires the clerk to certify that the guardian is still serving before issuing a Certificate to that effect, noting that the clerk's office should not issue

the Certificate if the guardian has been removed or resigned. The Committee generally agreed with this suggestion and proposed amending the Certificate to: (1) have the clerk certify that no record of modification of the appointment order was on the docket at the time of the certification; and (2) deleting the statement that the appointment was made by the court “in full consideration of Chapter 55 of the PEF Code” insofar as the clerk would have no factual basis to make that statement.

While preparing the proposal for publication, it became apparent there was a need to distinguish between a plenary and limited guardian of the estate because a limited guardian would not have unlimited access to all of the incapacitated person’s accounts. Therefore, the Committee proposed new subdivision (c)(2) relating to a certification for a limited guardian. However, it was suggested that the Committee should further revise Pa.R.O.C.P. 14.7(b), pertaining to the order adjudicating incapacity and appointing guardian of the estate to distinguish between orders appointing a plenary or limited guardian. Post-publication, new subdivisions (b)(2)(i) and (b)(2)(ii) were added to address the authority of a plenary or limited guardian, respectively.

Stylistic changes were made throughout the rule-making.

These rule changes are immediately effective.

[Pa.B. Doc. No. 25-1. Filed for public inspection January 3, 2025, 9:00 a.m.]

**Title 252—ALLEGHENY
COUNTY RULES**

ALLEGHENY COUNTY

Civil Division; Local Rules of the Court of Common Pleas; No.: AD-2024-370-PJ Rules Doc.

Order of Court

And Now, this 18th day of December 2024, it is hereby *Ordered* that the following local rule of the Court of Common Pleas of Allegheny County, Pennsylvania, Civil

Division, adopted by the Board of Judges, shall be effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

ALLEGHENY COUNTY RULES OF CIVIL PROCEDURE 234.2

By the Court

SUSAN EVASHAVIK DiLUCENTE,
President Judge

Local Rule 234.2. Issuance of Subpoena Based on Foreign Subpoena.

(1) To obtain an Allegheny County subpoena, based on a subpoena issued from a foreign jurisdiction, pursuant to the Pennsylvania Uniform Interstate Depositions and Discovery Act, 42 Pa.C.S.A. § 5331 et seq., a person shall submit the following to the Department of Court Records:

- (a) The foreign subpoena,
- (b) The filing fee as set by the Department of Court Records, and

(c) A Request for Issuance of Subpoena Based on Foreign Subpoena, substantially in the form of FORM 234.2 (see subsection (5) of this Local Rule) containing the following:

(1) The jurisdiction from which the foreign subpoena was issued,

(2) The names, addresses, phone numbers and identification of represented parties for each attorney for the matter in the foreign jurisdiction, and

(3) The names, addresses and phone numbers of all unrepresented parties.

(2) The Allegheny County subpoena must incorporate all terms of the foreign subpoena and contain or be accompanied by the names, addresses, phone numbers of counsel for all represented parties and the names, addresses and phone numbers of all unrepresented parties.

(3) The Allegheny County subpoena, accompanied by the foreign subpoena, must be served in compliance with the applicable Pennsylvania Rules of Civil Procedure for subpoenas, including Rules 234.2, 234.3, 234.4, 4009.21, 4009.22, 4009.23, 4009.24, 4009.25, and 4009.27.

(4) FORM 234.2

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

,

Plaintiff

ALLEGHENY COUNTY NO.:

vs.

,

Defendant.

REQUEST FOR ISSUANCE OF SUBPOENA BASED ON FOREIGN SUBPOENA

1. Attached is a subpoena issued under the authority of the Court of _____ (*foreign court*), _____ (*foreign county*), _____ (*foreign state*).
2. The Court of _____ is a court of record.
3. Counsel representing Plaintiff(s), _____ (*name of party*) in the foreign proceeding is _____ (*name*), _____, _____ (*address*), _____ (*phone*).
4. Counsel representing Defendant(s), _____ (*name of party*) in the foreign proceeding is _____ (*name*), _____, _____ (*address*), _____ (*phone*).

5. The unrepresented party(ies) in the foreign proceeding is(are) _____ (name), _____, (address), _____ (phone).
6. The requestor represents that prior to service, the Allegheny County subpoena to be issued will incorporate the terms of the foreign subpoena and will contain or be accompanied by the names, addresses and telephone numbers of all counsel of record in the foreign proceeding and of any party not represented by counsel.
7. _____ requests the issuance of an Allegheny County subpoena based on the attached foreign subpoena.

Dated: _____

By: _____

[Identification of requestor]
 [Address of requestor]
 [Phone number of requestor]

[Pa.B. Doc. No. 25-2. Filed for public inspection January 3, 2025, 9:00 a.m.]

Title 255—LOCAL COURT RULES

LEHIGH COUNTY

Rule of Criminal Procedure 576.1; No.: AD-64-2024

Administrative Order

And Now, this 16 day of December, 2024;

It Is Ordered that the following Lehigh County Rule of Criminal Procedure 576.1 is hereby adopted, effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

It Is Further Ordered that the Court Administrator of Lehigh County shall:

1. File one (1) copy of the Order and Lehigh County Rule of Criminal Procedure 576.1 with the Administrative Office of Pennsylvania Courts via e-mail to adminrules@pacourts.us.

2. Mail one (1) copy to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; and e-mail another copy in Microsoft Word format to bulletin@palrb.us.

3. Publish the local rules on the court’s website.

4. Incorporate the local rules into the set of local rules on the court’s website no later than thirty (30) days following publication in the *Pennsylvania Bulletin*.

5. File one (1) copy with the Lehigh County Clerk of Judicial Records for public inspection and copying.

By the Court

J. BRIAN JOHNSON,
President Judge

Leh.R.Cr.P. 576.1. Electronic Filing and Service of Legal Papers.

(A) The electronic filing of legal papers in the Lehigh County Court of Common Pleas, 31st Judicial District, is permissive in accordance with Pa.R.Cr.P. 576.1 and this rule.

(B) Local Rule

(1)(a) The legal papers which shall be filed electronically shall encompass all written motions, written answers, and any notices or documents for which filing is required or permitted, including orders and attachments, except for the following:

- (i) applications for search warrants;
- (ii) applications for arrest warrants;

(iii) any grand jury materials, except the indicting grand jury indictment or the investigating grand jury presentment;

(iv) submissions filed ex parte as authorized by law;

(v) submissions filed or authorized to be filed under seal;

(vi) exhibits offered into evidence, whether or not admitted in a court proceeding; and

(vii) applications for continuance;

(1) Applications for continuance for criminal cases at the Common Pleas level can be submitted to Court Administration via facsimile at 610-871-2779, via email at CAHelp@lehighcounty.org, or in person.

(2) Applications for continuances on DUI cases at the Common Pleas level can be submitted to Court Administration via facsimile at 610-871-2779, via email at DUIContinuance@lehighcounty.org, or in person.

(viii) notice of appeals;

Notice of Appeals for criminal cases can be submitted to the Clerk of Courts in person, or by mail with appropriate filing fees; or via email at COJRMotions-Orders@lehighcounty.org if the filing fee has been waived.

(1)(b) Any party who declines to participate in electronic filing, or who is unable to electronically file legal papers, or who is otherwise unable to access the system, shall be able to file legal papers in a physical paper format in accordance with Pa.R.Cr.P. 576(a)(2). Any party who declines to participate in electronic filing, or accept service of legal papers which were filed electronically, or who is otherwise unable to access the system, shall be served legal papers in a physical paper format in accordance with Pa.R.Cr.P. 576(b)(2).

(1)(c) The Administrative Office of Pennsylvania Courts has agreed upon the implementation plan for the use of PACFile in the Lehigh County Court of Common Pleas, 31st Judicial District.

(C) Filing

When cases are consolidated or related, the legal paper submitted for filing shall be filed in each consolidated case.

(D) Service

Service upon the Court Administrator shall be done electronically and automatically through PACFile.

[Pa.B. Doc. No. 25-3. Filed for public inspection January 3, 2025, 9:00 a.m.]

Title 255—LOCAL COURT RULES

YORK COUNTY

Fee Bill for the Office of the Orphans’ Court; No. 6724-9999

Amended Administrative Order

And Now, this 17th day of December 2024, pursuant to the provisions of 42 P.S. 21032.1, the fee bill of the Clerk of Orphans’ Court of York County, Pennsylvania, is amended as indicated on the following proposed fee bill to the within Petition. The fee bill shall become effective the 1st day of January 2025.

The District Court Administrator shall publish this order as may be required.

By the Court

MARIA MUSTI COOK,
President Judge

FEE BILL

CLERK OF ORPHANS’ COURT DIVISION OF THE COURT OF COMMON PLEAS OF YORK COUNTY, PENNSYLVANIA

And now, by Order of Court this 19th Day of December, 2024, the following bill of costs is established pursuant to 42 P.S. Section 21032.1. This Order is effective the 1st day of January, 2025

ACCOUNTS

Of Executors, Administrators, Trustees & Guardians, filing, advertising and adjudication costs:

Total of principal receipts and income receipts	
Not exceeding \$2,000	\$75.00
Over \$2,000 but not over \$5,000	80.00
Over \$5,000 but not over \$10,000	85.00
Over \$10,000 but not over \$25,000	110.00
Over \$25,000 but not over \$50,000	135.00
Over \$50,000 but not over \$100,000	165.00
Each additional \$100,000 or fraction thereof, an additional	100.00

ADOPTION

Petition, Certificate and Report of Intermediary	75.00**
Voluntary or Involuntary Termination, Confirm Consent	25.00**
Costs of Investigation to be determined by the Court under the circumstance in each case.	
Report of Intent	25.00
Act 34 Fund	75.00
Certificate of Adoption	10.00
Foreign Adoption	75.00**
Petition for Identifying and Non-Identifying	50.00

AFFIDAVIT OR OATH 20.00

ANSWER 20.00

APPEAL to Appellate Court filing fee 100.00
Superior Court/Supreme Court 90.25

APPLICATION FOR CONTINUANCE/ ZOOM..... 20.00

BIRTH/DEATH RECORD

Certificate from original Birth	20.00
Certificate from original Death	20.00
Delayed Registration Birth	20.00
Delayed Registration Death	20.00

CERTIFICATION* 10.00

CERTIFICATION* under Act of Congress 35.00

*Plus \$1.00 per page if copy is not furnished

Certificate of Authority	5.00
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CITATION

Petition and issuing, one respondent	50.00**
Each additional respondent	5.00

CLAIM 10.00

Satisfaction or Withdrawal	5.00
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COPIES

Online prints/copies made by office staff (per page)	1.00
Email transmitted copies (per page)	1.00

COPY of any instrument for certification (per page) 1.00

(certification extra)

DISCLAIMER 10.00

ELECTION under or against Will 10.00

FAMILY EXEMPTION

Petition	50.00**
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FAMILY SETTLEMENT AGREEMENT 25.00

INCAPACITATED ESTATES

Petition, Citation, and appointment of guardian	50.00**
Bond	10.00

Certificate of guardianship 10.00

Inventory 10.00

Petition for Sale of Real Estate 50.00

INFORMAL ACCOUNTING 25.00

MINOR’S ESTATE

Petition for appointment of guardian per child	50.00**
Inventory	10.00

Bond 10.00

MARRIAGE

Waiver (Military—Free)	20.00
License, Application, Affidavits, Taxes, Automation	

Fee, and one (1) certified copy 70.00

Keepsake license 10.00

Certified copy of license and return of marriage 10.00

Certified copy of application 10.00

Non-Resident 20.00

Affidavit of No Marriage 20.00

MISCELLANEOUS FILING 20.00

MOTION 20.00

OBJECTIONS 20.00

PETITION (Miscellaneous) 50.00**

POWER OF ATTORNEY 30.00

PRAECIPE/JOINDER 10.00

RESUMED DECEDENT

Petition and final decree	50.00**
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REAL ESTATE OF DECEDENTS

Petition for Sale of Real Estate	50.00**
Execution of deed by Clerk	20.00
Decree Awarding Real Estate	20.00
RELEASE	25.00
RETURNED CHECK	20.00
SMALL ESTATE PETITION (Decedents or Minors)	50.00**
STIPULATION	10.00
SUBPOENA	10.00
TRUSTEE	
Petition for appointment	50.00**
Resignation	10.00

****PENNSYLVANIA JCP/ATJ/CJEA/OAG and
AUTOMATION FEE APPLIES**

Judicial Computer Project/Access to Justice/ Criminal Justice Enhancement Acct./Office of A.G. (JCP/ATJ/CJEA/OAG)	40.25
Automation Fee (Orphans' Court)	14.75

Note: In cases not herein specifically provided for, the Clerk of Orphans' Court shall make the same charge as that imposed for services of a substantially similar nature. All orders heretofore establishing fee bill for the Clerk of Orphans' Court shall be revoked and superseded as of the effective date hereof.

By the Court

HONORABLE MARIA MUSTI COOK,
President Judge

Attest:
CLYDE W. VEDDER,
Orphans' Court Supervising Judge

Attest:
BRYAN K. TATE,
Clerk of Orphans' Court

Rev 01/2025

[Pa.B. Doc. No. 25-4. Filed for public inspection January 3, 2025, 9:00 a.m.]

Title 255—LOCAL COURT RULES

YORK COUNTY

**Fee Bill for the Office of the Register of Wills; No.
6724-8888**

Amended Administrative Order

And Now, this 17th day of December 2024, pursuant to the provisions of 42 P.S. 21022.1, the fee bill of the Register of Wills of York County, Pennsylvania, is amended as indicated on the following proposed fee bill to the within Petition. The fee bill shall become effective the 1st day of January 2025.

The District Court Administrator shall publish this order as may be required.

By the Court

MARIA MUSTI COOK,
President Judge

FEE BILL

**REGISTER OF WILLS OF YORK COUNTY,
PENNSYLVANIA**

And now, by Order of Court this 19th day of December 2024, the following bill of costs is established pursuant to 42 P.S. Section 21022.1. This Order is effective the 1st day of January 2025.

**LETTERS TESTAMENTARY, LETTERS OF
ADMINISTRATION, ADMINISTRATION C.T.A.**

Total Assets not over \$2,000	\$40.00**
Over \$2,000 but not over \$5,000	50.00**
Over \$5,000 but not over \$25,000	75.00**
Over \$25,000 but not over \$50,000	100.00**
Over \$50,000 but not over \$100,000	150.00**
Each additional \$100,000 or fraction thereof, an additional	100.00

**LETTERS OF ADMINISTRATION D.B.N.,
D.B.N.C.T.A., PENDENTE LITE, DURANTE
ABSENTIA OR DURANTE MINORITATE**

Letters	40.00**
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Note: Where inventory, tax return or account is of greater value than original estimated value for any letters, the right is reserved to make an additional charge based upon such greater value.

PROBATE OF WILL AND CODICIL	50.00**
Without Issuance of Letters (Death Certificate Required)	

**AFFIDAVIT and RELEASE OF
BENEFICIARY**

.....	20.00
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AFFIDAVIT	20.00
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AFFIDAVIT OF DEATH	20.00
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AFFIDAVIT OF FOREIGN FIDUCIARY

Non-resident affidavit of debts	20.00
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(filed w/foreign exemplified proceedings)

ANSWER	20.00
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APPLICATION FOR CONTINUANCE	20.00
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BOND	10.00
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CAVEAT

Formal (including bond)	50.00
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Informal	25.00
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CERTIFICATION*	10.00
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CERTIFICATION* under Act of Congress	35.00
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*plus \$1.00 per page, if copy is not furnished

CERTIFYING RECORD to Orphans' Court upon appeal	10.00
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CITATION

Petition and issuing, one respondent	50.00**
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Each Additional Respondent	5.00
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CODICIL (each)	10.00
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COPIES

Online prints/copies made by office staff (per page)	1.00
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Email transmitted copies (per page)	1.00
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COPY of any instrument for certification (per page)	1.00
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(certification extra)

DEATH CERTIFICATE RECORDING	20.00**
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Without Probate

EXECUTION OF COMMISSION from other

Register of Pennsylvania or foreign jurisdiction	20.00
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Certified Mail Fee (to return commission)	10.00
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**FOREIGN JURISDICTION'S CERTIFIED
OR EXEMPLIFIED COPIES OF
LETTERS AND PROCEEDINGS**

Filing of Record (Incoming)	50.00
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Preparing (Outgoing) [Copy fees applicable] ..	50.00
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GENEALOGICAL RESEARCH per hour or fraction thereof (on a time available basis)	10.00
INHERITANCE TAX RETURN (REV-1500) .	10.00
Supplemental Inheritance Tax Return	10.00
Certificate of tax payment	25.00
INVENTORY	10.00
MISCELLANEOUS FILING	20.00
MOTION	20.00
OBJECTIONS	20.00
PETITION (Miscellaneous)	50.00**
PRAECIPE/JOINDER	10.00
REGISTERS' HEARING	100.00
(Fee due prior to hearing)	
RENUNCIATION (per page)	10.00
RETURNED CHECK	20.00
SHORT CERTIFICATE	10.00
SUBPOENA	10.00
**PENNSYLVANIA JCP/ATJ/CJEA/OAG and AUTOMATION FEE APPLIES	
Judicial Computer Project/Access to Justice/ Criminal Justice Enhancement Acct./Office of A.G.(JCP/ATJ/CJEA/OAG)	40.25
Automation Fee (Register of Wills)	14.75

Note: In cases not herein specifically provided for, the Register shall make the same charge as that imposed for services of a substantially similar nature. All orders heretofore establishing fee bill for the Register of Wills of York County shall be revoked and superseded as of the effective date hereof.

By the Court

HONORABLE MARIA MUSTI-COOK,
President Judge

Attest:
CLYDE W. VEDDER,
Orphans' Court Supervising Judge

Attest:
BRYAN K. TATE,
Register of Wills
Rev 01/25

[Pa.B. Doc. No. 25-5. Filed for public inspection January 3, 2025, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Disbarment

Notice is hereby given that Joshua Louis Thomas, (# 312476), having been disbarred in the Eastern District of Pennsylvania, the Supreme Court of Pennsylvania issued an Order dated December 19, 2024, disbaring Joshua Louis Thomas from the Bar of this Commonwealth, effective January 19, 2025.

In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

MARCEE D. SLOAN,
Board Prothonotary

[Pa.B. Doc. No. 25-6. Filed for public inspection January 3, 2025, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Suspension

By Order of the Supreme Court of Pennsylvania dated December 19, 2024, Mary Elizabeth Lenti (# 312705), whose registered address is in Mount Holly, NJ, is suspended from the practice of law in this Commonwealth for a period of 3 months, effective January 19, 2025. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

MARCEE D. SLOAN,
Board Prothonotary

[Pa.B. Doc. No. 25-7. Filed for public inspection January 3, 2025, 9:00 a.m.]