

THE COURTS

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

Joint General Court Regulation; Trial and Orphans' Court Divisions; No. 2000-02

Procedure for the Appointment of a Guardian and Obtaining Approval to Provide Medical Treatment for Alleged Incapacitated Persons and Minors Subject to the Jurisdiction of the Orphans' Court Division

Emergency requests for court authorization to perform medical procedures on alleged incapacitated persons, and in some cases involving minors, are being made with increasing frequency. In order to protect the rights of all parties involved, and to clarify the procedure to be utilized in seeking judicial intervention, the Court has adopted the policy set forth hereunder.

1. *Necessity for Court Intervention.* A minor is not sui juris, and thus may not provide informed consent. A parent or guardian must provide the requisite consent to authorize the performance of any medical procedures on the minor. Conversely, an adult is deemed to be competent to authorize any medical procedure. Only where the competency of an adult is at issue must the appointment of a guardian be sought.

(a) *Adults.* The jurisdiction of the court of common pleas over the adjudications of incompetency and the appointment of guardians must be exercised through the Orphans' Court Division. See 20 Pa.C.S. § 711. In Philadelphia County, the Orphans' Court Division is the only appropriate Division through which the appointment, control and removal of the guardian of the person of any incapacitated person may be exercised. See 20 Pa.C.S. § 712(2). Thus, requests for leave to perform medical treatment, if necessary due to the individuals' inability to give informed consent, must be filed in the Orphans' Court, in conjunction with the request to appoint a guardian for the person.

(b) *Minors.* Minors may be subject to the jurisdiction of the Family Court Division as well as the Orphans' Court Division. The within Joint General Court Regulation only controls those instances where the request to appoint a guardian is filed in the Orphans' Court Division. The current practice in the Family Court Division is not changed.

2. *Place to File the Request.*

(a) *During Court Hours.* All Petitions for the purposes set forth herein shall be filed in the Orphans' Court Division, through the Clerk of Orphans' Court, 415 City Hall, Philadelphia, PA.

(b) *After Normal Court Hours.* In the event of an unforeseen emergency occurring after normal court hours, a petition may be filed with the weekly emergency Common Pleas Court Judge, appointed by the President Judge of the Court of Common Pleas, by contacting the City Hall Operator at (215) 686-5665 and asking for the Common Pleas Court Emergency Judge. The Emergency Judge shall be advised by the petitioner, counsel or the caller whether proceedings involving the adult or minor were commenced or are pending in any Court, and

whether the request raised with the Emergency Judge has been addressed in any tribunal. If the petition is accepted by the Emergency Judge, a hearing must be held by the Emergency Judge before an order or decree may be issued.

3. *Petition Requirements.*

(a) *During Court Hours.* The petition shall be filed in compliance with the Pennsylvania Orphans' Court Rules, the Philadelphia County Orphans' Court Rules, and the applicable provisions of the Probate, Estates and Fiduciaries Code, 20 Pa.C.S. 101 et seq. At Petitioner's request, the Orphans' Court may appoint a limited or plenary guardian as authorized by 20 Pa.C.S. § 5512.1, or an emergency guardian, as authorized by 20 Pa.C.S. § 5513.

(b) *During Non-Court Hours.* The weekly Emergency Judge, exercising the jurisdiction of the Orphans' Court Division, may appoint an emergency guardian as provided by 20 Pa.C.S. § 5513 provided that: the request is made after non-court hours; a petition, substantially as required in section (3) (a), is filed with the Emergency Judge; a hearing is held; and a determination is made that clear and convincing evidence exists which establishes that the person lacks capacity, is in need of an emergency guardian and the failure to appoint an emergency guardian will result in irreparable harm to the alleged incapacitated person. Any such appointment will be in effect until the next court day, and the petition and Decree issued by the Emergency Judge must be filed with the Clerk of the Orphans' Court, together with any other appropriate petition to extend the appointment, if necessary.

4. *Decree Appointing Guardian.* The Decree appointing the guardian shall set forth the guardian's powers, duties and liabilities.

5. *Effective Date.* This Joint General Court Regulation shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*. Any Petition hereafter filed in the Trial Division seeking the relief set forth herein shall be administratively transferred to the Orphans' Court Division by the Prothonotary, or Civil Administration Clerks, and a notation shall be entered on the dockets that such transfer has been accomplished at the direction of the President Judge of the Court of Common Pleas as provided in this Regulation.

This General Court Regulation is promulgated in accordance with 20 Pa.C.S. §§ 711, 712(2), Pa. O.C. Rule 1.2 and Pa.R.Civ.P. No. 239. The original Joint General Court Regulation shall be filed with the Prothonotary in a docket maintained for General Court Regulations issued by the President Judge of the Court of Common Pleas, and certified copies shall be submitted to the Clerk of Orphans' Court, the Civil Procedural Rules Committee, the Orphans' Court Procedural Rules Committee, the Administrative Office of Pennsylvania Courts, and the Legislative Reference Bureau. Copies of the Regulation shall also be submitted to American Lawyer Media, *The Legal Intelligencer*, Jenkins Memorial Law Library and the Law Library for the First Judicial District. The Joint General Court Regulation will also be posted on the First Judicial District's website at <http://courts.phila.gov>.

ALEX BONAVITACOLA,
President Judge

[Pa.B. Doc. No. 00-554. Filed for public inspection March 31, 2000, 9:00 a.m.]

PHILADELPHIA COUNTY

Joint General Court Regulation; Trial and Orphans' Court Divisions; No. 2000-03

Distribution of Business within the Court of Common Pleas Nonprofit Corporations

The Pennsylvania Rules of Judicial Administration provide that the Orphans' Court Division of a Court of Common Pleas shall herein determine certain matters dealing with Nonprofit Corporations. See Pa.R.J.A. No. 2156. However, in certain instances, disputes concerning Nonprofit Corporations cannot, or ought not, be heard in the Orphans' Court Division, but rather should be heard in the Trial Division. The within Joint General Court Regulation is designed to clearly set forth the types of matters to be heard by the two divisions of the Court of Common Pleas of Philadelphia County.

1. *Matters to be heard by the Orphans' Court Division.* All matters wherein a Nonprofit Corporation is a party shall be heard in the Orphans' Court Division provided that a stated purpose of the Nonprofit Corporation is charitable.

2. *Matters to be heard by the Trial Division.* All matters wherein a Nonprofit Corporation is a party shall be heard in the Trial Division provided that the stated purposes of the Nonprofit Corporation is noncharitable.

3. *Effective Date.* This Joint General Court Regulation shall become effective thirty days after publication in the *Pennsylvania Bulletin*.

This General Court Regulation is promulgated in accordance with Pa.R.J.A. No. 2156, Pa.O.C. Rule No. 1.2 and Pa.R.Civ.P. No. 239. The original Joint General Court Regulation shall be filed with the Prothonotary in a docket maintained for General Court Regulations issued by the President Judge of the Court of Common Pleas, and certified copies shall be submitted to the Clerk of Orphans' Court, the Civil Procedural Rules Committee, the Orphans' Court Procedural Rules Committee, the Administrative Office of Pennsylvania Courts, and the Legislative Reference Bureau. Copies of the Regulation shall also be submitted to American Lawyer Media, *The Legal Intelligencer*, Jenkins Memorial Law Library and the Law Library for the First Judicial District. The Joint General Court Regulation will also be posted on the First Judicial District's website at <http://courts.phila.gov>.

ALEX BONAVITACOLA,
President Judge

[Pa.B. Doc. No. 00-555. Filed for public inspection March 31, 2000, 9:00 a.m.]

Title 255—LOCAL COURT RULES

LUZERNE COUNTY

Order Adopting the Reorganization and Renumbering of the Luzerne County Rules of Criminal Procedure; No. 63 Misc. 2000
Order

Now This 16th day of March, 2000, Luzerne County Rules of Criminal Procedure are hereby reorganized and renumbered as follows:

Rule [4] 102. Citing the Criminal Procedural Rules.

Rule [316] 122. Assignment of Counsel.

Rule [2002A] 202. Approval of Search Warrant Applications by Attorney for the Commonwealth, Local Option.

Rule [161] 301. Procedures for Accelerated Rehabilitative Disposition in Summary Cases Before the Minor Judiciary.

Rule [107] 507. Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth-Local Option.

Rule [303] 571. Arraignment.

Rule [310] 580. Disposition of Pretrial Motions.

Rule [324] 588. Motion for Return of Property.

Rule [1409] 708. Probation, Intermediate Punishment or Parole.

It is further ordered that the District Court Administrator shall file seven (7) certified copies of this Rule with the Administrative Office of Pennsylvania Courts, two (2) certified copies to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, one (1) certified copy to the Criminal Procedural Rules Committee, one (1) certified copy to the Judicial Council of Pennsylvania Statewide Rules Committee, and one (1) copy to the Luzerne Legal Register for publication in the next issue.

It is further ordered that these local rules shall be kept continuously available for public inspection and copying in the Clerk of Court's Office.

By the Court,

JOSEPH M. AUGELLO,
President Judge

[Pa.B. Doc. No. 00-556. Filed for public inspection March 31, 2000, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Suspension

Notice is hereby given that Krzysztof L. Nowak, having been suspended from the practice of law in the State of New Jersey for a period of three months by Order of the Supreme Court of New Jersey dated July 15, 1999, the Supreme Court of Pennsylvania issued an Order dated March 13, 2000, that Krzysztof L. Nowak is suspended from the practice of law in this Commonwealth for a period of three months. In accordance with the 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*.

ELAINE M. BIXLER,
*Executive Director & Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 00-557. Filed for public inspection March 31, 2000, 9:00 a.m.]

SUPREME COURT

Schedule of Holidays for Year 2001 for Staffs of the Appellate Courts and the Administrative Office of Pennsylvania Courts; No. 217 Judicial Administration Doc. No. 1

Order

Per Curiam:

And Now, this 13th day of March, 2000, it is hereby ordered that the following paid holidays for calendar year 2001 will be observed on the dates specified below by all employees of the appellate courts and the Administrative Office of Pennsylvania Courts:

January	1, 2001	New Year's Day
January	15, 2001	Martin Luther King, Jr. Day
February	19, 2001	Presidents' Day
April	13, 2001	Good Friday
May	28, 2001	Memorial Day (Observed)
July	4, 2001	Independence Day
September	3, 2001	Labor Day
October	18, 2001	Columbus Day (Observed)
November	6, 2001	Election Day
November	12, 2001	Veterans Day (Observed)
November	22, 2001	Thanksgiving Day
November	23, 2001	Day After Thanksgiving
December	25, 2001	Christmas Day

[Pa.B. Doc. No. 00-558. Filed for public inspection March 31, 2000, 9:00 a.m.]

Sessions of the Supreme Court of Pennsylvania for the Year 2001; No. 123 Appellate Court Rules Doc. No. 1

Order

Per Curiam:

And Now, this 13th of March, 2000, it is ordered that the argument/administrative sessions of the Supreme Court of Pennsylvania shall be held in the year 2001 as follows:

Philadelphia	January 29 through February 2
Pittsburgh	March 5 through March 9
Harrisburg	April 30 through May 4
Philadelphia (Administrative Session)	June 4
Pittsburgh	September 10 through September 14
Philadelphia	October 15 through October 19
Harrisburg	November 13 through November 16
Pittsburgh (Administrative Session)	December 4

Additional argument/administrative sessions may be scheduled as the Court deems necessary.

[Pa.B. Doc. No. 00-559. Filed for public inspection March 31, 2000, 9:00 a.m.]