

THE COURTS

Title 237—JUVENILE RULES

PART 1. RULES

[237 PA. CODE CHS. 5 AND 6]

Proposed Amendment of Pa.R.J.C.P. 515 and 610

The Juvenile Court Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Pennsylvania Rules of Juvenile Court Procedure 515 and 610 concerning the imposition of financial obligations on juveniles at the time of disposition for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor will be officially adopted by the Supreme Court.

Additions to the text of the proposal are bolded and underlined; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

Daniel A. Durst, Chief Counsel
 Juvenile Court Procedural Rules Committee
 Supreme Court of Pennsylvania
 Pennsylvania Judicial Center
 PO Box 62635
 Harrisburg, PA 17106-2635
 FAX: 717-231-9541
 juvenilerules@pacourts.us

All communications in reference to the proposal should be received by August 16, 2019. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

*By the Juvenile Court
 Procedural Rules Committee*

JUDGE JENNIFER R. SLETVOLD,
Chair

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart A. DELINQUENCY MATTERS

CHAPTER 5. DISPOSITIONAL HEARING

PART B. DISPOSITIONAL HEARING AND AIDS

Rule 515. Dispositional Order.

A. *Generally.* When the court enters a disposition after an adjudication of delinquency pursuant to Rule 409(A)(2), the court shall issue a written order, which provides balanced attention to the protection of the community, accountability for the offenses committed, and development of the juvenile's competencies to enable the juvenile to become a responsible and productive member of the community. The order shall include:

- 1) the court's findings pursuant to Rule 512(D);
- 2) a designation whether the case is eligible pursuant to 42 Pa.C.S. § 6307(b)(1.1)(i) for limited public information;
- 3) a directive that the juvenile shall submit to fingerprinting and photographing by, or arranged by, the law enforcement agency that submitted the written allegation in all cases in which the juvenile has not previously been fingerprinted or photographed;
- 4) the date of the order; and
- 5) the signature and printed name of the judge entering the order.

B. [***Restitution. If restitution is ordered in a case, the] Financial Obligations. If the court orders the payment of fines, costs, fees, or restitution, the amounts shall be reasonable and as part of a plan of rehabilitation considering the nature of the acts committed and the earning capacity of the juvenile.*** The dispositional order shall include:

- 1) [***a***] the specific [amount] amounts of fines, costs, fees, or restitution to be paid by the juvenile;
- 2) to whom the [***restitution***] financial obligations shall be paid; and
- 3) a payment schedule, if so determined by the court.

C. *Guardian [participation] Participation.* The dispositional order shall include any conditions, limitations, restrictions, and obligations imposed upon the guardian.

D. *Disposition [reporting] Reporting.* The court shall forward the case disposition to the Juvenile Court Judges' Commission, as required by the Commission.

Comment

Pursuant to paragraph (A)(2), the court is to determine if the case is eligible for limited public information under the requirements of 42 Pa.C.S. § 6307(b)(1.1)(i). *See* 42 Pa.C.S. § 6307(b)(2). When the case is designated, the clerk of courts is to mark the file clearly. For information that is available to the public in those eligible cases, see Rule 160.

See 23 Pa.C.S. § 5503 and 42 Pa.C.S. §§ 6308, 6309 and 6310.

In determining the amount of the financial obligation pursuant to paragraph (B), the judge may include a contribution to a restitution fund. See 42 Pa.C.S. § 6352(a)(5). The court shall retain jurisdiction over the juvenile until the financial obligation has been satisfied, the juvenile attains 21 years of age, or supervision has otherwise been terminated. See id.; see also Rule 632 (Early Termination of Court Supervision by Motion). A subsequent change in the plan of rehabilitation may warrant diminution of financial obligations through a dispositional review hearing and modification of dispositional order. See Rule 610(A)-(B).

Dispositional orders should comport in substantial form and content to the Juvenile Court Judges' Commission model orders to receive funding under the federal Adoption and Safe Families Act (ASFA) of 1997 (P.L. 105-89). The model forms are also in compliance with Title IV-B

and Title IV-E of the Social Security Act. For model orders, see <http://www.jcjc.state.pa.us> or <http://www.dpw.state.pa.us> or request a copy on diskette directly from the Juvenile Court Judges' Commission, Room 401, Finance Building, Harrisburg, PA 17120.

Official Note: Rule 515 adopted April 1, 2005, effective October 1, 2005. Amended August 20, 2007, effective December 1, 2007. Amended July 28, 2009, effective immediately. Amended December 24, 2009, effective immediately. Amended April 29, 2011, effective July 1, 2011. Amended February 13, 2019, effective June 28, 2019. **Amended _____, 2019, effective _____, 2019.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 515 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 515 published with the Court's Order at 37 Pa.B. 4866 (September 8, 2007).

Final Report explaining the amendment to Rule 515 published with the Court's Order at 39 Pa.B. 4743 (August 8, 2009).

Final Report explaining the amendments to Rule 515 published with the Court's Order at 40 Pa.B. 222 (January 9, 2010).

Final Report explaining the amendments to Rule 515 published with the Courts Order at 41 Pa.B. 2413 (May 14, 2011).

Final Report explaining the amendments to Rule 515 published with the Court's Order at 49 Pa.B. 916 (March 2, 2019).

Final Report explaining the amendments to Rule 515 published with the Court's Order at Pa.B. (_____, 2019).

CHAPTER 6. POST-DISPOSITIONAL PROCEDURES

PART B. MODIFICATIONS AND REVIEWS

Rule 610. Dispositional and Commitment Review.

A. Dispositional [*review hearing*] *Review Hearing.* The court shall review its disposition and conduct dispositional review hearings for the purpose of ensuring that the juvenile is receiving necessary treatment and services and that the terms and conditions of the disposition are being met.

1) In all cases, the court shall conduct dispositional review hearings at least every six months.

2) In all cases, the juvenile shall appear in person at least once a year.

3) The court may schedule a review hearing at any time.

B. *Change in Dispositional Order.* Whenever there is a request for a change in the dispositional order, other than a motion to revoke probation as provided in Rule 612, notice and an opportunity to be heard shall be given to the parties and the victim.

1) The juvenile may be detained pending a court hearing.

2) A detention hearing shall be held within [**seventy-two**] **72** hours of the juvenile's detention, if detained.

3) The juvenile shall be given a statement of reasons for the discharge from a placement facility or request for change in the dispositional order.

4) A review hearing shall be held within [**twenty**] **20** days of the discharge from the placement facility or request for change in the dispositional order.

C. *Advanced [communication technology] Communication Technology.* A court may utilize advanced communication technology pursuant to Rule 129 for a juvenile or a witness unless good cause is shown otherwise.

D. *Post-Dispositional Rights.* A colloquy and inquiry of post-dispositional rights shall be conducted when a juvenile is aggrieved by a change in the dispositional order.

Comment

At any hearing, if it is determined that the juvenile is in need of an educational decision maker, the court is to appoint an educational decision maker pursuant to Rule 147.

Under paragraph (A), the court is to conduct dispositional review hearings as frequently as necessary to ensure that the juvenile is receiving necessary treatment and services and that the terms and conditions of the disposition are being met. *See* Rule 800.

When conducting a dispositional review hearing, the court is to ensure that the disposition continues to provide balanced attention to the protection of the community, the imposition of accountability for offenses committed, and the development of competencies to enable the juvenile to become a responsible and productive member of the community. **A change in the plan of rehabilitation may warrant diminution of financial obligations imposed pursuant to Rule 515.**

Nothing in this rule prohibits the juvenile from requesting an earlier review hearing. The juvenile may file a motion requesting a hearing when there is a need for change in treatment or services.

Additionally, nothing in this rule is intended to prohibit the emergency transfer of a juvenile from a placement facility to a detention facility pending reconsideration of the dispositional order, and this rule is not intended to preclude a motion for modification of a dispositional order after the juvenile has been detained.

Under paragraph (B), the attorney for the Commonwealth or its designee is to notify the victim of the date, time, place, and purpose of the review hearing. Prior to ordering the change in the dispositional order, the court is to give the victim an opportunity to submit an oral and/or written victim-impact statement if the victim so chooses. *See* [**Victim's**] **Victims** Bill of Rights, 18 P.S. §§ 11.201 *et seq.*

Any persons may be subpoenaed to appear for the hearing. *See* Rule 123 and 42 Pa.C.S. § 6333. However, nothing in these rules requires the attendance of the victim unless subpoenaed. If the victim is not present, the victim is to be notified of the final outcome of the proceeding.

Some placement facilities are hours away from the dispositional court. Paragraph (C) allows a hearing to be conducted via teleconferencing, two-way simultaneous audio-visual communication, or similar method. The juvenile is to be afforded all the same rights and privileges as if the hearing was held with all present in the courtroom.

If a juvenile is detained or placed, the juvenile is to be placed in a detention facility or placement facility, which does not include a county jail or state prison. *See* Rule 120 and its Comment for definitions of “detention facility” and “placement facility.”

For the colloquy and inquiry of post-dispositional rights, see Rule 512(C). If a change in disposition results in an out-of-home placement, then the court should also explain to the juvenile the availability of review of the out-of-home placement pursuant to Pa.R.A.P. 1770.

Official Note: Rule 610 adopted April 1, 2005, effective October 1, 2005. Amended December 30, 2005, effective immediately. Amended April 21, 2011, effective July 1, 2011. Amended April 29, 2011, effective July 1, 2011. Amended May 26, 2011, effective July 1, 2011. Amended June 28, 2013, effective immediately. Amended May 11, 2017, effective October 1, 2017. **Amended _____, 2019, effective _____, 2019.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 610 published with the Court’s Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the revisions of Rule 610 published with the Court’s Order at 36 Pa.B. 186 (January 14, 2006).

Final Report explaining the amendments to Rule 610 published with the Court’s Order at 41 Pa.B. 2319 (May 7, 2011).

Final Report explaining the amendments to Rule 610 published with the Court’s Order at 41 Pa.B. 2413 (May 14, 2011).

Final Report explaining the amendments to Rule 610 published with the Court’s Order at 41 Pa.B. 3180 (June 25, 2011).

Final Report explaining the amendments to Rule 610 published with the Court’s Order at 43 Pa.B. 3938 (July 13, 2013).

Final Report explaining the amendments to Rule 610 published with the Court’s Order at 47 Pa.B. 2969 (May 27, 2017).

Final Report explaining the amendments to Rule 610 published with the Court’s Order at Pa.B. _____, 2019.

REPORT

Proposed Amendment of Pa.R.J.C.P. 515 and 610

The Juvenile Court Procedural Rules Committee herein proposes amendment of Pennsylvania Rules of Juvenile Court Procedure 515 and 610 concerning the imposition of financial obligations on juveniles at the time of disposition.

Procedurally, if a juvenile is adjudicated delinquent, then the court enters an order providing “balanced attention to the protection of the community, accountability for the offenses committed, and development of the juvenile’s competencies to enable the juvenile to become a responsible and productive member of the community.” Pa.R.J.C.P. 515(A). Concerning the imposition of financial obligations, the Juvenile Act requires that the amounts of financial obligations be reasonable and as part of a plan of rehabilitation considering the nature of the acts committed and the earning capacity of the juvenile. 42 Pa.C.S. § 6352(a)(5). The Juvenile Act further provides that the court retains jurisdiction over the juvenile until the age of 21 years or until there has been satisfaction of

outstanding financial obligations. *Id.* After the age of 21 years, any outstanding restitution is reduced to a judgment against the juvenile. *Id.*; *see also* 42 Pa.C.S. § 9728(a).

The Committee received a request for rulemaking to: 1) clarify that the juvenile court retains discretion to waive court-imposed financial obligations, including restitution; 2) require the juvenile court to consider a juvenile’s ability to pay before imposing financial obligations, together with a presumption of indigency; and 3) prohibit the juvenile court from imposing juvenile adjudication, disposition, or terms of probation for a failure to pay that is not willful. Additionally, the requestor sought amendment of Rule 631 to permit the termination of supervision when there are outstanding financial obligations and the juvenile is unable to pay them.

Preliminarily, the Committee considered whether all financial obligations are discretionary. For example, the Crime Victims Act requires a juvenile to pay costs of at least \$25 when there is a consent decree or an adjudication of delinquency. *See* 18 P.S. § 11.1101(a)(3). The Crime Victims Act states: “This cost shall be imposed notwithstanding any statutory provision to the contrary.” *Id.* § 110.1101(c). The Committee believes it is a substantive matter, and not procedural, whether a financial obligation that may be inconsistent with balanced and restorative juvenile justice, and not in accordance with 42 Pa.C.S. § 6352(a)(5), may nonetheless be imposed as part of the initial disposition. Anecdotally, the practice in Pennsylvania appears varied as to this matter.

Notwithstanding, the initial order of disposition is not static; it is subject to subsequent review and modification by the juvenile court to ensure “that the juvenile is receiving necessary treatment and services and that the terms and conditions of the disposition are being met.” Pa.R.J.C.P. 610(A). As the imposition of financial obligations is part of disposition, *see generally* 42 Pa.C.S. § 6352 (Disposition of Delinquent Child), it, too, is subject to subsequent review and modification pursuant to Rule 610.

Accordingly, the Committee proposes an amendment of Rule 515(B) to incorporate the statutory criteria for imposing financial obligations on juveniles. Additionally, “restitution” would be replaced with “financial obligations” to include fines, costs, and fees with restitution amounts. The Comment to Rule 515 would be revised to contain statutory content and citations. Further, the Committee proposes adding a reference to the Comment to Rule 515 indicating that diminution of financial obligations may be sought through a dispositional review hearing. The Comment to Rule 610 would be revised to contain a corollary statement.

Readers should observe that the proposed language in the commentary describes a downward modification of outstanding financial obligations. The Committee did not anticipate there would be an upward modification of financial obligations. Readers are invited to comment specifically on this point in addition to the proposal as a whole.

Concerning the “ability to pay” suggestion, the Committee did not believe there was substantive difference between “earning capacity” and “ability to pay.” The Committee debated, without resolution, whether a court could accurately estimate a juvenile’s future earnings at the time of disposition. Regarding a presumption of indigency, the Committee did not believe a presumption was necessary at the time of disposition because the

juvenile could seek subsequent review of outstanding financial obligations and prove inadequacy of actual earnings from the time of initial disposition. Additionally, the dispositional review hearing provides the juvenile an opportunity to demonstrate that an inadequacy of earnings is not the result of insufficient effort or willful conduct.

Further, the Committee did not believe an amendment of Rule 631 is necessary to permit the termination of supervision when there are outstanding financial obligations and the juvenile is unable to pay them. A juvenile who is unable to satisfy financial obligations imposed at disposition should seek review and modification of the dispositional order in accordance with Rules 600–610.

The Committee recognizes there may be reasons unrelated to the dispositional order that might warrant early termination. Rule 632(A) permits any party to file a motion for early termination and explain why, *inter alia*, financial obligations have not been paid in full. See Pa.R.J.C.P. 632(A); Pa.R.J.C.P. 631(A)(2). If the court finds there are “compelling reasons” to terminate supervision prior to the satisfaction of outstanding financial obligations, then the court may do so. See Pa.R.J.C.P. 632(F); see also *In Interest of D.C.D.*, 171 A.3d 727, 741 (Pa. 2017) (juvenile court must consider the factors of balanced and restorative justice when determining whether compelling reasons exist for the early termination of supervision).

The Committee is mindful of reports of juveniles remaining under supervision due solely to unpaid obligations. However, the Committee refrains from proposing how juvenile courts should exercise discretion. Rather, the Committee believes the more prudent course is to propose a procedural avenue to seek relief and for cases to be determined on individual merit with all stakeholders given notice, including victims. See Pa.R.J.C.P. 600(B)(1) & Comment (attorney for the Commonwealth is to notify victim of dispositional review hearing); Pa.R.J.C.P. 631(E) & Comment (same for motion for early termination).

The Committee invites all comments, concerns, and suggestions regarding this rulemaking proposal.

[Pa.B. Doc. No. 19-744. Filed for public inspection May 17, 2019, 9:00 a.m.]

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

Adoption of Local Orphans’ Court Rules Governing Guardianship Proceedings; Administrative Order No. 09 of 2019

Order

And Now, this 1st day of May, 2019, in accordance with the June 1, 2018 order of the Supreme Court of Pennsylvania (No. 771 Supreme Court Rules Docket) vacating local Orphans’ Court Rules governing guardianship proceedings not adopted in accordance with Pa. O.C. Rule 1.5 and Pa.R.J.A. No. 103(d) effective June 1, 2019, and authorizing the adoption of local rules deemed necessary in accordance with Pa. O.C. Rule 1.5 and Pa.R.J.A. No. 103(d), it is now *Ordered* that current local Orphans’ Court Rules governing guardianship proceedings are rescinded, and the following rules are adopted, effective June 1, 2019.

As required by Pa.R.J.A. 103(d), this Administrative Order and the following Local Orphans’ Court Rules were submitted to the Supreme Court of Pennsylvania Orphans’ Court Procedural Rules Committee for review before December 1, 2018, and written notification has been received from the Rules Committee certifying that the Local Orphans’ Court Rules are not inconsistent with any general rule of the Supreme Court. This Administrative Order and the following rules shall be filed with the Office of Judicial Records (formerly the Prothonotary, Clerk of Courts and Clerk of Quarter Sessions) in a docket maintained for Administrative Orders issued by the First Judicial District of Pennsylvania. As required by Pa.R.J.A. 103(d)(5)(ii), two certified copies of this Administrative Order and the following rules and one copy of the Administrative Order and following rules on a computer diskette shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. As required by Pa.R.J.A. 103(d)(6) one certified copy of this Administrative Order and rules shall be filed with the Administrative Office of Pennsylvania Courts, shall be published on the website of the First Judicial District at <http://www.philacourts.us/localrules>, and shall be incorporated in the compiled set of local rules no later than 30 days following publication in the *Pennsylvania Bulletin*. Copies of the Administrative Order and following rules shall also be published in *The Legal Intelligencer* and will be submitted to American Lawyer Media, Jenkins Memorial Law Library, and the Law Library for the First Judicial District.

By the Court

HONORABLE IDEE C. FOX,
President Judge
Court of Common Pleas

HONORABLE MATTHEW D. CARRAFIELLO,
Administrative Judge
Orphans’ Court Division
Court of Common Pleas

Philadelphia Local Orphans’ Court Rules Effective June 1, 2019

Chapter I. PRELIMINARY RULES

Amended Rule. Deletions are bolded and bracketed; additions are bolded and underlined.

Rule [**1.8A**] **1.8(c)**. Forms.

(1) Legal papers shall be accompanied by an Orphans’ Court Cover Sheet as set forth in the Appendix to these Rules.

(2) Petitions for Adjudication/Statements of Proposed Distribution filed in accordance with Pa. O.C. Rule 2.4 and Phila. O.C. Rule 2.4B shall include an Account Filing Checklist as set forth in the Appendix to these Rules.

(3) Local Orphans’ Court forms are set forth in the Appendix.

(Editor’s Note: The following rules are added and are printed in regular type to enhance readability.)

Chapter XIV. GUARDIANSHIPS OF INCAPACITATED PERSONS

Rule 14.1A. Guardianship Petition Practice and Pleading. Special Petitions.

(1) *Small Estate of Incapacitated Persons*. If at a hearing the incapacity is established, and it appears that the gross estate does not exceed the statutory limitation, the Court may award the entire estate to the person or

institution maintaining the incapacitated person, or make such order as may be appropriate under the circumstances. In such case, a decree in approved form, in lieu of the final decree appointing a guardian, shall be attached to the face of the petition.

Probate Section Comment: 20 Pa.C.S. § 5101 and § 5505 prescribe the statutory limitation for small estates.

(2) *Petition for Allowances.* Expenditures for the maintenance or support of an incapacitated person or for a dependent of the incapacitated person, or for payment of counsel fees, shall be governed by the appropriate provisions of Phila. O.C. Rule 5.6C(1) and (3) and as provided below.

(a) *Filing of Petition and Decrees.* A petition for allowance from the incapacitated person's estate, during incapacity, shall be filed, in accordance with Pa. O.C. Rule 4.7 and Phila. O.C. Rule 4.7A, with the Clerk by the guardian or any interested party. A proposed final decree shall be attached to the face of the petition. When the petitioner is not a guardian, a preliminary decree containing a provision for the time and place for hearing to be fixed by the Court shall also be attached to the face of the petition. Notice shall be given to the guardian, to all interested parties, and to such other persons as the Court may direct.

(b) *Contents of Petition.* The petition shall include:

(i) the information listed in Pa. O.C. Rule 14.2(a)(1) through (5);

(ii) the name(s) of the guardian(s), the date of his or her or appointment, the nature of the guardianship of the estate or person (limited or plenary) and the name of the Hearing Judge;

(iii) the names and addresses of all interested parties;

(iv) if the petitioner is not a guardian, his or her relationship to the incapacitated person, and, if not related, the nature of his or her interest;

(v) a statement of all previous distributions allowed by the Court since the date of the last Court approved accounting, if any;

(vi) an itemized statement of all claims of the incapacitated person's creditors known to petitioner;

(vii) a statement of the requested distribution and the reasons therefor; and

(viii) a prayer for the distribution requested. If the allowance requested will involve a matter which will require annual petitions for substantially similar relief, the petitioner may request the Court to make the grant of the allowance applicable to more than one (1) year, but not to exceed three (3) years, unless otherwise permitted by the Court.

(c) *Restrictions Governing Allowance:*

(i) Except in cases of extreme emergency, requests for allowances will not be approved prior to the filing of the inventory or the last required annual report, as the case may be.

(ii) Requests for allowances for fees of Court-appointed Counsel will not be approved prior to the filing of the Guardian Inventory. Whenever possible, reasonable counsel fees shall be ordered to be paid from the estate of the incapacitated person. If the incapacitated person is unable to pay for counsel, the Court may order counsel fees and costs to be paid by the county. See 20 Pa.C.S. § 5511(c).

(iii) If any portion of the incapacitated person's estate is received from the United States Veterans' Administration or its successor, or any agency of the Commonwealth, notice of the request for allowance shall be given to such agency.

(3) *Other Petitions.* Any other petitions for relief may be filed consistent with the applicable statutes and rules. See 20 Pa.C.S. § 5501 et seq., Pa. O.C. Rule 14.1(c).

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

(1) *Petition Contents.* When the petitioner avers, as required by Pa. O.C. Rule 14.2(a)(6), (7) and (8), the existence of an executed health care power of attorney or advance health care directive, or an executed power of attorney, or any other writing by the alleged incapacitated person pursuant to Title 20, Chapters 54, 56 or 58, the petition shall state the position of the Petitioner as to the continuation of the duties of the agent identified under such document(s).

(2) *Exhibits.*

(a) A Preliminary Decree and a Final Decree, as set forth in the Appendix maintained pursuant to Phila. O.C. Rule 1.8(c), shall be attached to the face of a petition for adjudication of incapacity.

(b) *Consent of Proposed Guardian.* The signed written consent of the proposed guardian to act as guardian, as set forth in the Appendix maintained pursuant to Phila. O.C. Rule 1.8(c), shall be attached to the petition.

(3) *Emergency Guardians.*

(a) *Appointment.* The Court, upon petition and hearing at which clear and convincing evidence is shown, may appoint an emergency guardian or guardians of the person and the estate of an alleged incapacitated person when it appears that the person lacks capacity, is in need of a guardian and a failure to make such appointment would result in irreparable harm to the person or estate of the alleged incapacitated person. The Court may also appoint an emergency guardian of the person pursuant to 20 Pa.C.S. § 5513, for an alleged incapacitated person who is present in this Commonwealth but is domiciled outside the Commonwealth, regardless of whether he or she has property in this Commonwealth.

(b) *Applicability of Other Provisions.* The provisions of 20 Pa.C.S. § 5511, including those relating to counsel, shall be applicable to such proceedings, except when the Court has found such provisions to be impractical.

(c) *Duration of Emergency Guardianship.*

(i) *Person.* An emergency order appointing an emergency guardian of the person may be in effect for up to seventy-two (72) hours. If the emergency continues, the emergency order may be extended for no more than twenty (20) days from the expiration of the initial emergency order, upon application to the Court.

(ii) *Estate.* The duration of an emergency order appointing an emergency guardian of the estate shall not exceed thirty (30) days.

(iii) If continuing guardianship of person or estate is necessary, a full guardianship proceeding must be instituted pursuant to 20 Pa.C.S. § 5511 during or after the expiration of the period of the emergency order or any extension.

(iv) The use of an expert report or deposition testimony in lieu of live in-person testimony in emergency guardian-

ship proceedings must be specifically authorized by the court. The use of telephonic live testimony is left to the discretion of the court.

(4) *Citation with Notice.*

(a) *Issuance of Citation.* Upon the issuance of a citation following the granting of a preliminary decree to a petition for adjudication of incapacity, Petitioner or their designee shall pick up the original citation from the Clerk in person, or contact the Clerk to request another arrangement. Such requests may or may not be honored, at the discretion of the Clerk.

(b) *Service.* If there are no known intestate heirs, notice shall also be given to the Attorney General at the Eastern Regional Office in Philadelphia.

(c) *Alias Citation.* If the original citation was not personally served on the alleged incapacitated person at least twenty (20) days prior to the scheduled hearing date, the Court upon request may issue an alias citation. The Alias Citation must be served on the alleged incapacitated person at least twenty (20) days prior to the newly scheduled hearing date, in the same manner as the original citation.

Note: An Alias Citation is not required if the original citation has been timely served on the alleged incapacitated person and a continuance is requested from the originally scheduled hearing date.

Probate Section Comment: 20 Pa.C.S. § 5512.1 elaborates the basis upon which the Court shall make a finding of incapacity. The description and the steps taken to find less restrictive alternatives must include sufficient information to satisfy the requirements of 20 Pa.C.S. § 5518. 20 Pa.C.S. § 5511 establishes that the Court may adjudicate an individual incapacitated and appoint a guardian only upon petition and hearing and upon the presentation of clear and convincing evidence. If the alleged incapacitated person is in a hospital, nursing home or other institution, service must be made upon an attorney or authorized personnel of the institution and notice of the hearing should be given to the director or other authorized official of such facility. If the alleged incapacitated person is a veteran, notice of the hearing must be given to the Veterans' Administration. A shorter time period for service may be permitted in connection with petitions for the appointment of an emergency guardian.

14.6A. Determination of Incapacity and Selection of Guardian. Hearing Date.

(1) *Proof of Service.* On the date of the hearing for determination of incapacity, the following shall be submitted:

(a) an affidavit of service of the petition and citation on the alleged incapacitated person, attached to or endorsed upon the original citation, reciting that the petition and citation were explained to the maximum extent possible in language likely to be understood by the alleged incapacitated person and that a copy of each was left with him or her; and

(b) an affidavit reciting the manner of giving notice of the hearing and identifying those persons to whom such notice was given as required in Pa. O.C. Rule 14.2(f)(2).

(2) *Attendance at Hearing.* The petitioner and the alleged incapacitated person shall be present at the hearing unless the Court is satisfied, upon the deposition or notarized expert report or testimony of or sworn statement by a physician or licensed psychologist, that

the physical or mental condition of the alleged incapacitated person would be harmed by his or her presence.

(3) *Independent Evaluation.* If, pursuant to 20 Pa.C.S. § 5511(d), the Hearing Judge deems it necessary upon his or her own motion or on petition by the alleged incapacitated person for cause shown, he or she shall order an independent evaluation to meet the requirements of 20 Pa.C.S. § 5518, and determine the appropriate charges and the persons responsible for payment.

(4) *Testamentary Writings.* A copy of all testamentary writings of the incapacitated person found by the guardian, or in the possession of any other person, certified to be true and correct, shall be submitted by the guardian or such other person to the Hearing Judge for inspection within thirty (30) days of such guardian's appointment, or within thirty (30) days when such testamentary writing(s) is subsequently discovered.

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

(1) Guardian shall file all inventories, annual reports, and final reports in accordance with 20 Pa.C.S. § 5521(c), Pa. O.C. Rule 14.8, and Pa.R.J.A. No. 510(b). Reports and inventories may be filed in either an electronic format or a physical paper format. Reports and inventories filed in an electronic format shall use the Guardianship Tracking System. See <https://ujportal.pacourts.us/Guardianship.aspx>.

Probate Section Comment: The Clerk will provide a computer terminal in the Clerk's office and will assist those Guardians without a computer or internet access to file these legal papers through the Guardianship Tracking System.

(2) The Guardianship Tracking System is designated by the Court to provide the notices to the Guardian required by Pa. O.C. Rule 14.8(f).

APPENDIX

**PHILADELPHIA COUNTY
ORPHANS' COURT FORMS**

General Orphans' Court Forms:

- *Certificate of Compliance
- *Orphans' Court Subpoena
- Orphans' Court Cover Sheet
- *Entry of Appearance

***Decedent's Estate Proceeding Forms:**

- Account Filing Checklist—Decedent's Estate
- Appeal from Register of Wills
- Excerpt from Schedule of Distribution

Incapacitated Person's Proceeding Forms:

- Account Filing Checklist—Guardian of Incapacitated Person
- Consent of Guardian
- Final Decree
- Guardian Address Confirmation Form
- Preliminary Decree

***Minor's Proceedings Forms:**

- Account Filing Checklist—Guardian of Minor

***Minor's and Incapacitated Person's Compromises Forms:**

Minors and Incapacitated Persons Checklist

Affidavit of Compliance

Petition to Settle Minor's Compromise

***Power of Attorney Proceedings Forms:**

Account Filing Checklist—Agent under Power of Attorney

***Trust Proceeding Forms:**

Account Filing Checklist—Special Needs Trust

Account Filing Checklist—Trust (Testamentary/Inter Vivos)

***Wrongful Death and Survival Proceeding Forms:**

Wrongful Death and Survival Actions Checklist

Affidavit of Compliance

Petition to Settle Wrongful Death and Survival Actions

***Register of Wills Forms:**

Affidavit for Filing in Philadelphia County by Foreign Fiduciary

***The above-listed Forms are available on the Website of the First Judicial District of Pennsylvania at: www.philacourts.us/forms**

Court of Common Pleas of Philadelphia County
Orphans' Court Division

Cover Sheet

Court of Common Pleas of Philadelphia County Orphans' Court Division Cover Sheet		FOR COURT USE ONLY	
		ASSIGNED TO JUDGE	
		CONTROL NO. <i>Responding parties must include this number on all filings.</i>	
NAME OF ESTATE		ORPHANS' COURT NUMBER	
TYPE OF ESTATE <input type="checkbox"/> Decedent's Estate <input type="checkbox"/> Trust Inter Vivos <input type="checkbox"/> Testamentary Trust <input type="checkbox"/> Incapacitated Person <input type="checkbox"/> Minor <input type="checkbox"/> Principal (power of attorney) <input type="checkbox"/> Non-Profit Corporation <input type="checkbox"/> Special Needs Trust <input type="checkbox"/> Other (specify) _____			
FILING PARTY'S RELATIONSHIP TO ESTATE			
PLEADING OR DOCUMENT FILED			
NAME OF FILING PARTY (NOT COUNSEL FOR THE PARTY)		ADDRESS	
ATTORNEYS MUST CHECK ONE BOX TO THE CLERK OF ORPHANS' COURT: <input type="checkbox"/> Kindly enter my appearance on behalf of _____ <input type="checkbox"/> I have entered my appearance on behalf of _____			
NAME OF FILING ATTORNEY OR PARTY		ADDRESS	
PHONE NUMBER	FAX NUMBER		
SUPREME COURT IDENTIFICATION NO.		E-MAIL ADDRESS	
SIGNATURE OF FILING ATTORNEY OR PARTY		DATE	
OTHER PARTIES (Name, address, and telephone number of unrepresented parties or all counsel already of record. If needed, use separate sheet.)			
Is notice required? <input type="checkbox"/> No <input type="checkbox"/> Yes. Copy of notice attached to pleading. Date of Notice: _____ <input type="checkbox"/> Yes. All joinders are attached.		If Citation is requested: 1. Was Citation against Respondent previously issued? <input type="checkbox"/> Yes <input type="checkbox"/> No 2. If yes, date of service: _____	
Has another petition been decided in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No Is another petition pending? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, identify the Judge: _____			
FOR COURT USE ONLY - FIRST FILINGS ONLY (If Applicable)			
DATE OF BIRTH	DATE OF DEATH	REGISTER OF WILLS NUMBER	DATE OF DEED OF TRUST
The Filing Party shall complete the information at the bottom of the Cover Sheet filed with the Clerk, and not the service copies. The information will only be used by the Clerk. The Clerk shall not release this information to the general public.			

COURT OF COMMON PLEAS OF PHILADELPHIA • ORPHANS' COURT DIVISION		
ACCOUNT FILING CHECKLIST • <u>GUARDIAN OF INCAPACITATED PERSON</u>		
ESTATE OF _____, <i>INCAP.</i>	PREPARER: ATTORNEY/ACCOUNTANT	TELEPHONE NUMBER
O. C. NUMBER _____ OF _____	ADDRESS & EMAIL ADDRESS	
INSTRUCTIONS: Persons wishing to file an account must first complete this form, indicating in "preparer" column (YES or N/A) whether the items listed are included in the audit papers and/or the account. Items that are required in all cases are printed in BOLD . Upon review by the staff of the Clerk's Office, the account and related audit papers may be accepted for filing if complete or rejected if incomplete.		
PREPARER	ITEM	O. C. CLERK
	1) Account Cover Page and Summary Page [Pa. O.C. Rule 2.1(b)(4)(i)-(ii)]	
	2) Account Signed by All Accountants and Verified by at Least One Accountant [Pa. O.C. Rule 2.1(b)(4)(iv)]	
	3) Petition for Adjudication/Statement of Proposed Distribution Signed by Counsel [Pa. O.C. Rule 2.4(e)]	
	4) Petition for Adjudication/Statement of Proposed Distribution Signed by at Least One Accountant [Pa. O.C. Rule 2.4(d)]	
	5) Petition for Adjudication/Statement of Proposed Distribution Verified by at Least One Accountant [Pa. O.C. Rule 2.4(d)]	
	6) Copy of Decree or Instrument Appointing Guardian [Phila. O.C. Rule 2.4B(6)(a)]	
	7) If Deceased, Statement of Appointment of Personal Representative [Phila. O.C. Rule 2.4B(6)(b)]	
	8) Statement of Method of Notice and Copy of Notice [Pa. O.C. Rule 2.5]	
	9) Agreement of Compromise and Settlement [Phila. O.C. Rule 2.4B(1)(c)]	
	10) Agreement Regarding Accountant's Compensation [Phila. O.C. Rule 2.4B(1)(d)]	
	11) Certificate of Appointment of Foreign Fiduciary [Phila. O.C. Rule 2.4B(8)(a)]	
	12) Affidavit by Foreign Fiduciary [Phila. O.C. Rule 2.4B(8)(b)]	
	13) Income Accounting Waivers [Phila O.C. Rule 2.4B(1)(e)]	
<input type="checkbox"/> ACCEPTED <input type="checkbox"/> REJECTED	REVIEWED BY _____	DATE _____

10-132D (7-20-16)

Consent of Guardian Form

**COURT OF COMMON PLEAS OF PHILADELPHIA
ORPHANS' COURT DIVISION**

Estate of _____
O.C. # _____ Control # _____

CONSENT OF GUARDIAN

I, _____ accept and confirm my appointment as Guardian of the Person / Estate (circle all that apply) of _____ ("Ward").

I understand that as Guardian:

- 1. I must always act in the best interests of my Ward;
- 2. I have a fiduciary responsibility to my Ward and the Court;
- 3. I must act with reasonable prudence in all matters relating to the Estate;
- 4. I must not engage in self-dealing;
- 5. I am forbidden from expending principal of the Estate without prior Court authorization;
- 6. I am forbidden from selling any real property owned by my Ward without prior Court authorization;
- 7. I must file a Guardian's Inventory within ninety (90) days of my appointment as Guardian of the Estate;
- 8. I must file an annual report as Guardian of the Person and an annual report as Guardian of the Estate every year on the anniversary date of my appointment as Guardian;
- 9. I understand the duties and responsibilities of being a Guardian, and have the knowledge, skills and expertise to be a Guardian; and
- 10. I understand and agree that as a Guardian, I must act in accordance with the laws governing guardians found in the statutes set forth in 20 Pa.C.S. § 5501, et seq., and the Pennsylvania and Philadelphia Orphans' Court Rules concerning guardianships set forth in Chapter XIV, particularly Pa. O.C. Rule 14.8 and Phila. O.C. Rule 14.8.A.

11. The primary language of the alleged incapacitated person is _____. My primary language is _____.

12. My failure to abide by the above will result in my removal as Guardian, and may result in my being found in contempt of Court, surcharged for any losses to the Estate, fined, and/or otherwise sanctioned.

Further, subject to penalty of law under 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities, I affirm that I have not been convicted of or pleaded guilty or no contest to any crime involving fraud, deceit, and/or financial misconduct.

Name of Guardian

Signature

Date

Decree Appointing Guardian of the Estate

**COURT OF COMMON PLEAS OF PHILADELPHIA
ORPHANS' COURT DIVISION**

Estate of Ivan Smith,
An Alleged Incapacitated Person
O.C. No. XXX AI of 2019
Control No. XXXX

FINAL DECREE

AND Now, this _____ day of June 2019, upon consideration of the Petition for Adjudication of Incapacity and Appointment of a Guardian and after a hearing held following due service of a copy of the Petition and Citation Notice upon Ivan Smith, this Court finds by clear and convincing evidence that:

- 1. Ivan Smith is 77 years old and is a domiciliary of the City and County of Philadelphia.
- 2. Ivan Smith suffers from vascular dementia with psychosis, schizophrenia, chronic obstructive pulmonary disease, and hypertension which totally impairs his capacity to receive or evaluate information effectively and to make and communicate decisions concerning management of his financial affairs.

Accordingly, it is hereby ORDERED and DECREED that Ivan Smith is adjudged a totally/partially incapacitated person and that _____ is appointed plenary/limited Guardian of the Estate of Ivan Smith, an incapacitated person.

The Guardian of the Estate shall enter security with a corporate surety in the amount of \$ _____ within _____ days of this Decree.

The Guardian of the Estate is NOT permitted to expend the principal of the incapacitated person's estate without ADVANCE permission of the court in accordance with the provisions of 20 Pa.C.S. § 5536, however, income may be expended by the Guardian for the care of the incapacitated person without court approval.

All financial institutions, including without limitation, banks, savings and loans, credit unions, and brokerages, shall grant to the Guardian of the Estate access to any and all assets, records, and accounts maintained for the benefit of the incapacitated person, and the Guardian of the Estate shall be entitled to transfer, retitle, withdraw, or otherwise exercise dominion and control over any and all of these assets, records and accounts. The failure of any financial institution to honor this order may lead to contempt proceedings and the imposition of sanctions. Pa. O.C. Rule 14.7(b)(2).

The health care agent or the agent appointed under a durable power of attorney previously executed by the incapacitated person shall be accountable to the Guardian of the Estate of the incapacitated person as well as to the Principal (Ivan Smith). This agent's authority shall remain in effect to the extent approved by the Guardian of the Estate. OR Any previously executed powers of attorney or health care powers of attorney and the authority to act under these documents is null and void.

The Guardian of the Estate is directed to file an Inventory within ninety (90) days of the date of this Decree in accordance with the provisions of 20 Pa.C.S. § 5521(b) and § 5142. Pa. O.C. Rule 14.8(a)(1). The Guardian of the Estate shall file an Annual Report one year after appointment and annually thereafter in accordance with the provisions of 20 Pa.C.S. § 5521(c)(1)(i). A Final Report shall be filed by the Guardian of the Estate within sixty (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 pursuant to 20 Pa.C.S. § 5521(c)(2). A Final Report shall also be filed upon receipt of the provisional order from another state's court accepting transfer of a guardianship. Pa. O.C. Rule 14.8(a)(4) & (5). The Guardian shall serve a notice of the filing of any of these reports on all those persons, sui juris, who would be entitled to share in the estate of the incapacitated person if he/she died intestate, and the person or institution providing residential care services to the incapacitated person as well as to _____ within ten (10) days after filing a report using the attached form. Pa. O.C. Rule 14.8(b).

If the incapacitated person resides in a nursing facility and is the recipient of Medical Assistance, the Guardian of the Estate shall be compensated out of income at the rate of \$100 per month. In all circumstances, compensation out of income shall not prejudice the right of the Guardian to seek additional compensation by petition for allowance.

In the event the incapacitated person has a safe deposit box, an Official Examiner of this court shall be in attendance when the safe deposit box is opened by the Guardian of the Estate. The Certificate of the Official Examiner of his examination of the assets in the safe deposit box shall be submitted to the Court, and, when approved by the hearing judge, shall be filed with the record in this case. The amount and manner of compensation for these services of the Official Examiner shall be determined by the hearing judge.

All evidence received at the hearing concerning the present matter, including but not limited to medical depositions, expert reports, testimony and exhibits, shall be SEALED and not made available except upon further Decree of this Court.

Ivan Smith was/was not present at the hearing and was/was not represented by counsel. The court finds clear and convincing medical evidence that the physical and mental health of Ivan Smith would have been harmed by requiring his/her presence at the hearing. Counsel for the petitioner shall cause to be served upon and read to the incapacitated person a copy of this Decree and the following Statement of Rights:

You, Ivan Smith, are hereby notified of your right to seek reconsideration of this Decree pursuant to Rule 8.2 and the right to appeal this Decree within 30 days from the date of this Decree by filing a Notice of Appeal with the Clerk of the Orphans' Court. You may also petition the court at any time to review, modify, or terminate the guardianship due to a change in circumstances. You have a right to be represented by an attorney 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 You cannot afford an attorney, an attorney will be appointed to represent you free of charge. Pa. O.C. Rule 14.7(a)(2).

BY THE COURT:

_____, J.

Counsel

Guardian(s)

Decree Appointing Guardian of the Person

COURT OF COMMON PLEAS OF PHILADELPHIA
ORPHANS' COURT DIVISION

Estate of Ivan Smith,
An Alleged Incapacitated Person
O.C. No. XXX AI of 2019
Control No. XXXX

FINAL DECREE

AND Now, this _____ day of June 2019, upon consideration of the Petition for Adjudication of Incapacity and Appointment of a Guardian and after a hearing held following due service of a copy of the Petition and Citation Notice upon Ivan Smith, this Court finds by clear and convincing evidence that:

1. Ivan Smith is 77 years old and is a domiciliary of the City and County of Philadelphia.
2. Ivan Smith suffers from vascular dementia with psychosis, schizophrenia, chronic obstructive pulmonary disease, and hypertension which totally impairs his capacity to receive or evaluate information effectively and to make and communicate decisions to meet the essential requirements for his physical health and safety.

Accordingly, it is hereby ORDERED and DECREED that Ivan Smith is adjudged a totally/partially incapacitated person and that _____ is appointed plenary/limited Guardian of the Person of Ivan Smith, an incapacitated person.

The health care agent or the agent appointed under a durable power of attorney previously executed by the incapacitated person shall be accountable to the Guardian of the Person of the incapacitated person as well as to the Principal (Ivan Smith). This agent's authority shall remain in effect to the extent approved by the Guardian of the Person. OR Any previously executed powers of attorney or health care powers of attorney and the authority to act under these documents is null and void.

The Guardian of the Person shall file an Annual Report one year after appointment and annually thereafter in accordance with the provisions of 20 Pa.C.S. § 5521(c)(1)(ii). Pa. O.C. Rule 14.8(a)(3). A Final Report shall be filed by the Guardian of the Person within sixty (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 pursuant to 20 Pa.C.S. § 5521(c)(2). A Final Report shall also be filed upon receipt of the provisional order from another state's court accepting transfer of a guardianship. Pa. O.C. Rule 14.8(a)(4) & (5). The Guardian shall serve a notice of the filing of any of these reports on all those persons, sui juris, who would be entitled to share in the estate of the incapacitated person if he/she died intestate, and the person or institution providing residential care services to the incapacitated person as well as to _____ within ten (10) days after filing a report using the attached form. Pa. O.C. Rule 14.8(b).

The Guardian of the Person, unless authorized after a subsequent hearing, shall not have the power to:

1. Consent on behalf of the incapacitated person to psychosurgery, electroconvulsive therapy or removal of a healthy body organ;
2. Prohibit the marriage or consent to the divorce of the incapacitated person; or
3. Consent on behalf of the incapacitated person to the performance of any experimental biomedical or behavioral medical procedure or participation in any biomedical or behavioral experiment.

All evidence received at the hearing concerning the present matter, including but not limited to medical depositions, expert reports, testimony and exhibits, shall be SEALED and not made available except upon further Decree of this Court.

Ivan Smith was/was not present at the hearing and was/was not represented by counsel. The court finds clear and convincing medical evidence that the physical and mental health of Ivan Smith would have been harmed by requiring his/her presence at the hearing. Accordingly, counsel for the petitioner shall cause to be served upon and read to Ivan Smith a copy of this Decree and the following Statement of Rights:

You, Ivan Smith, are hereby notified of your right to seek reconsideration of this Decree pursuant to Rule 8.2 and the right to appeal this Decree within 30 days from the date of this Decree by filing a Notice of Appeal with the Clerk of the Orphans' Court. You may also petition the court at any time to review, modify, or terminate the guardianship due to a change in circumstances. You have a right to be represented by an attorney 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 You cannot afford an attorney, an attorney will be appointed to represent you free of charge. Pa. O.C. Rule 14.7(a)(2).

BY THE COURT:

, J.

Counsel
Guardian(s)

Decree Appointing Guardian of the Estate and Person

COURT OF COMMON PLEAS OF PHILADELPHIA
ORPHANS' COURT DIVISION

Estate of Ivan Smith,
An Alleged Incapacitated Person
O.C. No. XXX AI of 2019
Control No. XXXX

FINAL DECREE

AND Now, this _____ day of June 2019, upon consideration of the Petition for Adjudication of Incapacity and Appointment of a Guardian and after a hearing held following due service of a copy of the Petition and Citation Notice upon Ivan Smith, this Court finds by clear and convincing evidence that:

1. Ivan Smith is 77 years old and is a domiciliary of the City and County of Philadelphia.

2. Ivan Smith suffers from vascular dementia with psychosis, schizophrenia, chronic obstructive pulmonary disease, and hypertension which totally impairs his capacity to receive or evaluate information effectively and to make and communicate decisions concerning management of his financial affairs or to meet essential requirement of his physical health and safety.

Accordingly, it is hereby ORDERED and DECREED that Ivan Smith is adjudged a totally/partially incapacitated person and that _____ is appointed plenary/limited Guardian of the Estate of Ivan Smith, an incapacitated person. _____ is appointed Guardian of the Person of Ivan Smith, an incapacitated person.

The Guardian of the Estate shall enter security with a corporate surety in the amount of \$ _____ within _____ days of this Decree.

The Guardian of the Estate is NOT permitted to expend the principal of the incapacitated person's estate without ADVANCE permission of the court in accordance with the provisions of 20 Pa.C.S. § 5536, however, income may be expended by the guardian for the care of the incapacitated person without court approval.

All financial institutions, including without limitation, banks, savings and loans, credit unions, and brokerages, shall grant to the Guardian of the Estate access to any and all assets, records, and accounts maintained for the benefit of the incapacitated person, and the Guardian of the Estate shall be entitled to transfer, retitle, withdraw, or otherwise exercise dominion and control over any and all of these assets, records and accounts. The failure of any financial institution to honor this order may lead to contempt proceedings and the imposition of sanctions. Pa. O.C. Rule 14.7(b)(2).

The health care agent or the agent appointed under a durable power of attorney previously executed by the incapacitated person shall be accountable to the Guardian of the Person and Estate of the incapacitated person as well as to the Principal (Ivan Smith). This agent's authority shall remain in effect to the extent approved by the Guardian of the Person and Estate. OR Any previously executed powers of attorney or health care powers of attorney and the authority to act under these documents is null and void.

The Guardian of the Estate is directed to file an Inventory within ninety (90) days of the date of this Decree in accordance with the provisions of 20 Pa.C.S. § 5521(b) and § 5142. Pa. O.C. Rule 14.8(a)(1). The Guardian of the Estate and Person shall each file an Annual Report one year after appointment and annually thereafter in accordance with the provisions of 20 Pa.C.S. § 5521(c)(1)(i) and (ii). Pa. O.C. Rule 14.8(a)((2) & (3)). Final Reports shall be filed by the Guardian of the Estate and Person within sixty (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 pursuant to 20 Pa.C.S. § 5521(c)(2). Final Reports shall also be filed upon receipt of the provisional order from another state's court accepting transfer of a guardianship. Pa. O.C. Rule 14.8(a)(4) & (5). The Guardian shall serve a notice of the filing of any of these reports on all those persons, sui juris, who would be entitled to share in the estate of the incapacitated person if he/she died intestate, and the person or institution providing residential care services to the incapacitated person as well as to _____ within ten (10) days after filing a report using the attached form. Pa. O.C. Rule 14.8(b).

If the incapacitated person resides in a nursing facility and is the recipient of Medical Assistance, the Guardian of the Estate shall be compensated out of income at the rate of \$100 per month. In all circumstances, compensation out of income shall not prejudice the right of the Guardian to seek additional compensation by petition for allowance.

In the event the incapacitated person has a safe deposit box, an Official Examiner of this court shall be in attendance when the safe deposit box is opened by the Guardian of the Estate. The Certificate of the Official Examiner of his examination of the assets in the safe deposit box shall be submitted to the Court, and, when approved by the hearing judge, shall be filed with the record in this case. The amount and manner of compensation for these services of the Official Examiner shall be determined by the hearing judge.

The Guardian of the Person, unless authorized after a subsequent hearing, shall not have the power to:

1. Consent on behalf of the incapacitated person to psychosurgery, electroconvulsive therapy or removal of a healthy body organ;
2. Prohibit the marriage or consent to the divorce of the incapacitated person; or
3. Consent on behalf of the incapacitated person to the performance of any experimental biomedical or behavioral medical procedure or participation in any biomedical or behavioral experiment.

All evidence received at the hearing concerning the present matter, including but not limited to medical depositions, expert reports, testimony and exhibits, shall be SEALED and not made available except upon further Decree of this Court.

Ivan Smith was/was not present at the hearing and was/was not represented by counsel. The court finds clear and convincing medical evidence that the physical and mental health of Ivan Smith would have been harmed by requiring his/her presence at the hearing. Counsel for the petitioner shall cause to be served upon and read to Ivan Smith a copy of this Decree and the following Statement of Rights:

You, Ivan Smith, are hereby notified of your right to seek reconsideration of this Decree pursuant to Rule 8.2 and the right to appeal this Decree within 30 days from the date of this Decree by filing a Notice of Appeal with the Clerk of the Orphans' Court. You may also petition the court at any time to review, modify, or terminate the guardianship due to a change in circumstances. You have a right to be represented by an attorney 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 You cannot afford an attorney, an attorney will be appointed to represent you free of charge. Pa. O.C. Rule 14.7(a)(2).

BY THE COURT:

, J.

Counsel
Guardian(s)

Guardian Address Confirmation Form

**COURT OF COMMON PLEAS OF
PHILADELPHIA ORPHANS' COURT DIVISION**

Estate of _____

O.C. # _____ Control # _____

GUARDIAN ADDRESS CONFIRMATION FORM

I am the (check one):

- Guardian/Co-Guardian of Person and Estate
- Guardian/Co-Guardian of the Estate
- Guardian/Co-Guardian of Person

As the Guardian named in the above case, I affirm that my name, address, phone number, and email address should be recorded as follows:

Name (Please Print): _____

Address: _____

City: _____ State: _____ Zip Code: _____

Home Phone # _____ Mobile Phone # _____

E-Mail: _____

Preferred contact method: (Phone, Mail or Email) _____

I understand that it is my responsibility to update the Court of my current contact information if any of it should change or become inaccurate, and I agree to do so immediately.

Signature

Date

Preliminary Decree Awarding Citation for Guardianship Hearing

**COURT OF COMMON PLEAS OF PHILADELPHIA
ORPHANS' COURT DIVISION**

Estate of X,
An Alleged Incapacitated Person
O.C. No. X AI of 2018
Control No. X

PRELIMINARY DECREE

AND NOW, this ____ day of _____, 2019, upon consideration of the Petition for Adjudication of Incapacity and the Appointment of Plenary Guardian of the Person and Estate, it is hereby ORDERED and DECREED that:

1. A citation is awarded, directed to X, to show cause why he should not be adjudged an incapacitated person and why a plenary guardian of his person and estate should not be appointed; the hearing thereon to be held in Courtroom 41 , City Hall, Philadelphia, PA, 19107 on _____, 2019 at _____ .

2. Petitioner shall cause to be served (by personal service) the Citation with Notice and Petition, pursuant to the provisions of 20 Pa.C.S. § 5511(a) and Pa.O.C. Rule 14.2, upon the alleged incapacitated person at least twenty (20) days prior to the court hearing. The contents and terms of the Citation with Notice and Petition shall be read and explained to the maximum extent possible in language and terms the alleged incapacitated person is most likely to understand in accordance with the provisions of 20 Pa.C.S. § 5511(a).

3. At least twenty (20) days prior notice of the court hearing, together with a copy of the petition and citation, shall be given personally or by certified mail in accordance with the provisions of 20 Pa.C.S. § 5511(a) to all persons who are sui juris and who would be entitled to share in the estate of the alleged incapacitated person if he died intestate, and the Person or Institution providing residential services to the alleged incapacitated person, and to _____ .

Notice shall also be given to the Commonwealth of Pennsylvania, Office of Attorney General, as a possible intestate heir to the estate of the alleged incapacitated person. (Include this section only when AIP has no next of kin). Notice shall also be given to the U.S. Department of Veterans Affairs as a result of the alleged incapacitated person receiving veteran's benefits (or survivor benefits). (Include this section only when AIP is a veteran or receives survivor benefits)

4. An affidavit of service containing specific averments as to the above requirements in the two preceding paragraphs shall be presented at the beginning of the court hearing.

5. Petitioner and/or counsel for the petitioner shall notify the court, in writing, at least seven (7) days prior to the court hearing if counsel has not been retained by or on behalf of the alleged incapacitated person in accordance with the provisions of 20 Pa.C.S. § 5511(a). This notice shall also contain all pertinent information which would indicate to the court whether or not counsel should be appointed to represent the interests of the alleged incapacitated person.

6. In accordance with Pa. O.C. Rule 14.2(c)(2), unless previously attached to the Petition, Petitioner shall submit for each proposed guardian, at least seven (7) days prior to the court hearing, the response to the Pennsylvania State Police criminal record check, issued within six months of the date of filing of the Petition. If any proposed guardian resided outside the Commonwealth of PA within the previous five (5) year period and was 18 years of age or older at any time during that period, the criminal record check from each state in which the proposed guardian resided within the five year period shall be submitted.

For criminal history reports from PA, see <https://epatch.state.pa.us/Home.jsp>.

7. The alleged incapacitated person shall be present at the court hearing unless it is established by clear and convincing medical evidence that his physical or mental condition would be harmed by his presence in court in accordance with the provisions of 20 Pa.C.S. § 5511(a).

8. In accordance with 20 Pa.C.S. § 5518, at the hearing on this matter the Petitioner must present testimony, in person or by deposition, from a medical professional, who must be qualified by training and experience to evaluate individuals with incapacities of the type alleged by the Petitioner, that establishes the nature and extent of the alleged incapacitated person's incapacities and disabilities and his mental, emotional, and physical condition, and adaptive behavior and social skills. The absence of such testimony and/or depositions shall preclude a declaration of incapacity and appointment of a guardian. Alternatively, the use of an Expert Report in lieu of testimony in person or by deposition shall be in accordance with Pa. O.C. Rule 14.3.

9. The Consent of Guardian and Guardian Address Confirmation Form (substantially in the forms annexed to this Preliminary Decree) shall be completed by the proposed guardian and presented to the Court at the time of the hearing.

BY THE COURT:

, J.

X, Esquire

[Pa.B. Doc. No. 19-745. Filed for public inspection May 17, 2019, 9:00 a.m.]

Title 255—LOCAL COURT RULES

BUTLER COUNTY

Administrative Order; CP-10-A.D. No. 1-2019

Order of Court

And Now, this 25th day of April, 2019, pursuant to Pa.R.Crim.P. 632, the Court hereby adopts the following method for distribution, maintenance, and disposition of confidential juror information questionnaires in criminal proceedings:

1) The Court Administrator, or her designee, shall have the juror questionnaires in the form set forth in Pa.R.Crim.P. 632 printed for mailing or for distribution on jury selection day to all prospective criminal court jurors. Following completion of the questionnaires, Court personnel will place the questionnaires in alphabetical order and make the appropriate number of copies for the trial judge, counsel for the defendant(s), and counsel for the Commonwealth. The original and all copies of the ques-

tionnaires shall be given to the Court Administrator, or a member of her staff, for distribution only to the trial judge, the attorneys, and the Defendant for voir dire. Court personnel assigned to jury selection, including the court reporter, the trial judge's judicial law clerk, and tipstaff, may handle and view the questionnaires in facilitating the jury selection process. Any persons assisting the attorneys in jury selection, such as a member of the trial team or a consultant hired to assist in jury selection, may view and handle the questionnaires with the permission of the trial judge. The information contained in the questionnaires shall remain confidential. The questionnaires shall not be removed from the jury selection area except by the Court Administrator, or a member of her staff, or the Court's staff assigned to jury selection in facilitating the jury selection process, or by specific direction of the Court. The questionnaires, when not in the jury selection area or in transit between the jury selection area and the courtroom in which voir dire is to be conducted, shall be maintained by the Court Administrator, or a member of her staff, in a place of safe-keeping.

2) The original questionnaire and any copies shall not constitute a public record. The information provided by the prospective jurors on the questionnaires shall be confidential and limited to use for the purpose of jury selection only. Unless the trial judge otherwise orders, this information shall only be made available to the trial judge, the defendant(s), the attorneys for the defendant(s), the attorney for the Commonwealth, and Court personnel assigned to the jury selection process.

3) Upon the completion of jury selection, the original and all copies of the questionnaires of all impaneled jurors shall be returned to the trial judge or the Court Administrator, or a member of her staff. The Court Administrator, or a member of her staff, shall take possession of the original and all copies of the questionnaires of all impaneled jurors from the trial judge following the jury selection process.

4) Following jury selection, the original questionnaires of all impaneled jurors, including those questioned and excused, shall be retained in a sealed envelope by the Court Administrator, or a member of her staff, subject to the confidentiality requirements of the Pennsylvania Rules of Criminal Procedure, and shall be destroyed upon completion of the jurors' service, unless otherwise ordered by the trial judge. Following jury selection, all copies of the questionnaires shall be destroyed unless otherwise ordered by the trial judge at the request of the defendant(s), the attorney(s) for the defendant(s), or the attorney for the Commonwealth. In the event that a juror impaneled for voir dire is not selected, but is impaneled for voir dire in an additional case, copies of that juror's questionnaire may be substituted for the second or any additional case.

5) The original and all copies of questionnaires of all prospective jurors not impaneled or not selected for any trial shall be destroyed upon completion of the jurors' service.

6) Pursuant to this Order of Court, questionnaires shall be destroyed by shredding. The Court Administrator, or a member of her staff, shall shred the questionnaires as provided in this Order of Court and shall certify the same to the Clerk of Courts. The Clerk of Courts shall then certify in writing and place with each venire the disposition of the questionnaires.

By the Court

WILLIAM R. SHAFFER,
Administrative Judge

[Pa.B. Doc. No. 19-746. Filed for public inspection May 17, 2019, 9:00 a.m.]

Title 255—LOCAL COURT RULES

DAUPHIN COUNTY

Promulgation of Local Rules; No. 1793 S 1989

Order

And Now, this 18th day of April, 2019, Dauphin County Orphans' Court Rules 14.1(c.1) and 14.2 are promulgated as follows:

Rule 14.1(c.1). Post Adjudication Petitions.

(A) A Petition to Invade Principal shall contain the following:

(1) The name of the guardian and date of appointment, or, if the petitioner is not the guardian, the petitioner's relationship to the incapacitated person or the nature of the petitioner's interest.

(2) A summary of the inventory, the date it was filed and the nature and present value of the estate and its income.

(3) The address and income, if any, of the incapacitated person.

(4) The names and addresses of the incapacitated person's dependents and/or all persons who would be entitled to an intestate share of the incapacitated person's estate.

(5) A statement of all claims of the incapacitated person's creditors known to petitioner.

(6) A statement of all previous distributions allowed by the Court.

(7) A statement of the amount requested and the reasons for the requested distribution.

(B) A Petition for Payment of Attorney's Fees, regardless of whether invasion of principal is sought for payment of such fees, shall contain all the information set forth in subsections (A)(1)—(7) of this rule in addition to the following:

(1) A detailed listing of the work performed by the attorney(s) to whom payment is sought.

(2) A statement of the hourly rate charged by the attorney(s) for the work performed.

(C) If any portion of the incapacitated person's estate is received from the United States Veterans' Administration, notice of a Petition to Invade Principal or a Petition for Payment of Attorneys' Fees shall be given to that agency. See 20 Pa.C.S. § 8411.

Rule 14.2. Proof of Service.

(f)(1) The Petitioner shall file a proof of service of the Citation with Notice with the Clerk of the Orphans' Court on or before the date of the scheduled hearing and shall set forth the manner of service of the Citation and Petition on all required to receive a copy in accordance with Orphans' Court Rule 14.2(f).

(2) The Petitioner shall serve the Citation with Notice on the proposed guardian if the guardian is not the petitioner and shall file a proof of service of the Citation with Notice with the Clerk of the Orphans' Court.

Dauphin County Orphans' Court Rules 14.1(c.1) and 14.2 shall be published in the *Pennsylvania Bulletin* and are effective on June 1, 2019.

By the Court

RICHARD A. LEWIS,
President Judge

[Pa.B. Doc. No. 19-747. Filed for public inspection May 17, 2019, 9:00 a.m.]

Title 255—LOCAL COURT RULES

YORK COUNTY

Amendment of Local Rules of Civil Procedure; 2019-SU-001341

Administrative Order Adopting York County Local Rule of Civil Procedure 1915.5

And Now, this 1st day of May, 2019 it is *Ordered* that York County Local Rule of Civil Procedure 1915.5 is adopted, effective June 15, 2019.

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

By the Court

JOSEPH C. ADAMS,
President Judge

York R.C.P. 1915.5. Question of Jurisdiction, Venue or Standing.

Preliminary Objections and other requests for special relief filed to raise a question of jurisdiction, venue, or standing shall be addressed first by the motions court judge and must be filed pursuant to York R.C.P. 208.3(A).

[Pa.B. Doc. No. 19-748. Filed for public inspection May 17, 2019, 9:00 a.m.]

**DISCIPLINARY BOARD
OF THE SUPREME COURT**

Notice of Suspension

Notice is hereby given that by Order of the Supreme Court of Pennsylvania dated May 2, 2019, Jean Paul Tuffet (# 204077) is Suspended on Consent from the Bar of this Commonwealth for a period of five years, retroactive to May 25, 2017. 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. 19-749. Filed for public inspection May 17, 2019, 9:00 a.m.]