

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART IV. ADMISSION TO PRACTICE LAW [204 PA. CODE CH. 71]

Proposed Amendment to Pennsylvania Bar Admission Rule 402

Notice is hereby given that the Pennsylvania Board of Law Examiners is considering recommending to the Pennsylvania Supreme Court that it amend Rule 402 of the Pennsylvania Bar Admission Rules concerning confidentiality as set forth in Annex A. Additions to the text of the rule are shown in bold, and deletions are in bold and brackets.

The proposed amendment permits the Board an additional exception to the confidentiality of Board records. Currently, all Board records are confidential with 10 enumerated exceptions ranging from publishing a list of names of those who passed the bar examination to releasing information to the appropriate attorney disciplinary body upon request from that body. Law schools and the Board repeatedly instruct applicants and students to disclose all potentially adverse information on their application. Despite this, the Board occasionally discovers information that was not, but should have been, disclosed that would have impacted the Board's decision. Additionally, the Board sometimes learns of information regarding other misconduct by attorneys or currently disbarred attorneys that would be appropriate to disclose to the proper disciplinary authority.

The proposed amendment would permit the Board of its own volition to release information that comes to its attention after attorney admission or disbarment that would be appropriate for the Board to provide to the applicable disciplinary authority. The adoption of this amendment would assist in preserving the integrity of the legal system and protect individuals seeking legal representation.

Interested persons are invited to submit written comments regarding the proposed amendments to the Counsel to the Board, Pennsylvania Board of Law Examiners, Pennsylvania Judicial Center, 601 Commonwealth Avenue, Suite 3600, P.O. Box 62535, Harrisburg, PA 17106-2535, no later than May 31, 2017.

*By The Pennsylvania Board of Law Examiners
Supreme Court of Pennsylvania*

GICINE P. BRIGNOLA,
Executive Director

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART IV. ADMISSION TO PRACTICE LAW CHAPTER 71. PENNSYLVANIA BAR ADMISSION RULES

Subchapter D. MISCELLANEOUS PROVISIONS

Rule 402. Confidentiality.

* * * * *

(b) *Permitted Disclosure.* The Board may, however:

* * * * *

(5) release information with respect to an applicant upon a written request from the Disciplinary Board of this Commonwealth or from a lawyer disciplinary authority in another jurisdiction, provided the disciplinary authority agrees to use the information only for attorney disciplinary matters and has a rule or policy that guarantees the confidentiality of its disciplinary materials and records to the same extent required by this rule;

(6) when the Board learns of information that may be relevant to a disciplinary board or authority, the Board may share that information with the appropriate disciplinary board or authority, provided the disciplinary board or authority agrees to use the information only for attorney disciplinary matters and has a rule or policy that requires the confidentiality of its disciplinary materials and records to the extent required by this rule;

[(6)] (7) release information with respect to an applicant when necessary in defending litigation brought against the Court, the Board, its members or staff arising out of or related to the bar admission process;

[(7)] (8) release a copy of the bar admission application submitted by an applicant upon receipt of a properly executed written authorization and release from the applicant;

[(8)] (9) release information with respect to an applicant pursuant to a court order;

[(9)] (10) release to the National Conference of Bar Examiners, the name and the date of birth of individuals who have applied to take the bar examination or be admitted to the bar of this Commonwealth; and

[(10)] (11) publish the contents of responses submitted to a question on the bar examination by an applicant as a representative sample of a good answer, provided the identity of the applicant is not disclosed.

* * * * *

[Pa.B. Doc. No. 17-703. Filed for public inspection April 28, 2017, 9:00 a.m.]

Title 255—LOCAL COURT RULES

CLEARFIELD COUNTY

Local Rules of Criminal Procedure; CP-17-AD-2-2017

Rule 507. Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth.

1. Pursuant to Rule 507 of the Pennsylvania Rules of Criminal Procedure, Police Complaints and Arrest Warrant Affidavits shall require approval of the District Attorney of Clearfield County, or his designee, or the Attorney General of Pennsylvania, or his designee, prior to filing, as set forth below:

a. Approval may be granted using advanced communication technology or other electronic method, including but not limited to e-mail and fax transmission, and the use of electronic or digital signatures. Nothing in this rule is intended to require an original signature of the attorney for the Commonwealth to indicate approval.

b. All Arrest Warrant Affidavits shall require approval prior to filing.

c. All Police Complaints shall require approval prior to filing, except Police Complaints charging any of the following offenses:

Title 18

- | | |
|--|--|
| a. Simple Assault | 18 Pa.C.S.A. § 2701 |
| b. Recklessly Endangering Another Person | 18 Pa.C.S.A. § 2705 |
| c. Terroristic Threats | 18 Pa.C.S.A. § 2706 |
| d. Harassment | 18 Pa.C.S.A. § 2709 |
| e. Defiant Trespasser | 18 Pa.C.S.A. 3503(b) |
| f. Simple Trespasser | 18 Pa.C.S.A. 3503(b.1) |
| g. Any Theft Related Offense Graded Pursuant to 18 Pa.C.S.A. §§ 3903(b) and 3929(b)(1)(ii) and (iii) | 18 Pa.C.S.A. §§ 3903(b) and 3929(b)(1)(ii) and (iii) |
| h. Disorderly Conduct | 18 Pa.C.S.A. § 5503 |
| i. Loitering and Prowling at Night | 18 Pa.C.S.A. § 5506 |
| j. Obstructing Highways and Other Public Passages | 18 Pa.C.S.A. § 5507 |
| k. Open Lewdness | 18 Pa.C.S.A. § 5901 |

Title 35

- | | |
|-------------------------------------|-------------------------------|
| a. Possession of Drug Paraphernalia | 35 Pa.C.S.A. § 780-113(a)(32) |
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Title 75

- | | |
|---|-------------------------------------|
| a. Driving Under the Influence of Alcohol or Controlled Substance | 75 Pa.C.S.A. § 3802(a), (b), or (c) |
| b. Fleeing or Attempting to Elude Police | 75 Pa.C.S.A. § 3733 |

Effective Date. Adopted March 22, 2004. Effective 30 days after publication in the *Pennsylvania Bulletin*. Amended July 15, 2011. Effective 30 days after publication in the *Pennsylvania Bulletin*. Amended May 30, 2012. Effective 30 days after publication in the *Pennsylvania Bulletin*. Amended May 1, 2017. Effective 30 days after publication in the *Pennsylvania Bulletin*.

By the Court

FREDRIC J. AMMERMAN,
President Judge

[Pa.B. Doc. No. 17-704. Filed for public inspection April 28, 2017, 9:00 a.m.]

LYCOMING COUNTY

Amendments to the Rules of Orphan's Court Procedure; Orphan's Court Division; Doc. No. 41-17-0152

Order

And Now, this 3rd day of March, 2017, the Orphan's Court Procedural Rules Committee of the Supreme Court of Pennsylvania having notified the Court that these proposed changes in the local Orphan's Court rules are not inconsistent with any general rule of the Supreme Court, it is hereby *Ordered and Directed* as follows:

1. The Lycoming County Orphan's Court Rules are hereby rescinded.

2. New Lycoming County Orphan's Court Rules L1.8, L2.6, L2.7, L2.9, L2.10, L9.1, L9.6, L9.7, L14.2, L14.5, L15.5, and L15.8 are hereby promulgated, as follows.

3. The Clerk of the Orphan's Court is directed to:

a. File one (1) certified copy of this order with the Administrative Office of the Pennsylvania Courts.

b. Forward two (2) certified copies of this order and a computer disk containing the text of the local rule to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

c. Forward one (1) copy of this order to the chairman of the Lycoming County Customs and Rules Committee.

4. The chairman of the Lycoming County Customs and Rules Committee is directed to do the following:

a. Publish the revised rules on the Lycoming Law Association website at <http://www.lycolaw.org/rules/rules.html>; and

b. Compile the rule revisions within the complete set of local rules no later than 30 days following publication in the *Pennsylvania Bulletin*.

5. The new rules shall become effective 30 days after the publication of this order in the *Pennsylvania Bulletin*.

6. A copy of these local rules shall be kept continuously available in the office of the Clerk for public inspection and copying by any person.

By the Court

NANCY L. BUTTS,
President Judge

L1.8. Motion Procedure. Cover Sheet.

The procedure set forth in this section shall apply to every request for relief and/or application to the court for an order, whether by petition, motion, objections, or stipulation, that the filing party desires to bring before the court.

A. A cover sheet substantially in the form set forth in subsection G of this section shall be attached to the front of every request for a court order to which this rule applies.

B. The cover sheet shall consist of only one page. Captions may be abbreviated. If additional space is necessary to list counsel and unrepresented parties, a separate sheet may be attached. The filing party or counsel shall be responsible for identifying all parties and others to be given notice or their counsel on the cover sheet. If a party was not served with a copy of the executed cover sheet as a result of an omission of the filing party, the argument or hearing may be rescheduled or, in the discretion of the court, the request for relief may be denied.

C. If a cover sheet is not attached as required by this rule, the court may choose not to act upon the request for relief until an appropriate cover sheet is filed. If the filing party does not attach a cover sheet as required by this rule, a cover sheet, along with a copy of the original motion may be filed by any party, or the court.

D. If expedited consideration by the court is requested or required by statute or rule of procedure, the reason for such consideration shall be set forth on the cover sheet.

E. A proposed order granting the relief requested shall be attached, immediately following the cover sheet.

F. The court shall schedule argument, hearing or briefing as the court may require, note the scheduling information on the cover sheet, and issue the scheduling order appearing on the cover sheet. The clerk shall docket and promptly forward the completed cover sheet to all parties identified on the cover sheet. The court may by order set additional service requirements, if the circumstances so require.

G. The form of the cover sheet shall be substantially as follows:

**COURT OF COMMON PLEAS, LYCOMING COUNTY, PENNSYLVANIA
ORPHANS' COURT MOTION COVER SHEET**

Caption (may be abbreviated) _____ Docket No. _____

1. Name of filing party: _____ Case assigned to Judge _____

2. Filing party's attorney: _____ Family Court Officer/Auditor: _____

3. Type of filing:

<p>4. The following is/are requested:</p> <p><input type="checkbox"/> Argument</p> <p><input type="checkbox"/> Evidentiary hearing</p> <p><input type="checkbox"/> Court conference</p> <p><input type="checkbox"/> Pretrial conference</p> <p><input type="checkbox"/> Entry of uncontested order (attach supporting documentation)</p> <p><input type="checkbox"/> Expedited consideration. State the basis:</p> <p>_____</p> <p><input type="checkbox"/> Issuance of a Citation/Rule to Show Cause</p> <p><input type="checkbox"/> Video conferencing requested. Request form has been submitted. See Lyc. Co. R.G.C.B. L8.</p> <p><input type="checkbox"/> Attach this cover sheet to original motion previously filed on: _____</p> <p>5. Time required:</p>	<p>6. Names and addresses of all counsel, unrepresented parties and interested parties (including CASA representative, if appointed) and indicate if anyone is incarcerated:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p><input type="checkbox"/> Continued on separate sheet.</p>
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ORDER

1. _____ An ___ argument ___ factual hearing ___ court conference is scheduled for _____ at ___ m, in courtroom no. _____, Lycoming County Courthouse, Williamsport, PA.

2. _____ Pretrial memos including witness list and exhibits are to be filed by the following dates:

Filing party: _____ Responding parties: _____

- 3. ____ A response to the motion/petition shall be filed as follows: _____ .
- 4. ____ Petitioner shall ensure service of this scheduling order on all parties and interested persons within ____ days of the date of this order and shall provide the court with proof of service at least ____ working days prior to the scheduled proceeding.
- 5. _____ is appointed as counsel for the alleged incapacitated person, and petitioner shall serve a copy of this scheduling order, petition and any attachments on the appointed attorney. The appointed attorney is to be reimbursed at the rate of \$ ____ per hour to be paid by the county/estate of the alleged incapacitated person (circle one).
- 6. ____ See order attached. ____ See separate order issued this date.
- 7. Other: _____ .

Judge	Date

cc: ALL PARTIES OR OTHERS TO BE SERVED WITH NOTICE MUST BE DESIGNATED IN BOX 6 ABOVE.

NOTICE: The parties are directed to confer for the purpose of resolving any issue raised in the motion/petition. If a resolution is reached prior to the scheduled date, the moving party shall immediately notify the court scheduling technician, the judge or hearing officer assigned to hear the matter, and all counsel of record or parties if unrepresented. Such notice may be in writing or by email.

L2.6. Proposed Decree of Distribution.

At the time of filing the account and petition for adjudication/statement of proposed distribution, the accountant shall also file a proposed decree of distribution to be issued by the court expressly confirming the account or approving the petition for adjudication/statement of proposed distribution and specifying, or indicating by reference to the petition for adjudication/statement of proposed distribution, the names of those to whom the balance available for distribution is awarded and the amount or share awarded to each.

L2.7. Time for Filing Objections.

Objections to an account and/or a petition for adjudication/statement of proposed distribution shall be filed with the clerk within twenty (20) days of the date of service of the notice of account filing.

L2.9. Confirmation of Accounts; Awards.

If no objections are filed by the date for objections set forth in the notice of account filing, or any extension of that date allowed by the court, the clerk shall submit the account and petition for adjudication/statement of proposed distribution, along with the proposed decree of distribution, to the court for confirmation of the account or approval of the petition for adjudication/statement of proposed distribution.

L2.10. Foreign Heirs and Distributees.

A report filed pursuant to Pa.O.C. Rule 2.10 shall be in the form of an affidavit and shall be filed at the same time that the account and statement of proposed distribution are filed.

L9.1. Notice of Auditor’s or Master’s Hearing.

Notice of hearings to be held by a master or auditor shall be given at least 20 days before the date of the hearing to all those given notice of the request for the

appointment of an auditor or master and all other interested parties.

L9.6. Notice of Filing Auditor’s or Master’s Report.

At the time of filing the report, an auditor or master shall give notice of the filing of the report to all those given notice of the request for the appointment of an auditor or master and all other interested parties. The notice shall state that in the absence of objections, the report will be submitted to the court for confirmation 20 days after the date the report was filed.

L9.7. Confirmation of Report.

If no objections are filed to the report of a master or auditor within 20 days of the date of notice to interested parties of its filing, the clerk shall submit the report to the court for confirmation or adoption of the report’s recommendations.

L14.2. Incapacitated Persons.

A. Notice in matters involving adjudication of incapacity or appointment or removal of a guardian for an incapacitated person is required on all persons who are sui juris individuals and are heirs of the alleged or adjudicated incapacitated person, as defined by the intestacy laws of Pennsylvania. Such notice is required even if the person does not reside within the Commonwealth of Pennsylvania.

B. Notice required in matters involving adjudication of incapacity or appointment or removal of a guardian for an incapacitated person, other than notice upon the alleged or adjudicated incapacitated person, shall be by personal service, by service in such manner as the court directs and/or as directed by statute in that particular case; or may be made by first class mail, postage prepaid, to the known or last known address. In the latter case, a certificate of service shall be prepared and filed verifying that the address used is the proper known or last known address, and attaching a postal service certificate of mailing.

C. *Notice and Service.* The petition shall include a notice and citation as prescribed by the Pennsylvania Orphans’ Court Rules. Petitioner shall be responsible for obtaining a completed notice and citation from the clerk, and petitioner shall be responsible for proper service of the petition, notice and citation. In all cases, service of the petition, notice and citation shall be made upon the alleged or adjudicated incapacitated person by personal service by the sheriff or by any other competent adult,

and the person making such service shall read to the alleged or adjudicated incapacitated person the petition, notice and citation, and then for a second time the notice and citation. The person making service shall explain the contents to the extent possible.

D. Service of emergency guardianship petition.

(1) Service of emergency guardianship petition on alleged incapacitated person. Petitioner shall serve the emergency guardianship petition in person on the alleged incapacitated person no more than 48 hours after the hearing is scheduled and no less than 48 hours before the hearing. In the event there is not 48 hours between the time the hearing is scheduled and the hearing date and time, petitioner shall serve the emergency guardianship petition in person on the alleged incapacitated person within a reasonable amount of time prior to the emergency guardianship hearing. What is a reasonable amount of time shall depend upon the circumstances, such as the amount of time that exists between the time the hearing is scheduled and the actual hearing date. It shall be in the court's discretion to determine the timeliness of the service. Petitioner must offer evidence via affidavit and be prepared to present testimony to prove the reasonableness of the service.

(2) Service of emergency guardianship petition on sui juris individuals, agents under a power of attorney, residential service providers, and other service providers. Petitioner shall serve the emergency guardianship petition on all persons who are sui juris individuals and would be entitled to share in the estate of the alleged incapacitated person if he or she died intestate at that time (even if the person does not reside within the Commonwealth of Pennsylvania), on the agents under the alleged incapacitated person's power of attorney, on the person or institution providing residential services to the alleged incapacitated person, and on such other parties as the court may direct, including other service providers, in any reasonable manner and within a reasonable amount of time prior to the emergency guardianship hearing. Any reasonable manner shall include service in person or by telephone, facsimile, mail, or electronic transmission depending upon the circumstances. However, service by telephone alone shall not be the favored method and shall be used only in circumstances where the other methods of service would not be timely. What is a reasonable amount of time shall depend upon the circumstances, such as the amount of time that exists between the time the hearing is scheduled and the actual hearing date. It shall be in the court's discretion to determine if the manner and timeliness of the service were reasonable. Petitioner must offer evidence via affidavit and be prepared to present testimony to prove that the manner and timeliness of the service were reasonable.

E. Return of Service. Petitioner is responsible for filing a return of service conforming to Pa.R.C.P. No. 405, which also confirms that the contents of the notice and citation of the petition were read and, to the extent possible, explained, to the respondent as set forth in paragraph C, above.

F. Petition. A petition for adjudication of incapacity and/or for appointment of a guardian of the estate of the person shall be substantially in the form prescribed by Lyc.Co.O.C.R. L14.5(e), and shall contain all the items of

information referred to therein. Language used in the petition should be easily understood. It is recommended that an affidavit of a physician or clinical psychologist be attached which contains a description of the physical and mental condition, any functional limitations and whether or not the respondent would be harmed by attendance at the proceeding to determine incapacity.

G. Status report on legal representation. At least 14 days prior to the date established for hearing on the petition, petitioner shall file in duplicate a status report on legal representation, in substantially the form prescribed by Lyc.Co.O.C.R. L14.5(f), each of which should have attached, under the proper caption, the appropriate order, in substantially the form prescribed by Lyc.Co.O.C.R. L14.5(g).

H. Proposed findings of fact. Petitioner shall provide to the court, at or before hearing, proposed findings of fact in a form suitable for adoption by the court at hearing. Such findings shall include, inter alia, in separately numbered statements, at least the facts petitioner intends to establish which are required in order for the court to grant the relief requested.

I. Periodic report of the guardian of the person. Within one year of the date of appointment and annually thereafter, or with such greater frequency as the court may direct, every guardian of the person of an incapacitated person shall file a periodic report of the guardian of the person in substantially the form prescribed by the Pennsylvania Orphans' Court Rules. Notice and service of said report shall be in such manner as the court shall direct.

J. Periodic report of the guardian of the estate. Within one year of the date of appointment and annually thereafter, or with such greater frequency as the court may direct, every guardian of the estate of an incapacitated person shall file a periodic report of the guardian of the estate in substantially the form prescribed by the Pennsylvania Orphans' Court Rules. Notice and service of said report shall be in such manner as the court shall direct.

K. Filing of emergency guardianship petition. In all cases where an emergency guardianship petition is filed, a plenary petition shall be filed at the same time. Additionally, with the filing of the emergency and plenary petitions, petitioner shall file a motion cover sheet in accordance with Lyc.Co.O.C.R. L1.8(c). The motion cover sheet shall include within the order a rule to show cause as to why the alleged incapacitated person shall not be adjudicated incapacitated. Petitioner shall serve the executed motion cover sheet on the alleged incapacitated person, counsel for the alleged incapacitated person, all persons who are sui juris individuals and would be entitled to share in the estate of the alleged incapacitated person if he or she died intestate at that time (even if the person does not reside within the Commonwealth of Pennsylvania), on the agents under the alleged incapacitated person's power of attorney, on the person or institution providing residential services to the alleged incapacitated person, and on such other parties as the court may direct, including other service providers. In the event petitioner determines that the plenary petition is not necessary, petitioner shall file a verified statement explaining the reason for the lack of necessity of the plenary guardianship. The verified statement shall be substantially in the following form:

IN THE MATTER OF

: IN THE COURT OF COMMON PLEAS OF
: LYCOMING COUNTY, PENNSYLVANIA

An alleged incapacitated person

:
: ORPHANS' COURT DIVISION
:
: NO. _____

STATEMENT EXPLAINING REASON FOR LACK OF NECESSITY OF PLENARY GUARDIANSHIP

I, _____, petitioner/counsel for petitioner in the above-referenced matter, hereby state, subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities, that a plenary guardianship is not necessary for the following reason(s):

Respectfully submitted,
Petitioner/Counsel for Petitioner

Dated: _____

[address]
[telephone number]

L14.5. Forms.

A. *The Petition to Adjudicate Incapacity and for the Appointment of a Guardian.* The petition to adjudicate incapacity and for the appointment of a guardian referred to in Lyc.Co.O.C.R. L14.2F shall be substantially in the following form:

IN THE MATTER OF

: IN THE COURT OF COMMON PLEAS OF
: LYCOMING COUNTY, PENNSYLVANIA

An alleged incapacitated person

:
: ORPHANS' COURT DIVISION
:
: NO. _____

PETITION TO ADJUDICATE INCAPACITY PURSUANT TO 20 Pa.C.S. § 5511 AND FOR THE APPOINTMENT OF A GUARDIAN OF THE PERSON/OR OF THE ESTATE OF _____

TO: The Honorable Judge of the Lycoming County Court:

The petition of (name of petitioner) respectfully states:

1. Name and current address of petitioner:
2. Petitioner's relationship to and interest in the alleged incapacitated person's welfare:
3. Name, age, residence and post office address of the alleged incapacitated person:
4. Name and address of person or institution providing residential services to the alleged incapacitated person:
5. Names and addresses of spouse, parents and all persons who are sui juris individuals and who would be entitled to share in the estate of the alleged incapacitated person if that person died intestate:
6. Names and addresses of medical, social, residential, and other service providers:
7. State whether alleged incapacitated person has or has not been a member of the United States armed services and whether he or she is or is not receiving any benefits from the United States Veterans Administration:
8. State whether any court has ever assumed jurisdiction in any proceeding to determine the competency or capacity of the alleged incapacitated person, and whether any guardian of the person and/or estate has ever been appointed:
9. The name and address of alleged incapacitated person's attorney, if known, or the attorney known to represent the alleged incapacitated person on other legal matters:
10. The reason why guardianship is sought:
11. A description of the functional limitations and physical and mental conditions of the alleged incapacitated person:
12. Allegations of fact regarding the services being utilized to meet essential requirements for the alleged incapacitated person's physical health and safety, to manage the person's financial resources or to develop or regain the person's abilities:
13. Allegations of fact regarding the type of assistance required by the alleged incapacitated person and as to why no less restrictive alternatives would be appropriate:
14. Allegations of fact regarding the probability that the extent of the alleged incapacitated person's incapacities may significantly lessen or change.

15. For each type of guardian being requested, the name and address of the person or entity whom petitioner asks to be appointed as guardian:

16. An averment that the proposed guardian has no interest adverse to the alleged incapacitated person:

17. Qualifications of proposed guardian:

18. The specific areas of incapacity over which it is requested that the guardian be assigned powers:

19. If guardian of the estate is being sought, the petition shall also include the gross value of the estate and net income from all sources to the extent known:

WHEREFORE, petitioner prays this Honorable Court to grant the following relief:

(Petitioner)

B. The status report on legal representation referred to in Lyc.Co.O.C.R. L14.2G shall be substantially in the following form:

IN THE MATTER OF _____ : IN THE COURT OF COMMON PLEAS OF
: LYCOMING COUNTY, PENNSYLVANIA
: _____
An alleged incapacitated person : ORPHANS' COURT DIVISION
: _____
: NO. _____

STATUS OF ALLEGED INCAPACITATED PERSON'S LEGAL REPRESENTATION

1. The Petition to Adjudicate Incapacity and for the Appointment of a Plenary Guardian of the Person and the Estate in the above-referenced matter was filed with this Honorable Court on _____ [date] (or is being filed herewith).

2. Service of the Petition to Adjudicate Incapacity and for the Appointment of a Plenary Guardian of the Person and the Estate was served on the alleged incapacitated person on _____ [date] (or has not been served to date).

3. The Hearing on the Petition to Adjudicate Incapacity and for the Appointment of a Plenary Guardian of the Person and the Estate has been scheduled for _____ [date] (or has not been scheduled yet).

4. Counsel for the alleged incapacitated person (is) (is believed to be): [name, address, and telephone number] or Petitioner does not believe that the alleged incapacitated person is represented by counsel.

5. According to Petitioner's knowledge and belief, the assets of the alleged incapacitated person consist of approximately \$ _____ .

6. [If the alleged incapacitated person is unrepresented] Petitioner requests that counsel for the alleged incapacitated person be appointed by this Honorable Court and pursuant to 20 Pa.C.S. § 5511(c), be compensated by Lycoming County or Petitioner requests that counsel for the alleged incapacitated person be appointed by this Honorable Court and not be compensated by Lycoming County.

Respectfully submitted,
Petitioner/Counsel for Petitioner

Dated: _____

[address]
[telephone number]

C. The proposed order referred to in Lyc.Co.O.C.R. L14.2G shall be substantially in the following form:

IN THE MATTER OF _____ : IN THE COURT OF COMMON PLEAS OF
: LYCOMING COUNTY, PENNSYLVANIA
: _____
An alleged incapacitated person : ORPHANS' COURT DIVISION
: _____
: NO. _____

ORDER

AND NOW this _____ day of _____, _____, upon consideration of the attached status report, _____ is hereby appointed as counsel for the alleged incapacitated person. Counsel for the alleged incapacitated person _____ shall _____ shall not be compensated by Lycoming County. A certified copy of this order shall be served on the alleged incapacitated person, counsel for the alleged incapacitated person, and all persons who are sui juris individuals and would be entitled to share in the estate of the alleged incapacitated person if he or she died intestate at that time.

BY THE COURT,

J.

ADOPTIONS

L15.5. Request for Investigation.

In the absence of a special order of court, there shall be no investigation of the petition for adoption. If an investigation of the adoption petition is necessary, the court shall order the investigating agency to conclude its investigation and file its report not later than ninety (90) days after the filing of the notice of intention to adopt.

L15.8. Proposed Findings and Decree.

A. Proposed Findings of Fact. At the conclusion of the hearing for adoption the petitioners shall submit to the hearing judge proposed findings of fact substantially in the following form:

IN RE ADOPTION OF _____ : IN THE COURT OF COMMON PLEAS OF
: LYCOMING COUNTY, PENNSYLVANIA
:
: ORPHANS' COURT DIVISION
:
: NO. _____

FINDINGS OF FACT

- 1. The petitioners are _____ and _____, his wife, who are adult citizens of the County of Lycoming and Commonwealth of Pennsylvania, and they reside at _____, Lycoming County, Pennsylvania.
2. The husband was born at _____, on _____.
3. The wife was born at _____, on _____.
4. The wife's maiden name was _____.
5. The name of adoptee is _____.
6. The adoptee was born at _____, on _____.
7. The adoptee has resided with the husband petitioner since _____, and with the wife petitioner since _____.
8. The facts with respect to termination of parental rights are as follows: _____

- 9. Notice of the hearing on the petition for adoption was given to all persons entitled to notice.
10. It is in the best interest of the child to allow the adoption.
11. The petitioners and the child are of the following race and faith: _____

12. There has been compliance with all of the provisions of the Adoption Act (23 Pa.C.S. § 2101, et seq.).

B. Proposed Decree. The petitioner shall attach a proposed decree to the proposed findings of fact. FORM 1 is to be used if parental rights have previously been terminated. FORM 2 is to be used if parental rights are to be terminated at the time of the hearing for adoption.

FORM 1:

IN RE ADOPTION OF _____ : IN THE COURT OF COMMON PLEAS OF
: LYCOMING COUNTY, PENNSYLVANIA
:
: ORPHANS' COURT DIVISION
:
: NO. _____

DECREE

AND NOW, this _____ day of _____, 20____, in consideration of the petition filed, after investigation made and testimony of the witnesses heard,

IT IS ORDERED AND DECREED:

That the welfare of the adoptee will be promoted by the adoption; that all requirements of the Adoption Act have been met; that the adoptee shall have all the rights of a child and heir of the petitioners; and that the child shall hereafter be known as _____.

BY THE COURT,

J.

FORM 2:

IN RE ADOPTION OF

: IN THE COURT OF COMMON PLEAS OF
 : LYCOMING COUNTY, PENNSYLVANIA
 :
 : ORPHANS' COURT DIVISION
 :
 : NO. _____

DECREE

AND NOW, this _____ day of _____, 20____, after hearing on the petition filed, IT IS ORDERED AND DECREED:

- (1) That the parental rights of _____ be and hereby are terminated;
- (2) That the welfare of _____ will be promoted by the adoption; that all requirements of the Adoption Act have been met; that the adoptee shall have all the rights of a child and heir of _____ and _____ and shall be subject to the duties of a child of the petitioners; and that the child shall hereafter by known as _____.

Notice to the Natural Father and Natural Mother
 Pennsylvania Adoption Medical History Registry

This is to inform you about an adoption law provision relating to medical history information. As the birth parent of a Pennsylvania born child who is being or was ever adopted in the past, you have the opportunity to voluntarily place on file medical history information. The information that you choose to provide could be important to the child's present and future medical care needs. The law makes it possible for you to file current medical information and it also allows you to update the information as new medically related information becomes available. Requests to release the information will be honored if the request is submitted by a birth child 18 years of age or older. The law also permits the court to honor requests for information submitted by the adoptive parents or legal guardians of adoptees who are not yet 18 years of age. All information will be maintained and distributed in a manner that fully protects your right to privacy.

You may obtain the appropriate form to file medical history information by contacting the Adoption Medical History Registry. Members of the registry staff are available to answer your questions. Please contact the registry staff at:

Department of Human Resources
 Adoption Medical History Registry
 Hillcrest, Second Floor, P.O. Box 2675
 Harrisburg, PA 17105-2675 Telephone: 1-800-227-0225

Medical history information forms may also be obtained locally by contacting one of the following agencies:
 County Children and Youth Social Service Agency
 Any private licensed adoption agency
 The Lycoming County Register and Recorder's Office

BY THE COURT,

 J.

[Pa.B. Doc. No. 17-705. Filed for public inspection April 28, 2017, 9:00 a.m.]

**WESTMORELAND COUNTY
 Orphans' Court Rules; No. 3 of 2017**

Administrative Order of Court

And Now, this 6th day of April, 2017, *It Is Hereby Ordered* that Westmoreland County Orphans' Rules W01.6 to W016.15 are hereby adopted. This change is effective 30 days after publication in the *Pennsylvania Bulletin*.

By the Court

RICHARD E. McCORMICK, Jr.,
President Judge

**Westmoreland County Orphans' Court Rules
 Rule WO1.6. Mediation.**

All interested parties in a matter may use mediation to resolve issues pending before the court, and, upon either partial or complete resolution, may petition the court to approve the agreement of all interested parties as an order or decree of the court.

(a) The interested parties may engage the services of a mediator, either prior to or after any interested party has filed a pleading before the court, including an account filed by a fiduciary for audit.

(b) All the interested parties in a matter docketed before the court may request to engage in mediation at any time during the pendency of the matter.

(c) In such request for mediation, all interested parties shall identify:

(1) the proposed mediator and the proposed source of payment of fees and costs of the mediator;

(2) names and contact information of all interested parties and any counsel who shall participate in the mediation;

(3) names and information regarding any interested parties having diminished capacity or a legal disability, whose interests must be adequately protected; and

(4) the scheduled date for the initial mediation conference.

(d) All interested parties shall execute an agreement for confidential mediation, which is not inconsistent with this local rule, and which shall remain confidential.

(e) Mediation shall not delay the required filing of any pleading or ordered return dates, or the scheduling of court hearings, unless specifically requested by joinder of the interested parties and so ordered by the court.

(f) Upon completion of mediation, all interested parties shall sign a memorandum of principal terms, which either shall acknowledge that no resolution was reached, or shall embody the resolutions attained. This memorandum of principal terms shall clearly state partial resolutions or complete resolution attained. The memorandum of principal terms shall include a list of unresolved issues to be determined by the court. Where appropriate, the principal terms could provide for future review in light of changed circumstances or a change in the operative facts. The memorandum of principal terms agreed upon, or the statement of no resolution, shall be filed with the court.

(g) The interested parties may request that the court approve the final mediated agreement, which embodies the principal terms agreed upon in the memorandum referenced above. The court may grant approval in an order or decree. Alternatively, the court may recommend any changes that the court deems appropriate for approval. The parties to the mediation may accept the court's recommendations, in which event the terms agreed upon, as modified, shall be approved, or the parties may decline to accept the court's recommendations, in which event the matter is deemed not to have resulted in an agreement.

Adopted _____, 2017, Effective _____ 2017.

Rule WO1.8. Cover Sheet.

The first pleading to be filed by each party in each case shall be accompanied by a cover sheet, which shall be in the form set out in the forms section of the Westmoreland County Orphans' Court Local Rules, appended hereto.

Adopted, _____ 2017, Effective _____ 2017.

Rule WO1.9. Bill of Costs.

(a) The following items shall be considered as record costs in a proceeding:

- (1) fees paid for filing pleadings;
- (2) fees paid for service of pleadings;
- (3) any other costs specifically permitted by statute or Supreme Court rules; and
- (4) if the case has been tried, fees statutorily permitted to witnesses for per diem attendance and mileage.

(b) A bill of costs must be filed with the Clerk of the Orphans' Court, along with an affidavit of service on the opposing party or his counsel of record, within ten (10) days of the entry of a verdict by a jury, or a final order or decree by the court. The bill of costs may include the items listed in paragraph (a) of this rule.

(c) In cases where an executor, administrator, guardian or trustee has acted in good faith defending the estate against a claim, costs and fees may be allowed out of the estate, even though the claim is allowed.

(d) Objections specifying those items or amounts of costs to which a party has objections must be filed within ten (10) days of receipt of the bill of costs.

(e) The court will enter an order specifying allowable costs.

Adopted February 1, 1996, effective May 1, 1996. Rule WO110 renumbered _____, 2017, effective _____, 2017. Paragraph (c) is taken from the former Rule WO9(c). The remaining paragraphs are taken from Rule W609 of the Westmoreland County Rules of Civil Procedure.

Rule WO1.10. Change of Address.

A personal representative of a decedent's estate or a guardian of the estate of a minor or an incapacitated person shall file with the Register of Wills of Westmoreland County, or Clerk of the Orphans' Court, as applicable, any change of address. Notice or service to the last recorded address shall be deemed notice or service to the said personal representative or guardian.

Adopted February 1, 1996, effective May 1, 1996. Rule WO118 renumbered _____ 2017, effective _____ 2017.

Rule WO2.5. Notice of Account Filing—Copies of Account Sent with Notice

Any copy of the account served pursuant to Pa.O.C. Rule 2.5 may be sent as a double-sided copy. Upon consent of the parties, a copy of account may be sent on a properly labeled compact disk or on a flash drive in portable document format.

Adopted _____, 2017, effective _____ 2017.

Rule WO2.6. Audit List.

The President Judge shall decree and the Clerk of the Orphans' Court shall publish in the Westmoreland Law Journal for three consecutive weeks commencing the second week of November a list of dates of audit and the schedule of filing periods as related to the audit dates for the following year.

The audit list will be called and accounts audited on the dates of audit scheduled by order of court, and will continue until the cases on the list have been heard or other disposition made. All accounts on the audit list filed by an attorney or firm shall be listed together on the audit list.

Revised February 12, 1998, effective March 30, 1998. Rule WO102(c) renumbered _____ 2017, effective _____ 2017.

Rule WO3.7. Return Days.

The return day is the last day to answer or take other legal action with respect to a citation, rule to show cause, or other process, or when a matter may ordinarily next be brought before the court for action.

The return days shall be as fixed by order of court. If no date is fixed, it shall be twenty (20) days from service.

A hearing will not be held on the return day unless specially ordered.

A hearing will be scheduled upon the request or motion of any party after the return day. The request or motion shall be accompanied by a proposed order, which shall provide for appropriate blank spaces for the scheduling of a hearing, the scheduling of a status conference, and a filing deadline for memoranda of law.

Rule WO102(1) renumbered, _____ 2017, effective _____, 2017.

Rule WO3.9. Preliminary Objections—Briefs.

(a) *Filing and service of brief in support of preliminary objections.*

(1) A respondent who files preliminary objections shall file a brief with the Clerk of the Orphans' Court within thirty (30) days of filing the pleading if the preliminary

objections only set forth grounds under subparagraphs (2), (3) or (4) of Pa.O.C. Rule 3.9(b). Parties filing preliminary objections raising any ground other than under subparagraphs (2), (3) or (4) of Pa.O.C. Rule 3.9(b) shall file a brief within sixty (60) days of filing the preliminary objections, unless the court, on motion of any party, sets a briefing schedule to accommodate depositions or a hearing pursuant to Pa.O.C. Rule 3.9(d)(2).

(2) A respondent who files preliminary objections shall serve a copy of the brief on every interested party or attorney of record on the same day it is filed. A copy of the brief, a certificate of service, together with a copy of any subsequent pleadings filed, shall be mailed or delivered to the chambers of the judge assigned to the case.

(b) *Filing and service of brief in opposition to preliminary objections*

(1) A party to whom preliminary objections are directed shall file a brief in opposition with the Clerk of the Orphans' Court within thirty (30) days of being served with the respondent's brief.

(2) Within three (3) days of filing the brief in opposition, a party to whom preliminary objections are directed shall serve a copy of the brief on every interested party or attorney of record, and shall file a certificate of service with the Clerk of the Orphans' Court.

(3) A party to whom the preliminary objections are directed shall deliver or mail a copy of the brief, along with a copy of the certificate of service, to the chambers of the judge assigned to the case on the same day the certificate is filed.

(c) *Oral argument*

Oral argument will only be scheduled upon the presentation of a motion in accordance with the motions procedure in Rule WO7.5.

Adopted 2017, effective , 2017.

Rule WO5.6. Petition to Invade Principal Assets (Minor's Estate).

A petition to invade principal assets shall be presented to the court in all situations where the guardian intends to invade the principal assets of a minor. Such petition to invade principal assets shall contain, at minimum, the following averments of fact:

(a) name, age and residence of the minor and the person with whom the minor resides;

(b) a reference to the original date of the guardian's appointment;

(c) whether the guardian is bonded and, if so, for what amount;

(d) names and residences of the living parents and their incomes, and whether their incomes are sufficient to support the minor properly;

(e) an itemized listing of the assets of the minor;

(f) an itemized listing of the income of the minor;

(g) whether there are other funds (e.g., current beneficiary of a trust or estate) available for the care, maintenance, education or funeral expenses of the minor or other persons for whom an invasion of principal is requested;

(h) a listing of the names and addresses of all creditors, and the amount due each;

(i) the purpose for the proposed invasion of principal;

(j) whether any prior petitions to invade principal assets have been presented;

(k) that the next-of-kin of the minor have been notified of the presentation of the petition for allowance, if directed by the court; and

(l) the maximum amount estimated to be needed per month or per year, and the time period during which such invasion will be necessary.

Cross References: See 20 Pa.C.S. § 5164, which permits the expenditure of income for the care, maintenance and education of a minor without the necessity of court approval, but which requires court authorization for the expenditure of principal.

Explanatory Comments: Under 20 Pa.C.S. § 5164, court approval is required to use income for anyone other than the minor. In such cases, a petition in essentially the same form as provided by this rule should be filed.

Adopted February 1, 1996, effective May 1, 1996. Rule WO503 renumbered 2017, effective 2017.

Rule WO5.16. Jurisdiction.

(a) The following petitions for approval of settlement shall be brought before the Orphans' Court when suit has not been commenced in the civil division:

(1) petition to compromise and settle minor's action;

(2) petition to compromise and settle an incapacitated person's action; and

(3) petition to compromise and settle wrongful death and survival action.

(b) Upon receipt of a petition, the court may, at its discretion, grant the petition as presented, request additional information from any party, or order testimony to be taken on the petition.

Cross References: With regard to wrongful death and survival actions, See 42 Pa.C.S. § 8301(b) and 20 Pa.C.S. § 2101—2104.

Adopted February 1, 1996, effective May 1, 1996. Rule WO601 renumbered 2017, effective , 2017.

Rule WO5.17. Small Estates.

(a) *Personalty*

(1) When any person domiciled in Westmoreland County, Pennsylvania dies owning property (exclusive of real estate and of wages, salary or any accrued vacation benefits or pension payable under 20 Pa.C.S. § 3101, but including personal property claimed as the family exemption) of a gross value not exceeding \$50,000.00, any interested party may present a petition for the distribution of the property. The petition shall set forth:

(A) the name, date of death and domicile of the decedent, whether testate or intestate, and whether letters have been granted;

(B) if letters have been granted, to whom, the date of grant of letters, the date of the first complete advertisement of letters, if applicable, and the amount of bond, if any;

(C) the names and relationships of all beneficiaries under the will, if any;

(D) the names of the surviving spouse and next of kin if decedent died intestate as to any personalty;

(E) the names of any persons entitled to distribution who are not sui juris, with the names of their trustees or guardians and a reference to their appointment;

(F) when a family exemption is claimed out of personalty and has not previously been claimed:

- (i) by whom the exemption is claimed;
 - (ii) the name of the surviving spouse, if any, whether the family relationship was maintained, and whether spousal rights have been forfeited;
 - (iii) if the spouse is not the claimant, the names of such children as were members of the same household as the decedent at his death, indicating any who are not sui juris, or if there are no such children, the names of the parent or parents of the decedent who were members of the same household as the decedent at his death;
 - (iv) the names of any other children, heirs or beneficiaries not previously identified and the legal representatives, if any, of all not sui juris;
 - (v) a description of the property claimed and the gross value thereof; and
 - (vi) whether there is any objection to the claim, and if so, by whom.
- (G) an itemized list of the personal property owned by the decedent at date of death, and the total value thereof (the itemized list may be attached as an exhibit, with only the total listed here);

(H) an itemized statement of all disbursements made prior to filing the petition, specifying the date, amount, payee and purpose of each disbursement, and the total of all disbursements (the itemized list may be attached as an exhibit, with only the total listed here);

(I) an itemized statement of all unpaid administrative expenses, preferred and other debts, and taxes, including those due the Commonwealth of Pennsylvania, together with the total thereof (the itemized list may be attached as an exhibit, with only the total listed here);

(J) an itemized list of all claims not admitted, and the total thereof (the itemized list may be attached as an exhibit, with only the total listed here); and

(K) the names of all unpaid creditors whose claims are admitted, and of all heirs or beneficiaries not joining in or consenting to the petition.

(2) Exhibits shall be attached in the following order:

(A) the consent or joinder of all heirs, beneficiaries, creditors, sureties on any administrator's bond, and any others interested in the decedent's estate, who consent to the granting of the petition;

(B) a copy of the will, if any;

(C) proof of advertising of letters, if applicable;

(D) a receipt or statement from the Agent of the Commonwealth showing that the Pennsylvania Inheritance Tax has been paid in full, or consent to the granting of the petition;

(E) when an automobile is claimed as part or all of the family exemption, the certificate of a dealer or dealer's employee showing its market value as of the date of death;

(F) itemized lists, if not included in the body of the petition; and

(G) if the decedent attained age fifty-five (55), a letter from the Department of Human Services disclosing the amount, if any, of its claim against the estate.

(3) The petition shall be accompanied by a proposed decree, which specifically sets forth the proposed distribution.

(4) Upon presentation of the petition, the court may enter a decree without notice or with such notice or citation as the court shall direct.

Cross References: See 20 Pa.C.S. § 3102.

(b) *Personalty and realty*

(1) When any person domiciled in Westmoreland County, Pennsylvania dies owning real and personal property of a gross value not exceeding \$50,000, the personal representative, after the expiration of one year from the date of the first complete advertisement of the grant of letters, may present a petition to the court seeking approval of the representative's administration of the estate, requesting distribution of the estate assets, and further requesting discharge of the representative.

(2) The petition shall set forth the information required in Pa.O.C. Rule 5.9. In addition, the petition shall include in the appropriate paragraph:

(A) the items of real property owned by decedent and their value at the date of death;

(B) whether the decedent died intestate as to any real property; and

(C) as an exhibit, an account showing the administration and any distribution theretofore made of the estate.

Cross References: See 20 Pa.C.S. § 3531. When a family exemption is claimed out of real estate, a petition must be presented under 20 Pa.C.S. § 3123, unless all interested parties agree in writing to the valuation at which such real estate is to be awarded. See Pa.O.C. Rule 5.2.

Adopted February 1, 1996, effective May 1, 1996, renumbered from Rule WO406, effective March 30, 1998. Revised December 3, 2003, effective January 19, 2004. Rule WO407(a)(2)(G) and Rule WO7(a)(5) rescinded November 4, 2005; New Rule WO407(a)(2)(G) adopted November 4, 2005, effective December 25, 2005. Introductory paragraph of Rule WO407(a)(1) rescinded April 28, 2014; New introductory paragraph of Rule WO401(a)(1) adopted April 28, 2014, effective June 9, 2014. Rule WO407(b)(1) rescinded September 17, 2015; new rule WO407(b)(1) adopted September 17, 2015, effective November 9, 2015. Rule WO407 renumbered 2017, effective 2017.

Rule WO5.18. Petition to Compromise and Settle Minor's Claim.

A petition to compromise and settle a minor's claim shall contain, at minimum, the following averments of fact:

(a) *Description of the factual circumstances of the case.* These should include the date of the accident or injury, how the accident or injury occurred, the age of the minor at the time of the accident or injury, and identification of the defendant. If the case involves an automobile accident, the accident report should be attached.

(b) *Type of injury suffered.* Medical documentation (e.g. hospital records or a physician's report) should be attached to the petition in order to advise the court of the extent and effect of the injuries. If the medical documentation indicates there are residual effects, the petition should refer to the specific portions of the medical documentation which contain such opinions.

(c) *Medical expenses incurred.* If any portion of the medical expenses is to be deducted from the minor's share of the settlement, the petition should contain an affirma-

tion that the parents or guardians will not be reimbursed for such expenses from any other source.

(d) *Amount and terms of the proposed settlement.* The petition should clearly identify whom the attorney bringing the petition represents (i.e., the insurance company or the parent or guardian of the minor).

(e) *Statement regarding the efforts made to secure the best settlement.* Where appropriate, the petition should inform the court whether there is a question of liability and should briefly address any legal/factual issues which may impede successful litigation.

(f) An affirmation by petitioner's counsel that the settlement is the best settlement that could be obtained. (Note: This could also be in the form of an attached affidavit.)

(g) *The attorney fee arrangement.* A copy of the written fee agreement must be attached. In structured settlements, the fee must be based on the present value of the annuity.

(h) A list of any other expenses which will be deducted from the minor's share of the settlement (e.g. costs advanced for medical reports, hospital records, filing fees, etc.).

(i) The exact portion the minor is to receive.

(j) The proposed order should provide in detail the proposed distribution of funds. The proposed distribution shall conform to the distribution procedures used in the civil division, under the Pennsylvania Rules of Civil Procedure.

(k) A separate petition shall be filed for each minor, and the Clerk of the Orphans' Court shall assign separate file numbers to each such petition.

Cross References: Under Pa.R.C.P. Nos. 2039 and 2206, the following distribution procedures are used in the civil division.

1. Pursuant to Pa.R.C.P. No. 2039(b), the court shall order the proceeds paid to the guardian of the estate of the minor.

2. If there is no court-appointed guardian of the estate and the amount is not more than \$25,000, Pa.R.C.P. No. 2039(b)(1) provides that the court may (but is not obligated to) release the proceeds directly to "the guardian of the person or to the natural guardian or to the person or agency by whom the minor is maintained or to the minor."

3. If there is no court-appointed guardian of the estate and the amount is more than \$25,000, Pa.R.C.P. No. 2039(b)(2) requires that the proceeds be deposited in a federally insured savings account in the minor's name with a stipulation that no withdrawals can be made until the child reaches the age of eighteen (18) except upon prior order of court.

4. The order must include a provision that proof of the sequestered account shall be promptly filed of record.

Explanatory Comments: Despite the discretionary language contained Pa.R.C.P. No. 2039(b)(1), the court generally does not release the proceeds directly to the minor or guardian. Except in cases involving extremely small damages or unique circumstances, the court routinely requires that the funds be deposited in a federally insured savings account in the minor's name with a stipulation that no withdrawals can be made until the child reaches the age of eighteen (18) except upon prior order of court.

Adopted February 1, 1996, effective May 1, 1996. Revised December 3, 2003, effective January 19, 2004. Rule WO602 Cross References rescinded November 4, 2005; new Rule WO602 Cross References adopted November 4, 2005, effective December 25, 2005. Rule WO602 renumbered 2017, effective 2017.

Rule WO5.19. Petition to Compromise and Settle Incapacitated Person's Claim.

A petition to compromise and settle an incapacitated person's claim shall contain, at minimum, the following averments of fact:

(a) *Description of the factual circumstances of the case.* These should include the date of the accident or injury, how the accident or injury occurred, the age of the incapacitated person at the time of the accident or injury, and identification of the defendant. If the case involves an automobile accident, the accident report should be attached.

(b) *Type of injury suffered.* Medical documentation (e.g. hospital records or a physician's report) should be attached to the petition in order to advise the court of the extent and effect of the injuries. If the medical documentation indicates there are residual effects, the petition should refer to the specific portions of the medical documentation which contain such opinions.

(c) *Medical expenses incurred.* If any portion of the medical expenses is to be deducted from the incapacitated person's share of the settlement, the petition should contain an affirmation that the guardian will not be reimbursed for such expenses from any other source.

(d) *Amount and terms of the proposed settlement.* The petition should clearly identify whom the attorney bringing the petition represents (i.e., the insurance company or the guardian of the incapacitated person).

(e) *Statement regarding the efforts made to secure the best settlement.* Where appropriate, the petition should inform the court whether there is a question of liability and should briefly address any legal or factual issues which may impede successful litigation.

(f) An affirmation by petitioner's counsel that the settlement is the best settlement that could be obtained. (Note: This could also be in the form of an attached affidavit.)

(g) *The attorney fee arrangement.* A copy of the written fee agreement must be attached. In structured settlements, the fee must be based on the present value of the annuity.

(h) A list of any other expenses which will be deducted from the incapacitated person's share of the settlement (e.g. costs advanced for medical reports, hospital records, filing fees, etc.).

(i) The exact portion the incapacitated person is to receive.

(j) The proposed order should provide in detail the proposed distribution of funds. The proposed distribution shall conform to the distribution procedures used in the civil division, under the Pennsylvania Rules of Civil Procedure.

Adopted February 1, 1996, effective May 1, 1996. Rule WO603 renumbered 2017, effective 2017.

Rule WO5.20. Petition to Compromise and Settle Wrongful Death and Survival Action.

A petition to compromise and settle a wrongful death and survival action shall contain, at minimum, the following averments of fact:

(a) *Description of the factual circumstances of the case.* These should include the date of the accident or injury, how the accident or injury occurred, the age of the decedent at the time of the accident or injury, and identification of the defendant. If the case involves an automobile accident, the accident report should be attached.

(b) *Amount and terms of the proposed settlement.* The petition should clearly identify whom the attorney bringing the petition represents (i.e., the insurance company or the heirs or beneficiaries of the decedent).

(c) *Statement regarding the efforts made to secure the best settlement.* Where appropriate, the petition should inform the court whether there is a question of liability and should briefly address any legal or factual issues which may impede successful litigation.

(d) An affirmation by petitioner's counsel that the settlement is the best settlement that could be obtained. (Note: This could also be in the form of an attached affidavit.)

(e) *The attorney fee arrangement.* A copy of the written fee agreement must be attached. In structured settlements, the fee must be based on the present value of the annuity.

(f) A list of any other expenses which will be deducted from the heirs' or beneficiaries' share of the settlement (e.g. costs advanced for medical reports, hospital records, filing fees, etc.).

(g) A statement as to whether the plaintiff's decedent died intestate or with a will, and if a will was in existence, the effect of the will upon the proposed monetary distribution between wrongful death and survival actions. If a will exists, a copy must be attached as an exhibit to the petition.

(h) The exact amount of the wrongful death portion of the settlement each of the wrongful death beneficiaries is to receive.

(i) *Dependency.* Whether the parties proposed to receive funds from the wrongful death portion of the settlement were dependents of the decedent.

(j) *Survival.* How long the decedent survived after the accident.

(k) *Notice.* That notice of the presentation of the petition has been given to all of the beneficiaries named under the decedent's will, if the decedent died testate, and to the decedent's intestate heirs, whether the decedent died testate or intestate.

(l) The proposed order should provide in detail the proposed distribution of funds.

Adopted February 1, 1996, effective May 1, 1996. Rule WO604 renumbered 2017, effective 2017.

Rule WO5.21. Petitions for Allowance (Minors Settlement).

(a) All withdrawals from a minor's account require a petition for allowance.

(b) Petitions for allowance shall contain, at minimum, the following averments of fact:

(1) the facts and circumstances surrounding the origination of the minor's fund;

(2) a chronological statement of all prior petitions for allowance, including the reasons therefor, the amounts thereof, and the disposition;

(3) the age of the minor at the time the fund was created and the minor's present age;

(4) the original amount of the minor's funds and the present balance of same; and

(5) the circumstances and reasons supporting the petition for allowance.

(c) All petitions for allowance shall be accompanied by:

(1) a proposed order;

(2) a copy of the original petition for compromise and the order of distribution;

(3) copies of all prior petitions for allowance and the orders with respect to same; and

(4) substantiating documentation to support the petition for allowance.

Explanatory Comments: The court recognizes the parents' legal obligation to support and care for their child. Accordingly, when withdrawal from a minor's account is requested, the court will generally not permit the minor's funds to be used for routine parental obligations.

This Rule applies to those situations in which no guardian is appointed. For a situation in which a guardian is appointed, See Rule W05.6.

Adopted February 1, 1996, effective May 1, 1996. Rule WO605 renumbered 2017, effective 2017.

Rule WO7.2. Motion for Judgment on the Pleadings.

(a) *Requirements for filing and service of a motion for judgment on the pleadings and supporting brief at the office of the Clerk of the Orphans' Court.*

(1) The original motion for judgment on the pleadings shall be filed with the Clerk of the Orphans' Court. A supporting brief is required to be filed with a motion for judgment on the pleadings.

(2) A copy of the motion for judgment on the pleadings and a copy of the supporting brief required shall, at the time the motion is filed, be presented or mailed to the chambers of the judge assigned to the case by the party filing the motion. The judge assigned to the case shall prepare a scheduling order for oral argument, direct the filing of the original order, and give or mail a copy of that order to the moving party.

(3) Within three (3) days of receipt of the scheduling order from the judge assigned to the case, the moving party shall serve copies of the motion for judgment on the pleadings, the scheduling order and the brief on every interested party or attorney of record.

(4) The moving party shall file with the Clerk of the Orphans' Court a certificate of service of the motion, scheduling order and the brief. A copy of the certificate of service shall be mailed or delivered to the judge assigned to the case.

(b) *Filing and service requirements for briefs in opposition to the motion for judgment on the pleadings.*

(1) A party to whom a motion for judgment on the pleadings is directed shall file a brief in opposition with the Clerk of the Orphans' Court within thirty (30) days of service of the moving party's motion and brief.

(2) Within three (3) days of filing the brief, the party to whom the motion is directed shall serve a copy of the brief on every interested party or attorney of record, and shall file a certificate of service with the Clerk of the Orphans' Court.

(3) The party to whom the motion is directed shall deliver or mail a copy of the brief, along with a copy of the certificate of service, to the chambers of the judge assigned to the case on the same day the certificate of service is filed.

Adopted 2017, effective 2017.

Rule WO7.3. Motion for Summary Judgment—Briefs.

(a) *Requirements for filing and service of a motion for summary judgment and supporting brief at the office of the Clerk of the Orphans' Court.*

(1) A party intending to file a motion for summary judgment should note the requirements of Pa.R.C.P. No. 1035.2 (referenced in Pa.O.C. Rule 7.3) that the motion must be made after completion of discovery relevant to the motion, including the production of expert reports, as well as after the relevant pleadings are closed. See the explanatory comments to Pa.R.C.P. No. 1035.2

(2) A supporting brief is required to be filed with a motion for summary judgment.

(3) A copy of the motion for summary judgment and a copy of the supporting brief required shall, at the time the motion is filed, be presented or mailed to the chambers of the judge assigned to the case by the party intending to file the motion. The judge assigned to the case shall prepare a scheduling order for oral argument, file the original order, and give or mail a copy of that order to the moving party.

(4) Within three (3) days of receipt of the scheduling order from the judge assigned to the case, the moving party shall serve copies of the motion for summary judgment, the scheduling order and the brief on every interested party or attorney of record.

(5) The moving party shall file with the Clerk of the Orphans' Court a certificate of service of the motion, brief and scheduling order. A copy of the certificate of service shall be mailed or delivered to the judge assigned to the case.

(b) *Filing and service requirements for briefs in opposition to the motion for summary judgment.*

(1) Within thirty (30) days of service of the moving party's motion and brief, a party to whom a motion for summary judgment is directed shall file a brief in opposition, unless that party has requested and obtained an order of court granting leave to supplement the record pursuant to Pa.R.C.P. No. 1035.3 (incorporated into Pa.O.C. Rule No. 7.3 by reference), in which event the court shall set a briefing schedule. If an order granting such leave is not obtained, there shall be no extension of the thirty (30) day period for filing the brief or continuance of the argument to allow supplementation of the record.

(2) Within three (3) days of filing the brief, a party to whom the motion is directed shall serve a copy of the brief on every interested party or attorney of record and shall file a certificate of service with the Clerk of the Orphans' Court.

(3) A party to whom the motion is directed shall deliver or mail a copy of the brief, the required, specific response filed by that party pursuant to Pa.R.C.P. No. 1035.3 (incorporated into Pa.O.C. Rule 7.3 by reference) and a copy of the certificate of service, to the chambers of the judge assigned to the case on the same day the certificate of service is filed.

Adopted 2017, effective 2017.

Rule WO7.5. Motions Practice.

(a) Argument on contested motions will be heard in Motions Court. The trial judge assigned to a specific case will hear all motions relating to that case. Unless indicated otherwise, Motions Court shall be held each Friday at 9:00 a.m.

(b) The moving party shall serve a copy of the motion and any proposed order on every other person known to have an interest in the outcome or disposition of the matter or attorneys of record, and give written notice of the time, date and location for presentation, at least four (4) days in advance of the date when the presentation is to occur.

(c) The original motion must be accompanied by a certificate stating that a copy of the motion, proposed order and written notice has been so furnished. Failure to provide such certificate may result in the court's refusal to hear the motion.

(d) In the case of an uncontested motion, the certificate shall also state that the motion or petition is, in fact, uncontested or has the consent of all parties.

(e) Copies of complex motions shall be provided to the Court in advance. If so, the certificate shall also reflect this.

Cross References: Motions for Judgment on the Pleadings and Motions for Summary Judgment are governed by WO7.2 and WO7.3 respectively.

Adopted February 1, 1996, effective May 1, 1996. Revised December 3, 2003, effective January 19, 2004. Rule WO107(f) rescinded November 4, 2005; New Rule WO107(f) and Comment adopted November 4, 2005, effective December 25, 2005. Rule WO107(f) amended and renumbered 2017, effective 2017.

Rule WO8.2. Motions for Reconsideration.

The moving party shall present a motion for reconsideration to the court on motions day with an attached scheduling order.

Adopted 2017, effective 2017.

Rule WO10.7. Issuance of a Short Certificate After an Estate is Closed.

(a) For a period of six (6) months after the date of a decree of final distribution, small estates petition or family settlement agreement, the Register of Wills shall issue short certificates to the personal representative or attorney of record for the estate, upon request.

(b) When more than six (6) months have expired from the date of a decree of final distribution, small estates petition or family settlement agreement, the Register of Wills shall issue short certificates to the personal representative or attorney of record for the estate only after the filing of a praecipe. The praecipe shall be signed by the attorney of record or signed and verified by the personal representative and shall set forth:

(1) the caption;

(2) the reason for obtaining the short certificates;

(3) that all unpaid creditors and heirs or beneficiaries who would be affected by newly discovered assets have been notified; and

(4) if there are any newly discovered assets, that a supplemental Inheritance Tax Return will be filed.

Adopted January 7, 1999, effective February 22, 1999. Rule WO408 renumbered 2017, effective 2017.

Rule WO10.8. Family Settlement Agreements.

Before the Register of Wills accepts a family settlement agreement for filing, the family settlement agreement must be accompanied by a certification from the filing party or their counsel that no minor or incapacitated person, whose interest is not represented by a court-appointed guardian, or by a guardian, trustee or custodian appointed under the will has an interest in the decedent's estate. In the absence of such certification, the estate must proceed to audit.

Adopted November 4, 2005, effective December 25, 2005. Rule WO409 renumbered 2017, effective 2017.

Rule WO14.2. Medical Testimony—Guardianships.

(a) It is presumed that the testimony of physicians, psychologists and other medical professionals may be taken in the courtroom by speaker telephone in all guardianship cases, unless objections are filed and upheld by the court prior to the hearing.

(b) When an emergency guardianship petition is presented, the testimony of a physician or psychologist shall be taken in the courtroom by speaker telephone unless otherwise directed by order of court.

(c) All documents in a foreign language shall be translated into English. The translation shall be typed and a certificate of accurate translation shall be attached.

Cross References: See 20 Pa.C.S. § 5518 for provisions regarding testimony by qualified professionals. See 20 Pa.C.S. § 5513 regarding emergency guardianships.

Adopted February 1, 1996, effective May 1, 1996. Rule WO501 renumbered 2017, effective 2017.

Rule WO14.6. Petition.

(a) In addition to the allegations required by statute or Supreme Court Rule, all petitions for appointment of guardian shall set forth:

(1) whether or not the alleged incapacitated person is a fiduciary in any capacity;

(2) whether the alleged incapacitated person was ever a member of the Armed Services of the United States, or is receiving any benefits from the United States Veterans Administration, or its successor; and

(3) whether any other court has ever assumed jurisdiction in any proceeding to determine the incapacity of the alleged incapacitated person.

(b) The notice of the petition and hearing shall be attached as a cover sheet to a citation and petition when served upon the alleged incapacitated person, and shall be in such form as may be adopted by the Supreme Court of Pennsylvania.

(c) Unless the court directs otherwise, a copy of the notice and petition shall be given to those persons entitled to notice under 20 Pa.C.S. § 5511(a) by certified mail, return receipt requested. Proof of service shall be filed with the court at the hearing.

Cross References: See 20 Pa.C.S. § 5511(e) for current required allegations for petitions. See 20 Pa.C.S. § 5511(a) regarding the requirement of notice.

Adopted February 1, 1996, effective May 1, 1996. Rule WO501 amended and renumbered, 2017, effective 2017.

2017. Subparagraph (1) is taken from prior Rule WO19(a)(1). Subparagraph (2) is taken from prior Supreme Court Orphans' Court Rule 14.2(a)(5). Subparagraph (3) is taken from prior Supreme Court Orphans' Court Rule 14.2(a)(9).

Rule WO14.7. Petition to Invade Principal Assets (Incapacitated Persons' Estate).

A petition to invade principal assets shall be presented to the court in all situations where the guardian intends to invade the principal assets of an incapacitated person. Such petition to invade principal assets shall contain, at minimum, the following averments of fact:

(a) name, age and residence of the incapacitated person;

(b) a reference to the original date of the guardian's appointment;

(c) whether the guardian is bonded and, if so, for what amount;

(d) an itemized listing of the assets of the incapacitated person;

(e) an itemized listing of the income and expenses of the incapacitated person;

(f) a listing of the names and addresses of all creditors, and the amount due each;

(g) the purpose for the proposed invasion of principal;

(h) whether any prior petitions to invade principal assets have been presented;

(i) in those cases where the guardianship estate is expected to be insolvent, that the creditors of the incapacitated person have been notified of the presentation of the petition to invade principal assets; and

(j) the maximum amount estimated to be needed per month or per year, and the time period during which such invasion will be necessary.

Cross References: See 20 Pa.C.S. § 5536(a), which permits the expenditure of income for the care and maintenance of an incapacitated person without the necessity of court approval, but which requires court authorization for the expenditure of principal.

Explanatory Comments: Under 20 Pa.C.S. § 5536(a), court approval is required to use income for anyone other than the incapacitated person. In such cases, a petition in essentially the same form as provided by this rule should be filed.

Adopted February 1, 1996, effective May 1, 1996. Rule WO503 Renumbered 2017, effective 2017.

Rule WO14.8. Petition for Sale of Assets.

A petition for sale of assets shall be presented to the court in all situations where the guardian intends to sell real or tangible personal property of an incapacitated person. Such petition for sale of assets shall contain, at minimum, the following averments of fact:

(a) a reference to the original date of the guardian's appointment;

(b) whether the guardian is bonded and, if so, for what amount;

(c) an itemized listing of the assets of the incapacitated person;

(d) an itemized listing of the income and expenses of the incapacitated person;

(e) the reason for the proposed sale and the proposed distribution of proceeds. If the property is real estate, (i) whether the property is expensive to maintain; (ii) whether the property is occupied and/or generating income; and (iii) whether the guardian needs the proceeds for the care of the incapacitated person;

(f) if the purpose for the proposed sale is the payment of debts, a listing of the names of all creditors, and the amount due each;

(g) if the property is tangible personal property, one appraisal shall be attached. If the property is real estate, the petition shall be accompanied by a valuation of two appraisers not related to any of the parties, setting forth the fair market value of the property claimed. The appraisers shall state their profession and shall certify that by virtue of their profession, they are familiar with values of real estate in the vicinity of the subject property;

(h) if the property is the incapacitated person's residence:

(1) that the incapacitated person will not be returning to the property to live. (Indicate where the incapacitated person is currently living, i.e., nursing home, personal care home, etc.); and

(2) if a private sale, that the price is greater than could be obtained at a public sale. If not, or if the price is less than the appraisal, indicate whether a commission is being charged.

(i) notice of the presentation of the petition for sale of assets shall be given to all next of kin of the incapacitated person, whose written consents to the sale are not attached; and

(j) the proposed decree shall contain a provision regarding the posting of bond.

Cross References: See Rules 5.10 and 5.11 the Pa.O.C. Rules regarding sales of property.

See the 1949 Official Comment to 20 Pa.C.S. § 5521, which discusses 20 Pa.C.S. §§ 5151 and 5155 and the concerns regarding the sale of property.

Adopted February 1, 1996, effective May 1, 1996. Rule WO504 amended and renumbered , 2017, effective 2017.

Rule WO14.9. Petition for Compromise of Claim.

A petition for compromise of claim shall be presented to the court in all situations where the guardian proposes to compromise a claim by or against an incapacitated person. Such petition for compromise of claim shall contain, at minimum, the following averments of fact:

(a) a reference to the original date of the guardian's appointment;

(b) whether the guardian is bonded and, if so, for what amount;

(c) an itemized listing of the assets of the incapacitated person;

(d) an itemized listing of the income of the incapacitated person;

(e) a listing of the names and addresses of all creditors, and the amount due each;

(f) a concise description of the claim which is proposed to be compromised;

(g) whether any prior petitions for compromise of claim have been presented;

(h) that the next-of-kin of the incapacitated person have been notified of the presentation of the petition for compromise of claim; and

(i) in those cases where the guardianship estate is expected to be insolvent, that the creditors of the incapacitated person have been notified of the presentation of the petition for compromise of claim.

Cross References: See 20 Pa.C.S. § 5521(b), relating to the guardian's powers, duties and liabilities.

See Pa.R.C.P. No. 2051, et seq., for the settlement procedures applicable to actions commenced in the civil division.

Adopted February 1, 1996, effective May 1, 1996. Rule WO505 renumbered 2017, effective 2017.

Rule WO14.10. Reports.

(a) Guardian of the estate and guardian of the person reports required pursuant to 20 Pa.C.S. § 5521, although separate reports, shall be filed on the same date as hereinafter set forth in subsection (b). The original reports must be filed with the Clerk of the Orphans' Court, and a copy of each report must be filed with the Office of the Court Administrator, Orphans' Court Division.

(1) the Orphans' Court Administrator shall review each report; and

(2) the Orphans' Court Administrator shall bring to the attention of the court any report the contents of which do not conform to report criteria.

(b) Guardian of the person and guardian of the estate reports must be filed on each annual anniversary of the order appointing a guardian.

Adopted December 13, 2006, effective January 29, 2007. Rule WO510 renumbered 2017, effective 2017.

Rule WO15.1. Medical Testimony—Adoptions.

(a) Unless objections are filed at least ten (10) days prior, testimony in termination of parental rights proceedings of experts including physicians, psychologists and other medical professionals may be taken by two-way advanced communication technology including video conferencing equipment and speaker phones.

(b) All documents in a foreign language shall be translated into English. The translation shall be typed and a certificate of accurate translation shall be attached.

Adopted September 17, 2009, effective November 2, 2009. Rule WO305 renumbered 2017, effective 2017.

Rule WO15.2. Voluntary Relinquishment to Agency.

(a) *Court Proceedings—Voluntary Termination of Birth Mother's Parental Rights*

When the birth mother of a child petitions the court to voluntarily terminate her parental rights and alleges in her petition that the identity and/or domicile of the birth father is unknown, she shall testify, under oath, as to the circumstances of the conception including, but not limited to, a physical description of the alleged birth father, his name, nickname or alias, his occupation or alleged occupation, his home or region or origin, and any subsequent contact with him.

(b) When the proposed adoptee has been born outside the Commonwealth of Pennsylvania, any petition for adoption filed with the court shall include as exhibits thereto certified copies of all orders of court or decrees issued by a court of competent jurisdiction, which orders or decrees:

(1) terminate the parental rights of the birth parents of the child proposed to be adopted;

(2) establish rights of guardianship or custody of the child proposed to be adopted in any other person or entity other than the birth parents; and/or

(3) establish or set forth any special conditions and/or considerations concerning placement, custody or guardianship and adoption of the proposed adoptee.

Rescinded September 17, 2009; New Rule WO301 adopted September 17, 2009, effective November 2, 2009. Rule WO301(b) rescinded August 27, 2013, effective October 14, 2013. Rule WO301 renumbered 2017, effective 2017.

Rule WO15.3. Voluntary Relinquishment to Adult Intending to Adopt Child.

(a) *Court Proceedings—Voluntary Termination of Birth Mother's Parental Rights*

When the birth mother of a child petitions the court to voluntarily terminate her parental rights and alleges in her petition that the identity and/or domicile of the birth father is unknown, she shall testify, under oath, as to the circumstances of the conception including, but not limited to, a physical description of the alleged birth father, his name, nickname or alias, his occupation or alleged occupation, his home or region or origin, and any subsequent contact with him.

(b) When the proposed adoptee has been born outside the Commonwealth of Pennsylvania, any petition for adoption filed with the court shall include as exhibits thereto certified copies of all orders of court or decrees issued by a court of competent jurisdiction, which orders or decrees:

(1) terminate the parental rights of the birth parents of the child proposed to be adopted;

(2) establish rights of guardianship or custody of the child proposed to be adopted in any other person or entity other than the birth parents; and/or

(3) establish or set forth any special conditions and/or considerations concerning placement, custody or guardianship and adoption of the proposed adoptee.

Rescinded September 17, 2009; New Rule WO302 adopted September 17, 2009, effective November 2, 2009. Rule WO302(b) rescinded in part August 27, 2013, effective October 14, 2013. Rule WO302 renumbered 2017, effective 2017.

Rule WO15.4. Involuntary Termination of Parental Rights.

(a) When the proposed adoptee has been born outside the Commonwealth of Pennsylvania, any petition for adoption filed with the court shall include as exhibits thereto certified copies of all orders of court or decrees issued by a court of competent jurisdiction, which orders or decrees:

(1) terminate the parental rights of the birth parents of the child proposed to be adopted;

(2) establish rights of guardianship or custody of the child proposed to be adopted in any other person or entity other than the birth parents; and/or

(3) establish or set forth any special conditions and/or considerations concerning placement, custody or guardianship and adoption of the proposed adoptee.

Adopted September 17, 2009, effective November 2, 2009. Rule WO303(a) rescinded August 27, 2013, effective October 14, 2013. Rule WO303 amended and renumbered 2017, effective 2017.

Rule WO16.2. Abortion Confidentiality.

(a) All proceedings relating to an application shall be confidential.

(b) Upon the initial filing of the application, the court shall review the application and note any information identifying the pregnant woman (such as name and address and social security number) and shall then seal the application in an envelope, denoting on the face thereof a caption using the initials of the pregnant woman and writing an order on the face of the envelope, which shall indicate the contents of the envelope (for example, application for judicial authorization of an abortion, verification of applicant, verification of medical provider, etc.). The court shall direct that the record (application, pleadings, submissions, transcripts, exhibits, orders, evidence and any other written material to be maintained, which shall include its own findings and conclusions) be sealed. The order shall specifically state that the envelope shall remain sealed and confidential.

(c) The Clerk of the Orphans' Court shall docket the case by using a docket number only. Neither the name nor the initials of the pregnant woman shall appear anywhere upon the docket. All subsequent pleadings and exhibits shall be similarly sealed and maintained. A final decree in the matter, using only the initials of the pregnant woman, may appear on the face of a sealed envelope, but the findings of fact and memorandum opinion of the court shall be sealed.

(d) The identity of the pregnant woman shall not be disclosed in any report or decision of the proceeding.

(e) All persons shall be excluded from hearings upon the application except the pregnant woman, her attorney, her guardian ad litem, her proposed guardian (if she is alleged to be incapacitated), the proposed guardian's attorney, and witnesses of the applicant or of the applicant's attorney and guardian ad litem, or other individuals as directed by the court.

(f) The judge hearing the application shall direct all persons present at any hearing or proceeding upon the application not to disclose any information regarding the case.

Cross References: See Pa.O.C. Rule 16.2 and 16.6.

Adopted February 1, 1996, effective May 1, 1996. Rule WO202 renumbered 2017, effective 2017.

Rule WO16.10. Application for Judicial Authorization of an Abortion.

(a) Whenever the term "application" is used in the abortion sections of these rules, it shall refer to an application for judicial authorization of an abortion as set forth in (c) below.

(b) An application may be submitted by a minor, by a guardian on behalf of an incapacitated person, or by a proposed guardian on behalf of an alleged incapacitated person.

(c) An application and supporting documents shall be substantially in the form available from the judge of the Orphans' Court, and the form of verification to be signed by the applicant shall be in the form set forth in Pennsylvania Orphans' Court Rules.

(d) The application and supporting documents shall be available from the judge of the Orphans' Court.

(e) The application shall be submitted to, and filed directly with, the judge of the Orphans' Court for scheduling.

(f) The verification of medical provider required by the Abortion Control Act shall be attached to the application or shall be delivered to the court no later than 24 hours before hearing scheduled upon the application.

(g) The date of filing of the application for purposes of compliance with the Abortion Control Act shall be deemed to be the date when the application is first presented to the judge of the Orphans' Court for scheduling.

Cross References: The Abortion Control Act is set forth at 18 Pa.C.S. § 3200, et seq. See Pa.O.C. Rule 16.10.

Adopted February 1, 1996, effective May 1, 1996. Rule WO201 amended and renumbered 2017, effective 2017.

Rule WO16.11. Consent to an Abortion on Behalf of an Incapacitated Person.

(a) Whenever a person seeks judicial consent to an abortion on behalf of an alleged incapacitated person, a petition for guardianship of the pregnant woman shall be filed either before an application is filed or simultaneously therewith.

(b) A petition for guardianship or consolidated petition for guardianship and application, filed on behalf of an incapacitated pregnant woman, by a petitioner seeking authority to consent to an abortion on behalf of the pregnant woman, shall maintain the anonymity of the pregnant woman, and confidentiality shall be maintained as set forth in Rule WO16.2. If a petition for guardianship alleges that the alleged incapacitated person is in need of a guardian for the purpose of authorizing the guardian to consent to an abortion that would be in the best interests of the incapacitated person, the petition for guardianship shall contain all of the information required by Chapter 55 of the Probate, Estates & Fiduciaries Code and by the abortion sections of these rules.

(c) The court will conduct proceedings to determine the capacity of the pregnant woman in the same manner as provided for in Chapter 55 of the Probate, Estates & Fiduciaries Code, and will render a decision on the incapacity of the pregnant woman before proceeding to rule on the application.

(d) The standard for granting authority to a guardian to consent to an abortion shall be whether or not the procedure would be in the best interests of the incapacitated person.

(e) The statutory requirement that a decision by the court upon an application shall be rendered within three (3) business days of filing of the application shall apply to filing of the application and not to a prerequisite Petition for Guardianship, unless the two (2) petitions are consolidated.

Cross References: See Pa.O.C. Rule 16.1.

Pursuant to the Abortion Control Act, 18 Pa.C.S. § 3206(f)(4), decision upon an Application must be rendered within three (3) business days of the filing of the Application.

In regard to paragraph (d), the rule is in accordance with the Abortion Control Act, 18 Pa.C.S. § 3206(d).

Adopted February 1, 1996, effective May 1, 1996. Rule WO203 renumbered 2017, effective 2017.

Rule WO16.12. Guardian Ad Litem.

(a) The court shall advise the pregnant minor filing an application at the time when she files the application that she has a right to court-appointed counsel or the right to retain private counsel at her own expense, and that she has a right to appointment of a guardian ad litem, and the court shall appoint such counsel or guardian ad litem upon request of the applicant or at its discretion.

(b) The Orphans' Court shall maintain a list of qualified attorneys within the jurisdiction of the court who shall serve by court appointment as counsel for the applicant or as guardian ad litem whenever required by the Abortion Control Act or by these Rules.

(c) A guardian ad litem will be appointed by the court in all cases where it is necessary to obtain records pertaining to an adult applicant's mental capacity to request or to consent to an abortion. The guardian ad litem may act on behalf of the minor or incapacitated pregnant woman to sign authorizations to release medical records to the court.

Cross References: See 18 Pa.C.S. § 3206(e) and Pa.O.C. Rule 16.1, note.

Explanatory Comments: Records essential to the court's decision on an application on behalf of a mentally incapacitated woman should be obtained through written consent of her guardian ad litem. This rule is of particular importance in cases where a medical practitioner or family member seeks authority to consent to an abortion as the guardian of the pregnant woman. Section 106 of the Mental Health Procedures Act, 50 P.S. § 7106, provides that medical records related to proceedings under the Mental Health Procedures Act may not be released without the signed authorization of the patient and that, in no case, may confidential communications between the patient and doctor, resulting from any proceedings under the Mental Health Procedures Act, be released.

Adopted February 1, 1996, effective May 1, 1996. Rule WO204 renumbered 2017, effective 2017.

Rule WO16.13. Medical Testimony.

(a) It is presumed that the testimony of physicians, psychologists and other medical professionals may be taken in the courtroom by speaker telephone in all proceedings conducted in accordance with these rules and pursuant to 18 Pa.C.S. § 3206(c), unless objections are filed and upheld by the court prior to the hearing.

(b) Telephone testimony shall be limited to medical, psychological and other medical personnel who can provide information relevant to the emotional development, maturity, intellect and understanding of the applicant;

the fact and duration of the applicant's pregnancy; the nature, possible consequences, and alternatives to abortion; and any other relevant evidence which the court may find useful in making a determination about the applicant's ability to give informed consent pursuant to 18 Pa.C.S. § 3205 or an allegation that the abortion is in the best interests of the applicant.

(c) All documents in a foreign language shall be translated into English. The translation shall be typed and a certificate of accurate translation shall be attached.

Adopted February 1, 1996, effective May 1, 1996. Rule WO205 renumbered 2017, effective 2017.

Rule WO16.14. Testimony of Applicant's Parents.

The parents of a minor seeking judicial authorization of an abortion may be given an opportunity to be heard, within the discretion of the court, provided said opportunity to be heard does not delay the hearing on the application beyond the time period described by statute, unless the applicant objects to disclosure of her pregnancy to her parents.

Adopted February 1, 1996, effective May 1, 1996. Rule WO206 renumbered 2017, effective 2017.

Rule WO16.15. Transcript of Testimony.

A record of all proceedings before the court upon an application shall be made as a matter of course, and shall be transcribed, insofar as is practicable and necessary to meet the requirements for a prompt appeal, on the same day as the proceeding is conducted.

Explanatory Comments: An applicant for judicial consent to an abortion is entitled to an appeal directly to the Pennsylvania Superior Court after an adverse decision rendered by the Court of Common Pleas. The appeal must be heard within five (5) days. Other time constraints related to gestational age of the fetus may make it imperative that a transcript be prepared expeditiously.

The Pennsylvania Rules of Appellate Procedure, Rule No. 3804, requires that the court reporter, without charge to the applicant, transcribe the notes of testimony and deliver them to the Clerk of the Orphans' Court by 5:00 o'clock P.M. on the business day following receipt of the notice of appeal to the Superior Court.

Cross References: See 18 Pa.C.S. § 2306(f)(4).

Adopted February 1, 1996, effective May 1, 1996. Rule WO207 renumbered 2017, effective 2017.

[Pa.B. Doc. No. 17-706. Filed for public inspection April 28, 2017, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Administrative Suspension

Notice is hereby given that the following attorneys have been Administratively Suspended by Order of the Supreme Court of Pennsylvania dated March 14, 2017, pursuant to Rule 111(b) Pa.R.C.L.E., which requires that every active lawyer shall annually complete, during the compliance period for which he or she is assigned, the continuing legal education required by the Continuing Legal Education Board. The Order became effective April 13, 2017 for Compliance Group 2.

Notice with respect to attorneys having Pennsylvania registration addresses, which have been transferred to inactive status by said Order, was published in the appropriate county legal journal.

Battle, Jennifer A. L.
Columbus, OH

Bloom, David Steven
Henderson, NV

Brooks, James Ronald
Baltimore, MD

Frier, Daniel Barnert
Pine Brook, NJ

Garson, Wesley Michael
Baltimore, MD

Joyce, Patrick Charles
Hammonton, NJ

Levy, Adam Eli
Berlin, NJ

McPherson, Kenneth Everett
Riverdale, MD

Sahai, Manjari
Chaska, MN

Tracy, Daniel George
Egg Harbor Township, NJ

Watson, Monica Nicole
Voorhees, NJ

SUZANNE E. PRICE,
Attorney Registrar
The Disciplinary Board of the
Supreme Court of Pennsylvania

[Pa.B. Doc. No. 17-707. Filed for public inspection April 28, 2017, 9:00 a.m.]