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**LOCAL RULES
ORPHANS' COURT DIVISION**

**RULE O.C.L14.
GUARDIANSHIP OF INCAPACITATED PERSONS**

Rule O.C.L14.2.1 Adjudication of Incapacity and Appointment of a Guardian of the Person and/or Estate of an Incapacitated Person. Petition.

A petition to adjudicate a person incapacitated and to appoint a guardian shall set forth:

- (a) All matters required by Pa.O.C. Rule 14.2;
- (b) Whether the petition seeks limited or plenary guardianship, and what powers are sought for a limited guardian;
- (c) Whether the proposed guardian wishes approval of any initial expenditures of funds at the hearing;
- (d) Whether the alleged incapacitated person executed a durable Power of Attorney and the name and current address of the attorney in fact;
- (e) Whether the alleged incapacitated person executed a Will or other testamentary document and the location of the original document;
- (f) Whether the alleged incapacitated person executed a Living Will, advance health care directive or similar document and the location of the original document;
- (g) The name of the attorney who has represented the person in the recent past; and
- (h) Where appropriate state therein the name of the proposed guardian and if an individual, the relationship, if any, to the alleged incompetent; any fee arrangements and costs to be paid the proposed fiduciary and any interest the proposed fiduciary may have to the incompetent's estate, if any.

Rule O.C.L14.2.2 Adjudication of Incapacity and Appointment of a Guardian of the Person and/or Estate of an Incapacitated Person. Hearing.

The Court shall fix a date for hearing which shall not be less than ten (10) days after the service of the petition and citation.

The petition shall comply with all of the mandates of Pa.O.C. Rule 14.2; however, if it is alleged that the incompetent is unable to attend court for any reasons, the petitioner, at time of hearing, must make a part of the record a physician's report dated within ten (10) days of the hearing that the physician has examined the alleged incompetent and in the medical opinion of the

physician the incompetent is not physically able to attend the hearing or if did attend would not be communicative or recognize the nature of the proceedings.

At the hearing the Court shall determine the amount, if any, of a bond to be placed by the fiduciary with the Court and the nature thereof.

Rule O.C.L14.2.3 Adjudication of Incapacity and Appointment of a Guardian of the Person and/or Estate of an Incapacitated Person. Qualifications of the Guardian.

(a) The class of persons from which a guardian may be appointed shall be as set forth at 20 Pa.C.S.A. § 5511(f).

(b) Non-residents: The Court, except in special circumstances, will not appoint non-residents as guardians of the estate of incapacitated persons residing within the county.

Rule O.C.L14.3.1 Review Hearing. Petition.

A petition to adjudicate whether there has been any significant change in the capacity of a person who was formerly adjudicated to be incapacitated shall set forth:

(a) All matters required by Pa.O.C. Rule 14.3;

(b) The name and location of the court which adjudicated incapacity; and

(c) Whether the former incapacitated person is capable of conducting his/her own affairs and whether he/she would be beyond reach of designing persons.

The petitioner may be the incapacitated person, the guardian, the spouse of the incapacitated person, a relative, a creditor, a debtor, or any person interested in the welfare of the incapacitated person.

Rule O.C.L14.3.2 Review Hearing. Hearing.

A hearing shall be set by the court not less than twenty (20) days after service of the petition and notice of hearing.

**RULE O.C.L15.
ADOPTIONS**

Rule O.C.L15.1.1 Local Rules. Practice and Procedure.

(a) All papers in adoption matters including petitions for voluntary and involuntary relinquishment shall be filed with the Clerk who shall thereafter submit the appropriate order to the Court Administrator to fix a hearing date on the proceedings.

(b) All adoption petitions shall be filed with the Clerk forty-five (45) days prior to the scheduled hearing date.

(c) No petition for adoption shall be presented by the Clerk for hearing thereon if it is not in conformity with and have attached thereto all mandatory information of abuse of children record or other information required.

Note: See 23 Pa.C.S.A. § 2530 as to requirements for Home Study and Preplacement Report; see also 23 Pa.C.S.A. § 2531 as to requirements for Report of Intention to Adopt; see also 23 Pa.C.S.A. § 2711 as to requirements for Consents Necessary to Adoption. Notice does not need to be provided to any parent whose parental rights have been terminated by petition to confirm adoption. See 23 Pa.C.S.A. § 2535, § 2724 and § 2533.

(d) At time of hearing counsel shall attach a copy of all costs and counsel fees, as well as any other expenses incurred, to be paid by the adoptors.

(e) The adoptee (adoptees) shall be available for court review at the time of adoption.

Rule O.C.L15.5.1 Adoption.

A petition for adoption shall have attached thereto a proposed preliminary order scheduling the adoption hearing. At the time of the hearing, the attorney for petitioner shall submit to the Court a proposed decree of adoption.

Rule O.C.L15.6.1 Notice: Method and Time.

(a) In proceedings under Pa.O.C. Rule 15.4 the attorney for petitioners shall make a good faith effort to determine the address and identity of each parent and to provide notice of the proceedings. In adoption proceedings under Pa.O.C. Rule 15.5 notice of the proceedings shall also be given to any persons who have custody pursuant to a valid Court Order.

(b) Notice of the involuntary termination petition and hearing shall be served on the natural or putative father whose identity and/or whereabouts cannot be ascertained or on a mother whose identity and/or whereabouts cannot be ascertained by publication in the form and manner approved by the Court following presentation of a separate Motion for Service by Publication and Affidavit of Diligent Search as required by Pa.R.C.P. 430.

(c) A motion for service by publication upon a natural or putative father must aver that the natural mother does not know the identity and/or whereabouts of the natural or putative father; must include his last known address, if known; and must also specify all attempts made by the petitioner to determine the correct identity and/or address of the natural or putative father. *See also 23 Pa.C.S.A. § 2512(c).*

(d) Publication shall include, as a minimum, the contents of the notice required by 23 Pa.C.S.A. § 2513(b). Proof of publication shall be submitted to the Court prior to the hearing.