

IN THE SUPREME COURT OF PENNSYLVANIA

In Re: Amendment to Orphans' Court : NO. 214 SUPREME COURT
Rules 14.1 – 14.4 :
:
:
: RULES DOCKET NO. 1

ORDER

PER CURIAM:

NOW, this 23rd day of December, 1998, upon the recommendation of the Orphans' Court Procedural Rules Committee; the proposal having been published for adoption at 25 Pa. Bulletin 5505 (December 2, 1995):

IT IS ORDERED pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 14.1 – 14.4 are amended, all in the following form.

This **ORDER** shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective January 1, 1999.

Note: Material to be deleted is in brackets.
Material to be added has been underlined.

PROPOSED AMENDMENTS TO ORPHANS' COURT RULES 14.1-14.4

RULE 14. [INCOMPETENTS' ESTATES] GUARDIANSHIP OF INCAPACITATED PERSONS

RULE 14.1 LOCAL RULES

The practice and procedure with respect to [incompetents' estates] incapacitated persons' shall be as prescribed by local rules which shall not be inconsistent with [Rules 2 and 3 hereof] Rules 14.2-5.

RULE 14.2

Rule 14.2 is repealed and replaced with the following.

RULE 14.2 ADJUDICATION OF INCAPACITY AND APPOINTMENT OF A GUARDIAN OF THE PERSON AND/OR ESTATE OF AN INCAPACITATED PERSON

A petition to adjudicate incapacity shall meet all requirements set forth at 20 Pa.C.S. § 5511. A citation and notice in the form set forth in Rule 14.5 shall be attached to and served with a petition. The procedure for determination of incapacity and for appointment of a guardian shall meet all requirements set forth at 20 Pa.C.S. §§ 5512 and 5512.1.

RULE 14.3 [ADJUDICATION OF COMPETENCY] REVIEW HEARING

A petition [to adjudicate that a person previously adjudged incompetent has become competent] for a review hearing shall set forth:

- (1) the date of the adjudication of [incompetency] incapacity;
- (2) the name and address of the guardian;
- (3) if the [incompetent] incapacitated person has been a patient in a mental hospital, the name of such institution, the date of [his] admission, and the date of discharge;
- (4) the present address of the [incompetent,] incapacitated person and

the name of the person with whom [he] the incapacitated person is living;

(5) the names and addresses of the [next of kin] presumptive adult heirs of the [incompetent] incapacitated person; and

(6) an averment that [the mental health of the incompetent has been restored] (i) there has been significant change in the person's capacity; (ii) there has been a change in the need for guardianship services; or (iii) the guardian has failed to perform duties in accordance with the law or act in the best interest of the incapacitated person.

Note: See 20 Pa.C.S. § 5512.2.

RULE 14.4 PROCEEDINGS RELATING TO REAL ESTATE

A petition for the public or private sale, exchange, lease, or mortgage of real estate of an [incompetent] incapacitated person or the grant of an option for the sale, exchange or lease of the same shall conform as far as practicable to the requirements of these rules for personal representatives, trustees and guardians of minors in a transaction of similar type.