

CHAPTER II. ACCOUNTS, OBJECTIONS AND DISTRIBUTIONS

Rule 2.5A Notice of Account Contents

The notice of account shall also contain the following in substantively similar form:

- (a) The account has been filed with the Clerk of the Orphans' Court Division;
- (b) Any objections to the account must be made in writing and filed with the Clerk of the Orphans' Court Division any time prior to the date set forth for submission by the Clerk to the Court for review but no later than the close of business of the last business day prior to the submission to the Court;
- (c) The account will be submitted to the Court on the ____ day of ____ and final confirmation thereof and an adjudication may be entered if written objections are not filed with the Clerk prior to that date; and
- (d) A statement that if the person does not agree with the accountant's accounting or has an objection to any transaction shown in the account or omitted from the account the person must file with the Clerk of the Orphans' Court Division objections thereto in writing in conformity with the Pennsylvania Orphans' Court Rules and the Berks County Orphans' Court Rules, otherwise the court may assume the person has no objections to the account and he or she is in agreement with the accountant's interpretation.

Rule 2.6A Required Documents

No account shall be accepted for filing and advertisement unless accompanied by the Supreme Court-approved Petition for Adjudication/ Proposed Statement of Distribution.

Rule 2.6B Advertising of Accounts

The Clerk shall advertise the list of all accounts to be submitted for audit for two (2) consecutive weeks the last two (2) Thursdays of every month all accounts filed with the Clerk prior to the date of submission to the Court. The advertising required of the Clerk shall include the following:

- (a) Name of the estate, trust, guardianship;
- (b) The name and capacity of the accountant;
- (c) The name of the counsel for the accountant; and
- (d) With the following statement: The following accounts have been filed and may be examined in the Clerk of the Orphans' Court office. If you desire to object, you must file objections in writing with the Clerk on or before the close of business of the last business day before submission to the Court. The account will be filed by the Clerk of the Orphans' Court Division with the Court for adjudication and confirmation on the first Wednesday of the month

following advertisement and distribution may be ordered or authorized without further notice if no objections are filed prior to that date.

Rule 2.6C Submission of Account to the Court

On the first Wednesday of every month, the Clerk shall submit to the Court all advertised accounts and petitions for adjudication and additional documentation, if any, to which no objection has been filed or hearing requested or required. The Court shall audit those accounts and may then confirm the accountings finally, order a hearing, or enter any adjudication, decree, order or award directing distribution as law and justice may require. The Clerk shall also submit to the Court a list of all advertised accounts to which an objection was filed or a hearing has been requested. A conference or hearing will then be scheduled in regard to those accounts as the Court by special rule or general order may direct with notice given to all counsel of record and to such other persons as the Court may direct.

Rule 2.7A Objections to Accounts or Petitions for Adjudication/Statements of Proposed Distribution – Order

(a) Objections to accounts may be made at any time prior to the close of business on the first Tuesday of each month (or the first Monday of each month should the first Tuesday of each month be a holiday) to the Court by the Clerk by filing such objections in writing in the Clerk of the Orphans' Court Division.

(b) Objections to an account not filed for submission to the Court, of an account filed without a Petition for Adjudication/Statement of Proposed Distribution or ordered by the Court shall be filed within twenty (20) days from service of a copy of the account filed with the Clerk.

(c) A proposed order for the scheduling of a reply date and a status conference or hearing date shall be attached to all objections to accounts or Petitions for Adjudication/Statements of Proposed Distribution. The proposed order shall be in the following form:

(CAPTION)

ORDER

AND NOW, (month)_____, 20___, upon consideration of the foregoing objections filed in the above-captioned matter, it is hereby ORDERED that:

(1) Accountant shall file a Response to the Objections within _____ days of this Order;

and

(2) A status conference shall be held on _____, 20___ at _____ a.m./p.m. in the chambers of the undersigned.

OR

(3) A hearing is to occur on the _____, 20___ at _____

_____ .a.m./p.m. in a courtroom to be assigned in Berks County Courthouse/Services Center located at 6th and Court Streets, Reading, Pennsylvania.

Counsel are directed to meet prior to this conference/hearing to reduce fact questions and legal issues to a minimum; and, further shall be authorized to settle at said meeting and later conference/hearing.

BY THE COURT:

, J.

CHAPTER XIV. GUARDIANSHIPS OF INCAPACITATED PERSONS

Rule 14.1A Allowances From an Incapacitated Person's Estate.

(a) In General. Petitions for allowances from an incapacitated person's estate, when necessary, shall be governed by the appropriate provisions of B.C.O.C.R. 5.6A, and as hereinafter provided.

(b) Contents of Petition. The petition shall set forth the following:

- (1) the name of the guardian, the date of the guardian's appointment, if the petitioner is not the guardian, petitioner's relationship to the incapacitated person, and, if not related, the nature of the petitioner's interest;
- (2) a summary of the inventory, the date it was filed and the nature and present value of the estate;
- (3) the address and the occupation, if any, of the incapacitated person;
- (4) the names and addresses of the incapacitated person's dependents, if any;
- (5) a statement of all claims of the incapacitated person's creditors, known to the petitioner;
- (6) a statement of the requested distribution and the reasons therefor; and
- (7) a statement of all previous distributions allowed by the court.

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

Rule 14.3A Evaluation

If a petition to adjudicate an individual as an incapacitated person is filed with a request that the alleged incapacitated person be directed to submit to an evaluation of his or her capacity, the petitioner shall propose a specific expert to conduct the evaluation. No evaluator shall be proposed without first obtaining the proposed evaluator's consent to serve.

Rule 14.4A Representation of alleged incapacitated person

No petitioner or person alleged to have been acting against the best interests of the alleged incapacitated person shall attempt to obtain counsel for an alleged incapacitated person, except that a petitioner may contact an attorney who is known to the petitioner to have a previous professional relationship with the alleged incapacitated person. The Area Agency on Aging is exempt from the restriction of seeking counsel for the alleged incapacitated person to the extent such practice is required by statute or regulation. If the alleged incapacitated person or non-petitioning next of kin do not obtain counsel for the alleged incapacitated person, the court shall appoint counsel in its discretion upon receipt of the notification required by 20 Pa. C.S.A. § 5511(a).

Rule 14.8A Mental Health Commitment Form

Promptly upon appointment, a court-appointed guardian shall submit a completed Commonwealth of Pennsylvania Notification of Mental Health Commitment (Form SP 4-131) to the court.

Rule 14.8B Guardian Acknowledgment

Promptly upon appointment, a court-appointed guardian shall initial, sign and file a Guardian Acknowledgment of Duties and Liabilities form, as follows:

IN RE: : IN THE COURT OF COMMON PLEAS
an incapacitated person : OF BERKS COUNTY, PENNSYLVANIA
: ORPHANS' COURT DIVISION
: No.

GUARDIAN ACKNOWLEDGMENT OF DUTIES AND LIABILITIES

I, the undersigned court-appointed guardian, acknowledge that as guardian I have broad, but not unlimited, powers, duties, and liabilities as set forth generally in 20 Pa.C.S.A. §5501 et seq. and more specifically acknowledge my duties and liabilities under 20 Pa.C.S.A. §5521 and as follows:

As Guardian of the Person, I shall:

- Assert the rights and best interests of my ward. _____
- Respect to the greatest possible extent my ward's expressed wishes and preferences. _____
- Where appropriate, develop a plan of supportive services to meet my ward's needs. _____
- Encourage my ward to participate in all decisions which affect my ward, to act on his or her own behalf whenever he or she is able to do so, and to develop or regain, to the maximum extent possible, capacity to manage his or her personal affairs. _____

As Guardian of the Estate, I shall:

• Take possession of, maintain, and administer each asset of my ward, and make all reasonable expenditures and efforts to preserve the estate. _____

• Within three months, file an inventory of my ward's real and personal property and a statement of any property that I expect to acquire thereafter. _____

In addition to the above duties, as Guardian (either of the person or the estate), I shall:

• Exercise my powers for the benefit of my ward. _____

• Keep the ward's assets separate from my assets _____

• Exercise reasonable caution and prudence. _____

• Keep a full and accurate record of all actions, receipts, and disbursements on behalf of the ward. _____

• File an annual report on forms available in the Register of Wills/Clerk of the Orphans' Court attesting to the information required by 20 Pa.C.S.A. §5521(c). I shall file a final report within 60 days of my ward's death or adjudication of capacity. _____

• Report any change of my address to the court within ten (10) days. _____

As Guardian of the person and/or the estate, I understand and acknowledge that any breach of my duty to my ward, such as but not limited to asset misappropriation, may result in civil and even criminal liability. _____

Date: _____

Guardian's Signature: _____