

**SUPREME COURT OF PENNSYLVANIA  
ORPHANS' COURT PROCEDURAL RULES COMMITTEE**

**EXPLANATORY REPORT**

**Proposed Adoption of New Pa.O.C. Rule 14.6 and Form G-05**

In 2014, the Elder Law Task Force delivered a comprehensive 284-page report detailing 130 specific recommendations to help lay the foundation for improvements in tackling elder law issues in the courts and by other government entities. The report contained a number of specific recommendations for amendment of the Orphans' Court Procedural Rules. Those recommendations are currently under consideration by the Committee. The report also suggested modification of current statewide forms for guardianship matters and the addition of several new forms to assist in monitoring guardianships.

In 2015, the Committee published for comment the proposed rescission and replacement of several guardianship forms, as well as the addition of several new forms. 45 Pa.B. 1070 (March 7, 2015). One of the proposed forms was a "Deposition of Written Interrogatories of Physician or Licensed Psychologist," which was intended to be completed by the evaluator and reflect the evaluator's assessment of the capacity of the alleged incapacitated person. In uncontested matters, this form could be submitted to the court in place of sworn testimony. With this form, it is intended that the evaluator could be relieved of the burden of testifying in person, as well as avoiding unnecessary fees in uncontested cases. Moreover, the need for one less witness to appear would ease scheduling difficulties. This form is not intended to replace the need for live testimony in contested cases.

Currently, an expert is permitted by statute to submit his or her evaluation by deposition in lieu of live testimony, 20 Pa.C.S. § 5518; however, the form for providing this evaluation by written deposition varies by county. The proposed form would become a mandatory statewide form to be used by each and every evaluator who is providing testimony by deposition regarding the capacity of an alleged incapacitated person where incapacity is uncontested.

The Committee reviewed the comments received from the prior publication of this form, formed a subcommittee, and invited a physician and practitioners in the field to participate. After much deliberation, the now-titled "Deposition by Written Interrogatories" was substantially revised.

With sincere appreciation for the volunteer efforts of the subcommittee, the Committee has accepted the revised form to be published anew for comment. The

Committee also proposes a new Rule 14.6 to implement this form, establish the circumstances in which it may be used, and provide commentary guiding its intended use. The Committee invites the bench, bar, and public to submit their comments, suggestions, or objections to this proposal.

During the interim, the Committee continues its efforts to develop more comprehensive statewide rules and forms for guardianship proceedings. These rules and forms will be published for comment at a later date.