

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

NOTICE OF PROPOSED RULEMAKING

**Proposed Rescission and Replacement of Forms G-02, G-03, and G-04, and
Proposed Adoption of Forms G-05 and G-06**

The Orphans' Court Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania the rescission and replacement of Forms G-02, G-03, and G-04, and the adoption of Forms G-05 and G-06, governing guardianships, for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

**Lisa M. Rhode, Counsel
Orphans' Court Procedural Rules Committee
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
PO Box 62635
Harrisburg, PA 17106-2635
FAX: (717) 231-9551
orphanscourtproceduralrules@pacourts.us**

All communications in reference to the proposal should be received by **April 10, 2015**. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

By the Orphans' Court Procedural Rules Committee,

JOHN F. MECK, ESQ.
Chair

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

EXPLANATORY REPORT

Proposed Rescission and Replacement of Orphans' Court Forms G-02, G-03, and G-04, and Proposed Adoption of Forms G-05 and G-06

In 2013, the Supreme Court of Pennsylvania constituted a 38-member Elder Law Task Force to formulate a plan for substantive improvements in the way Pennsylvania's court system interacts with elders, including the topics of guardianship, elder abuse and neglect, and overall access to justice. In 2014, the Task Force delivered a comprehensive 284-page report detailing 130 specific recommendations to help lay the foundation for improvements in tackling issues in the courts and by other government entities. The report in its entirety can be viewed at:

<http://www.pacourts.us/courts/supreme-court/committees/supreme-court-boards/elder-law-task-force>

The report contained a number of specific recommendations for amendment of the Orphans' Court Procedural Rules. The 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.

Herein, the Committee proposes to rescind and replace the following forms with those recommended by the Task Force:

- Form G-02 Annual Report – Guardian of Estate
- Form G-03 Annual Report – Guardian of Person
- Form G-04 Guardian's Inventory

The proposed modifications are not limited to format improvements. The amended forms are intended to enhance the amount and type of information collected from guardians to allow closer monitoring of guardianship activity. The Task Force observed, and the Committee concurs, that more information collected at the beginning of the guardianship can alleviate later problems after the guardian assumes his or her duties.

The Committee proposes to add the following new forms:

- Form G-05 Certificate of Filing
- Form G-06 Deposition of Written Interrogatories of Physician or Licensed Psychologist

The goal of the proposed Certificate of Filing form is to facilitate best practices identified by the Task Force. The objective of this form is to facilitate information sharing among interested parties, while protecting the privacy and best interests of the incapacitated person. Per the recommendations from the Elder Law Task Force, it would become a best practice for the judge at the time a guardian is appointed, to identify the interested parties entitled to notice from the guardian that a required report has been filed with the court.

The Certificate of Filing is a proposed new statewide form available for guardians to use in order to certify on the court docket that the guardian has provided such notice of filing to the interested parties. The Certificate of Filing form instructs the recipient that a copy of the Certificate along with proper identification will be required to access and view the filed documents. Also included in Instructions for Document Access is a section to be modified locally to set forth the county-specific process for requesting documentation.

The purpose of the proposed Deposition of Written Interrogatories of Physician or Licensed Psychologist form is to facilitate another best practice identified by the Task Force. The form is 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 may be submitted to the court in the place of sworn testimony. With this form, it is believed that the evaluator can 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 should ease scheduling difficulties. This form is not intended to replace the need for live testimony in contested cases.

Currently, a licensed psychologist or treating physician 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 of this written deposition (or interrogatories) varies by county. The proposed form included in this proposal 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.

Through the formal rulemaking process, the Committee will consider at a later time whether these best practices should be codified as requirements under the

procedural rules. During the interim, these new forms are proposed to be made available for statewide use.

The Committee invites the bench, bar, and public to submit their comments, suggestions, or objections to this proposal.