

Rule 14.2. Petition for Adjudication of Incapacity and Appointment of a Guardian of the Person or Estate of an Incapacitated Person

Local Rule 14.2(a)(17). Petition Contents

In addition to the contents itemized in Rule 14.2(a), the Petition shall also set forth one of the following averments:

- (i) That petitioner is aware that counsel has been retained by the alleged incapacitated person and the identity of such counsel;
- (ii) That petitioner is unaware of any counsel representing the alleged incapacitated person and reasonably believes that counsel should be appointed;
- (iii) That the petitioner is aware that the alleged incapacitated person has requested appointment of counsel; or
- (iv) That the petitioner has no knowledge regarding whether the alleged incapacitated person is represented or has requested appointment of counsel.

Local Rule 14.2(b-1). Required Certification and Criminal Background Check of Guardians.

Any person or entity seeking appointment by the Court of Common Pleas of Montgomery County, Orphans' Court Division, as a guardian (whether of person or estate) shall meet the following requirements:

- (1) If not identified in the initial Petition for Adjudication of Incapacity and Appointment of a Guardian, any proposed guardian shall provide the information required in Rule 14.2(b) to the Court at or prior to the hearing, including the certified response to a Pennsylvania State Police criminal record check issued within six months prior to the date provided to the Court.
- (2) Every "Professional Guardian", as defined in paragraph (3) of this Local Rule, shall comply with the following Certification Requirements for Professional Guardians:
 - (a) become certified by the Center for Guardianship Certification on or before January 1, 2020, including:

- i. meeting all minimum eligibility requirements for certification which are set by the Center for Guardianship Certification including, but not limited to, submitting to a criminal background check, ensuring proof of work experience, and verifying proof of educational experience; and
 - ii. successfully completing the National Certified Guardian Exam on or before January 1, 2020.
- (b) maintain certification through recertification every two (2) years, as required by the Center for Guardianship Certification;
- (c) file evidence of current certification with the Court as an exhibit to a consent to serve as guardian in any case commenced after January 1, 2020; and
- (d) be responsible for any and all applicable fees for becoming and remaining a certified guardian, unless otherwise directed by this Court.
- (3) For purposes of this Local Rule, a “Professional Guardian” is defined as any individual or entity appointed as a guardian for three (3) or more incapacitated or partially incapacitated adults (excluding appointments as a guardian for a family member), by this Court and by any other court;
- (4) When a Professional Guardian is an entity, the principal of the entity and the person or persons to have direct responsibility for the alleged incapacitated person shall comply with the requirements of paragraph (2) of this Local Rule;
- (5) The Court shall have discretion to waive the requirements of paragraph (2) if the proposed guardian can produce a comparable current certification in a related field. A petitioner, proposed guardian or other interested party may file a petition for waiver of certification with respect to a proposed guardian.
- (6) Effective Date: The certification requirements of this Local Rule 14.2(b) will be effective for all guardians appointed following a hearing upon a petition filed on or after January 1, 2020.

Local Rule 14.2(c)(5)-(6). Exhibits.

In addition to the exhibits specified in Rule 14.2(c), Petitioner shall attach to the Petition for Adjudication of Incapacity the following:

- (5) Any expert report evaluating the capacity of the alleged incapacitated person, if available at the time of the filing of the Petition. If the report cannot be attached to

the petition, the petitioner must include an averment explaining why the report cannot be attached, and the report, if subsequently available, must be filed with the Clerk of the Orphans' Court at least ten (10) days prior to the hearing;

- (6) An affidavit of excuse signed by a physician who examined the alleged incapacitated person, if the physician concludes that it would be harmful for the alleged incapacitated person to attend the hearing in person. If the petitioner intends to file such an affidavit of excuse and it is not available at the time the petition is filed, such affidavit of excuse shall be filed with Clerk of the Orphans' Court at least ten (10) days prior to the hearing. Any such affidavit of excuse shall specify whether it would be harmful for the incapacitated person to attend the hearing in person and whether it would be harmful or possible for the incapacitated person to participate in the hearing by video conference from his or her residence or other location.

Local Rule 14.2(f). Notice.

At least 20 days before the hearing date, Petitioner shall serve a copy of the Petition and the Preliminary Decree setting a hearing date on any counsel known to represent the alleged incapacitated person.