



**Michigan Supreme Court**  
**State Court Administrative Office**  
**Trial Court Services Division**  
Michigan Hall of Justice  
P.O. Box 30048  
Lansing, MI 48909

September 22, 2008

MICHIGAN COURT FORMS COMMITTEE  
Probate Section  
Minutes of September 4, 2008 Meeting

Present: George M. Strander, Ingham County Probate Court (chair)  
Douglas G. Chalgian, Elder Law Section  
Pamela Jarvis, Barry County Probate Court  
Michael J. McClory, Wayne County Probate Court  
Harold G. Schuitmaker, Probate and Estate Planning  
Hon. Kenneth Tacoma, Wexford County Probate Court  
Marlaine C. Teahan, Probate and Estate Planning Council  
Velma Weston, Kalamazoo County Probate Court  
Amy L. Byrd, State Court Administrative Office (staff)  
Traci R. Gentilozzi, State Court Administrative Office (staff)  
Leslie Sauerbrey, State Court Administrative Office (staff)

Absent: Hon. R. Terry Maltby, Sanilac County Probate Court

---

Meeting called to order at 9:30 a.m.

Introductions were made. Attorney Marlaine Teahan was introduced as the committee replacement for Joan Von Handorf.

**A. General and Estate Forms**

**1. MC 316, Order for Change of Venue**

The committee considered a suggestion to revise this form so it can be used in the probate court and the family division of circuit court. The committee decided not to revise the form because PC 608, Petition and Order to Change Venue, can be used.

The form was unchanged.

2. **PC 572, Letters of Authority**

The committee discussed whether the date as to the full force and effect of the letters referred to in the certification should refer instead to the date the letters were signed by the judge. Committee members noted that the date of the certification indicates that the letters are in full force and effect on the date of certification. The committee expressed concern that if the date was changed to the date signed by the judge, the intent of the certification would be compromised. The committee decided the date of certification should not refer to the date the judge signed the letters.

The form was unchanged.

3. **PC 582, Selection of Homestead Allowance and Exempt Property**

Notice was provided to the committee that FAM is the only JIS code that will remain on the form.

The form was approved as revised.

4. **PC 583 and PC 584, Account of Fiduciary**

The committee considered whether to add a check box in the title for indicating an amendment to an account. Committee members agreed that “amended” is often handwritten on the form already and a checkbox would be beneficial. **Staff Note:** For consistency with PC 583, the caption for the date in item 1 on PC 584 was changed to “Month, day, year.”

In addition to PC 583 and PC 584, the committee decided an “amended” checkbox should be added to the Inventory form, PC 577. **Staff Note:** PC 674 will be revised accordingly for consistency purposes.

All three forms were approved as revised.

5. **PC 599, Memorandum of Administrative Closing**

The committee discussed whether this form can be used where both the guardian and the ward have left the state. The committee noted the court has continuing jurisdiction pursuant to EPIC no matter where the guardian and ward reside. Certain committee members explained that administrative closing does not automatically occur when the guardian and ward leave the state, but rather when letters of guardianship are received from another state. Another method utilized to administratively close a guardianship file is to provide the guardian a 30-day notice, stating that the letters from the other state must be produced within 30 days or else the matter will be administratively closed.

After much discussion regarding court procedures, committee members agreed this form should not be changed at this time, particularly since there is no statute or court

rule that directly addresses this situation. In making this decision, the committee looked specifically at MCR 5.144(A)(2) and decided it could be interpreted several ways.

Because the court rule is subject to various interpretations, the issue was tabled and the matter was referred for court rule amendment.

The form was unchanged.

**6. PC 600, Notice of Deficiency**

The committee decided that because there is an inventory form for conservatorships (PC 674), a checkbox should be added to the Notice of Deficiency to advise the fiduciary to file PC 577 or PC 674. The Notice of Deficiency will read “Your ‘Inventory’ has not been filed.  PC 577  PC 674 must be filed at once.”

**Staff Note:** The word “Form” was placed before “PC 577” and “PC 674” in checkbox two for consistency purposes. In addition, the word “form” was placed before “PC 654” in checkbox five, and before “PC 634” in checkbox six.

Committee members also noted that the letter “i” in “Inventory” needs to be capitalized, and the change was made.

The form was approved as revised.

**B. Guardianship and Conservatorship Forms**

**7. PC 632, Order Appointing Temporary Guardian of Incapacitated Individual**

The committee considered a suggestion to add an option to the order indicating whether the petition was granted, denied on the merits, or dismissed/withdrawn. The committee noted this suggestion would require a change in the title of the form and the addition of a finding by the court that the individual is not in need of a guardian.

After much discussion, the committee agreed it would be beneficial to indicate in the order whether the petition has been granted, denied on the merits, or dismissed/withdrawn. Accordingly, the committee added checkbox option 8 to the form: “The petition for appointment of temporary guardian is  granted.  denied on the merits.  dismissed/withdrawn.”

The committee also added checkbox 3: “ The individual is not in need of a guardian.”

The committee noted it would be helpful to include space for findings in situations when the petition is dismissed/withdrawn, but the court is not making a finding on the merits of the case. A new item 7 was added in the findings section: “ 7. Other:

\_\_\_\_\_.”

The committee also added the word “alleged” to the case name: “In the matter of \_\_\_\_\_, an alleged incapacitated individual.”

As a result of these changes, all items were renumbered accordingly and the form title was changed to “Order Regarding Appointment of Temporary Guardian of Incapacitated Individual” (at the top and bottom).

**Staff Note:** If the petition is not granted, options 8 through 12 do not apply. Therefore, it is important there be no question as to whether the checkbox in item 8 was checked in error when the subsequent items are in conflict. The SCAO believes these items (8 through 12) should be checkbox options and will add them, unless committee members object.

The form was approved as revised.

8. **PC 634, Annual Report of Guardian on Condition of Legally Incapacitated Individual**

The committee discussed a request to separate the checkbox references for foster home and boarding home in item 3b. The committee addressed the various definitions of boarding home, foster home, nursing home, assisting living, etc., and the licensing requirements of each. The committee noted that most guardians who complete this form will not know the difference between the various types of living arrangements.

After much discussion, the committee agreed it would be helpful to add a new item 3b that requests the name of the facility. Therefore, if there is any uncertainty regarding the type of facility in which the person has been placed, the actual name of the facility could provide more insight. The new item 3b is as follows: “3b. Name of facility, if any: \_\_\_\_\_.”

The remaining items in item 3 were relettered accordingly.

In response to Mr. McCloskey’s request to split out “boarding home” and “foster home,” the committee instead deleted “boarding home” from the new item 3c and added a caption under “other” that says “(boarding home, assisted living, etc.).”

The committee also added a reference to Michigan Court Rule 5.125 in the “NOTE” at the top of the form (after the reference to Michigan Court Rule 5.105) to provide some instruction regarding who should be served as an interested party.

The form was approved as revised.

9. **PC 638, Petition to Terminate or Modify Guardianship/Petition to Terminate or Modify Conservatorship**

After significant discussion, the committee decided to split this form into three forms to assist with processing the different petitions: one for all guardianships

except developmentally disabled individuals, one for conservatorships, and one for developmentally disabled individuals.

The committee reviewed the drafts provided and made changes to each draft as follows.

- *Petition to Terminate or Modify Guardianship.* The committee added checkboxes before “ terminate” and “ modify” in the title of the form. The committee also replaced the checkboxes for “adult” and “minor” with checkboxes for “ legally incapacitated individual” and “ minor” and placed them in the title of the form. The committee deleted the term “/estate” from the case name, so the form says, “In the matter of \_\_\_\_\_.” The committee deleted the filing fee at the top of the form because the fee is subject to change.

The committee amended item 2 to require the petitioner to list all interested persons and their addresses, not just those that have changed or have been added since the filing of the original petition. For the purpose of consistency among court forms, the committee agreed the grids from PC 650 (for minors) and PC 625 (for legally incapacitated individuals) should be used in place of the current item 2.

In former item 3, the committee deleted the sixth checkbox and the language after it regarding standby successor guardian because it is inapplicable. The committee also modified the language in new item 8 to say, “ Appoint

---

Name (type or print)	Address
City, State, Zip	Telephone no.

as a temporary guardian pending appointment of a successor.”

The committee also deleted the citations to MCL 330.1637 and 700.5310 at the bottom of the form because they are inapplicable.

**Staff Note:** Item 4 was renumbered as item 3 and placed above the request because it is not part of the request, but rather is part of the reasons for the request. The remaining items on the form were renumbered accordingly.

The new form was approved.

- *Petition to Terminate or Modify Conservatorship.* The committee added checkboxes before “ terminate” and “ modify” in the title of the form. The committee also moved the checkboxes for “ adult” and “ minor” from the case name into the title of the form. The committee deleted the term “matter/” from the case name, so the form says, “In the estate of \_\_\_\_\_,” and replaced the term “matter” with “estate” in item 1. The committee removed the filing fee at the top of the form because the fee is subject to change.

The committee amended item 2 to require the petitioner to list all interested persons and their addresses, not just those that have changed or have been added since the filing of the original petition. For purposes of consistency among court forms, the committee agreed the grid from PC 639 should be used in place of current item 2.

The committee added new checkbox option 8, which says, “ Appoint

---

Name (type or print)	Address
City, State, Zip	Telephone no.

---

as temporary conservator pending appointment of a successor.” In making this change, the committee discussed whether the appropriate term is “special” conservator or “temporary” conservator, and concluded that “temporary” was proper based on the use of that term in MCL 700.5415.

The committee also deleted the citation to MCL 330.1637 from the bottom of the form.

**Staff Note:** Item 4 was renumbered as item 3 and placed above the request because it is not part of the request, but rather is part of the reasons for the request. The remaining items on the form were renumbered accordingly.

The new form was approved.

● *Petition to Modify or Terminate Guardian for Developmentally Disabled Individual.* The committee added checkboxes before “ terminate” and “ modify” in the title of the form.

The committee decided that, for purposes of consistency among court forms, the grid from PC 658 should be used in item 2.

In new items 4 through 9, the committee agreed the format/design from the original petition should be followed, and the items and checkboxes spaced out accordingly. The SCAO will typeset these changes for more thorough review by the committee. The committee also agreed that options should be added before “plenary” in the first checkbox of item 4 to indicate whether all or part of the guardianship is to be terminated.

In addition, the committee decided the applicable statute and court rule citations should be included at the bottom of the form and asked the SCAO to provide these citations. **Staff Note:** The applicable citations are MCL 330.1604, 330.1634, and 330.1637.

The new form was approved.

Because there will be two separate petitions for guardianships and conservatorships, the SCAO asked whether the order (PC 638a) should also be separated. Currently,

there is one order for both. There is already a separate order for the developmentally disabled individual (PC 638b). The committee placed the issue on next year's agenda.

**10. PC 639, Petition for Appointment of Conservator and/or Protective Order**

The committee agreed to change the reference in item 8 from MFIA to MDHS.

The committee addressed whether item 9 should be changed in light of the amendment to MCR 5.125(C)(22), which brought notice requirements for legally incapacitated persons into compliance with MCL 700.5311. The committee acknowledged that although this rule does not apply to conservators and protected persons, MCL 700.5311 does apply pursuant to MCL 700.5405. It was noted that, in 2007, the committee agreed the court rules should reflect the statute and suggested the forms be changed only when the court rule is changed. The committee pointed out that MCR 5.125(C)(24) was not amended. Because the court rule was not amended, the committee decided that item 9 should not be changed until the court rule is also changed.

The committee agreed to make the style and punctuation corrections in item 4.

The form was approved as revised.

**Staff Note:** The committee did not discuss the suggestion to change the inaccurate citation at the bottom of the form (from MCR 5.125[C][23] to MCR 5.125[C][24]), or the spelling correction in item 6. The SCAO will make these necessary revisions anyway.

**11. PC 645, Letters of Conservatorship**

The committee considered a suggestion to further limit the restrictions regarding real estate by stating that the conservator “may not sell, mortgage, or otherwise encumber real property without court approval.”

In reviewing the suggested language, the committee reviewed MCL 700.5423(3), which reads “[a] conservator shall not sell or otherwise dispose of the protected individual's real property or interest in real property without approval of the court.”

After considerable discussion, the committee concluded that the statutory phrase “otherwise dispose” was broad enough to include more specific restrictions. Therefore, the committee revised the language as follows: “Conservator shall not sell, mortgage, encumber or otherwise dispose of any interest in real property without a prior court order of approval.”

The form was approved as revised.

12. **PC 646, Petition for Approval of Sale of Real Estate**

The committee discussed a suggestion to add “The current bond is \_\_\_\_\_” to item 4. The committee agreed this language would help the court determine the proper amount of bond to set. The committee decided the language should be more precise and say, “The fiduciary is currently bonded for a total amount of \$\_\_\_\_\_.”

Some committee members raised the issue of whether the current value of the property in item 2 could be better reflected. After discussion, the committee agreed the current value of the property could be stated more precisely and added a statement at the end of item 2 that says, “The current unpaid mortgage and unpaid taxes on this property are \$\_\_\_\_\_.”

**Staff Note:** To be consistent with the style of other SCAO-Approved forms, a colon was placed at the end of “(provide legal description)” in item 2.

The form was approved as revised.

13. **PC 653, Order Regarding Appointment of Guardian/Limited Guardian of Minor**

The committee declined a request to place checkboxes in front of new items 9 through 14 for situations when the petition is denied or dismissed in new item 9. The committee concluded the checkboxes were unnecessary, as the need for the checkboxes appeared to be a local court issue and not a statewide issue. **Staff Note:** If the petition is not granted, options 9 through 14 do not apply. Therefore, it is important there be no question whether option 9 was checked in error when the subsequent items are in conflict. The SCAO believes these items (9 through 14) should be checkbox options and will add them, unless committee members object.

The committee added a new item 8 under the findings that says, “Other: \_\_\_\_\_.” The remaining items on the form were renumbered accordingly.

The form was approved as revised.

14. **PC 655, Report for Court Review of Minor Guardianship and PC 656, Order Following Hearing on Status of Minor Guardianship**

The committee was advised that minor revisions were made to these forms in 2007, but the changes were placed on hold in order to discuss a concern about language that places the child in the “custody” of the parent. The committee was advised that MCL 700.5209 does not refer to custody and the use of the term might imply that a custody order is being entered, which is not the case. The committee agreed and the forms were changed as follows.

*PC 655* – The committee removed the term “custodial” from item 4, including the checkbox option. Item 4 now says, “I visited the parent(s), who reside(s) at \_\_\_\_\_.”  I did not visit the parent(s) because: \_\_\_\_\_.”

For consistency purposes, the committee added “Date” and “Location” under the lines in item 3 (as in item 2), and added parentheses around “(s)” in “reside(s)” in item 4.

*PC 656* – To comply with the discussion of *PC 655* regarding entry of a custody order, the committee deleted “The child is placed in the custody of the parent, \_\_\_\_\_” from item 8.

The committee also replaced the reference to MFIA in items 5, 10 and 12 with MDHS.

The forms were approved as revised.

**Staff Note:** The committee did not discuss removing the MSA cite or adding a cite to MCL 700.5209(2) at the bottom of the form. Because MSA cites are no longer on court forms, the SCAO removed the MSA reference. Because MCL 700.5209(2) is an applicable statute, the SCAO added the citation.

15. **PC 658, Petition for Appointment of Guardian, Individual with Alleged Developmental Disability**

The committee discussed a suggestion that the reference to “person assisting petitioner” in the signature line encourages the unauthorized practice of law in contravention of MCL 600.916. The committee agreed that no statute authorizes such a signature, including signatures from community mental health professionals. Therefore, the committee removed the reference to “person assisting petitioner” from the signature line.

The committee also noted that the reference to “person assisting petitioner” should be removed from the caption under the signature line in PCM 201 and asked the SCAO to determine whether any other petitions contain this signature line and to change those forms accordingly.

**Staff Note:** The SCAO has identified PCM 242 as also including the “person assisting petitioner” in the signature line. The form was revised pursuant to MCR 5.113 and 5.114, as well as the committee’s decision to delete this language.

Both forms were approved as revised.

16. **PC 660, Order Appointing Guardian for Individual with Developmental Disability**

The committee discussed a suggestion to revise new item 14 because plenary guardians are appointed until further order of the court, rather than for a specific term of years. Thus, new item 14 says, “plenary guardian of the  individual  estate until further order of the court.”

To clarify in what type of facility the person resides (see agenda item 8), the committee changed the checkbox in item 8 to say, “ The individual presently resides in the following facility: \_\_\_\_\_.”

Based on the discussion in agenda item 7, the committee added a new item 12 under the findings for “Other: \_\_\_\_\_.” The remaining items on the form were renumbered accordingly.

The committee also agreed with the suggestion to include the address and phone number of the standby guardian to new item 16, particularly since MCR 5.205 requires fiduciaries to keep the court informed of address changes. Therefore, new item 16 was changed to “\_\_\_\_\_, whose address and telephone  
Name (type or print)

number are: \_\_\_\_\_,  
Address City State Zip Telephone no.  
is appointed standby guardian.”

The form was approved as revised.

**Staff Note:** Pursuant to the reasons stated in the Staff Note for agenda item 7, checkboxes will be placed in front of new items 14, 15 and 16.

17. **PC 663, Report of Guardian on Condition of Individual with Developmental Disability**

The committee agreed with the suggestion to add lines for the address and phone number of the standby guardian at the end of the form underneath “Statement by Standby Guardian” because MCR 5.205 requires fiduciaries to keep the court informed of address changes. To accommodate this new information, lines/spaces were deleted in item 4, item 10 was moved to page 1, and the date and signature lines in item 18 were moved to the left side of the form.

The form was approved as revised.

18. **PC 669, Proof of Restricted Account and Annual Verification of Funds on Deposit**

The committee declined a request to revise this form so that it can also be used for adult conservatorships. The committee reasoned that a similar request was made last year (for use with guardianships) and, at that time, the committee declined to create a statewide form for that purpose because no specific authority exists to create such a form. By creating a form, the SCAO is implying there is such a requirement.

The committee approved a suggestion to update the “USE NOTE” from 14 days to 28 days pursuant to changes to MCR 5.409(C)(4).

The committee discussed a request to add a date range because the amount provided on the form by the financial institution does not always match the amount on the statement or the account. However, the committee decided a date range would not necessarily serve the intended purpose because anniversary dates, etc., fluctuate. The committee also considered adding special instructions to the “Balance” box, but decided this would be futile and potentially confusing.

The committee further declined to add more precise instructions for proper completion of the form. The SCAO noted this issue has previously been addressed by the committee, and it was decided that balance information need not match the balance on the account. After considerable discussion – and emphasizing the fact that compliance will not be enhanced by revising the language of the form – the committee decided to work with the form’s existing language so that it better tracks MCR 5.409(C)(4). Accordingly, the language on the form was changed to “Attached is a copy of the corresponding financial institution’s statement.”

The committee further agreed to add another JIS code, VFD, to the top of the form.

The form was approved as revised.

**19. Testimony Interested Person, Legally Incapacitated Individual**

The committee decided not to develop this new form for use with both a guardianship and a conservatorship petition. Several committee members maintained it would be good public policy to create this form to help determine the interested persons. However, it was pointed out that in order to create a new statewide form, there must be at least some basis in statute or court rule for doing so, and there is no basis for this form at this time. Meanwhile, the committee noted that the refusal to develop a statewide form does not prevent local courts from devising their own form.

**20. Notice of Proceedings Concerning American Indian Child**

The committee considered a request to create a form (similar to JC 48) for use with guardianship proceedings pursuant to 25 USC 1903(1)(i) of the Indian Child Welfare Act (ICWA).

Because an SCAO work group regarding ICWA has been established, the committee tabled the issue and referred the matter to the work group for development.

### **C. Mental Health Forms**

#### **21. PCM 220, Petition for Discharge from Treatment and PCM 222, Order Following Hearing on Petition to Discharge**

The committee considered a request to reinstate use of these forms for judicial admissions. The committee acknowledged that, although there are not a lot of judicial admissions, it remains useful to have forms for such situations.

The committee compared the previous versions of these forms with the current forms and the relevant statutes pertaining to judicial admissions, and concluded the 1996 versions could be reinstated.

The committee amended the declaration at the end of PCM 220 to comply with MCR 5.114(b) to say, "I declare under penalties of perjury that this petition ...."

The committee also added the citation to MCR 5.747 to the bottom of PCM 222.

The reinstated forms were approved as revised.

**Staff Note:** The MSA citations at the bottom of both forms will be deleted.

#### **22. PCM 233, Notice of Right to Appeal Return and Appeal of Return from Authorized Leave**

The committee agreed that a typographical error in the Notice section of the form should be corrected. Accordingly, an extra "the" was deleted from the sentence which begins, "Complete the petition below ...."

The form was approved as revised.

#### **23. PCM 241, Notice of Right to Object to Hospitalization, Objection and Demand for Hearing**

Last year, the committee agreed with an SCAO recommendation to consider developing a separate form for use with a return pursuant to a psychiatrist's order because the basis for the request is much different than a return based on a court's order.

After reviewing the form, applicable statutes and court rule more closely, the SCAO determined that PCM 241 could be revised without causing confusion between the two different procedures by adding item 2b. The committee agreed and approved the draft that was provided.

The form was approved as revised.

**24. New Form, MCL 330.1519**

Last year, the committee suggested forms be created pursuant to MCL 330.1519 and asked the SCAO to prepare drafts for discussion in 2008. After reviewing the relevant statutes and the current forms, the SCAO concluded that form PCM 214a may be all that is necessary and no new forms need to be developed. The committee reviewed the form and pointed out that reference to PCM 214a was incorrect. The SCAO agreed that the reference was incorrect. After checking other relevant forms, the committee concluded that PCM 217a was the proper form to be used and tabled discussion for 2009.

Meeting adjourned at 2:45 p.m.

Respectfully submitted,

Traci R. Gentilozzi