



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

October 2, 2009

MICHIGAN COURT FORMS COMMITTEE
Probate Section
Minutes of September 3, 2009 Meeting

Present: George M. Strander, Ingham County Probate Court (chair)
Douglas G. Chalgian, Private practitioner, Elder Law Section
Ines Straube, Barry County Probate Court
Michael J. McClory, Wayne County Probate Court
Harold G. Schuitmaker, Private practitioner, Probate and Estate Planning Section
Hon. Kenneth Tacoma, Wexford County Probate Court
Marlaine C. Teahan, Private practitioner, Probate and Estate Planning Council
Velma Weston, Kalamazoo County Probate Court
Hon. R. Terry Maltby, Sanilac County Probate Court
Glenn Copeland, Department of Community Health
Tami Weaver, Department of Community Health
Amy L. Byrd, State Court Administrative Office (staff)
Traci R. Gentilozzi, State Court Administrative Office (staff)
Jill Booth, State Court Administrative Office (staff)

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

Introductions were made.

Notice of Minor Revisions

The committee agreed that forms requiring minor changes, such as spelling, citations, grammar, punctuation, etc., will be corrected by the State Court Administrative Office. The following forms will be corrected and distributed in December 2009: PC 110, PC 578, PCM 208a, PCM 218, PCM 241, and PCM 242.

A. General and Estate Forms

1. New Form, Petition on Denial of Application for Delayed Registration of Birth and Order

The committee considered a proposed draft of this form, which was designed in cooperation with the Department of Community Health (DCH), Vital Records & Health Data Services Office. State Registrar Glenn Copeland and Tami Weaver of the Vital Records Office attended the meeting and explained how the form will make the process for establishing a delayed record of birth easier, more accurate, and more complete. Mr. Copeland and Ms. Weaver answered questions from committee members.

Members questioned whether the proposed form replaces the current DCH form. Mr. Copeland confirmed the new form will replace the existing form and will not be in addition to it.

The committee questioned whether the full Social Security number (SSN) should be on the form. Mr. Copeland noted that the state registrar, by law, must collect the parents' full SSN when a birth is registered. It was then pointed out that this form is a public record and, therefore, pursuant to the privacy and access to court records policy, courts are responsible for blocking out the SSN on requested copies. It was noted that the same is true if a person comes to the court and just wants to look at the filed form – the original should not be viewed because the SSN is on it; rather, a copy should be made for viewing with the SSN blocked out. A committee member also noted that courts already receive the full SSN on the form that is currently being used, so there really is no change with this new form. With this in mind, the committee agreed the form should continue to include the full SSN.

The committee also questioned whether the findings and order – item 5 in particular – meet the requirements of MCL 333.2828. Mr. Copeland assured the committee that the findings/evidence set forth on the form is sufficient. It was suggested the committee consider (1) rewording item 5 because evidence can include other things besides documents and (2) adding more space to list the evidence. The committee incorporated these suggestions, adding space to item 5 and changing the language to, “The additional evidence presented to the court that was accepted to establish the facts of birth is: _____

_____.”

The committee also decided the form should be two separate pages (header and footer on each page), instead of the front and back of one page. Members agreed the form will be easier to read and use this way.

The new form was approved as revised.

Staff Note: The header and footer on the draft will be revised to reflect SCAO style, and the statutory cite at the bottom will be corrected (the colon needs to be removed and the letter “L” inserted for “MCL”). Also, item 3 on the draft does not make grammatical sense and should say, “The following additional evidentiary documentation upon which the court may make a determination is attached:

_____.”

2. MC 304, Order Regarding Alternate Service

This form was referred to the Probate Section of the Michigan Court Forms Committee by the Circuit and District Section, which already approved a request to expand the form for use under MCR 2.107(B)(1)(b). Members approved the following changes that were made by the Circuit and District Section.

(1) item 1 – add checkbox options for “ MCR 2.105” and “ MCR 2.107(B)(1)(b).”
(2) item 2 – add checkbox options for “ summons and complaint” and “ other: _____.”

(3) item 2 – change “may be made ...” to “shall be made”

(4) revise the proof of service fee box.

The committee also removed “In the matter of _____” at the top of the form because the form is only used for civil cases.

The form was approved as revised.

Staff Note: While the form will be distributed to the probate courts at this time, it will be placed on next year’s agenda for the Circuit and District Section of the Michigan Court Forms Committee.

3. MC 307, Order for Service by Publication/Posting and Notice of Action

The committee approved the SCAO’s recommendation to add “County Probate” to the header because the form is used in civil cases filed in probate court. As a result, the committee added a cite to MCR 5.101(C) at the bottom of the form.

The form was approved as revised.

4. PC 558, Application for Informal Probate and/or Appointment of Personal Representative (Testate/Intestate)

The committee considered a court administrator's request to change the language in item 7. It was asserted the second sentence appears to presume there is a will/codicil, when in fact there may not be one. The committee did not revise the language in item 7 because the words "if any" designate there may or may not be a will/codicil.

The form was unchanged.

5. PC 559, Petition for Probate and/or Appointment of Personal Representative (Testate/Intestate)

The committee discussed a probate court administrator's suggestion to revise the language in item 10. It was asserted the second sentence appears to presume there is a will/codicil, when in fact there may not be one. The committee did not revise the language in item 10 because the words "if any" designate there may or may not be a will/codicil.

A checkbox was inserted in front of item 8 because the entire item is optional.

The form was approved as revised.

Staff Note: During typesetting, the parentheticals at the end of items 4, 8, 14.b, and 14.c were revised to comply with capitalization and punctuation style rules.

6. PC 564, Proof of Service

The committee discussed whether the newly-designed proof of service fee box that has been applied to all circuit, district, and friend of the court forms should also be applied to this form. The redesigned fee box provides a field for an incorrect address fee, which was requested by the Michigan Court Officer, Deputy Sheriff and Process Servers Association. The committee agreed and revised the fee box.

The form was approved as revised.

7. PC 565, Testimony, Interested Persons

The committee considered a request from the Council of the State Bar Probate and

Estate Planning Section to change the form's title to "Testimony to Identify Heirs" because MCR 5.302(B) now states that "[a]t least one sworn testimony form sufficient to establish the identity of heirs and devisees must be submitted ..." (new language underlined). Members agreed the form's title should be changed and, after discussing the definitions of "heirs" and "devisees" and pointing out the differences of each, the committee changed the title to "Testimony to Identify Heirs and Devisee Heirs."

In light of the court rule amendment and the title change, the committee also revised the following checkbox at the end of the form: " The decedent left a will and some of the devisees named in the will and codicils are not heirs of the testator. A supplemental testimony form is completed and attached." Committee members made the checkbox option a new item 15 and revised the format and language as follows: " 15. The decedent left a will. a. All devisees are heirs. b. The decedent left a will and some of the devisees named in the will and codicil are not heirs of the testator. A supplemental testimony form is completed and attached."

The committee also considered a probate register's request to revise the form for compliance with MCR 5.125(B)(5) and a new definition of "interested persons." The committee decided the current form is sufficient and did not make any changes in this regard.

The form was approved as revised.

Staff Note: During typesetting, it was noted that the language approved by the committee for new item 15 is inconsistent. "The decedent left a will" is used twice (at the very beginning of item 15 and again at the beginning of checkbox b.), and "a will" is used and then "will and codicil" is used. The committee has been asked to resolve these inconsistencies.

8. PC 566, Supplemental Testimony, Interested Persons

The committee considered a suggestion from the Council of the State Bar Probate and Estate Planning Section to change the form's title to "Supplemental Testimony to Identify Nonheir Devisees" because MCR 5.302(B) now states that "[a]t least one sworn testimony form sufficient to establish the identity of heirs and devisees must be submitted ..." (new language underlined). Similar to agenda item 7, the committee discussed the definitions of "heirs" and "devisees" and changed the form's title to "Supplemental Testimony to Identify Nonheir Devisees."

Because a new item 15 was added to PC 565 (see agenda item 7), the committee

renumbered the items on PC 566: item 15 is now item 16, item 16 is now item 17, and so forth. Also, because of this change, the reference to item 17 in the “NOTE” at the top of the form was changed to item 18, and the reference to item 15 in new item 17 (old item 16) was changed to 16.

The committee also considered a probate register’s request to revise the form for compliance with MCR 5.125(B)(5) and a new definition of “interested persons.” The committee decided the current form is sufficient and did not make any changes in this regard.

The form was approved as revised.

9. PC 574, Notice to Creditors, Decedent’s Estate

The committee addressed an attorney’s concern that it may not be prudent to publish a decedent’s street address for privacy reasons. Members remarked that, while MCL 700.3801 does not require the decedent’s address be listed on the creditor notice, the statute does say that a personal representative shall publish notice “as provided by supreme court rule” And MCR 5.306(A)(1) says the notice to creditors must include: “(1) The name, and, if known, last known address, date of death, and date of birth of the decedent” Because the court rule requires the address, the committee concluded this information should remain on the form.

The form was unchanged.

10. PC 577, Inventory

The committee discussed a suggestion from the Council of the State Bar Probate and Estate Planning Section to delete all references to guardians and conservators due to the development of PC 674 (Inventory, Conservatorship). Specifically, the council had proposed the two checkboxes at the top of the form be removed: “ date of death (decedent’s estate only)” and “ date of qualification as fiduciary (all other estates).” After much discussion, the committee decided this change should not be made because the form can be used in various types of probate matters, including guardianships.

Members addressed the council’s suggestion that items 2.c. and 3.e. of the instructions be deleted and the form’s title be changed to “Inventory (Decedent’s Estates).” The committee concluded items 2.c. and 3.e should not be removed because the form applies to guardianships. Instead, the committee deleted the words “conservatorships and” from items 2.c. and 3.e. and left the word “guardianships.”

The committee decided the form's title should remain the same because the form can be used in guardianships, not just decedent estates.

To better convey the fact that PC 674 should be used for conservatorships (and not this form), the committee moved the "NOTE" regarding use of the form above "In the matter of _____" at the top of the form. This way, persons do not complete the form and then realize, once they reach the bottom, that they have used the wrong form.

The form was approved as revised.

11. PC 584, Account of Fiduciary, Long Form

The committee considered a suggestion from a probate court administrator to revise the column headings in Schedule C to make it clear that assets not sold cannot be depreciated. Committee members discussed whether the terms currently on the form are accurate (e.g., gains, losses, disbursements, etc.) and which ones are potentially confusing. Members decided the best way to help avoid confusion about depreciation is to change the "Date Sold" column in Schedule C to "Date Sold/Disposed." The other columns in Schedule C were unchanged.

In light of this, the committee also reviewed Schedule A and Schedule B. To make the form more useable and easier to understand, members revised the heading in Schedule A to "SCHEDULE A: Income and gain in this accounting period" and revised the heading in Schedule B to "SCHEDULE B: Expenses, loss, and other disbursements, including distributions to devisees and beneficiaries." A new line titled "Investment gain" was added to the bottom of Schedule A, and "Net gain, if any, from Schedule C" was changed to "Disposition gain, if any, from Schedule C." A new line titled "Investment loss" was added to the bottom of Schedule B, and "Net loss, if any, from Schedule C" was changed to "Disposition loss, if any, from Schedule C."

The form was approved as revised.

Staff Note: For consistency, the words "gains" and "losses" in Schedule C were made singular and the form says: "SCHEDULE C: Gain and loss on disposition of assets" Also, to reflect the revisions to the headings on Schedule A and B, the "Total" column on both schedules was revised to say "Total Income and Gain" and "Total Expenses, Loss, and Disbursements." Pursuant to the committee's decision to revise PC 583 along with PC 584, the appropriate changes were made to PC 583 as well.

12. PC 591, Sworn Statement to Close Unsupervised Administration

The committee discussed whether item 6 makes practical sense under MCL 700.3954, which says that a personal representative may close an estate by filing with the court a sworn statement, indicating that the personal representative or a previous personal representative has “(c) [s]ent a copy of the statement to all estate distributees and to all creditors or other claimants of whom the personal representative is aware whose claims are neither paid nor barred.”

The committee reviewed the statute and agreed the language is illogical, but that most practitioners view the completion of the statement and the sending of it as a simultaneous action. The committee considered a suggestion to change the language to, “I will send copies of this sworn statement” However, because the statute requires the copy be “sent” (past tense), the committee concluded “will send” (future tense) does not meet the statutory requirement. Even though members conceded the statute does not make sense from a practical standpoint, they agreed the statute must still be followed. Item 6 was not changed and, therefore, a certificate of mailing is unnecessary.

The committee also considered a probate court administrator’s request to change the language in item 2 to make it clearer that notice has been published, if required by law. Members were advised that the committee did make this clearer in September 2006 by saying, “If required by law or court rule, I have published notice to creditors, and the time for presentment of claims has expired.” However, when the form was considered in 2007, the 3/06 version was erroneously provided to the committee and, as a result, the language was changed again. Given this information, the committee reinstated the language from the 9/06 version of the form.

The form was approved as revised.

13. PC 595, Order for Complete Estate Settlement

The committee discussed whether “and the bond, if any, is cancelled” in item 15 should be deleted. It had been asserted the discharge of the personal representative and cancellation of the bond typically occur at the same time. Some members agreed these two things usually go hand-in-hand and the language regarding bond should be removed. But other members remarked this is not always true and the language should remain. To address this apparent procedural difference, the committee combined the language in items 14 and 15, and inserted four separate checkboxes as follows.

- “14. Appointment of the personal representative is terminated.
15. The personal representative is discharged.
16. The bond is cancelled.
17. Estate administration is closed.”

As a result, item 16 will become new item 18 and item 17 will become new item 19.
The form was approved as revised.

Staff Note: The checkboxes for item 4 and items 9 through 19 were moved to the left of the item number for compliance with style rules.

14. PC 600, Notice of Deficiency

The committee considered a probate register’s suggestion to reinstate the fifth checkbox option regarding Notice of Continued Administration that was on the 3/00 version of this form. The committee said this was unnecessary because PC 589, Notice of Intent to Close Estate Administration and Terminate Personal Representative’s Authority, is used instead.

The form was unchanged.

15. PC 603, Petition and Order for Reinstatement (Estate Not Closed)

The committee discussed a probate court administrator’s request to redesign the form for use in both decedent’s estates and conservatorships. Members remarked the form does apply in both instances and therefore changed “Estate of _____” at the top of the form to “In the matter of _____.”

It was also suggested that “(Estate Not Closed)” in the form’s title be replaced with “(File Not Closed),” but the committee kept the current title because the matter involves an estate of either a decedent or a person subject to a conservatorship and is not used for other files.

The committee also removed the cite to MCR 5.144 dealing with administratively closed files from the bottom of the form because it is inapplicable and included Family Division of Circuit Court in the header because the form can be filed in that court.

The form was approved as revised.

Staff Note: The committee did not address the punctuation in item 3, but it was changed as provided in the agenda. The committee did not address a request made during the agenda's 30-day publication period to include a checkbox for "to file annual report" in item 1. During typesetting, the "Use Note" at the top of the form was revised to comply with capitalization and punctuation style rules.

16. PC 604, Petition for Removal of Personal Representative and Appointment of Successor (Estate Not Closed)
New Form, Application for Appointment of Successor Personal Representative (Estate Not Closed)

The committee discussed requests from the Council of the State Bar Probate and Estate Planning Section to revise PC 604 to include information relating only to a petition to remove a personal representative and appoint a successor representative, and to develop a new form for situations where a personal representative's appointment has been terminated by death, conservatorship, or resignation.

After reviewing the applicable statutes and the draft that was presented, committee members decided not to change the current PC 604. Members concluded the current form is accurate and the draft proposed by the council, which included information relating only to a petition to remove a personal representative and appoint a successor personal representative, would not be sufficient.

The committee agreed to develop the new form, Application for Appointment of Successor Personal Representative (Estate Not Closed). Members approved the draft proposed by the council, with the following exceptions.

(1) Item 2.b. – "petition" should be changed to "application."

(2) Item 4 – should say, "I have priority to be appointed and/or to nominate a qualified person to act as successor personal representative as follows."
"

PC 604 was unchanged. Development of the new form was approved as revised.

Staff Note: Because the committee decided that "application" is the proper term to use throughout the new form, the word "petition" in the declaration statement has been replaced with "application." During typesetting, the parentheticals in items 2, 3, and 5 were revised to comply with capitalization and punctuation style rules.

17. PC 607, Application/Petition to Reopen Estate

The committee discussed a probate court administrator's suggestion to revise item 3 to reflect after-discovered assets. Committee members noted that, if a personal representative has after-discovered assets, the assets should be inventoried again, which would require reopening the estate. To accommodate this situation, the committee added a parenthetical after the first sentence in item 3 that says, "(If applicable, check a. or b.)" and inserted a checkbox before item 3.b.

The form was approved as revised.

Staff Note: The committee did not address the punctuation in items 2 and 4, but it was changed as provided in the agenda.

18. PC 610, Registration of Trust

The committee considered a request from the Council of the State Bar Probate and Estate Planning Section to modify the form so it tracks new provisions in the Michigan Trust Code, MCL 700.7209 and MCL 700.7210, which are effective in April 2010. The committee approved the draft that was provided by the council, with a minor style change to the date in item 8.

The form was approved as revised.

Staff Note: The revision date on the form is 9/09, but the form will not be distributed until late March 2010.

19. PC 617, Declaration of Intent to Give Notice by Publication

The committee discussed whether this form meets the description of a document needing to be verified under MCR 5.114(B)(1). Although the document need not be verified, members kept the declaration statement on the form because it communicates the seriousness of the statements being made.

The form was unchanged.

B. Guardianship and Conservatorship Forms

1. Presumptive Heirs

The committee considered the definition of "presumptive heirs" to determine who

should be listed as interested persons on PC 639, PC 675, and PC 676. It was specifically discussed whether the respondent's parents should be listed as interested persons if there are children because, if there are children, the parents are not presumptive heirs. The committee made the following changes to better reflect the definition of "presumptive heirs."

(1) PC 639, Petition for Appointment of Conservator – The committee revised item 9 to say, "The individual to be protected has

- a spouse whose name and address are listed below.
- child(ren) whose name(s) and address(es) are listed below.
- descendants of deceased children whose name(s) and address(es) are listed below.
- if no child(ren) or descendants of deceased child(ren), the parents whose name(s) and address(es) are listed below.
- if none of the above, the presumptive heirs whose name(s) and address(es) are listed below.
- none of the above (must notify the Attorney General – see instructions for the address of the Attorney General)."

(2) PC 675, Petition to Terminate/Modify Guardianship – The committee decided not to change the table in item 2.b. to include other possible scenarios because it complies with the language in the court rule. Another suggestion was made to add a field for the current address of the minor. Although the grid at the top is intended for LEIN entry on LII cases, the committee added reference to the minor in the grid.

(3) PC 676, Petition to Terminate/Modify Conservatorship – The committee revised item 2 to say, "The individual to be protected has

- a spouse whose name and address are listed below.
- child(ren) whose name(s) and address(es) are listed below.
- descendants of deceased children whose name(s) and address(es) are listed below.
- if no child(ren) or descendants of deceased child(ren), the parents whose name(s) and address(es) are listed below.
- if none of the above, the presumptive heirs whose name(s) and address(es) are listed below.
- none of the above (must notify the Attorney General*)."'

The forms were approved as revised.

Staff Note: For consistency among forms, the colon was deleted after "The individual to be protected has:" in item 9 on PC 639. During typesetting of PC 639, the grid in item 9 was reduced by one line to allow space for the new checkboxes inserted above it. Also, after PC 639 was revised, it was noted that the language

approved by the committee in the fourth and fifth checkboxes in item 9 did not necessarily make grammatical sense – “The individual to be protected has ... if no child(ren)” and “The individual to be protected has ... if none of the above” To correct this, parentheses were placed around “(if no child(ren) or descendants of deceased child(ren))” and around “(if none of the above)” at the beginning of the fourth and fifth checkboxes, and “the” was deleted before “parents” in the fourth checkbox and before “presumptive heirs” in the fifth checkbox. For the same reason, this change was also made in item 2 on PC 676.

During typesetting, it was noted that the grids on various conservatorship and guardianship forms are inconsistent. The committee has decided the grids on PC 625 and PC 639 should be identical to the grid on PC 558 (see agenda items 2 and 5.) The versions of PC 625 and PC 639 that were reviewed by the committee included a telephone number on the grid; however, the grid on PC 558 does not include a telephone number. Based on the committee’s decision that the grids on PC 625 and PC 639 should mirror PC 558, the grids on PC 625 and PC 639 no longer include a telephone number. For consistency purposes, the grids on PC 651 (see agenda item 8), PC 675, PC 676, and PC 677 (see agenda item 17) were reviewed and modified to reflect the grids on PC 625 and PC 639 (and therefore PC 558). Accordingly, these forms do not include a telephone number in the grid either. However, after making these changes, the committee then decided to include a telephone number on the PC 651 grid when there wasn’t one in the first place (see agenda item 8). This change now makes the grid on PC 651 inconsistent with the grids on the other forms. Therefore, the committee has been asked to resolve this inconsistency and agree on a “standard” grid that can be applied to these forms.

2. PC 625, Petition for Appointment of Guardian of Incapacitated Individual

The committee denied a probate register’s request to include a telephone number for the subject of the petition. Members concluded that it was not required and should not be in the public file. It is the guardian’s telephone number that is important.

Committee members approved a suggestion to include the age of a minor in item 10. The committee decided the grid in item 10 should be identical to the grid in item 4 on PC 558, except that it should say, “AGE/DOB (if minor).”

The form was approved as revised.

Staff Note: The signature, name, address, etc. lines under the declaration statement were reformatted for consistency among forms.

3. PC 637, Order Following Review of Guardianship

The committee considered a request from the Council of the State Bar Probate and Estate Planning Section to change this form to make it clear that guardians must continue to file annual reports after an annual review is completed. The committee reviewed a draft provided by the council, which included changes that purportedly made the form “more cohesive.” The committee decided the current version of the form is sufficient, but did incorporate some of the council’s suggestions, including the following.

(1) Item 5.b. was deleted. The remainder of item 5 was revised as follows.

“ 5. The guardianship is continued without modification. The guardian(s) shall continue to file annual reports.

The court shall conduct the next review on _____.”
Date

(2) Item 6 was revised as follows.

“ 6. The guardianship is continued pending a hearing to address issues raised by the review.”

“... is appointed attorney to represent the legally incapacitated individual. The attorney shall file and serve proper pleadings within 14 days of appointment, and a hearing shall be set thereafter.”

(3) Item 7 was revised as follows.

“ 7. A hearing shall be conducted on _____ to review the status
Date
of the minor guardianship.”

“ ... is appointed guardian ad litem to represent the minor at the hearing.
 lawyer-guardian ad litem

The form was approved as revised.

Staff Note: For consistency, “Bar no.” was added to the “Name” lines in items 6 and 7.

4. PC 638a, Order Regarding Appointment of Guardian/Conservator

The committee discussed whether this form should be separated into two forms because there are now two petitions for guardianships and conservatorships (PC 675 and PC 676). The committee concluded two forms are unnecessary because the current form can be modified to address both situations. Accordingly, the committee made the following changes.

- (1) The form's title was changed to "Order Regarding Petition to Terminate/Modify
 Guardian for Minor Guardian for LII Conservator."
- (2) A new item 8 was added: " 8. The petition is granted. denied on the merits. dismissed/withdrawn." Accordingly, item 12 was deleted.
- (3) Old item 8 was changed to new item 9; old item 9 was changed to new item 10.
- (4) In light of some concern that new item 10 (old item 9) may improperly convey that the case cannot be closed unless the guardian is discharged, the third checkbox option was separated into a new item 11 that says, "11. The matter is
 closed. not closed."
- (5) Old item 10 was changed to new item 12; old item 11 was changed to new item 13; and old item 13 was changed to new item 14.
- (6) The words "guardian" in new item 12.a. (old item 10.a.) and "conservator" in new item 12.b. (old item 10.b.) were set off in boldface type so attention is drawn to them.

The form was approved as revised.

Staff Note: During typesetting, the checkbox before new item 11 was removed because it is unnecessary (the matter is either closed or not closed).

5. PC 639, Petition for Appointment of Conservator

The committee denied a probate register's request to include a telephone number for the subject of the petition for the same reason as PC 625 (agenda item 2).

Committee members approved a suggestion that the age of any minor be included in item 9. The committee decided the table in item 9 should be identical to the table in item 4 on PC 558, except that it should say, "AGE/DOB (if minor)."

The form was approved as revised.

Staff Note: For consistency among forms, the colon was deleted after "The

individual to be protected has:” in item 9 and the signature, name, address, etc. lines under the declaration statement were reformatted. During typesetting, the grid in item 9 was reduced by one line to allow space for the new checkboxes inserted above it. Also, after the form was revised, it was noted that the language approved by the committee in the fourth and fifth checkboxes in item 9 did not make grammatical sense – “The individual to be protected has ... if no child(ren)” and “The individual to be protected has ... if none of the above” To correct this, parentheses were placed around “(if no child(ren) or descendants of deceased child(ren))” and around “(if none of the above)” at the beginning of the fourth and fifth checkboxes, and “the” was deleted before “parents” in the fourth checkbox and before “presumptive heirs” in the fifth checkbox (see agenda item 1).

While typesetting PC 639, it was noted that the grids on various conservatorship and guardianship forms are inconsistent (see agenda item 1). For the reasons provided in the Staff Note in agenda item 1, an attempt was made to make the grids on the forms consistent with the grid on PC 558. However, some inconsistencies still remain. Therefore, the committee has been asked to address the issue and agree on a “standard” that can be applied to the forms.

6. PC 640, Order Regarding Appointment of Conservator

The committee approved a request from the Council of the State Bar Probate and Estate Planning Section to replace the term “protected person” with “protected individual” because this is the term used in the Estate and Protected Individuals Code.

The form was approved as revised.

7. PC 645, Letters of Conservatorship

The committee discussed a probate court administrator’s suggestion that the “restrictions” statement needed clarification. The committee concluded the proposed addition of “from this court” at the end of the statement was unnecessary and could potentially cause problems for the courts.

The form was unchanged.

8. PC 651, Petition for Appointment of Guardian of Minor

The committee approved a probate register’s request to include the mother’s and father’s telephone numbers on the form. Members said this information would be beneficial and “Telephone no.” was added to the column in item 3, after “Address.”

The committee also decided telephone numbers should be listed for the conservator, guardian, and person with care/custody of minor, when applicable. at the applicable statutes and court rules, the committee made item 9 optional as follows: “ 9. The court order the parent(s) to provide reasonable support for parenting time with contact with the minor.”

The form was approved as revised.

Staff Note: The committee did not address the punctuation in item 3, but it was changed as provided in the agenda. During typesetting, “Telephone No.” was added to the second grid in item 3 for consistency on the form and the language in item 8 was changed to “... whose address and telephone number are ...” because a telephone is requested (new language underlined). While typesetting PC 651, it was noted that the grids on various conservatorship and guardianship forms are inconsistent (see agenda items 1 and 5). For the reasons provided in the Staff Note in agenda item 1, an attempt was made to make the grids on the forms consistent with the grid on PC 558. However, some inconsistencies still remain, particularly in regard to PC 651. Therefore, the committee has been asked to address the issue and agree on a “standard” that can be applied to the forms.

9. PC 657, Order Following Hearing to Terminate Minor Guardianship

The committee considered a probate register’s suggestion that language regarding guardianships established before December 20, 1990, be deleted because minors under guardianships prior to that date are now over age 18 and the guardianships have terminated. The committee agreed and removed the phrase “established after December 20, 1990” in item 4 and deleted item 5 altogether. Because item 5 was deleted, the remaining items were renumbered accordingly.

The form was approved as revised.

Staff Note: During typesetting, the “m” at the end of the “Time” line in items 11.b and 12 was removed and the parenthetical in item 13 was revised to comply with punctuation and capitalization style rules.

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

The committee denied a probate register’s request to include a telephone number for the subject of the petition for the same reason as PC 625 (agenda item 2).

The form was unchanged.

11. PC 660, Order Appointing Guardian for Individual with a Developmental Disability

The committee considered a probate register's request that the current form include language for the appointment of an emergency temporary guardian and, in the alternative, a probate judge's suggestion that a new form be developed under MCL 330.1607 for the appointment of an emergency temporary guardian.

The committee decided that developing a new form would be more beneficial than modifying PC 660. After much discussion about the title of the form, the required information, and the controlling statutes and court rules, the committee tabled development of the form and asked the SCAO to typeset a draft for the committee to review in 2010.

The form was unchanged and the issue was tabled.

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

The committee discussed a probate register's request that item 12 be changed to reflect the detail in items 7 and 8 on PC 634, Annual Report of Guardian on Condition of Legally Incapacitated Individual. The committee decided not to change the form because item 12 reflects the language used in the statute (MCL 330.1631).

The form was unchanged.

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

The committee considered a probate register's request that more detailed language be added to the financial institution's statement – specifically, “as of the end of the annual account date” be added to the end of “Attached is a copy of the corresponding financial institution's statement.”

Members noted that the committee decided in 2007 and 2008 not to add precise instructions. However, because the issue continues to be raised, members agreed that perhaps more precise language would benefit banks and persons completing the form.

The committee agreed the proposed language was inappropriate. Instead, the committee included the following instruction at the bottom of the form with an asterisk before it: “*For annual verifications, the corresponding financial institution's

statement must be dated within 30 days after the end of the annual accounting period.” To signal there is additional instructions at the end of the form, an asterisk (*) was inserted at the end of the current statement, “Attached is a copy of the corresponding financial institution’s statement.*”

The committee also declined to expand the use of this form to adults, as requested in a comment submitted during the 30-day publication period of the agenda.

The form was approved as revised.

14. PC 671, Order for Administrative Closing (Conservatorship)

The committee approved a suggestion from the Council of the State Bar Probate and Estate Planning Section and replaced “protected person” with “protected individual” because this is the term used in the Estate and Protected Individuals Code, section 1106(t).

The form was approved as revised.

15. PC 673, Petition and Order to Use Funds (Conservatorship)

The committee discussed concerns from the legal community regarding standards that financial institutions must follow for restricted orders in a conservatorship. The committee reviewed a form currently used by the Calhoun County Probate Court that includes an instruction to the financial institution to only accept a certified copy with the court seal and to retain the certified copy so it cannot be used again. The committee agreed it would be worthwhile to include this instruction on the SCAO-approved form and added the following statement to the bottom of the form: “Instructions to Financial Institution: Do not accept any document other than a certified copy of this order with the court seal. Please retain this certified copy.”

The form was approved as revised.

Staff Note: During typesetting, the parenthetical in item 2 was revised to comply with capitalization and punctuation style rules.

16. PC 674, Inventory (Conservatorship)

The committee approved a suggestion from the Council of the State Bar Probate and Estate Planning Section and replaced the term “protected person” with “protected individual” because this is the term used in the Estate and Protected Individuals Code,

section 1106(t).

The form was approved as revised.

Staff Note: The committee did not discuss a request made during the agenda's 30-day publication period to insert space in the first sentence for the date of qualification. During typesetting, the term "protected person" was replaced with "protected individual" in items 2.c. and 3.e. of the instructions.

17. PC 677, Petition to Terminate/Modify Guardian for Alleged Developmentally Disabled Individual

Pursuant to requests from a probate judge and a probate register, the committee deleted (1) "alleged" from the title of the form and (2) "an alleged" from "In the matter of _____, an individual with a developmental disability" (new word underlined) at the top of the form. The committee agreed "alleged" is inaccurate because, by the time this form is used, a guardian would have been appointed and a judicial determination would have been made that the person is, in fact, developmentally disabled.

Members considered a probate court's suggestion that space be added for the current address of the developmentally disabled individual and the guardian. The committee remarked this information would be helpful and would be best at the beginning of the form. Therefore, a new item 2 was inserted for the developmentally disabled individual's address and a new item 3 was added for the guardian's address. As a result, the remaining items on the form were renumbered. The committee also noted that, due to these changes, forms PC 675 and PC 676 should be placed on next year's agenda for similar revisions.

The form was approved as revised

Staff Note: While typesetting PC 677, it was noted that the grids on various conservatorship and guardianship forms are inconsistent (see agenda items 1, 5, and 8). For the reasons provided in the Staff Note in agenda item 1, an attempt was made to make the grids on the forms consistent with the grid on PC 558. However, some inconsistencies still remain. Therefore, the committee has been asked to address this issue and agree on a "standard" that can be applied to the forms. Also, the "AGE" column on PC 677 grid is inconsistent because other forms have the heading "AGE/DOB (if minor)." The committee has been asked to address this inconsistency as well.

18. New Form, Notice of Proceedings Concerning American Indian Child

The committee considered whether to develop this form for use in guardianship proceedings under the Indian Child Welfare Act (ICWA), 25 USC 1912. Last year the committee tabled the issue and referred the matter to an ICWA work group that had been established. That work group completed its goals but did not focus on court forms. Therefore, the committee discussed whether a form should be created pursuant to the statute and, if so, whether the form should be modeled after JC 48.

While the committee agreed that JC 48 could be used as a model, it noted that certain parts of JC 48 are inapplicable in probate proceedings. The committee considered which parts of JC 48 should be removed and what, if anything, should be added to JC 48 for probate court matters. After much discussion, the committee remarked that the development of the form requires in-depth analysis that could not be conducted at this particular meeting due to time constraints. The committee, while agreeing a new form is needed, decided it was in the best interests of the public and legal community to not hastily create a new court form. Therefore, the issue was tabled for further discussion in 2010.

19. New Form, Petition for Guardianship Pursuant to Nomination

The committee denied a request to develop this form under MCL 700.5202, finding it was unnecessary.

C. Mental Health Forms

1. PCM 201, Petition/Application for Hospitalization

The committee considered a request from a member of the general public that this form be modified to better reflect the Mental Health Code, PA 258 of 1974. It had been asserted the form should clearly distinguish between admission by petition and admission by medical certification, but no specific suggestions were provided. The committee noted that it addressed this issue in 2006 and 2007 and both times it decided it was appropriate to combine the petition and application into one form, and that the form would be understandable by the mental health community. The committee again agreed with this conclusion.

The form was unchanged.

2. PCM 209a, Supplemental Petition for Examination/Hospitalization and Order

The committee approved a probate court administrator's suggestion that the first checkbox option in item 11 be moved into item 10, and the second checkbox option in item 11 be deleted to avoid redundancy.

The form was approved as revised.

Staff Note: During typesetting, the parenthetical in item 5 was revised to comply with capitalization and punctuation style rules.

3. PCM 211, Notice of Hospitalization and Certificate of Service

The committee discussed a probate judge's request to include a line in item 1 for the name of the hospital where the respondent is admitted. Members concluded this information would be helpful and added a line for "... at _____"
Name of hospital
at the end of item 1.

The form was approved as revised.

4. PCM 214, Initial Order Following Hearing on Petition for Admission

The committee addressed a concern from the general public that the language in item 6 is misleading and that the following language should be added: "Stipulation to entry of the order does not imply an effective order of an involuntary commitment, but it merely postpones the entry of an order, and the patient reserves the right to refuse treatment at any time and demand a hearing." Members concluded that item 6 is not misleading or confusing, and made no changes.

Members also discussed a request to insert "SCAO-Approved, use of form, verbatim, mandatory" in the upper left corner of the form. The committee denied the suggestion, concluding it was contrary to the longstanding style of all SCAO-approved court forms, which is to include "Approved, SCAO" in the top left corner of each form.

The form was unchanged.

5. PCM 214a, Order Following Hearing on Petition for Judicial Admission

The committee discussed a probate judge's inquiry whether the form can be used under Chapter 4 of the Mental Health Code to accommodate the hospitalization of a

person with a developmental disability when that person is before the court on a petition for judicial admission pursuant to MCL 330.1518, but the type of hospitalization needed is prescribed by Chapter 4. Members concluded this is a legislative issue that cannot be addressed through the court forms revision process.

The form was unchanged.

6. PCM 217a, Order to Modify Order for Alternative Treatment or Combined Hospitalization and Alternative Treatment

The committee, considering an issue tabled from last year, decided this form should not be revised for use under MCL 330.1519.

The form was unchanged.

7. PCM 219, Second or Continuing Order for Treatment

The committee reviewed a probate court administrator's suggestion to include the respondent's date of birth. The committee decided the date of birth is not needed to properly identify the person.

The form was unchanged.

8. PCM 220, Petition for Discharge from Continuing Treatment or Judicial Admission
PCM 222, Order Following Hearing on Petition for Discharge from Continuing Treatment or Judicial Admission

The committee discussed a probate judge's concern that item 4 on PCM 220 could allow the continuous filing of petitions. Members agreed that item 4 may permit excessive filings and deleted it altogether because the statute does not require it on the form. As a result, old items 5 and 6 were renumbered as new items 4 and 5, old item 6.c. was deleted, and the last sentence in the "Instructions" was removed.

The committee discussed a mistake made in item 3 on PCM 220 when the form was revised in 2008 to make the form available for use in judicial admissions. Item 3 includes language about involuntary mental health treatment from MCL 330.1485 even though the language was repealed in 1997. The committee was advised that, when the previous version of the form (9/96) was resurrected by the committee last year, item 3 should have been updated but was not. To correct the mistake, the committee deleted the cite to MCL 330.1485 from the bottom of the form and deleted "continuing involuntary mental health treatment or" from item 3. This way, item 3

now only applies to judicial admissions.

In light of this, the committee reviewed the form and made the following revisions.

(1) INSTRUCTIONS –

- (a) Deleted “or judicial admission” from the end of the second sentence.
- (b) Replaced “the additional hearing” in the fourth sentence with “a judicial admission.”

(2) Item 2 – Inserted a parenthetical statement at the beginning that says, “[Applies only to judicial admissions].”

After making these changes, the committee considered whether it made more sense to reinstate the 9/07 version of PCM 220. Members agreed that judicial admission and involuntary mental health are distinct concepts and there should be separate forms. Therefore, the 9/07 version of PCM 220 was reinstated and item 3 of that version was deleted (in response to the discussion regarding the filing of petitions on page 23).

Due to time constraints, the committee tabled development of a petition for judicial admission until next year.

Members also noted that PCM 222 should be separated as well.

The form was approved as revised.

Staff Note: The committee did not discuss the title of the form. The 9/07 version that was reinstated is titled “Petition for Discharge from Treatment.” Because the form addresses continuing treatment, “Continuing” was included in the form’s title.

9. PCM 235, Request to Defer Hearing on Commitment

The committee considered a probate register’s request to revise the form because it is usually completed incorrectly. Due to time constraints, the committee tabled the issue until next year.

The form was unchanged.

Meeting adjourned, 5:15 p.m.

Respectfully submitted,

Traci R. Gentilozzi