



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

October 1, 2010

MICHIGAN COURT FORMS COMMITTEE
Probate Section
Minutes of September 2, 2010 Meeting

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

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

A. General Discussion Items

1. Mastheads

The committee considered a deputy court administrator's suggestion to place a check box before "Circuit Court – Family Division" on all probate forms that include this designation in the masthead. It was asserted the current masthead creates confusion for persons who complete the forms and for the public in general because published notices are being misread and, in turn, this creates problems for the courts because documents are being filed in the wrong court in some counties. It was asked that the

check box be added to PC 562 (Notice of Hearing), PC 563 (Publication of Notice of Hearing), PC 563a (Publication of Notice), PC 633 (Letters of Guardianship), PC 650 (Petition for Appointment of Limited Guardian of Minor), PC 651 (Petition for Appointment of Guardian of Minor), and PC 653 (Order Regarding Appointment of Guardian/Limited Guardian of Minor). The committee discussed the issue and concluded that a check box is not the proper solution for resolving the apparent concerns because it may lead to more confusion. For example, some committee members inquired as to who should check the box – the person completing the form or the court? Certain members observed that, if the court is supposed to check the box, then this would basically defeat the purpose of having a check box on the form because the user needs to be informed of the proper court for filing the form before the form is completed. It was also pointed out that, if the person completing the form is supposed to check the box, how will that person know to check it? After considerable discussion about other alternative solutions, the committee decided to handle the issue in the following manner.

(1) Remove “Circuit Court – Family Division” from the probate forms that have this designation on the masthead. The committee agreed this change will be made to the forms listed above and all other forms being revised this year, and to other affected probate forms as those forms come up for revision in the future.

(2) Add a “USE NOTE” on all petitions, notices, etc., but not on forms issued/generated by the court (such as orders), that says: “USE NOTE: If this form is being filed in the circuit court family division, please identify the court in the top left corner of the form.”

The committee also agreed to present this decision the Family Division of Circuit Court Forms Committee at its September 15, 2010, meeting for further discussion and comment.

Forms PC 562, PC 563, PC 563a, PC 633, PC 650, PC 651, and PC 653 were approved as revised. The same changes will be made to all other relevant forms being revised pursuant to this agenda.

Staff Note: During typesetting, the “USE NOTE” was clarified as follows: “If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form.” Also, pursuant to the committee’s decision that the use note will be added only to petitions, notices, etc., a use note should not be added to PC 653 because it is an order issued by the court.

the information that was entered based on the original order (PCM 214). The MSP further explained that once LEIN information is entered based on PCM 214 (the initial order), this information remains on LEIN until it is removed by a subsequent court order. The MSP indicated that inaccurate LEIN information cannot be “corrected” by subsequently including the information on PCM 218 and PCM 219. Rather, the MSP suggested the best way to correct mistakes would be to develop a form – e.g., “Order Correcting LEIN Entry” (similar to MC 239, Removal of Entry from LEIN). Based on this information, the SCAO determined the LEIN grids are inappropriate on PCM 218 and PCM 219 and did not include them on the forms. Instead, the SCAO will develop a draft form, “Order Correcting LEIN Entry,” for publication, comment, and committee review in 2011.

Also, pursuant to the reasoning in agenda item 1 (General Discussion), “Circuit Court – Family Division” was removed from the masthead and a “USE NOTE” was added to the bottom of the form that says: “If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form.”

4. PCM 219, Second or Continuing Order for Treatment

Similar to PCM 218, the committee discussed a deputy court administrator’s suggestion to include check box options in the title of the form to indicate the purpose of the order:

Second Continuing
Order for Treatment

Committee members agreed to add the check boxes, concluding it would be helpful for the courts to have this designation at the top of the form rather than having to read the form to determine its purpose.

The committee discussed a probate register’s suggestion to include the individual’s date of birth and other identifying information on this form, to avoid incorrect identification and improper entry into LEIN. The committee was advised that, pursuant to an audit several years ago, this information was removed from certain mental health forms, including PCM 219. The committee was also advised that this same suggestion was considered in 2009, but that the committee determined it was unnecessary and did not make the change. Staff also pointed out that this order does not advise LEIN to remove entry of the first order from LEIN, so the entry of this order in LEIN does not necessarily “correct” the first order. Staff also noted that, absent a specific order from the court to remove the first entry from LEIN, it will remain in LEIN indefinitely.

After further discussion, committee members still concluded that identifying information will help prevent improper identification of people and inappropriate entry in LEIN. Therefore, the committee decided the LEIN grid from PCM 214 should be added to the form, and the LEIN language from item 18 on PCM 214 should also be added as follows: “Unless the petition is denied, dismissed, or withdrawn, the Michigan Department of State Police shall immediately enter the individual's identifying information in this court order on the law enforcement information network.” Accordingly, the citation to MCL 330.1464a was added to the form.

Because the LEIN grid was removed several years ago pursuant to an audit, the committee was informed that SCAO staff will contact the Michigan State Police for its insight on the committee’s decision to reinstate the LEIN grid on this form.

Because the LEIN grid is being reinstated on PCM 219, the committee also approved inserting the grid on PCM 218, Petition for Second or Continuing Treatment Order, because that is how the court will supposedly receive any “corrected” or new information about the individual.

The form was approved as revised.

Staff Note: The SCAO discussed PCM 218 and PCM 219 with the Michigan State Police (MSP), LEIN Field Services Division (see agenda item 4 below). The MSP explained that it receives LEIN entry information from PCM 214, which is the initial order, and not from PCM 218 or PCM 219. Therefore, the MSP indicated that including LEIN information on these two forms would serve no purpose because the information has already been entered into the system based on PCM 214. The MSP also remarked that including LEIN information on PCM 218 and PCM 219 could ultimately cause further confusion/problems because the information may not match the information that was entered based on the original order (PCM 214). The MSP further explained that once LEIN information is entered based on PCM 214 (the initial order), this information remains on LEIN until it is removed by a subsequent court order. The MSP indicated that inaccurate LEIN information cannot be “corrected” by subsequently including the information on PCM 218 and PCM 219. Rather, the MSP suggested the best way to correct mistakes would be to develop a form – e.g., “Order Correcting LEIN Entry” (similar to MC 239, Removal of Entry from LEIN). Based on this information, the SCAO determined the LEIN grids are inappropriate on PCM 218 and PCM 219 and did not include them on the forms. Instead, the SCAO will develop a draft form, “Order Correcting LEIN Entry,” for publication, comment, and committee review in 2011.

5. PCM 220a, Petition for Discharge from Judicial Admission

Last year the committee decided that judicial admission and involuntary mental health were distinct proceedings that would be better handled through separate forms. PCM 220 was therefore separated into (1) Petition for Discharge from Continuing Treatment (PCM 220) and (2) Petition for Discharge from Judicial Admission (PCM 220a). The committee developed PCM 220 last year, but tabled development of the judicial admission form until this year. The SCAO developed a draft form for the committee's consideration. Upon reviewing the draft, the committee approved the form with the following changes.

(1) Revised item 1 to say: "I, _____, state that I am
Name (type or print)

a resident a person acting on behalf of a resident

in _____."
Name of facility or center

(2) Deleted the three check box options in item 1 because they are inapplicable.

(3) Removed the check box before item 2 because it is not optional.

(4) Deleted the word "patient" in the "Name of patient/resident" caption underneath the line in item 2 because the individual is not a patient but a resident.

(5) Removed the citation to MCL 330.1532 at the bottom of the form because it is inapplicable.

The form was approved as revised.

Staff Note: Pursuant to the reasoning in agenda item 1 (General Discussion), "Circuit Court – Family Division" was removed from the masthead and a "USE NOTE" was added to the bottom of the form that says: "If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form." During typesetting, "... stated in MCL 330.1531(3)" in item 2 was changed to "... as prescribed by MCL 330.1531(3)." Also, "PDJ" was included as the JIS code on the form.

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

Last year the committee decided this order should be separated into two forms because PCM 220, the petition, was separated. Therefore, the SCAO developed two draft forms for the committee's consideration this year: (1) PCM 222, Order Following Hearing on Petition for Discharge from Continuing Treatment, and (2) PCM 222a, Order Following Hearing on Petition for Discharge from Judicial Admission. The committee approved the draft forms with the following changes.

- PCM 222:

- (1) Changed “is continued” in item 9 to “be continued,” for consistency purposes.
- (2) Added necessary language in item 11 (from item 10 of the 9/08 version of the form) that says: “The agency or practitioner responsible for the alternative treatment program shall, at least three days before the individual’s discharge from the hospital, submit to the court a written report as to the capability to supervise the program.”
- (3) Reviewed and retained the language “from the date of this order” in items 10 and 11 because the language is proper based on the statute.

- PCM 222a:

- (1) Removed items 6, 10, 11, and 12 because they are inapplicable to judicial admissions.
- (2) Renumbered item 7 to item 6 and revised the language to say:
 - “ a. The individual continues to meet the criteria for judicial admission.
 - b. The individual no longer is a person requiring judicial admission.”
- (3) Renumbered items 8 and 9.
- (4) Changed “is continued” in item 7 to “be continued,” for consistency purposes.
- (5) Deleted the citation to MCL 330.1485a at the bottom of the form because it is inapplicable.

The form was approved as revised.

Staff Note: During typesetting, JIS code “ODJ” was added to the form.

7. PCM 235, Request to Defer Hearing on Commitment

The committee discussed a probate register’s request to include signature lines for (1) a community mental health representative and (2) a designee assigned by the hospital director. It was asserted these individuals “shall” be at the deferral pursuant to MCL 330.1455(2)(d) and that signature lines would encourage more accountability. Committee members discussed whether signatures of the community mental health representative and/or a designee assigned by the hospital are appropriate on the form. The committee reviewed the statute and pointed out that it is the patient who is deferring the hearing – not the community mental health representative or hospital designee. Accordingly, the committee concluded that only the patient’s signature is required on the form and the signatures of the community mental health representative or hospital designee are inappropriate. Therefore, the committee determined the current form – which requires only the patient’s signature – is sufficient and does not need changed.

The committee discussed a suggestion from a probate register that was tabled last year due to time constraints. It was asserted the form is confusing and is often

completed incorrectly, and that items 1 and 2 should be combined to prevent further confusion and to encourage proper completion. The committee examined the current form and decided that changing the form in the manner suggested would not necessarily make it easier to complete. Accordingly, the committee determined the current form is sufficient.

The form was unchanged.

8. PCM 236, Demand for Hearing

The committee considered a probate register's request to include contact information (address and telephone number) for the individual who is signing the form. The committee agreed this would be helpful and revised the signature section of the form as follows, so it complies with the standard on other court forms.

_____	_____
Date	Signature

	Name (type or print)

	Address City State Zip

	Telephone number

The committee considered a deputy court administrator's suggestion that item 1 be reworded because the check boxes that follow "individual named above" appear to flow as a result of that language, but actually do not. It was asserted that the language from item 1 on the 9/97 version of the form should be reinstated. Committee members reviewed the 9/97 version of the form but decided that reinstating the previous language was insufficient. The committee examined the statute and pointed out that, not only can the individual demand a hearing, but the hospital or alternative treatment provider/designee can also demand a hearing when the individual refuses to accept prescribed treatment. Therefore, the committee reviewed the current version of the form (dated 9/07) and made the following changes.

- (1) Removed the "demand for hearing" language from item 4, placed it at the top of the form as new item 1, and revised it to say: " 1. I am the individual and I demand a court hearing."
- (2) Inserted the remaining language from old item 1 and made it a new item 2, added a check box option at the beginning of new item 2, and revised the language to say:
 - 2. I am the
 - hospital director/designee,
 - alternative treatment provider/designee,

and I demand a court hearing because the individual refuses to accept prescribed treatment.”

(3) Renumbered old item 2 as new item 3 and added “and I demand a court hearing” at the end to reflect MCL 330.1455(10).

(4) Renumbered old item 3 as new item 4 and added “and I demand a court hearing” at the end to reflect MCL 330.1455(9).

(5) Deleted old item 4 (made it new item 1).

(6) Added a check box before item 2 in the order section because it is optional.

The form was approved as revised.

Staff Note: The SCAO was uncertain whether the committee’s changes to items 1 and 2 cleared up the confusion apparently associated with this form and whether the form sufficiently reflected the language of the statute. Therefore, the SCAO proposed additional revisions, which the committee reviewed and approved by e-mail as follows:

“ 1. I am the individual. I demand a court hearing.

2. I am the hospital director/designee alternative treatment provider/designee and I demand a court hearing because the individual refuses to accept prescribed treatment. the individual orally demanded a hearing.”

During typesetting, item 1 was changed to say “..., and I demand a court hearing” for consistency (to reflect the language used in items 2 and 3), and “s/he” was added to the check boxes in item 3 for grammatical purposes

Pursuant to the reasoning in agenda item 1 (General Discussion), “Circuit Court – Family Division” was removed from the masthead and a “USE NOTE” was added to the bottom of the form that says: “If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form.”

General and Estate Forms

1. PC 51, Petition to Change Name

This item was inadvertently placed on the agenda for the probate committee instead of the family division committee and was therefore removed.

2. PC 117, Notice to Minor of Rights Regarding Waiver of Parental Consent for an Abortion

PC 118, Request and Order for Court-Appointed Attorney/Guardian Ad Litem for

Waiver of Parental Consent

PC 119, Petition for Waiver of Parental Consent for an Abortion

PC 120, Order Granting/Denying Waiver of Parental Consent for an Abortion

PC 121, Appeal of Order Denying Petition for Waiver of Parental Consent

PC 122, Confidential Information for Proceedings Concerning Waiver of Parental Consent

This item was inadvertently placed on the agenda for the probate committee instead of the family division committee and was therefore removed.

3. PC 556, Petition and Order for Assignment

The committee considered an attorney's request to revise item 5 to better reflect the language of the statute, MCL 700.3982. Two proposals were offered:

(1) "The name and address of the surviving spouse, or if there is not a spouse, the name, age, relationship, and address of each heir as follows:"

(2) "The name and address of the surviving spouse, or if there is not a spouse, the name, age, relationship, and address of each of the decedent's heirs are as follows:"

The committee noted that a decedent's heirs are not involved unless there is no surviving spouse, and agreed the form should reflect this fact. Committee members pointed out the primary concern is "blended" families and situations where there is a surviving spouse and stepchildren of the surviving spouse. The committee remarked the current form can be misleading, particularly when stepchildren are named as heirs (e.g., the stepchildren may assume they are entitled to a share of the small estate when in fact they are not). The committee reviewed both suggestions and decided the second proposal was appropriate because it best reflects the statute and also mirrors similar language on other court forms.

The form was approved as revised.

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

The committee considered and approved a deputy court administrator's request to add "(Heir/Devisee)" under the "Relationship" heading in item 4, so the form is consistent with the grid on PC 559. While making this change, the committee also decided that "DOB" (date of birth) should be added to the "AGE (if minor)" heading in item 4, so the grid is consistent with other court forms.

The committee discussed a deputy court administrator's suggestion to revise the language above the second grid in item 4 to reflect the death of an interested person.

The following language was proposed (new language underlined): “Of the interested persons listed above, the following are under legal disability or death or otherwise represented and presently have or will require representation:” It was explained that the term “legal disability” is for individuals who have a guardianship, etc., and that “legal disability” is not interpreted to mean “death,” and therefore this information is not being included on the form, but should be. It was asserted that the proposed language would permit the petitioner to indicate that an interested person has died and then the interested person of the deceased heir could be listed in this section of the form. Some committee members pointed out that a deceased person is not “represented” and does not “require representation,” as stated in the proposed language, and therefore the language did not make practical sense. Other committee members agreed that information regarding the death of an interested person would be helpful, if there was a clear way to present it. The committee considered several alternatives for including this information on the form but, after much discussion, decided the proposed language – and the concept in general – is too confusing for persons who complete the form and could potentially create problems. In conclusion, the committee determined this information actually belongs on PC 565, Testimony to Identify Heirs and Devisee Heirs (the title of which has been changed – see agenda item 9 below).

The form was approved as revised.

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

The committee approved a deputy court administrator’s request that the letters a., b., and c. be added after the check boxes in item 8, so the check boxes are similar to those in items 10 and 14:

- 8. a. The decedent’s will dated
- b. An authenticated copy
- c. Neither the original will

As discussed in agenda item 4, the committee decided not to change the form to say: “Of the interested persons listed above, the following are under legal disability or death or otherwise represented and presently have or will require representation:”

The form was approved as revised.

6. PC 562, Notice of Hearing

The committee considered a suggestion from the State Bar of Michigan Probate & Estate Planning Section to change the citation at the bottom of the form from MCL

710.21 *et seq.* (adoption code) to MCL 700.1101 *et seq.* However, upon looking at the statute, the committee concluded the reference to MCL 710.21 is correct because this form is used in both probate and adoption proceedings.

The form was unchanged.

Staff Note: Pursuant to the reasoning in agenda item 1 (General Discussion), when this form is revised at a later date, “Circuit Court – Family Division” should be removed from the masthead and a “USE NOTE” added to the bottom that says: “If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form.” However, because this form can be used in adoption proceedings, the Family Division Court Forms Committee may decide to retain “Circuit Court – Family Division” in the masthead, rather than deleting it.

7. PC 563, Publication of Notice of Hearing

The committee approved a request from the State Bar of Michigan Probate & Estate Planning Section and the SCAO to change the citation at the bottom from MCR 5.306 to MCR 5.208 to reflect recent court rule amendments.

The form was approved as revised.

Staff Note: Pursuant to the reasoning in agenda item 1 (General Discussion), “Circuit Court – Family Division” was removed from the masthead and a “USE NOTE” was added to the bottom of the form that says: “If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form.” However, because this form can be used in adoption proceedings, the Family Division Court Forms Committee may decide to retain “Circuit Court – Family Division” in the masthead, rather than deleting it.

8. PC 564, Proof of Service

The committee discussed various requests to include language for service by e-mail and facsimile under MCR 2.107 and MCR 5.105. The committee noted that, pursuant to MCR 5.105(B), facsimile transmission is considered personal service, and personal service is already provided on the form. Committee members also pointed out that, pursuant to MCR 2.107(C)(4), e-mail service must be agreed upon by filing a stipulation in the case. Therefore, the committee concluded that adding language about e-mail service may be misleading. After much discussion, the committee decided the best way to revise the form to include all the service options is to add “According to court rule,” at the beginning of items 2 and 3.

can be used for removing a personal representative and appointing a successor. It was noted that, in 2009, the committee developed PC 620, Application for Appointment of Successor Personal Representative (Estate Not Closed), but did not address whether the Register's Statement needed to be revised as well. The committee reviewed PC 568 but decided the language on the form was inappropriate because a register cannot "order" anything. The committee remarked that PC 620 was developed for appointing a successor personal representative, and PC 568 already accommodates that. The committee noted that PC 568 does not accommodate a request for an order to account for and deliver property to the successor personal representative, but again pointed out that a probate register cannot issue an order. Therefore, the committee decided that PC 620 should be revised and made the following changes.

- (1) Deleted item 7. a. (all three check boxes).
- (2) Retained item 7.b., but deleted the "b." because "a." has been removed.

PC 568 was unchanged. PC 620 was approved as revised.

11. PC 571, Acceptance of Appointment

The committee approved a request from the State Bar of Michigan Probate & Estate Planning Section to change the citation at the bottom of the form from MCL 700.7103 to MCL 700.7202 because the statute was recently amended.

The form was approved as revised.

Staff Note: Pursuant to the reasoning in agenda item 1 (General Discussion), "Circuit Court – Family Division" was removed from the masthead and a "USE NOTE" was added to the bottom of the form that says: "If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form."

12. PC 574, Notice to Creditors, Decedent's Estate

The committee approved a request from the State Bar of Michigan Probate & Estate Planning Section and the SCAO to change the citation at the bottom from MCR 5.306 to MCR 5.208(A) to reflect recent court rule amendments.

The form was approved as revised.

13. PC 577, Inventory

The committee discussed a probate register's request to revise the language in items

2.c. and 3.e. of the instructions on the back of the form. It was asserted the current language, “For guardianships, ...” inappropriately suggests the form is to be used regularly by guardians, which is not the case. It was proposed that the following language be added at the beginning of each item: “If this form is filed in a guardianship,” The committee agreed the current language is misleading and changed the lead-in statement for both items 2.c. and 3.e to say, “If this form is filed in a guardianship,”

The committee considered whether “protected person” in items 3.e. and 2.c. of the instructions should be changed to “protected individual.” Last year, the committee changed “protected person” to “protected individual” on all probate forms, but this form did not get revised. However, rather than “protected individual,” the committee decided it should be changed to “ward” because this is the term that is commonly used for guardianships.

The form was approved as revised

Staff Note: Pursuant to the reasoning in agenda item 1 (General Discussion), “Circuit Court – Family Division” was removed from the masthead and a “USE NOTE” was added to the bottom of the form that says: “If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form.”

14. PC 578, Notice to Known Creditors

The committee approved a request from the State Bar of Michigan Probate & Estate Planning Section and the SCAO to change the citation at the bottom of the form from MCR 5.306 to MCR 5.208(B) to reflect recent court rule amendments.

The form was approved as revised.

15. PC 579, Statement and Proof of Claim

The committee approved the State Bar of Michigan Probate & Estate Planning Section’s request to change the citation at the bottom of the form from MCL 700.7505 to MCL 700.7609, and to change the court rule reference from MCR 5.307(C) to MCR 5.208(C) in light of recent amendments.

The form was approved as revised.

Staff Note: Pursuant to the reasoning in agenda item 1 (General Discussion), “Circuit Court – Family Division” was removed from the masthead and a “USE NOTE” was

added to the bottom of the form that says: “If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form.”

16. PC 580, Notice of Disallowance of Claim

The committee approved the State Bar of Michigan Probate & Estate Planning Section’s request to change the citation at the bottom of the form from MCL 700.7507 to MCL 700.7611 in light of recent amendments to the Estate and Protected Individuals Code (EPIC), and the Michigan Trust Code in particular.

The form was approved as revised.

Staff Note: Pursuant to the reasoning in agenda item 1 (General Discussion), “Circuit Court – Family Division” was removed from the masthead and a “USE NOTE” was added to the bottom of the form that says: “If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form.”

17. PC 584, Account of Fiduciary, Long Form

The committee discussed a probate register’s suggestion that the headings “Investment gain” and “Investment loss” in Schedule A be changed to “Investment gain in value” and “Investment loss in value” because the current headings are unclear. The committee concluded the headings are sufficient and no change was made.

The committee considered whether the heading “Net Sale Price” in Schedule C should be changed to “Net Price of Sale/Disposition.” It was asserted that, for many pieces of real estate (such as vehicles and trailers), the asset is lost through foreclosure, tax reversion, destruction, or abandonment and that these types of losses are not sales but should be categorized as “dispositions” instead. The committee agreed the heading in Schedule C could be clearer and, after discussing several options, decided the heading should be changed to “Proceeds of Sale/Disposition” because this most accurately reflects both a sale and other types of dispositions.

The form was approved as revised.

Staff Note: Pursuant to the reasoning in agenda item 1 (General Discussion), “Circuit Court – Family Division” was removed from the masthead and a “USE NOTE” was added to the bottom of the form that says: “If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand

corner of the form.”

18. PC 588, Receipt of Distributive Share, Personal Property

The committee discussed a probate register’s request that this form be revised to accommodate situations where there is an adult conservatorship, the ward dies, and the personal representative of the estate wants to sign a receipt to discharge the conservator. The committee reviewed PC 588 to see if it could be modified for this purpose and concluded that, rather than revising PC 588, it would be beneficial to create a new form for proof of proper transfer. Accordingly, the SCAO will draft a form for the committee’s review next year.

The form was unchanged.

19. PC 591, Sworn Statement to Close Unsupervised Administration

The committee discussed a probate register’s suggestion that item 6 be moved to the end of the form because a personal representative (PR) cannot sign under oath that he/she has sent the sworn statement when the statement has not yet been completed. The following changes were proposed: (1) redesign the form so the PR signs under oath for those items that deal with estate administration, (2) insert the current statement in item 6 after the attorney signature and name, with date and signature lines for the PR, and (3) renumber the items accordingly. Committee members pointed out that the language of the statute, MCL 700.3954, is the problem. Therefore, the committee concluded the statute needs to be changed and not the form.

The form was unchanged.

20. PC 595, Order for Complete Estate Settlement

The committee approved a deputy court administrator’s request that “a.” and “b.” be added after the check boxes in item 5, similar to the check boxes in item 6 as follows:

- “5. a. The assets of the estate
 b. The schedule for distribution”

The committee also decided that, for consistency, “a.” and “b.” should also be added after the check boxes in item 8 as follows:

- “8. Decedent died
 a. intestate.
 b. with a valid, unrevoked will dated _____ with codicil(s) dated _____.”

The form was approved as revised.

21. PC 619, Notice of Ancillary Administration Filing

The committee discussed a court employee's suggestion to determine whether the citation to MCL 700.1307 at the bottom of the form is applicable. It was asserted that notices are not issued by Michigan and do not need to be certified, and that the letters of authority of the foreign personal representative should be certified instead. The committee agreed that one court cannot certify a document from another court and therefore deleted the reference to MCL 700.1307.

The form was approved as revised.

22. New Form, Petition for Appointment of a Special Personal Representative or Special Fiduciary

The committee discussed a draft form submitted by the Michigan Funeral Directors Association (MFDA) for situations where a special personal representative (PR) needs to be named for the sole purpose of making funeral arrangements and bodily disposition decisions under MCL 700.3206. It was asserted that PC 558, Application for Informal Probate and/or Appointment of Personal Representative (Testate/Intestate), and PC 559, Petition for Probate and/or Appointment of Personal Representative (Testate/Intestate), are insufficient for this purpose because these forms contemplate the formal opening of an estate and request information that is inappropriate to the appointment of a special PR for making only funeral and bodily disposition decisions. It was also asserted that (1) PC 558 or PC 559 should not be used because probate registers are often reluctant to accept these forms when an estate is not being opened or a will is not being probated, and (2) a simplified form that appoints a special PR for the limited purpose of making funeral arrangements and bodily disposition decisions would provide clarity and speed to a time-sensitive circumstance.

After considerable discussion, the committee remained uncertain whether the draft presented by MFDA included all the necessary information and asked whether committee member Doug Chalgian would discuss the draft form with the MFDA. He agreed and development of the form was tabled.

C. Guardianship and Conservatorship Forms

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

The committee considered a request from the State Bar of Michigan Probate & Estate

Planning Section to reword item 2 to address interstate jurisdictional issues and elicit the disclosure of pending orders/petitions in other states. The following language was proposed: “An action within the jurisdiction of _____ court involving the person, property, family, or family members of the person named above has been previously filed in _____ County, State of _____, case number _____, was assigned to Judge _____ and resulted in an order dated _____, and remains is no longer pending on the date this petition was signed.”

Certain committee members remarked that this is not required by court rule and that a rule should be in place first. The committee noted this is an important issue and should be referred to the appropriate probate rules committee (e.g., the State Bar of Michigan). The committee decided that, until the probate rules are amended, the family division rule should be observed. Therefore, the committee added the citation to MCR 3.206(A)(4) at the bottom of the form.

The committee also remarked that the current language is on the form pursuant to MCR 3.206(A)(4) and applies only to family division. The committee was therefore asked whether item 2 should remain on the form in light of its decision to remove the reference to “Circuit Court – Family Division” from the masthead (see agenda item 1, General Discussion). The committee responded that this information is necessary and acknowledged there should be a similar requirement in the probate rules.

The form was approved as revised.

Staff Note: Pursuant to the reasoning in agenda item 1 (General Discussion), “Circuit Court – Family Division” was removed from the masthead and a “USE NOTE” was added to the bottom of the form that says: “If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form.”

2. PC 628, Order Appointing Attorney

The committee discussed a deputy court administrator’s request to include the following check box options in the title of the form for easier identification of the type of action:

“ Order Appointing Attorney
 Order Discharging Guardian Ad Litem”

Some committee members questioned whether PC 628 is appropriate for discharging a guardian ad litem because it is supposed to be used for appointing an attorney. After considerable discussion about what form can be modified for this purpose, the

committee determined that PC 642, Order Appointing Guardian Ad Litem/Attorney/Lawyer-Guardian Ad Litem, should be modified instead of PC 628. Accordingly, the SCAO will modify PC 642 and develop a draft form for the committee's consideration next year.

The form was unchanged.

3. PC 638a, Order Regarding Petition to Terminate/Modify Guardian for Minor or LII/Conservator

The committee discussed a probate register's suggestion to insert a check box as a new item 11 that says, " 11. The guardian/conservator is discharged." (similar to item 7 on PC 638b). The committee remarked that this language is unnecessary because discharge occurs by operation of law when the guardianship/conservatorship is terminated.

While considering this issue, the committee agreed that check boxes should be added to item 10 as follows: " _____ is removed permitted

Name of fiduciary

to resign as _____."

Type of fiduciary

The committee discussed a probate register's suggestion that the form be amended to accommodate situations where a judge modifies or terminates a guardianship or conservatorship without a petition being filed first. The committee decided this change is inappropriate because the court should modify or terminate only upon petition. Also, this is supported by the use note at the end of the form that states the order is to be used with form PC 638 (petition).

The form was approved as revised.

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

The committee considered a request from the State Bar of Michigan Probate & Estate Planning Section to reword item 3 to address interstate jurisdictional issues and elicit the disclosure of pending orders/petitions in other states. As discussed in agenda item 1, the committee concluded the addition of this information is inappropriate at this time. The committee added the citation to MCR 3.206(A)(4) for the same reasons as discussed in agenda item 1.

The form was approved as revised.

Staff Note: Pursuant to the reasoning in agenda item 1 (General Discussion), “Circuit Court – Family Division” was removed from the masthead and a “USE NOTE” was added to the bottom of the form that says: “If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form.”

5. PC 647, Order Regarding Sale of Real Estate

The committee considered several suggestions that new language be added to this form to help clarify when an appraisal should be filed with the court. The following language was proposed: “ An appraisal of the real estate is ordered by the court to be filed with the court within ____ days.” It was suggested that the current item 5 be renumbered as item 5.a., and the new language be item 5.b. While the committee agreed that such language would be helpful, upon reviewing the form it noted that the proposed language is inappropriate in the “findings” section of the form (as suggested) and, instead, should be in the “order” section of the form. Therefore, the committee decided the following language should be added in the order section as a new item 8: “ 8. A written appraisal of the real estate must be provided to the court within ____ days.” Accordingly, old item 8 was renumbered new item 9.

The form was approved as revised.

6. PC 649, Receipt of Ward and Discharge

The committee approved a probate register’s request to insert _____
Name (type or print)
under the signature line, similar to other forms.

The form was approved as revised.

Staff Note: While the SCAO believes this revision is not needed because the individual’s name is printed in the case name (“In the matter of _____”) at the top of the form, a majority of the committee believed it was beneficial and, therefore, the form was revised accordingly. Also, pursuant to the reasoning in agenda item 1 (General Discussion), “Circuit Court – Family Division” was removed from the masthead and a “USE NOTE” was added to the bottom of the form that says: “If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form.”

7. PC 650, Petition for Appointment of Limited Guardian of Minor
PC 651, Petition for Appointment of Guardian of Minor

The committee considered a judge’s suggestion to add language to both PC 650 and

PC 651 concerning incarcerated parties, so the form is in better compliance with MCR 2.004. It was asserted that the forms should be designed to help inform petitioners, particularly pro se litigants, of their responsibilities under the court rule regarding incarcerated parties. It was recommended that a check box be inserted under the form title to identify whether a telephonic hearing is required by court rule and a note be added to the bottom of the form requiring the noncustodial incarcerated parent to provide certain information. While the committee remarked that the forms should provide some guidance, it decided the proposed changes were not the best method for doing so because most cases will not involve an incarcerated person and the additional information in the body of the petition will be confusing to most pro se petitioners. Rather, the committee determined that a use note at the top of the forms would be the best way to inform parties of their responsibilities. Accordingly, the following was added at the top of both forms: "USE NOTE: If a parent is incarcerated and under the jurisdiction of the Michigan Department of Corrections, the petitioner must comply with MCR 2.004(B)." To make room for this use note on PC 650, items 6 and 7 were moved to page 2. **Staff Note:** To make room for this use note on PC 651, one line was removed from the last box in item 4.

The committee discussed a court employee's request that the check boxes before item 4 on PC 650 and item 3 on PC 651 should be removed because these provisions are mandatory. It was asserted that including a check box before the items indicates that the information is optional, when it is not. The committee agreed and removed the check boxes before item 4 on PC 650 and item 3 on PC 651.

Regarding PC 651 only, the committee considered a probate register's inquiry whether the documents mentioned in item 6.a. (death certificate, previous court order, judgment of divorce, etc.) are required to be "attached" by statute or court rule and, if not, whether the parenthetical references to the documents being "attached" should be removed. The committee was advised that, after researching the issue, the SCAO believes there is no requirement in statute or court rule that these documents be filed with the petition and the court can verify the claim in any manner it so chooses. The committee was told that the parenthetical in item 6.a. was added to the form in 1990 because of changes in the law and, at that time, the rationale was probably that the court could only verify the claim if the petitioner provided proof to the court with the petition. Also, the committee noted that MCL 700.5213(2) says: "Upon hearing, if the court finds that a qualified person seeks appointment, venue is proper, the required notices have been given, the requirements of section 5204 or of sections 5205 and 5206 are satisfied, and the minor's welfare will be served by the requested appointment, the court shall make the appointment. In other cases, the court may dismiss the proceeding or make another disposition of the matter that will serve the minor's welfare." Based on this, the committee remarked that, with today's technology and the amount of information available on-line, courts can get the

necessary proof in various other ways. Accordingly, the committee removed the parenthetical information from item 6.a. on PC 651.

The forms were approved as revised.

Staff Note: Pursuant to the reasoning in agenda item 1 (General Discussion), “Circuit Court – Family Division” was removed from the mastheads and a “USE NOTE” was added to the bottom of the forms that says: “If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form.” Also, during typesetting an error was found on PC 651 – the reference to “two months” in the note (*) under the item 4 grid is incorrect and is based on an outdated court rule, MCR 5.205. Rather, the applicable court rule is now MCR 5.125(C)(19) and says “63 days.” Therefore, the language of the note was changed accordingly. In addition, the citation at the bottom of the form was changed to MCR 5.125(C)(19).

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

The committee discussed a probate register’s suggestion that this form be examined in light of the Michigan Court of Appeals decision in *Deschaine v St. Germain*, 256 Mich App 665 (2003). It was asserted the committee should review the language in item 4.b. regarding the parent permitting the minor to reside with another person. It was noted that the form had already been changed to reflect this decision and no further change was necessary.

The form was unchanged.

9. PC 673, Petition and Order to Use Funds

The committee discussed a deputy court administrator’s request to reconsider the placement and language of the instructions to the financial institution on this form. The instructions currently on the form were approved by the committee in 2009 and were placed below the judge’s signature line. However, some attorneys have indicated that some financial institutions will not follow the instructions because the instructions are below the judge’s signature and not part of the order. As a result, some courts continue to insert their own instructions above the judge’s signature line. Therefore, it was suggested the instructions be placed above the judge’s signature line as a new item 7 (delete “Other” as the current item 7) and a check box be inserted before the item because not all counties certify their orders and not all counties are having issues with banks in this regard. The following language was proposed: “ 7. The financial institution shall only release funds upon receipt of a certified copy with

raised court seal of this document. The financial institution shall retain the certified copy of this order for its records.”

After much discussion, the committee concluded the current form should not be changed because the court has no authority to order a financial institution to do anything in this regard.

The form was unchanged.

10. PC 674, Inventory (Conservatorship)

The committee considered a court employee’s request that language be added stating that a copy of the inventory/accounting has been or will be served on the interested persons. It was asserted this language should be on the form so the fiduciary is aware that he or she is responsible for serving and filing a proof of service. If approved by the committee, it was also suggested that the same provision be included on other appropriate forms. The committee agreed an instruction regarding service on interested persons would be beneficial, but only on PC 674. The committee approved the following use note and decided it should be placed at the top of the form: “USE NOTE: The conservator must serve this completed inventory on all interested persons as required by Michigan Court Rules 5.105 and 5.125. Then the conservator must complete a proof of service (form PC 564) and file it and this inventory with the court.” The SCAO agreed to research whether other forms should include this use note and, if so, will place the forms on next year’s agenda.

The form was approved as revised.

Staff Note: Pursuant to the reasoning in agenda item 1 (General Discussion), “Circuit Court – Family Division” was removed from the mastheads and a “USE NOTE” was added to the bottom of the forms that says: “If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form.”

11. PC 675, Petition to Terminate/Modify Guardianship

Last year the committee decided this form should be reviewed for possible changes so it is consistent with changes that were made to PC 677, Petition to Terminate/Modify Guardian for Developmentally Disabled Individual. Specifically, the changes to PC 677 included adding space for (1) the developmentally disabled individual’s address and (2) the guardian’s address. The committee noted that space for the ward’s address is already on the form. The committee decided that space should be allowed for the guardian’s address as follows.

“2. a. The incapacitated individual has a guardian whose address is _____ and has
 a spouse whose name and address are listed below.
....”

While making this change, the committee also deleted the reference to “alleged” in item 2 because it is inappropriate at this stage of the proceedings.

The committee determined the grid complies with the standard approved by the committee last year.

The committee considered a probate register’s suggestion that the field for “Current address of legally incapacitated individual/minor” be changed to “Current address of ward” (new language underlined) because the form can be used for both legally incapacitated individuals (LIIs) and minor guardianships. The committee agreed that “ward” is the proper term and the form was revised accordingly.

The committee also decided the information regarding an Indian child that appears on PC 650 and PC 651 should be included on this form, pursuant to the Indian Child Welfare Act. The committee inserted the language from item 4 on PC 650 as a new item 3 on PC 675. The remaining items on the form were renumbered accordingly. To accommodate the new language, one line was removed from both new item 4 (old item 3) and new item 10 (old item 9).

The form was approved as revised.

Staff Note: Pursuant to the reasoning in agenda item 1 (General Discussion), “Circuit Court – Family Division” was removed from the mastheads and a “USE NOTE” was added to the bottom of the forms that says: “If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form.” Also, the SCAO is concerned whether “Current address of ward” is appropriate in light of the form title (which uses the terms “legally incapacitated individual” and “minor”) and whether this inconsistency could cause confusion. This issue has been presented to the committee with the typeset forms for review by mail.

12. PC 676, Petition to Terminate/Modify Conservatorship

Last year the committee decided this form should be reviewed for possible changes so it is consistent with revisions that were made to PC 677, Petition to Terminate/Modify Guardian for Developmentally Disabled Individual. Specifically, the changes to PC 677 included adding space for (1) the developmentally disabled individual’s address and (2) the guardian’s address. The committee decided that space should be allowed

for the protected individual's address by adding a new item 2 that says: "2. The protected individual's address is _____." The committee renumbered old item 2 as new item 3 and changed the language to the following:

"3. The protected individual has a conservator whose address is _____ and has
 a spouse whose name and address are listed below.
...."

All remaining items were renumbered accordingly.

The committee also determined the grid on PC 676 complied with the standard grid approved by the committee last year.

The form was approved as revised.

Staff Note: Pursuant to the reasoning in agenda item 1 (General Discussion), "Circuit Court – Family Division" was removed from the mastheads and a "USE NOTE" was added to the bottom of the forms that says: "If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form."

13. PC 677, Petition to Terminate/Modify Guardianship for Developmentally Disabled Individual

The committee approved a probate register's request to add language to item 9 regarding the ability to petition for a temporary guardian. The committee decided a check box option should be added as follows:

" 9. Appoint ...
as successor plenary guardian partial guardian temporary guardian"

The form was approved as revised.

Staff Note: Pursuant to the reasoning in agenda item 1 (General Discussion), "Circuit Court – Family Division" was removed from the mastheads and a "USE NOTE" was added to the bottom of the forms that says: "If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form."

14. New Form, Order Appointing Emergency Temporary Guardian for Individual with Alleged Developmental Disability

Last year the committee decided this form should be developed pursuant to MCL 330.1607 for the appointment of an emergency temporary guardian. The committee agreed a new form would be more beneficial than revising PC 660, Order Appointing Guardian for Individual with a Developmental Disability. Two drafts were provided last year for the committee's review and the committee decided to use the draft submitted by Calhoun County, but made some minor changes. However, after much discussion, the committee tabled the development of the form and asked the SCAO to typeset a draft for review in 2010. The committee approved the draft form that was presented but made the following changes.

(1) Revised item 2 to say:

“2. A petition was filed requesting the appointment of an emergency temporary guardian for the individual.”

(2) Revised item 5 to say:

“ 5. Based on clear and convincing evidence, an emergency exists and the individual needs the immediate protection of a temporary guardian of the
 person, estate,
pending a full hearing in this matter.”

(3) Revised item 6 to say:

“6. _____, whose address and telephone number are
Name (type or print)

_____”
Address City State Zip Telephone no.

is appointed temporary guardian of the

person estate

for _____.”

(4) Revised item 7 to say:

“7. The temporary guardian shall have the authority to do the following:

_____”

(5) Revised item 9 to say:

“9. The temporary guardianship shall expire on _____, or earlier if a hearing is held pursuant to statute.”

The committee determined the form should basically mirror the language of the statute, MCL 330.1607. Due to time constraints, the committee decided this form should not be tabled again, the SCAO should make the necessary changes, and the committee will review the form by mail.

Staff Note: The SCAO believes it would be helpful if the name of the individual is provided, rather than just saying “the individual.” Therefore “_____”
Name
was inserted in items 2 and 5, instead of “the individual.” Also, during typesetting items 4 and 9 were revised to better reflect the language of the statute as follows: “4. _____ is an individual with an alleged developmental disability.”
“9. The temporary guardianship shall expire on _____ or, if a hearing pursuant to statute is held earlier, then on the date of the hearing.”
The form was also given JIS code “OEG.”

15. New Form, Notice of Guardianship Proceedings Concerning an Indian Child

Last year the development of this form was tabled until 2010, but in the meantime a special committee convened and developed PC 678, Notice of Proceedings Concerning an Indian Child. The committee had no concerns with the new form and it was not discussed.

Meeting adjourned, 5:00 p.m.

Respectfully submitted,

Traci R. Gentilozzi

cc: Steven D. Capps, Director, Trial Court Services
Anne Boomer, Supreme Court Administrative Counsel
Sally LaCross, Supreme Court