

OAKLAND COUNTY PROBATE COURT

1200 N. Telegraph Rd., Dept. 457

Pontiac, MI 48341-0457

Location: First floor, East wing of the Oakland County Courthouse

Forms are available at www.oakgov.com/probate (go to *Forms* and link to *SCAO Michigan Courts*)

Telephone: (248) 858-0260

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PROCEDURE FOR APPOINTMENT OF TEMPORARY GUARDIANS

FOR ADULTS WITH MEDICAL EMERGENCIES

In general, a Petition for Appointment of Guardian of Incapacitated Individual (PC 625) is set for hearing approximately 3 weeks from the date of filing. All expedited dates are at the Judge's discretion.

To request a temporary guardian, the petitioner must check Box #13 on the Petition and state sufficient facts.

When filing for the appointment of a temporary guardian and/or special conservator, an additional form must be completed and filed with the Petitions for Appointment. The supplemental sheet is entitled Oakland County Probate Court **Emergency Petition Supplemental Form (PEMH 1137)**. The form is available on our website under "Probate Court Forms: In House". The form should be used to provide detailed information in support of the emergency request. The form must be signed by the petitioner. If the assigned judge determines the matter will be heard immediately, the petitioner must be available to testify and answer any questions posed by the judge.

Petitions that request the appointment of a temporary guardian for a verifiable medical emergency situation are handled as follows:

- The petition should be filed at the Probate counter as early in the day as possible. Filings are accepted from 8:00 a.m. to 4:00 p.m., Monday through Friday. Although a hearing may be scheduled the same day for medical emergencies, it is more likely to have a hearing within 1 or 2 days. The later in the day a petition is filed, the less likely it is that the hearing will be scheduled the same day.
- The Petition must be completely filled out before it may be accepted for filing.
- Petitions **must** be accompanied by a letter from medical or social work personnel indicating the life and death nature of the medical emergency. A letter simply indicating an ongoing or progressing medical condition may not be sufficient to secure an expedited hearing.
- The petition **must** name a proposed temporary guardian who must be available at the time of the hearing. If a public administrator is requested, it is the petitioner's responsibility to locate a willing and available public administrator, and to establish contact at the time of the hearing.

- The filing fee must be paid at the time the petition is presented for filing. The fee is \$175 as long as the request for a temporary guardian is filed at the same time as the petition for appointment of a full guardian. If the petition is granted, certified Letters of Guardianship will be issued. The fee for certified Letters is \$12 per Letter.
- Once the petition is accepted for filing, it will be referred to the assigned judge's chambers for a determination on the emergency hearing request.
- Ideally, the petitioner personally serves the alleged legally incapacitated individual and interested persons at least 24 hours before the emergency hearing. Service time requirements may be adjusted and/or waived by the judge depending on the circumstances. A Proof of Service should be filed for all completed service.
- A guardian ad litem (“GAL”) will be appointed by the judge. Generally, this attorney will visit the alleged legally incapacitated individual, conduct a preliminary investigation into the allegations stated in the petition, and make recommendations regarding his/her best interests to the judge on the record.
- If there is insufficient time for the GAL to return to the courthouse for a hearing, a telephonic hearing may be held. ***The medical facility must have a speakerphone and qualified medical personnel on hand at the time of the hearing.*** The court will conduct a hearing on the record from the courtroom or chambers.
- The ***medical personnel must be prepared to testify under oath*** as to the nature of the condition of the alleged legally incapacitated individual.
- The petitioner or attorney for the petitioner must be prepared to examine the witness(es) and to establish a legal basis for the appointment of a temporary guardian.
- The court will issue its order after the hearing. If a temporary guardian is appointed, the court will issue Letters of Guardianship (PC 633) only after the guardian has filed an Acceptance of Appointment (PC 571). It may be faxed to the court. (The fee for certified Letters is \$12.00 per Letter).
- It is the petitioner’s responsibility to serve the parties and to make the guardian aware of the appointment and the nature of the impending medical decisions.
- A hearing on the full guardianship will follow, generally within the next month. The petitioner must appear for that hearing as well.

Life-threatening medical emergencies that occur during non-court business hours should be handled according to established protocol for the medical facility.