

COURT OF APPEALS STANDING COMMITTEE
ON RULES OF PRACTICE AND PROCEDURE

Minutes of a meeting of the Rules Committee held in Training Rooms 5 and 6 of the Judicial Education and Training Center, 2011 Commerce Park Drive, Annapolis, Maryland on February 13, 2015.

Members present:

Hon. Alan M. Wilner, Chair
Hon. Robert A. Zarnoch, Vice Chair

A. Gillis Allen, II, Esq.	Ms. Pamela Q. Harris
Robert R. Bowie, Jr., Esq.	Bruce L. Marcus, Esq.
James E. Carbine, Esq.	Donna Ellen McBride, Esq.
Mary Anne Day, Esq.	Hon. Danielle M. Mosley
Christopher R. Dunn, Esq.	Hon. Paula A. Price
Hon. Angela M. Eaves	Hon. Julia B. Weatherly
Hon. JoAnn M. Ellinghaus-Jones	Thurman W. Zollicoffer, Esq.
Alvin I. Frederick, Esq.	

In attendance:

Sandra F. Haines, Esq., Reporter
Sherie B. Libber, Esq., Assistant Reporter
Grace G. Connolly, Register of Wills for Baltimore County
Byron MacFarlane, Register of Wills for Howard County
Margaret H. Phipps, Register of Wills for Calvert County
Joseph M. Griffin, Register of Wills for Montgomery County
Benjamin Woolery, Esq., Estate and Trust Law Section, Maryland State Bar Association
Allan J. Gibber, Esq.
Hon. Michele Loewenthal, Orphans Court for Baltimore City
Hon. Vicky Orem, Chair, Forms Committee, Conference of Orphans' Court Judges

The Chair convened the meeting, welcoming everyone. He told the Committee that he had one announcement and one update. On February 19, 2015, the Court of Appeals will be holding its open meeting on the 186th Report and the Supplement to it. The Report

has many Rules in it that are proposed for change. The hearing starts at 1:00 p.m. It will take place either in the Court's conference room or if many people attend, it will be in the courtroom.

The Chair said that he would update the Committee on the proposed amendments to Rule 7.4, Communication of Fields of Practice, which is one of the Rules of Professional Conduct and concerns attorney specialization. The Attorneys and Judges Subcommittee met in early November and came up with a proposal for amending Rule 7.4 to provide that attorneys could advertise a specialty if they were certified by an accredited certifying agency. The Subcommittee's approach was to latch onto groups approved by the American Bar Association ("ABA"). The Chair and the Subcommittee had not realized that the Maryland State Bar Association ("MSBA") had recently gotten involved in this matter. This information had been communicated to the Committee at the November Rules Committee meeting, and the representatives of the MSBA had asked the Committee to defer action on the Subcommittee recommendation until the MSBA Special Committee could meet.

The Chair commented that the Committee did defer the matter. Initially, it was deferred until the January Rules Committee meeting, but the Special Committee requested that it be deferred further until the February meeting, to which request the Rules Committee agreed. The MSBA then asked for a deferral for a year, or at least until after the MSBA convention in June. The Rules Committee did not agree to this, because the effect would be to

defer it for a year. After the June convention, the Committee might not be able to discuss the specialization issue until October. The earliest that the Court of Appeals could then hear it would probably be next January or even later.

The Chair suggested to the MSBA Special Committee that Rule 7.4 would be recommitted to the Attorneys and Judges Subcommittee, which could meet with representatives of the MSBA to listen to their concerns and their suggestions. When this had happened in the past, the Committee had always been able to address the concerns communicated to them in such a way as to get a consensus. The Chair had spoken with the Honorable Mary Ellen Barbera, Chief Judge of the Court of Appeals, about this meeting, and she had agreed that it was appropriate. A Subcommittee meeting has been scheduled for March 2, 2015 with attendance by a delegation from the MSBA, which will include the President and President-Elect of the MSBA plus members of the Special Committee.

The Chair commented that with the approval of the Rules Committee, he would recommit this matter to the Subcommittee, so that the meeting can take place. It may well be that either the Subcommittee will recommend a different approach, or it may send up alternatives to the Court. Forty-eight states have permitted attorneys to advertise specialties under certain circumstances. Some have latched onto the ABA-accredited groups; others have done it differently by creating their own authorities, commissions, or committees to approve specialization. There are

many methods to choose from. Hearing from the MSBA representatives would be very useful.

Agenda Item 1. Consideration of proposed amendments to: Rule 16-801 (Promulgation of Rules)

The Reporter presented Rule 16-801, Promulgation of Rules, for the Committee's consideration.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURTS, JUDGES, AND ATTORNEYS

CHAPTER 800 - MISCELLANEOUS

AMEND Rule 16-801 by deleting references to the Maryland Register; by adding provisions pertaining to the posting of proposed and recent adopted Rules changes on the Judiciary website; by adding certain provisions pertaining to reports of the Rules Committee, public comment on proposed Rules changes, and public hearings as well as other meetings of the Court of Appeals regarding Rules changes; and by modifying provisions pertaining to the effective date of Rules changes; as follows:

Rule 16-801. PROMULGATION OF RULES

~~a.~~ (a) Promulgation by Rules Order

Rules of the Court of Appeals shall be promulgated by a Rules Order approved by a majority of the members of the Court of Appeals.

~~b.~~ (b) Rules Committee

To assist the Court of Appeals in developing rules in the exercise of its rule-making power, the Court has appointed a standing committee on rules of practice and procedure, usually and herein referred to as

the "Rules Committee," composed of judges, lawyers and persons familiar with judicial administration appointed for a three year term or at the Court's pleasure. The Court has also appointed a member of the bar to serve as Reporter to the Rules Committee, and from time to time, such assistant or special reporters as may be required to assist the Rules Committee in discharging its assigned responsibilities. Unless otherwise determined by the Court of Appeals, every suggestion for the adoption, amendment, or rescission of a rule shall be referred to the Rules Committee for consideration. The Rules Committee may also consider rules changes on its own initiative, and shall make its recommendations with respect to rules changes to the Court of Appeals by two or more written reports each year, submitted on or before March 31 and September 30. ~~A copy of each report shall be transmitted to the Maryland Register for publication under a thirty day notice of proposed rules changes soliciting public comment.~~

~~Cross reference: See §§13-301 to 13-303 of the Courts Article of the Annotated Code of Maryland.~~

~~Committee note: The Rules Committee was originally appointed by order of the Court of Appeals dated January 22, 1946, to succeed an ad hoc predecessor Committee on Rules of Practice and Procedure appointed by order of the Court dated March 5, 1940.~~

~~c. Publication of Rules Changes~~

~~Unless the Court of Appeals determines that some emergency requires the promulgation of a rules change to take effect prior to either of the dates specified in section d of this Rule, a copy of every Rules Order adopting, amending, or rescinding a rule shall be published in the Maryland Register at least thirty days before its effective date under a notice of rules changes, and may also be published in such other publication as the Court of Appeals may direct. A Rules Order adopting or amending a rule in the form previously published in the Maryland Register~~

~~as a proposed rule change shall cite the number and page of the Maryland Register on which the proposed rules change appears, and in that case the text of the rule adopted or amended need not be re-published with the order of adoption or amendment. If, however, the Court of Appeals should further amend a rule proposed for adoption or amendment during the course of the rule-making process, either in response to comment received, or of its own motion, the full text of the rule or amendment as adopted and showing such further amendment shall be republished with the Rules Order.~~

~~If the Court of Appeals determines that an emergency exists and that a rules change is required to take effect prior to either of the dates specified in section d of this Rule, it shall direct such special publication as it considers appropriate to notify the judiciary, the clerks and members of the bar.~~

~~d. Effective Date of Rules Changes~~

~~Unless the Court of Appeals determines that an emergency exists, and otherwise directs, rules changes shall become effective not earlier than the first day of January or the first day of July, whichever first occurs after the entry and appropriate publication of the order promulgating the rules changes.~~

(c) Report of Rules Committee

All recommendations by the Standing Committee on Rules of Practice and Procedure for new Rules or changes to existing Rules shall be transmitted to the Court of Appeals in a consecutively numbered report or supplement thereto setting forth the changes proposed and the reasons for the proposed changes. A proposed new Rule shall show in plain type the text of the proposed Rule. Proposed amendments to existing Rules shall show in plain type the current Rule with proposed deletions indicated by strikeouts and proposed additions indicated by underlined language.

(d) Posting of Report; Opportunity for Comment

The Reporter to the Committee shall cause all reports and supplements to them that transmit proposed additions or changes to the Maryland Rules, together with the text of the changes proposed, to be posted for comment on the Judiciary website. Unless otherwise directed by the Court of Appeals, the comment period ordinarily shall be 30 days.

(e) Written Comments

Unless otherwise directed or approved by the Court of Appeals, comments to proposed additions or changes shall (1) be in writing, (2) identify the individual or group making the comment, and (3) be sent to the Reporter to the Committee within the time specified in the notice posted on the Judiciary website. At the conclusion of the comment period, the Reporter shall collect and promptly transmit the comments to the Court. Comments not sent to the Reporter in accordance with this section ordinarily will not be considered by the Court.

(f) Court Proceedings

(1) Generally

(A) The Court of Appeals shall conduct all proceedings involving the exercise of its authority under Maryland Constitution, Article IV, Section 18 (a) to adopt or modify Rules of Procedure at a meeting open to the public. The meeting may consist of a public hearing pursuant to subsection (f) (2) of this Rule or be limited to specific presentations invited by the Court and discussion and voting by the Court. The meeting may be in the courtroom, in the Court's conference room, or at any other suitable place designated by the Court. Advance notice of the meeting shall be given in the manner designated by the Court.

(B) The Clerk of the Court shall serve as recording secretary at all public hearings

and open meetings. The Clerk shall monitor an audio recording of the proceedings, which the Clerk shall retain as a permanent record and make available upon request. Recording of the proceedings by other persons in attendance is prohibited.

(C) In order to furnish easy access to Rules proceedings, doors to the court or conference room shall remain open at all times during all public hearings and open meetings.

(2) Public Hearing

(A) Unless, for good cause, the Court of Appeals orders otherwise, the Court, upon the expiration of any comment period, shall hold a public hearing on all proposed additions or changes to the Maryland Rules.

(B) Persons desiring to be heard shall notify the Clerk of the Court at least two days before the hearing of their desire to be heard and of the amount of time requested to address the Court. The Court may prescribe a shorter period for oral presentation and may pose questions to the person addressing the Court.

(3) Extended Coverage

(A) In this Rule, "extended coverage" has the meaning set forth in Rule 16-109 (a).

(B) Ordinarily, extended coverage will be permitted at a public hearing conducted pursuant to subsection (f) (2) of this Rule, provided that a request for such coverage is made to the Clerk of the Court at least five days before the hearing. For good cause shown, the Court may honor a request that does not comply with the requirements of this subsection.

(C) Absent exceptional circumstances, extended coverage shall not be permitted during open meetings that are not public hearings conducted pursuant to subsection (f) (2) of this Rule. If extended coverage is sought, a written request setting forth the

exceptional circumstances warranting extended coverage shall be made to the Clerk at least five days before the meeting coverage. A decision by the Court denying extended coverage is not intended to restrict the right of the media to report the proceedings.

(D) Extended coverage under this Rule is subject to the operational requirements set forth in Rule 16-109.

(g) Rules Order

New Rules and the amendment or rescission of existing Rules adopted by the Court of Appeals shall be by a Rules Order of the Court.

(f) Effective Date

(1) Stated in Rules Order

The Rules Order shall state the effective date of the changes and the extent to which those changes will apply to proceedings pending on that date.

(2) Minimum Delay; Exception

Unless the Court of Appeals determines that, due to exigent circumstances, Rules changes should take effect sooner, Rules changes shall become effective no earlier than the later of:

(A) thirty days after posting of the Rules Order on the Judiciary website, or

(B) the first day of January or the first day of July next succeeding posting of the Rules Order on the Judiciary website, whichever first occurs.

(i) Posting of Rules Order and Rules Changes

(1) Generally

A copy of every Rules Order shall be posted on the Judiciary website. The Court may direct that other forms of public notice

also be given.

(2) Text of Rules Changes

The full text of any new Rules and any amendments to existing Rules, showing deleted language by strikeouts and new language by underlining, shall be posted on the Judiciary website with the Rules Order.

~~h.~~ (j) Record of Rules

The Clerk of the Court of Appeals shall maintain a separate record designated as the "Maryland Rules of Procedure," which shall contain all Rules and amendments adopted by the Court.

Source: This Rule is derived, in part, from former Rule 1225 and in part from Internal Operating Rules of the Court of Appeals 1 through 10.

Rule 16-801 was accompanied by the following Reporter's note.

Chapter 124, Laws of 2014 (SB 69), permits proposed and recently adopted Rules changes to be posted on the Judiciary's website, in lieu of being published in the Maryland Register. Proposed amendments to current Rule 16-801 incorporate into the Rule procedures for the website posting.

Also included in the proposed amendments to the Rule are provisions pertaining to reports of the Rules Committee, public comments on proposed Rules changes, public hearings and other open meetings of the Court of Appeals regarding Rules changes, and the effective date of Rules changes. The additional provisions are based on comparable provisions in proposed revised Rule 16-801, which tentatively has been approved by the Court of Appeals as part of its consideration of the pending 178th Report of the Rules Committee (Part 1).

The Reporter told the Committee that amendments to current

Rule 16-801 were being proposed. By way of background, there has been a complete revision of all of the Title 16 Rules, which will be in the 178th Report to the Court of Appeals. Parts 1 and 2 of the 178th Report were transmitted to the Court in 2013 and, after an open hearing, were tentatively approved by the Court but not made effective. The Court is waiting for Part 3, dealing with attorneys. If approved by the Court, all three parts will be made effective at the same time. Some revisions to Parts 1 and 2 have become necessary due to certain intervening circumstances.

The Reporter said that while all of that is pending, Ms. Bessie Decker, the Clerk of the Court of Appeals, found a problem, which is that current Rule 16-801 and the Internal Operating Rules of the Court of Appeals that appear on page 1101 of Volume 2 of the Rule book are inconsistent with Chapter 124, Laws of 2014 (SB 69), a copy of which is in the meeting materials. (See Appendix 1). The inconsistency involves the references to "The Maryland Register." Proposed Rules and Rules Orders are no longer going to be published in The Maryland Register. Instead, they are going to be posted on the Judiciary website, which is accessible to many more people.

The Reporter said that it was necessary to eliminate the references to "The Maryland Register" that are in current Rule 16-801. That Rule has been divided into two different Rules in the 178th Report. One Rule addresses procedures, such as how rules are promulgated. The other Rule addresses the structure and function of the Rules Committee. In the interest of not

making many amendments to a soon-to-be rescinded Rule, the minimum amount needed is being done to current Rule 16-801 to address some of the problems. It is a band-aid due to the obsolescence of the current Rule.

The Reporter noted that she and the Chair worked together to draft amendments to the current Rule. They had eliminated the references to "The Maryland Register" and added the Judiciary website provisions. They took most of the language referring to procedure out of the version of the Rule in the 178th Report and put it in current Rule 16-801. It is in section (c) through the end of the Rule, except for section (j). Sections (c) through (h) are from the 178th Report version of the revised Rule that has already been approved by the Court of Appeals in principle. This is what is before the Committee. It will be sent to the Court in the next report to make the Rule more up-to-date.

Ms. McBride pointed out that Rule 16-801 was lettered incorrectly. The next section after section (g) is section (f). The Chair said that this would be corrected.

The Reporter noted that since the proposed changes to Rule 16-801 are not a recommendation of the General Court Administration Subcommittee, it would require a motion for approval.

Judge Weatherly moved to approve the changes to Rule 16-801, the motion was seconded, and it passed unanimously.

The Chair said that all of the other items on the agenda emanated from the Probate/Fiduciary Subcommittee. He would be presenting the Probate and Guardianship Rules, because Mr. Allen,

who is the Chair of that Subcommittee, had not been able to make the last Subcommittee meeting. Mr. Allen thanked the Chair for doing this for him. The Chair explained that most of the changes to the Probate and Guardianship Rules were the product of a working committee of registers of wills, Orphans' Court judges, members of the Estates and Trusts Section of the MSBA, particularly, Allan Gibber, Esq., who specializes in the practice of estates and trusts. Most of the changes are explained in the Reporter's notes to the Rules.

Agenda Item 2. Consideration of proposed amendments to: New Rule 10-111 (Petition for Guardianship of Minor), New Rule 10-112 (Petition for Guardianship of Alleged Disabled Person), Rule 10-201 (Petition for Appointment of a Guardian of the Person), Rule 10-202 (Certificates and Consents), Rule 10-301 (Petition for Appointment of a Guardian of Property)--
Conforming amendments to: Rule 10-207 (Resignation of Guardian of the Persons and Appointment of Substituted or Successor Guardian), Rule 10-208 (Removal for Cause or Other Sanction), Rule 10-711 (Resignation of Fiduciary and Appointment of Substituted or Successor Fiduciary), and Rule 10-712 (Removal for Cause or Other Sanctions)

The Chair presented new Rules 10-111, Petition for Guardianship of Minor, and 10-112, Petition for Guardianship of Alleged Disabled Person, for the Committee's consideration.

MARYLAND RULES OF PROCEDURE

TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 100 - GENERAL PROVISIONS

ADD new Rule 10-111, as follows:

Rule 10-111. PETITION FOR GUARDIANSHIP OF MINOR

A petition for guardianship of a minor shall be in substantially the following form:

[CAPTION]

In the Matter of _____ In the _____ Court for

(Name of Minor) (County)

(Docket reference)

PETITION FOR GUARDIANSHIP OF MINOR

Note: This form is to be used where the only ground for the petition is minority.

Guardianship of Person Guardianship of Property Guardianship of Person and Property

The petitioner, _____, _____ whose
(name) (age)
address is _____,
and whose telephone number is _____,
represents to the court that:

1. The minor _____, age _____,
born on the _____ day of _____,
(month) (year)
a male or female child of _____
and _____, resides at _____.

A birth certificate of the minor is attached.

2. If the minor does not reside in the jurisdiction in which this petition is filed, then state the place in this jurisdiction where the minor is currently located _____
_____.

3. The relationship of petitioner to the minor is _____
_____.

4. *Section 4 does not need to be completed if the petitioner is asking the court to appoint someone other than the petitioner as the guardian.*

(Check one of the following boxes)

I have not been convicted of a crime listed in Code, Estates and Trusts Article, §11-114, or

I was convicted of such a crime, namely _____
_____, in _____, but the following good cause exists for me to be appointed as guardian
_____.

5. State the name and address of an additional person on whom service shall be made on behalf of the minor, including a minor who is at least ten years of age: _____

_____.

6. The following is a list of the names, addresses, and telephone numbers of all interested persons (see Code, Estates and Trusts Article, §13-101 (j)).

List of Interested Persons

	<u>Name</u>	<u>Address</u>	<u>Telephone Number</u>
Parents:	_____	_____	_____
	_____	_____	_____
Siblings:	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
Any Other Heirs at Law:	_____	_____	_____
Guardian (If appointed):	_____	_____	_____
Any Person Holding a Power of Attorney of the Minor:	_____	_____	_____
Minor's Attorney:	_____	_____	_____
Any Other Person Having Assumed Responsibility for the Minor:	_____	_____	_____
Any Government Agency Paying Benefits to or for the Minor:	_____	_____	_____

	<u>Name</u>	<u>Address</u>	<u>Telephone Number</u>
Any Person Having an Interest in the Property of the Minor:	_____	_____	_____
All Other Persons Exercising Control over the Minor or the Minor's Property:	_____	_____	_____
A Person or Agency Eligible to Serve as Guardian of the Person of the Minor:	_____	_____	_____

7. The names and addresses of the persons with whom the minor resided over the past five years, and the length of time of the minor's residence with each person are, as follows:

<u>Names</u>	<u>Addresses</u>	<u>State Time Frame</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

8. Guardianship is sought for the following reason(s):

Query to Rules Committee: The note on page 1 that this petition is to be used where the only ground for the petition is minority. Is section 8. of the form necessary?

9. If this Petition is for Guardianship of the Property, the following is the list of all the property in which the minor

has any interest including an absolute interest, a joint interest, or an interest less than absolute (e.g. trust, life estate).

<u>Property</u>	<u>Location</u>	<u>Value</u>	<u>Trustee, Custodian, Agent, Co-Tenant, etc.</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

10. The petitioner's interest in the property of the minor listed in 9. is _____.

11. (a) All other proceedings regarding the minor (including any proceedings in juvenile court) are, as follows:

11. (b) All proceedings regarding the petition filed in this court or any other court are, as follows:

12. All exhibits required by the Instructions below are attached.

WHEREFORE, Petitioner requests that this court issue an order to direct all interested persons to show cause why

[] a guardian of the (person, property, or person and property) of the minor should not be appointed, and

[] (if applicable) the petitioner should not be named as the guardian.

Attorney's Signature

Petitioner's Name

Attorney's Name

Address

Telephone Number

Facsimile Number

E-mail Address

Petitioner solemnly affirms under the penalties of perjury that the contents of this document are true to the best of Petitioner's knowledge, information, and belief.

Petitioner's Name

Petitioner's Signature

INSTRUCTIONS

1. The required exhibits are as follows:
 - (a) A copy of any instrument nominating a guardian [Section 13-701, Estates and Trusts Article and Maryland Rule 10-301 (d)];

- (b) If the petition is for the appointment of a guardian for a minor who is a beneficiary of the Department of Veterans Affairs, a certificate of the Administrator or the Administrator's authorized representative, setting forth the age of the minor as shown by the records of the Veterans Administration, and the fact that appointment of a guardian is a condition precedent to the payment of any moneys due the minor from the Veterans Administration shall be prima facie evidence of the necessity for the appointment [Section 13-802, Estates & Trusts Article and Maryland Rule 10-301 (d)]

2. Attached additional sheets to answer all the information requested in this petition, if necessary.

Rule 10-111 was accompanied by the following Reporter's note.

The Probate/Fiduciary Subcommittee initially proposed the addition of a new form of petition of a guardianship of a minor, new Rule 10-111. This form was drafted by a committee of registers of wills, Orphans' Court judges, members of the bar and of the Estates and Trusts Section of the Maryland State Bar Association. Currently, someone petitioning to be the guardian of the person of a minor is required to file a petition whose contents are described in section (c) of Rule 10-201, and someone petitioning to be the guardian of the property of a minor is required to file a petition whose contents are described in section (c) of Rule 10-301. The Subcommittee felt it would be easier and more uniform if the petitions were filed using a specific form. Because Rules 10-201 and 10-301 also address guardianships of the person or property or both of alleged disabled persons, the Subcommittee decided that it would be more consistent to also include a similar form for guardianships of alleged disabled persons. This would be in Rule 10-112. A master in Baltimore City suggested changes to Rule 10-112, and Rule 10-111 conforms to these changes. The adoption of these forms would mean that the contents provision of Rules 10-201 and 10-301

would no longer be necessary.

Code, Estates and Trusts Article, §11-114 was added in 2014 (Chapter 291, Laws of 2014 (SB 321)), and it sets out a list of crimes, which, if committed, would exclude someone from serving as a guardian of the person unless good cause is shown. The Subcommittee recommends including in the petition forms in Rules 10-111 and 10-112 a question to a petitioner who is petitioning to be a guardian of the person or of the property of a minor or disabled person, asking whether the petitioner has been convicted of a crime listed in Code, Estates and Trusts Article, §11-114 and if so, what the petitioner's good cause is to show why he or she should be a guardian. These questions are similar to the questions asked of a petitioner who is asking to be a personal representative of an estate pursuant to Rule 6-122.

The committee of registers of wills, Orphans' Court judges, and members of the bar requested that the list of interested persons be a separate document. An estates and trusts attorney asked that the list include a verification section at the end. To address these comments, the committee recommends that the list of interested persons be attached to the petition for guardianship of a minor, so that the verification at the end of the petition applies to the information provided in the list.

MARYLAND RULES OF PROCEDURE

TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 100 - GENERAL PROVISIONS

ADD new Rule 10-112, as follows:

Rule 10-112. PETITION FOR GUARDIANSHIP OF ALLEGED DISABLED

PERSON

A petition for guardianship of an alleged disabled person shall be substantially in the following form:

[CAPTION]

In the Matter of

In the Circuit Court for

(Name of Alleged Disabled Individual)

(County)

(Docket reference)

PETITION FOR GUARDIANSHIP OF
ALLEGED DISABLED PERSON

Note: This form is to be used where the subject of the petition is an individual, regardless of the individual's age, who has a disability other than minority.

Guardianship of Person Guardianship of Property Guardianship of Person and Property

The petitioner, _____, (name) _____, (age)

whose address is _____,

and whose telephone number is _____,

represents to the court that:

1. The alleged disabled person _____,
age ____, born on the _____ day of _____, _____,
(month) (year)

a male or female resides at _____

_____.

2. If the alleged disabled person does not reside in the jurisdiction in which this petition is filed, then state the place in this jurisdiction where the alleged disabled person is currently located _____
_____.

3. The relationship of petitioner to the alleged disabled person is _____.

4. *Section 4 does not need to be completed if the petitioner is asking the court to appoint someone other than the petitioner as the guardian.*

(Check one of the following boxes)

I have not been convicted of a crime listed in Code, Estates and Trusts Article, §11-114, or

I was convicted of such a crime, namely _____
_____, in _____, but the following good cause exists for me to be appointed as guardian

_____.

5. If the alleged disabled person resides with petitioner, then state the name and address of an additional person on whom initial service shall be made: _____

_____.

6. The following is a list of the names, addresses, and telephone numbers of all interested persons (see Code, Estates and Trusts Article, §13-101 (j)):

	<u>Name</u>	<u>Address</u>	<u>Telephone Number</u>
Person or Health Care Agent Designated in Writing by Alleged Disabled Person:	_____	_____	_____
Spouse:	_____	_____	_____
Parents:	_____	_____	_____
	_____	_____	_____
Adult Children:	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
Adult Grandchildren*:	_____	_____	_____
	_____	_____	_____
Siblings*:	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
Any Other Heirs at Law:	_____	_____	_____
Guardian (If appointed):	_____	_____	_____

	<u>Name</u>	<u>Address</u>	<u>Telephone Number</u>
Any Person Holding a Power of Attorney of the Alleged Disabled Person:	_____	_____	_____
Alleged Disabled Person's Attorney:	_____	_____	_____
Any Other Person Having Assumed Responsibility for the Alleged Disabled Person:	_____	_____	_____
Any Government Agency Paying Benefits to or for the Alleged Disabled Person:	_____	_____	_____
Any Person Having an Interest in the Property of the Alleged Disabled Person:	_____	_____	_____
All Other Persons Exercising Control over the Alleged Disabled Person or the Person's Property:	_____	_____	_____
A Person or Agency Eligible to Serve as Guardian of the Person of the Alleged Disabled Person (Choose A or B below):			
A. Local Commission on Aging and Retirement Education (if Alleged Disabled Person is Age 65 or over):	_____	_____	_____

B. Local Department of
Social Services if
Alleged Disabled
Person is Under Age
65): _____

* Note: Adult grandchildren and siblings need not be listed unless there is no spouse and there are no parents or adult children.

7. The names and addresses of the persons with whom the alleged disabled person resides or has resided over the past five years and the length of time of the alleged disabled person's residence with each person are as follows:

<u>Name</u>	<u>Address</u>	<u>Approximate Dates</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

8. A brief description of the alleged disability and how it affects the alleged disabled person's ability to function is as follows:

9. (a) Guardianship of the Person is sought because

(Name of Alleged Disabled Person)

cannot make or communicate responsible decisions concerning

health care, food, clothing, or shelter, because of mental disability, disease, habitual drunkenness, addiction to drugs, or other addictions. State the relevant facts:

(b) Describe less restrictive alternatives that have been attempted and have failed (see Code, Estates and Trusts Article, §13-705 (b)):

10. (a) Guardianship of the Property is sought because _____ cannot manage property (Name of Alleged Disabled Person) and affairs effectively because of physical or mental disability, disease, habitual drunkenness, addiction to drugs or other addictions, imprisonment, compulsory hospitalization, confinement, detention by a foreign power, or disappearance. State the relevant facts:

(b) Describe less restrictive alternatives that have been attempted and have failed (see Code, Estates and Trusts Article, §13-201):

11. If this petition is for guardianship of the property, the following is the list of all the property in which the alleged disabled person has any interest including an absolute interest, a joint interest, or an interest less than absolute (e.g. trust, life estate):

<u>Property</u>	<u>Location</u>	<u>Value</u>	<u>Sole Owner, Joint Owner (specify type), Life Tenant, Trustee, Custodian, Agent, etc.</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

12. The petitioner's interest in the property of the alleged disabled person listed in 11. is _____.

13. If a guardian or conservator has been appointed for the alleged disabled person in another proceeding, the name and address of the guardian or conservator and the court that appointed the guardian or conservator are as follows:

_____	_____
Name	Address

Court	

14. All other proceedings regarding the alleged disabled person (including criminal) are as follows:

15. All exhibits required by the Instructions below are attached.

WHEREFORE, Petitioner requests that this court issue an order to direct all interested persons to show cause why

[] a guardian of the (person, property, or person and property) of the alleged disabled person should not be appointed, and

[] (if applicable) the petitioner should not be appointed as the guardian.

Attorney's Signature

Petitioner's Name

Attorney's Name

Address

Telephone Number

Facsimile Number

E-mail Address

Petitioner solemnly affirms under the penalties of perjury that the contents of this document are true to the best of Petitioner's knowledge, information, and belief.

Petitioner's Name

Petitioner's Signature

INSTRUCTIONS

1. The required exhibits are as follows:
 - (a) A copy of any instrument nominating a guardian;
 - (b) A copy of any power of attorney (including a durable power of attorney for health care) which the alleged disabled person has given to someone;
 - (c) Signed and verified certificates of two physicians licensed to practice medicine in the United States who have examined the alleged disabled person, or of one licensed physician, who has examined the alleged disabled person, and one licensed psychologist or certified clinical social worker, who has seen and evaluated the alleged disabled person. An examination or evaluation by at least one of the health care professionals must have occurred within 21 days before the filing of the petition (see Code, Estates and Trusts Article, §13-103 and §1-102 (a) and (b)).
 - (d) If the petition is for the appointment of a guardian of an alleged disabled person who is a beneficiary of the Department of Veterans Affairs, then in lieu of the certificates required by (c) above, a certificate of the Secretary of that Department or an authorized representative of the Secretary setting forth the fact that the person has been rated as disabled by the Department.
2. Attach additional sheets to answer all the information requested in this petition, if necessary.

Rule 10-112 was accompanied by the following Reporter's note.

See the Reporter's note to Rule 10-111.

The Chair told the Committee that most of his comments about proposed new Rule 10-111 would also apply to proposed new Rule 10-112. Until recently, Code, Estates and Trusts Article, §5-105, had provided that someone could not be appointed as a personal representative if the person had been convicted of a "serious crime," but the statute never defined the term "serious crime." The Committee had discussed this issue at great length.

The Chair commented that the Committee had considered that the term "serious crime" might have a different meaning for personal representatives than for guardians of the person or of the property. No statute existed that precluded a person who had been convicted of a crime from being appointed as a guardian. Concern had been expressed about not having each of the 24 registers of wills and the Orphans' Court judges deciding for themselves what the term meant, which would lead to a total lack of uniformity. This matter was deferred, and the Committee asked their legislative members to enact legislation explaining what a "serious crime" was. It was a statutory disqualification.

The Chair said that it had taken two years for the legislature to act, and they had changed the law in 2014 (Chapter 291, Laws of 2014 (SB 321)). Code, Estates and Trusts Article, §5-105 now contains a definition of the term "serious crime." If

the person who petitions to be a personal representative has committed a serious crime, the person can still be appointed if the person can show good cause why he or she should be appointed. The reason for this is because it could be that the only natural person to be the personal representative or the guardian may have had one of these convictions, but it was long ago. It should not necessarily be a disqualification, because this would eliminate the only person who could serve.

The Chair noted that Code, Estates and Trusts Article, §11-114 was added as part of Chapter 291, Laws of 2014 (SB 321). It provides that if someone has been convicted of certain crimes, the person can be appointed as a guardian only for good cause shown. Section 4. of the petition form for guardianship of a minor, which is in proposed Rule 10-111, and Section 4. of the petition form for guardianship of an alleged disabled person, which is in proposed Rule 10-112, alerts the court as to whether the petitioner has ever been convicted of a crime. If the person answers affirmatively, the person has to state what the crime was and when it took place. The person has to explain what good cause there is as to why he or she should be appointed. This gives the court some information to make that judgment.

The Chair commented that Section 7. of the petition form for appointment as a personal representative, which is in Rule 6-122, Petitions, has a similar question for petitioners as to whether they have ever been convicted of a crime. This would give the registers of wills and the Orphans' Court judges information to

make the judgment about appointment of a personal representative.

The Chair commented that Mr. Gibber had pointed out to him today an error in proposed Rules 10-111 and 10-112 that is easy to correct. The italicized language in section 4. of the petition forms for guardianship of a minor and for guardianship of an alleged disabled person states that section 4. does not have to be completed if the petitioner is asking the court to appoint someone other than the petitioner as the guardian. This leaves a gap, because the person other than the petitioner has not been asked to supply the information about his or her criminal history. The italicized language needs to be redrafted to fill this gap. The new language would be: "If the petitioner is asking the court to appoint someone other than the petitioner as guardian, the information in question 4. must be supplied by that individual." By consensus, the Committee approved this change.

The Reporter asked if the paragraph near the end of the petition forms in both proposed Rules 10-111 and 10-112 that begins with the language "WHEREFORE, Petitioner requests that this court issue an order..." should be modified also to add another block to name the person that the petitioner is asking to be appointed. This would tie into the completion of question 4. The Chair answered that a change would have to be made to this provision in both petition forms to capture that information. By consensus, the Committee approved making a change to this part of the forms.

Mr. Gibber referred to proposed Rule 10-111, pointing out that after Section 8. of the petition form, which asks for the reasons the guardianship is sought, was a query as to whether Section 8. is necessary, since the note at the beginning of the petition states that the form is to be used where the only ground for the petition is minority. Mr. Gibber expressed the view that Section 8. should remain in the petition form, because there may be other reasons that the court needs to know why a guardian is necessary.

By consensus, the Committee approved proposed Rules 10-111 and 10-112 as amended.

The Chair presented Rule 10-201, Petition for Appointment of a Guardian of the Person, for the Committee's consideration.

MARYLAND RULES OF PROCEDURE

TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 200 - GUARDIAN OF PERSON

AMEND Rule 10-201 by adding a new section (b) pertaining to the form of petition, by deleting current section (c), by adding a new section (d) containing a form for designation of a guardian of the person by a minor, by adding a cross reference at the end of the Rule, and by making stylistic changes, as follows:

Rule 10-201. PETITION FOR APPOINTMENT OF A GUARDIAN OF THE PERSON

(a) Who may File

An interested person may file a petition requesting a court to appoint a guardian of a minor or alleged disabled person.

(b) Form of Petition

The petition for a guardianship of the person of a minor shall be filed in substantially the form set forth in Rule 10-111. The petition for a guardianship of the person of an alleged disabled person shall be filed in substantially the form set forth in Rule 10-112.

~~(b)~~ (c) Venue

(1) Resident

If the minor or alleged disabled person is a resident of Maryland, the petition shall be filed in the county where (A) the minor or alleged disabled person resides or (B) the person has been admitted for the purpose of medical care or treatment to either a general or a special hospital which is not a State facility as defined in Code, Health-General Article, §10-406 or a licensed private facility as defined in Code, Health-General Article, §§10-501 to 10-511.

(2) Nonresident

If the minor or alleged disabled person does not reside in this State, a petition for guardianship of the person may be filed in any county in which the person is physically present.

~~(c) Contents~~

~~The petition shall be captioned, "In the Matter of . . ." [stating the name of the minor or alleged disabled person]. It shall be signed and verified by the petitioner, may contain a request for the guardianship of property, and shall contain at least the following information:~~

~~(1) The petitioner's name, address, age, and telephone number.~~

~~(2) The petitioner's familial or other relationship to the minor or alleged disabled person.~~

~~(3) Whether the person who is the subject of the petition is a minor or alleged disabled person, and, if an alleged disabled person, a brief description of the alleged disability and how it affects the alleged disabled person's ability to function.~~

~~(4) The reasons why the court should appoint a guardian of the person and, if the subject of the petition is a disabled person, allegations demonstrating an inability of that person to make or communicate responsible decisions concerning the person, including provisions for health care, food, clothing, or shelter, because of mental disability, disease, habitual drunkenness or addiction to drugs, and a description of less restrictive alternatives that have been attempted and have failed.~~

~~Cross reference: Code, Estates and Trusts Article, §13-705 (b).~~

~~(5) An identification of any instrument nominating a guardian or constituting a durable power of attorney, with a copy attached to the petition, if possible, and, if not, an explanation of its absence.~~

~~Cross reference: Code, Estates and Trusts Article, §13-701.~~

~~(6) If a guardian or conservator has been appointed for the alleged disabled person in another proceeding, the name and address of the guardian or conservator and the court that appointed the guardian or conservator. If a guardianship or conservatorship proceeding was previously filed in any other court, the name and address of the court, the case number, if known, and whether the proceeding is still pending in that court.~~

~~(7) A list of (A) the name, age, sex, and address of the minor or alleged disabled person, (B) the name and address of the persons with whom the minor or disabled person resides, and (C) if the minor or alleged disabled person resides with the petitioner, the name and address of another person on whom service can be made.~~

~~(8) The name, address, telephone number, and nature of interest of all other interested persons and all other persons exercising control of the minor or alleged disabled person, to the extent known or reasonably ascertainable.~~

~~(9) If the minor or alleged disabled person is represented by an attorney, the name and address of the attorney.~~

~~(10) A statement that the certificates required by Rule 10-202 are attached, or, if not, an explanation of their absence.~~

~~(11) If the petition also seeks a guardianship of the property, the additional information required by Rule 10-301.~~

~~(12) A statement of the relief sought.~~

(d) Designation of a Guardian of the Person by a Minor

After a minor's 14th birthday, a minor may designate a guardian of the minor's person substantially in the following form:

[CAPTION]

DESIGNATION OF A GUARDIAN OF THE PERSON BY A MINOR

I, _____, a minor child, having attained my 14th birthday, declare:

1. I am aware of the Petition of _____ (petitioner's name) to become the guardian of my person.

2. I hereby designate _____ as the Guardian of my person.

3. I understand that I have the right to revoke this designation at any time up to the granting of the guardianship.

I solemnly affirm under the penalties of perjury that the contents of this document are true based upon my personal knowledge.

Signature of Minor Date

Cross reference: Code, Estates and Trusts Article, §13-702.

Query to Rules Committee: Is Rule 10-201 necessary in light of new Rules 10-111 and 10-112. Should the designation provision in section (d) be in Rule 10-111?

Source: This Rule is derived as follows:

Section (a) is derived from former Rule R71 a.

Section (b) is new.

Section ~~(b)~~ (c) is derived from former Rule R72 a and b.

~~Section (c) is derived in part from former Rule R73 a and in part from former Rule V71 c.~~

Section (d) is new.

Rule 10-201 was accompanied by the following Reporter's note.

See the Reporter's note to Rule 10-111 as to the form of the petition and to explain the deletion of section (c) of this Rule.

The Probate/Fiduciary Subcommittee recommended the addition of a form, "Designation of a Guardian of the Person by a Minor" to be consistent with Code, Estates and Trusts Article, §13-702. This form was drafted by a committee of registers of wills, Orphans' Court judges as well as members of the bar and of the Estates and Trusts Section of the Maryland State Bar Association. The Rules Committee approved the form. The Subcommittee changed the wording of section

(d) slightly for clarity.

The Chair explained that Rule 10-201 contained conforming amendments to proposed Rules 10-111 and 10-112. He noted that Rule 10-201 has a new section (b), and section (c) has been deleted. This is a conforming amendment, because the petition is set forth in new Rules 10-111 and 10-112. The provision for the contents of the petition that had been section (c) has been deleted, because it is now in the petition form in new Rules 10-111 and 10-112. A new section (d), "Designation of a Guardian of the Person by a Minor," has been added to Rule 10-201. This implements Code, Estates and Trusts Article, §13-702. It provides that if a minor is 14 years of age or over, and a guardian is to be appointed, the minor can designate a guardian, unless the court feels that it is not in the best interest of the minor.

The Chair pointed out that the query at the end of Rule 10-201 should be withdrawn.

By consensus, the Committee approved Rule 10-201 as presented.

The Chair presented Rule 10-202, Certificates and Consents, for the Committee's consideration.

MARYLAND RULES OF PROCEDURE

TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 200 - GUARDIAN OF PERSON

AMEND Rule 10-202 by adding a new

section pertaining to parental consents, adding a form for parental consent, and by making stylistic changes, as follows:

Rule 10-202. CERTIFICATES AND CONSENTS

(a) Certificates

~~(a)~~ (1) Generally Required

Except as provided in ~~section (d)~~ subsection (a)(4) of this Rule, if guardianship of the person of a disabled person is sought, the petitioner shall file with the petition signed and verified certificates of ~~(1)~~ (A) two physicians licensed to practice medicine in the United States who have examined the disabled person, or ~~(2)~~ (B) one licensed physician ~~or~~ who has examined the disabled person and one licensed psychologist or certified clinical social worker who has seen and evaluated the disabled person. An examination or evaluation by at least one of the health care professionals ~~under this subsection~~ shall ~~occur~~ have been within 21 days before the filing of the petition.

~~(b)~~ (2) Contents

Each certificate shall state: ~~(1)~~ (A) the name, address, and qualifications of the person who performed the examination or evaluation, ~~(2)~~ (B) a brief history of the person's involvement with the disabled person, ~~(3)~~ (C) the date of the last examination or evaluation of the disabled person, and ~~(4)~~ (D) the person's opinion as to: ~~(A)~~ (i) the cause, nature, extent, and probable duration of the disability, ~~(B)~~ (ii) whether institutional care is required, and ~~(C)~~ (iii) whether the disabled person has sufficient mental capacity to understand the nature of and consent to the appointment of a guardian.

~~(c)~~ (3) ~~Delayed Filing~~ Absence of Certificates

~~(1)~~ (A) ~~After~~ Refusal to Permit

Examination

If the petition is not accompanied by the required certificate and the petition alleges that the disabled person is residing with or under the control of a person who has refused to permit examination by a physician or evaluation by a psychologist or certified clinical social worker, and that the disabled person may be at risk unless a guardian is appointed, the court shall defer issuance of a show cause order. The court shall instead issue an order requiring that the person who has refused to permit the disabled person to be examined or evaluated appear personally on a date specified in the order and show cause why the disabled person should not be examined or evaluated. The order shall be personally served on that person and on the disabled person.

~~(2)~~ (B) Appointment of Health Care Professionals by Court

If the court finds after a hearing that examinations are necessary, it shall appoint two physicians or one physician and one psychologist or certified clinical social worker to conduct the examinations or the examination and evaluation and file their reports with the court. If both health care professionals find the person to be disabled, the court shall issue a show cause order requiring the alleged disabled person to answer the petition for guardianship and shall require the petitioner to give notice pursuant to Rule 10-203. Otherwise, the petition shall be dismissed.

~~(d)~~ (4) Beneficiary of the Department of Veterans Affairs

If guardianship of the person of a disabled person who is a beneficiary of the United States Department of Veterans Affairs is being sought, the petitioner shall file with the petition, in lieu of the two certificates required by ~~section (a)~~ subsection (a) (1) of this Rule, a certificate of the Secretary of that Department or an authorized representative of the Secretary

stating that the person has been rated as disabled by the Department in accordance with the laws and regulations governing the Department of Veterans Affairs. The certificate shall be prima facie evidence of the necessity for the appointment.

(b) Consent to Guardianship of a Minor

(1) Generally

If guardianship of the person of a minor child is sought, consent of each parent shall be obtained if possible. If a parent's consent cannot be obtained because the parent cannot be contacted, located, or identified, the petitioner shall file an affidavit of attempts to contact, locate, or identify substantially in the form set forth in Rule 10-203. If the failure to obtain consent is for some other reason, an affidavit shall be filed which states why the parent's consent could not be obtained.

Cross reference: For a hearing when a parent objects to a guardianship, see Rule 10-205. For procedures for a child in need of assistance, see Code, Courts Article, §3-801 et seq.

(2) Form of Parent's Consent to Guardianship

The parent's consent to guardianship of a minor shall be filed with the court substantially in the following form:

[CAPTION]

PARENT'S CONSENT TO GUARDIANSHIP OF A MINOR

I, _____, _____,
(name of parent) (relationship)
of _____, a minor, declare that:
(minor's name)
1. I am aware of the Petition of _____
(petitioner's name)
to become guardian of _____.

(minor's name)

2. I understand that the reason the guardianship is needed
is _____

and if the need for the guardianship is expected to end before
the child reaches the age of majority _____

(state time frame or date it is expected to end)

3. I believe that it is in the best interest of _____

that the Petition for
(minor's name)
Guardianship be granted.

4. I understand that I have the right to revoke my consent
at any time.

I solemnly affirm under the penalties of perjury that the
contents of this document are true based on my personal
knowledge.

Signature of Parent _____ Date

Address

Telephone Number

Query to Rules Committee: If the parent has limited proficiency in English, should the consent form be in a language that the parent understands?

Cross reference: Code, Estates and Trusts
Article, §13-705.
Rule 1-341.

Source: This Rule is in part derived from
former Rule R73 b 1 and b 2 and is in part
new.

Rule 10-202 was accompanied by the following Reporter's
note.

To ensure that efforts are made to
obtain parental consent when a petition for
guardianship of the person of a minor has
been filed, the Rules Committee recommends
the addition of a form "Parent's Consent to
Guardianship of a Minor." This form was
drafted by a committee of registers of wills.

If a parent cannot be located,
contacted, or identified, section (b) of the
Rule requires that the petitioner file an
affidavit of attempts to contact, locate, or
identify. A proposed amendment to Rule 10-
203 provides a form affidavit for that
purpose. If a parent's consent cannot be
obtained for some other reason, the
petitioner must state why consent cannot be
obtained.

The Rules Committee considered how to
address instances where a parent refuses to
consent to a guardianship, including those in
which a petition alleging that a child is a
"Child in Need of Assistance (CINA)" could be
appropriate. Research has indicated that
this issue is not directly addressed in the
laws. Rule 10-203 provides that after a
petition for guardianship of the person has
been filed, a copy of a show cause order
shall be served on a parent having care or
custody of a minor person and on any other
interested persons. Rule 10-205 provides
that if a response is filed to the show cause
order objecting to the relief requested, the
court shall set the matter for trial and give
notice to all persons who have responded.
Accordingly, the Committee proposes that a
cross reference to Rule 10-205 and to Code,

Courts Article, §3-801, which covers CINA cases, be added.

See the Reporter's note to Rule 6-122 for an explanation of the language of the affirmation clause.

The Chair explained that the amendments to Rule 10-202 had been approved by the Committee previously. The query at the end of the Rule was presented as something to consider at a later time.

The Chair presented Rule 10-301, Petition for Appointment of a Guardian of Property, for the Committee's consideration.

MARYLAND RULES OF PROCEDURE

TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 300 - GUARDIAN OF PROPERTY

AMEND Rule 10-301 by adding a new section (b) pertaining to the form of petition, by deleting current section (c), by adding a new section (e) containing a form for designation of a guardian of the property by a minor or disabled person, by adding a cross reference at the end of the Rule, and by making stylistic changes, as follows:

Rule 10-301. PETITION FOR APPOINTMENT OF A GUARDIAN OF PROPERTY

(a) Who May File

Any interested person may file a petition requesting a court to appoint a guardian of the property of a minor or an alleged disabled person.

(b) Form of Petition

The petition for a guardianship of the property of a minor shall be filed in substantially the form set forth in Rule 10-111. The petition for a guardianship of the property of an alleged disabled person shall be filed in substantially the form set forth in Rule 10-112.

~~(b)~~ (c) Venue

(1) Resident

If the minor or alleged disabled person is a resident of Maryland, the petition shall be filed in the county where the minor or alleged disabled person resides, even if the person is temporarily absent.

(2) Nonresident

If the minor or disabled person does not reside in this State, the petition shall be filed in the county in which a petition for guardianship of the person may be filed, or in the county where any part of the property is located. For purposes of determining the situs of property, the situs of tangible personal property is its location; the situs of intangible personal property is the location of the instrument, if any, evidencing a debt, obligation, stock or chose in action, or the residence of the debtor if there is no instrument evidencing a debt, obligation, stock, or chose in action; and the situs of an interest in property held in trust is located where the trustee may be sued.

~~(c)~~ ~~Contents~~

~~The petition shall be captioned "In the Matter of . . ." [stating the name of the minor or alleged disabled person]. It shall be signed and verified by the petitioner and shall contain at least the following information:~~

~~(1) The petitioner's name, address, age, and telephone number;~~

~~(2) The petitioner's familial or other~~

~~relationship to the alleged disabled person;~~

~~(3) Whether the person who is the subject of the petition is a minor or an alleged disabled person and, if an alleged disabled person, a brief description of the alleged disability;~~

~~(4) The reasons why the court should appoint a guardian of the property and, if the subject of the petition is an alleged disabled person, allegations demonstrating an inability of the alleged disabled person to manage the person's property and affairs effectively because of physical or mental disability, disease, habitual drunkenness, addiction to drugs, imprisonment, compulsory hospitalization, confinement, detention by a foreign power, or disappearance;~~

~~Cross reference: Code, Estates and Trusts Article, §13-201 (b) and (c).~~

~~(5) An identification of any instrument nominating a guardian for the minor or alleged disabled person or constituting a durable power of attorney;~~

~~Cross reference: Code, Estates and Trusts Article, §13-207 (a) (2) and (5).~~

~~(6) If a guardian or conservator has been appointed for the alleged disabled person in another proceeding, the name and address of the guardian or conservator and the court that appointed the guardian or conservator. If a guardianship or conservatorship proceeding was previously filed in any other court, the name and address of the court, the case number, if known, and whether the proceeding is still pending in that court.~~

~~(7) The name, age, sex, and address of the minor or alleged disabled person, the name and address of the persons with whom the minor or alleged disabled person resides, and if the minor or alleged disabled person resides with the petitioner, the name and address of another person on whom service can be made;~~

~~(8) To the extent known or reasonably ascertainable, the name, address, telephone number, and nature of interest of all interested persons and all others exercising any control over the property of the estate;~~

~~(9) If the minor or alleged disabled person is represented by an attorney, the name, address, and telephone number of the attorney;~~

~~(10) The nature, value, and location of the property of the minor or alleged disabled person;~~

~~(11) A brief description of all other property in which the minor or alleged disabled person has a concurrent interest with one or more individuals;~~

~~(12) A statement that the exhibits required by section (d) of this Rule are attached or, if not attached, the reason that they are absent; and~~

~~(13) A statement of the relief sought.~~

(d) Required Exhibits

The petitioner shall attach to the petition as exhibits (1) a copy of any instrument nominating a guardian; (2) (A) the certificates required by Rule 10-202, or (B) if guardianship of the property of a disabled person who is a beneficiary of the United States Department of Veterans Affairs is being sought, in lieu of the requirements of Rule 10-202, a certificate of the Secretary of that Department or an authorized representative of the Secretary stating that the person has been rated as disabled by the Department in accordance with the laws and regulations governing the Department of Veterans Affairs; and (3) if the petition is for the appointment of a guardian for a minor who is a beneficiary of the Department of Veterans Affairs, a certificate of the Secretary of that Department or any authorized representative of the Secretary, in accordance with Code, Estates and Trusts Article, §13-802.

(e) Designation of a Guardian of the Property by a Minor or Disabled Person

After the 16th birthday of a minor or disabled person, a minor or disabled person may designate a guardian of the property of the minor or disabled person substantially in the following form:

[CAPTION]

DESIGNATION OF A GUARDIAN OF THE PROPERTY

BY A MINOR OR DISABLED PERSON

I, _____, a minor child or disabled person having attained my 16th birthday, declare:

1. I am aware of the Petition of _____
(Petitioner's name)
to become the guardian of my property.

2. I hereby designate _____
as the guardian of my property.

3. I understand that I have the right to revoke this designation at any time up to the granting of the guardianship.

I solemnly affirm under the penalties of perjury that the contents of this document are true based upon my personal knowledge.

Signature of Minor or Disabled Person Date

Cross reference: Code, Estates and Trusts Article, §13-207.

Query to Rules Committee: Is Rule 10-301 necessary in light of new Rules 10-111 and 10-112? Should the designation provision in

section (e) be in Rules 10-111 and 10-112?

Source: This Rule is derived as follows:

Section (a) is derived from former Rule R71 a.

Section (b) is new.

Section ~~(b)~~ (c) is derived from former Rule R72 a and b.

~~Section (c) is in part derived from former Rule R73 a and is in part new.~~

Section (d) is new.

Section (e) is new.

Rule 10-301 was accompanied by the following Reporter's note.

See the Reporter's note to Rule 10-111 as to the form of the petition and to explain the deletion of section (c) of this Rule.

The Probate/Fiduciary Subcommittee recommends the addition of a form "Designation of a Guardian of the Property by a Minor or Disabled Person" to be consistent with Code, Estates and Trusts Article, §13-207. The form is based on a similar form for guardianships of the person of a minor drafted by a committee of registers of wills and Orphans' Court judges as well as members of the bar and of the Estate and Trusts Section of the Maryland State Bar Association.

The Chair said that Rule 10-301 has changes parallel to the changes in Rule 10-201. These are the addition of a new section (b), and the deletion of section (c), which conforms to new Rules 10-111 and 10-112. Rule 10-301 also has a new section (e), which is similar to the designation form in Rule 10-201. However, this form, "Designation of a Guardian of the Property by a Minor or Disabled Person," conforms to Code, Estates and Trusts Article, §13-207, which provides that a minor or disabled person, who is

16 years of age or over, may designate a guardian of the property of that minor or disabled person as second in the priority list of who should be designated the guardian of the property. The first in the list is a conservator, committee, guardian of the property, or other fiduciary appointed by any appropriate court of any foreign jurisdiction in which the minor or disabled person resides. The query at the end of Rule 10-301 has been withdrawn.

By consensus, the Committee approved Rule 10-301 as presented.

The Chair presented Rules 10-207, Resignation of Guardian of the Person and Appointment of Substituted or Successor Guardian; 10-208, Removal for Cause or Other Sanction; 10-711, Resignation of Fiduciary and Appointment of Substituted or Successor Fiduciary; and 10-712, Removal for Cause or Other Sanctions, for the Committee's consideration.

MARYLAND RULES OF PROCEDURE

TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 200 - GUARDIAN OF PERSON

AMEND Rule 10-207, as follows:

Rule 10-207. RESIGNATION OF GUARDIAN OF THE
PERSON AND APPOINTMENT OF SUBSTITUTED OR
SUCCESSOR GUARDIAN

. . .

(b) Venue

The petition to resign or to appoint a substituted or successor guardian shall be filed in the court that has assumed

jurisdiction over the guardianship. If jurisdiction has not been assumed, the petition shall be filed pursuant to Rule 10-201 ~~(b)~~ (c).

. . .

Rule 10-207 was accompanied by the following Reporter's note.

Changes proposed for Rule 10-201 would require a change to the reference to that Rule that appears in section (b) of Rule 10-207.

MARYLAND RULES OF PROCEDURE

TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 200 - GUARDIAN OF PERSON

AMEND Rule 10-208, as follows:

Rule 10-208. REMOVAL FOR CAUSE OR OTHER SANCTIONS

. . .

(b) On petition of Interested Persons

An interested person may file a petition to remove a guardian of the person. The petition shall be filed in the court that has assumed jurisdiction or, if jurisdiction has not been assumed, pursuant to Rule 10-201 ~~(b)~~ (c). The petition shall state the reasons why the guardian should be removed.

. . .

Rule 10-208 was accompanied by the following Reporter's note.

Changes proposed for Rule 10-201 would require a change to the reference to that Rule that appears in section (b) of Rule 10-208.

MARYLAND RULES OF PROCEDURE

TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 700 - FIDUCIARY ESTATES INCLUDING

GUARDIANSHIPS OF THE PROPERTY

Rule 10-711. RESIGNATION OF FIDUCIARY AND APPOINTMENT OF SUBSTITUTED OR SUCCESSOR FIDUCIARY

. . .

(b) Venue

(1) Guardianships of the Property

The petition to resign or to appoint a substituted or successor fiduciary shall be filed in the court that has assumed jurisdiction over the guardianship. If jurisdiction has not been assumed, the petition shall be filed pursuant to Rule 10-301 ~~(b)~~ (c).

(2) Other Fiduciary Proceedings

The petition shall be filed in the court that has assumed jurisdiction over the fiduciary estate, or if jurisdiction has not been assumed, in the county in which the property is situated, or where the fiduciary resides, is regularly employed, or maintains a place of business.

. . .

Rule 10-711 was accompanied by the following Reporter's note.

Changes proposed for Rule 10-301 would require a change to the reference to that Rule that appears in section (b) of Rule 10-711.

MARYLAND RULES OF PROCEDURE
TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES
CHAPTER 700 - FIDUCIARY ESTATES INCLUDING
GUARDIANSHIPS OF THE PROPERTY

AMEND Rule 10-712, as follows:

Rule 10-712. REMOVAL FOR CAUSE OR OTHER
SANCTIONS

. . .

(c) Venue

(1) Guardianships of the Property

The petition shall be filed in the court that has already assumed jurisdiction or, if jurisdiction has not been assumed, pursuant to Rule 10-301 ~~(b)~~ (c).

(2) Other Fiduciary Proceedings

The petition shall be filed in the court that has already assumed jurisdiction or, if jurisdiction has not been assumed, in the county in which the property is situated, or where the fiduciary resides, is regularly employed, or maintains a place of business.

. . .

Rule 10-712 was accompanied by the following Reporter's
note.

Changes proposed for Rule 10-301 would require a change to the reference to that Rule that appears in section (b) of Rule 10-712.

The Chair explained that Rules 10-207, 10-208, 10-711, and 10-712 were conforming amendments to the changes in Rules 10-201 and 10-301.

By consensus, the Committee approved Rules 10-207, 10-208, 10-711, and 10-712 as presented.

Agenda Item 3. Consideration of proposed amendments to: Rule 10-103 (Definitions)

The Chair presented Rule 10-103, Definitions, for the Committee's consideration.

MARYLAND RULES OF PROCEDURE

TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 100 - GENERAL PROVISIONS

AMEND Rule 10-103 by deleting the reference to Rule 10-703 from section (c) and by adding language providing for a certain exception in section (g), as follows:

Rule 10-103. DEFINITIONS

In this Title the following definitions apply except as expressly otherwise provided or as necessary implication requires:

. . .

(c) Fiduciary

"Fiduciary" means (1) a guardian of

the property of a minor or disabled person, (2) a guardian of the person of a minor or disabled person to the extent that the guardian exercises control over any property of the minor or disabled person, (3) a trustee acting under any inter vivos or testamentary trust over which the court has been asked to assume or has assumed jurisdiction, (4) a person administering an estate under appointment by a court as a "committee," "conservator," or the like, and (5) a personal representative of a decedent to the extent provided in ~~Rules 10-703 and~~ Rule 10-711.

. . .

(g) Minor

"Minor" means ~~a person~~ an individual who is under the age of eighteen, except that, in a proceeding under Code, Family Law Article, §1-201 (b) (10), "minor" includes an unmarried individual under the age of 21.

. . .

Source: This Rule is derived as follows:

. . .

Section (g) is in part derived from former Rule R70 e and is in part new.

. . .

Rule 10-103 was accompanied by the following Reporter's note.

An attorney from the Office of the Attorney General pointed out that the reference to Rule 10-703 in Rule 10-103 (c) is inconsistent with Code, Estates & Trusts Article, §7-401, which allows a personal representative to settle claims without a court order. Rule 10-703 requires the fiduciary (personal representative) to mail a copy of the petition and a show cause order when authorizing or notifying a compromise or settlement of a claim or matter relating to a fiduciary estate. The reference to Rule 10-703 in Rule 10-103 (c) seems to require that a show cause order be issued. The Rules

Committee therefore recommends deleting the reference to Rule 10-703 in Rule 10-103.

An attorney pointed out that Chapter 96, Laws of 2014 (HB 315) changed Code, Family Law Article, §1-201 to provide that in a guardianship of an immigrant child who is unmarried, the court retains jurisdiction over the guardianship until the child reaches his or her 21st birthday. This affects the definition of the term "minor" in Rule 10-103 (g) because a minor is defined to be under the age of 18. The Probate/Fiduciary Subcommittee recommends adding language to section (g) noting this exception.

The Chair explained that Rule 10-103 (g) has been proposed to be changed to conform the definition of the word "minor" to Chapter 96, Laws of 2014 (HB 315). This affects only minors who are immigrants and come under a federal law. Under that statute, an immigrant child who is unmarried is a minor until he or she is 21 years of age. The definition of the word "minor" in Rule 10-103 has to be modified to make clear that under this particular section of Code, Family Law Article, §1-201 (b)(10), a person is still a minor until he or she is 21 years old.

By consensus, the Committee approved Rule 10-103 as presented.

Agenda Item 4. Consideration of proposed amendments to: Rule 10-705 (Restricted Accounts)

The Chair presented Rule 10-705, Restricted Accounts, for the Committee's consideration.

MARYLAND RULES OF PROCEDURE
TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES
CHAPTER 700 - FIDUCIARY ESTATES INCLUDING
GUARDIANSHIPS OF THE PROPERTY

AMEND Rule 10-705 by changing a certain monetary amount in and adding language to section (a), by adding new sections (e), (f), and (g) pertaining to certain deposits of cash belonging to a minor or disabled person who is the subject of a guardianship, by adding a certain cross reference at the end of the Rule, and by making stylistic changes, as follows:

Rule 10-705. RESTRICTED ACCOUNTS

(a) Petition for Restricted Accounts

When a fiduciary estate consists entirely of cash in an amount not exceeding ~~\$75,000~~ \$200,000, a fiduciary may petition the court for an order authorizing the deposit of cash in a ~~federally insured~~ financial institution that is federally insured or is regulated by the Commissioner of Financial Regulation in a single restricted account titled substantially in the following form: "A.B., (fiduciary), withdrawals subject to the order of the Circuit Court for _____ County."

(b) Orders Authorizing Withdrawals

The court may require a separate order prior to each withdrawal. The court may enter a continuing order authorizing withdrawals up to a specified amount. The continuing order may be for a definite period of time, not to exceed one year, and may on petition be renewed annually.

(c) Proof of Restricted Account

The fiduciary shall promptly provide proof of the opening of a restricted account to the trust clerk, who shall make note of it in the file.

(d) When Accounting not Required

If all of the assets of a fiduciary estate are deposited in a single restricted account in an amount not exceeding \$10,000, no annual accounting is required unless the court orders otherwise.

(e) Cash Exceeding \$200,000

If the amount of cash belonging to a minor or disabled person exceeds \$200,000, any excess amount shall be deposited into additional restricted accounts.

(f) Aggregate Amount

The aggregate amount deposited in any financial institution may not exceed \$200,000.

(g) Acceptable Financial Institutions

The deposits may be made into any type of account, including a certificate of deposit, in a financial institution that accepts deposits and is federally insured or is regulated by the Commissioner of Financial Regulation.

Cross reference: For accounting requirements, see Rule 10-706. Code, Estates and Trusts Article, §13-209.1.

Source: This Rule is derived as follows:

Section (a) is derived from former Rule V75 a and b.

Section (b) is derived from former Rule V75 c.

Section (c) is derived from former Rule V75 d.

Section (d) is derived from former Rule V74 c 2 (e).

Section (e) is new.

Section (f) is new.

Section (g) is new.

Rule 10-705 was accompanied by the following Reporter's note.

Chapter 196, Laws of 2013 (SB 168) added a new provision, Code, Estates and Trusts Article, §13-209.1, which allows guardians of the property of a minor or disabled person to deposit up to \$200,000 into restricted accounts in financial institutions that are federally insured or are regulated by the Commissioner of Financial Regulation. The Probate/Fiduciary Subcommittee recommends amending Rule 10-705 to comport with this statute.

The Chair said that the changes to Rule 10-705 conform the Rule to Chapter 196, Laws of 2013 (SB 168). This legislation changed the amount of money permitted to be in restricted accounts, which are accounts that consist entirely of cash in a fiduciary estate. The amount had been \$75,000, and it has been changed to \$200,000. The Rule also makes clear that under the statute, Code, Estates and Trusts Article, §13-209.1, the money also can be in an account in a financial institution that is subject to regulation by the Maryland Commissioner of Financial Regulation as well as in a federally insured financial institution. The accounts do not have to be federally insured unless that is part of the Commissioner's regulation.

By consensus, the Committee approved Rule 10-705 as presented.

Agenda Item 5. Consideration of proposed amendments to: Rule 6-122 (Petitions)

The Chair presented Rule 6-122, Petitions, for the Committee's consideration.

MARYLAND RULES OF PROCEDURE

TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES

CHAPTER 100 - GENERAL PROVISIONS

AMEND Rule 6-122 by adding a new Section 6. to the petition form, referring to certain crimes the commission of which would disqualify the petitioner from appointment as personal representative; by adding a Committee note after Section 6. referring to a certain statute; by changing current Section 6. to Section 7., expanding it to provide certain boxes to check pertaining to specific crimes and to list reasons for appointment; by changing Section 7. to Section 8., deleting language from it and adding language to it; by deleting the lines for "date" and for the signature of the personal representative after Section 4. of Schedule B; by changing the affirmation clause in Section B and C; by adding to section (d) of the form "Limited Order to Locate Will" a line after the words "Register of Wills" and "Register's authorized deputy," the words "Register's authorized deputy," and three lines for judge's signatures; and by making stylistic changes, as follows:

Rule 6-122. PETITIONS

(a) Initial Petition

The Initial Petition shall be substantially in the following form:

IN THE ORPHANS' COURT FOR

(OR) _____, MARYLAND

BEFORE THE REGISTER OF WILLS FOR

IN THE ESTATE OF:

ESTATE NO: _____

FOR:

<input type="checkbox"/> REGULAR ESTATE PETITION FOR ADMINISTRATION Estate value in excess of \$50,000. (If spouse is sole heir or legatee, \$100,000.) Complete and attach Schedule A.	<input type="checkbox"/> SMALL ESTATE PETITION FOR ADMINISTRATION Estate value of \$50,000 or less. (If spouse is sole heir or legatee, \$100,000.) Complete and attach Schedule B.	<input type="checkbox"/> WILL OF NO ESTATE Complete items 2 and 5	<input type="checkbox"/> LIMITED ORDERS Complete item 2 and attach Schedule C
--	--	---	--

NOTE: For the purpose of computing whether an estate qualifies as a small estate, value is determined by the fair market value of property less debts of record secured by the property as of the date of death, to the extent that insurance benefits are not payable to the lien holder or secured party for the secured debt. See Code, Estates and Trusts Article, §5-601 (d).

The petition of:

_____ Name	_____ Address
_____ Name	_____ Address
_____ Name	_____ Address

Each of us states:

1. I am (a) at least 18 years of age and either a citizen of the United States or a permanent resident of the United States who is the spouse of the decedent, an ancestor of the decedent, a

descendant of the decedent, or a sibling of the decedent or (b) a trust company or any other corporation authorized by law to act as a personal representative.

2. The Decedent, _____, was domiciled in _____, (County) State of _____ and died on the _____ day of _____, _____, at _____ (place of death).

3. If the decedent was not domiciled in this county at the time of death, this is the proper office in which to file this petition because: _____

4. I am entitled to priority of appointment as personal representative of the decedent's estate pursuant to §5-104 of the Estates and Trusts Article, Annotated Code of Maryland because: _____

5. I am mentally competent.

6. I am not a disqualified person because of feloniously and intentionally killing, conspiring to kill, or procuring the killing of the decedent.

Committee note: Code, Estates and Trusts Article, §11-112 provides that a disqualified person may not serve as a personal representative.

~~6.~~ 7. (Check one of the following boxes)

I have not been convicted of fraud, extortion, embezzlement, forgery, perjury, theft or any other serious crime that reflects adversely on my honesty, trustworthiness, or fitness to perform the duties of a personal representative or

I was convicted of such a crime, namely _____, in _____, but the following good cause exists for me to be appointed as personal representative _____.

Committee note: Code, Estates and Trusts Article, §5-105 provides that letters of administration may not be granted to someone who has been convicted of certain serious crimes, unless the person shows good cause for the granting of letters.

~~7.~~ 8. I am not excluded otherwise by ~~other provisions of §5-105 (b) of the Estates and Trusts Article, Annotated Code of Maryland law~~ from serving as a personal representative.

~~8.~~ 9. I have made a diligent search for the decedent's will and to the best of my knowledge:

none exists; or

the will dated _____ (including codicils, if any, dated _____)

accompanying this petition is the last will and it came into my hands in the following manner: _____

_____ and the names and last known addresses of the witnesses are: _____

~~9.~~ 10. Other proceedings, known to petitioner, regarding the decedent or the estate are as follows: _____

~~10.~~ 11. If appointed, I accept the duties of the office of personal representative and consent to personal jurisdiction in any action brought in this State against me as personal representative or arising out of the duties of the office of personal representative.

WHEREFORE, I request appointment as personal representative of the decedent's estate and the following relief as indicated:

that the will and codicils, if any, be admitted to administrative probate;

that the will and codicils, if any, be admitted to judicial probate;

that the will and codicils, if any, be filed only;

that only a limited order be issued;

that the following additional relief be granted: _____

I solemnly affirm under the penalties of perjury that the contents of ~~the foregoing~~ this document are true to the best of my knowledge, information, and belief.

Attorney

Petitioner

Date

Address	Petitioner	Date
Telephone Number	Petitioner	Date
Facsimile Number	Telephone Number (optional)	
E-mail Address		

IN THE ORPHANS' COURT FOR

(OR) _____, MARYLAND

BEFORE THE REGISTER OF WILLS FOR

IN THE ESTATE OF:

_____ ESTATE NO. _____

SCHEDULE - A

Regular Estate

Estimated Value of Estate and Unsecured Debts

Personal property (approximate value) \$ _____

Real property (approximate value) \$ _____

Value of property subject to:

(a) Direct Inheritance Tax of _____ % \$ _____

(b) Collateral Inheritance Tax of _____ % \$ _____

Unsecured Debts (approximate amount) \$ _____

Attorney	Petitioner	Date
----------	------------	------

_____	_____	_____
Address	Petitioner	Date
_____	_____	_____
	Petitioner	Date
_____	_____	_____
Telephone Number	Telephone Number (optional)	
_____	_____	_____
Facsimile Number		
_____	_____	_____
E-mail Address		

.....
(FOR REGISTER'S USE)

Safekeeping Wills _____ Custody Wills _____
Bond Set \$ _____ Deputy _____

IN THE ORPHANS' COURT FOR
(OR) _____, MARYLAND
BEFORE THE REGISTER OF WILLS FOR
IN THE ESTATE OF:
_____ ESTATE NO. _____

SCHEDULE - B

Small Estate - Assets and Debts of the Decedent

1. I have made a diligent search to discover all property and debts of the decedent and set forth below are:

(a) A listing of all real and personal property owned by the decedent, individually or as tenant in common, and of any other property to which the decedent or estate would be entitled, including descriptions, values, and how the values were

determined:

(b) A listing of all creditors and claimants and the amounts claimed, including secured, contingent and disputed claims:

2. Allowable funeral expenses are \$ _____; statutory family allowances are \$ _____; and expenses of administration claimed are \$ _____.

3. Attached is a List of Interested Persons.

4. After the time for filing claims has expired, subject to the statutory order of priorities, and subject to the resolution of disputed claims by the parties or the court, I shall (a) pay all proper claims made pursuant to Code, Estates and Trusts Article, §8-104 in the order of priority set forth in Code, Estates and Trusts Article, §8-105, expenses, and allowances not previously paid; (b) if necessary, sell property of the estate in order to do so; and (c) distribute the remaining assets of the estate in accordance with the will or, if none, with the intestacy laws of this State.

Date

Personal Representative

I solemnly affirm under the penalties of perjury that the

contents of ~~the foregoing~~ this document are true to the best of my knowledge, information, and belief.

_____ Attorney	_____ Petitioner	_____ Date
_____ Address	_____ Petitioner	_____ Date
_____	_____ Petitioner	_____ Date
_____ Telephone Number	_____ Telephone Number (optional)	
_____ Facsimile Number	_____	
_____ E-mail Address	_____	

IN THE ORPHANS' COURT FOR

(OR) _____, MARYLAND

BEFORE THE REGISTER OF WILLS FOR

IN THE ESTATE OF:

_____ ESTATE NO. _____

SCHEDULE - C

Request for Limited Order

To Locate Assets

To Locate Will

1. I am entitled to the issuance of a limited order because I am:

a nominated personal representative or

[] a person interested in the proceedings by reason of

2. The reasons(s) a limited order should be granted are:

I solemnly affirm under the penalties of perjury that the contents of ~~the foregoing~~ this document are true to the best of my knowledge, information, and belief. I further acknowledge that this order may not be used to transfer assets.

_____ Attorney	_____ Petitioner	_____ Date
_____ Address	_____ Petitioner	_____ Date
_____	_____ Petitioner	_____ Date
_____ Telephone Number	_____ Telephone Number (optional)	
_____ Facsimile Number		
_____ E-mail Address		

(b) Other Petitions

(1) Generally

Except as otherwise provided by the rules in this Title or permitted by the court, and unless made during a hearing or trial, a petition shall be in writing, shall set forth the relief or order sought, shall state the legal or factual basis for the relief requested, and shall be filed with the Register of Wills. The petitioner may serve on any interested person and shall serve on the personal representative and such persons as the court may direct a copy of the petition, together with a notice informing the person served of the right to file a response and the time for filing it.

(2) Response

Any response to the petition shall be filed within 20 days after service or within such shorter time as may be fixed by the court for good cause shown. A copy of the response shall be served on the petitioner and the personal representative.

(3) Order of Court

The court shall rule on the petition and enter an appropriate order.

Cross reference: Code, Estates and Trusts Article, §§2-102 (c), 2-105, 5-201 through 5-206, and 7-402.

(c) Limited Order to Locate Assets

Upon the filing of a verified petition pursuant to Rule 6-122 (a), the orphans' court may issue a limited order to search for assets titled in the sole name of a decedent. The petition shall contain the name, address, and date of death of the decedent and a statement as to why the limited order is

necessary. The limited order to locate assets shall be in the following form:

IN THE ORPHANS' COURT FOR

(OR) _____, MARYLAND

BEFORE THE REGISTER OF WILLS FOR

IN THE ESTATE OF:

_____ LIMITED ORDER NO. _____

LIMITED ORDER TO LOCATE ASSETS

Upon the foregoing petition by a person interested in the proceedings, it is this _____ day of _____, _____ by the Orphans' Court for _____ (county), Maryland, ORDERED that:

1. The following institutions shall disclose to _____ the assets, and the values thereof, titled in the sole name of the above decedent:

(Name of financial institution) (Name of financial institution)

(Name of financial institution) (Name of financial institution)

(Name of financial institution) (Name of financial institution)

2. THIS ORDER MAY NOT BE USED TO TRANSFER ASSETS.

(d) Limited Order to Locate Will

Upon the filing of a verified petition pursuant to Rule 6-122 (a), the orphans' court may issue a limited order to a financial institution to enter the safe deposit box of a decedent in the presence of the Register of Wills or the Register's authorized deputy for the sole purpose of locating the decedent's will and, if it is located, to deliver it to the Register of Wills or the authorized deputy. The limited order to locate a will shall be in the following form:

IN THE ORPHANS' COURT FOR

(OR) _____, MARYLAND

BEFORE THE REGISTER OF WILLS FOR

IN THE ESTATE OF:

_____ LIMITED ORDER NO. _____

LIMITED ORDER TO LOCATE WILL

Upon the foregoing Petition, it is this _____ day of _____ (month), _____ (year) by the Orphans' Court for _____ (County), Maryland, ORDERED that: _____, located at _____ (Name of financial institution) _____ enter the _____ (Address) safe deposit box titled in the sole name of _____, in the presence of _____ (Name of decedent) the Register of Wills _____ OR the Register's

authorized deputy _____, for the sole purpose of locating the decedent's will and, if the will is located, deliver it to the Register of Wills or the Register's authorized deputy.

JUDGE

JUDGE

JUDGE

Committee note: This procedure is not exclusive. Banks may also rely on the procedure set forth in Code, Financial Institutions Article, §12-603.

Rule 6-122 was accompanied by the following Reporter's note.

Chapter 486, Laws of 2013 (HB 1211) enacted a slayer's statute, Code, Estates and Trusts Article, §11-112, which provided that a person who feloniously and intentionally kills, conspires to kill, or procures the killing of someone may not serve as the personal representative of that decedent. The Probate/Fiduciary Subcommittee recommends adding a new Section 6. of the initial petition form in Rule 6-122 to refer to disqualification because of killing, conspiring to kill, or procuring the killing of the decedent. The Subcommittee also recommends the addition of a Committee note after Section 6. referring to the statute.

Chapter 291, Laws of 2014 (SB 321) modified Code, Estates and Trusts Article, §5-105 to define the term "serious crime" and to add a good cause exception to the rule that letters of administration may not be granted to a person who has been convicted of a serious crime. The Subcommittee recommends amending what has become Section 7. of the

petition form in Rule 6-122 and adding a Committee note after it to conform to the statutory changes and provide clarity to people who are seeking to be a personal representative. The Subcommittee proposes to change Section 7., renumbering it Section 8., and expanding the statement to state that the person applying to be personal representative is not excluded by law from serving as a personal representative rather than excluded by the Estates and Trusts Article from serving.

In Schedule B of the petition form, a register of wills pointed out that after Section 4., the line for a date and the line for the signature of the personal representative do not belong there. The Subcommittee recommends deleting those lines and the accompanying text.

See the Reporter's note to the deletion of Rule 6-123 for the change to the affirmation clause in Schedule B and C.

In the form for a Limited Order to Locate Will, a register of wills suggested that a line be added after the language "Register of Wills" and after the language "Register's authorized deputy" to indicate the name of those individuals. The Subcommittee agreed with this proposal. The register of wills also suggested adding a reference to the "Register's authorized deputy" at the end of the form to make clear that the deputy can also receive the will. Another suggestion was to add three lines for judges' signatures, which are required. The Subcommittee agreed with these suggestions.

The Chair told the Committee that Section 6. of the initial petition form in Rule 6-122 is new and implements Chapter 486, Laws of 2013 (HB 1211), which enacted a slayer's statute. This provides that a person who feloniously and intentionally kills, conspires to kill, or procures the killing of someone may not

serve as the personal representative of that decedent. Section 6. asks the petitioner to certify that he or she has not been disqualified because of intentionally killing, conspiring to kill, or procuring the killing of the decedent. A Committee note referring to the statute has also been added.

The Chair noted that section 7. of the initial petition form in Rule 6-122 complies with Chapter 291, Laws of 2014 (SB 321) defining the term "serious crime." The Chair had referred to this earlier. The affirmation clauses in Rule 6-122 near the end of the initial petition form, near the end of Schedule B, and near the end of Schedule C have been changed. This will be discussed later. In the "Limited Order to Locate Will" form located in section (d), lines have been added to allow filling in of the names of the register of wills or the authorized deputy. The words "or the authorized deputy" have been added to indicate that the will can be delivered to an authorized deputy of the register. This change had been requested by a register of wills. Lines for the names of the Orphans' Court judges have been added at the end of the form, a change requested by registers of wills, to comply with actual practice.

By consensus, the Committee approved Rule 6-122 as presented, except for the change in the affirmation clause, which would be discussed later.

Agenda Item 6. Consideration of proposed amendments to: Rule 6-203 (Consent to Appointment of Personal Representative), Rule 6-205 (Appointment of Resident Agent), and Rule 6-313 (Consent to Appointment of Personal Representative)

The Chair presented Rules 6-203, Consent to Appointment of Personal Representative; 6-205, Appointment of Resident Agent; and 6-313, Consent to Appointment of Personal Representative, for the Committee's consideration.

MARYLAND RULES OF PROCEDURE

TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES

CHAPTER 200 - SMALL ESTATE

AMEND Rule 6-203 to delete and add language and to delete the form, as follows:

Rule 6-203. CONSENT TO APPOINTMENT OF PERSONAL REPRESENTATIVE

A consent to the appointment of another person as personal representative shall be in the following form: set forth in Rule 6-313.

{CAPTION}

~~CONSENT TO APPOINTMENT OF
PERSONAL REPRESENTATIVE
OF SMALL ESTATE~~

~~I, _____, the
personal representative named in the will OR _____

(state relationship to decedent or other basis for appointment)
ask the court or register to appoint _____
_____ instead of me to serve as
personal representative and consent to that appointment. I
understand that if _____ is so~~

~~appointed I may not withdraw this consent so long as~~
~~_____ remains personal representative,~~
~~except upon a showing of good cause.~~

DATE	SIGNATURE	NAME (typed or printed)
_____	_____	_____
_____	_____	_____
_____	_____	_____

Attorney

Address

Telephone Number

~~Cross reference: Code, Estates and Trusts Article, §5-106 (b).~~

Rule 6-203 was accompanied by the following Reporter's note.

Consultants to the Probate/Fiduciary Subcommittee suggested having one form for Consent to Appointment of a Personal Representative in both small and regular estates, instead of two separate forms in Rules 6-203 and 6-313. The two forms are identical, and it is not necessary to have one form for small estates and one for regular estates. The same suggestion was made for the form Appointment of Resident Agent in Rules 6-205 and 6-315.

MARYLAND RULES OF PROCEDURE

TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES

CHAPTER 200 - SMALL ESTATE

AMEND Rule 6-205 to delete and add language and to delete the form, as follows:

Rule 6-205. APPOINTMENT OF RESIDENT AGENT

An appointment of a resident agent shall be in the ~~following~~ form set forth in Rule 6-315.

~~{CAPTION}~~

~~APPOINTMENT OF RESIDENT AGENT~~

~~I appoint _____ as my resident agent on whom service of process may be made with the same effect as if it were served on me personally in the State of Maryland. This appointment shall remain in effect until the filing of a subsequent Appointment of Resident Agent.~~

~~Date: _____
Personal Representative~~

~~I am a Maryland resident and accept the appointment as resident agent.~~

~~Resident Agent~~

~~Address~~

~~Telephone Number~~

~~Attorney~~

~~Address~~

~~Telephone Number~~

~~Cross reference: Code, Estates and Trusts Article, §5-105 (b) (6).~~

Rule 6-205 was accompanied by the following Reporter's note.

See the Reporter's note to Rule 6-203.

MARYLAND RULES OF PROCEDURE

TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES

CHAPTER 300 - OPENING ESTATES

AMEND Rule 6-313 to add the word "I" in two places in the consent form, to delete the word "and" from the consent form, to add lines to the form for an attorney's facsimile number and e-mail address, and to add language indicating whether there is consent to waiver of the bond for the personal representative, as follows:

Rule 6-313. CONSENT TO APPOINTMENT OF PERSONAL REPRESENTATIVE

A consent to the appointment of another person as personal representative shall be in the following form:

[CAPTION]

CONSENT TO APPOINTMENT OF
PERSONAL REPRESENTATIVE

I, _____, the
personal representative named in the will OR I, _____

(state relationship to decedent or other basis for appointment)
ask the court or register to appoint _____

instead of me to serve as personal representative. ~~and~~ I consent
to that appointment. I understand that if _____

_____ is so appointed I may not withdraw this
consent so long as _____ remains
personal representative, except upon a showing of good cause.

I _____, further

consent that _____ shall serve
as personal representative without a bond, except
as required by law, or

do not consent that _____ shall
serve as personal representative without a bond.

DATE

SIGNATURE

NAME
(typed or printed)

Attorney

Address

Telephone Number

Facsimile Number

E-mail Address

Cross reference: Code, Estates and Trusts Article, §5-106 (b).

Rule 6-313 was accompanied by the following Reporter's note.

The Probate/Fiduciary Subcommittee recommends adding the word "I" in the Consent to Appointment of Personal Representative form where persons, other than the personal representative named in the will, fill in their name and relationship to the decedent. This addition makes it clearer for pro se individuals to fill out the necessary information. The Subcommittee also suggests separating the lengthy first sentence of the form into two sentences for clarity.

The Subcommittee proposes language to be added to the consent form so that interested person can indicate whether the personal representative can serve without a bond or not. This had been suggested by consultants to the Subcommittee, so that the form is more complete.

See the Reporter's note to Rule 6-126 for the addition of the attorney's facsimile number and e-mail address.

The Chair said that the deletion of the "Consent to Appointment of Personal Representative" form in Rule 6-203 with a reference to Rule 6-313 added combines the two forms into one, because they are the same form. In the first paragraph of the consent form in Rule 6-313, some style changes were made. New language had also been added to the consent form. This had been requested by some consultants to the Subcommittee to allow the person who is naming an alternate personal representative to consent to the alternate personal representative serving without a bond. This is consistent with the waiver of bond allowed for the initial personal representative in Rule 6-312, Bonds. Rule 6-205 contains a similar change to Rule 6-203. The form, "Appointment of Resident Agent," has been deleted, and instead, language has been added that refers to the "Appointment of Resident Agent" form in Rule 6-315. This combines the two forms into one, because they are identical.

By consensus, the Committee approved Rules 6-203, 6-205, and 6-313 as presented.

Agenda Item 7. Consideration of proposed amendments to: Rule 6-153 (Admission of Copy of Executed Will)

The Chair presented Rule 6-153, Admission of Copy of Executed Will, for the Committee's consideration.

NOTE TO RULES COMMITTEE: The Committee has directed that the language of the consent be put in the petition so that the individuals who are consenting simply consent to the petition. How should this be worded?

MARYLAND RULES OF PROCEDURE

TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES

CHAPTER 100 - GENERAL PROVISIONS

AMEND Rule 6-153 to add a certain form of petition, to conform the affirmation clause to other affirmation clauses in Title 6, to add lines to the form of consent for an attorney's facsimile number and e-mail address, and to make stylistic changes, as follows:

Rule 6-153. ADMISSION OF COPY OF EXECUTED WILL

(a) Generally

An interested person, without notice to other interested persons, may file a petition for the admission of a copy of an executed will at any time before administrative or judicial probate if:

(1) the original executed will is alleged to be lost or destroyed;

(2) a duplicate reproduction of the original executed will, evidencing a copy of the original signatures of the decedent and the witnesses, is offered for admission; and

(3) all the heirs at law and all legatees named in the will have executed a consent ~~in the following form:~~ substantially in the form set forth in section (c) of this Rule.

(b) Form of Petition

A petition for the admission of a copy of an executed will shall be substantially in the following form:

[CAPTION]

PETITION FOR ADMISSION OF COPY OF
EXECUTED LAST WILL AND TESTAMENT

I, _____, the personal representative named in the will or _____ (state relationship to decedent) ask the court to admit the copy of the Last Will and Testament of _____, decedent, for administrative probate.

I have made a diligent search for the will, and I have been unable to locate it. A copy of the executed Last Will and Testament is being filed with this Petition. Consents have been filed by all heirs at law of the decedent and legatees named in the will. The original executed will is alleged to be:

[] Lost [] Destroyed [] Other

Please explain: _____

_____.

I solemnly affirm under the penalties of perjury that the contents of this document are true to the best of my knowledge, information, and belief.

Petitioner/Personal Representative

Attorney

Address

Telephone Number

Facsimile Number

E-mail Address

(c) Form of Consent

[CAPTION]

CONSENT TO PROBATE OF COPY OF EXECUTED
LAST WILL AND TESTAMENT

The undersigned _____ and
_____, being all the heirs at law
of the decedent and all the legatees named in the will executed
by the decedent on _____, hereby consent to the
probate of a copy of that executed will, it having been
determined, after an extensive search of the decedent's personal
records, that an original of the will cannot be located. By
signing this consent each of the undersigned affirms that it is
his or her belief that the will executed by the decedent on
_____, is the last valid will executed by the decedent

and was not revoked and that the copy of the will, as submitted with the petition for its admission, represents a true and correct copy of the will.

We solemnly affirm under the penalties of perjury that the ~~facts set forth in this consent~~ contents of this document are true ~~and correct~~ to the best of our knowledge, information, and belief.

Date	Signature	Print Name and Relationship
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Attorney

Address

Telephone Number

Facsimile Number

E-mail Address

Rule 6-153 was accompanied by the following Reporter's note.

A register of wills pointed out that although Rule 6-153 permits the filing of a petition for the admission of a copy of an executed will at any time before administrative or judicial probate when certain conditions are met, the Rule does not contain a form to be used when this petition is filed. The Rules Committee recommends the addition of a form of a petition for the admission of a copy of an executed will.

See the Reporter's note to the deletion of Rule 6-123 for the change to the affirmation clause.

See the Reporter's note to Rule 6-126 for the addition of lines to the form for the attorney's facsimile number and e-mail address.

The Chair said that section (b) of Rule 6-153 is new. A register of wills had pointed out that Rule 6-153 did not contain a form for use when someone wanted to petition for the admission of a copy of a will, so one was added. The Chair pointed out that at the beginning of Rule 6-153, a note to the Committee directed that the language of the consent be put in the petition. The note was not applicable, because the language was already in the Rule. The note will be stricken.

By consensus, the Committee approved Rule 6-153 as presented.

Agenda Item 8. Consideration of proposed amendments to: Rule 6-416 (Attorney's Fees or Personal Representative's Commissions)

The Chair presented Rule 6-416, Attorney's Fees or Personal

Representative's Commissions, for the Committee's consideration.

MARYLAND RULES OF PROCEDURE

TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES

CHAPTER 400 - ADMINISTRATION OF ESTATES

AMEND Rule 6-416 to add a new subsection (b) (1) (B) pertaining to fees where the personal representative is an attorney, to add a certain cross reference, and to make stylistic changes, as follows:

Rule 6-416. ATTORNEY'S FEES OR PERSONAL REPRESENTATIVE'S COMMISSIONS

(a) Subject to Court Approval

(1) Contents of Petition

When a petition for the allowance of attorney's fees or personal representative's commissions is required, it shall be verified and shall state: (A) the amount of all fees or commissions previously allowed, (B) the amount of fees or commissions that the petitioner reasonably estimates will be requested in the future, (C) the amount of fees or commissions currently requested, (D) the basis for the current request in reasonable detail, and (E) that the notice required by subsection (a) (3) of this Rule has been given.

(2) Filing - Separate or Joint Petitions

Petitions for attorney's fees and personal representative's commissions shall be filed with the court and may be filed as separate or joint petitions.

(3) Notice

The personal representative shall serve on each unpaid creditor who has filed a claim and on each interested person a copy of the petition accompanied by a notice in the

following form:

NOTICE OF PETITION FOR ATTORNEY'S FEES OR PERSONAL
REPRESENTATIVE'S COMMISSIONS

You are hereby notified that a petition for allowance of attorney's fees or personal representative's commissions has been filed.

You have 20 days after service of the petition within which to file written exceptions and to request a hearing.

(4) Allowance by Court

Upon the filing of a petition, the court, by order, shall allow attorney's fees or personal representative's commissions as it considers appropriate, subject to any exceptions.

(5) Exception

An exception shall be filed with the court within 20 days after service of the petition and notice and shall include the grounds therefor in reasonable detail. A copy of the exception shall be served on the personal representative.

(6) Disposition

If timely exceptions are not filed, the order of the court allowing the attorney's fees or personal representative's commissions becomes final. Upon the filing of timely exceptions, the court shall set the matter for hearing and notify the personal representative and other persons that the court deems appropriate of the date, time, place, and purpose of the hearing.

(b) Payment of Attorney's Fees and Personal Representative's Commissions Without Court Approval

(1) Payment of Contingency Fee for

Services Other Than Estate Administration

Payment of attorney's fees may be made without court approval if:

(A) the fee is paid to an attorney representing the estate in litigation under a contingency fee agreement signed by the decedent or ~~the current personal representative of the decedent's estate~~ by a previous personal representative;

(B) the fee is paid to an attorney representing the estate in litigation under a contingency fee agreement signed by the current personal representative of the decedent's estate provided that the personal representative is not acting as the retained attorney and is not a member of the attorney's firm;

~~(B)~~ (C) the fee does not exceed the terms of the contingency fee agreement;

~~(C)~~ (D) a copy of the contingency fee agreement is on file with the register of wills; and

~~(D)~~ (E) the attorney files a statement with each account stating that the scope of the representation by the attorney does not extend to the administration of the estate.

(2) Consent in Lieu of Court Approval

Payment of attorney's fees and personal representative's commissions may be made without court approval if:

(A) the combined sum of all payments of attorney's fees and personal representative's commissions does not exceed the amounts provided in Code, Estates and Trusts Article, §7-601; and

(B) a written consent stating the amounts of the payments signed by (i) each creditor who has filed a claim that is still open and (ii) all interested persons, is filed with the register in the following form:

BEFORE THE REGISTER OF WILLS FOR, MARYLAND
IN THE ESTATE OF:

_____ Estate No. _____

CONSENT TO COMPENSATION FOR
PERSONAL REPRESENTATIVE AND/OR ATTORNEY

I understand that the law, Estates and Trusts Article, §7-601, provides a formula to establish the maximum total compensation to be paid for personal representative's commissions and/or attorney's fees without order of court. If the total compensation being requested falls within the maximum allowable amount, and the request is consented to by all unpaid creditors who have filed claims and all interested persons, this payment need not be subject to review or approval by the Court. A creditor or an interested party may, but is not required to, consent to these fees.

The formula sets total compensation at 9% of the first \$20,000 of the gross estate PLUS 3.6% of the excess over \$20,000.

Based on this formula, the total allowable statutory maximum based on the gross estate known at this time is _____, LESS any personal representative's commissions and/or attorney's fees previously approved as required by law and paid. To date, \$ _____ in personal representative's commissions and \$ _____ in attorney's fees have been paid.

Cross reference: See 90 Op. Att'y. Gen. 145 (2005).

Total combined fees being requested are \$ _____, to be paid as follows:

Amount	To	Name of Personal Representative/Attorney
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

I have read this entire form and I hereby consent to the payment of personal representative and/or attorney's fees in the above amount.

Date	Signature	Name (Typed or Printed)
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Attorney

Personal Representative

Address

Personal Representative

Address

Telephone Number

Facsimile Number

E-mail Address

Query to Rules Committee: In this Rule and several others, there is no line for the telephone number of the personal representative. Would this be useful information for the registers or the court?

Committee note: Nothing in this Rule is intended to relax requirements for approval and authorization of previous payments.

(3) Designation of Payment

When rendering an account pursuant to Rule 6-417 or a final report under modified administration pursuant to Rule 6-455, the personal representative shall designate any payment made under this section as an expense.

Cross reference: Code, Estates and Trusts Article, §§7-502, 7-601, 7-602, 7-603, and 7-604.

Rule 6-416 was accompanied by the following Reporter's note.

The Probate/Fiduciary Subcommittee recommends amending subsection (b)(1) of Rule 6-416 to provide that court approval of attorneys' fees is necessary when the personal representative is the retained attorney, or the retained attorney is a member of the firm of the personal representative who is also an attorney. This precludes an attorney who is also the personal representative from charging fees that are too high. Interested persons in an estate may not know to challenge the fees.

The Subcommittee is also proposing the addition of a cross reference at the end of Rule 6-416 to draw attention to Code, Estates and Trusts Article, §7-603, which allows a personal representative or a person nominated as a personal representative to receive necessary expenses and disbursements from an estate if he or she defends or prosecutes a proceeding in good faith.

The Chair explained that the proposed change in subsection (b) (1) (B) of Rule 6-416 essentially conforms to a statute, Code, Estates and Trusts Article, §7-604. A question had arisen at the Subcommittee meeting about when it is necessary to get the court's consent to pay an attorney's fee due under a contingency fee agreement that had been entered into by the decedent before he or she died. If the contingency fee agreement was entered into by the personal representative, and he or she is the attorney, should the court have to consent to this fee? This is too close an arrangement. This was the first issue that the Subcommittee had addressed. In the event that the attorney is also the personal representative, the consent of the court is necessary for the fee to be paid. There could be a question about the fairness of the fee. The personal representative is appointing himself or herself as the attorney. Questions may arise about the expenses.

The Chair said that another question was what happens when a prior personal representative had entered into a contingency fee agreement signed by the decedent. This should be treated the same as when the current personal representative entered into the agreement. This would avoid the conflict situation. Subsection (b) (1) (A) of Rule 6-416 has been proposed to be amended to include this situation. A query at the end of the Rule as to whether the telephone number of the personal representative should be added to the form in Rule 6-416, Consent to Compensation for Personal Representative and/or Attorney, will be

discussed later. The Chair asked if anyone had a comment about requiring court approval of the fees in a conflict situation.

Mr. Frederick commented that if the decedent signs a contingency fee agreement and then dies, the law requires that an estate be open for litigation purposes. He referred to *Attorney Grievance Commission v. Owrutsky*, 322 Md. 334 (1991). As the personal representative and the attorney, Mr. Owrutsky took a fee from an estate without the approval of the court. He subsequently got court approval, but the Court of Appeals suspended him for three years, because he had not gotten court approval initially.

Mr. Frederick asked whether it would be a good idea to require a court order for every fee coming out of an estate. The Chair inquired whether there is a statute addressing this. Mr. Gibber answered that Code, Estates and Trusts Article, §7-604 expressly excludes court approval of contingency fees, provided that the contingency agreement is filed within the proceeding and that the attorney files a certification with each account that the scope of the representation by the attorney does not extend to the administration of the estate.

Mr. Woolery expressed some concern about adding the reference to "Code, Estates and Trusts Article, §7-603" to the cross reference at the end of Rule 6-416. The addition of this statute to the cross reference would make it more difficult for fiduciaries and for personal representatives to administer estates, because they would have to go to court to get approval

for paying for the attorney. Filing for this approval tells the ne'er-do-well relative or relatives what the fiduciary or personal representative is doing. This would require a great amount of disclosure by the fiduciary in this process. Mr. Woolery expressed the opinion that it is not accurate to add a reference to "Code, Estates and Trusts Article, §7-603" at the end of Rule 6-416.

The Chair pointed out that it is only a cross reference. Mr. Woolery responded that it is not really just the addition of a cross reference, because it is correct as it has been for years to have a reference to "Code, Estates and Trusts Article, §§7-601, 7-602, and 7-604" in this area of getting the court to monitor and approve the finances within the estate. However, Code, Estates and Trusts Article, §7-603 involves litigation, and its procedures should be kept out until the end of the estate administration. Adding it in to the cross reference at the end of Rule 6-416 puts it at the front end of the estate administration. Mr. Woolery expressed the view that this will cause huge problems.

Mr. Gibber pointed out that the law requires this procedure. When a personal representative gets involved in litigation, the payment of counsel fees must be approved. It is already part of the process. Not including the reference to the statute might give the impression that this approval is not necessary. Code, Estates and Trusts Article, §7-603 provides that the personal representative is entitled to retain counsel and to receive the

expenses. If there is an attorney's fee, it still must be approved by the court. Case law supports this. The Chair commented that he had read Code, Estates and Trusts Article, §7-603 to say that if the personal representative loses the case, he or she does not lose his or her entitlement to necessary expenses of litigation as long as the case is prosecuted in good faith.

Mr. Woolery disagreed with the Chair. An analysis of Code, Estates and Trusts Article, §7-603 in relation to §§7-601, 7-602, and 7-604 indicates that §7-603 stands separate and apart. It is not like the procedures in the other Code provisions.

Ordinarily, the attorney does not have to go to court ahead of time before any litigation. The attorney can hire another firm to handle the litigation or help his or her client to find a good firm to do the litigation. He referred to the language in subsection (b)(1)(B) of Rule 6-416 that read: "... not acting as the retained attorney and is not a member of the attorney's firm." An attorney who wants to get another attorney to handle the litigation should not have to file these petitions ahead of time. This would be a drastic change.

The Chair reiterated that Code, Estates and Trusts Article, §7-603 simply indicates that the personal representative does not lose his or her right to the fees for litigation because the personal representative lost the case. It has nothing to do with when the personal representative asks for court approval. Mr. Woolery responded that it does. He cited the word "necessary" in §7-603. If an attorney has been in a hearing where a judge is

questioning everything that the attorney did after the estate had been administered, this presents real problems. He had had a case in Calvert County where he had represented the husband, and Mr. Woolery had done all of the litigation. The husband was defending his wife's estate. He was the original beneficiary. He had taken an inordinate amount of time to drop by Mr. Woolery's office to discuss the case. At the end of the case, Mr. Woolery reported his commissions work and his litigation work separately. If this has to be done at the front end, it can be a problem.

Ms. Phipps told the Committee that Mr. Woolery's case had happened in Calvert County, where she is the Register of Wills. If it had been handled differently, there would have been no problem. If there had been two petitions, one for the regular fee and one for the fee for the extraordinary work done with the litigation, no problems would have arisen. The necessary information had never been able to be obtained to support the fee. Therefore, the judge ruled that the attorney cannot take whatever funds he or she would like under Code, Estates and Trusts Article, §7-603 without someone supervising.

Mr. Woolery said that his point was that the supervision should come after the fact. Ms. Phipps noted that this would give an attorney carte blanche to take anything he or she wants any time he or she wants. Mr. Woolery referred to subsection (b) (1) (B), which allows the attorney to hire an outside firm.

The Chair asked how many times an attorney will ask for

interim fees with the approval of the court or wait until the end of the case. An attorney could request fees both times. It may depend on the nature of the case. This is a timing issue. The question is still whether court approval is needed before the attorney takes any fees, whether he or she takes them up front, halfway through the case, or at the end of the case. He asked Ms. Connolly, the Register of Wills for Baltimore County, who expressed the opinion that the fees should not be collected until the proceeding is over. Interim requests that come in can continually be granted by the court until nothing is left in the estate at the end of the case.

Mr. Gibber noted that *Attorney Grievance Commission v. Berry*, 437 Md. 152 (2014) concerned the payment of the attorney who was the personal representative in a case. If someone has retained an attorney to administer an estate, this is not covered by the contingency rules. Anything that has to do with the administration of the estate is subject to court approval. Approval is not necessary in advance, but to take money from the estate, court approval is needed.

The Chair asked if anyone else had a comment. None was forthcoming. He noted that the Subcommittee's recommendation was to add a reference to "Code, Estates and Trusts Article, §7-603" to the cross reference at the end of Rule 6-416. It would take a motion to overturn this recommendation. No motion was forthcoming.

By consensus, the Committee approved Rule 6-416 as

presented.

Agenda Item 9. Consideration of proposed amendments to: Rule 6-123 (Verification), Rule 6-417 (Accounts), Rule 6-126 (Waiver or Consent), Rule 6-152 (Proof of Execution of Will), Rule 6-202 (List of Interested Persons), Rule 6-312 (Bonds), Rule 6-316 (List of Interested Persons), Rule 6-342 (Personal Representatives' Acceptance and Consent), Rule 6-402 (Form of Inventory), Rule 6-404 (Information Report), Rule 6-405 (Application to Fix Inheritance Tax on Non-Probate Assets), Rule 6-411 (Election to Take Statutory Share), Rule 6-413 (Claim Against Estate - Procedure), Rule 6-415 (Petition and Order for Funeral Expenses), Rule 6-455 (Modified Administration), Rule 6-501 (Application by Foreign Personal Representative to Set Inheritance Tax), Rule 10-206 (Annual Report - Guardianship of a Minor or Disabled Person), Rule 10-707 (Inventory and Information Report), and Rule 10-708 (Fiduciary's Account and Report of Trust Clerk)

The Chair presented the deletion of Rule 6-123, Verification, and Rules 6-417, Account; 6-202, List of Interested Persons; 6-316, List of Interested Persons; 6-402, Form of Inventory; 6-404, Information Report; 6-405, Application to Fix Inheritance Tax on Non-Probate Assets; 6-413, Claim Against Estate - Procedure; 6-415, Petition and Order for Funeral Expenses; 6-455, Modified Administration; 6-501, Application by Foreign Personal Representative to Set Inheritance Tax; 10-206, Annual Report - Guardianship of a Minor or Disabled Person; 10-707, Inventory and Information Report; and 10-708, Fiduciary's Account and Report of Trust Clerk.

MARYLAND RULES OF PROCEDURE

TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES

CHAPTER 100 - GENERAL PROVISIONS

DELETE Rule 6-123, as follows:

~~Rule 6-123. VERIFICATION~~

~~When verification of a document is required by rule or law, the verification shall be in the following form: "I solemnly affirm under the penalties of perjury that the contents of the foregoing document are true to the best of my knowledge, information, and belief."~~

~~Cross reference: Code, Estates and Trusts Article, §1-102.~~

Rule 6-123 was accompanied by the following Reporter's note.

The affirmation clauses in the Probate Rules had been worded inconsistently, so the Probate/Fiduciary Subcommittee had suggested that the language in all of the affirmation clauses should conform to the language in Rule 6-123, which is based on Code, Estates and Trusts Article, §1-102. The Chair of the Rules Committee pointed out that the language "contents of the foregoing document" raises the question of what the foregoing document actually is. It could be construed to refer to some document other than the one containing the affirmation clause. Substituting the language "contents of this document" would more clearly indicate that the reference is to the document containing the affirmation clause.

The Subcommittee recommends changing the language in the affirmation clauses of the Probate Rules to the following: "contents of this document." The same change is recommended for the affirmation clauses in Title 10. The Subcommittee also recommends deleting Rule 6-123, which directs the use of the misleading language when verification of

a document is required.

MARYLAND RULES OF PROCEDURE

TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES

CHAPTER 400 - ADMINISTRATION OF ESTATES

AMEND Rule 6-417 to delete a reference to a certain Rule, as follows:

Rule 6-417. ACCOUNTS

. . .

(b) Contents of Account

A personal representative's account shall include the following items, to the extent applicable to the accounting period:

. . .

(9) The personal representative's verification ~~pursuant to Rule 6-123~~ that the account is true and complete for the period covered by the account; together with the personal representative's certification of compliance with the notice requirements set forth in section (d) of this Rule. The certification shall contain the names of the interested persons upon whom notice was served.

. . .

Rule 6-417 was accompanied by the following Reporter's note.

See the Reporter's note to the deletion of Rule 6-123.

MARYLAND RULES OF PROCEDURE

TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES

CHAPTER 200 - SMALL ESTATE

AMEND Rule 6-202 to conform the affirmation clause to other affirmation clauses in Title 6 and to add lines to the form for an attorney's facsimile number and e-mail address, as follows:

Rule 6-202. LIST OF INTERESTED PERSONS

A list of interested persons shall be filed in the following form:

[CAPTION]

LIST OF INTERESTED PERSONS

Name (and age if under 18 years)	Last Known Address including Zip code	Specify: Heir/Legatee/Personal Representative	Relationship to Decedent
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

I solemnly affirm under the penalties of perjury that the contents of ~~the foregoing list of interested persons~~ this document

are true to the best of my knowledge, information, and belief.

Petitioner/Personal Representative

Attorney

Address

Telephone Number

Facsimile Number

E-mail Address

Instructions:

1. Interested persons include decedent's heirs (surviving spouse, children, and other persons who would inherit if there were no will) and, if decedent died with a will, the personal representative named in the will and all legatees (persons who inherit under the will). All heirs must be listed even if decedent dies with a will.
2. This list must be filed (a) within 20 days after appointment of a personal representative under administrative probate or (b) at the time of filing a Petition for Judicial Probate or a Petition for Administration of a Small Estate.

Cross reference: Code, Estates and Trusts Article, §§5-403 (a), 5-607, and 7-104.

Rule 6-202 was accompanied by the following Reporter's note.

See the Reporter's note to the deletion of Rule 6-123 for the change in the

affirmation clause.

See the Reporter's note to Rule 6-126 for the addition of lines to the form for an attorney's facsimile number and e-mail address.

MARYLAND RULES OF PROCEDURE

TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES

CHAPTER 300 - OPENING ESTATES

AMEND Rule 6-316 to conform the affirmation clause to other affirmation clauses in Title 6 and to add lines to the form for an attorney's facsimile number and e-mail address, as follows:

Rule 6-316. LIST OF INTERESTED PERSONS

A list of interested persons shall be filed in the following form:

[CAPTION]

LIST OF INTERESTED PERSONS

<u>Name (and age if under 18 years)</u>	<u>Last Known Address including Zip Code</u>	<u>Specify: Heir/Legatee/ Personal Representative</u>	<u>Relationship to Decedent</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

I solemnly affirm under the penalties of perjury that the contents of ~~the foregoing list of interested persons~~ this document are true to the best of my knowledge, information, and belief.

Petitioner/Personal Representative

Attorney

Address

Telephone Number

Facsimile Number

E-mail Address

Instructions:

1. Interested persons include decedent's heirs (surviving spouse, children, and other persons who would inherit if there were no will) and, if decedent dies with a will, the personal representative named in the will and all legatees (persons who inherit under the will). All heirs must be listed even if

decedent died with a will.

2. This list must be filed (a) within 20 days after appointment of a personal representative under administrative probate or (b) at the time of filing a Petition for Judicial Probate or a Petition for Administration of a Small Estate.

Cross reference: Code, Estates and Trusts Article, §§5-403 (a), 5-607, and 7-104.

Rule 6-316 was accompanied by the following Reporter's note.

See the Reporter's note to the deletion of Rule 6-123 for the change in the affirmation clause.

See the Reporter's note to Rule 6-126 for the addition of lines to the form for an attorney's facsimile number and e-mail address.

MARYLAND RULES OF PROCEDURE

TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES

CHAPTER 400 - ADMINISTRATION OF ESTATES

AMEND Rule 6-402 to conform the affirmation clause to other affirmation clauses in Title 6 and to add lines to the form for an attorney's facsimile address and e-mail address, as follows:

Rule 6-402. FORM OF INVENTORY

Within three months after appointment, the personal representative shall file with the register (1) an inventory consisting of a

summary and supporting schedules in the forms set forth in this Rule and (2) any required appraisal in conformity with Rule 6-403.

(a) Form of Summary

[CAPTION]

Date of Death _____

INVENTORY

Summary

Schedule	Type of Property	Appraised Value
A	Real _____	\$ _____
B	Leasehold _____	\$ _____
C	Tangible personal _____	\$ _____
D	Corporate stocks _____	\$ _____
E	Bonds, notes, mortgages, debts due to the decedent _____	\$ _____
F	Bank accounts, savings and loan accounts, cash _____	\$ _____
G	All other interests _____	\$ _____
	Total	\$ _____

I solemnly affirm under the penalties of perjury that the contents of ~~the foregoing inventory~~ this document are true to the best of my knowledge, information, and belief and that any property valued by me which I have authority as personal representative to appraise has been valued completely and correctly in accordance with law.

Date: _____

Personal Representative(s)

Attorney

Address

Telephone Number

Facsimile Number

E-mail Address

(b) Form of Supporting Schedules

. . .

Rule 6-402 was accompanied by the following Reporter's note.

See the Reporter's note to the deletion of Rule 6-123 for the change to the affirmation clause.

See the Reporter's note to Rule 6-126 for the addition of lines to the form for an attorney's facsimile number and e-mail address.

MARYLAND RULES OF PROCEDURE

TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES

CHAPTER 400 - ADMINISTRATION OF ESTATES

AMEND Rule 6-404 to delete language from the information report pertaining to a certain exclusion, to conform the affirmation clause to other affirmation clauses in Title 6, and to add lines to the form for an attorney's facsimile number and e-mail address, as follows:

Rule 6-404. INFORMATION REPORT

Within three months after appointment, the personal representative shall file with the register an information report in the following form:

[CAPTION]

Date of Death _____

[] With [] Without Will

INFORMATION REPORT

1. a. At the time of death did the decedent have any interest as a joint owner ~~(other than with a person exempted from inheritance tax by Code, Tax General Article, §7-203)~~ in any real or leasehold property located in Maryland or any personal property, including accounts in a credit union, bank, or other financial institution?

[] No [] Yes

If yes, give the following information as to all such jointly owned property:

Name, Address, and Relationship of Joint Owner	Nature of Property	Total Value of Property
_____	_____	_____
_____	_____	_____
_____	_____	_____

1. b. At the time of death did the decedent have any interest in any real or leasehold property located outside of Maryland either in the decedent's own name or as a tenant in common?

No Yes

If yes, give the following information as to such property:

Address, and Nature of Property	Case Number, Names, and Location of Court Where Any Court Proceeding Has Been Initiated With Reference to the Property
_____	_____
_____	_____
_____	_____
_____	_____

2. Except for a bona fide sale, ~~or a transfer to a person exempted from inheritance tax pursuant to Code, Tax General Article, §7-203, within two years before death~~ did the decedent make any transfer within two years before death of any material part of the decedent's property in the nature of a final disposition or distribution, including any transfer that resulted in joint ownership of property?

[] No [] Yes If yes, give the following information as to each transfer.

Date of Transfer	Name, Address, Relationship of Transferee	Nature of Property Transferred	Total Value of Property
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

3. ~~Except for interests passing to a person exempted by Code, Tax General Article, §7-203, at~~ At the time of death did the decedent have (a) any interest less than absolute in real or personal property over which the decedent retained dominion while alive, including a P.O.D. account, (b) any interest in any annuity or other public or private employee pension or benefit plan, (c) any interest in real or personal property for life or for a term of years, or (d) any other interest in real or personal property less than absolute, in trust or otherwise?

[] No [] Yes If yes, give the following information as to each such interest:

Description of Interest and Amount or Value	Date and Type of Instrument Establishing Interest	Name, Address, and Relationship of Successor, Owner, or Beneficiary
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

I solemnly affirm under the penalties of perjury that the contents of this ~~report~~ document are true to the best of my knowledge, information, and belief.

Date: _____

Personal Representative(s)

Attorney

Address

Telephone Number

Facsimile Number

E-mail Address

Cross reference: Code, Tax General Article, §§7-201 and 7-224. See Code, Estates and Trusts Article, §1-401 and Code, Financial Institutions Article, §1-204 concerning transfers on death of funds in multiple party accounts, including P.O.D. accounts. See in particular §1-204 (b) (8) and (b) (10), defining multiple party and P.O.D. accounts.

Rule 6-404 was accompanied by the following Reporter's note.

In 2000, the information report in Rule 6-404 was changed to exclude providing information about joint ownership of property held with persons exempted from inheritance tax by Code, Tax General Article, §7-203. The legislature had enacted a statute that broadened the class of persons exempted from inheritance tax. A register of wills pointed out that by not requiring reporting of this property, the State of Maryland may be losing revenue to which it is entitled. The Rules Committee recommends deleting the language that excludes the reporting of joint ownership of property held with persons exempted from inheritance tax by the Code.

See the Reporter's note to the deletion of Rule 6-123 for the change to the affirmation clause.

See the Reporter's note to Rule 6-126 for the addition of lines to the form for an attorney's facsimile number and e-mail address.

MARYLAND RULES OF PROCEDURE

TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES

CHAPTER 400 - ADMINISTRATION OF ESTATES

AMEND Rule 6-405 to conform the affirmation clause to other affirmation clauses in Title 6 and to add lines to the

form for an attorney's facsimile number and e-mail address, as follows:

Rule 6-405. APPLICATION TO FIX INHERITANCE TAX ON NON-PROBATE ASSETS

An application to fix inheritance taxes on non-probate assets shall be filed with the register within 90 days after decedent's death, together with any required appraisal in conformity with Rule 6-403. The application shall be in the following form:

BEFORE THE REGISTER OF WILLS FOR _____,

MARYLAND

In the matter of:

File No.

_____, Deceased

APPLICATION TO FIX INHERITANCE TAX
ON NON-PROBATE ASSETS

The applicant represents that:

1. The decedent, a resident of _____,
(county)
died on _____,
(month) (day) (year).

2. The non-probate property subject to the inheritance tax in which the decedent and the recipient had interests, the nature of each interest (such as joint tenant, life tenant, remainderman of life estate, trustee, beneficiary, transferee), and the market value of the property at the date of death are:

PROPERTY	NATURE OF INTERESTS	DATE AND TYPE OF INSTRUMENT	MARKET VALUE
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

3. The name and address of the recipient of the property and the relationship to the decedent are: _____
 _____.

4. Any liens, encumbrances, or expenses payable from the above property and their amounts are:

_____ \$ _____
 _____ \$ _____
 _____ \$ _____

5. Attached is a statement of the basis for valuation or, if required by law, an appraisal.

6. All other information necessary to fix inheritance tax is as follows: [] tax is payable from residuary estate pursuant to decedent's will; [] OTHER (describe): _____

The applicant requests the Register of Wills to fix the amount of inheritance tax due.

I solemnly affirm under the penalties of perjury that the contents of ~~the foregoing application~~ this document are true to the best of my knowledge, information, and belief.

Date: _____ Applicant _____

Attorney

Address

Telephone Number

Facsimile Number

E-mail Address

(FOR APPLICANT'S USE - OPTIONAL)

Value of property as above	\$ _____
Less: Liens, encumbrances, and expenses as above ..	\$ _____
Amount taxable	\$ _____
Direct Inheritance Tax due at ____%	\$ _____
Collateral Inheritance Tax due at ____%	\$ _____
Total tax due	\$ _____

Cross reference: Code, Tax-General Article, §§7-208 and 7-225 and Code, Estates and Trusts Article, §7-202.

Rule 6-405 was accompanied by the following Reporter's note.

See the Reporter's note to the deletion of Rule 6-123 for the change to the affirmation clause.

See the Reporter's note to Rule 6-126 for the addition of lines to the form for an attorney's facsimile number and e-mail address.

MARYLAND RULES OF PROCEDURE

TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES

CHAPTER 400 - ADMINISTRATION OF ESTATES

AMEND Rule 6-411 to add lines to the form for an attorney's facsimile number and e-mail address, as follows:

Rule 6-411. ELECTION TO TAKE STATUTORY SHARE

(a) Form of Election

A surviving spouse may elect to take a statutory share by the timely filing of an election in the following form:

[CAPTION]

ELECTION TO TAKE STATUTORY SHARE OF ESTATE

I,

_____ /

surviving spouse of _____ /

renounce all provisions of my spouse's will pertaining to myself

and elect to take my statutory share of the estate.

Witness:

Surviving Spouse

Date: _____

Attorney

Address

Telephone Number

Facsimile Number

E-mail Address

Cross reference: Code, Estates and Trusts Article, §3-203.

(b) Time Limitation for Making Election

. . .

(c) Extension of Time for Making Election

. . .

(d) Withdrawal

. . .

Rule 6-411 was accompanied by the following Reporter's note.

See the Reporter's note to Rule 6-126
for the addition of lines to the form for the
attorney's facsimile number and e-mail
address.

MARYLAND RULES OF PROCEDURE

TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES

CHAPTER 400 - ADMINISTRATION OF ESTATES

AMEND Rule 6-413 to conform the affirmation clause to other affirmation clauses in Title 6, as follows:

Rule 6-413. CLAIM AGAINST ESTATE - PROCEDURE

(a) Presentation of Claim

A claimant may make a claim against the estate, within the time allowed for presenting claims, (1) by serving it on the personal representative, (2) by filing it with the register and serving a copy on the personal representative, or (3) by filing suit. If the claim is filed prior to the appointment of the personal representative, the claimant may file the claim with the register in the county in which the decedent was domiciled or in any county in which the decedent resided on the date of the decedent's death or in which real property or a leasehold interest in real property of the decedent is located.

(b) Content of Claim

A claim against the decedent's estate shall indicate (1) the basis of the claim, (2) the name and address of the claimant, (3) the amount claimed, (4) if the claim is not yet due, the date when it will become due, (5) if the claim is contingent, the nature of the contingency, and (6) if the claim is secured, a description of the security. Unless the claim is made by filing suit, it shall be verified.

(c) Form of Claim

A claim against a decedent's estate may be filed or made substantially in the following form:

In the Estate of: _____ Estate No. _____
_____ Date _____

CLAIM AGAINST DECEDENT'S ESTATE

The claimant certifies that there is due and owing by the decedent in accordance with the attached statement of account or other basis for the claim the sum of \$_____.

I solemnly affirm under the penalties of perjury that the contents of ~~the foregoing claim~~ this document are true to the best of my knowledge, information, and belief.

Name of Claimant

Signature of claimant or person authorized to make verifications on behalf of claimant

Name and Title of Person Signing Claim

Address

Telephone Number

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____ (month), _____ (year), I [] delivered or [] mailed, first class, postage prepaid, a copy of the foregoing Claim to the personal representative, _____

(name and address)

Signature of Claimant

Instructions:

1. This form may be filed with the Register of Wills upon payment of the filing fee provided by law. A copy must also be sent to the personal representative by the claimant.
2. If a claim is not yet due, indicate the date when it will become due. If a claim is contingent, indicate the nature of the contingency. If a claim is secured, describe the security.

(d) Disallowance of Claim or Petition for
Determination of Validity

. . .

(e) Form of Disallowance of Claim

. . .

(f) Claimant's Petition

. . .

(g) Hearing

. . .

(h) Notice to Register of Suit

. . .

Rule 6-413 was accompanied by the following Reporter's note.

See the Reporter's note to the deletion
of Rule 6-123 for the change to the
affirmation clause.

MARYLAND RULES OF PROCEDURE

TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES

CHAPTER 400 - ADMINISTRATION OF ESTATES

AMEND Rule 6-415 to conform the affirmation clause to other affirmation clauses in Title 6 and to add to the form lines for an attorney's facsimile number and e-mail address, as follows:

Rule 6-415. PETITION AND ORDER FOR FUNERAL EXPENSES

When a petition for funeral expenses is required by law, it shall be filed in the following form:

[CAPTION]

PETITION AND ORDER FOR FUNERAL EXPENSES

I hereby request allowance of funeral expenses and I state that:

(1) The expenses are as follows (or as set forth in the attached statement or invoice): _____

_____.

(2) The estate is (solvent) (insolvent).

I solemnly affirm under the penalties of perjury that the contents of this ~~petition~~ document are true to the best of my knowledge, information, and belief.

Date: _____

Personal Representative(s)

Attorney

Address

Telephone Number

Facsimile Number

E-mail Address

Certificate of Service

I hereby certify that on this ____ day of _____, _____, I
(month) (year)
delivered or mailed, postage prepaid, a copy of the foregoing
Petition to the following persons: _____

(name and address)

Signature

ORDER

Upon a finding that \$ _____ is a reasonable amount
for funeral expenses, according to the condition and
circumstances of the decedent, it is this _____ day of

(month) (year)

ORDERED, by the Orphans' Court for _____ County,
that this sum is allowed.

JUDGES

Cross reference: Code, Estates and Trusts Article, §§7-401 (i) and 8-106. For limitations on the amount of allowable funeral expenses, see Code, Estates and Trusts Article, §8-106 (b).

Rule 6-415 was accompanied by the following Reporter's note.

See the Reporter's note to the deletion of Rule 6-123 for the change to the affirmation clause.

See the Reporter's note to Rule 6-126 for the addition of lines to the form for an attorney's facsimile number and e-mail address.

MARYLAND RULES OF PROCEDURE

TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES

CHAPTER 400 - ADMINISTRATION OF ESTATES

AMEND Rule 6-455 by adding language to Section 1. (c) of the form of Election of Personal Representative for Modified Administration pertaining to certain trusts that are residuary legatees or heirs of the decedent, by deleting Section 1. (d) of the form, by deleting language from and adding

language to new Section 1. (d) of the form referring to all residuary legatees and heirs of the decedent, by adding language to Section 3. of the form pertaining to reporting after-discovered property of the decedent, by adding language to Section 4. of the form pertaining to distributing after-discovered property of the decedent, by adding lines to the form for an attorney's facsimile number and e-mail address, by deleting language from and adding language to the form for Consent to Election for Modified Administration pertaining to a trustee of a certain trust, by adding language to Section 1. of the form pertaining to after-discovered property of the decedent, by adding language to Section 3. of the form referring to a certain objection, by adding language to Section 6. of the form pertaining to distributing after-discovered property of the decedent, by adding language to subsection (d)(1) of the Rule pertaining to the distributing of after-discovered property, by adding language to Section 3. of the form for Final Report Under Modified Administration pertaining to distributing after-discovered property, by adding lines to the Certificate of Service for an attorney's facsimile number and e-mail address, and by making stylistic changes, as follows:

Rule 6-455. MODIFIED ADMINISTRATION

(a) Generally

When authorized by law, an election for modified administration may be filed by a personal representative within three (3) months after the appointment of the personal representative.

(b) Form of Election

An election for modified administration shall be in the following form:

BEFORE THE REGISTER OF WILLS FOR _____, MARYLAND
ESTATE OF _____ Estate No. _____

ELECTION OF PERSONAL REPRESENTATIVE FOR
MODIFIED ADMINISTRATION

1. I elect Modified Administration. This estate qualifies for Modified Administration for the following reasons:

- (a) The decedent died on _____ [] with a will or [] without a will.
- (b) This Election is filed within 3 months from the date of my appointment which was on _____.
- (c) [] Each of the residuary legatees named in the will or [] each of the heirs of the intestate decedent is either:
[] The decedent's personal representative ~~or~~ [] an individual or an entity exempt from inheritance tax in the decedent's estate under §7-203 (b), (e), and (f) of the Tax - General Article or [] trusts under which each person who has a current interest in the trust is an individual or entity exempt from inheritance tax in the decedent's estate under §7-203 (b), (e), and (f) of the Tax-General Article.

~~(d) Each trustee of every trust that is a residuary legatee is one or more of the following: the decedent's [] personal representative, [] surviving spouse, [] child.~~

~~(e) (d) Consents of the persons referenced in 1 (c) all residuary legatees of a testate decedent and the heirs at law of an intestate decedent [] are filed herewith or [] were filed previously.~~

~~(f) (e) The estate is solvent and the assets are sufficient to~~

satisfy all specific legacies.

~~(g)~~ (f) Final distribution of the estate can be made within 12 months after the date of my appointment.

2. Property of the estate is briefly described as follows:

Description	Estimated Value
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

3. I acknowledge that I must file a verified Final Report Under Modified Administration no later than 10 months after the date of appointment and that, upon request of any interested person, I must provide a full and accurate Inventory and Account to all interested persons. I acknowledge that if I discover property of the decedent after the time for filing a verified Final Report Under Modified Administration, I must file the verified Report with respect to the after-discovered property within 60 days of the discovery of the property.

4. I acknowledge the requirement under Modified Administration to make full distribution within 12 months after the date of appointment, unless I discover property of the decedent after the time for making full distribution, in which case I must make final distribution of the after-discovered property within 90 days of the discovery of the property.

5. I acknowledge and understand that Modified Administration shall continue as long as all the requirements are met.

I solemnly affirm under the penalties of perjury that the contents of ~~the foregoing~~ this document are true to the best of my knowledge, information and belief.

Attorney

Personal Representative

Address

Personal Representative

Address

Telephone Number

Facsimile Number

E-mail Address

(c) Consent

An election for modified administration may be filed if all the residuary legatees of a testate decedent and the heirs at law of an intestate decedent consent in the following form:

BEFORE THE REGISTER OF WILLS FOR _____, MARYLAND
ESTATE OF _____ Estate No. _____

CONSENT TO ELECTION FOR
MODIFIED ADMINISTRATION

I am a [] residuary legatee, who is the decedent's personal representative or an individual or an entity exempt from inheritance tax under §7-203 (b), (e), and (f) of Code, Tax General Article, [] an heir of the decedent who died intestate, and I am the decedent's personal representative, ~~or an individual or an entity exempt from inheritance tax under §7-203 (b), (e), and (f), [] or a trustee of a trust that is a residuary legatee who is the decedent's personal representative, surviving spouse, or child~~ under which each person who has a current interest in the trust is an individual or entity except from inheritance tax in the decedent's estate under §7-203 (b), (e), and (f) of the Tax-General Article.

1. Instead of filing a formal Inventory and Account, the personal representative will file a verified Final Report Under Modified Administration no later than 10 months after the date of appointment, unless the personal representative discovers property of the decedent after the time for filing a verified Final Report Under Modified Administration in which case the personal representative must file the verified Report with respect to the after-discovered property within 90 days of the discovery of the property.
2. Upon written request to the personal representative by any

legatee not paid in full or any heir-at-law of a decedent who died without a will, a formal Inventory and Account shall be provided by the personal representative to the legatees or heirs of the estate.

3. At any time during administration of the estate, I may revoke Modified Administration by filing a written objection to Modified Administration with the Register of Wills. Once filed, the objection is binding on the estate and cannot be withdrawn.
4. If Modified Administration is revoked, the estate will proceed under Administrative Probate and the personal representative shall file a formal Inventory and Account, as required, until the estate is closed.
5. Unless I waive notice of the verified Final Report Under Modified Administration, the personal representative will provide a copy of the Final Report to me, upon its filing which shall be no later than 10 months after the date of appointment.
6. Final Distribution of the estate will occur not later than 12 months after the date of appointment of the personal representative, unless the personal representative discovers property of the decedent after the time for making full distribution, in which case the personal representative must make final distribution of the after-discovered property within 90 days of the discovery of the property.

Signature of Residuary Legatee
or Heir

State Relationship to
Decedent

Type or Print Name

Signature of Residuary Legatee
or Heir

State Relationship to
Decedent

Type or Print Name

Signature of Trustee

Signature of Trustee

Type or Print Name

Type or Print Name

(d) Final Report

(1) Filing

A verified final report shall be filed no later than 10 months after the date of the personal representative's appointment, unless the personal representative discovers property of the decedent after the time for filing a verified final report in which case the personal representative must file the verified report with respect to the after-discovered property within 90 days of the discovery of the property.

(2) Copies to Interested Persons

Unless an interested person waives notice of the verified final report under modified administration, the personal

representative shall serve a copy of the final report on each interested person.

(3) Contents

A final report under modified administration shall be in the following form:

BEFORE THE REGISTER OF WILLS FOR _____, MARYLAND
ESTATE OF _____ Estate No. _____
Date of Death _____ Date of Appointment
of Personal Representative

FINAL REPORT UNDER MODIFIED ADMINISTRATION

(Must be filed within 10 months after the date of appointment)

I, Personal Representative of the estate, report the following:

1. The estate continues to qualify for Modified Administration as set forth in the Election for Modified Administration on file with the Register of Wills.

2. Attached are the following Schedules and supporting attachments:

Total Schedule A: Reportable Property \$ _____
Total Schedule B: Payments and Disbursements .. \$(_____)
Total Schedule C: Distribution of Net Reportable
Property \$ _____

3. I acknowledge that:

(a) Final distributions shall be made within 12 months

after the date of my appointment as personal representative, unless I discover property of the decedent after the time for making final distributions in which case I must make final distribution of the after-discovered property within 90 days of the discovery of the property.

- (b) If Modified Administration is revoked, the estate shall proceed under Administrative Probate, and I will file a formal Inventory and Account, as required, until the estate is closed.

I solemnly affirm under the penalties of perjury that the contents of ~~the foregoing~~ this document are true to the best of my knowledge, information, and belief and that any property valued by me which I have authority as personal representative to appraise has been valued completely and correctly in accordance with law.

Attorney Signature

Personal Representative Date

Address

Personal Representative Date

Address

Personal Representative Date

Telephone Number

Facsimile Number

E-mail Address

CERTIFICATE OF SERVICE OF
FINAL REPORT UNDER MODIFIED ADMINISTRATION

I hereby certify that on this ____ day of _____, I delivered or mailed, postage prepaid, a copy of the foregoing Final Report Under Modified Administration and attached Schedules to the following persons:

Names	Addresses
_____	_____
_____	_____
_____	_____
_____	_____

_____ Attorney	_____ Personal Representative
_____ Address	_____ Personal Representative
_____ City, State, Zip Code <u>Address</u>	

Telephone Number

Facsimile Number

E-mail Address

FOR REGISTER OF WILLS USE

Distributions subject to collateral _____ Tax thereon _____
tax at _____ %

Distribution subject to collateral _____ Tax thereon _____
tax at _____ %

Distribution subject to direct tax _____ Tax thereon _____
at _____ %

Distribution subject to direct tax _____ Tax thereon _____

Exempt distributions to _____
(Identity of the recipient)

Exempt distributions to _____
(Identity of the recipient)

Exempt distributions to _____
(Identity of the recipient)

Total Inheritance Tax due _____

Total Inheritance Tax paid _____

Gross Estate _____ Probate Fee & Costs _____
Collected

FINAL REPORT UNDER MODIFIED ADMINISTRATION

SUPPORTING SCHEDULE A

REPORTABLE PROPERTY

ESTATE OF _____ Estate No. _____

Item No.	Description	Basis of Valuation	Value
----------	-------------	--------------------	-------

TOTAL REPORTABLE PROPERTY OF THE DECEDENT \$ _____

(Carry forward to Schedule C)

INSTRUCTIONS

ALL REAL AND PERSONAL PROPERTY MUST BE INCLUDED AT DATE OF DEATH VALUE. THIS DOES NOT INCLUDE INCOME EARNED DURING ADMINISTRATION OR CAPITAL GAINS OR LOSSES REALIZED FROM THE SALE OF PROPERTY DURING ADMINISTRATION. ATTACHED APPRAISALS OR COPY OF REAL PROPERTY ASSESSMENTS AS REQUIRED:

1. Real and leasehold property: Fair market value must be established by a qualified appraiser. For decedents dying on or after January 1, 1998, in lieu of a formal appraisal, real and leasehold property may be valued at the full cash value for property tax assessment purposes as of the most recent date of finality. This does not apply to property tax assessment purposes on the basis of its use value.
2. The personal representative may value: Debts owed to the decedent, including bonds and notes; bank accounts, building, savings and loan association shares, money and corporate stocks listed on a national or regional exchange or over the counter securities.
3. All other interests in tangible or intangible property: Fair market value must be established by a qualified appraiser.

ATTACH ADDITIONAL SCHEDULES AS NEEDED

FINAL REPORT UNDER MODIFIED ADMINISTRATION

SUPPORTING SCHEDULE B

Payments and Disbursements

ESTATE OF _____ Estate No. _____

<u>Item No.</u>	<u>Description</u>	<u>Amount Paid</u>
-----------------	--------------------	--------------------

Total Disbursements: \$ _____

(Carry forward to Schedule C)

INSTRUCTIONS

1. Itemize all liens against property of the estate including mortgage balances.
2. Itemize sums paid (or to be paid) within twelve months from the date of appointment for: debts of the decedent, taxes due by the decedent, funeral expenses of the decedent, family allowance, personal representative and attorney compensation, probate fee and other administration expenses of the estate.

ATTACH ADDITIONAL SCHEDULES AS NEEDED

FINAL REPORT UNDER MODIFIED ADMINISTRATION

SUPPORTING SCHEDULE C

Distributions of Net Reportable Property

1. SUMMARY OF REPORTABLE PROPERTY

Total from Schedule A	_____
Total from Schedule B	_____
Total Net Reportable Property	_____

(Schedule A minus Schedule B)

2. SPECIFIC BEQUESTS (If Applicable)

Name of Legatee or Heir	Distributable Share of Reportable Estate	Inheritance Tax Thereon
-------------------------	---	----------------------------

3. DISTRIBUTION OF BALANCE OF ESTATE

Name of Legatee or Heir	Distributable Share of Reportable Estate	Inheritance Tax Thereon
Total Reportable Distributions		\$ _____
Inheritance Tax		\$ _____

ATTACH ADDITIONAL SCHEDULES AS NEEDED

(4) Inventory and Account

The provisions of Rule 6-402 (Inventory) and Rule 6-417 (Account) do not apply.

(e) Revocation

(1) Causes for Revocation

A modified administration shall be revoked by:

(A) the filing of a timely request for judicial probate;

(B) the filing of a written objection by an interested person;

(C) the personal representative's filing of a withdrawal of the election for modified administration;

(D) the court, on its own initiative, or for good cause shown by an interested person or by the register;

(E) the personal representative's failure to timely file the final report and make distribution within 12 months after the date of appointment, or to comply with any other provision of this Rule or Code, Estates and Trusts Article, §§5-701 through 5-710.

(2) Notice of Revocation

The register shall serve notice of revocation on each interested person.

(3) Consequences of Revocation

Upon revocation, the personal representative shall file a formal inventory and account with the register pursuant to Rules 6-402 and 6-417. The inventory and account shall be filed within the time provided by Rules 6-402 and 6-417, or, if the deadline for filing has passed, within 30 days after service of the register's notice of revocation.

Source: This Rule is new.

Rule 6-455 was accompanied by the following Reporter's note.

Chapter 645, Laws of 2013 (HB 858) changed a requirement for filing an election for modified administration. Previously, the election could be filed if all residuary legatees and heirs of a decedent included all trustees of each trust that is a residuary legatee that were limited to the decedent's personal representative surviving spouse, and children. This has been changed to the election being filed if all residuary legatees named in the will or all trusts under which each person who has a current interest in the trust is an individual or entity exempt from inheritance tax in the decedent's state under certain provisions of the Tax-General Article of the Code.

House Bill 858 also added a new procedure for reporting and distributing property discovered by the personal representative after the time for filing the verified final report under modified administration. Chapter 435, Laws of 2014 (HB 1004) clarified that a modified administration of an estate shall be revoked by an interested person filing a written objection to modified administration, instead of simply filing a written objection.

The Probate/Fiduciary Subcommittee recommends changing Rule 6-455 to conform to the statutory changes.

See the Reporter's note to the deletion of Rule 6-123 for the change to the affirmation clauses in the forms.

See the Reporter's note to Rule 6-126 for the addition of lines for the attorney's facsimile number and e-mail address.

The signature provisions were modified to be consistent with similar provisions in other forms.

MARYLAND RULES OF PROCEDURE

TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES

CHAPTER 500 - MISCELLANEOUS PROVISIONS

AMEND Rule 6-501 to conform the affirmation clause to other affirmation clauses in Title 6 and to add to the form lines for an attorney's facsimile number and e-mail address, as follows:

Rule 6-501. APPLICATION BY FOREIGN PERSONAL REPRESENTATIVE TO SET INHERITANCE TAX

(a) Form of Application

An application by a foreign personal representative to set inheritance tax shall be filed with the register for the county where the largest part in value of the decedent's Maryland property is located according to the following form:

BEFORE THE REGISTER OF WILLS FOR _____, MARYLAND

In the Estate of: _____ File No. _____

APPLICATION BY FOREIGN PERSONAL REPRESENTATIVE TO SET INHERITANCE TAX

The Application of

_____,
Name Address

Name Address

Each of us states:

1. I am the qualified foreign personal representative of the Estate of _____ (name of decedent) who died domiciled in _____ (state or country) on _____ (date) (with) (without) a will.

2. Real and leasehold property owned by the decedent in Maryland and the market value at the decedent's date of death are:

_____ \$ _____
_____ \$ _____
_____ \$ _____

3. Tangible personal property in Maryland owned by the decedent and taxable in Maryland and the market value at the decedent's date of death are:

_____ \$ _____
_____ \$ _____
_____ \$ _____

4. Any liens, encumbrances, and expenses payable out of Maryland property and their amounts are:

_____ \$ _____
_____ \$ _____
_____ \$ _____

5. Attached are:

(a) copy of appointment and will, if any, authenticated under Title 28, U.S.C.A. §1738;

(b) appointment of Maryland resident agent;

(c) list of recipients of Maryland property, their interests in the property, and their relationship to the decedent;

(d) notice to creditors of appointment with respect to the decedent's real or leasehold property in Maryland; and

(e) appraisal or other basis for valuation of real or leasehold property, or of tangible personal property that is taxable in Maryland. (For real and leasehold property give a description sufficient to identify the property and the title reference by liber and folio.)

I request the Register of Wills to set the amount of inheritance tax due.

I solemnly affirm under the penalties of perjury that the contents of ~~the foregoing application~~ this document are true and ~~correct~~ to the best of my knowledge, information, and belief.

Date: _____

Applicant

Applicant

Attorney

Address

Telephone Number

Facsimile Number

E-mail Address

(FOR APPLICANT'S USE - OPTIONAL)

Value of Property as above\$ _____
Less: Liens, encumbrances and
 expenses as above\$ _____
Amount Taxable\$ _____
Direct Inheritance Tax due at ____%\$ _____
Collateral Inheritance Tax due at ____%\$ _____
Total Tax due\$ _____

(b) Form of Notice of Appointment of Foreign Personal
Representative

. . .

(c) Publication - Certification

. . .

Rule 6-501 was accompanied by the following Reporter's note.

 See the Reporter's note to the deletion
of Rule 6-123 for the change to the
affirmation clause.

See the Reporter's note to Rule 6-126 for the addition of lines to the form for an attorney's facsimile number and e-mail address.

MARYLAND RULES OF PROCEDURE

TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 200 - GUARDIAN OF PERSON

AMEND Rule 10-206 to change the title of the Rule, to amend section (a) to require an annual report of Guardian of Minor, to provide that the current "Annual Report of Guardian" form applies to guardianships of disabled persons, to add the word "caption" before the "Order" section of the form, to add a new form for the Annual Report of a Guardian of a Minor, to conform the affirmation clauses to other affirmation clauses in Title 10, and to make stylistic changes, as follows:

Rule 10-206. ANNUAL REPORT - GUARDIANSHIP OF A MINOR OR DISABLED PERSON

(a) Report Required

~~A guardian, other~~ Other than a temporary guardian, a guardian of the person of a minor or disabled person shall file an annual report in the action. The reporting year shall end on (1) the anniversary of the date the court assumed jurisdiction over the person or (2) any other date approved by the trust clerk or the court.

Cross reference: Code, Estates and Trusts Article, §13-708 (b) (7).

(b) Time for Filing

The report shall be filed not later than 60 days after the end of the reporting year, unless the court for good cause shown shall extend the time.

(c) Copies to Interested Persons

The guardian shall furnish a copy of the report to any interested person requesting it, unless the court orders otherwise.

(d) Court Approval

The court shall review the report and either enter an order accepting the report and continuing the guardianship or take other appropriate action.

(e) Form of Annual Report of Guardian of Disabled Person

The guardian's report shall be in substantially the following form:

[CAPTION]

ANNUAL REPORT OF _____, GUARDIAN OF THE
PERSON OF _____, WHO IS DISABLED

1. The name and permanent residence of the disabled person are: _____.

2. The disabled person currently resides or is physically present in:

- | | |
|-------------------------------|---|
| _____ own home | _____ guardian's home |
| _____ nursing home | _____ hospital or medical facility |
| _____ foster or boarding home | _____ relative's home: _____ relationship |
| | _____ other |

(If other than disabled person's permanent home, state the name

and address of the place where the disabled person lives _____
_____.)

3. The disabled person has been in the current location since _____
(date). If the person has moved within the past year, the
reasons for the change are: _____
_____.

4. The physical and mental condition of the disabled person is
as follows: _____
_____.

5. During the past year, the disabled person's physical or
mental condition has changed in the following respects: _____

_____.

6. The disabled person is presently receiving the following
care: _____
_____.

7. I have applied funds as follows from the estate of the
disabled person for the purpose of support, care, or education:

_____.

8. The plan for the disabled person's future care and well-
being, including any plan to change the person's location, is:

_____.

9. [] I have no serious health problems that affect my

ability to serve as guardian.

[] I have the following serious health problems that may affect my ability to serve as guardian: _____

_____.

10. This guardianship

[] should be continued.

[] should not be continued, for the following reasons:

_____.

11. My powers as guardian should be changed in the following respects and for the following reasons: _____

_____.

12. The court should be aware of the following other matters relating to this guardianship: _____

_____.

I solemnly affirm under the penalties of perjury that the contents of this ~~report~~ document are true to the best of my knowledge, information, and belief.

Date

Guardian's Signature

Guardian's Name (typed or printed)

Street Address or Box Number

City and State

Telephone Number

[CAPTION]

ORDER

The foregoing Annual Report of a Guardian having been filed and reviewed, it is by the Court, this ____ day of _____, _____, (month) (year)

ORDERED, that the report is accepted, and the guardianship is continued.

(or)

ORDERED, that a hearing shall be held in this matter on

(date)

JUDGE

(f) Form of Annual Report of Guardian of Minor

[CAPTION]

ANNUAL REPORT OF _____, GUARDIAN OF THE
PERSON OF _____, WHO IS A MINOR

1. The name and permanent residence of the minor are:

2. The minor currently resides or is physically present in:

own home

hospital or medical facility

_____ foster or boarding _____ relative's home: _____
home _____ relationship
_____ guardian's home _____ other

(If other than minor's permanent home, state the name and address
of the place where the minor lives _____
_____.)

3. The minor has been in the current location since
_____. If the person has moved within the past year, the
(date)
reasons for the change are: _____
_____.

4. The physical and mental condition of the minor is as
follows: _____
_____.

5. During the past year, the minor's physical or mental
condition has changed in the following respects: _____

_____.

6. The minor is presently receiving the following care:

_____.

7. I have applied funds as follows from the estate of the
minor for the purpose of support, care, or education:

_____.

8. The plan for the minor's future care and well-being,

including any plan to change the person's location, is:

_____.

9. I have no serious health problems that affect my ability to serve as guardian.

I have the following serious health problems that may affect my ability to serve as guardian:

_____.

10. This guardianship

should be continued.

should not be continued, for the following reasons:

_____.

11. My powers as guardian should be changed in the following respects and for the following reasons:

_____.

12. The court should be aware of the following other matters relating to this guardianship:

_____.

I solemnly affirm under the penalties of perjury that the contents of this document are true to the best of my knowledge, information, and belief.

Date

Guardian's Signature

Guardian's Name (typed or printed)

Street Address or Box Number

City and State

Telephone Number

[CAPTION]

ORDER

The foregoing Annual Report of a Guardian having been filed and reviewed, it is by the Court, this _____ day of _____, _____, (month) (year)

ORDERED, that the report is accepted, and the guardianship is continued.

(or)

ORDERED, that a hearing shall be held in this matter on

_____.
(date)

JUDGE

Source: This Rule is new and is derived as follows:

Section (a) is derived from Code, Estates and Trusts Article, §13-708 (b) (7) and former Rule V74 c 2 (b).

Section (b) is derived from former Rule V74 c 2 (b).

Section (c) is patterned after Rule 6-417 (d).

Sections (d) and (e) are new.

Section (f) is new.

Rule 10-206 was accompanied by the following Reporter's note.

Guardians of disabled persons are required by statute to file an annual report informing the court of the status of the guardianship. An attorney has suggested that there be a similar report on the status of minor persons who are the subject of a guardianship, noting that the court should also be monitoring guardianships of minors. The Rules Committee recommends amending Rule 10-206 to make it applicable to guardianships of minors and to add a form of Annual Report of Guardian of Minor.

A clerk has suggested that the word "Caption" be added before the word "Order" in the order forms. The addition of the word indicates that the order should be on a separate piece of paper, making it more convenient for the clerks to use and docket the form separately.

See the Reporter's note to the deletion of Rule 6-123 for the change to the affirmation clause.

MARYLAND RULES OF PROCEDURE

TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 700 - FIDUCIARY ESTATES INCLUDING

GUARDIANSHIPS OF THE PROPERTY

AMEND Rule 10-707 to modify the affirmation clause in the form and to add lines to the form for an attorney's facsimile number and e-mail address, as follows:

Rule 10-707. INVENTORY AND INFORMATION REPORT

(a) Duty to File

Within 60 days after jurisdiction has been assumed or a fiduciary has been appointed, the fiduciary shall file an inventory and information report in substantially the following form:

Part I.

[CAPTION]

INVENTORY

The FIDUCIARY ESTATE now consists of the following assets:

(attach additional sheets, if necessary; each item listed shall be valued by the fiduciary at its fair market value, as of the date of the appointment of the fiduciary or the assumption of jurisdiction by the court; unless the court otherwise directs, it shall not be necessary to employ an appraiser to make any valuation; state amount of any mortgages, liens, or other indebtedness, but do not deduct when determining estimated fair market value)

A. REAL ESTATE

(State location, liber/folio, balance of mortgage, and name of lender, if any)

	ESTIMATED FAIR MARKET VALUE
_____	\$ _____
_____	_____
_____	_____
TOTAL	\$ _____

B. CASH AND CASH EQUIVALENTS

(State name of financial institution, account number, and type of account)

	PRESENT FAIR MARKET VALUE
_____	\$ _____
_____	_____
_____	_____
TOTAL	\$ _____

C. PERSONAL PROPERTY

(Itemize motor vehicles, regardless of value; describe all other property generally if total value is under \$1500; state amount of any lien; itemize, if total value is over \$1500)

	ESTIMATED FAIR MARKET VALUE
_____	\$ _____
_____	\$ _____
_____	\$ _____
TOTAL	\$ _____

D. STOCKS

(State number and class of shares, name of corporation)

	PRESENT FAIR MARKET VALUE
_____	\$ _____
_____	_____
_____	_____
TOTAL	\$ _____

E. BONDS

(State face value, name of issuer, interest rate, maturity date)

	PRESENT FAIR MARKET VALUE
_____	\$ _____
_____	_____
_____	_____
TOTAL	\$ _____

F. OTHER

(Describe generally, e.g., debts owed to estate, partnerships, cash value of life insurance policies, etc.)

	ESTIMATED FAIR MARKET VALUE
_____	\$ _____
_____	\$ _____
_____	\$ _____
TOTAL	\$ _____

Part II.

INFORMATION REPORT

(1) Are there any assets in which the minor or disabled person holds a present interest of any kind together with another person in any real or personal property, including accounts in a credit union, bank, or other financial institution?

[] No [] Yes

If yes, give the following information as to all such property:

_____ Signature of Fiduciary	_____ Signature of Fiduciary
_____ Address	_____ Address
_____ Telephone Number	_____ Telephone Number

Name of Fiduciary's Attorney

Address

Telephone Number

Facsimile Number

E-mail Address

(b) Examination Not Required

Unless the court otherwise directs, it shall not be necessary that the assets listed in the report be exhibited to or examined by the court, the trust clerk, or auditor.

(c) Notice

Unless the court orders otherwise, the trust clerk or fiduciary shall furnish a copy of the report to any interested person who has made a request for it.

Source: This Rule is derived as follows:

Section (a) is in part derived from former Rule V74 b 1 and 2 and is in part new.

Section (b) is derived from former Rule V74 b 3.

Section (c) is new.

Rule 10-707 was accompanied by the following Reporter's

note.

See the Reporter's note to the deletion of Rule 6-123 for the change to the affirmation clause.

See the Reporter's note to Rule 6-126 for the addition of lines to the form for the attorney's facsimile number and e-mail address.

MARYLAND RULES OF PROCEDURE
TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES
CHAPTER 700 - FIDUCIARY ESTATES INCLUDING
GUARDIANSHIPS OF THE PROPERTY

AMEND Rule 10-708 to revise the form of the fiduciary's account, to modify the affirmation clause in the form, and to add to the form lines for an attorney's facsimile number and e-mail address, as follows:

Rule 10-708. FIDUCIARY'S ACCOUNT AND REPORT OF TRUST CLERK

(a) Form of Account

The Fiduciary's Account shall be filed in substantially the following form:

[CAPTION]

FIDUCIARY'S ACCOUNT

I, _____, make this [] periodic [] final
Fiduciary's Account for the period from

TOTAL \$ _____

D. ~~STOCKS~~

~~(State number and class of shares, name of corporation)~~

TOTAL \$ _____

~~PRESENT FAIR
MARKET VALUE~~

E. ~~BONDS~~

~~(State face value, name of issuer, interest rate, maturity date)~~

TOTAL \$ _____

~~PRESENT FAIR
MARKET VALUE~~

F. ~~OTHER~~

~~(Describe generally, e.g., debts owed to estate, partnerships,
cash value of life insurance policies, etc.)~~

TOTAL \$ _____

~~ESTIMATED FAIR
MARKET VALUE~~

C. ~~SUMMARY~~

Total Income	\$ _____
Total Disbursements	\$ (_____)
Net Income/(Loss)	\$ _____

~~Part III.~~ The following changes in the assets of the Fiduciary Estate have occurred since the last account: (attach additional sheets, if necessary)

A. ~~ASSETS ADDED~~

Date	Description of Transaction	Gross Purchase Price	Value at date of acquisition if other than by purchase
-----------------	---------------------------------------	---------------------------------	---

B. ~~ASSETS DELETED~~

Date	Description of Transaction	Gross Sale Proceeds	Selling Costs	Carrying Value	Gain (loss)
-----------------	---------------------------------------	--------------------------------	--------------------------	---------------------------	------------------------

A Summary of the Fiduciary Estate is as follows:—

Type of Property	Value reported on last Fiduciary Account	Value reported on this Fiduciary Account
A. Real Estate	\$ _____	\$ _____
B. Cash and Cash Equivalents	\$ _____	\$ _____
C. Personal Property	\$ _____	\$ _____

D. Stocks	\$ _____	\$ _____
E. Bonds	\$ _____	\$ _____
F. Other	\$ _____	\$ _____
Total	\$ _____	\$ _____

~~The Fiduciary bond, if any, has been filed in this action in the amount of \$ _____.~~

The Fiduciary Estate consists of the following assets as [] reported on the Fiduciary's Inventory [] carried forward from last Fiduciary Account:

<u>A. REAL ESTATE</u>	\$ _____
<u>B. CASH & CASH EQUIVALENTS</u>	\$ _____
<u>C. PERSONAL PROPERTY</u>	\$ _____
<u>D. STOCKS</u>	\$ _____
<u>E. BONDS</u>	\$ _____
<u>F. OTHER</u>	\$ _____
<u>TOTAL</u>	\$ _____

The following changes in the assets of the Fiduciary Estate have occurred since the last account: (Please include real or personal property that was bought, sold, transferred, exchanged, or disposed of and any loans that were taken out on any asset in the estate. Attach additional sheets, if necessary.)

A. INCOME

<u>Date Received</u>	<u>Type of Income</u> (e.g., pension, social security, rent, annuity, dividend, interest, refund)	<u>Source</u>	<u>Amount</u>
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
<u>TOTAL</u>			\$ _____

B. DISBURSEMENTS

<u>Date of Payment</u>	<u>To Whom Paid</u>	<u>Purpose of Payment</u>	<u>Amount</u>
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
<u>TOTAL</u>			\$ _____

C. ASSETS ADDED

<u>Date</u>	<u>Description of Transaction</u>	<u>Gross Purchase Price</u>	<u>Value at date of acquisition if other than by purchase</u>
_____	_____	_____	_____

D. ASSETS DELETED

<u>Date</u>	<u>Description of Transaction</u>	<u>Gross Sale Proceeds</u>	<u>Selling Costs</u>	<u>Carrying Value</u>	<u>Gain or (Loss)</u>

SUMMARY

Total Income	\$	_____
Total Disbursements	\$ (_____)
Total Assets Added	\$	_____
Total Assets Deleted	\$ (_____)
Total Changes	\$	_____

A Summary of the Fiduciary Estate to be carried forward to next account:

A. REAL ESTATE	\$	_____
B. CASH & CASH EQUIVALENTS	\$	_____
C. PERSONAL PROPERTY	\$	_____

D. STOCKS \$ _____
 E. BONDS \$ _____
 F. OTHER \$ _____
 TOTAL \$ _____

The Fiduciary bond, if any, has been filed in this action in the amount of \$ _____.

VERIFICATION:

I solemnly affirm under the penalties of perjury that the contents of this ~~account~~ document are true ~~and complete~~ to the best of my knowledge, information, and belief.

Date

Date

Signature of Fiduciary

Signature of Fiduciary

Address

Address

Telephone Number

Telephone Number

Name of Fiduciary's Attorney

Address

Telephone Number

Facsimile Number

ORDER

The foregoing Fiduciary's Account having been filed and reviewed, it is by the Court, this ____ day of _____, _____, (month) (year),

ORDERED, that the attached Fiduciary's Account is accepted.

(or)

ORDERED, that a hearing shall be held in this matter on

(date)

JUDGE

Source: This Rule is new.

Rule 10-708 was accompanied by the following Reporter's note.

The Rules Committee recommends modifying the form in Rule 10-708 to (1) include a question about which assets in the fiduciary estate were reported on the inventory form and which were carried forward from the last account, (2) eliminate the question about estimated fair market value of real estate, cash, personal property, stocks, and bonds, (3) include a question about changes in the assets of the fiduciary estate, and (4) reorganize the form and make it easier to read. The modifications to the form were suggested by a committee composed of registers of wills, Orphans' Court judges as well as members of the bar and of the Estates and Trusts Section of the Maryland State Bar Association. The Rules Committee agrees with the recommendations of the Subcommittee.

The Rules Committee also recommends adding the column "Date Received" to Section A., Income, and Section B., Disbursements, as well as a column for "Source" in Section A.

See the deletion of Rule 6-123 for the change to the affirmation clause near the end of the form.

See the Reporter's note to Rule 6-126 for an explanation of the addition of lines in the form for an attorney's facsimile number and e-mail address.

In these Rules, at least one of the amendments is to create a uniform affirmation clause, because many of the clauses in various rules are different. It had been suggested that they should all read the same. The language in the affirmation clause has been proposed to be changed to: "I solemnly affirm under the penalties of perjury that the contents of this document are true...".

By consensus, the Committee agreed with making this change. The same change will be made to the forms in Rules 6-122, 6-125, and the current form in Rule 6-153. The proposed new form in Rule 6-153 has the updated affirmation clause.

The Chair presented Rules 6-126, Waiver of Consent; 6-152, Proof of Execution of Will; 6-312, Bonds; 6-342, Personal Representatives' Acceptance and Consent; and 6-411, Election to Take Statutory Share, for the Committee's consideration.

MARYLAND RULES OF PROCEDURE

TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES

CHAPTER 100 - GENERAL PROVISIONS

AMEND Rule 6-126 to add lines to the form for an attorney's facsimile number and e-mail address, as follows:

Rule 6-126. WAIVER OR CONSENT

(a) Generally

A person may waive the right to any notice or may consent to any matter. The waiver or consent shall set forth the specific matter that is the subject of the waiver or consent, shall be signed, and shall be filed with the register and served on the personal representative. A person may revoke a waiver or consent at any time by filing a revocation with the register and serving it on the personal representative. The revocation shall have prospective effect only.

(b) Form of Waiver

A waiver of notice shall be filed with the register in the following form:

[CAPTION]

WAIVER OF NOTICE

I waive notice that would otherwise be required by law or rule to be sent to me in this estate regarding the matters indicated:

- | | |
|--|--|
| <input type="checkbox"/> Notice of Judicial Probate | <input type="checkbox"/> Notice of Removal of Personal Representative |
| <input type="checkbox"/> Register's Notice to Interested Persons | <input type="checkbox"/> Notice of Petition for Termination of Personal Representative's Appointment |
| <input type="checkbox"/> Notice of Proposed Payment to Personal Representative | <input type="checkbox"/> Notice of Filing of Account |
| <input type="checkbox"/> Notice of Proposed Payment to Attorney | <input type="checkbox"/> Notice of Petition for Partition or Sale of Real Property |
| <input type="checkbox"/> Notice of Personal Representative's Intention to | <input type="checkbox"/> Other: _____ |

Resign

(describe specifically)

By signing this waiver, I understand that it will not be necessary for the personal representative or any other person required to do so to give notice to me of any of the matters indicated above.

I UNDERSTAND THAT I AM GIVING UP THE IMPORTANT RIGHT TO BE INFORMED OF THE PROGRESS OF THE ESTATE AS TO THE MATTERS INDICATED. I ALSO UNDERSTAND THAT I MAY FILE WITH THE REGISTER A REVOCATION OF THIS WAIVER OF NOTICE BUT THE REVOCATION WILL APPLY ONLY AFTER IT IS FILED AND SERVED ON THE PERSONAL REPRESENTATIVE.

Date: _____ (Signature)

Attorney

Address

Telephone Number

Facsimile Number

E-mail Address

Certificate of Service

I hereby certify that on this _____ day of _____, (month)

_____, I delivered or mailed, postage prepaid, a copy of the
(year)
foregoing Waiver of Notice to _____,
(name and address)
Personal Representative.

(Signature)

Cross reference: Code, Estates and Trusts Article, §1-103 (e).

Rule 6-126 was accompanied by the following Reporter's note.

To be consistent, the Probate/Fiduciary Subcommittee recommends that probate forms be changed to add lines indicating an attorney's facsimile number and e-mail address. This is useful information for the registers and for the court.

MARYLAND RULES OF PROCEDURE

TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES

CHAPTER 100 - GENERAL PROVISIONS

AMEND Rule 6-152 to add lines to the form for an attorney's facsimile number and e-mail address, as follows:

Rule 6-152. PROOF OF EXECUTION OF WILL

When required in administrative probate and when permitted by the court in judicial probate, proof of execution of a will shall be made by filing a statement in the following form:

[CAPTION]

PROOF OF EXECUTION OF WILL

I solemnly affirm under the penalties of perjury that I have personal knowledge that the will of _____ dated _____ was signed or acknowledged by the testator in the presence of the following witness(es): _____

who signed at the testator's request and in the testator's presence.

Declarant

Address

Date

Attorney

Address

Telephone Number

Facsimile Number

E-mail Address

(FOR REGISTER'S USE)

Date of Death _____

Date Will was admitted to probate _____

Cross reference: Code, Estates and Trusts Article, §§5-303 and 5-404 (b).

Rule 6-152 was accompanied by the following Reporter's note.
See the Reporter's note to Rule 6-126.

MARYLAND RULES OF PROCEDURE
TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES
CHAPTER 300 - OPENING ESTATES

AMEND Rule 6-312 to add lines to the form for an attorney's facsimile number and e-mail address, as follows:

Rule 6-312. BONDS

(a) Form of Personal Representative's Bond

. . .

(b) Form of Nominal Bond

. . .

(c) Form of Waiver of Bond

Interested persons may waive the giving of a bond, other than the bond required by section (b) of this Rule, by filing their consent in the following form:

[CAPTION]

WAIVER OF BOND

We, interested persons with respect to the Estate of _____, consent that _____ shall serve as personal representative without a bond except as required by law.

DATE	SIGNATURE	NAME (typed or printed)
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Attorney

Address

Telephone Number

Facsimile Number

E-mail Address

(d) Enforcement

The liability of a surety on a bond may be enforced pursuant to Rule 1-404.

Cross reference: Code, Estates and Trusts Article, §6-102.

Rule 6-312 was accompanied by the following Reporter's note.

See the Reporter's note to Rule 6-126.

MARYLAND RULES OF PROCEDURE

TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES

CHAPTER 300 - OPENING ESTATES

AMEND Rule 6-342 to add lines to the form for an attorney's facsimile number and e-mail address, as follows:

Rule 6-342. PERSONAL REPRESENTATIVE'S
ACCEPTANCE AND CONSENT

Unless included on the petition for probate (Rule 6-301), an acceptance and consent shall be filed by the personal representative in the following form:

[CAPTION]

PERSONAL REPRESENTATIVE'S
ACCEPTANCE AND CONSENT

If appointed, I accept the duties of the office of personal representative and consent to personal jurisdiction in any action brought in this State against me as personal representative or arising out of the duties of the office of personal representative.

Date: _____

Name

Address

Attorney

Address

Telephone Number

Facsimile Number

E-mail Address

Cross reference: Code, Estates and Trusts Article, §6-101.

Rule 6-342 was accompanied by the following Reporter's note.

See the Reporter's note to Rule 6-126.

MARYLAND RULES OF PROCEDURE

TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES

CHAPTER 400 - ADMINISTRATION OF ESTATES

AMEND Rule 6-411 to add lines to the form for an attorney's facsimile number and e-mail address, as follows:

Rule 6-411. ELECTION TO TAKE STATUTORY SHARE

(a) Form of Election

A surviving spouse may elect to take a statutory share by the timely filing of an election in the following form:

[CAPTION]

ELECTION TO TAKE STATUTORY SHARE OF ESTATE

I,

_____,
surviving spouse of _____,
renounce all provisions of my spouse's will pertaining to myself
and elect to take my statutory share of the estate.

Witness:

Surviving Spouse

Date: _____

Attorney

Address

Telephone Number

Facsimile Number

E-mail Address

Cross Reference: Code, Estates and Trusts Article, §3-203.

(b) Time Limitation for Making Election

. . .

(c) Extension of Time for Making Election

. . .

(d) Withdrawal

. . .

Rule 6-411 was accompanied by the following Reporter's note.

See the Reporter's note to Rule 6-126 for the addition of lines to the form for the attorney's facsimile number and e-mail address.

The Chair asked if the original petition for appointment as a personal representative is a permanent document. Mr. Gibber answered affirmatively. The Chair pointed out that some of the Rules require that whoever is signing a form, such as the petitioner or an interested person, has to include his or her telephone number, but other Rules do not require this on the forms. Some Rules have a line for the attorney's telephone

number but not for the facsimile number and e-mail address. A line to provide the facsimile number and e-mail address of an attorney has been suggested to be added to the forms in Rules 6-202, 6-316, 6-402, 6-404, 6-405, 6-415, 6-455, 6-501, 10-707, and 10-708. These Rules also had changes to the affirmation clause in some of the forms, which was discussed before. The issue is whether this information should be uniform. Do the registers and judges want a line for telephone numbers of the personal representatives added to all of the forms? The Subcommittee had raised the issue of whether this should be uniform. Mr. Gibber had spoken with the Chair that morning and had some opinions about this.

Mr. Gibber said that the telephone number of the attorney handling the estate is necessary, but the telephone number of the personal representative is problematic. The documents are filed, and they become public record. Access is provided to the widow or widower, who is the personal representative. The widow or widower could be subject to harassment. The register has the ability to get in touch with the personal representative. It may be sufficient to require the telephone number for the registers' records. Every time the telephone number is repeated, it makes it more available.

Judge Weatherly commented that she assumed that there were many *pro se* litigants who do not have an attorney. Will their telephone number be available to the court? Mr. Gibber replied that they have to provide a telephone number, because the court

has to be able to contact them. The Chair questioned whether the recommendation was to include the telephone number of the attorney, but not the telephone number of someone who is not an attorney, including the personal representative. Mr. Gibber responded that this would be appropriate on subsequent forms, but not on the original petition. The personal representative's telephone number should be on the original petition, so that the court has it on record. The Chair inquired why it is a problem if the personal representative's phone number is in other estate documents. Mr. Gibber replied that each time the telephone number is repeated, it becomes more accessible. The Chair asked what happens if the telephone number changes during the course of the administration of the estate. Mr. Gibber answered that a form is available to change information.

Judge Mosley remarked that this was more of an issue of shielding. She asked if the telephone number of the personal representative could be shielded. The Chair inquired whether the Orphans' Court has the same ability to shield information as the clerks do in the circuit courts and District Court. Mr. Griffin, the Register of Wills for Montgomery County, replied that the registers cannot shield anything.

The Chair asked whether bank account numbers could be shielded. Mr. Griffin answered that only the last four numbers of bank accounts and social security numbers are visible. With attorneys, an office telephone number is available. Individuals may not have land lines, so the personal representative may be

giving out his or her cell phone number. Mr. Griffin said that just as with the bank account and social security numbers, he and his co-workers try to minimize the reporting of personal information.

The Chair said that in the context of social security numbers, proposed Rule 16-1007, Required Denial of Inspection - Specific Information in Case Records, had been sent to the Court of Appeals as a supplement to the 186th Report. The Rule provides that the entire social security number would be shielded. He was not sure that this affects the registers of wills, because it is an Access Rule that applies only to the circuit courts and the District Court. Ms. Phipps commented that the last four digits should be on the forms.

Judge Price remarked that criminal laws addressing harassment already exist. People's telephone numbers and documents cannot be micro-managed. The Chair said that there are statutes, such as Code, Criminal Procedure Article, §11-205, that require the shielding of telephone numbers of victims when victims request it. The personal representative is probably not a victim, but could have been and, if so, would probably not like his or her telephone number in the record.

The Chair said that the Subcommittee had recommended the addition of attorneys' telephone numbers, facsimile numbers, and e-mail addresses on some of the forms. He asked if anyone had a motion to overturn this. By consensus, the Committee agreed to add a line for attorneys' telephone and facsimile numbers as well

as e-mail addresses. By consensus, the Committee approved this change for the forms in Rules 6-126, 6-152, 6-153, 6-202, 6-312, 6-316, 6-342, 6-402, 6-404, 6-405, 6-411, 6-415, 6-455, 6-501, 10-707, and 10-708. The proposed form in Rule 6-153 has the updated attorneys' information.

The Chair said that Mr. Gibber had a comment concerning Rule 6-404. Mr. Gibber pointed out that the information report is filed by a personal representative apprising the register of what was originally intended as any property of the decedent that might be subject to inheritance tax. It originally had three basic questions - whether the decedent had joint assets, whether the decedent had assets that were transferred, and whether the decedent had any other interests in property. Once the report is filed, the register is on notice that there is an inheritance tax that has to be paid. As the inheritance tax rules changed over time, the information report form had been amended to reflect the changes.

Mr. Gibber commented that recently, it had been decided that this information was not necessary for a spouse, so an exception was added to the Rule for a spouse. The inheritance tax rules have changed so that children and siblings are excluded from inheritance tax. The forms are giving out a large amount of information that is not useful. The form in Rule 6-404 had been amended to exclude any interest not subject to inheritance tax. The Maryland and federal estate tax became uncoupled. This resulted in a new Maryland estate tax. The Comptroller had said

that this form could be used to find some of the jointly-held property that might be subject to estate tax but not subject to inheritance tax. Mr. Gibber requested that the stricken language in the form be retained.

Mr. Gibber noted that Maryland has recoupled the State and federal estate tax. It will not be effective immediately but will over a period of time. Most estates will not have Maryland estate tax. The federal government will be carrying the load, because every time a federal estate tax return gets filed, Maryland will be notified, so the information will be available to collect the tax. The burden is on the personal representative to provide information. The personal representative has access to all the assets in the estate, but he or she has no access to jointly-held property or to assets that are held in trust or to assets that were previously transferred. A public record is being created.

Mr. Gibber said that there is a major effort to remove some of this information from the public record. Because of the combination of that and the fact that it is moving towards being no longer of any value, Mr. Gibber requested that the information report remain as it is with the exception for those assets that are subject to inheritance tax. The personal representative has an obligation to get that information to the register. Requests for other information not pertinent to the register should be taken out, because it does into a public record and is no longer necessary.

The Chair asked if Mr. Gibber's suggestion was to retain in Rule 6-404 the language that is proposed to be stricken in Section 1. a., Section 2., and section 3. of the information report form. Mr. Gibber answered affirmatively. In Section 1. a., the language that would be retained is: "(other than with a person exempted from inheritance tax by Code, Tax General Article, §7-203)." In Section 2., the language that would be retained is ", or a transfer to a person exempted from inheritance tax pursuant to Code, Tax General Article, §7-203, within two years before death." The language "within two years before death," which was proposed to be added after the word "transfer" and before the word "of" would not be added. The language in Section 3. that would be retained is "Except for interests passing to a person exempted by Code, Tax General Article, §7-203, at...". The proposed addition of the word "At" at the beginning of Section 3. would not be necessary. Judge Weatherly moved to retain the stricken language, the motion was seconded, and it passed unanimously.

By consensus, the Committee approved Rule 6-404 as amended.

The Chair noted that besides amendments to the affirmation clause and the addition of the word "Number" after the word "Telephone" as well as the addition of a line for an attorney's facsimile number and e-mail address, Rule 6-455 had proposed amendments to conform to Chapter 645, Laws of 2013 (HB 858), which changed a requirement for filing an election for modified administration. Previously, the election could be filed by all

residuary legatees, heirs of a decedent who died intestate, or a trustee of each trust that was a residuary legatee who was the decedent's personal representative, surviving spouse, or child. This latter category has been changed to a trustee of a trust under which each person who has a current interest in the trust is an individual or entity exempt from inheritance tax under Code, Tax - General Article, §7-203 (b), (e), and (f). House Bill 858 also added a new procedure for reporting and distributing property discovered by the personal representative after the time for filing the verified final report under modified administration. Another change to Rule 6-455 was proposed to conform to Chapter 435, Laws of 2014 (HB 1004), which clarified that a modified administration of an estate shall be revoked by an interested person filing a written objection to modified administration, instead of simply filing a written objection. The proposed changes to Rule 6-455 conform to the various statutory changes.

By consensus, the Committee approved Rule 6-455 as presented.

The Chair noted that besides the change to the affirmation clause, Rule 10-206 creates a new form for the annual report of the guardian of a minor, which is similar to the current requirement of a form for the annual report of a guardian of a disabled person. Previously, no form for the annual report of a guardian of a minor had been available, and the Subcommittee felt that the court should be monitoring the guardianships of minors

as well as disabled persons. The Subcommittee recommended that the word "CAPTION" be added before the order form at the end of the form of annual report of a guardian of a disabled person. The addition of this word indicates that the order should be on a separate piece of paper, so that it is easier for the clerks to use and docket the order form separately.

By consensus, the Committee approved Rule 10-206 as presented.

There being no further business before the Committee, the Chair adjourned the meeting.