


ORPHANS' COURT NOTICE

Effective April 14, 2003, a Federal regulation under the Health Insurance Portability and Accountability Act of 1996 mandates that medical information can only be disclosed by authorization signed by the individual or their personal representative or pursuant to a subpoena or Court order after notice to the individual and an opportunity for the individual to object. 45 CFR §164.508, 510.

Accordingly, counsel shall include in their proposed Preliminary Decrees in incapacity cases, the following language:

Respondent is further ordered to show cause, if any he/she may have, why his/her medical records, including psychiatric or psychological records, should not be ordered delivered to an attorney ad litem, if one is appointed by the Court.



KENNETH A. CLOUSE, P.J.

IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIA

ORPHANS' COURT DIVISION

IN RE: ESTATE OF . : No.
Alleged Incapacitated Person :

PRELIMINARY DECREE

AND NOW, this of , 2004, it is hereby ORDERED that upon consideration of the Petition for Appointment of Permanent Guardians of the Estate and Person, it is hereby DECREED that a Citation be awarded and directed to to show cause, if any, why he should not be adjudicated as an incapacitated person and a guardian be appointed for his/her Estate and/or Person. In connection with the Petition, a qualified medical person shall examine the alleged incapacitated person regarding his/her capacity or incapacity, and/or examine the medical records in connection therewith, and inform the Court of his/her determination.

Respondent is further ORDERED to show cause, if any he/she may have, why his/her medical records, including psychiatric or psychological records, should not be ordered delivered to an attorney ad litem, if one is appointed by the Court.

A Hearing shall be held on the day of 2004, at 10:00 o'clock in Courtroom TBA of the Delaware County Court House, Media, PA.

At least twenty (20) days' notice of the hearing shall be given to the alleged incompetent by personal service of the said Notice and upon those individuals

mentioned in the Petition, whose addresses are known to the Petitioner, by personal service or by Certified Mail. The contents and terms of the Citation, Petition and Notice shall be explained to incapacitated person to the maximum extent possible in language and terms the alleged incapacitated person is most likely to understand in accordance with the provisions of 20 Pa.C.S. A. §5511(a).

The alleged incapacitated person shall be present at the Court hearing unless it is established by clear and convincing medical evidence that his/her physical and mental condition would be harmed by his/her presence in Court in accordance with the provisions of Pa.C.S.A. §5511(a).

BY THE COURT:

KENNETH A. CLOUSE, P.J.