

## PROCEDURE FOR EMERGENCY GUARDIANSHIP PETITIONS:

**Standard of Review** in an emergency guardianship matter is whether there is clear and convincing evidence that the alleged incapacitated person: lacks capacity (see 20 Pa CS §5501); needs a guardian of their person/estate; and failure to make the appointment will result in **irreparable harm** [i.e.: death; catastrophic health consequences; losing home/healthcare etc.] to the person or the estate.

The Court must consider whether there exists: less restrictive alternatives (POA/Healthcare Directive). Parties/Counsel must be prepared to address this issue at the hearing.

Parties/Counsel must be prepared to have witnesses [especially medical] available to testify in the emergency hearing.

### **Procedure:**

1. **Contact** Orphans' Court Administration (610.344.5212) to learn the name/Chamber's phone number of the OC emergency signing Judge.
2. **Contact** the Chambers of the OC emergency signing Judge to secure a time/day when the proposed emergency petition will be heard.
3. **Ask Chambers their procedure re:**
  - a. whether a copy of the emergency petition should be forwarded prior to the original hearing;
  - b. the policy regarding attendance of all witnesses at the original hearing.
4. **Follow** Pa. O.C.Rule 14.2(d), 20 Pa C.S. §5511 and 20 Pa. C.S. §5513 requirements when drafting the Petition for emergency guardianship.
5. **Attach** the Chester County OC approved Orders for an emergency guardianship to the petition.
6. **File** the emergency petition with the RWOC [2<sup>nd</sup> floor Justice Center]; **take file to** Chambers/Courtroom.

GIVE YOURSELF ENOUGH TIME PRIOR TO THE HEARING TIME FOR THIS INTAKE PROCESS. ALL filings must be no later than 4:15pm to give RWOC enough time to process before the doors *lock* at 4:30pm.

7. **Appear** at the designated time with all witnesses in person (or available by telephone if permission granted by the Judge). The petition may be heard in Chambers or in the Courtroom (on the record)- this is at the discretion of the emergency Judge.
8. **If** the Alleged Incapacitated Person [AIP] has personal counsel he/she **must be notified** and should be available in person or by phone at the hearing. Counsel may also be appointed by the emergency Judge to represent the AIP at the emergency hearing.