

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY

IN RE: Amendments to the Lycoming : Orphan's Court Division

County Rules of Orphan's Court Procedure : Docket number: 41-17-0152

ORDER

AND NOW, this 3rd day of March, 2017, the Orphan's Court Procedural Rules Committee of the Supreme Court of Pennsylvania having notified the Court that these proposed changes in the local Orphan's Court rules are not inconsistent with any general rule of the Supreme Court, it is hereby ORDERED AND DIRECTED as follows:

1. The Lycoming County Orphan's Court Rules are hereby rescinded.
2. New Lycoming County Orphan's Court Rules L1.8, L2.6, L2.7, L2.9, L2.10, L9.1, L9.6, L9.7, L14.2, L14.5, L15.5, and L15.8 are hereby promulgated, as set forth on the attachment.
3. The Clerk of the Orphan's Court is directed to:
 - a. File one (1) certified copy of this order with the Administrative Office of the Pennsylvania Courts.
 - b. Forward two (2) certified copies of this order and a computer disk containing the text of the local rule to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
 - c. Forward one (1) copy of this order to the chairman of the Lycoming County Customs and Rules Committee.
4. The chairman of the Lycoming County Customs and Rules Committee is directed

to do the following:

- a. Publish the revised rules on the Lycoming Law Association website at <http://www.lycolaw.org/rules/rules.html>; and
 - b. Compile the rule revisions within the complete set of local rules no later than 30 days following publication in the *Pennsylvania Bulletin*.
5. The new rules shall become effective 30 days after the publication of this order in the *Pennsylvania Bulletin*.
6. A copy of these local rules shall be kept continuously available in the office of the Clerk for public inspection and copying by any person.

BY THE COURT,



Nancy L. Butts, P.J.



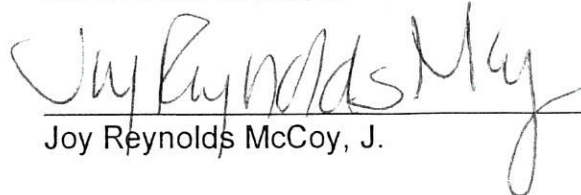
Dudley N. Anderson, J.



Richard A. Gray, J.



Marc F. Lovecchio, J.



Joy Reynolds McCoy, J.

FILED
LYCOMING COUNTY
2017 APR -4 A 11:12
KATHY RINEHART
RECORDER OF CLERK

L1.8. Motion Procedure. Cover Sheet. The procedure set forth in this section shall apply to every request for relief and/or application to the court for an order, whether by petition, motion, objections, or stipulation, that the filing party desires to bring before the court.

A. A cover sheet substantially in the form set forth in subsection G of this section shall be attached to the front of every request for a court order to which this rule applies. B. The cover sheet shall consist of only one page. Captions may be abbreviated. If additional space is necessary to list counsel and unrepresented parties, a separate sheet may be attached. The filing party or counsel shall be responsible for identifying all parties and others to be given notice or their counsel on the cover sheet. If a party was not served with a copy of the executed cover sheet as a result of an omission of the filing party, the argument or hearing may be rescheduled or, in the discretion of the court, the request for relief may be denied.

C. If a cover sheet is not attached as required by this rule, the court may choose not to act upon the request for relief until an appropriate cover sheet is filed. If the filing party does not attach a cover sheet as required by this rule, a cover sheet, along with a copy of the original motion may be filed by any party, or the court.

D. If expedited consideration by the court is requested or required by statute or rule of procedure, the reason for such consideration shall be set forth on the cover sheet.

E. A proposed order granting the relief requested shall be attached, immediately following the cover sheet.

F. The court shall schedule argument, hearing or briefing as the court may require, note the scheduling information on the cover sheet, and issue the scheduling order appearing on the cover sheet. The clerk shall docket and promptly forward the completed cover sheet to all parties identified on the cover sheet. The court may by order set additional service requirements, if the circumstances so require.

G. The form of the cover sheet shall be substantially as follows:

**COURT OF COMMON PLEAS, LYCOMING COUNTY, PENNSYLVANIA
ORPHANS' COURT MOTION COVER SHEET**

Caption (may be abbreviated)

Docket No. _____

1. Name of filing party: _____ Case assigned to Judge _____

2. Filing party's attorney: _____ Family Court Officer/Auditor: _____

3. Type of filing: _____

<p>4. The following is/are requested:</p> <p><input type="checkbox"/> Argument</p> <p><input type="checkbox"/> Evidentiary hearing</p> <p><input type="checkbox"/> Court conference</p> <p><input type="checkbox"/> Pretrial conference</p> <p><input type="checkbox"/> Entry of uncontested order (attach supporting documentation)</p> <p><input type="checkbox"/> Expedited consideration. State the basis: _____</p> <hr/> <p><input type="checkbox"/> Issuance of a Citation/Rule to Show Cause</p> <p><input type="checkbox"/> Video conferencing requested. Request form has been submitted. See Lyc. Co. R.G.C.B. L8.</p> <p><input type="checkbox"/> Attach this cover sheet to original motion</p>	<p>6. Names and addresses of all counsel, unrepresented parties and interested parties (including CASA representative, if appointed) and indicate if anyone is incarcerated:</p>
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ORDER

1. ____ An ____ argument ____ factual hearing ____ court conference is scheduled for _____ at _____m, in courtroom no. _____, Lycoming County Courthouse, Williamsport, PA.

2. ____ Pretrial memos including witness list and exhibits are to be filed by the following dates:

Filing party: _____ Responding parties: _____

3. ____ A response to the motion/petition shall be filed as follows: _____.

4. ____ Petitioner shall ensure service of this scheduling order on all parties and interested persons within _____ days of the date of this order and shall provide the court with proof of service at least _____ working days prior to the scheduled proceeding.

5. _____ is appointed as counsel for the alleged incapacitated person, and petitioner shall serve a copy of this scheduling order, petition and any attachments on the appointed attorney. The appointed attorney is to be reimbursed at the rate of \$_____ per hour to be paid by the county/estate of the alleged incapacitated person (circle one).

6. ____ See order attached. ____ See separate order issued this date.

7. Other: _____.

Judge Date

cc: ALL PARTIES OR OTHERS TO BE SERVED WITH NOTICE MUST BE DESIGNATED IN BOX 6 ABOVE.

NOTICE: The parties are directed to confer for the purpose of resolving any issue raised in the motion/petition. If a resolution is reached prior to the scheduled date, the moving party shall immediately notify the court scheduling technician, the judge or hearing officer assigned to hear the matter, and all

counsel of record or parties if unrepresented. Such notice may be in writing or by email.

- L2.6. Proposed Decree of Distribution.** At the time of filing the account and petition for adjudication/statement of proposed distribution, the accountant shall also file a proposed decree of distribution to be issued by the court expressly confirming the account or approving the petition for adjudication/statement of proposed distribution and specifying, or indicating by reference to the petition for adjudication/statement of proposed distribution, the names of those to whom the balance available for distribution is awarded and the amount or share awarded to each.
- L2.7. Time for Filing Objections.** Objections to an account and/or a petition for adjudication/statement of proposed distribution shall be filed with the clerk within twenty (20) days of the date of service of the notice of account filing.
- L2.9. Confirmation of Accounts; Awards.** If no objections are filed by the date for objections set forth in the notice of account filing, or any extension of that date allowed by the court, the clerk shall submit the account and petition for adjudication/statement of proposed distribution, along with the proposed decree of distribution, to the court for confirmation of the account or approval of the petition for adjudication/statement of proposed distribution.
- L2.10. Foreign Heirs and Distributees.** A report filed pursuant to Pa.O.C. Rule 2.10 shall be in the form of an affidavit and shall be filed at the same time that the account and statement of proposed distribution are filed.
- L9.1. Notice of Auditor's or Master's Hearing.** Notice of hearings to be held by a master or auditor shall be given at least 20 days before the date of the hearing to all those given notice of the request for the appointment of an auditor or master and all other interested parties.
- L9.6. Notice of Filing Auditor's or Master's Report.** At the time of filing the report, an auditor or master shall give notice of the filing of the report to all those given notice of the request for the appointment of an auditor or master and all other interested parties. The notice shall state that in the absence of objections, the report will be submitted to the court for confirmation 20 days after the date the report was filed.
- L9.7. Confirmation of Report.** If no objections are filed to the report of a master or auditor within 20 days of the date of notice to interested parties of its filing, the clerk shall submit the report to the court for confirmation or adoption of the report's recommendations.
- L14.2. Incapacitated Persons**
- A.** Notice in matters involving adjudication of incapacity or appointment or removal of a guardian for an incapacitated person is required on all persons who are sui juris individuals and are heirs of the alleged or adjudicated incapacitated person, as defined by the intestacy laws of Pennsylvania. Such notice is required even if the person does not reside within the Commonwealth of Pennsylvania.

B. Notice required in matters involving adjudication of incapacity or appointment or removal of a guardian for an incapacitated person, other than notice upon the alleged or adjudicated incapacitated person, shall be by personal service, by service in such manner as the court directs and/or as directed by statute in that particular case; or may be made by first class mail, postage prepaid, to the known or last known address. In the latter case, a certificate of service shall be prepared and filed verifying that the address used is the proper known or last known address, and attaching a postal service certificate of mailing.

C. Notice and Service. The petition shall include a notice and citation as prescribed by the Pennsylvania Orphans' Court Rules. Petitioner shall be responsible for obtaining a completed notice and citation from the clerk, and petitioner shall be responsible for proper service of the petition, notice and citation. In all cases, service of the petition, notice and citation shall be made upon the alleged or adjudicated incapacitated person by personal service by the sheriff or by any other competent adult, and the person making such service shall read to the alleged or adjudicated incapacitated person the petition, notice and citation, and then for a second time the notice and citation. The person making service shall explain the contents to the extent possible.

D. Service of emergency guardianship petition.

(1) Service of emergency guardianship petition on alleged incapacitated person. Petitioner shall serve the emergency guardianship petition in person on the alleged incapacitated person no more than 48 hours after the hearing is scheduled and no less than 48 hours before the hearing. In the event there is not 48 hours between the time the hearing is scheduled and the hearing date and time, petitioner shall serve the emergency guardianship petition in person on the alleged incapacitated person within a reasonable amount of time prior to the emergency guardianship hearing. What is a reasonable amount of time shall depend upon the circumstances, such as the amount of time that exists between the time the hearing is scheduled and the actual hearing date. It shall be in the court's discretion to determine the timeliness of the service. Petitioner must offer evidence via affidavit and be prepared to present testimony to prove the reasonableness of the service.

(2) Service of emergency guardianship petition on sui juris individuals, agents under a power of attorney, residential service providers, and other service providers. Petitioner shall serve the emergency guardianship petition on all persons who are sui juris individuals and would be entitled to share in the estate of the alleged incapacitated person if he or she died intestate at that time (even if the person does not reside within the Commonwealth of Pennsylvania), on the agents under the alleged incapacitated person's power of attorney, on the person or institution providing residential services to the alleged incapacitated person, and on such other parties as the court may direct, including other service

providers, in any reasonable manner and within a reasonable amount of time prior to the emergency guardianship hearing. Any reasonable manner shall include service in person or by telephone, facsimile, mail, or electronic transmission depending upon the circumstances. However, service by telephone alone shall not be the favored method and shall be used only in circumstances where the other methods of service would not be timely. What is a reasonable amount of time shall depend upon the circumstances, such as the amount of time that exists between the time the hearing is scheduled and the actual hearing date. It shall be in the court's discretion to determine if the manner and timeliness of the service were reasonable. Petitioner must offer evidence via affidavit and be prepared to present testimony to prove that the manner and timeliness of the service were reasonable.

E. Return of Service. Petitioner is responsible for filing a return of service conforming to Pa.R.C.P. No. 405, which also confirms that the contents of the notice and citation of the petition were read and, to the extent possible, explained, to the respondent as set forth in paragraph C, above.

F. Petition. A petition for adjudication of incapacity and/or for appointment of a guardian of the estate of the person shall be substantially in the form prescribed by Lyc. Co. O.C.R. L14.5(e), and shall contain all the items of information referred to therein. Language used in the petition should be easily understood. It is recommended that an affidavit of a physician or clinical psychologist be attached which contains a description of the physical and mental condition, any functional limitations and whether or not the respondent would be harmed by attendance at the proceeding to determine incapacity.

G. Status report on legal representation. At least 14 days prior to the date established for hearing on the petition, petitioner shall file in duplicate a status report on legal representation, in substantially the form prescribed by Lyc. Co. O.C.R. L14.5(f), each of which should have attached, under the proper caption, the appropriate order, in substantially the form prescribed by Lyc. Co. O.C.R. L14.5(g).

H. Proposed findings of fact. Petitioner shall provide to the court, at or before hearing, proposed findings of fact in a form suitable for adoption by the court at hearing. Such findings shall include, inter alia, in separately numbered statements, at least the facts petitioner intends to establish which are required in order for the court to grant the relief requested.

I. Periodic report of the guardian of the person. Within one year of the date of appointment and annually thereafter, or with such greater frequency as the court may direct, every guardian of the person of an incapacitated person shall file a periodic report of the guardian of the person in substantially the form prescribed by the Pennsylvania Orphans' Court Rules. Notice and service of said report shall be in such manner as the

court shall direct.

J. Periodic report of the guardian of the estate. Within one year of the date of appointment and annually thereafter, or with such greater frequency as the court may direct, every guardian of the estate of an incapacitated person shall file a periodic report of the guardian of the estate in substantially the form prescribed by the Pennsylvania Orphans' Court Rules. Notice and service of said report shall be in such manner as the court shall direct.

K. Filing of emergency guardianship petition. In all cases where an emergency guardianship petition is filed, a plenary petition shall be filed at the same time. Additionally, with the filing of the emergency and plenary petitions, petitioner shall file a motion cover sheet in accordance with Lyc. Co. O.C.R. L1.8(c). The motion cover sheet shall include within the order a rule to show cause as to why the alleged incapacitated person shall not be adjudicated incapacitated. Petitioner shall serve the executed motion cover sheet on the alleged incapacitated person, counsel for the alleged incapacitated person, all persons who are sui juris individuals and would be entitled to share in the estate of the alleged incapacitated person if he or she died intestate at that time (even if the person does not reside within the Commonwealth of Pennsylvania), on the agents under the alleged incapacitated person's power of attorney, on the person or institution providing residential services to the alleged incapacitated person, and on such other parties as the court may direct, including other service providers. In the event petitioner determines that the plenary petition is not necessary, petitioner shall file a verified statement explaining the reason for the lack of necessity of the plenary guardianship. The verified statement shall be substantially in the following form:

IN THE MATTER OF

An alleged incapacitated person

: IN THE COURT OF COMMON PLEAS OF
: LYCOMING COUNTY, PENNSYLVANIA
:
: ORPHANS' COURT DIVISION
:
: NO. _____

**STATEMENT EXPLAINING REASON FOR LACK OF NECESSITY OF PLENARY
GUARDIANSHIP**

I, _____, petitioner/counsel for petitioner in the
above-referenced matter, hereby state, subject to the penalties of 18 Pa.C.S. § 4904 relating to
unsworn falsification to authorities, that a plenary guardianship is not necessary for the following
reason(s):

Respectfully submitted,
Petitioner/Counsel for Petitioner

Dated: _____

[address]
[telephone number]

L14.5. Forms.

A. The Petition to Adjudicate Incapacity and for the Appointment of a Guardian.

The petition to adjudicate incapacity and for the appointment of a guardian referred to in
Lyc. Co. O.C.R. L14.2F shall be substantially in the following form:

IN THE MATTER OF

An alleged incapacitated person

: IN THE COURT OF COMMON PLEAS OF
: LYCOMING COUNTY, PENNSYLVANIA
:
: ORPHANS' COURT DIVISION
:
: NO. _____

PETITION TO ADJUDICATE INCAPACITY PURSUANT TO 20 Pa.C.S. § 5511 AND FOR THE APPOINTMENT OF A GUARDIAN OF THE PERSON/OR OF THE ESTATE OF _____

TO: The Honorable Judge of the Lycoming County Court:

The petition of (name of petitioner) respectfully states:

1. Name and current address of petitioner:
2. Petitioner's relationship to and interest in the alleged incapacitated person's welfare:
3. Name, age, residence and post office address of the alleged incapacitated person:
4. Name and address of person or institution providing residential services to the alleged incapacitated person:
5. Names and addresses of spouse, parents and all persons who are sui juris individuals and who would be entitled to share in the estate of the alleged incapacitated person if that person died intestate:
6. Names and addresses of medical, social, residential, and other service providers:
7. State whether alleged incapacitated person has or has not been a member of the United States armed services and whether he or she is or is not receiving any benefits from the United States Veterans Administration:
8. State whether any court has ever assumed jurisdiction in any proceeding to determine the competency or capacity of the alleged incapacitated person, and whether any guardian of the person and/or estate has ever been appointed:
9. The name and address of alleged incapacitated person's attorney, if known, or the attorney known to represent the alleged incapacitated person on other legal matters:
10. The reason why guardianship is sought:
11. A description of the functional limitations and physical and mental conditions of the alleged incapacitated person:
12. Allegations of fact regarding the services being utilized to meet essential requirements for the alleged incapacitated person's physical health and safety, to manage the person's financial resources or to develop or regain the person's abilities:
13. Allegations of fact regarding the type of assistance required by the alleged incapacitated person and as to why no less restrictive alternatives would be appropriate:
14. Allegations of fact regarding the probability that the extent of the alleged incapacitated person's incapacities may significantly lessen or change.
15. For each type of guardian being requested, the name and address of the person or entity whom petitioner asks to be appointed as guardian:
16. An averment that the proposed guardian has no interest adverse to the alleged incapacitated person:
17. Qualifications of proposed guardian:
18. The specific areas of incapacity over which it is requested that the guardian be assigned powers:
19. If guardian of the estate is being sought, the petition shall also include the gross value of the estate and net income from all sources to the extent known:

WHEREFORE, petitioner prays this Honorable Court to grant the following relief:

(Petitioner)

B. The status report on legal representation referred to in Lyc. Co. O.C.R. L14.2G shall be substantially in the following form:

IN THE MATTER OF

An alleged incapacitated person

: IN THE COURT OF COMMON PLEAS OF
: LYCOMING COUNTY, PENNSYLVANIA
:
: ORPHANS' COURT DIVISION
:
: NO. _____

STATUS OF ALLEGED INCAPACITATED PERSON'S LEGAL REPRESENTATION

1. The Petition to Adjudicate Incapacity and for the Appointment of a Plenary Guardian of the Person and the Estate in the above-referenced matter was filed with this Honorable Court on _____ [date] *(or is being filed herewith)*.

2. Service of the Petition to Adjudicate Incapacity and for the Appointment of a Plenary Guardian of the Person and the Estate was served on the alleged incapacitated person on _____ [date] *(or has not been served to date)*.

3. The Hearing on the Petition to Adjudicate Incapacity and for the Appointment of a Plenary Guardian of the Person and the Estate has been scheduled for _____ [date] *(or has not been scheduled yet)*.

4. Counsel for the alleged incapacitated person *(is) (is believed to be)*: [name, address, and telephone number] **or** Petitioner does not believe that the alleged incapacitated person is represented by counsel.

5. According to Petitioner's knowledge and belief, the assets of the alleged incapacitated person consist of approximately \$_____.

6. [If the alleged incapacitated person is unrepresented] Petitioner requests that counsel for the alleged incapacitated person be appointed by this Honorable Court and pursuant to 20 Pa.C.S. § 5511(c), be compensated by Lycoming County **or** Petitioner requests that counsel for the alleged incapacitated person be appointed by this Honorable Court and not be compensated by Lycoming County.

Respectfully submitted,

Petitioner/Counsel for Petitioner

Dated: _____

number]

[address]
[telephone]

C. The proposed order referred to in Lyc. Co. O.C.R. L14.2G shall be substantially in the following form:

IN THE MATTER OF

An alleged incapacitated person

**: IN THE COURT OF COMMON PLEAS OF
: LYCOMING COUNTY, PENNSYLVANIA
:
: ORPHANS' COURT DIVISION
:
: NO. _____**

ORDER

AND NOW this _____ day of _____, _____, upon consideration of the attached status report, _____ is hereby appointed as counsel for the alleged incapacitated person. Counsel for the alleged incapacitated person _____ shall _____ shall not be compensated by Lycoming County. A certified copy of this order shall be served on the alleged incapacitated person, counsel for the alleged incapacitated person, and all persons who are sui juris individuals and would be entitled to share in the estate of the alleged incapacitated person if he or she died intestate at that time.

BY THE COURT,

J.

ADOPTIONS

L15.5. Request for Investigation. In the absence of a special order of court, there shall be no investigation of the petition for adoption. If an investigation of the adoption petition is necessary, the court shall order the investigating agency to conclude its investigation and file its report not later than ninety (90) days after the filing of the notice of intention to adopt.

L15.8. Proposed Findings and Decree.

A. Proposed Findings of Fact. At the conclusion of the hearing for adoption the petitioners shall submit to the hearing judge proposed findings of fact substantially in the following form:

IN RE ADOPTION OF: _____ **: IN THE COURT OF COMMON PLEAS OF**
: LYCOMING COUNTY, PENNSYLVANIA
:
: ORPHANS' COURT DIVISION
:
: NO. _____

FINDINGS OF FACT

1. The petitioners are _____ and _____, his wife, who are adult citizens of the County of Lycoming and Commonwealth of Pennsylvania, and they reside at _____, Lycoming County, Pennsylvania.

2. The husband was born at _____, on _____.

3. The wife was born at _____, on _____.

4. The wife's maiden name was _____.

5. The name of adoptee is _____.

6. The adoptee was born at _____, on _____.

7. The adoptee has resided with the husband petitioner since _____, and with the wife petitioner since _____.

8. The facts with respect to termination of parental rights are as follows: _____
_____.

9. Notice of the hearing on the petition for adoption was given to all persons entitled to notice.

10. It is in the best interest of the child to allow the adoption.

11. The petitioners and the child are of the following race and faith: _____
_____.

12. There has been compliance with all of the provisions of the Adoption Act (23 Pa.C.S. § 2101, et seq.).

B. Proposed Decree. The petitioner shall attach a proposed decree to the proposed findings of fact. FORM 1 is to be used if parental rights have previously been terminated. FORM 2 is to be used if parental rights are to be terminated at the time of the hearing for adoption.

FORM 1:

IN RE ADOPTION OF:

**: IN THE COURT OF COMMON PLEAS OF
: LYCOMING COUNTY, PENNSYLVANIA**

:

: ORPHANS' COURT DIVISION

:

: NO. _____

DECREE

AND NOW, this ____ day of _____, 20__, in consideration of the petition filed, after investigation made and testimony of the witnesses heard,

IT IS ORDERED AND DECREED:

That the welfare of the adoptee will be promoted by the adoption; that all requirements of the Adoption Act have been met; that the adoptee shall have all the rights of a child and heir of the petitioners; and that the child shall hereafter be known as _____.

BY THE COURT,

J.

FORM 2:

IN RE ADOPTION OF:

**: IN THE COURT OF COMMON PLEAS OF
: LYCOMING COUNTY, PENNSYLVANIA**

:

: ORPHANS' COURT DIVISION

:

: NO. _____

DECREE

AND NOW, this ____ day of _____, 20__, after hearing on the petition filed, **IT IS ORDERED AND DECREED:**

(1) That the parental rights of _____ be and hereby are terminated;

(2) That the welfare of _____ will be promoted by the adoption; that all requirements of the Adoption Act have been met; that the adoptee shall have all the rights of a child and heir of _____ and _____ and shall be subject to the duties of a child of the petitioners; and that the child shall hereafter be known as _____.

Notice to the Natural Father and Natural Mother
Pennsylvania Adoption Medical History Registry

This is to inform you about an adoption law provision relating to medical history information. As the birth parent of a Pennsylvania born child who is being or was ever adopted in the past, you have the opportunity to voluntarily place on file medical history information. The information that you choose to provide could be important to the child's present and future medical care needs. The law makes it possible for you to file current medical information and it also allows you to update the information as new medically related information becomes available. Requests to release the information will be honored if the request is submitted by a birth child 18 years of

age or older. The law also permits the court to honor requests for information submitted by the adoptive parents or legal guardians of adoptees who are not yet 18 years of age. All information will be maintained and distributed in a manner that fully protects your right to privacy.

You may obtain the appropriate form to file medical history information by contacting the Adoption Medical History Registry. Members of the registry staff are available to answer your questions. Please contact the registry staff at:

Department of Human Resources
Adoption Medical History Registry
Hillcrest, Second Floor, P.O. Box 2675
Harrisburg, PA 17105-2675 Telephone: 1-800-227-0225

Medical history information forms may also be obtained locally by contacting one of the following agencies:

County Children and Youth Social Service Agency
Any private licensed adoption agency
The Lycoming County Register and Recorder's Office

BY THE COURT,

J.