

INSTRUCTIONS FOR RELEASE MEDICAL RECORDS

These instructions are intended as a guideline only and should not be relied upon as a comprehensive list of duties in the Authorizing Release of Medical Records and Medical Billing Records.

This packet is used when a person needs to obtain the Medical Records only for someone who is now deceased. The packet will be presented to the Court for filing.

- The decedent must have resided in Hamilton County at the time of passing.
- The applicant must be a resident of the State of Ohio or be nominated as an Executor in the decedent's will.
- The following are necessary at the initial filing of an Authorizing Release of Medical Records and Medical Billing Records:
 - If decedent created a will, the original will is presented for record only.
 - Certified copy of the death certificate, or other proof of date of death.
 - A fee is required at the time of filing. Current Court Costs are posted at: <https://www.probatect.org/about/general-resources>.

Please confirm the amount with the Cashier since filing fees may have changed subsequent to the publication of this instruction sheet. **We accept cash, cashier's checks or all major credit/debit cards as payment for the fee. No personal checks or money orders will be accepted.**

The forms may be obtained from the Information Desk on the 9th floor of the Probate Court, 230 E. 9th Street, Cincinnati, Ohio or by downloading the forms from the web site.

PROCEDURAL STEPS

STEP 1: COMPLETE THE FOLLOWING FORMS

Self-Representation Form (270.01)

- Sign and Complete information if you **do not** have legal representation

Surviving Spouse, Next of Kin, Legatees & Devisees (1.0) [R.C. 2105.06]

- On *front* of form, list all *next of kin* (those people who are or would be entitled to inherit *if* there were no will), on *back* of form, list all others named in will (if decedent left a will)
- Be sure to specify *complete* addresses of all listed.
- List all children of the decedent on the front of the form even if there is a surviving spouse.

Application to Release Medical Records and Medical Billing Records [R.C. 2113.032] (29.0)

- Complete the information being requested.
- Applicant will sign and complete their information. If the applicant is represented by an attorney, the attorney will sign and complete their information.

Entry Dispensing with Setting a Hearing on Application for Release of Decedent's Medical Records and Medical Billing Records (129.4)

- A hearing is not required if all people named on the Form 1.0 (front and back) have signed the waiver and consent.

Entry Setting Hearing and Ordering Notice (129.3)

- A hearing will be set if all waivers are not received or if the name(s) and/or addresses of the next of kin or beneficiaries are unknown.

Waiver of Notice / Consent (29.4)

- All parties who are listed on the front and back of Form 1.0 are entitled to be notified of the application to Release of Medical Records and Medical Billing Records.

<ul style="list-style-type: none"> - You must either obtain a waiver from each individual (29.4), perfect certified mail notice (29.3) on each individual, or complete notice by publication (if addresses are unknown).
<p>Notice of Application to Release Medical Records and Medical Billing Records (29.3)</p> <ul style="list-style-type: none"> - If certified mail notice is used, present certified mail return (green card), a copy of the notice that was sent to each individual, and an affidavit stating that certified mail was completed to the Magistrate assigned to your case. - Certified mail should not be sent until the Release of Medical Records and Medical Billing Records has been filed and a hearing set. - The affidavit in proof of service may be obtained from the Information Desk (H.C. 200.10)
<p>Publication of Notice/Proof of Publication</p> <ul style="list-style-type: none"> - Publication is required and a hearing is set if the name(s) and/or addresses are unknown of the next of kin. - You must prepare an affidavit of unknown next of kin/unknown whereabouts, Entry Ordering Publication, and a Notice of Publication for the Court Index Press.
<p>Entry Authorizing Release of Medical Records and Medical Billing Records (29.1)</p> <ul style="list-style-type: none"> - Complete the form - fill in name of decedent. - Magistrate will sign.
<p>Report on Receipt of Medical Records and Medical Billing Records (29.2)</p> <ul style="list-style-type: none"> - Complete form with the decedent's name, applicant's name, and check appropriate box about the estate. - This form is due 3 months from the date the entry authorizing was approved by the magistrate.
<p>STEP 3: ASSIGNING MAGISTRATE AND REVIEWING FORMS</p>
<p>When all forms have been completed, present them to the magistrates' assistant at the information desk on the 9th Floor of Probate Court and a magistrate will be assigned. All forms are then taken to a magistrate for review and setting of hearing date or approving of the Authorizing Release of Medical Records and Medical Billing Records (if all your forms are in order and waivers have been obtained).</p>
<p>STEP 4: FILING OF PAPERS WITH CASHIER</p>
<p>All forms are then taken to the cashier who will assign a case number. At this time, the cashier will require the payment of the filing fee. The cashier will retain all the original forms (except when a hearing date is set; then the cashier will stamp the case number on all forms and return the originals that were unable to be filed back to you to bring to Court the day of the hearing):</p> <ul style="list-style-type: none"> - If the magistrate ordered Publication (5.4) the cashier will stamp the case number on the form and place it in a box for Court Index to pick up. - If no hearing is required, the magistrate may immediately approve the Authorizing Release of Medical Records and Medical Billing Records. If that occurs, the cashier will clock in the original, make the amount of requested copies and certify the copies of the entry for you. Fees may apply for additional copies.
<p>STEP 5: DAY OF HEARING (IF ONE WAS SET)</p>
<p>At the date and time of the hearing, you should report to the 9th Floor of the Probate Court to the magistrate's assistant at the information desk. Ask where you should go for the hearing. The assigned magistrate will already have the file with the papers you initially filed. The magistrate will make sure the publication has been returned from the Cincinnati Court Index (if publication was ordered), waivers and/or notices have been filed and any thing else that was missing at the time of filing. The magistrate will sign the Entry Authorizing Release of Medical Records and Medical Billing Records. As in Step 3; the cashier will make the certified copies off the original entry.</p>

A CITIZEN'S GUIDE TO COMMUNICATING WITH THE JUDGE AND MAGISTRATES

Why can't I communicate directly with the judge or magistrate on my case?

If the matters are contested, judges and magistrates are not allowed to communicate with individual parties. This is what the law calls an *ex-parte* communication (this is when a judge or magistrate only communicates with an individual party, on their own, without the knowledge of all parties to a case). In order to keep the court process as fair, equal and as transparent as possible, *ex-parte* communication is strictly forbidden. It is unfair for the court to share information without all of the parties present.

You cannot email the judge or magistrate, as the email is considered an *ex-parte* communication. In addition, emails are not pleadings (motions.) You cannot write a personal letter to the judge or magistrate as this may be considered an *ex-parte* communication.

How can I speak to the judge or magistrate on my case?

Typically, to speak to the judge or magistrate on your case, you must file a written motion with the court explaining what you want the court to do and all motions become part of the public record. You also have to send a copy of whatever you file to the other parties, or their attorney if they are represented by an attorney (this is called "service"). A motion is not considered an *ex-parte* communication because all parties are officially notified. You may be required to pay a filing fee when you file your written motion. Please note, there is no fee if you wish to speak to the magistrate in an uncontested matter, on their assigned walk-in days.

I've heard there's always a magistrate on duty to hear arguments immediately – what does that mean?

There is a magistrate on duty every business day. The on-duty magistrate may answer generic procedural questions. The on-duty magistrate may also discuss matters in an uncontested case. For all other matters, the on-duty magistrate is prohibited from speaking with you. To address the court for these matters, you must file a written motion. The on-duty magistrate will set the matter for hearing before the magistrate assigned on your case or the judge.

What if I need to tell the judge or magistrate something I don't want the other party to know about?

Unfortunately, you cannot withhold information from another party to your case. In order to keep the case fair to everyone involved, as soon as you tell the judge or magistrate something, you must also tell the other parties. All sides must have an opportunity to respond to the information that you have shared with the court.

**PROBATE COURT OF HAMILTON COUNTY, OHIO
RALPH WINKLER, JUDGE**

IN THE MATTER OF: _____

CASE NO. _____

SELF-REPRESENTATION ACKNOWLEDGMENT

I acknowledge that I have read, understand and agree with all of the following statements:

1. The Court has recommended that I hire an attorney to represent me in this case. However, I have chosen to proceed with this case without the assistance of an attorney.
2. The Court and its Deputy Clerks are prohibited by law from providing legal advice. I will follow the instructions provided in the form packets and on the Court's website, www.probatect.org.
3. I am responsible for understanding and correctly applying any statutes, case law, rules, regulations, policies, and procedures that relate to this case, including, but not limited to, the Ohio Revised Code, Rules of Superintendence for the Courts of Ohio, Hamilton County Probate Court Local Rules of Practice, and the Ohio Rules of Civil Procedure.
4. The same standards that apply to attorneys and persons represented by attorneys in similar probate hearings will apply to myself.
5. If I do not fulfill my responsibilities in this case as required by law, I may be subject to sanctions or penalties as provided by law, which may include removal as fiduciary or being required to be represented by an attorney.
6. I may be personally liable to any person or entity that suffers damages as a result of anything I do or fail to do in this case that does not comply with the legal requirements.

Fiduciary/Applicant/Guardian

Typed Printed Name

Address

City/State/Zip

Telephone Number (include area code)

Email

**PROBATE COURT OF HAMILTON COUNTY, OHIO
RALPH WINKLER, JUDGE**

ESTATE OF _____, DECEASED

CASE NO. _____

**APPLICATION TO RELEASE MEDICAL RECORDS AND MEDICAL
BILLING RECORDS
[R.C. 2113.032]**

Now comes _____ the _____ of the
(Applicant's Name) (Relationship)
above named decedent who died on _____ and resided at _____,
_____, whose last four (4) digits of his/her social security number are
_____, and hereby requests authority to obtain information regarding decedent's medical
records and medical billing records for the purpose of evaluating a potential wrongful death,
personal injury, or survivorship action on behalf of the decedent.

Applicant states the following:

- ☐ Applicant is an individual who is eligible to be appointed as a personal representative of the above-named decedent's estate under Ohio law; or
- ☐ Applicant is named as executor in the above-named decedent's will, and Applicant has filed a copy of decedent's will with this Application.

Applicant has attached Form 1.0 – Surviving Spouse, Children, Next of Kin, Legatees and Devisees.

Applicant acknowledges that an order shall not be issued until ten days following the probate court's transmission of a copy of this application to those persons listed on the Form 1.0 who have not filed a signed Waiver of Notice/Consent.

Attorney's Signature

Typed or Printed Name

Address

City, State, Zip Code

Phone Number

Attorney Registration No. _____

Applicant's Signature

Typed or Printed Name

Address

City, State, Zip Code

Phone Number

**PROBATE COURT OF HAMILTON COUNTY, OHIO
RALPH WINKLER, JUDGE**

ESTATE OF _____, DECEASED

CASE NO. _____

**ENTRY AUTHORIZING RELEASE OF MEDICAL RECORDS AND
MEDICAL BILLING RECORDS
[R.C. 2113.032]**

For good cause shown, all medical providers that provided medical care or treatment to the above-named decedent shall release those medical records and medical billing records to the Applicant for the limited purpose of deciding whether or not to file a wrongful death, personal injury, or survivorship action.

The medical records and medical billing records are confidential and shall not be made available for public viewing, unless otherwise provided for by law or subsequent court order.

Applicant shall file a report with the court certifying that all medical records and medical billing records have been received and shall indicate whether an administration of the decedent's estate will be filed before the expiration of the applicable statute of limitations.

Date

Ralph Winkler, Probate Judge

**PROBATE COURT OF HAMILTON COUNTY, OHIO
RALPH WINKLER, JUDGE**

ESTATE OF _____, DECEASED

CASE NO. _____

**REPORT ON RECEIPT OF MEDICAL RECORDS AND MEDICAL
BILLING RECORDS**

[R.C. 2113.032]

Now comes _____, who was authorized to receive the decedent's medical records and medical billing records, and hereby certifies that all requested medical records and medical billing records have been received.

- ☐ An application to administer decedent's estate will not be filed.
- ☐ An application to administer decedent's estate will be filed prior to the expiration of the applicable statute of limitations.

Signature

Typed or Printed Name

Address

City, State, Zip Code

Phone Number

**PROBATE COURT OF HAMILTON COUNTY, OHIO
RALPH WINKLER, JUDGE**

ESTATE OF _____, DECEASED

CASE NO. _____

**NOTICE OF APPLICATION TO RELEASE MEDICAL RECORDS
AND MEDICAL BILLING RECORDS
[R.C. 2113.032]**

To the following persons:

Name

Address

Name

Address

Name

Address

Name

Address

Name

Address

_____ has filed an application in this Court, seeking the release of the decedent's medical records and medical billing records for use in evaluating a potential wrongful death, personal injury, or survivorship action on behalf of the decedent.

You are one of the above-named decedent's next of kin and are therefore entitled to notice of the pending Application to Release Medical Records and Medical Billing Records. The Court shall issue an order not earlier than ten (10) days of the transmission of this Notice.

The Application to Release Medical Records and Medical Billing Records shall be heard before the Hamilton County Probate Court, located at 230 E. Ninth St. Cincinnati, Ohio 45202 on the _____ day of _____, _____ at _____ o'clock ____ M. in Room _____.

**PROBATE COURT OF HAMILTON COUNTY, OHIO
RALPH WINKLER, JUDGE**

ESTATE OF _____, DECEASED

CASE NO. _____

ENTRY SETTING HEARING

The Application for Release of Medical Records and Medical Billing Records, for the limited purposes of determining whether to file a wrongful death, personal injury and/or survival claim filed by _____, by and through counsel, is hereby set for hearing on the ____ day of _____, _____, at _____ o'clock ____M in Room _____, before Magistrate/Judge _____, Hamilton County Probate Court, ____th Floor, 230 E. Ninth Street, Cincinnati, Ohio 45202. The Court orders that notice of the hearing be given, by certified mail, to all persons listed on S.P.F. 1.0 filed herein, who have not waived notice.

Ralph Winkler, Probate Judge

Attorney

**PROBATE COURT OF HAMILTON COUNTY, OHIO
RALPH WINKLER, JUDGE**

ESTATE OF _____, DECEASED

CASE NO. _____

**ENTRY DISPENSING WITH SETTING A HEARING
ON APPLICATION FOR RELEASE OF DECEDENT'S
MEDICAL RECORDS AND MEDICAL BILLING RECORDS**

The Court orders that the setting of a hearing be dispensed with in this matter.

Ralph Winkler, Probate Judge