

Invitation to Comment

Title	Probate: Statement of Duties and Responsibilities of Conservators (revise form GC-348)
Summary	Most newly appointed conservators must sign and file a Judicial Council form that contains a statement of the duties and responsibilities of their office. This form, <i>Duties of Conservator and Acknowledgment of Receipt of Handbook</i> (form GC-348), was last revised in 2002. The form must be revised to reflect changes in conservatorship practice and procedure made by recent legislation.
Source	Probate and Mental Health Advisory Committee Hon. Mitchell L. Beckloff, Chair
Staff	Douglas C. Miller Senior Attorney 818-558-4800 douglas.miller@jud.ca.gov

To become qualified to serve, newly appointed conservators (other than trust companies and public conservators) must sign and file a form that contains a statement of duties and responsibilities of the office of conservator and acknowledges receipt of the Judicial Council’s *Handbook for Conservators*. (Prob. Code, §§ 1834–1835; Cal. Rules of Court, rule 7.1051.) The form, *Duties of Conservator and Acknowledgment of Receipt of Handbook* (form GC-348), was last revised in 2002.

This form is outdated and has become inaccurate. It does not reflect substantial changes in conservatorship practice and procedure made by the Omnibus Conservatorship and Guardianship Reform Act of 2006 (Omnibus Act), follow-on cleanup legislation in 2007 and 2008,¹ and rules of court adopted in response to mandates contained in that legislation.²

The revised form is seven pages long, an increase of three pages. The following changes from the existing form are proposed:

¹ The Omnibus Act consisted of Senate Bills 1116, 1550, and 1716; and Assembly Bill 1363 (Stats 2006, chs. 490–493). The clean-up legislation was AB 1727 (Stats. 2007, ch. 553) and AB 1340 (Stats. 2008, ch. 293).

² See rules 7.575 (accounts of conservators and guardians), 7.1059 (standards of conduct of conservators of estates), and 7.1063 (changes in conservatees’ residence), all adopted in 2008.

1. The text is restated throughout in standard outline format (IA1), in Arial 9-point font, with 12 points between multiple lines of text.
2. Item IIA on pages 1 and 2 of the revised form, “Determine the Appropriate Level of Care for the Conservatee,” is new.

This item describes the requirements of Probate Code section 2352.5, added by the Omnibus Act. These include a written determination by the conservator of the conservatee’s appropriate level of care that must be filed within 60 days of the court’s appointment order. This determination must include a statement of the measures that would be necessary to keep the conservatee in his or her personal residence or either a plan to return the conservatee to that residence or an explanation of the impediments to that return.

The instructional note at the bottom of page 1 of the revised form refers to and provides the definition of a conservatee’s personal residence made in rule 7.1063(b) of the California Rules of Court. That rule concerns the pre- and post-move notices of changes in the conservatee’s residence required by Probate Code section 2352 (see item 3 below), but the conservatee’s personal residence as that phrase is used in both code sections must have the same meaning although it is not defined in either section.³ The rule of court provides the only available definition.

3. Item IIB on page 2 of the revised form expands the existing form’s statement of the conservator’s duty to decide where the conservatee is to live (item II2 on page 1 of the existing form).

The revised form states the applicable standard provided in section 2352(b) more accurately and completely than does the existing form. The revised form also updates the information provided concerning the conservator’s duty to advise the court of any move—filing the post-move notice, Judicial Council form GC-080, including the new responsibility to mail copies of that notice to the conservatee’s attorney, spouse or registered domestic partner, and relatives given notice of the appointment petition.

The revised form also provides information concerning changes in the conservatee’s personal residence, including the duty to file and mail copies of the pre-move notice, Judicial Council form GC-079, 15 days before the proposed move (unless there is an emergency requiring less notice), to the conservatee, his or her attorney, and all other persons entitled to notice of the hearing on the appointment petition.

³ Section 2352 was amended to add the reference to the conservatee’s personal residence and the requirement of a pre-move notice of any proposed change in that residence by the same statute that added section 2352.5 to the code. See SB 1116 (Stats. 2006, ch. 490, §§ 1, 2).

The existing form says that the conservator may not place the conservatee involuntarily in a mental health treatment facility “without permission of the court.” That incomplete and potentially misleading statement is replaced with a statement that no such placement can be made unless the conservatee has been determined to be gravely disabled and the conservator has been appointed under the Lanterman-Petris-Short Act,⁴ and then only with permission of the court. The existing form’s reference to placement in a “secure facility” for dementia has also been modified to conform to the description of such facilities in Probate Code section 2356.5.

4. Item IIC on page 2 of the revised form, concerning provision of medical care to the conservatee, deletes an incorrect statement of the conservator’s responsibility concerning dementia medications.

Item II3 on page 1 of the existing form advises that if the conservator is given authority to consent to administration of dementia medications, he or she must be sure that other, less intrusive treatment options are “first explored.” There is no such requirement in section 2356.5. The statement has been eliminated and replaced with a statement that if the conservator is given exclusive authority to consent to the conservatee’s medical treatment, he or she should be sure that all medical care and medications are appropriate.

5. Advice to work with the conservator of the conservatee’s estate is expanded to include similar advice to work with the trustee of any trust created for the management of the conservatee’s property and for his or her support (item IID on page 2 of revised form, item II4 of existing form).
6. The general statement of estate conservator responsibilities in item III on page 2 of the existing form (page 3 of the revised form) is rewritten for clarity and also to advise that property in a trust is not part of the conservatee’s estate and that community property under the control of the conservatee’s spouse or registered domestic partner is part of the estate only if and to the extent the spouse or partner consents. (See Prob. Code, § 3051(b), (c).)
7. Item III1 and III3 on pages 2 and 3 of the existing form are combined into a greatly enlarged item IIIA, “Managing the Estate,” beginning at page 3 of the revised form. The revised item is expanded from 5 to 17 paragraphs.

Revised item IIIA is based on the detailed statement of the conservator’s estate management responsibilities in rule 7.1059 and the statutory authority for that rule, Probate Code section 2410. Items IIIA5 and 6, concerning the prosecution of claims held by the estate or the defense of claims against it, include advice that the court may require

⁴ Welfare and Institutions Code section 5000 et seq. The conservatorship provisions of the Lanterman-Petris-Short Act commence at section 5350.

the conservator to be represented by counsel. This advice is based on appellate court decisions affecting fiduciaries, including conservators.⁵

8. Item IIIB at page 5 of the revised form, concerning the estate inventory process, expands the discussion of that process in item III2 of the existing form (page 2).

The revised item refers to the new requirement that copies of the completed inventory and appraisal must be served on the conservatee, his or her attorney, spouse or registered domestic partner, and close relatives, together with notice of their right to object to the inventory (and advises that there is a court form for this notice, Judicial Council form GC-042).

9. Item IIIC at page 5 of the revised form updates and expands the explanation of the record keeping and accounting requirements and the procedure for court approval of accountings. Item IIIC1 advises that there are court forms that may, or in some cases must, be used for accountings.⁶

10. Item IV, at page 6 of the revised form, is retitled “Duty to Disclose Changes in Marital or Domestic Partnership Status,” and the text is modified to refer to the conservator’s duty to disclose termination of his or her domestic partnership with the conservatee as well as of material changes in a marital relationship between them. The revised item also advises conservators that they are entitled to receive these disclosures from spouses or former spouses and former registered domestic partners of their conservatees who are not conservators. (Prob. Code, §§ 1813, 1813.1.)

11. Item V, “Limited Conservator,” at page 6 of the revised form, is modified to add advice that certain limited conservatorships are exempted from the level-of-care determination required by Probate Code section 2352.5. (See Prob. Code, § 2352.5(e).)

12. A new item VII, “Judicial Council forms,” has been added at page 7 of the revised form. The item gives general advice about Judicial Council conservatorship forms and their posting on the California courts’ public Web site.

⁵ See *City of Downey v Johnson* (1968) 263 Cal.App.2d 775 (conservator of the estate and, later, executor of the will of the deceased former conservatee may not appear without counsel in civil action brought by city against the conservatee/decedent).

⁶ The accounting forms are the schedules for the standard and simplified accountings required by Probate Code section 2620(a) and described in Cal. Rules of Court, rule 7.575, the Judicial Council form GC 400s (standard accounting) and GC-405s (simplified accounting).

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY Draft 5 April 5, 2010 Not Approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (Name): _____ CONSERVATEE	
DUTIES OF CONSERVATOR and Acknowledgment of Receipt of Handbook for Conservators	CASE NUMBER: _____

DUTIES OF CONSERVATOR

When you are appointed by the court as a conservator, you become responsible to the court and assume certain duties and obligations. All of your actions as conservator are subject to review by the court. An attorney is best qualified to advise you about these matters. You should clearly understand the information on this form. You will find additional information in the Judicial Council's *Handbook for Conservators*, receipt of which, in addition to a copy of this form, you are required by law to acknowledge.

I. THE CONSERVATEE'S RIGHTS

Conservatees do not lose all rights or all voice in important decisions affecting their lives. All conservatees have the right to be treated with understanding and respect, the right to have their wishes considered, and the right to be well cared for by their conservator. Conservatees generally keep the right to (1) control their own wages or salary from employment, (2) make or change a will, (3) marry, (4) receive personal mail, (5) be represented by a lawyer, (6) ask a judge to change conservators, (7) ask a judge to end the conservatorship, (8) vote, unless a judge decides they are not capable of exercising this right, (9) control personal spending money if a judge has authorized an allowance, and (10) make their own medical decisions, unless a judge has taken away that right and given it exclusively to their conservators.

Ask your attorney what rights your conservatee has and does not have and consult your attorney when you are in doubt.

II. CONSERVATOR OF THE PERSON

If the court appoints you as conservator of the person, you are responsible for the conservatee's care and protection. You must decide, within certain limits, where the conservatee will live; and you must arrange for the conservatee's health care, meals, clothing, personal care, housekeeping, transportation, and recreation.

A. DETERMINE THE APPROPRIATE LEVEL OF CARE FOR THE CONSERVATEE

You must determine the conservatee's appropriate level of care. Your determination must be in writing, signed under penalty of perjury, must be filed with the court within 60 days of the date of the court's order appointing you as conservator, and must include:

1. An evaluation of the level of care existing when the petition for your appointment as a conservator was filed and the measures that would be necessary to keep the conservatee in his or her **personal residence**.
2. A plan to return the conservatee to his or her **personal residence** or an explanation of the limitations or restrictions on a return of the conservatee to his or her personal residence in the foreseeable future, if the conservatee was not living in that residence when the petition for appointment of a conservator was filed.
3. A reevaluation after a material (important) change in circumstances affecting the conservatee's needs for placement and care after your initial determination.

*(Note: The conservatee's **personal residence** is the residence the conservatee understood or believed to be his or her permanent residence on (1) the date the petition for appointment of a conservator was filed in this matter, or (2) on the last earlier date the conservatee could form or communicate an understanding or belief about a permanent residence, whether or not he or she was living there when the appointment petition was filed. See Cal. Rules of Court, rule 7.1063(b).)*

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II. A. 4. If your conservatee is a limited conservatee who is developmentally disabled, special rules may apply to the determination of his or her level of care and residential placement. See item V below.

B. DECIDE WHERE THE CONSERVATEE WILL LIVE

1. You must decide where the conservatee will live. You may choose a residence in California without prior approval of the court, but you must choose the least restrictive appropriate residence that is available and necessary to meet the conservatee's needs and that is in his or her best interests.
2. You must file a written notice of any change of the conservatee's residence with the court within 30 days of the move, and you must mail copies of the notice to the conservatee's attorney, the conservatee's spouse or registered domestic partner, and the conservatee's relatives who were mailed copies of the petition for your appointment as conservator, unless the court excuses you from the mailing to prevent harm to the conservatee. (There is a court form you must use for this notice and another form you may use to prove that you have mailed it. The forms are the *Post-Move Notice of Change of Residence of Conservatee or Ward* (form GC-080) and the *Attachment to Post-Move Notice, etc.* (form GC-080(MA)). These forms refer to a "post-move notice" because the notice may be filed and mailed after the date of the move.)
3. The law presumes that the conservatee's **personal residence** (see item II A) is the conservatee's least restrictive appropriate residence. There must be a reason supported by sufficient evidence to justify a change of residence from the conservatee's personal residence (including a move from a care facility or other temporary placement to a residence that is not the conservatee's personal residence).
4. If you want to move the conservatee from his or her **personal residence**, in addition to the post-move notice described in item 2, you must mail a notice of your intent to change the conservatee's residence to the conservatee, the conservatee's attorney, if any, and to each other person or entity entitled to notice of the hearing on the petition for your appointment as conservator; and then you must file with the court proof that the notice was mailed. Unless there is an emergency requiring a shorter period of notice, this notice must be mailed at least 15 days before the date of the proposed move. (There is a court form you must use for this notice and another form you may use to prove that you have mailed it. The forms are the *Pre-Move Notice of Proposed Change of Personal Residence of Conservatee or Ward* (form GC-079) and the *Attachment to Pre-Move Notice, etc.* (form GC-079(MA)). These forms refer to a "pre-move notice" because the notice must be mailed before the move.)
5. If you want to establish the conservatee's residence outside California, you must petition the court for permission before the move. Notice of the court hearing on this petition, together with a copy of the petition, must be mailed to the conservatee and the other persons and entities that were entitled to notice of the hearing on the petition for your appointment as conservator. There is a court form for this petition, the *Petition to Fix Residence Outside the State of California* (form GC-085). Notice of the hearing and proof of its mailing is given on another court form, the *Notice of Hearing—Guardianship or Conservatorship* (form GC-020).
6. You may not place the conservatee involuntarily in a mental health treatment facility unless he or she has been determined to be gravely disabled as the result of a mental disorder or impairment by chronic alcoholism, you have been appointed as conservator under the Lanterman-Petris-Short Act (Welf. & Inst. Code, § 5350 et seq.), and then only if the court has authorized the placement. If the court has authorized you to place the conservatee in a secured-perimeter residential care facility or a locked and secured nursing facility because of dementia, you must be sure that the placement is the least restrictive placement appropriate to the conservatee's needs.

C. PROVIDE MEDICAL CARE TO THE CONSERVATEE

You are responsible for ensuring that the conservatee's health needs are met. You may not, however, give or withhold consent for the conservatee's medical treatment over the conservatee's objection unless the court has given you exclusive authority to consent to the conservatee's medical treatment because the court has determined that the conservatee has lost the ability to make sound medical decisions. If the court has granted you exclusive authority to consent to the administration of medical care and medications for the conservatee, you should be sure that all medical care and medications are appropriate.

D. WORK WITH THE CONSERVATOR OF THE ESTATE OR TRUSTEE OF THE CONSERVATEE'S TRUST

If someone else is handling the conservatee's assets, either the conservatee's estate conservator or the trustee of a trust created for the management of the conservatee's property and for his or her support, the two of you must work together to be sure that the conservatee can afford the care you arrange. Purchases you make for the conservatee must be approved by the estate conservator or the trustee or you may not be reimbursed or your reimbursement may be delayed.

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II. E. CONSULT YOUR ATTORNEY AND OTHER RESOURCES

Your attorney will advise you on your duties, the limits of your authority, the rights of the conservatee, and your dealings with the court. If you have legal questions, check with your attorney, not the court staff. Other questions may be answered better and less expensively by calling on local community resources. (To find these resources, see the *Handbook for Conservators* and the local supplement distributed by the court.)

III. CONSERVATOR OF THE ESTATE

The conservatee's property or assets and income are known as the conservatee's "estate." If the court appoints you as conservator of the estate, you will manage the conservatee's finances, protect the conservatee's income and property or assets, make an inventory of the conservatee's property or assets, make sure the conservatee's bills are paid, invest the conservatee's money, see that the conservatee receives all the income and benefits to which he or she is entitled, ensure that the conservatee's tax returns are filed on time and all taxes paid, keep accurate financial records, and regularly report the conservatee's financial condition to the court. (Note: Property or assets and income in a trust for the conservatee's support and maintenance are usually not considered as part of the conservatee's estate, particularly if the trust was created and funded before the appointment of a conservator. Unless the conservatee's spouse or registered domestic partner consents to its inclusion in the conservatee's estate, the community property of the conservatee and his or her spouse or registered domestic partner under the management and control of the spouse or partner is also not part of the conservatee's estate.)

A. MANAGING THE ESTATE

1. Prudent management for the benefit of the conservatee; prudent investments

You must manage the estate's property or assets and income for the benefit of the conservatee and with the care of a prudent person dealing with someone else's property. You must not make unreasonably risky investments of money or property of the estate.

2. Prior court approval required for fees, borrowing, loans, and gifts

You must ask and receive the court's permission, after full disclosure of all relevant facts, before you may pay from the conservatee's estate fees to yourself for your services as conservator and to your attorney for his or her services to you; borrow money for or loan money from the conservatee's estate (to yourself or anyone else); or make gifts of estate assets or property.

3. Keep estate money and property separate from your or anyone else's money or property

You must keep the money and property of the conservatee's estate separate from your money or property or from the money or property of any other person. Never deposit estate funds in your personal bank account or otherwise mix them with your or anyone else's funds, even for brief periods. Title to individual stocks, bonds, or other securities; securities broker accounts; mutual funds; and accounts with banks and other financial institutions must show that these assets are property of the conservatorship estate and not your or anyone else's property.

4. Interest-bearing accounts and other investments

Except for a checking account intended for payment of ordinary expenses, estate bank accounts must earn interest. You may deposit estate funds in one or more insured accounts in financial institutions, but you should not put more than the FDIC insurance limit, currently \$250,000, in any single institution. You have authority to make some investments without court approval. Other investments may be made only after court approval has been obtained. Consult with an attorney before making any investments, even those you have authority to make without court approval.

5. Claims against others on behalf of the conservatee

Pursue claims against others on behalf of the conservatee's estate when it is in the best interest of the conservatee or his or her estate to do so. The court may require you to be represented by a lawyer to proceed with litigation on behalf of the conservatee's estate. Consider requesting prior court authority to pursue or compromise large or complex claims, particularly those that might require litigation and the assistance of legal counsel and those that might result in an award of attorney fees for the other party against the conservatee's estate if you are unsuccessful. You may sign a contingent fee agreement with legal counsel on behalf of the conservatee's estate if such agreements are customary for the type of case involved, but the court must approve the agreement before it is enforceable. You may ask for court approval of a contingent fee agreement before signing it and before legal counsel performs any services under it.

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III. A. 6. Defend against claims against the conservatee's estate

Defend against actions or claims against the conservatee or his or her estate when it is in the best interest of the conservatee or the estate to do so. The court may require you to be represented by a lawyer for your defense of a lawsuit against the conservatee's estate. You may request court approval or instructions concerning the defense or compromise of such a lawsuit.

7. Public and insurance benefits

You must learn about and collect all public and insurance benefits for which the conservatee is eligible.

8. Evaluate the conservatee's ability to manage cash and other assets

You should evaluate the conservatee's ability to manage cash or other assets and take appropriate action, including asking for prior court approval when necessary or appropriate, to enable the conservatee to do so to the level of his or her ability.

9. Safeguard the conservatee's estate planning documents

You should undertake, as soon as possible after your appointment and qualification as conservator, to locate and safeguard the conservatee's estate planning documents, including wills and codicils, living trusts, powers of attorney for health care and finances, life insurance policies, and pension records.

10. Preserve property mentioned in the conservatee's estate planning documents

Make reasonable efforts to identify, locate, and preserve property mentioned in the conservatee's estate planning documents.

11. Evaluate conservatee's ability to manage cash and other assets

Evaluate the conservatee's ability to manage cash or other assets and take appropriate action, including asking for prior court approval when necessary or appropriate, to enable the conservatee to do so to the level of his or her ability.

12. Insurance

Determine the appropriate kinds and adequate levels of property, casualty, and liability insurance covering the property, assets, risks, and potential liabilities of the conservatee and his or her estate. Maintain the insurance in force during the entire period of the administration (except for assets after they are sold).

13. Guard against inappropriate disclosure of the conservatee's financial information

Subject to your duty of full disclosure to the court and persons entitled under the law to receive it, you must closely guard against unnecessary or inappropriate disclosure of the conservatee's financial information.

14. Conservatee's tangible personal property

If you plan to dispose of any of the conservatee's tangible personal property, inform the conservatee's family members in advance and give them an opportunity to acquire the property, with approval or confirmation of the court.

15. Factors to consider when deciding whether to dispose of any of the conservatee's property

In deciding whether it is in the best interest of the conservatee to dispose of property of his or her estate, consider the following factors, among others, as appropriate in the circumstances:

- (A) The likely benefit or improvement of the conservatee's life that disposing of the property would bring;
- (B) The likelihood that the conservatee would need or benefit from the property in the future;
- (C) The previously expressed or current desires of the conservatee concerning the property, unless accommodating those desires would violate your fiduciary duty to the conservatee or impose an unreasonable expense on the estate;
- (D) The provisions of the conservatee's estate plan concerning the property;
- (E) The tax consequences of disposing of the property;
- (F) The impact of disposition on the conservatee's eligibility for public benefits;
- (G) The condition of the entire estate;
- (H) The likelihood that the property will deteriorate or be subject to waste if kept in the estate; and
- (I) The benefit versus the cost or liability of maintaining the property in the estate.

16. Communicate with conservator of the person and trustee

You should communicate as necessary and appropriate with the conservator of the conservatee's person, if any, and with the trustee of any trust of which the conservatee is a beneficiary.

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III. A. 17. Other limitations or restrictions

There are many limitations or restrictions on your authority to deal with estate assets not mentioned here. If you do not obtain the court's permission when it is required before taking an action, you may be removed as conservator or you may be required to reimburse the estate from your own personal funds, or both. You should consult with an attorney concerning the legal requirements affecting sales, leases, mortgages, and investments of estate property.

B. INVENTORY OF ESTATE PROPERTY

1. Locate and take possession of the estate's property and prepare an inventory

You must identify, locate, take possession of, and protect all the conservatee's property, assets, and income that will be or become part of the conservatorship estate. You must change the record title or ownership of most property and assets of the estate to reflect the conservatorship. You must record a copy of your *Letters of Conservatorship* (form GC-350) with the county recorder in each county where the conservatee owns real property. You must then prepare an inventory, or a list, of all of the real and personal property of the estate. There are court forms that must be used for the inventory. These consist of a two-page cover sheet, *Inventory and Appraisal* (form DE-160/GC-040) and one or more pages to be attached to the cover sheet containing the list of property, *Inventory and Appraisal Attachment* (form DE-161/GC-041). The property is separated into two categories, cash and cash-equivalent items, collected on Attachment 1; and all other types of real and personal property, listed on Attachment 2. An attorney can advise you about and help you prepare your inventory.

2. Determine the value of the estate's property

You must arrange to have a **probate referee** appointed by the court appraise, or determine the fair market value of, the noncash property of the estate shown in Attachment 2 of your inventory unless the referee's appointment is waived by the court. You, rather than the referee, may appraise the value of the cash and cash-equivalent items of property listed in Attachment 1, such as bank accounts. An attorney can advise you how to do this.

3. File and mail copies of the inventory and appraisal and notice of how to object

Within 90 days after your appointment as conservator, unless the court gives you more time, you must file with the court your inventory containing the appraisals of estate property, signed by you and by the referee. You must also mail copies of the completed inventory and appraisal to the conservatee and the conservatee's attorney, if any, and to the conservatee's spouse or registered domestic partner and close relatives, and must give them written notice of how to file an objection to the inventory and appraisal. There is a court form that must be used for this notice, the *Notice of Filing of Inventory and Appraisal and How to Object to the Inventory or the Appraised Value of Property* (form GC-042).

C. RECORD KEEPING AND ACCOUNTING

1. Keep records and prepare accountings

You must keep complete and accurate records of each financial transaction affecting the estate, including all receipts of income, changes in assets or property held in the estate, and expenditures. The checkbook for the conservatorship checking account is your indispensable tool for keeping records of income and expenditures. You should also save original bills or invoices paid, records of property sale transactions, receipts for money spent, and bank or other institutions' statements showing income received and money spent. You must prepare periodic accountings of all money and property you have received, what you have spent, the date of each transaction, and its purpose. Your accountings must describe in detail what you have left after you pay the estate's expenses. There are court forms you may, or in some situations must, use for your accountings. You will have to file original statements from banks and other institutions with your accountings. An attorney may advise and assist you in the preparation of your accountings.

2. Court review of your accountings and records

You must file a report with each of your accountings that shows the current circumstances of the conservatee and the estate, along with a petition requesting that the court review and approve the accounting. Your first account is due one year after your appointment, and later accountings must be filed at least every two years after that. The court may order you to file more frequent accountings. You must save your receipts and other original records because the court may ask to review them. If you do not file your accountings as required, the court will order you to do so. You may be removed as conservator if you fail to properly prepare and file your accountings or comply with the court's orders.

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III. D. CONSULTING AN ATTORNEY

Your attorney will advise you; help prepare your inventories, accountings, and petitions to the court; and see that the persons entitled to be notified of your actions are given proper notice. If you have questions, check with your attorney. You should cooperate with your attorney at all times. **When in doubt, contact your attorney.**

IV. DUTY TO DISCLOSE CHANGES IN MARITAL OR DOMESTIC PARTNERSHIP STATUS

If you are the spouse of the conservatee, you must disclose to the court, and give notice to interested persons under the Probate Code, of the filing of any action or proceeding against the conservatee for (1) legal separation, (2) dissolution of marriage, or (3) adjudication of nullity of the marriage. If you are or were the registered domestic partner of the conservatee, you must disclose to the court any termination of the domestic partnership. The disclosure must be made within 10 days of the initial filing of the action or proceeding or termination of the partnership by filing a notice with the court. If you are not the spouse or registered domestic partner or former partner of the conservatee and one of these events occurs, the conservatee's spouse or former registered domestic partner must disclose the event to you within the same 10-day period.

V. LIMITED CONSERVATOR (for the developmentally disabled only)

A. AUTHORITY SPECIFIED IN YOUR *LETTERS OF CONSERVATORSHIP* AND APPOINTMENT ORDER

If the court appoints you as limited conservator, you will have authority to take care of **only** those aspects of the conservatee's life and financial affairs specified in your *Letters of Conservatorship* and the court's order appointing you. The conservatee retains all other legal and civil rights. Although most of the information provided in this form also applies to limited conservatorships (especially the duties of the conservator of the person), you should clarify with your attorney exactly which information applies in your case.

B. DUTY TO HELP LIMITED CONSERVATEE DEVELOP SELF-RELIANCE

You must secure treatment, services, and opportunities that will assist the limited conservatee to develop maximum self-reliance and independence. This assistance may include training, education, medical and psychological services, social opportunities, vocational opportunities, and other appropriate help.

C. DETERMINATION OF LEVEL OF CARE FOR CERTAIN LIMITED CONSERVATEES

The level of care determination described in item **IIA** does not apply to a limited conservatee who receives services from a regional center for the developmentally disabled and for whom the Director of Developmental Services or the regional center is acting as conservator. Determination of the services provided for and residential placement of these limited conservatees are to be identified, delivered, and evaluated consistent with the individual program plan process described in Welfare and Institutions Code sections 4640–4659. (See *Prob. Code*, § 2352.5(e).)

VI. TEMPORARY CONSERVATOR

If the court appoints you as temporary conservator, you will generally have the same duties and authority as general conservators, **except** the conservatorship will end on the date specified in your *Letters of Temporary Conservatorship*. Most of the information in this form also applies to temporary conservatorships, but you must consult your attorney about which duties you will **not** perform because of the short duration of the temporary conservatorship appointment. A temporary conservator should avoid making long-term decisions or changes that could safely wait until a general conservator is appointed. As temporary conservator, you may not move a conservatee from his or her home, unless there is an emergency, or sell or give away the conservatee's home or any other assets without prior court approval.

Sign the *Acknowledgment of Receipt* on page 7.

CONSERVATORSHIP OF (Name): _____	CASE NUMBER: _____
CONSERVATEE	

VII. JUDICIAL COUNCIL FORMS

This form identifies a number of Judicial Council forms used for court filings in conservatorship proceedings. Judicial Council forms are either mandatory or optional. If a mandatory form applies to a situation or proposed action, it must be used. Optional forms may be used, at the option of the person preparing and filing the form. Each form is identified on the bottom left side of its first page as optional or mandatory. Judicial Council forms are not available for every situation where a document may or must be filed with the court, but the forms address the most common and important matters that occur during a conservatorship. The *Handbook for Conservators* has additional information about Judicial Council conservatorship forms. Your attorney may also be able to help you understand their proper use and preparation.

All Judicial Council forms are posted on the California courts' public Web site, www.courts.ca.gov. Select "forms" at the top of the site's home page, then select the form group in the drop-down menu in the middle of the page. All conservatorship forms are collected in the Probate-Guardianships and Conservatorships form group. They are designated with the prefix "GC," followed by a three-digit number. Forms shown in the drop-down list with an asterisk are mandatory forms.

The conservatorship forms are posted in both unfillable and fillable versions. The unfillable versions are designed to be filled out by typewriter or, in some cases, by hand. Fillable forms may be filled out online, then printed out ready for signing and filing with the court, although they cannot be saved for completion in more than one sitting.

ACKNOWLEDGMENT OF RECEIPT of *Duties of Conservator* and *Handbook for Conservators* (Probate Code, § 1834)

I acknowledge that I have received this statement of the duties and liabilities of the office of conservator, the *Duties of Conservator* (form GC-348), and the *Handbook for Conservators* adopted by the Judicial Council.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF (PROPOSED) CONSERVATOR)

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF (PROPOSED) CONSERVATOR)

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF (PROPOSED) CONSERVATOR)

NOTICE

This statement of duties and liabilities is a summary and is not a complete statement of the law. Your conduct as a conservator is governed by the law itself and not by this summary or by the Judicial Council's *Handbook for Conservators*. When in doubt, consult your attorney.

Item SPR10-41 Response Form

Title: Probate: Statement of Duties and Responsibilities of Conservators (revise form GC-348)

- Agree with proposed changes
- Agree with proposed changes **if modified**
- Do not agree** with proposed changes

Comments: _____

Name: _____ **Title:** _____

Organization: _____

- Commenting on behalf of an organization

Address: _____

City, State, Zip: _____

To Submit Comments

Comments may be submitted online, written on this form, or prepared in a letter format. If you are *not* commenting directly on this form, please include the information requested above and the proposal number for identification purposes. Please submit your comments online or email, mail, or fax comments. You are welcome to email your comments as an attachment.

Internet: <http://www.courtinfo.ca.gov/invitationstocomment/>

Email: invitations@jud.ca.gov

Mail: Ms. Camilla Kieliger
Judicial Council, 455 Golden Gate Avenue
San Francisco, CA 94102

Fax: (415) 865-7664, Attn: Camilla Kieliger

DEADLINE FOR COMMENT: 5:00 p.m., Friday, June 18, 2010

Circulation for comment does not imply endorsement by the Judicial Council or the Rules and Projects Committee. All comments will become part of the public record of the council's action.